

**Racist and Downright Illegal Decision:****Zulat's Opinion on Finance Minister's Refusal To Budget for Arab Municipalities**

Zulat for Equality and Human Rights promotes the defense of the rule of law and democracy. In June 2022, we published the report *Pseudo Democracy: State of the Regime in Israel*,<sup>1</sup> which warned against authoritarian processes such as those that have surged since the establishment of Netanyahu's latest government in December 2022.<sup>1</sup> The report looked at the growing authoritarianism of Netanyahu's governments since 2009 as reflected, among other things, in the policies, legislation, and decisions aimed at curtailing minority rights and removing the Arab public from the "political arena" out of his desire to reduce their voting rate in order to obtain a clear majority in the Knesset.

Another Zulat report, *Main Barriers in Arab Women's Employment in Israel: Public Transportation and Daycare Centers*,<sup>2</sup> looked at the institutional discrimination against Arab women and the fact that government resolutions set a low level of commitment for reducing gaps but never set out to achieve substantial equality between Israel's Arab and Jewish female citizens.

**Existing legal situation on budgeting for local authorities, Arab municipalities in particular:** While it is not explicitly enshrined in a Basic Law but recognized as a fundamental right derived from Basic Law: Human Dignity and Liberty, the right to equality as it pertains to state budget allocations is anchored both in ordinary laws and in a plethora of Supreme Court rulings. The obligation to allocate state funds equitably is stipulated in, among others, Article 3a of the Budget Foundations Law-1985, which states that these will only be doled out "based on criteria of equality."<sup>3</sup> According to the Supreme Court, Article 3a denotes the general requirement for equality in the distribution of any public resource by all government authorities and shows that the principle of equality applies to any allocation of state funds, even if there is no law explicitly stating as much.<sup>4</sup> For example, upon ruling in favor of a petition to cancel the designation of national priority areas for the purpose of allocating huge benefits in the field to education, the Supreme Court reiterated

<sup>1</sup> Eitay Mack, [Pseudo Democracy: State of the Regime in Israel](#), *Zulat*, 23 June 2022.

<sup>2</sup> Shirin Batshon, [Main Barriers in Arab Women's Employment in Israel: Public Transportation and Daycare Centers](#), *Zulat*, 20 August 2023.

<sup>3</sup> [Budget Foundations Law-1985](#), *Nevo*, 3 April 1985 (Hebrew).

<sup>4</sup> See [Supreme Court Ruling HCJ 1703/92 C.A.L. Freight Airlines Ltd v. Prime Minister et al](#), *Nevo*, 23 September 1998 (Hebrew); Article 5 of [Supreme Court Ruling HCJ 1113/99 Adalah Legal Center for Arab Minority Rights in Israel v. Minister of Religious Affairs](#), *Versa.Cardozo*, 18 April 2000.

the government's duty to conduct itself equally toward Israel's Jewish and non-Jewish citizens and affirmed that this duty is one of the foundations that make Israel a Jewish and democratic state.<sup>5</sup>

**Finance Minister Bezalel Smotrich's decision:** Contrary to the position of the professional echelons in the Finance and Interior Ministries and of Interior Minister Moshe Arbel,<sup>6</sup> Smotrich decided not to transfer to the Arab municipalities a total of NIS 314 million in state budget funds: NIS 200 million (allocations for fiscal year 2023), NIS 100 million (economic development grants), NIS 10 million (accessibility projects), and NIS 4 million (emergency preparedness upgrade). On 8 August 2023 he asserted that his decision was "final,"<sup>7</sup> and the next day he said that he would agree to release the funds only if a new oversight mechanism was established to ensure that the funds were not transferred to "criminals and terrorists."<sup>8</sup> After the Interior Ministry established that the creation of such a mechanism was unfeasible, Interior Minister Arbel entreated Smotrich to release the funds.<sup>9</sup>

**It should be emphasized that Netanyahu backed Smotrich.** A statement released on the prime minister's behalf noted that "the funds to the Arab authorities in Israel will reach their proper destination after inspection and supervision: to the Arab citizens of Israel and not anywhere else."<sup>10</sup>

