

# Israel's New Nation-State Law: Consequences for Jewish Democracy

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## Overview

1. Three Contexts
  1. Short-term Israeli political context
  2. Global politics since WWI
    1. Self-determination
    2. The past and future of nationalism: civic and ethnic
  3. Long-term Jewish political context:
    1. Emancipation and the Grand Bargain
    2. Visions of Zionism
2. Changing views of Israel as a nation-state of the Jews
3. The Nation-State Law: Consequences and debates

## Sources

1. Jerry Z. Muller, "Us and Them: The Enduring Power of Ethnic Nationalism," *Foreign Affairs* 87, no. 2 (2008): 18–35. p.20.

There are two major ways of thinking about national identity. **One is that all people who live within a country's borders are part of the nation, regardless of their ethnic, racial, or religious origins.** This liberal or civic nationalism is the conception with which contemporary Americans are most likely to identify. But the liberal view has with and often lost out to a different view, that of ethnonationalism. **The core of the ethnonationalist idea is that nations are defined by a shared heritage, which usually includes a common language, a common faith, and a common ethnic ancestry.**

The ethnonationalist view has traditionally dominated though much of Europe and has held its own even in the United States until recently. For substantial stretches of U.S. history, it was believed that only the people of English origin, or those who were Protestant, or white, or hailed from northern Europe were real Americans. It was only in 1965 that the reform of U.S. immigration law abolished the system of national-origin quotas that had been in place for several decades. This system had excluded Asians entirely and radically immigration from southern and eastern Europe.

## 2. Count of Clermont-Tonnerre, Speech to the French National Assembly (1789)

But, they say to me, the Jews have their own judges and laws. I respond that is your fault and you should not allow it. **We must refuse everything to the Jews as a nation and accord everything to Jews as individuals.** We must withdraw recognition from their judges; they should only have our judges. We must refuse legal protection to the maintenance of the so-called laws of their Judaic organization; they should not be allowed to form in the state either a political body or an order. They must be citizens individually. But, some will say to me, they do not want to be citizens. Well then! If they do not want to be citizens, they should say so, and then, we should banish them. It is repugnant to have in the state an association of non-citizens, and a nation within the nation. . . . In short, Sirs, the presumed status of every man resident in a country is to be a citizen.

## 3. Pittsburgh Platform (1885)

We recognize, in the modern era of universal culture of heart and intellect, the approaching of the realization of Israel's great Messianic hope for the establishment of the kingdom of truth, justice, and peace among all men. **We consider ourselves no longer a nation, but a religious community, and therefore expect neither a return to Palestine, nor a sacrificial worship under the sons of Aaron, nor the restoration of any of the laws concerning the Jewish state.**

## 4. Basel Program (1897)

Zionism seeks to establish a home for the Jewish people in EretzIsrael secured under public law. The Congress contemplates the following means to the attainment of this end:

1. The promotion by appropriate means of the settlement in Eretz-Israel of Jewish farmers, artisans, and manufacturers.

2. The organization and uniting of the whole of Jewry by means of appropriate institutions, both local and international, in accordance with the laws of each country.
3. The strengthening and fostering of Jewish national sentiment and national consciousness.
4. Preparatory steps toward obtaining the consent of governments, where necessary, in order to reach the goals of Zionism.

## 5. Balfour Declaration

Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet

His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country.

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours,

Arthur James Balfour

## 6. David Ben-Gurion, Report to the Peel Commission (1937)

**If Palestine is our country, it is not to the exclusion of other inhabitants; it is also their country, the country of those who are born here and have no other homeland**, and we can come in without any limit except the limit not to displace the existing inhabitants. . . . Sometimes it is also asked. Why does the Balfour Declaration say "in Palestine" and not "Palestine as a National Home"? First of all, I would say the programme of our movement, . . . we used almost the same words as are used in the Balfour Declaration, to create in Palestine a homeland for the Jewish people. It was formulated in the German language, Heimstaette. . . . We did not say "Palestine as a National Home." **We did not say to make in Palestine a Jewish State.** We did not say it at that time, and we do not say it now, and I will tell you why. There are three reasons. Our aim is to make the Jewish people master of its own destiny, not subject to the will and mercy of others, as any other free people. But **it is not**

