**The Provocative Effect of Law:**

**Majority Nationalism and Minority Discrimination**

Netta Barak-Corren

Yuval Feldman

Noam Gidron[[1]](#footnote-1)

Western societies have been going through ethnic and religious diversification in recent decades. These demographic changes were met with efforts to defend the local dominant culture using majority nationalism laws, intended to protect the cultural heritage of the majority. These laws have raised serious concerns regarding their potential impact on minority discrimination. We empirically examine the concerns regarding law’s expressive effects in the context of the Israeli draft Nation Law (NL). 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 their objectors. 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 going through significant processes of racial, ethnic and religious diversification in recent decades (Brady and Finnigan 2013, Putnam 2007). Large waves of immigration and increasing minority demands for recognition have raised concerns among hegemonic majorities. As a result, there has been a global movement towards majority nationalism laws, defined as an effort to defend majority culture using legal instruments (Orgad 2015). Germany, England, Denmark, the United States, Canada, and the Netherlands introduced citizenship tests that require a show of proficiency and understanding of majority language, history, and values (Adamo 2008; Jacobs and Rea 2007; Van Houdt, Suvarierol, and Schinkel 2011). France, Austria, and others enacted 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, currently debates a law intended to cement the status of the Jewish majority culture (Fucs and Kremnitzer 2014; Statman and Yaacobson 2014).

Majority nationalism laws are often criticized as illiberal and discriminatory towards minorities (Adamo 2008; Orgad 2016). And indeed, 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 the prevailing social norms and moral standards (Cooter 1998; Sunstein 1996; McAdams 2015). In the context of minority discrimination, 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. The theory of expressive law raises an important concern regarding the impact of majority nationalism laws, even laws which purpose is largely declaratory. Might such laws produce or reinforce discrimination towards 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 in the context of the Israeli Nation Law (NL), a draft legislation that seeks to affirm Jewish majority culture.[[2]](#footnote-2) Israel is a highly diverse society along multiple social and political dimensions. The introduction of the draft law sparked criticism from legislators and commentators who argued that the law would discriminate against Israel’s sizeable Arab minority and erode the state's democratic values (Statman and Yaacobson 2014; Harel 2013a; Fucs and Kremnitzer 2014b). Notably, the NL is a symbolic and declaratory law that contains no sanctions or incentives. As we explain in greater detail below, this setting provides an excellent opportunity to examine potential expressive influences of majority nationalism in law.

We conduct two experiments with representative samples of the Israeli majority group in which we measure the effect of exposure to the NL versus a neutral law (study 1) and in conjecture with anti-discrimination law (study 2) on discriminatory attitudes towards minority groups. Our key findings are as follows. First, we examine whether majority nationalism laws activate, by their expression of majority superiority, outgroup bias among the majority group, which would result in increased minority discrimination (Tajfel 1981). We find no support for this claim: in the Israeli case, majority nationalism law did not yield more discriminatory attitudes and particularly we did not see such effect among the law’s supporters, who constituted the majority in of Israeli Jews. These findings challenge arguments about the role of symbolic laws in reinforcing attitudes and behaviors among their supporters (McAdams 2000, 343). In sharp contrast, we find that a majority nationalism law generated a substantial backlash response among its objectors. 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 (Brehm and Brehm 2013; Engs and Hanson 1989; Allen, Sprenkel, and Vitale 1994). Lastly, we find 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 spilled 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 towards ethnic minorities, yet most of this research used observational data to uncover correlations between citizenship regimes and majorities’ tolerance toward minority groups (Weldon 2006; Helbling and Traunmüller 2015; and see more on this below). We extend this work in three important aspects.

First, previous studies used broad political categorizations and cross-sectional data to examine the relationship between law and tolerance (Weldon 2006; Gibson and Gouws 2000), demonstrating that majority culture institutionalization is negatively related to minority tolerance. Yet the correlational nature of the data is insufficient to determine the causal direction of the relationship and specifically whether law is causing intolerance or merely following it. In addition, because citizenship laws are not divorced from political climate and the landscape of public opinion more broadly, it is impossible 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 allows us to identify the effect of law on tolerance, holding the political climate constant. Finally, our data collection 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” (D. Canetti-Nisim, Ariely, and Halperin 2007). The NL’s emphasis on Jewish culture and heritage might aggravate this perception. 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 or 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*, whose identities 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 (Daphna Canetti-Nisim, Ariely, and Halperin 2007; Daphna 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 Muslin and non-Muslim European immigrants (Strabac and Listhaug 2008).

Third, the study expands and nuances the concept of tolerance. Existing work focuses on *political tolerance* (defined as willingness to extend political rights to minority members) and *social tolerance* (defined as willingness to accept minority members as bosses, peers, and family) (e.g., Weldon 2006). The present study adopts a different framework that is more germane to discrimination as conceptualized in law, by examining and comparing of *public* and *private* forms of discrimination (e.g., willingness to allocate public funds to support minority culture or allocate a private resource, such as an apartment or a job, to minority people).

