



Hirak

Policy Paper:

**Nation State Law
and Ways to Address It**

2018

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1 Introduction

The Zionist movement commenced in laying its colonial project in Palestine since its first congress, held in Basel, Switzerland in 1897. The congress announced that the main purpose of the Zionist movement is to create a homeland, guaranteed under public international law, in Palestine for the Jewish people.¹ To guarantee the accomplishment of this goal, the Zionist movement overhauled and replaced the features and characteristics of Palestine with Jewish ones through the utilisation of colonial practices that led to significant demographic changes through the forced displacement of Palestinians and the obliteration of the features of the indigenous Arab Palestinian civilisation. This came with the view of negating and excluding the historical Palestinian narrative and replace it with the Zionist narrative.

Since the Israeli occupation of Palestinian land in 1948 in realisation and implementation of the Basel congress, successive occupation governments sought to legalise colonial and derogatory policies against Palestinians, in an attempt to legitimise and utilize them to complete the Zionist project. To accomplish this goal, the Israeli Knesset issued racial legislations, whereby statistics (updated to 2016) demonstrate the issuance of 178 racist laws or decrees that discriminate against Palestinians and prevent the development of a new Palestinian national project.² This includes the “Right of Return” Law of 1950, which gave the right to Jews to migrate to Palestine and continue the Judisation project,³ as well as the “Judea and Samaria Settlement Regulation Law” of 2017, which enables the State to confiscate privately owned Palestinian land to build settlements.⁴

One of the most prominent racial legislations that were recently issued is “Basic Law: Israel as the Nation State of the Jewish People,” issued by the Knesset on 19 July 2018 declaring that Israel is the nation state of the Jewish people. The major problem with this legislation is not that it is a racist law that discriminates against Palestinians, but also that it is a basic law in the absence of an Israeli constitution. As such, this law is considered above any other issued law, as it is a racist colonialist law that seeks to legalise occupation,⁵ as well as endorse and mainstream previous and

1 Fayez Sayeg, *Zionist Colonisation in Palestine*. Cairo: Permanent Secretariat for African-Asian Solidarity. No year of publication. Page 8.

2 Munther Abu Ramouz. *Israeli Racist Laws Against Palestinians Campaign*. Palestinian Vision Organisation. <http://palvision.ps/1849/>

3 Oren Yiftachel. *Ethnocracy: Land and Identity Politics in Israel Palestine*. University of Pennsylvania Press. 2006. Page 9.

4 *Settlement regulation law: principles of Israeli sovereignty in the occupied territories*. Legal Centre for Arab Minority rights in Israel “Adalah”. 4 February 2018. <https://www.adalah.org/ar/content/view/9367>.

5 *Nation State Law is illegitimate and endorses apartheid*. Legal Centre for Arab Minority Rights in Israel “Adalah”. 19 July 2018. <https://bit.ly/2MK8BnF>

current racist practices against Palestinians. This law is by far the most dangerous law enacted by the Knesset, as it provides for the establishment and legalisation of an apartheid system. This raises the questions “What are the implications of this law on the future and place of Palestinians?” and “What are the ways to counter this law that challenges international laws and principles?”

2 Dimensions and Implications of “Basic Law: Israel as the Nation State of the Jewish People”

Deliberations and discussions on the adoption of the Nation-State Law commenced in 2011. Despite the extension of deliberations and discussions for the past seven years, the final draft of the law did not witness major changes,⁶ as it became to be known as “Basic Law: Israel as the Nation-State of the Jewish People.” The adopted law consisted of 11 articles and was adopted by a majority of 62 members from coalition parties against 55 members, 53 of which from opposition parties, as well as the abstention of two members.⁷ This law was given the designation of a “basic law,” which empowers it to supersede ordinary legislation in the case of their clash.⁸ This was explicitly stated in Article 11, which reads “This Basic Law shall not be amended, unless by another Basic Law passed by a majority of Knesset members,”⁹ not to mention that the constitutional nature of this law could subjugate Palestinians to the interests of Jewish parties, and particularly the right wing parties that control the Knesset.

Additionally, the law carries further dangerous dimensions on the legal and political levels. The law has adopted texts that explicitly and clearly compromise on the legal status of Palestinians,¹⁰ starting with the emphasis on the basic principles of the law on the Jewish character of the State, and that Israel is the historical homeland of the Jewish people, thus negating the right of Palestinians to self-determination. This moves on to highlight State symbols, including its flag and emblem, and emphasise the annexation of Jerusalem; as well as negating the right of Palestinian refugees to return by restricting it to Jews in the Diaspora. Other dimensions in the legalisation focus on settlement, whose encouragement and development is now a state responsibility; the claim of a Jewish identity in Palestine, coupled with the denial of Palestinian identity by adopting the Jewish calendar and resting days; and confirming that the Independence Day is a national holiday of the State that came about at the expense of the Palestinian Nakbe of 1948. The first Article of the law emphasised that

6 Azmi Bushara, Nation State Law: How Many Times Will They Declare the State of Israel? Al-Arabi Al-Jadeed, 24 July 2018. <https://bit.ly/2w2agij>

7 Adopted Laws: Adopted in their Final Reading. Basic Law: Israel as the Nation-State of the Jewish People. Madar- Palestinian Forum for Israeli Studies. <https://bit.ly/2NnEO3W>

8 Salim Salameh. Basic Laws and the Question of the Constitution. Israeli Issues. Madar- Palestinian Forum for Israeli Studies. Number 59, 2015, 24.