**part of our aim to dominate anybody else. If Palestine were an empty country we could say a Jewish State, because the Jewish State would consist of Jews only and our self-government in Palestine would not concern others. But there are other inhabitants in Palestine who are here and, as we do not want to be at the mercy of others, they have a right not to be at the mercy of the Jews. It may be the Jews would behave better, but they are not bound to believe in our goodwill. A state may imply, though not necessarily, it may imply - since there are two nationalities - domination of others, the domination by the Jewish majority of the minority, but that is not our aim. ... We take into consideration the fact that there are non-Jews in Palestine, and it was not our aim and we do not need to dominate them. A state may imply a wish to dominate a minority, the wish to dominate others.**

The second reason is that a state means a separate political entity not attached to any other state-unit. A Jewish National Home may also mean that, but not necessarily so. On the contrary; we should like this country to be attached to a greater unit, a unit that is called the British Commonwealth of Nations. For the solution of the Jewish problem, for our free national future, it is not necessary that Palestine should constitute a separate State, and we should be only too glad if in the future, when the Jewish National Home is fully established, Palestine shall be eternally and completely free but that it should be a member of a greater unit, that is, the British Commonwealth of Nations.

There is a third reason why we do not use the formula of a Jewish State. There are Holy Places in Palestine which are holy to the whole civilized world, and we are unwilling and it is not in our interest that we should be made responsible for them. We recognize that they should be placed under a higher supervision, under some international control or a mandatory or some other international body, as is laid down in the Mandate.

## **7. The Declaration of the Establishment of the State of Israel**

**The Land of Israel was the birthplace of the Jewish people.** Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.

After being forcibly exiled from their land, the people kept faith with it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom.

Impelled by this historic and traditional attachment, Jews strove in every successive generation to re-establish themselves in their ancient homeland. In recent decades they returned in their masses. Pioneers, defiant returnees, and defenders, they made deserts bloom, revived the Hebrew language, built villages

and towns, and created a thriving community controlling its own economy and culture, loving peace but knowing how to defend itself, bringing the blessings of progress to all the country's inhabitants, and aspiring towards independent nationhood.

In the year 5657 (1897), at the summons of the spiritual father of the Jewish State, **Theodore Herzl, the First Zionist Congress convened and proclaimed the right of the Jewish people to national rebirth in its own country.**

This right was recognized in the Balfour Declaration of the 2nd November, 1917, and re-affirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connection between the Jewish people and Eretz-Israel and to the right of the Jewish people to rebuild its National Home.

The catastrophe which recently befell the Jewish people - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz-Israel the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the community of nations.

Survivors of the Nazi holocaust in Europe, as well as Jews from other parts of the world, continued to migrate to Eretz-Israel, undaunted by difficulties, restrictions and dangers, and never ceased to assert their right to a life of dignity, freedom and honest toil in their national homeland.

In the Second World War, the Jewish community of this country contributed its full share to the struggle of the freedom- and peace-loving nations against the forces of Nazi wickedness and, by the blood of its soldiers and its war effort, gained the right to be reckoned among the peoples who founded the United Nations.

On the 29th November, 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz-Israel; the General Assembly required the inhabitants of Eretz-Israel to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable.

**This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State.**

Accordingly we, members of the People's Council, representatives of the Jewish Community of Eretz-Israel and of the Zionist Movement, are here assembled on the day of the termination of the British Mandate over Eretz-Israel and, by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish state in Eretz-Israel, to be known as the State of Israel.

We declare that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government of the Jewish State, to be called "Israel."

**The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.**

The State of Israel is prepared to cooperate with the agencies and representatives of the United Nations in implementing the resolution of the General Assembly of the 29th November, 1947, and will take steps to bring about the economic union of the whole of Eretz-Israel.

