

# ISRAELI LAWS

**What is Jewish about the Jewish state of Israel ?** It's not that Israel is a state where only Jews live. One fifth of the Israeli population is non-Jewish. The Jewishness of Israel is embodied in a set of laws which confer rights and benefits on Jews but not on others. Were this not true, Israel would not deserve to be called a Jewish state. But because it is true, Jews and non-Jews are not equal before the law in Israel .

The Declaration of the Establishment of the State of Israel, Israel 's declaration of independence, signed May 14, 1948 is a two page document which clearly defines Israel as a Jewish state. The document stresses that the sovereign authority in Israel is the Jewish people: "This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign state." It repeatedly uses phrases to emphasize this point: "Jewish people...in its own country," "Jewish people to rebuild its national home," "Jewish state," "right of the Jewish people to establish their state," "Jewish people in the upbuilding of its state," "sovereign Jewish people."

**Where does this leave Arabs, who are currently 20% of the population inside Israel (not counting the Gaza Strip and the West Bank )?** The

Declaration makes a clear distinction between Jews, who are the sovereign authority in Israel , and the Arab inhabitants who are not. The second-class status of Arabs inside Israel is enforced by laws that privilege being Jewish, rather than by a formal denial to Arabs of citizenship or the right to vote and hold office. Thus the document says that Arabs shall have "complete equality of social and political rights" and "full and equal citizenship and due representation in all its [ Israel 's] provisional and permanent institutions." But the Law of Return, passed in 1950, begins: "Every Jew has the right to immigrate to the country." Yet one of the central grievances of Palestinians is that they cannot do the same thing; they cannot return to their homes of many generations in Israel .

Even Arabs who never left Israel, but who only stayed for a few days in a nearby village with relatives to wait for the fighting in 1948 to end, are now categorized in Israel as "present absentees," a category in which they remain forever, and in consequence of which their homes and property remain in the possession of the Custodian of Absentee Property, who puts the property at the disposal of Jews. [1]

Private organizations serving only Jewish interests hold quasi-governmental authority in Israel for policies that affect non-Jews. The main example of this is the Jewish Agency, which calls itself "the agency for Jewish interests in Eretz ["the land of"] Israel ...[it's] role is defined...as a voluntary, philanthropic organization with responsibility for immigration, settlement and development, and coordination of the unity of the Jewish people." [2] The (Jewish) Jerusalem Center for Public Affairs describes the Jewish Agency as "a quasi-public, voluntary institution

sharing many, often overlapping, functional jurisdictions with government." [3] Yes, Arabs could set up a private "Arab Agency," but it would not have the quasi-governmental power, for example, to dispose of Jewish property the way the law allows the Jewish Agency to dispose of Arab property: the state's Custodian of Absentee Property hands Arab property to the Jewish Agency, but it does not hand Jewish property to any Arab agency. Jews don't have their property confiscated as "present absentees" because Jews, unlike Arabs, enjoy the "Right of Return."

The U.N. Conciliation Commission estimated that about 80 percent of the land in what is today Israel is property formerly owned by Palestinians that was confiscated by Jewish organizations like the Jewish Agency.[4] Palestinians are forbidden by Israeli law from owning it. Of all the land that may be legally sold in Israel, 67% of it may not legally be sold to Arabs, while none of it is barred from being sold to Jews. [5] Thus, while Palestinians may be citizens in Israel, they are second class citizens, which is precisely what it means to live in a "Jewish state" when one is not Jewish. Yet another feature of Israel that makes it an apartheid state is that it aims to separate Jews and Arabs on a personal level. For example, a Jew and an Arab cannot legally marry each other in Israel; such marriages, if performed outside the country, are not recognized under Israeli law.

Section 7A(1) of the Basic Law of Israel explicitly prevents Israeli citizens – Arab or Jewish – from using the "democratic" system of Israeli elections to challenge the inferior status of Arabs under the law; it restricts who can run for political office with this language: "A candidates' list shall not participate in elections to the Knesset if among its goals or deeds, either expressly or impliedly, are one of the following: (1) The negation of the existence of the State of Israel as the State of the Jewish People. ..." In a 1989 Israeli Supreme Court ruling (reported in the 1991 Israel Law Review, Vol. 25, p. 219, published by the Faculty of Law at the Hebrew University of Jerusalem) Justice S. Levine, speaking for the majority, ruled that this law meant that a political party could not run candidates if it intended to achieve the cancellation of one of the fundamental tenets of the State – namely "the existence of a Jewish majority, the granting of preference to Jews in matters of immigration, and the existence of close and reciprocal relations between the State and the Jews of the Diaspora." [References above are online at <http://www.newdemocracyworld.org/state.htm> ]

## **SEVEN MORE ISRAELI LAWS THAT DISCRIMINATE AGAINST NON-JEWS**

### **#1. Law of Return 5710-1950**

Right of aliyah\*\* 1. Every Jew has the right to come to this country as an oleh.\*\*

Oleh's visa 2. (a) Aliyah shall be by oleh's visa.

(b) An oleh's visa shall be granted to every Jew who has expressed his desire to settle in Israel , unless the Minister of Immigration is satisfied that the applicant

(1) is engaged in an activity directed against the Jewish people; or

(2) is likely to endanger public health or the security of the State.

