



December 12, 2013

To

**Ms. Tzipi Livni**

Minister of Justice

Chairwoman of the Ministerial Committee for Legislative Affairs

**Members of the Ministerial Committee for Legislative Affairs**

**Urgent – Prior to the Ministerial Committee for Legislative Affairs Meeting -  
15.12.13**

Dear Sir or Madam:

**Re: Bill for the Amendment of the Income Tax Ordinance (Support for Israeli  
NGOs by Foreign Political Entities) – By MKs Shaked and Iltoz (1672/19) –  
Position Paper**

In preparation for the expected meeting of the Ministerial Committee for Legislative Affairs on Sunday December 15, 2013 on the abovementioned bill, the following is the position of the Association for Civil Rights in Israel. Our position is that this bill is an improper and anti-democratic piece of legislation that violates certain fundamental rights. As such, we call upon you to oppose the passage of this bill.

It should also be noted that the previous Knesset unsuccessfully attempted to pass a series of essentially identical bills, due to the severe nature of the damage they would have caused to civil rights and democracy in Israel.

**Introduction – Political Persecution: Damaging the Foundations of  
Democracy and Human Rights**

- 1) The sole purpose of the bill in question is to persecute third sector organizations, including human rights organizations promoting social change, whose agenda or whose activities is not supported by different Members of Knesset or government ministers.
- 2) The underlying claim behind this bill, the issue that ostensibly bothers those who initiated it, is the illegitimate interference of foreign nations in sovereign Israeli matters. This claim is unconvincing and stands in marked contrast to the behaviour of the state and its attitudes towards

those countries. It is puzzling, even absurd, to suggest that foreign countries are trying to undermine Israeli sovereignty and interfere in its internal affairs. The State of Israel is seeking to be a part of the family of nations, and is thus inextricably linked to those countries through a broad array of treaties, agreements, exchanges and other areas. Moreover, the basis to Israel's diplomatic relations with other democratic countries is the existence of shared values, first and foremost – democracy and human rights (see on this matter agreements signed by Israel with the European Union and other relevant parties). Israel receives financial advantage from its relations with these other countries, through trade agreements, investments and loans, and foreign assistance to an enormous scale (many billions of dollars). In addition – the involvement of foreign investment by other countries is evident in all areas of life: education, culture, health, welfare and of course security. One can almost certainly say that the effects and implications of foreign “interference” in all or most of these fields, have a far greater effect than the implications of foreign donations given to human rights organizations (the European Union transferred a sum of 158 million Euros in 2010, of which only 1.8 million Euros were transferred to human rights organizations.)

- 3) It should be made clear that the support of foreign nations in the realm of democracy and human rights in Israel (and the world) is a direct result of the horrors learned from World War II, where countries did not stand up against injustice. The events of World War II led the countries of the world, including Israel, to form a family of nations, and in doing so take care to defend democracy and human rights.
- 4) On the other hand, accepting that the initiators of the bill hold no fear of foreign intervention or influence over Israeli sovereignty via the financial donations of foreign organizations or individuals, Jewish and non-Jewish, reveals one inescapable truth - that the intent of those who proposed the bill is to harm only those activities carried out by organizations whose views are unwelcome in the eyes of the initiators of the bill and/or others in the government and Knesset.
- 5) It is unfortunate and alarming that we must reiterate the principles of a democratic system of government. Anyone with sense knows that the existence of democracy in general, and a flourishing democracy in particular, requires that freedom of expression, freedom of association, and the freedom to public criticize and protest be protected. This is necessary with regards to all opinions and attitudes, even those not to the liking of everyone.

### **Substance of the Bill**

- 6) The bill illogically combines – to the point of absurdity - legitimate and illegitimate objectives of organizations' activities, for example:

- a. Sections 1(4) - "Incitement to racism" and 1(5) - "Support for armed struggle" - are objectives that are already forbidden by criminal law, and the NGO Law even states that organizations promoting such objectives can be shut down or not be approved. Therefore, it is not clear what exactly the bill purports to establish - that it is permissible to donate for the promotion of these objectives - incitement and terror, but that these donations should be taxed?! If this is not the intent (and we hope it is not) then it seems that the inclusion of these objectives in the list of prohibited objectives is nothing other than an attempt to discredit, incite against and delegitimize third sector organizations in a deceitful way by presenting the list of causes as a single entity, supposedly equal in meaning and severity.
  - b. Sections 1(1) - "Calling for soldiers to be tried abroad" and 1(2) - "Calling for a boycott" deal with expression that is legal and permitted under Israeli law, even if frowned upon by the drafters and/or others, and even if they are viewed as extreme or even harmful. They are tools of protest and/or permitted political and legal activities which cannot be dealt with by means of tax sanctions that harm freedom of expression. A country that seeks to be democratic and protect human rights must have the will and ability to accept radical acts of protest as long as they are legal and permitted, and the law cannot be overridden - and rights of expression limited - via indirect sanctions.
  - c. Section 1(3) - "Negation of the existence of the State of Israel as a Jewish and Democratic State" - this would forbid the possibility of expressing an opinion about the character of the state. It speaks to an ideological position under which there are many and varied interpretations, as well as legitimate disagreements, and therefore should not be need not be prohibited. No political, administrative or professional actor in the government can decree which statements negate the existence of the state of Israel as a Jewish and democratic state. This is an extremely wide wake, given to interpretation based on the worldview of every individual, and therefore it cannot and should not be anchored as a basis for taxation.
- 7) The bill also establishes that the taxing sanctions can be imposed on a donation to an organization even if the prohibited activity in question is the private activity of a member of the organization's management and has no connection to the organization or its objectives. This is a violation of the freedom of expression and activity of the organizations' members as well as collective punishment of the organizations because of acts that are not related to them.

## **Conclusion**

A democratic state must ensure, as a condition of being democratic, the freedom of expression and association, and pluralism of opinions, thoughts and activities. A democracy must not restrict political, social or other activity on the basis of the political, religious or social worldview of part of the state's population, exploiting that group's political power at a given moment in order to banish those out of its favor from the scene. That is not a democracy defending itself – it is simply not a democracy.

We call on you to oppose the bill in question and to ensure the continuation of the important activities of civil society in Israel, the freedom of association, and the freedom of expression of all the state's citizens and residents, regardless of their worldview.

Sincerely,

**Debbie Gild-Hayo**

Director of Policy Advocacy

The Association for Civil Rights in Israel