

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في اسرائيل
The Association for Civil Rights in Israel



October 24, 2013

Ms. Tzipi Livni
Justice Minister & Chairwoman of the Ministerial Committee on Legislative
Affairs

Government Ministers on the Ministerial Committee on Legislative Affairs

Dear Sirs;

Re: National Service Bill - MK Yarin Levin (275/19) - Amended Version

Further to our letter of July 1, 2013, we once again call upon you to oppose the proposed bill in question, as even under the revised and more limited formulation, there are severe flaws that are not sufficiently addressed.

This amended bill, though it is narrower in its scope, continues to exclude and delegitimize minority groups, infringe upon equality and other fundamental rights, increase social disparities, and push entire segments of the population that are already suffering from exclusion and discrimination in Israeli society to the social and economic margins of society.

Content of the Revised Bill

- 1) The only significant positive amendment in the bill is the revised definition of what constitutes national service (in Section 1 of the bill). The new definition limits the benefits to discharged soldiers within seven years of their date of discharge (or date of a rejection of an application to perform national or civil service), and reservist soldiers who serve at least 14 days each year. In this way, the bill more carefully defines a narrower group that will receive benefits and ensures a direct and immediate connection between the benefits the bill seeks to provide to discharged soldiers and the completion of their service. This new definition prevents wide-scale and indefinite discrimination against certain groups in society for the benefit of a particular group.

- 2) Despite this, other components of the revised bill do not address the essential problems that were a part of the original bill. In the updated bill, the intention is to preferentially allocate limited public resources, of which the state is obliged to ensure equal distribution and even affirmative action. The bill sets preferences in the allocation of state-supported student dormitory places (Section 4) and in the allocation of land for residential purposes (Section 5 – 30% of government tenders to be allocated to beneficiaries). It must be emphasized that excluding more vulnerable population groups (Arabs, Ultra-Orthodox Jews, women who do not serve, people with disabilities, etc.) from these resources goes against what has been government policy for many years.
- 3) The bill seeks to grant beneficiaries preferential treatment in the private sphere and thus encourage discriminatory and racist behavior in the wider public: in private sector hiring practices (Section 2 – giving preference to those who served in the military will not be considered prohibited discrimination), provision of public services, and access to public places and entertainment venues (Section 3 – preference for those dressed in uniform).
- 4) The amended version of the bill, like its predecessor, sets in practice unacceptable moral norms under which the state is more committed to realizing the rights of those who serve in the military than those of the rest of the citizens of the state.

Failures of the Bill

Preference in the allocation of public resources

- 5) As mentioned above, even the amended version of the bill seeks to exclude and de-legitimize certain population groups in their entirety. First and foremost among these is the Arab population of Israel. The bill violates basic social rights, including equality, and increases the social gaps suffered by whole groups within Israeli society that are already being pushed to the social and economic margins of society and suffering from sustained discrimination and exclusion.
- 6) It is essential to emphasize from the outset that exemptions are generally given from military service (Arabs, ultra-Orthodox, the disabled, religious women and married women, etc.) in accordance with the law and based on settled political, historical and social agreements that have been accepted since the establishment of the state. This means that the bill is essentially financially and socially punishing these groups for operating in accordance with the law.
- 7) It should be taken into consideration that in the current Israeli reality, it is precisely these groups that are legally exempted from military service that suffer from severe discrimination in all walks of life. These include central and essential aspects of life that are targeted in the bill at hand –

education, employment and housing. It is not a coincidence that the groups that this bill will affect – Arabs, ultra-Orthodox, disabled peoples, women, etc – are the subjects of a variety of affirmative action laws enacted by the government (including very recently) specifically in order to better integrate these groups into the social and economic heart of the country. Now all of a sudden, this bill seeks to erase the declarations, commitments and concrete efforts by the government to act against the inequality and discrimination already existing against these groups.

