

BASIC LAW PROPOSAL:

Israel as the Nation-State of the Jewish People

Last week Israel came one step closer to passing a controversial **Basic Law: *Israel as the Nation-State of the Jewish People***. On November 23rd, the Cabinet approved two versions of the bill in a 14-6 vote, with Yesh Atid and Hatnu'a opposing. The approval was part of a boarder agreement, according to which the PM will draft a third version of the bill that is expected to unify and soften the existing proposals. Therefore, while these two versions of the bill are now eligible to go to preliminary hearings in the Knesset, once the PM's bill is presented, the first two versions are to be withdrawn, and the Prime Minister's proposal will go straight to a first hearing in the Knesset. The Prime Minister's draft is an effort to ease a coalition crisis in response to his announcement that he would support such a bill.

This legislation has raised significant controversy in Israel. Proponents claim that formalizing the definition of Israel as a Jewish homeland is a necessary to maintain balance following prior legislation of two Basic Laws that strengthened Israel's democratic character, and as a measure to secure Israel's Jewish character in the face of rising challenges to this definition. Opponents claim that passage of this Basic Law creates a hierarchy that places Israel's Jewish character above its democratic character, harming the delicate balance defined in the Declaration of Independence, and that in the current atmosphere, passing the legislation stands to further polarize an already volatile situation between Jews and Arabs in the country.

According to PM Netanyahu, his version of the bill will be drafted in coordination with Attorney General Yehuda Weinstein. This announcement came after AG Weinstein issued strong criticisms of the first two bills prior to their approval, writing that some aspects would "make a real change to the basic principles of constitutional law as enshrined in the Declaration of Independence and the Basic Laws of the Knesset, and lead to deterioration of the democratic characteristic of the state."

As of now, all versions of the bill are still on the table, though the Prime Minister has only shared preliminary guidelines. Below are major similarities and differences between all 3 proposals for the legislation.

All three versions of the legislation:

1. Define Israel as "the national home of the Jewish people, wherein the Jewish People fulfills its yearning for self-determination in accordance with its historical and cultural heritage."
2. State that the "Right of National Self Determination in the State of Israel is unique to the Jewish People."
3. Posit that Jewish Civil Law would be a source of inspiration to the Knesset and the Courts when a "dispute cannot be resolved by existing statute, by judicial precedent, or by strict legal analogy."
4. Guarantee the safety and security of holy sites, declaring that they "shall be protected against desecration and all other damage and against anything that would interfere with freedom of

access of religious groups to places holy to them or to their sensibilities regarding said holy sites."

- No version of the bill refers directly to principles of equality, though several do reference Israel's Declaration of Independence.

Differences

Below are the major points of differences in clauses between the proposed versions of the bill:

Purpose of the Bill

<u>Bill 1</u> MK Zeev Elkin (<i>Likud</i>)	<u>Bill 2</u> MK Yariv Levin (<i>Likud</i>) MK Ayelet Shaked (<i>Jewish Home</i>) MK Robert Iltoy (<i>Yisrael Beiteinu</i>)	<u>Bill 3 (pending)</u> PM Benjamin Netanyahu
No "Purpose" clause	"The purpose of this Basic Law is to define the character of Israel as the national State of the Jewish People in order to codify in a basic law these values in the spirit of the principles of its Declaration of Independence."	The purpose is "to define the character of Israel as the national State of the Jewish people and codifying in a basic law the values of Israel as a Jewish and democratic state in the spirit of the principles of the declaration of Independence."

References to "Democratic State"

<u>Bill 1</u> MK Zeev Elkin (<i>Likud</i>)	<u>Bill 2</u> MK Yariv Levin (<i>Likud</i>) MK Ayelet Shaked (<i>Jewish Home</i>) MK Robert Iltoy (<i>Yisrael Beiteinu</i>)	<u>Bill 3 (pending)</u> PM Benjamin Netanyahu
Under the Democratic State clause, Israel is defined as a state with "a democratic regime."	Under the Democratic State clause, Israel is defined as a state with "a democratic regime" that would be "based on the principles of freedom, justice and peace in light of the vision of the Prophets of Israel, and committed to the individual rights of all its citizens as specified by any basic law"	Under the Purpose clause, it is stated that Israel's values are those of a Jewish and democratic State (See above). Under the clause "Basic Principles" Israel is defined as a state with "a democratic regime" that would "be based on the principles of freedom, justice and peace in light of the vision of the Prophets of Israel, and committed to the individual rights of all its citizens as specified by any law."

