האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

October 2010

Knesset 2010 Winter Session: Expectations and Concerns

The Association for Civil Rights in Israel

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HARMING DEMOCRACY IN THE HEART OF DEMOCRACY

A Review Ahead of the Knesset's Winter Session

OCTOBER 2010

Attorney Debby Gild-Hayo

Background

Over the past two years, we have been increasingly troubled by expanding tendencies to harm Israel's democracy. These trends are extensively surveyed in the State of the Democracy Report – published by The Association for Civil Rights in Israel (ACRI) in intermittent chapters. The two chapters that have been published so far deal with education system, and with the status of the Arab minority in Israel. The three future chapters will address the Knesset and the judicial system, free media, and freedom of protest and political activity.

A source of great concern is the fact that one of the key rings in which the Israeli democracy is threatened is the parliament itself - the very heart of democracy. Ahead of the upcoming opening of the Knesset's Winter Session, we have drafted this brief review. It surveys the main aspects of anti-democratic trends in the Knesset, focusing on anti-democratic legislation, which includes bills that harm basic democratic rights - mainly the freedom of expression and political protest, and equality before the law; verbal and even physical abuse of members of the Knesset minority factions at this time[1]; attempts to delegitimize and infringe on the legitimate and much-needed operations of human-rights and social-change organizations[2]; and attempts to restrict the freedom of Israel's academy. The above are most troubling signs, attesting to the deterioration of Israel's democratic regime.

The attacks against Israel's democracy are mainly characterized by attempts to silence social or political minorities' views or public criticism; attempts to delegitimize political rivals, human-rights organizations, and minorities; attempts to restrict parties with positions or activities that do not coincide with the political majority's desired direction; and by presenting minorities in the Israeli society as enemies of the State, generalizing in an attempt to infringe on their civil and political rights.

As a result, the basic principles of the Israeli democratic system are harmed; there is ongoing infringement on issues such as the freedom of expression, and human dignity and equality; on the possibility of upholding the pluralism of views and thoughts; on the freedom to congregate and protest; and on the legitimacy of certain views and stands. We are witnessing a reality of increasing tyranny against social, political, and national minorities, which harms their very rights.

It should be noted that these events have been taking place against the backdrop of a social and political reality which is always very loaded and often very harsh. Over the past 2 years, for example, we witnessed the continuation of the occupation and all that it entails: fire on Israel's southern area, the military operation in Gaza, the flotilla affair, terror attacks, and more. We believe, however, that raising the banner of "A Self-Defending Democracy" is a cynical attempt to infringe on a democratic right of some minority (ethnic, social, or political) and is neither legitimate nor just. We believe that the State of Israel and its democracy must be defended, albeit proportionally and appropriately, and that basic rights may be denied or restricted only in

[1] See our letter to the Knesset speaker, dated 6 June 2010, following the flotilla events, and his reply dated 10 June 2010.

[2] See our letter to the President, the prime minister, and the Knesset speaker, dated 1 February 2010, concerning the delegitimization of human rights organizations.

the most extreme cases - as the Israeli law currently stipulates. It is inappropriate to legitimize the denial of minority rights as a matter of routine.

These anti-democratic moves employ various means, most troubling of which is the use of allegedly legitimate parliamentary tools, mainly through legislation. In recent years, we witnessed harsh and unprecedented remarks by senior politicians against political and human rights organizations, as well as various minorities, coupled by a variety of restrictive moves against them. At the same time, attempts were made to promote legislative initiatives and bills that clearly impair on the Israeli democracy and the rights, positions, and civil status of parties that did not belong to the political majority at the time.

It should be remembered that remarks and/or moves by senior members of the Israeli political establishment, particularly members of the Knesset, which has been a symbol of Israel's democracy and its main upholder, have far-reaching implications on the Israeli public stands and attitudes toward democracy, human rights, and political, social, and ethnic minority groups. Surveys that the media carried over the past two years indicate that the Israeli public, mainly Israeli youths, support undemocratic and racist views.

Ahead of the Knesset's October 2010 Winter Session

The 18th Knesset's Winter Session 2010-11 will commence on October 10th. Anticipating it, we wish to warn against the troubling trend of infringement against democracy in Israel as expressed through the persistent promotion of anti-democratic bills, decisionmaking process, and conduct by Members of Knesset (MK). The Knesset plenum and committees have recently served as platforms for offensive and anti-democratic discourse.

In July 2010, at the close of the last Knesset Summer Session, The Association for Civil Rights in Israel (ACRI) sent a letter to the prime minister and the Knesset speaker in which we warned about the troubling trend of infringement on democracy, pointing at the important role the Knesset plays in defending democracy, and calling on them to take steps to end that trend.[3]

In the letter, we presented a list of bills promoted in the Knesset to demonstrate this troubling trend. At this time, ahead of the opening of the Winter Session, we wish to offer an update on these bills, some of which were not promoted while others were.

First, we wish to address bills that were listed in the aforementioned letter, and new bills that were submitted since and were not promoted because the Ministerial Legislation Committee rejected them, probably due to lack of agreement among its members (additionally, we list a bill that was passed and thus, naturally, will not be discussed in the upcoming Knesset session).

1. **Bill on MK's Pledge of Allegiance (*David Rotem*)**

   According to this bill, all MKs are required to pledge allegiance to the State of Israel as Jewish a democratic state, to its laws, symbols, and national anthem. The bill intends to delegitimize and even practically prevent minority groups from partaking in the Israeli democratic process.

   Status: Not promoted due to lack of coalition agreement.

2. **Bill Denying the High Court's Right to Rule on Nationalization (*Rotem and another 44 MKs*)**

[3] See our letter dated 21 July 2010.

This bill, which intends to bypass the High Court of Justice (HCJ), was devised in the wake of HCJ discussions of the Nationalization Act, though the court has not yet ruled against it, but probably may do so in the future.

Status: Not promoted due to lack of coalition agreement.

3. **Bill for the Establishment of a Constitution Court (*David Rotem*)**

This bill wishes to restrict the Supreme Court. In a democracy, the separation of powers means that the court must defend the rule of the law and prevent harm to human rights in general and to constitutional rights in particular through legislation, among other things. The proposed bill, which aims at denying the HCJ powers through a series of acts, severely harms the principle of the separation of powers, the protection of human rights, and the democratic system.

Status: Not promoted

4. **A series of government-initiated bills that intend to restrict the Knesset's opposition factions**

Seven MKs may split from a Knesset faction to establish a new faction - not one-third of the original faction members; increasing the quorum needed for budget-related bills to 55 MKs; if after a vote of no-confidence is endorsed by a Knesset majority, the new candidate for prime minister should fail to form a coalition-based government, the ousted government should regain its seat; a cabinet member who quits the Knesset shall be replaced by another on his faction list.

Status: passed the first reading; it seems there is no intention to promote further it at this time.

5. **Bill or Pardoning Disengagement Offenders (*Rivlin et al*)**

Though legislation that eases punitive measures against persons who exercised their right to political protest is welcome in principle, this particular bill is problematic because it makes a distinction between political and ideological activists of various groups. Instead of promoting a general principles of "going easy" on protesters, this bill was promoted by the current political majority in favor of their electorate alone[4].

Status: the Knesset passed the bill; the HCJ is currently reading a petition against its inequality.

6. **The Cinema bill**

According to this bill, the entire crew of a film that seeks public funding will have to pledge allegiance to the State of Israel as Jewish a democratic state, its laws, symbols, etc. This bill infringes on the freedom of expression, protest, and artistic and creative expression - referring only to a specific political, national, and social group. **Status:** not promoted.

7. **Bill on Denying an MK's Parliamentary Status (*Dani Danon*)**

[4] See an ACRI position paper on the issue dated 25 June 2010.

According to this bill, the parliamentary status of an MK may be revoked by a majority of 80 MKs if he expressed his opposition Israel's existence as a Jewish and democratic state, incited to racism, or supported an armed struggle against the State of Israel.

Status: Not approved by the government.

It may be expected, however, that some of the bills that the Knesset started promoting in the previous session will be actively promoted further in the upcoming session. Following is a list of bills that we believe carry high probability of promotion and even ratification, with such or other wording, and turn into state laws in the coming Winter Session.

1. **The Nakba Bill (*Alex Miller*)**

   According to this bill, persons marking Nakba Day as a day of mourning for the establishment of the State of Israel will be sentenced to prison. The government endorsed the bill but, in the wake of public protests, its wording was changed to state that persons marking Nakba Day shall be denied public funds. Even this "minimized" version still legally impairs on the freedom of expression, as the political majority bans a certain political view.

   Status: The bill passed the first reading and will be discussed by the Knesset Constitution, Law, and Justice Committee ahead of its second and third reading.

2. **Anti-Incitement Bill (*Zvulun Orlev*)**

   An amendment of the existing act, according to which persons publishing a call that denies the existence of the State of Israel as a Jewish and democratic state shall be arrested. This is an extension of the penal code, which intends to incriminate a political view that another political group does not accept.

   Status: Passed the preliminary reading and may be discussed by the Knesset Constitution, Law, and Justice Committee ahead of its first reading.

3. **Nationalization, Pledge of Allegiance (*David Rotem*)**

   According to this bill, all Israeli citizens will have to pledge allegiance to the State of Israel as Jewish a democratic state, and do a term of military or national service.

   Status: The government did not endorse this bill; a ministerial committee rejected it in May 2010, but another attempt was made in July to get the cabinet to endorse it and failed. Additional attempts to promote this bill may be expected.

4. **Bill on Admission Committees of Communal Settlements (*David Rotem, Israel Hason, Shay Hermesh*)**

   According to this bill, admission committees may turn down candidates for membership with a communal settlement if they "fail to meet the fundamental views of the settlement," its social fabric, and so on. The bill primarily intends to deny ethnic minorities' access to Jewish settlements, offering the possibility to reject anyone who does not concur with the settlement committee's positions, religion, political views, and so on. It should be noted that ACRI filed a petition against this bill, which is pending with the HCJ[5].

[5] See an ACRI position paper on the issue dated 21 December 2009.

Status: The bill passed the first reading and will be discussed by the Knesset Constitution, Law, and Justice Committee ahead of its second and third reading.

5. **Bill on Funds from Foreign Political Entities (*Elkin et al*)**

According to the (original version) of this bill, any person or group financed by a foreign nation must register with the party registrar and immediately report each contribution, mark every document in this spirit, and state at the opening of any remark they make that they are funded by a foreign state. The bill names strict penalties too. In practice, the bill intends to delegitimize and impair on the activities of organizations that receive funds from, among other sources, foreign states. Though the Israeli law already makes reporting such donations imperative, this bill wishes to expand the existing law and force certain civil organizations to mark their activities as subversive and illegitimate. Furthermore, the bill practically refers to the activities of specific civil groups, focusing on human rights organizations, implicitly incriminating them when compared with other bodies or individuals funded by foreign non-state entities[6]. It should be noted that we sent a letter to the foreign minister recently warning against the state's illegitimate intervention in fundraising by Israel's civil organizations[7].

Status: An amended version of the bill was endorsed by the Knesset Constitution, Law, and Justice Committee; and will soon be presented for a first reading and then discussed by the committee ahead of its second and third reading.

6. **Bill on Infiltration (*Government*)**

The bill stipulates, among other things, that infiltrators based on their country of origin, and persons who assist them (!) may be sentenced to 5 to 7 years in prison. This bill follows the trend of delegitimizing human rights and aid organizations and individuals who help refugees and labor immigrants.

Status: The government pulled back the bill, but key points from it will be introduced through a new bill which, to the best of our knowledge, is currently drafted by the Justice Ministry[8].

7. **Bill Against Boycott (*Elkin et al*)**

According to this bill, persons who initiate, promote, or publish material that might serve as grounds for imposing a boycott against Israel are committing a crime and a civil wrong, and may be ordered to compensate parties economically affected by that boycott, including fixed reparations to the tune of 30,000 shekels, freeing the plaintiffs from the need to prove damages. If the felon is a foreign citizen, he may be banned from entering or doing business with Israel; and if it is a foreign state, Israel may not repay the debts it owes that state, and use the money to compensate offended parties; that state may additionally be banned from conducting business affairs in Israel. And if that is not enough, the above shall apply one year retroactively.

This too is a bill that discriminates against certain political groups in Israel, and is introduced by the political majority in an attempt to neutralize the political opposition it is facing. Primarily, the bill intends to reject legitimate boycotts of products of settlements, and thus severely impairs on a legitimate, legal, and nonviolent protest tool

[6] See an ACRI position paper on the issue dated 9 August 2010.
[7] See an ACRI letter to the foreign minister, dated 1 September 2010.
[8] See an ACRI position paper on the issue dated 4 June 2008.

that is internationally accepted (including by Israel), while impairing on the Israeli citizens' freedom of expression, protest, and congregation[9].

Status: The bill passed a preliminary reading and the Knesset Constitution, Law, and Justice Committee will discuss it ahead of its first reading. It should be noted that a ministerial committee rejected the chapters pertaining to foreign citizens and states, probably out of consideration for Israel's foreign relations, and spiked the retroactive clause.

8. **Bill on Revoking the Citizenship of Persons Convicted of Terrorism or Espionage (*David Rotem*)**

This bill infringes on the basic rights of Israel's citizens because when a citizenship (which in itself is a basic right) is denied, a series of basic rights that follow from it are denied too. Furthermore, the Israeli Penal Code already specifies ways of dealing with persons convicted of terrorism or espionage[10].

Status: The bill was discussed by the Knesset Interior Committee, which will continue discussing it ahead of its first reading.

On top of these, two additional bills submitted over the past 2 months may be promoted in the coming session:

1. **An Associations Bill (ban on filing suits abroad against Israeli politicians or army officers),** according to which an association that deals with suits against senior Israeli officials abroad may not be established, or will be shut down.
2. **Bill banning wearing veils in public,** according to which, it would be illegal to cover one's face in any public location, under penalty of imprisonment.

We further wish to stress that there is a tough and intolerant approach toward minority members and stands in the Knesset, as expressed in plenum and committees' discussions. This trend was particularly visible after the flotilla affair, and included verbal and even physical abuse against MK Zuabi, as well as other Arab MKs, during and after the plenum discussion, when the Knesset discussed the revocation of her parliamentary rights. It should be noted that a petition was filed with the HCJ against that revocation, under the pretext that it was an undemocratic act.

The prevailing atmosphere is not expected to change soon, certainly not during the current loaded period of talks with the Palestinians, terror attacks, rocket firing from Gaza, and the debate over freezing or not freezing construction works in the territories.

Answering our letter, dated July 2010, the Knesset speaker wrote that he too is uncomfortable with some of the bills mentioned in our letter, saying that he feel that "the State of Israel as the state of the Jewish nation, and as a Jewish and democratic state, is strong enough and needs no 'fortifications' such as those proposed by the bills you mentioned in your letter. I believe that, often unintentionally, they actually weaken and not bolster it."[11]

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[9] See an ACRI position paper on the issue dated 7 September 2010.
[10] See an ACRI position paper on the issue dated 4 July 2010.
[11] See the Knesset Speaker's letter dated 3 August 2010.

Additional Issues on the Knesset Agenda Ahead of the October 2010 Session

While dealing with anti-democratic laws, we constantly work against legislation that impairs on human rights in all aspects of life.

At this time, we deem it particularly important to address two topical and central issues that carry human-rights implications that the Knesset will discuss in the upcoming session:

The Planning and Housing Reform - A new planning and construction law is about to be introduced that has far-reaching implications that might impact on all aspects of the Israeli residents' lives. We believe that the currently proposed reform might impair on the public's participation in related forums and on the protection of public interests. Cooperating with other organizations, we work to amend and correct the suggested reform so as to introduce tools that would ensure appropriate representation, the implementation of the public's participation, and that various social interests are considered.

The State Budget and the Arrangements Act - Israel's biannual budget for 2011-12 will be discussed and sealed in the coming months. We feel that the suggested budget contains numerous resolutions and amendments that impair on human rights in a wide range of issues. On behalf of ACRI and in collaboration with additional organizations, we drafted several position papers on issues such as - impairing on the courts' accessibility; impairing on the rights of the unemployed and seekers of state allowances; harming the laborers' rights; infringing on the residential rights of inhabitants of public housing, and so on.

Below are a few additional issues (samples only) that we handle and which are expected to be raised in the upcoming Knesset session:

1. A long line of bills dealing with immigration and civil status is expected to be discussed as part of the Arrangements Act, government deliberations ahead of the forming act, the new anti-infiltration bill, and more.
2. An amendment we initiated, banning discrimination in public services that will not allow further selection at club entrances, will be discussed by the Knesset Economic Committee in preparation for a second and third reading.
3. An amendment of the National Health Act, adding a standing mechanism for updating the medications basket that will ratify continuity, which we initiated together with the Knesset Labor Committee, will be discussed soon, having passed the first reading in the previous Knesset.
4. A bill we initiated offering a program to replace the Wisconsin Program, which the Knesset Labor Committee will discuss.

Summary

Anti-democratic tendencies in the Knesset are gaining momentum and, regrettably, the Winter Session is expected to follow on the last session's trends. We feel, however, that it is important to point out that not all the anti-democratic bills were promoted, and that some of those that were promoted have undergone significant changes that minimized the damage they might cause. The last Knesset session stood out in laying the foundations for anti-democratic legislation, but the vast majority of the legislation processes concerning the aforementioned bills is not yet over. In this respect, the coming session will be a trying time. If the said bills should ripen and turn into state laws, their potential damage to democracy would be realized; but should the Knesset sober up and restrain itself, protecting our democracy against the tyranny of the majority, the Israeli parliament will pass the important test of the democracy's durability.

Even if the anti-democratic bills - some, or even all, of them - do not eventually become laws - even then, Israeli democracy will have already sustained a serious blow. For the issue has yet another, public and educational, lasting aspect. The winds blowing from the Knesset, through these legislative efforts, are already affecting the public, helping to create a public perception of Israeli Arabs as always suspect, of human rights activists and organizations as enemies of the State, and of basic democratic norms as subject to the majority's whims. Thus, the activities of many MKs, often supported by leading cabinet members, effectively provide the public with ongoing classes in anti-democracy.

In conclusion, we would like to cite remarks that the Knesset speaker made on 2 August 2010, addressing Foreign Ministry cadets, as published in Haaretz: "Certain MKs address the people's sentiments, and in doing so create an international image of Israel as an Apartheid state…. [Such MKs] create a wrongful discourse between Jews and Arabs in the Knesset that reflects on the existing conflict in the Israeli society."[12]

We hope that in the upcoming session, the MKs will sober up and change the parliament's direction, and that the trends of tyranny of the majority will be replaced by new approaches that will restore essential democratic values and reintroduce the need to protect them into the heart of our democracy. Either way - whether the Knesset mends its ways or not - ACRI will keep guarding democratic values, monitoring the Knesset's legislative processes, and doing everything it can to help promoting the values of equality, social justice, and human rights.

[12] **http://www.haaretz.co.il/hasite/spages/1182847.html**

Appendix A

Cited References

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

6 June, 2010

Attn: Knesset Speaker Reuven Rivlin
The Knesset
Jerusalem

Dear Sir,

Re: **Verbal Abuse and Silencing at the Knesset**

We are writing to you in the wake of the June 2nd Knesset debate on the Gaza flotilla, in which Member of Knesset (MK) Hanin Zoabi was severely attacked when she took the Knesset podium.

Being the stronghold of democracy and a leading government authority, the Knesset is an important symbol for the people and should, along with its members, serve as a role model of safeguarding the freedom of expression and human dignity, and of holding honorable and truthful discussions of public issues, particularly when disputed.

We were sorry to see the plenum discussion on the flotilla deteriorating into an outburst of violence. The aggressive and racist remarks made in the House were a painful, upsetting, and dangerous expression of the way our MKs' violate their civic duty, turning the Knesset into a place of intolerance, silencing, chauvinism, and basically anti-democratic behavior. These are grim signs for the state's residents.

Freedom of expression is one of the most fundamental rights, the apple of the eye of any democracy and its existence. The ability to realize this right is examined precisely at times of great conflict, when differences are vast. It is in such moments that a democratic society - primarily the Knesset - must honor the diversity of opinions in it and allow them to be fully and freely expressed. This is of importance not only in terms of the quality of political debate in the House, but also for the public-educational level, as the House sets an example for holding debates on loaded issues in Israel's public realm. The fact that this type of debate is been avoided in the Knesset plenum is not a positive omen for the vitality of the Israeli democracy.

Attempts to silence and prevent MK Zoabi and other Arab MKs from speaking from the podium with physical and verbal violence gravely harm our democracy.

Furthermore, they reflect on the intolerance, racism, and impatience toward minority rights in Israel, particularly the rights of the Arab minority. Verbal abuse, unbridled attacks, and the aggressive atmosphere in the House encourage grave incitement against MK Zoabi and the Israeli Arab public in general.

I would like to specifically address the chauvinistic remarks that MK Plessner made when he chose to refer to absolutely private and irrelevant aspects of MK Zoabi's biography. He would never make such remarks when referring to a male MK. This type of discourse harms women status in the State of Israel. MK Zoabi does not need our protection, but with his chauvinistic remarks, MK Plessner shamed himself and dishonored the Knesset. We wish only to restore that honor.

We must refer to things as they are. Shockingly, the scenes we witnessed in the plenum authentically reflect the sentiments of many, too many members of the Israeli public. Given these circumstances and the gravity of the incident, it is the Knesset speaker's duty to deliver a message to the public and the Knesset that this kind of conduct will no longer be tolerated in the House.

Before concluding this letter, I would like to point out that the events that took place at the Knesset plenum are part of a broader and far more dangerous reality of anti-democratic abuse in Israel. Regrettably, we have recently witnessed attempts to drive disputed positions out of the Knesset and to delegitimize both MKs who represent minority or disputed views, as well as social and human rights organizations whose stands inconvenience certain political parties. This attempt to distance individual stands in general and human rights issues in particular from the Knesset's legislative processes and debates was yet another grim moment in the history of the slippery slope that the Israeli society is currently on.

This grave trend particularly seeks to mark Israel's Arab citizens as "enemies of the state," forcing them to prove their "loyalty" according to the dictates of certain political parties. The public moods are fed in part not only by the nature of the Knesset discussions, but also by the wave of bills that attempt to portray the Israeli Arabs as a Fifth Column in our midst. Verbal abuse in the Knesset instigates incitement on the street too. No one can tell where this might lead us. It might be disastrous. Unfortunately, instead of containing and preventing the escalation of dangerous anti-democratic trends of this kind, the Knesset practically fans the flames of abuse.

It is particularly in view of the above that I wish to express my sincere appreciation for your condemnation of and personal reservation from these plenum events. I do not know if the Knesset speaker has the power to stand fast and return the House to the track of open and matter-of-factual discussion of every issue, loaded as well as routine ones, about our lives here. Thus, I consider your candid and undisputed commitment to democratic values and their authentic expression in the Knesset to be of high importance. I hope you will find a way to harness your commitment to a process that would change the dangerous trend that seems to be stumping out essential democratic expressions at the Knesset.

