



31 October 2011

Prime Minister Binyamin Netanyahu  
Government Ministers

Re: **Proposed Basic Law: Israel the Nation-State of the Jewish People**

MK Dichter and other Members of Knesset recently tabled the above bill, which seeks to redefine the identity and character of the State of Israel, and to anchor it in a Basic Law. We present below the position of the Association for Civil Rights in Israel (ACRI) regarding this bill from the perspective of safeguarding democracy and human rights.

It should be noted at once that the current wording of the law would lead, in an unprecedented manner, to the subordination of the democratic character of Israel to its definition according to the law as a Jewish state. Thus, the wording of the law would violate the human rights of all citizens of Israel, a violation directly derived from the severe erosion this Basic Law would cause to the status of democracy in Israel.

Furthermore, this law includes other grave human rights violations, above all violations of the rights of Israel's Arab minority, which constitutes approximately 20% of the state's citizens. Such a breach of the rights of a fifth of Israel's citizens undermines the right to equality, and in itself constitutes a severe harm to Israeli democracy, whereas civil equality is one of the main pillars of democracy. The proposed bill, which contains many discriminatory provisions, opens the door for the institution of additional and broader practices of racial discrimination in all walks of life.

The legislative process of this bill is also problematic and inappropriate. The question of the definition of the state is an important constitutional question with fundamental ramifications for the State of Israel and for all its citizens, and it includes practical aspects as well as complex symbolic ones. This is a question that is mired in controversy among various population groups – first and foremost between the Jewish majority and the Arab minority. As is known, most of the Jewish citizens of the state see the State of Israel as a homeland, in which they realize their collective rights, including their right to national self-determination. At the same time, most of the Arab citizens of the state, which are an indigenous minority, see the definition of the State

of Israel as a "Jewish state" as violating, in and of itself, their right to be equal citizens and their right to preserve and express their collective identity and their joint vision.

Dealing with the conflict that these positions could generate must be done in a manner that safeguards the rights and interests – both collective and individual – of all groups in society, and will not turn some of the citizens into second-class citizens. Therefore, this matter must be handled by holding a thorough debate that engages the entire public – a debate through which, to the extent possible, suitable and broad-based agreements would be formulated; all while maintaining the basic principles of a substantive democracy.

It is saddening and troubling that the current proposed bill seeks, like a bull in a china shop, to establish sweeping and damaging arrangements with regards to the definition of the state, which dangerously subordinate the democratic character of the state to its definition as a Jewish state, threaten the collective and individual human rights of all its citizens, and severely infringe on the rights of the Arab minority in Israel.

Some of the severe violations of human rights and democracy, contained in this bill, are detailed more extensively below:

1. **Subordinating the democratic character of the state to its Jewish character** – In this bill, Israel is defined primarily as a Jewish state, and it is even stipulated that this and all other laws be interpreted accordingly. The word “democracy” appears in a separate clause, and no parallel stipulation is made for interpreting laws in accordance with the democratic character of Israel. The meaning of this is that the term "democracy" is de-facto subordinated to Israel’s being a “Jewish” state, second in importance, and even interpreted accordingly. **We vehemently object to subordinating the democratic essence of Israel to any other characteristic.**

The wording further detracts and diminishes the subjugated status of democracy by noting that “Israel has a democratic regime” rather than stating that “Israel is a democracy.” The proposed bill thereby seeks to abolish the perception of democracy as substantial to the description and definition of Israel, with all that this implies, and makes do with "democracy" as a formal description of the type of regime in Israel. Furthermore, the bill at no point relates to the *meaning* of democracy, and strikingly absent are any references to the fundamentals of a substantive democracy – including a commitment to complete equality to all citizens, a commitment to safeguarding the human rights of all, and more.

The potential significance of eroding the democratic nature of Israel, as manifested in this proposed Basic Law, is ominous, and constitutes a threat to the human rights of all citizens of the state.

2. **Eliminating Arabic as an official language** – This bill proposes demoting Arabic from its status as an official language, which it has had until now, to a “special status” language and this only for purposes of ensuring linguistic access to state services. Beyond the breach of the status quo, this is a violation of the fundamental rights of a national indigenous minority in Israel. Language is a part of the identity, heritage, and culture of this minority, and further allows it to preserve its rights and equal status in the state.
3. **Entrenching racial discrimination in housing** – This bill proposes allowing for a sweeping and unconditional separation in housing based on religion or national identity (clause 9(b)). And if this were not enough, the ability to discriminate is granted with clear preference to "Jewish settlement," only for which “the state shall allocate resources” as a legal requirement (clause 6). The law thereby cleanses, and even makes a statutory norm of, existing practices of racial discrimination in Israel, and even lays the general groundwork for racist separation in all aspects of life based on national identity and religion. It is superfluous to note that such racist separation toward Arabs in Israel, as well as other minorities, qualifies as “racial discrimination” as defined by the International Convention on the Elimination of all Forms of Racial Discrimination.<sup>1</sup> It is also important to note that a legal provision that permits a state to discriminate based on nationality in determining a place of residence or in the administration of state-owned lands is invalid as it contravenes the Basic Law: Human Dignity and Liberty in its violation of dignity and equality.

**We call upon you to dissociate yourselves from this dangerous proposed bill, thereby ensuring the protection of democracy, equality, and human rights in the State of Israel.**

Respectfully yours,

Atty. Debbie Gild-Hayo

Atty. Dan Yakir

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<sup>1</sup> “... any distinction...or preference based on... national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Article 1.1).

Director of Policy Advocacy

Chief Legal Counsel

CC: President of Israel  
Speaker of the Knesset  
Members of the Knesset  
Attorney-General  
Knesset Legal Adviser