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Abstract	In Israel, as in other parts of the world, liberals view human dignity and the human rights it inspires and supports as a supreme universal principle, that serves to free the law and the judiciary from populist majoritarian chauvinism that sometimes takes hold of the parliament. The right wing, on the other hand, views human dignity as a doctrine that is foreign to the spirit and culture of the national majority that rules the state (in Israel: the Jewish majority), and demands that the law, represented by the legislature, be liberated from it. This chapter suggests that the right wing attitude promotes national honor as an alternative to universal human dignity. The chapter presents the Israeli struggle over this issue by introducing Israel's 1992 <i>Basic Law: Human Dignity and Liberty</i> , as well as the fierce backlash against it, as manifested in the 2018 enactment of <i>Basic Law: Israel as The Jewish Nation State</i> , and the ruthless attack on illegal African immigrants and judiciary that has tried to secure their human dignity and rights. The final section illustrates the clashing perspectives by reading an Israeli feature film, <i>Manpower</i> .
Keywords (separated by '-')	Human dignity - Honor - Israel's Basic Law: Human Dignity and Liberty - Israel's Basic Law: Nation State - Asylum seekers - Illegal immigrants - <i>Manpower</i> (film)

Does Dignity Promote Law's Autonomy or Undermine It? The Israeli Controversy

Orit Kamir 3

Abstract In Israel, as in other parts of the world, liberals view human dignity and the human rights it inspires and supports as a supreme universal principle, that serves to free the law and the judiciary from populist majoritarian chauvinism that sometimes takes hold of the parliament. The right wing, on the other hand, views human dignity as a doctrine that is foreign to the spirit and culture of the national majority that rules the state (in Israel: the Jewish majority), and demands that the law, represented by the legislature, be liberated from it. This chapter suggests that the right wing attitude promotes national honor as an alternative to universal human dignity. The chapter presents the Israeli struggle over this issue by introducing Israel's 1992 *Basic Law: Human Dignity and Liberty*, as well as the fierce backlash against it, as manifested in the 2018 enactment of *Basic Law: Israel as The Jewish Nation State*, and the ruthless attack on illegal African immigrants and judiciary that has tried to secure their human dignity and rights. The final section illustrates the clashing perspectives by reading an Israeli feature film, *Manpower*.

1 Introduction 19

Does the legal constitution of human dignity and human rights enhance the autonomy of law, or jeopardize it? In one way or another, this fundamental question has polarized several societies in the first decades of the twenty first century. Proponents of human dignity and human rights claim that their legal recognition liberates the law from populist agendas and empowers it to fulfill its sacred mission of protecting individuals from powerful governmental agencies. Opponents claim that by enforcing human dignity and rights, courts undermine and castrate the law that is legitimately legislated and carried out by representatives of the populace, i.e., the majority (which is usually a national majority).

This chapter sketches the manifestation of this heated debate within Israeli society in the twenty first century.

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31 Israel defines itself as the national homeland of the Jewish people. It claims to be
32 both Jewish and democratic. Unlike most democracies, it has no written constitution.
33 In 1992, Israel enacted its *Basic Law: Human Dignity and Liberty*, thus finally
34 embracing via legislation the fundamental tenet of the United Nations' 1948 Uni-
35 versal Declaration of Human Rights. Due to severe disputes and fierce, unresolved
36 controversy among legislators, the basic law is so laconic and opaque that only very
37 creative interpretation can give it operative meaning. Israel's Supreme Court took on
38 the task, and in the years following the basic law's legislation it channeled much of
39 its energy into developing such an interpretation. The court declared the basic law to
40 be Israel's Bill of Rights; it read into it important values and rights (such as equality)
41 that are not explicitly mentioned in it; it read the basic law as authorizing Israeli
42 courts to strike down new legislation that contradicts the basic law and offends
43 human dignity and liberty.

44 The Supreme Court and the judiciary at large, as well as many liberal Israelis,
45 have viewed the basic law and the principle of human dignity that it embodies as
46 expanding and strengthening the autonomy of Israeli law. In this view, the judiciary
47 and the law it pronounces are empowered by the basic law to review both legislative
48 and executive acts, and to protect individuals' human dignity, liberty and rights to
49 the degree of striking down not merely administrative acts, but also offensive
50 legislation. According to this narrative, dignity afforded the judiciary the necessary
51 tools and authority to overcome populist legislation, and to pursue law's true cause:
52 the championing of humanity and its protection from offensive intervention of the
53 legislative and executive branches.

