

# ISRAEL'S DISCRIMINATORY LAWS Summary Version



BADIL Occasional Bulletin No. 26  
September 2012



BADIL Resource Center  
for Palestinian Residency  
and Refugee Rights  
**2012**



**BADIL**

Resource Center  
for Palestinian Residency & Refugee Rights

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## **ISRAEL'S DISCRIMINATORY LAWS**

### **Summary Version**

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Cover photo: Some families are now sleeping in old vans after their houses and tents have been demolished.  
(Al-araqeb, by Rich wiles)

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## Introduction

Israel identifies itself as a “Democratic and Jewish State” by decree. Publicly it touts itself as ‘the only democracy in the Middle East’. However, Israel’s democratic credentials are severely undermined by its discriminatory treatment of its indigenous non-Jewish Palestinian citizens who constitute roughly 20% of the population. While human rights treaty-making bodies have recognized that Israel’s treatment of Palestinians in the occupied Palestinian territory (oPt) not only contravenes humanitarian law but also human rights law as well, recent developments have made the connection between the discrimination faced by Palestinian citizens of Israel (so called Israeli-Arabs) and their Palestinian counterparts in the oPt more apparent. Indeed, Israel’s treatment of non-Jewish Palestinians throughout Israel and the oPt constitutes an overall discriminatory regime aiming at controlling the maximum amount of land with the minimum amount of indigenous Palestinians residing on it. In order to limit the population growth of Palestinians within Israel, to ghettoize them geographically, and/or coerce them to leave; the state has passed legislation and enacted policies to restrict their access to full equality and to state resources and institutions. This discriminatory regime, which amounts to apartheid as per the Convention on Apartheid (1976), applies to Palestinians whether they are living in Israel, the oPt or abroad. Each subgroup of Palestinians is subject to distinct discriminatory systems that differ in severity. However, overall they are connected by one common feature: their status is inferior to Jewish nationals both within and beyond the borders of Israel, as illustrated below:

### Category 1: Highest status:

A. → Jewish Nationals Living abroad and in Israel Full political, social, economic and cultural rights and full access to benefits

### Category 2: Inferior status:

B. → Palestinian citizens of Israel Living abroad and in Israel Inferior rights and access to benefits

C. → Palestinians in the OPT Living under occupation Denied/Restricted rights: no/severely limited right to enter Israel/move within the OPT, no/severely limited political, social, economic and cultural rights

D. → Palestinian refugees living abroad Forcibly displaced, made stateless and denied the right to repatriation including repatriation/return to their homes, restitution and compensation.

This bulletin focuses solely upon Israeli laws and policies which govern the state of Israel (Category 2B), and as such does not examine military orders and other policies that are applied in the oPt. It presents the information in summary form via tables and should be referenced as an abridged guide of Israel’s discriminatory legal system. The full version of the report will be published within the fourth quarter of this year.

## Legal Framework

LAW	DETAILS	EFFECT
<p><b>DECLARATION OF THE ESTABLISHMENT OF STATE OF ISRAEL 1948</b></p>	<ul style="list-style-type: none"> <li>• One of the most important constitutional documents and part of Israel's political and legal foundation.</li> <li>• Declared the 'establishment of a Jewish State in Eretz Israel'. Repeatedly emphasizes that Israel is the state of the Jewish people and does not recognize the land as 'Palestine'.</li> <li>• Written and adopted by 'representatives of the Jewish people and the Zionist movement'.</li> <li>• Protects the right of Jews to immigrate to Israel.</li> <li>• Invites the Arab inhabitants to 'participate in the building of the State on the basis of full and equal citizenship'.</li> </ul>	<ul style="list-style-type: none"> <li>• By claiming to be a state of the Jewish people, and with no mention of equality, minority rights or the indigenous Palestinian population, the document sets the initial platform for Israel's discriminatory laws and practice.</li> <li>• Although the Or Commission in 2003 stated "equality is one of the primary elements of the constitutional structure of the state, and the prohibition against discrimination applies to all citizens of the state" - Palestinians are not equal before Israeli law and are targeted for discrimination due to the national origin (see below)</li> </ul>
<p><b>BASIC LAW: HUMAN DIGNITY AND LIBERTY 1992</b></p> <p>(*BASIC LAWS ARE A SUBSTITUTE TO THE NON-EXISTING CONSTITUTION OF ISRAEL)</p>	<ul style="list-style-type: none"> <li>• States in Article 1: "The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state."</li> </ul>	<ul style="list-style-type: none"> <li>• No right to 'equality' in law, though the Supreme Court has interpreted this law as including equality. This is unsatisfactory, as the right is solely protected by judicial interpretation – which has consistently been unsympathetic to Palestinians facing discrimination.</li> <li>• The right to dignity, liberty (and therefore equality) must be interpreted within the context of Israel 'as a Jewish and democratic state', bringing with it all that that implies - namely the privileged status of Jewish citizens.</li> </ul>
<p><b>PROPOSED LAW THE BASIC LAW: ISRAEL THE NATION-STATE OF THE JEWISH PEOPLE 2011</b></p>	<ul style="list-style-type: none"> <li>• Seeks to define Israel as "the national home of the Jewish people."</li> <li>• Would remove Arabic as an official language of the state, and instead deem it as a "special status" language.</li> <li>• Proposes the establishment of separate communal settlements for members of one religion or nationality. (In practice, national/ethnic/religious segregation in towns already exists, under the powers of 'admissions committees' (below) but this law would enshrine the discrimination into constitutional law.)</li> </ul>	<ul style="list-style-type: none"> <li>• The bill's proponents want to constitutionally enshrine the principle that the Jewish character of the state is superior to its democratic character, and should there be a conflict between the two, it's priorities as a Jewish state shall prevail.</li> <li>• It sends a clear message to minorities in Israel, particularly Palestinians, that they will not achieve full equality and that they will always be deemed outsiders.</li> </ul>

