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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by Meezaan Center for Human Rights, 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.

[10 February 2019]

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



The Israeli Basic Law: “Israel - The Nation State of the Jewish People” Legalizes Ethnic and Religious Discrimination

Meezaan Center for Human Rights- Nazareth, representing the Palestinian minority in Israel, states as follows:

1. On 19 July 2018, the Israeli Knesset passed the "BASIC LAW: ISRAEL - THE NATION STATE OF THE JEWISH PEOPLE."¹ The law confirms and consolidates the ethnic exclusionary nature of the Israeli legal system, which privileges Jews over the Arab Palestinian citizens of Israel. As a ‘Basic Law,’ the Nation State Law has constitutional status. Thus, the Nation State Law is expected to have a serious impact on the human rights situation of the Palestinian citizens of Israel as it constitutes a binding legal principle for state authorities and imposes further restrictions on the already-limited judicial review of the Israeli Supreme Court.
2. The Palestinians in Israel have long suffered from human rights violations at the hands of Israeli authorities. Israel enacted numerous laws since 1948 that discriminate against the Palestinian Arab citizens in the areas of housing, land, education, health, political representation, freedom of speech, economic development, environmental justice, freedom of assembly, and budgetary allocations.² The Nation State Law exacerbates these existing laws.
3. Instead of abolishing discriminatory laws and embracing human rights values and equality by law, the Israeli Knesset increased in the last decade the number of discriminatory laws that further limit the rights of Palestinians in Israel. The Nation State Law legalizes such discrimination and paves the road for new violations.
4. At the outset of the third millennium, the international community recognized and affirmed that “a global fight against racism, racial discrimination, xenophobia and related intolerance and all their abhorrent and evolving forms and manifestations is a matter of priority for the international community.” It looked to developing innovative and holistic approaches to the elimination of racial discrimination. (2001 Durban Declaration) Accordingly, the Human Rights Council should condemn Israeli policies of ethnic and religious discrimination, call on Israel to abolish immediately the Nation State Law and to replace it with a new constitutional statute that guarantees the right to equality before the law and to freedom from discrimination.
5. The Nation State Law violates the civil, political, social, cultural and economic rights of Palestinians enshrined in international human rights treaties, and contradicts the spirit and provisions of the United Nation Charter.
6. Territoriality and Self-Determination: Unlike constitutions and constitutional laws, the Nation State Law does not apply to a defined state territory and to its citizens. Rather, it includes legal provisions that apply beyond the 1949 armistice borders of Israel and to ALL Jews around the world and not only in Israel. According to Article 1 of the Law, the “Land of Israel” -- referring at least to Mandate Palestine (State of Israel, the West Bank and the Gaza Strip) -- is the “historical homeland of the Jewish people.” Despite the historical dispossession and expulsion of most Palestinians from their homes since 1948, and despite the military occupation of the West Bank and the Gaza Strip, the Law refers only to Jewish rights denying the Palestinians’ right to self-determination.
7. The Nation State Law states that the “natural, cultural, religious and historical right to self-determination” in Israel is unique to the Jewish people, completely disregarding the rights of the national native Palestinians in Israel who constitute about 20% of Israel’s population. (Art. 1(c))

¹ Translated text at, <https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf>

² Discriminatory Laws Database, <https://www.adalah.org/en/content/view/7771> Nation State Basic Law

