**The Provocative Effect of Law:**

**Majority Nationalism and Minority Discrimination**

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Western societies have experienced ethnic and religious diversification in recent decades. These demographic changes have been met by efforts to defend the local dominant culture using majority nationalism laws, intended to protect the cultural heritage of the majority. One of the potential consequences of such laws is increasing discrimination against minorities. We empirically examine majority nationalism laws’ expressive effects using the Israeli draft Nation Law (NL) as a case study. Drawing on two experimental surveys of a representative sample of the majority population of Israel (N = 602), our results lend weak support to the hypothesis that majority nationalism laws increase bias against minorities and reinforce discriminatory behaviors, and modest support to the hypothesis that such laws generate unintended spillover effects across different minority groups and from the public to the private sphere. Our main finding is that majority nationalism laws provoke a backlash reaction from those who object to them. We define this as *the provocative effect of law* and discuss its relation to the expressive law theory. The results suggest that the effects of majority nationalism laws may vary systematically across ideological groups and spheres of discrimination.

**I. Introduction**

Western societies have been experiencing significant processes of racial, ethnic and religious diversification in recent decades (Brady and Finnigan 2013; Putnam 2007). Large immigration waves and increasing minority demands for recognition have raised concerns among hegemonic majorities. As a result, there has been a global movement toward majority nationalism laws, defined as an effort to defend the majority culture using legal instruments (Orgad 2015). In recent years Germany, England, Denmark, the United States, Canada, and the Netherlands introduced citizenship tests that require a demonstration of proficiency and understanding of the majority language, history, and values (Adamo 2008; Jacobs and Rea 2007; Van Houdt, Suvarierol, and Schinkel 2011). France, Austria and others created social contracts that immigrants must sign to become permanent residents. Estonia requires its native Rassophone minority to pass a majority culture and language test as a precondition to citizenship (Jacobs and Rea 2007). Finally, Israel, the focus of this research, is currently debating a law intended to cement the status of the Jewish majority culture (Fucs and Kremnitzer 2014; Statman and Yaacobson 2014).

A vast legal literature argues that law shapes behavior in various ways, including by structuring the political and social discourse, reframing reality through legal language, and conveying information about prevailing social norms and moral standards (Cooter 1998; McAdams 2015; Sunstein 1996). Laws that express majority nationalism can shape perceptions of social status and membership in the national community, influencing common interpretations of rights, privileges, and acceptable social behavior. In addition, majority nationalism laws, even those that have a largely declaratory purpose, are often criticized as illiberal and discriminatory toward minorities, (Adamo 2008; Orgad 2016). Might such laws produce or reinforce discrimination toward minority groups, if not by their direct legal implications then by their expression of majority superiority and minority exclusion?

This article investigates the effects of majority nationalism laws on minority discrimination using as a case study the Israeli Nation Law (NL), a draft bill that seeks to affirm Jewish majority culture.[[2]](#footnote-2) Israel is a highly diverse society both socially and politically. The introduction of the draft law sparked criticism from legislators and commentators who argued that it would discriminate against Israel’s sizable Arab minority and erode the state's democratic values (Fucs and Kremnitzer 2014; Harel 2013; Statman and Yaacobson 2014). Notably, the NL is a symbolic and declaratory law that contains no sanctions or incentives. As we explain later, it thus provides an excellent opportunity to examine potential expressive influences of majority nationalism in law.

We conducted two experiments with representative samples of the Israeli majority group in which we measured the effect of exposure to the NL versus a neutral law (Experiment 1) and an anti-discrimination law (Experiment 2) on discriminatory attitudes toward minority groups. Our key findings are as follows. First, we found no support for the claim that majority nationalism laws activate, by their expression of majority superiority, out-group bias among the majority group, which would result in increased minority discrimination (Tajfel 1981). In particular, we did not see increased bias among the law’s supporters, who constitute the majority of Israeli Jews. This finding challenges arguments about the role of symbolic laws in reinforcing attitudes and behaviors among their supporters (McAdams 2000, 343). However, in sharp contrast, we did find that a majority nationalism law generated a substantial backlash response among those who opposed it. We identify this effect as *the provocative effect of law* and explain it in terms of reactance theory, which predicts that individuals will adopt opposing behaviors when faced with a law that challenges their core values (Allen, Sprenkel, and Vitale 1994; Brehm and Brehm 2013; Engs and Hanson 1989). Lastly, we found evidence for unintended spillover effects across different minority groups and spheres of intergroup interactions: while the Israeli majority nationalism law is most directly relevant to public interactions with the Arab minority, its effect extended to other minority groups as well as to interactions in the private sphere.

To the best of our knowledge, our research presents the first experimental study of majority nationalism laws’ effect on the attitudes and reported behavior of the general public of any country. Several previous studies investigated the relationship between the legal institutionalization of the dominant culture and tolerance toward ethnic minorities, yet most of this research used observational data to uncover correlations between citizenship regimes and majorities’ tolerance toward minority groups (Helbling and Traunmüller 2015; Weldon 2006; and see the later discussion). We extend this work in three important aspects.

First, earlier studies used broad political categorizations and cross-sectional data to examine the relationship between law and tolerance (Gibson and Gouws 2000; Weldon 2006), demonstrating that majority culture institutionalization is negatively related to minority tolerance. Yet the correlational nature of the data was insufficient to determine the causal direction of the relationship and specifically whether laws were causing intolerance or merely following it. In addition, because citizenship laws are not divorced from the political climate and public opinion more broadly, it was not possible to determine the role of law in shaping social tolerance. Furthermore, research designs that focus on cross-national variation overlook potentially substantial within-country variations in forms of national identification (Bonikowski 2016). Our research design allows us to overcome these difficulties and to test for causality. Our comparison between a majority nationalism law and a neutral law also enables us to identify the effect of law on tolerance, holding the political climate constant. Finally, our research sample allows us to evaluate the impact of law on different ideological groups in society.

Second, our experimental setting allows us to examine the effect of majority nationalism laws on discriminatory attitudes across different minority groups. We are primarily interested in the implications of the NL on discrimination toward the Arab minority in Israel, whose identity is often constructed as the “ultimate other” (Canetti-Nisim, Ariely, and Halperin 2007b). The NL’s emphasis on Jewish culture and heritage might strengthen this perception of Arabs as the Other. To situate the implications of the NL on the Arab national-religious minority, we also collected data on three other groups that may be perceived as diverging from the majority culture (see Table 1): *Haredi* (ultra-Orthodox; UO) Jews, an extremely religious and insular subset of the Jewish majority that is constantly in friction with the non-Orthodox majority (Hasson and Gonen 1997); *LGBTs*, individuals with nonconforming gender identities that are often presented by the religious establishment as threats to the traditional Jewish way of family life (Gross 2014); and *immigrants from the former USSR,* who are at times perceived as having weak Jewish ties (Canetti-Nisim, Ariely, and Halperin 2007a; Canetti-Nisim and Pedahzur 2003). With this research design, we contribute to studies that compare prejudice across different minority groups such as Americans’ attitudes toward Latino and European immigrants (Brader, Valentino, and Suhay 2008) or Muslim and non-Muslim European immigrants (Strabac and Listhaug 2008).

Third, the study expands and offers nuance to the concept of tolerance. Most existing work focuses on *political tolerance* (defined as the willingness to extend political rights to minority members) and *social tolerance* (defined as the willingness to accept minority members as bosses, peers, and family; Weldon 2006). Our study adopts a different framework that is more germane to discrimination as conceptualized in law: it examines and compares *public* and *private* forms of discrimination (e.g., the willingness to allocate public funds to support minority culture or to allocate a private resource, such as an apartment or a job, to members of minorities).

This paper proceeds as follows. We begin with a short discussion of the literature on intergroup discrimination and then focus on the role of legal measures in shaping patterns of minority discrimination. We then contextualize the study in its Israeli setting and outline our hypotheses for the experiments. The next two parts provide an overview of our two experiments, their methodology, and results. They are followed by a general discussion of how our findings bear on expressive theories of law, the law and politics of majority nationalism, and political backlash against ideologically contested laws. We conclude with a discussion of the study’s limitations and avenues for future research.

**II. Review of the Literature**

**A. Social Identity And Prejudice Toward Out-Groups**

Research on intergroup relations has highlighted several factors that are likely to shape patterns of tolerance and discrimination toward national, ethnic, racial, or religious minority groups. At the individual level, the vast research on attitudes toward immigration concludes that perceptions of cultural threat have greater explanatory power for anti-immigration preferences than do perceptions of economic threats (Hainmueller and Hopkins 2014; Sides and Citrin 2007). Individual-level differences in political identity (left-right ideological identification) and moral-religious orientations have also been shown to correlate with attitudes toward minorities: more right-wing and more religious individuals are generally less tolerant of minorities (Fetzer 2000; Graham, Haidt, and Nosek 2009: Johnson, Rowatt, and LaBouff 2010; but see Bloom, Arikan, and Courtemanche (2015)).

Individual-level attitudes toward minority groups are closely linked with contextual factors. Country-level economic performance has been found to be especially relevant in explaining intergroup tensions (Semyonov, Raijman, and Gorodzeisky 2006). Other factors that have been shown to shape intergroup relations and discrimination are the size of the minority group (Allport 1954) and its spatial segregation (Enos 2016; Enos and Gidron 2016).

