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Research Report

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The Rise of “Bad Civil Society” in Israel

Nationalist Civil Society Organizations and the Politics of Delegitimization

Amal Jamal

Civil society in Israel has been undergoing a growing conflict that mirrors broader trends taking place in Israeli society, namely the conflict between the rising conservative nationalist social forces and the dwindling liberal and humanist camp represented by human rights organizations (HROs). There has been a clear rise in the power of conservative nationalist civil society organizations (CSOs), which receive firm support from politicians who have influential positions in the Israeli government. These organizations have been leading aggressive political and media campaigns against HROs, especially those involved in defending the rights of Palestinians living under Israeli occupation in the West Bank and under siege in the Gaza Strip. The conservative nationalist CSOs accuse HROs of being anti-patriotic and cooperating with the enemies of society and the state. They utilize three strategies to promote their agenda. The first is delegitimizing HROs through naming and shaming tactics. They lead well-orchestrated political and media campaigns that associate HROs with terrorist organizations. The second is silencing HROs by shaming the institutions – educational, cultural, and media – that invite the former to speak to their audiences. The third strategy is cutting off the sources of funding for HROs through lobbying activities in donor countries and putting pressure on governments to stop their funding of the former.

Any observer of the Israeli political scene over the last several years cannot miss the well-orchestrated legal and political campaigns against liberal social forces and HROs in Israel. These campaigns, led by a coalition of conservative nationalist CSOs and very influential politicians and political parties represented in the Knesset, are tied strongly to the rising power of radical nationalist social forces in Israeli society. The unholy alliance between nationalist CSOs and legislators makes use of demo-

cratic procedures to silence and delegitimize any critiques of government policies, especially those voiced by HROs highlighting the ramifications of the expanding settlement project on the daily lives of Palestinians in the West Bank. The campaigns against HROs, which have received popular backing and acceptance by the government, are only one component of a broader transformation taking place in Israeli society and politics over the last few years. This broader transformation has been institu-

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tionalized within major legislative processes and policies that target not only HROs, but also liberal social forces, minorities, and critical media outlets. These same processes are responsible for the rising tensions between proponents of the settlers' movement in the occupied Palestinian territories (OPTs) – including East Jerusalem – on the one hand, and supporters of Israeli withdrawal from these areas in order to protect the Jewish and democratic character of the Israeli state, on the other.

This process of radicalization has not been linear, and there has been strong push-back by liberal forces seeking to protect the liberal spaces in Israeli society. Nonetheless, the well-orchestrated efforts to reduce the liberal-democratic spaces that have characterized the Israeli political system through the promotion of illiberal, religious-nationalist, and anti-human-rights ideals seem to have gained the upper hand. The process of radicalization, especially as reflected in the campaigns against HROs, goes beyond the traditional, well-known differentiation between right and left in Israel and could be viewed as gaining traction in the competition for influence on state policies in various fields, especially in economic, security, and foreign policy, as well as the character and identity of the state of Israel.

The conflict between conservative nationalist CSOs and the HROs in Israel is strongly related to a broader debate in the professional literature concerning the nature and role of civil society in democratic cultures. It has been a common tenet in the professional literature that civil society is largely comprised of those civil initiatives, movements, and organizations that seek to promote and protect civic and liberal values – such as pluralism, tolerance, freedom, social justice, and human rights – against restrictive state policies. This perception of civil society, known as “the civil society argument,” considers vibrant civic activism as a major reason for – and guarantor of – the rise and sustainability of democratic regimes and cultures. However, a one-dimensional affinity between civic

activism and democracy and liberal values has been fiercely challenged over the last few decades. Many scholars have demonstrated that CSOs could be deeply involved in anti-democratic initiatives and the exclusive promotion of nationalist, religious, or racist ideals. These experiences have led to the differentiation between “good” and “bad” civil society, based on the contributions of CSOs toward the promotion – or the dismantling – of open and democratic societies. Bad civil society is not marked by opposition to the liberal worldview or criticism of liberal opponents, but mainly by the combination of advancing chauvinistic nationalist or religious ideals and targeting the legitimate existence of liberal opponents through various means, especially shaming, stigmatizing, silencing, and lobbying tactics that are aimed at outlawing or shrinking the financial resources of their opponents.