The remaining 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. Part II provides an overview of the studies and the methodology and describes the studies and discusses their results. Part III concludes with 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 also discuss the study’s limitations and avenues for future research.

**Social identity and prejudice towards out-groups**

Research on intergroup relations has highlighted several factors that are likely to shape patterns of tolerance and discrimination toward various minority groups (national, ethnic, racial, religious, etc.).

At the individual-level, the vast research on attitudes toward immigration concludes that perceptions of cultural threat provides a greater explanatory factors for anti-immigration preferences than perceptions of economic threats (Sides and Citrin 2007, Hainmueller and Hopkins 2014). 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 (Graham, Haidt, and Nosek 2009, Fetzer 2000; Johnson, Rowatt, and LaBouff 2010; but see Bloom, Arikan, and Courtemanche (2015).

 Individual-level concerns regarding minority groups are intimately linked with contextual factors. Country-level economic performance has been considered especially relevant in explaining intergroup tensions (Semyonov, Raijman, and Gorodzeisky 2006). Other factors that have been shown to shape intergroup relations and discrimination is 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 building 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)

**Majority Nationalism Laws and Intergroup Discrimination**

 How would majority nationalism laws may shape inter-group 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. Majority nationalism laws mayactivate in-group identification, which would in turn increase tendencies to become protective of the group’s cultural identity and would result 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, the risks and costs of the regulated action (McAdams 1997, 2015), and the morality of the regulated action (Paternoster and Simpson 1996; Paternoster and Iovanni 1986; Schwartz and Orleans 1967). Thus, majority nationalism laws may reinforce ingroup bias among the law supporters through the legitimization of discrimination of national minorities. This indeed has been one of the main concerns in public debates over the potential implications of the NL on the already-complicated fabric of Israeli-Arab relations in Israel (Fuchs and Kremnitzer 2014).

 Secondly, 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 of the previous studies of reactance and law centered on inadvertent effects of alcohol consumption laws. For example, raising the legal drinking age in the U.S. from 19 to 21 resulted in more drinking in the under-aged group, compared with previous years (Engs and Hanson 1989). Supporting reactance theory, this effect was specific to alcohol consumption—the subject of the legal change—as legal and under-aged youngsters did not differ in illicit substance abuse, which was not subject to legal change (Allen, Sprenkel, and Vitale 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 react against a law that they oppose. This relates more generally to the influence of political positions and identities on legal decision-making. For example, Kahan and colleagues found that people’s opinions regarding controversial legal issues, for example abortion and LGBT rights, influence their fact-finding in related cases and generate polarized responses from supporters and objectors (Kahan et al. 2012). 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 law’s effect on objectors and supporters would vary: reactance theory suggests that objectors might react against the law, by becoming more inclusive towards minorities, countering the perceived biased intention of the law.

 Lastly, theories of expressive laws point at the potential spillover effects of symbolic legal measures. First, laws that pertain to one sphere of intergroup relations may eventually impact 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. Goodman argues that sodomy laws, despite being a dead letter, contributed to a public image of gay people as morally corrupt and encouraged their discrimination 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 the present case, we considered 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 covers, or burkinis in public spaces (*e.g.*, Helbling and Traunmüller 2015). But, such laws typically refrain from extending their reach to the private sphere, where minorities are considered entitled to practice their culture and religion.[[7]](#footnote-7) Hence, we expected that a law that advances majority nationalism would decrease willingness to allocate public resources to the Arab minority. Under the spill-over hypothesis, we were interested whether this effect might spill to the private sphere and impact the allocation of private resources, such as one’s apartment, to minority members. A second potential spill-over is across minority groups. Activating a religious-ethnic conception of nationality (as in the case of the Israeli NL) could cause a spill-over from national minorities, whose cultural heritage majority nationalism laws directly address, to other minority groups that may be perceived as challenging other aspects of the majority culture (we provide more details on these groups below).

 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 backlash reaction among the laws’ objectors; (3) and their effects may spill-over across social groups and spheres of intergroup interactions. Before we examine these potential implications of majority nationalism laws, we first turn to provide the relevant context of intergroup relations in Israel.

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

Israel provides a unique opportunity for the study of intergroup relations, in light of the heterogeneity of the Israeli society across multiple social dimensions: national, religious, and ethnic (Daphna Canetti-Nisim, Ariely, and Halperin 2007, 92). Perhaps most relevant 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 the 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 deteriorate over time (Smooha 1987, 1992, 2002, 2004). This notwithstanding, scholars also point at “deep resentment toward the Arabs" within the Jewish Israeli citizenry, where there remains a 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). Without belittling the uniqueness of the Israeli case, concerns around Muslim immigrants have increasingly been framed in terms of security threats in other Western societies as well. This has been the case especially since the 9/11 terror attacks and the recent wave of terror attacks in Europe (Hellwig and Sinno 2016).

The Israeli NL draft has sparked heated debates regarding its political implications to Jewish-Arab relations. One of the main criticisms leveraged against the NL is that the law expresses exclusion and alienation towards 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, *in* Statman and Yaacobson (2014)) are concerned that the NL would boost majority privilege sentiments at a time when expressing the importance of minority rights could have been 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.”