- 8) In this context, it should be noted that the present bill essentially establishes a mechanism of “affirmative action” for those who served in the military. But affirmative action is a tool designed to strengthen and promote disadvantaged and marginalized populations, and not a mechanism to further privilege the already dominant group. Despite and contrary to the explanatory memoranda, data in Israel does not reveal that groups that engage in national service are disadvantaged: neither in higher education, the labor market, nor in any other aspect of life. If anything, it is quite the opposite. The group is generally a strong social group for which service usually provides an advantage over other groups, and sometimes a genuine professional edge. It should be further noted that contrary to the explanatory memoranda, those who do not engage in national service are often not properly integrated within society. Neither at 18 years of age, nor later during studies, employment, etc. This occurs as a result of a series of obstacles and social and economic constraints that contribute to the discrimination they experience. To further illustrate this fact, it is possible to observe as an example the kind of barriers that face the Arab population in connection with higher education and employment. The percentage of that population group that obtains a high school diploma is dozens of percentage points below the high school graduation rate of those who serve in the military. Psychometric (university entrance exam) scores are also lower, as is the percentage of those accepted to a higher education institution. Due to economic or social barriers, many are unable to leave their parents’ homes and rent apartments and many cannot even afford the tuition costs. Even if they are able to attain higher education, an enormous percentage of Arab academics are unable to enter the labor market. These are just some of the barriers facing the Arab population. Similar barriers exist for women, disabled persons, ultra-orthodox Jews and other groups, in all walks of life – education, employment, housing, etc. That these barriers exist is absurd, and the government has been trying to confront and solve them for many years.
- 9) It should be noted in passing, that the proposed law discriminates not only against those who don’t serve in the military, but discriminates differently among the different forms of service that exist. Equal preference is granted to those who perform combat service as for those who perform non-combat duties; to those who complete a full service of 2-3 years as to those who complete a single year of national/civil service or a shortened service of 14 months for religious soldiers; for those who

perform reserve duty and those who do not; for those who pursue a professional career in the military and for those who do not; for those who entered into a military educational establishment and to those who do not; for those who worked or studied in parallel with their service, etc. This internal discrimination refutes the central basis of the bill, which is that the population who serves is entitled to compensation due to the fact that they are allegedly compromised by the very fact of their service. This discrimination indicates that first and foremost, the intent of those who support this bill is simply to distinguish between those who serve and to provide them with comprehensive preferential treatment, regardless of the degree of practical justification, and at the expense of all other population groups.

- 10) It should be noted that this bill focuses on particularly scarce public resources, which, according to the law, the state must divide equally among all citizens. The allocation of these resources (higher education, housing and employment) is a critical tool for integrating all citizens into society. This proposal will not only cause discrimination in the allocation of limited public resources, but will do so on the basis of nationality, religious affiliation, gender or disability.
- 11) We believe that it is acceptable to compensate and/or provide benefits to those who serve in the military or perform civilian national service and devote a significant portion of their lives to this service, often under difficult and even life-endangering conditions. As stated above, this would require an amendment of the definition of who is entitled to receive benefits to ensure a more direct relationship between military service and the time in which benefits are bestowed. The benefits/compensation must be immediate and direct – such as salaries, bonuses, etc – rather than infringing upon the rights of other groups in society and causing an increase in social gaps and inequality. In this context, it is important to clarify that the law already provides for extensive financial benefits and arrangements for military personnel (including preferential treatment for higher education, daycare services, etc.)

Discrimination in the Private Sphere

- 12) Apart from state-level discrimination, the bill also promotes racist and discriminatory behavior in the private sphere. In private hiring practices, provision of services and access to public places, the bill would permit discrimination against those who did not perform national service. This discrimination will necessarily be directed against those who belong to certain national, religious, gender or disabled groups. This can fairly be expected to lead to a rise in actual discrimination against entire groups and an intensification of their exclusion from all areas of life by the general public.

Conditioning Rights on Obligations – An Unacceptable Ideological Viewpoint

13) In addition to all of the above, it is imperative to point out the unacceptable ideological tenet that this revised bill continues to promote – basing the realization of fundamental social rights (in this case: the rights to equality, dignity, education, housing and employment) on what is termed ‘contributing to the nation’. This tenet may in itself justify the rejection of this bill, since its acceptance would represent a grave step towards a long and slippery slope that would see stipulations arise to promote and protect rights (of groups or individuals) according to a classification scale of how much they have contributed to the state. **This is the ideological implication raised in this bill (of course it has legal implications too), and if it is approved here in relation to military service, then it will also be allowed for ‘contributions’ of other forms. We must reiterate that since military service is performed by certain groups as a legal duty, the discourse over conditional rights based upon a ‘donation’ are a double injustice for relevant population groups – more than just exclusion and discrimination, this becomes also de-legitimization, slander and punishment performed with impunity.**

In light of the above, we urge you to oppose this dangerous bill - a bill that is morally unacceptable in and of itself, and that could set a dangerous precedent for democracy whereby the fundamental rights of every citizen become only conditional rights.

Sincerely,

Attorney Debbie Gild-Hayo
The Association for Civil Rights in Israel
Director of Policy Advocacy

Copied in:
Attorney-General