Sincerely,

Hagai Elad
Executive Director
The Association for Civil Rights in Israel (ACRI)

CC: Members of Knesset

[stamp] Received by ACRI on 20 June, 2010

Knesset Speaker's Office

Jerusalem - 10 June, 2010

Ref: 2086310

Attn: **Mr. Hagai Elad**
Executive Director - ACRI
75 Nahlat Binyamin St.
Tel Aviv 65154

Dear Sir,

Re: **Your Letter to the Knesset Speaker, Dated 6 June, 2010**

I am honored to offer this reply in coordination with the Knesset speaker.

First, thank you for your kind words regarding the Knesset speaker's attitude to the events that took place in the plenum session last week.

The Knesset speaker consistently believes democracy to be the heart and soul of the State of Israel, feeling it is a fundamental value without which Israel cannot form its unique identity as a Jewish and democratic state. The Knesset speaker is against impairing on the privileges of MKs through Parliamentary proceedings, dreading this slippery slope that might eliminate the minority and impose the tyranny of the majority.

He believes that any attempt to silence an MK - certainly from the podium, even if his remarks deviate from the majority position and, to a large extent, actually because they do - is wrong, redundant, and harms Israel on the international ring. Needless to say that the manner of speech chosen by certain MKs on both sides of the fence displeased the Knesset speaker, even if their remarks were made passionately, in the heat of the moment. Some of them have already expressed their regret over that in recent Knesset debates.

The Knesset speaker believes that the State of Israel's glory stems from being a solid democracy that justifiably earned itself a name as country that earnestly defends the rights of minorities living in it. This view guides him through his manner of conduct and instructs his decisions.

Sincerely,

Harel Tobi
Knesset speaker's senior advisor and spokesperson

January 31, 2010

To:
Mr. Shimon Peres
President of Israel
Jerusalem

MK Reuven Rivlin
Knesset Speaker
Jerusalem

Mr. Benjamin Netanyhau
Prime Minister of Israel
Jerusalem

Re: Assault and delegitimization of human rights organizations in Israel – warning and request of meeting

We, the undersigned organizations, are writing to you to warn of increasing assaults on human rights organizations. We are very concerned about this and believe it is the duty of Israel and its agents to condemn it and support reinforcing the status of those who work for human rights and social change.

Instead of congratulating the Knesset on its birthday, on Tu B'Shvat, for the fruits of democracy, we unfortunately are forced on this day to warn of its spoiled fruits. The immediate cause for this letter is the unbridled and incendiary attack by extremist organizations recently (NGO Monitor, Im Tirtzu and others), who chose to undermine the legitimacy of human rights organizations, including the New Israel Fund. We believe that this behavior is the result of a deep and worrisome delegitimization of the organizations, which comes from senior government officials.

During the last months we have witnessed a series of invective comments by various officials who wish to delegitimize the civil society organizations who work for human rights and social change. We have also seen the actual actions taken by government agencies against these organizations in order to curb their activities and maybe even silence them, instead of confronting the substance of the arguments brought forth by the organizations.

So, for instance, the former head of the Oz unit, Mr. Tzuki Sela, claimed that organizations who help refugees and asylum-seekers "aim to destroy Israel." Interior Minister Eli Yishai backed that claim and added on another matter that the organizations "help undermine the Zionist enterprise." In another case, Prime Minister Benjamin Netanyahu and IDF Spokesman Avi Benayahu denied the legitimacy of Breaking the Silence's publishing the testimonies of officers and soldiers about human rights violations during Operation Cast Lead and criticized the fact that the organization receives support from international bodies. Israel even demanded that European countries stop funding Breaking the Silence. Another example is the statement by Deputy Prime Minister Moshe Yaalon against human rights organizations, saying "your enemies will come from within."

Meanwhile, the Israeli security authorities have recently acted to curb the organizations on the ground. For example, the ISA summoned demonstrators and human rights

defenders for investigation and in some cases warned activists they must "refrain from political activity." Furthermore, military authorities announced that they were stopping responding to requests by the organizations on behalf of the residents of Gaza, including in the cases of patients who need urgent and life-saving medical care. Only after the organizations protested and international parties intervened did the Army retract that statement. The Army has also recently placed severe restrictions on organizations working in the territories to provide medical care, accompany residents to their agricultural work and children to school, and help residents file complaints of violence by security forces are settlers. The entrance of Israeli organizations into Gaza was completely forbidden earlier this year, after the organizations criticized the policy of siege on the Gaza Strip. And if that were not enough, human rights organizations are often described by security forces as extreme, lunatic and provocative elements and even as lawbreakers, in order to justify banishing them from the area while undermining their work.

Those statements and actions are grave and worrisome first of all because they violate the fundamental values of Israeli democracy. The freedom to criticize the government, to oversee its activity and to help those who are hurt by it are all legitimate courses of action in a democracy, which in fact guarantee its existence and its thriving over time. In fact, the importance and strength of a democracy derive from its protection of human rights and minorities from the majority and defense of the freedom to express and promote views that are not part of the consensus. Therefore, cultivating a hostile public atmosphere towards those who defend human rights, and using power to curb their activities, undermine the foundations of the democratic regime.

Furthermore, harassment of organizations for human rights and social change in itself hurts disempowered populations: primarily the Palestinians in the territories, labor migrants and asylum-seekers, for whom the organizations are the first course of representation and sometimes the only one. Thereby, those populations, who rely on the help of the human rights organizations on a daily basis, are hurt by curbing the activity of the organizations and denying the legitimacy of their existence in our society.

Denying the organizations' legitimate right to operate and to criticize government activities also contradicts the UN declaration of 1999 on "the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," joined by Israel. The UN declaration states that "Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility" in safeguarding human rights (article 18). Therefore, the various provisions of the declaration are concerned with the necessary defenses of the right to act for human rights, separately or in association with others, to seek information, publish it, raise public awareness, appeal to government agencies whose policy violates human rights, participate in peace-seeking activities against the violation of human rights and to ask for and use resources provided for the promotion of human rights. The preamble of the declaration even states that the absence of peace and security "does not excuse non-compliance." Furthermore, in reports Israel submits to the UN according to the Covenant on Civil and Political Rights, it takes great pride in the freedom of activity supposedly given to human rights organizations in Israel.

The proclamations and activities against the organizations described above completely contradict those reports.
In light of the aforementioned, we call on you to publicly denounce the increasing assaults on the human rights and social change organizations in Israel, and to condemn

the attempts to de-legitimize those organizations. We also ask you to act to stop any attempt to curtail the legitimate and legal activity of the organizations, including investigations against activists and restrictions on the freedom of movement of members of the organizations and on their ability to marshal resources, whether such attempts are made through legislation or official policy or any other way.

We would appreciate your granting us a meeting to discuss the matters raised in this letter at your earliest convenience.

With sincere thanks,

Executive Directors of the organizations:
ASSAF - Aid Organization for Refugees and Asylum-Seekers in Israel
The Association for Civil Rights in Israel
Bimkom - Planners for Planning Rights
B'Tselem
Gisha
The Public Committee against Torture in Israel
Yesh Din
Hamoked - The Center for the Defence of the Individual
The Hotline for Migrant Workers
Israel Religious Action Center
Kav LaOved - Worker's Hotline
Physicians for Human Rights - Israel
Rabbis for Human Rights

cc:
Cabinet ministers
Knesset members

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

21 July, 2010

Attn: Mr. Benjamin Netanyahu
Prime Minister
Prime Minister's Office
Jerusalem

MK Reuven Rivlin
Knesset Speaker
The Knesset
Jerusalem

Dear Sirs,

Re: **End of the Knesset's Summer Session - Antidemocratic Trends**

We are writing to you as the Knesset summer session ends and two years after the 18th Knesset was sworn in to warn about what we and other Israelis view as troubling and problematic trends in which our democracy is harmed through the use of allegedly legitimate parliamentary tools, primarily legislation.

Over the past 2 years, and increasingly so during the last summer session, we have witnessed the promotion of numerous antidemocratic bills that might seriously impair on the principles of the democratic system, thus harming the system itself, which might subsequently impair on the basic rights of Israel's citizens and residents, particularly those presently less favored by the political majority.

Needles to say, the Knesset is supposed to be the stronghold of democracy. It is an important symbol for the public and a source of inspiration and learning, holding the irreplaceable role of defending and promoting democratic values. This is an important and dramatic role particularly when it comes to issues under public, social, or political dispute. A democratic society and state must defend the option to debate these disputed issues freely.

Trends of legislation that harm basic democratic rights - mainly the freedom of expression and political protest, and equality before the law; verbal and even physical abuse of members of the Knesset minority factions at this time; along with attempts to delegitimize and infringe on the legitimate and much-needed operations of human-rights and social-change organizations - are most troubling signs that attest to the deterioration of Israel's democratic regime.

We write to you to warn against this dangerous trend, and call on you to stop and amend it. As heads of the democratic the State of Israel's executive arm, we believe it is your duty to the public to lead the way, instill values, and mainly defend the democratic principles and democracy itself.

It is your duty to defend the freedom of speech and human dignity and equality; guarantee a pluralism of views, thoughts, and opinions; make the freedom of protest and congregation real; and legitimize all views and positions.

You must guarantee that Israel will never allow the tyranny of the majority against social, political, national, or other minorities; and that their rights are reserved and defended by Israel's democracy.

Please remember that raising the banner of "A Self-Defending Democracy" every time an attempt is made to infringe on a democratic right of some minority makes it neither justified nor just. This hasty and unchecked process might eventually destroy the entire system. The state and its democracy must be defended proportionally and appropriately, and basic rights may be denied or restricted only in the most extreme cases - as the Israeli law currently stipulates. It is inappropriate to legitimize the denial of minority rights as a matter of routine.

Below, please find a (merely partial) list of bills that have been endorsed by the Knesset or are promoted at this time, most of which with the government's consent, that clearly undermine the foundations of Israel's democracy and impair on the rights, position, and status of persons whom the current political majority wish to silence while abusing its political power.

1. **Bill on MKs' Pledge of Allegiance (David Rotem)** - According to it, the MKs are required to pledge allegiance to the State of Israel as Jewish a democratic state, to its laws, symbols, and national anthem. The bill intends to delegitimize and even practically prevent minority groups from partaking in the Israeli democracy.
2. **Bill Denying the High Court's Right to Rule on Nationalization (Rotem and another 44 MKs)** - This bill, which intends to bypass the High Court of Justice (HCJ), was devised in the wake of HCJ discussions of the Nationalization Act, though the court has not yet ruled against it, probably for fear it may do so in the future.
3. **Bill for the Establishment of a Constitution Court (David Rotem)** - This bill wishes to restrict the Supreme Court. Please remember that in a democracy, the separation of powers means that the court must defend the rule of the law, and prevent harm to human rights in general and to constitutional rights in particular through legislation. The intention to deny the HCJ powers through a series of acts severely harms the principle of the separation of powers, the protection of human rights, and the democratic system.
4. **The Nakba Bill** (**Alex Miller**) - according to which, persons marking Nakba Day, mourning the establishment of the State of Israel, will be imprisoned. The government endorsed the bill but, in the wake of public protests, its wording was changed to state that persons marking Nakba Day shall be denied public funds. This seriously impairs on the freedom of expression, as the political majority bans a certain political view.
5. **Anti-Incitement Bill (Zvulun Orlev) -** An amendment of the existing act, according to which persons publishing a call that denies the existence of the State of Israel as a Jewish and democratic state shall be imprisoned. This is an extension of the penal code, which intends to incriminate political views that another political group does not accept.
6. **Nationalization, Pledge of Allegiance (David Rotem) -** According to this bill, all Israeli citizens will have to pledge allegiance to the State of Israel as Jewish, democratic, and Zionist state, and do a term of military or national service. The government did not endorse this bill.
7. **Bill on Admission Committees of Communal Settlements (David Rotem, Israel Hason, Shay Hermesh)** - according to which, admission committees may turn down candidates if they "fail to meet the fundamental views of the

settlement," its social fabric, and so on. The bill might mainly reject ethnic minorities from Jewish settlements, but might also apply to anyone who does not share the settlement leaders' religious belief or political stand.

8. **A series of government-initiated bills that intend to restrict the Knesset's opposition factions** - according to which seven MKs, not one-third, may split from a Knesset faction to establish a new faction; increasing the quorum needed for budget-related bills to 55 MKs; if after a vote of no-confidence, the new candidate for prime minister should fail to form a coalition-based government, the ousted government should regain its seat; a cabinet member who quits the Knesset shall be replaced by another on his faction list.

9. **Bill on Funds from Foreign Political Entities (Elkin et al) -** According to this bill, any person or group financed by a foreign nation must register with the party registrar, and immediately report each contribution, mark every document in this spirit, and state at the opening of any remark they make that they are funded by a foreign state. The bill names strict penalties too. In practice, the bill intends to delegitimize and impair on the activities of organizations that receive funds from, among other sources, foreign states. Though the Israeli law already makes reporting such donations imperative, this bill wishes to expand the existing law and force certain civil organizations to mark their activities as subversive and illegitimate. Additionally, this bill addresses only the activities of one side of the political maps, or human rights organizations, discriminating against them when compared with bodies or persons who are funded by various foreign sources with a clear political agenda that intend to impact on events in Israel

10. **Bill or Pardoning Disengagement Offenders (Rivlin et al)** - Though legislation that eases punitive measures against persons who exercised their right to political protest is welcome in principle, this particular bill is problematic because it makes a distinction between political and ideological activists of various groups. Instead of promoting a general principles of "going easy" on protesters, this bill was promoted by the current political majority in favor of their electorate alone.

11. **Bill on Infiltration (Government)** - The bill stipulates among other things that, based on their country of origin, infiltrators may be sentenced to 5 to 7 years in prison, and the same applies to persons who assist them! This bill follows the trend of delegitimizing human rights and aid organizations and individuals who help refugees and labor immigrants.

12. **Bill Against Boycott (Elkin et al)** - According to this bill, persons who initiate, promote, or publish material that might serve as information leading to a boycott against Israel are committing a crime and a civil wrong, and may be ordered to compensate parties economically affected by that boycott, including fixed reparations to the tune of 30,000 shekels, while freeing plaintiffs from the duty to prove damages. If the felon is a foreign citizen, he may be banned from entering or doing business with Israel for 10 years; and if it is a foreign state, Israel may not pay debts it owes that state, and use the money to compensate offended parties. That state may additionally be banned from conducting business affairs in Israel. And if that is not enough, the above shall apply one year retroactively. This too is a bill that discriminates against certain political groups in Israel, and is introduced by the political majority in an attempt to neutralize the political opposition it is facing. Primarily, the bill intends to reject legitimate boycotts against products of settlements, and thus severely impairs on a legitimate, legal, and nonviolent

protest tool that is internationally accepted (including by Israel), while impairing on the Israeli citizens' freedom of expression, protest, and congregation.

13. **Bill on Revoking the Citizenship of Persons Convicted of Terrorism or Espionage (David Rotem) -** This bill infringes on the basic rights of Israel's citizens because when a citizenship (which in itself is a basic right) is denied, a series of basic rights that follow from it are denied too. Furthermore, the Israeli Penal Code already specifies ways of dealing with persons convicted of terrorism or espionage.

14. **The Cinema bill** - according to which, the entire crew of a film that seeks public funding will have to pledge allegiance to the State of Israel as Jewish a democratic state, its laws, symbols, etc. This bill infringes on the freedom of expression, protest, and artistic and creative expression, while - again - referring only to a specific political, national, and social group.

We wish to further note that, while introducing damaging legislation, the Knesset committees and plenum also serve as platforms for aggressive and antidemocratic discourse.

We wish to warn once again that the said legislation and antidemocratic spirit severely impacts on the Israeli society and democracy.

We urge you not to allow the tyranny of the majority, which extensively and too easily speak about a "self-defending democracy." Instead, you must act to stop this dangerous trend; take steps that instill democratic values in the Israeli society through the government and the Knesset; protect the freedom of expression, and human dignity and equality; ensure a pluralism of views, thoughts, and opinions; allow the freedom of protest and congregation; and legitimize all views and stands.

Sincerely,

Attorney Debbie Gild-Hayo

Mr. Hagai Elad, Executive Director ACRI

CC: Cabinet members

Knesset members

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

21 December, 2009

Attn: MK David Rotem
Chairman of the Knesset Constitution, Law, and Justice Committee
The Knesset

Sent by fax

Dear Sir,

Re: **Bill for the Amendment of the Order re Communal Societies (Admission Committees in Galilee and Negev Communal Settlements) - 2009**

Ahead of the committee's discussion of this bill tomorrow (22 December, 2009, at 10:00), I wish to present ACRI's position:

1. The bill wishes to grant communal societies, which are private bodies, the legal power to conduct selection processes on various grounds against persons who wish to reside in communal settlements established on state lands. First of all, this is a redundant bill since Amendment 7 of the Israel Land Administration (ILA) Act, that was legislated only recently, assigned the power to restrict the sale of plots in communal settlements to the ILA, which will certainly publish its resolutions in the coming months, and out of consideration of High Court of Justice (HCJ) rulings in past and pending petitions on the issue.

   See Chapter 10 of the ILA Act (Amendment 7) - 2009; HCJ 6698/95 **Qadan v ILA**, verdict 54(1) 272, 258 (2000); Petition 3962/97 **Beerotayim v Arad**, verdict 54(4) 614 (1998); HCJ 3552/08 **Kempler v ILA** (pending); HCJ **Abriq-Zawidat v ILA** (pending).

2. Amendment 7 of the ILA Act makes this bill redundant. If there is no way to avoid inequality in allocating public lands, a public body such as the ILA, which follows national standards, should have the power to restrict the assignment of rights to state lands while balancing between the right to equality and distributional justice, and conflicting interests for each case. The current bill wishes to place these considerations in the hands of private and interested parties, such as the communal societies, which is legally wrong.

   See HCJ 244/00 **The *Siah Hadash* Association v Minister of National Infrastructures,** verdict 56(6) 25 (2002).

3. Practically, the constitutional right to equality dictates that any person should have the right to live in any settlement, certainly when the settlement was allocated public lands by the state. This bill will allow a private body to harm that principle of equality for various reasons that the bill cites.

4. The right to equality is not absolute and might even conflict with other values and interests. We do not oppose, for example, cases in which a settlement would make accepting a candidate for joining it conditional on his economic ability to build a house in the communal settlement within a given period of time - since this is a proportional criterion that is meant to prevent the allocation of plots to persons who would not be able to realize that benefit, which might clearly impair on the settlement's development. The application of this criterion, however, requires no admission committee.

5. On the other hand, when a communal settlement grants an admission committee with comprehensive powers to screen candidates according to vague criteria such as matching the way of life, the social fabric, or the fundamental views of that settlement, this is wrong

and fails to meet the conditions of the restrictive clause in Basic Right: Human Dignity and Liberty.

6. The way of life in the majority of Israel's communal settlements is not cooperative anyway, and their social fabric is not different from any neighborhood with an active community life. This is particularly true when the law applies to relatively large settlements of up to 500 houses. Collective experience shows that the screening process is mainly used so as to give the populations of these settlements, which are often economically sound, a right to pick and choose their neighbors as they see fit and a way to make sure that "undesired" people do not join "their" settlement. This primarily applies to Israeli Arabs, but also screens out the handicapped, single mothers, religious people, or people of Oriental origin - according to the tastes of the founding nucleus of each settlement. Thus, admission committees may reject persons they disapprove of for such or other reason, or due to some prejudice of the committee members.

7. The criterion according to which candidates need to subscribe to the fundamental views in the specific settlement, as defined in its codex, is absolutely unlawful because it means that settlements may make accepting new residents conditional on their political stands or worldviews even when the candidate wishes to partake in the local community life. Using this power - as it happened in the Misgav settlements - committees may refuse people who do not hold nationalist-Zionist views, as the committee defines them, when the clear intention is to prevent Arabs and ultra-Orthodox Jews from joining these settlements. By the same token, when the founding nucleus of settlements upholds secular values, it might refuse religious or observant candidates - which is absolutely unlawful as well.

8. The establishment of an appeals committee does not detract from the illegality of the bill because it instructs the appeals committees to follow the same wrongful criteria that the admission committees used for screening candidates.

9. In summary - the only values that this bill promotes are separatism, exclusion, and discrimination against individuals, instead of promoting communal life and respecting another's rights and way of life. This is yet another reason why we are against this bill. In case of irregular situations in which restricting admission to specific settlements should apply, that power is already assigned to the new ILA, and it should decide as the case may be, but should not assign private bodies, such as communal associations, with the power to discriminate against individuals.

Sincerely,

Attorney Gil Gan-Mor

The Association for Civil Rights in Israel (ACRI)

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

August 9, 2010

To:
MK David Rotem
Chairman of the Constitution, Law and Justice Committee
Knesset

To:
Members of the Constitution, Law and Justice Committee

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

Greetings,

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

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

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

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

This right is protected whether their goals are favored by a certain political party or political majority at a given time, or not.

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully,

Atty. Debbie Gild-Hayo
Director of Policy Advocacy
The Association for Civil Rights in Israel

Atty. Dan Yakir
Chief Legal Counsel
The Association for Civil Rights in Israel

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

1 September, 2010

Sent by fax to 02-5303506

Attn: Foreign Minister Avigdor Lieberman
The Foreign Ministry
Jerusalem

Dear Sir,

Re: The Foreign Ministry's Intervention in Foreign Donations Received by Civic Organizations

The Israel media (Haaretz 19 August, 2010) has recently reported, on behalf of the Foreign Ministry, that "the State of Israel and its representatives abroad do not intervene with foreign governments' considerations and resolutions regarding their policies on funding Israeli bodies or citizens."

http://www.haaretz.co.il/hasite/spages/1185166.html

We welcome this stand which, to the best of our understanding, constitutes a significant departure from the Foreign Ministry's past policy and presently reflects an appropriate policy. It is inappropriate for official bodies of a democratic state to intervene in the activities of the third sector because the existence and free operation of a civic society in a democratic state is essential for sustaining a pluralistic society and protecting the inherent values of democracy. The only relevant reservation here could be the legality of such civic activities. As long as the law is observed, there is no room for such government intervention.

Regrettably, according to reports from the recent past, the Foreign Ministry followed a totally different policy when it deemed it right to contact several foreign governments in an attempt to exert its influence on them so as to prevent them from supporting an Israeli organization (Breaking the Silence) whose stands the Israeli authorities did not favor though, even according to the Foreign Ministry's own statements, its activities were perfectly legal. Furthermore, senior Foreign Ministry officials remarked at the time that raising the issue with foreign governments is "part of the ongoing activities" of the Foreign Ministry, which further kept its stands on other organizations to itself, stating, "As for other organizations, each case will be examined on its own merit."

