

August 9, 2010

To:

MK David Rotem

**Chairman of the Constitution, Law and Justice Committee
Knesset**

To:

Members of the Constitution, Law and Justice Committee

Re: Proposed Legislation about "Duty of disclosure regarding those supported by a Foreign State Entity" - comments towards the 16.8.10 hearing

Greetings,

Ahead of the scheduled hearing of the Constitution, Law and Justice Committee on 16.8.10, we are honored to present you with our position on the proposed legislation regarding the Duty to disclose Foreign State Entity funding 5769-2010 (P/2081/18), with respect to the version to be presented at the hearing and as published on the committee's website.

The stated purpose of the bill before us is to promote transparency. We identify with this goal and find great importance in maintaining the transparency of various public bodies, including NGOs, in all aspects of their operations, such as their goals, activities, supporters and donors.

But an examination of this bill leads us to conclude that the bill has a different purpose. First, the goal of transparency has been already achieved through existing legislation, which has been amended in recent years. Second, this is due to the fact that the bill is inappropriately selective, as it is not applied equally to any and all donations received by Israeli organizations from foreign sources.

We wish to warn against the advancement of this legislation, which will harm the freedom of association and operations of civil society organizations in Israel, and – in light of the bill's selectivity – will target certain groups only. In a true democracy, freedom of association is not subject to political bargaining, and is a right protected for all citizens who wish to join together to promote civilian goals of one kind or another. This right is protected whether their goals are favored by a certain political party or political majority at a given time, or not.

As mentioned above, current law already requires public bodies, including NGOs, to conduct themselves with full transparency, and disclose information related to donations received by them from any source, including Foreign State Entities (Amendment No. 11, 2008). Prior to this, the Association Regulations, 5763-2002, imposed a duty on organizations to report all contributions from any source, if their sum exceeded NIS 20,000. In addition, Article 36 a (a) of the Law of Associations placed a duty on

associations to detail separately and specifically the receipt of donations from all foreign state entities.

It should be further emphasized that receipt of funds from prohibited sources (such as enemy states) or the use of donations of any kind for prohibited goals, have already been forbidden for some time according to other laws, by which offenders can be criminally prosecuted. And it is clarified further, that existing law – as well as this bill – permit the receipt for donations from foreign state entities. Such donations have been received routinely for years by organizations and associations in Israel, including governmental bodies, municipal bodies and civil society organizations. We therefore believe that this proposed legislation is unnecessary.

In addition, if despite all that is mentioned above, it is decided that this legislation be advanced – at the very least, substantive amendments must be made to the bill so that it is applied equally and appropriately, and not selectively. Without an equitable extension of the law as proposed in this bill, it would connote a misuse of (supposed) transparency and reporting mechanisms to violate the legal and legitimate activities of certain organizations. It would target those perceived by a political force of one kind or another as political or ideological rivals – from the right or left.

A balanced and egalitarian bill would require transparency and disclosure regarding any kind of donation obtained from outside Israel, in order to expose the public to the full range of donations and donors – their goals and agendas, their degree of involvement and the means and the ways in which they are involved, as well as the amount of money donated.

If indeed the authors of the bill aim to expose the involvement of external agents in Israeli agenda, there is no use or relevance in distinguishing between different types of sources. On the contrary – reporting and transparency should be required for all types of contributions, from all sources, and for all bodies in Israel.

In light of the above, we repeat our call that you not support this bill, and at very least, amend it according to the comments detailed below (relating to the bill version as brought for discussion, by numbers of articles of the bill);

Section 1 – Amend the definition of "supported organization" – Correct the definition of supported organization as follows: "an organization or public-benefit corporation which receives financial support from a foreign state entity, an individual who is not an Israeli citizen, an Israeli citizen not residing permanently in Israel, or from any foreign corporation or other foreign legal entity."

Section 1 – Adding a definition: "support from foreign sources" – Support transferred, whether directly or indirectly, by a foreign citizen, Israeli citizen not residing permanently in Israel, a foreign corporation, or any other foreign legal entity, association, or public-benefit corporation."

Section 2 – Obligation to report quarterly – It is suggested, in the spirit of promoting transparency, that quarterly reporting be applied to all types of donations (on amounts equal to or greater than that specified in the law today) and not only on donations from "foreign state entities." Because the bill's stated intention is to promote transparency – namely to expose the Israeli public the sources of contributions coming from foreign sources – there is no practical reason to limit reporting to certain contributions only. The public has an equal interest in the identities of the full range of foreign donors – including private, state and public donors. So is offered – as current law does not require it already – to apply transparency requirements, as they may be decided, to all types of contributions origination from foreign sources.

Section 3 – Reporting content – Section 3 (4) must be corrected to use the same wording that appears in the Law of Associations regarding reporting on donations from a foreign entity. Instead of the proposed wording, this section should be worded as follows: "(4) conditions of the contribution, if any exist." A wording that is coherent and consistent with the text of existing law must be advanced. In addition, you must ensure wording that is clear and not vague, which would not be subject to the interpretation of the Registrar of Associations or Companies, as applicable.

Section 6 – Publications by a "supported organization" – in section 6 (b), the words: "financial support was given by a foreign state entity," should be followed by the words "or support from foreign sources." As previously noted, it is important that reporting be applicable to all types of contributions received from abroad and no differentiation be made regarding the types of support. Otherwise, only certain kinds of supported organizations will be "marked" as though supported by an illegitimate agent. Full transparency, which discloses all kinds of donations and donors, achieves the desired goal of transparency and exposure of information to the public in Israel.

Section 7 – Due diligence – the following words must be added at the end of section: "or those from foreign sources."

In summary, we urge you not to support the bill in question, due to its redundancy and selective nature. Alternatively, we urge you to amend the bill, making it egalitarian and honest, by requiring full transparency of all types of organizations regarding all the sources of their foreign funding.

Respectfully,

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