

The 19th Knesset

Initiators:

Members of the Knesset

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Basic Law Bill: The Israeli Declaration of Independence and the Jewish and Democratic State

Purpose

1. This basic law aims to secure and protect Israel's values as a Jewish and democratic state by anchoring in a form of basic law the basic principles stated in the Declaration of Independence which is annexed to this law.

Validity

2. Emergency stipulations shall not be able to alter this basic law or temporarily annul its validity or add any provisions to it.

Stability

3. This basic law shall not be altered, unless by another basic law enacted by a majority of Knesset members.

Appendix
(Clause no. 1)

The Declaration of the Establishment of the State of Israel

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

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

Impelled by this historic and traditional attachment, Jews strove in every successive generation to re-establish themselves in their ancient homeland. In recent decades they returned in their masses. Pioneers, defiant returnees, and defenders, they made deserts bloom, revived the Hebrew language, built villages and towns, and created a thriving community controlling its own economy and culture, loving peace but knowing how to defend itself, bringing the blessings of progress to all the country's inhabitants, and aspiring towards independent nationhood.

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

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

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

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

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

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

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

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

We declare that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government of the Jewish State, to be called "Israel." The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

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

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

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

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

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

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

Explanatory Notes

The Declaration of Independence is a basic legal renowned document which states important and fundamental principles regarding the state of Israel's identity. As a result, the court of law has been turning to this document for decades when ruling in a variety of issues. This basic law offers to anchor the Declaration of Independence, which expresses Israel's credo and its basic values by giving it the force of a basic law. Anchoring the Declaration of Independence is necessary in order to secure and protect Israel's values as a Jewish and democratic state. Since the state of Israel is yet to have a constitution, the basic laws are the ones defining its character and identity, hence are the highest ranked legal statutes. Nowadays, laws are interpreted in court in light of the few already existing basic

laws. That said, such a basic law regarding the state's identity has never been enacted to date. Therefore, there is a true need to legislate this proposed law which shall ratify the Declaration of Independence and shall provide it with the highest existing legal status in Israel.

This basic law, similarly to former ones, determines that the state of Israel is the homeland of the Jewish people. It is important to emphasize that the notion of a Jewish state in this law does not refer to Judaism as a religion, but rather to the cultural character of the nation-state as the home of the Jewish people. That said, the state of Israel is committed to ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or gender. Within the declaration itself, there is an inherent expression of the will and intention to establish a country which has a Jewish character on the one hand and is committed to full equality on the other. This basic law aims to secure equal rights as well as Israel's Democratic character.