9 Adopted laws (n 7).

10 Yousef Jabareen. Nation-State Law and Jewish Supremacy. Israeli Issues. Madar- Palestinian Forum for Israeli Studies. Number 56. Winter 2014. 45

“The land of Israel is the historical homeland of the Jewish people, in which the State of Israel was established; the State of Israel is the national home of the Jewish people, in which it fulfils its natural, cultural, religious and historical right to self-determination; the right to exercise national self-determination in the State of Israel is unique to the Jewish people.”¹¹

This Article carries several dimensions. With the use of the “the land of Israel is the historical homeland of the Jewish people”¹² the law negates the right of the Palestinian people in their land and to their homeland and emphasises the Zionist narrative of the historical attachment of the Jewish people to this land –historical Palestine- as a historical and national home of the Jews. This shows that the Israeli Occupation State defines itself as a Jewish State and a homeland of the Jewish people, and thus exclusively grants the right to self-determination to the Jewish people. In doing so it clearly and publicly ignores the right of the Palestinian people to self-determination without due consideration to repeated resolutions by the United Nations General Assembly, including Resolution 3236 of 22 November 1974,¹³ which emphasised the basic rights of the Palestinian people, including self-determination, independence and sovereignty.

The legislator also insisted to clearly determine and adopt the current state symbols, as carried out in Article 2, which states:

“The name of the state is “Israel”; the state flag is white with two blue stripes near the edges and a blue Star of David in the centre; the state emblem is a seven-branched menorah with olive leaves on both sides and the word “Israel” beneath it; the state anthem is “Hativka;” and details regarding state symbols will be determined by the law.”¹⁴

With this explicit declaration, there is erasure of Palestinian identity. This is also manifesting in another legislation proposed by a Likud member of Knesset, which states “citizens who carry in a demonstration the flag of an enemy state or an unfriendly entity to Israel, such as the flags of the Palestinian Liberation Organisation, shall be prosecuted and be subject to imprisonment for one year.”¹⁵

With respect to Jerusalem, the law confirmed the illegitimate annexation of occupied east Jerusalem in its third article, utilising the term “United Jerusalem” in harmony with “Basic Law: Jerusalem, the Capital of Israel” enacted on 30 July 1980, whose first Article stated “Jerusalem, complete and united, is the capital of Israel.” As such, east Jerusalem is considered part and parcel of West Jerusalem. It is important to note here that this Israeli measure is considered null and void as it contradicts the principles of international law, as stipulated in United Nations Security Council

11 Adopted laws (n 7).

12 Ibid.

13 United Nations General Assembly Resolution 3236 (22 November 1974). <https://bit.ly/2vVjlcx>

14 Adopted laws (n 7).

15 Proposed Legislation “Imprisonment of Carriers of Palestinian Flag”. Palestinian Media Centre <https://bit.ly/2MHLoum>.

Resolution 478 of 1980.¹⁶

It is clear from the above that the law ignores resolutions of international legitimacy, including Resolution 181, issued by the United Nations General Assembly on 29 November 1947, which considered Jerusalem *a corpus separatum* that is administrated by the United Nation's Trusteeship Council.¹⁷ It is important to note here that with respect to Jerusalem, this law only reinforces the declaration by Donald Trump on Jerusalem in an attempt to exclude Jerusalem from any future political settlement.

The violations and compromise did not stop at highlighting State symbols within the framework of a basic law but extended to infringe on the Arabic language, the mother tongue of the Palestinian people. Article four states "The state's language is Hebrew; the Arabic language has a special status in the state"¹⁸ The granting of this "special status" without provision of clarification or interpretation is an infringement on the Arabic language and does not recognise it as an official language. This has severe ramifications within the framework of obliterating Arabic civilisation, whereby "language is the world and its content; it is awareness, identity, and culture"¹⁹

This is only further complicated is the denial of the law in its fifth Article the right of return of Palestinian refugees and the refusal of any proposition that would stop Jewish migration. Article 5 of the law states "The state will be open for Jewish immigration and the ingathering of exiles."²⁰ This infringement on the right of return of Palestinian refugees is a denial of Article 13 of the Universal Declaration of Human Rights, which was adopted in December 1948 by the United Nations General Assembly. Paragraph 2 of the Article states "Everyone has the right to leave any country, including his own, and to return to his country."²¹ This also contradicts Resolution 194, also adopted by the United Nations General Assembly in December 1948, where Article 11 stated "Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;"²²

The seventh section of this law comes in complete harmony with Israeli policy that seeks to Judaize Palestinian space, by explicitly declaring that the State encourages and support Jewish settlement in the State through a basic law. The Article states "The state views the development

16 Musa Dweik. Jerusalem and International Law. A Study of the Legal Status of the City and Israeli Human Rights Violations in it. Jerusalem, 2002, 20.