Relevant to note, the NL remained in draft form at the time this research was conducted. Unlike many other nation-states where majority nationalism laws long became part of an established legal reality and legal culture, in Israel the NL is pending legislation. This interim status conveniently supports 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 impact of the NL on discriminatory attitudes towards minorities.

 We are interested primarily in the implications of the NL on the willingness of the Israeli Jewish majority group to discriminate 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 national identity could spill over to other minority groups that may be perceived as challenging this identity. Therefore, and in order to situate discriminatory attitudes toward the Arab minority within a broader context, we examine also discriminatory attitudes toward three other minority groups in Israeli society: Ultra-Orthodox Jews, and immigrants from the former USSR, and the LGBT community.

The Ultra-Orthodox [UO] Jews (“Haredim”) are commonly perceived as a distinct and insular minority characterized by strict adherence to conservative interpretation of the Jewish religious texts. The UO are socially distinguished and easily identifiable, as they tend to live in segregated communities and wear distinctive clothing (Berman, n.d.; Rubin 2012).[[10]](#footnote-10) Tensions between UO and non-UO Jews have erupted in recent years over several issues, especially in mixed cities such as Jerusalem (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 minimize tensions between this group and the rest of the Jewish Israeli population.

The Jewish-Israeli citizenry is also divided between local and foreign born population.[[11]](#footnote-11) 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) has the right to naturalize in Israel. Most relevant for us is the large wave of immigration from the former USSR during the early 1990s, which included both Jews and Jews’ non-Jewish relatives. In some cases, tensions evolved between these immigrants and other parts of the Jewish local-born population. For instance, some of the migrants “imported” non-Jewish cultural practices, such as 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 migrants are not really Jewish.[[12]](#footnote-12) (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.

As with immigrants from the former USSR, some segments of Israeli society also perceive LGBT individuals as a threat to Israel’s religious Jewish identity. Despite increasing support in the population to LGBT rights (Lyss and Lior 2013), the gains made by the Israeli LGBT movement in recent decades were met with resistance, mostly among religious leaders that consider LGBT lifestyle a deviation from Jewish doctrine. These clashes—primarily revolving the expression of gay identity in public—have 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 a religious-ethnic conceptions of Israeli nationality may therefore increase discrimination towards LGBT people.

The tensions between the Israeli hegemonic majority and each of these minority groups—national (Arab/Jewish), integrational (Ultra-Orthodox/other), migrational (immigrants/natives), and sexual (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 implications 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.

Combining the theoretical discussion with the particularities of the Israeli context, 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** |
| Arab | High | *Increase bias*: activating Jewish identity might yield unfavorable attitudes towards non-Jews among supporters of the law.*Decrease bias:* eliciting backlash reaction among those who see the law as unjust.  |
| **Spill-over Hypotheses: across groups** |
| Ultra-Orthodox | High | *Reduce bias*: Boosting Jewish identity might yield favorable attitudes towards distinctively Jewish lifestyles. |
| USSR Migrants | Moderate: surveys found high bias towards Soviet migrants, but discrimination may be diminishing (Leshem 2009).  | *Increase bias*: activating Jewish identity might increase discrimination towards groups considered as remotely Jewish. |
| LGBT | Moderate: Surveys indicate that support in equal rights to gays grew in recent years (Lyss and Lior 2013). | *Increase bias*: activating Jewish identity might increase discrimination towards groups considered by as “sinners”. |
| **Spill-over hypotheses: across spheres** |
| Public resources | *Conflicting predictions*: On 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 one hand,the NL does not apply to private resources, hence should not impact 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. |

Relevant to note, pervious research on intergroup relations in Israel suggests that social desirability—respondents’ concerns about expressing 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 in their sample, and more than half of the Ultra-Orthodox 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 of the respondents thought that Israeli Arabs should not be represented in the Knessed (the Israeli parliament).[[13]](#footnote-13) Brought together, these findings suggest there is no reason for concern regarding social desirability bias in our results.

**II. Overview of Studies**

To test our hypotheses, we conducted two experiments during the days preceding the general elections of 2015, an apt occasion for a study that dealt with legal and political issues that were hotly debated during this elections season. As we were interested in majority nationalism and how it might impact the willingness to allocate power and resources to minorities, we recruited a representative sample of the Jewish majority in Israeli. Participants were recruited using a web-based survey platform, with two representative and unique samples for a total of 600 participants. The survey company (Panel4All) was instructed to collect a representative sample of the Jewish population, ages 18 and above, keeping quotas of sex, age, residential area, and sector. It is relevant to note that our data collection did not attempt to capture the entire range of attitudes towards the NL in Israeli society, but only those of the Jewish majority due to our interest in the effect that the NL might have on this hegemonic group.[[14]](#footnote-14)

**Experiment 1**

**Participants**

Two-hundred and ninety-six participants (52% women, 3% LGBT, 3.7% USSR migrants; Median age group was 41-50 years old; 47.3% right-wing, 22.3% center, 30.4% left-wing) were recruited to participate in the experiment, based on the above criteria and methods.

