

RELIGION AS LAW: THE ISRAELI-NATION STATE LAW AND THE PALESTINIANS

INTRODUCTION

Yousef Munayyer had to travel 6,000 miles to meet his wife, who had lived 30 miles from him their entire lives.¹ When the couple decides to visit their families, they cannot fly into the same airport in Tel Aviv, although it is the closest to their hometowns. Instead, she must land in a different country, while her husband is permitted to fly into Tel Aviv's Ben-Gurion Airport.² Should they choose to land in the closest possible airport for Munayyer's wife, Israeli law still requires the couple take different bridges, located two hours apart, and answer a series of questions in order to be permitted to return to their childhood home together.³

Munayyer is an Arab Israeli citizen. His wife is not.⁴ Their realities represent the sharp divide between Israelis and Palestinians. Although Munayyer is an Arab, he was fortunate enough to obtain Israeli citizenship by virtue of his birth in the city of Lod, instead of in the occupied West Bank.⁵ Not all Palestinians are as lucky. Aside from the nearly 5 million Palestinian refugees eligible for aid from the United Nations, there are many more Palestinians living in the occupied territories of Israel who are subject to Israeli laws.

The passage of the Israeli Nation-State Law and the actions of current United States President Donald Trump will deeply impact the Palestinians and Palestinian refugees.⁶ This note will first address the background of the Palestinian Refugee crisis and the creation of the State of Israel. I will then address the impact of Israel's Nation State law in conjunction with

1 Yousef Munayyer, *Not All Israeli Citizens Are Equal*, N.Y. TIMES, May 23, 2012,

2 *Id.*

3 *Id.*

4 *Id.* Munayyer's wife is a Palestinian who was born in the West Bank region in the city of Nablus. The West Bank is currently occupied by Israeli troops, but the Palestinians living there are issued Palestinian ID cards and are not considered Israeli citizens. Meanwhile, Munayyer is a Palestinian who was born 30 miles away, but is considered an Israeli citizen as he was born in the Israeli town of Lod. *Id.*

5 *Id.* The West Bank continues to be occupied by Israeli soldiers following the Six-Day War. *Id.*

6 For ease of discussion the term "Palestinian" and "Palestinians" will mean all Arab peoples of Israel either as citizens or under the Israeli occupation. The term Palestinian refugees will indicate those individuals who fit the definition of Palestinian refugee set forth by the UNRWA and those individuals who do not necessarily fit that description but were displaced as a result of the 1967 conflict as well.

the growth of Israeli nationalism as well as address some, possible consequences, and steps to minimize these negative effects.

I. BACKGROUND: ONE LAND, TWO PEOPLES

The modern country of Israel was founded on May 14, 1948, but the history of the land within Israel's borders is much more complicated than it may appear.⁷ The most influential movement in the creation of Israel was Zionism.⁸ Zionism—specifically Political Zionism—contributed greatly to the influx of Jewish immigrants to Palestine during what is known as the British Mandatory Period (the “British Mandate”).⁹

A. *The British Mandatory Period*

Following World War I (“WWI”), the League of Nations created the mandatory system, which split the former colonies of Germany and Ottoman Turkey among the Allied powers in order to aid in the colonies’ social and economic development.¹⁰ Under this system, Palestine was assigned to Great Britain.¹¹

During WWI, prior to the official assignment of the Palestinian Mandate to Great Britain, the country began discussing the fate of Palestine after the War.¹² During WWI, Great Britain committed herself to two independent and conflicting doctrines regarding the management of

⁷ *Creation of Israel, 1948*, Office of the Historian (Israel was recognized by the President of the United States, Harry S. Truman, the same day as its creation). Zack Beauchamp, *Everything you need to know about Israel-Palestine*, VOX.COM (May 14, 2018), The conflict between the Palestinians on the land prior to the creation of Israel and the Jewish immigrants and later Israeli born citizens, is wrought with misinformation, factual manipulation and a history of violence. Both groups have claimed ownership of the land for thousands of years.

⁸ *Israel*, ENCYCLOPEDIA BRITANNICA (last visited Nov. 2, 2018).

⁹ The man credited with the creation of Zionism, Theodor Herzl, is most often tied with the creation of “Political Zionism.” *Id.* It was his works that advocated for the creation of a “Jewish state” in an effort to combat both anti-Semitism felt in Europe and the growing secular identity of Jews world-wide. *Id.*; *British Palestine Mandate: History*, JEWISH VIRTUAL LIBRARY (last visited Nov. 1, 2018).

¹⁰ *Mandate: League of Nations*, ENCYCLOPEDIA BRITANNICA (last visited Nov. 2, 2018) The goal of the mandate system was to allow the former territories of the Axis Powers who were deemed unable to govern themselves the guidance and supervision of an established country. *Id.*

¹¹ *Id.*

¹² Zena Tahhan, *More than a Century on: The Balfour Declaration Explained*, AL JAZEERA, Nov. 2, 2018, (indicating the Balfour Declaration was sent prior to the end of WWI) *See also*, *Husayn-McMahon correspondence*, ENCYCLOPEDIA BRITANNICA (last visited Nov. 2, 2018) (indicating the Husayn-McMahon correspondence was sent prior to the end of WWI).

Palestine in the event of Allied victory.¹³ The first is seen in the Husayn-McMahon correspondence, letters exchanged between the emir of Mecca, Husayn ibn Ali, and then British High Commissioner in Egypt, Sir Henry McMahon.¹⁴ In short, the letters indicated a trade of British support for an independent Arab State in the region surrounding and including much of present-day Israel for Arab support against the Ottoman Empire in WWI.¹⁵ This directly conflicted with the Balfour Declaration made in 1917 by Arthur James Balfour, the British Foreign Secretary, to Lionel Walter Rothschild, a prominent Jewish British leader.¹⁶ In his letter, Balfour indicated British support of a Jewish national home in Palestine.¹⁷ These two conflicting commitments set the stage for the careful balancing act that was the British Mandatory period.

The Balfour Declaration, combined with growing European support for Political Zionism, facilitated Jewish immigration into Palestine with the hope of developing a Jewish national home in the region with the protection and support of the British Mandatory government.¹⁸ The number of Jewish immigrants into mandatory Palestine during the mandatory period reached into the hundreds of thousands.¹⁹ This massive influx of Jewish immigration caused backlash from the Arab residents of the region for a variety of reasons.²⁰

During the British Mandate, the Arabs living in Palestine were largely peasant farmers who farmed land belonging to wealthy Arab landowners.²¹

13 *Id.* Husayn-McMahon correspondence, ENCYCLOPEDIA BRITANNICA (last visited Nov. 2, 2018).

14 *Id.* In these correspondences, Sir McMahon effectively traded British support of an independent Arab state for Arab aid in the conflict against the Ottoman Empire. There was some disagreement in the letters as to the exact location of the independent Arab state, with Emir Husayn insisting on Arab independence in all lands east of Egypt and Sir McMahon attempting to limit the region implicated.

15 *Id.*

16 *Balfour Declaration*, ENCYCLOPEDIA BRITANNICA, (last visited Nov. 1, 2018) (The Balfour Declaration, like the Husayn-McMahon correspondence, was not an official statement or declaration to the international community, but rather a series of letters).

17 This letter indicated British support for a Jewish national home in Palestine with the stipulation that “nothing shall be done which may prejudice the civil and religious rights of the existing non-Jewish communities in Palestine.” *Balfour Declaration: Text of the Declaration* (November 2, 1917) (last visited Nov. 3, 2018.).

18 Benny Morris, *The Birth of the Palestinian Refugee Problem, 1947-1949* (Cambridge: University Press, 1987), 4-5.

19 Zack Beauchamp, *supra* note 7.

20 *Id.*

21 Morris, *Birth of the Palestinian Refugee Problem*, 7. Although ownership of the land was concentrated in the hands of wealthy landowners, the social and economic structure of the region led to families having lived on and farmed the same land for many generations. The structure of land

These peasant farmers often farmed the same land for generations and saw the influx of Jewish immigrants as a threat to their way of life, established communities, and social structure.²² In contrast, the wealthy Arab landowners saw a business opportunity, and began selling land to new Jewish immigrants, further exacerbating the existing tensions between Arabs and Jews.²³

Tension, marked by violence, continued to build in the region and the end of the British Mandate was marked by attacks from both Arabs and Jews and even more attempts by Jewish immigrants to settle in the region and cement their control in order to build a national home.²⁴ Upon realizing that the situation in Palestine was becoming too much for them to control, Great Britain attempted to quell rising Arab riots against the increased Jewish immigration by issuing the 1939 White Paper, which limited Jewish immigration.²⁵ In response to this limit on Jewish immigration, Zionist paramilitary organizations declared war on Britain and began attacking British headquarters in Palestine.²⁶

B. The Creation of Israel

Soon it became clear that the British presence in Palestine was inadequate to control the increasing violence in the region, and there was a public outcry for Great Britain to remove herself from the region.²⁷ Britain

ownership meant that Arabs developed deep connections to the land they farmed and built communities around this type of peasant farming.

22 Beauchamp, *supra* note 7. The Jewish immigration into Palestine was viewed by many Arabs not just as a threat to land what little wealth they possessed, but also as a sign of the growing colonial impact of white Europeans.

23 Ilan Pappé, *A History of Modern Palestine* 98 (Cambridge: University Press 2nd ed. 2006). The sale of land by Arab landowners is often seen as a strictly business transaction. Wealthy Arabs saw an opportunity to sell land to Jewish immigrants who were willing to pay a premium for their chance to live in what they thought was the developing Jewish homeland.

