

Overview of Anti-Democratic Legislation in the 20th Knesset

Updated: June 2017

In recent years we have witnessed a disturbing trend toward the erosion of democratic values in Israel and the promotion of anti-democratic initiatives. It is particularly alarming that democratic values are being undermined and the rules of the democratic process are being broken in the Knesset – Israel’s parliament and the heart and symbol of Israeli democracy. Statements and actions by senior political figures have far-reaching ramifications and influence on the attitudes of the Israeli public regarding democracy, human rights, and political, social and ethnic minorities.

The most basic rules of the democratic game have repeatedly been challenged. The foundations of the democratic system have been attacked, including the separation of powers and respect for the office and function of the different branches and institutions that exist in a democracy; the role of civil society; protection of human rights, for example the freedom of expression, the right to protest, and respect for the underlying value of equality. By using the “defensive democracy” approach, these areas have been subjected to systematic erosion through biased and distorted interpretations.

What do we mean by anti-democratic actions? The attacks on democracy essentially seek to silence the positions, opinions, and criticism of social or political minorities; to delegitimize political rivals, human rights organizations, and minorities; to curtail the activities of those whose positions or actions are inconsistent with those of the political majority; and to present minorities in Israeli society in a generalized way, as enemies of the state, thereby legitimizing the violation of their civil and political rights.

Anti-democratic initiatives have been manifested in various ways, including: bills that violate fundamental and underlying democratic rights, particularly the freedom of expression and political protest, and equality before the law; verbal assaults on those whose positions are currently in the minority in the Knesset; attempts to damage the legitimate and vital work of human rights and social change organizations; and attempts to restrict the freedom of expression in academic, artistic, and cultural activities.

Why are such actions problematic? What harm do they cause? The result of these initiatives is **damage to the basic principles of Israel’s democratic system**: Ongoing and cumulative damage to the freedom of expression and protest, human dignity, and equality; a weakening pluralism and a range of opinions, thoughts, and attitudes; damage to the freedom of association; and harm to the legitimacy of diverse attitudes and opinions. Conversely, these initiatives strengthen the tyranny of the majority towards social, political, and national minorities and legitimize the violation of the rights of these minorities.

These initiatives arise in the context of a social and political reality that, whilst not new, remains highly charged and on occasions extremely harsh. Nevertheless, we believe that the use of the mantra of “defensive democracy” whenever attempts are made to violate the rights of minorities (whether ethnic, social, or political) is misleading and does not render the process legitimate or just. **This process that we are currently witnessing may ultimately lead to the decay of the entire democratic system.** Defending the state and the safety of its citizens must be undertaken in a proportionate and proper manner, whereby basic rights are denied or restricted only in the most extreme instances, as already established in Israeli law.

It is important to note that even if these bills and initiatives do not progress to the stages of legislation and implementation, the attempt to advance them in and of itself has a considerable chilling effect on Israeli society as a whole. These initiatives seriously harm the Arab minority in Israel, human rights and civil society organizations, the Supreme Court and State Prosecutor’s Office, the media, academia, and the world of arts and culture – and therefore damage Israeli democracy. During the legislative process, bills and initiatives form part of the public agenda and influence the public mood and the perception of reality in Israeli society, creating a chilling effect on institutions and on society at large.

This overview details the anti-democratic bills and initiatives discussed in the 20th Knesset:

1. Legislation intended to curtail the activities of human rights organizations and other NGOs;
2. Legislation intended to damage the status or rights of the Arab minority in Israel;
3. Bills intended to restrict the authority and power of the Supreme Court;
4. Initiatives that harm the freedom of expression and pluralism;
5. Initiatives related to changes in the work of the Knesset.

In addition to legislation in the Knesset, additional government initiatives that infringe the freedom of expression and pluralism will be detailed at the end of the document.

For a list of similar initiatives from the previous Knessets, see: [Update: Anti-Democratic Legislation Initiatives \(August 2012\)](#)

1. Legislation Intended to Curtail the Activities of Human Rights Organizations and Other NGOs

A. The Disclosure Obligations of Recipients of Support from Foreign Government Entities Bill (Amendment) (Increased Transparency by Recipients of Support, when the Majority of their Funding is from Donations from Foreign Government Entities), 2015

The original bill, popularly referred to as the “Transparency Law” or the “NGO Law,” was a government bill that sought to impose a series of obligations on NGOs that receive the majority of their funding from “foreign government entities” (foreign countries, the European Union, the United Nations, government foundations, etc.). Amongst other things, the bill sought to obligate NGOs to which the bill applies to state and/or declare this fact in any publication, in any discussion attended by public representatives or elected representatives, for representatives of NGOs to wear an identification tag and so forth.

ACRI was strongly opposed to the bill and claimed that the bill was improper anti-democratic, and that it undermined basic rights. The purpose of the bill was not to increase transparency but to enable the political persecution and stigmatization of specific organizations. In ACRI’s view the bill was unnecessary, since existing law already requires NGOs to act in a transparent manner, particularly if they receive funding from foreign countries. Moreover, the bill made no reference to donations from private sources, which constitute a significant source of funding for NGOs that promote a right-wing agenda. Accordingly, it is obvious that the sole purpose of the bill was to delegitimize and hinder the activities of NGOs associated with the political ‘left’ and with human rights. The implication that these organizations act on behalf of foreign countries is misleading and is another element of the campaign of vilification against civil society organizations.

This bill was mentioned in the coalition agreement between the Likud and the Jewish Home parties, signed at the start of the 20th Knesset.

Status: The bill was approved on 11 July 2016 following second and third readings. The bill that ultimately passed seems to be less severe than the original proposal, as the requirements to wear a tag and to disclose funding sources at the start of every meeting were removed. However the very existence of the law in which intends to harm a specific type of organization, and the disclosure requirements that are included in the legislation, will

harm the operations and influence of organizations. It has recently been published that the Prime Minister believes that the law he passed is too weak, and that he is interested in promoting a law that will completely prohibit donations by foreign countries to Israeli non-profit organizations.

