

Bill to Skew Elections and Implement Rabbi Kahane's Ideology**Zulat's Position on Proposed Amendment of Basic Law: The Knesset
(Expanding Grounds for Barring Participation in Elections)¹****Introduction**

In June 2022, in its report *Pseudo Democracy*, Zulat warned that the State of Israel might slide toward an authoritarian regime, among other things, due to the steps to push its Arab citizens and their representatives out of the political arena.² In the operational chapter of the report, Zulat in fact proposed to reinforce the right to participate in elections by amending Article 7a of Basic Law: The Knesset³ as follows: incorporate Supreme Court rulings limiting the disqualification of candidates/lists to extreme and well-substantiated cases; forbid the Central Elections Committee (CEC) from barring a list/individual on such grounds as race, religion or religious group, nationality, country of origin, gender, sexual orientation, views, age, personal status, and parentage; and stipulate that a candidate would not be compelled to make any declaration whatsoever if the CEC sought to disqualify him for grounds other than the aforementioned, thus ending the requirement from Arab candidates to restate their allegiance to the state aimed at emphasizing their otherness and depict them as a "fifth column."

As will be explained below, the proposed legislation, submitted as a private bill by the coalition's chairman, MK Ofir Katz (Likud), and approved in a preliminary reading on 30 October 2024,⁴ constitutes an integral part of the regime revolution.

- The broad provisions of the bill severely and disproportionately violate the right to equality, freedom of expression, and freedom of association, and especially the right to vote and the right to be elected, which are considered fundamental rights in a democratic regime. Thus, the bill seeks to emasculate the Supreme Court's clear and consistent rulings, whereby law provisions restricting the right to be

* English-language reference. All other references in this document are in Hebrew.

¹ [Bill on Amendment of Basic Law: Knesset \(Expanding Grounds for Barring Participation in Elections-2023\)](#), Knesset's National Legislation Repository, 2 January 2023.

² Eitay Mack, *[Pseudo Democracy: State of the Regime in Israel](#), Zulat, 23 June 2022.

³ [Basic Law: The Knesset](#), Nevo, updated to 24 January 2023.

⁴ Sam Sokol and Michael Horovitz, *[Knesset Advances Legislation That Could Make It Easier to Disqualify Arab Lawmakers](#), *The Times of Israel*, 31 October 2024.

elected must be interpreted narrowly lest fundamental civil rights should be excessively circumscribed.

- It implements the ideology of Rabbi Meir Kahane, who viewed Israeli citizens belonging to the Arab minority and its representatives in the Knesset as the state's most dangerous enemies who should at the very least be deported – a position shared by senior figures in Prime Minister Netanyahu's far-right coalition.
- It constitutes abuse of power by the government and the coalition-majority Knesset to skew the elections and impede the establishment of an alternative to the far-right coalition that has been ruling the country since January 2023, coming on the heels of a similar effort in 2014 that saw the electoral threshold raised.
- It reflects the acceleration of a long-standing process to disqualify members of Knesset, candidates, and lists representing the Arab minority. Even if no candidate or list is ultimately disqualified, the proposal still serves the campaign to delegitimize political cooperation in the Knesset with representatives of the country's Arab citizens.
- It is part of a series of racist laws designed to send a message to Arabs, who constitute 20% of the country's population, that at best they are second-class citizens in the State of Israel.

Current Legal Situation: As a result of the series of amendments detailed below, Article 7A(a) of Basic Law: The Knesset now stipulates that a list of candidates/a person shall not participate or be a candidate in Knesset elections, if the goals or actions of the list/person, including their utterances, as the case may be, explicitly or implicitly negate the existence of Israel as a Jewish and democratic state, incite racism, or support an armed struggle against it by an enemy state or a terrorist organization. In addition, Article 7A(b) states that "a CEC decision barring a candidate from participating in elections requires the approval of the Supreme Court."