This normative differentiation is not strictly dichotomous and is contiguous. CSOs whose *raison d'être* is the tolerance of differences in the name of civic values – even when they promote conservative worldviews – differ from CSOs that utilize the open civic sphere to propagate a chauvinistic nationalist worldview, and in this spirit view critical civic initiatives as detrimental to society and the state. These CSOs view differences in perceptions of society and the state as being sufficient justification for silencing or delegitimizing others. CSOs that cross the boundaries of legitimate debate on differences, advance a narrow, nationalist worldview, and lobby for state practices that delegitimize, stigmatize, silence, or seek to outlaw critical CSOs – thereby limiting the space for differences and debate in civil society – could be depicted as “bad civil society.”

One cannot but speak of the rise of bad civil society in Israel when looking at the transformations taking place in Israeli civil society. In addition to those mentioned above, a growing number of CSOs are crossing the boundaries of legitimate competition between different worldviews and promoting hate speech, exclusive nationalist

values and practices, attacking HROs and delegitimizing their role, and cooperating with political parties in order to promote legislation that seeks to silence liberal CSOs and narrow the democratic spaces in society and the state.

The rising influence of nationalist CSOs – such as Im Tirtzu, My Israel, Regavim, Leava, Shurat HaDin, the Institute for Zionist Strategy, NGO Monitor, and many others – illustrates this process, despite the fact that these CSOs are not equally radical and aggressive in their worldviews, goals, and means. They do not fall within the traditional “right”/“left” political dichotomy of Israel. Nonetheless, most of them utilize nationalist discourse to win support, stigmatize liberal HROs as enemies, and facilitate sophisticated lobbying policies that delegitimize HROs and frame them as anti-patriotic political organizations, thereby encouraging government measures that will cut them off from their financial resources. One of the common features of the policies of these organizations is blurring the differences between marking the violations of basic human rights of Palestinians and making accusations that HROs are protecting – or even assisting – terrorists or associated individuals and organizations.

These CSOs are advocating and lobbying for more nationalist government policies and mobilizing popular support through the stigmatization not only of HROs, but also the liberal social forces supporting them. They are also utilizing media campaigns in order to frame HROs as “enemies of the state and society.” Such efforts go beyond legitimate competition between various CSOs over state policies and over public opinion, which, according to the professional literature, reflect the essence of civil society. Nationalist CSOs also disapprove of the basic values of pluralism when these do not match their perceptions of reality. The cooperation of “bad civil society” with – and support from – government ministries and central political parties feeds the Israeli public sphere with

anti-democratic values and norms, which undermines civil and democratic ideals and liberal freedoms and brings the entire democratic system into question. Below are a few basic examples that demonstrate the tools and policies utilized by “bad civil society” organizations in their attempts to determine the results of their “war” against HROs and their liberal supporters.

Attacking Academic Freedom and Silencing Liberal Voices

One of the best examples of the policies and tools utilized by nationalist CSOs is the silencing of liberal voices in the Israeli public sphere, especially in academia. Im Tirtzu and the Institute for Zionist Strategies started a media campaign in 2009–2010 seeking to put limits on academic freedom in Israel. They sought to intimidate academic institutions based on the political worldviews of some of their professors. They demanded that these institutions identify academic staff members according to the degree of their loyalties to the Zionist values of the state. The well-orchestrated campaign of these two nationalist CSOs started with the presentation of selective data concerning the teaching syllabi of professors and measuring their pro- or post-Zionist commitments. The two organizations argued in their “studies” that most of the literature taught by most of the professors in the departments of sociology and political science was critical of Israel and represented an ideological bias of post-Zionist or anti-Zionist tendencies questioning the moral justifications of the state of Israel. The well-orchestrated campaign sought to shame the publicly funded academic institutions and mobilize public opinion against them. The two organizations lobbied the education committee in the Knesset, dominated by nationalist parties, to discuss their reports and demand that universities take action against professors critical of the official Zionist narrative and of government policies toward Palestinians.