For a detailed discussion of the bill and ACRI's response, see: <http://www.acri.org.il/en/wp-content/uploads/2016/02/Position-Paper-NGO-Bill-Updated-Feb-2016.pdf>

For a summary of the law in English: <http://www.acri.org.il/en/wp-content/uploads/2016/07/Summary-of-NGO-Law.pdf>

In addition to the government bill mentioned above, a number of similar private bills were also tabled during the 20th Knesset:

- Foreign NGOs Bill, 2015, tabled by MKs Magal, Smotrich, Yogev, and Slomiansky (P/20/1729); for the text of the bill (in Hebrew), see: <http://knesset.gov.il/privatelaw/data/20/1729.rtf>
- Foreign Agents Bill, 2015, tabled by most of the MKs of the Yisrael Beiteinu faction (P/20/1730); for the text of the bill (in Hebrew), see: <http://knesset.gov.il/privatelaw/data/20/1730.rtf>
- The Disclosure Obligations of Recipients of Support from Foreign Government Entities Bill (Amendment – Transparency Rules), 2015, tabled by MKs Smotrich, Amsalem, Ilatov, and Moses (P/20/1761); for the text of the bill (in Hebrew), see: <http://knesset.gov.il/privatelaw/data/20/1761.rtf>

The government approved the private bills, which passed the Preliminary Reading and were attached to the government bill.

B. Bill Declaring “Breaking the Silence” an Unlawful Association

In January 2016, [the media reported](#) that MK Shuli Moalem and other Members of Knesset were interested in initiating a bill to declare the NGO “Breaking the Silence” an unlawful association, thereby effectively outlawing the organization.

Status: Not yet promoted.

C. The Political Parties Funding Bill (Amendment No. 35), 5767 - 2017

This bill, also known as the “V15 Bill,” seeks to limit the activities of various non-party-political bodies that seek to influence the outcome of elections in Israel. To this end, the bill seeks to impose severe restrictions on institutional organizations and/or informal initiatives that are defined as bodies active in the elections. There is broad support for the goal of maintaining equality and preventing capital from influencing elections. However, the details of the proposed bill are extremely problematic and liable to damage freedom of expression, which is particularly important during an election campaign.

The bill specifies four actions that will be defined as activity in elections: 1) Maintaining databases containing information about individuals’ political attitudes; 2) Transporting voters to the polling station according to their political positions, including assumed positions on the basis of their place of residence; 3) Urging electors with particular positions to vote or not to vote for a specific candidate or party; 4) Publication intended to influence voters to vote for or against a specific candidate or party, even if no payment has been made for the publication (the so-called “Israel Today clause.”)

Bodies that undertake such actions at a total cost exceeding NIS 100,000 will be defined as “bodies active in the elections” and will face the following restrictions:

- Funding restrictions: An active body will be able to raise up to NIS 22,000 from an individual donor (and if the body is active on the scale of NIS 400,000 – up to NIS 11,000 from a single donor). Donors must be Israeli citizens only. The bodies will not be able to receive donations from corporations, as in the case of the funding restrictions on political parties.
- Restrictions on freedom of action in elections: Political parties will be able to sue bodies active in the elections (indeed, the proposed law almost invites them to do so) and to request injunctions against activities by bodies alleged to be bodies active in the elections. Accordingly, even if a particular body is not a body active in the elections, the possibility that it will face an injunction, with all the legal expenses this incurs, may seriously deter citizen participation in the elections. Moreover, bodies active in the elections at a scope greater than NIS 400,000 will be liable to administrative sanctions (fines), while those with a scope greater than NIS 500,000 will also be exposed to criminal sanctions.

Thus the bill seeks to establish extremely broad definitions for determining that a non-party-political body is connected to a Knesset faction, thereby significantly restricting the activities of such bodies. This is liable to impair freedom of expression and association, as well as the fundamental political freedom of citizens to exercise meaningful influence over the elections in Israel.

Status: The bill passed in its Second and Third Readings on March 20th, 2017.

D. The Amendment of the Income Tax Ordinance Bill (Institution Operating for the Good of the State of Israel), 2017, tabled by MK Bezalel Smotrich (P/3667)

This bill seeks to deny the tax exemption under section 46A of the Income Tax Ordinance to organizations that “act against the State of Israel.” This is defined in the bill as organizations that promote a boycott or accuse Israel overseas of war crimes. The bill also seeks to establish that bodies that receive tax exemption must act for the good of citizens in Israel or Jews in the Diaspora.

This bill forms part of the campaign of defamation and delegitimization led by the government in recent years against civil society organizations whose agenda differs from government policy. The organizations stigmatized by this bill (primarily ones active in the field of human rights in the Territories, refugee rights, and so forth) operate lawfully, under the protection of the basic rights of freedom of association and freedom of expression. The bill seeks to determine what is damaging to the state and what is not, and accordingly to grant or deny tax exemption on a selective basis, according to a political opinion. It does not propose egalitarian administrative criteria for the receipt of the benefit, and instead introduces selective and discriminatory criteria based on the political agenda of those promoting the bill (what one person perceives as promoting democracy will be perceived by another as damaging the state). This process is accompanied by the delegitimization of specific organizations.

Status: The bill was passed at its Preliminary Reading on 8 March 2017.

[See the Hebrew text of the bill](#)

E. National Service Bill, 5767 - 2017

This bill seeks to regulate the subject of national (civilian) service, which has not previously been formalized in law. The bill integrates amendments proposed in a bill table by MK Amir Ohana that seeks to prevent organizations that receive over 50 percent of the funding from a foreign entity from receiving national service volunteers.