Intergroup relations are also shaped by *legal frameworks* that condition the prevalent interpretations and salience of distinct social identities. Such legal institutional structures are likely to shape (and be shaped by) collective narratives of what constitutes “the nation” and, by extension, what threatens the nation (Wright 2011).[[3]](#footnote-3) For example, Weldon (2006) finds that citizenship laws that reinforce the ethnic majority identity are associated with lower tolerance toward ethnic minorities and thus are likely to shape the context of minority-majority relations.[[4]](#footnote-4) As shown in research on Swiss laws banning the construction of minarets, “policies that relate to the upholding of collective identity and are highly visible to ordinary citizens” are likely to be associated with more exclusionary attitudes toward minority outgroups (Helbling and Traunmüller 2015, 394).[[5]](#footnote-5)

**B. Majority Nationalism Laws and Intergroup Discrimination**

How may majority nationalism laws shape intergroup relations in general and patterns of minority discrimination in particular? The literature on the expressive function of the law describes three potential relationships between law and social norms, each likely to influence discriminatory attitudes and behaviors toward minority groups in distinct ways.

First, majority nationalism laws may increase discrimination toward the minority, in accordance with common critiques of such laws. Such laws mayactivate in-group identification, which would in turn increase tendencies to become protective of the group’s cultural identity, resulting in increased prejudice and negative bias toward out-groups(Tajfel 1981). Gibson and Gouws, for instance, show that strong positive in-group identities are connected to “antipathy toward one’s political opponents, perceptions that those opponents are threatening, and, ultimately, to political intolerance” (2000, 278). In addition, according to some legal scholars, expressive laws may create or reinforce social norms by influencing perceptions about the prevailing community attitudes and the risks, costs, and morality of the regulated action (McAdams 1997; 2015; Paternoster and Iovanni 1986; Paternoster and Simpson 1996; Schwartz and Orleans 1967). Thus, majority nationalism laws may reinforce in-group bias among their supporters through the legitimization of discrimination of national minorities. This indeed has been one of the main concerns in public debates over the NL’s potential effects on the already complicated fabric of Israeli-Arab relations in Israel (Fuchs and Kremnitzer 2014).

Second, majority nationalism laws may generate a backlash effect among those who perceive the law as inherently unjust. According to reactance theory, “if individuals feel that any of their free behaviors, in which they can engage at any moment or in the future, is eliminated or threatened with elimination, the motivational state of psychological reactance will be aroused. This reactance state is directed toward the restoration of the threatened or eliminated behavior” (Miron and Brehm 2006, 4).[[6]](#footnote-6) Some earlier studies of reactance and law examined the inadvertent effects of alcohol consumption laws. For example, raising the legal drinking age in the United States from 19 to 21 resulted in more drinking in the underaged group (Engs and Hanson 1989). Supporting reactance theory, this effect was specific to alcohol consumption—the subject of the legal change: those over 21 and underaged youngsters did not differ in illicit substance abuse, which was not the subject of a change in law (Allen et al. 1994). Other studies found that mock juries react against prohibitive judicial instructions, yet more closely follow informative judicial instructions (Shaw and Skolnick 1995). Notably, people are unlikely to react against a law with which they agree, but they might do so against a law that they oppose. This claim relates more generally to the influence of political positions and identities on legal decision making. For example, Kahan and colleagues (2012) found that controversial laws—for example, on abortion and LGBT rights—generate polarized responses. In other words, people’s legal decisions can be influenced and mediated by their political positions. In the context of majority nationalism laws, which are typically controversial, we expect that such laws’ effect on objectors and supporters would vary: reactance theory suggests that opponents might react against the law by becoming more inclusive toward minorities, countering the perceived biased intention of the law.

Third, theories of expressive laws highlight the potential spillover effects of symbolic legal measures. First, laws that pertain to one sphere of intergroup relations may eventually affect other spheres as well. For example, Goodman (2001) found that sodomy laws influenced attitudes and behavior toward gay people in many interactions that had nothing to do with sex, including for example neighborly disputes. Sodomy laws, despite being a dead letter, contributed to a public image of gay people as morally corrupt and encouraged discrimination against them in multiple domains. The spillover thesis suggests that even purely symbolic laws can cause discrimination by expressing that the minority is morally inferior—a concern that had been expressed by some critics in the context of majority nationalism laws (Harel 2013).

In our study, we consider two potential spillover effects. The first involves the legal distinction between the private and the public sphere. The typical domain of majority nationalism laws is the public sphere. Members of hegemonic majorities are likely to see the public sphere as a domain that ought to reflect majority culture, values, and aesthetic preferences, as in the case of policies that ban minarets, head covering, or burkinis in public spaces (e.g., Helbling and Traunmüller 2015). But, such laws typically do not extend to the private sphere, where minorities are considered entitled to practice their culture and religion.[[7]](#footnote-7) Hence, we expect that a law that advances majority nationalism would decrease the willingness to allocate public resources to the Arab minority. Under the spillover hypothesis, we were interested whether this effect might spill over to the private sphere and affect the allocation of private resources, such as one’s apartment, to minority members. A second potential spillover is across minority groups. Activating a religious-ethnic conception of nationality (as in the case of the Israeli NL) could cause a spillover from national minorities, whose cultural heritage is directly addressed by majority nationalism laws, to other minority groups that may be perceived as challenging other aspects of the majority culture.

In summary, theories of expressive laws, combined with research on the psychology of intergroup relations, suggest three distinct hypotheses regarding the effect of majority nationalism laws on patterns of discrimination: (1) These laws may increase discrimination due to heightened in-group bias; (2) they may generate a backlash reaction among the laws’ opponents; (3) and their effects may spill over across social groups and spheres of intergroup interactions. Before examining these potential implications of majority nationalism laws, we provide the relevant context of intergroup relations in Israel.

**C. Dimensions of Intergroup Relations and Discrimination in Israeli Society**

Israel provides a unique opportunity for the study of intergroup relations because of the heterogeneity of Israeli society across multiple dimensions—national, religious, and ethnic (Canetti-Nisim et al. 2007a, 92). Of great relevance to the issue of majority nationalism, Israel is divided between a Jewish majority and a substantial Arab-Palestinian (and mostly Muslim) minority that constitutes around 20% of the population. Research on Israeli public opinion documents a trend of mutual rapprochement across Israeli Jews and Arabs since the 1970s, in contrast to common claims in the public media that the relations between these two groups have deteriorated over time (Smooha 1987; 1992; 2002; 2004). Yet, scholars also point to “deep resentment toward the Arabs" within the Jewish Israeli citizenry, where there remains strong opposition to Arab citizens' equal rights (Pedahzur and Yishai 1999).[[8]](#footnote-8) There is also evidence for systemic discrimination against Arab Israeli citizens in state resource allocation (Peleg and Waxman 2011) and in the labor market (Khattab and Miaari 2013).[[9]](#footnote-9)

The relations between Jews and Arabs in Israel are shaped, naturally, by Israel’s security situation, in which the Arab citizens are sometimes depicted as a “fifth column” and a security threat (Smooha 2004). Similar concerns around Muslim immigrants have increasingly been framed in terms of security threats in other Western societies as well, especially since the 9/11 terror attacks and the recent wave of terror attacks in Europe (Hellwig and Sinno 2016).

The draft of the Israeli NL has sparked heated debates regarding its political implications for Jewish-Arab relations. One of its main criticisms is that the law expresses exclusion and alienation toward the Arab citizens of Israel (Fuchs and Kremnitzer 2014). Even commentators who do not believe that the law would have much impact on legal reality and constitutional law (e.g., Statman and Yaacobson 2014) are concerned that the NL would boost majority privilege sentiments at a time when expressing the importance of minority rights is more warranted. Similarly, Harel (2013) cites a concern that the law “will provide an excuse to magnify the acute discrimination that already exists today against minorities in Israel.”

It is important to note that the NL remained in draft form at the time this research was conducted. This interim status facilitated an experimental test of the law’s expressive impact, independent from whatever operative impact it might have once enacted. Therefore, we designed an experiment that explores the expressive impact of the NL on discriminatory attitudes toward minorities.

We are interested primarily in the impact of the NL on the willingness of the Israeli Jewish majority group to discriminate against the national-religious Arab minority group. Yet as discussed earlier, there is a theoretical reason to expect that activating a religious-ethnic conception of national identity could spill over to other minority groups that may be perceived as challenging this identity. Therefore we also examine discriminatory attitudes toward three other minority groups in Israeli society: ultra-Orthodox Jews, immigrants from the former USSR, and the LGBT community.[[10]](#footnote-10)

Ultra-Orthodox [UO] Jews (“Haredim”) are commonly perceived as a distinct and insular minority characterized by strict adherence to a conservative interpretation of Jewish religious texts. The UO are socially distinguished and easily identifiable, as they tend to live in segregated communities and wear distinctive clothing (Berman 2000; Rubin 2012).[[11]](#footnote-11) Tensions between UO and non-UO Jews have erupted in recent years over several issues, especially in cities such as Jerusalem in which both secular and UO Israelis reside (Hasson and Gonen 1997). These tensions notwithstanding, since the UO are most explicitly defined by their Jewish religious adherence, activating a religious-ethnic conception of nationalism may contribute to minimizing tensions between this group and the rest of the Jewish Israeli population.

