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# Overview of Anti-Democratic Legislation Advanced by the 20th Knesset

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## Introduction

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; the protection of human rights such as 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.

If that were not enough, in the present era of "new politics" the formal and informal rules of the democratic process are being eroded to the extent that there seems to be almost no mutual respect and willingness to genuinely listen and discuss with those who disagree with the majority; the formal procedures remain the be-all-and-end-all, and they themselves are changing, or at least being challenged, for the convenience of the political majority; political correctness is almost completely abandoned, causing immediate and even long-term damage to various minority groups; political interests have become more important than truths and facts, since this is the era of “alternative facts” and “fake news.”

**What is an anti-democratic activity?** The erosion of democracy is manifested in a range of interdependent initiatives: an attempt to erode the power, authority and activity of "gatekeepers" - the institutions that make up the democratic structure and constitute the set of checks and balances that are vital to democracy and ensure the rule of law, good governance, the protection of human rights and minorities, and the elimination of corruption and the tyranny of the majority; an attempt to silence critical voices of the government, including silencing public criticism expressed by social or political minorities; an attempt to delegitimize political opponents, human rights organizations and minorities; an attempt to restrict the actions of those holding up to positions that are inconsistent with those of the political majority; and portraying the minorities in the Israeli society in a

generalized manner as enemies of the state, while legitimizing the violation of their civil and political rights.

The aspects and manifestations of these initiatives are varied, and include: bills that seek to change the governmental structure; bills that violate fundamental rights that form the heart of a democratic system, primarily the freedom of speech and political protest and equality before the law; verbal assaults on those whose positions are currently in the minority in the Knesset and in society; attempts to delegitimize gatekeepers who are essential for the existence of a democratic system, including the Supreme Court, the President, the Attorney General, the State Prosecutor, the Police and the Inspector General, the State Comptroller, the media and the journalists; an attempt to damage and delegitimize the vital work of human rights and social change organizations; and attempts to restrict the freedom of expression in academic, artistic and cultural spaces and to impose a narrow political agenda; and more.

**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 occasion, 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.

It is also important to note that some of the initiatives in and of themselves deserve to be discussed or advanced. The difficulty lies in the scope and comprehensiveness of the phenomenon that emerges, including all its related aspects described above, resulting in the decaying of the democratic space in Israel.

**The following list of some of the anti-democratic initiatives and bills proposed and promoted in the 20th Knesset demonstrate the current trend. Further on, we present a detailed analysis of the various initiatives.**

#### **I. Initiatives that harm the gatekeepers of democracy**

1. **Legislation intended to restrict the authority of the Supreme Court:** bills advancing the Override Clause (disqualified for being unconstitutional), restriction of Standing and giving priority to Jewish Law, initiatives to change the 'seniority' system for the appointment of the President of the Supreme Court, initiatives to politicize the Judicial Appointments Committee, the jurisdiction of Rabbinical Courts (Adjudicative Authority by Consent) bill, which means a substantive split of the legal system.
2. **Initiatives that restrict other democratic gatekeepers** including the President of the State, the State Comptroller, the State Attorney, the media and the public service: a bill to limit the powers of the State Comptroller, various bills intended to change, restrict, and politicize public broadcasting, and delegitimizing media bodies and journalists by the prime minister and coalition members; delegitimizing the President of the State, the Attorney General, the Police Inspector General, Supreme Court Justices, Members of Knesset from the Opposition whenever they criticize the government's policy; numerous initiatives for the political appointment of legal advisors and general managers deputies in the public service, an initiative to appoint a close acquaintance of the Prime Minister to the office of the Civil Service Commissioner who does not meet any reasonable criteria for fulfilling the job, promoting an agenda according to which the sole role of public servants – such as the Legal Advisers and the Supreme Court Justices – is to promote government policy rather than criticize it or at least impose required barriers; delegitimize the media when it criticizes the government, a bill to remove police recommendations during an investigation, taking significant measures to appoint officials both in the public service and in courts out of political rather than professional considerations.
3. **Initiatives related to reforming the work of the Knesset:** Restricting travel of Knesset members that are funded by organizations having a narrow agenda, the amendment to expand the authority of Knesset Committees to summon private bodies, and a proposal to restrict private legislation without providing for alternative parliamentary measures that would allow the opposition to promote its agenda and critically examine the government.