The final version of the bill separates the possibility to receive a position for a national service volunteer from the possibility to receive government funding for the position. It was decided that organizations that provide care for individuals will be able to receive a national service position, provided that they act for the population in Israel or for Israeli residents in the fields of education, health, welfare, and encouraging and absorbing Jewish immigration. Organizations that are active in general for the population in Israel in the fields of culture, the environment, road safety, and internal security will also be able to receive positions for volunteers. The ramification is that organizations that are active solely on behalf of Palestinian residents of the Territories will not be eligible for national service positions.

The bill also establishes that when a public body considers funding a national service position, the appointed minister's approval will be required in the case of an operating body funded primarily by foreign entities.

The purpose of this law is to damage selected and specific organizations whose position differs from that of the current political majority and, above all, to delegitimize these bodies in public discourse.

Status: The bill was passed in its second and third readings on March 22nd, 2017.

F. Proposed Amendment to the Municipal Tax Ordinance and Government Taxes (Exemption) (Conditions for exemption from municipal taxes to volunteer institutions), 5767 - 2017, by MK David Amsalem and Bezalel Smotrich,

This bill seeks to revoke the exemption from the payment of municipal taxes to non-profit organizations who receive funding from foreign countries. Like many other proposals, this proposal is also meant to target organizations identified with the political left and human rights organizations in order to undermine their legitimacy and activity.

Status: The bill has not yet been promoted.

G. Freedom of Information Bill (Amendment – Abolition of Exemption for Organizations Funded Primarily by Foreign State Entities), 2017, tabled by MK Shuli Moalem-Refaeli

Like the “NGO Law” (see below), this bill also targets NGOs funded by foreign state entities. The bill seeks not only to deny these bodies the exemption from the levy on applications to state bodies in accordance with the Freedom of Information Law, but also to establish that they will be required to pay a double levy. The bill is based on the claim that these NGOs operate against the state with the information they obtain. This is another bill that seeks to silence critical voices and to delegitimize organizations that are unpopular with the majority.

Status: The bill has not yet been promoted.

H. Proposed Basic Law: Adjudication (Amendment – Restriction of Standing), tabled by MK Miki Zohar and others (P/4123)

Years ago, the Supreme Court established in its rulings broad standing allowing public petitioners to present public or principled issues to the Court relating to human rights and proper government, even in the absence of a specific petitioner. This is very important in terms of the separation of powers and enables the Supreme Court to fulfill its vital role as a High Court of Justice: examining government actions, defending human rights and the rights of all types of minorities (national, economic, women, religious, political, and others); and ensuring proper administration, a fight against corruption, and administrative propriety.

According to the proposed law, the Supreme Court will not be able to hear petitions in which the appellant is not personally injured, or in which the cause of the injury is common to the entire public or to a certain part thereof. In other words: public petitioners will not be able to petition the Supreme Court at all.

The purpose of the proposed law is to damage the activities of civil society organizations whose agenda is unpopular among the current political majority. Above all, and overtly, the intention is to curtail the work of organizations that represent Palestinians in the Territories, and to prevent them from presenting principles issues to the Court regarding human rights in the Territories. This will damage the rights of the residents of the

Territories, for whom the Supreme Court functions as the last defender of their rights as a population under Israeli occupation. More broadly, the amendment will affect all residents and citizens of Israel, whose principled affairs will no longer come before the Court unless a suitable petitioner can be found.

Public petitioners are important because they present the Court with principled issues that have a broad impact, and do not depend on finding a specific suitable petitioner at a given point in time. It is important to recall that a specific petitioner may not always represent all the types of cases that a principled issue can entail. Moreover, petitioners are sometimes reluctant to present their personal case due to the power imbalance with the authorities and their fear that they will be penalized. In addition, when there is a specific petitioner, the authorities can easily resolve the individual problem without taking a principled decision that will affect all the similar cases.

Status: the proposed law has not yet been advanced.

I. Proposed Basic Law: The Knesset (amendment – Summons to the Knesset Committees)

The Knesset Committee is currently discussing the possibility of reforming the relationship between the Knesset and the government. Among various initiatives, it is proposed that the authority of the Knesset committees to summons a wide range of participants to their discussions should be expanded. This applies to office holders and officials in the civil service as well as to private bodies, including office holders and officials in NGOs, public benefit companies, public companies, and cooperative associations.

It is desirable, and indeed important, that the Knesset committees be empowered to summons office holders and officials from public bodies and from bodies covered by the State Ombudsman. These bodies are obliged to ensure transparency and accountability, and their appearance before the Knesset committees in order to provide information and updates on their policies and implementation is vital in order for the Knesset to play its role in scrutinizing all arms of government,

However, ACRI's position is that the committees should not be empowered to summons private individuals, since this deviates from the Knesset's function. The Knesset is not empowered to inspect private bodies, except in

the case of legislation for the regulation of all the private bodies to which it applies (companies, NGOs, etc.). Failure to meet the provisions of the law incurs administrative or criminal sanctions applied by the relevant enforcement bodies. The Knesset is not a judicial body and does not have the capacity to undertake investigations. If the Knesset believes that the actions of private bodies are harming the public, it can improve the regulation in their regard, including demanding greater transparency and accountability. Naturally, if their activities are illegal, the law enforcement agencies will attend to the matter. Granting authority to summons private bodies to the committees is liable to lead to the abuse of this authority and to the holding of “kangaroo courts” against private bodies in order to gain political or public benefit. In particular, there is reason to fear that this authority will be abused in order to attack NGOs and organizations that are unpopular among the political majority.