17 United Nations General Assembly Resolution 181 (29 November 1947) <https://bit.ly/2rZ2mT4>.

18 Adopted laws (n 7).

19 David Grossman. The Goal of the Nation-State Law is to make Arabs Feel Insecure. 04/08/2019, Al-Quds Newspaper, Number 17595, Page 1.

20 Adopted Laws (n 7).

21 Universal Declaration of Human Rights (December 1948) <https://bit.ly/2hrKTAM>.

22 United Nations General Assembly Resolution 194 (December 1948) <https://bit.ly/2s56IHA> .

of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation.”²³ It was also expected in light of the racist inclinations of the Knesset that the Israeli legislator does not provide any value for Arab communities, and restrict development of communities as well as allocation of resources and budgets to Jewish communities.²⁴ This law has given legal cover to the settlements established in the West Bank and thus gives rise to another set of questions. Who will be these communities and where will they be established? This leaves no doubt that the establishment of these settlements will come at the expense of the forced displacement of Palestinian communities and take-over of thousands of dunums of land. It is important to note here that this contradicts international law, whereby Article 49, paragraph 6 of the Fourth Geneva Convention states “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”²⁵

The last articles of the law (Articles 8, 9 and 10) states that the Jewish calendar is the official calendar of the State that Independence Day is a national State holiday, and that Sabbath days are rest days. These thus close the dialogue on the framework of the Jewish identity of the State in a direct exclusion of practice of fundamental freedoms to non-Jewish religions.²⁶

This law is only a continuation of the historical Zionist project, commencing in the idea of establishing a Jewish State, passing through the Declaration of Independence and ending with the Nation State Law, which not only grants the right to self-determination only to Jews, but also deprives Palestinians of it, as well as Palestinian cultural, social and political rights.

23 Adopted Laws (n 7).

24 Azmi Bushara (n 6).

25 Geneva Convention Relative To The Protection Of Civilian Persons In Time Of War (12 August 1949).

26 Adopted Laws (n 7).

3 An Apartheid Law that Violates International Conventions and Resolutions

The Israeli occupation has committed massacres and crimes against the Palestinian people since the establishment of their State. They have also deprived the Palestinian people of the most basic of their rights, preserving this racist policies to date with the view of displacing and ethnically cleansing Palestine. As such, this nation-state law is but a reinforcement of an inhumane racist apartheid regime against Palestinian citizens of Israel. The law also violated international law and legitimacy on a number of accounts, thus making an apartheid law par excellence.

The daily violations committed by the Israeli occupation against the Palestinian people as a flagrant violation of international law further reinforce the Apartheid system. This includes the discriminatory enforcement of collective punishment against Palestinians but not Israelis in response to any individualistic action. Collective punishment is prohibited under Article 33 of the Fourth Geneva Convention, which states “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.”²⁷

This law guarantees and emphasises the Jewish character of the State and its ethnicity. The law also emphasises that it is the State of the Jewish people and that Arabs do not have a place in it, whether they are Druze, Christian, Muslim or of any race, religion or ethnicity that is not Jewish. It is important to note here that this contradicts the principles of democracy,²⁸ which calls for equal rights between the citizens of a State and the absence of discrimination on the basis of religion, race or political affiliation. With this racist law that fosters hatred, democracy and equality are certainly absent.

The enactment of the law stirred several waves to anger and despair among political parties within the Occupation State, as it reveals the ugly real picture of Israel as an undemocratic State. As such, Attorney General and legal expert, Avichai Mandelblit, warned the Benjamin Netanyahu government from the global implications of the enactment of the nation-state law.²⁹ This concern does not come from void, as Mandelblit is a man of law who truly understands the repercussions this legislation would have on the global level in light of the violations it commits.

This legislation is a direct and literal translation of the approaches of the occupation State and an

27 Geneva Convention (n 25) article 33.

28 “Adaleh” Position Paper: Nation State Law is Illegitimate and Reinforces Apartheid”. Arab 48. 19/07/2018 <https://bit.ly/2MK8BnF>.

29 Nation-State Law: On the Way to become a Religious Ethnic State. Arab 48. 11/07/2018. <https://bit.ly/2MZKlSr>

explicit and clear refusal of resolutions of international legitimacy issued by the Security Council and General Assembly, including partition plan 181 of 1947, UN Security Council Resolutions 242 of 1967³⁰ and 338 of 1973.³¹ This law only recognises Israeli's as citizens and grants the right to self-determination exclusively to the Jewish people, despite the granting by UNGA Resolution 181 of the right to self-determination also to Palestinians.³² The law also gives settlement expansion a legal and nationalistic value and seeks to encourage and reinforce it, despite being a war crime pursuant to the Rome Statute of the International Criminal Court.³³

On another level, this legislation serves as a first step on the road for the establishment of *Eretz Israel*. This is deduced from that the law does not refer to settlement in the occupied territory only, but paves the way for additional occupation and settlement, stipulating "The state will be open for Jewish immigration and the ingathering of exiles." These texts do not mean that the occupation will spread and expand its settlements not only in the 1948 occupied areas but also as a first step to annex the remainder of Palestine and occupy lands around it. As such, *Eretz Israel* considers Palestine as a stepping stone as it was seen by the leaders of the Zionist movement, with Theodor Herzl being the first.³⁴