The Jewish-Israeli citizenry is also divided between the local and foreign-born population.[[12]](#footnote-12) Jewish immigration has continuously played a constitutive role in shaping Israeli society (Hacohen 2001) and is codified in the Law of Return from 1950, according to which all Jews and their spouses (as well as direct descendants) have the right to become Israeli citizens. Most relevant for our study is the large wave of immigration from the former USSR during the early 1990s, which included both Jews and Jews’ non-Jewish relatives; tensions later arose between these immigrants and segments of the Jewish local-born population. For instance, some of the migrants “imported” non-Jewish cultural practices, such as the consumption of pork, which contributed to the formation of stereotypes against them. By the end of 1999s, surveys indicated that 72% of native Israelis believed that many of these migrants were not really Jewish (Elias, Bar-Ilan, and Sofer 2000). Given these tensions and perceptions, activating a religious-ethnic conception of the nation may increase discrimination toward immigrants from the former USSR.

Some segments of Israeli society perceive LGBT individuals as another threat to Israel’s religious Jewish identity. Despite increasing support for LGBT rights (Lyss and Lior 2013), the gains made by the Israeli LGBT movement in recent decades have been met with resistance, mostly among religious leaders who consider the LGBT lifestyle a deviation from Jewish doctrine. These clashes—primarily revolving the expression of gay identity in public—at times culminated in violent incidents, as in the murder of a gay-rights supporter during the 2015 gay pride parade in Jerusalem (Gross (2014); APA 343/09 Jerusalem Open House). Activating religious-ethnic conceptions of Israeli nationality may therefore increase discrimination against LGBT individuals.

The tensions between the Israeli hegemonic majority and each of these minority groups—national (Arab/Jewish), religious (Ultra-Orthodox/other), ethnic (immigrants/natives), and gender identity (LGBT/straight)—serve as the background against which we explore the potential impact of majority nationalism legislation on majority-minority relations. As noted, our primary research questions concern the expressive effects of the NL on discrimination by the Israeli Jewish majority group against the national-religious Arab minority group. Yet as discussed above, there is a theoretical reason to expect that activating a religious-ethnic conception of nationhood could also spill to other minority groups that may be perceived as challenging the Majority’s identity. Therefore, and in order to situate discriminatory attitudes toward the Arab minority within the general context of intergroup relations in Israel, we examine discriminatory attitudes toward these four minority groups.

**III. Study Hypotheses**

Table 1 presents the key hypotheses regarding the effects of the NL on intergroup discrimination.

**Table 1. Possible Patterns of Variation in Discrimination**

|  |  |  |
| --- | --- | --- |
|  | **Predicted Bias** | **Predicted NL effects** |
| **Primary Hypotheses** | | |
| Against the Arab minority | High | *Increase bias*: Activating Jewish identity might yield unfavorable attitudes toward non-Jews among supporters of the law.  *Decrease bias:* The law may elicit a backlash reaction among those who see it as unjust. |
| **Spillover Hypotheses: Across Groups** | | |
| Against the ultra-Orthodox minority | High | *Reduce bias*: Boosting Jewish identity might yield favorable attitudes toward distinctively Jewish lifestyles. |
| Against USSR migrants | Moderate: Surveys found high levels of bias toward Soviet migrants, but discrimination may be diminishing (Leshem 2009). | *Increase bias*: Activating Jewish identity might increase discrimination toward groups considered as remotely Jewish. |
| Against the LGBT minority | Moderate: Surveys indicate that support for equal rights for gays has grown in recent years (Lyss and Lior 2013). | *Increase bias*: Activating Jewish identity might increase discrimination toward groups considered to be “sinners.” |
| **Spillover hypotheses: across spheres** | | |
| Public resources | *Conflicting predictions*: On the one hand, allocating public resources does not require direct contact with minority groups; on the other hand, allocating public resources to minority groups can threaten hegemonic monopoly in the public sphere. | *Increase bias*: The NL applies to the national public sphere and is expected to sharpen attitudes regarding public resources. |
| Private resources | *High*: Engaging with minority persons in private and personal settings may be aversive. | *Conflicting predictions*: On the one hand,the NL does not apply to private resources and hence should not affect bias in those areas. On the other hand,activating in-group bias in the public sphere can generate in-group bias also in the private sphere. |

It is important to point out that earlier research on intergroup relations in Israel suggests that social desirability—respondents’ reluctance to express discriminatory views—is not a concern. This has been shown to be the case especially in the context of Jewish-Arab relations. For instance, Zussman (2013) reports that more than half of his sample of Israeli Jews did not want to have Arab Israelis as neighbors. Enos and Gidron (2017) report even more striking expressions of discrimination: around 30% of secular Jews and more than half of the Ultra-Orthodox in their sample would prefer not to have Arabs citizens in their country. Along similar lines, in a public opinion survey of Israeli Jews ages 17–18, published in the daily newspaper *Israel Hayom*, almost half thought that Israeli Arabs should not be represented in the Knesset (the Israeli parliament).[[13]](#footnote-13) Brought together, these findings suggest there is no reason for concern regarding social desirability bias in our results.

To test our hypotheses, we conducted two experiments during the days preceding the general elections of 2015, an apt time for a study dealing with legal and political issues that were being hotly debated during the election season. Because we were interested in majority nationalism and how it might affect the willingness to allocate power and resources to minorities, we did not attempt to capture the entire range of attitudes toward the NL in Israeli society, but only those of the Jewish majority.

We engaged a survey company (Panel4All) to recruit participants using a web-based survey platform and to create two representative samples of the Jewish population, ages 18 and older, taking into account sex, age, residential area, and sector. It generated two representative and unique samples for a total of 602 participants.[[14]](#footnote-14)

**|**

**IV. Experiment 1**

**A. Methodology**

The sample comprised 296 individuals (52% women, 3% LGBT, 3.7% Soviet migrants). The median age group was 41–50 years old; in terms of political orientation, 47.3% were right-wing, 22.3% center, and 30.4% left-wing.

Upon entering the experiment, participants were informed that they were about to take part in several unrelated studies that were grouped together for efficiency purposes and that aimed to understand their views and positions regarding some issues in Israeli society. Theyweb-based dThey were then randomly allocated to read one of two laws: the NL or an excerpt from an identity-neutral law on food regulation. Participants were asked to carefully read the law and then answer several questions about its aim and content. Embedded among these questions was the question of interest: whether participants thought that the law is “a good law.”

For the next part of the experiment, participants were transferred to a “filler” screen that thanked them for completing the first survey, informed them that the system is currently saving their questions, and that they will soon be transferred to another study. After a few moments, participants were transferred to the so-called second study. They read that this study would present various situations from day-to-day life and that, after reading each case carefully, they were to state how would they act in the circumstances of each one. Participants then read a series of short vignettes, each presented on a separate screen and in random order, involving the allocation of private and public resources. Each scenario featured a minority person—an Arab, an LGBT individual, a USSR migrant, or a member of the Ultra-Orthodox community—or an advocacy group representing one of these four minority groups. Participants were asked to decide whether they would (1) lease an apartment to a minority couple; (2) authorize a demonstration organized by a minority group; or (3) direct public funding to support the minority group’s cultural activity.[[15]](#footnote-16) This design created a 4x3 matrix of four minority groups by three scenarios, geared to examine the willingness to discriminate against different minority groups in both private settings (residential lease) and public settings (demonstration, cultural funding) settings. Participants were asked to indicate the likelihood that they would take each of the aforementioned actions on a scale of 1 (not at all likely) to 4 (very much likely). We also collected information on the participants’ social distance from each group (using a series of seven Venn diagrams of circles increasing in overlap and asking participants how close they felt to Arabs, LGBT individuals, USSR migrants, and the UO); demographics; and religiosity using several measures of belief, belonging, and behavior) and the ‘moral foundations’ scale .

**B. Results**

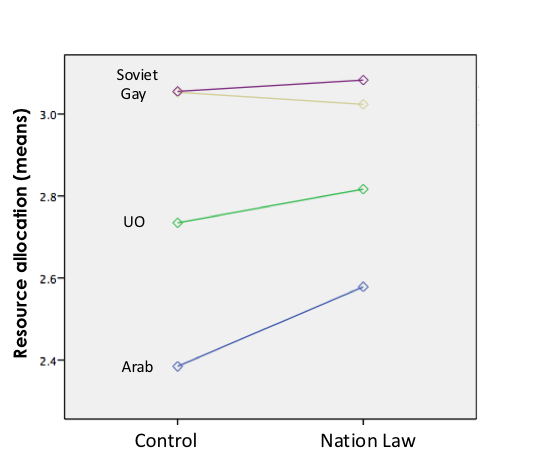
We analyzed the data using a mixed within- and between-subjects general linear model predicting discrimination (in the form of resource allocation) based on the treatment (NL/neutral law; between subjects), type of minority group (Arab/LGBT/USSR/OU; within subject) and sphere (whether behavior happens in the private or public sphere; within subject).