2. Legislation Intended to Harm the Status or Rights of the Arab Minority in Israel

A. Proposed Basic Law: Israel – The Nation-State of the Jewish People (P/20/1989), tabled by MK Dichter and Others

The text of this proposed basic law was amended following extensive public criticism of the wording as initially proposed by MK Dichter, which subjugated Israel’s democratic essence to its definition as a Jewish state. The current bill explicitly declares that Israel will be a Jewish and democratic state. However, the general tone of the bill emphasizes and prioritizes Israel’s Jewish aspects over its democratic ones. There are grounds for concern that the bill (even with the amended wording) may damage the human rights of all Israeli citizens as it erodes the status of democracy in Israel. The bill includes numerous discriminatory provisions and opens the door to instances of racial discrimination in all areas of life.

An English translation of the bill is available at:
<http://www.acri.org.il/en/wp-content/uploads/2014/06/JewishDemocracyBill-English.pdf>

This bill is mentioned in the coalition agreements for the 20th Knesset between the Likud and all the other coalition factions: Kulanu, United Torah

Judaism, Shas, and the Jewish Home. The agreement with Kulanu notes that all the factions must agree to the promotion of this bill and to its content.

Similar bills were tabled in the previous Knessets, and additional private bills were tabled during the current Knesset on the same theme:

- Proposed Basic Law: Israel – The Nation State of the Jewish People, tabled by the Yisrael Beitenu faction (P/20/1337): for the text of the bill (in Hebrew), see: <http://knesset.gov.il/privatelaw/data/20/1337.rtf>
- Proposed Basic Law: Israel – The Nation State of the Jewish People, tabled by MK Magal (P/20/1990): identical to the Yisrael Beitenu bill; see the Hebrew text of the bill: <http://knesset.gov.il/privatelaw/data/20/1337.rtf>
- Proposed Basic Law: The State of Israel, tabled by MK Begin (P/20/1587): See the Hebrew text of the bill: <http://knesset.gov.il/privatelaw/data/20/1587.rtf>

Status: The Ministerial Committee for Legislation approved the bills, which were then forwarded to a special ministerial committee that will discuss the proposals and reach agreements in the coalition. The bills have not yet been promoted.

ACRI's position: <http://www.acri.org.il/en/wp-content/uploads/2011/10/Basic-Law-Jewish-State-ACRI-position-ENG.pdf>

B. Bills concerning the Disqualification of Members of Knesset

Several bills were tabled in the previous Knesset with the goal of facilitating the process of disqualifying Members of Knesset. Although the bills are phrased in neutral language, it is obvious that they are directed primarily at Members of Knesset from the Arab minority.

ACRI's position is that the disqualification or suspension of Members of Knesset violates the right to elect and to be elected, which is a fundamental constitutional right in a democratic system. Above all, this right allows individuals to express their views and ideas freely in accordance with the freedom of expression, and to associate freely in order to promote these views. Moreover, the suspension of Members of Knesset restricts the diversity of opinions, and may lead to the exclusion of entire groups – by restricting the presentation of their worldview, and in terms of their actual

participation in the democratic process; as they may not wish to participate in if their position is not represented.

Since disqualification harms fundamental rights and has far-reaching ramifications for democracy and individual rights, it should be employed only in extreme and unambiguous instances; and less extreme steps should be preferred whenever possible.

1) Proposed Basic Law: The Knesset (Amendment – Burden of Proof of Support for an Armed Struggle against the State of Israel) (P/20/1407)

This bill, tabled by MKs Ilatov, Levi-Abekasis, Amar, and Gal, seeks to extend the grounds for the disqualification of Members of Knesset to include statements as well as actions. The bill also imposes the burden of proof on the candidate.

See the Hebrew text of the bill:

<http://knesset.gov.il/privatelaw/data/20/1407.rtf>

Status: The bill was rejected by the Ministerial Committee for Legislation and subsequently tabled again by the entire Yisrael Beitenu faction (P/20/2226).

2) Proposed Basic Law: The Knesset (Amendment – Removing the Authority of the Supreme Court to Intervene in a Decision of the Central Elections Committee regarding the Approval or Disqualification of a Candidate or List for Participation in Elections) (P/20/2172)

This bill, tabled by the Yisrael Beitenu faction, seeks to grant the Central Elections Committee exclusive authority to disqualify candidates or lists for participation in the Knesset elections. The bill removes the Supreme Court's authority to intervene, thereby preventing judicial review.

See the Hebrew text of the bill:

<http://knesset.gov.il/privatelaw/data/20/2172.rtf>

Status: The Ministerial Committee for Legislation discussed the bill on 22 November 2015 and decided to forward it to the Coalition Executive for a decision. The bill has not been promoted yet.

3) Basic Law: The Knesset (Amendment 44); Knesset Law (Amendment 43) 2016 – Impeachment of Members of Knesset

The bill, which was the initiative of the Prime Minister, sought to give Members of Knesset (MK) the authority to suspend other Members of Knesset. The final version of the law stipulates that 70 serving MKs (10 of whom must be from the Opposition) can commence proceedings to dismiss a Member of Knesset if that person encourages terrorism or incitement to violence, which is determined by the Knesset Committee. In accordance with the Committee's decision, the Knesset can decide by a majority vote of 90 MKs to dismiss the MK. The MK can appeal to the Supreme Court. The law does not apply during election periods.

ACRI's position is that the suspension of Members of Knesset by political bodies will lead to the exclusion of political rivals by illegitimate means. This is a clear instance of the tyranny of the majority, whereby the political majority exploits its strength against a political minority. In this context, it should be taken into account that in a country with a permanent Arab political minority, as well as many other rifts, the proposal is liable to cause the permanent exclusion of entire sectors from the political system.

Status: The bill was passed on 19 July 2016 following second and third readings in the Plenum.