54 The opponents, right wing parties that have held both legislative and administra-
55 tive power in Israel for decades, consider both the principle of human dignity and the
56 basic law (as interpreted by the judiciary) as obstructing the ability of the (right
57 wing) government to govern and the (right wing) legislature to legislate. Dignity and
58 its basic law are claimed to undermine the sovereignty of the people, hence the
59 principle of democracy, as well the autonomy and governance of the legislative and
60 executive branches. In this line of thought, human dignity and the basic law that
61 protects it constitute a liberal dictatorship, overruling the nationalistic sentiment of
62 the majority of Israeli citizens.

63 Clearly, in Israel as in other places, these two lines of argument reflect different
64 understandings of the law and its mission, of democracy, and of "law's autonomy".
65 The right wing argument equates democracy with majority rule and views the law as
66 representing the will of the majority. The autonomy of law is, therefore, a combi-
67 nation of two components: 1. the law's (negative) freedom from universal principles,
68 such as dignity, that are external and foreign to the will of the majority; and 2. law's
69 (positive) power to impose the majority's world view and execute it. In contrast, the
70 liberal argument assumes that the law's definitive mission is to cherish humanity and
71 human dignity and enforce human rights. It stresses democracy's obligation to
72 protect minorities and individuals from a majoritarian dictatorship. In this view,
73 human dignity is not external to the law, but the core of the value system that
74 underlies it. Law's autonomy, in this story, combines 1. the judiciary's (negative)
75 freedom from majoritarianism and populism enacted and enforced by the legislative

and executive branches, with 2. law' (positive) power to protect humanity, through 76
enforcement of human dignity and rights. 77

Presenting the Israeli case, this chapter suggests that the conflict described above 78
can be framed as a clash between a liberal human dignity-based agenda, and a 79
national honor-based one. For liberal Israelis, *Basic Law: Human Dignity and* 80
Liberty has freed the law from complete subordination to national Jewish honor, 81
imposed by the right wing legislature and government. For the right wing, the same 82
basic law subjected national Jewish honor, together with the law that should 83
rightfully convey it, to universal, individualistic human rights, that are external 84
and foreign to the Jewish nation and its culture. These rights express the superiority 85
of the individual and universalist ideology over the nation, thus offending the 86
nation's honor. Furthermore, when bestowed on the nation's enemies, human rights, 87
derived from human dignity, are a clear affront to the nation's honor. 88

In order to flesh out this argument, this article begins with a brief presentation of 89
the exact meanings of both human dignity and national honor, as I understand and 90
use them. Next it presents the enactment in 1992 of *Basic Law: Human Dignity and* 91
Liberty, followed by a presentation of Israel's right wing's backlash campaign, 92
manifested in the ruthless attack on illegal immigrants and in the enactment of 93
Basic Law: Israel as The Jewish Nation State in 2018. Both these developments 94
embody the return of national honor and the weakening of human dignity. The 95
chapter ends with a short analysis of an Israeli feature film (*Manpower*) that presents 96
the persecution of illegal immigrants, and offers a cultural critique that can be 97
phrased in the relevant terms: dignity, honor and autonomy. 98

2 Human Dignity and Honor as Fundamental Moral 99 Attitudes¹ 100

Human dignity is the inherent positive value the enlightenment-based worldview 101
ascribes to anyone who belongs to the human family. It is equally innate to the 102
human make-up of each and every one of us. We can think of it as the moral stamp of 103
"human quality" that is similarly imprinted on every human being and brands us 104
identically from womb to tomb. Dignity does not depict people's empirical value; it 105
constitutes them as normatively worthy by mere virtue of their humanity. In line with 106
Kantian philosophy, since human dignity is the moral value of human subjects as 107
such—it must always be acknowledged, preserved and upheld fully and uncondi- 108
tionally. In this line of thought, it is absolutely prohibited to forgo human dignity and 109
treat any member of the human category with no regard of his or her intrinsic human 110
value; we are forbidden to treat any human being as an object, as a mere means to 111
an end. 112

¹This section summarizes the lengthy presentations of honor and dignity in Kamir (2020), pp. 17–48 and pp. 73–106 respectively.

113 On December 10, 1948, the United Nations adopted the Universal Declaration of
114 Human Rights, which determines in its first article that “[a]ll human beings are born
115 *free and equal in dignity and rights*.” In its opening statement, the declaration
116 proclaims that “recognition of the *inherent dignity* and of the *equal and inalienable*
117 *rights* of all members of the *human family* is the foundation of *freedom, justice and*
118 *peace* in the world” (emphasis added). In this world view, human rights are inseparable from human dignity: our dignity gives rise to our rights. It is in human dignity
119 and rights that we are all equal, and these equal dignity and rights are the basis of our
120 freedom.
121

122 This statement famously came in the aftermath of WWII and the unprecedented
123 brutality that members of the human family forced on each other. Horrified by
124 humankind’s unleashed potential for cruel self-destruction, the world realized and
125 declared that future human survival and prosperity (“freedom, justice and peace”)
126 depended upon a universal acceptance of the tenet of human dignity. Half a century
127 later, human dignity is widely accepted as the foundation of contemporary human
128 rights-oriented culture.