## II. Initiatives that harm status and rights of minorities

4. **Legislation intended to harm the status or the rights of the Arab minority in Israel:** Israel as the Nation State of the Jewish People Law, the bill to disqualify members of Knesset, the proposed "Muezzin Law" and the proposed Declaration of Allegiance bill of Knesset Members.

## III. Initiatives that harm freedom of expression

5. **Legislation that infringes on the freedom of expression:** restrictions on entry into Israel for those calling to boycott Israel, stricter penalties for contempt of the flag, a bill to limit the funding of cultural bodies based on their political agenda, restricting the intervention of certain organizations in schools based on their political agenda, prevention of funding from universities for actions of their lectures calling to boycotting Israel, initiatives by the Ministry of Culture to cease the funding of activities and theatre plays, initiatives by the Ministry of Education to restrict religious pluralism.

## IV. Initiatives that harm pluralism

6. **Violation of Jewish pluralism (included in freedom of conscience and religion):** the elimination of the Western Wall Outline, restricting entry to Ritual Baths (Mikveh) for Orthodox Jews, conversion by an Orthodox establishment only, restricting alternative

kashrut certification, separation of genders in schools, academia, and in the general public sphere, prioritizing Jewish Law.

## **V. Initiatives intended to restrict the actions of human rights organizations and others**

7. **NGOs:** the “NGO Law” which deals with the obligation to disclose donations from a foreign state entity, the Political Parties Funding bill (aka the “V15 Law” restricting the actions of non-partisan bodies), a proposal restricting or denying tax exemption from donors (Article 46A ) for certain purposes, the Civil Service bill eliminating the right to receive funding for National Service volunteers for certain organizations only, an attempt to cancel fee exemption for requests for information emanating from the freedom of Information Law, for certain organizations only, an attempt to restrict the Standing of certain organizations only, a proposal to appoint an investigation committee for NGOs.

Below is a detailed description of the specific legislative initiatives and the risks they pose to Israel’s democracy.

For other documents related to these issues and relevant updates, please visit ACRI’s website, [“Issues on the Agenda: Shrinking Democratic Space.”](#)

## **I. Initiatives that harm the gatekeepers of democracy**

### **1. Initiatives 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 [here](#)

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

Two identical bills were 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, Neugise, and others (P/20/2696). The bills sought to grant preferential status to Jewish law within the Israeli legal system. This raised grounds for concern that subjugating judicial discretion to a non-egalitarian legal system may lead to a violation of human rights.

Due to extensive criticism, including from the coalition factions, an alternative version of the bill was agreed upon, according to which the referral of the justices would be to the

principles of freedom, integrity, justice and peace not only of the Jewish heritage, as established by the law today, but also of Jewish law. In other words, the use of Jewish law will be subject to the said principles.

**Status:** MK Slominsky's bill, in its updated version, was approved by the Knesset Constitution Committee at the second and third reading on April 4, 2018.

For the Hebrew text of the Law, [click here](#)

[For the Hebrew text of the bill for first reading](#)

[For the Hebrew text of the bill for second and third readings](#)

**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.

**Status:** Eventually, the veteran Judge Esther Hayut was appointed to the position.

**2. Initiatives that harm other gatekeepers of democracy**

## A. Bills and Initiatives that harm 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 20<sup>th</sup> 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. Another area of control held by the Prime Minister is the *Israel Hayom* newspaper, which is funded by his close associate and distributed free of charge. Recently senior journalists of the newspaper were fired after criticizing the Prime Minister.

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>

**B. Criminal Code Bill (amendment No. 81), 5778-2018**

The bill, tabled before the Knesset against the background of the investigations against the Prime Minister, prohibits the Police to publish recommendations in all its investigative files. In sensitive files allotted a supervisory attorney, such as cases against elected public representatives, a recommendation will be submitted only if the Attorney General believes that this is necessary. In this instance, he will contact the Police and obtain the recommendations himself, and it will be prohibited to publish this.