In this section, we first provide a descriptive account of our data. Across conditions, participants were most inclusive toward USSR migrants and LGBTs (almost indistinguishably), less inclusive toward the UO, and least inclusive toward Arabs (*group effect:* F(3,882) = 108.2, *p* < .001). With respect to the three Jewish minorities—USSR, LGBT, and UO—resource allocation was lower in the public than in the private sphere. In other words, people were *less* willing to authorize demonstrations or fund cultural programs of these minorities than to lease their apartment to minority members (*sphere effect:* F(1,294) = 33.0, *p* < .001). The effect of sphere was reversed for Arabs, who were more discriminated against in private. This reversal yielded a significant *sphere\*group effect* (F(3,882) = 43.6, *p <* .001). Notwithstanding this interaction, Arabs were still the least favored group in the public sphere, in line with our predictions and previous research on discrimination in Israeli society (Canetti-Nisim et al. 2007a).[[16]](#footnote-17)

The extent to which each minority group was discriminated against appears to be directly related to its perceived social distance. The most discriminated group—Arabs—was the group that the vast majority of participants (79%) felt distant from; in contrast, 73% felt distant from UO, 50% felt distant from LGBT, and only 42% felt distant from USSR migrants.[[17]](#footnote-18)

Turning to examine the expressive impact of the NL, first we find that inclusion went *up* in the NL condition, particularly toward Arabs and UO (attitudes toward USSR and LGBT minorities were relatively stable across the two conditions; *condition\*group effect*: F(3,882) = 3.36, *p* = .018). The rise in inclusiveness primarily occurred in the public sphere, where the NL increased the willingness to allocate public resources to minorities. This NL effect did not erase the gap between the private and public sphere, but it did significantly narrow it (*condition\*sphere effect:* F(1,294) = 3.77, *p* = .05). The NL did not have a significant main effect (*p =* .397).

**Resource Allocation to Minorities: The Impact of the Nation Law**



**Figure 1**. The mean willingness to allocate resources across spheres to different minority groups based on condition (neutral law vs. the Nation Law) increased, on average, after reading the NL; F(3,882) = 3.36, *p* = .018.

What explains the rise in inclusiveness following exposure to the NL, contrary to most critiques of the NL and predictions based on the expressive law theory? We expected the law to generate polarized responses from supporters and opponents, such that it would increase bias among its supporters and decrease bias among its oponents. To examine this hypothesis, we divided the NL group into respondents who supported the law (those who stated that “this is a good law”; 71% of the sample) and respondents who objected to the law (who stated that “this is not a good law”; 29% of the sample). Support was correlated with a host of factors, including religiosity, low income, less education, and political conservatism (although many liberals also supported the law). It was also highly correlated with “binding” moral foundations (in-group, authority, purity) but not with “individualizing” moral foundations (harm, fairness) (Graham et al. 2009). We created a binding composite that emerged as a significant predictor of low resource allocation (*p* = .01), particularly to Arabs (*p* = .00). We then compared the three groups: controls (those who read the identity-neutral law), treated NL supporters, and treated NL opponents. Table 2 summarizes the results.

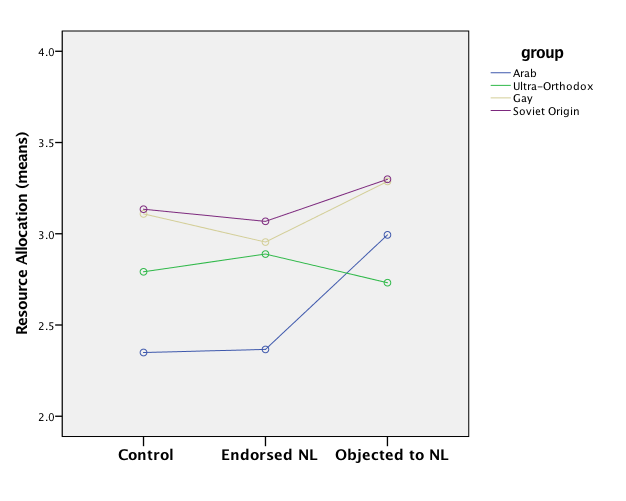
**Table 2. Impact of the NL on Supporters’ and Opponents’ Resource Allocation Preferences**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  | | **95% Confidence Interval** | |
| **Group** | **Condition** | **Mean** | | **SE** | **Lower Bound** | **Upper Bound** |
| Arab | Control | 2.35 | 0.06 | | 2.23 | 2.47 |
|  | Supported NL | 2.37 | 0.08 | | 2.22 | 2.51 |
|  | Opposed NL | 2.99 | 0.12 | | 2.77 | 3.22 |
| Ultra-Orthodox (UO) | Control | 2.79 | 0.05 | | 2.69 | 2.89 |
| Supported NL | 2.89 | 0.07 | | 2.76 | 3.02 |
| Opposed NL | 2.73 | 0.10 | | 2.53 | 2.93 |
| LGBT | Control | 3.11 | 0.05 | | 3.00 | 3.22 |
|  | Supported NL | 2.96 | 0.07 | | 2.82 | 3.09 |
|  | Opposed NL | 3.29 | 0.11 | | 3.09 | 3.49 |
| USSR migrants | Control | 3.14 | 0.04 | | 3.05 | 3.22 |
|  | Supported NL | 3.07 | 0.06 | | 2.96 | 3.18 |
|  | Opposed NL | 3.30 | 0.09 | | 3.13 | 3.47 |

As shown in Figure 2, the rise in inclusiveness following exposure to the NL differed among the law’s supporters and opponents. First, in line with the reactance hypothesis, NL opponents became substantially more inclusive toward Arabs and slightly more inclusive toward LGBTs and USSR migrants, compared with the control group. This suggests that those who see the law as fundamentally unjust felt the need to compensate by their behavior for the perceived discriminatory effects of the NL. In contrast, NL supporters became slightly more inclusive toward ultra-Orthodox and slightly less inclusive toward LGBTs while maintaining low levels of inclusiveness toward Arabs. Because many of the NL supporters already showed very low level of inclusiveness towards Arabs, this may be a floor effect. This interaction was significant (*group\*condition’*F(6,879) = 7.65, *p* <.001). More generally, the results regarding the effect of the NL on UO, LGBT and USSR migrants provide modest support for the spillover hypothesis.

**Resource Allocation to Minorities:**

**The Differential Impact of the Nation Law on Supporters and Objectors**

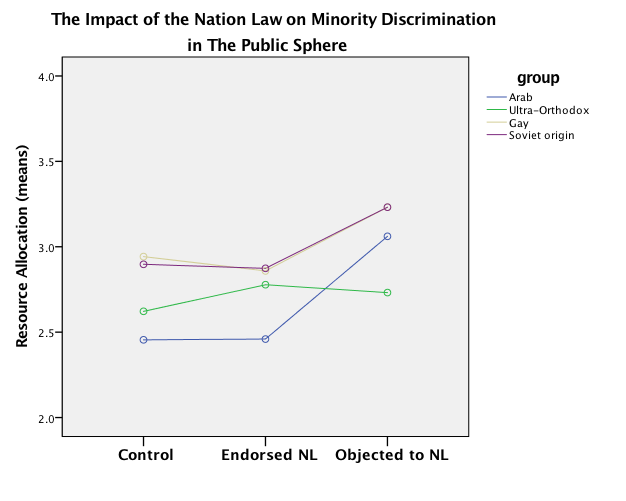


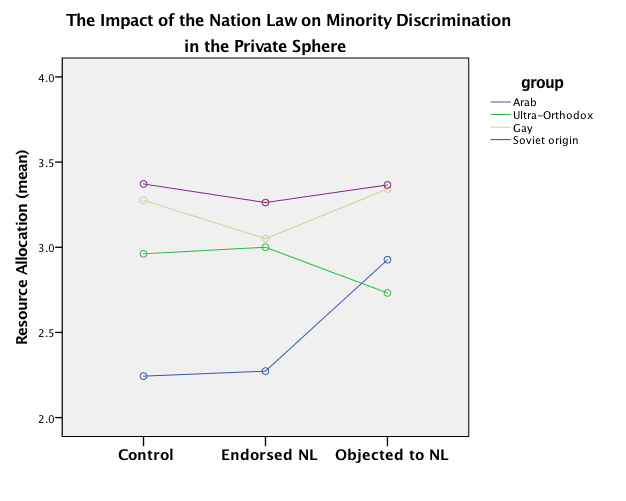
**Figure 2**. The impact of the Nation Law varied as a function of participants’ ideological position toward it. Supporters became more inclusive toward the Orthodox Jewish group (UO), whose values and practices are reinforced by the ethno-religious conception of the law, while opponents became more inclusive toward groups whose values and practices are in tension with this conception; F(6,879) = 7.65, *p* < .001.

The sphere\*condition effect was borderline significant (F(2,293) = 2.76, *p* = .065).[[18]](#footnote-19) The rise in inclusiveness primarily occurred in the public sphere. The NL supporters’ lower inclusiveness toward LGBTswas primarily expressed in terms of private resources, whereas the increase in their allocation to the UO primarily involved public resources. Similarly, the NL opponents—while preferring different groups—showed a drop in inclusiveness in the private sphere and higher inclusiveness in the public sphere. Figure 3 plots these results. [[19]](#footnote-20) Notably, the rise in inclusiveness among NL opponents eroded the distinction between private and public resources (i.e., it became nonsignificant, unlike in the control and supporter groups), supporting the spillover hypothesis.