**Procedure**

Upon entering the experiment, participants were informed that they are about to take part in several unrelated studies that were grouped together for efficiency purposes and that aim to understand their views and positions regarding some issues in the Israeli society. Participants 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 instructed that the first survey examines how members of the public interpret legislation of the Israeli parliament. They were asked to carefully read the law and answer the following questions. The texts of the two laws were chosen to be similar in length, linguistic register, and overall complexity (full text is provided in the appendix). In each condition, after reading the law, participants answered several questions about the aim and content of the law. Embedded among these questions was the question of interest: whether participants think 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 the so-called second study. They read that this study presents various situations from day-to-day life and were instructed to read them carefully and state how would they act in the circumstances of each case. 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, LGBT, USSR migrant, or Ultra-orthodox, 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; (3) direct public funding to support the minority group’s cultural activity.[[15]](#footnote-15) This design created a matrix of 4 minority groups by 3 scenarios, geared to examine willingness to discriminate 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 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 social distance from each group (using a series of 7 Venn diagrams of circles increasing in overlap and asking participants how close they feel to Arabs, LGBTs, USSR migrants, and UO), demographics, and measured religiosity along several measures (belief, belonging, and behavior) and the ‘moral foundations’ scale .

**Results**

We subjected the data to 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/UO/Gay/Soviet; within subject) and sphere (whether behavior happens in the Private or Public sphere; within subject).

We first provide a descriptive account of our data. Across conditions, participants were most inclusive towards USSR migrants and LGBTs (almost indistinguishably), less inclusive towards UO, and least inclusive towards 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 discriminated more 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, more than UO, LGBT, and USSR migrants, in line with our predictions and previous research on discrimination in Israeli society (Daphna Canetti-Nisim, Ariely, and Halperin 2007).[[16]](#footnote-16)

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

Turning to examine the expressive impact of the NL, first we find that inclusion went *up* in the NL condition, particularly towards Arabs and UO (attitudes towards USSR and LGBT 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 raised willingness to allocate public resources to minorities. This NL effect did not erase the gap between the private and public sphere, but it significantly narrowed 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 group based on condition (neutral law vs. the Nation Law) is displayed. Willingness to allocate resources to minorities 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 objectors, such that it would increase bias among its supporters and decrease bias among its objectors. To examine this hypothesis, we subset the NL group to respondents who supported the law (respondents who stated that “this is a good law”; 71% of the sample) and respondents who objected to the law (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). Support was also highly correlated with the “binding” moral foundations (in-group, authority, purity) but not with the “individualizing” moral foundations (harm, fairness) (Graham, Haidt, and Nosek 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: control, treated NL supporters, and treated NL objectors. Table 3 summarizes the results.

**Table 2. The Impact of the NL on Supporters’ and Objectors’ Resource Allocation**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  | **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 |
|  | Objected 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 |
| Objected 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 |
|  | Objected 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 |
|  | Objected NL | 3.30 | 0.09 | 3.13 | 3.47 |

As shown in Figure 3, the rise in inclusiveness following exposure to the NL flows from two parallel processes: First, in line with the reactance hypothesis, NL objectors became substantially more inclusive towards Arabs and slightly more inclusive towards LGBTs and USSR migrants, compared with the control group. This suggests that those who see the law as fundamentally unjust have compensated in their behaviors against the perceived discriminatory effects of the NL. In contrast, NL supporters became slightly more inclusive towards ultra-Orthodox and slightly less inclusive towards LGBTs and maintained low inclusiveness towards Arabs. As many of the NL supporters already show 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 to the spillover hypothesis.

**Resource Allocation to Minorities:**

**The 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 towards the law. Supporters became more inclusive towards the Orthodox Jewish group (UO), which values and practices are reinforced by the ethno-religious conception of the law, while objectors became more inclusive towards groups which 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-18) The rise in inclusiveness primarily occurred in the public sphere. The NL supporters’ lower inclusiveness towards gayswas primarily with private resources, whereas the rise in supporters’ allocation to the UO primarily involved public resources. Similarly, the NL *objectors*—while preferring different groups—showed a drop in inclusiveness in the private sphere and higher inclusiveness in the public sphere. Figure 4, panels A (private) and B (public), plots these results. [[19]](#footnote-19) Notably, the rise in inclusiveness among NL objectors eroded the distinction between private and public resources in this group (i.e., it became non-significant, unlike the other two groups), supporting the spill-over 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 objectors with respect to different groups varied also as a function of sphere. In allocating private resources, people who read the NL and supported it penalized gays and Soviets whereas people who read the NL and objected to the law penalized UO. Mirroring trends emerged in allocating public resources. NL supporters became more inclusive towards the group penalized by NL objectors (UO), whereas objectors became more inclusive towards the groups that were penalized by supporters penalized (gays and soviets). With respect to Arabs, NL supporters did not vary from control, whereas NL objectors were much more inclusive towards Arabs in private and in public. The interaction between new condition and sphere was borderline significant, F(2,293)= 2.76, *p* = .065. While the interaction between new condition and group was highly significant, as plotted in Figure 3, the 3-way interaction was not statistically significant.

