



Anti-NGO Legislation in the Israeli Knesset
Updated June 2016

Background

Recent years have seen a growing trend of legislative attempts to erode the strength of democratic institutions in Israel. One of the central elements in this wave of anti-democratic activity have been bills that seek to undermine and delegitimize civil society organizations whose positions or agenda do not match that of the ideological majority. Non-governmental organizations that focus on human rights, civil liberties, rights of migrants and asylum seekers and organizations that advocate for peace or Palestinian rights have found themselves subjected to attacks that aim to damage, misrepresent or eliminate their activities.

Though no legislation has yet been passed by the Knesset, the fact that politicians and public leaders use this issue to arouse populist sentiment against these groups contributes to a growing delegitimization that serves to undermine the inviolability of free expression and freedom of association.

Past Examples of Legislation

December 2013: Anti NGO Bill (MK Ayelet Shaked – Currently Minister of Justice)

- This bill sought to impose harsh taxes on all donations from foreign state entities to Israeli NGOs that implicitly or explicitly support certain actions such as calling for boycotts, divestment or sanctions against Israel, calling for the prosecution of Israeli soldiers at international tribunals, etc.
- Attorney General Yehuda Weinstein expressed that this bill would violate a series of constitutional rights and that the 'tax penalty' is "a kind of punitive measure, which aims to create a 'chilling effect' and prevent donations to organizations, thus harming free discourse in Israel".

March 2014: Anti NGO Bill (MK Miri Regev – Currently Minister for Sport and Culture)

- This bill was an amendment to the existing Non-Profit Organizations Law according to which the state will be able to prevent an organization's registration if any of its objectives contradict the definition of *'Israel as a Jewish and democratic state'*.
- This bill sought to disqualify organizations on the basis of a vague ideological term whose interpretation depends on the political, social and religious worldview of the interpreter.

Current Status of Anti-NGO Legislation in the 20th Knesset

During the 2015 elections, recently appointed Ministers Ayelet Shaked and Yariv Levin announced that they would advance a new Anti-NGO Bill that would inhibit certain (i.e. left-wing) NGOs from obtaining funding from foreign sources. The draft bill they presented would require that NGOs obtain approval from government officials for all foreign donations and declare on all public communications that they are funded by "foreign agents". Failure to abide by these strict standards could lead to the dissolution of the NGO.

In the Coalition agreement signed between Bayit Hayehudi (the Jewish Home Party) and Likud, it was formally agreed that such a Bill would be advanced during this Knesset, and in the event that is suspended in the Ministerial Committee for Legislative Affairs that it would be brought before the full government. While the other coalition parties are not bound by this agreement, it is unlikely that they will oppose these initiatives as there is little political advantage in defending human rights organizations.

In November 2015 the government released a proposed bill –drafted by the Ministry of Justice and led by Minister Ayelet Shaked. The proposed bill seeks to impose a series of requirements on non-profit organizations whose majority of funding (apparently 51% or more, but this is not defined in the proposal) is from “foreign government entities,” as defined by the Non-Profit Organizations Law (meaning foreign countries, the European Union, the UN etc.).

The November version of the bill, which has since been amended as detailed below, obligated non-profits (to which the law applied):

- a. To disclose that the majority of their funding is from foreign government entities, including the names of the entities in all publications intended for the public or available to the public, in any visual media that can have written text added, in any written appeal to a public employee or public representative and in any report written and distributed to the public.
- b. To note in the minutes, for any meeting that has minutes, that the majority of its funding is from foreign government entities, including the names of the countries, in any public meeting with public representatives.
- c. Representatives of organizations to which the law applies shall be considered lobbyists of the foreign entities. Section 68(a) of the Knesset Law shall apply to them, and they will be required to wear a special identification tag noting that they are representatives of organizations that are funded primarily from foreign government entities.
- d. Any organization that violates their responsibilities to stipulate their funding from foreign governments in writing as mentioned above, shall be fined NIS 29,200 for each violation.

In addition to the government initiatives, a number of Knesset members are advancing private bills to attack left wing NGOs.

1. A bill by MK Bezael Smutrich would require all organizations that are funded by foreign sources to identify itself as being "funded by foreign agents" on all publications and during all meetings.
2. A bill by MK Yinon Magal would designate all organizations that receive more than \$50,000 from foreign countries as a "foreign agent" (except for health and education organizations), and require them to display this designation on all publications. Representatives of these organizations would be forbidden from meeting with any government official or security official. In addition, all grants from foreign countries would be taxed at the elevated rate of 38%, apart from for those organizations that receive support from the Israeli government.
3. Israel Beitenu Members of Knesset announced that they are also drafting a similar bill.
4. Recently MK Shuli Mualem-Rafaely proposed a bill to outlaw the organization Breaking the Silence.

On 27 December 2015 the Ministerial Committee approved the government’s proposed bill and the two private bills advanced by Smutrich and Magal. The Committee agreed on the wording of the government bill and adopted the more extensive section in Smutrich’s bill regarding the tag. In January 2016, the provision requiring representatives of organizations to be registered as lobbyist of foreign entities was removed upon Prime Minister Netanyahu’s request.

A final draft of the bill was published on Wednesday 22 June 2016. Please click [here](#) to access the bill in Hebrew. While the bill still undermines NGOs and seriously impacts their legitimacy, the final bill is an improvement on previous versions.

- The final bill does not include the ‘tag requirement’ outlined above.

- Representatives of organizations to whom the bill applies will not need to declare their funding sources when speaking before a Knesset Committee. Instead, the final draft of the bill includes a requirement on representatives to declare their funding sources when registering to attend a Committee hearing.
- The bill will apply to donations received from 2017 onwards. The significance of this provision is that the bill will not be applied retroactively.

The bill will be voted on in the Committee on Monday 27 June 2016. It will then proceed to a vote before the plenum.

ACRI's position

The government's bill seeks to impose a series of obligations on organizations whose main funding comes from 'foreign government entities' (foreign countries, the European Union, the United Nations, government funds etc.). These organizations will be obligated to declare this in all publications.

ACRI believes the bill is inappropriate, anti-democratic and harmful to basic human rights. The purpose of the bill is not to increase transparency, but to persecute and mark out specific non-profit organizations. The bill is similar to other bills that were proposed in recent years, to harm organizations that have a different agenda to the government. Previous proposals were ultimately not advanced due to the harm that they would have caused to democracy.

The existing law already ensures NGOs' transparency. NGOs have to report the identity of donors who give donations in excess of 20,000 NIS and they are required to report four times a year on donations coming from foreign countries. Therefore, the purpose of the bill is to undermine the legitimacy and activities of organizations that are associated with the political left and human rights organizations. In contrast, there has been no attempt to increase the transparency among organizations promoting right-wing agendas, that receive donations from individuals overseas, which in many cases remain confidential.

The bill suggests that organizations that receive donations from foreign countries supposedly serve them, however in reality the opposite is true. Each organization sets its priorities and decides what actions they want to take. Only then do they turn to various entities, including foreign countries to finance them. The implication that these organizations work for foreign countries is misleading and constitutes further defamation against civil society organizations.

The freedom to criticize the government and to monitor and assist those who are harmed by government activities are essential practices of democracy. Unfortunately, senior officials in the Knesset and government are leading attempts to harm these freedoms and are trying to silence criticism of their policies. By doing so, they are acting against international conventions that Israel has signed, that ensure the protection of human rights and those who are working to maintain them. Ironically, the Israeli government boasted in reports to the UN about the freedom of human rights organizations and the government's cooperation with them, whilst at the same time they are trying to curb their activities.

Regards,

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