**Minority Discrimination:**

**The Impact of the Nation Law on Supporters and Objectors**

**A. The Private Sphere B. The Public Sphere**



**Figure 3**. The NL’s different impact on supporters and opponents varied also as a function of sphere. In allocating private resources, people who read the NL and supported it penalized LGBTs and Soviet immigrants, whereas people who read the NL and objected to the law penalized the UO. Mirroring trends emerged in allocating public resources. NL supporters became more inclusive toward the group penalized by NL opponents (UO), whereas opponents became more inclusive toward the groups that were penalized by supporters (LGBTs and Soviet immigrants). With respect to Arabs, NL supporters did not vary from the control group, whereas NL opponents were much more inclusive toward Arabs in private and in public. The interaction between the new condition and sphere was borderline significant; F(2,293) = 2.76, *p* = .065. While the interaction between the new condition and group was highly significant, as plotted in Figure 3 <AU: Or Figure 2?>, the three-way interaction was not statistically significant.

**C. Discussion**

Experiment 1 tested several of our hypotheses regarding the impact of majority nationalism laws on discrimination against minorities, utilizing the draft Israeli Nation Law (NL) as a case study. First, it tested whether exposure to the NL would result in increased discrimination toward a national minority group. Second, it examined whether psychological reactance might appear among those who perceive the law as unjust. Third, it investigated the potential spillover effects of the NL across different minority groups and from the public to the private sphere.

The most significant finding is with respect to the second hypothesis: the pattern of responses to the NL reflects psychological reactance among the law’s opponents. The NL opponents became substantially more inclusive toward the Arab minority and also toward minorities that have tense relations with hegemonic Judaism. Indeed, with respect to the third hypothesis, this reactance extended from the Arab group to LGBTs and USSR migrants, but not to the UO, whose identity conforms with hegemonic Judaism. Additional support for reactance is found in the substantial rise in inclusiveness in the public sphere, against the NL’s expression of Arab exclusion from the public sphere. We note that an alternative interpretation to reactance is that the law, by affirming Jewish identity, reduced threats to the opponents’ identity and allowed them to become more accepting and inclusive of minorities. However, this interpretation seems odd given the opponents’ *objection* to the law. Their behavior appears more like a backlash than a response to reduced threat.

With respect to hypotheses 1 (increased discrimination) and 3 (spillover effects), our evidence is mixed. Exposure to the NL did not affect discrimination against the Arab national minority among the law supporters.[[20]](#footnote-21) However, NL supporters responded in line with the identity threat *activation* hypothesis, becoming more prejudiced toward groups whose relations with the hegemonic Jewish Orthodoxy are tense (LGBTs, USSR migrants) and less prejudiced toward the Jewish Orthodox minority group (UO), although the substantive size of these effects is not impressive. This pattern of increases and decreases in discrimination in relation to the NL fits with the interpretation that the draft law activates Jewish identity threat among its supporters and that this effect can spill over across minority groups.

Our results also indicate that discrimination varies by the sphere in which it is expressed: it is stronger in the public than the private sphere. More specifically, participants were generally less likely to allocate public resources than private resources to almost all minority groups. Apparently, participants’ preferred levels of inclusiveness for all three minority groups were more similar to each other in the public domain, perhaps because participants believe that this domain should be largely shaped by hegemonic values and norms. In the private sphere, these preferred levels of inclusiveness were more dispersed and varied considerably between minority groups. We also note modest spillover effects from the public to the private sphere: despite the fact that the NL does not apply to private settings or resources, its effect appears to extend to private transactions unrelated to the public goals of the law. The groups that benefited from reduced discrimination in public following exposure to the NL were those whose perception aligned with the ideology of the decision maker. Supporters of the NL became more inclusive toward ultra-Orthodox Jews, whereas opponents of the NL became more inclusive toward LGBTs, USSR migrants, and Arabs. In the private sphere, the opposite trend emerged. Relative to the control group, supporters and opponents penalized minorities whose perception did not align with their ideological standpoint. We note, however, that the main effect of the NL was to increase inclusiveness of Arabs in the public sphere rather than reduce it in the private one, and hence that the primary sphere effect is reactance, rather than spillover.

**V. Experiment 2: Counteracting Law with Law**

The first experiment found that the NL generated a heterogeneous effect that varied across the ideological divide. The law mostly affected people who opposed it, making them more inclusive toward minorities after exposure to it. This behavior defies the expectation that the NL would increase in-group bias and result in increased minority discrimination, but

fits with the reactance hypothesis. In line with the reactance hypothesis, opponents sought to counteract the law’s perceived exclusionary message by adopting a more inclusive approach toward minorities.

If indeed those who oppose the law react with a backlash response, we might expect the effect to weaken when majority nationalism laws are counteracted by other means. To test whether this is indeed the case, we examined in Experiment 2 the impact of exposure to anti-discrimination laws. These laws counteract exclusion and discrimination by definition. If the NL opponents’ greater inclusiveness is driven by a motivation to counteract the NL, then exposure to legal instruments that promote equality, inclusiveness, and nondiscrimination can satisfy this motivation and therefore reduce the NL’s anti-discriminatory effect. The second experiment examined this hypothesis in an attempt to understand the nature of the anti-NL backlash among its opponents.

**A. Methodology**

The sample comprised 306 participants (52% women, 3.6% USSR migrants, 2.3% LGBT, 48.4% right-wing, 25% center, 26.5% left-wing) who were recruited based on the same criteria and methods used in Experiment 1.

Participants in this experiment read two laws. Following the same instructions used in the first experiment, participants were told that they were about to participate in a series of unrelated studies that were grouped together for efficiency purposes, and that the first study was about public interpretation of parliamentary laws. In this experiment, all participants first read the NL and responded to the same set of questions regarding that law as in the first experiment. Then, participants were randomly assigned to read one of two additional laws: the identity-neutral law on food regulation used in the first experiment or the Non-Discrimination in Public Accommodations Act. As in the first experiment, the texts were similar in length, linguistic register, and overall complexity. In each condition, participants were asked to answer a few questions about each law, including whether they thought that the law is “a good law” (thus, in this experiment we collected information on support of the NL from all participants). an anti-

Following the same procedure used in Experiment 1, participants were then told that, after completing the first survey, they would be transferred to a different study; after a few moments, they were presented with the same series of short dilemmas as in Experiment 1 concerning the allocation of private and public resources to different minority groups. The remaining procedure and data collection were identical to the first experiment.

**B. Results**

We subjected the data to a mixed within- and between-subjects general linear model predicting discrimination based on the treatment (between subjects), type of minority group (Arab/LGBT/USSR/OU; within subject) and sphere (private/public sphere; within subject). The general patterns of group-based and sphere-based discrimination were replicated in the second experiment (table and figures are provided in the online appendix). The strong similarity between these results and the results from Experiment 1 attest to the robustness of the patterns we detected in the data.

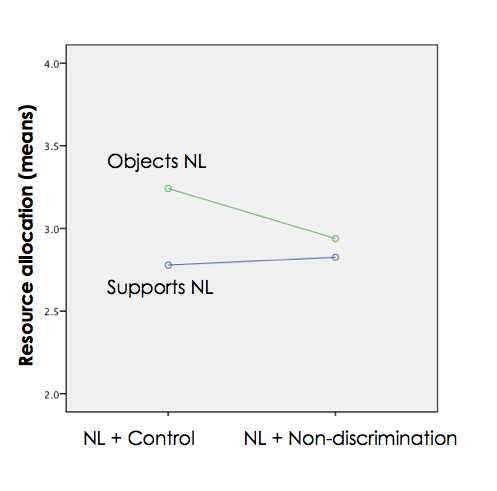
To examine whether an anti-discrimination law might counter the anti-discriminatory backlash impact of the NL, we compared the impact of two legal combinations—NL+ neutral law vs. NL+ anti-discrimination law—on the supporters and opponents of the NL.[[21]](#footnote-22) Figure 4 plots the results. First, we see that, across ideological positions, exposure to the anti-discrimination law compared with the neutral law lowered the allocation of resources to all minority groups (F(1,302) = 3.279, *p* = .07). This result is counterintuitive from the perspective of expressive law theory, which predicts that a law that prohibits discrimination toward minorities would foster greater inclusion and less discrimination. However, this result is consistent with reactance theory, finding that the psychological need to react against the NL is reduced after exposure to the anti-discrimination law. More specifically, accounting for ideological position toward the NL reveals that the backlash effect, which produced greater inclusiveness, occurred with the NL opponents. As in Experiment 1, they were more inclusive toward minorities than the NL supporters in both condition groups; see Table 3 for the means and SDs: F(1,302) = 16.8, *p* < .001. Yet opponents who read the NL followed by the anti-discrimination law were significantly *less* inclusive than those who read the NL followed by a neutral law (see Figure 5, right panel). Thus the anti-discrimination law effectively eroded the overall difference between the NL opponents and supporters in their allocation of resources to minorities.