Below is a list of relevant reports on the Foreign Ministry's contacts with the Governments of Holland, Spain, and Britain last year:

http://www.haaretz.co.il/hasite/spages/1103745.html

http://www.haaretz.co.il/hasite/spages/1104616.html
http://www.haaretz.co.il/hasite/spages/1102885.html

Needless to say that the Israeli law does not ban the receipt of donations from foreign countries. Furthermore, a related bill that the Knesset is currently discussing and, as it turns out, representatives of the Foreign Ministry were members of an interministerial committee that discussed the issue as part of the legislation process, does not suggest that the receipt of donations from foreign states should be banned, but merely intends to assign additional reporting duties, on top of the existing ones. Since the legality of such donations is not questioned, there is no room for any intervention by representatives of the state through exerting such or other pressures to prevent or minimize them.

Additionally, the EU-Israel Association Agreement established that "Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement." That agreement constitutes a framework for the occasional granting of funds to various civic Israeli bodies, at defined scopes and with absolute transparency. Hence, such activities by Foreign Ministry representatives is not only inappropriate, being an antidemocratic intervention in legal civic activities, but also might conflict with the very foundations of the EU-Israel agreement.

The issue in question is most important and we feel that the Foreign Ministry needs to officially clarify its policy in this regard not only through media reports and incidental responses on various issues. The conflicting reports concerning the Foreign Ministry's stand on the issue that were published all last year make this need even more urgent. We would appreciate it if the Foreign Ministry made its policy on the issue public as soon as possible.

Respectfully,

Hagai Elad

Executive Director

The Association for Civil Rights in Israel (ACRI)

4 June 2008

Attn: MK / Minister

Dear Sir/Mme,

Re: **Bill on Infiltration Prevention - 2008**

We call on you **to vote against this bill** because it is one of the harshest and most dangerous bills presented to the Knesset in recent years.

The bill intends to extremely aggravate the state's attitude toward individuals who enter Israel without a permit - whether they are refugees, seekers of asylum, labor immigrants, or others - without conducting legal proceedings and while ignoring the circumstances that brought them here. If endorsed, the bill would violate international laws, the principles of Israel's constitutional law, and the society's fundamental duty to humanely treat people whose only sin is an attempt to find safe haven for themselves and their children.

It should be noted that most of the people who will be caught in the bill's net are refugees from Sudan or Eritrea - two countries to which no one can be deported at this stage; a fact that even the Israeli authorities have acknowledged - whose infiltration attempt have no security background.

The Bill is wrong because:

- It collectively views of these people as "security threats" while failing to examine the real level of threat they personally and individually pose, and totally ignoring the real facts of the reality;
- It allows placing these people under lengthy and arbitrary administrative detention, without proper judicial review and due process;
- It allows for the hasty deportation of individuals without offering them enough time to state their cases and examine their claim to refugee-status;
- It introduces discriminatory punitive instructions whereby graver punishments would be handed down on individuals from certain countries, and for that reason

only. Thus, an "infiltrator" from Sudan (from which many refugees arrive, as we all know) shall be sentenced to 7 years in prison, while "infiltrators" from Liberia or the Ivory Coast shall be sent to "only" 5 years in prison;

- It allows detaining children for unspecified periods, without examining the principle of the child's welfare;
- It allows wrongfully employing administrative measures to take graver steps against individuals, which conflicts with the principle by which people should not be punished unless they had been proven guilty in due legal process.

As it currently stands, the Israel Entry Law already offers the authorities a wide variety of tools to handle "infiltrators" and persons who stay in Israel without a visa ("illegal aliens"). Israel may already detain them ahead of their deportation or keep them in detention for as long as there is fear they might pose some threat. The instructions of the Israeli Entry Law - 1952 are already far-reaching and restrict basic rights, so there is no reason to exacerbate them any further.

An appendix examining the reasons for this bill is hereby attached.

According to the bill's explanatory notes, the state wishes to aggravate the arrangements concerning "infiltrators", as distinguished from other illegal aliens who may have entered Israel legally, assuming that their infiltration is "security-related" (as elaborated in the explanation to Chapter 15 of the bill). The bill authors, however, realized that the vast majority of individuals who would be detained, deported, or punished by the power of this bill, if it is passed, do not pose a "security risk," and even explained that "after the circumstances of their infiltration were examined, it was found that most of the individuals who infiltrated to Israel did so with no security background" (p. 548 of the bill).

In this respect, the bill's explanatory notes include multiple contradictions. However, on top of the weak factual ground for the state's assumption that "whoever infiltrates across the state's legal boundaries does so with an intention to cause harm," administrative means, particularly administrative detentions, should not be employed as a form of punishment. In view of the fact that the Israeli Entry Law already provides the state with the administrative tools required for handling security threats from individual illegal aliens, explicitly stating that persons who pose such a threat should not be released from detention, it appears that the suggested "aggravation" is clearly meant to serve punitive and deterrent purposes, which are totally out of place in an administrative procedure taken without proving a person's specific guilt.

Below is a concise review of some of the bill's main problems

Ignoring Reality - Asylum and Labor Seekers

As noted before, almost all of the individuals to whom the bill will apply are political asylum seekers or labor immigrants who pose no security threat whatsoever. The bill offers an option of transferring them to a detention "track," as outlined in the Israel Entry Law, but it does not make such a transfer binding, nor does it name the circumstances under which such a move is to be made. Thus, these draconian instructions, which are supposedly meant to deal with security risks, will apply as a rule and by default to persons who fled from persecution or genocide, or to individuals whose arrival in Israel is not at all associated with security risks.

A Discriminating Punitive Instruction

The bill instructs that heavier punishments shall be imposed on illegal aliens according to their country of origin and whether it had been defined as hostile. Thus, a Sudanese refugee will be handed down a strict punishment for entering Israel without a permit only because he hails from Sudan. One of the basic principles in any criminal code, however, is that punishment is based on a person's deeds, not his status, which he often cannot choose. In the case before us, the state wishes to inflict stricter punishments on individuals based only on their country of origin, not their deeds. This severely impairs on the principles of equality and individual punishment. In fact, this clause allows the authorities to punish a person based only on the assumption that he did the things he did under aggravated circumstances, but without proving that beyond any doubt as the criminal code requires, even if that person proves that his illegal arrival in Israel was in no way associated with a security threat.

Detention and Deportation without Due Process

According to the bill, a deportation or detention order shall be issued against "infiltrators" without offering them an opportunity to present their case before the authority that issued the order. Practically, they may only plead with the soldier or police officer who arrests them. This severely impairs on the duty to let all persons present their case, particularly when their liberty is about to be severely harmed.

In addition, the bill intends to legally anchor the forbidden practice of Hot Return, which means the immediate expulsion of persons, while offering them no opportunity to file for asylum. This practice means that refugees may be sent back to places where they might face persecution, torture, or life-threatening conditions before their arguments to that effect are even examined. Though the bill's explanatory notes offer some lip-service statement about the duty not to deport a person whose life might be in danger, it does not provide the basic apparatuses required to make sure that a threatened refugee is not deported. While the hasty Hot Return practice makes the deportation of refugees even more probable, even the regular deportation procedure that this bill proposes does not specify an apparatuses to ensure that they are not deported.

Furthermore, the bill allows the authorities to hold a person in detention for 14 days without judicial review. While it should be noted that the Israel Entry Law contains a similar instruction, the state attorney instructed the state to shorten this period to only 4 days, realizing it is a problematic issue. We must additionally point out that the High Court of Justice has already established that keeping a person under detention for 4 days without judicial review is unconstitutional.

Court Appointment Procedure

The Detention Review Court is supposed to be an independent body, just like any other judicial instance, that reviews detention-related issues. The bill, however, says that it should be appointed "according to the defense minister's suggestion" and for a limited period that can be extended. This makes the court dependent on the defense establishment, which is a side in its legal proceedings. This may be likened to a situation in which the state attorney appoints the Supreme Court judges for a given period and may choose to extend the term of service for certain judges.

Arbitrary Detention, Substantively Too

The causes for releasing a person according to this bill are significantly more restrictive than those mentioned in the Israel Entry Law, and unjustifiably so. This is explained, as noted before, by the pretext of "the security nature of the infiltration," but even the bill acknowledges that most of the "infiltrators" pose no security risk and, in any event, the existing Israel Entry Law already stipulates that detainees who might pose such as threat must not be released from custody.

Contrary to the Israel Entry Law, this bill states that a person shall not be released from custody at all if the Shin Bet had issued an opinion stating that activities that threaten Israel's security take place in his country of origin. According to this, all the Sudanese refugees shall be held in custody for years only because the Shin Bet issued an opinion according to which there are Al-Qaeda cells in Sudan (and, it is worth noting, there are Al-Qaeda cells in London and Paris too). Once again, this clause means that persons can be held under detention for lengthy periods due to no fault of their own.

An Unreasonable Accessory Felony

The bill states that the punishment of a person who helped another "infiltrate" or "facilitated another's infiltration to or illegal stay in Israel" shall be equal to the punishment of the original offender. This is an extreme and unjustified deviation from the general penal code, according to which the punishment of an accessory to a crime should be half, at the most, of the punishment for the actual crime. Furthermore, the accessory crime itself is not defined in this bill and is, thus, too broad. For example, will the various aid organizations or numerous concerned citizens, who provided asylum seekers with food and shelter to keep them from starving in the street, be considered accessories to illegal aliens?

An Unjustified Reservation of the Duty to Keep Detainees Under Conditions that Do Not Harm Their Health or Dignity

The bill wishes to impose special restrictions on the duty to observe the "infiltrators'" detention conditions, denying rights accorded to all detainees for reasons of "the investigation's best interests," for example (Chapter 14(d)). This is inconceivable. If the "infiltrators" are under a "security investigation," the authorities must follow the rules of detention as part of the criminal proceeding. The administrative framework of detention ahead of deportation must not contain arrangements designed to allow this kind of investigation.

Detention of Children

Presently, more than 100 children are already under administrative detention without a time limit and held in tents in the Qeziot Prison. Intending to allegedly deal with "security risks," this bill will only make their situation worse. The bill offers no apparatuses for

dealing with minors, fails to establish that the welfare of the child may be cause for his release, fails to involve social-welfare officers in the detention process, and practically leaves the children subject to the arbitrary draconian detention orders as specified in the bill.

The issues listed above are only some of the serious and grave harms that this bill wishes to anchor in a law. We urge you to vote against it and to take steps to make sure that the State of Israel upholds its basic duty to treat even aliens humanely and with dignity.

We hereby ask you against to oppose the bill and take steps to prevent the promotion of its legislation process so as to ensure that basic human rights are protected.

Sincerely,

Att. Yonathan Berman Att. Lila Margalit

Appendix

Background Information on the Bill on Infiltration Prevention - 2008

The Infiltration Prevention Act was introduced in 1954 as an emergency instruction that was issued as part of the young State of Israel's efforts to prevent Palestinian infiltrators from entering its lands. Since that law was part of the state's emergency rules, it was supposed to expire once the state of emergency is called off (Clause 34), but because the state of emergency is legally still in effect, the law remains valid. Thus, whenever a person enters the territory of the State of Israel without a legal permit, the authorities may choose to either detain him by the power of the Infiltration Prevention Act, for an unlimited period, and without any judicial review; or detain him by the power of the Israel Entry Act - 1952, which was amended in 2001 to include several clauses to protect the rights of detainees. These amendments accord detainees the rights to have a hearing before detention, to judicial review, to be released under given circumstances, to be held separately from criminal inmates, and more. The Infiltration Prevention Act, however, has not been amended since 1954 and offers no such protection of the right to liberty and dignity when persons are detained by its power.

Over the years, the Israeli authorities rarely employed the Infiltration Prevention Act to detain people who entered Israel not for security reasons, but it was enacted time and again against people who entered Israel without a visa.

In early 2006, the number of Sudanese asylum seekers who arrived in Israel rose, and at the same time, the Detention Review Court started releasing them to alternative locations

after they spent a year in pointless detention. Attempting to prevent them from being released, the authorities started placing the Sudanese asylum seekers under detention by the power of the Infiltration Prevention Act, claiming that they are citizens of an enemy state and pose a threat to the state's security.

After four petitions were filed with the High Court of Justice in April 2006 by the Hotline for Migrant Workers Association and the Refugees Rights Program of the Tel Aviv University, and after the court established that the state must enact a judicial review of the detention of Sudanese asylum seekers, one of the Detention Review Court judges was appointed as "special advisor to the defense minister" and ordered to individually examine the cases of detainees and recommend that the military authorities release them, or not. Though this apparatus was flawed to begin with, the advisor endorsed the stands of the human rights organizations and determined that in the absence of a deportation option and due to lack of proof that they pose a threat, the Sudanese asylum seekers must be released from custody. His recommendation was accepted and hundreds of asylum seekers were released to detention alternatives such as kibbutzim, moshavim, and the city of Eilat. Later, all of their detention restrictions were nullified.

Responding to these petitions, the state stopped using the infiltration prevention apparatus in August 2007, and presently most of the asylum seekers held under detention have been there by the power of the Israel Entry Law. At the same time, the Infiltration Prevention Act was still being wrongfully employed during the first days after asylum seekers were detained so as to delay the timing of the semi-judicial review of their detention.

The Bill on Prevention Infiltrations (2008) ignores the experience gained with persons arriving across the Egyptian border in recent years, and tries to reverse the situation. The fact that the government changed its policy in 2007 practically acknowledges that the Sudanese nationals are no longer viewed as dangerous. The State Comptroller's Report that was published on 20 May 2008 criticizes the prime minister and the defense minister for failing to cancel the view of Sudanese asylum seekers as dangerous **on time**, which kept many of them in detention without judicial review and without applying other arrangements that could allow then to be released on bail.

The bill's explanatory notes show that the state wishes to aggravate the current arrangements due to the "security nature" of this phenomenon, but it ignores the fact that the Israel Entry Law (1952) already provides all the necessary tools for dealing with security threats that might be posed by individual illegal aliens, explicitly stating that such

persons must not be released from custody. We may only assume that this draconian bill is merely meant to serve as a punitive measure so as to deter other asylum seekers from arriving in the State of Israel.

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في إسرائيل
The Association for Civil Rights in Israel

7 September 2010

To:
MK David Rotem
Chairman of the Knesset Constitution, Law, and Justice Committee

Members of the Knesset Constitution, Law, and Justice Committee
The Knesset, Jerusalem

Dear Sirs,

Re: **Bill on Banning Boycotts, 2010**

Ahead of the committee's discussion of the bill, scheduled for 20 September 2010, we are honored to present you with our position regarding the **Bill on Banning Boycotts, 2010** (p/18/2505).

We would like to state straight away that ACRI is against the said bill, believing this kind of legislation might harm the freedom of expression, protest, and congregation of the residents and citizens of the State of Israel who wish to protest against things they consider socially or politically wrong. A boycott is a legitimate, legal, and nonviolent instrument of political or social change, protest, and criticism. Though certain parts of the Israeli public may find such or other boycott initiatives upsetting or irritating, there is no dispute that it is a customary instrument employed throughout the enlightened world and in Israel, where it is occasionally used by the all groups on the political spectrum.

The proposed bill does not only wish to ban the use of a legitimate and common protest instrument, thus impairing on the freedom of expression, protest, and congregation of all groups on the political spectrum, right and left, but it appears that the said bill is discriminatory by nature. Having read the bill and its accompanying explanatory notes, we realized that its initiators envisioned only a specific kind of boycott initiatives that they wish to restrict - e.g., occupation-related boycotts (imposed on products made in the territories, or against the academia). Such a selective bill intends to restrict the expression of only a certain type of views that the current political majority in the Knesset does not approve of. This might harm and destabilize the Israeli democracy.

The bill might have the following negative and dangerous consequences:

1. As noted above, this bill, as well as other bills promoted at this time by the Knesset, is non-egalitarian in restricting the activities of only specific political groups and holders of certain views merely because the current political majority does not like them. Namely, the promoted bill is an illegitimate way to silence political rivals.
2. The bill attempts to avoid dealing with legitimate political, social, and legal criticism of the state and its actions by gravely and dangerously impairing on the basic rights and principles of the democratic system. Please remember that while criticism may be unpleasant and even economically or politically damaging, democracy must not silence it, but deal with it in legitimate ways.
3. In addition to harming basic democratic principles, the bill's wording raises several other problems. Among other things, it proposes that any criticism leveled at the government or the state, which might later serve as grounds for a boycott call, should be addressed by the

law too. This is an attempt to silence any and all such criticism. This cooling effect poses a threat against the Israeli democracy.

4. Additionally, the bill proposes to ban "aid or information extended in an attempt to promote (a boycott)." This is a most problematic instruction because any publication might serve anyone for the promotion of boycotts by others, while the bill singles out the publishers as offenders while their blame could not be (practically speaking) examined or disproved.

5. The bill proposes imposing illegal forms of punishment (such as freezing the payment of debts to other countries and using those funds to compensate parties harmed by the boycott).

6. The bill might impair on ties between Israel and its residents on the one hand and foreign residents or states on the other, which would come on top of the negative and antidemocratic image such legislation might create for Israel on the international arena. Further negative implications of this bill might follow from the intention to make the state employ illegitimate and semi-legal means to punish foreign citizens or states held involved in boycotts against Israel. The proposed measures include an Israeli refusal to pay its debts to those states while using these funds to compensate parties offended by the boycott; banning foreign nationals from entering Israel for lengthy periods; and denying foreign nationals and states from conducting legitimate and legal business with Israelis or in Israel.

7. Even if the bill intends to single out only a certain type of boycott, it practically delegitimizes the use of boycotts as a legitimate protest instrument, referring to various kinds of boycotts, including ones imposed by private consumers. We feel we should point out to you that Israeli citizens and residents have been using that instrument to protest against various social and political issues and to promote all kinds of causes. Only recently, MK Yehimovich and others called on the public to boycott Bank Hamizrahi (close their accounts there) over what they perceived as moral corruption (wage gaps). For many years, the ultra-Orthodox have been promoting boycotts against chain stores that work on the Sabbath. Many Israelis, including organizations and labor unions, chose to boycott Turkey and not to shop for vacations there (which, it should be stressed, is a form of political protest against another country(!) which is a move that the said bill opposes when it comes to Israel). Attempts were made to prevent donors from contributing to, or to boycott lecturers from Israeli universities whose views the boycott organizers dubbed as "non-Zionist." There are many more examples. According to the spirit of the said bill, these acts would be illegal (and if the bill initiators should try to distinguish between types of boycotts and argue that one kind is legitimate while another is not, it would become clear that they merely intend to silence political rivals).

8. The bill might eventually cover a wide variety of activities that could be interpreted as boycotts; for example, moves by organizations that classify companies according to degrees of observing laborer's rights, environmental values, and so on, might be viewed as promoting or assisting in the promotion of boycotts according to the spirit and logic of the proposed bill.

Additionally, we would like to address remarks made in the bill's explanatory note, which claim that similar laws exist in the United States. We must make clear that there is no real similarity between the US Law and the proposed bill. First, the intention of the American law that addresses this issue (which was introduced in the 1970's in view of the Arab boycott) was to prevent American companies from falling under pressures that would make them collaborate with other countries while conflicting with the US foreign policy. Contrary to the explanatory note of the bill in question, the American law does not ban US citizens or companies from initiating, partaking, or assisting in boycotts against any American policy. Indeed, the boycott is one of the most popular

instruments of political and social protest and change in the United States. Furthermore, the American law does not authorize filing private suits against parties involved in boycotts, and only offers the Administration an option to examine and address cases, when it so chooses, in an attempt to prevent the abuse of the law and harm to the freedom of expression and protest.

In summary, we would like to point out again that an economic or academic boycott, as appalling as it might be, is a legitimate, legal, and nonviolent instrument of political and social struggle.

In recent years, we have witnessed various boycott initiatives in Israel and abroad regarding a variety of issues. Even if they are disputed or upsetting, these initiatives are part of the Israeli and global discourse and as such, democratic countries may not ban them by the power of the law.

Dealing with criticism, even if it is unpleasant and might have economic or other consequences, should be kept within the boundaries of the democratic game. This grave bill is yet another attempt to further restrict Israel's democratic space, as we close ourselves in while trying to avoid domestic and foreign criticism.

We urge you to vote against the said bill.

Sincerely,

Attorney Debbie Gild-Hayo

Director of Policy Advocacy, ACRI

Attorney Dan Yakir

Chief Legal Advisor, ACRI

4 July, 2010

Attn: MK David Azulay
Chairman of the Knesset Interior and Environment Committee
The Knesset

Dear Sir,

Re: Citizenship Bill (Amendment - Revocation of Citizenship of Persons Convicted of Terror or Espionage) 2010

On 5 July, 2010, the Knesset Interior and Environment Committee is expected to hold a discussion, preparing the said bill for its first reading. The amendment is intended to establish that should a court found a person guilty of terrorism, espionage, or disloyalty, the court may order the revocation of his citizenship. We urge you to **vote against** this bill.

All of the basic rights derive their practical meaning from an existing infrastructure that makes them possible, and from a framework in which they are realized and practiced. The revocation of a person's citizenship denies him the option of protecting those rights, which explicitly or implicitly require a social framework that offers them. This is why the right to citizenship and the need to protect it have been acknowledged by the international law and the laws of democratic countries.

As it stands, The Citizenship Law - 1952 already contains draconian and unconstitutional aspects concerning the revocation of citizenship (i.e., the very power to revoke a person's citizenship for reasons of "breach of trust"; the possibility of leaving a person without a citizenship; that his children's citizenship may be revoked; that the legal proceeding against a person on the revocation of his citizenship may be held in absentia, based on secret evidence, and so on). The authority that the bill seeks to grant to the courts is particularly extreme, with no parallel law in any enlightened nation.

Undoubtedly, the state authorities are entitled to and even must take action against any person who harms the security of the state and its citizens, but the authorities have numerous enforcement means at their disposal that are far less grave than the revocation of citizenship.

In 1996, the High Court of Justice discussed a petition to the interior minister that he revoke the citizenship of Yigal Amir. The petitioner argued that the minister should be ordered to revoke Amir's citizenship so as to express the Israeli society's determined resentment of the dreadful assassination of the prime minister. The court ruled that an organized society has other ways to express its resentment (HCJ 2757/96 Alroi v the Interior Minister, Ruling N(2) 18, 24 (1996)).

In 1958, the US Supreme Court ruled that the Nationalization Act chapter that allows the revocation of a person's citizenship due to the breach of trust is unconstitutional and a cruel and unusual punishment. "Citizenship is not a license that expires upon misbehavior," the US Supreme Court determined, adding that "the revocation of citizenship under these circumstances is a form of punishment more primitive than torture" (Trop v. Dulles 356 U.S. 86 [1958]). In her book "*The Origins of Totalitarianism*" (new ed. 1996), philosopher Hannah Ardent similarly referred to this issue, arguing that while irrecoverably impairing on human rights, the revocation of citizenship is tantamount to reverting to a caveman's wild form of living.