## Citizenship/Nationality – two separate concepts under Israeli law

LAW	DETAILS	EFFECT
Law of Return 1950	<ul style="list-style-type: none"> <li>• Section 1 grants every Jewish person - wherever they reside – to ‘return’ to Israel as an ‘oleh’ and settle there.</li> <li>• Every Jewish person is considered under Israeli law to be a ‘Jewish national’.</li> <li>• How does Israel know if a person is Jewish?               <ul style="list-style-type: none"> <li>- The law states that a Jewish national is someone born of a Jewish mother.</li> <li>- It also states that the rights of a Jewish national will also be vested in someone born of a Jewish father, the grandchild of a Jew and anyone who has converted.</li> <li>- In practice, the World Zionist Organization (WZO) decides who is Jewish or not and it is at their discretion.</li> <li>- There is no legal definition of what makes a person ‘Jewish’.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Creates a superior status in Israeli law of ‘Jewish nationals’ - who are granted privileges, namely to return and make a life in Israel.</li> <li>• Any Jewish person, wherever they reside, has the right to enter and live in Israel and obtain Israeli citizenship.</li> <li>• Therefore a Jewish Israeli citizen has               <ol style="list-style-type: none"> <li>(1) Jewish nationality and</li> <li>(2) Israeli Citizenship</li> </ol>               And a non-Jewish person can only obtain Israeli citizenship.             </li> <li>• Israel has avoided forming a legal definition of what makes a person Jewish as there is no real criteria – it is at the discretion of the WZO and the State.</li> </ul>
Citizenship Law 1952	<ul style="list-style-type: none"> <li>• Section 1 states ‘Israeli citizenship’ is acquired:               <ol style="list-style-type: none"> <li>1. by return (Palestinians forced to flee during the 1948 war are prohibited from doing so under the Prevention of Infiltration Law 1954 below)</li> <li>2. by residence in Israel</li> <li>3. by birth</li> <li>4. by naturalisation</li> </ol> </li> <li>• Section 3(a) grants citizenship (not nationality) to Palestinians who were present in the territory of Israel between 1948 and 1952 and their descendents.</li> </ul>	<ul style="list-style-type: none"> <li>• 50-60% of the Palestinian population (around 750,000 persons) was outside the territory between 1948 and 1952 as a result of the 1948 violence, which caused them to flee. They were thus prevented from returning to their homes, acquiring the citizenship of the new state (as required under the law of state succession), were de facto ‘de-nationalised’ and consequently became stateless.</li> <li>• Only 150,000 Palestinians who remained in the territory of the state of Israel when the law was enacted were granted citizenship.</li> <li>• Today, this means that over 5.7 million 1948 Palestinian refugees cannot return to their homes because this law has effectively blocked their return for the past 63 years.</li> </ul>
George Raphael Tamarin v State of Israel 1972 (Supreme Court)	<ul style="list-style-type: none"> <li>• Justice Agranat stated that the desire to separate and create an Israeli nationality separate from the Jewish nation is not a legitimate aspiration: “There is no Israeli nation separate from the Jewish people. The Jewish people is composed not only of those residing in Israel but also of Diaspora Jewry”</li> </ul>	<ul style="list-style-type: none"> <li>• Confirms the distinct and separate statuses of Jewish nationality and Israeli citizenship. There is no such thing as ‘Israeli nationality’ – it is the Jewish nationality that is the nationality of the state of Israel.</li> </ul>

<p>Prevention of Infiltration Law 1954</p>	<ul style="list-style-type: none"> <li>• Deems as an “infiltrator” anyone who has entered Israel knowingly and unlawfully and who at any time between 29th November, 1947 and his entry was             <ol style="list-style-type: none"> <li>(1) a national or citizen of Lebanon, Egypt, Syria, Saudi-Arabia, Trans-Jordan, Iraq or the Yemen ; or</li> <li>(2) a resident or visitor in one of those countries or in any part of Palestine outside Israel ; or</li> <li>(3) a Palestinian citizen or a Palestinian resident without nationality or citizenship or whose nationality or citizenship was doubtful and who, during the said period, left his ordinary place of residence in an area which has become a part of Israel for a place outside Israel.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Read in conjunction with the Law of Return 1950 and in the context of the mass forced displacement – these laws are the basis for a legalized forced population transfer scheme where Palestinians are kept out and only Jews are allowed in.</li> </ul> <p>This is not a responsible interpretation of the infiltration law. I think it can be a second part of the explanation but that the explanation must begin by translating the legalese into layman’s terms.</p> <p>In short, the Law authorizes state officials to arbitrarily remove, and permanently exclude, those persons who fit one of these categories if found within the oPt. It has been systematically used to target residents of East Jerusalem and Palestinians from Gaza studying and/ or working in the West Bank.</p> <p>The law is insidious because it can be read to make the status of indigenous Palestinians who have acquired secondary citizenship and/ or residency illegal.</p>
<p>Temporary Amendment to the Citizenship and Entry into Israel Law 2003 Extended until present</p> <p>Upheld by the Supreme Court in 2006 and again in 2012, stating: “human rights shouldn’t be a recipe for national suicide.”</p>	<ul style="list-style-type: none"> <li>• Prevents anyone from oPt who marries an Israeli citizen from obtaining residency/citizenship in Israel.</li> <li>• It does not apply to spouses of Jewish Nationals who are Israeli citizens – whether their spouses are foreign, or Jewish settler spouses from the oPt.</li> <li>• Amendment 2005: The 2003 law was slightly relaxed to allow the possibility of obtaining a permit to stay – but this does not grant a status in Israel or social rights. However, it contains a draconian provision that enables the denial of almost every request for a permit to stay in Israel if Israeli officials determine that the resident of the oPt or his/her spouse, parent, child, brother, sister, brother-in-law, sister-in-law, is liable to constitute a ‘security threat’.</li> <li>• Amendment 2007: the ban was extended to include spouses from “enemy states”, namely Syria, Lebanon, Iraq, Iran and the Gaza Strip.</li> </ul>	<ul style="list-style-type: none"> <li>• Targets Palestinian citizens of Israel and violates the right to family life, as they are the ones most likely to have spouses from the oPt or Israeli-defined ‘enemy states’.</li> <li>• The Supreme Court decision reveals a great deal about Israel’s true nature as a state for Jewish people alone and not for all its citizens, as it is implied that any increase in the number of Palestinians residing/obtaining citizenship in Israel would be “suicide” for the nation, i.e. that it could threaten the Jewish majority’s monopoly on power.</li> </ul>

