

Supreme Court Strikes Down Jerusalem Passport Law

June 8, 2015, Washington, D.C.: The Louis D. Brandeis Center for Human Rights Under Law (LDB), expresses its disappointment over the Supreme Court's decision to strike down a Congressional law that would have allowed Americans born in Jerusalem to list their birthplace as Israel on their U.S. passports.

LDB President Kenneth L. Marcus said of the Supreme Court's decision, "It seems that both the [U.S. Department of State](#) and the [U.S. Supreme Court](#) seem to have forgotten that Jerusalem is in Israel. This is a regrettable decision. It will no doubt be revisited during the coming U.S. presidential campaign. With any luck, rationality will prevail in the end, although it may take another presidential administration to get this right."

As an organization fighting anti-Israel bias, [LDB expresses its concern](#) over the refusal to accept Jerusalem as within the sovereign of Israel because, as it explained to the court, "the discussion of matters pertaining to Israel often invokes double standards and unduly tortured logic that would uniquely disfavor the Jewish national homeland, and thus negatively impact the status and personal security of Jews the world over."

In a 6-3 decision, the Court ruled that Congress did not have the authority to pass the law since it ran counter to the State Department's policy of not recognizing any nation as having sovereignty over Jerusalem.

[LDB](#) is a national, non-partisan, Washington, D.C. based non-profit organization that works to advance the civil and human rights of the Jewish people and promote justice for all. Last summer, LDB filed an [amicus brief](#) on the 'Jerusalem Passport Case' before the Supreme Court in support of the plaintiff's wishes to have "Israel" listed as his place of birth on his passport. The brief, co-authored by leading scholars [Alan Gura](#) and Eugene Kontorovich, argues that the that this case "lends itself to a much simpler resolution than would a true dispute between the president and Congress regarding the powers to recognize the legal status of states and foreign sovereigns."

The brief further argues that if Congress is to exercise its powers over immigration, nationality, foreign commerce, and war, then the President cannot override Congress's ability to identify the present on-the-ground reality of who governs a particular patch of land. As a result, since the United States indisputably recognizes both the sovereign State of Israel, and its (Jerusalem based) government, the question here is not about "recognition," but rather about mere acknowledgment of Jerusalem's location.

Unfortunately, the Supreme Court struck down the Congressional law in what Chief Justice Roberts casts in his dissent as dangerously groundbreaking. "The court takes the perilous step — for the first time in our history — of allowing the president to defy an act of Congress in the field of foreign affairs," Roberts wrote.

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About the Louis D. Brandeis Center for Human Rights Under Law: LDB is an independent, unaffiliated, nonprofit corporation established to advance the civil and human rights of the Jewish people and promote justice for all. LDB combats the resurgence of anti-Semitism on college and university campus through research, educational programs, and advocacy. It is not affiliated with the Massachusetts University, the Kentucky law school, nor any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice.