



ELECTED BUT RESTRICTED

SHRINKING SPACE FOR PALESTINIAN PARLIAMENTARIANS IN ISRAEL'S KNESSET

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Cover photo: *Israel's Arab parliamentary bloc and Knesset members hold signs in protest as security members scuffle with them during the speech of US Vice President Mike Pence in Israel's parliament in Jerusalem, on January 22, 2018. Palestinian members of the Knesset were ejected from parliament as they stood to protest a speech from the rostrum by Pence. Members of the Joint List coalition of Arab parties had pledged to boycott the Pence speech in protest at a 6 December decision by US President Donald Trump to recognise Jerusalem as Israel's capital.*

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1. EXECUTIVE SUMMARY

Palestinian members of the Knesset (MKs) are facing increasing threats to their freedom of expression. These threats are of concern in and of themselves but also reflect the wider situation in Israel in which the space for voices critical of the Israeli government's treatment of Palestinians has shrunk and discrimination against Palestinian citizens has been entrenched.

During the past five years, Israeli legislative and executive authorities have subjected those criticizing Israeli government policies towards Palestinians to increasing restrictions and obligations, sought to undermine the support and funding they receive from abroad and denied entry to non-nationals supporting or working for an organization that they perceive as promoting a boycott of Israel or Israeli entities. In 2018 Israel passed the "nation state law" (formally known as Basic Law: Israel - The Nation State of the Jewish People), which defined Israel as the nation state of the Jewish people and constitutionally entrenched inequality and discrimination against non-Jews.

In carrying out its research, Amnesty International reviewed existing and proposed legislation, ethical regulations issued by the Knesset, relevant Israeli government statements and reports by human rights groups and interviewed Palestinian MKs and representatives of relevant non-governmental organizations between February and August 2019. It sent memorandums to the Speaker of the Knesset and the Likud Coalition Chairman to seek comments on concerns, but has received no response to date.

Legislative changes – one of them enacted, the others proposed – are threatening the right to freedom of expression of elected MKs and are likely to have a particular impact on Palestinian MKs. An amendment that was passed in 2016 to one of Israel's Basic Laws allowed the Knesset to expel elected MKs through a majority vote of their fellow parliamentarians. Amnesty International considers that the amendment unduly limits parliamentarians' right to freedom of expression and that its genesis indicates that it is aimed primarily at Palestinian MKs. One Palestinian MK described the law as "a sword dangled over our heads by members of the Knesset who oppose us politically". Other legislative changes proposed over the last few years have risked undermining minority groups' rights to freedom of expression and political participation.

Knesset regulations purportedly in place to enforce ethical practices among MKs have been used to restrict the right to freedom of expression, impacting Palestinian MKs in a discriminatory manner. In 2018, the Knesset's Rules of Ethics were amended to allow MKs to be refused permission to travel abroad if the trip is funded by "a body calling for a boycott of the State of Israel". Amnesty International considers that advocating for boycotts is a form of free expression that must be protected. The same year, two Palestinian MKs were banned from travelling abroad with funding from specific NGOs that were on a "blacklist" created by the Israeli Ministry of Strategic Affairs.

In 2016, Knesset Ethics Committee suspended three Palestinian MKs ruling that they had supported violence by observing a minute of silence during a meeting they had held with Palestinian families whose children had been killed by Israeli forces after attacking or allegedly attacking Israelis. The Inter-Parliamentary Union (IPU) found that the suspensions were "unjustified" and violated the MKs rights to freedom of opinion and expression.

Since 2011, the Knesset has disqualified four bills related to Palestinians' rights or political aspirations. In 2018, during the legislative process leading to the adoption of the "nation state law", it prevented a bill proposed by Palestinian MKs offering an alternative definition of Israel as "a country for all its citizens" from reaching a parliamentary discussion, arguing that it would negate Israel's definition as a Jewish state. In Amnesty International's assessment, the decision discriminated against Palestinian MKs, seemingly on the basis of their national or ethnic origin.

At the same time, Palestinian MKs have faced inflammatory statements apparently intended to delegitimize them and their work by senior Israeli government officials and other MKs. Some have been labelled "traitors" by government ministers.

In line with both the International Covenant on Civil and Political rights and the International Convention on the Elimination of All Forms of Racial Discrimination, to both of which Israel is a state party, states

must ensure that restrictions on the right to freedom of expression are not determined in a discriminatory manner.

Amnesty International urges the Israeli government to ensure respect for the right to freedom of expression of elected officials without discrimination, refrain from using language that delegitimizes Palestinian MKs and provide constitutional protection to the principle of non-discrimination. It calls on the Knesset to repeal legislation passed in 2016 allowing it to expel MKs through a majority vote, end the discriminatory use of parliamentary ethical regulations against Palestinian MKs, refrain from disqualifying proposed legislation based on discriminatory grounds such as political opinion and repeal or substantially amend legislation that facilitates discrimination against Palestinian citizens of Israel, including the “nation state law”.

2. METHODOLOGY

Amnesty International carried out research and analysis on the threats to freedom of expression facing Palestinian members of Israel's parliament, the Knesset, between February and August 2019. It reviewed existing Israeli laws, proposed legislation, ethical regulations and decisions issued by the Knesset, documents from legal proceedings relating to the participation of Palestinian parliamentarians in the Knesset, relevant Israeli government statements and reports, as well as media reports on developments in the Knesset. The organization also studied research and analysis published by human rights groups specializing in issues related to discrimination against Palestinians in Israel, including Adalah - The Legal Center for Arab Minority Rights in Israel, the Association for Civil Rights in Israel (ACRI), the Human Rights Defenders Fund and MADAR, the Palestinian Forum for Israeli Studies.

Amnesty International interviewed representatives of Palestinian and Israeli human rights groups and three current or former Palestinian members of the Knesset (MKs). Some interviews were conducted in Hebrew, others in English. All interviewees were informed of the purpose of the interview and how the information gathered would be used and freely consented to be interviewed.

Amnesty International sent memorandums to the Speaker of the Knesset MK Yuli Adelstein and Likud Coalition Chairman MK David Amsalem on 14 August providing a summary of its findings and requesting comments on the concerns addressed in this briefing. No response had been received as of 3 September.

3. BACKGROUND

3.1 SHRINKING SPACE FOR CRITICAL VOICES

During the past five years, Israeli legislative and executive authorities have subjected those criticizing Israeli government policies towards Palestinians to increasing restrictions and obligations.¹

In 2016, the Knesset adopted legislation imposing new reporting requirements on civil society organizations that receive funding from foreign sources, many of which are human rights groups. The legislation, which came into force on 1 January 2017, requires them to submit and publish quarterly reports on any funding received from foreign governments or publicly funded foreign donors, including information on any oral or written undertakings made to the funders.² In 2018, it passed into law a bill that bans non-governmental organizations (NGOs) criticizing the Israeli army from accessing public schools.³ At the same time, Israel's Ministry of Culture has made efforts to deny or limit funding to Palestinian and Israeli cultural institutions and events in Israel and East Jerusalem that offer a platform to artists critically engaging with issues such as the Israeli occupation of the Occupied Palestinian Territories and the Nakba (meaning "catastrophe" in Arabic), the term used for the displacement and dispossession of hundreds of thousands of Palestinians in 1948-9 during the conflict following the creation of the state of Israel.⁴ Municipal authorities in several cities have attempted to restrict the operations of local NGOs and cultural centres that host events on these issues by attempting to evict them from public facilities.

