



## PERSPECTIVES

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# Israel's Nationality Law Is Not Discriminatory

by Prof. Shmuel Sandler

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**EXECUTIVE SUMMARY:** The newly passed “Basic Law: Israel as the Nation-State of the Jewish People,” known as the Nationality Bill, does nothing to damage the equality of Israel’s non-Jewish citizens. That is because it addresses the state’s national identity, not the civil rights of its citizens. Introducing the issue of civil liberties to the nationality law, where it does not belong, would effectively imply recognition of Israel as a binational state.

The main criticism levelled at Israel’s new nationality law (known officially as the Basic Law: Israel as the Nation-State of the Jewish People) revolves around the law’s non-allusion to the issue of civil equality. Critics claim that this omission implies the inequality of Israel’s non-Jewish minorities, such as Arabs and Druze, before the law. But this claim is wholly misconceived, emanating as it does from a common failure to distinguish between nation and state (the UN, for example, is an interstate organization and not an international one, though it is generally described as international). Understanding the distinction between the concepts may help clarify why the matter of civil equality does not belong in a nationality law.

The modern state as we know it is a product of the 16<sup>th</sup> and 17<sup>th</sup> centuries, when the territorial state was born. This construct replaced the medieval feudal arrangement and was largely designed to provide security in an evolving age of mass warfare. The nation, by contrast, developed much later, and extends the democratic ideal of individual rights to the collective sphere. That is: just as individuals have the right to define their government, so too does the collective have the right to define its identity.

The fusion of the two identities of nation and state occurred in the 19<sup>th</sup> century but was formally enshrined in international law only after WWI, with the proclamation of US President Woodrow Wilson’s Fourteen Points (1918) and

the establishment of the League of Nations (1920). Since then the nation-state has been the legitimate political actor in the international system.

However, a lingering problem since the crystallization of that idea is that most countries contain diverse ethnic and/or national minorities. Most African and Asian states include several such groups, as do several European states, notably Switzerland, Belgium, Spain, and Britain, as well as Canada.

The state is thus a political-legal construct while the nation is a spiritual-historical one, defining the identity of the state.

All citizens of the State of Israel enjoy civil equality. Its Basic Law: Human Dignity and Liberty defines the state as a democracy and ensures individual rights and liberties, and the Supreme Court has made it eminently clear in its rulings and interpretations that this law means equality.

By contrast, the Basic Law: Israel as the Nation-State of the Jewish People, or Nationality Bill, defines Israel as the nation-state of the Jewish People. Both the nationality and human dignity laws are based on principles drawn from the 1948 Declaration of Independence, which ensures civil rights while defining the state of Israel as the nation-state of the Jewish People. Introducing the issue of civil liberties to the nationality law, where it does not belong, would effectively imply recognition of Israel as a binational state.

Since the nationality law is designed to ensure that Israel is not and will never be a binational state, the center and leftwing Zionist political parties could be expected to endorse it wholeheartedly. That this didn't happen is a sad testament to the Labor movement's abdication of its historical role and growing identification with West European post-nationalist notions and its attempts to emasculate the very nation-state in whose creation it played the leading role.

It is indeed for this reason that most Israelis have abandoned the once dominant left. If the Zionist Left wants to return to power, it should do what David Ben-Gurion did in 1933 on the advice of his colleague Berl Katznelson: abandon internationalist ideals and identify the Labor movement as Jewish rather than cosmopolitan. Ben-Gurion did precisely this, and Labor ruled the Jewish polity for over 40 years.

*Prof. Shmuel Sandler is President of Emunah-Efrat College in Jerusalem and a Senior Research Associate at the BESA Center for Strategic Studies at Bar-Ilan University.*

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