Proposed Amendment: The bill in question expands the option of barring candidates/lists from participating in Knesset elections and reduces judicial review. According to it, participation in elections may be barred due to support for an armed struggle, even if this support is for the armed struggle of a single perpetrator, as opposed to existing legislation barring participation in elections only if the support is for the armed struggle of an enemy state or a terrorist organization. Moreover, the ban may also be applied even if the support

is for an armed struggle against Israeli citizens, as opposed to existing legislation barring participation in elections only if the support is for an armed struggle against the State of Israel. The bill proposes to include a clause explicitly stipulating that expressions of sympathy or support would be considered sufficient for the purposes of this article, even if they were not made over an extended period of time. It also proposes to stipulate that the decision of the CEC to bar a candidate would not require prior approval by the Supreme Court and could be appealed only retrospectively.

Zulat's Position: Categorical Opposition

As noted at the beginning of this document, Zulat does not only oppose the bill but proposes to amend existing legislation in order to reduce the option of barring parties/candidates per the Supreme Court's rulings and to strengthen the right to participate in elections. Following are the main reasons for Zulat's opposition:

- The broad provisions of the bill severely and disproportionately violate the right to equality, freedom of expression, and freedom of association, and especially the right to vote and the right to be elected, which are considered fundamental rights in a democratic regime. The rights to vote and be elected, which constitute an integral part of the infrastructure of any democratic regime, are anchored in the provisions of Articles 5 and 6 of Basic Law: The Knesset. They stipulate that "every Israeli citizen aged 18 and above is entitled to vote for the Knesset" and "every Israeli citizen included in a list of candidates, aged 21 and above on the day the list is submitted, is entitled to be elected to the Knesset." Former Supreme Court President Meir Shamgar wrote in one of his rulings that "running for election is a political right that gives expression to the notions of equality, freedom of expression, and freedom of association, and hence one of the clear hallmarks of a democratic society."⁵ Former Supreme Court Justice Edmund Levy warned against public indifference to the denial of rights, particularly from minority groups: "When you deprive a person or a group of people of the right to be elected, you deny them the right to express a political view they have formed, as well as the right to take part in shaping the face of the government and to influence its actions. Indeed, supporters of democracy respond with indignation to this type of restrictions, but the outrage would seem weaker when such restrictions target minority

⁵ [Appeal 2/84 Moshe Neiman v. Chairman of CEC for 11th Knesset](#), Nevo, 15 May 1985.

groups.”⁶ In view of the status of these rights, Supreme Court rulings have clearly and consistently adopted the stance that law provisions restricting the right to be elected must be interpreted narrowly lest fundamental civil rights should be excessively circumscribed. This position is based on the perception that other means exist in the penal law to deal with members of Knesset and elected officials who advocate illegal action.⁷ The bill seeks to emasculate the Supreme Court's rulings on the matter.

- The bill implements the ideology of Rabbi Meir Kahane, who viewed Israeli citizens belonging to the Arab minority and its representatives in the Knesset as the state's most dangerous enemies who should at the very least be deported. Here is what MK Kahane stated in a Knesset plenary session on 16 March 1988: "Members of the Knesset, the problem is not the territories, nor the Arabs of the territories.... The problem, which is ignored and fled from in fear by both Right and Left, Likud and Labor, Tehiya and Ratz, Shimon Peres and Yitzhak Shamir, Yosi Sarid and Geula Cohen, Peace Now and Gush Emunim - the problem that threatens to annihilate us and to destroy the Jewish state, God forbid, the cancer that is eating at us is the Arabs of the State of Israel, the equal-rights citizens who vote, who sit here in the Knesset and make decisions, and above all, who reproduce and multiply at three times our birthrate. That is the problem. A hostile people residing among us, hating Zionism and the Jewish state and the people ruling over what they view as the lands of Palestine.... The problem is not Yasir Arafat or George Habash, but rather MKs Tawfiq Ziad, Tawfiq Toubi, Muhammad Miari, Muhammad Wattad, and Abdulwahab Darawshe. The problem is not Gaza or Tulkarm, Qalqilya or Nablus. The problem is Nazareth, Sakhnin, Shefaram, Tayibe, Tira, and Kafr Qasim. Members of the Knesset, the problem is Wadi Ara and Umm al-Fahm. In the heart of the State of Israel, in the Jezreel Valley, lies The Triangle. There, along the main road from Hadera to Afula and its surroundings, tens of thousands of Israeli Arabs are concentrated. And in the Wadi Ara area, at the center of this vast Arab population, lies Umm al-Fahm, a center of hatred and hostility toward Israel, a nest of vipers and scorpions such as Sons of the Village, Ayatollah Khomeini, and the PLO.... Members of Knesset, Umm al-Fahm is not a place but a symbol. Its hostility toward Jews, its hatred toward the Jewish state and Zionism, symbolizes the Arabs of the State of Israel. Umm al-Fahm is Nazareth. Umm al-Fahm is Shefaram, Sakhnin, Kafr Kana, Tayibe, Baqa al-

