



# General Assembly

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## Human Rights Council

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Agenda item 9

**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 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.

[1 February 2021]

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



## **Israel's Jewish Nation-State Basic Law is a racist law and a grave violation of Israel's obligations, including absolute prohibitions, under international law**

In July 2018, the Israeli parliament passed the Jewish Nation-State Basic Law. This Basic Law establishes a constitutional order based on systematic racial supremacy, domination, segregation, and demographic manipulation that amounts to clear breaches of absolute prohibitions under international law.

On 20 December 2020, two and half years after the passage of the law, a wide panel of 11 justices of the Israeli supreme court held the first hearing on 15 petitions filed against the law.

This Basic Law declares the intention to racially discriminate against Palestinians in the most fundamental aspects of their existence. It discriminates against Palestinians in the fields of citizenship, land and property, language and culture, and excludes them from the political community that constitutes the sovereign in their homeland.

Article 1 of the Basic Law determines that the "Land of Israel" is the historical homeland of the Jewish people; the State of Israel is the nation-state of the Jewish people, and that the realization of national self-determination in the State of Israel will be exclusive to the Jewish people.

This provision consolidates the supremacy of the Jewish people. Only they have the collective right to govern and control the territory and its inhabitants; and they alone hold the right to decide on the allocation and distribution of rights to all non-Jewish residents including citizenship and residency. Further this provision transforms all Palestinians into foreigners in their own homeland. All of Mandatory Palestine is the "historical homeland" of the Jewish people, and only theirs, and they hold the exclusive right to the realization of self-determination in this territory. The Palestinian people, citizens of Israel or residents of the 1967 Occupied Palestinian Territory, who have lived in this territory "from time immemorial," have no right to national self-determination in their homeland.

Article 7 of the Basic Law provides that "The State views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation."

According to this Article, racial segregation in housing is legitimate in Israel and the exclusion of Palestinian citizens from State land allocations, and budgets for development is justified. Indeed the State of Israel will now constitutionally act as a settlement movement, similar to the Jewish Agency, the World Zionist Organization and the Jewish National Fund. In other words, this provision enshrines the principle of "separate and unequal" between citizens of the State.

Moreover, when read together with Article 1 of the Law, Article 7 gives State authorities the constitutional tools to further dispossess Palestinians from their land and to expand the illegal settlement enterprise in the occupied West Bank, including East Jerusalem, and in the occupied Syrian Golan. In fact, a main purpose of the law's enactment was to give constitutional justification for Israeli settlements in the 1967 occupied territories.

Israel's institutionalized racial discrimination and oppression against Palestinians has existed since 1948. However, the Jewish Nation-State Basic Law legalizes Israel's discriminatory policies and practices, making them constitutionally imperative on State agents. Today, this Law is taught as part of the curriculum in the Israeli education system. It sends messages to Israeli Jewish students that the Palestinian people are inferior and that their existence as citizens or residents, is by itself illegitimate.

This Basic Law sets forth and comprises the constitutional identity of the Israeli State, its will and its goals. The articles of law, that determine "We the People" based on racial belonging only, are the most extreme provisions of law in any "so-called" democratic constitution since the end of the apartheid in South Africa.

In August 2018, ADALAH - Legal Center for Arab Minority Rights in Israel (Adalah) submitted a petition to the Israeli Supreme Court on behalf of the Palestinian political leadership arguing that the law violates both international human rights law and international humanitarian law. The attorney general did not address any of the international law violations raised in Adalah's petition.

In the petition, Adalah argued that the Basic Law denies the Palestinian people their right to self-determination in contravention of the Charter of the United Nations and ushers Israeli laws, policies, and practices into the prohibited sphere of colonialism.

A colonial system is expressed in this Basic Law by the imposition of a constitutional identity of Jewish ethnic supremacy and control, which denies the connection between the Palestinian people and their homeland, without consent and cooperation. This colonial system is the kind that falls within the bounds of absolute prohibitions under the International Convention on the Suppression and Punishment of the Crime of Apartheid, which proclaims practices of apartheid, including legislation, as a crime against humanity.

This Basic Law has been condemned by United Nations (UN) bodies and experts. In November 2018, four UN Special Rapporteurs wrote to the Israeli authorities expressing their deep concerns about the Basic Law. The State of Israel never responded to this communication. In October 2019, the UN Committee on Economic, Social and Cultural Rights (CESCR) concluded that the Basic Law does not comply with the Convention ratified by Israel – and called on Israel to either amend or repeal the Law. In December 2019, the Committee on the Elimination of Racial Discrimination determined that Israel's Jewish Nation-State Basic Law discriminates against non-Jewish people throughout Israel and the Occupied Palestinian Territory (OPT) and stands in violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The committee called on Israel to review the law and bring it into line with ICERD, particularly with regard to its limiting of the exercise of the right to self-determination exclusively to the Jewish people, its downgrading of the Arabic language in Israel, and the constitutional backing that the law gives to Jewish settlements in the OPT.

Accordingly, Adalah urges the Human Rights Council and its member states to conclude that the Jewish Nation-State Basic Law is a racist law and a grave violation of Israel's obligations under international law.

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