This campaign against academic freedom manifested itself again with the initiative – supported by Education Minister Naf-tali Bennett – from the Habayit Hayehudi (Jewish Home) Party to draft an “ethical code” for all academic institutions in Israel. The declarations made by the minister and the involvement of Im Tirtzu and other nationalist CSOs in lobbying for the ethical code reflected the deep affinity between nationalist CSOs and government ministries. Declarations made by the education minister made it clear that the code sought to fight against post-Zionist professors in academia. CSOs supporting this position sought to limit academics from expressing any political views on publicly disputed topics while teaching. The proposed ethical code reflected the real intentions of the minister and his supporters in civil society, since “political activity” was defined in broad terms. According to the initiative, any activity that reflects “support” for or “opposition” to a political party or representative of a political party – or that could be conceived of as taking a position vis-à-vis a disputed public issue being discussed in the Knesset and/or in the public sphere – should be viewed as being unethical and should be punished. Implementing such an understanding would have translated into a situation in which voices critical of the current status quo, especially the settler movement in the OPTs, would be silenced.

Whereas most academic institutions, liberal intellectuals, and student unions viewed this effort as a clear attempt to limit academic freedom and silence voices critical of government policies, many conservative nationalist CSOs expressed satisfaction with putting an ethical code in place. In response, 300 academics signed a petition in December 2016 stating that they would ignore the instructions of the ethical code and expressed outrage at the attempts to promote censorship in academia. The campaign has not ended yet, and efforts to shame academic institutions and personnel continue.

Delegitimizing and Stigmatizing HROs

Another example illustrating the problematic character of the new generation of nationalist CSOs are the harsh critiques of 20 HROs compiled in a very selective and slanted report published by Im Tirtzu in 2015. “The Foreign Agents 2015” report portrays the 20 HROs, such as B’Tselem, Yesh Din, Adallah, and others, as “political propaganda organizations that act from within with broad financial support of foreign countries against Israeli society, against soldiers of the IDF and against the ability of the state to protect itself in its war against terror.”

The Im Tirtzu report was accompanied by a media campaign and a controversial video called “The Foreign Agents – Revealed!,” in which several well-known civic activists were associated with HROs and accused of being foreign agents as well as assisting the enemies of the state by raising money from foreign countries in order to support these enemies or defend them in the courts. It states: “While we fight terror, they fight us,” clearly portraying these CSOs as enemies of Israeli society. Depicting HROs as cooperating with the enemies of the people in a situation of war was aimed at delegitimizing them and inciting the public and the state to take action against them. As a result of the campaign, many human rights activists expressed their fears of being attacked on the streets.

The extremist and inciting language of the video led politicians – even from the conservative right – to express dissatisfaction with it, including Prime Minister Benjamin Netanyahu, who argued that he does not like the idea of naming those who do not agree with him as enemies. Nonetheless, many nationalist CSOs and politicians supported the spirit of the video and pushed for legislation to put an end to this phenomenon.

Lobbying against the Funding of HROs

Another example of the rising exclusionist character of nationalist CSOs in Israel are the efforts to block the financial support of