24 Noah Rayman, *Mandatory Palestine: What It Was and Why It Matters*, TIME (September 29, 2014). As Jewish immigration continued, it became increasingly clear to those in Great Britain that it was time to get out of Palestine and effectively end the mandate.

25 *British White Paper Restricts Jewish Immigration and Land Purchase*, Ctr. for Israel Educ. (May 17, 2015). The 1938 White Paper was the last in a series of White Papers that were published in the late 1920s and through the 1930s. *Id.* These White Papers indicated Great Britain's indecisiveness regarding Palestine and its inability to handle the growing violence as a result of the two clashing groups.

26 *The Nakba Did Not Start Or End In 1948: Key Facts and Figures on the Ethnic Cleansing of Palestine*, AL JAZEERA (May 23, 2017). Perhaps the most famous of these attacks is the King David Hotel bombing in 1946, although the attacks on British headquarters in the region began two years earlier.

27 *Foreign News: Islam v. Israel*, TIME (Sept. 09, 1929). In an article from as early as 1929, there was an increasing dislike of the presence of Great Britain in Palestine. *Id.*

brought the question of Palestine before the United Nations because of her reluctance to become further involved in the escalating violence between Arabs and Jewish settlers. The United Nations (“UN”) created the Special Committee on Palestine (“UNSCOP”) in April of 1947 as a response to Britain’s request.²⁸ The result of the UNSCOP was a recommendation to partition Palestine, herein known as the Partition Plan.²⁹ The Partition Plan recommended creating two independent states, one Jewish and one Arab, with the UN Trusteeship Council administering Jerusalem.³⁰ The plan was accepted by the Jewish Agency, the leading voice for the Zionist movement, although it was still dissatisfied with a number of factors.³¹ Alternatively, the plan was rejected by Arab Palestinians and the surrounding Arab States, who found the plan incompatible with the objectives and stated principles of the United Nations.³²

On May 14, 1948, Great Britain officially ended mandatory control over Palestine and, later that same day, the Jewish Agency declared the creation of the State of Israel (“Israel”) along the lines presented in the Partition Plan.³³

C. Nakba and the Creation of the Palestinian Refugees

Initially, the movement of Palestinians out of the territory of the newly formed Israel and the remaining Arab territory began slowly. As violence

²⁸ *Id.*

²⁹ *Id.* For use in this note, the phrase “Partition Plan” will refer only to the 1947 plan presented by the UNSCOP for the partition of Palestine. All other later partition plans or recommendations, if addressed, will be otherwise noted.

³⁰ *Id.* Under the Partition Plan, the Jewish population maintained control of 55% of the land in historic Palestine in spite of only constituting one third of the total population. Rawan Damen, *Al Nakba*, Palestine Remix, AL JAZEERA (2015). At the time, Jews only owned about 6% of the land in Palestine. *Id.* Finally, under the Partition Plan, Arabs would be deprived of key agricultural land and sea ports, upon which they had relied for many generations.

³¹ The Jewish Agency of Israel (“Jewish Agency”) was created in 1929 as a result of the need to finance the Zionist creation of a Jewish national home in Palestine. *Jewish Agency*, ENCYCLOPEDIA BRITANNICA (last visited Nov. 1, 2018). The Jewish Agency soon rose to the forefront of the Zionist movement and became de facto representative of Jews in Palestine. *Id.*; *supra* note 28. In spite of these reservations, the Jewish Agency accepted the Partisan Plan because it legitimized their claim to Palestine despite returning to the land only a few years prior. Rawan Damen, *Al Nakba*, Palestine Remix, AL JAZEERA (2015).

³² Rawan Damen, *Al Nakba*, Palestine Remix, AL JAZEERA (2015). The main Arab contention was that the provisions of the UN Charter, “which granted people the right to decide their own destiny,” was not compatible with the plan and that they would oppose any “scheme that provided for the dissection, segregation or partition of their country, or which gave special statute and preferential rights and status to a minority”. *Id.*

³³ *Supra* note 28; *See also*, *Israel*, ENCYCLOPEDIA BRITANNICA, (last visited Nov. 1, 2018).

increased, and the likelihood of the creation of a permanent Jewish state also increased, upper and middle-class Arabs fled to the surrounding Arab countries.³⁴ Initially, these Arabs were welcomed with open arms by the surrounding countries and were seen as refugees of a religious war.³⁵ Soon, the crisis continued developing, and accounts of Jewish paramilitary organizations committing ethnic cleansing against Palestinians came to light in surrounding Arab countries.³⁶

The day after the declaration of the creation of Israel, May 15, 1948, marks the *nakba* for Palestinians.³⁷ Although the events of the *nakba* began in the weeks leading up to the creation of Israel, May 15, is the day used annually by Palestinians as a rallying point for remembrance.³⁸ The history of the *nakba* and the exact actions taken by Israel and the Palestinians in response is up for debate.³⁹ Many more Arabs were expelled during the Arab-Israeli War, which began the day after Israel declared its independence.⁴⁰

At the end of 1948, in the midst of the developing refugee crisis, the UN General Assembly passed Resolution 194, which recognized the “right of return” for Palestinian refugees wishing to return to their land and

34 Morris, *Birth of the Palestinian Refugee Problem*, 57 and 59. This fleeing was largely a result of families with the means to do so, leaving with the intent to return to their homes and lands. *Id.*

35 *Id.*

36 *The Nakba Did Not Start or End in 1948: Key Facts and Figures on the Ethnic Cleansing of Palestine*, AL JAZEERA (May 23, 2017). The Jewish paramilitary organizations had received training from both US and British force as they aided in the fighting of WWII. These forces, which had once turned against Britain may have been attempting to remove Palestinians from their homes in the months leading up to the creation of Israel.

37 *Nakba*, an Arabic word loosely translated as catastrophe or disaster, is used by Palestinians to describe two separate, but equally traumatizing, expulsions from their homes in the region claimed by Israel. *Id.*; See also Hussein Ibish, *A ‘Catastrophe’ That Defines Palestinian Identity*, THE ATLANTIC (May 14, 2018).

38 See *id.*, *supra* note 39. The events of the *nakba* took place in the months and weeks leading up to the creation of Israel, but for purposes of remembrance and protest, May 15 has historically served as the day around which Palestinian’s rally. Additionally, the *nakba*, or at least its effects are continuing to this day as many Palestinians remain stateless and displaced from their ancestral lands. *Id.*

39 There are many conflicting sources regarding the organized nature of Jewish expulsion of Palestinians from their homes and the exact dates those expulsions occurred. Additionally, there are conflicting accounts regarding the level of violence used by Israeli soldiers when removing Palestinians from land now claimed by Israel. See Rawan Damen, *Al Nakba*, Palestine Remix, AL JAZEERA (2015); Compare with *Israeli War of Independence: Background & Overview (1947-1949)*, JEWISH VIRTUAL LIBRARY (last visited Nov. 1, 2018).

40 *The Nakba Did Not Start or End in 1948: Key Facts and Figures on the Ethnic Cleansing of Palestine*, AL JAZEERA (May 23, 2017), During the First Arab-Israeli War, Israel was invaded by five Arab countries: Egypt, Lebanon, Syria, Jordan and Iraq. Office of the Historian, *The Arab-Israeli War of 1948*.

property in Israel.⁴¹ The right of return has been a source of contention for Israel since the passage of the Resolution.⁴² The traditional Arab view was that clause 11 of Resolution 194 gave Palestinian Arabs a “comprehensive right to return.”⁴³ This stands in contrast to the Israeli view that Palestinians had the option to return, subject to Israeli permission, and that aside from return, there were alternatives such as resettlement.⁴⁴

Following the First Arab-Israeli War many other acts of violence and rebellion between Israel, Palestinians, and surrounding Arab nations took place, and each impacted the region and the international community in various ways.⁴⁵ Of these conflicts, the most notable for the development of the Palestinian refugee crisis and the current development of the region was the Six-Day War.⁴⁶ The Six-Day War was short but impactful. During the Six-Day War Israel fought Egypt, Syria, and Jordan.⁴⁷ In less than a week, Israel occupied the Sinai Peninsula, the Gaza Strip, the West Bank, East Jerusalem, and the Golan Heights regions (the “Occupied Territories”).⁴⁸

While the war ended in June of 1967, the fight was not over for many Arabs, some of whom hoped to get recognition of the pre-war boundaries so as not to lose any more territory in the region. The United Nations soon took up the conflict, as two world superpowers, the United States and the Soviet Union, advocated on behalf of Israel and the Arab states,

41 G.A. Res. 194 (III), Palestine – Progress Report of the United Nations Mediator, ¶ 11 (Dec. 11, 1948).

42 *UN Resolution 194*, The Reut Institute (last visited Nov. 1, 2018), <http://www.reut-institute.org/en/Publication.aspx?PublicationId=2395>.

43 *Id.*

44 *Id.* The Israeli claim was that it was up to Israel to determine which refugees fulfilled the requirements set forth in Clause 11. Israel also contended that the right to return was simply an option and that compensation for lost property was also a viable option allowed by the clause. Finally, the phrase “earliest practicable date” is distinctly different from “earliest possible date” and allows Israel to decide when such resettlement is practical.

45 *Timeline of Palestine’s History*, Palestine Remix, AL JAZEERA (2015) (last visited Oct. 31, 2018). Starting after the creation of Israel, there were various violent attacks and outbursts as well as armed conflicts between Israelis, Palestinians, and Arabs from surrounding countries.