The implication of the bill is damage to the public right to know and to the possibility for public criticism, particularly in investigative files involving elected public representatives. The main difficulty inherent in the bill was its promotion alongside the investigations against the Prime Minister, in what appeared to be an attempt to prevent public criticism. The bill forms part of a series of proposals, as detailed in this document, that seek to weaken the gatekeepers in Israel and to strengthen the government in an undemocratic manner.

**Status:** the bill was passed at its Second and Third Readings on November, 27 2017.

**C. Proposed Basic Law: The Government (Amendment – Prohibition against a Criminal Investigation against the Prime Minister during His Period of Office)**

This bill, tabled by MK David Amsalem, seeks to establish that a Prime Minister will not be investigated for offenses of corruption during his period of office, on the grounds that this disrupts his regular functioning and the performance of his duty. ACRI believes that the bill violates the principle of equality before the law. Legislation of this type cannot be found in almost any other country. Even in France, which served as the model for the legislation, the situation is different: in particular, the office of the president is restricted to two periods of office. If the bill is adopted, an absurd situation is liable to emerge in which although there is grave concern of serious corruption, to the point that the public lacks confidence in the serving Prime Minister, it will not be possible to take action on the matter. The time element in a criminal investigation has grave consequences for the quality of the process that may be undertaken. Moreover, the bill conveys the message that corruption is not a particularly serious matter.

**Status:** the proposal has not yet been promoted.

**D. Civil Service Bill (Appointments) (Amendment No. 20) (Appointment of Legal Advisors for Government Ministries), 5778-2017**

The proposed bill seeks to change the method of appointment of legal advisors in the government ministries. Thus, instead of being chosen via tender, as is the current case with all civil servants, the advisors will be chosen via a completely political search committee. The ramification of the bill is the politicization of an important component in the mechanisms of gatekeepers in Israel, and this will have extremely grave consequences for the rule of law and for good faith in the political echelon and in the executive. This bill is liable to harm the independence and professionalism of civil service, as well as the struggle against government corruption and the protection of the rule of law, as well as the legitimacy of the upper echelons and executive branch. The bill forms part of a series of proposals that seeks to weaken the gatekeepers in Israel and to strengthen the government in an undemocratic manner. The proposal was brought before the Knesset's Constitution, Law and Justice Committee for the first discussion despite widespread

opposition from senior jurists, retired government legal advisors, the current attorney general, organizations and others.

**Status:** the bill was passed at its First Reading on January, 15 2018.

[ACRI's position](#)

#### **E. State Comptroller Bill (amendment – Reporting on the Correction of Failings), 5777-2017**

The bill, tabled by MK Bezalel Smotrich, seeks to curtail the powers of the State Comptroller's Office and the State Comptroller so that they will address solely matters that have already been completed, and not matters on the current agenda. The argument is that the State Comptroller is not empowered to intervene in the discretion and decision-making process of the elected executive echelon and should not replace these. However, the bill largely neutralizes the Comptroller's work and will prevent him from warning of defects, corruptions, damage to the rule of law, and so forth on a real-time basis, so that he will only be able to do so after the fact. The bill forms part of a series of proposals, as detailed in this document, that seeks to weaken the gatekeepers in Israel and to strengthen the government in an undemocratic manner.

**Status:** the bill has not yet been promoted.

### **3. Initiatives intended to change the work of the Knesset**

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

The proposal involves the addition of a section to the Ethics Rules for Members of the Knesset, related to trips abroad that are not funded by the Knesset. According to the proposal, the Ethics Committee will examine the political positions of the host abroad and will approve or reject the application accordingly.

In light of the criticism of the proposed section, both within and outside the Knesset, its promotion was delayed for some time. After the Ministry of Strategic Affairs, headed by MK Erdan (Likud), published a list of boycott organizations, MK Yoav Kisch (Likud) proposed an updated version of the amendment, according to which travel by MKs on the list would be prohibited. The Ministry's publications also added a section that allows the Ethics Committee to exercise discretion regarding travel and to approve travel in the appropriate circumstances in its opinion.