<p>Citizenship Law (Amendment 9) (Authority for Revoking Citizenship) 2008</p>	<ul style="list-style-type: none"> <li>• Allows for Israeli citizenship to be revoked on grounds of 'breach of trust or disloyalty to the State'. Such a breach is defined as follows:                     <ol style="list-style-type: none"> <li>(1) Committing, assisting in, or enticing into the commitment of a terrorist act</li> <li>(2) Committing an act that constitutes treason or aggravated espionage or</li> <li>(3) Acquiring citizenship or a right to permanent residence in a country or an area specified as Iran, Afghanistan, Libya, Sudan, Syria, Iraq, Pakistan, Yemen, and the Gaza Strip.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• It represents an attempt to force the Palestinian citizens of Israel to adopt the Zionist values of the state and thereby accept their status as inferior by law, or lose their citizenship.</li> </ul>
<p>PROPOSED LAW Amendment to Citizenship Law: Loyalty Oath 2010</p>	<ul style="list-style-type: none"> <li>• The Knesset gave its endorsement to an amendment to the Citizenship Law which requires:                     <ul style="list-style-type: none"> <li>· All non-Jews</li> <li>· All persons seeking to naturalize via the naturalization process and</li> <li>· All Israeli citizens applying for their first ID cards (which is obligatory at the age of 16) to declare a loyalty oath to Israel as a Jewish, Zionist, and democratic state, to its symbols and values, and to serve the state in any way demanded, through military service or alternative service, as defined by law.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The law would further marginalize the status of Arab citizens of Israel by deeming Israel a state for Jews only. This oath requires Palestinians to declare loyalty to an ideology – Zionism – which, in practice, negates their national and political identity.</li> </ul>



## Military Service: a basis for financial and social privileges

<p><b>DEFENSE SERVICE LAW 1948 - CODIFIED IN 1986</b></p>	<ul style="list-style-type: none"> <li>• Section 3 requires all men from 18-54 and all women from 18-38 to serve in the military.</li> <li>• Section 36 contains an exemption. It is used to provide a blanket exemption to Palestinian citizens of Israel.</li> </ul>	<ul style="list-style-type: none"> <li>• The vast majority of the Palestinian citizens of Israel do not to serve in the Israeli Army due to its role in upholding the occupation and its role in protecting and promoting the Zionist values of the state, so they are ineligible to receive the numerous benefits only offered to those who have served (below). Additionally, only a few non-Jewish citizens would be allowed to join the army.</li> </ul>
<p><b>ABSORPTION OF DISCHARGED SOLDIERS LAW 1994</b></p>	<ul style="list-style-type: none"> <li>• Grants: <ul style="list-style-type: none"> <li>- Assistance in payment of education fees for a pre-university level college</li> <li>- Assistance in payment of education fees for higher education institutions or tertiary religious seminaries</li> <li>- Assistance in education fees for professional training institutions</li> <li>- Increasing residential loans</li> <li>- Assistance in purchasing residential apartments</li> <li>- Assistance in setting up a new business.</li> </ul> </li> <li>• Amendment 2008: allows the use of military/ national service as a criterion for the allocation of benefits in higher education.</li> <li>• Amendment 2012: provides that any registered university or college student who has completed his or her military service and is a resident of a designated "National Priority Area" such as the Naqab, the Galilee or the illegal Jewish settlements in the West Bank will be granted a "compensation package" including: full tuition for the first year of academic education; a year of free preparatory academic education; and additional benefits in areas like student housing.</li> <li>• PROPOSED AMENDMENT 2012: Provides for a gradual increase in payments given to a soldier after completing service.</li> </ul>	
	<p>BENEFITS ATTACHED TO MILITARY SERVICE ARE ALSO EVIDENT IN OTHER AREAS, AS INCLUDED IN SOME OF THE LAWS BELOW</p>	