**Discussion**

The first experiment tested several of our hypotheses regarding the impact of majority nationalism laws on minorities discrimination, utilizing the draft Israeli Nation Law (NL) as a case study. First, it tested whether exposure to the NL would result in increased discrimination towards 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 spill-over 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 NL generated a pattern that fits with psychological reactance among the law’s objectors. The NL objectors became substantially more inclusive towards the Arab minority and also towards minorities whose relations with hegemonic Judaism are tense. Indeed, with respect to the third hypothesis, the objectors’ reactance spilled from the Arab group to LGBTs and USSR migrants; interestingly, the objectors’ reactance did not spill to the UO, whose identity conforms with hegemonic Judaism. Another 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, relieved the objectors’ identity threat and allowed them to become more accepting and inclusive of minorities. However, this interpretation seems odd given the objectors’ *objection* to the law. Their behavior appears more like a backlash than a relief.

With respect to hypotheses 1 (increased discrimination) and 3 (spill-over effects), our evidence is mixed. Exposure to the NL did not affect discrimination towards the Arab national minority among the law supporters.[[20]](#footnote-20) However, NL supporters responded in line with the identity threat *activation* hypothesis and they became more prejudiced towards groups whose relations with the hegemonic Jewish Orthodoxy are tensed (LGBT, USSR migrant) and less prejudiced towards the Jewish Orthodox minority group (UO), although the substantive size of these effects is not especially impressive. In any case, this pattern of gains and losses under the NL fits with the interpretation that the draft law activates Jewish identity threat among its supporters and that this effect can spill across minority groups.

Our results also indicate that discrimination varies sphere-wise such that it is stronger in public than in private. More specifically, participants were generally less likely to allocate public resources than private resources to almost all minority groups. Apparently, all minority groups were perceived as more similar in the public domain, perhaps because participants believe that this domain should be largely shaped by hegemonic values and norms. In the private sphere, inclusiveness was more dispersed and varied considerably between minority groups. We also note modest spill-over 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 towards ultra-Orthodox Jews, while objectors to the NL became more inclusive towards LGBTs, USSR migrants, and Arabs. In the private sphere, the opposite trend emerged. Relative to the control group, supporters and objectors penalized minorities which 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 a spill-over, as originally predicted.

**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 towards minorities after exposure to the law. This behavior defies the expectation that the NL would increase in-group bias that will result in increased minority discrimination, but

fits with the reactance hypothesis. In line with the reactance hypothesis, objectors 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 examine the impact of exposure to anti-discrimination laws. These laws counteract exclusion and discrimination by definition. If the NL objectors’ greater inclusiveness is driven by a motivation to counteract the NL, then exposure to legal instruments that promote equality, inclusiveness, and non-discrimination 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 objectors.

**Participants**

Three-hundred and six participants (52% women, 3.6% USSR migrants, 2.3% LGBT, 48.4% right-wing, 25% center, 26.5% left-wing) were recruited to participate in the experiment based on the same criteria and methods used in experiment 1.

**Procedure**

Participants in this experiment read two laws. Following the same instructions used in the first experiment, participants were told that they are about to participate in a series of unrelated studies that were grouped together for efficiency purposes, and that the first study is about public interpretation of parliament legislation (the full description of the procedure is detailed above). 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. The goal was to examine whether, compared with a neutral law, a non-discrimination law would counter the backlash effect of the NL. 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 think that the law is “a good law” (thus, in this experiment we collected information on support in the NL from all participants). Following the same procedure used in experiment 1, participants were then told that they are transferred to a different study and after a few seconds, they were presented with the same series of short dilemmas concerning the allocation of private and public resources to different minority groups. The remaining procedure and data collection were identical to the first experiment.

**Results**

We subjected the data to a mixed within and between subjects general linear model predicting discrimination from treatment (between subjects), group (Arab/UO/LGBT/USSR; within subject) and sphere (Private/Public; within subject). The general patterns of group-based and sphere-based discrimination were replicated in the second experiment (table and figures provided in the online appendix). The great similarly between these results and the results from the first experiment attested to the robustness of the patterns we detected in the data.

Turning to examine whether a nondiscrimination law may counter the anti-discriminatory backlash impact of the NL, we compared the impact of two legal combinations, NL+ neutral law vs. NL+ Non-Discrimination law, on the supporters and objectors of the NL.[[21]](#footnote-21) Figure 4 plots the results. First, we see the across ideological positions, exposure to the Non-Discrimination Law compared with a 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 the expressive law theory, that predicts that a law that prohibits discrimination towards minorities would foster greater inclusion and less discrimination. However, this result is consistent with reactance theory, as the psychological need to react against the NL may be reduced after exposure to the Non-Discrimination Law. More specifically, accounting for ideological position towards the NL reveals that the source of the effect is the NL objectors. As in experiment 1, the NL objectors were more inclusive towards minorities than the NL supporters in both condition groups (Table 3 provides the means and SDs, F(1,302) = 16.8, *p* < .001). Yet objectors who read the NL followed by the Non-discrimination Law were significantly *less* inclusive than objectors who read the NL followed by a neutral law (Figure 5, right panel). This interaction was significant F(1,302) = 6.2, *p* = .014); the Non-Discrimination law effectively eroded the overall difference between the NL objectors and supporters in their allocation of resources to minorities (see Table 3).