We appeal to the United Nations to assist the Jewish people in the building-up of its State and to receive the State of Israel into the community of nations.

**We appeal - in the very midst of the onslaught launched against us now for months - to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.**

We extend our hand to all neighbouring states and their peoples in an offer of peace and good neighbourliness, and appeal to them to establish bonds of cooperation and mutual help with the sovereign Jewish people settled in its own land. The State of Israel is prepared to do its share in a common effort for the advancement of the entire Middle East.

We appeal to the Jewish people throughout the Diaspora to rally round the Jews of Eretz-Israel in the tasks of immigration and upbuilding and to stand by them in the great struggle for the realization of the age-old dream - the redemption of Israel.

Placing our trust in the Rock of Israel, we affix our signatures to this proclamation at this session of the provisional Council of State, on the soil of the Homeland, in the city of Tel-Aviv, on this Sabbath eve, the 5th day of Iyar, 5708 (14th May, 1948).

## 8. Basic Law: Human Dignity and Liberty (1992, amended 1994)

The basic human rights in Israel are based on the recognition of the value of the human being, the sanctity of his life, and his being a free person, and they shall be upheld in the spirit of the principles set forth in the Proclamation of the Establishment of the State of Israel.

The purpose of this Basic Law is to protect human dignity and liberty, in order to stipulate the values of the State of Israel as a Jewish and democratic state, in a Basic Law.

## 9. Basic Law: Israel - The Nation State of the Jewish People (2018)

### 1. Basic Principles

- a) **The Land of Israel is the historical homeland of the Jewish people, in which the State of Israel was established.**
- b) **The State of Israel is the nation state of the Jewish People, in which it realizes its natural, cultural, religious and historical right to self-determination.**
- c) **The exercise of the right to national self-determination in the State of Israel is unique to the Jewish People.**

### 2. State Symbols

- a) The name of the State is "Israel".
- b) The State flag is white, with two light-blue stripes close to the edge, and a light-blue Star of David in its centre.
- c) The State emblem is a seven-branched menorah with olive leaves on both sides, and the word "Israel" at its base.
- d) The State anthem is "Hatikvah".
- e) Details regarding the State symbols shall be determined by law.

### 3. State Capital

**Jerusalem, complete and united, is the capital of Israel.**

### 4. Language

- a) **Hebrew is the State language.**
- b) **The Arabic language has a special status in the State;** arrangements regarding the use of Arabic in state institutions or vis-à-vis them will be set by law.
- c) Nothing in this article shall affect the status given to the Arabic language before this law came into force.

5. Ingathering of the Exiles

The State shall be open for Jewish immigration, and for the Ingathering of the Exiles.

6. The Connection with the Jewish People

- a) The State shall strive to ensure the safety of members of the Jewish People and of its citizens, who are in trouble and in captivity, due to their Jewishness or due to their citizenship.
- b) The State shall act, in the Diaspora, to preserve the ties between the State and members of the Jewish People.
- c) The State shall act to preserve the cultural, historical and religious heritage of the Jewish People among Jews in the Diaspora.

7. Jewish Settlement

**The State views the development of Jewish settlement as a national value, and shall act to encourage and promote its establishment and strengthening.**

8. Official Calendar

The Hebrew calendar is an official calendar of the State, and the Gregorian calendar shall serve alongside it as an official calendar; the use of the Hebrew calendar and the Gregorian calendar shall be determined by law.

9. Independence Day and Memorial Days

- a) Independence Day is the official national holiday of the State.
- b) Memorial Day for the Fallen in Israel's Wars, and the Holocaust Martyrs' and Heroes' Remembrance Day, are official memorial days of the state.

10. Days of Rest and Statutory Holidays

The Sabbath and the Jewish holidays are the established days of rest in the State; non-Jews have the right to observe the days of rest on their days of Sabbath and holidays; details regarding this matter shall be determined by law.

11. Entrenchment

This Basic law shall not be modified except by a Basic Law, passed by a majority of the members of the Knesset.