**Zulat's position – This is a racist and downright illegal decision. The factual basis for it is a conspiracy theory advanced by the Right during the Bennett-Lapid government combined with the racist position and political needs of Smotrich and fellow government ministers, as described below:**

**☒ Smotrich adheres to a conspiracy theory spread during the Bennett-Lapid government, especially in the last election campaign.** According to a conspiracy

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<sup>5</sup> [Supreme Court Ruling HJC 11163/03 Supreme Monitoring Committee for Arab Affairs in Israel v. Israel's Prime Minister, Versa.Cardozo](#), 27 February 2006.

<sup>6</sup> Meirav Arlosoroff, [Even Interior Ministry Ready To Admit: Smotrich Doesn't Have a Clue](#), *TheMarker*, 6 August 2023 (Hebrew).

<sup>7</sup> Kalman Liebskind and Roy Sharon, [Smotrich to Kan Radio: It's Final – Arab Municipalities Won't Get Money](#), *Kan Radio*, 8 August 2023 (Hebrew).

<sup>8</sup> Staff report, [Israel's Netanyahu Says Funds for Arab Towns Will 'Reach Destination'](#), *i24News*, 9 August 2023.

<sup>9</sup> Meirav Arlosoroff, [Netanyahu Gets Smotrich Off Racist High Horse](#), *Haaretz*, 9 August 2023 (Hebrew).

<sup>10</sup> *Ibid.*

theory spread by the Right, including by the Likud party, the Bennett-Lapid government earmarked over NIS 50 billion for Arab society without any oversight, and the money ended up with criminal and terror organizations.<sup>11</sup> By refusing to transfer funds to the Arab municipalities, Smotrich is apparently trying to avoid admitting that this is a conspiracy theory and that he is actually acting on it.

☒ **The decision is based on the racist stance of Smotrich and fellow government ministers.**

On a number of occasions in recent years, Smotrich voiced his support for racial separation and for "encouraging" the Arab population to leave the area between the Jordan River and the Mediterranean Sea, based on a "subjugation plan" seen by academics as endorsing genocide.<sup>12</sup> Among other things, he told Arab MKs: "You're here by mistake, it's a mistake that Ben-Gurion didn't finish the job and didn't throw you out in 1948."<sup>13</sup> His fellow ministers are disciples of Rabbi Meir Kahane who advocate a complete racial separation and a full apartheid regime on both sides of the Green Line.

☒ **Smotrich's decision suits the political needs of the coalition parties ahead of the upcoming municipal elections and befits authoritarian regimes that deny minority human rights, use divide-and-rule practices, and blame their failures on minorities.**

The decision would appear to be related to his party's decline in the polls, down to the electability threshold qualifying for a Knesset seat, and the need to encourage voting for his own and other coalition parties in the upcoming municipal elections while distracting public attention from the government's dysfunction and the all-out anger about the chaos in the country due to the advancement of the regime revolution. MK David Bitan, chairman of the Knesset Economic Committee, beseeched Likud activists at a recent election rally: "It all depends on you. You must show the protesters that they cannot influence the makeup of municipal councils!"<sup>14</sup>

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<sup>11</sup> TOI Staff, '[Despicable Lie': Bennett Slams PM for 'False Propaganda' on Arab Community Budget](#), *The Times of Israel*, 26 February 2023.

<sup>12</sup> Daniel Blatman, [The Israeli Lawmaker Heralding Genocide Against Palestinians](#), *Haaretz*, 23 May 2017.

<sup>13</sup> Amy Shapiro, [Smotrich at Knesset: Ben-Gurion Should Have 'Finished the Job,' Thrown Out Arabs](#), *The Times of Israel*, 13 October 2021.

<sup>14</sup> Avi Bar-Eli, [You Must Show Protesters They Cannot Influence Makeup of Municipal Councils!](#), *Bitan Hollered – And Then Announced New Likud Acquisition*, *TheMarker*, 7 August 2023 (Hebrew).