**Table 3. The Countering Impact of the Non-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 |
| Objectors | 2.94 | 0.079 | 2.783 | 3.095 |
| NL + Neutral Law | Supporters | 2.78 | 0.047 | 2.686 | 2.87 |
| Objectors | 3.24 | 0.095 | 3.054 | 3.429 |

In contrast, the Non-Discrimination Law had little impact on the supporters of the NL, which in fact became slightly more inclusive following exposure to the Non-Discrimination Law. The supporters’ increased inclusiveness particularly pertained to LGBT and Arabs, but not to UO (Figure 5, left panel).

**The Countering Impact of the Non-Discrimination Law**



**Figure 4**. The Non-Discrimination Law significantly reduced resource allocation to minority groups among the objectors of the NL, F(1,302)= 6.2, *p* = .014

**The Countering Impact of the Non-Discrimination Law on the NL by Groups**



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

**Discussion**

The second experiment replicated the general trends found in the first experiment with respect to group-based and sphere-based discrimination and with respect to ideological position moderating the impact of the NL. In addition, the second experiment provides additional support to the hypothesis that the rise in inclusiveness under the NL was a backlash response, in line with the reactance hypothesis. On the background of the NL, which expresses exclusion towards national minorities, the law’s objectors become more inclusive towards non-hegemonic minority groups, countering the law’s expression of exclusion with increased inclusiveness. Yet against a context that contains both the NL and the Non-discrimination law, objectors exhibit significantly lower levels of minority inclusiveness. These lower levels are 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—Non-discrimination Law—substitutes for individuals’ reactance against majority nationalism laws. The law’s formal expression of inclusion substituted for individuals’ personal expression of inclusion.

**III. General Discussion**

This paper examined the impact of majority nationalism laws on discriminatory attitudes towards minorities, utilizing the Israeli draft NL as a case study. Several theoretical expectations led 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 towards non-hegemonic 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 carry unintended spillover effects across minority groups and spheres of discrimination.

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 to the expected spillover effects: although the NL does not refer to LGBTs, immigrants from the former USSR, or ultra-Orthodox, and does not apply to private transactions, exposure to the law did shape participants’ attitudes towards these groups and in the private sphere. Lastly, our findings also show that different laws may counter each other’s expressive effects.

 We next 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 continue by defining and discussing the *provocative effect of law* documented in our studies. We argue that this effect was 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.

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

The study of majority nationalism and tolerance towards minorities has pointed to a negative relationship between the legal institutionalization of the dominant culture and tolerance (Weldon 2006; Gibson and Gouws 2000). However, the causal direction of the relationship (and specifically whether law is causing intolerance or merely following it) remained an open question. Our results caution against attributing responsibility over lower tolerance to law. We already noted that citizenship laws are not divorced from political climate and the landscape of public opinion more broadly. Our research design allowed us to hold constant political climate and test 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 impact social norms. The expressive theory of law argues that law can foster change by conveying that a certain norm 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). Scott refers to this puzzle as a “chicken and egg” question. Other scholars are skeptic 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 towards the state’s institutions. Hence, it has no deterrent effect by definition. 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 it, and the experimental setting helps addressing the causality concerns referenced 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 encouragement to the majority to revise its behavior in accordance with these values, at least not in the present setting. It may be that other conditions are necessary to create such a response; expression alone may not be influential enough to suffice.

At the same time, we need to admit the possibility that the opportunity provided by NL, especially given the time in which it was studied, might have created a stage of awareness to the law that have limited the ability to separate the expressive powers of the manipulated text, for those people who were already hearing about the law in the news. 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 admitted as well. Possibly, with exposure to laws to which people were unaware of, as in Scott’s hypothetical dog context, the positive expressive law might have been exacerbated. 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 building the negative emotion triggered by the law, especially for its opponents.

There is another response to the “chicken and egg” puzzle that we can consider using our data. Expressive law theorists often argue that law’s expressive power operates through the general respect that citizens have towards the law and law making process. Advocating such an account, Cooter (1998) 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.” (Cooter 1998, 595). In other words, people may follow the law for respect to 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 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 (Tyran and Feld 2002). 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 objectors strongly qualify this prediction. Objectors of the law responded with reactance, rather than shifting to conformity, instead we see intense reactance. 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-23)

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

The strongest effect we see in Studies 1 and 2 is a backlash by a minority of the sample (around 30%) that objects to the law. The NL objectors report a behavior which appears opposite to that expected under the law: they become more inclusive and generous towards minorities, and 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.