This amendment seeks to limit the travel of Knesset members abroad on the basis of the political views or activities of the inviting parties, which may entail infringement on freedom of expression and political freedom in Israel. It may further harm the work of Knesset Members (from all parties), their immunity and their ability to represent their constituents. ACRI opposes this initiative, maintaining that the existing measures and laws of transparency and accountability related to travel and meetings of elected officials and their funding entities are sufficient.

**Status:** The amendment was approved by the House Committee on January 22, 2018.

[ACRI's position](#)

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

There are a number of initiatives on the Knesset's agenda, that seek to strengthen the Knesset in its supervisory role of the government. The initiators of the proposals are from various parties. It is reasonable to assume that the purpose of the initiatives is just and right. However, some of the proposed reforms may be very problematic if they are not promoted in keeping with specific critical details.

For example, there is an intention to reduce private legislation in the Knesset out of the concern that public time be wasted if the government and government ministries prepare and discuss such bills without succeeding to promote them. This makes sense, but today private legislation has become the primary mechanism of the opposition to bring issues to the public agenda. Eliminating this, without giving Knesset Members and/or opposition members alternatives, will weaken the Knesset rather than strengthen it.

Another initiative seeks to allow the Chairpersons of the Knesset committees to summon any private entity they request to Committees' hearings. In our opinion, this initiative is beyond the Knesset's supervisory duty and may lead to "field trials" conducted by the relevant committees for entities that are not approved by the political majority of the Knesset of. For further details see above – Proposed Basic Law: The Knesset (Amendment - Summons to Knesset Committees).

**Status:** In addition to the bill relating to summons to Knesset Committees, the other initiatives are proposals for amendments to the Knesset's Articles of Association. The bill and recent initiatives are being discussed by the House Committee and have yet to be approved.

## II. Initiatives that harm the status and rights of minorities

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

**A. Basic Law: Israel – The Nation-State of the Jewish People**

In the last few years, a number of bills had been proposed in order to define Israel as the nation-state of the Jewish people as a Basic Law. Despite minor changes between the various proposals, the premises of the bills were essentially all the same, all violating human rights, democracy, and the rights of the Arab minority in Israel.

In the 20<sup>th</sup> Knesset the Basic Law: Israel – The Nation State of the Jewish People was proposed (P/20/1989) by MK Dichter and Others.

An English translation of the bill is available [here](#).

Similar bills were tabled in the previous Knesset, 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), [click here](#)**
- **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 [here](#)**

- **Proposed Basic Law: The State of Israel, tabled by MK Begin (P/20/1587): See the Hebrew text of the bill [here](#)**

During the various deliberations in the Knesset, the text of the proposed bill was altered due to widespread public criticism of its previous iterations, in which the democratic nature of the state was defined as secondary to it being a Jewish state. Still, the wording of the bill that eventually passed emphasizes and gives preference to the Jewish characteristics of the state, over its democratic system, and thus disregards the Arab minority and its rights.

The law, which in effect is now part of the constitutional framework of the state of Israel, does not deal with democracy or human rights obligations, and, in fact, grossly violates the balance between Israel as a Jewish and democratic state. Not only does this law not guarantee human rights to all of its citizens, but specifically infringes the right to equality, the right to language and culture, and the rights of the minority. With this law, there is no basis for democratic institutions and separation of powers. The law anchors already-present discrimination and racial segregation in renting and buying real estate, violates the right to language, culture and identity to one fifth of the country's citizens, and includes many discriminatory provisions that open the door to widespread practices of racial discrimination in all spheres of life. There is much concern that a Basic Law of this nature will harm the human rights of all Israeli citizens, as it erodes the democratic framework of the country as a whole.

**Status:** In September 2017, a special ministerial committee established for this purpose began discussing the bill. The committee approved on its first reading, March 13, 2018.

After intensive conversation and debate over the summer session, the bill was approved after its second and third reading in the Plenum on July 7, 2018. Many petitions were submitted to the Supreme Court against the law, including ACRI's. The discussions are expected to take place with a full panel of 11 judges in late 2019.