The Nation-State Law also contradicts the "Declaration on the Granting of Independence to Colonial Countries and Peoples" of 14 December 1960. The Declaration stipulated that subjugating people to occupation and colonial domination is a flagrant violation of that persons human rights, contradicts UN Charter and impedes world peace and cooperation.³⁵

This legalised system of apartheid as provided for in the Nation-State Law contradicts and violates the UN Declaration on the Elimination of all forms of Racial Discrimination, issued on 20 November 1963. The Declaration emphasised the importance of the enjoyment of human rights and named out the basic rights that should be guaranteed, including non-discrimination on the grounds of race, religion or colour as stipulated in Articles 1, 2, 4, 6 and 7.³⁶ The Rome Statute of the International Criminal Court, emphasised the refusal of racist policies. Article 7 of the Statute considers deportation/transfer of civilians, apartheid, extermination and persecution as crimes against humanity.³⁷

30 United Nations Security Council Resolution 242 (June 1967) <https://bit.ly/2nR5gbK>.

31 United Nations Security Council Resolution 338 (October 1973) <https://bit.ly/2PlurG>.

32 Ibrahim Shaban. Nation State Law in an Alleged Ethnic Framework. 23/07/2018. <https://bit.ly/2w1G9qe>

33 Rome Statute of the International Criminal Court (July 2002).

34 Eretz Israel at the Door. Al-Rawabet Centre for Research and Strategic Studies. 27 December 2016. <https://bit.ly/2LvkgMg>

35 United Nations General Assembly Resolution 1514 (December 1960). <https://bit.ly/1QjQWiW>

36 Convention on the Elimination of all forms of Racial Discrimination (January 1969).

37 Rome Statute (n 33).

4 The Impact and Implications of the Law on Palestinians

Israeli racist practices preceded the enactment of the nation-state law, such that the occupation apparatus follows strategic directions and plans in their attempt to Judaize historical Palestine, and thereafter legitimise these racist practices by enacting them into law. This has led to an increase in racist practices against the Palestinian people in the areas that fall directly under the control of the occupation forces, including the 1948 territory, Jerusalem, West Bank and Gaza Strip. Hence, it is important to study the impact of this law on the different groups and categorisations of Palestinians.

4-1 The Impact of the Nation State Law on Palestinian Citizens of Israel and Palestinians in Jerusalem

The term “Palestinian Citizens of Israel” refers to Palestinians who remained in their land and houses during and after the 1948 Nakbe, when the vast majority of the Palestinians were massacred and forcefully displaced, and only 150,000 Palestinians remained.³⁸ The nation-state law deprives these Palestinians from their citizenship rights as holders of Israeli nationality, particularly in terms of deprivation of the realisation of their right to self-determination, which is exclusively granted to Jews in Article 1 of the law.³⁹ This entails a treatment of Palestinians as second class citizens⁴⁰ without any legitimacy to practice their basic rights that guarantee decent livelihood.

It is also important to note here that this law supports Jewish presence across the land of historical Palestine. The provisions of the law facilitate covering up the processes of forced displacement to mitigate the impact of demographic distribution. One example of this are the Israeli attempts to forcefully displace Bedouins from the Negev,⁴¹ where the Israeli government seeks empty the Negev

38 From the 1948 Nakba to the 1967 Naksa. BADIL Occasional Bulletin No. 18. Published on June 2004. <https://bit.ly/2w6iZ1W>

39 Adopted Laws (n 7).

40 Second class citizens refers to members of a social or political group whose enjoyment of rights and access to opportunities is deemed less than the dominant group in society: https://en.oxforddictionaries.com/definition/us/second-class_citizen

41 Bedouins in the Negev Desert are indigenous Arab Palestinians who remained on their land after the establishment of Israel in 1948. They live in the Negev desert since the 5th century BC. They organised themselves in nomadic tribes that lives off livestock breeding and seasonal agriculture. The Palestinian Bedouin community has endured over the past five decades critical changes, including uprooting, land confiscation and enforced urbanisation. In 2006, the number of Bedouins was approximately 200,000, forming approximately 25% of the region's population (CBS, 2006; Abu-Saad, 2005a) Available at: <http://mada-research.org/wp-content/uploads/2011/09/ebook-arabic-new.pdf> p.121

of its citizens through the proposition of developmental projects, such as the opening of two new settlements: Daniel and Netsanet.⁴² The Israeli government has also revoked the citizenship of thousands of Negev Bedouin, as per the statistics and findings of Adaleh centre,⁴³ with the view of marginalising the existence and presence of Palestinians in these areas.