## Employment

<p><b>E Q U A L                  OPPORTUNITIES IN                  EMPLOYMENT LAW                  1988</b></p>	<ul style="list-style-type: none"> <li>• Prohibits discrimination in employment on various grounds, including nationality and race.</li> <li>• But significantly, it does not prohibit employers from discriminating on the basis of having served in the military – which happens in practice and has a detrimental effect on Palestinian citizens of Israel.</li> </ul>	<ul style="list-style-type: none"> <li>• Palestinian citizens of Israel often face discrimination in work opportunities both as a result of the inadequate implementation of the law and as a result of entrenched structural barriers.</li> <li>• Israeli case law has determined that preferential hiring on the basis of military and/or national service when such service has no bearing whatsoever on the nature of the work constitutes illegal “bypassing” discrimination against the Palestinian minority in Israel. Despite this, many job advertisements refer to military service.</li> </ul>
<p><b>THE CIVIL SERVICE                  (APPOINTMENTS)                  LAW                  1959</b></p>	<ul style="list-style-type: none"> <li>• Amendment 1998: Article 15a added, which establishes an affirmative action obligation for hiring Palestinian citizens of Israel for civil service positions.</li> <li>• PROPOSED AMENDMENT 2011 which provides that, in hiring people for civil service positions, priority will be given for those who had served in the military or the police (including national service) despite the fact that military service has no bearing whatsoever on the character or nature of civil service work.</li> </ul>	<ul style="list-style-type: none"> <li>• Palestinian citizens are already underrepresented in almost all areas of public employment and making appointment subject to having completed military service would further restrict their access.</li> <li>• It also sends a clear message to Palestinian citizens that they will not be considered full citizens unless they participate in the military, an institution that Palestinians consider as reifying the Zionist nature of the State.</li> </ul>
<p><b>PROPOSED LAW                  STATE SERVICE                  (APPOINTMENTS)                  (AMENDMENT –                  LOYALTY OATH)                  LAW                  2010</b></p>	<ul style="list-style-type: none"> <li>• The bill seeks to replace the words ‘to be loyal to the State of Israel’ with ‘to be loyal to the Jewish and democratic State of Israel’ in section 34 of the State Service (Appointments) Law 1959.</li> </ul>	<ul style="list-style-type: none"> <li>• The bill seeks to make it even harder to integrate Palestinian citizens into the public service sector, where they are already severely unrepresented. According to the ‘Parliamentary Committee Investigating the Employment of Arabs in State Service’ no more than 5% of public sector employees are ‘Arab’.</li> </ul>
<p><b>PROPOSED LAW                  MUNICIPALITIES                  (LOYALTY OATH)                  ORDINANCE                  2010</b></p>	<ul style="list-style-type: none"> <li>• Requires democratically elected representatives in local authorities to declare their loyalty to Israel as a ‘Jewish and democratic state’ as a condition of taking office.</li> </ul>	<ul style="list-style-type: none"> <li>• If passed, it would affect the country’s sixty-four Palestinian local authorities, in which all the residents are Palestinian citizens.</li> </ul>

## Land Planning

<p><b>THE ABSENTEE PROPERTY LAW 1950</b></p>	<ul style="list-style-type: none"> <li>• Allowed for the legal title to all ‘absentee’ property to be transferred to the Custodian of Absentee Property (CAP). ‘Absentee property’ interpreted very broadly to include not only Palestinians who had fled the newly established state of Israel but also those who had fled their homes yet remained within Israel’s borders – so called ‘present-absentees’.</li> <li>• The law even included many Jews. However, an ostensibly race-neutral provision exempted absentees who left their home because of, amongst other things, ‘fear of Israel’s enemies’ - thereby effectively excluding the Jewish population from the application of the law.</li> <li>• Secondly, it allowed for property to be transferred to the Israeli Development Authority (DA) i.e. to the State of Israel. Section 17 created an assumption that the CAP acts in good faith when transferring “absentee property” to a third party (the DA) thus preventing Palestinians from challenging the transfer in court.</li> </ul>	<ul style="list-style-type: none"> <li>• Following the violence, forced displacement and destruction of villages by the Zionist (Israeli) militias in 1948 it is estimated that between 4.2 - 5.8 million dunums of ‘abandoned’ land was claimed by Israel.</li> <li>• Between 1948-1953, 350 of the 370 new Jewish settlements were created on lands confiscated under this law.</li> <li>• According to official Israeli sources, up to 1959, the CAP administered 3,250,000 dunams of land.</li> </ul>
<p><b>LAND ACQUISITION (VALIDATION OF ACTS AND COM- PENSATION) LAW 1953</b></p>	<ul style="list-style-type: none"> <li>• Validates (retroactively in many cases) the acquisition of land for military purposes or for the establishment of settlements.</li> </ul>	<ul style="list-style-type: none"> <li>• Used to confiscate land from Palestinians that had not been abandoned during the 1948 violence.</li> <li>• 1.2 - 1.3 million dunams of land were confiscated from a total of 349 towns and villages, including 311,000 dunums of privately owned land for alleged “essential settlement and development needs”.</li> <li>• Of the 311,000 dunums of private land, which were expropriated, 304,700 dunums were Arab owned.</li> </ul>
<p><b>DEVELOPMENT AU- THORITY (TRANS- FER OF PROPERTY) LAW 1950</b></p>	<ul style="list-style-type: none"> <li>• Empowered the DA to sell any land it received from the CAP - but only to             <ol style="list-style-type: none"> <li>(1) the State</li> <li>(2) the Jewish National Fund</li> <li>(3) local municipal authorities or</li> <li>(4) an institution for settling landless Arabs. This institution was never established.</li> </ol> </li> <li>• Pursuant to this law, lands transferred to the State or the JNF would be deemed inalienable.</li> <li>• The major purchaser was the JNF. It bought nearly 2 million dunums of land between 1949-1953 thus giving the JNF special status under Israeli law and also rendering this land subject to the policy of Jewish exclusivity in the Fund’s charter.</li> <li>• According to a report by Administration of Israel Land the JNF owns 2,564,000 dunams - around 13% of “Israel lands”.</li> </ul>	<ul style="list-style-type: none"> <li>• This finalised the transfer of property from Palestinians to the State and ensured they could never be returned under Israeli law.</li> </ul>