8. Political and Cultural Representation: The legal definition of Israel as a Jewish State is not merely a symbolic statement. It has various real-world implications, including continuous processes of Judization and de-Arabization of the geography and the history of the region. The Nation State Law re-asserts Israel's exclusive Jewish identity by adopting Jewish-only symbols and heritage. Starting with the state's name, Israel, the Law adds that the state emblem is the menorah, its anthem is Hatikva, and the flag is the existing one with the Star of David in its center. Plainly, the Law favors exclusion and Jewish dominance over pluralism, tolerance, and diversity.
9. Jerusalem: Article 3 of the Nation State Law states that "Jerusalem, complete and united, is the capital of Israel." This provision contradicts numerous UN resolutions. The 1949 Israeli declaration of West Jerusalem as its capital was in violation of UN resolution 181, and was never recognized as the legitimate Israeli capital. The Law legitimizes territorial annexation and aggression, and the undermining of the Palestinian people's right to self-determination in violation of the UN Charter.
10. Cultural Rights: Article 4 of the Law determines that Hebrew is the State Language and replaces the Arabic language status from an "official language" to that of "special status." Arabic was for centuries the language of Palestine alongside other minority languages. Hebrew was made official language alongside Arabic during the Mandate. However, although "official language," Arabic is under-represented in Israeli public sphere, school curricula, road signs, and official documents. The new legal provision would further restrict the use of Arabic. Article 4 also violates the rights of Mizrahi Arab Jews who immigrated from Arab countries and spoke Arabic. Instead of embracing cultural diversity and equal representation, the Law specifies the dominance of Jewish Ashkenazi identity. The Law violates the right for equal representation and enjoyment of cultural rights.
11. The Nation State Law makes the Hebrew Calendar the official calendar of the State (Art. 8) to serve alongside the Gregorian calendar. It also identifies only Jewish political, historical, and religious occasions as national holidays, official memorial days, and the "established days of rest" in Israel (Articles 9&10). Thus, the Law institutes an unlawful cultural and religious hierarchy among citizens and communities in Israel.
12. Extra-territoriality: The Nation State Law grants Israel a legal entitlement to interfere in international and domestic relations of other countries, thus potentially undermining their sovereignty in violation of the UN Charter. The Law requires Israel to "strive to ensure the safety" of the Jews and to "preserve the ties" and act to "preserve the cultural, historical, and religious heritage of the Jewish People among Jews in the Diaspora." This potential intervention would constitute a violation.
13. Articles 5&6 of the Law demonstrate the inherent contradictions of Israel being a Jewish State. Unlike democratic states, Israel does not consider "citizenship" as the main factor in defining its laws and identity. Whereas Israel identifies a considerable part of its citizens (Palestinians) not to be part of the state collective, it considers millions of Jews who reside outside Israel and are citizens of other states to be part of it.
14. Jewish Settlement: The Nation State Law dedicated special legal provisions (Art.8) concerning Jewish settlement stating that it bears a "national value" requiring state authorities to "act to encourage and promote its establishment and strengthening." Thus, the Nation State Law discounts the international consensus against the construction of settlements in the West Bank and their associated regime of dispossession, restrictions, and violence. Further, the Law legalizes segregation inside Israel between Jewish and Palestinian citizens. Like settlements in the West Bank, settlements in Israel are built on seized Palestinian lands, built as Jewish-only settlements, and they disrupt Palestinian presence and geography.
15. Judicial Review and Amendment: As a basic law the Nation State Law permits amendment only through another Basic Law, and as constitutional law it restricts judicial review. Hence, there is very limited means to prevent human rights violations and discrimination under the new constitutional reality of Israel.
16. Guided by the spirit and legal provisions of the Universal Declaration of Human Rights, and international human rights treaties and conventions, alongside the work of

Special Procedures on various human rights issues, we urge the Human Rights Council to undertake effective measures and to articulate clear objectives for ending all forms of racial discrimination in Israel and other states.

17. We welcome the continued efforts of the Human Rights Council, the OHCHR, the Special Procedures and Treaty Bodies in combating discrimination, and urge them to make these concerns a shared international priority. We call on the Human Rights Council to:

- a. Condemn Israeli ethnic discrimination policies outlined within and without the Nation State Basic Law,
 - b. Call on Israel to abolish the Nation State Basic Law and adopt new legislation that embraces equality and justice, democracy and pluralism,
 - c. Demand that Israel give access to UN Special Rapporteurs so as to conduct independent fact-finding missions concerning the rights of Palestinians in Israel.
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