Israeli authorities have repeatedly threatened, smeared and stigmatized Palestinian and Israeli human rights defenders and organizations, as well as international groups, including Amnesty International, labelling them as "traitors" and "foreign agents", among other terms.⁵ They have made efforts to delegitimize Israeli and Palestinian human rights defenders and organizations in an effort to undermine the support and funding they receive from abroad.⁶ As part of these efforts, Israel's prime minister and

¹ See, for example, Amnesty International, *Israeli government must cease intimidation of human rights defenders, protect them from attacks* (Index: MDE 15/3824/2016), www.amnesty.org/download/Documents/MDE1538242016ENGLISH.pdf; ACT Alliance, *Protection of space for civil society and human rights defenders: The case of Israel and Palestine*, March 2018, actalliance.org/documents/protection-of-space-for-civil-society-and-human-rights-defenders-the-case-of-israel-and-palestine/; Human Rights Defenders Fund, *By all means: The various ways Israel is targeting human rights defenders*, June 2019, hrdf.org.il/wp-content/uploads/2019/06/By-all-means_web.pdf

² The Disclosure Obligations of Recipients of Support from Foreign Government Entities Bill (Amendment) (Increased Transparency by Recipients of Support, when the Majority of their Funding is from Donations from Foreign Government Entities), 2016, fs.knesset.gov.il/20/law/20_Isr_346561.pdf (in Hebrew). For a summary of the legislation in English, see Association for Civil Rights in Israel (ACRI), *Law requiring disclosure by NGOs supported by foreign governmental entities (amended) – 2016*, 2016, law.acri.org.il/en/wp-content/uploads/2016/07/Summary-of-NGO-Law.pdf

³ State Education Bill (Amendment – Prevention of Activity of Organizations Acting against the Educational Goals and against the IDF), 2017, fs.knesset.gov.il/20/law/20_Isr_504190.pdf (in Hebrew). See *The Jerusalem Post*, "Breaking the Silence Bill" passed into law", 17 July 2018, www.jpost.com/Israel-News/Breaking-the-Silence-bill-passed-into-law-562699

⁴ Examples of institutions and events targeted include the Al-Midan Theater in Haifa and the Nakba Film Festival organized by the Israeli NGO Zochrot. See *The Times of Israel*, "State said to defund Arab theater that held play about terrorist", 19 February 2018, www.timesofisrael.com/state-said-to-defund-arab-theater-that-held-play-about-terrorist/; *Haaretz*, "Israeli culture minister pushes to nix funding for festival featuring films that 'undermine our value'", 17 September 2018, www.haaretz.com/life/.premium-regev-pushes-to-nix-funds-for-haifa-festival-over-film-that-undermine-values-1.6489212; ACRI, *Anti-democratic initiatives advanced by the 20th Knesset - Freedom of cultural expression*, 2019, campaigns.acri.org.il/democracy/

⁵ *Al-Jazeera English*, "Israel slammed over its 'war on NGOs'", 22 November 2016, www.aljazeera.com/news/middleeast/2016/11/israel-slammed-war-ngos-161101115337497.html

⁶ See, for example, Israeli Ministry of Strategic Affairs, *The money trail: The millions given by EU institutions to NGOs with ties to terror and boycotts against Israel*, May 2018, eipa.eu.com/publicaffairs/wp-content/uploads/The-Money-Trail_English.pdf

The report was criticized by the EU High Representative for Foreign Affairs Federica Mogherini as "unfounded and unacceptable" (see *Haaretz*, "EU blasts Israeli minister: You feed disinformation and mix BDS, terror", 17 July 2018, www.haaretz.com/israel-news/.premium-eu-s-mogherini-to-israeli-ministryou-

other senior government officials have urged several countries to withhold financial support for human rights organizations that express criticism of Israel.⁷ Organizations aligned with Israeli government policies on such issues have acted similarly.⁸

Israeli authorities have started implementing a 2017 amendment to the Entry into Israel Law which bans the entry into Israel or the Occupied Palestinian Territories of anyone supporting or working for an organization that it perceives as promoting a boycott of Israel or Israeli entities, including those profiting from illegal Israeli settlements.⁹ As a result, human rights defenders, lawyers, scholars and students have been denied entry to Israel or the Occupied Palestinian Territories.¹⁰ Among them is Amnesty International staff member Raed Jarrar, who was barred entry in 2017.¹¹ The authorities have also used the legislative amendment to revoke the work permit of Omar Shakir, the Israel and Palestine Director of the international NGO Human Rights Watch, and order his deportation from the country. In April 2019, an Israeli court upheld the government's order to deport him, ruling that advocacy efforts by Human Rights Watch to end human rights abuses by businesses operating in Israeli settlements constituted a call for boycott and justified the deportation.¹² United Nations experts have urged Israel to overturn the decision, saying it "threatens advocacy, research, and free expression for all".¹³

3.2 DISCRIMINATION AGAINST PALESTINIANS

Palestinian citizens of Israel comprise around 20% of the total population and, like any other Israeli citizens, their rights to political participation and representation are recognized by Israeli law. However, Israeli legislation facilitates direct and indirect discrimination against Palestinian and other non-Jewish citizens in many areas, including citizenship, land and planning, housing, education and health.¹⁴

feed-disinformation-1.6280308). In 2019, the Israeli Ministry of Strategic Affairs issued a similar report titled *Terrorists in suits: The ties between NGOs promoting BDS and terrorist organizations*, 4il.org.il/wp-content/uploads/2019/02/MSA-Terrorists-In-Suits-English-1.pdf

⁷ See Ynet, "Israel to EU: Halt funding of NGOs working against us", 21 July 2015, www.Ynetnews.Com/Articles/0.7340.L-4682691.00.html; *The Times of Israel*, "Israel's envoy to call on UN to end funding for B'Tselem", 19 October 2016, www.Timesofisrael.Com/Israels-Envoy-To-Call-On-Un-To-End-Funding-For-Btselem/; *Haaretz*, "Netanyahu slams human rights NGO B'Tselem for joining 'chorus of slander' against Israel", 19 October 2016, www.Haaretz.Com/Israel-News/Netanyahu-Slams-Israeli-Rights-Group-For-Un-Appearance-1.5449949; *Haaretz*, "Netanyahu cancels meeting after German FM refuses to snub Israeli leftist NGOs", 25 April 2017, www.Haaretz.Com/Israel-News/Netanyahu-Cancels-Meet-After-German-Fm-Refuses-To-Snub-Leftist-Ngos-1.5464890; *Haaretz*, "Israel demanded Germany cut funding to Jewish Museum in Berlin, report says", 9 December 2018, www.haaretz.com/world-news/europe/report-israel-demanded-germany-cut-funding-to-jewish-museum-in-berlin-1.6726205; *Haaretz*, "How a right-wing NGO's agenda became Israeli government policy", 12 October 2018, www.haaretz.co.il/news/politics/.premium-1.6550175

⁸ See Amal Jamal, *The rise of "bad civil society" in Israel: Nationalist civil society organizations and the politics of delegitimization*, German Institute for International and Security Affairs, 2018, www.swp-berlin.org/fileadmin/contents/products/comments/2018C02_jamal.pdf; Policy Working Group, *NGO Monitor: Shrinking space: Defaming human rights organizations that criticize the Israeli occupation*, 2018, policyworkinggroup.org.il/report_en.pdf

⁹ Entry to Israel Bill (Amendment no. 27 – Non-Granting of a Visa and Permit of Residence to a Person Advocating a Boycott against Israel), 2017, fs.knesset.gov.il//20/law/20_Ish_369171.docx (in Hebrew).