46 This conflict is also sometimes referred to as the Third Arab-Israeli War. *Timeline: The Six Day War*, NPR (June 4, 2007 9:18 AM),

47 *Six-Day War*, HISTORY (last visited Aug. 21, 2018).

48 *Id.* Prior to the Six Day War, Egypt controlled both the Sinai Peninsula and the Gaza Strip. Jordan controlled the West Bank and East Jerusalem and Syria controlled the Golan Heights region. *Id.* Noticeably missing from this list is Palestine. Palestine was not officially a party to the war, although many guerilla soldiers were Palestinian, because the area of Palestine was not officially recognized as a state. Instead, many of the Arab nations took up the Palestinian cause and fought the expansion of Israel for their own reasons.

respectively.⁴⁹ The result of this conflict was the passage of UN Resolution 242, which reads in relevant part:

The Security Council . . . Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

- (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
- (ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force⁵⁰

These words indicate the reciprocal obligation of Israel to return to the pre-Six-Day War boundaries and for Arab states to recognize Israeli sovereignty.⁵¹ Although it would seem that Resolution 242 would have solved the issue of Israeli occupation of areas once reserved for Arabs under the Partition Plan, the wording of the Resolution has caused its effect to be minimal.⁵² Israel still occupies much of the land mentioned in Resolution 242, and many Arab states have refused to officially recognize Israel.⁵³ Although it did not solve the Palestinian refugee crisis, or create lasting peace in the Middle East, Resolution 242 articulated the borders of Israel that are generally accepted by the international community, despite continued Israeli presence in the Occupied Territories. The creation of Palestinian refugees continues today. Life in the Occupied Territories

49 Eric Black, *Resolution 242 and the Aftermath of 1967*, FRONTLINE. The Soviet Union intended to use its influence to pass a resolution through the UN forcing Israel to accept pre-Six Day War boundaries; however the United States was more than willing to use its veto power as a member of the Security Council to protect Israeli interests. *Id.*

50 S.C. Res. 242, ¶ 1 (Nov. 2, 1967).

51 *Id.* Resolution 242 was put forth by Britain and effectively tied the desires of the United States and the Soviet Union.

52 *Id.* Although the resolution makes concessions for both sides, the language of the Resolution does not indicate which must come first: the de-occupation of territories by Israel or Arab state recognition of Israel.) *Id.* Neither the Arab states nor Israel wanted to make the first concession, so Israel continues to occupy the territories in question.

53 *Id.*

becomes increasingly difficult for those Palestinians who are not allowed on Israeli-only roads and must pass through checkpoints on their way to work in Israel, where they are not considered citizens and do not have often necessary identification.⁵⁴

In response to the nearly 750,000 Palestinians who were forced from their home as a result of violence between 1947 and 1949, the United Nations established the United Nations Relief and Works Agency for Palestine Refugees (“UNRWA”) by passing Resolution 302.⁵⁵ Presently, UNRWA is chartered to continue until 2020 and serves the more than 5 million registered Palestinian refugees.⁵⁶ Although the number of refugees registered with UNRWA seems quite large, the definition of who can register and receive aid from UNRWA is quite limited.⁵⁷ “UNRWA is funded almost entirely by voluntary contributions from UN Member states” although it does receive some funding from the Regular Budget of the UN.⁵⁸

C. Differing Views on the Legal Status of Arabs and Jews in Israel

The differing narratives of Jews and Arabs regarding the removal or displacement of Palestinians from land is central to the many differing understandings of the Palestinian refugees and the legal status of Arabs who remain in Israel or the Occupied Territories.⁵⁹ Although not universally accepted, the traditional Israeli narrative is that Palestinian Arabs left on their own free will.⁶⁰ Largely, according to the Israeli

⁵⁴ *Id.*

⁵⁵ G.A. Res. 302 (IV), Assistance to Palestine Refugees (Dec. 8, 1949).

⁵⁶ *Who We Are*, United Nations Relief and Works Agency for Palestinian Refugees in the Near East, (last visited Nov. 2, 2018) (“UNRWA is unique in terms of its long-standing commitment to one group of refugees”).

⁵⁷ *Id.* Palestinian refugees who qualify for aid from the UNRWA are defined as “persons whose normal place of residence was Palestine during the period of 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict.” *Id.* Descendants of male Palestinian refugees are also eligible for assistance. *Id.* This definition does not cover the Palestinian Arabs who were made refugees for the first time following the Six Day War and who were displaced as a result of Israeli occupation.

⁵⁸ *Id.*

⁵⁹ The Israeli narrative surrounding the formation of the “Palestinian refugee” sets the stage for the passage of the Nation-State law and underscores the deeply held beliefs that are a key part of the Israeli legal system.

⁶⁰ Paul Scham, *Modern Jewish History: Traditional Narratives of Israeli and Palestinian History*, JEWISH VIRTUAL LIBRARY (2005). It is commonly believed that in the beginning, upper and middle-class Palestinians did leave for other Arab countries in anticipation of war; however they maintained the intent to return to Palestine following what they believed would be a swift Arab victory. *Id.*

narrative, the blame should be placed on Arab elites who encouraged Palestinian Arabs to make way for the invading armies.⁶¹ Conversely, the traditional Arab narrative is that beginning before the formation of Israel, the Zionists put forth a coordinated effort to expel Palestinians in a form of ethnic cleansing.⁶² The goal of this effort would be to rid the region of its Arab majority in order to create a more favorable environment for the creation of Israel.⁶³

Additionally, a common Israeli narrative often puts forward the idea that the Arab world uses the issue of the Palestinian refugees as leverage to refuse to recognize Israel and reject Israel's offers of peace.⁶⁴ It is also thought by some that the Arabs continue the refugee crisis in an attempt to undermine the Jewish character of Israel.⁶⁵ On the other hand, a traditional Arab narrative paints the refugee crisis as an ongoing problem as States, including Israel, refuse adequate aid for Palestinians who still have no permanent home. For many Arabs, there can be no true end to the crisis until Israel provides appropriate redress and aid to the remaining Palestinians.⁶⁶ These competing narratives provide the backdrop for continuing tensions between not only Palestinians, Arabs, and Israelis, but between international allies as well.

Aside from the Palestinian Refugees, it is essential to note the presence of Arabs who are, by definition, Israeli citizens. Approximately 20.3% of Israeli citizens are Arab, with 83.8% of them being Muslim.⁶⁷ These Israelis of Arab descent are the people who were able to remain during the events of 1948 and, in the years after, were lucky enough to obtain Israeli citizenship.⁶⁸ These citizens, many of whom self-identify as Palestinian, will also be impacted by the changing laws and legal relationship between

61 *Id.*

62 *Id.*

63 *Id.* This is the narrative often put forth by Arab based media sources, many of whom frame the Palestinians as the victims of horrific crimes and acts of violence coordinated by Jewish military and paramilitary organizations. *The Nakba did not Start or end in 1948: Key Facts and Figures on the Ethnic Cleansing of Palestine*, AL JAZEERA (May 23, 2017).

64 Scham, *supra* note 61.

65 *Id.*

66 *Id.*

67 *Israel in Figures*, Central Bureau of Statistics (2010), This figure can be contrasted to the population figures prior to 1948, which indicated a population that was approximately one third Jewish.

68 In this note, the term "Arab-Israeli" is used for the ease of the unfamiliar reader. Although that term may carry with it connotations with which not all scholars agree, its use is not intended to convey a particular belief on that part of the author, but rather make the reading of the Note more accessible to those unfamiliar with the issue.

the Israeli Nation-State Law and the decisions of the current American President regarding Israeli relations.

D. The Israeli Nation-State Law

Two thousand eighteen was a year of rapid change for Palestinians and Palestinian refugees internationally. On July 19, 2018, the Israeli Knesset passed the Nation-State Law.⁶⁹ The Nation-State Law is a particular type of Israeli Constitutional law called a Basic Law.⁷⁰ The Basic Laws of Israel are the laws that essentially create the constitution of the country.⁷¹ The Nation-State Law is the most recently passed Basic Law in Israel.⁷²

The Nation-State Law contains eleven clauses setting forth a variety of characteristics of Israel.⁷³ In these eleven clauses, the Nation-State Law was intended to enshrine “Israel’s Jewish character and makes it one of the state’s guiding judicial principles,” and each covers a different topic pertaining to the Jewish character of Israel.⁷⁴ Some of these clauses, such as clause 2(a) which addresses the name of Israel, are relatively uncontroversial, but other clauses, such as clause 7, provide much more controversy.⁷⁵

69 David Horowitz, *The Trouble with Israel’s Jewish Nation-State Law*, THE TIMES OF ISRAEL, (July 29, 2018, 4:51 PM). The Israeli Knesset is the unicameral legislative body of Israel. *The State: Legislature: The Knesset*, Israel Ministry of Foreign Affairs (2013), The Nation-State Law is also referred to as the “Jewish Nation State Law” however for purposes of brevity, it will be referred to as the “Law” or the “Nation-State Law” in this note. Miriam Berger, *Israel’s Hugely Controversial ‘Nation-State’ Law, Explained*, VOX.COM (July 31, 2018, 8:57 AM) (referring to the Nation-State law as both the Nation-State law and the Jewish Nation-State law).

70 Raoul Wootliff, *Final Text of Jewish Nation-State Law, Approved by the Knesset Early on July 19*, THE TIMES OF ISRAEL (July 19 2018). In Israel, a Basic Law is a law which can only be changed by a majority vote in the Knesset. *Basic Law: Israel The Nation State of the Jewish People*, 5778 (Isr.).