The placement of Palestinian citizens of Israel as second class citizens in the nation-state law has legitimised racist practices that they were previously subjected to through the provision of a legal cover. One of these policies, for example, is economic discrimination, such that it is expected that economic advantages will be provided to Jewish citizens at the expense of Arabs.⁴⁴ Discriminatory practices have significantly impacted Palestinians; for example 82.85% of the working force are Jews, compared to 13.32% Arabs and 3.38% who are neither.⁴⁵ Additionally, the unemployment rates differ between Jews and Arabs, which stood at 4.6% in 2016 among Jews but rose to 6.4% among Arabs for the same year.⁴⁶

The impact of this law on Palestinians in Jerusalem would be to facilitate systematic policies to empty Jerusalem of its Palestinians through revocation of residency, prevention of construction, house demolitions and confiscation of property. This is confirmed in the findings of Human Rights Watch, which pointed out to the revocation of 14,595 residencies between 1967 and 2016, as per the statistics of the Israeli Ministry of Interior.⁴⁷

The nation-state law also raises the value and importance of settlement, which will lead to an increase in its rate. According to Israeli statistics, there are currently approximately 640,000 Israeli settlers in settlements in the West Bank and Jerusalem.⁴⁸ This law will facilitate the implementation of future plans to expand settlements, as well as Judaise Jerusalem and other Palestinian cities. One example on this is the Jerusalem master plan 1967-2020.⁴⁹

The forced displacement plan for Palestinian in Jerusalem places significantly constraints on Palestinians living in the city in terms of construction and planning, such that the Arab suburbs in Jerusalem are left unplanned, which is a major obstacle in the receipt of building and expansion permits. This shows that “planning and division systems in the Israeli Jerusalem municipality, as per

42 Israel launches two new settlements in the Negev, one of them is unique. Arabic Sputnik. 24.07.2018 <https://bit.ly/2vw2kFo>

43 Occupation Strips Thousands of Palestinians of their Citizenship. Gaza. Palestine Today. 25.08.2018 <https://bit.ly/2PbYbhY>

44 Yousef Jabareen. Nation-State Law Dimensions: On the Future of the Two-States and Possibilities of Addressing and Changing the Discourse. Arab 48. 21.07.2018. <https://bit.ly/2OdUiZy>

45 As Al-Atrash. Israeli Economic Scene: Good Performance and Uneven Growth. Madar Strategic Report 2017. 169. <https://bit.ly/2AnR7u3>.

46 Ibid. 167-168.

47 Israel: Jerusalem Palestinians Stripped of Status: Discriminatory Residency Revocations. Human Rights Watch. 08.08.2017 <https://www.hrw.org/news/2017/08/08/israel-jerusalem-palestinians-stripped-status>.

48 Infographic: 640 thousand Israeli's live in 242 settlements and neighbourhoods in West Bank and Jerusalem. 7th day Sinai. 05.02.2018. <https://bit.ly/2MWhmhC>

49 For more information on the plan refer to Dr. Amin Abu Baker. Jerusalem Master Plan Project 1967-2020. Open Jerusalem University <https://bit.ly/2C82Nnc>.

international standards, are racist and discriminatory systems.”⁵⁰ It is also important to note here that the receipt of a building licence requires significant funds, time and efforts that are beyond anyone’s endurance capacities. This leads Palestinians to build without permits with a permanent risk of house demolitions. Findings indicate that the occupation authorities force Palestinians to demolish their unlicensed houses, such that in 2016, approximately 1,054 Palestinian structures were demolished in the West Bank, including in east Jerusalem.⁵¹

Alongside the forced displacement of Palestinians and settlement expansion in Jerusalem, the occupation seeks to obliterate Arab identity in several ways. One such method is the Judaisation of the school curriculum, such that the Israeli Ministry of Education continuously tries to enforce a specific curriculum on Arab schools in east Jerusalem.⁵² The occupation also works on fighting the Arab presence in all aspects, such as for example designating Hebrew names to Jerusalem streets.⁵³ With the enactment of the nation-state law, and particularly Article 4, which considered Hebrew the official state language, these practices will be placed in a legal framework and disseminated.

4-2 The Impact of the Nation State Law on Palestinians in the 1967 Occupied Territory

Israel has enacted a number of racist laws over the years, with the nation-state law serving as their culmination. This law is considered the most dangerous in light of setting a constitutional approach for Israel and that it includes a series of racist practices against Palestinians in the 1967 occupied territory. This includes the provision of a legal character to settlement plans, collective forced displacement and negation of the right to return.⁵⁴

The nation-state law considers, as stated earlier, settlement as a national value. As such, the government will work on its development and promotion in the West Bank, including through land confiscation, construction of settlements and isolation of towns and villages from one another. This, in its turn, would promote Jewish presence and increase the number of settlers in the 1967 territories.⁵⁵

The biggest dilemma in the nation-state law is that it supersedes any other local or international law, as clarified by the Israeli government in the document submitted to the Israeli Supreme Court. The document clarifies that the seventh article on settlement is above any law enacted by the

50 Jad, Isaac. Suhail, Khalilieh. Jerusalem, the longing of Freedom.. p41: <https://bit.ly/2PWt7DF>

51 UN study reveals record number of demolitions in occupied Palestinian territory in 2016. United Nations News Centre, 29 December 2016. <https://bit.ly/2PuMHGa>

52 The occupation fights Jerusalemites in the educational curriculum. Al-Jazeera. 01.09.2016. <https://bit.ly/2N1Fe0q>

53 Once against the occupation municipality designates Hebrew names to Jerusalem streets. Ramallah Online. 26/12/2016. <https://bit.ly/2wdcri1>

