

Overview of Anti-Democratic Legislation in the 20th Knesset

Updated: March 2016

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 destruction 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.

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

This bill, popularly referred to as the “Transparency Law” or the “NGO Law,” is a government bill that seeks 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.). The NGOs to which the law applies will be required to state and/or declare this fact in any publication, in any discussion attended by public representatives or elected representatives, and so forth.

ACRI believes that the bill is improper and anti-democratic, and that it undermines basic rights. The purpose of the bill is not to increase transparency but to enable the political persecution and stigmatization of specific organizations. The bill is unnecessary, since existing law already requires NGOs to act in a transparent manner, particularly if they receive funding from foreign countries. Moreover, the bill makes 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 is 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 is mentioned in the coalition agreement between the Likud and the Jewish Home parties, signed at the start of the 20th Knesset.

Status: The bill passed its First Reading on 9 February 2016, and is now scheduled for discussion by the Constitution, Law and Justice Committee. Following comments by Prime Minister Netanyahu, the proposed requirement for NGO representatives to wear identification tags was removed. However, the threshold for donations from foreign entities remains at 50 percent, despite Netanyahu’s declaration that the law would apply from the first shekel of foreign funding – in all probability, this is in order to focus attention on a specific group of NGOs.

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>

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 Beitenu 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 – Definition of an Active Body in the Elections), 2016, tabled by MKs Yoav Kisch and others (P/2785)

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. The bill proposes that an organization will be considered associated with a Knesset faction, and will be subject to the limitations on party funding, if “the body’s donors and employees include a person who has

donated to a candidate in primary elections... or to a party or body associated with a faction in the Knesset elections, a sum greater than half the sum of the permitted donation by law to a party or candidate during the two years preceding the election period, or a person who served as a candidate for the Knesset on behalf of a party, or served in an executive position in a party during the two years preceding the determining date.”

The bill further establishes that a donor is defined as “a person or corporations under his control who cumulatively donated, in cash or in kind, a sum greater than 1,000 New Shekels.” An employee is defined as any “person employed by the body, whether officially or unofficially, and whether for a salary or voluntarily.” The bill seeks to impose extremely broad definitions which will substantially restrict the actions of these bodies. The bill will impair the freedom of expression and association and the basic political freedom of citizens, to exert meaningful influence over elections in Israel.

Status: The Ministerial Committee for Legislation approved support for the bill on 20 March 2016 in its Preliminary Reading, and then for coordination with coalition agreements.

See the Hebrew text of the bill:
<http://knesset.gov.il/privatelaw/data/20/2785.rtf>

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) **Proposed Basic Law: The Knesset (Suspension of Members of Knesset)**

This bill, initiated by the Prime Minister, seeks to empower the Members of Knesset to suspend fellow Members of Knesset. 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 Constitution, Law and Justice Committee approved the bill for its First Reading and it will be presented as a bill on behalf of the Committee for further readings and enactment. The bill is due to be presented to the Knesset for its First Reading.

See the Hebrew text of the bill: <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>

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

1) **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 Smotrach (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>

2) **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>

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. The Entry to Israel Law (Amendment – Denial of Visa and Residency Permit to a Person Advocating a Boycott against Israel), 2015 (P/20/1906). See the Hebrew text of the bill:
<http://knesset.gov.il/privatelaw/data/20/1906.rtf>

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. The Foundations of the Budget 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.

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

D. 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.

E. 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.

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.

F. 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>