¹⁰ *The Times of Israel*, "Shin Bet has denied 250 people entry into Israel this year — report", 16 August 2018, www.timesofisrael.com/shin-bet-has-denied-250-people-entry-into-the-country-this-year-report/; *Haaretz*, "Two Leading U.S. Human Rights Activists Refused Entry to Israel, One for BDS Ties", 3 May 2018, www.haaretz.com/israel-news/.premium-two-leading-u-s-human-rights-activists-deported-from-israel-1.6052515; *MEMO*, "Israel's denial of visas for foreign academics hurting Palestinian education", 3 August 2018, www.middleeastmonitor.com/20180803-israels-denial-of-visas-for-foreign-academics-hurting-palestinian-education/; *Haaretz*, "U.S. Student Denied Entry to Israel to Be Held at Airport Until Final Ruling on Appeal", 7 October 2018, www.haaretz.com/israel-news/.premium-district-court-to-rule-on-appeal-of-u-s-student-banned-from-israel-1.6532462

¹¹ Amnesty International, *Israel denies entry to Amnesty International staff member*, 31 October 2017, www.amnesty.org/en/latest/news/2017/10/israel-denies-entry-to-amnesty-international-staff-member/

¹² Human Rights Watch, *Israel: Human Rights Watch official's deportation reinstated*, 16 April 2019, www.hrw.org/news/2019/04/16/israel-human-rights-watch-officials-deportation-reinstated

¹³ UN Office of the High Commissioner for Human Rights, *UN experts call on Israel to overturn deportation of Human Rights Watch director*, 25 April 2019, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24516&LangID=E

¹⁴ Adalah - The Legal Center for Arab Minority Rights (Adalah), *The discriminatory laws database*, 25 September 2017, www.adalah.org/en/content/view/7771

In July 2018, Israel passed a law defining Israel as the nation state of the Jewish people, constitutionally entrenching inequality and discrimination against non-Jews.¹⁵ The “nation state law” (formally known as Basic Law: Israel - The Nation State of the Jewish People) granted the right to self-determination exclusively to Jews, highlighted the importance of “developing Jewish settlements” and demoted the status of the Arabic language from an official language to one with “special status”. Human rights organizations have challenged the law before Israel’s Supreme Court, a complex task in light of its constitutional status.¹⁶ The legal proceeding is ongoing.

In 2014, the Knesset raised the electoral threshold from 2% to 3.25%, primarily affecting parliamentary representation of Palestinians and other minority groups in Israel. Adalah and ACRI argued that raising the electoral threshold for parties to gain seats at the Knesset violated Palestinian citizens’ voting rights and enabled the disqualification of their candidates and parties.¹⁷

3.3 APRIL 2019 LEGISLATIVE ELECTIONS

Early legislative elections were held on 9 April 2019 to elect the 120 members of the Knesset. Elections had been due in November 2019, but were brought forward following a dispute between members of the government over a bill on national service for the ultra-Orthodox population, as well as impending corruption charges against Prime Minister Benjamin Netanyahu.

On 6 March 2019, ahead of the elections, Israel’s Central Elections Committee voted to ban Ra’am-Balad, a joint list formed of two parties, the Palestinian nationalist Balad and the Islamist Ra’am, and to disqualify a Jewish member, Ofer Cassif, of Hadash-Ta’al, a joint list formed of two parties, the Arab-Jewish Hadash and the Arab nationalist Ta’al. The decisions were based on two petitions, one filed by members of the Likud and Otzma Yehudit parties claiming that Ra’am-Balad is “seeking to eliminate Israel as a Jewish state and supports the violent Palestinian resistance and Hezbollah and that most of its members are supporters and backers of terror” and the other filed by the chairman of the Yisrael Beitenu party citing provocative comments Ofer Cassif had made in the past, including calling Justice Minister Ayelet Shaked “neo-Nazi scum”.¹⁸ The decisions ignored a recommendation made the day before by the Israeli attorney general to allow both Ra’am-Balad and Ofer Cassif to stand in the elections. On 17 March 2019 Israel’s Supreme Court overturned the decisions and allowed them to run in the elections.¹⁹

By contrast, the Central Elections Committee rejected a petition against Michael Ben Ari, the chairman of the far-right Otzma Yehudit party, thereby approving him to run in the election, but the Supreme Court disqualified him. They banned him from running for the Knesset on grounds of incessant incitement against Arabs.²⁰

On the day of the elections, over 1,200 hidden cameras were worn or positioned by activists and observers from the governing Likud party in polling stations serving Palestinian communities or in Palestinian-majority areas across Israel. This was confirmed by Benjamin Netanyahu, Israel’s prime minister and head of the Likud party, claiming that the deployment of camera was to counter “widespread voter fraud” in these areas.²¹ On social media, the public relations firm responsible for disseminating the cameras stated openly that the campaign should be credited and thanked for lowering

¹⁵ Basic Law: Israel - The Nation State of the Jewish People, 2017, knesset.gov.il/laws/special/eng/BasicLawNationState.pdf (unofficial translation).

¹⁶ Adalah, *Arab leadership takes action against Israel's new Jewish Nation-State Law*, 6 August 2018, www.adalah.org/en/content/view/9574

¹⁷ Adalah, *Israeli Supreme Court rejects petition against raising electoral threshold*, 14 January 2015, www.adalah.org/en/content/view/8401

¹⁸ *The Times of Israel*, “Elections panel bars Arab slate, Jewish far-left candidate; court will now rule”, 7 March 2019, www.timesofisrael.com/elections-committee-disqualifies-arab-israeli-slate-jewish-far-left-candidate/

¹⁹ *Middle East Monitor*, “Israel’s top court disqualifies far-rightist, approves Arab party for ballot”, 18 March 2019, www.middleeastmonitor.com/20190318-israels-top-court-disqualifies-far-rightist-approves-arab-party-for-ballot/

²⁰ *Haaretz*, “Israel’s to court bans Kahanist leader from election run, okays Arab slates, far-left candidate”, 17 March 2019, www.haaretz.com/israel-news/elections/israel-s-top-court-bans-kahanist-leader-from-running-approves-arab-slate-1.7018590

²¹ *The Times of Israel*, “Likud admits deploying cameras at polling stations to monitor ‘problem Arabs’”, 9 April 2019, www.timesofisrael.com/likud-admits-hiding-cameras-at-polling-stations-to-monitor-problem-arabs/; *Haaretz*,

“Likud hiding cameras in Arab polling stations will be ‘looked into,’ election board says”, 14 April 2019, www.haaretz.com/israel-news/elections/.premium-likud-hiding-cameras-in-arab-polling-stations-will-be-looked-into-1.7112910

voter turn-out among Palestinian citizens of Israel.