**Table 3. The Counteracting Impact of the Anti-Discrimination Law on the NL**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Condition** | **NL Support** | **Mean** | **SE** | **95% Confidence Interval** | | |
|  |  |  |  | **Lower Bound** | **Upper Bound** |
| NL + non-discrimination Law | Supporters | 2.83 | 0.048 | 2.731 | 2.92 |
| Opponents | 2.94 | 0.079 | 2.783 | 3.095 |
| NL + neutral Law | Supporters | 2.78 | 0.047 | 2.686 | 2.87 |
| Opponents | 3.24 | 0.095 | 3.054 | 3.429 |

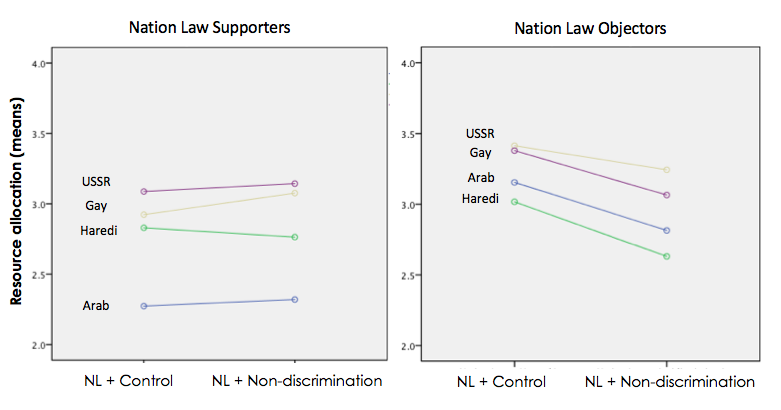
In contrast, the anti-discrimination law had little impact on the supporters of the NL, who actually became slightly more inclusive following exposure to the anti-discrimination law. The supporters’ increased inclusiveness particularly pertained to LGBT and Arabs, but not to UO (Figure 5, left panel).

**The Counteracting Impact of the Anti-Discrimination Law**



**Figure 4**. The effect of exposure to the anti-discrimination law was to significantly reduce resource allocation to minority groups among the objectors of the NL, F(1,302)= 6.2, *p* = .014

**The Counteracting Impact of the Anti-Discrimination Law on the NL by Groups**



**Figure 5.** Differences between conditions and supporters/opponents by minority groups.

**C. Discussion**

The second experiment replicated the general trends found in the first experiment with respect to group-based and sphere-based discrimination; it also found that ideological position moderated the impact of the NL. In addition, Experiment 2 provided additional support to the hypothesis that the increase in inclusiveness after being exposed to the NL was a backlash response, in line with the reactance hypothesis. The opponents of the NL, which expresses exclusion toward national minorities, became more inclusive towards nonhegemonic minority groups, countering the law’s expression of exclusion with increased inclusiveness. Yet when exposed to both the NL and an anti-discrimination law, opponents exhibited significantly lower levels of minority inclusiveness—comparable to the levels of the control group in Experiment 1 (i.e., the group that was only exposed to the neutral law). The introduction of a formal means of inclusion—the anti-discrimination law—reduces individuals’ reactance against majority nationalism laws. The anti-discrimination law’s formal expression of inclusion substituted for individuals’ personal expression of inclusion.

**VI. Discussion**

This paper examined the impact of majority nationalism laws on discriminatory attitudes toward minorities, utilizing the Israeli draft NL as a case study. Several theoretical expectations guided our empirical investigation. The first hypothesis, building on expressive law theory and the psychological literature on intergroup relations and in-group bias, was that the NL would activate identity threat, resulting in more prejudice and discrimination against nonhegemonic identity groups. Alternatively, we hypothesized that the NL could generate a backlash response among those who perceive the law as unjust, in line with theories of reactance response. Lastly, we suggested that the law may have unintended spillover effects across minority groups and spheres of discrimination.

We found that,Our results lend strong support for the reactance hypothesis and weak support for the expectation of increased discrimination due to heightened in-group bias. We also found some support for the expected spillover effects: although the NL does not refer to LGBTs, immigrants from the former USSR, or the ultra-Orthodox and does not apply to private transactions, exposure to the law did shape participants’ attitudes toward these groups and in the private sphere. Lastly, our findings also show that different laws may counter each other’s expressive effects.

In this section we consider the implications of these results from the vantage point of law’s effect on its constituents. We begin by identifying how our results regarding majority nationalism laws relate to the theory and critique of expressive law. We then define and discuss the *provocative effect of law* documented in our studies. We argue that this effect has been largely overlooked by the expressive law scholarship and previous studies on majority nationalism laws in particular. We then briefly consider the spillover of law’s effects and the combined effect of different laws. We conclude by discussing limitations and future research directions and by addressing the relevance of our findings to recent legal and political events.

**A. Majority Nationalism and the Expressive Effect of Law**

The literature on majority nationalism and tolerance toward minorities points to a negative relationship between the legal institutionalization of the dominant culture and tolerance (Gibson and Gouws 2000; Weldon 2006). However, the causal direction of the relationship—whether the law is causing intolerance or merely following it—remains an open question. Our results caution against attributing responsibility for lower levels of tolerance to law. Our research design allowed us to hold constant the political climate while testing the effects of a majority nationalism law, and we found no evidence for greater intolerance. To be sure, evidence of intolerance and exclusion of minorities from public and private resources was clear and substantial, particularly among the Nation Law’s supporters. But it was independent from the law, not caused by it.

These findings allow us to revisit an old debate in law and economics regarding the mechanism through which law may affect social norms. The expressive theory of law argues that law can foster change by conveying that a certain norm has received a consensual status. As many critiques have noted, this argument contains an unresolved tension between its two central premises: (1) that the law reflects the majority norm and (2) that this enables law to change the majority norm. The puzzle is obvious: If the law already reflects people’s views, then how can it also change their views? Why would a law that reflects the social norm have any behavioral effect *at all*? Scott (2000, pp. 1627–1628) refers to this puzzle as a “chicken and egg” question. Other scholars are even skeptical that law has any expressive impact independent of its threat of sanctions.

The NL provides an interesting opportunity to reflect on this set of concerns. For most laws, expressive effects are impossible to disentangle from deterrent effects. But the NL is a purely symbolic law that affords no sanctions and is only directed toward the state’s institutions. Hence, by definition, it has no deterrent effect. It also appears to reflect the majority norm (and thus meets the first premise of the expressive theory), being supported by about 70% of two representative samples of the Israeli majority. Hence, if law has a purely expressive quality, the NL provides a good opportunity to test expressive effects, and our experimental setting facilitates addressing the causality concerns noted by Scott. What we find, however, seems to support Scott’s concerns: the NL had little impact on the majority of the population that supported the law. In particular, the law had virtually no impact on its supporters in the very context where expressive effects should have been most straightforward: on decisions regarding the allocation of public resources to the Arab group (see Figure 3). It seems, then, that expressing the majority’s values in law is not a sufficient inducement to the majority to revise its behavior in accordance with these values. It may be that other conditions are necessary to create such a response; expression alone may not be influential enough to cause behavioral change.

At the same time, we need to recognize the possibility that the public debate over the NL, which was ongoing while we conducted our experiments, might have created a level of awareness of the law that limited the ability of those people who had already heard about the law to separate the expressive powers of the manipulated text. While the advantages of testing the expressive effect of real law that matters to people are clear, as was evident from the negative reaction by the NL opponents, the limits of this approach should be acknowledged as well. Possibly, when people are exposed to laws of which they are unaware, as in Scott’s hypothetical dog context, their positive expressive effects may be increased. In other words, it is possible that prior discussion of the NL in the news might have undermined its positive expressive influence due to some numbing effect while increasing the strength of negative emotions triggered by the law, especially for its opponents.

There is another response to the “chicken and egg” puzzle that is supported by our data. Expressive law theorists often argue that law’s expressive power operates through the general respect that citizens have toward the law and lawmaking process. For example, Cooter (1998, 595) argues that the law’s general consensual status—the fact that many people respect the law qua law—bestows legitimacy on its specific arrangements and “can change social values without changing individual values.” In other words, people may follow the law out of respect for the law even if their personal preferences are different. Thus, Cooter hypothesizes that enacting a norm can increase the number of people who follow it. Similarly, McAdams argues that “if people value approval even for instrumental reasons, then law affects behavior by changing beliefs about how to generate approval. *As long as legislation is positively correlated with popular attitudes or opinions*, then it will cause individuals to revise their beliefs about the expected approval or disapproval and to act accordingly.”(McAdams 2000, 343; emphasis added). Tyran and Feld (2002) similarly argue, on the basis of experimental results, that law must reflect a consensus to change a consensus, as people would not act in accordance with the norm unless they know that most others would do the same. Importantly, it seems that all these accounts expect people who do not support the law to revise their decisions in the face of the consensus that the law represents, or out of respect to the law, or both.