⁶ [Supreme Court Petition 11243/02 Moshe Feiglin v. CEC Chairman Mishael Cheshin](#), *Nevo*, 15 May 2023.

⁷ [Ratification 9255/12 CEC for 19th Knesset v. MK Hanan Zoabi](#), *Nevo*, 20 August 2013.

Gharbiyya, and Kafr Qasim. Umm al-Fahm is the Arabs of the Galilee and The Triangle, Yaffo and Ramla, Akko and the Negev. Umm al-Fahm is a ticking time bomb awaiting the moment of truth to explode.”⁸ This is the very same position held by senior partners in Prime Minister Netanyahu’s far-right coalition. For example, then-MK Bezalel Smotrich, currently the finance minister and head of the Religious Zionist faction, told Arab MKs in 2021 from the Knesset podium: “You are here by mistake, only because Ben-Gurion didn’t finish the job and didn’t throw you out in 1948.” He also called them “terror supporters” and “enemies,” and noted that he had “nothing to discuss” with them.⁹

- The bill constitutes abuse of power by the government and the coalition-majority Knesset to skew the elections and impede the establishment of an alternative to the far-right coalition that has been ruling the country since January 2023, coming on the heels of a similar effort in 2014 that saw the electoral threshold raised. For years, Prime Minister Netanyahu has taken diverse steps to turn Israel into a state with a one-party regime, with satellite parties orbiting around his Likud party. These efforts have been impeded in the past year due to the consistent decline in the polls in the public support for Likud and the Netanyahu-led far-right coalition due to their responsibility for the October 7th debacle. Netanyahu and the rest of his government probably believe that the way to increase his chances in the next election (scheduled for the spring of 2026, unless they are brought forward due to failure to pass the state budget or some other reason) and to thwart an alternative coalition is to exclude 20% of the country’s population from the “political arena.” The exclusion of Israel’s Arab citizens and their representatives matter to Netanyahu, both to lower the overall voter turnout in order to ensure that his partners on the Right and the Far Right (who may have a tough time qualifying for the electoral threshold) make it into the Knesset, and to prevent Arab citizens from voting for Arab and rival Zionist parties. For example, in the 2022 elections, 84% of all Arab citizens voted for Arab parties and the rest cast their ballots primarily for Zionist parties that are not part of Netanyahu’s far-right coalition.¹⁰ A similar attempt to skew the elections was made in 2014, when the government

⁸ [Minutes of 419th Session of 11th Knesset](#), which include Kakh's no-confidence motion due to the government's refusal to adopt proper measures against Umm al-Fahm and Wadi Ara's hatred toward the Israeli state, *Knesset*, 16 March 1988.

⁹ Noa Shpigel, [*Arabs 'Are Here by Mistake, Because Ben-Gurion Didn't Finish the Job,' Far-Right Leader Tells Lawmakers](#), *Haaretz*, 13 October 2021.

¹⁰ Michael Milshtein, [*The Arab Public's Votes for the 25th Knesset: Trend Analysis and Future Prospects](#), *Reichman University's Institute for Policy and Strategy*, November 2022.

drastically raised the electoral threshold to 3.25% to make it more difficult for parties representing the Arab public, which were politically divided, to enter the Knesset.¹¹ Included within broader legislation and justified by the need to strengthen governance,¹² the move failed as the Arab public saw the higher threshold as an attempt to deter them from voting. Consequently, ahead of the following elections in March 2015, the Arab parties merged under the Joint Arab List, which succeeded to win an unprecedented number of seats. In parallel, however, the higher threshold led to the emergence of "technical blocs" and the merger of lists on the extreme Right, thereby increasing their representation in the Knesset and in the government.¹³