For the Hebrew text of the Law: <http://www.acri.org.il/he/37480>

For ACRI's position: <http://www.acri.org.il/en/wp-content/uploads/2016/02/Suspension-of-MKs-0216.pdf>

C. "The Muezzin Law" – Prevention of Hazards Bill (Amendment – Prevention of Noise from a PA System in a House of Prayer), 2016, tabled by MKs Motti Yogev and David Bitan – P/3590/20; Prevention of Hazards Bill (Amendment – Prohibition on the Use of a PA System in Houses of Prayer), 2015, tabled by MKs Robert Elituv and Oded Forer – P/2316/20.

This bill seeks to restrict the use of loudspeakers by the muezzin in a mosque during the early morning hours. The original bill sought to prohibit completely the use of loudspeakers above a certain volume. However, ultra-Orthodox MKs opposed this proposal, fearing that it would include the sirens that announce the beginning of the Sabbath. Accordingly, the amended bill states that it will apply only between 11 p.m. and 6 a.m. Since the Prevention of Hazards Bill already addresses noise hazards, the sole purpose of the bill appears to be the desire to exclude and offend the Muslim population in Israel by attacking its religious and national symbols, thereby exacerbating the sense of discrimination and inequality. While ACRI recognizes the need to curtail noise

hazards, it is important to show special sensitivity toward the sources of noise addressed in the bill. Dialogue should always be preferred to the enforcement of discriminatory and racist laws and to the imposition of laws that offend the religious sentiments of certain groups – particularly in the case of a religious or national minority.

Status: The bill was passed at its Preliminary Reading on 8 March 2017.

3. Bills Intended to Restrict the Authority of the Supreme Court

A. Proposed Basic Law: Human Dignity and Liberty (Amendment – Validity of a Deviating Law)

Two identical bills have been tabled on this matter in the 20th Knesset – by Members of Knesset Gafni and Maklev (P/20/1374) and by Members of Knesset Slomiansky, Magal, and Smotrich (P/20/2115). The bills seek to empower the Knesset to enact laws that violate the rights enshrined in Israel's Basic Law: Human Dignity and Liberty, with a majority vote of 61 members of Knesset. The proposal restricts the validity of such laws to a period of up to four years.

This proposal appears in the coalition agreements for the 20th Knesset between the Likud and most of its coalition partners: United Torah Judaism, Shas, and Jewish Home. However, the coalition agreement between Likud and Kulanu notes Kulanu's opposition to such legislation, and accordingly this proposal will not be subject to coalition discipline.

Status: The bills were not promoted.

See the Hebrew text of the bill:
<http://knesset.gov.il/privatelaw/data/20/1374.rtf>

B. Proposed Basic Law: Foundations of Law (Amendment – Principles of Jewish Law)

Two identical bills have been tabled on this matter during the 20th Knesset – by MKs Slomiansky, Smotrich, Ben-Tzur, and Makhlouf Zohar (P/20/2030) and by Members of Knesset Slomiansky, Moalem, Neguise, and others (P/20/2696). The bills seek to grant preferential status to Jewish law within the Israeli legal system. There are grounds for concern that subjugating judicial discretion to a non-egalitarian legal system may lead to a violation of human rights.

Status: The bills were not promoted.

See the Hebrew text of the bill:
<http://knesset.gov.il/privatelaw/data/20/2030.rtf>

C. Proposed Basic Law: The Judiciary (Amendment - Restriction of the Right of Residency) by MK Machluf, Mickey Zohar and Others (P / 4123)

According to the bill, the High Court of Justice will not be able to hear petitions when the petitioner is not personally injured, or if the matter from which he is harmed is common to the public or to an unspecified part of the public. In other words, public petitioners will not be able to appeal to the Supreme Court at all. For further details, see above, under "Legislation that seeks to curtail the actions of human rights organizations and other organizations."

Status: The bill has not yet been promoted.

In addition to these bills, we have seen many statements made by Ministers and Knesset Members, headed by Minister of Justice Shaked, regarding their intention to promote various legislation relating to the Supreme Court, its functions, powers and the appointment of its Justices.

Among other things, the following initiatives were published:

1. The change in the number of members of the judges on the selection committee necessary to approve a candidate - the Judicial Appointments Committee is currently composed of nine members, including three judges of the Supreme Court, four politicians and two representatives of the Israel Bar Association. The law determines (in accordance with a legislative change promoted by the then Minister Gideon Sa'ar) that the support of seven of the nine members of the committee is needed in order to approve a candidate for the Supreme Court. Now, Shaked and others are asking to change the requirement to five, in order to cancel the need for agreement in the committee. The proposal also served as a threat during the selection process of Supreme Court judges in recent months.

Status: This initiative has not yet been promoted.

2. Changing the 'seniority' system for the appointment of the President of the Supreme Court: According to this method, which is not anchored in legislation, the Supreme Court President is appointed as the oldest judge. According to reports, Justice Minister Shaked is considering canceling the system. It was further reported that the Minister specifically objects to the appointment of Justice Esther Hayut, according to the Seniority method,

because she opposed the Citizenship Law, which prevents Palestinians who are spouses of Israeli citizens from obtaining status in Israel.

4. Initiatives that Harm the Freedom of Expression and Pluralism

A. Bills relating to Initiatives to Boycott Israel

These bills impose a “price tag” on legitimate political statements and impair public discussion on urgent and controversial issues. This violates the constitutional rights to freedom of expression, dignity, and equality. If these bills are adopted, the draconian sanctions they impose will deter in advance those who wish to express a political opinion by calling for a boycott; accordingly, their damage will be felt even before indictments have been served on the basis of the law. Boycott laws are laws intended to restrict the expression of opinions and their sole purpose is to silence legitimate criticism.