It seems that the very debate about the authority to revoke citizenship is not meant to promote national security as much as it wishes to deliver a humiliating and discriminatory message, according to which the citizenship of Israel's Arab citizens is not self evident.

In view of the above reasons, we urge you to vote against the amendment.

Sincerely,

Attorney Oded Feller

The Association of Civil Rights in Israel (ACRI)

CC: Committee members

The Legal Chamber

[stamp] Received by ACRI on 4 August, 2010

Knesset Speaker's Office

Jerusalem – 3 August 2010

Ref: 02859010

Attn: Mr. Hagai Elad

Executive Director - ACRI

75 Nahlat Binyamin St.

Tel Aviv 65154

Dear Sir,

Re: **Your Letter to the Knesset Speaker, Dated 21 July, 2010**

It is no secret that I am very uneasy with several of the proposed laws that you address in your letter. I believe that the State of Israel as the state of the Jewish people – a Jewish and democratic state – is sufficiently strong and does not require the "reinforcements" offered in some of the proposed laws that you mention, which may unintentionally weaken Israel rather than strengthen her.

Nonetheless, from an examination of the proposed laws listed in your letter, we find that some of these proposals were tabled in the Knesset and were not advanced, amongst other reasons, because of government opposition. Others of these proposed laws are currently in various Knesset committees, and I trust that the legislative process will give expression to all the various legal and constitutional aspects that are involved in approving and advancing such legislation.

Finally, I would like to note that I do not count the Cessation of Legal Proceedings and Clearing of Criminal Records Regarding the Disengagement Plan Law 5770-2010 – legislation which I helped initiate – among those laws "harming democracy" which you enumerate in your letter. In my opinion, this law will stand up to every constitutional test, and its purpose is to deal with the crisis that Israeli society experienced in the wake of the Disengagement Plan. In any event, the constitutionality of this legislation is currently being clarified in the Supreme Court.

Sincerely,

Reuven Rivlin
Speaker of the Knesset

פורסם ב - 03/08/10 15:31
עדכון אחרון - 03/08/10 17:49

יו"ר הכנסת ראובן ריבלין: יש ח"כים שמדביקים לישראל תדמית של מדינת אפרטהייד

מאת יהונתן ליס

יו"ר הכנסת אמר לצוערי משרד החוץ כי יש לבער את התופעות האלה מהכנסת, "לא למען מיעוטים מסויימים, אלא למען מדינת ישראל"

תגיות: אביגדור ליברמן, ראובן ריבלין

יו"ר הכנסת, הציבור, ואגב כך מדביקים לישראל תדמית עולמית של מדינת אפרטהייד".

יו"ר הכנסת הוסיף כי חברי כנסת אלו, "יוצרים שיח פסול בין יהודים וערבים בכנסת, שגם משליך על הקונפליקט הקיים ממילא בחברה הישראלית". הוא ציין כי עלינו לבער את התופעות האלה מהכנסת, "לא למען מיעוטים מסויימים, אלא למען מדינת ישראל".

ריבלין אמר עוד כי "כאשר שוחרי שלום מובהקים מדברים השכם והערב על 'איום דמוגרפי', הם יוצרים את הרושם שכל מי שאינו יהודי הוא איום, ובכך מעמיקים את הסכסוך בין יהודים וערבים. זו טרמינולוגיה הזויה במדינה דמוקרטית".

ריבלין. חברי כנסת יוצרים את הרושם שכל מי שאינו יהודי הוא איום

תצלום: טס שפלן

Knesset Speaker Reuven Rivlin: There are Members of Knesset who attach a brand of Apartheid State to Israel

By Jonathan Liss

Knesset Speaker said to Foreign Ministry cadets that these trends in the Knesset must be exterminated completely, "not on behalf of specific minorities but on behalf of the State of Israel."

Rivlin. MKs are creating the impression that anyone who is not Jewish is an enemy

Photo: Tess Schafflin

Knesset Speaker: The public as well are attaching a global image of Israel as an Apartheid State."

The Knesset Speaker added that these MKs, "create an inappropriate discourse between Jews and Arabs in the Knesset, that also has consequences for the existing conflict in Israeli society." He emphasized that we must exterminate these trends from the Knesset, "not on behalf of specific minorities but on behalf of the State of Israel."

Rivlin continued saying, "when typical advocates for peace are discussing an agreement and this evening about the "demographic threat," they create the impression that anyone who is not Jewish is a threat, and thus deepening the conflict between Jewish and Arabs. This is unacceptable terminology in a Democracy."

Appendix B:

Translated Bills

Knesset Members Declaration of Allegiance Bill:
[3 - 226.rtf]

The 18th Knesset

A bill by MK **Zvulun Orlev**
p/18/226

Basic Law: The Knesset (Amendment of the Text of the Pledge of Allegiance)

Amending Section 15

1. In Section 15(a) of Basic Law: The Knesset, the phrase "I pledge allegiance to the State of Israel" shall be followed by "as a Jewish and democratic state."

Explanations

According to the current pledge of allegiance, the MKs pledge to act out of loyalty to the State of Israel. It is hereby suggested that the MKs pledge of allegiance be amended in accordance with the principle that was endorsed in Basic Act: Human Dignity and Liberty and in Basic Act: Freedom of Occupation, which established the fundamental values of the State of Israel as a Jewish and democratic state, and determine that the MKs pledge allegiance to these two fundamental values of the state.
An identical amendment bill was tabled with the 16th Knesset by MK Gila Finkelstein (p/67)
An identical amendment bill was tabled with the 17th Knesset by MK Zvulun Orlev (p/17/583) and taken off the Knesset agenda on 15 November 2006.
An identical amendment bill was tabled with the 17th Knesset by MK Zvulun Orlev (p/17/1778) and passed a preliminary reading.
An identical amendment bill was tabled with the 18th Knesset by MK David Rotem (p/18/7)

Presented to the Knesset speaker and his deputies
And placed on the Knesset's desk on 1 April 2009

Bill for the Establishment of a Constitution Court:

The 18th Knesset

Bill by MKs **David Rotem**
Robert Ilatov

p/18/4

Proposed - Basic Law: Constitutional Court

Establishing a Constitutional Court	1.	This Basic Law aims at establishing a court that will deal with the constitution and constitutional matters and shall rule in any case where a constitutional question needs to be resolved, based on the basic principles and values of the State of Israel as a Jewish and democratic state, being the state of the Jewish Nation.
The Constitutional Court	2.	(a) A court for the constitution and constitutional matters, hereunder the Constitutional Court, is hereby established and located in Jerusalem. (b) The Constitutional Court alone shall rule in any case where a constitutional question needs to be resolved, based on the basic principles and the values of the State of Israel as a Jewish and democratic state, being the state of the Jewish Nation. (c) No other court shall rule on matters pertaining to the Constitutional Court. Should another court find out that a question as noted emerges, the discussion of that question shall be transferred to the Constitutional Court. (d) The Constitutional Court bench shall comprise 14 judges. (e) The minimal bench of a Constitutional Court hearing shall be 11 judges. (f) The Constitutional Court shall pass no resolution unless it is made by a majority of 11 judges. (g) All the Constitutional Court rulings shall be binding on all other courts, except the Constitutional Court. (f) Should the said majority of Constitutional Court judges rule that a certain law or order impair on any basic law or the basic principles of the State of Israel, and should the Knesset fail to settle that impairment, that law or order shall become invalidated within 6 months of the said court ruling. However, the Constitutional Court may extend that period repeatedly.
Appointment of judges	3.	(a) The Constitutional Court judges shall be appointed by the state's president, based on the recommendations of the following bodies: (1) Three persons eligible to serve as judge, as recommended by the Judges Appointment Committee, from a list filed by the justice minister; (2) Three persons eligible to serve as rabbinical court judges (*dayanim*), as recommended by the *Dayanim* Appointment Committee, from a list filed by the president of Israel's Chief Rabbinate's Council; (3) One person eligible to serve as Kadi, as recommended by the Kadis Appointment Committee, from a list filed by the Muslim Religious Court of Appeals; (4) Three professors who are not jurists, from a list filed by the

Israeli Council for Higher Education as defined in the Council for Higher Education Act - 1958;

(5) Three public representatives that the Knesset will choose in a secret vote from a list filed by the Knesset factions;

(6) An Israeli citizen who was born outside Israel and immigrated to Israel not more than 20 years before and spent at least 5 years in Israel, from a list filed by the Jewish Agency chairman and approved by the minister of immigrant absorption.

(b) The number of names on all lists filed shall be at least twice the number of judges to be appointed based on it.

Qualification 4. (a) No person shall be appointed Constitutional Court judges unless they are Israeli citizens, aged 21 or more, and served with the military or other national service.

(b) No persons convicted of crimes, except for traffic violations or felonies of the optional-trial kind, may be appointed as judges with the Constitutional Court.

Pledge of allegiance 5. Persons appointed as Constitutional Court judges must make a pledge of allegiance before the state's president. This is the text of the pledge: "I hereby pledge to be loyal to the State of Israel as a Jewish and democratic state, to its values and symbols, and to try justly, without bias or prejudice."

Term of office 6. A judge's term will start as soon as he made the pledge of allegiance, and will end in one of the following cases, whichever is the earliest:

(1) At the end of seven years' term of service;

(2) Upon his retirement;

(3) Upon his resignation;

(4) If he is elected or appointed to a post whose holders may not be Knesset candidates;

(5) When he turns 75;

(6) If at least 9 judges of the Constitutional Court so decide;

(7) When he passes away.

Exclusivity 7. A Constitutional Court judge shall neither engage in another occupation nor hold a public position.

Wages and pension 8. The wages and other payments made to the Constitutional Court judges during and after their term of service, or that they leave for their heirs after they pass away, shall be specified in a law, a Knesset resolution, or a decision by one of the Knesset committees so assigned by the Knesset; no resolution shall be passed that intends to reduce the judges' salary.

Judgment 9. (a) No criminal investigation shall be launched and no charge sheet shall be filed against a Constitutional Court judge except with the approval of the attorney general.

(b) A Constitutional Court judge may be tried for criminal charges only by a district court and a three-judge panel.

Instructions 10. The administrative procedures of the Constitutional Court, their establishment, responsibility for their performance, and the procedure of appointing a [court] registrar shall be determined by law.

Stability 11. (a) Emergency-time regulations may not alter this act, temporarily suspend it, or establish terms in it.

(b) The instructions contained in this act may only be amended by a majority of the Knesset members.

Explanatory Note

In view of the increasing disputes within the Israeli public concerning the Supreme Court and its rulings on various matters, and after more than 50 years in which the State of Israel existed as the state of the Jewish nation, and as a Jewish and democratic state that seeks peace and fraternity among the nations - it is hereby suggested that a Constitutional Court be established.
That court will be assigned with interpreting the basic principles of the State of Israel as the national home of the Jewish nation and as a Jewish and democratic state. Subsequently, its composition shall reflect the broadest possible variety of opinions.
A basically similar bill was tabled with the 17th Knesset by MK Zvulun Orlev (p/17/468).
A similar bill was tabled with the 17th Knesset by MK David Rotem (p/17/2662).

A series of government-initiated bills that restrict Knesset opposition factions:

Rashumot
Cabinet Bills

Bill on Basic Law: the Government
(amendment) (Expression of No Confidence in the Government)

Amending Section 28

1. In Section 28 of Basic Law: the Government (hereunder: the basic law) -
   (1) In Subsection (c), the opening sentence leading to "the president will assign" shall be replaced by "had the Knesset decided as noted in Subsection (b), the president will assign";
   (2) Subsection (d) will be followed by:
   "(d1) Once an MK formed a government, the instructions of Section 13 shall apply. Upon the establishment of the new government as instructed in the said clause, the outgoing government shall cease to govern.";
   (3) In Subsection (f), the closing sentence that starts with "the Knesset shall be viewed as if it decided to disband before the end of its term" shall be replaced by "the resolution that the Knesset had passed according to Subsection (b) will no longer be valid."
2. In Section 29 of the basic law, Graph (2) of Subsection (g) shall be replaced by:
   "(2) As long as the no-confidence resolution is valid according to Section 28;".
3. In Section 30 of the basic act -
   (1) In Subsection (a), "20, 21, or 28" shall be replaced by "20 or 21";
   (2) In Subsection (b), "21 or 28" shall be replaced by "21".

Bill on Basic Law: The State's Economy
(amendment No. 7)
(The Majority Required To Introduce Budgetary Bills)

Amending Section 3G

1. In Basic Law: The State's Economy, in Sections 3G(a) and (b), and elsewhere, the words "50 MKs at least" shall be replaced by "55 MKs at least".

Bill on the Knesset Act (Amendment No. 28)
(Splitting a Faction) - 2009

1. In Section 59 of the Knesset Act - 1994, Section (1) shall be replaced by:
   "(1) A faction splinter shall comprise at least two MKs who constitute at least one-third of the faction's members, or of a group of at least seven MKs;"

Bill on Basic Law: The Knesset (Amendment No. 42)
(Terminating the Knesset membership of a cabinet member)

Adding Section 42c

1. In Basic Law: The Knesset, Section 42b shall be followed by:
   "Terminating a cabinet member's Knesset membership
   42c. (a) An MK who serves as a cabinet member - who is not the prime minister, or a deputy prime minister, or the acting prime minister - may cease to serve as an MK according to this section due to his cabinet service; the said termination shall be executed through a written notice to the Knesset speaker.
   (b) Having submitted a written notice as stated in subsection (a), the MK's membership shall expire 48 hours after the Knesset speaker received that notice, except

if the MK reversed his notice sooner. The notice on terminating one's Knesset term shall be published by the Knesset in Rashumot.

(c) After the cabinet member's Knesset membership was terminated according to subsections (a) and (b), that membership may be renewed given one of the following:

(1) He no longer serves as a cabinet member;

(2) He was appointed deputy prime minister;

(3) He was ordered to serve as acting prime minister;

(4) He became prime minister.

(d) After the cabinet member's Knesset membership was terminated according to subsections (a) and (b), and for as long as it was not renewed according to subsection (c), the term of another MK who is an elected cabinet member from the same list of Knesset candidates shall not be terminated according to the instructions of this clause."

2. In Section 43 of the basic law -

Amending Section 43

(1) In subsection (b), the words "by the power of the instruction of subsection (a)" shall be replaced by "by the power of the instruction of this clause";

(2) Subsection (b) shall be followed by:

"(c) "Once one's Knesset membership has been terminated according to clauses 42G(a) and (b), his vacated post shall be taken by a candidate as specified in subsection (a). Once his Knesset membership has been renewed according to Section 42C(c), the instructions of the ending of subsection (b) shall apply."

3. In Basic Law: The Government, Section 30 shall be followed by:

Amending Basic Law: The Government

"Assigning a cabinet member whose Knesset membership was terminated with the task of composing a government, serving as deputy prime minister, or with serving as the acting prime minister

30A (a) The instructions in Sections 7 to 11, 13, 28 and 29 notwithstanding, the role of composing a cabinet based on the said clauses may be also assigned to a cabinet member whose Knesset membership had been terminated according to Subsections 42C(a) and (b) of Basic Law: The Knesset, even though he is not an MK; however, once he is appointed prime minister, his Knesset membership shall be renewed according to the instructions of Subsection 42C(c)(4) of the said basic law.

(b) The instructions in Subsections 5(d), 16(c), and 30(c) notwithstanding, a cabinet member whose Knesset membership had been terminated according to Subsections 42C(a) and (b) of Basic Law: The Knesset may be appointed as deputy prime minister or acting prime minister even though he is not an MK; however, once he is appointed prime minister, his Knesset membership shall be renewed according to the instructions of Subsections 42C(c)(2) or (3) of the said basic law."

Bill on Party Financing Act (Amendment No. 30)
(Terminating the Knesset membership of a cabinet member) - 2009

Amending Section 13H

1. In Section 13H of the Party Financing Act - 1973, the closing sentence shall read, "In the matter of the Knesset membership of a cabinet member according to Section 42C of Basic Law: The Knesset, the faction he was a member of shall not be viewed as if it ceased to exist for that reason alone."

Bill pardoning Disengagement Offenders:

Content

Terminating Proceedings and Deleting Records Regarding the Disengagement Plan Act - 2010

1. Under this Act -
"Criminal register," "statute of limitations," "deletion period" - as defined in the Criminal Register Act;
"Criminal Register Act" - the Criminal Register and Rehabilitation Act - 1981;
"Criminal Code" - The Criminal Code - 1982
"Criminal Procedure" - The Criminal Procedure Act (Combined Version) - 1982;
"Crime perpetrated due to an opposition to the disengagement plan" - except for the opening clause of Chapter 144(b), and Chapters 300, 305, 329, 330, 332 - 335, and 380 of the Criminal Code;
"Disengagement plan" - as defined in the Act for the Implementation of the Disengagement Plan - 2005.

2. (a) If an accused is found guilty of a crime committed against the backdrop of his opposition to the disengagement plan, or if a court determined that he perpetrated the said crime, including when based on Chapter 24 of the Juvenile Act (Trial, Punishment, and Treatment) - 1971, the sentence handed down or resolution made regarding that said crime, even without a conviction, shall not be executed. If the execution of the sentence or resolution, as the case may be, already started, that execution shall be terminated if the accused so requested.
(b) The instructions of this Chapter shall not apply to persons handed down an actual prison sentence.

3. (a) A record entry, as described in Chapter 2 of the Criminal Register Act, which deals with a crime committed against the backdrop of an opposition to the disengagement plan, shall be deleted at the request of the person to whom the record entry refers, provided that person had not been handed down a prison sentence for the said crime, or that he does not have another record entry whose statute of limitations or deletion period have not yet expired.
(b) All entries, as specified in Chapter 11a of the Criminal Register Act, that deal with crimes committed against the backdrop of the opposition to the disengagement plan shall be deleted from police records, if the person to whom that entry refers should so request.
(c) Information deleted or canceled, as specified in Subsections (a) and (b), shall not be given to another body.
(d) The instructions of this chapter will not apply to persons who have a register entry or criminal record as specified in Subsections (a) and (b) that pertains to them, or other form of record as specified in Chapter 11 of the Criminal Register Act that is not against the backdrop of the opposition to the disengagement plan.

4. (a) No charge sheet shall be filed in case a crime was committed against the backdrop of the opposition to the disengagement plan, unless the district attorney decided to notify the court, according to Chapter 15a of the Criminal Procedure Act, that he is asking the court to hand down a prison sentence if the accused is convicted.
(b) If a charge sheet was filed in the matter of a crime committed against the backdrop of the opposition to the disengagement plan, that charge sheet shall be handled as if trial procedures in that matter have been delayed, based on Chapter 231 of the Criminal Procedure Act, if the accused so requested of the prosecutor and the instructions of Chapter 232 of the said act do not apply; nevertheless, the instructions of this subsection shall not apply in case the district attorney had notified the court as specified in subsection (a).

5. The instructions of this act shall not prevent a person convicted of a crime committed against the backdrop of the opposition to the disengagement plan from appealing against his conviction or verdict, subject to the Law.

6. The instructions of this act shall not apply to a verdict or resolution handed down by a military court, a register entry as specified in Chapter 2 of the Criminal Register Act that pertains to a verdict or resolution as noted, or to a charge sheet that has been or could be filed with a military court.

Benjamin Netanyahu
Prime Minister

Shimon Peres
President of State

Reuven Rivlin
Knesset Speaker

The Cinema Bill:
[2 - 2307.rtf]

The 18th Knesset

A bill by MKs **Michael Ben-Ari**
Moshe (Motz) Matalon)
Uri Ariel
Yaakov Katz

The Cinema Act (Amendment - Declaration of Loyalty) - 2010

Amending Section 12

1. Section 12 of the Cinema Act - 1999 shall be marked 12A and followed by:
"12B No film shall be granted a state grant unless the film editors, producers, directors, and actors who partake in it first sign a pledge of allegiance to the State of Israel, its symbols, and its Jewish and democratic values."

Explanations

This amendment is mean to prevent a situation in which makers of an Israeli film receive financial support from the State of Israel while besmirching the state and attacking it from every possible stage, or demonstratively renouncing the national anthem of flag during events associated with that production. The freedom of expression has been acknowledged as the apple of the eye of any democracy. Indeed, court rulings have encouraged (perhaps even exaggeratedly) Israeli artists to make tough remarks and express upsetting and annoying views. The problem is that the freedom of expression is not a freedom of sedition, and certainly is not "a freedom of grants."
Needless to say that this suggested amendment does not intend to stop any production from taking place. Nevertheless, the State of Israel should not be giving away generous grants to creators who then bite the hand that fed them and slander the state. This distorted reality, in which the Israeli Government is financing parties that oppose to its very existence as a Jewish and democratic state, must stop.

Presented to the Knesset speaker and his deputies
And placed on the Knesset's desk on 17 March 2010

Prohibition of Incitement Bill:

The 18th Knesset

A bill by MK Zevulun Orlev
p/18/268

Criminal Code Bill (Amendment - Prohibition of Incitement for the Negation of the Existence of the State of Israel as a Jewish and democratic state) - 2009

Amending the header of Mark A1:

1. In the header of Mark A1 of Chapter H of the Penal Code - 1977 (hereunder: the primary act), the words "inciting racism" shall be followed by "the negation of the existence of the State of Israel as a Jewish and democratic state,".

Adding Section 144d4

2. Section 144d3 of the primary act shall be followed by:
"Incitement for the negation of the existence of the State of Israel as a Jewish and democratic state
144d4 A person who publishes a call for the negation of the existence of the State of Israel as a Jewish and democratic state whose content might reasonably be followed by acts of hatred, contempt, or disloyalty against the state, or its government or legal authorities that had been established by law, shall be sentenced to one year in prison."

Explanatory Notes

Chapter 7a of Basic Law: The Knesset states: "A list of candidates may not partake in Knesset elections and a person may not be a Knesset candidate if the goals or deeds of that list or person, as the case may be, explicitly or explicitly contain one of the following: (1) A negation of the existence of the State of Israel as a Jewish and democratic state; (2) Incitement for racism; (3) Support for the armed struggle of an enemy state or terror organization against the State of Israel."

The Israeli Criminal Code lists several felonies associated with the deeds listed in Chapter 7a of Basic Law: the Knesset, such as publishing incitement for racism, or words of praise for, sympathy with, encouragement of, support for, or identification with such acts of violence or terror. However, the Criminal Code does not state that persons who publish calls for the negation of the existence of the State of Israel as a Jewish and democratic state are committing a crime.

This bill aims at establishing in the Criminal Code that publishing calls for the negation of the existence of the State of Israel as a Jewish and democratic state, whose contents might reasonably result in acts of hatred, contempt, or disloyalty to the state, or its government and legal authorities that had been established by law, is a crime.

The State of Israel has anchored its status as a Jewish and democratic state in several laws:

Chapter 1a of Basic Law: Human Liberty and Dignity states: "This basic law aims at defending human liberty and dignity so as to anchor the State of Israel's values as a Jewish and democratic state in a basic law."