HROs. A case at hand are the efforts being made by NGO Monitor – led by a Bar-Ilan University professor, Gerald Steinberg – to reach out to foundations and states and present them with data that associates their support for HROs with anti-Israel campaigns – such as boycott, divestment, and sanctions (BDS) – with anti-Semitic initiatives or even terrorist organizations. The intentions of NGO Monitor are stated in its documents, namely “providing information and analysis, promoting accountability, and supporting discussion on the reports and activities of NGOs, claiming to advance human rights and humanitarian agendas.” Despite its strong cooperation with government officials, the organization distances itself from the government, stating that it “was founded jointly with the Wechsler Family Foundation,” that all its funding “is provided by private donors and foundations,” and that it “receives no governmental support.” The diplomatic formulations of NGO Monitor cannot hide its cooperation with government offices, such as the Ministry of Strategic Affairs and the Ministry of Foreign Affairs, or with nationalist members of the Knesset, in order to promote its goals of delegitimizing HROs and diminishing their financial resources. The tactics of NGO Monitor are: having its representatives appear together with officials of the Israeli state in international settings and presenting a common position; attacking Israeli and Palestinian HROs; accusing them of providing false information with regard to Israeli policies in the OPTs; and associating them with either BDS activities, anti-Semitic activities, or even terrorist organizations. Steinberg, president of NGO Monitor, argued that “[l]arge-scale foreign (mostly European) government funding to Israeli political groups, under facades such as civil society, human rights, peace- or democracy-building, and which does not take place in any other democracy, is seen as an attack on Israeli sovereignty and democratic self-determination.”

NGO Monitor states that one of its primary objectives in Europe is to significantly

reduce the massive amount of government funding – for what it considers radical CSOs – received directly from the EU, its 28 member states, Norway, and Switzerland, as well as through indirect channels via European Christian aid frameworks. It admits that, in 2013, it made significant progress in a number of key areas following a strategy described as “naming and shaming.” Accordingly, it claims that the efforts have produced important results, including the discontinuation of European funding for a number of politicized CSOs active in the Arab-Israeli conflict. One good example to illustrate NGO Monitor’s strategy is its lobbying in the United States (US) and the United Kingdom (UK) against donations for the New Israel Fund (NIF). The representatives of NGO Monitor target potential NIF donors to convince them to stop their support for it, since the NIF, in their view, promotes anti-Israeli political projects, illustrated by the support given to the Association of Civil Rights in Israel (ACRI) and Adalah. These efforts followed an accusation made by Im Tirtzu that CSOs supported by the NIF stood behind most of the information provided to the Goldstone Report, which accused the Israeli army of violating international humanitarian law during Operation Cast Lead in Gaza in 2008. Another example is the “Domino Strategy,” presented by NGO Monitor in its 2016 report. This strategy aims to put pressure on European governments to review their funding for what NGO Monitor considers “anti-Israeli NGOs” by lobbying the respective parliaments. This was implemented in several European parliaments, including the Netherlands, Switzerland, Denmark, the UK, Germany, Norway, Finland, and the European Parliament.

These efforts of shaming and silencing are strongly related to efforts made by other nationalist CSOs to promote nationalist legislation, such as the promotion of the “Nation-State Bill” of the Institute for Zionist Strategies. Aside from the many bills awaiting discussion in the Knesset, these efforts aim at restructuring the Israeli state

and regime while submitting democracy to nationalist and religious values. The religionization process taking place in Israeli society, as reflected in many public opinion surveys, puts wind in the sails of these trends.

Legislating the Surveillance of HROs

The attacks on HROs also come from high up in the government. This is reflected in a clear legislative process in the Knesset that establishes the differences between legitimate and illegitimate civic engagement and activism. This process seeks to avoid being characterized as anti-civil or anti-liberal while still being able to put pressure and limits on particular forms of civic engagement and certain CSOs, especially those that are associated with the “peace camp” or promote the language of human rights and social justice for all, including Palestinians.

A good example is the so-called NGO Law, whose precursors date back to at least 2007. Since then, the Knesset has seen various attempts to advance an amendment that aims at enforcing the state’s supervision and surveillance of CSO activities and financing, especially by the CSO Registrar in the Justice Ministry. One of the most prominent amendments to the law is Amendment 36a from 2008, which requires CSOs to reveal their sources of financing and reinforces previous state supervisory provisions.

Extreme nationalist members of the Knesset (MKs) were not satisfied with the 2008 amendments. Political parties in Netanyahu’s second government since 2009 – especially Israel Beytenu and Shas, and assisted by key members in the ruling Likud Party – sought the tightening of state supervision over HROs, arguing that they endangered national security and served foreign interests. The right-wing parties’ aspirations were based on allegations made by nationalist CSOs, such as Im Tirtzu, that HROs are financed by foreign governments and hostile foundations.