71 Wootliff *supra* note 70. At the first meeting of the Knesset, the legislature was unable to draft a constitution. As a result, they began passing Basic Laws, which, when taken together, would create the constitution of Israel. *Id.*

72 *Id.*

73 *Basic Law: Israel- The Nation State of the Jewish People*, 5778 (Isr.). Some of these characteristics include the calendar to be used, as mentioned in clause 8, and certain national holidays, such as clause 9, which codifies Independence Day and Memorial Day as Israeli national holidays.

74 Dov Waxman, *What are the Implications Of Israeli’s ‘Nation-State Law’ for Jewish-Arab Relations?*, PACIFIC STANDARD MAGAZINE (July 24, 2018). The topics covered by the Nation State law include “Basic Principles”, “State Symbols”, “State Capital”, “Language”, “Ingathering of the Exiles”, “The Connection with the Jewish People”, “Jewish Settlement”, “Official Calendar”, “Independence Day and Memorial Days”, “Days of Rest and Statutory Holidays” and “Entrenchment.” *Id.*

75 Clauses which are more controversial are addressed in more detail later.

II. ISSUE: THE NATION-STATE LAW, PRESIDENT TRUMP AND THE PALESTINIANS

The recent passage of the Nation-State Law marks a shift in Israeli discourse regarding the underlying principles and understandings of the country, the reasons for which are anchored in her deeply divided nature. The Nation State Law embodies the dual identity of Israel as both a democracy and a country with a Jewish identity and places them at odds.⁷⁶ The reasons for passing the Nation State Law, the wording of the final Law, and discarded earlier versions all offer insight into the potential effects of the Nation State Law and the intent behind it. The adoption of the Nation State Law may have serious political, economic, and social effects on both Israel, Palestinians, and the international community.

A. Reasons for the Passage of the Nation-State Law

The reasons for the passage of the Nation-State Law is perhaps as important as the law itself in understanding the effects and potential application of its provisions. Reasons for passing the Nation-State law vary between political groups and even individual supporters. One of the reasons for passing the Nation-State Law is based on the fear that high birth rates among non-Jewish sections of the population will threaten the Jewish majority of Israel.⁷⁷

Avi Dichter—a member of the Knesset (“MK”)—was the first to introduce the bill that would become the Nation State Law in 2011.⁷⁸ Upon the passage of the Nation State Law, MK Dichter stated: “we are enshrining this important bill into a law today to prevent even the slightest thought, let alone attempt, to transform Israel to a country of all its citizens.”⁷⁹ MK Dichter’s message for the Arab critics of the Nation-State

⁷⁶ Emma Green, *Israel’s New Law Enflames the Core Tension in Its Identity*, THE ATLANTIC (July 21, 2018). Israel was founded as a “democracy—a model of Western, liberal values” but this is placed at odds with the desire of many that Israel maintain a distinctly Jewish character and identity. *Id.*

⁷⁷ *Jewish Nation-State: Israel Approves Controversial Bill*, BBC NEWS, (July 19, 2018) (Presently, Israeli Arabs constitute about 20% of the population of Israel).

⁷⁸ Green *supra* note 76. Since its introduction in 2011, the bill that would become the Nation State Law has been widely debated and discussed in the Knesset and Israeli media, and today exists in a much different, and some say less discriminatory form, than at its introduction. *Jewish Nation State: Israel Approves Controversial bill*, BBC NEWS, (July 19, 2018).

⁷⁹ Green *supra* note 76. This statement by the introductory member of the bill provides insight into the thoughts behind and the reasoning for the introduction of the bill that would become the Nation State Law to the Knesset.

Law is clear: “You, [the Arabs], were not here before us and you will not be here after us.”⁸⁰ According to the Dichter, the Nation State Law ensures that at most non-Jewish minorities in Israel will live among Israelis with equal individual rights, but not equally as a national minority.⁸¹ Statements such as these indicate the intent behind the Nation State Law to codify the inherently unequal status and treatment of non-Jewish minorities in Israel, a status at odds with Israel’s claim to be a democracy.⁸²

Others have argued that the reasons for the Nation-State Law are not grounded in a desire to define Israel as a Jewish state, but rather to benefit Israeli Prime Minister Benjamin Netanyahu.⁸³ Prime Minister Netanyahu is the head of current coalition government in Israel, which consists of his party—the Likud Party—at the head.⁸⁴ This current coalition government has become increasingly nationalistic, leading to thoughts that Netanyahu pushed for the passage of the Nation State Law as a way to continue to gain support for the government in light of the scandal.⁸⁵

80 Reuters and Moran Azulay, *Israel Passes Nationality Bill into Law*, YNETNEWS.COM (July 19, 2018). MK Dichter’s comment references the Arab belief that they have a claim to the land based on longevity and generational connection to the land. This stands in contrast to the general belief among Israeli Jews that the land was given to them by God and has been historically theirs since Biblical times regardless of who controlled or lived on the land since then.

81 MK Dichter’s statement reads: “The most you [Arabs and non-Jewish minorities] can do is live among us as a national minority that enjoys equal individual rights, but not equality as a national minority.” *Id.*

82 “Those Arabs who remained in Israel following after the 1948 War of Independence have full equal rights under the law but say they face constant discrimination, citing inferior services and unfair allocation for education, health and housing.” *Id.*

83 “Zionist Union leader Tzipi Livni argued that the intention of the bill was not to define Israel as the nation-state of the Jewish people, but rather to benefit Netanyahu.” *Id.* Prime Minister Benjamin Netanyahu is a member of the Likud party, the party which introduced the Nation State Law. This is the second time that Prime Minister Netanyahu has held the position, the first ending in 1999. *Benjamin Netanyahu*, ENCYCLOPEDIA BRITANNICA, (last visited Dec. 23, 2018). Prime Minister Netanyahu is an Israeli nationalist who has headed a nationalist coalition government in Israel for the past two election cycles. Jesse Rosenfeld and Joel Schalit, *How Benjamin Netanyahu whipped up Israeli Nationalism to Strangle the Palestinians*, THE NATIONAL (Oct. 3, 2018).

84 Rosenfeld *supra* note 83. The other party involved in the present coalition government in the Zionist Union. *Benjamin Netanyahu*, ENCYCLOPEDIA BRITANNICA, (last visited Dec. 23, 2018)

85 The coalition government headed by Prime Minister Netanyahu has faced scandal during 2018 with two charges against him personally being recommended by the Israeli police for corruption. These charges include accusations of bribery, and other charges are recommended against those in his inner circle. Ultimately this did not work as some of the Prime Minister’s allies left the coalition in late 2018. *Benjamin Netanyahu*, ENCYCLOPEDIA BRITANNICA, (last visited Dec. 23, 2018). Additionally, the passage of the Nation State Law plays to Prime Minister Netanyahu’s voter base and will likely aid him in his bid for re-election. *Understanding Israel’s Nation State Law*, JEWISH VIRTUAL LIBRARY (last visited Dec. 23, 2018).

B. Wording of the Nation-State Law and Why It Matters for Israel and the Palestinians

The wording of the Nation-State Law indicates a shift away from the traditional phrasing of the other Israeli Basic Laws.⁸⁶ One of the most obvious differences between the Nation-State Law and the previously passed Basic Laws is the absence of the word “democratic.”⁸⁷ Previous Basic Laws have included the phrase “Israel as a Jewish and democratic state.”⁸⁸ This lack of recognition for the democracy in Israel emphasizes the Jewishness of the state and leaves open the question of balancing Jewishness with democracy for Israel’s non-Jewish citizens.⁸⁹

The Nation State Law includes basic declarations regarding the Jewish character of the state.⁹⁰ There are three clauses in particular that stand to impact the Arab citizens and Palestinians in the occupied territories the most.⁹¹ The first of these clauses is 1(a), which indicates that self-determination in Israel is unique to the Jewish people.⁹² For Israel’s non-Jewish citizens, this clause could be taken as effectively removing the right to self-determination. Historically, the rights of Arab Palestinians in Israel and the surrounding Occupied Territories have been largely tied to place of birth and residence, with each area having a different

86 See Azmi Bishara, *What does Israel’s ‘Jewish Nation’ Basic Law Mean?*, ALARABY (July 29, 2018).

87 See *id.* (stating, “In fact, ‘democratic’ does not appear once in the text”). See generally, Basic Law: Israel- The Nation State of the Jewish People, 5778 (Isr.).

88 *Supra* note 86. Earlier versions of Nation State Law did contain a phrase indicating the democratic nature of Israel, but such phrases were removed prior to the passage of the Law. *Backgrounder: The Jews-Only “Nation-State” Bill*, New Israel Fund (July 20, 2018).

89 The exclusion of the word “democratic” from the Nation State Law is not, by itself, a definitive statement about the intent or the effect of the Law. As pointed out by Professor Gera Steinberg of Bar-Ilan University in Israel, the Nation State Law is “one part of a broad and detailed democratic map. Does every U.S. law or constitutional amendment include the word democratic?” *Understanding Israel’s Nation State Law*, JEWISH VIRTUAL LIBRARY (last visited Dec. 23, 2018). Instead, the observation that the word democratic is missing from this Basic Law is meant only to show a deviation from the past linguistic structure of the Basic Laws of Israel. Jewish nation state: Israel approves controversial bill, BBC NEWS (July 19, 2018). (“The question of Israel’s status as a Jewish state is politically controversial and has long been debated” but before the Nation State Law, it had not been enshrined in law).

