FOUR PROBLEMS WITH THE NATION STATE LAW
By Brent Sasley – The Jewish Forward

ONE: The most obvious problem is that enshrining Israel as the nation-state of the Jewish people makes constitutional the second-class status of Arab citizens. Netanyahu's bill does mention democracy and individual rights, but (unlike the Declaration of Independence) it does not refer to the equality of all Israel's citizens. By tying Israel's identity only to one people, it gives them constitutional privileges no other community can have access to.

TWO: The bill and others like it weaken the commitment to democracy. By privileging Jewishness (itself a vague term) over democracy — the bill does not lay out the set of fundamental rights associated with democratic regimes — such a Basic Law would elevate Jewish ideas, practices and religious rules over the range of individual freedoms that come with democracy if the two were perceived to be in conflict with each other.

THREE: The Basic Law would institutionalize *halacha* as the inspiration or basis for Israeli law. Netanyahu's bill has called only for *Mishpat Ivri* to be inserted into the Basic Law, rather than *halacha* itself. *Mishpat Ivri* refers to elements of Jewish religious law concerned not with religious aspects of public life but "civil" or other elements of modern jurisprudence, like property rights.

FOUR: By constitutionally defining the State of Israel as a Jewish state at a time when members of the government pushing the bill are trying to expand the state's official borders, it's possible that the "Land of Israel" might be brought into the discussion. Ultra-nationalists and religious nationalists expect the State of Israel to encompass the whole Land of Israel (i.e., the West Bank). Because no government has, since 1967, specifically defined Israel's borders, a Basic Law that defines Israel as Jewish involves an implicit reference to these expanded borders, and gives constitutional force to efforts to annex these lands. It also complicates peacemaking, as Israeli negotiators might be constrained in what they can offer by the Basic Law.

Basic Positions Concerning the Dilemma: "A Jewish and democratic state"
The Jewish People Policy Institute

1. 11The project was able to identify views at both ends of the spectrum: those who express an unequivocal preference for the democratic element over the Jewish, and those who express the converse. However, the dominant view was unmistakable: the desire to see an Israel that is both Jewish and democratic, and the assumption that such a combination is certainly possible, despite the tensions involved.
2. 11The ambiguity inherent in the precise definition of "Jewish and democratic" is perceived by many as an advantage as it makes it possible to maintain partnership and avoid factionalism and division.
3. 11For many Diaspora Jews, democratic values are considered "Jewish values." Thus, actions that erode Israel's democratic values are seen as detrimental to Judaism and to the definition of Israel as a Jewish state. If

Israel is not a liberal democracy, its attractiveness to many Diaspora Jews will erode.

4. 22A sharpening of the concrete tensions between "democracy" and "Judaism" shows that there are two camps among the majority who generally see these values as congruous: those who see Israel's democratic identity arising from the state's Jewish foundations, and those who emphasize the opposite arrangement. This finding is expressed in the way in which the two camps examine and develop their opinions with regard to the practical dilemmas that characterize life in a "Jewish and democratic state."

Expectations of Israel

1. 22 It is clear that many Diaspora Jews recognize the difficulties and constraints Israel faces given the regional hostility and security threats. At the same time, the majority does not consider this reality, and the fact that Israel's neighbours do not adhere to principles of democracy and human rights, as justification for lowering the high values bar Israel is expected to maintain. The regional reality also does not grant Israel immunity from criticism.
2. 22Criticism heard in the Diaspora on aspects of Israel's conduct in Jewish matters is often based on arguments rooted in democratic values, just as criticism of aspects of Israel's conduct in the democratic field are often based on arguments rooted in Jewish values. This shows the high correlation between the two concepts as perceived by the majority of Diaspora Jews (for example, the criticism of the Orthodox monopoly in Israel and the deprivation of other streams is largely rooted in arguments based on democratic values).
3. The debate over Israel's identity as a Jewish and democratic state showed that Diaspora Jews have a variety of expectations of Israel:
    - That Israel be pluralistic;
    - That Israel strive for a reality in which it does not rule over the Palestinians;
    - That Israel put an end to the Orthodox monopoly over Jewish life and give equal standing to all Jewish streams;
    - That Israel avoid imposing religious norms on its mostly secular civil society;
    - That Israel prevent dissipation of its Jewish character by strengthening its citizens' knowledge of Jewish history, traditions, and values.

Unique Aspects of Diaspora Views on the Issue:
Diaspora Jews look at Israel's identity in their own unique ways:

1. 22Israel's character has significant influence on how "Judaism" is regarded around the world by Jews and non-Jews. For example, it is likely to affect the degree of the young generation's devotion to its Jewish identity, and at the same time is likely to affect attitudes of non-Jews toward the Diaspora Jews who live among them.
2. 22Diaspora Jews are members of a minority group in their home countries; in Israel, Jews are the majority. This distinction is relevant to the great

importance that Diaspora Jews attach to minority rights in Israel and to human rights in general.