<p><b>LAND (ACQUISITION FOR PUBLIC PURPOSES) ORDINANCE 1943</b></p>	<ul style="list-style-type: none"> <li>• British Mandate-era law passed into Israeli law in 1948. Allowed for land taken from Palestinians for so-called 'public purposes' to be used to build up Jewish cities, towns &amp; neighborhoods.</li> <li>• 2010 Amendment: Confirmed state ownership of land confiscated and blocked Palestinian claims to restore land confiscated if:             <ul style="list-style-type: none"> <li>- ownership of land has been transferred to third party or</li> <li>- if more than 25 years have passed since confiscation</li> </ul>             This provision is to apply even if the land was never used for the alleged public purpose for which it was confiscated.           </li> <li>Also expands the Finance Minister's authority to confiscate land for 'public purposes' which, according to the new law, includes the establishment and expansion or development of towns, and allows the Minister to declare a new purpose if the initial purpose has not been realized.</li> </ul>	<ul style="list-style-type: none"> <li>• Consolidates and confirms Palestinian loss of land by preventing any form of restitutive action.</li> </ul>
<p><b>JEWISH NATIONAL FUND LAW 1953</b></p>	<ul style="list-style-type: none"> <li>• Israeli JNF set up in 1954 (British JNF set up in 1901) with the same mandate to act exclusively for the benefit of Jews. The Israeli Government approved this mandate and the JNF was granted a special status in law.</li> </ul>	<ul style="list-style-type: none"> <li>• The Israeli JNF is a Zionist organisation that, since the establishment of the state, continues to carry out its function of settling more and more Jewish people in Israel on the ideological basis of creating and maintaining a Jewish homeland. The JNF, under the false appearance of a NGO, as opposed to the para-statal organization that it is, has an explicit mandate to serve Jewish persons only. This law grants the private organisation special status under Israeli law, provides it with extensive powers and allows it to operate for the benefit of Jews only, not the citizens of Israel as a whole.</li> </ul>

<p><b>ISRAEL LANDS ADMINISTRATION LAW 1960</b></p>	<ul style="list-style-type: none"> <li>• Established the Israel Lands Administration (ILA) and the Israel Lands Council (ILC). The ILC was responsible for laying down land policy in accordance with which the ILA was to act.</li> <li>• Pursuant to a Covenant signed in 1961 between the government and the JNF:             <ol style="list-style-type: none"> <li>1. JNF-owned land was to be administered by the ILA subject to the Memorandum and Articles of Association of the JNF.                 <ul style="list-style-type: none"> <li>- The JNF only owns 13% of the lands in Israel. However, the JNF is entitled to 6 out of 13 seats on the ILC – so they have enormous influence within.</li> <li>- In practice, the JNF has even greater representation on the ILC as evidenced in a report by the Israeli State Comptroller in 1993, which revealed that participation of government representatives at the ILC board meetings was minimal compared to that of the JNF representatives.</li> </ul> </li> <li>2. The ILA and JNF could transfer land ownership between each other.                 <ul style="list-style-type: none"> <li>- The details of the transfers remain a secret still today. In 2009, the ILA was replaced by the Land Authority Council (LAC) which performs the same functions (below)</li> </ul> </li> </ol> </li> </ul>	<p>This law and the Covenant together allow Israel to maintain its discriminatory land regime by allowing a private body to influence and control public institutions.</p>
<p><b>BASIC LAW: ISRAEL LANDS 1960</b></p>	<ul style="list-style-type: none"> <li>• Defined “Israel Lands” as: State property, JNF lands and DA lands, and prevented the transfer of land ownership except in limited cases listed in the law.</li> </ul>	<ul style="list-style-type: none"> <li>• This ensures that the land cannot ever be transferred or returned to Palestinians.</li> </ul>

**ISRAEL LANDS  
AUTHORITY LAW  
(LAND REFORM  
LAW)  
2009**

- Provides 800,000 dunams of land currently under state-control will be privatized, enabling private individuals to acquire ownership rights in them

- Land Authority Council will replace the ILA and among its duties will be “to administer State lands as a resource for the development of the State of Israel for the benefit of the public, the environment and future generations, including retaining sufficient land reserves for the future needs and development of the State.

- 6 out of the 13 members of the LAC will be representatives of JNF.

- Land Swap Agreement

Pursuant to the law, and in order to enable privatization of the JNF properties under lease in urban areas, it was agreed that a land exchange agreement would be signed between the State of Israel and the JNF. Under the agreement, JNF lands included in the privatization process would be transferred to State ownership, and in exchange the JNF would receive ownership of a total of 50,000 to 60,000 dunams from the State in the Naqab (Negev) and the Galilee. This agreement was signed in May 2009.

Clause 2 of the Agreement stipulates, inter alia, that the JNF agrees that its lands will be administered by the new Land Authority Council. The Authority will administer the lands “in a manner that will preserve the principles of the JNF relating to its lands”. JNF principles prohibit the allocation of its land rights to non-Jews.

- Strengthens and maintains the transfer of native Palestinian lands into Jewish hands and ensures that Palestinians cannot get back ownership of their lands.

- The process of land privatization included within the Land Reform Law will lead to the sale of many properties belonging to Palestinian refugees.

- Since 2007, the ILA has been publishing numerous tenders for the sale of absentee properties held by the Development Authority of municipalities such as Nazareth, Haifa, Led (Lod), Akka (Acre), Rosh Pina and Beit She’an in Israel. The Custodian for Absentees’ Property transferred these properties to the Development Authority. In 2007 the ILA issued 96 tenders; in 2008, 106 tenders; and through June 2009, 80 tenders.