Furthermore, local authorities are particularly furious with the government over its approval of the so-called "Arnona Law" redistributing tax revenues from wealthier municipalities to poorer ones, which sparked an uproar even among pro-Likud mayors. The Federation of Local Authorities and the Federation of Regional Government in Israel petitioned the Supreme Court to repeal the law.<sup>15</sup>

- ☒ **The decision to withhold budget allocations from all Arab municipalities across the board is illegal. The law does not authorize the Finance Minister to create a separate mechanism for the Arab municipalities but only to set general criteria/oversight for all municipalities in the country.** As noted, the decision goes against the law and court rulings about the obligation to equitable budgeting and criteria.<sup>16</sup> In the absence of a factual basis in support of Smotrich's sweeping decision (to repeat, the professional echelons in the Finance and Interior Ministries as well as the Interior Minister opposed it), the Finance Ministry under him should have, at most, implemented special measures to monitor specific municipalities, be they Arab or Jewish, whose budgets had been shown to flow to criminal organizations and activities, and even then without harming the needs and rights of residents. Smotrich probably is not interested in setting general and equal criteria/oversight, since local and regional settlement councils in the West Bank are used as a conduit of funds for the construction of illegal outposts and infrastructure for Jewish terror and Hilltop Youth activists.<sup>17</sup>
  
- ☒ **The Finance Minister's decision will exacerbate the inequality and gaps between Arab and Jewish municipalities, increase poverty, and harm the rights (e.g., to housing, health, and education) of Arab citizens, thereby violating Israel's obligations to the OECD and to credit rating agencies.** As detailed in Zulat's report

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<sup>15</sup> Michael Starr, [Local, Regional Authorities File High Court Petition Against 'Arnona Law'](#), *The Jerusalem Post*, 9 July 2023.

<sup>16</sup> See [Supreme Court Ruling H CJ 6488/02 National Board of Heads of Arab Local Councils in Israel v. Committee of Directors-General, Nevo](#), 2 June 2004 (Hebrew); [Supreme Court Ruling H CJ 4346/92 Ma'ale Center of Religious Zionism v. Education and Culture Minister, Nevo](#), 30 December 1992 (Hebrew).

<sup>17</sup> Yotam Berger, [Jewish Settlement Councils Tailor Contracts To Funnel Public Funds to Company Building Illegal Outposts](#), *Haaretz*, 28 December 2017 (Hebrew); Yotam Berger, [Binyamin Regional Council Transfers Tens of Millions of Shekels Without Specified Purpose to Amana Settlement Movement](#), *Haaretz*, 5 July 2018 (Hebrew).

*Main Barriers in Arab Women's Employment in Israel*, residents of Arab municipalities suffer from poverty, unemployment, institutional discrimination, and a lack of proper infrastructure as it is.<sup>18</sup> While previous government resolutions and "five-year plans" increasing the budgets of Arab municipalities were officially intended to reduce disparities between the Arab and Jewish sectors, in practice they were meant to reduce the gaps between Israel and other OECD countries in order to fulfill Israel's commitment to the OECD and credit rating agencies to reduce poverty and unemployment in order to strengthen and stabilize the economy.

- ☒ **This is the first time that a government minister has acted on the repeal of the reasonableness standard, which demonstrates the danger that the regime revolution would pose upon its finalization.** The amendment to Basic Law: The Judiciary abolished the Supreme Court's authority to discuss the reasonableness of a minister's decision.<sup>19</sup> There is no doubt that Minister Smotrich's decision, which completely ignores the position of the professional echelons in the Finance and Interior Ministries and of the Interior Minister, is not based on relevant concerns but is founded on extraneous and irrelevant considerations.

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<sup>18</sup> Shirin Batshon, [Main Barriers in Arab Women's Employment in Israel: Public Transportation and Daycare Centers](#), *Zulat*, 20 August 2023.

<sup>19</sup> [Basic Law: The Judiciary](#), *Nevo*, updated to 26 July 2023 (Hebrew).