[ACRI's position paper](#)

## **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.

**a. 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 [here](#)

**Status:** The bill was rejected by the Ministerial Committee for Legislation and subsequently tabled again by the entire Yisrael Beitenu faction.

**b. 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 [here](#)

**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.

**c. 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 July 19<sup>th</sup>, 2016 following second and third readings in the Plenum. ACRI filed a petition against the constitutional amendment. The Supreme Court ruled that the amendment was legal, alleging that it includes mechanisms to balance the danger of infringing on the freedom to vote and being elected.

For the Hebrew text of the Law, [click here](#)

For background and ACRI's position, [click here](#)

- 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 March 8, 2017 and has not yet been promoted:

- D. Bills to Amend the Oath of Allegiance of Elected Members of Knesset; MK Oded Forer**

At present, the Basic Law: The Knesset requires Members of Knesset to swear allegiance to the State of Israel. This bill seeks to update the oath to declare allegiance to the State of Israel as a Jewish and democratic state in the spirit of the Declaration of Independence. The bill targets Arab Members of Knesset, who are excluded by the oath in its adapted form, and effectively excludes all the members of the Arab minority as equal citizens of the state.

**Status:** not yet promoted.

- E. Bill: The Knesset (Prevention of Participation in Elections due to a Candidate’s Statements) of the Yisreal Beiteinu party (P/20/2266/)**

Section 7A of the Basic Law states that a list of candidates or an individual candidate will not participate in the Knesset elections “if the goals or actions of the list, or the actions of the individual, as the case may be, explicitly or implicitly” negate the existence of the State of Israel as a Jewish and democratic state, incite to racism, or support an armed struggle by an enemy state or terror organization against the State of Israel. The bill seeks to clarify that the actions of the list or individual also include their statements. Since this is already the accepted interpretation of the law, the intention of this legislation is clearly to delegitimize Arab Members of Knesset and depict them as acting against the state.

**Status:** the bill was approved at its Second and Third Readings on March, 14 2017.

### **III .Initiatives that harm the freedom of expression**

- 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.

**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 [here](#)**

**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 March, 6 2017

[ACRI's Letter to the Knesset](#)

**A. Bill to Prevent Harm to the State of Israel by Boycott (Amendment - Compensation without Proof of Damage), 2017**

The proposal for this bill seeks to determine that anyone who calls for a systematic boycott will be called to pay compensation without proof of damage in the amount of NIS 100,000 to those damaged.

ACRI was a partner in a petition to the Supreme Court against the "Boycott Law," claiming it was illegal because it violates freedom of expression. The High Court of Justice rejected the claims almost entirely, stating that the key element of freedom of expression is not infringed and that it is legitimate to prevent those calling for boycott from receiving benefits from the state. That being said, the nine judges of the special panel unanimously ruled out Section 2(c) of the law, which prescribed compensation without proof of damage, on the grounds that this section goes too far and disproportionately violates freedom of expression and political freedom. Nevertheless, the government is currently promoting a private bill that seeks to reenact said section.

**Status:** The bill was submitted for preparation for the first reading of the Constitution Committee despite the objection of the Attorney General, and contrary to the government's decision that an amended version will be prepared before the proposal is

advanced. The bill was approved by the committee and has not yet been brought to the plenum for a first reading.

[ACRI's position in Hebrew](#)

**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 [here](#)

**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, [click here](#)

**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, [click here](#)

**Status:** The proposed bill was discussed and approved on first reading. MK Hazan opposes the wording proposed by the government, and therefore it is not clear whether the bill will be promoted

**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 initially wrote to the Attorney General in 2015, [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. The legislative memorandum consequently submitted proposed that the Minister of Culture be granted the authority equivalent to that given to the Minister of Finance via the "Nakba Law" (Amendment to the Budget Fundamentals Law of 2011), which allows him or her to reduce the budget from an institution that, among other things, designates Independence Day as a day of mourning, denies the existence of the State of Israel as a Jewish and democratic state, or disrespects the Israeli flag or related symbol. ACRI's stance is that this amended version is still illegal as it infringes on the freedom of expression in violation of the Basic Law: Human Dignity and Liberty.

