



5 January 2016

To:

Yehuda Weinstein, Adv.
Attorney General
29 Salah-a-Din Street, Jerusalem
Via fax: 02-6467001

Eyal Yinon, Adv.
Knesset Legal Advisor
The Knesset
Via fax: 02-6753495

Dear Sirs,

Re: Proposed Law on the Disclosure Obligation of Recipients of Support from Foreign Political Entities (Amendment) (Increased Transparency by Recipients Whose Primary Funding Comes from Donations from Foreign Political Entities), 5776 – 2015

I hereby appeal to you regarding the above-referenced proposed law and request that you express your opposition to it as follows:

1. The bill in question [which was approved by the Ministerial Committee for Legislation on 27 December 2015] requires associations (organizations) that are primarily funded by foreign political entities to indicate this fact in their publications and reports, and during certain meetings with public representatives and public servants. In addition, supported associations must indicate in their reports the names of the foreign political entities that contributed to them during the relevant years, and the representatives of these associations must wear an identification tag, when they are in the Knesset and during meetings with public employees and representatives.
2. A breach of the obligations proposed in the above bill will constitute an offense under Article 64A of the Law of Associations (Amutot) 5740 - 1980 (hereinafter: "**Associations Law**"). Currently, this offense carries a fine of NIS 29,200.
3. The proposed amendment unnecessarily infringes on the constitutional rights to dignity, equality, and freedom of expression and association. The purpose of the proposed amendment is unlawful and diverges widely from the declared purpose set forth in the bill of increased transparency of associations supported by foreign political entities.
4. The amendment will primarily apply to NGOs working to promote human rights that are partially funded by foreign political entities. However, the amendment will not apply to associations funded by individual donors (mostly foreign donors) such as the vast majority

of the right-wing associations in Israel. The Associations Law in its current form [which already contains reporting requirements of funds received from foreign political entities] is sufficient with regard to these associations. The distinction created by the amendment between human rights and civil society associations and right-wing associations that promote a right-wing political agenda is a flawed distinction that violates the formers' right to equality derived from the right to dignity and anchored in the Basic Law: Human Dignity and Liberty (HCJ 6427/02 **The Movement for Quality Government in Israel v. The Knesset** (judgment delivered on 11.5.06); HCJ 7053/03 **Adalah v. Ministry of Interior** (judgment delivered on 14.5.06); and HCJ 6298/07 **Ressler v. The Knesset** (judgment delivered on 21.2.12)).

5. Furthermore, the amendment will lead to a blatant violation of freedom of association and freedom of expression of human rights organizations and their representatives and activists. In practice, the amendment attempts to hamper the activity of these organizations and to delegitimize them, and its requirements obstruct their messages (concerning the violation of freedom of association see CA 1282/93 **Registrar of Associations v. Binyamin Kahane et. al** PD 47(4) 100 (1993)). Freedom of expression, including freedom of political expression, is one of the basic rights recognized by the Supreme Court as a fundamental right and was recognized as a constitutional right following the enactment of Basic Law: Human Dignity and Liberty (HCJ 2557/05 **Mateh Ha'Rov [Majority Headquarters] v. The Israel Police** (12.12.06), paragraph 13, final part of President Barak's opinion; AA 343/09 **Jerusalem Open House for Pride and Tolerance v. The Jerusalem Municipality** (judgment delivered in March 2010). The essence of freedom of speech "encompasses all ways and forms of expression. As "expression" includes all activities that seek to convey a message or meaning – it encompasses all political, literary or commercial expression." (HCJ 4804/94 **Station Film Company Ltd. v. The Film and Plays Review Council**, PD 50(5) 661, 673 (1997).
6. Furthermore, the requirement of association representatives wearing an identification tag in the Knesset and during meetings with public employees and representatives, in practice, labels these representatives on the basis of their activities in the field of human rights and/or their political beliefs. This visible tagging constitutes a severe violation of the right of associations' representatives to dignity and equality.
7. The purpose of the amendment is inappropriate. Although the bill's explanatory notes specify that it is "designed to increase the transparency of the operation of NGOs and public benefit associations whose primary funding derives from foreign political entities", there is no connection, not even slight, between this objective and the provisions of the bill. As is known, associations are already obliged to disclose all of their funding sources from any entity, whether private or a foreign state, both under the Associations [Amutot] Law 5740 – 1980, and under the Duty of Disclosure for Recipients of Support from a Foreign Political Entity-5771 – 2011. Financial reports are submitted annually to the Registrar of Associations along with the specifications required by law. This bill contains no

provision whatsoever regarding the obligation to report the sources of funding to the competent authorities, and its only concern is labeling, whether on publications or by means of representatives of the associations.

8. Thus, the bill seeks only to achieve politically motivated labeling. There is no doubt that this purpose is inappropriate, both because it is ethically and morally flawed in and of itself and because it violates a number of constitutional rights as described above. The starting point of any test of “appropriate purpose” is whether it is vital to a society that promotes human rights and gives serious weight to fundamental rights (see HCJ 5026/04 **Design 22 v. The Director of the Sabbath Work Permits Department** PD 60(1) 38, paragraph nine of Justice Barak’s ruling (2005)).

In view of the above, you are requested to express firm opposition to the afore-referenced bill and to halt its progress in the Knesset.

Respectfully,

Nadeem Shehadeh, Adv.