54 Nour Abu Eisheh, Ahmad Abu Dalqa, Mohammad Abu Srour. Ways to Address Israeli Nation-State Law. Sama News. 23.08.2018. <https://bit.ly/2LsoWMs>

55 Omri Boehm. Nation State Law through the eyes of a Jewish Professor. 01.08.2018. <https://bit.ly/2w5rTNk>

Knesset and that Knesset laws override international law. This effectively means that the West Bank could be annexed without consideration of international law. This law also leads to the legalisation of the settlement outposts in the West Bank,⁵⁶ which would enable any member of Knesset to propose a legislation to annex the West Bank and/or Gaza Strip.⁵⁷

Settlement practices in the West Bank were not restricted only to area "A" but expanded to include area "C" through a crawling annexation approach utilised by Israel to support settlement. This comes within the context that international circumstances do not support Israel to ethnically cleanse Palestinians as was done in 1948, and hence Israel utilises this method to give a legal character to changing the demographic composition in Palestine.⁵⁸ One example on this is the E1 project, which is considered part of a large settlement project that is accompanied by large scale forced displacement in the area. The project seeks to separate the north of the West Bank from the South.⁵⁹

One of the most racist issues that the law has rejected is the right of return to Palestinian refugees, when the law gave the exclusive right to the Jews around the world to migrate. To this end, the world equally was removed from the law to ensure the exclusive right to Jews but not Palestine, maintain the Jewish character of the State and demographic superiority. It is important to note here that this law provides legal justification for the judiciary to refuse all family reunification applications and not only for security considerations.⁶⁰

In the end, this racist law legalises all Israeli violations against Palestinians, including settlement expansion, which would lead to the automatic annexation of the West Bank; negation of the right of return; and support for Jewish migration to Israel and of collective and forced displacement of Palestinians. This will lead to the demographic superiority of the Jews over the Palestinians in the 1948 land and altering the demographic situation in the 1967 lands.

56 Nation-State Law Gives Legitimacy to Settlement. Ma'an News Agency. 11.08.2018. <https://bit.ly/2vITYdR>

57 Special Discussion "The most dangerous facets of the nation-state law on Palestinians". Raya Network 19-07-2018 <https://bit.ly/2McsxTY>

58 Nation-State Law Touches on the Identity of the State and its National Structures. Arab 48. 18-07-2018. <https://bit.ly/2vGoB3p>.

59 Nour Abu Eisheh, Ahmad Abu Dalqa, Mohammad Abu Srour (n 54).

60 Nidal Watad. Israeli Minister: Nation-State Law Promotes Judisation Policy and Blocks Right of Return. Al-Arabi Al-Jadeed. 06.08.2018. <https://bit.ly/2vInFMa>.

5 Addressing This Law: Proposed Alternatives

The struggle of the Palestinian people against the legitimisation of settlement, oppression of Palestinians and attempts to obliterate Palestinian identity continues to date. As such, it is crucial that there is a popular response to the enactment of the nation-state law. This response has actually begun as part of an internal activism to object to the racist law, and particularly inside the 1948 lands. Many partook in demonstrations that condemn the law and call for its rescind, while Adaleh organisation filed a petition to the High Court of Justice on the illegality of the nation-state law,⁶¹ despite that this law limits the work of the Israeli Supreme Court in addressing racism and discrimination against Palestinians.⁶² Additionally, the High Follow-up Committee for Arab Citizens of Israel confirmed that the media and popular struggle committees have developed resistance programmes that include marches, invitations to hold Knesset meetings, a press conference and holding of dialogue sessions that warn off the implications of the law.⁶³ Additionally, others called for a unified withdrawal of Arab members of the Knesset who are members in the joint list.

Palestinian popular activism, in all places of residency, is the cornerstone for any intervention against the nation-state law on any level. This should immediately follow the unification of Palestinians and ending of internal division that drives Palestinians away from their main goal of ending the occupation.

5-1 Alternative 1: Combat the Law and Expose it in International Forums

The nation-state law confirms the Israeli rejection to accept any political settlement or solution based on the two-state scenario, which Israel claims to adopt fostered by the international community. We can consider the passage of this law the biggest proof of Israel's position on any negotiations with the Palestinians that guarantee their right. As such, it is important to expose the law in international forums for what it really is.

This can commence in solidifying efforts internationally to demand that the Inter-Parliamentarian

61 Yousef Jabarin (n 44).

62 Israel- A Nation-State for the Jewish People- Why this law Now? France 25. Youtube Video. 20.07.2018 <https://bit.ly/2PuyKYO>.

63 High Follow-Up Committee: A Week of Rage in Response to the Nation-State Law. Ramallah Media. 31.07.2018 <https://bit.ly/2nOJJAi>.

Union to freeze the membership of the Israeli Knesset, as a step towards rescinding the nation-state law and all other racist laws. This comes within the framework that the government of the occupation did not take these colonial and occupation measures, which contradict international conventions and resolutions, in the absence of the blessing and enactment of laws by the Knesset.