Our results with respect to the NL’s opponents strongly challenge this prediction. They responded with reactance, rather than shifting to conformity or compliance. This suggests that law’s expressive powers are substantially limited by people’s preexisting positions, ideologies, and moral values. Where law enacts an ideologically controversial norm, its effect may not be expressive, but provocative. And what may follow may not be conformity, but backlash.[[22]](#footnote-24)

**B. Majority Nationalism and the Provocative Effect of Law**

The strongest effect seen in Experiments 1 and 2 was a backlash by a minority of the sample (around 30%) who objected to the law. The NL opponents engaged in behavior that appears opposite to that expected under the law: they became more inclusive and generous toward minorities, particularly the Arab minority. This result indicates a *provocative effect of law*, such that people appear to be responding to the law with a certain type of psychological reactance (Brehm and Brehm 2013; Miron and Brehm 2006). According to reactance theory, “if individuals feel that any of their free behaviors, in which they can engage at any moment or in the future, is eliminated or threatened with elimination, the motivational state of psychological reactance will be aroused. This reactance state is directed toward the restoration of the threatened or eliminated behavior.” (Miron and Brehm 2006, 4). In our studies, it is possible that individuals who objected to the law perceived it as a threat to their core values and specifically to their ability to treat others as equals, and were therefore energized to engage in equality-restoring behaviors.

There are several ways in which our results differ from previous research on reactance in response to the law. First, unlike most previous studies of law and reactance—for example, those on a ban on underage drinking—the NL does not directly affect the reactant group (at least not in the way that a law banning alcohol consumption restricts under-age consumers). The NL is a constitutional norm that does not address specific individuals nor include any behavioral instructions or individual restrictions. There is no specific mandate in the NL to discriminate against Arabs or not to lease apartments to them, to authorize demonstrations, or fund cultural programs. Hence, the type of response provoked by the law is more general. Our participants appear to be reacting against the law’s overall expression rather than against its specific arrangements.

Another difference is in the reactant behavior itself: perhaps because there is no specific freedom that the law clearly eliminates or threatens, the nature of the response is compensatory, rather than restorative. Had opponents believed that the law would eliminate their freedom to treat everyone as equal, we would have expected their reactance to consist of equal treatment of all minorities. But the law’s opponents discriminate between groups even as they exhibit a backlash against the law. While their behavior is not restorative, it appears that the law provokes a certain type of compensatory behavior, which attempts to counter the law’s message of exclusion with higher levels of inclusion, directed particularly to those minorities who are most affected by the law.

The “flouting” thesis provides a useful theoretical lens through which we can interpret this backlash result. Nadler (2005) developed the concept of “flouting the law” to describe the behavioral effect of exposure to a law that people view as unjust. According to this thesis, exposure to injustice in the law can cause people to be less likely to obey unrelated laws, such as parking in a no-parking zone, or making illegal copies of software, or drinking alcohol under age 21. Nadler (2005) also found that exposure to unjust punishment—setting a blameworthy man free—caused mock jurors to issue more nonguilty verdicts in another, unrelated case. The flouting thesis further points to the broad effects of legal injustice, including nonconformity, reduced legal legitimacy, and lower levels of trust in and respect for the law and its institutions (Nadler 2005). Similar effects are suggested by the literature on law and fairness more generally (Sunshine and Tyler 2003; Tyler 1990).

Our findings resemble the flouting effect, but are more accurately identified as resulting from a provocative effect of law. According to the provocative thesis, recipients of a legal message who disagree with the law are interested in behaving in the opposite direction from the content of the specific law they oppose, rather than disobeying other laws in general. We propose, in line with our empirical findings, that the Nation Law motivates its opponents to counter its perceived expression and goal. This type of effect seems to be completely missing from the current literature on the effect of majority nationalism laws on intergroup relations and discrimination. Clearly, from a normative perspective, no policy maker can justify enacting laws that would change behavior through provocation. The negative effects of such an approach can be consequential, including a potential decline in the perceived legitimacy of law. These findings of reactance are particularly relevant at a time when more and more governments are enacting majority nationalism laws.

**C. The Spillover of Law’s Effects**

Alongside a provocative effect among the NL opponents and a null effect among the NL supporters, the third type of effect we found was a modest spillover to groups and contexts that the law had not attempted to regulate. The NL concerns the state’s public resources and reinforces national majority culture vis-à-vis the Arab minority. Hence, the first spillover effect is that the law’s influence extended to the treatment of non-Arab minorities within the Jewish majority group: LGBTs and ultra-Orthodox . Second, the law’s impact extended to the private sphere, despite the law not regulating this sphere. Law’s provocative effect extended to a greater degree than its expressive effect, in line with the original effects.

Given their small magnitude, we see these effects as largely suggestive. We suggest two main mechanisms that may generate spillover in the context of majority nationalism and majority-minority relations. First, the activation of the superordinate identity—in this case, the Jewish majority identity—may influence perceptions regarding any group that represents a deviation from that superordinate identity. For the law’s supporters, the spillover follows the expected direction: among the majority who supports the law, groups that are perceived as “more” Jewish are rewarded and groups that are perceived as “less” Jewish are penalized. In the case of the law’s opponents, we see the exact inverse response, in line with the provocative effect of law. The second potential explanation of the spillover effect may be related to the difficulty of responding accurately to the law’s expressive message. The law’s expression of norms and values is inherently open-textured and abstract. It is therefore subject to diverse interpretations by the law’s recipients. One might interpret the law to express a narrow message regarding the unique position of Jewish heritage in Israel, and another might interpret the law to express the broad message that exclusion of other groups can be legally legitimate.

**D. The Counterbalancing Effects of Conflicting Laws**

Finally, we found evidence for the counteracting effect of multiple laws in Experiment 2. How conflict between laws may influence attitudes has received little attention in the expressive law scholarship and has also not been examined in the context of majority nationalism laws. Occasional conflict between laws is a regular feature of most if not all legal systems and is typically addressed, in practical terms, through rules of interpretation such as *lex specialis derogat legi generali*. However, *expressive* conflicts of laws have not been considered thus far, to the best of our knowledge. Notably, the NL and the Non-Discrimination in Public Accommodations Act do not necessarily conflict in practice, as the former is a constitutional norm that addresses the public domain and the latter is a private law norm that pertains to service providers. However, the two laws convey entirely different expressions regarding the status of minorities in society. This situation is quite common in many of the countries that enact majority nationalism laws today: often, these countries have broad anti-discrimination legislation, as well as other laws that protect minority people from discrimination. Experiment 2 shows that people are sensitive to this conflict of expressions and that the group most influenced by the NL—the law’s opponents—adjusted their response after exposure to the anti-discrimination law. This group, which became more inclusive to minorities following exposure to the NL, reduced its inclusiveness after being exposed to both laws.

What may explain this effect? We note several possibilities. First, the counter-expressive law may reduce the need for reactance caused by the opposed law. Opponents of the NL might have been relieved to discover that the legal system is actually committed to nondiscrimination and hence felt less compelled to act to protect these values.[[23]](#footnote-25) Second, the combination of the two laws might have increased the acceptability and legitimacy of the objected-to law. Third, if opponents were moved to action by the law they objected to out of a sense of responsibility to treat minorities well, the counter-expressive law might have relieved them of this perceived responsibility. This, of course, is a paradoxical result because the Non-Discrimination in Public Accommodations Act actually applies directly to the private sphere and specifically seeks to improve inclusiveness toward minorities, and yet introducing this law worsened minority treatment by the very people who previously saw themselves as responsible for treating minorities more equitably. This is another indication that some of the most straightforward predictions of the expressive law theory are considerably challenged in a context of a symbolic law that offers no sanctions or subsidies to guide the development of norms.

The behavioral impact of competing messages of different laws is clearly a broader question that our study only begins to explore. We believe that our findings emphasize the importance of considering the expressive and provocative effects of law within a broad and holistic legal context that recognizes that citizens are constantly exposed to various laws and sources of law and that their decisions are rarely shaped by a single factor or a single law. Evaluating the expressive impact of majority nationalism laws thus requires understanding the broader context that frames the expression of majority nationalism, including the existence of anti-discrimination laws. Such examination was not undertaken by previous studies of these laws, and this study draws attention to the need to conduct this research.

**VII. Limitations and Future Research**

Our study focused on the Israeli case, and the results should be interpreted within the context of the Israeli-Arab national-religious cleavage. Yet, the effects of majority nationalism laws and of related policies that are intended to enhance different aspects of the majority culture are relevant to a growing number of Western democracies in which such laws and policies have been enacted (Orgad 2016).

One highly relevant case is that of majority nationalism laws in the United States—which have become especially salient following the 2016 elections and the policies of the Trump administration. In line with our findings of a reactance response, President Trump’s executive order banning travel from six Muslim countries—a quintessential majority nationalism law by its public record—provoked substantial opposition: for days, “thousands of protesters gathered and marched in cities and at airports across the US, in opposition to the executive order” (Gambino, Siddiqui, Helmore, and Pau 2017). Opponents also provided material and legal assistance to refugees and others barred from entering the United States. As early as 2010, anti-immigration laws in Arizona generated a strong backlash response by progressive and faith-based groups.[[24]](#footnote-26)

Arizona’s anti-immigration laws also generated an additional response, as documented by Flores (2017): they did not alter attitudes, but did change behaviors, encouraging those with strong anti-immigration attitudes to express their views on social media. In a closely related finding, Flores (2015) showed that the passage of anti-immigration laws created a linkage in public opinion between immigrants and crime, which in turn led to increases in guns sales in communities that passed anti-immigration laws. Our own experimental study raises the question of whether such anti-immigration laws also shaped perceptions of discrimination in the public and private spheres and whether they had spillover effects toward other minorities. Future studies should continue to map the effects of majority nationalism laws, including their interactions with conflicting laws that protect minority rights, in addition to examining other conditions that may confine or enhance the provocative effect of law.