MK Ofir Akunis proposed an amendment of the same NGO Law (Amendment – Prohi-

bition of Foreign Political Entity’s Support of Political Associations in Israel) in March 2010 and again in November 2011. The purpose was to prevent associations in Israel from receiving donations from foreign governments and institutions (the UN, the EU), since, according to the bill, the “human rights organizations” were acting provocatively in their attempts to influence Israel’s political discourse, its nature, and policies.

On February 27, 2012, five right-wing MKs – Michael Ben-Ari, Aryeh Eldad, Nissim Ze’ev, Ronit Tirosh, and Uri Ariel – proposed an amendment regarding maximum wages in CSOs, intending to “[block] attempts for unsuitable and unbalanced exploitation of public funds in public CSOs.” After the 2013 elections, efforts continued toward legislating against CSOs thought to be “harming” Israel’s image and “assisting” enemies of the state. On December 15, 2013, the ministerial legislative committee approved a bill proposed by Ayelet Shaked, an MK of the Jewish Home Party who became Israel’s Minister of Justice after the 2015 elections; this was the first step before forwarding the bill to parliament. The bill sought to impose a tax of 45 percent on all organizations receiving donations from foreign entities and included punitive measures for activities involving calls to boycott Israel or attempts to put soldiers on trial in international courts.

The approval of the bill on the government level led opposition leaders to voice their critiques. The opposition leader at the time, MK Isaac Herzog of the Labor Party, clearly stated that the committee’s decision was “dark, anti-democratic, and shut the mouths of those who dare to think differently from it. The next phase of the implementation of the law is the establishment of thought police that will determine who will pay a fine because of his views and who will not, who will enter the black political list and who will not. Israel is becoming less and less democratic.”

Legislative efforts to curb civil society activism continued also after the 2015 elections. Shaked, now Minister of Justice, was

heading the entire justice system and has continued her efforts to censor critiques of the government voiced by liberal CSOs and to limit the activities of HROs in the OPTs who reveal the violations of basic human rights of Palestinians that result from policies promoted mainly by Shaked's party. The justification utilized this time to promote the repressive legislation was the need for transparency. On July 16, 2016, the government managed to gain a majority of votes (57–48) and passed the "Transparency Bill" in the Knesset. The ideological nature of the new law is revealed through the fact that it does not relate to CSOs funded by private sources, which is the case for most major CSOs associated with the conservative nationalist right. Hence, the wording of the law was intentionally formulated to protect them.

Prime Minister Netanyahu supported the move, clarifying that "[t]ransparency is the heart of democracy. When you hear about the use and abuse of NGOs here – transparency is the least we want and is much warranted and it is common sense. Israel is being held to a different standard here." This argument by Netanyahu – whose personal position was revealed in his decision to cancel a planned meeting in April 2017 with German Foreign Minister Sigmar Gabriel for the latter's meeting with two leading HROs in Israel – reflects the cunning attempt to instrumentalize democratic transparency in order to put pressure on HROs.

Ambassadors of Germany, the UK, France, Holland, the EU, and the US expressed concern about the proposed legislation. The European Commission criticized the bill, saying that its demands on CSOs would go "beyond the legitimate need for transparency" and that it is seemingly "aimed at constraining the activities of these CSOs working in Israel."

After a meeting of the Ambassador with Israeli Justice Minister Shaked, the American Embassy in Tel Aviv issued an unusual press statement in which it stated that "Ambassador Shapiro sought more information about the draft legislation from the Minis-

ter, and noted the US government's concerns on the matter." Furthermore, German Chancellor Angela Merkel expressed her concern about the proposed NGO's Transparency Bill in a meeting with Prime Minister Netanyahu on February 16, 2016, in Berlin. Human rights activists defined the meaning of the legislative process as a way of branding them "traitors." Many argued that it was worrying since it was coming from high up in the government, as well as from the mainstream press.