129 Since the Universal Declaration, human dignity is the focal point of contemporary
130 enlightenment-based civilization; it underlies the universalistic, humanistic, secular
131 moral order that many of us adhere to. Yet this veneration of universal human
132 dignity is culture specific; it is by no means shared by all societies and cultures
133 worldwide or throughout the ages. Many cultures have relied on alternative value
134 systems and their alternative focal points to ascribe value, i.e., worth, to their
135 members, as well as to groups and phenomena. The most popular and successful
136 of those types of systems has been that of honor-and-shame. Most traditional
137 societies in most parts of the world adhered—and often still do—to honor-and-
138 shame foundational attitudes, their logic, psychology and economy. What distinguishes a dignity culture from an honor one is that one ascribes every human being
139 absolute, universal, immeasurable worth, whereas the other ascribes each of its
140 members worth, prestige and standing according to his or her relative adherence to
141 the group’s honor norms.
142

143 In honor-and-shame societies, honor is the relative value attributed to and felt by a
144 member of society *vis-à-vis* his peers. This type of value is neither universal nor
145 innate to all members of a group *per se*; quite the contrary, it implies comparative
146 social status, prominence, rank and standing in the hierarchical structure of a specific
147 group. It is admired and sought after, because its accumulation promises superiority
148 over others, hence better living and improved prospects of survival and prosperity. In
149 honor-based societies, shame is dishonor: the absence of honor due to inherent lack
150 or circumstantial loss.

151 In most honor-and-shame societies, honor is partially bequeathed and mostly
152 gained through the careful and disciplined adherence to the norms defined by the
153 relevant honor code. Different honor societies adhere to different honor codes, *i.e.*, to
154 different sets of social norms, sometimes formally acknowledged and often unconsciously internalized. Yet in many honor societies, proud, “manly” self-assertion,
155 bravery, extreme sensitivity to slight, and unreserved, manifested loyalty to group
156 and leader are prevailing honor-norms. A meticulous observance of the appropriate
157

honor norms entitles a person to honor; failure bestows shame. Honor is ceaselessly 158
coveted, achieved, enhanced, accrued and inevitably lost, while shame is dreaded 159
and avoided at all cost. 160

Honor is reserved exclusively to group members. Outsiders, "Others", are 161
deemed honor-less, hence not protected by social rules: offense to them involves 162
no loss of socially recognized honor and is therefore non-consequential. The strong 163
distinction between insiders and outsiders is crucial for the sense of identity of 164
members of an honor-based society. Maintaining their insider's status justifies the 165
harsh struggle for honor they experience throughout their lives. 166

In an honor-revering society, peers are in perpetual competition for honor, always 167
measuring themselves up each against all others. Since social hierarchy is a pyramid 168
and honor corresponds to a position in the pyramid, one member's promotion must 169
entail the demotion of others. The logic of the honor competition is, therefore, as Bill 170
Miller aptly put it, that of a zero-sum-game (Miller 1993, p. 116). Whereas loss of 171
some honor relegates a group member down the social ladder towards the bottom of 172
the pyramid, complete loss of honor entails loss of group membership altogether: a 173
member who lost all honor becomes an outsider. For many group members, this is 174
fate worse than death. 175

Groups that encourage adherence to honor standards among their members are 176
likely to exhibit an honor mentality in their relationships with other groups. Sport 177
clubs whose members compete for honor amongst themselves are likely to compete 178
for honor against other clubs. Similarly, states in which honor competition prevails 179
among their citizens are likely to manifest similar honor-bound conduct in their 180
relations with other states. 181

As this short overview shows, the logic dictated by an honor-and-shame founda- 182
tional attitude differs dramatically from that dictated by a universalistic, humanistic, 183
dignity-based one. Nonetheless, many people around the world are intimately 184
familiar with both, combining them or fluctuating between them in innumerable 185
ways. This is also true of groups, from classrooms and sports teams to countries and 186
nations. Rhetoric, legislation, policies and judicial decisions can manifest a state's 187
dignity or honor mentality, and may enhance it. 188

