

Administrative Council
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14 December 2011

Prime Minister Benjamin Netanyahu
3 Kaplan St.
P.O.B. 187
Kiryat Ben-Gurion
Jerusalem, Israel 91919

Dear Mr. Prime Minister:

We write to express our concern regarding the recent consideration by the Knesset of controversial bills that would seriously affect civil society organizations, particularly human rights organizations, and would result in undermining protections of such basic freedoms as speech, association, and assembly.

On 30 Nov. 2011, a combined bill for adoption by the Knesset, sponsored by MKs Fania Kirshenbaum and Ofir Akunis, was made public. If adopted, it would prohibit donations from foreign state entities to six categories of "restricted associations," and impose a 45% tax on donations from foreign state entities to public institutions that do not receive funding from the State of Israel.

While it is surely within the purview of a government to restrict organizations that support armed struggle or terrorism against its country, the proposed Israeli bill restricts such groups in the same manner as it would curtail nonviolent civil society organizations that fulfill an important purpose: raising concerns of accountability of government officials, including the military, and, when necessary, calling for changes in unfair or discriminatory policies and actions.

Israel is a parliamentary democracy based on respect for the rule of law that has acknowledged its responsibility to adopt and enforce laws that protect human rights, including the freedoms of speech, association, and assembly, by its ratification of and reporting under the International Covenant on Civil and Political Rights. Israel has officially reported to the UN Human Rights Committee, the official monitoring body for the Covenant, that "the right to free speech has long been recognized as a supreme, constitutional norm, and any limitations on its exercise . . . must meet strict standards of scrutiny regarding their justification and scope."

However, the proposed bill's definition of a "restricted association" does not appear to meet this "strict standard of scrutiny" for limiting the freedom of speech. Furthermore, the draft bill neither enumerates criteria for how a civil society organization will be categorized as a "restricted association," nor allows for an appeal of the categorization. Therefore, the draft bill appears to allow implementation in a far-reaching and arbitrary fashion that could stifle the work of human rights organizations that pose no credible threat to security. If Israel were to allow this sector of civil society to be punished in accordance with the provisions of this draft bill, it would raise questions about the democratic nature of the government and its commitment to the protection of human rights.

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Additionally, as noted above, the proposed bill would impose a 45% tax on donations from foreign state entities to public institutions that do not receive funding from the State of Israel. This appears intended to limit the ability of independent civil society organizations to receive and utilize resources to promote and protect human rights and fundamental freedoms. Yet, the right of such organizations to carry out those functions is a hallmark of democratic societies and is proclaimed in Article 13 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders).

Some have argued that the proposed bill will alienate European countries with which Israel works to gain political support in the peace process and international forums. We are concerned that the bill will have an unfavorable effect on public opinion in the United States toward Israel. The U.S.-Israel relationship is based on shared democratic values. The U.S. Ambassador to Israel has expressed concern that the broad language of the bill could prevent the U.S. from funding some of its projects in Israel, which the U.S. views as apolitical and noncontroversial. U.S. Secretary of State Hillary Clinton has also reportedly criticized the anti-democratic nature of the bill. Furthermore, the proposed bill risks eroding Israel's reputation as a model of democracy in the Middle East and could as a result lessen public support for Israel in the U.S.

We urge you, Mr. Prime Minister, to oppose this bill, which would infringe upon human rights and civil society's important role in promoting and protecting human rights for all, a long standing aim of democratic societies and a principal Jewish value. We further urge you and all members of Israel's government publicly to pledge to uphold the freedoms of speech, association, and assembly, including the rights guaranteed by the UN Declaration on Human Rights Defenders.



E. Robert Goodkind, Chair



Felice D. Gaer, Director

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