We note that 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 (e.g., a ban on under-age drinking), the NL does not directly impact the reactant group (at least not in the way that a law banning alcohol consumption restricts under-aged consumers). The NL is a constitutional norm that does not address individuals nor does it include any behavioral instructions or individual restrictions. There is no specific mandate in the NL (and specifically not in the draft we used) to discriminate against Arabs, or avoid leasing apartments, authorizing demonstrations, or funding cultural programs. Hence, the type of response provoked by law is more general. Our participants appear to be reacting against the law’s overall expression rather than against its specific arrangements.

An additional difference is in the reactant behavior itself: perhaps because there is no specific freedom which the law clearly eliminates or threatens, the nature of the response is compensatory rather than restorative. Had objectors believed that the law eliminated their previously possessed freedom to treat everyone as equal, we would have expected their reactance to consist of equal treatment of all minorities. But the law’s objectors discriminate between groups even as they 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 that are most influenced 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 non-guilty 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 and respect to the law and its institutions (Nadler 2005). Similar effects are suggested by the literature on law and fairness more generally (Tyler 1990; Sunshine and Tyler 2003).

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 to the content of the specific law they oppose, rather than disobey other laws in general. We propose, in line with our empirical findings, that the Nation law provokes a motivation 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 which would change the behavior of people through provocation. The negative effects of such approach can be consequential, including a potential decline in the perceived legitimacy of law. These findings are particularly relevant at a time that more and more governments enact majority nationalism laws. Such laws may provoke reactance, aimed in particular against the law’s perceived message of exclusion. We discuss some examples at the end.

**The Spillover of Law’s Effects**

 Alongside a provocative effect among the NL objectors and a null effect among the NL supporters, the third type of effect we find is a modest spillover to groups and contexts that the law had not attempted to regulate. The NL concerns the state’s most public resources and reinforces national majority culture vis-à-vis the Arab minority. Hence, the first spillover effect is that the law’s influence extends to the treatment of non-Arab minorities within the Jewish majority group: gays and ultra-orthodox (each of these groups was affected differently but both were affected). Second, the law’s impact extends to the private sphere, despite not regulating this sphere. Law’s provocative effect spilled 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 consider 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 which represents a deviation from that superordinate identity. In the case of 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 objectors, 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.

**The Counterbalancing Effects of Conflicting Laws**

Our final general effect is the counterbalancing effect of multiple laws, which was documented in Experiment 2. The question of how conflict of law might influence attitudes received little attention in the expressive law scholarship and was also not 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 Law 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 also have broad non-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 objectors—adjusted its response following exposure to the Non-discrimination Law. The result was that 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 options. First, that the counter-expressive law reduces the need for reactance caused by the objected law. Objectors might have been relieved to discover that the legal system is actually committed to non-discrimination and hence felt less compelled to act to protect these values.[[23]](#footnote-24) Second, the combination of the two laws might have increased the acceptability and legitimacy of the objected law. Third, if objectors were moved to action by the objected law 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 Law actually applies directly to the private sphere and specifically seeks to improve inclusiveness towards minorities, and yet introducing this law worsened minority treatment by the very people that previously saw themselves responsible to treat minorities better. 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, which our study only begins to explore. More generally, we believe our findings emphasize the importance of considering the expressive and provocative effects of law within a broad and holistic legal context that considers the fact 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 concerns regarding the expressive impact of majority nationalism laws thus requires understanding the broader context that frames the expression of majority nationalism, including the existence of non-discrimination laws. Such examination was not considered by previous studies of these laws and the present study draws attention to the need in conducting it.

**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. That being said, the implication of majority nationalism laws, and 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 without findings of reactance response, President Trump’s executive order banning travel from six Muslim countries—a quintessential majority nationalism law by its public record—provoked substantial objection: for days, “thousands of protesters gathered and marched in cities and at airports across the US, in opposition to the executive order.” (Gambino et al. 2017). Objectors also provided material and legal assistance to refugees and others barred from entering the U.S. Already in 2010 anti-immigration laws in Arizona generated a strong backlash response by progressive and faith-based groups.[[24]](#footnote-25)