1. **The Political Parties Funding Bill (Amendment – Denial of Funding to a Party Advocating a Boycott against the State of Israel)**, 2015, tabled by the Yisrael Beitenu faction (P/20/2220). See the Hebrew text of the bill: <http://knesset.gov.il/privatelaw/data/20/2220.rtf>
2. **Entry to Israel Bill (Amendment – Non-Granting of a Visa and Permit of Residence to a Person Advocating a Boycott against Israel), 2015 (P/1906/20)**

The proposed amendment will prohibit persons who support a boycott against the State of Israel, or a boycott against the settlements, from entering the State of Israel and the Occupied Territories. This will be achieved by denying an entry visa to Israel (which is also required in order to enter the Occupied Territories) to foreign citizens, and by denying temporary residency or a permit for temporary residence from the military for Palestinian residents of the Territories).

ACRI and Adalah opposed the amendment, arguing that the law violates basic democratic principles by addressing a person’s political opinion as a consideration in denying foreigners entry to Israel and the Occupied Territories. Individuals wishing to enter Israel certainly do not need to toe the line adopted by the present government regarding the occupation. The law can be expected to cause particular injury to the rights of tens of thousands of Palestinian families in which one of the partners holds temporary residence or a permit for temporary residency in Israel. Such individuals will henceforth be subject to the denial of their rights for expressing a political opinion.

Status: The amendment was passed at its Second and Third Readings on 6 March 2017

B. Prohibition of Expression of Sympathy or Identification with the Nazi Regime Law (Legislative Amendments), 2015, tabled by MK Mickey Levi (P/20/980)

This bill seeks to impose stringent and sweeping restrictions on public debate in the State of Israel, gravely damaging the constitutional right to the freedom of expression. The Holocaust is an exceptionally painful and difficult issue, and insensitive use of symbols relating to the Holocaust may indeed cause grave offense to many people. However, the freedom of expression includes the right to make difficult, forthright, and even offensive statements, including the rhetorical use of harsh and provocative imagery. The question of the social legitimacy of the use of symbols relating to the Holocaust in political and public discourse is a serious one that deserves open discussion in the “market of ideas.” It is not a question that should be addressed under criminal law.

Status: The bill was not promoted.

See the Hebrew text of the bill:
<http://knesset.gov.il/privatelaw/data/20/980.rtf>

C. Bills relating to Contempt of the Flag

Several bills which have been proposed to impose stricter penalties for contempt or disrespect of the flag, harm the freedom of expression of the public and Members of Knesset.

1. The Flag, Emblem and Anthem of the State Law (Amendment 7) 2016 – The amendment to the law proposes significantly stricter penalties on those who harm the flag of Israel: from one year in prison and a fine of 300 lirot as stipulated in the law previously, to here years in prison and a fine of 58,400 Shekel.

To access the bill in Hebrew:
http://fs.knesset.gov.il/20/law/20_Isr_347822.pdf

Status: The bill was approved at the second and third readings on 18 July 2016.

2. The Flag, Emblem and the Anthem of the State Bill (Amendment – Displaying the flag at a public event) 2016 – The bill seeks to obligate

that the Israeli flag be displayed at every public event, and to impose a fine of 5,000 Shekel on event organizers who fail to comply. The bill also seeks to prohibit invited public officials from participating in public events convened by organizations who breached the law for a period of 6 months.

To access the bill in Hebrew:
<http://knesset.gov.il/privatelaw/data/20/3323.rtf>

Status: The bill was submitted but has not yet been advanced.

D. Legislative Memorandum of the Arts and Culture Bill (Amendment No. ...), 2016 - Regarding the culture budget

This bill, which is also known as the “Loyalty in Culture Bill,” is being promoted by the Minister of Culture Miri Regev. The bill seeks to empower the Ministry of Culture to deny funding cultural institutions on the basis of non-professional criteria. The original bill authorized the Ministry of Culture to deny budgets **in advance** for cultural institutions that negate the existence of the State of Israel as a Jewish and democratic state, disrespect state emblems, mark the Nakba Day, and so forth. This is an improper and unconstitutional proposal that would grant the Minister of Culture and the officials in the Culture Ministry the power to interfere in the content of creative works. This would be a grave interference in the freedom of cultural expression.

After ACRI wrote to the Attorney General, [he issued an opinion](#) stating that the Minister of Culture may not intervene in the content of cultural productions. The original bill was subsequently amended so that the denial of a budget to a cultural institution will only be possible retroactively. This amendment also damages the freedom of expression and culture, and will have a chilling effect on the freedom of expression in Israel, particularly with respect to sensitive issues that deserve special protection.

Status: A legislative memorandum has been submitted.

To access the Legislative Memorandum in Hebrew:
http://www.tazkirim.gov.il/Tazkirim_Attachments/42742_x_AttachFile.docx

E. State Education Bill (Amendment – Preventing the Activities of Organizations that Oppose Educational Values and the IDF), 2017, tabled by MKs Shuli Moalem-Refaeli and others (P/3643)

The purpose of this bill is to deny the organization Breaking the Silence access to schools, but its ramifications are much broader. According to the bill, the education minister will enjoy exclusive discretion in determining which bodies can hold lectures in schools, and will determine what content, bodies, and organizations meet educational values and which do not. Since “educational values” are defined in a broad and general manner, the bill will effectively enable the minister to reject any content, body, or group if he dislikes their activities or beliefs or if these do not match his own political agenda and values.

The bill also has ramifications for the freedom of expression of teachers. It will have a significant chilling effect exacerbating the trend and mood of recent years.

Status: The bill was passed at its Preliminary Reading on 11 January 2017.