Chapter 2 of Basic Act: Freedom of Occupation states: "This basic law aims at defending the freedom of occupation so as to anchor the State of Israel's values as a Jewish and democratic state in a basic law."

Chapter 2(2) of The National Education Act - 1953 states: "To impart the principles contained in the declaration on the establishment of the State of Israel and the values of the State of Israel as a Jewish and democratic state, and to cultivate respect for human rights, fundamental liberties, democratic values, the law, other's culture and views, and to educate [people] to aspire for peace and tolerance in the relations between individuals and nations."

Chapter 2(c) of the Culture and Art Act - 2002 states: "The council shall work to promote an art and culture policy that expresses creative and spiritual life in the State of Israel while guaranteeing the freedom of creation and the expression of the cultural diversity of the State of Israel, including the various views prevailing in it and its values as a Jewish and democratic state."

The Proclamation of Independence states: "The Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious, and political identity was shaped." Adding, "On the 29th November, 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz-Israel… This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable."
The Azmi Bishara affair taught us that declarations very quickly turn into actions. Bishara's incessant statements against the identity of the State of Israel as a Jewish state rapidly evolved into visit to enemy states such as Syria and Lebanon, even though it is illegal to visit enemy states, and even led to suspicions that he aided and gave the enemy information during the Second Lebanon War.
The nature of the State of Israel as a Jewish and democratic state must be guarded so that no one could ever negate it.
An identical bill was tabled with the 17th Knesset by MK Zvulun Orlev (p/17/3844) and passed a preliminary reading.

Presented to the Knesset speaker and his deputies
And placed on the Knesset's desk on 1 April 2009

Declaration of Allegiance for Citizens Bill:

Bills
[1 - 811 rtf]

The 18th Knesset

A bill by MKs **David Rotem**
Alex Miller
Moshe (Motz) Matalon
Lia Shemtov
Robert Iltov
p/18/811

A Population Registration Bill
(An amendment - pledge of allegiance to the state, the flag, and the national anthem) - 2009

Adding a Section - 24A

1. Section 24 of the Population Registration Act - 1965 shall be followed by:
"A pledge of allegiance to the state, the flag, and the national anthem
24A A. A resident entitled to an identity card, as noted in Clause 24, shall sign the following pledge of allegiance: "I hereby pledge to be faithful to the State of Israel as a Jewish and Zionist state, to the principles contained in the declaration on the establishment of the State of Israel, to the state's flag, and to the national anthem. I pledge to go on compulsory service, or an alternative service, as stipulated by law.
B. A resident as specified in subsection A who does not sign the declaration as described in the said subsection shall not be issued an identity card."

Explanations

It is suggested that any person who receives an identity card will have to sign a pledge of allegiance to the state, the flag, and the national anthem, and pledge to serve in the military or do national service.
A basically similar bill was tabled with the 16th Knesset by MK Eliezer Cohen (p/2160)

Admissions to Communities Bills:

Admission Committees of Communal Settlements
Bills, 9 March 2010

Hereby publishing a bill by MKs on behalf of the Knesset Constitution, Law, and Justice Committee:
A bill Regarding the Budget's Foundations Act (Amendment No. 39) (Deducting budgets or aid due to activities against the state's principles) - 2010
Adding Section 3b
"Deducting budgets or aid due to activities against the state's principles
1. Section 3a of the Budget's Foundations Act - 1985 shall be followed by:
3b. (a) Under this section -
"Body" - a budgeted body and an aided body as defined in Section 21, and a public establishment as defined in Section 3a;
"Expense" - including the waiving of income.
(b) The finance minister - with the consent of the minister in charge of the budgetary clause by which the budgeted or aided body is supported, after receiving the recommendation of a civil servants' team he appointed to review the matter, and after hearing the Body - may deduct sums of money that are to be transferred to that Body from the state budget, all laws included, should he find out that that Body made an expense on an issue which essentially is one of the following:
(1) Negating the existence of the State of Israel as a Jewish and democratic state;
(2) Inciting racism, violence, or terror;
(3) Supporting an armed struggle or a terror act by an enemy state or a terror organization against the State of Israel;
(4) Marking Israel's Independence Day or establishment anniversary as a day of mourning;
(5) An act of physical defilement or contempt against the state's flag or national anthem.
(c) A deduction according to Subsection (b) shall not exceed 10 times the expense that the said Body made on items specified in that subsection, or half the sums that should be accorded to that Body, whichever is the lowest."

Admission Committees of Communal Settlements
Bills, 12 July 2010

Hereby publishing a bill by MKs on behalf of the Knesset Constitution, Law, and Justice Committee:
A bill for the amendment of the Communal Associations Order (No. 8) (Admission committees of communal settlements) - 2010

Amending Section 2

1. In the Communal Associations Order (hereunder - the Order), In Section 2 -

(1) The definition of "committee" shall be followed by:
"Reservations committee" - a reservations committee as defined in section 6b;
"Admission committee" - an admission committee as defined in section 6b;
"Real-estate rights" - leasing or long-term leasing rights to Israeli lands as defined in Basic Act: Israel's Lands; in this matter, "leasing or long-term leasing rights" are as defined in the Real-Estate Act - 1969, including the right to be registered as a leaser or long-term leaser, and a right of any part to a development contract in a communal settlement to be registered as a leaser or long-term leaser after the contract terms are met, and rent for periods that accumulatively exceed five years;"

(2) The definition "member" shall be followed by:
"Communal settlement" - a settlement organized as a communal settlement whom the registrar classified as a rural communal settlement or a communal association for community settlement, or an expansion of a kibbutz, a communal moshav, or communal village, whose residents are registered as a rural communal settlement or a communal association for community settlement, provided the number of households in the settlement or the expansion does not exceed 55;"

Adding subsections 6b to 6d

2. Subsection 6a of the Order shall be followed by:
"Allocating lands and transferring rights to lands in a communal settlement

6b.

(A) (1) Land shall be allocated to a person for the acquisition of rights to land in a communal settlement with an active admission committee only after the committee approves that.

(2) The transfer of rights to land allocated to a person or legally assigned in a communal settlement as defined in subsection (a1) shall be done after the admission committee's approval of the transfer; the instruction of this clause, with required amendments, shall apply also to a person who wishes to transfer his right to land to another person.

(3) The transfer of land rights through inheritance, by law or by the power of a will, in a communal settlement as defined in subsection (a1) does not require the approval of the admission committee; nevertheless, the instructions of subsection (a2) shall apply to the inheritor, by law or by the power of a will, who wishes to transfer his right to land to another person.

(B) (1) An admission committee of a communal settlement shall comprise five members: two representatives of the communal settlement; a member of the movement to which the communal settlement belongs or is a member of - and if that settlement does not belong or is a member of no movement as noted or, if the movement waived its right to be represented in the committee - another member of the communal settlement; a representative of the Jewish Agency or WZO; a representative of the regional council under whose jurisdiction that settlement is located.

(2) The representative of the regional council on the admission committee shall be the head of that regional council or his deputy, or a council employee they shall appoint, provided they are not residents of the settlement in question, and will serve as the committee chairperson.

(C) Should the admission committee turn down the application of a candidate for residence in the communal settlement, it must provide him with a resolution explaining its move.

(D) The candidate and the communal settlement may file their reservations with the admission committee's resolution, which shall be viewed by a reservations committee.

(E) The reservations committee shall comprise five members: a public personality with an education in law, social work, or behavioral sciences, who will be appointed by the justice minister and serve as the committee chairperson; the registrar of communal associations or his deputy; an employee of the Land of Israel Authority; an employee of the Ministry of Welfare and Social Services; and an employee of the Agriculture Ministry's Rural Development Department.

(F) The reservations committee may cancel resolutions of the admission committee, approve it, or send it back to that committee to reconsider.

The Considerations of the Admission Committee

6c.

(A) The admission committee may turn down a candidate for membership with a communal settlement based on one or more of the following considerations only:

(1) The candidate is a minor;

(2) The candidate lacks the means required to build a home in the communal settlement within the period of time stipulated in the land allocation agreement;

(3) The candidate does not intend to make the communal settlement the center of his life;

(4) The candidate is not right for social life in the community. A decision to refuse a candidate based on this consideration shall be based on an expert opinion.

(5) The candidate does not match the social-cultural fabric of the settlement and there is reason to assume he might harm it.

(6) Unique characteristics of the communal settlement or admission terms as stipulated in the association's codex, if there are any, provided they are approved by the registrar.

(B) When making the considerations specified in subsection (A), the admission committee will have to consider the settlement size, age, durability, and the nature of its population.

(C) The admission committee may not turn down a candidate based only on reasons of race, religion, gender, nationality, or handicap.

Reserving rights

6d. The text of subsections 6b and 6c does not make it imperative to allocate land to a person whose candidacy was approved by the admission committee."

Amending the Administrative Courts Act

3. The ending of the first addendum to the Administrative Courts Act-2000 shall be followed by:
"37. Settlement - a resolution of the reservations committee, based on subsection 6b of the Communal Associations Order."

4. This law shall go into effect 30 days after it is published (hereunder - Application Day)

5. The instructions of this act shall apply to the procedures of the admission committees of communal settlements from Application Day onward.

Signed by: MKs **Israel Hason, Shay Hermesh, Uri Ariel, Moshe (Motz) Matalon, Isaac Vaknin, and David Rotem**

Foreign State Funding Bill:

Eighteenth Knesset

Proposed Bill on Disclosure Requirements for Recipients of Support from a Foreign Political Entity, 5770-2010

Definitions	1.	In this law – "Associations Law" – Associations Law, 5740-1980;[13] "Foreign Political Entity" – as defined in Article 36A(A) of the Associations Law, 5740-1980 (hereinafter -the Associations Law); "Recipient of support", "Recipient of support from a Foreign Political Entity" – an association or public benefit company receiving financial support from a Foreign Political Entity. "Monetary support from a Foreign Political Entity" – support that has been transferred directly or indirectly by a Foreign Political Entity or by a foreign company as defined in the Companies Law, 5759-1999, the majority of whose funding in the last financial year in which it was required to file financial statements was from the bodies detailed in paras. (1), (2), or (3) in Article 36A(A) of the Associations Law. "The Registrar" – the Registrar of Associations or the Registrar of Trusts, as the case may be.
Obligation of quarterly report	2.	A recipient of support who received monetary support from a Foreign Political Entity shall submit a report to the Registrar of Associations or to the Registrar of Trusts, as the case may be, within one week from the end of the quarter in which the donation was received (hereinafter – a quarterly report); the quarterly report shall be submitted on an online form to be established by the Minister of Justice.
Content of the report	3.	The quarterly report shall detail: (1) The identity of the donor; (2) The amount of the support; (3) The goals or designation of the support; (4) Undertakings made to the Foreign Political Entity by the recipient of support, orally or in writing, directly or indirectly, if any.
Preservation of laws	4.	The submission of the quarterly report shall not derogate from reporting obligations applying to the recipient of support under any other law.
Publication by the registrar	5.	The Registrar shall publish on the Ministry of Justice website the list of recipients of support that submitted a quarterly report. The information as stated in Article 3 shall be published on the website of the Ministry of Justice and in any other manner as the Registrar shall see fit.
Publication by the recipient of support	6.	(A) If the recipient of support or any person acting on its behalf has a website, it shall publish thereon

[13] Statute Book 5740, p. 127.

prominently information as stated in Article 3.

(B) If the recipient of support received monetary support from a Foreign Political Entity intended for the financing of a special advertising campaign, the recipient of support shall, in the framework of such advertising, publish the fact of the receipt of the said support.

Obligation to clarify financial sources

7. An association or public benefit company, as the case may be, must do everything in its ability in order to clarify whether monetary support it received is from a Foreign Political Entity.

Regulations

8. The Minister of Justice is empowered to enact regulations for the execution of this law.

Amendment of the Associations Law

9. In Article 64A of the Associations Law, 5740-1980, the following shall come after item (7):

"(8) Submission of quarterly reports as stated in Article 2 of the Law of Disclosure Requirements for Recipients of Support from a Foreign Political Entity, 5770-2010."

Amendment of the Companies Law

10. In Article 354 of the Companies Law, 5759-1999, the following shall come in section (B1)(5), after the words "as stated in paras. (1)(A), (2)(A) or (B), or (3): "or for a violation as stated in Article 2 of the Law of Disclosure Requirements for Recipients of Support from a Foreign Political Entity, 5770-2010."

Explanatory Notes

The purpose of this law is to increase transparency and correct loopholes in legislation concerning financing of the activities of associations and public benefit companies in Israel by Foreign Political Entities.

The proposed law will require immediate reporting on the receipt of support, enabling enhanced transparency with regard to the support received and the use thereof.

This law effectively balances the rights of organizations in a democratic state to operate freely with the right of the Israeli public to know who is funding their activities.

Prevention of Infiltration Bill:

Prevention of infiltration Law – 2008

Chapter 1: Commentary

Definitions

1. in this law -
"terror organisation" - means a terror organisation as defined in The Law for the Prohibition of Terror Funding – 2005, inclusive of any declared terror organisation as defined in the above law and a force carrying out hostile activities against the State of Israel as prescribed by the Minister of Defence in article 8 of Illegal Combatants Law 2002;

"Entry into Israel Law" - Entry into Israel Law 1952;

"Detention Law" - Criminal Procedure Law (Authorities – Arrest), 1996;

"Penal Code" - Penal Code 1977;

"Military Judicial Law" - Military Judicial Law 1955;

Soldier – Soldier as defined in the Military Judicial Law, whose roles are, inter alia, to carry out the orders of this law;

Infiltrator – A person who entered Israel but not via one of the entry stations prescribed by the Minister of the Interior according to article 7 to the Entry Law, without proper authorisation

Detention Centre means one of the following:
1. A location as declared in an order of the Minister on his own or with the Minister of Public Security according to the instruction of this law
2. Prison as defined in the Prison Directive [New Version], 1971;
3. Detention Centre according to Article 7 of the Detention Law
4. Special Detention Centre as defined in article 13i(i) of Entry Law

Detention – detaining a person for the purpose of holding him in detention as prescribed in this law

"Military Orders" - as defined in the Military Judicial Law;

"Authorised Officer" - Lieutenant Colonel or a higher ranking IDF officer who was authorised by the Minister in the matter of this law

"Person who resides illegally" - as defined in article 13a of Entry into Israel Law

"The Minister" - Defence Minister

Chapter 2: Criminal Offences

Infiltration

2. An infiltrator is liable to an imprisonment term of five years

Infiltration of a citizen, subject or a resident of a state or a territory enumerated in the Supplement

3. An infiltrator who at the time of his infiltration was a citizen, subject or a resident of a state or a territory listed in the Supplement, even in if the person was also a citizen, subject or a resident of a state or a territory not listed in the Supplement is liable to imprisonment of seven years.

Aggravated circumstances of infiltration

4. i. An infiltrator is liable to imprisonment term of ten years if one of the following:
1. He is a member of a terror organisation or a person who is active in terror as defined in the Prohibition of Funding Terror Law – 2005;
2. He is part of the armed forces of a state or a territory enumerated in the Supplement or part of an armed force which operates within their territory. In the matter of this article, including security and intelligence services;
3. He entered in order to commit a offence according to articles 108(a) or (c), 121, 122(b), 143(a) or 157 of Penal Code.

ii. An infiltrator is liable to imprisonment term of twenty years if one of the following:
1. He is armed or is accompanying an armed person; for this matter, "arms" means as prescribed in article 144(c)(1) till (3) in the Penal Code, including a knife as defined in article 184 of Penal Code and includes biological, chemical and radioactive weapons
2. Entered in order to commit a offence according to articles 97, 98, 99, 101, 102(a), 107, 108(d), 144(b2), 300, 377a of Penal Code or according to sub-chapter 4 of chapter 8 of the above mentioned law
3. Entered in order to commit an offence according to sub-section 2 in chapter 3 of the Dangerous Drugs Law (new version) 1973;

iii. A person infiltrating after having been deported from Israel is liable to imprisonment term as prescribed for the offence he committed and an additional half of the term prescribed providing the imprisonment term does not exceed 25 years.

Assisting an infiltration

5. A person who assists anyone who committed the offence in this law, in his infiltration or his illegal stay in Israel, is liable to the same punishment as prescribed by this law for the main offence.

Chapter 3: Deportation and detention

Subchapter 1: deportation, detention and release on bail
Deportation

6. i. An infiltrator shall be deported from Israel as soon as possible

ii. The deportation from Israel shall be according to a Deportation Order issued by the Minister (henceforth – the Deportation Order); this order may be issued even if the infiltrator was prosecuted or convicted under the above offence or began serving his sentence for this offence.

iii. It is permissible to determine in this Deportation Order that the deportation expenses including the detention expenses (henceforth – the deportation expenses) shall be met by the person in respect to whom the warrant has been issued, or by another infiltrator who infiltrated with him. This applies providing the deportation is not delayed just because of an inability to meet the deportation expenses.

iv. Once it is determined in the Deportation Order according to the above subsection 6(iii) that the infiltrator or another infiltrator shall meet the deportation expenses and one of those deposited a bail or whilst being held in detention deposited money even if it was not for the purpose of bail, it is permissible

to use the bail money, or the money deposited as described above, to meet the deportation expenses providing the deportation expense does not exceed NIS 7,500.

v. A person in respect to whom an order of deportation has been issued, shall not return as long as the order of deportation has not been cancelled.

Release from imprisonment or detention for the purpose of deportation

7. i. When the infiltrator is carrying out an imprisonment term for the above offence, the Minister with the consent of the Attorney General may instruct his release for the purpose of deportation even if his imprisonment term has not ended.

ii. 1. In the case that an infiltrator is released from imprisonment as prescribed in subsection 7 (i), deported from Israel according to this law and returned to Israel and was in Israel without a permit (henceforth – repeat infiltrator), the Parole Committee which was established as prescribed in the Parole Law of 2001, may, if requested by the Attorney General, instruct that he shall serve the remainder of his imprisonment term.
2. A repeat infiltrator shall serve the remainder of his imprisonment term as prescribed in paragraph 1 prior to serving any other penalty imposed.
3. The decision of the Parole Committee is equal to an arrest order of the repeat infiltrator.

iii. In this article, "the remainder of imprisonment term" - means the remainder of the imprisonment term which the repeat infiltrator had to serve if he would not have been released as prescribed in subsection i.

Detention

8. i. An infiltrator shall be held in detention until his deportation from Israel.

ii. Holding an infiltrator in detention shall be as prescribed in a Detention Order issued by the Authorised Officer

iii. The Authorised Officer shall issue a Detention Order against an infiltrator held in temporary detention as prescribed in article 9 only after reading a report on the infiltrator as prescribed in subsection 9(iii)

iv. Once a Detention Order is issued to an infiltrator, information shall be given to him, as much as possible, in a language he understands, in writing or orally, regarding his rights in accordance with this law and his right to notify a close person, a lawyer or a representative of his native state about his arrest.

Temporary Detention

9. i. In a case where a policeman has reasonable grounds to suspect that a person is an infiltrator, or that a Deportation Order or a Return to Detention Order has been issued to the person as prescribed in articles 6 or 16, the policeman, after identifying himself according to article 5i of the Police Ordinance [new version] 1971, may request the person to accompany him to a Detention Centre providing the policeman explains the reason for the request; shall the person refuse to accompany him to a Detention Centre, the policeman may use reasonable force to bring the infiltrator to detention.

ii. 1. In a case where a soldier has reasonable grounds to suspect that a person has infiltrated to Israel recently, the soldier shall have similar powers to a policeman as prescribed in the provision of subsection 9(i). However, a soldier shall identity himself according to military orders.

2. The duty of identification as prescribed in the above subsection 1, shall not apply if identifying himself shall foil bringing the infiltrator to detention or harm the well-being of the soldier or another person.

3. Once the circumstances preventing the fulfilment of the duty of identification as prescribed in subsection 1 passes, the soldier shall fulfil the obligation as soon as possible.

iii. The policeman or the soldier who brings the person to detention as prescribed in subsections i or ii, shall write, as soon as possible, a report describing the facts which led him to suspect that the person infiltrated to Israel or that a Deportation Order or a Return to Detention Order was issued to him; and the actions taken in the matter according to the subsections; prior to preparing the above report, the policeman or the soldier shall give the person an opportunity to assert his position with regard to being held in detention and the possibility of being deported and his position shall be enumerated in the report.

iv. Once a person is brought to detention as prescribed in subsections i and ii, the written report on his matter as prescribed in subsection iii shall be presented to a police officer authorised by the Police Commissioner or to an IDF officer with a ranking of Major or higher, authorised by the Chief of Staff, depending on the Detention Centre. After reading the report, the above officer, may instruct holding the person in temporary detention. If the officer instructs as above, a copy of the report shall be given to the Authorised Officer.

v. An infiltrator shall not be held in temporary detention for more than 96 hours from the commence of his detention.

Appointed time of decision

10. The decision as prescribed by this law with regard to the detention of an infiltrator shall be made before 96 hours have elapsed. The same is true for a Deportation Order.

Returns in proximity of the infiltration

11. i. If an Authorised Officer is certain that the infiltrator has entered into Israel recently, he is may order his immediate return to the state or the region from which he infiltrated providing this return shall be made before 72 hours have elapsed since the policeman or the soldier had the reasonable grounds to suspect that the person had infiltrated.

ii. Nothing in this law shall affect provision 13(x) of the Entry to Israel Law.

Application of this law or the Entry to Israel Law in the matter of detention and deportation of an infiltrator

12. i. Nothing in this law shall prevent the application of the Entry to Israel Law in the matter of deportation and detention on an infiltrator providing it has been ascertained that the circumstances of the person's infiltration do not relate to elements which might damage national security and that the person poses no security threat.

ii. In the case of a person who is in Israel illegally and is an infiltrator and it has been ascertained that in the circumstances of the person's infiltration relate to elements that might damage national security or that the person poses a security threat, in the matter of the person's deportation and detention, the instruction of this law shall apply even if the instruction of the Entry to Israel Law was initially applied to this case and even if it was determined earlier as prescribed in subsection 1 that the Entry into Israel law shall apply in the above matter.

iii. The period which the infiltrator is held in detention as prescribed in this law shall not be counted as part of the number of days prescribed in the Entry into Israel Law and the period which the infiltrator is held in detention as prescribed in the Entry into Israel Law shall not be counted as part of the number of days prescribed in this law.