When these properties are sold, it will no longer be possible to grant effective legal relief under Section 28 of the Absentee Property Law, which enables the Custodian to release absentees’ properties at his discretion and in consultation with the Special Committee appointed pursuant to Section 29 of the law. Thus, the legal route, constituting the sole and last resort of the Palestinian absentees, will become redundant and devoid of content.

**NATIONAL  
PRIORITIES AREAS  
LAW – PASSED  
AS PART OF  
THE ECONOMIC  
ARRANGEMENTS  
LAW  
2009**

- The law does not define what constitutes a “National Priority Area” but instead grants the government sweeping discretion to classify towns, villages and areas as NPAs.

- Does not list the towns and villages that are NPAs or stipulate the range of benefits to be provided to them, in which fields, or for what periods of time.

- Grants full power to the government: it states that nothing in the legislation detracts from the power vested in the government or the state authorities to award benefits to an area or a specific town or village.

- The law allows the government to weigh the considerations set out in the law, but does not oblige it to do so. E.g. the security situation of an area, its socio-economic status, its level of service provision, its geographic location and distance from major population centers, the cost of absorbing new immigrants in the area, etc

- Decision No. 1060 entitled “Defining Towns and Areas with National Priority” was approved, whereby 40% of the residents living in such areas were Palestinian citizens of Israel. While this figure appears to indicate a significant move by the Israeli government toward the more equitable division of state resources in Israel, this is not the case.

According to the new decision, a town located within an NPA region is not automatically entitled to the enormous additional budgetary allowances and benefits previously granted to NPA towns and villages.

Further, the decision states that in light of budgetary constraints the funds will be allocated to, at most, 25% of the state’s population that resides within the areas demarcated on the new NPAs map.

**Background to the law**

- In February 1998, the Israeli government approved Decision No, 3292, which defined certain towns and villages as NPA “A” and “B”. In accordance with this decision, NPAs “A” received large-scale benefits, incentives and grants, while NPAs “B” received similar benefits but on a lesser scale. Among the 553 towns and villages defined as NPAs were only four Palestinian villages.

- The High Follow-up Committee for Arab Citizens of Israel et al v The Prime Minister of Israel et al 2006

However on 27th February 2006, the Supreme Court ruled that the decision constituted illegal discrimination against Palestinian towns and villages. It emphasized that the law must not grant sweeping authority to the Government to classify towns and villages as NPAs for the distribution of benefits funding.

- This 2009 law is an attempt to override the decision of the Supreme Court and Palestinian towns to the detriment of Palestinian areas, which are still heavily disadvantaged and under-funded.

Although many Palestinian towns and villages in Israel are included in the NPAs map, the fact that individual ministers have exclusive discretion to decide which towns will actually receive benefits and funding, as well as to determine the composition and duration of these benefits, will ultimately lead to discrimination.

THE ISRAELI  
 PLANNING AND  
 BUILDING LAW  
 1965

- Allows the State to demolish the whole/part of a house if:

- The owner of a house has been convicted of building without a permit or deviating from a permit's conditions (Article 205)

- A house or part of it has been built without a permit/ in deviation of a permit's conditions irrespective of whether the owner is even identified, let alone convicted (Article 212)

- Article 212 is invariably used when the State fails to provide enough evidence to convict the building owner for construction without a permit, or in cases where it is not able to order a fine or demolition order under Article 205.

- Despite not appearing to be overtly discriminatory, however the way it has been used and enforced reveals a policy of discrimination, Judaisation and forced population transfer, particularly in East Jerusalem.

- Since 1967, around 2000 homes have been demolished in East Jerusalem. According to official statistics, from 2000 – 2008 the Israeli authorities demolished more than 670 East Jerusalem homes.

- Israeli authorities justify the demolitions on the ground that many houses are illegal and built without permits. However, UN Special Rapporteur on the Situation of Human Rights in the oPt, Richard Falk, states that while Israel defends house demolition are a normal feature of city planning, "both law and fact" suggest that houses are in fact demolished in a "discriminatory manner to demonstrate the power of the occupier over the occupied".

- In East Jerusalem, while Palestinians represent about 30% of Jerusalem's population they are currently confined to reside in just 7% of the city's area, in mostly inadequate housing. The Jerusalem Municipality's website states that their policy is aimed at demographic and ethnic control, namely preserving demographics in the city at 70% Jewish to 30% Arab.

- In June 1967 Israeli contractors demolished 135 homes in the Mughrabi Quarter of the ancient city, paving the way for an expanded plaza and worship area for people visiting and praying at the Western Wall. In the ensuing years, another 100 homes in the district were demolished. The Israeli government cited Article 212 as its legal basis.

- At the same time, despite a shortage of 25,000 housing units in the Palestinian sector, the Jerusalem Municipality grants just 50-100 building permits each year for Palestinian housing. Yet from 1967 – 2003, 90,000 housing units were built in East Jerusalem settlements for Jews, most with government subsidies. None were built for Palestinians with public funding. This exposes the real purpose behind the law: to ethnically cleanse Jerusalem of Palestinians and move in Jewish settlers, thus changing the demographics.