Israeli election law does not allow officials to film voters entering polling stations or during the voting process, and defines electoral interference as a criminal offence.²² Despite multiple complaints, the Central Elections Committee had allowed audio recordings of the voting process. The police seized cameras used by Likud activists in polling stations, but were ordered by the committee to return them immediately.²³ Several MKs and Adalah called on Israel's attorney general to initiate a criminal investigation.²⁴ The attorney general has not responded publicly.²⁵ Palestinian MK Mtanes Shehadeh of the Balad party told Amnesty International that the deployment of cameras "was a clear attempt to intimidate Palestinian citizens and prevent them from realizing their equal right to political participation... Now every Arab voter is assumed to be a potentially criminal offender committing election fraud."²⁶

The Likud party tied with the Blue and White alliance of Benny Gantz in the elections of April 2019. Support from smaller parties would have allowed Benjamin Netanyahu to form the next government. However, disagreements over the national service bill continued and snap elections were called, which are scheduled for 17 September 2019. Voter turn-out among Palestinian citizens of Israel was a record low of 49.1%, compared to 63.5% in the 2015 elections; the overall voter turn-out in Israel was 68%, down from 73% in 2015.²⁷ Hadash-Ta'al won six seats, while Ra'am-Balad won four. They later announced that they would join forces in an expanded joint list for the upcoming elections.²⁸

²² Adalah, *Adalah calls for criminal probe into Likud's planting of hidden cameras in Israeli polling stations*, 11 April 2019, www.adalah.org/en/content/view/9725; *Haaretz*, "Israel's attorney general urged to probe Likud hidden cameras in Arab polling stations", 11 April 2019, www.haaretz.com/israel-news/elections/.premium-ag-urged-to-probe-violation-after-likud-places-hidden-cameras-in-arab-polling-sites-1.7110075

²³ The Central Elections Committee for the 21st Knesset, *Decision on the use of hidden cameras in polling sites*, 9 April 2019, bechiro21.bechirot.gov.il/election/Decisions/AllDecisions/knesset21/documents/kalpies_cameras.pdf (in Hebrew);

²⁴ Adalah, *Adalah calls for criminal probe into Likud's planting of hidden cameras in Israeli polling stations*, 11 April 2019, www.adalah.org/en/content/view/9725; *Haaretz*, "Israel's Attorney General Urged To Probe Likud Hidden Cameras In Arab Polling Stations", 11 April 2019, www.haaretz.com/israel-news/elections/.premium-ag-urged-to-probe-violation-after-likud-places-hidden-cameras-in-arab-polling-sites-1.7110075

²⁵ *The Times of Israel*, "Likud admits deploying cameras at polling stations to monitor 'problem Arabs'", 9 April 2019, www.timesofisrael.com/likud-admits-hiding-cameras-at-polling-stations-to-monitor-problem-arabs/

²⁶ Amnesty International interview with MK Mtanes Shehadeh, Nazareth, 15 April 2019.

²⁷ *Foreign Policy*, "How Israel Marginalizes Its Arab Citizens", 15 April 2018, foreignpolicy.com/2019/04/15/how-israel-marginalizes-its-arab-citizens/

²⁸ *Haaretz*, "Israel's Arab Parties to Resurrect Joint List in Bid to Regain Seats", 20 June 2019, www.haaretz.com/israel-news/elections/.premium-israel-s-arab-parties-agree-to-merge-forces-ahead-of-upcoming-election-1.7396627

4. LEGISLATIVE THREATS TO PARLIAMENTARIANS' FREEDOM OF EXPRESSION

Legislative changes – one of them enacted, the others proposed – are threatening the right to freedom of expression of elected MKs and are likely to have a particular impact on Palestinian MKs.

An amendment that was passed in 2016 to one of Israel's Basic Laws (Basic Law: The Knesset) allowed the Knesset, for the first time, to expel elected MKs through a majority vote of their fellow parliamentarians.²⁹ The amendment authorizes the Knesset, by a majority of 90 out of 120 MKs, to terminate the membership of a member if it has determined that two of the conditions that would have barred a candidate's participation in elections would apply to the member after his or her election. These conditions are defined as "incitement to racism" and "support for an armed struggle by an enemy state or of a terrorist organization against the State of Israel". Amnesty International is concerned that the amendment enables the political majority to dismiss an elected MK simply because they choose to interpret the free expression of the MK's political opinions as meeting these conditions, even when the MK's actions and statements are lawful and have not been the subject of any criminal or other judicial proceedings.

The amendment has its origin in a bill introduced in 2014 and known as the "Haneen Zoabi bill", a reference to former Palestinian MK Haneen Zoabi of the Balad party, who made a comment apparently expressing support for Hamas during Israel's 2014 military operation in the Gaza Strip. The bill was promoted by Prime Minister Benjamin Netanyahu.³⁰ It later gathered momentum amidst public controversy related to a meeting between three Palestinian MKs from the Balad party, including Haneen Zoabi, and Palestinian families who were attempting to reclaim the bodies of relatives killed by Israeli forces after they had attacked or were alleged to have attacked Israelis.³¹

Statements by various MKs throughout the legislative process demonstrated that the bill was aimed primarily at Palestinian MKs. During a parliamentary hearing introducing the bill on 10 February 2016, the Chairman of the Knesset's Constitution, Law and Justice Committee, MK Nissan Slomiansky of the Jewish Home party claimed, referring to the three Palestinian MKs from the Balad party, that "there are members of the house who support terrorism and identify with terrorism".³² In the same hearing, MK Miki Zohar of the governing Likud party asked, in a reference to speech or action that is perceived to be against the state, whether when "Arab MKs talk like that and act against the state, shouldn't we suspend them?"