In the aftermath of WWII and in direct response to it, the international community 189
chose to pledge allegiance to the social order of universal human rights, which is 190
based on the moral foundation of human dignity: the unqualified recognition of the 191
worth attributed to every human being *per se*. The horror evoked by the dehuman- 192
ization and destruction that WWII entailed lasted for the first seventy years following 193
it; it nurtured and sustained the proclaimed international commitment to human 194
dignity and rights. Yet, in the second decade of the twenty first century, this 195
commitment has been subsiding. In my book *Betraying Dignity* I argue that across 196
the globe, commitment to dignity and to the social order it inspired has been replaced 197
by reverence of social structures that derive from, manifest and enhance a very 198
different fundamental value: honor, including national honor. 199

Instead of dignity's equal regard to every individual human being, honor pro- 200
motes fierce competition for dominance and prestige, on both the personal and the 201
collective levels. 202

203 In this context, the argument made here is that Israel is participating in the
204 international trend of betraying dignity and promoting (national) honor. Israel does
205 so by attacking its *Basic Law: Human Dignity and Liberty* and accusing the judiciary
206 of using the law and the principle of dignity to curtail the autonomy of law, i.e., the
207 will of the people, the principle of governance and the spirit of democracy.

208 **3 Basic Law Human Dignity And Liberty: Israel's Attempt** 209 **to Move from National Honor to Human Dignity**

210 In several previous publications I made the argument that Political Zionism was
211 openly and explicitly committed to the transformation of Jews (Jewish men) into
212 men of honor (Kamir 2002, 2004, 2005, 2008, 2011, 2014). Buying into the
213 European (antisemitic) vision of Jews as honor-less outsiders to Europe's nations,
214 Political Zionism aspired to mold Jews into an honorable nation. Herzl and Nordau's
215 portrayal of national Jewish honor was central to their Zionist vision (Kamir 2004,
216 pp. 53–65). Moreover, all sections of Zionism adopted this element, and the Zionist
217 movement at large devoted significant resources and energy to the creation of
218 Nordau's New Jew, i.e., the Jewish Man of Honor. Zionist pilgrims and their
219 *Sabra* (Israeli born) sons distanced themselves from the "Diaspora Jew", building
220 muscles, carrying arms and training in "manly" self-assertion. They were to be the
221 true sons of the bold *Makabim* (Jewish freedom warriors in the second century B.C.).
222 The Jewish *Yeshuv* (organized community) in Mandatory Palestine, as well as the
223 Jewish population of the new Israeli state were greatly immersed in this vision. The
224 establishment of the I.D.F. (Israeli Defense Force) and ongoing war with the
225 neighboring Arab states contributed to the popularity of this vision.

226 Concomitantly, Israel's grapple with its Holocaust trauma played into the Zionist
227 craving for national honor. The systematic extermination of Europe's Jewry was the
228 ultimate offense against human dignity. It was the definitive denial of and assault on
229 the sacredness of humanity and the value of each individual human. Indeed, the
230 unprecedented dimension of this offense to human dignity led the United Nations to
231 establish dignity as the underlying fundamental value of the post-war era. Yet, Jews
232 at large and the Israeli Zionist community in particular, experienced the Holocaust as
233 a colossal offense to Jewish national honor. In the mainstream Israeli discourse,
234 Holocaust victims and survivors were typically referred to as "sheep who went to the
235 slaughter", i.e., as honor-less exilic Jews who shamed the nation by not standing up
236 for themselves; by not fighting back as "men of honor" must; by allowing the
237 nemesis to subdue them, and through them to exhibit superiority over the whole
238 Jewish nation. The sense of national shame was overwhelming, requiring extraor-
239 dinary honorable achievements that would offer relief from the shame, and a
240 regained sense of national honor.

241 The apprehension, in 1961, of Adolf Eichmann, the official who was in charge of
242 exterminating the Jews by Nazi Germany, was viewed as one such achievement. The

1967 war (the "Six Day War"), in which Israel conquered its neighboring Arab states and took over significant territories from Jordan ("The West Bank"), Egypt (The Sinai desert) and Syria (the Golan heights), was another major achievement that served Israel to regain its sense of national honor. The 1973 war (the "Yom Kippur war") was once again experienced as disgraceful and a stain on Israel's national honor; the subsequent Entebbe Operation (in which an Israeli military force liberated hostages that were kidnapped to Uganda on July 4th, 1976) was felt to redeem the nation's honor. Israel continuously valued itself in terms of honor and shame, vacillating between feelings of euphoric honor and devastating shame.

