



January 30, 2017

To all Knesset members,

Re: Proposed Entry to Israel Law (Amendment No. 27) (Denying a Visa and Residency Permit for Advocates of Boycotting Israel), 5777-2016 (P/1906/20)

This proposed legislation is slated for a second and third reading in the Knesset plenum today. We call upon you to oppose this legislation for the following reasons:

1. The Knesset Interior and Environmental Protection Committee recently approved a second and third reading of this legislation, sponsored by MK Roy Folkman. Today the legislation is scheduled to come up for a second and third vote in the plenum. The proposed legislation, if passed, would prohibit the entry to Israel of anyone who is not a citizen or permanent resident of Israel and who publicly supports a boycott of Israel. The proposed legislation states as follows:

“In the Entry to Israel Law, 5712-1952, section 2, after subsection (C) will come:

(D) No visa and residency permit of any type will be given to a person who is not an Israeli citizen or does not have a permit for permanent residency in the State of Israel if he, [or] the organization or entity for which he works, has knowingly issued a public call to impose a boycott on the State of Israel, as defined in the Preventing Harm to the State of Israel through Boycott Law, 5771-2011, or has committed to participate in such a boycott.

(E) Notwithstanding what is stated in subsection (D), the interior minister is authorized to grant a visa and residency permit as cited in the same subsection, for special reasons that will be recorded.”

2. In practice, this proposed legislation seeks to prevent the entry of foreigners solely due to their opposition to the government’s policy and based on political views, and thus it allows the use of irrelevant considerations driven

by clearly political considerations to permit the entry of foreigners to Israel who favor its policy and the political stance of the majority.

3. Enactment of the legislation would cause severe harm to the rights of the Arab citizens in Israel and the Palestinian residents in the occupied territories, and harm the family life of many of them. As we know, the Citizenship and Entry to Israel Law (Temporary Order), 5763-2003, prohibited the entry of Palestinians to Israel for the purpose of family reunification. Since the law's enactment, tens of thousands of families have been harmed by it. Many hold temporary residency and about 8,000 have stay permits in Israel, and neither are able to upgrade their status to receive permanent residency or citizenship. The proposed legislation is liable to have repercussions on a large group of families, solely due to their political views. Since the aforementioned law prohibiting family reunification affects the Arab citizenry in most cases, the prohibition on the entry of spouses for family reunification with Arab citizens for political reasons, and the non-renewal of a permit or residency license given in the past, would lead to the violation of the constitution right of Arab citizens and residents to conduct family life and would discriminate against them and their spouses based on a political stance and opinion.
4. The proposed legislation, if approved, would also lead to a violation of the freedom of expression and the freedom of occupation of citizens (and primarily Arab citizens), and civil organizations in maintaining social, economic, political and personal ties with foreign citizens solely due to the latter's opposition to the government's policy vis-à-vis the continued occupation and the institutionalized discrimination against the Palestinian citizens in Israel.
5. In addition, the proposed legislation, if passed, would harm the rights of the Palestinian residents of the occupied territories to maintain family, personal, professional and social relations with their family members or friends or colleagues, solely because the latter issued a call to boycott Israel. The entry of foreigners to the occupied territories is possible only via the border crossings that Israel controls and it, as an occupying power, is required to refrain from this infringement, especially when the reasons for it are not related to security but are based on political stances and opinions of the person seeking entry.

6. Treating a political opinion as a consideration of equal weight to the security consideration in preventing the entry of foreigners to the state is egregious and very dangerous, and makes the proposed legislation blatantly anti-democratic. The Interior Minister is not authorized to serve as a commissar, who stands at the gate and decides for the state's citizens and for the residents of the occupied territories, who are dependent upon the Israeli border crossings, which opinions are worthy of being heard. The freedom of expression is not only the right to express oneself, but also the right to be exposed to ideas, and even to ideas that infuriate and annoy the majority in Israel. Preventing entry not only denies the freedom of expression of those whose entry was forbidden, but also the freedom of expression of the citizens of Israel and the residents of the occupied territories.
7. Although foreigners do not have a constitutional right to enter Israel, human rights considerations require that in this context too, entry of foreigners will be examined separately in each individual case and that the refusal will not be made arbitrarily. In the **Ghabis** case, then-president Beinisch noted:

“I would like to note that the same sweeping perception expressed in the state's arguments, according to which the state, by power of its sovereignty, has no obligation of any type vis-à-vis a person because he is a foreigner, is no longer accepted. The affairs of foreigners whose basic rights are harmed come before us on a daily basis. This, whether the foreigner is requesting to remain within the state's boundaries for reasons of ‘family reunification,’ whether for reasons of humanitarian refuge, or whether due to other unique circumstances. In the current era, there is growing awareness of the human rights [of all people] as human beings, and many states, when discussing immigration restrictions, wrestle with problems entailing the rights of those who come to their gates. The foreigner's stay in Israel and his rights are examined, therefore, in accordance with the concrete circumstances of his case. This approach, naturally, has implications for the system of balances that is binding upon the government authorities and must balance the foreigner's rights against other public interests, including the public interest in protecting the state's sovereignty to determine who will enter its gates.”

Appeal of Administrative Petition 1038/08 **State of Israel v. Ghabis**
(ruling of August 11, 2009).

8. In light of the above, we call upon you to reject the legislative proposal.

Respectfully,

ר/פ 33/18

Oded Feller, Attorney
Association for Civil Rights in Israel



Sawsan Zaher, Attorney
Adalah – The Legal Center for Arab
Minority Rights in Israel

cc:

MK Yuli Edelstein, Knesset Speaker, via fax: 02-6496193

Minister Aryeh Deri, Interior Minister, via fax: 02-5666376

Mr. Avichai Mandelblit, Attorney General, via fax: 02-6467001

Attorney Eyal Yinon, Knesset Legal Advisor, via fax: 02-6753495