Towards this end, it is important to mobilise members of the Union in Arab and foreign countries. The freeze of the membership of the Knesset should not prove to be difficult as the Parliament does not grant veto powers to any of its members, in addition to the presence of 57 Muslim countries that support the Palestinian cause.

It is also important to continue to confront the occupation inside the United Nations to expose its discriminatory practices; prosecute Israel for the crime of apartheid; and criminalise and punish the leadership of the occupation for their racist policies and practices. Palestinians should also continue to follow-up on the legal proceedings of the prosecution of Israeli's in the International Criminal Court. It is important to note here that the Palestinian Foreign Minister handed in an official memo to the Court in The Hague requesting the opening of an investigation on the crimes committed by the occupation against the Palestinian people.⁶⁴ Hence, Palestinians should follow-up with the court until an investigation is opened to prosecute the Israeli's responsible for the crimes committed against the Palestinians.

To expose racist and discriminatory Israeli laws before the world, the role of Palestinian embassies should be activated around the world. This should entail collective and systematic work within the framework of a national action plan that contributes to the dissemination of the true picture of the suffering of the Palestinian people under occupation.

Social media should also be utilized to expose the racist and discriminatory policies of the occupation through the widest-possible dissemination of news, articles and publications and in multiple languages. These publications should clarify the racist policies and the implications of the nation-state law on the Palestinians. This should come with the view of reaching the majority of the external world and mobilise popular public opinion, and thereafter create an international popular incubator that would effectively put pressure on decision-makers in national governments and work to alter these countries' foreign policies to garner support for the legitimate rights of the Palestinian people. It is important to emphasise here the role of social media, such that major traditional news outlets remain under control, which leads to the distortion of facts and incomplete publication of news.

This alternative, however, faces a number of obstacles that can be summarised in the following: the vast majority of the Arab states and Palestinian political parties remain unable to work collectively and in harmony to support the Palestinian cause in international forums. Second, the occupation government has a large ability to influence big and major countries on the international level through a well-woven network of interests, compared with the Palestinian Authority's weak abilities in this department.

⁶⁴ Palestinian submits a "referral" to the International Criminal Court. Al-Jazeera. 22/05/2018. <https://bit.ly/2BL62kh>

Notwithstanding these obstacles, it is easy to pursue and work within the framework of this alternative in light of the abundance of social media outlets and everyone's ability to utilise these platforms to disseminate the truth efficiently and effectively. Also, there are Palestinian embassies and representative offices in the vast majority of the world's nations. This contributes to utilise and mobilise efforts to expose this law, provided the need to activate the embassies.

5-2 Alternative 2: Work to Activate and Implement International Law in the United Nations

The utilisation of international law by the Palestinians to combat the nation-state law is highly important. The United Nations issued a number of resolutions that are supportive of Palestinians and their national rights. Hence, the international community should work to implement the resolutions of the Security Council to deter the occupation and rescind this law and its racist provisions. The main dilemma in this situation is that these resolutions were issued under Chapter 6 of the UN Charter, which does not include deterrence tools to force Israel to cease violations against Palestinians, including Security Council Resolutions 338 and 242, which stipulated the withdrawal of Israel from the territory occupied in 1967, in addition to many resolutions that remained ink on paper and could force the occupation apparatus to implement any of these resolutions.

To guarantee the implementation of these resolutions, they ought to be issued under Chapter 7 instead of Chapter 6. This, however, requires concerted pressure and consolidated efforts by the Palestinian Authority, Arab countries and nations supportive of the Palestinian cause to mobilise countries at the time of voting with the view of issuing an international resolution under Chapter 7.

Efforts should also be exerted to hold Israel accountable by suspending or withdrawing its membership in the United Nations, in light of its continuous violations of the principles and conventions of the United Nations. This comes within the context of chapter 2, articles 5 and 6 of the UN Charter.⁶⁵

The main dilemma within these suggestions is the utilisation of the Veto by the United States of America in protection and defence and Israel. To overcome the American Veto, Palestinians should continuously make use of popular resistance, including in the form of civil disobedience, to force states to act. Additionally, Palestinians could pressure the United States and work on influencing its decision-making process by activating and unifying the Arab lobby, much in a similar way that the Zionist lobby utilises to lobby American politicians and members of Congress.

Notwithstanding the importance of all of the above, it is important to highlight some other obstacles facing the implementation of this alternative. First, international law lacks enforceability tools, in addition to the difficulty of moving Security Council resolutions from Chapter 6 to Chapter 7 in light of the United States veto. Second, the main consideration for states in their international relations

65 UN Charter, Chapter 2. <https://bit.ly/2oxytsE>

is their interest, which serves as an obstacle to push the international community to fulfil their obligations and shoulder their responsibility towards the Palestinian cause. It is important to note here that Arab countries do not currently consider the Palestinian cause as their priority, instead they consider the Iranian threat the main source of threat to them. As such, it is important for Arab peoples who are supportive of the Palestinian cause to mobilise internally to support Palestinians. Nonetheless, Arab countries remain preoccupied with their daily realities of unemployment, poverty and absence of liberties. On the other hand, the positive aspects of this alternative lies in that the Palestinian cause is a justice cause and that it is in line with international law and resolutions of international legitimacy. Hence, in the case of its implementation, this would serve to the benefit of the realisation of the right to self-determination of Palestinians and effectuation of national liberation.