Against this background, *Basic Law: Human Dignity and Liberty* was a historic turning point. Its enactment was a strong signal that Israel was ready to adopt more fully the discourse, worldview and psychology of human dignity. Literal scrutiny reveals that the Basic Law is very laconic, abstract and inconclusive. In fact, it is merely a small portion of a comprehensive Bill of Rights that liberal Knesset Members failed to legislate. Most obviously, the basic law does not mention equality, leaving this fundamental value unprotected. Nevertheless, Israel's Supreme Court declared the basic law to be the country's Bill of Rights, reading into it the protection of rights that are not specified in the letter of the law (Sommer 1997). So, for example, the court read the basic law's protection of human dignity to preclude group-based discrimination, thus reading equality into the statute that does not mention it.

It was the Supreme Court's judicial interpretation and rhetoric that marked the basic law as a socio-cultural turning point, placing human dignity and the derivative universal human rights at the heart of Israel's legal ethos. Supreme Court Chief Justice Aaron Barak did more than anyone to strengthen the hold of dignity on Israel's legal system. Whereas liberal circles applauded this socio-legal reform and willingly cooperated with it, conservative right wing circles rejected and resented it, arguing that the Supreme Court was overstepping its boundaries in advancing an ideological revolution that required wide public support which had never been secured.

The explicit connection between the elevation of human dignity and the demise of national honor was made, in twenty first century Israel, in two contexts: the attack on African immigrants and asylum seekers, and the legislation of *Basic Law: Israel as Nation State*. I suggest that these two cases embody the backlash against dignity and the swing back to national honor, i.e., the backlash against the liberal vision of law's autonomy, and swing back to the right wing's articulation of law's autonomy.

279 **4 Dehumanization of Illegal African Immigrants**
280 **and Asylum Seekers**

281 From the end of the 1990s and until 2012, 30–40,000 Africans entered Israel
282 illegally; many of them were asylum seekers from disaster zones, and others
283 migrated seeking work and livelihood. In 2012, Israel completed the building of a
284 wall on its southern border with Egypt to prevent the entrance of more African
285 migrants. The Convention and Protocol Relating to the Status of Refugees UNHR
286 (12.2010) was crafted in 1951 in the aftermath of the Holocaust, and ratified by Israel
287 in 1954.² The Convention states that refugees shall not be returned to a country in
288 which their life and freedom are endangered. In accordance with the ideal of human
289 dignity, such refugees must be guaranteed basic universal human rights, including
290 freedom of movement, the right to work, and equal treatment without prejudice
291 based on religion, race or sex. A refugee must be treated with dignity as a member of
292 the human family.

293 It was not until 2009 that Israel finally acknowledged its responsibility to examine
294 asylum requests. Even then, it did everything in its power to avoid reviewing such
295 requests: almost none were examined, recognized or accepted.³ Since 2012 this
296 passive tactic of ignoring asylum requests has become an active offensive: the
297 Knesset passed a law, initiated by the government, permitting the state to incarcerate
298 illegal immigrants, pending deportation, for three years or more.⁴ When, at the end
299 of 2013, Israel's Supreme Court (sitting as the High Court of Justice) struck the law
300 down as constituting an affront to human dignity and human rights, the Knesset
301 immediately reenacted it with minor changes.⁵ Again the law was struck down as an
302 affront to human dignity and basic human rights,⁶ and again the Knesset reenacted it,
303 this time authorizing only twenty months of incarceration.⁷ When this third version

²<https://www.unhcr.org/protection/basic/3b66c2aa10/convention-protocol-relating-status-refugees.html>.

<https://www.idi.org.il/articles/2732>.

https://www.mevaker.gov.il/he/Reports/Report_627/8eaa80a0-a426-4424-aefa-8fdc4e8b176a/221-zarim-2.pdf, p. 1427.

³For a thorough discussion of Israel's treatment of refugees see <https://www.vanleer.org.il/sites/files/%D7%9C%D7%95%D7%99%D7%A0%D7%A1%D7%A7%D7%99%20%D7%A4%D7%99%D7%A0%D7%AA%20%D7%90%D7%A1%D7%9E%D7%A8%D7%94%20-%20%D7%9E%D7%91%D7%95%D7%90.pdf>, pp. 23–26.

https://www.mevaker.gov.il/he/Reports/Report_627/8eaa80a0-a426-4424-aefa-8fdc4e8b176a/221-zarim-2.pdf.

⁴https://fs.knesset.gov.il/18/law/18_Isr_301346.pdf.

⁵https://fs.knesset.gov.il/19/law/19_Isr_301620.pdf.

<https://www.idi.org.il/articles/3146>.

⁶<https://www.idi.org.il/articles/3138>.

