

## **Expert: Loyalty laws misguided and harmful**

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Dan Izenberg , THE JERUSALEM POST

The three private members' bills requiring Israeli Arabs to express loyalty to Israel as a Jewish state are misguided and harmful, according to Ruth Gavison, professor of law at Hebrew University and founding president of The Metzilah Center for Zionist, Jewish, Liberal and Humanist Thought.

But before explaining why she thought the bills were a mistake, she made it clear that she did not believe they were racist, as Arab MKs and some liberal Jews have claimed.

"I usually favor a very restricted definition of racism," she said, a day after the ministerial legislation committee rejected the bill calling for an oath of loyalty to the state.

"Racism is an attitude towards another group of people which is a combination of saying that they're inferior in some ways and that this inferiority justifies treating them very differently, by persecuting, excluding and possibly even killing them."

That was obviously not the aim of these bills, she continued.

"They [the proposed laws] are based on fear and frustration, rather than a sense of superiority. I actually feel that they constitute an attempt by a group to say, 'We're going to use the law to find a way to outlaw social phenomena that we find disturbing and annoying.' But this is not the way to deal with a complex social reality."

The "Nakba Law" carries a punishment of three years in jail for expressing sorrow regarding Israel's Independence Day.

Despite the heavy punishment the amendment calls for, it is to be included in the Independence Day Act rather than in the Penal Law, a fact which Gavison finds extraordinary.

"This law is really a pearl of stupidity," she said. "Why mar the festive Independence Day Act forever by the recognition that it is also a day of sorrow for some of Israel's native population?," she said. "Our Independence Day is the celebration of an event that, to me, is extremely moving, important and critical, the official beginning of my political independence in my homeland.

"But it's a well-known fact that it is the same event that destroyed the Palestinian society that was here."

That doesn't mean Gavison is entirely sympathetic with the way some Israeli Arabs view and commemorate this day - expressing not sorrow and mourning but an active determination to undermine the country at the same time that they claim equal rights and democratic freedoms within it. Had they accepted the 1947 UN Partition Plan, she said, Independence Day would have marked their independence as well.

"We would have two states, living in peace in the same homeland, cooperating economically, and everything might have been really marvelous. Independence Day could have been an opportunity for us to celebrate together our joint freedom from imperial rule. Instead, it is a painful reminder of an ethnic-national conflict among us."

Nevertheless, the reality is that there was a war which the Arabs lost. Now, "the real challenge is for Jews in Israel, especially those who want a Jewish-Zionist state, to see what we can do about the situation. We must find ways to transcend the history and go together towards a joint shared civic life within a Jewish, democratic Israel," she said. The way to do this, she added, was not to stifle debate but to allow both sides to speak out honestly.

"Jews must accept that Arabs are going to be citizens of Israel and Arabs must also accept that they are going to be citizens of Israel," she said. "In the circumstances as they are now, there is a Jewish majority, and the Jewish majority wants Israel to be a Jewish state," she continued.

"And it will be a Jewish state, because that's what democratically elected

governments will want. The good news is that most Arab citizens of Israel value their citizenship. This is a sign that Israel is doing some things well.

"We should seek to create here a better balance between civic integration and civic duties to the state, while recognizing the history."

The Zionist leadership accepted the 1947 partition plan because it recognized that both sides had national aspirations and both wanted to be a majority in their state, she said. Israeli Arabs will have to accept that as long as they are a minority, the state will be Jewish, she added.

"But this doesn't mean that we cannot acknowledge the fact that for them, this is a source of sorrow."

In a sense, Gavison was even more disturbed by the law sponsored by MK Zevulun Orlev (Jewish Home), which calls for imprisonment for up to a year of anyone who expresses disagreement with the definition of Israel as a Jewish state.

"The law is bad and stupid. It shows a total misunderstanding of how ideas are developed and used to mobilize people. The only way to get towards an acceptance of Israel as a Jewish state is not to silence those who think it shouldn't be, but to create a reality in which you deal with their arguments and show that they are not valid, and in which the state firmly protects the human rights of all its citizens - while at the same time strengthening civic commitments and duties.

"I emphatically want to protect Israel being the national home for Jews, but we should also acknowledge the fact that many Israeli citizens don't feel, and cannot be expected to feel, the same way," she said.

"I would like to engage them and show them that not agreeing with the Jewishness of the state is one thing, but denying its legitimacy is a totally different thing. They should be free to disagree and even work towards possibly persuading me that I don't need a Jewish state. But there is a long way between that and denying my legitimacy, arguing that I'm perpetrating war crimes or that

I'm racist by nature for wanting this to be my national home.

"It is very important for Israel to be able to persuade people, both within it and abroad, that it was and still is justified that Israel be the place where Jews can exercise self determination safely. Under present conditions this can only be done in a Jewish state. This is what I am trying to do.

"Orlev's law doesn't help me, and I think he wants to help me. I want to tell Mr. Orlev, 'You are making my life harder. You are making fighting for a legitimate Jewish state harder because you are saying the only way a Jewish state can exist is by silencing those who disagree. This is unbelievable. Why should he do such a thing?'"

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