90 Wootliff *supra* note 70. (showing the full text of the Nation-State Law in English).

91 These clauses are 1(c), 4(b), and 7 as found in the unofficial English translation of the Nation-State Law published on the official Knesset website. Basic Law: Israel- The Nation State of the Jewish People, 5778 (Isr.).

92 The full text of clause 1(a) reads: “The exercise of the right to national self-determination in the State of Israel is unique to the Jewish People.” *Id.*

classification and, therefore, different rights.⁹³ Although, in theory, Israeli citizens who are Arab have the same rights as Jewish citizens, Palestinian Arabs who live in the Occupied Territories are subject to Israeli law and control, but lack the right to vote or express their voice.⁹⁴ There is a fear that the rights of Arab Israeli citizens, many of whom consider themselves to be Palestinians with Israeli citizenship, will have their rights further reduced in practice if the right to self-determination in Israel is “unique” to the Jewish people. Additionally, this clause stands in direct contrast to the Israeli Declaration of Independence, which promises “complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.”⁹⁵ Such a direct contravention of the Declaration of Independence of Israel is concerning for those relying on its protection, especially in light of the status of the Nation-State Law as a Basic Law, essentially forming the Israeli Constitution.

Supporters of the Nation-State Law say that it must be read in conjunction with the Basic Law: Human Dignity and Liberty.⁹⁶ The Basic Law: Human Dignity and Liberty is said to define Israel’s democratic, but not Jewish, character, and the Nation-State Law is meant to complement it by further explaining the Jewishness of Israel.⁹⁷

The second clause in question is 4(b), which downgrades the status of Arabic from an official language to a language of “special status.”⁹⁸ For the previous seventy years, both Arabic and Hebrew had equal status as official languages in Israel.⁹⁹ Traditionally, Hebrew or Yiddish are spoken by the Jewish population of Israel while Arab Palestinians and Israeli

93 Berger, *supra* note 69. The various “classes” of Arabs living in Israel and Israeli occupied territories is largely based on region of birth and residence. *Id.* Arab Israeli citizens, in theory, have the same rights as Jewish Israeli citizens. *Id.* At the bare minimum, Arab Israeli citizens are doing better than those in East Jerusalem who are doing better than those in the West Bank and Gaza. *Id.*

94 *Id.* Because the occupation of the West Bank and Gaza has not been officially recognized or condoned internationally, the Palestinians who live there remain stateless and as such are not considered Israeli citizens and cannot obtain a passport. *Id.*

95 New Israel Fund, *supra* note 88.

96 *Understanding Israel’s Nation State Law*, JEWISH VIRTUAL LIBRARY (last visited Dec. 23, 2018). The Basic Law: Human Dignity and Liberty is said to guarantee the equal rights of Israel’s Jewish and Non-Jewish Citizens and therefore the Nation State Law should be read in conjunction with it. *See generally*, Basic Law: Human Dignity and Liberty, 5752 – 1992 (Isr.), JEWISH VIRTUAL LIBRARY.

97 *Understanding Israel’s Nation State Law*, *supra* note 85. The Basic Law: Human Dignity and Liberty focuses mainly on the establishment of the democratic principles of Israel and further explains the rights of Israeli citizens. *Id.*

98 Clause 4(b) reads: “The Arabic language has a special status in the State; arrangements regarding the use of Arabic in state institution or vis-à-vis them will be set by law.” Basic Law: Israel - The Nation State of the Jewish People, (Susan Hattis Rolef trans.), 5778 – 2018, (Isr.).

99 Berger, *supra* note 69.

citizens may also speak Arabic.¹⁰⁰ There are some Jews who speak Arabic as a result of their ties to Arab countries.¹⁰¹ The downgrading of Arabic may not seem important as the language still maintains a “special status.” However, the use of Arabic as an official language allowed Arab speakers access to state institutions and economic opportunities.¹⁰² The shift also marks a general move away from equality between traditional Jewish identifiers and characteristics associated with Arabs; instead elevating the language generally associated with Israel’s Jewish citizens above that spoken most commonly by Arab citizens.

Supporters of clause 4(b) say that Israel is simply following what other countries have done in only giving official status to the majority language spoken in the country.¹⁰³ Additionally, the change is not limited to just impacting Arabic but also affects the status of English, which, although not an official language, is spoken by many Israelis.¹⁰⁴

The third clause is clause 7, which states that Jewish settlement is a national value and that Israel will work to encourage and promote it.¹⁰⁵ The issue of Jewish settlement relates back to the occupation by Israel of the Gaza Strip and West Bank following the Six-Day War in 1967. As Resolution 242 was unsuccessful in gaining concessions from either side, the occupation of the West Bank and Gaza by Israel is a source of contention between some Jewish Israelis and Arabs of many nationalities. Although the clause does not specify where exactly the settlement of Jews would be, the issue of Israeli movement of Jewish citizens into the Occupied Territories is often referred to as Israeli settlements.¹⁰⁶ The

¹⁰⁰ *Id.*

¹⁰¹ *Id.* Although there are some Israeli Jews who speak Arabic, the divide that language creates has often been tied to the divide between Jews and Arabs in Israel. *Id.*

¹⁰² *Id.* (“Arab Israelis say that stripping Arabic of its official status is meant to erase their identities and histories They also say it will put them at an economic disadvantage, because Hebrew is often not taught well in schools in Arab Israeli communities.”).

¹⁰³ Understanding Israel’s Nation State Law, *supra* note 85. Supporters of this change say that not only are they following international policy by declaring Hebrew the sole official language, but that the designation of Arabic as an official language was simply a holdover from the British Mandatory period and is not reflective of the present day reality in Israel. *Id.* Arabic speakers are not the only ones affected by this change in language status as the Druze community in Israel is also affected. Druze leaders met with Prime Minister Netanyahu in an attempt to secure the official status of the Druze community in the Nation State law but was unsuccessful. *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Clause 7 reads: “The State views the development of Jewish settlement as a national value, and shall act to encourage and promote its establishment and strengthening.” Basic Law: Israel- The Nation State of the Jewish People, *supra* note 73.

¹⁰⁶ S.C. Res. 242, ¶ 1 (Nov. 22, 1967). As previously mentioned, Resolution 242 created a stalemate between Israel and the surrounding Arab countries as neither wanted to be the first to make a concession. The result is the continued Israeli occupation of much of the land gained following the Six

inclusion of this provision in the Nation-State Law indicates to some observers, a willingness on the part of Israel to go against the international community and continue to settle in Occupied Territories, to which Israeli claim has not been recognized.¹⁰⁷ Additionally, there is concern about this clause allowing for legalized discrimination as the inclusion of the word “equality,” which had been considered in previous versions of the bill, was dropped from the final version.¹⁰⁸ This exclusion was intentional and the key purpose of the law—to legalize potential discrimination in the name of the “national value” of Jewish settlement.¹⁰⁹

Alternatively, supporters of clause 7 say that the word “settlement” is misinterpreted by readers as including regions such as Judea and Samaria, but to an Israeli reader, simply means Galilee and Negev, rather than regions in the West Bank.¹¹⁰

C. Earlier Versions of the Nation-State Law and their Insight Into Its Present Form

Earlier versions of the Nation-State Law offer further insight into the reasons for passing the Law and its potential strength. The Nation-State Law has a long and tumultuous seven-year history, which has resulted in modifications and removals to create the Law in its present form.¹¹¹ For some of the Nation-State Law’s supporters, these modifications have made

Day War and Israeli governance over the stateless Palestinian refugees who live there. Generally speaking, the term settlements is commonly used to refer to the Jewish settlements in the occupied territories of the West Bank and Gaza where Israel has been sending Jewish citizens to create communities.

107 “Critics [of the Nation State Law] fear this deliberately vague language [of clause 7] could be used to legitimize Jewish-only communities and exclusive towns.” Waxman, *supra* note 74. Such a fear, which also stems from the now excluded “heritage” clause, is derived from the vagueness of the phrasing of clause 7. The clause does not specify how settlements will be encouraged, if they are to be, nor is the term “national value” defined anywhere in the Law. Such concerns are raised in the context of the continued occupation of the West Bank and other areas by Israeli forces. *Id.*

108 New Israel Fund, *supra* note 88. While such an exclusion may seem small, the lack of indication towards a goal of equality is concerning because it may legalize discrimination in the pursuit of the national value of Jewish settlement. Given the already controversial nature of Jewish settlement occurring outside the recognized borders of Israel, the inclusion of such a clause indicates a desire to continue, and maybe even expand settlement efforts. *Id.*

109 *Id.*

110 *Understanding Israel’s Nation State Law*, JEWISH VIRTUAL LIBRARY (last visited Dec. 23, 2018). The word *hityashvut*, which is often translated into “settlement” in English, is the word in question. To an Israeli listener, this word typically describes the regions of Judea and Samaria, rather than other regions such as the West Bank. *Id.* It is this lack of understanding that supporters of the Nation State Law say causes the confusion when attempting to understand the Law in its English translation.

111 Green, *supra* note 76.

the Nation-State Law, and in turn, those on the political right who pushed for it appear weaker.¹¹² Most of this concern stems from the removal of two clauses: a “heritage” clause and a clause allowing the Israeli government to create and enforce segregated towns based on religion and nationality.¹¹³

The “heritage” clause created a right for “citizens to protect their culture, [and] jeopardized court precedents that barred discrimination along religious, ethnic, gender, and socio-economic lines.”¹¹⁴ The exclusion of such a clause causes concern among the Law’s most avid supporters who believe that the Nation State Law will be challenged in the generally liberal Israeli courts and undermined.¹¹⁵ Others are relieved that such a clause was omitted from the final text of the Law for fear that its inclusion would allow the overturning of previously decided cases on the basis of protected discrimination.¹¹⁶

Earlier versions of the Nation-State Law also included provisions that would allow the Israeli government to “create and enforce segregated towns on the basis ‘including’ of religion and nationality.”¹¹⁷ This provision would have allowed the creation of Jewish-only towns to the exclusion of Arab Israeli citizens, although the discriminatory effect could be felt much more broadly.¹¹⁸ When taken together, both of these eventually excluded provisions speak to the intended discriminatory nature of the Nation-State Law.