Oleh's certificate 3. (a) A Jew who has come to Israel and subsequent to his arrival has expressed his desire to settle in Israel may, while still in Israel , receive an oleh's certificate.

(b) The restrictions specified in section 2(b) shall apply also to the grant of an oleh's certificate, but a person shall not be regarded as endangering public health on account of an illness contracted after his arrival in Israel .

Residents and persons born in this country 4. Every Jew who has immigrated into this country before the coming into force of this Law, and every Jew who was born in this country, whether before or after the coming into force of this Law, shall be deemed to be a person who has come to this country as an oleh under this Law.

**#2. The 1949 discharged Soldiers (Reinstatement in Employment) Law,** amended in 1970 [Laws of the State of Israel, vol. 3, p. 10 (1949) and art. 1, Laws of the State of Israel, vol. 24, p. 126 (1970)], which makes an additional child support payment to 'soldiers.' The amendment defined 'soldier' as 'a person who is serving or has served in the Defence Army of Israel, the Police or the Prison Service,' or who served in one of the Zionist military formations (Haganah, Irgun, or LEHI) prior to the establishment of Israel. Since Israeli citizens who are not Jewish or Druze do not get called to serve in qualifying organizations, and since the qualifying organizations from the past were clearly selected so as to exclude non-Jews, this law gives to Jewish citizens of Israel rights that it denies to non-Jewish/non-Druze citizens of Israel .

**#3. State Education Law,** arts 2, 4, Laws of the State of Israel, vol. 7, p. 113 (1953), which says that the purpose of elementary education is to teach 'the values of Jewish culture' and 'loyalty to the State and the Jewish people.' This purpose covers even 'non-Jewish educational institutions,' whose curriculum is prescribed by the minister of education. The state funds an Orthodox Jewish private school system but does not fund schools for other religions, according to Izhak England's "Law and Religion in Israel," in the American Journal of Comparative Law, vol. 35, p. 201 (1987). This law gives Jewish citizens of Israel the right to have their children educated in conformity with their religion, and denies this right to non-Jewish citizens of Israel .

**#4. The Jewish Religious Services Budgets Law** of 1949 [arts, 1-2, Laws of the State of Israel, vol. 3, p. 66 (1949)] and the Jewish Religious Services [consolidated version] Law of 1971 [Laws of the State of Israel, vol. 25, p. 125 (1971)]. These laws call for local religious

councils to submit budgets to the minister of religious affairs. The budgets are financed one-third by the central government and two-thirds by the local government. There are no such statutes for other religions. Israeli citizens who are of the Jewish religion thus are given preferential treatment. The government allocates funds for Muslim and Christian religious services, but at a level far less than their proportion in the population, and without a legislative mandate.

**#5. Chief Rabbinate of Israel Law** [art. 2(2), Laws of the State of Israel, vol. 34, p. 97 (1980)], which gives legal status to the chief rabbinate and empowers and obligates it to undertake 'activities aimed at bringing the public closer to the values of tora [Jewish religious learning] and mitzvot [Jewish religious duties].' No other religion has a body with similar legal status, empowerment, or obligations.

**#6. Specified Goods Tax and Luxury Tax Law** [art 26, Laws of the State of Israel, vol. 6, p. 150 (1952)] This law authorized the minister of finance to designate classes of persons for favorable treatment when they bring goods into Israel after residence abroad. Under this authorization, the minister issued the Purchase Tax Order (Exemption) 1975, [Definition 15 (returning resident), Definition 20 (returning national), Collected Regulations] which called for a lower import duty to be collected from a returning national than from a returning resident. The order defined 'returning national' to include only a person who, 'if the person were not an Israeli national the Law of Return would apply to him.' Thus, only a Jewish citizen of Israel is a returning national with the right to favorable treatment when bringing goods into Israel after residence abroad.

#7. THE NEW LAW (PASSED JULY 2003) PREVENTING NON-JEWS IN THE OCCUPIED TERRITORY FROM ENTERING ISRAEL TO BE WITH THEIR ISRAELI CITIZEN SPOUSE:

**NATIONALITY AND ENTRY INTO ISRAEL (TEMPORARY ORDER) LAW, 5763-2003\***

1. In this Law –

0. “region” – each of these: Judea and Samaria and the Gaza Strip;

0. “Nationality Law” –Nationality Law, 5712 – 1952;(1)

0. “Entry into Israel Law” –Entry into Israel Law, 5712- 1952;(2)

0. “regional commander” – the commander of forces of the Israel Defense Force in the region;

“resident of the region” – including a person who lives in the region but is not registered in the region’s Population Registry, excluding a resident of an Israeli community in the region.

2. During the period in which this Law shall be in effect, notwithstanding the provisions of any law, including section 7 of the Nationality Law, the Minister of Interior shall not grant a resident of the region nationality pursuant to the Nationality Law and shall not give a resident of the region a permit to reside in Israel pursuant to the Entry into Israel Law. The regional commander shall not give such resident a permit to stay in Israel pursuant to the defense legislation in the region.