⁷https://fs.knesset.gov.il/19/law/19_Isr_306608.pdf.

of the law was brought before the Court, it reduced the period of incarceration- 304
without-trial to one year.⁸ 305

This fierce and unprecedented battle between the legislative and judicial branches 306
gave rise to unparalleled attacks by Knesset members on asylum seekers, illegal 307
immigrants, the Supreme Court, the judiciary, and *Basic Law: Human Dignity and* 308
Liberty together with the worldview that it represents. Africans were dehumanized, 309
portrayed as a “cancerous growth”⁹ on the national body and an inherent danger to 310
the Jewish character of the state. The Court was accused of undemocratic judicial 311
legislation, castrating and replacing duly elected members of the legislature. Human 312
dignity and rights were said to override the will of the people and serve the legal 313
system in its attempt to form a left wing, liberal dictatorship. This public atmosphere 314
was instigated by the prime minister (Benjamin Netanyahu), ministers and Knesset 315
members. It reached its peak in 2017, when the government, frustrated by judicial 316
intervention, decided to deport illegal immigrants (including asylum seekers) to two 317
African countries (probably Rwanda and Uganda), which apparently agreed to 318
accept them in return for significant payment.¹⁰ To justify this extreme measure 319
and counter the outcries of human rights organizations over this affront to the human 320
rights of the deportees, the government unleashed poisonous rhetoric, crudely 321
dehumanizing the African immigrants, the judiciary and human rights organizations. 322
Their commitment to universal human dignity and rights was portrayed as disloyalty 323
to the Jewish nation and its state. The Africans were accused of threatening the 324
Jewish majority and Jewish character of Israel, and those who supported them, 325
chiefly the courts and human rights organizations, were denounced as internal 326
enemies who used *Basic Law: Human Dignity and Liberty* to stab the nation in the 327
back and cause its downfall. 328

This phenomenon combined three elements: ruthless dehumanization of a small, 329
helpless minority; rejection of the ideal of human dignity together with the Basic 330
Law that affirmed it; vicious attacks on the judiciary that upheld and promoted 331
dignity and the Basic Law. The minority, human dignity and the Court were all 332
portrayed as threats to national integrity, sovereignty and honor. The Africans were 333
portrayed as external enemies, the Court and human rights organizations as internal 334
ones, hence traitors to nation and state. Human dignity as pronounced in the Basic 335
Law was said to be the tool of traitors who would hold external enemies above the 336
Jewish nation. 337

Furthermore, the Court's repeated interventions in legislation were described by 338
many on the right wing as an attempt to humiliate the legislature, the government 339
and through them the nation, and to override Israel's democratic and justified attempt 340

⁸<https://law.acri.org.il/he/33661>.

⁹<https://hotline.org.il/wp-content/uploads/IncitementAndHateCrimesReport.pdf>, see p. 19.
<https://www.ynet.co.il/articles/0,7340,L-4233655,00.html>.

¹⁰<https://hotline.org.il/refugees-and-asylum-seekers/un-voluntary/>.
<https://www.makorrishon.co.il/nrg/online/1/ART2/476/796.html>.

341 to defend itself against hostile infiltration, “penetration” and take-over.¹¹ The state
342 system of checks and balances was redefined as offensive to the honor of the
343 legislative and administrative branches, and with them—to the honor of the whole
344 nation. The Court’s review of the other branches through the lens of human dignity
345 was constructed as an honor-driven maneuver, used by the Court to humiliate the
346 other branches and enhance its own status. Right wing government and Knesset
347 members encouraged a public outcry to restrain the disloyal, honor-driven court,
348 demote human dignity and rights, revoke the Basic Law, and expel the “foreigners”
349 who “infiltrated our sphere” and “threaten its Jewish character”, and thereby, the
350 nation’s sovereignty and honor.¹²

351 In terms of law’s autonomy, this discourse held that the legislative attack on
352 immigrants, supposedly reflecting the will of the people, represented law’s auton-
353 omy, as well as democracy, sovereignty and governance. By this logic, judicial
354 intervention in support of the immigrants’ human dignity and rights undermined this
355 legitimate, desirable autonomy of the people and the law.

356 Both lines of argument were intertwined in public discourse: law’s autonomy was
357 explicitly identified with national honor, and human dignity was constructed as an
358 impediment.

359 **5 The Legislation of *Basic Law: Israel as A Nation-State***

360 The enactment of *Basic Law: Israel as Nation-State* was often presented as the jewel
361 in the crown of Netanyahu’s right wing government. The Basic Law, enacted after a
362 decade of failed attempts, reaffirms arrangements already enacted in earlier laws (for
363 example, regarding the Israeli flag, the national anthem, and the state’s capital); its
364 value is purely symbolic. Perhaps the single achievement the Basic Law can boast is
365 the demotion of Arabic from its previous status as one of Israel’s two official
366 languages, to a language with a mere “special status”.