112 *Id.* Noah Efron—a professor at Bar-Ilan University in Israel—has said: “If the right-wing government has worked for seven years on a bill that in its first form had teeth, and in the end they pass a weakened bill that’s symbolic ... is that a sign of strength or weakness?” *Id.*

113 New Israel Fund, *supra* note 86.

114 *Id.*

115 Israeli courts have been relatively liberal in their court rulings. This concerns supporters of the Nation State Law who worry that the Law will not have the desired strength because of Israeli court decisions that will undermine the Nation-State Law’s enforcement or rule that it can only be enforced in particular ways. *Id.*

116 *Id.* The fear is that the inclusion of a “heritage” clause which allows citizens to protect their “culture” would lead precedents to be overturned. For instance, “court rulings that guaranteed that women could not be forced to sit at the back of the bus ... could have been overruled by claims that segregating men from women is a part of the Jewish ‘heritage.’” *Id.*

117 *Id.*

118 *Id.* Although likely aimed at allowing Jewish only towns where Arab Israelis could not live, such a provision could also allow discrimination against Mizrahi Jews and Russian speakers, both of whom have been victims of discrimination in land and housing policies in the past. *Id.*

D. Effect of the Nation-State Law

The Nation-State Law has been a divisive topic in Israeli politics since its introduction seven years ago. The Law has resulted in much scholarship and has been covered by many news outlets both in Israel and abroad.¹¹⁹ Two distinct schools of thought have arisen out of the passage of the Nation State Law in terms of the potential effects of the Law on Israel and her citizens.¹²⁰

The first of these schools is the Nation State Law's supporters.¹²¹ The supporters of the Nation State Law see the Law as codifying the existing nature of Israel, and not affecting the rights of non-Jewish minorities in any way. Instead, supporters advocate for a reading of the Nation State Law which would protect both Jews and minorities.¹²² At the heart of the supporters' view of the effect of the Nation State Law is the idea that it is codifying the reality of Israel as a Jewish state.¹²³ Prime Minister Netanyahu explained this view best by saying the Nation State Law enshrines the basic principle of Israeli existence.¹²⁴ Therefore, for

119 See *Netanyahu Dismisses Criticism of Nation-State Law as 'Nonsense'*, TIMES OF ISRAEL (July 29, 2018, 1:20 PM); Waxman, *Supra* note 74; *EU Expresses Concern over Israel's Jewish Nation-State Law*, REUTERS (July 19, 2018).

120 The Nation State Law has prompted many different individuals to write about the political situation in Israel. These commentators appear to have split themselves into two groups: the supporters of the Nation State Law and the critics. The moderates, to be discussed in detail in subsequent paragraphs, include those individuals who are both moderates in the political sense of the words and moderates in the sense that they do not believe that Nation State Law will have the impact that other commentators predict it will.

121 These include the current Prime Minister of Israel Benjamin Netanyahu as well as many members of his political party. TIMES OF ISRAEL, *supra* note 119. Other Israeli political leaders seem to agree with the Prime Minister that the effect of the Nation State Law is not as harmful to minorities as its critics say it will be. *Israel's AG: Nation-state Law Does Not Harm Fundamental Rights of Minorities*, TIMES OF ISRAEL (Sept. 4, 2018, 4:39 AM). Additionally, there are various opinion pieces written by supporters of the Nation-State Law. See David Hazony, *Everything You've Heard about Israel's Nation State Bill is Wrong*, FORWARD (July 23, 2018) (supporting the passage of the Nation-State Law); Brett Stephens, *The Jewish State's Nation-State Bill Non-Scandal*, THE NEW YORK TIMES (Aug. 10, 2018) (indicating that the Nation-State Law does not have the impact critics believe it would); Zalman Shoval, *The Nation-State Law—The Facts*, JERUSALEM TIMES (Aug. 9, 2018 10:42 PM) (strongly denouncing critics of the Nation-State law as misunderstanding its true function and meaning).

122 Israel Harel, *The Hypocrisy of Protesting the Nation-state Law*, HAARETZ (Aug. 3, 2018 3:02AM).

123 *Id.*

124 Prime Minister Netanyahu said of the Nation State Law: "We enshrined in law the basic principle of our existence. Israel is the nation state of the Jewish people, that respects the individual rights of all its citizens. This is our state—the Jewish state. In recent years there have been some who have attempted to put this in doubt, to undercut the core of our being. Today we made it law: This is our nation, language, and flag." Green, *supra* note 76.

supporters of this view, the effect of the Law is to codify the principles and inherent Jewishness of Israel, with provisions for equality already anchored in existing legislation.¹²⁵ Supporters of the Law also posit that it does not harm the rights of minorities because the Nation State Law is on equal footing to their basic constitutional rights and, therefore, will not affect the status of minorities.¹²⁶ Turning to the wording of the Nation State Law itself, such supporters point to clause 6(a), which its supporters insist applies equally to all citizens, regardless of religious affiliation.¹²⁷

The second school of thought stems from the critics of the Nation State Law.¹²⁸ The critics of the Nation State Law range from those who see the Law as bringing the end of democracy” and “the official beginning of fascism and apartheid” in Israel to those who are less heavy in their rhetoric and simply believe the Law will undermine Israel’s commitment to equality among its citizens.¹²⁹ One of the largest effects of the Nation

125 TIMES OF ISRAEL, *supra* note 121 (“The Netanyahu government...says the new law merely enshrines the country’s existing character, and that Israel’s democratic nature and provisions for equality are already anchored in existing legislation.”)

126 *Id.* Israeli Attorney General Avichai Mandelblit has said that the Nation State Law is “on the same normative level as previous Basic Laws” and therefore does not override them. *Id.* Such a statement can be misleading to an American reader as the United States has a Constitution with which no other law may conflict. This is not true in Israel, which relies on Basic Laws, such as the Nation State Law, to comprise her “constitution.” Such Basic Laws can be most easily understood as having a status similar to Constitutional Amendments in the American system. New Israel Fund, *supra* note 88.

127 Clause 6(a) reads: “The State shall strive to ensure the safety of members of the Jewish People and of its citizens, who are in trouble and in captivity, due to their Jewishness or due to their citizenship.” Basic Law: Israel - The Nation State of the Jewish People, 5778 (Isr.). *See also* Harel, *supra* note 122 (advocating the application of Clause 6(a) to both Jewish and Arab Israeli citizens).

128 Like those who support the Nation State Law, critics of the Law come from both inside Israel and around the world. Green, *supra* note 76. Many opinion writers, politicians, political organizations and even celebrities, such as Israeli born Natalie Portman, have spoken out against the Law. *See* Jeff Dolsten, *Natalie Portman Slams Israel’s Nation-State Law as ‘Racist’*, THE TIMES OF ISRAEL (Dec. 14, 2018 1:45 AM) (Actress Natalie Portman expressing discontent with the Nation State Law); *Israel’s president: Nation-state law is ‘bad for Israel and bad for the Jews’*, THE TIMES OF ISRAEL (Sept. 6, 2018, 3:41 AM) (Israeli President Reuven Rivlin speaking out against the Nation State Law); *NIF CEO: Israel’s “Nation-State Bill” is Tribalism At Its Worst; Betrays Human Dignity and Equality*, NEW ISRAEL FUND (July 18, 2018) (Israeli organizations speaking out against the passage of the Nation State Law). Additionally, religious and political leaders of both Arab and non-Arab populations have expressed concern and heavily criticized the Law. *See* TIMES OF ISRAEL, *supra* note 119 (The Druze community in Israel has expressed great concern about how the Nation State Law will affect them); Waxman, *supra* note 74. (Arab Knesset members openly criticize the passage of the Law). Critics of the Nation State Law also include American Jews and liberal Israeli Jews. Berger, *supra* note 69.]

129 “Ahmad Tbi, an Arab Knesset member who belongs to the Joint List party—a coalition of primarily Arab parties—bitterly denounced the law as ‘the end of democracy,’ and ‘the official beginning of fascism and apartheid.’” Waxman, *supra* note 74. A group of 24 Druze citizens led by Daliyat al-Karmel Mayor Rafik Halabi have said the Nation State Law “creates race-based discrimination, excluding 20 percent of the nation’s citizenry and creating castes among Israeli citizens.” TIMES OF ISRAEL, *supra* note 121.