In May 2018, Israel's Supreme Court rejected a petition, filed by human rights groups Adalah and ACRI and Palestinian MK Yousef Jabareen of the Hadash party, against the legislative amendment, despite recognizing it as infringing upon the right to freedom of expression.³³ "The [Supreme] court failed to address our arguments of discrimination and violations of minority groups' rights," Sawsan Zaher, Deputy

²⁹ Basic Law: The Knesset (Amendment 44), 2016, fs.knesset.gov.il/20/law/20_Isr_347851.pdf (in Hebrew). For a summary, see Adalah, "Expulsion of MKs" Law - Amendment No. 44 to Basic Law: Knesset, 2016, www.adalah.org/en/law/view/599

³⁰ *The Times of Israel*, "Netanyahu lends support to 'Hanin Zoabi bill'", 25 November 2014, www.timesofisrael.com/netanyahu-lends-support-to-zoabi-bill/

³¹ *Haaretz*, "Netanyahu calls for punitive measures against Arab MKs who visited families of terrorists", 4 February 2016, www.haaretz.com/israel-news/.premium-pm-punish-arab-mks-who-visited-families-of-terrorists-1.5400324

³² The Knesset Constitution, Law and Justice Committee hearing, 10 February 2016, fs.knesset.gov.il/20/Committees/20_ptv_321902.doc (in Hebrew); "'We'll suspend all the terrorist supporters'", 11 February 2016, www.israelnationalnews.com/News/News.aspx/207860#.VrwXgPmLTIU

³³ High Court of Justice 5744/16, *Ben Meir v. Knesset*, judgement, 27 May 2018, supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts\16\440\057\w17&fileName=16057440.V17&type=4 (in Hebrew). See also Adalah, *MK Jabareen, Adalah, ACRI petition Israeli Supreme Court against expulsion of Members of Knesset Law*, 2 January 2017, www.adalah.org/en/content/view/8987; *Haaretz*, "Israel's top court upholds law to remove lawmakers from office", 27 May 2018, www.haaretz.com/israel-news/top-court-rejects-bid-against-law-to-remove-lawmakers-from-office-1.6119132

Director General of Adalah, told Amnesty International.³⁴ “The court’s ruling did not analyse how the law affects Arab Knesset members and, in fact, the word ‘Arabs’ was not even mentioned in the decision.”

Amnesty International considers that the amendment unduly limits parliamentarians’ right to freedom of expression, particularly the expression of political views that may not be acceptable to the majority of MKs and as such may be used a pretext to expel them. The organization believes that it hinders the ability of parliamentarians, particularly those representing minority groups, to effectively represent the concerns of their electorate. Although the text does not explicitly target any particular group, it indirectly discriminates against MKs representing Palestinian and other minority groups, who are inherently more at risk of being targeted for their political participation.

While the amendment has not yet resulted in the expulsion of any parliamentarian from the Knesset, it has had a chilling effect on freedom of expression. Palestinian MK Aida Touma-Suleiman of the Hadash party described the text as “a sword dangled over our heads by members of the Knesset who oppose us politically”.³⁵

Other legislative changes proposed over the last few years have risked undermining minority groups’ rights to freedom of expression and political participation.³⁶ In 2015, MKs submitted a bill aimed at blocking funding for political parties supporting a boycott of Israel or its settlements.³⁷ In 2016, another bill proposed to prevent parties and candidates disqualified from taking part in elections by the Central Elections Committee from having recourse to a judicial review of the decision.³⁸ In 2017 an initiative to amend the existing oath of allegiance and require MKs to pledge allegiance to Israel as a Jewish state was presented.³⁹ These proposals have not been approved, but may be brought back for debate in the Knesset.

³⁴ Amnesty International interview with Sawsan Zaher, Haifa, 17 April 2019.

³⁵ Amnesty International interview with Aida Touma-Suleiman, Tel Aviv, 11 April 2019.

³⁶ See ACRI, *Overview of anti-democratic legislation advanced by the 20th Knesset*, 2018, law.acri.org.il/en/wp-content/uploads/2018/10/Overview-of-Anti-Democratic-Legislation-October-2018.pdf

³⁷ Proposed amendment to Political Parties (Financing) Law (Revocation of Funding from a Party Calling for a Boycott of the State of Israel), 2015, fs.knesset.gov.il/20/law/20_Ist_315932.docx (in Hebrew).

³⁸ Proposed amendment to Basic Law: The Knesset (Denial of the Supreme Court’s Authority to Intervene in the Decision of the Central Elections Committee regarding the Approval or Disqualification of a Candidate or a List from Participating in the Elections), 2016, fs.knesset.gov.il/20/law/20_Ist_389851.docx (in Hebrew).

³⁹ Proposed amendment to Basic Law: The Knesset (Declaration of Allegiance), 2017, fs.knesset.gov.il/20/law/20_Ist_369571.docx (in Hebrew).

5. DISCRIMINATORY IMPACT OF KNESSET REGULATIONS

Knesset regulations purportedly in place to enforce ethical practices among MKs have been used to restrict the right to freedom of expression, impacting Palestinian MKs in a discriminatory manner.

In January 2018, the Knesset House Committee adopted an amendment to the parliament's Rules of Ethics that allows the Knesset's Ethics Committee, which is comprised of sitting MKs, not to grant an MK permission to travel abroad if the trip is funded by "a body calling for a boycott of the State of Israel".⁴⁰ Amnesty International has never called for or endorsed specific boycotts, whether against Israel or any other state or company. However, it considers that advocating for boycotts is a form of free expression that must be protected. Consequently, it is concerned that the amendment restricts the ability of parliamentarians to travel to carry out legitimate political activities solely on the basis of the political views of the organization funding the travel.

MKs have long needed to obtain approval from the Ethics Committee to receive funding for travel abroad within the context of their public duties. The measure is in place to ensure that such travel is in line with the requirements of the job of an MK and to prevent funding from private individuals or businesses that might generate conflicts of interest. Debbie Gild-Hayo, Policy Advocacy Director of ACRI, told Amnesty International that the parliamentary process for approving travel abroad was "originally intended to promote transparency and integrity", but now it has "begun determining what constitutes a legitimate political opinion. It has effectively become a mechanism for political persecution".⁴¹

In March 2018, the Ethics Committee banned for the first – and, until now, only – time two MKs from travelling abroad with funding from specific NGOs. Both parliamentarians, MK Yousef Jabareen and former MK Haneen Zoabi, were due to travel abroad to participate in conferences and give lectures. MK Yousef Jabareen of the Hadash party, planned to visit the USA on a trip funded by a US-based NGO, Jewish Voice for Peace. Then MK Haneen Zoabi intended to travel to Ireland with funding from an Irish-based NGO, the Ireland Palestine Solidarity Campaign.

The decisions to deny permission for travel were based on a "blacklist" created by the Israeli Ministry of Strategic Affairs of organizations abroad that, it considered, support boycotts of Israel.⁴² On 22 April 2018, MK Yousef Jabareen and Adalah filed a joint petition challenging the decision before Israel's Supreme Court. The court has yet to rule on the petition.⁴³

Commenting on the amendment to the Rules of Ethics, MK Aida Touma-Suleiman of the Hadash party told Amnesty International: "Everyone knows we will not be able to fund advocacy tours abroad; the regulation is an attempt to limit one of the most basic tools for parliamentarians to express their views and access various audiences."

The Knesset Ethics Committee has also suspended Palestinian MKs for carrying out legitimate functions involving their constituencies. In February 2016, the Ethics Committee suspended from Knesset discussions and committee hearings three Palestinian MKs of the Balad party after it ruled that they had supported violence by observing a minute of silence during a meeting they had held with Palestinian families whose children had been killed by Israeli forces after attacking or allegedly attacking Israelis.⁴⁴

⁴⁰ Knesset, *Rules of Ethics for Members of The Knesset*, main.knesset.gov.il/Activity/committees/Ethics/Documents/EthicsRules.pdf (in Hebrew).