367 Nevertheless, the basic law conveys a powerful message: human dignity and
368 liberty no longer enjoy exclusive and superior constitutional status; from now on,
369 national Jewish honor enjoys parallel constitutional status. National honor, hence,
370 has been elevated to the same status as dignity and liberty, as these values have lost
371 their relative superiority. Significantly, national honor triumphed on its own terms,
372 i.e., according to its competitive, comparative, status-oriented logic. In this context,
373 the demotion of Arabic reflects the humiliation of the national Other, hence, once
374 again, the comparative elevation of national Jewish honor.

¹¹ <https://www.haaretz.co.il/news/law/1.2441374>.

¹² *Ibid.*,

<https://www.haaretz.co.il/news/education/.premium-1.2441550>.

<https://www.haaretz.co.il/news/education/.premium-1.2441407>.

The many supporters of the Law say openly and explicitly that its purpose was to “balance” *Basic Law: Human Dignity and Liberty* and to curtail its discourse of universal human rights. In their view, since its legislation in 1992, the Basic Law has been used by the courts, the Supreme Court in particular, as a trump card to overcome any and every consideration, including national Jewish honor. The new Basic Law, this argument goes, will force the judiciary to acknowledge the supremacy of national honor. Additionally, the new Law manifests the triumph of the legislative and executive branches over the judiciary: the two have finally succeeded in imposing their preference of national Jewish honor on the branch identified with universal human dignity and human rights.

Forum *Kohelet* is the right wing, ultra conservative research institute that initially drafted the new Basic Law, and consistently pushed for its legislation. Presenting the draft bill, Forum *Kohelet* stated that it “wishes to put Basic Law: Israel as Nation State on an equal footing with Basic Law: Human Dignity and Liberty. This means that when the Court reviews a request [by a Palestinian-Arab Israeli citizen] to bring a spouse to Israel from an Arab country, the Court will have to balance Israel’s Jewishness against the affront to the dignity and human rights of the individual who wishes to live in Israel with a spouse from an enemy country, and deny it”.¹³ This reasoning leaves no doubt that that new Law was designed to counter the effect of the earlier Basic Law, and curtail universal human dignity and rights.

Read in context, the new Basic Law is meant to allow the incarceration and deportation of illegal immigrants, including asylum seekers, thereby supposedly preserving the integrity of the Jewish state. It is meant to curb the basic human rights of Israeli Palestinian-Arabs in the name of Israel’s Jewishness. It is meant to curtail the judiciary’s commitment to universal human dignity and human rights, and to demote its status vis-à-vis the legislative and executive branches (both controlled by the right wing most of the time since 1977). It goes hand in hand with the discourse, promoted by Netanyahu, of loyalty to nation and the leader who embodies it.

In the legislation of *Basic Law: Israel as a Nation State*, its proponents felt that they enhanced the autonomy of Israeli law. They liberated it from the grip of the external principle of human dignity, and empowered it to convey the agenda of Israel’s Jewish majority.

¹³ <https://kohelet.org.il/publication/%D7%9E%D7%94-%D7%A9%D7%A8%D7%A6%D7%99%D7%AA%D7%9D-%D7%9C%D7%93%D7%A2%D7%AA-%D7%A2%D7%9C-%D7%97%D7%95%D7%A7-%D7%94%D7%9C%D7%90%D7%95%D7%9D-%D7%95%D7%9C%D7%90-%D7%94%D7%A2%D7%96%D7%AA%D7%9D-%D7%9C%D7%A9>.

408 **6** *Manpower: A Film Analysis*

409 Noam Kaplan's 2014 feature film *Manpower* is situated in the southern part of Tel
410 Aviv, in a decaying neighborhood, where lower middle class Israelis and illegal
411 immigrants (mostly from Africa) struggle to make ends meet. The film follows the
412 lives of four men: two Israelis, Meir and Haim, an African whose Israeli nickname is
413 Bamba, and eighteen year old Erez, who was born in Israel to a guest worker mother
414 from the Philippines. Haim, an aging bus driver, is in search for meaning in his life,
415 after his son left Israel seeking a better life, together with his guest worker wife and
416 their son. Erez feels as Israeli as anyone. He struggles to get drafted into the I.D.F.,
417 desiring to protect "the villa in the jungle", as he refers to Israel, from its savage Arab
418 neighbors. Finally drafted, he is not sent to the prestigious air force, as he had hoped,
419 but to serve in the military police, overseeing (i.e., oppressing) Palestinian civilians
420 in the occupied territories. Bamba, a veteran migrant worker from Africa, cleans
421 houses attempting to provide a life for his wife and son. He is a proud, active member
422 of a local African soccer organization, and dreams of improving his situation through
423 determined, hard work.