Enforcement Powers

13. i. For the implementation of this law, a policeman – with regard to a person who the policeman has a reasonable grounds to suspect that the person infiltrated – and a soldier – with regard to a person who the soldier has a reasonable grounds to suspect that the person has infiltrated recently - has the following powers:
1. To demand the person to identify himself and present documents regarding his entry into and stay in Israel and provide information regarding this;
2. To search the body of the person;
3. To hold any belongings related to the suspected offence as prescribed in this law;
4. To enter at any reasonable time any premise apart from a dwelling, which there is a suspicion that the above-mentioned person is present in, in order to conduct an enquiry in the matter.

ii. At a policeman's request, a magistrate's court judge may issue an order permitting entry into a dwelling in order to conduct an enquiry in the matter of this law if the policeman has reasonable grounds to suspect the presence of an infiltrator on the premise
iii. Entry as prescribed in this article shall only occur after the policeman, or the soldier, identified himself to the person(s) deemed to be the premise holder and has informed him of the purpose of the entry; if the premise holder refuses entry, the policeman or the soldier - after warning the premise holder - may use reasonable force against the person or his property; entry into a dwelling shall be carried out according to subsection ii only by a policeman after presenting the order to the person deemed to be property holder.
iv. Applicable to searching and holding belongings as prescribed in this article are articles 22 and 32-42 of the Criminal Procedure Law (Detention and Searching) [new version], 1969, with the required following changes:
1. The powers given to a policeman shall be given also to a soldier
2. The powers given to a police officer ranked Sub-Inspector or a higher officer shall be given to a Second Lieutenant or a higher ranked officer
The powers given to a Chief Superintendent or higher ranked officer shall be given to a Lieutenant Colonel or a higher ranked officer.

Detention Conditions

14. i. Under the circumstances of the matter including the length of his detention, an infiltrator in detention shall be held in adequate conditions which shall not compromise his health or his dignity.

ii. Subject to subsection i, an infiltrator held in detention shall be held according to the regular conditions in the specific detention facility.

iii. Articles 9(ii) and 10 of the Detention Law shall apply on holding in detention under this law with the required changes.

iv. The Minister, with the approval of the Knesset Foreign Affairs and Defence Committee, subject to subsection i, may issue orders, different from those applicable according to subsections ii and iii, in the matter of holding in detention, as defined in article 1 "detention location", including detention conditions of families and children, all for reasons of the well-being of the person in detention, the interrogation or national security.

Release on Bail

15. i. Notwithstanding article 8(i), the Authorised Officer may, in exceptional circumstances, release an infiltrator on money bail, (bank guarantee or any other suitable collateral) (henceforth- bail) as prescribed by the following article, if he was persuaded that:

1. Due to the age or his health condition of the infiltrator, holding him in detention shall damage his health and there is no other way to prevent this damage
2. There are other special humanitarian reasons different from the above subsection 1 which justify the release on bail of the infiltrator.
3. The releasing on bail of an infiltrator shall contribute to his deportation proceedings.

ii. Notwithstanding subsection i, an infiltrator shall not be released on bail even when one of the conditions mentioned in subsection 15i (1) and (2) exist if the Authorised Officer was persuaded of one of the following:
1. His deportation from Israel is being withheld or delayed due to lack of his co-operation, including in the matter of clarifying his identity or arranging his deportation proceedings;
2. Releasing him on bail may pose a risk to national security, public safety or public health;
3. The relevant security authorities have filed an opinion according to which in the infiltrator's country of origin, or in his area of residence, there is activity which might endanger the security of the State of Israel or its citizens.

iii. The release from detention shall be subject to the conditions - determined by the Authorised Officer, including bail - which safeguard the return of the infiltrator for his scheduled deportation date or for other proceedings; the Authorised Officer may at any time, re-examine the bail terms if new facts came to light or if circumstances have changed since the decision to release on bail

iv. The decision to release on bail shall be regarded as a proof to his legal stay in Israel as prescribed in this article, for the period of the bail providing his release terms are met

v. If a guarantor requests to withdraw his bail, the Authorised Officer may accept or deny the request providing his decision shall guarantee the return of the infiltrator with another bail; if it is impossible to guarantee the return of the infiltrator with another bail, the infiltrator shall be returned to detention.

vi. Once the infiltrator has been deported from Israel, the guarantors and the infiltrator shall be absolved and their bail returned to them subject to article 6(iv).

Return to detention and confiscation of the bail

16. i. if the Authorised Officer was persuaded that the bailed infiltrator violated or is about to violate the bail conditions, he may issue an order instructing his return to detention and may instruct the confiscation of the bail.

ii. A confiscation or a requisition order shall not be issued as prescribed in subsection i, unless the infiltrator or the guarantor is given an opportunity to plead his position providing it is possible to locate him in a reasonable time.

Subchapter 2: Tribunal for the Review of detention of infiltrators

Tribunal for the Review of detention of infiltrators

17. i. The Minister of Justice, upon the proposal of the Minister of Defence, shall appoint one or more one-man tribunals for the review of detention of infiltrators as prescribed in this law (henceforth – the Tribunal)

ii. The Judge appointed to the Tribunal shall be competent to be a Magistrate's Court Judge with knowledge of infiltration statutes and the statutes of entry into and exit form Israel.
iii. The appointment of the Tribunal shall be for a three year period and it may be renewed in the same manner.

The Tribunal's duties

18. The Tribunal shall hold judicial reviews of decisions to detain infiltrators including release on bail.

The Tribunal's independence

19. In judicial matters the Tribunal shall not be subject to any authority but that of the law.

Bringing to court

20. i. An infiltrator held in detention shall be brought before the Tribunal as soon as possible and no later than 14 days from the commence of his detention, unless he was brought already before the Tribunal following a petition as prescribed in article 23.

ii. An infiltrator, who was returned to detention as prescribed in article 16, shall be brought before the Tribunal as soon as possible and no later than 72 hours after his return to detention.

iii. If the last day to bring an infiltrator before the Tribunal occurs on a holiday as defined in article 18 i (i) of Law and Administration Ordinance, 1948, the infiltrator shall be brought before the Tribunal a day before the holiday.

iv. Had the infiltrator not been brought before the Tribunal in the required period, the Authorised Officer shall instruct his release from detention providing article 15 (ii) does not apply.

Powers of the Tribunal

21. i. The Tribunal shall have the vested powers to:

1. Approve the Detention Order, with or without changes, and to instruct that the matter of the infiltrator shall be brought before it for further consideration after certain conditions are met or after a period of time providing the period does not exceed 60 days.
2. Cancel the Detention Order and instruct the release on bail of the infiltrator providing it was persuaded that the condition for releasing on bail were met as prescribed in article 15, subject to its restrictions.
3. Set a time limit after which an infiltrator held in detention is to be released if he was not deported prior to that; providing it is persuaded that the deportation of the infiltrator is delayed with no reasonable cause despite the infiltrator's full co-operation providing that an infiltrator to which article 15 (ii) (2) or (3) is applicable, is not released
4. Instruct any change in bail terms as prescribed in article 15 as well as the confiscation of the bail due to violations of the release terms.

ii. subsection 15(iv) is applicable also to release on bail by a Tribunal Order.

iii. The Tribunal decision shall include the summary of the claims of both sides , shall be reasoned and in writing and shall be given to the infiltrator, if possible, immediately; if the Tribunal finds a reason for further deliberation on the case of the infiltrator, it shall instruct to bring the infiltrator before it again on a set date.

Reconsideration

22. the Authorised Officer may request the Tribunal to instruct a return to detention of an infiltrator who was released on bail following a Tribunal's decision or to impose further or different release terms if new evidence came to light or circumstances changed since the Tribunal's decision; nothing in this shall undermine the powers of the Authorised Officer as prescribed in article 16.

Petitioning the Tribunal in any time

23. i. An infiltrator held in detention may petition the Tribunal at any time, to request that his case be considered and may request a reconsideration if new evidence comes to light or circumstances change since the Tribunal's decision.

ii. A bailed infiltrator may petition the Tribunal at any time requesting a change in the bail terms

Place of hearing

24. The Tribunal shall hold its hearing at the place of detention where the infiltrator is held but may hold a hearing in another location if it perceived it to be suitable for the sake of justice and efficiency.

Hearing Procedures, evidence law, and facilitation Procedures

25. i. The Tribunal shall decide its own hearing procedures unless they are instructed by this law
ii. The Tribunal is not bound by evidence law and may, inter alia, hear evidential material whose publication might harm national security or public safety, without the presence of the held infiltrator or his representative. The provisions in articles 44-46 in Evidence Law [new version] 1971, shall not apply.
iii. The Tribunal shall have the vested powers as prescribed in articles 9 -11 in the Investigation Committee Law 1968, with the required modifications.

Attendance of hearing

26. an infiltrator held in detention or a bailed infiltrator may be present in all the proceedings regarding his case as prescribed in article 25(ii) unless it was reasonably impossible to locate him. The infiltrator may be represented free of charge by a representative who is not a lawyer

Appeal and administrative petition

27. i. The Tribunal's decisions may be appealed against to the Administrative Court.

ii. If a petition to the Administrative Court against a decision according to this law on deportation is pending at the same time that an appeal against the Tribunal decision, according to this subchapter in the matter of detention or bail, is pending, the Court shall include in the petition the matter of detention or bail and the appeal shall be deleted; However, if the petitioner has yet to file an appeal in the matter of detention or bail, he shall include those matters in the petition.
iii. Nothing in the Administrative Court decision on an appeal or a petition shall diminish the Tribunal's authority in accordance with this subchapter, however, any matter decided by the Court as part of an appeal or a petition, shall not be addressed by the Tribunal unless it became apparent that a circumstances change in the reasons which the Court bases its decision upon.

Chapter v: miscellaneous provisions

reservation on the applicability of the Detention Law

28. Despite the provision of article 1(iii) of the detention law, the provisions of the above-mentioned law shall not apply in the matter of proceedings and authorities according to this law unless prescribed explicitly in this law.

reservation of laws

29. Nothing in the provisions of chapter iii, shall affect the criminal responsibility of a person under this or another law or shall affect the power given to another authority according to any law.

Training of Soldiers

30. In the army orders, provisions shall be made in the matter of training soldiers on fulfilling their duties according to this law.
Implementation and Regulations

31. The Minister is in charge of implementing this law and may make any regulations as to matters relating to such implementation, including in the following matters:
1. ways of collecting the deportation expenses as prescribed in article 6(iv), including applying the Taxes Ordinance (collection) on collecting the deportation expenses and including setting procedures on confiscation or seizure of money and assets to cover the deportation expenses.
2. the establishment of and the procedures for the detention centre which has been prescribed in an order according to the first paragraph of the definition of "detention centre"; the regulations in the matter of detention centres which has been prescribed in an order following consultation with the Minister of public security, shall be made following consultation with the above-mentioned minister.
3. Medical examination of the infiltrators, their medical care, hygiene screening and sanitisation of their clothes and belongings.

Changing the Supplement

32. The Minister, after consulting the Foreign Affairs Minister and with the approval of the cabinet and the Knesset Foreign Affairs and Defence Committee, may change, in an order, the Supplement.

Delegation of Powers

33. i. The Minister may delegate, some or all, of his powers, expect the powers according to article 7i and the power to make regulations.
ii. An announcement on the delegation of powers according to this article shall be published in Rashumot.

Chapter 5: Indirect amendments, Entry into Force and Transitional Period

Cancellation of the law for Prevention of Infiltration (Offences and Jurisdiction)

34. The law for the prevention of infiltration (offences and jurisdiction), 1954 - is cancelled.

Amendment to the ordinance of extending the validity of the emergency law (exiting Israel)

35. In the Ordinance of Extending the Validity of the Emergency Law (Exiting Israel) 1948 in the Supplement in article 5 -

1. What is written should be marked "(i)" and in instead of "to one of the states enumerated in article 2a of the law for Prevention of Infiltration (Offences and jurisdiction) 1954" shall be written, "from Israel in any way to a state or a territory bordering it", instead of "to one of these states" shall be written "to a state or a territory bordering as mentioned above or enumerated in the supplement of the law for the Prevention of Infiltration 2008" and instead of "unless with permission as mentioned above" it will be written "unless with permission as mentioned above; the permission according to this regulation may be general or personal"

2. After sub-article (i) shall be written:
"(ii) a person leaving Israel to a state or a territory bordering it, or entering to a state or the territory bordering Israel or enumerated in the supplement of the law for the Prevention of Infiltration 2008 without permission, in violation of sub-article (i) is liable to imprisonment term of three years."

Amendment Entry to Israel Law

36. In the Entry to Israel Law 1952 -
(1) In article 12 what is written shall be marked "(i)" and after it shall be written:

1. "(ii) (1) A person entering Israel, fraudulently or using counterfeited documents is liable to imprisonment of 5 years, and if this offence happens when he is a citizen, a subject or a resident of a state or a territory enumerated in the Supplement of the law for the Prevention of Infiltration 2008 is liable for imprisonment of 7 years; for this matter "fraud", "document", "counterfeit" are as defined in article 414 of the penal code.

(2) A person assisting a person to commit an offence according to article (1), shall be punished the same way as the way that has been prescribed for the person committing the offence."

Amendment to the Citizenship Law

37. In the Citizenship Law, 1952, in article 11(i), instead of "in Article 2i of the prevention of infiltration (Offences and Jurisdiction) law 1954, shall be written "in the Supplement of the Prevention of the Infiltration law, 2008"

Amendment to the Knesset Building, the Grounds and the Knesset Guard Law

38. In the Knesset Building, the Grounds and the Knesset Guard Law, 1968, in article 3(iii)(4) instead of the prevention of infiltration (Offences and Jurisdiction) law 1954, shall be written "the Prevention of the Infiltration Law, 2008"

Amendment to the Criminal Record Law

39. In the Criminal Record Law, 1981, in article 17, paragraph (4)(v) instead of "the prevention of infiltration (Offences and Jurisdiction) law 1954", shall be written "the Prevention of the Infiltration Law, 2008"

Amendment to the Criminal Procedure Law (Enforcement Authorities - Detention)

40. In the Criminal Procedure (Enforcement Authorities - Detention) Law, 1996, in article 35(ii) in paragraph (4) of the definition of "suspect of security-related offences", instead of "the prevention of infiltration (Offences and Jurisdiction) law 1954", shall be written "the Prevention of the Infiltration Law, 2008"

Amendment to the Administrative Court Law

41. Administrative Court Law, 2000:

(1) At the end of the first supplement:

"34. Infiltration - decision of an authority according to the Prevention of the Infiltration Law, 2008, excluding the decisions of the Defence Minister according to article 7(i) of the above mentioned law";

(2) At the end of the second supplement:
"14. An appeal according to article 27(i) the Prevention of the Infiltration Law, 2008"

Entry into Force

42. This law shall enter into force 60 days after its publication

Transitional provision

43. (i) Deportation Order issued according to the the prevention of infiltration (Offences and Jurisdiction) law 1954, shall be regarded as a Deportation Order issued according to this law.
(ii) An infiltrator held in detention before this law entered into force, and up to this that moment, a judicial review has yet to be conducted in the matter of holding him in detention, shall be brought before the Tribunal according to the provisions of article 20, within 14 days of the entry into force of this law.
Supplement:
(Article 3, 4, 32)

Iran
Afghanistan
Lebanon
Libya
Sudan
Syria
Iraq
Pakistan
Yemen
Gaza Strip Territory

Explanatory Notes

In recent years, the State of Israel has witnessed an increase in the phenomenon of infiltrators to Israel through the state's borders instead of through border stations, particularly through the Egyptian border (which is 220 kilometre long and mostly without a fence that might be able to prevent infiltration). The infiltrators arrive from a variety of States including some which are hostile to Israel.

The current procedures that deal with the infiltration phenomena derive from the 1954 Law for the Prevention of Infiltration (Felonies and Jurisdiction) [forth hence – the existing infiltration law]. According to article 34 of the above law, the existence of the law depends on the existence of the state of emergency. The state of emergency is enacted by a declaration of the Knesset according to article 34 of the Basic Law: the Government and its validity is renewed yearly. Along side with renewing the state of emergency declaration, the Government is working towards the termination of the contingency of certain laws or provisions on the existence of the state of emergency when there is not justification for it.

Therefore it is being purposed to terminate the contingency of the procedures that deal with infiltration to Israel on the the existence of the state of emergency and to replace them with new ones which would strike the right balance between human rights and state's security and public order while taking into account the scale of the phenomena and the case law from various courts.

The assumption of this proposed law is the separation between the powers to arrest and deport those who infiltrated for security reasons and the powers to arrest and deport those who infiltrated and do not pose a security risk. As a general rule, the latter shall initially be placed in the venue of the proposed law but after reviewing the circumstances of their infiltration they could be placed for detention and deportation in the venue of the Entry into Israel Law, which has a different purpose and different enforcement bodies. It should be noted that in the majority of recent cases of infiltration, it has been determined after a review of the circumstances of the infiltration, that there was no security related reason. However, since they entered not through a border station, they are treated initially by the security forces until being transferred to the venue of the Entry into Israel Law.

There are two main chapters in this proposed law: a criminal and an administrative -

The criminal chapter (the proposed Chapter 2) is supposed to take the place of and update the punitive chapter of the existing infiltration law. The proposed chapter, enumerates the offences of

entering to Israel not via an entry station prescribed by the interior minister without proper authorisation and this is applicable to infiltrators to Israel whether or not it is security related.

The administrative chapter (the proposed chapter 3) stipulates the procedures concerning the deportation of the infiltrator from Israel. Those procedures are mostly based on the procedures which exist in the Entry to Israel Law, which its instructions are applicable to those who reside in Israel without a permit, this is due to the fact that the infiltrator does de facto reside in Israel without a permit as prescribed in article 13(i) of the Entry to Israel Law. To clarify, both those laws aim at protecting the rule of law and the right of the state to determine who shall enter into it and who shall be permitted to stay within its territory. The underlying rationale of both these laws is to cause the exit of infiltrators and those who reside in Israel without a permit as soon as possible and to detain them until then. Two other common elements in both those laws is the determination of reasons for bail of infiltrators and those illegal residents and the establishment of a special tribunal whose role is to conduct periodical and mandatory judicial review of detentions. Yet, due to the security nature of the infiltration phenomenon, the proposed arrangements are severe in comparison to the attitude prescribed under the Entry to Israel Law. It should be emphasised that unlike the case of someone who resides in Israel without a permit which in most cases entered Israel with a valid visa as a tourist or for work and has later become an illegal resident, the entrance of an infiltrator is illegal from the very start, since the infiltrator entered knowingly not through a border station.

The existing infiltration law is attached in the appendix to the Explanatory Notes.

Article 1 – The definition of soldier

It is proposed to limit the meaning of soldier in the proposed law to mean only a soldier as defined in the Military Judicial Law 1955 (henceforth – the Military Judicial law) whose role is also to enforce the provisions of this law. According to the proposed definition, those powers shall be given only to soldiers whose roles are to, inter alia, guard the state borders and to foil infiltration close to the border. This restrictive definition is in order to prevent any soldier not vested with the above mentioned powers from taking actions against anyone who seems to him an infiltrator.

The definition of infiltrator -

It is proposed to prescribe that an infiltrator is a person who had entered Israel, but had entered not via one of the entry stations prescribed by the Minister of the Interior according to article 7 to the Entry to Israel Law, without proper authorisation. The legal way to enter into Israel is through the entry stations as prescribed by the law. Hence, anyone who enters not through an official entry station is an infiltrator.

The Entry to Israel Law which regulates the entry into Israel procedures, enumerates several offences applicable to people who reside in Israel without a permit. This term is defined in article 13(i) of the entry to Israel law "as other than Israel National or an 'Oleh' under the law of return 1950, and is in Israel without a permit..." In addition, article 12 (1) prescribes that residing in, or entry to, Israel in violation of the law is an offence punishable for one year imprisonment

The proposed law is to be applicable to border control evaders and to them only and due to the severity attributed to the offence, there are severer punishments and provisions in it than the ones in the entry to Israel law. Though every infiltrator to Israel who is not an Israeli citizen or an Oleh, also resides in Israel without a permit, according to article 13i of the Entry to Israel Law, since his being in Israel is a violation of the Entry to Israel law, the difference between an infiltrator and someone who resides illegally in Israel lies in the way they entered to Israel – was contingent on whether it was via a border station.

Infiltration has a more severe element to it since the assumption is that anyone infiltrating not through the official border stations of the state does so with an intent to harm, compared to a legal resident of Israel and for some reasons his status changes to illegal. Therefore it is proposed that an infiltrator despite being also residing illegally in Israel, shall be treated under the venue of the proposed law and not the Entry to Israel law. This unless, according to the system proposed in this law, it shall be decided that his case shall come to the venue of the Entry to Israel Law for the purpose of his detention and deportation (see comments under article 12).

Definition of Detention Centre-

As a place of detention in which infiltrators may be held, in the proposed definition, there are four options:
The first one as prescribed in the proposed law is a location as declared in an order of the Minister of Defence (henceforth - the Minister) on his own or with the Minister of Public Security depending on the circumstances. The intention is to authorise the Minister to declare on his own in an order, detention centres which shall fall under the jurisdiction of the Israel Defence Force (henceforth, IDF.) Other detention locations under the jurisdiction of the Police or the Prison Service shall be declared, in a joint order of the Minister and the Minister of Public Security, as additional detention centres for the purpose of the proposed law. The three other options of detention refer to centres which are already operating according to the provisions of other existing laws: prison as defined in the Prison Ordinance [New Version], 1971; detention centre according to Article 7 of the Criminal Law (Enforcement Authorities and Detention), 1996 (hence forth Detention Law) and a Special Detention Centre established for the Entry to Israel Law.
The Authorised Officer Definition –
An authorised officer is responsible, according to the proposed law, for issuing an order to release an infiltrator from detention (article 8(ii) in the proposed law) and is authorised to release an infiltrator on bail in accordance with the reasons set forth in the proposed article 15. It is proposed that these authorities shall be given to a officer ranked Lieutenant Colonel or higher, who was authorised by the Minister.

Article 2 -
It is proposed to prescribe that the offence of infiltration -- entering to Israel not via a border station without proper authority - is a felony which is punishable for 5 years imprisonment. The proposed article prescribes a general offence which is applicable to every infiltrator regardless of identity or of the intention behind his infiltration (as opposed to the infiltration offences proposed in article 3 and 4 as enumerated below) and is applicable to infiltrators to Israel whether or not there is a security-related reason to their infiltration.

Article 3 and the Supplement –
It is proposed to punish severely an infiltrator who is a citizen, subject or resident of a state or a territory listed in the Supplement, even if the person has a another citizenship of a state or a territory not listed in the Supplement, and to prescribe that he is liable to imprisonment of seven year. The Supplement, in its current wording, is made up of states hostile to Israel, some of which are centres of global terror or are training camps for many of the Islamic terror organisations. The states mentioned in the supplement are: Iran, Afghanistan Lebanon, Libya, Sudan, Syria, Iraq, Pakistan as well as the territory of the Gaza Strip. It is proposed to punish severely an infiltrator who is citizen, subject or a resident of a state or a territory mentioned above, since there is a special presumption of danger which is a result of the current security situation.
Subsections 4(i) and (ii) –
It is proposed to prescribe aggravating circumstances to an infiltration offence in which the infiltrator shall be liable to a more severe punishment. Some of those proposed circumstances combine factual elements such as membership in a terror organisation or being part of defence forces of one of the states or a territory mentioned in the Supplement and in such cases the prescribed punishment is ten years imprisonment. Other aggravating circumstances in the proposed article are the intention to carry out a crime after infiltrating including infiltration for the purpose of carrying out serious security-related or criminal offences which the prescribed punishment is ten years imprisonment for offences enumerated in subsection (i) and twenty years imprisonment for infiltration with the intent to carry out offences enumerated in subsection (ii). This ranking of the punishments is based on the offences the infiltrator intended to carry out.