<p><b>THE NEGEV DEVELOPMENT AUTHORITY LAW 1991 (AMENDMENT-INDIVIDUAL SETTLEMENTS) 2010</b></p>	<ul style="list-style-type: none"> <li>• Retroactively legalized individual settlements in the Naqab (that had been built illegally under Israeli law) and permitted the allocation of additional land for new settlements.</li> <li>• In September 2005 the planning authorities approved an extensive plan for establishing individual farms under District Master Plan 4/14/42 known as the “Wine Path” Plan. The plan, submitted by the ILA at the request of the Ministerial Committee for the Development of the Negev and the Galilee, authorizes the construction of 30 farms, 20 of which already exist, in close proximity to Palestinian Bedouin unrecognized villages.</li> <li>• The decision is a legally approved continuation of the same process: retroactive legalization and further construction, with the aim of concentrating and cutting off the Palestinian Bedouin population.</li> </ul>	<ul style="list-style-type: none"> <li>• Individual farms were first proposed in 1997 by the Green Patrol and accepted by then National Infrastructure Minister, Ariel Sharon, and then Agricultural Minister, Raphael Eitan, in order to “preserve state lands” and would be run by Jewish farmers “empowered to care for vast areas of land and act as a state appointed policeman protecting these areas”. State agencies using public funding built many of these settlements without the zoning or planning documents necessary to acquire permits, so they are illegal under Israeli law and connected them to infrastructure. The ILA did not publicly tender the farms and did not allocate the large plots in a transparent way based on clear criteria.</li> </ul>
<p><b>THE ADMISSION COMMITTEES LAW 2011</b></p>	<ul style="list-style-type: none"> <li>• Admissions committees are bodies that select applicants for housing units and plots of land in “agricultural and community towns” in Israel. They operate in 702 towns throughout the state.</li> <li>• Section 6B(B)(1) provides that the 5 members of the committee will consist of: two representatives of the community town; a representative of the movement with which the community town is affiliated or in which it is a member; a representative of the Jewish Agency for Israel or the World Zionist Organization; and a representative of the regional council under whose jurisdiction the community town is located.</li> <li>• The committees have a wide discretion to act, and regularly reject persons on the basis of race or nationality. Under section 6C(A) An admissions committee is entitled to refuse to accept a candidate for a community town based on one or more of these considerations only: ... (4) The candidate is not suitable for the social life in the community; a decision by the admissions committee to refuse to accept a candidate due to this consideration will be based on a professional opinion by someone who is expert in identifying such suitability; (5) The candidate’s lack of compatibility with the social-cultural fabric of the community town, when there is reason to assume that this would harm this fabric; (6) Unique characteristics of the community town or acceptance criteria defined in the society’s regulations.</li> </ul>	<ul style="list-style-type: none"> <li>• The inclusion of a representative from the JA or WZO means that Palestinian citizens of Israel are de facto excluded from living in these towns.</li> <li>• It serves to illustrate the public role given to Zionist organizations that, according to their mandate, they are only to serve Jewish interests. In effect, the State is outsourcing its explicitly discriminatory aims.</li> <li>• In practice, section 6C(C) – which provides a ban on discrimination - is no safeguard against discrimination due the extensive powers and influence given to the admissions committees under Section 6C(A) and (B) and the lack of accountability.</li> <li>• The ‘suitability test’ under section 6C(A) (4) lacks any transparency, allowing for discrimination on the basis of ethnicity and nationality but conceals that it is discriminatory</li> <li>• Many towns declare themselves as ‘committed to Zionist values’ which will immediately exclude Palestinian citizens of Israel, and it is highly likely that Palestinians are deterred from even applying to reside in such towns.</li> </ul>

## Education

<p><b>THE COMPULSORY EDUCATION LAW 1949 (AMENDED 1984)</b></p>	<ul style="list-style-type: none"> <li>• Lowered the age of compulsory education from five to three.</li> <li>• However, only a few state-funded preschools operate in Palestinian towns or villages in Israel.</li> </ul>	<ul style="list-style-type: none"> <li>• As a result, in 2007-2008 around 67.4% of Palestinian children aged between two and five were enrolled in kindergartens in Israel, compared to 84.9% of Jewish children in the same age group.</li> <li>• Furthermore few Palestinian families can afford private institutions, with only 2.4% of Palestinian children aged 2-5 enrolled in private kindergartens, compared with 13.2% of Jewish children of the same age.</li> </ul>
<p><b>THE EDUCATION STATE LAW 1953</b></p>	<ul style="list-style-type: none"> <li>• Section 2 (amended in 2000): states that the objectives are:                         <ul style="list-style-type: none"> <li>- To educate each child to love others as well as his nation and his land, to be a loyal citizen of the State of Israel, who respects his parents and his family, his heritage, his cultural identity and language...</li> <li>- To instill the principles upon which the State of Israel was declared and the values of the State of Israel as a Jewish and democratic state...</li> <li>- To impart the history of the Land of Israel and the State of Israel.</li> <li>- To teach the Torah of Israel, the history of the Jewish People, Jewish heritage and tradition, to impart the memory of the Holocaust and the heroism of that time, and to educate children to respect them."</li> </ul> </li> <li>• Amendment 2002: a further objective was added:                      Section 2(11)                      [The Educational system should] acknowledge the unique language, culture, history and heritage of the Arab population and of other groups in the State of Israel, and recognize the equal rights of all citizens of Israel'.</li> </ul>	<ul style="list-style-type: none"> <li>• This exclusive emphasis on Jewish history, culture and 'loyalty' to Israel, as a 'Jewish and democratic state', not only fails to recognize the importance of the Palestinian minority rights to learn about their history, it is an attempt to completely eradicate the history of Palestinians because the creation of the State of Israel was founded on the destruction and disempowerment of the indigenous Palestinian people.</li> <li>• Though this appears to make progress, in fact the wording illustrates the insignificance awarded to Palestinian heritage in the Israeli education system: 'acknowledge' places no requirement on the Ministry to adopt any positive measures to ensure equality in the education system or ensure the right of Palestinian pupils to learn about their own history. "Acknowledging" does not stand up to the strong language of "to educate", "to instill", "to teach", or "to impart".</li> </ul>
<p><b>STATEBUDGETLAW 1985 (AMENDMENT 2011)</b>  <b>(NAKBA LAW)</b></p>	<ul style="list-style-type: none"> <li>• Amends the Foundations of the Budget Law 1985 to add the following section:</li> <li>• Section 3B(b) states: Should the Minister of Finance find that a Body has made an expense that is essentially one of those detailed below he may deduct sums of money that are to be transferred to that Body from the State budget:                         <ol style="list-style-type: none"> <li>(1) Negating the existence of the State of Israel as a Jewish and democratic state...</li> <li>(3) Supporting an armed struggle or a terror act by an enemy state or a terror organization against the State of Israel...</li> <li>(4) Marking Israel's Independence Day or establishment anniversary as a day of mourning...</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• The law aims to regulate organizational and political activities in Israel that commemorate or acknowledge the Palestinian history of 1948. It expands the range of prohibitions to the activity of civil society, local authorities, and every organization and institution receiving State support. In this way, it seeks to impose sweeping limitations on freedom of speech and political activity, primarily on the Palestinian citizens of Israel and any other group that sympathizes with them.</li> </ul>