This law will harm both freedom of expression and culture, with a particularly chilling effect on the freedom of expression in Israel, especially in respect to sensitive issues that deserve special protection.

**Status:** A legislative memorandum has been submitted.

**To access the Legislative Memorandum in Hebrew,** [click here](#)

**ACRI's 2018 Letter to the Attorney General and Legal Advisor to the Ministry of Culture in Hebrew:** [click here](#)

**E. State Education Bill (Amendment – Prevention of Activity of Organizations Acting against the Educational Goals and against the IDF), 5777-2017; MK Shuli Moalem-Refaeli and others (P/3643)**

This bill seeks to empower the Education Minister to deny entry to schools to external bodies and lecturers if he believes that their activities are contrary to the general goals of education. In specific terms, the bill was formulated in order to prevent lectures in schools by the organization Breaking the Silence, though its ramifications are much broader.

The original wording of the bill proposed to add a new goal to the educational goals: respecting the IDF and maintaining its status. It was also proposed that the Education Minister be granted exclusive authority to reject organizations whose activities contradict the goals of education, including bodies whose activities are liable to lead to the prosecution of IDF soldiers, which remained in the bill that eventually passed.

The wording agreed to by the Committee and passed at its first reading is slightly more moderate than the original wording. In the wording eventually approved by the Knesset in the second and third readings, it was determined that the Minister of Education will indeed have the authority to set guidelines to prevent the entry of a body whose activity he or she determines seriously and significantly contradicts the aims of education, while the previous version's educational goal of "honoring the IDF" was changed to "education for meaningful service or civilian service." It was also determined that the activity of

prosecuting soldiers abroad and activities to promote political proceedings against Israel from abroad will be considered grounds for the disqualification of an organization to enter schools.

The amendments and the bill itself are highly problematic. As the educational goals are determined in a very general and declarative manner, the bill enables the Education Minister to censor content and to reject any opinion, body, or activity that is inconsistent with his own political attitudes. It is contrary to the goals of education as defined in the State Education Law, which include education to critical thinking, human rights, and active citizenship. It damages pluralistic and critical education and the right and obligation of school principals to enable their students to engage in free and informed discussion of controversial issues and to expose them to different and opposing attitudes.

**Status:** The bill passed its second and third readings on July 16, 2018.

[ACRI's position on the Law](#)

**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. Initiatives of the Ministry of Culture that infringe on the freedom of artistic expression**

The Culture Minister Miri Regev initiated a number of controversial actions against cultural institutions and cultural and artistic creations intended to cut off their government funding by her ministry. These actions targeted, among others, [the Al-Midan Theater; The Jaffa Children's Theater Almina](#); the screening of a [documentary about Yigal Amir](#) at the Jerusalem Film Festival; Zochrot's [Nakba Film Festival](#); an [event at the Cinematheque with the participation of a conscientious objector](#); the plays ["Palestine Year Zero"](#) and ["The Return to Haifa"](#); the screening of a [documentary film and a discussion on the export of arms from Israel](#); and an [event in Haifa with Breaking the Silence](#). Alongside the promotion of a bill preventing state funding from public bodies due to "incitement, disrespect of state symbols and the encouragement of terrorism", discussed above, the Minister sent a list of funding criteria to cultural institutions in a similar vein.

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 over 50 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.

To read the proposed amendments in Hebrew, [click here](#)

## IV. Initiatives that harm pluralism

### A. Exclusion of women

In recent years, the phenomenon of gender segregation and exclusion of women from public spaces due to religion is expanding. The various aspects of this phenomenon include: gender segregation in academic institutions and state-run courses, segregated buses, numerous instances in the army, segregation in public events, signs demanding women dress modestly or are forbidden to pass, exclusion of women from billboards, exclusion of professional female politicians from Knesset candidate of the ultra-Orthodox parties, and more. Many of these instances of gender segregation were directly supported and encouraged by various state institutions, in contrast to the assertion that the state objects to the exclusion of women.