Preservation of Heritage

<u>Bill 1</u>	<u>Bill 2</u>	<u>Bill 3 (pending)</u>
MK Zeev Elkin (<i>Likud</i>)	MK Yariv Levin (<i>Likud</i>) MK Ayelet Shaked (<i>Jewish Home</i>) MK Robert Ilto (<i>Yisrael Beiteinu</i>)	PM Benjamin Netanyahu
<p>"Each resident of Israel, without regard to his religion or nationality, shall be entitled to strive for the preservation of his culture, heritage, language and identity."</p> <p>"The State may permit a community, including the members of a single religion or the members of a single nationality, to establish separate community settlements."</p>	<p>Each resident of Israel, without regard to his religion or nationality, shall be entitled to strive for the preservation of his culture, heritage, language and identity.</p>	<p>Each resident of Israel, without regard to his religion or nationality, shall be entitled to strive for the preservation of his culture, heritage, language and identity.</p>

Ingathering of the Exiles and Jewish Settlement

<u>Bill 1</u>	<u>Bill 2</u>	<u>Bill 3 (pending)</u>
MK Zeev Elkin (<i>Likud</i>)	MK Yariv Levin (<i>Likud</i>) MK Ayelet Shaked (<i>Jewish Home</i>) MK Robert Ilto (<i>Yisrael Beiteinu</i>)	PM Benjamin Netanyahu
<p>"The State will act to ingather the exiles of Israel and to promote Jewish settlement in its territory and it shall allocate resources for these purposes."</p>	<p>No reference</p>	<p>No reference</p>

Status of Arabic Language

<u>Bill 1</u>	<u>Bill 2</u>	<u>Bill 3 (pending)</u>
MK Zeev Elkin (<i>Likud</i>)	MK Yariv Levin (<i>Likud</i>) MK Ayelet Shaked (<i>Jewish Home</i>) MK Robert Iltoz (<i>Yisrael Beiteinu</i>)	PM Benjamin Netanyahu
Hebrew is the only language defined as a "State language". "Arabic shall have a special standing in the state; those who speak Arabic shall have access in their own language to State services, all as prescribed by law."	No reference	No reference

A number of Task Force members have issued statements expressing concern about both the content and the timing of the proposed law.

[JCPA \(Jewish Council of Public Affairs\)](#)

[ADL \(Anti-Defamation League\)](#)

[URJ \(Union for Reform Judaism\)](#)

[AMEINU](#)

[NIF \(New Israel Fund\)](#)

[TAFI \(The Abraham Fund Initiatives\)](#)

Civil society organizations have also issued statements.

[Mossawa \(the Advocacy Center for Arab Citizens in Israel\)](#)

[ACRI \(The Association for Civil Rights in Israel\)](#)

Druze and Circassian leaders issued a statement saying the law discourages and discriminates against loyal populations.

[Druze and Circassian issue statement against Nationality Bill \(Hebrew\)](#)

Further reading:

[Israel's Jewish nation-state bill: a primer](#) – *Haaretz* – 11.25.14

[Netanyahu vows to pass nation-state bill 'with or without' support](#) – *Haaretz* - Jonathan Lis - 11.24.14

[Netanyahu Tests Coalition Allies With 'Jewish State' Bill](#) – *Bloomberg* - Calev Ben David - 11.23.14

[Israeli Cabinet Approves Nationality Bill](#) – *New York Times* - Isabel Kershner - 11.23.14

[Breaking ranks, Livni, Lapid say they won't support Jewish nation-state bill](#) – *Haaretz* - Jack Khoury, Revital Hovel and Jonathan Lis - 11.23.14

[Cabinet approves 'Jewish state bill'](#) - *Jerusalem Post* - Lahav Harkov and Herb Keinon - 11.23.14

[Arabs strongly reject 'Jewish state' bill, but some Druze show support](#) - *Jerusalem Post* - Ariel Ben Solomon – 11.16.14

[Israeli Arabs stamp Facebook photos with 'second-class citizen'](#) – *Haaretz* – Oded Yaron – 11.26.14

[Likud MK calls for Druze affirmative action under 'Jewish state' bill](#) – *Times of Israel* -11.27.14

Opinion

[Coming out as a Jewish state](#) – *Ynet* – Rafael Castro – 11.29.14

[Rivlin: What is the point of the 'Nationality Law'?](#) – *Ynet* – Aviel Magnezi – 11.25.14

[Israel's Jewish homeland proposal could further heighten tension](#) – *LA Times* – Batsheva Sobelman, Laura King – 11.23.14

[Why the U.S. Constitution is everything the Jewish nation-state bill is not](#) – *Haaretz* – Yuli Tamir – 11.25.14

[On 'Jewish state' bill, US urges Israel to protect democracy](#) - *Times of Israel* – Lazar Berman – 11.24.14

[ADL says Jewish nation-state bill unnecessary, condemns politicization](#) – *Haaretz* – 11.24.14