F. Proposed Law: Prevention of Harm to the State of Israel by Means of a Boycott (Amendment – Cessation of Funding of Institutions of Higher Education), 5777-2016, tabled by MK Oded Forer

The proposed law seeks to empower the Council for Higher Education to reduce the budget forwarded to a university if one of its lectures call for the boycotting of the settlements. The proposal will damage freedom of expression in general and academic freedom in particular – a right that enjoys special constitutional protection. An academic world without diverse views – even ones that are controversial – cannot meet its most basic purpose: to teach critical thought. Silencing academic on ideological grounds is extremely dangerous and disturbing and is tantamount to political persecution. Such action violates the basic principles of any democracy. As long as the position being presented is not illegal, and even if it is unpopular, its expression in the public domain should be permitted. In this case, a boycott is a legal and legitimate tool for protest, while the issue of the settlements is the subject of political debate in Israel. This type of proposed law threatens universities and their staff and lecturers, and can have a severe chilling effect whether or not they are ultimately enacted. From here on, it is clear to everyone what is considered a “legitimate” opinion and what is not, and what are the borders of “permitted” discourse.

Status: the proposed law has not yet been advanced.

G. Legislative Memorandum: Jurisdiction of Rabbinical Courts (Adjudicative Authority by Consent), 5777-2017

This legislative memorandum presents a government bill intended to amend the Rabbinical Courts Adjudication Law in order to grant them parallel authority on civil matters when the parties consent thereto. The religious courts will be authorized to rule in accordance with religious law on these matters. This is a far-reaching proposal that is liable to change the character of Israeli law beyond recognition, establishing two parallel and clashing legal systems. The principle of the rule of law, which ensures a single legal system for all citizens of the state and equality before the law, will no longer be maintained. In some disputes, the parties will be subject to a different legal system and different policy, acting in accordance with a law that was not enacted by the legislature but has its origin in religious laws and rules.

The memorandum entails grave damage to the rights of litigants, including the right to equality, dignity, freedom of vocation, freedom of property, freedom of expression, and the right of access to the courts. It is liable to cause particular damage to women's rights.

Status: at the legislative memorandum stage.

5. Initiatives related to changes in the work of the Knesset.

A. Proposal to amend the Ethics Rules for Members of the Knesset - Adding a section entitled "Travel Abroad that is not funded by the Knesset"

This proposal concerns the addition of a section to the Ethics Rules for Members of the Knesset, which deals with trips abroad that are not funded by the Knesset. According to the proposal, the Ethics Committee should examine the political positions of the client and approve or postpone the trip accordingly.

The bill seeks to limit the travel of Knesset members abroad on the basis of the positions or activities of the inviting parties. The proposal could harm freedom of expression and political freedom in Israel, including the work of MKs (from all factions), their immunity and their ability to represent their constituents. ACRI's position is that the proposed amendment should not be promoted; rather, transparency and accountability should be provided for travel and meetings of elected officials, including those who finance them.

Status: Presented to the House Committee but not yet approved.

B. Reforming the relations between the government and the Knesset on the issues of the obligation to appear before the Knesset committees, the Knesset's oversight of the government, and private legislation

There are several initiatives on the Knesset's agenda that seek to strengthen its role as the government's supervisor. The initiators of the proposals are from the various factions of the House. At first glance, the purpose of the initiatives may seem just and right. However, some of the proposed reforms may be very problematic if they do not keep critical details when they are promoted in the Knesset.

For example, there is an intention to reduce private legislation in the Knesset because of the waste of time invested in preparing positions and discussing these bills in the Government and Government Ministries, without being promoted at all. This makes sense, but today private legislation has become a central tool of the opposition to bring issues to the public agenda. Canceling this tool without giving Knesset members and / or the opposition alternative tools will weaken the Knesset and not strengthen it.

Status: The bill and recent initiatives are being discussed by the House Committee and have yet to be approved.

Government initiatives

In addition to legislation in the Knesset, the government has also made other initiatives that attack the freedom of expression and pluralism:

A. Initiatives by the Ministry of Culture that Damage the Freedom of Cultural Expression

Minister of Culture Miri Regev has launched a series of initiatives against cultural institutions and cultural and artistic works that express controversial positions. Minister Regev has attempted to limit funding of these works by the Ministry of Culture. Examples of these initiatives include incidents concerning [Al-Midan Theater](#), [Al-Mina Children's Theater in Jaffa](#), the screening of a documentary film [about Yigal Amir](#) at the Jerusalem Film Festival, and the ["Nakba Film Festival"](#) organized by the Zochrot Association. In addition to promoting a Knesset bill, as discussed above, which is intended to deny funding to public bodies on the grounds of "incitement, offense to the emblems of state, and encouraging terrorism," Minister

Regev also circulated conditions for budgetary support to cultural institutions, that reflected a similar approach.

It is important to note that according to current law, it is clear that the state should not fund a cultural event that constitutes a legal offense or includes clear incitement to racism or violence. Imposing censorship on political and artistic expressions that the authorities consider controversial narrows the freedom of political expression and public discourse, which should be open, forthright, and challenging. In addition to the impact of each individual decision on this issue, the cumulative effect of these initiatives may lead to self-censorship by artists and cultural institutions and may affect the decisions of foundations that finance cultural and artistic works. Following an appeal by ACRI, [the Deputy Attorney General clarified to Minister Regev](#) that she is not authorized to consider the content of works of art when determining whether to fund them, and that decisions regarding the allocation of funds must be based on artistic and professional considerations only.

Please see the links in the text above for more information on ACRI's position on this issue.

The Minister of Culture also promoted amendments to the criteria for funding available to theatres, dance and instrumental groups, to increase support for cultural institutions that perform in the settlements and to impose a fine on cultural institutions that refuse to perform in the settlements. ACRI's position is that the West Bank is an occupied territory, which is outside the sovereign territory of the State of Israel and has been under military rule for 49 years. The status of the settlements is at the heart of political debate in Israel. The majority of international law experts are of the opinion that the settlements are a serious violation of international law. Cultural institutions may have many different reasons for not performing in the settlements: They may be partners in the struggle to end the occupation, they may be opposed to the settlements, they may be afraid of the security risks etc. Even if the cultural institution itself has no formal position on these issues, it may wish to respect the positions of its artists and partners. Requiring cultural institutions to declare their position on performing in the settlements is wrong if this declaration will be used to imply an ideological position. It is also wrong to detract support for cultural institutions who refrain from performing in the settlements.