5-3 Alternative 3: Boycott Occupation in Various Fields

The difficulty of holding Israel to account via the United Nations forced Palestinians to search for alternative methods to hold the occupation to account. This manifested in campaigns to boycott the occupation in various fields, basing this on the experience of South Africa, which proves the importance of boycotting the coloniser in all fields. The African people could not have beaten the Apartheid system, which persisted for 46 years, in the absence of international solidarity in the face of this system. Within this framework, a boycott was enforced in 1950 and slowly grew to include economic, cultural and sports aspects.⁶⁶ It is important to note here that the Republic of Ireland enacted a law that bans the import of settlement products and penalises those who break the law.⁶⁷

This reflects that a higher number of States can see the true face of the occupation. Hence, efforts should be exerted to compound diplomatic and popular efforts on the level of world nations and reach decision-makers to impact them to issue national laws that prevent import of products from the occupation state, much like the case of Ireland and Denmark. This would make the occupation state feel isolated and sustain it severe economic damages.

The United Nations should also be demanded to publish a list of Israeli and international companies who are officially complicit with and benefit from the occupation. This is important in order to apply pressure on the occupation state to cease its violations. Furthermore, the United Nations and its different subsidiary bodies should not yield to American and Israeli pressure placed on the Human Rights Council to prevent the publication of the list.

The obstacles facing this alternative manifest in Israel's attempt to connect any criticism with anti-Semitism with support from some of the countries, in addition to the interests that bring Israel together with some of the strongest world nations. However, the presence of strong support for

66 Jeff Handmaker. Resisting Apartheid: A Humanitarian Duty. Right of Return Newspaper. Issue 21-22. BADIL Resource Centre <https://bit.ly/2Ppe7ha>.

67 Ireland postpones voting on the boycott of settlement products law. Arab 48. 01/02/2018. <https://bit.ly/2PRa25H>

the boycott movement at the grassroots and international levels contribute to its activation and persistence, in addition to that this type of resistance is internationally welcomed.

5-4 Steps Forward

The compilation of the aforementioned alternatives was based on the analysis of the provisions of the laws and its impact on Palestinians, taking into consideration their legal status. Following the analysis of the proposed alternatives, it is clear that the third alternative of boycotting the occupation in its various fields, is the most efficient and effective alternative in the short run. This does not negate that, in parallel, efforts will be exerted to effectuate the second and third alternatives, whose impact is deemed to be useful in the medium and long run.

The first and second alternatives will be costly for the Palestinian Authority and the countries that will support the Palestinians. They are also likely to be met with American sanctions, particularly under the current Trump Administration, who are completely biased with Israel as evident in the moving of the American Embassy to Jerusalem and the attempt to remove the right of return of Palestinian refugees off the negotiations table.⁶⁸ Also, in the second alternative, as mentioned, international law does not have a deterrence power and it will be difficult and lengthy to shift Security Council resolutions from Chapter 6 to Chapter 7.

This does not mean that efforts should be solely concentrated on the boycott. Instead, efforts should also focus on approaching international entities and lobby the Inter-Parliamentarian Union to freeze the membership of the Israeli Knesset. Also, alternatives at the national level are extremely important to extend beyond the grassroots level to include the official level. Within this framework, recognition of the State of Israel should be withdrawn, security coordination terminated and consolidation of efforts between Palestinians in the West Bank, Gaza Strip and 1948 lands through a national comprehensive Palestinian projects that brings all Palestinians and determines tools of resistance in accordance with the respective circumstances of each group.⁶⁹

68 Michael Wilner, Trump Taking Palestinian Right of Return 'Off the Table', the Jerusalem Post, 25/08/2018, <https://bit.ly/2BPxUUr>

69 Amtanas Shihadeh, "nation-state law" and conceptualisation of resistance. Arab 48. 18/08/2018 <https://bit.ly/2L5gXoc>.

6 Conclusion

Many scholars and experts say that this law is not new and that the occupation has been practicing these policies since setting foot in Palestine, which is true. Nonetheless, it is important to evaluate and appreciate the plans of the occupation entity through legitimising the nation-state law. Hence, it is important to study this law and its racist and discriminatory aspects on a deep level to deduce the plans of the occupation and accordingly prepare for comprehensive struggle that includes everyone. This is confirmed by Dr. Amantas Shihadeh, who says that this law should be addressed within the wider framework of Israeli policy and the essence and core of the State, instead of restricting demands to rescinding the law. This struggle should bring all groups of Palestinians together as the law impacts all of them and negates the right to self-determination of Palestinians,⁷⁰ particularly since this law surfaced while planning the Deal of the Century,⁷¹ which shows that this deal will not benefit the Palestinians in any way whatsoever. Hence, Palestinians should mobilise to pressure the international community to support their cause, as this plan and rapid changes require global mobilisation in order to confront and combat these types of laws and racist practices, which seek not only to end any promises for the establishment of a Palestinian State, but also to end Palestinian presence all together.

70 Ibid.

71 Ibid.

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