It should be clarified that the fact that a person infiltrated with the intent to carry out security-related and criminal offences enumerated in the proposed article, even when in fact he did not carry those out, is sufficient reason for prosecuting under the terms of aggravating circumstances. In this matter it should be noted that the rationale behind the ranking of punishments between subsection (i) and

subsection(ii) of the proposed article is that proposed punishment cannot exceed the punishment for the offence committed.

An example of the security-related offences mentioned in subsection 2(ii) are, inter alia, espionage offences (section 4 of chapter 7 of the Penal Code 1977 (henceforth Penal Code)); An example for a serious criminal offences mentioned in subsection 2(ii) are, inter alia, murder offences (article 300 of the Penal Code), human trafficking (article 377i of the Penal Code) and in subsection 3(ii) – drug dealing (Section 2 of the chapter 3 of the Dangerous Drug Ordinance [new version], 1973.)

Subsection iii -

It is proposed to prescribe aggravating circumstances of infiltration when the infiltrator has already been ejected from Israel (according to the Entry to Israel Law) or deported (according to this law) and this for reasons of deterrence. If the aggravating circumstances occur, it is proposed to increase the maximum punishment term prescribed above, to one and one half times the prescribed punishment providing it shall not exceed 25 years. So for example, a person who infiltrated to Israel while being a terror activist and having been deported from Israel in the past – is liable for 15 years imprisonment (10 years for the original offence according to the proposed article 4(i)(1) with another five years according to the proposed article 4(iii).

Article 5 -

Carrying out an infiltration offence is sometimes done with the assistance of others, who assist the infiltrator to infiltrate and to reside illegally in Israel. In many of those cases, those accomplices are residents of Israel. It is proposed to prescribe a similar punishment level to assistants of infiltrators as the punishment of the infiltrator. It should be emphasised that according to the existing infiltration law, the punishment for assistance and for infiltration is the same, and is 5 years imprisonment and it is proposed to keep this rule.

It is proposed to apply this rule also when it is a matter of assisting aggravated infiltration, this is due to the serious criminal or security-related reason behind the infiltration to Israel.

It should be noted that the proposed provision is more severe than the instruction of article 32 of the Penal Code which prescribes that the maximum punishment for assistance to a crime, is half of the maximum penalty for carrying out the crime. The deviation from this rule, in the proposed law, is made in order to serve as a deterrence and to address the phenomena of assistance to infiltration, this due to the severity and the scale of the phenomena and the importance of defending the State borders.

Article 6 -

The proposed law prescribes in subsection (i), the rule that an infiltrator shall be deported as soon as possible through a deportation order. Subsection (ii) of the above article clarifies that it is permitted to initiate an administrative proceeding of issuing a deportation order to an infiltrator even when criminal proceeding were taken against him and even if he is serving a penalty for those.

Subsections iii and iv of the proposed article 6 prescribes a similar arrangement to the one prescribed by the Entry to Israel law with regard to issuing a deportation order against someone who resides in Israel without a permit (see article 13 (ii) (1) of the above mentioned law) according to which an infiltrator may be charged with his deportation expenses including his detention expenses. However, it is proposed to prescribe that it is permitted to charge an infiltrator also with the deportation expenses of another infiltrator who infiltrates with him, with the intention of applying to him the charge of the expenses of all the group of infiltrators arriving with him (i.e family members) and which their infiltration depended upon him. The maximum charge is limited to NIS 7,500.

The proposed subsection (v), similarly to article 13(iii) of the Entry to Israel Law, prescribes that anyone to whom a deportation order was issued must leave Israel and not return until the order has been cancelled. The intention is that anyone who has infiltrated to Israel and was deported from Israel according to a deportation order issued to him, shall be allowed to enter Israel only after he requested the order to be cancelled and an entry permit issued according to the law.

Article 7 -

In subsection (i) it is proposed to authorise the Minister – with the consent of the Attorney General – to release an infiltrator held in detention or in prison, for an offence according to this law, for the purpose of

carrying out a deportation order even if the detention or imprisonment term did not end. This provisions preserves the one in article 31 of the existing infiltration law, according to which it is permissible to release an infiltrator held in detention or in prison, for the purpose of carrying out a deportation order even if the detention or imprisonment term did not end. The purpose of this instruction is to enable the deportation of an infiltrator if the authorised bodies are of the opinion that the public interest of deporting him exceeds the public interest of keeping him in prison.

In subsection (ii) it is proposed to prescribe that an infiltrator who is released from prison in accordance with the proposed article, and returns to Israel and is found to be residing in Israel illegally, shall be returned to carry out his prison sentence from which he was released for the purpose of deportation. In this issue, it does not matter if the person who was released, re-infiltrated or entered Israel through a border station using counterfeit documents, a fictitious identity or any other manner and was found to be residing in Israel illegally. The fact that the person re-entered Israel and is an illegal resident after being released from his imprisonment for the purpose of deportation, requires his return to imprisonment. This instruction is also required in light of the proposed article 6, which prescribes that a person with respect to whom an order of deportation has been issued shall not return as long as the order of deportation has not been cancelled. According to the proposal, the Attorney General may approach the Parole Committee according to the Parole Law 2001, and request it to instruct the return of the infiltrator, who comes under the venue of this article, to imprisonment. The Parole Committee decision shall be the legal mandate for the imprisonment of the repeat infiltrator and for the serving of the remainder of his sentence.

Article 8 -

The proposed article stipulates the procedure of detention until the infiltrator's deportation from Israel. This is similar to the procedure in the matter of someone who resides illegally prescribed in article 13(i) of the Entry to Israel Law. Subsections ii & iii stipulate that the holding in detention shall be conducted according to a detention order issued by an authorised officer. The authorised officer may issue the order only after he studied a report written soon after the infiltrator's apprehension, which enumerates all the relevant information about the infiltrator. This in order to confirm that all the required circumstances to issue a detention order according to the proposed law are met.

Subsection iv prescribes that after the issuing of the detention order, the infiltrator shall be informed, verbally or in writing, about his rights according to the proposed law, in as much as possible in a language he understands, as is also prescribes in the Entry to Israel Law (see article 13a (v) to the above law). According to the existing information, currently, every month hundreds of people infiltrate to Israel, who speak different languages including dialects and tribal languages and it seems that at times it is impossible to provide them with information in their mother tongue. However, it is possible to provide them with information in certain languages which they understand even if it is not their mother tongue. In addition, an infiltrator should be informed of his right that, as much as possible, a notice of his detention shall be given to a close person, a lawyer and the representative of his native state. It is proposed to qualify the above duty of notification with “as much as possible” unlike the wording in article 13a (v) of the Entry to Israel Law. This is because unlike people who reside in Israel illegally who would come under the venue of the Entry to Israel Law and who it can be assumed that they have someone close to them, such as an employer or a relative, the infiltrators do not necessarily have a close person and are usually not represented by a lawyer. Problems may also present themselves in the notifying of the representative of a State, when the infiltrator is a citizen of an enemy state or a state that does not have diplomatic ties with Israel.

Article 9 -

The proposed subsection (i) prescribes the procedure of bringing an infiltrator to temporary detention. As proposed, an infiltrator may be apprehended both by a policeman or a soldier.

As part of his duties and powers, a policeman may encounter someone who is residing illegally and who the policeman has reasonable grounds to suspect that he infiltrated or someone to whom a deportation or return to detention order had been issued, according to this law. In such a case, the policeman shall be allowed to request that person to accompany him to detention. This similarly to the authority prescribed in the article 13b (i) of the Entry to Israel Law. The policeman must identify himself

according to article 5a of the Police Ordinance [new version] 1971 (henceforth – police ordinance) and to explain the reasons for his request.

In many cases, soldiers of routine security units, are those who locate infiltrators who entered to Israel not via a border station and without the proper authorisation, in proximity to the border and to their apprehension time (sic). Subsection ii, grants soldiers similar powers to that of policemen, in the case of a person of whom they have reasonable grounds to suspect has recently infiltrated. It should be noted that the powers of soldiers to apprehend is restricted to those cases only, compared to the powers of policemen which are wider, as specified above, and is not restricted to cases where an infiltrator was apprehended close to the moment of infiltration. This to restrict soldiers' use of powers, which are, in fact, policing powers, as granting the soldiers these powers deviates from the norm in which it is the police that is the authorised body to enforce law. The assumption underlying the proposed law in this matter is not to grant the above powers to every soldier, this is why the definition of 'soldier' in article 1, limits the term to soldiers whose role is, inter alia, to carry out the provisions of this proposed law – in other words, dealing with infiltrators close to the moment of infiltration. In addition to this definition, the proposed article prescribes the circumstances in which a soldier shall be allowed to use his powers. Those provisions are there to be a control mechanism to guarantee that the use of these powers shall be only applied to those the law is meant to target and only by those the law meant to authorise.

In the matter of the soldier's duty to identify himself, it is proposed that the provisions of Military Ordinance shall apply. In the proposed article there is a qualifier, similar to the one in article 5a of Police Ordinance, by which the identification duty shall not apply if it might foil bringing an infiltrator to a temporary detention or it might risk the safety of the soldier or another person. Once the circumstances preventing the fulfilment of the duty of identification have passed, the duty shall be fulfilled as soon as possible.

The Proposed subsection (iii) prescribes the duty to document, as soon as possible, in a written report the actions taken by the policeman or the soldier, according to the proposed article. In this report, the facts which led to the suspicion that the person infiltrated to Israel shall be described as well as the actions taken in order to bring him to temporary detention. The policeman or the solider must let the person who is the subject of the report, to make his case with regard to his detention and his deportation from Israel, and those claims shall be written in the report.

The proposed subsection (iv) prescribes that the powers to instruct in writing a temporary detention is granted to an authorised police officer or an authorised IDF Officer, ranked at least a Major according to the detention centre the infiltrator was brought to. If the infiltrator is brought to a detention centre which falls under the jurisdiction of the Police or the Prison service, then a police officer shall be authorised to order his temporary detention. But if he was brought to a detention centre which falls under jurisdiction of the IDF, then an IDF officer shall be authorised to order his temporary detention. It is proposed to prescribe that the order of temporary detention shall be given after reading a report written by a policeman or a soldier, as stated above in subsection iii, and after that, a copy of the report shall be given to the Authorised Officer so that he shall decide on the matter of a Detention Order for the infiltrator (see explanatory notes of the proposed article 8(iii). Reading the report is meant to guarantee that the decision on detention shall be well founded and rational as much as possible.

The proposed subsection v restricts the period of holding a person in temporary detention to 96 hours from its commencing. This provision is meant to set time period during which a person may be held in temporary detention, this in order that the liberty of the person shall not be violated beyond the required period. During this period, an initial investigation of the infiltrator could be carried out in order to decide the future steps in the matter (see notes for the proposed article 10).

Article 10 -

The proposed article sets a period of 96 hours during which it should be decided whether a deportation order and a detention order should be issued. The time limit shall, as mentioned above, prevent the detainee from being in temporary detention beyond what is required and the assumption is that within the set time, it shall be possible to conduct an initial questioning of the infiltrator to find out his identity and the circumstances of his entry to Israel so a position on the reasons for infiltration could be made. Those findings shall be used as the basis for the decision on the manner of dealing with the infiltrator with regards to deportation and detention under the venue of this law, or deportation and detention under the

venue of the Entry to Israel Law or detention under the venue of another law - i.e. the criminal detention, administrative detention or imprisonment of illegal combatant according to the Imprisonment of Illegal Combatants Law 2002.

Article 11 -
The proposed article, in subsection i, permits the authorised officer to order the return of an infiltrator apprehended in proximity to the border to the state or the territory from which he infiltrated without issuing a deportation order. It should be emphasised that the deployment of this permission is on the condition, as mentioned above, that the infiltrator was apprehended shortly after he infiltrated and in close proximity to the border. Hence, it is not the intention to use this power against anyone who infiltrated to Israel and is in the country not in proximity of the border and for a while. The return of an infiltrator shall be carried out within 72 hours from his apprehension. To clarify, the return of the infiltrator shortly after the infiltration would be performed in a manner compatible with Israel's obligations under international treaties including the principal of Non- Refoulement, prescribed in the 1951 convention relating to the status of refugees. This principal as stipulated in article 33 of the Refugee convention prohibits the return of an infiltrator to a place where his life or liberty would be threatened on account of his race, religion, nationality, membership of particular social group or political opinion.

The proposed subsection ii prescribes that nothing in this law shall affect provision 13(x) of the Entry to Israel Law which authorises a police officer to remove illegal residents who are residents of the region (sic) as prescribed in the above mentioned article.

Article 12 -
The proposed article allows the authorised bodies to have discretion in determining which law - the proposed law or the Entry to Israel Law - the infiltrator shall come under for the purpose of his deportation and detention, this also according to the circumstances of his infiltration.

The proposed subsection i, prescribes that in the matter of an infiltrator whose infiltration is not security-related and does not pose a security risk, the Entry to Israel Law may be applied to him in the matters of detention and deportation. The assumption is that most of the infiltrators shall come under the venue of the Entry to Israel Law. A large number of infiltrators arrive to Israel to find work or to better their living condition. In this manner, they are not substantially different from those residing in Israel illegally who are treated with respect to the entry to Israel law and hence the infiltrators could also be treated as well with respect to that law. Yet, the default position is that all the infiltrators shall be treated with respect to the proposed law in order to set a clear rule about the importance of guarding the State borders and to create deterrence form entering Israel not via the entry station prescribed by the law.

The proposed subsection (ii) prescribes that any illegal resident who is initially treated with respect to the Entry to Israel Law and whose infiltration was found perpetrated under security-related reasons, shall come on the venue of the proposed law – which prescribes more strict provisions.

The proposed subsection (iii) prescribes that the time period which an infiltrator is held in detention under the venue of the proposed law, until transferring him to the venue of entry to Israel law, shall not be counted as part of the number of days prescribed in the Deportation and Detention chapter of the Entry into Israel Law and visa versa. This in order to provide that the person's matter shall be treated with respect to the suitable provisions of every law and in accordance to the restrictions set in them.

Article 13 -
The proposed article in subsection (i) grants soldiers and policemen similar enforcement authority with regard to implementation of the provisions of the proposed law when they have reasonable grounds to suspect that a person infiltrated into Israel. It should be noted that the authority of soldiers is more restricted than the authority of policemen and is restricted to cases which the soldiers have reasonable grounds to suspect that a person infiltrated Israel recently, for example, if he was caught in proximity to the border (similar to the authority in the proposed subsection 9(ii) – see the explanatory note of the above article).

The enforcement powers in subsection i are similar to the powers granted to policeman according to article 13v of the Entry to Israel Law and those are: to demand the person to identify himself and present documents regarding his entry into and stay in Israel and information regarding this;

to search the body of the person; to hold any belonging related to the suspected offence as prescribed in this law; and to enter at any reasonable time any premise apart from a dwelling, which there is a suspicion that a person is present, in order to conduct an enquiry in the matter. The authority to enter into a premise is restricted to work places and other premises but not to dwellings. The proposed subsection iii, prescribes that entry into a dwelling shall be conducted only by a policeman and only with a court order according to the condition prescribed in the proposed subsection ii.

The proposed subsection iv, applies the provisions of articles 22 and 32-42 of the Criminal Procedure Law (Detention and Searching) [new version], (henceforth the Detention and Searching Ordinance) 1969, on searching and holding belongings, with the required changes. Article 22 of the Detention and Searching Ordinance entitled "Search of a Detainee" authorises a policeman detaining a person or receiving a detainee or a prisoner for custody, to search his body, clothes, belongings and to hold those objects found in the search. Articles 32 – 34 are part of chapter 4 of the criminal procedure code on holding belongings. Article 32i prescribes that a policeman may hold an object "if he had a reasonable grounds to believe that an offence was carried out with that object or that an offence is about to be carried out with it or or that the object may be used as evidence in a legal proceeding, or that the object was given as payment for an offence or as a means to carry it out." In addition, various provisions in that chapter regularise the holding of objects including keeping the objects, presenting them as evidence in court and returning them by the police to the person they were taken from. It is proposed that these provisions shall be applied respectively and that the powers prescribed by them shall be granted to a soldier as defined in article 1 – with the required changes and the changes proposed in paragraphs 1-3 of the proposed subsection iv.

Article 14 -

The proposed article deals with detention conditions and prescribes the principal that a detained infiltrator shall be held in suitable conditions which do not compromise his health and dignity as prescribed in article 13viii of the Entry to Israel Law.

In addition, it is proposed to apply on the detained infiltrators the rights of detainees as detailed in articles 9(ii) and 10 of the Detention Law on the matters of detention conditions, restraining and disciplinary means. However, it is proposed to authorise the Minister, with the approval of the Knesset Foreign Affairs and Defence Committee, to issue different orders in the matter of detention conditions for reasons of facilitating interrogations, the well-being of the person in detention, or the maintenance of national security (for example, in the matter of detention conditions of families and children, or in the matter of denying the right of a detained infiltrator to receive visits, to send letters and conduct telephone calls to numbers in Israel or outside it, for reasons of preserving national security.)

It should be mentioned that in article 13viii (ii) of the Entry to Israel Law it is prescribed that a detainee illegal resident person, shall be kept separately from criminal detainees and prisoners. This provision is absent from this law since from its outset the entry of an infiltrator is done illegally and this is different than an illegal resident who in most cases entered with a valid visa as a tourist or for the purpose of employment and then became an illegal resident. In addition and as clarified above, the assumption is that the provision of the proposed law deal with detention and deportation of those infiltrators with a security related motive and for this reason are the separation from criminal prisoners and detainees is not necessary.

Article 15

The proposed article sets a qualification on holding an infiltrator in detention, as prescribed in the proposed article 8, and permits, in exceptional circumstances, the release on bail of an infiltrator. The above mentioned article enumerates in subsection (i) a list of reasons for which , an authorised officer is authorised to release the infiltrator on bail. The reasons include situations where the release is required for humanitarian reasons (including age and health conditions) as well as situations where releasing on bail can assist with the deportation proceedings, for example, an instance where the infiltrator is required, for the purpose of getting a visa, to attend an interview in a consulate of a foreign state and therefore release on bail would be required.

The reasons for releasing an infiltrator on bail are more restrictive than reasons for releasing on bail an illegal resident, according to article 13vi of the Entry to Israel Law. So, for example, they do not

include situations where the detention is not required for guaranteeing the deportation – when it was proven that the person who resided illegally left Israel by himself and on within the proscribed time, without being kept in detention. Also, it does not include the principal which exists in the Entry to Israel Law by which a detainee shall be released on bail if his deportation from Israel is delayed for a long period. In addition, the reason of age or health conditions has been qualified and in the proposed article, an infiltrator shall be released on bail on if holding him in detention might compromise his health and there is no other way of preventing it. The rationale behind restricting the reasons for release on bail is the security concern which is at the base of holding infiltrators with security-related motive.

The proposed subsection (ii) qualifies that the authority to release on bail also with regard to someone that a reason for release on bail, as enumerated in paragraph 2 & 3 of the subsection (i) applies to. This may be due to a lack of co-operation by the infiltrator in clarifying his identify or in organising his deportation proceedings or in circumstances where release on bail may threaten national security, public safety or public health or when in the infiltrator's country of origin or in his area of residence, there is activity which might endanger the security of the State of Israel or its citizens.

In subsection (iii) it is proposed that release on bail shall be conditional on fulfilling the conditions determined by the authorised officer including monetary bail. These conditions are in order to guarantee the return of the infiltrator to his deportation on the date set and to guarantee other proceedings according to the law – for example, giving testimony under the venue of another law (for example, proceedings in regards with the Entry to Israel Law.)

In subsection (iv) it is proposed that the decision to release on bail shall be regarded as a legal reference to the infiltrator's legal stay in Israel until his deportation. This, in contrast with article 13vi (iv) of the Entry to Israel Law in which a release of an illegal resident shall be accompanied with a permit to stay (temporary leave to visit) for the period of the bail. This because there is a significant difference between the circumstances of someone who illegally resides in Israel and someone who infiltrates. Someone who is an illegal resident, becomes one because his visa expired, but prior to that he stayed in Israel legally. Therefore the purpose of giving him a temporary permit to stay is to enable him to finish his business in Israel with a permit to stay, and to enable him to leave Israel and to reverse the illegality of his stay. This Bridging Visa is used in other states and is supposed to fulfil the Entry to Israel Law provisions and its purpose that every stay in Israel shall be according to a legal permit. However, the entry of an infiltrator is from its inception illegal. The purpose of the infiltration law is to protect the borders of the state from infiltrators and therefore there is no reason that the release of an infiltrator on bail shall give him a license to reside in Israel. Therefore, the decision to release an infiltrator is the legal reference for his stay until deportation but does not grant him any other right beyond it.

In subsection (v) are the proposed procedures for the cases of substituting a guarantee at the request of a guarantor, under the condition that the substitution shall guarantee the return of the infiltrator by other means, such as providing another guarantee or returning him to detention.

In subsection (vi) it is proposed that once the infiltrator has been deported from Israel on the scheduled date, the guarantor shall be absolved of his duty.

Article 16 -

It is proposed to permit the authorised officer to issue an order cancelling the release of bail if it seems to him that the bail conditions were violated or are about to be violated.

Article 17 -

In the second section of chapter 3, it is proposed to establish an independent review body which shall conduct judicial reviews of the detention proceedings and the proceedings of the release on bail of an infiltrator - Tribunal for the Review of detention of infiltrators (henceforth the Tribunal). The provisions proposed in the section are quite similar to the provisions of Section ii in chapter 4 of the Entry to Israel Law according to which the Tribunal for the Review of Custody of Undocumented Migrants was established, with some changes enumerated below.

The proposed article 17, similarly to article 13xi of the entry to Israel law, prescribes the procedures of appointing the Tribunal – by the Minister of Justice according to the proposal of the Defence Minister (in contrast to the Minister of the Interior in the Entry to Israel Law.) The involvement

of the Defence Minster is in order to guarantee suitable security clearance for the judges and to ensure their competencies.

Article 18 -
The proposed article which is parallel to article 13(xii) of the Entry to Israel Law defines the roles of the Tribunal: conducing judicial review over the decision to hold an infiltrator in detention including in the matter of release on bail. As opposed to the Entry to Israel Law, in the proposed law the Tribunal has no authority to judicially review the continuation of the detention due to delays in carrying out the deportation order, since according to the proposed law, being in detention for more than 60 consecutive days is not a reason for releasing on bail, this in contrast with the provisions of the Entry to Israel Law (see the explanatory notes of the proposed article 15.)