The proposed amendments in Hebrew:
https://www.nevo.co.il/law_word/law10/yalkut-7263.pdf

B. Initiatives by the Ministry of Education that Harm Education towards Pluralism

Several recent decisions made by the Ministry of Education restrict the freedom of thought and expression, and harm education towards pluralism and equality. These include the [removal of the play "A Parallel Time"](#) at Al-Midan Theater from the ministry's list of approved activities; the [exclusion of Dorit Rabinyan's novel "Borderlife"](#) from the curriculum for the expanded matriculation examination in Hebrew literature; the addition of Yehuda Atlas's novel "The Girl I Love" to the list of books not suitable for the national-religious education system; and the [biased editing of a new civics textbook](#), which provoked extensive public criticism.

At the start of June 2017, Professor Asa Kasher published a proposal for a new code of ethics for universities. The code of ethics, which was commissioned by the Minister of Education Naftali Bennett, deals with statements by lecturers in universities. The proposal aroused public criticism because of clauses that sought to interfere with political activity in institutions of higher education. Among other things, the code of ethics suggests that a unit should be established to supervise political activity in academic institutions, prohibit the expression of political opinions of lecturers, and prohibit academic faculty members from calling for an academic boycott of Israel. ACRI's position is that the intention to prohibit lecturers from speaking about political issues in classrooms crosses another red line in an attempt to limit freedom of expression in Israel. Academic institutions teach mature and educated people. The Ministry of Education must believe in students' ability to listen to diverse opinions and deal with them critically. Academia is a political, lively and critical place, and it must not become an institution that is censored and silenced.

ACRI believes that these decisions are contrary to the goals of public education and to the function of the Ministry of Education – which goes beyond specific generations, ministers, and personal worldviews. It is the Ministry's responsibility to educate towards tolerance and pluralism, equality, and the freedom of thought and expression; and to nurture curiosity and independent thought. Rejecting cultural works because of controversial content conveys an extremely problematic message to students, teachers, and artists; and constitutes a form of censorship that has no place in an education system in a democratic country. Moreover, the policy gravely violates the freedom of thought, in a situation where the authorities repeatedly convey the messages that some content is proper

and legitimate while other content is not; and that there is only one truth, with no room for difference, complexity, controversy, and debate.

Please see the links in the text above for more information on ACRI's position on this issue.

C. Cessation of Funding for Jewish Pluralism

In January 2016 it was reported that support for pluralistic Jewish organizations had been frozen. This decision contributes to an atmosphere characterized by the narrowing of democratic space and damages the presence of diverse opinions in society.

See the following articles from Haaretz on this issue from January 2016: <http://www.haaretz.com/israel-news/.premium-1.699368> and March 2014: <http://www.haaretz.com/jewish/news/.premium-1.577726>

D. Bills and Initiatives Intended to Damage the Free Media in Israel

The media are the watchdog of democracy. Free media that ask tough questions are an essential condition for facilitating informed discussion of issues on the public agenda. Despite this, elected representatives have recently made alarming attempts to damage the freedom of the press and media in Israel. The Prime Minister was careful to retain the post of minister of communications (until he was recently forced to relinquish this position due to the police investigations against him). He also included in the coalition agreements a clause granting himself a veto in matters relating to the media. During the 20th Knesset, the prime minister was personally involved in developments in the media field. During a series of personal meetings with journalists, for example, he scolded them for being “aloof from the people” and for criticizing him too often. He criticized and delegitimized journalists and specific journalistic investigations, leading to a flood of online incitement against the journalists. Despite these attacks on the media, the government refused to support a bill to protect journalists from violence.

During the same period, the Prime Minister and Government Ministers have become increasingly involved in attempts to intervene in appointments and in content in the media. At the beginning of the year, the prime minister took action to thwart the extension of the period of officer of the commander of the IDF radio station Galei Tzahal. Later, the attorney general was forced to

intervene in order to persuade the defense minister to abandon his attempt to interfere in the content broadcast by Galei Tzahal. Meanwhile, the government promoted legislation restricting the work of the Knesset television channel, on the pretext of the prohibition against broadcasts that “demean” the Knesset. Following public criticism, the wording of the prohibition was relaxed.

The peak of official interference in the media relates to the new public broadcasting corporation, which is due to replace the Israel Broadcasting Authority. The reform in public broadcasting, which was promoted by Minister Erdan and approved by the government two years ago, was welcomed by the prime minister at the time. However, as the date for the implementation of the law drew nearer, the prime minister and government ministers realized that they would not be able to control the new corporation. Accordingly, they sought to reverse their decision, quoting unconvincing claims of financial savings and political bias. Under pressure from the finance minister, it was eventually decided that the corporation will be established after all.

In preparation for the launch of the new corporation, the prime minister has now begun to promote a new and particularly far-reaching initiative. According to media reports, **a new bill seeks to establish a regulatory body for all the media in Israel**, including the Second Broadcasting Authority, the Cables and Satellite Council, and an inspection body for the new public broadcasting corporation. The new body will be overly political: the chairperson, who will also serve as director-general, will be chosen directly by the minister of communication, without a selection committee, and will be appointed through a government decision. The bill will grant unprecedented power to politicians over the media market: the new body will not only supervise commercial broadcasts and the public broadcasting corporation, but also all the current affairs output of Galei Zahal. The bill will also lead to the dismantling of the current corporation council, headed by Gil Omer, and the dismissal of the current director-general of the corporation, Eldad Koblenz, among other ramifications.

For further details, see: <http://www.haaretz.com/israel-news/.premium-1.776094>