Gender segregation and gender exclusion on behalf of religion violates the fundamental right of women to equality in the public sphere in Israel, and is contrary to the basic assumptions of the democratic regime. The integration of the ultra-Orthodox into society is a positive and worthy goal, but should not be achieved by sacrificing the basic rights of

women. In a democratic society that respects the basic rights of all its members, one cannot accept that the religious freedom of ultra-Orthodox men requires altering the public space in order to create a sterile space from women. While everyone should have the freedom to choose how they live their lives, an integral and essential part of the liberal conception is a clear delineation between the right to maintain a certain way of life in the private sphere along with the obligation to maintain equality in the public sphere.

### **B. Ministry of Education Initiatives that Harm Pluralist Education**

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. Bills and initiatives that harm Jewish Pluralism**

#### **1. Legislative Memorandum: Jurisdiction of Rabbinical Courts (Adjudicative Authority by Consent), 2017**

The legislative memorandum is a government attempt to amend the Rabbinical Courts Adjudication Law, in a way that grants them parallel authority on civil matters when the parties agree thereto. In such matters the religious courts will be authorized to rule according to the Jewish Law. ACRI maintains that the ramifications of this initiative are far-reaching and could fundamentally change the Israeli law system and lead to establishing two parallel and clashing legal systems. The principle of the rule of law, which guarantees a single law for all citizens of the state and equality before the law, will no longer exist, as there will be disputes in which the parties will be subject to a different legal system which is different to that enacted by the legislature, but is based on religious laws.

This legislative memorandum entails a severe violation to the rights of litigants, including the right to equality, dignity, freedom of occupation, freedom of property, freedom of expression, and the right to access to the courts. It could especially cause severe damage to women's rights.

**Status:** at the legislative memorandum stage

[The position of ACRI and the Religious Action Center](#)

## 2. Discontinue 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 while compromising the diversity of opinions and voices in society.

See articles in *Haaretz* on the subject from [January 2016](#) and from [2014](#).

3. **Other Initiatives:** Elimination of the Western Wall Outline; restricting entry to Ritual Baths (Mikveh) for Orthodox Jews; conversion by an Orthodox establishment only (Conversion Law); Prohibition of alternative Kashrut certificates; Promoting gender separation in academia and in schools and generally in the public sphere

## V. Initiatives intended to curtail the activities of human rights organizations and other NGOs

### B. 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.

In early June of 2017, it was 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. Minister Yariv Levin (Likud) was asked to prepare proposals for advancing this idea. However, a new bill has yet to be presented.

For a detailed discussion of the bill and ACRI's response, [click here](#)

For a summary of the law in English, [click here](#)

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), [click here](#):**
- **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), [click here](#)**
- **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), [click here](#)**

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

#### **C. 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.

#### **D. 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 20<sup>th</sup>, 2017.

**E. 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 March 8, 2017.

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

**F. 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 tabled 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 22<sup>nd</sup>, 2017.

**G. 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.

**H. 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.

**I. 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 principled 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.

**J. 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.

**K. An initiative to establish an inquiry commission for investigating organizations**

In October 2017, the government proposed to establish an inquiry commission to examine donations made by foreign government entities to organizations. The real purpose of this commission is to prosecute those who promote an agenda that is different to that of the government, and to stage "show trials" conducted by politicians against associations whose activities do not match the political views of those politicians. Such a commission shall not have the measures and powers required to carry out a substantive and genuine investigation, and such investigation can certainly not be duly conducted in an egalitarian manner. The proposal is intended to intimidate donors and organizations that are not acceptable to the government.

[ACRI's Position](#)

**L. An initiative to prohibit donations from specific donors (known as the Soros Law, named after the billionaire and philanthropist George Soros)**

In November 2017, MK Miki Makhluף Zohar announced during a debate in the House Committee that he intends to advance legislation that would prohibit the transfer of donations from donors listed in the "black list" established by the Ministry of Strategic Affairs; this legislation is allegedly intended to spearhead the struggle against initiatives supporting the boycotting (BDS) of Israel. The list includes organizations and individuals supporting BDS or other activities intended to criticize Israeli policy.