424 Meir Cohen, the film's protagonist (Yosi Marshak), who, like the film's other
425 characters, lives in southern Tel Aviv, commands a unit of the immigration police.
426 His assignment is to convince African migrant workers to leave Israel "of their own
427 free will". Meir detains Bamba and presses him to cooperate with the police and
428 convince his friends to leave "at will". Refusing the offer, Bamba goes into hiding,
429 but is eventually caught and deported forcefully.

430 The film opens with the image of Meir returning with fellow police officers from
431 an organized visit to concentration camps in Germany. Meir admits to his wife that
432 the visit affected him, and that like his father, he is grateful to have a Jewish
433 homeland. His wife replies that their own home is owned by the bank, and asks
434 whether he finally received the promised salary raise. Meir's difficult economic
435 situation is a recurring motif throughout the film: he repeatedly fails to draw money
436 from ATM machines, and feels humiliated when asking for yet another loan at the
437 bank. When his commanding officer hails the work of the immigration police as the
438 "new Zionism", Meir asks whether they will finally receive the promised compen-
439 sation for the long hours they spend on the streets. But the promised compensation
440 never materializes, and Meir finally leaves the force and offers his services to a
441 private security company. The film ends with him drawing money from an ATM
442 machine, declaring that "everyone is whores".

443 *Manpower* is about Israeli masculinity in crisis. But it is also about honor, dignity,
444 and law's autonomy, as presented in this article. Meir enforces the law that is meant
445 to embody national honor, the will of the people (the Jewish majority), and the
446 nation's autonomy to define its (Jewish) character and to control and restrict
447 immigration. In so doing, Meir offends the dignity of the African immigrants
448 whose homes he invades, and whom he threatens, intimidates, humiliates, and
449 deports. A just, sensitive man, he attempts to minimize the dehumanization his
450 actions entail, but is well aware of the damage done. He tries to justify his actions

by believing that his work is meaningful and important for the national collective. He 451
tries to buy into the Zionist story that his superiors narrate time and again. 452

But unlike the young Erez, who is eager to join the Israeli collective at any cost, 453
Meir slowly sees through the story that national honor requires the enforcement of 454
laws that offend human dignity. He gradually realizes that as he jeopardizes the 455
dignity of African immigrants, his own dignity is also undercut. He causes grown 456
men to hide in attics and defecate in their pants in fear, compromising his consci- 457
ence, while his salary does not suffice to buy toilet paper and other basic goods. 458
He slowly understands that national honor is used to sweet-talk him into offending 459
others' dignity, while his own dignity is similarly compromised by the state that he is 460
said to be serving: his state sends him to impose brutal humiliation and tarnish his 461
soul, while ignoring his basic needs. 462

Meir learns that the national honor that he is supposedly enforcing conceals a 463
much more powerful honor system: a wealth-based one. He discovers that the real 464
distinction is between "the haves", at the top of the honor pyramid, and the "have 465
nots", at the bottom. Both he and the African immigrants belong to the second 466
category. Like them he struggles to buy basic products, and lives in fear of losing the 467
roof over his family's head. Like them, his dignity is constantly threatened. The 468
haves use the rhetoric of national honor to seduce him to offend the dignity of his 469
fellow have nots; but their system does very little to secure his own dignity. They 470
offer him empty rhetoric of national prestige, but not a dignifying line of work or an 471
income to support a dignified standard of living. 472

Honor-based law, that supposedly embodies the autonomy of the nation, comes at 473
the expense of "outsiders" such as immigrants. But Meir finds that it does not protect 474
the dignity of low class "insiders", who are used to enforce it on their neighbors. He 475
sees that offense to dignity does not stop at the door of "outsiders". 476

Meir does not become a human rights activist. But he does opt out of the system. 477
He denounces the rhetoric of national honor and autonomy, accepting that in a 478
wealth-based honor system, it is every man for himself. Focusing on his family's 479
well-being, he stops serving the state that requires of him to enforce the law that 480
supposedly enhances national autonomy. He prefers to sell his time and energy for as 481
high a price as he can get, like everyone else. 482

Manpower does not offer an optimistic vision of oppressed men from different 483
backgrounds uniting in universal struggle to uphold human dignity. But it does 484
suggest a first step. It offers its protagonist a realization that buying into the rhetoric 485
of national honor and autonomy comes not merely at the expense of others' dignity, 486
but also at the expense of one's own. It invites its viewers to realize that liberating the 487
law from the rule of human dignity is destructive to everyone, including the law 488
enforcers. This view of dignity and law's autonomy has not been popular in Israel in 489
the first two decades of the twenty first century. *Manpower* went unnoticed and 490
failed to incite public interest and discussion. 491

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