The bill, promoted by Justice Minister Shaked, was added to the list of laws in Israel that, in the name of "progressive" ideals, promote more government surveillance and control over the activities and engagement of liberal and human rights civic activists. Indicative of the spirit of the times were the words expressed by opposition leader Isaac Herzog, who said that the NGO Law "is indicative, more than anything, of the budding fascism creeping into Israeli society."

Policy Recommendations

1) It is important for leading democratic countries – especially those close to Israel, such as Germany, the UK, the Netherlands, France, Italy, Australia, and Canada – to express their critiques of the legislative measures of the Israeli parliament and in the public sphere. Popular anti-liberal and anti-human rights trends have the upper hand, especially since they are supported by prominent leaders such as Prime Minister Netanyahu. Nonetheless, the political reality in Israel is fluid and dynamic. Exerting pressure from the outside – especially on states that provide economic assistance not only to liberal CSOs, but also to the Israeli government, which diverts some of these resources to the promotion of nationalist projects that violate human rights – could be of great importance in insisting on democratic, liberal, and human rights values.

2) Donors, whether governments or private institutions, should not fall into the trap of the populist discourse propagated

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by nationalist CSOs that seek to blur the differences between marking violations of basic human rights of Palestinians and accusations made by nationalist CSOs that HROs protect or even assist terrorists or associated individuals and organizations. This line of thinking is propagated in order to embarrass democratic governments, which are then accused by nationalist CSOs of acting against their own official positions. Nationalist CSOs seek to link the process of assisting HROs in Israel with being anti-Israeli, or even anti-Semitic, knowing that none of the donor states would tolerate being affiliated with such activities.

The communicative strategies and discourse of nationalist CSOs, such as those of NGO Monitor, are not limited to personal meetings with state officials. They also include very sophisticated appeals to members of parliaments and to public opinion in the targeted states in order to pressure governments. Such strategies cannot be implemented without the cooperation of government officials and ministries in Israel. Since the targeted governments in Europe and elsewhere have not shied away from meeting representatives of nationalist CSOs, they have enabled them to translate their threats to appeal to the public into successful policy. These governments could and should have a say in countering arguments made by nationalist CSOs accusing them of supporting "anti-Israel NGOs." If these governments wish to help Israel save the remaining liberal and democratic spaces it has, they have to stipulate their support for the Israeli state by respecting the rights of HROs to defend their values. Furthermore, these governments should make clear that their support for the state of Israel cannot be ignored by nationalist CSOs and government officials lobbying for one-sided funding policies.

3) It is also necessary for major donors to liberal HROs to take note of the major differences between them and nationalist CSOs when it comes to their ability to influence state policies. What differentiates liberal HROs such as ACRI is that their

efforts to influence state policies focus on the legality of government decisions and avoid ideological polemics; they focus on asking the state to implement its own laws rather than seeking to change them. State laws protecting human and citizenship rights are based on values that all democratic and liberal states share. These values are not necessarily respected by nationalist CSOs, and therefore the latter cannot be put on the same level with liberal HROs. The latter have to engage in an internal battle for their mere survival in Israel in the face of common attacks orchestrated by nationalist CSOs as well as nationalist politicians and parties in the Knesset and the government.

One should note that certain donors such as the Ford Foundation have stopped supporting CSOs in Israel, making it more difficult for CSOs to fight against their own delegitimization and for their survival. It is clear that nationalist CSOs are seeking to engage liberal HROs in a survival struggle instead of defending liberalism and human rights. Liberal foundations must take note of the unique circumstances in which enemies of liberal and democratic values utilize civil society tools to fight against them.

4) It is very important for governments and donors to invite Israeli HROs and other liberal CSOs promoting democratic values to participate in public events in Europe and elsewhere in order to demonstrate their support for them, legitimate their activities, and open channels that enable the CSOs to communicate information and transmit knowledge.

5) It is very crucial that Western media pay more attention to the activities and information provided by HROs and liberal CSOs in Israel. This media coverage could be central in blocking government policies that silence and delegitimize those who are promoting democratic values.