The proposed article uses the term "judicial review" to describe the role of the Tribunal in order to clarify that it is not an appeal court which can deny the discretion of the administrative authority but a judicial reviewing body which reviews the legality and the reasonableness of the decisions made by the administrative authority, similarly to the review carried out by the High Court of Justice or the Administrative Court.

It should be emphasised that according to the proposed law, the Tribunal is not authorised to review the deportation decision itself but only the decision to hold in detention with all it entails. According to the proposed law, in the matter of deportation, it is possible to file a petition to the Administrative Court, similarly to the judicial review of the decision to deport an illegal resident according to the Entry to Israel Law.

Article 19 -
The proposed article parallel to article 13xiii of the Entry to Israel Law, is intended to strengthen the status of the tribunal as an independent quasi-judicial tribunal and to prescribe that the Tribunal shall not be subject to any authority but that of the law.

Article 20 -
It is proposed to require the bringing of the detainee before the Tribunal no later than 14 days since the commencing of his detention. This mandatory judicial review is intended to guarantee that a review of detention shall be carried out including cases in which the detainee did not turn to the court or the tribunal on his own.

The consequences of not fulfilling this requirement is that the authorised officer may instruct the release of the infiltrator unless one of the qualifiers of releasing on bail prescribed in the proposed article 15 occurs. This in contrast with article 15xiv (iv) of the Entry to Israel Law, which categorically prescribes without any reservations that anyone held in detention and not brought before a court in the prescribed period shall be released from detention. The reason behind this difference is naturally because the proposed law deals with infiltrators with security related motive.

Article 21 -
The proposed article defines the powers of the Tribunal to include the applying of judicial review. It is proposed to grant the Tribunal the powers to approve the detention order or not to approve it and to set terms on the matter of re-considering the decision of holding an infiltrator in detention. When deciding on release on bail, the Tribunal is subject to the substantive instructions prescribed in the proposed article 15, in the matter of release on bail.

The proposed article also regularises the frequency of mandatory judicial review by the Tribunal. After bringing the infiltrator before the Tribunal for the first time, the Tribunal may instruct that the matter of the infiltrator shall be brought before it for further consideration, providing that the period until the next review shall not exceed 60 days. It should be mentioned that in article 13xv (1)(i) of the Entry to Israel Law, which prescribes similar instructions, the period for further consideration must not exceed 30 days. The extension of the time period is also required because in reality hundreds of infiltrators are entering Israel, a fact which would make it more difficult for the Tribunal to conduct further consideration in a shorter time period.

The proposed subsection (ii) also applies the provision of article 15(v) on release on bail by the Tribunal order, according to which a the decision to release on bail shall be regarded as a proof for the infiltrator's legal stay as long as he has not been deported.

In subsection (iii) it is proposed to prescribe, similarly to article 13xv (iii) of the Entry to Israel Law, that the Tribunal's decision shall be made, as much as possible, immediately to prevent prolonged proceedings. Further, it is proposed that the decision shall be given in writing, for the sake of transparency and to so it shall be possible to conduct judicial reviews on the Tribunal's decisions.

Article 22 -

Similarly to article 13xvii of the Entry to Israel Law, the proposed article deals with a situation when, after a release on bail according to a Tribunal's decision, new facts have been discovered or circumstances have changed. In these cases, it is proposed to enable the Authorised Officer to ask the Tribunal to reconsider its decision.

For the avoidance of doubt, it is clarified that a violation of the release on bail terms, determined by the Authorised Officer or the Tribunal, is grounds for the Authorised Officer to return the released person to detention, according to article 16, without a need to appeal to the Tribunal.

Article 23 -

The proposed article, similar to article 13xviii of the Entry to Israel Law, clarifies that an infiltrator held in detention, has the right to initiate an appeal to the Tribunal (in addition to the to the mandatory judicial review prescribed in the proposed article 22), at any time, meaning even before the 14th day of his detention. In addition, the proposed article prescribes the right of a detainee to appeal to the Tribunal for reconsideration.

In addition, the above-mentioned article prescribes that a person released on bail has the right to appeal to the Tribunal at any time and request a change in the bail terms which were determined by the Authorised Officer according to article 15.

Article 24 -

In order to make the hearing more efficient and to allow for the infiltrator to be present in all the proceedings in his matter (according to the proposed article 26), it is proposed to determine that the Tribunal's hearings shall be usually held in the detention centre in which the infiltrator is held, this in the same way as the appeal hearings of detained illegal residents by virtue of the Entry to Israel Law (see article 13xviii), and as the hearings of appeals of prisoners (see the Legal Procedure Ordinance (Prisoners Petitions), 1980).

However, it is proposed to allow the Tribunal to decide another hearing location different from the detention centre in which the infiltrator is held, if it is perceived it to be required for the sake of justice or efficiency. Thus, for example, the Tribunal may instruct to hold a hearing in a hospital where the infiltrator is hospitalised or instruct the centralising of the hearing, in the matter of a few infiltrators, in one location in order to speed up the process.

Article 25-

It is proposed that the Tribunal shall not be tied to evidence law and that it shall determine its own hearing procedures as long as those were not determined by laws or regulations, this as customary to administrative tribunals (see article 20 and 21 of Administrative Courts, 1992) and to the Tribunal for the Review of Illegal Residents (see article 13xix of the Entry to Israel Law.)

It is also proposed to grant the Tribunal certain powers from the Investigation Committee Law 1969, in the matter of summoning witnesses and presenting evidence.

Article 26 -

It is proposed to determine that as a general rule, the infiltrator detained or released on bail has to right to be present in a hearing in his matter unless he is released on bail and it is impossible to locate him with a reasonable effort. As well, it is proposed to allow an infiltrator to be represented in court, free of charge, by a representative who is not a lawyer, as prescribed with regards to the representation of illegal

residents in the Tribunal for Review of Detention in the Entry to Israel Law (see article 13xx of the above mentioned law)

Article 27 and 41-
In article 27 (i) it is proposed to prescribe a right to appeal the decision of the Tribunal for the Review of the Detention of Infiltrators, and to authorise the Administrative Court to hear it. Currently, the administrative court is authorised to hear appeals against decisions of the Tribunal for the Review of Illegal Resident (see article 13(xxi). In the same way it is proposed, in article 41(ii) to amend the Administrative Court Law and add the decisions of the Tribunal of the Detention to the second Supplement of the above-mentioned law – this amendment enumerates the administrative appeals the Administrative Court is authorised to hear.

It is further proposed to determine that the Administrative Court shall conduct judicial review, in the form of an appeal, of a decision of an authority according to the Prevention of Infiltration Law. For that, an indirect amendment of the Administrative Court Law 2000 is proposed in Article 41(i), so that the a decision of an authority according to the proposed law shall be incorporated into the Administrative Court's authority. However, it is proposed to reduce the matters which the court shall be authorised to hear, decisions of the Minister according to article 7, in the matter of release from detention or imprisonment for the purpose of carrying out a Deportation Order. These decisions deal with infiltrators, whose deportation, in the opinion of the concerned authorities, would better serve the public interest than holding them in detention. Such a public interest may arise in urgent, sensitive and important matters relating to, among others, security issues and the State's foreign relations. The decision in such matters ought to be made by the High Court of Justice immediately, as appropriate in such a sensitive matter, and due to the need for a swift final decision. This provision is similar to the system which exists in article 6 of the Administrative Courts Law, and due to the sensitivity of such matters it is proposed to categorically decide that these decisions shall be within the authority of the High Court of Justice from its outset.

It should be noted that in case of a petition in which assistance has been requested from the court in the matter of drafting regulations, including the cancelling of regulations, declaring them annulled or issuing an order to draft a regulation, article 15(1) of the Administrative Courts Law prescribes that the Administrative Court shall not hear those and therefore the petition shall be brought to the High Court of Justice.

In article 27 (ii), it is proposed to regulate the relations between a petition and an administrative appeal conducted in the matter of the same infiltrator before the Administrative Court, since an infiltrator may file, on the one hand, a petition against his deportation and, on the other hand, an administrative appeal against the decision of a Tribunal for the Review of Detention in the matter of his detention. It is proposed to prescribe that in a case where the petitioner against a Deportation Order also has claims in the matter of detention, and an administrative appeal which he filed in the matter of detention or release on bail is pending, the hearings of those matters shall be merged so that they will be heard together as part of the petition against the deportation which is the main issue under discussion. This arrangement is similar to the one existing in the Entry to Israel law (see article 13xxi(ii)). The purpose of this proposed provision is prevent the duplication of hearings, and to prevent the making of contradictory decisions in the matter of the same person.

In addition it is proposed to prescribed that nothing in the decision of the Administrative Court in the matter of detention, shall diminish the powers of the Tribunal for the review of detention of infiltrators according to the proposed law, providing that the Tribunal shall not address a matter that the Court has already determined in an appeal or a petition, unless the Tribunal was persuaded that circumstances according to which Court made its decision have changed. The aim of this provision is to clarify that even those cases whose appeal or petition in the matter of release on bail was rejected, shall be periodically reviewed by the Tribunal, providing that the Tribunal shall be tied to the decisions of the Court.

Article 28 -
Article 1(iii) of the Detention Law prescribes that its provisions shall apply to detention according to any law, unless other provisions have been prescribed in that law. Since in the proposed law specific

provisions in the matter of detention have been prescribed, it is proposed to prescribe that the provisions of the Detention Law shall not apply with regards to proceedings and powers according to the proposed law, unless explicitly prescribed. Similar provisions exists in article 13 ix of the Entry to Israel Law.

Article 29 -
It is proposed to clarify that applying the administrative powers in the matter of deportation and detention according to chapter 3, shall not affect the criminal responsibility of a person under the proposed law or any other law. Hence, on the one hand conducting administrative proceedings against a person according to the proposed law does not prevent prosecuting him according to the provisions of the above mentioned law or another law, and on the other hand, the fact that an infiltrator was prosecuted according to criminal proceedings according to the proposed law or another law and convicted, or carrying out his sentence does not prevent the conducting of administrative proceedings as mentioned above (see explanatory notes of article 6 (ii) above).

In addition, it is possible that a need to apply other administrative powers contained in other laws against an infiltrator may arise. Therefore, it is proposed to clarify that nothing in the provisions of the proposed chapter 3 shall affect those powers.

Article 30 -
The proposed article prescribes that in the army orders provisions shall be prescribed concerning the matter of training soldiers to fulfil their duties according to the proposed law. The training aims to guide the manner of applying the soldier's powers according to the proposed law while maintaining human rights on the one hand, and defending the security interests of the state on the other hand.

Article 31 -
It is proposed to prescribe that the Minister of Defence shall be the one responsible for the implementation of the provisions of the proposed law, and authorised to make any regulation for that. It is proposed to authorise the Minister to make regulations in the matter of collecting the deportation expenses according to the provisions of the proposed article 6 (iv). In addition, it is proposed to authorise the Minister to make regulations in the matter of establishing and managing a detention centre as mentioned above in paragraph (1) of the definition "detention centre." This authorisation is similar to the one existing in article 14 (5) and (7) of the Entry Law.

For the matter of establishing and managing detention centres it is proposed to authorise the Minister to make regulations on the medical exams of infiltrators, their medical care and hygiene screening and sanitisation of their clothes and their belongings. This provision is the same as the provision which exists in article 14 (3) of the Entry to Israel Law and is in any case applied to most of the detention centres according to the proposed law. Infiltrators may be contaminated with diseases, some of these may be may be contagious. It is therefore proposed to allow the Minister to make regulations in the matter of conducting medical exams of the infiltrators held in detention and their medical treatment, in order to guarantee that holding them in detention, or releasing them on bail, shall not be a risk to the infiltrators themselves or to the public in general.

Article 32 -
In the supplement to the law the states which are hostile to Israel are enumerated. For flexibility it is proposed to allow the Minister, in consultation with the foreign affairs Minister, and with the approval of the Cabinet and the Knesset Committee on Foreign Affairs and Defence, to amend the above mentioned supplement.

Article 33 -
It is proposed to allow the Minister to delegate his powers to another person according to the proposed law, except the power to release an infiltrator from imprisonment or detention for the purpose of deportation. Using the above mentioned power may be required in urgent, sensitive and important matters relating, inter alia, to security matters and foreign relations of the state, and therefore it is proposed to leave these powers to the Minster. Moreover, it is proposed that the power of the Minister to

make regulations shall not be included as part of the authorities which may be delegated. And, it should be clarified, that this restriction includes the powers of the Minister to issue orders regarding the decision of detention centres and orders amending the Supplement to the law.

Article 34 -
It is proposed to cancel the Prevention of Infiltration (Offences and Jurisdiction) Law 1954, whose provisions are replaced by the provision by the proposed law. The wording of the above mentioned law, just prior to the publication of this law proposal, is attached in the appendix to the explanatory notes.

Article 35 -
Article 2i of the existing infiltration law prescribes provisions with regards to unlawfully exiting and this is its wording:
"Unlawfully exiting
2ii. A person knowingly exiting unlawfully from Israel to Lebanon, to Syria, to Egypt, To Trans-Jordan, to Saudi Arabia, to Iraq, To Yemen, to Iran, or to any part of Eretz Israel outside Israel, is liable to imprisonment for a term of 4 years or 5000 Lira fine."

Provisions on the same matter are also prescribed in regulation 5 in the Supplement of the Extending Validity of the Emergency Rule Ordinance (exiting abroad) 1948 (henceforth exit regulations) which prescribes the following:
"Authorisation to exit to certain states
5. Despite what is mentioned in any other law a person shall not exit to one of the states enumerated in article 2i of the the Prevention of Infiltration (Offences and Jurisdiction) Law 1954, unless authorised by the Minister of the Interior or the Prime Minister, and an Israeli citizen or resident shall not enter in any way one of those states unless with the above mentioned authorisation".

According to regulation 18 of the exit regulations, the punishment for violating regulation 5 - one year imprisonment.

Those two law provisions prescribe in fact the prohibition of the same indiscreet behaviour, but in a different manner with regard to the wordings, level of punishment and the possibility, existing in regulation 5, to permit the prohibited action.

It is proposed to create parity and cancel the replication between article 2i of the existing Prevention of Infiltration Law and regulation 5 of the exit regulation, and to prescribe one provision which shall be part of the exit regulation. The prohibition on exiting from Israel shall apply to the states enumerated in the Supplement of the proposed law, and the proposed punishment on violating it, is 3 years imprisonment.

Article 36 -
It is proposed to conduct an indirect amendment to article 12 of the Entry to Israel Law whose matter is "offences", in order to create parity between the offences prescribed in the proposed law and those in the Entry to Israel Law.

It is proposed to prescribe that the offence of entering Israel fraudulently or by using counterfeit documents shall be punishable for 5 years imprisonment, and similarly to the infiltration offence prescribed in the proposed article 2. In addition, is it proposed to prescribe that if the offence was committed whilst the person is a citizen, subject or resident of a state or a territory enumerated in the Supplement of the proposed law, his punishment shall be 7 years imprisonment. This similarly to the provision proscribed in the proposed article 3.

Moreover, it is proposed to prescribe that the punishment for assisting the carrying out of the offence according to the proposed article, is the same as the punishment prescribed for committing the principle offence, and through that to create parity with the proposed article 5.

Articles 37 – 40 -
Proposed are indirect amendments in various laws which make reference to the existing infiltration law. The conducting of the amendments in those laws are aimed at referring to the proposed law, instead of the existing infiltration law, which it is proposed to replace.

Article 42 -
It is proposed to prescribe a delayed application of the proposed law according to which it shall enter into force 60 days after its publication. This time period shall allow all the relevant bodies to prepare for implementing the proposed law.

Article 43 -
It is proposed to prescribe a transitional provision under which a deportation order given according to the previous infiltration law shall be regarded as an order given according to the proposed law. It should be emphasised that according to the previous infiltration law thousands of deportation orders have been issued and there ought to be prescribed a provision which validates those despite the annulment of the above mentioned law.

In addition, it is proposed to prescribe that there ought to be conducted with regard to an infiltrator in detention prior to the entry into force of the proposed law, a judicial review before the Tribunal in the matter of holding him in detention - this if such a review did not take place according to the law applicable to him before the entry into force of the proposed law. It should be noted that, as a general rule, it will not be required to conduct such review of all the infiltrators held in detention immediately with the entry into force of the law, because such review has already been conducted - the Minister of Defence appointed in the past a special advisor whose role was to conduct the above mentioned review. With regards to anyone who has failed to receive a review as mentioned above, it is proposed that he shall be brought before the Tribunal within 14 days since the entry into force of the proposed law.

Boycott Prohibition Bill:

18th Knesset

Law proposal by MKs Zeev Elkin, Dalia Itzik, Arieh Eldad, Ophir Akonis, Tzahi Hanegbi, Moshe Gafni, David Rotem, David Azulai, Zevulun Orlev, Yariv Levin, Hayim Katz, Yoel Hasson, Tzipi Hotovely, Lia Shemtov, Robert Iltuv, Abraham Michaeli, Menachem Eliezer Mozes, Yaakov Katz, Ruchama Avraham-Balila, Magali Wahba, Karmel Shama, Danny Danon, Itzhak Vaknin, Uri Maklev

Proposed bill – Prohibition on imposing a boycott – 2010
Definitions:
1. "Person" – as defined in the Law of Interpretation 1981;
"Area under the control of the state of Israel" – including the areas of Judea and Samaria;
"Boycott" – demanding that others not maintain relations with a person;
"Boycott against the state of Israel" – boycott imposed on a person because of his relations with the state of Israel or with areas under the control of the state of Israel;
"Foreign political entity" – as defined in article 36a(a) of the Law of Associations 1980*

Prohibition on boycott against the state of Israel:
2. It is prohibited to initiate a boycott against the state of Israel, to encourage participation in a boycott, or to provide assistance or information with the intention of promoting a boycott.

Boycott – a civil wrong:
3. An act of a citizen or resident of Israel in violation of Article 2 constitutes a civil wrong and the orders of tort law [new version] shall apply to it.

Damages:
4. The court shall order damages for a civil wrong done as defined in this law in the following manner:
a) punitive damages of up to 30,000 NIS to the injured party, subject to evidence of injury done;
b) Additional damages in accordance with the scale of injury and subject to evidence of injury.

Fines:
5. In addition to the provisions of Article 4, a resident or citizen of Israel who acts in violation of Article 2 shall pay a fine as defined in Article 61(a)(3) of the Penal Law 1977.

Those who are not residents or citizens of Israel:
6. A person who is not a resident or citizen of Israel and a Magistrates' Court has defined at the request of the Minister of Interior that he has acted in violation of Article 2:
a) His right to enter Israel shall be revoked for ten years at least;
b) Until the end of the revocation of his right to enter Israel, he and his representatives shall be forbidden to carry out any action in Israeli bank accounts, in shares traded in Israel, in lands or in any other property demanding registration of transfer.

A boycott imposed by a foreign political entity:
7. If a foreign political entity passed a law imposing boycott on the state of Israel, and so long as it has not canceled this law; or if the [Israeli] government has determined by a majority that a foreign political entity has violated Article 2, and so long as the government has reached no other decision:
a) The foreign political entity and its representatives shall be prohibited from carrying out any action in Israeli bank accounts, in shares traded in Israel, in land or in any other property requiring registration of transfer;
b) No sum of money or property shall be transferred by any organ of the state of Israel to the foreign political entity or its representatives, under laws, agreements or governmental decisions that were adopted prior to the definition according to Article 7 or to enactment of the law;

c) Israeli citizens or the state treasury, who are damaged by a boycott imposed by a foreign political entity, may sue for damages from the sum accumulated according to paragraph (a) under the provisions of Article 4 above and subject to necessary changes.

Regulations:
8. The Minister of Justice is appointed to set regulations for the implementation of this law, and he shall consult the Minister of Interior with regard to implementing the provisions of Article 6(a).

Applicability:
9. a) The law shall apply from the day of its publication;
b) Despite paragraph (a) above, anyone who has initiated a boycott or encouraged participation in boycott according to Article 2 in the year prior to the publication of the law, it shall be assumed that he is still initiating a boycott or calling for a boycott even after the publication of the law.

Explanation:
This law aims to protect the state of Israel in general and its citizens in particular from academic, economic and other boycotts, which are imposed as a result of any ties to the state of Israel. In the USA there is a similar law that protects its friends from boycott by a third party, and the assumption is that a citizen or resident of the state shall not call for the imposition of a boycott on his own country or of its allies. This assumption has proved untrue with regard to the citizens and residents of Israel. If the USA protects its friends through law, it should be self-evident that Israel has the duty and the right to protect itself and its citizens through law. The proposed bill distinguishes between three different types of boycott: a boycott imposed by a resident or citizen of Israel; a boycott imposed by a foreign citizen or resident; and a boycott imposed by a foreign political entity, according to the definition of the Israeli government or according to a law enacted by the foreign political entity. The balance between public and state interests and individual liberties is expressed through the limitation of the law's applicability to the initiation or promotion of a boycott, while abstaining from involvement in the personal decisions of individuals choosing a product or a service.
TRANSLATION ENDS
**sic* - The Law of Associations (HaTasham) is from 1981.

Citizenship Act Bill (Revocation of citizenship):

The 18th Knesset

A bill by MKs **David Rotem**
Robert Ilatov

p/18/2377

Bill on the Citizenship Act (Amendment - Revocation of Citizenship for Individuals Found Guilty of Treason or Terrorism) - 2010

Amending Chapter 11

1. In Citizenship Act - 1952 (hereunder: the primary act), in Chapter 11

(1) The closing phrase of subsection (a) that starts with "Proven" shall be marked "(1)" and followed by:

"(2) "If convicted in a peremptory rule according to Chapters 112 or 113 of the Criminal Code - 1977.";

Adding Chapter 11a.

2. Chapter 11 of the primary act shall be followed by:

"The convicting court's power to revoke a convict's citizenship

11a. Once a person has been found guilty of a crime which the court ruled was an act of terror as defined in the Act Against the Financing of Terror - 2005, or of a crime as listed in Chapters 97 to 103, 112, or 113(b) of the Penal Code - 1977, the court may revoke his Israeli citizenship on top of other punishments. This chapter does not detract from the interior minister's powers as specified in Chapter 11(a)."

Explanatory Notes

This bill is made against the backdrop of the involvement in recent years of residents with an Israeli citizenship in harming the state through espionage against it. Its aims at stressing that the linkage between the right to an Israeli citizenship and loyalty to the state is indivisible.

It is hereby suggested that courts and the administrative authority have the power to revoke the Israeli citizenship or deny the permanent resident's status of a person who engaged in espionage for a terror organization. This bill aims at deterring all persons (particularly Israeli citizens or permanent residents) against taking part, or assisting any terror organization in the perpetration of terror acts against the State of Israel or its residents, directly or indirectly, and to deny those persons' rights to any allowance, grant, support, wages, or economic aid granted by law by the state or any organization it finances.

Presented to the Knesset speaker and his deputies
and placed on the Knesset's desk on 1o May 2010