## Political Participation

<p><b>BASIC LAW: THE KNESSET</b> 1958</p>	<ul style="list-style-type: none"> <li>• Section 5 states that every Israeli citizen from the age of 18 has the right to vote in elections unless a court has deprived them of that right.</li> <li>• Article 6 all Israeli citizens from the age of 21 years old have the right to be elected to the Knesset.</li> <li>• Amendment 1985: Section 7A states a candidates' list shall not participate in elections to the Knesset if its objects or actions, expressly or by implication, include one of the following:             <ol style="list-style-type: none"> <li>(1) negation of the existence of the State of Israel as the state of the Jewish people;</li> <li>(2) negation of the democratic character of the State;</li> <li>(3) incitement to racism</li> </ol> </li> <li>• Amendment 2002: another ground was added:             <ol style="list-style-type: none"> <li>(4) support of armed struggle of an enemy State or of a terrorist organization against the State of Israel</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• The law has been used several times against Palestinian parties in Israel in order to delegitimize any challenge to Israel.</li> <li>• Palestinian parties who have advocated that Israel should be a 'state for all its citizens' have had action taken against them under this law.</li> <li>• In a democracy it is up to political parties and leaders to be able to challenge the functioning of the state and uphold the interests of all citizens.</li> <li>• This law demonstrates Israel's totalitarian approach to freedom of political expression.</li> </ul>
<p><b>THE LAW OF ELECTION</b> 1969</p>	<ul style="list-style-type: none"> <li>• Amendment 2002: states under section 57 that a candidate who wishes to run for election to the Knesset must declare: "I commit myself to uphold the loyalty for the State of Israel and to avoid acting in contradiction with Section 7(A) of the Basic Law: The Knesset."</li> </ul>	<ul style="list-style-type: none"> <li>• Supports the above law and shows the increasingly oppressive treatment of Palestinian politicians in Israel who attempt to address the discrimination faced by the Palestinian minority.</li> </ul>
<p><b>THE LAW OF POLITICAL PARTIES</b> 1992</p>	<ul style="list-style-type: none"> <li>• Amendment 2002: states that a political party that wishes to run for the Knesset elections will not be registered if its goals or actions, directly or indirectly, "support armed struggle of an enemy state or of a terror organization, against the state of Israel."</li> </ul> <p>It also sets forth various limitations on the registration rights of political parties, similar to Article 7A of The Basic Law: The Knesset.</p>	<ul style="list-style-type: none"> <li>• The law is drafted very broadly in order to encompass a political party's opposition to Israeli occupation of the West Bank and Gaza, as this could be construed as support of an armed struggle. This in turn denies the electorate the opportunity to voice their opposition to the occupation at the political level. The vagueness of what constitutes 'support' gives great power to the State to limit freedom of speech in any way it sees fit and prevents parties from constructively criticizing the actions of the government, thereby limiting peaceful discussion of important issues.</li> </ul>
<p><b>THE LAW OF IMMUNITY OF MEMBERS OF THE KNESSET: THEIR RIGHTS AND THEIR DUTIES</b> 1951</p>	<ul style="list-style-type: none"> <li>• Amendment 2002: provides that any statement or action that "supports an armed struggle against the State of Israel" is deemed not to be an official part of an MK's duties. Anything that is not an official part of duty is not protected by parliamentary immunity and can therefore be subject to criminal prosecution.</li> </ul>	<ul style="list-style-type: none"> <li>• The enactment follows an attempt in 2001 by a Knesset vote to strip the immunity of MK Dr. Azmi Bishara (then head of the NDA-Balad party) after he gave speeches on the realities of occupation in the oPt and South Lebanon, and the right to resist such occupation. Although the Israeli Supreme Court held the removal of his immunity to be illegal in 2003, the amendment would cover this situation in the future.</li> </ul>
<p><b>The Basic Law: The Knesset (Candidate who Visited a Hostile State Illegally)</b> 2008</p>	<ul style="list-style-type: none"> <li>• Denies the right to be a candidate for election to the Knesset to any citizen who has visited "enemy States", such as Syria, Lebanon, Iraq and Iran.</li> </ul>	<ul style="list-style-type: none"> <li>• This is an attempt to further marginalize Palestinian Knesset members who are most likely to identify with the resistance movements in those states listed and to establish political connections there. They represent the crackdown on any dissidence or discussion about Israel's democratic nature.</li> </ul>

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