State Law, according to its critics, is the divisive nature of the Nation State Law, which will further the tensions between Israel and her Arab citizens as well as with other Arab nations and Palestinians in the Occupied Territories.¹³⁰ According to its critics, the Law will also have the effect of effectively preventing a two-state solution for Palestine and Israel.¹³¹ The two-state solution has long been held internationally as the ideal solution for the growing tension in Israel and her surrounding areas, but it has not been feasible, and the passage of the Nation State Law has caused international organizations to take note of the rapidly dwindling likelihood of such a solution.¹³² Additionally, the Nation State Law is also affecting Israel's relationships with other countries in the region as well as with her strongest allies abroad.¹³³

III. APPROACH: A SERIES OF TEMPORARY FIXES

Historically, the Arab-Israeli conflict has been “resolved” with a variety of solutions dating back to the British Mandatory Period.¹³⁴ The changing nature of the Arab-Israeli conflict lends itself to a series of

130 Passage of the Nation State Law has led to demonstrations by both Arabs and Druze crowds. *Id.* One of the greatest effects of the Nation State Law will be the further division of Israeli citizens and increasing tensions with Palestinians in the occupied territories. Zehava Galon of the Meretz Party has said the Nation State Law is “a declaration of war on Israel’s Arab citizens and on Israel as a democratic and advanced society”. Moshe Koppel and Eugene Kontorovich, *Why All the Outrage over Israel’s Nation State Law?*, MOSAIC MAGAZINE (Oct. 8, 2018).

131 The Nation State Law will further complicate the development of a two-state solution in addition to further chilling the relationship between Israel and her Arab neighbors. REUTERS, *supra* note 119.

132 EU Foreign Affairs Chief Federica Mogherini stated that “We’ve [the European Union] been very clear when it comes to the two-state solution, we believe it is the only way forward and any step that would further complicate or prevent this solution of [sic] becoming a reality should be avoided.” *Id.* The two-state solution [was] already had dismal looking prospects as Israeli settlement in the West Bank continuing to grow despite international condemnation, but the passage of the Nation State Law made such a solution even farther from a reality. *Id.*

133 Turkey, a former ally of Israel, has condemned the Nation State Law publicly, with the Turkish Foreign Ministry saying: “Identifying the right to self-determination as a right given only to Jews is the result of an outdated and discriminatory mentality”. *Id.* American politicians are also getting involved, with former Presidential candidate Bernie Sanders calling out Prime Minister Netanyahu for his nationalistic reasons for pushing for the passage of the Nation State Law and equating the Prime Minister’s actions to those of an authoritarian regime. Bernie Sanders, *A New Authoritarian Axis Demands an International Progressive Front*, THE GUARDIAN (Sept. 13, 2018).

134 These “solutions” have been occurring since the British Mandatory Period, during which Britain attempted to balance the competing interest of immigrating Jews in having a homeland, with the rights of Arabs who had been on the land for many generations. Michael Omer-Man, *This Week in History: The British Mandate for Palestine*, JPOST (July 29, 2011 2:33 PM) Britain clearly supported the establishment of a Jewish homeland by allowing continued immigration of Jewish into Palestine, but did not call for a Jewish state in the region and said that “nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine”. *Id.*

solutions once intended to be permanent, but can simply not stand up to the changing political and social reality. Since the British Mandatory Period following WWI, Palestine, the territory which would become modern-day Israel, has been under the control of relatively short regimes.¹³⁵ While the two-state solution once appeared the most viable solution for the conflict, it too has fallen out of favor given the current political developments of Israel and the surrounding regions.¹³⁶ Therefore, rather than focusing on finding a single lasting solution, which will likely lead to more conflict from those not happy with it, the focus should be on finding temporary, but cohesive resolutions to the tensions in the relationship between Palestinians and Israelis in light of the recent changes, including the Nation State Law, felt by both groups.¹³⁷

One example of this rapid change comes in the form of the distinct change in the relationship between Israel and Hamas.¹³⁸ In 2016, Hamas was still a major factor limiting peace negotiations and, to many, the reason for the continuing violence between Israel and the occupied Palestinian territories.¹³⁹ However, just two years later, Prime Minister Netanyahu agreed to a truce with Hamas in November of 2018.¹⁴⁰ In a few

135 *Mandate: League of Nations*, ENCYCLOPEDIA BRITANNICA (last visited Nov. 2, 2018) (stating the British Mandatory period began following WWI and ended just prior to the creation of the State of Israel in 1948). The British Mandate lasted approximately thirty-one years in total, ending with the creation of modern Israel which has existed for approximately seventy-one years. *Id.* Both of these are relatively short periods of time in comparison to the existence of many international governments and political regimes.

136 The European Union still supports the two-state solution as a potential solution for the continued conflicts relating to the creation of Israel both on a local and international level. REUTERS, *supra* note 119.

137 This is not to say that a single, lasting solution is out of the question in the future, but rather the constantly changing nature of the conflict and the world in general lends itself to a series of solutions more temporary in nature.

138 Hamas—an acronym for Harakat al-Muqawamah al-Islamiyyah—is a militant Islamic Palestinian nationalist movement based in the West Bank and Gaza Strip. *Hamas*, ENCYCLOPEDIA BRITANNICA (last visited Dec. 23, 2018). Hamas stands in contrast with the Palestinian Liberation Organization (“PLO”) which is secular in nature. *Id.* Hamas has historically rejected peace negotiations that would cede land to Israel and has been widely known for the terrorist attacks on Israel to which Israel retaliated through air strikes in the Hamas controlled Gaza Strip. *Id.* There have been many cease-fire agreements and attempts at peace made between Israel and Hamas over the course of Hamas’s existence, but the violence has continued. *Id.*

139 Avi Melamed, *A Realistic Solution to the Israeli-Palestinian Conflict*, FORBES (April 5, 2016). A 2016 post written by Avi Melamed from the Eisenhower Institute at Gettysburg College suggested steps Israel, and in turn the Palestinians, could take to reach a peace. *Id.* In this article, Melamed focused on the continued use of violence by Hamas and the restrictive ideology of the group as a main reason that negotiations between the Israelis and Palestinians had failed. *Id.*

140 *Benjamin Netanyahu*, ENCYCLOPEDIA BRITANNICA, (last visited Dec. 23, 2018). This truce comes a few months after the passage of the Nation State Law and was seen by some members of the Prime Minister’s coalition as capitulation to the demands of Hamas. *Id.* Eventually the truce led to the

short years, the political landscape of Israeli and Palestinian discussions changed rapidly, indicating that a solution proposed one year may not be viable the next.¹⁴¹

Another reason that temporary and adaptable solutions are necessary, especially in the short term, is the wide variety and sheer number of plans and solutions to end the conflict which have been proposed throughout the decades, but have not come to fruition.¹⁴² The vast number of proposed solutions is indicative of an underlying issue: there is no shortage of potential solutions for the conflict on a larger scale, but these solutions cannot be implemented without agreement and control, both of which are lacking in Israel and among the Palestinians.¹⁴³ An upfront agreement that any solution will be temporary allows both sides to make concessions and still save face with their political supporters.

Given the current reality in Israel and Palestine, as represented in the language and intent behind the Israeli Nation State Law, the idea of a two-state solution is no longer feasible.¹⁴⁴ Israelis and Palestinians have taken two alternative paths which diverge so completely as to eliminate the possibility of agreement on a two-state solution amenable to all.¹⁴⁵ With

resignation of Avigdo Lieberma, Israeli Defense Minister, and his party withdrew from the coalition. *Id.* In response, Prime Minister Netanyahu took on the position of Defense Minister himself and his coalition government controls the bare minimum majority of the seats of the Knesset. *Id.*

141 Much of this change could be the result of a lack of a plan in the works. Structural difficulties, including a lack of a single leadership for the Palestinians as well as disagreement among Israelis on how to proceed, could prevent a plan from becoming generally accepted.

142 A 2017 article published in The Jerusalem Post details the many solutions proposed for the conflict over the past few decades. Herb Keinon, *More Than the Two-State Solution: The Many Possible Paths to Peace*, JERUSALEM POST (May 20, 2017 5:53 AM). Not only are these plans vast in number, but they represent a wide range of political and social ideological stances ranging from the far right to the far left, with many potential plans somewhere in the middle. *Id.*

143 “That no agreement has been reached is due to a myriad of different factors, many of them not under Israel’s control. It seems that it is not, however, due to a lack of creative ideas.” *Id.* This quote from The Jerusalem Times (Post?) can also correctly be applied to the Palestinians. Although many creative and possibly successful plans exist, there are factors beyond the control of both the Palestinians and Israelis which prevent the fruition of any plan.

144 A 2018 feature story by Al Jazeera interviewed young Palestinians regarding their take on a potential solution to the crisis. Zena Tahhan, *How Palestinian Youth Would Solve the Conflict with Israel*, AL JAZEERA (May 15 2018). The overwhelming majority of those interviewed stated that they did not believe a two-state solution was possible, nor that it would be the best choice given the recent developments. *Id.* Addie Awwad, a man from Ramallah in the occupied West Bank went so far as to say “The two-state solution—the most feasible solution—is dead.” *Id.*

145 Prime Minister Netanyahu is one of the most influential Israeli nationalists. Jesse Rosenfeld and Joel Schalit, *How Benjamin Netanyahu Whipped up Israeli Nationalism to Strangle the Palestinians*, THE NATIONAL (Oct. 3, 2018). Often tied to other nationalist leaders around the world, Prime Minister Netanyahu has a preference for “strong authoritarian rule over messy democracy, a fondness for border walls” and plays to his base on immigration issues. Allison Kaplan Sommer, *Why Netanyahu’s Election Campaign Is a Preview of Trump 2020*, HAARETZ (Dec. 31, 2018). Prime

continued Israeli nationalism coalescing into the Nation-State Law and Hamas and Palestinian President Mahmoud Abbas of the Palestinian Authority both losing power and control of the Occupied Territories, Palestinian nationalism is arguably losing the organization it once had, just as Israel is gaining a stronger, more vocal nationalist movement.¹⁴⁶ As the two nations diverge onto very different paths, a two-state solution may seem as though it is the obvious answer, but a lack of clear Palestinian leadership and a strong Israeli nationalism, bringing both sides to the table for a discussion, let alone a compromise, which is necessary for a two-state solution, is unlikely.