⁴¹ Amnesty International interview with Debbie Gild-Hayo, Haifa, 8 April 2019.

⁴² The Knesset, *MK Kisch calls to ban MK trips abroad that are funded by BDS organizations*, 18 January 2018, m.knesset.gov.il/EN/News/PressReleases/pages/Pr13728_pg.aspx; *The Times of Israel*, "In first, Knesset bars MKs from traveling on pro-boycott groups' dime", 14 March 2018, www.timesofisrael.com/in-first-knesset-bars-mks-from-traveling-on-pro-boycott-groups-dime/

⁴³ Adalah, *Israeli Supreme Court issues order in MK Jabareen Jewish Voice for Peace travel case*, 7 June 2018, www.adalah.org/en/content/view/9537

⁴⁴ *The Irish Times*, "Israeli-Arab politicians suspended over visits to Palestinian families", 9 February 2016, www.irishtimes.com/news/world/middle-east/israeli-arab-politicians-suspended-over-visits-to-palestinian-families-1.2528598

The Ethics Committee received more than 450 complaints about the three MKs, including from Prime Minister Benjamin Netanyahu. The Ethics Committee suspended former MK Haneen Zoabi and MK Basel Ghattas for four months, and former MK Jamal Zahalka for two months.

The three MKs denied the allegations of supporting violence and explained that the reason behind the meeting was to help the families obtain the bodies of their deceased relatives, which the Israeli authorities had not released to them for burial. They said they were given only a day to prepare for the hearing before the Ethics Committee. The Inter-Parliamentary Union (IPU), of which the Knesset is a member, reviewed the case after the three MKs filed a complaint with it in March 2016. In February 2019, the IPU's Committee on the Human Rights of Parliamentarians found that the suspensions were "unjustified" and violated the MKs rights to freedom of opinion and expression.⁴⁵

The application of disciplinary measures against Palestinian MKs appears to be discriminatory, since Jewish Israeli MKs do not face similar consequences for meeting families of Jewish civilians who have committed violent attacks against Palestinians. In 2015, MK Ayelet Shaked of the Jewish Home party, who was then Israeli Justice Minister, met with the mother of an Israeli minor suspect in the killing of three Palestinians following an arson attack in the town of Duma in the Nablus governorate of the occupied West Bank in 2014.⁴⁶ The attack was labelled as a "terror" attack by the Israeli government. Ayelet Shaked faced no disciplinary measures.

⁴⁵ Inter-Parliamentary Union, *Israel - Decision adopted by the Committee on the Human Rights of Parliamentarians at its 158th session*, 8 February 2019, www.ipu.org/sites/default/files/documents/d-israel-158-e.pdf

The Inter-Parliamentary Union determined that the "three members of the Knesset met with the Palestinian families as part of the legitimate exercise of their parliamentary functions, in order to assist them in reclaiming the bodies of their deceased sons" and that "the three parliamentarians observed a minute of silence in accordance with their cultural and religious heritage as a customary practice performed out of respect for the deceased in general, regardless of the circumstances of their death".

⁴⁶ +972 Magazine, "Jewish politicians meet with terrorist families too", 7 February 2016, 972mag.com/jewish-politicians-meet-with-terrorist-families-too/116779/

6. DISQUALIFICATION OF BILLS ON POLITICAL GROUNDS

During the legislative process leading to the adoption of the “nation state law” on 19 July 2018, Palestinian MKs proposed a bill in June 2018 offering an alternative definition of Israel as “a country for all its citizens”. In response, the Knesset Presidium, a body comprised of the Knesset’s speaker and deputy speakers, prevented the bill from even reaching a parliamentary discussion, arguing that it would negate Israel’s definition as a Jewish state.⁴⁷

A petition submitted by Adalah in June 2018 challenging the decision to disqualify the bill was dismissed by the Supreme Court on 30 December 2018.⁴⁸ The court determined that the dissolution of the Knesset days earlier, on 26 December 2018, had rendered the petition theoretical and refrained from criticizing or commenting on the disqualification. “Israel’s Supreme Court stalled and did not make a swift decision to allow MKs to conduct their political activity without interference and table proposed legislation; by doing so, the court de facto legitimized and took part in the restrictions imposed on Arab MKs,” Sawsan Zaher told Amnesty International.⁴⁹

According to the Knesset’s Rules of Procedures, the Presidium “shall not approve a bill that in its opinion denies the existence of the State of Israel as the state of the Jewish People, or is racist in its essence”.⁵⁰ The bill included several articles that were meant to alter the character of the State of Israel from the nation state of the Jewish people to a state in which Jews and Arabs enjoy equal status from the point of view of nationality. However, the decision was grounded in a particular political view and, in Amnesty International’s assessment, discriminated against Palestinian MKs with alternative perspectives, seemingly on the basis of their national or ethnic origin, and undermined their right to freedom of expression.

The adoption of the “nation state law” (formally known as Basic Law: Israel - The Nation State of the Jewish People) risks facilitating further such discriminatory disqualifications of proposed bills. Presenting bills is “the most basic thing Arab MKs can do, to bring to a public and legitimate debate their platform, their narrative, and the unique voice of the Arab citizens they represent,” Sawsan Zaher told Amnesty International.⁵¹

Since 2011, the Knesset Presidium has disqualified three other bills related to Palestinians’ rights or political aspirations. All were submitted by Palestinian MK Ahmed Tibi of the Ta’al party. These were bills to amend the Budget Foundations Law (Denial of the Nakba), disqualified on 7 July 2011, a bill entitled Al-Quds, the Capital of Palestine and the Islamic Nation, and a bill to amend the State Education Law (Content and Definitions in the Textbooks), both disqualified on 16 January 2012.⁵²

Previously, the Presidium had rarely prevented proposed legislation from reaching a parliamentary vote. Before 2011, recorded examples of blocked bills include one that proposed that the Israeli prime minister had to be Jewish, which was disqualified on 4 February 1997, and another – known as the “Eye for an Eye” bill – that sought to mandate the eviction of Palestinian localities in the event that the Israeli government was forced to evacuate Jewish settlements in the Golan Heights, which was disqualified on 8 November 2004.

⁴⁷ *Haaretz*, “Knesset council bans bill to define Israel as state for all its citizens”, 4 June 2018, www.haaretz.com/israel-news/.premium-knesset-council-bans-bill-to-define-israel-as-state-for-all-citizens-1.6145333

⁴⁸ Adalah, *Adalah heads to Supreme Court after Knesset speaker, deputies nix legislation of Arab MKs’ bill declaring Israel ‘state of all its citizens’*, 11 June 2018, www.adalah.org/en/content/view/9541 (in High Court of Justice 4552/18, *Jahalka v. Knesset*, judgement, 30 December 2018); Adalah, *Israeli Supreme Court refuses to allow discussion of full equal rights & ‘state of all its citizens’ bill in Knesset*, 30 December 2018, www.adalah.org/en/content/view/9660

⁴⁹ Amnesty International interview with Sawsan Zaher, Haifa, 17 April 2019.