Next to this backlash, Arizona’s anti-immigration laws generated an additional response, as documented by Flores (2017): in that case, anti-immigration laws did not change attitudes but did change behaviors, encouraging those with strong anti-immigration attitudes to express their views on social media. Closely related, (Flores 2015) shows that the passage of anti-immigration laws has created a linkage in public opinion between immigrants and crime, which in turn led to increases in guns sale in communities that passed anti-immigration laws. Our own experimental study raises the question of whether such anti-immigration laws have also shaped perceptions of discrimination in the public and private spheres, and whether they had spill-over 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 examine the causal question about law’s influence on tolerance and discrimination. The study 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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1. Netta Barak-Corren is an Assistant Professor of Law at the Hebrew University of Jerusalem. Yuval Feldman is the Kaplan Professor of Law at Bar Ilan University and a Senior Fellow at the Israeli Democracy Institute. Noam Gidron is a Fellow at the Niehaus Center for Globalization and Governance at Princeton University. The authors acknowledge the generous financial support of the Israeli Democracy Institute and would like to thank Ori Aronson, Avishay Ben Sasson-Gordis, Yotam Kaplan, Tamar Kricheli-Katz, Alon Kraitzman, Janice Nadler, Jennifer Oser, Lior Sheffer, Alon Yaktar and participants at CELS 2017 and the 2017 Comparative Constitutional Law Roundtable for excellent comments and suggestions. Marina Motsenok provided superb research assistance and Dana Bublil assisted with data collection. All errors are our own. [↑](#footnote-ref-1)
2. According to the law 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 <http://www.justice.gov.il/StateIdentity/ProprsedBasicLaws/Pages/NationalState.aspx#Comments> (last viewed on 20/12/2016). 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 one 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 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 over banning minarets in Switzerland, see Miller (2016). [↑](#footnote-ref-5)
6. As Brehm and Miron 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, 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 compared to other non-Jewish outgroups, namely foreign workers and non-Jewish immigrants, see Canetti-Nisim, Ariely, and Halperin (2007), Raijman (2010). [↑](#footnote-ref-8)
9. On the treatment of Arab Israeli citizens by the legal system, see Grossman et al. (2016). [↑](#footnote-ref-9)
10. Note that by claiming this, we neither assume nor suggest that the UO constitute a homogenous religious or social groups. Instead, it is evidently clear that the UO are divided themselves across several cleavages such as ethnicity. [↑](#footnote-ref-10)
11. Note that the Jewish Israeli population is also divided across ethnic lines between Mizarhi (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, since we are interested in discrimination of 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-11)
12. Note that Additional immigrant groups and ethnicities participate in consisting the mixture of the heterogenous Israeli society; lacking the ability to research all of them, we focus here on some notable groups. [↑](#footnote-ref-12)
13. See: ‘Survey: 59% percent of the youth are right-wingers’, *Israel Today*, 13.4.2016 [in Hebrew]; <http://www.israelhayom.co.il/article/372957> (accessed November 2 2017). [↑](#footnote-ref-13)
14. Accordingly, we limited our data collection to members of the majority group and did not collect data from the Arab minority. With respect to the other three Jewish minorities, in a preliminary query with several survey companies we learnt that web-based surveys were limited at the time of the study in collecting representative data from the ultra-Orthodox population. Hence, we asked not to 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 –3-4% each; excluding their responses did not change the results, although it slightly improved statistical significance; 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. While the error required discarding the results, 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-15)
16. Attitudes towards the different groups were also correlated with political views and religiosity (being left-winged/non-religious was correlated with greater inclusion of Arabs and gays and discrimination of UO, and vice versa for right-winged/religious). Education and income were correlated with greater inclusion of Arabs and Gays, respectively. We did not find significant correlations between differentiation between public and private spheres and individual differences in education, income, sector, political views, religiosity, and the like. [↑](#footnote-ref-16)
17. Individual-level correlations between social distance and discrimination were also significant. That is, the extent to which participants felt distant from each group was corrrelated 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 percent level). [↑](#footnote-ref-17)
18. A summary of the results of this analysis is included in the online appendix. [↑](#footnote-ref-18)
19. We supplemented the analysis described here with a later effort to collect data about the control group’s attitudes towards the NL. A couple of 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 and provided responses. We compared their responses with those of participants who read the NL before making their decisions, contrasting supporters and objectors in each group. While the reduction in sample size considerably lowered our statistical power, the analysis yielded similar results. [↑](#footnote-ref-19)
20. As noted above, support of the NL is strongly correlated with demographic and attitudinal variables. That being said, the relationship between NL support and discriminatory attitudes remains significant after controlling for these covariates. [↑](#footnote-ref-20)
21. Notably, support in the Non-Discrimination in Public Accommodations Law, the Non-Discrimination Law in our treatment, was very high: 92% of the participants thought that it is a good law. [↑](#footnote-ref-21)
22. We note that some accounts of the expressive law theory can be sensitive to the draft status of the NL. While our results show that the NL correlates positively with popular attitudes and opinions, in addition to being promoted by multiple parties in the parliament and endorsed by the governing coalition, The NL is still in draft form. At least for some accounts of the expressive law theory, this might matter. For example, (Tyran and Feld 2002)’s experiment suggest 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 such legislative process. [↑](#footnote-ref-23)
23. This explanation resembles the “moral licensing effect”, and particularly Kouchaki (2011)’s 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. (Kouchaki 2011). This explanation is supported by the fact that the NL objectors did not become less inclusive than the control group or the NL supporters. But they did discriminate more than objectors that were only exposed to the NL and the neutral law. [↑](#footnote-ref-24)
24. #  ‘Protesters, riot police clash over Arizona immigration law’, CNN, 29.7.2010. <http://www.cnn.com/2010/US/07/29/arizona.immigration.protests/index.html> (accessed on 2.11.2017)

 [↑](#footnote-ref-25)