The alternative to a two-state solution may appear to be a one-state solution, the solution seemingly most popular among young Palestinians who have spent their entire lives under Israeli occupation.¹⁴⁷ However, a one-state solution is not the only available format to address the issues. A step in the right direction, and a temporary solution for the growing discontent of the Palestinians and left-leaning Israelis in Israel and under Israeli control, would be the repealing of the Nation State Law.¹⁴⁸ The repeal of the Nation State Law would signal a willingness on the part of

Minister Netanyahu, who is currently facing criminal investigations and potentially criminal charges, is relying heavily on his loyal base and appealing to them and other right-wing parties by exploiting fear over immigration and continuing a narrative of victimization on the part of Israel as a whole. *Id.* As Israeli nationalism grows, organized and systematic Palestinian nationalism is on the decline. Jonathan Schanzer, *Palestinian Nationalism Is at Its Lowest Point Ever*, TABLET (May 15, 2018 10:00AM). This decline is not to be confused with a lack of desire on the part of Palestinians for statehood or independence. Instead, organized and often violent Palestinian nationalism is failing due to aging leaders and a lack of financial and political backers, which often came in the form of other Arab governments. *Id.*

¹⁴⁶ Jonathan Schanzer, *Palestinian Nationalism Is at Its Lowest Point Ever*, TABLET (May 15, 2018 10:00AM), Although Hamas is not known for their political ambitions, it seems as though the group is more willing than previously thought to take over control of the occupied territories. *Id.* However, Hamas is still encouraging violence as a means of furthering their agenda although the recent truce with Prime Minister Netanyahu may cause them to ease up on their attempts.

¹⁴⁷ Zena Tahhan, *How Palestinian Youth would Solve the Conflict with Israel*, AL JAZEERA (May 15, 2018), The young Palestinians profiled by Al Jazeera overwhelmingly favored a one state solution based in social, political, religious and national equality. *Id.* Although they had varying ideas about what this would look like on the ground, the sentiment expressed was generally one in favor of moving forward, rather than looking back. Another potential issue with the one state solution is the inability of either side to agree to who controls the single state. Palestinians will likely want more control, while Israel will be unlikely to give any control to others..

¹⁴⁸ Repealing the Nation State Law has been suggested by groups opposing its passage. *Churchmen in Israel seek Repeal of Jewish Nation State Law*, TIMES OF ISRAEL (Nov. 5, 2018 11:31 AM). These groups include Senior Catholic clerics in Jerusalem including bishops and archbishops of the Roman Catholic, Syrian Catholic, Armenian Catholic and Greek Melkite churches. *Id.* “We, as the religious leaders of the Catholic Church, call on the authorities to rescind this Basic law and assure one and all that the state of Israel seeks to promote and protect the welfare and safety of all its citizens.” *Id.*

Israel to recognize all citizens as equal before the state and the law, rather than continuing to be a divisive, political statement.¹⁴⁹ Although repealing the Nation State Law would be a step in the right direction, to do so would be difficult as changing a Basic Law requires the majority of Knesset members' support, which does not seem likely as nationalist feelings grow in Israel.¹⁵⁰

To further complicate matters, there is doubt about whether the Israeli High Court of Justice ("High Court") can even review the Nation State Law, thus making repealing it or changing it more difficult.¹⁵¹ If the High Court is not able to rule on the acceptability of the Nation-State Law, they may still be able to interpret it or alternatively, other laws in accordance with the Nation-State Law so as to limit or effectively nullify the effect of the Nation-State Law.¹⁵² In this way, the High Court is still be able to create the benefits which would be felt from repealing the Nation-State Law.¹⁵³

Aside from repealing the Nation-State Law, the Knesset could choose to modify or amend the existing Law. During the seven years of intense negotiation surrounding the Law, much was taken out, changed or reworded so as to appease the many different opinions and parties whose votes were needed in order to pass the Law.¹⁵⁴ Therefore, it is not unheard

149 At the time of writing, the Nation-State Law is less than two years old, but has already prompted many articles to be written about it and the Law has gained many critics internationally, including American Jews. *See supra note 139 and 142.*

150 *Understanding Israel's Nation State Law*, JEWISH VIRTUAL LIBRARY (last visited Dec. 23, 2018). A relatively small concern surrounding the Nation State Law is that it is undemocratic in nature. *Id.* Those who support it say that if this is found Israelis have the opportunity to challenge the law in court and eventually repeal it, but gaining a majority vote of the Knesset would be difficult.

151 Terrance J. Mintner, *Could Israel's High Court Strike Down the Nation-State Law?*, THE JERUSALEM POST (Aug. 88, 2018 11:37 AM). Israeli Justice Minister Ayelet Shaked warned that "Israel's High Court of Justice or Supreme Court could not strike down the [Nation State] law or else such a move would trigger an 'earthquake, a war between the authorities.'" *Id.* Minister Shaked emphasized that it was the role of the elected Knesset to create the Basic Laws, which function as an Israeli constitution and the role of the High Court to interpret law in accordance with the Basic Laws. *Id.*

152 It is beyond the power of the High Court to "repeal" or in any way comment regarding the content of the Nation State Law because it is a Basic Law. *Id.*; *supra note 71.* The Basic Laws function as the Israeli Constitution and therefore the High Court, much like the Supreme Court in the United States, is not in the position to judge if the Constitution or Basic Laws themselves are acceptable. *Id.* Instead both of these courts may use their power to interpret other laws in accordance with the Constitution or Basic Laws and determine if they are compatible. *Id.*

153 The largest of these benefits would likely be the earning of good will and trust from the Palestinians. Such trust would allow for better and more meaningful negotiations in the future.

154 Emma Green, *Israel's New Law Enflames the Core Tension in Its Identity*, THE ATLANTIC (July 21 2018). *See also* New Israel Fund, *supra note 88.* Of these changes made to the Nation State Law over its seven year legislative history, perhaps the most important is the removal of particularly controversial passages from the Law's wording. *Id.* (for changes to the Law). These modifications,

of that compromises and changes can still be made to the Nation State Law, even though it has already been passed.¹⁵⁵ Amending the Nation State Law could also help alleviate concerns and begin the path to creating a relationship between Israelis and Palestinians that could lead to further compromise in the future.

CONCLUSION

The Nation State Law, passed by the Israeli Knesset in 2018, is the most recent source of tension between Israel, the Palestinians, and the surrounding Arab countries.¹⁵⁶ The Arab Israeli conflict, which has a long history, came to fruition at the end of the British Mandatory Period with the establishment of Israel in 1948.¹⁵⁷ Since Israel's creation, there has been difficulty in deciding how to handle Israel's non-Jewish citizens and those who live in the Occupied Territories. The international community has addressed this issue on multiple occasions, and organizations have been established to handle various aspects of the conflict.¹⁵⁸

The Nation State Law has proven to be complex and divisive, capturing the attention of both domestic and international news outlets.¹⁵⁹ A growing sense of nationalism in Israel, as well as recent developments in the relationship between Israel and her Arab neighbors, have made the situation in the region quite different than when the Nation State Law was first passed, and developments continue with each passing day.¹⁶⁰

The Nation-State Law stems from this sense of Israeli nationalism, spearheaded by Prime Minister Netanyahu, who was and continues to be a vocal supporter of the Nation-State Law.¹⁶¹ Prime Minister Netanyahu, and many of the Nation-State Law's supporters, see the Law as codifying the existing Jewish character of Israel and not discriminatory towards

intended to allow the Nation State Law to pass, indicate at least a partial willingness to adapt and change the Law if needed.

¹⁵⁵ In Israel's relatively short history as a country with a formalized government, there have been changes made to Israeli Basic Laws before. One such example is the Basic Law: Human Dignity and Liberty, which includes amendments to the wording and additions to the law itself. Basic Law: Human Dignity and Liberty, 5752 (Isr.) (amendment number noted under the amended provision)

¹⁵⁶ David Horowitz, *The trouble with Israel's Jewish nation-state law*, THE TIMES OF ISRAEL, (July 29, 2018, 4:15 PM).

¹⁵⁷ *Israel*, ENCYCLOPEDIA BRITANNICA, (last visited Nov. 1, 2018).

¹⁵⁸ S.C. Res. 242, ¶ 1 (Nov. 2, 1967) (proposing the two-state solution); G.A. Res. 302 (IV), Assistance to Palestine Refugees (Dec. 8, 1949) (establishing the UNRWA for Palestinian refugees).

¹⁵⁹ *Supra* note 120.

¹⁶⁰ *Supra* note 146.

¹⁶¹ Rosenfeld, *supra* note 83 (indicating Netanyahu as a strong Israeli Nationalist and supporter of the Nation State Law).

minorities, whose rights are protected by other Israeli laws.¹⁶² Critics of the Nation State Law, at the most extreme, say that it legalizes discrimination against minorities, who are not protected by other Israeli laws, as the Nation-State Law is essentially a part of the Israeli Constitution.¹⁶³

Therefore, the best approach would be taking small, but significant steps and creating temporary solutions to repair the relationship between Israelis, Palestinians and other Arabs enough to bring all sides together to the table. One such step would be to repeal, interpret, or amend the Nation-State Law. Such action would signify Israeli willingness to participate in the dialogue, which may lead to a solution.

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¹⁶² TIMES OF ISRAEL, *supra* note 121.

¹⁶³ *Supra* note 130.

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