Future work on this topic should also inquire how majority nationalism laws affect the minority group. Our experimental design focused on responses to majority nationalism laws among the hegemonic group, but such laws could have multiple effects on members of the minority. Even if majority nationalism laws do not directly increase discriminatory behavior, they may still have negative implications for the minority. For instance, majority nationalism laws may decrease a sense of social status among minority members, which may put additional barriers toward their integration in society—even if discrimination on behalf of the majority group did not increase.

In addition, the relationship between law and social attitudes, norms, and behavior is one of the most complicated and nuanced questions in the empirical study of law. The study of law’s impact presents a constant tradeoff between discerning cause from effect, which requires a controlled environment, and investigating law in its natural settings, which are highly uncontrolled. The present study is limited to examining law’s influence on tolerance and discrimination. It did not examine and is thus unable to attest to other potential effects of the law, including its potential effect on the government or the judiciary. In addition, while the study’s outcome measures were carefully designed to capture decisions in real-life dilemmas, we are unable to measure real behavior in these dilemmas. It is hence possible that participants react against the law in the study, but would not follow through on their decisions in reality. The present study cannot rule out this possibility.

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2. According to the law’s drafters, “The necessity of the [law] is particularly reinforced at a time when some wish to cancel the right of the Jewish people to a national home in its country.” Draft Basic Law: Israel the Nation State of the Jewish People, No. 1550/19 (22.7.2013), available at www.justice.gov.il/StateIdentity/ProposedBasicLaws/Pages/NationalState.aspx#Comments (last viewed on Dec. 20, 2016). The NL has been subject to multiple revisions. The text of the draft we used is included in the appendix. [↑](#footnote-ref-2)
3. Legal institutions are likely to serve as an additional source of elite signaling, which has been known to play a consequential role in shaping public opinion (Zaller 1992). For instance, where elites (through party manifestos) articulate a more exclusionary image of the nation, public opinion is also likely to be characterized by the stronger expression of national identity (Helbling, Reeskens, and Wright 2016). [↑](#footnote-ref-3)
4. Along similar lines, Schlueter, Meuleman, and Davidov (2013) find that more permissive immigration policies are associated with weaker perceptions of threat from immigrants. For similar findings, although based on individual-level interpretations of nationalism as civic or ethnic (in contrast to institutionalized legal frameworks), see Reeskens and Wright (2013). [↑](#footnote-ref-4)
5. For a normative discussion of debates around the banning of minarets in Switzerland, see Miller (2016). [↑](#footnote-ref-5)
6. As Miron and Brehm (2006, 4) emphasize, “Because reactance is a motivational state, it possesses energizing properties that drive individuals to engage in freedom-restoration behaviors. Individuals may directly attempt to reassert the freedom through engaging in the option threatened with elimination.” [↑](#footnote-ref-6)
7. Note that this regulatory approach is somewhat in tension with another body of regulation, namely antidiscrimination law and norms, which typically prohibit discrimination on the basis of religion, ethnicity, and nationality in the public sphere. For example, administrative principles of neutrality and equality typically oblige the government to allocate public resources fairly and equally. In addition, many countries, including Israel, have enacted laws prohibiting discrimination in public accommodations (e.g., transportation, education, and cultural institutions), reflecting the belief that the public sphere should be free from discrimination. [↑](#footnote-ref-7)
8. On the degree to which Arab Israeli citizens are discriminated against compared to other non-Jewish out-groups, namely foreign workers and non-Jewish immigrants, see Canetti-Nisim, Ariely, and Halperin (2007b) and Raijman (2010). [↑](#footnote-ref-8)
9. On the treatment of Arab Israeli citizens by the legal system, see Grossman, Gazal-Ayal, Pimentel, and Weinstein (2016). [↑](#footnote-ref-9)
10. Note that additional immigrant groups and ethnicities make up the fabric of the heterogeneous Israeli society; lacking the ability to research all of them, we focus here on these three sizable minority groups. [↑](#footnote-ref-10)
11. Despite these similarities among the UO, we neither assume nor suggest that the UO constitute a homogeneous religious or social group. Instead, it is very clear that the UO minority is divided across several cleavages such as ethnicity. [↑](#footnote-ref-11)
12. Note that the Jewish Israeli population is also divided across ethnic lines between Mizrahi (or Sephardic) Jews, whose origins are in Muslim countries, and Ashkenazi Jews, whose origins are in Western countries (Fershtman and Gneezy 2001). While this is a salient cleavage in Israeli society, because we are interested in discrimination against groups that are most likely to be perceived as threatening the dominant local tradition, we focus instead on tensions between the local-born and the foreign-born populations. [↑](#footnote-ref-12)
13. See: ‘Survey: 59% percent of the youth are right-wingers’, *Israel Today*, April 13, 2016 [in Hebrew]; www.israelhayom.co.il/article/372957 (accessed November 2, 2017). [↑](#footnote-ref-13)
14. With respect to the three Jewish minorities, in a preliminary query with several survey companies we learned that web-based surveys had limited effectiveness in collecting representative data from the ultra-Orthodox population, because many of its members choose not to use the Internet. <AU: OK addition?>Hence, we did not collect responses in this sector. We also kept track of the representation of the other two minorities in our sample (USSR migrant and LGBTs). Their participation in the study was negligible at 3-4% each; excluding their responses did not change the results, although it slightly improved statistical significance. In this paper, we report the results from the full sample without exclusions. [↑](#footnote-ref-14)
15. The design also included a fourth scenario regarding the employment of a minority individual (a private setting scenario), which was ultimately removed from the analysis due to an error in the description of its scale. However, a later survey found that the employment scenario yielded very similar results to the lease scenario. The two private scenarios (employment and lease) were both statistically different from the public scenarios. [↑](#footnote-ref-16)
16. Attitudes toward the different groups were also correlated with political views and religiosity (being left-wing/nonreligious was correlated with greater inclusion of Arabs and LGBTs and <AU: Greater discrimination against UO meant here?>discrimination against UO, and vice versa for right-wing/religious). Education and income were correlated with greater inclusion of Arabs and LGBTs, respectively. We did not find significant correlations between differentiation between public and private spheres and individual differences in education, income, sector, political views, and religiosity. [↑](#footnote-ref-17)
17. Individual-level correlations between social distance and discrimination were also significant. That is, the extent to which participants felt distant from each group correlated with their decisions to allocate resources to that group (Arabs *r* = .36, LGBT *r* = .33, UO *r* = .26, USSR *r* = .21, all significant at the 1% level). [↑](#footnote-ref-18)
18. A summary of the results of this analysis is included in the online appendix. [↑](#footnote-ref-19)
19. We supplemented the analysis described here with a later effort to collect data about the control group’s attitudes toward the NL. Several months later we returned to all participants in the control group and asked them to read the NL and answer the same questions. Sixty percent of the control agreed to participate and provided responses. We compared their responses with those of participants who read the NL before making their decisions, contrasting supporters and opponents in each group. While the reduction in sample size considerably lowered the statistical power, the analysis yielded similar results. [↑](#footnote-ref-20)
20. As noted earlier, support of the NL is strongly correlated with demographic and attitudinal variables, although the relationship between NL support and discriminatory attitudes remains significant after controlling for these covariates. [↑](#footnote-ref-21)
21. Notably, support for the Non-Discrimination in Public Accommodations Law, the anti-dscrimination law used in this case study, was very high: 92% of the participants thought that it is a good law. [↑](#footnote-ref-22)
22. While our results show that the NL correlates positively with popular attitudes and opinions and it was being promoted by multiple parties in the parliament and endorsed by the governing coalition, it was still in draft form when our study was conducted. Some accounts of the expressive law theory can be sensitive to the draft status of the NL. For example, Tyran and Feld’s (2002) experiment suggests that the law must be seen as the result of a voting or a referendum process in order to induce cooperation. Other empirical results (e.g., Bohnet and Cooter’s) found expressive effects regardless of the legislative process. <AU: Please provide cite for Bohnet> [↑](#footnote-ref-24)
23. This explanation resembles the “moral licensing effect,” particularly Kouchaki’s (2011) research on vicarious moral licensing that shows that White individuals who learn that their group was more moral than similar groups were more likely to discriminate against ethnic minorities. This explanation is supported by the fact that the NL opponents did not become less inclusive than the control group or the NL supporters, but they did discriminate more than opponents who were only exposed to the NL and the neutral law. [↑](#footnote-ref-25)
24. # ‘Protesters, riot police clash over Arizona immigration law’, CNN, 29.7.2010. www.cnn.com/2010/US/07/29/arizona.immigration.protests/index.html (accessed on Feb. 11, 2017).

    [↑](#footnote-ref-26)