⁵⁰ Knesset Rules of Procedure, 14 June 2018, knesset.gov.il/rules/eng/ChapterG2.pdf (unofficial translation).

⁵¹ Amnesty International interview with Sawsan Zaher, Haifa, 17 April 2019.

⁵² See The Jerusalem Post, “Tibi bills disqualified for undermining Jewish state”, 16 January 2012, www.jpost.com/Diplomacy-and-Politics/Tibi-bills-disqualified-for-undermining-Jewish-state#/; Adalah, SC dismisses MK Tibi’s petition against Knesset’s refusal to hear Nakba Bill, 5 February 2013, www.adalah.org/en/content/view/7928

7. DELEGITIMIZING STATEMENTS AGAINST PALESTINIAN PARLIAMENTARIANS

Palestinian MKs have faced inflammatory statements apparently intended to delegitimize them and their work by senior Israeli government officials and other MKs.

Yariv Levin, the then tourism minister, was reported as saying on 27 August 2018 that Palestinian MKs who called on the United Nations to condemn Israel following the adoption of the “nation state law” should be tried for “treason”.⁵³ Avigdor Liberman, the then defence minister, was quoted on 21 May 2018 as accusing Palestinian MK Ayman Odeh of the Hadash party and his associates of being a “fifth column” and said they should be “outlawed” for their support of a demonstration in Haifa protesting against the killings of Palestinian protesters in the Gaza Strip by Israeli forces in the context of the Great March of Return protests.⁵⁴ Miri Regev, the then culture minister, labelled former Palestinian MK Haneen Zoabi a “traitor” after she accused the opposition in parliament of hypocrisy over its failure to stand up against racism.⁵⁵

Haneen Zoabi summarized her impression of the situation to Amnesty International: “Palestinian MKs face mounting smear campaigns, inflammatory statements and other attempts to delegitimize them and their work by Israeli authorities, the Knesset itself, and by the media. The targeting of Palestinian representatives appears to be part of an attempt to hinder their participation in the public and political life in Israel.”⁵⁶

During the April 2019 elections, Palestinian MKs, along with other Palestinian citizens of Israel, were subjected to further intimidatory comments by senior government officials. Prime Minister Benjamin Netanyahu said notably that “Israel is not a state of all its citizens... it is the nation-state of the Jewish people only” and described Palestinian parties as attempting to eradicate the State of Israel.⁵⁷

An analysis conducted by the Arab Centre for Social Media Advancement (7amleh) of over 450,000 expressions of racism, insults or incitement towards Palestinians on Israeli social media during 2018 found that violent speech primarily targeted Palestinian parties and Palestinian MKs Aimen Odeh and Ahmed Tibi, particularly around the adoption of the “nation state law”.⁵⁸

⁵³ *The Times of Israel*, “Minister urges prosecution of Arab MK ‘traitors’ who seek UN censure of Israel”, 27 August 2018, www.timesofisrael.com/minister-urges-prosecution-of-arab-mk-traitors-who-seek-un-censure-of-israel/

⁵⁴ *The Times of Israel*, “Defense minister: Top Arab MK, colleagues a ‘fifth column,’ should be ‘outlawed’”, 21 May 2018, www.timesofisrael.com/defense-minister-top-arab-mk-a-fifth-column-should-be-outlawed/

⁵⁵ Ynet, “Minister Regev to MK Zoabi: Go to Gaza, traitor”, 27 December 2017, www.ynetnews.com/articles/0,7340,1-5062676,00.html

⁵⁶ Amnesty International interview with Haneen Zoabi, 12 August 2019.

⁵⁷ *Haaretz*, “Netanyahu blasts Gantz-Lapid alliance: They rely on Arab parties intent on destroying Israel”, 21 February 2019, www.haaretz.com/israel-news/elections/netanyahu-blasts-gantz-lapid-they-rely-on-arab-parties-who-want-to-destroy-israel-1.6958943; *Foreign Policy*, “How Israel Marginalizes Its Arab Citizens”, 15 April 2018, foreignpolicy.com/2019/04/15/how-israel-marginalizes-its-arab-citizens/

⁵⁸ Arab Centre for Social Media Advancement (7amleh), *The index of racism and incitement in Israeli social media 2018: An inciting post against Palestinians every 66 seconds*, 11 March 2019, 7amleh.org/2019/03/11/the-index-of-racism-and-incitement-in-israeli-social-media-2018-an-inciting-post-against-palestinians-every-66-seconds/

These expressions peaked around the enactment of the Basic Law: Israel as the Nation State.

8. THE RIGHTS TO FREEDOM OF EXPRESSION, PARTICIPATION IN PUBLIC AFFAIRS AND NON-DISCRIMINATION UNDER INTERNATIONAL HUMAN RIGHTS LAW

The right to freedom of expression provides the vehicle for the exchange and development of opinions, while also allowing individuals to seek, receive and impart information and ideas of all kinds. It is enshrined in the Universal Declaration of Human Rights⁵⁹ and the International Covenant on Civil and Political Rights,⁶⁰ to which Israel is a state party. The right is key for the realization of many other human rights.

The right to freedom of expression applies to information and ideas of any kind, including expression that might shock or disturb the public. While the right to freedom of expression is not absolute, states must ensure that restrictions are provided by law and are necessary and proportionate to a legitimate aim (the protection of national security, public order, public health or morals, and the protection of the rights of others).⁶¹ States have a duty not only to respect freedom of expression but also to protect it and prevent violations by non-state actors.⁶² The state must combat attacks aimed at silencing those who seek to express themselves, investigate these attacks and provide appropriate remedies for the victims.

Moreover, in line with both the International Covenant on Civil and Political rights and the International Convention on the Elimination of All Forms of Racial Discrimination, to which Israel is also a state party, states must ensure that the right to freedom of expression can be exercised without discrimination, including discrimination based on national or ethnic origin or political opinion, and that restrictions on the right to freedom of expression are not determined in a discriminatory manner.⁶³

The principle of non-discrimination and equality is necessary for the enjoyment of all other human rights. Accordingly, human rights conventions have enshrined the basic norm that individuals must be able to exercise their rights without discrimination.⁶⁴ Discrimination undermines people's dignity and is defined in international human rights law as unfavourable treatment based on prohibited grounds (such as ethnicity, national origin, political opinion, and others), without objective justification.⁶⁵ Discrimination can be direct or indirect. Indirect discrimination can occur as a result of seemingly neutral legislation or

⁵⁹ Universal Declaration of Human Rights, Article 19.

⁶⁰ International Covenant on Civil and Political Rights (ICCPR), Article 19.

⁶¹ ICCPR, Article 19(3); UN Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression*, 12 September 2011, UN Doc. CCPR/C/GC/34, paras 21-23.

⁶² UN Human Rights Committee, *General Comment No. 34: Article 19, Freedoms of opinion and expression*, 12 September 2011, UN Doc. CCPR/C/GC/34, paras 7, 11; UN Human Rights Committee, *General Comment No. 31: The nature of the general legal obligation imposed on states parties to the Covenant*, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 4.

⁶³ ICCPR, Article 2(1); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5(d)(viii).

