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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by ADALAH - Legal Center for Arab Minority Rights in Israel, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.



Adalah Statement on Israel's Jewish Nation-State Law

On 19 July 2018, the Israeli Knesset enacted *The Basic Law: Israel – The Nation-State of the Jewish People* by a parliamentary majority of 62 to 55. This Basic Law – the “law of laws” – sets forth a **new, racial constitutional order** for Israel, which defines the ethnic-religious identity of the state as exclusively Jewish. In doing so, the Jewish Nation-State Law violates established international norms: there is no democratic constitution in the world that designates the constitutional identity of the state on racial grounds, and as serving one ethnic group.

The new Basic Law contains no commitment to democratic norms, no guarantee of the right to equality, and no prohibition of discrimination on the basis of race, nationality, ethnicity or any other category for all people living under Israeli sovereignty. Indeed, it does not even define its citizenry, over 1.5 million or 20% of whom are Palestinian citizens of the state. Instead, it refers only to the Jewish people as its subjects, and defines sovereignty and democratic self-rule as belonging solely to the Jewish people, wherever they live around the world. Based on all of the above, the law bears **distinct characteristics of apartheid** as defined under international law.

Further, the law explicitly rejects the right of the Palestinian people to self-determination in any part of historic Palestine, and denies their national belonging to their homeland. The law also intentionally puts an end to the two-state solution, as currently conceived by the international community. Adalah therefore **calls on the international community** to condemn the law and to act to immediately cancel it, and to protect the human rights of Palestinians both in Israel and in the Occupied Palestinian Territory (OPT).

The new Basic Law is not merely declarative or a confirmation of the *status quo ante*. While the state’s policy of racial discrimination against Palestinians has existed since 1948, there is a **significant difference** between carrying out discriminatory practices and codifying these practices with a constitutional status. The law lends such policies against Palestinians greater legitimacy and in fact *requires* the executive, judiciary, and other authorities to implement them under the rule of law. The law also reduces the very grounds on which such discrimination can be challenged under Israeli law.

Below is a summary of the main provisions of the Jewish Nation-State Law:

- **Article 1** declares that the Land of Israel (“Eretz Israel”) is the historic national home of the Jewish people, in which the State of Israel was established, and in which the Jewish people exercises its natural, cultural, and historic right to self-determination. It adds that the right to exercise national self-determination in the State of Israel is solely for the Jewish people.
- **Article 2** sets forth the symbols of the state, all specifically Jewish in character.
- **Article 3** asserts the capital of Israel as Jerusalem, which includes occupied East Jerusalem.
- **Article 4** determines that the official language of the state is Hebrew, demoting Arabic, which was previously a second official language, to a language with an undefined “special status”.
- **Article 5** establishes that immigration leading to automatic citizenship is exclusive to Jews, thereby elevating the Law of Return – 1950 from a regular statute to a constitutional law.
- **Article 6** provides that Israel will strengthen ties between the state and Jewish people around the world, and preserve the cultural, historic, and religious heritage of Jewish people in the Diaspora.
- **Article 7** provides that the state views development of Jewish settlement as a national value, and will act to encourage, promote, and consolidate its establishment, thereby instituting segregation as a new legal norm, and allowing for the annexation of the West Bank.

The new Basic Law constitutionally enshrines – for the first time – the identity of the State of Israel as the national home of the Jewish people only, and **limits the realization of national self-determination** in the state exclusively to the Jewish people. It identifies *Eretz Israel*, or the “Land of Israel”, which includes all of the West Bank, as the area to which its authority applies. The law further recognizes the territories of Palestinian East Jerusalem and the Syrian Golan Heights, which are occupied under international law, as an integral part of Israel, and imposes on their residents the constitutional identity of Israel as a Jewish state.

By providing for Jewish settlement (only) as a national value throughout *Eretz Israel* (when read with Article 1), the law institutes racial, ethnic, and religious segregation as a constitutional norm. In the OPT, it gives legal justification to the establishment and retroactive **legalization of Israel’s settlements**, and gives existing land grabs constitutional backing. Indeed, a major purpose behind the law was to ensure the continuation and legitimization of Israel’s annexation of the West Bank.

Within the Green Line, the Basic Law gives the state constitutional backing to consolidate Jewish demographic majorities throughout Israel, and is likely to be used to establish exclusively Jewish towns in areas where Palestinian citizens are most concentrated, including the Galilee and the Naqab (Negev) desert in southern Israel, the traditional home of the Bedouin. Further, the law **legitimizes discriminatory land policies**, such as “admissions committees” that filter non-Jewish families and individuals out of small towns throughout the state; and discriminatory budgeting policies that channel public funds to Jewish communities and even to Jewish individuals, for the purpose of incentivizing them to relocate to certain areas.

The law further denies the collective rights of Palestinian citizens of Israel, who constitute a **homeland minority group** under international human rights law. It nullifies the former status of Arabic as an official language, leaving Hebrew as the state’s sole official language. Only Jewish people are represented in the symbols of the state: the national anthem is “Hatikvah”; the flag is the Israeli flag (a prayer shawl); Independence Day is a national holiday; the Hebrew calendar is an official calendar of the state; the official memorial days and holidays are Zionist-Jewish holidays; and the state is mandated to foster ties with Diaspora Jewry. The land’s Palestinian and Arab history, and the identity of its Palestinian homeland minority, are excluded from the state’s national ethos.

UN experts have raised serious concerns regarding the Jewish Nation-State Law. In November 2018, following a special request for action by Adalah, as well as Arab Members of the Knesset of the Joint List, **four UN Special Rapporteurs** issued a letter to Israeli authorities expressing their deep critiques of the law and requesting further information regarding its impact. The letter was issued by the Special Rapporteurs on Cultural Rights; on Human Rights in the Palestinian Territories Occupied since 1967; on Minority Issues; and on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance.

In their letter, the Special Rapporteurs wrote that the provisions of the new Basic Law “appear to be discriminatory in nature and in practice against non-Jewish citizens and other minorities and does not apply the principle of equality between citizens, which is one of the key principles for democratic political systems”. They added that the law “creates a legal order and an environment that could potentially lead to further discriminatory legislative and/or policy actions, which **contravene the international human rights obligations** of Israel”. They expressed further concerns regarding Israel’s commitments to the ICCPR and the ICESCR, which both stipulate the right of all peoples to self-determination. Moreover, they questioned whether the law endorses the development of Jewish settlements, including in the OPT, in direct violation of international law.

In addition, in September 2018, the **UN Human Rights Committee** raised questions about the new law in its List of Issues ahead of its review of Israel’s compliance with the ICCPR. The Committee asked the state to “explain how this Law is compatible with the Covenant and the principle of non-discrimination”, and to respond to “reports that the Jewish and non-Jewish populations are treated differently and enjoy different civil status, rights and legal protection under the law”.

Further, the **European Union** in its 2017 Annual Country Report on Israel noted that the Jewish Nation-State bill, which was under discussion in the Knesset at that time, “undermines the principles of equality”.

Adalah, together with the Palestinian political leadership in Israel, is challenging the constitutionality of the law before the Israeli Supreme Court. We call upon the international community to condemn the law and to demand that Israel:

1. **Cancel** the Jewish Nation-State Law;
 2. **Abstain** from implementing the law in a manner which results in violations of the rights of both Palestinian citizens of Israel and Palestinian residents in the OPT;
 3. **Uphold** the rights to equality and to freedom from discrimination for all those living in areas under Israel’s control;
 4. **Allow** for the fulfillment of the right to self-determination of the Palestinian people.
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