⁶⁴ ICCPR, Articles 2, 3 and 26; ICERD. See also International Covenant on Economic, Social and Cultural Rights, Articles 2 and 3; Convention on the Rights of the Child, Article 2; Convention on the Rights of People with Disabilities, Articles 5 and 6.

⁶⁵ For a detailed analysis of the definition of discrimination in international human rights law, see Amnesty International, *Dealing with difference: A framework to combat discrimination in Europe* (Index: EUR 01/003/2009), Chapter 2.

policies that disproportionately disadvantage a particular group. Accordingly, the state has a duty not to discriminate in its acts and policies, to guarantee the equal realization of human rights in a non-discriminatory way and to repeal any discriminatory legislation.⁶⁶ Crucially, the state also has an obligation to prohibit the advocacy of national, racial or religious hatred that constitutes incitement to violence, hostility or discrimination.⁶⁷

Freedom of expression and the prohibition of discrimination are of particular importance for parliamentarians. The UN Human Rights Committee, the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its state parties, has affirmed that “the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential” for the realization of the right to freedom of expression.⁶⁸ Violations of the right to freedom of expression may prevent elected parliamentarians from carrying out their mission and adequately representing the public, and infringe upon the public’s right to impart alternative views freely.

Additionally, discrimination against elected parliamentarians is not only contrary to the right to equality and non-discrimination but may also undermine other human rights of individuals and groups, such as the right to equal participation in elections and the right to take part in the conduct of public affairs.⁶⁹ Discriminatory speech and advocacy of hatred require an appropriate governmental response, particularly when they target elected representatives and are disseminated by government officials. As noted by the UN Committee on the Elimination of Racial Discrimination, the body of independent experts that monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination by its state parties, “the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression”.⁷⁰

In addition to Israel’s obligations under the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination to respect, protect and fulfil the rights to freedom of expression and non-discrimination, its Supreme Court has recognized them as fundamental rights despite their absence from Israel’s Basic Laws.⁷¹

⁶⁶ ICERD, Article 2.

⁶⁷ ICCPR, Article 20.

⁶⁸ UN Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression*, 12 September 2011, UN Doc. CCPR/C/GC/34, para. 20.

⁶⁹ ICCPR, Article 25; Human Rights Committee, *General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service*, 12 July 1996, UN Doc. CCPR/C/21/Rev.1/Add.7.

⁷⁰ UN Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel*, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16.

⁷¹ See High Court of Justice 75/53, *Kol Ha’am Co. Ltd. v. Minister of the Interior*, decided 16 October 1953, [versa.cardozo.yu.edu/sites/default/files/upload/opinions/Kol%20Ha%27am%20Co.%2C%20Ltd.%20v.%20Minister%20of%20the%20Interior.pdf](https://www.cardozo.yu.edu/sites/default/files/upload/opinions/Kol%20Ha%27am%20Co.%2C%20Ltd.%20v.%20Minister%20of%20the%20Interior.pdf) (unofficial translation); High Court of Justice 4541/94, *Miller v. Minister of Defence*, decided 8 November 1994, [versa.cardozo.yu.edu/opinions/miller-v-minister-defence](https://www.cardozo.yu.edu/opinions/miller-v-minister-defence) (unofficial translation); High Court of Justice 6698/95, *Aadel Ka’adan v. Israel Lands Administration*, decided 8 March 2000, www.escri-net.org/caselaw/2014/hc-669895-aadel-kaadan-v-israel-lands-administration-541-pd-258 (unofficial abstract).

9. CONCLUSION AND RECOMMENDATIONS

Palestinian MKs are facing increasing threats to their freedom of expression. The threats have manifested themselves in the last few years through legislative changes – some enacted, others proposed; Knesset regulations purportedly in place to enforce ethical practices among MKs; and the disqualification of parliamentary bills on political grounds. These measures have impacted Palestinian MKs in a discriminatory manner and consequently have eroded their right to equal political participation in Israel. Palestinian MKs have also faced inflammatory statements apparently intended to delegitimize them and their work by senior Israeli government officials and other MKs.

These threats are of concern in and of themselves but also reflect the wider situation in Israel in which the space for voices critical of the Israeli government's treatment of Palestinians has shrunk and discrimination against Palestinian citizens has been entrenched by measures such as the passing of the "nation state law" in 2018.

In light of the above, Amnesty International is making the following recommendations:

9.1 TO THE ISRAELI KNESSET

- Repeal the amendment that was passed in 2016 to the law known as Basic Law: The Knesset allowing the Knesset to expel elected MKs through a majority vote of their fellow parliamentarians.
- Repeal the amendment to the parliament's Rules of Ethics that allows the Knesset's Ethics Committee not to grant an MK permission to travel abroad if the trip is funded by "a body calling for a boycott of the State of Israel".
- End the arbitrary targeting of Palestinian MKs for simply exercising their legitimate political work through the discriminatory use of parliamentary ethical regulations.
- Repeal or substantially amend legislation that facilitates discrimination against Palestinian citizens of Israel, including the "nation state law" (formally known as Basic Law: Israel as the Nation State of the Jewish People).
- Refrain from disqualifying proposed legislation based on discriminatory grounds such as political opinion.

9.2 TO THE GOVERNMENT OF ISRAEL

- Ensure respect for the right to freedom of expression of elected officials without discrimination, and guarantee that their activities are not restricted on discriminatory grounds such as political opinion.
- Refrain from using language that delegitimizes or stigmatizes Palestinian MKs and publicly condemn attacks by other MKs on them.
- Provide constitutional protection to the principle of non-discrimination by introducing it into Israel's Basic Laws.

9.3 TO GOVERNMENTS OF OTHER STATES


- Actively pursue opportunities to meet or publicly engage with parliamentarians representing Palestinian citizens of Israel.
- Denounce unfounded negative narratives against Palestinian MKs, including misleading

accusations of support for terrorism.

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ELECTED BUT RESTRICTED

SHRINKING SPACE FOR PALESTINIAN PARLIAMENTARIANS IN ISRAEL'S KNESSET

Palestinian members of Israel's parliament, the Knesset, are facing increasing threats to their freedom of expression. These threats are symptomatic of the wider situation in Israel in which the space for voices critical of the Israeli government's treatment of Palestinians has shrunk and discrimination against Palestinian citizens has been entrenched.

Amnesty International has analysed the threats by reviewing legislation, ethical regulations, government statements and reports by human rights groups, as well as interviewing parliamentarians and others. It has found that legislative changes – some enacted, others proposed, Knesset regulations purportedly in place to enforce ethical practices and the disqualification of parliamentary bills on political grounds have undermined freedom of expression. These measures have impacted Palestinian parliamentarians in a discriminatory manner and consequently have eroded their right to equal political participation in Israel. Palestinian parliamentarians have also faced inflammatory statements apparently intended to delegitimize them and their work by senior Israeli government officials, among others.

Amnesty International is calling on the Israeli government to ensure respect for the right to freedom of expression of elected officials without discrimination. It is urging the Knesset to repeal legislation that facilitates discrimination against Palestinian parliamentarians and, more broadly, Palestinian citizens of Israel.