- Even if no candidate/list is ultimately disqualified, the proposal serves the campaign to delegitimize political cooperation in the Knesset with the representatives of Israel's Arab citizens. Throughout his years as prime minister, Netanyahu has worked to thwart the possible emergence of an alternative coalition to the right-wing government under his leadership, made up of small and medium-sized Left-Center Zionist parties and Arab parties. The bill impedes pragmatic political cooperation between Jewish and Arab MKs, by labeling the very cooperation with Arab parties and their representatives as illegitimate and an act of support for terrorism. To wit, Likud's recent election campaigns have been characterized by highly divisive and inciting rhetoric, such as an ad implying that left-wing parties support ISIS, a video clip where Netanyahu declared that "Arab voters are heading to the polling stations in droves," and the slogan "It's either Bibi or Tibi."¹⁴ In the April 2019 elections the Likud party ran a campaign advocating for the placement of cameras at polling stations in Arab localities. Based on unsubstantiated claims of widespread fraud, this campaign ultimately undermined public trust in the integrity of the elections and reinforced public

¹¹ [Knesset Elections Law \(Amendment No. 62-2014\)](#), *Knesset's National Legislation Repository*, 10 March 2014.

¹² Press release, [*Knesset Passes Governance Laws; Electoral Threshold Raised](#), *The Knesset*, 11 March 2014.

¹³ Jack Khoury, [*Arab Parties Agree to Run on Joint Knesset Slate for First Time in Israeli History](#), *Haaretz*, 23 January 2015; Jacob Magid, [*How the National Religious Camp Moved From Land for Peace to Union With Radicals](#), *The Times of Israel*, 22 February 2019; Yair Altman, [First Alliance in Right-Wing Bloc: Otzma Yehudit and Noam Unite](#), *Israel Hayom*, 31 January 2021.

¹⁴ Jonathan Lis, [*Netanyahu's Newest Election Video: The Left Is Good for ISIS](#), *Haaretz*, 14 February 2015; Mairav Zonszein, [*Binyamin Netanyahu: 'Arab Voters Are Heading to the Polling Stations in Droves'](#), *The Guardian*, 17 March 2015; Gil Hoffman and Udi Shaham, [*Bibi Has Tibi-Phobia, And It's Spreading Like Coronavirus](#), *The Jerusalem Post*, 28 February 2020; Associated Press, [*Bibi or Tibi: Netanyahu Campaign Draws Accusations of Incitement](#), *Ynetnews*, 3 October 2019.

delegitimization of the Arab minority's participation and representation.¹⁵ In the November 2022 elections, Netanyahu posted on Twitter that "Ra'am is an anti-Zionist and anti-Semitic terror-supporting party representing the Muslim Brotherhood, which seeks to destroy Israel,"¹⁶ thus in effect labeling the 32% of Arab citizens who voted for Ra'am as terror supporters with whom collaboration is unacceptable.¹⁷

- The proposed bill reflects the acceleration of a long-standing process to bar members of Knesset, candidates, and lists representing the Arab citizens of Israel from running for election. Although the process began before Netanyahu's second term in 2009, his governments were the ones that enacted the amendments to Basic Law: The Knesset facilitating disqualifications and even allowing the termination of incumbent MKs. Given that the authority to bar lists, first anchored in an amendment from 1985,¹⁸ was conferred upon a body composed of politicians (the members of the CEC), judicial review of the disqualification process was enshrined in legislation. While the number of disqualifications was relatively low in the 1990s, it rose enormously after another amendment (No. 35) was enacted in 2002 that expanded the grounds for disqualification to include denial of the existence of the State of Israel as a Jewish and democratic state, incitement to racism, and support for an armed struggle against the State of Israel by an enemy state or a terrorist organization,¹⁹ and allowed barring a single candidate on a list. Another amendment enacted in 2017 (No. 46) expanded the grounds for disqualification from an individual's actions to their utterances. The aforementioned amendments paved the way for multiple requests to bar Arab candidates and lists. After Amendment No. 46, disqualifications became routine, and the Supreme Court began to intervene more frequently in the CEC's disqualifications and ratifications.²⁰ In response to a public and political uproar against then-MK Hanin Zoabi, Amendment No. 44 (known as the "Impeachment Law") enacted in July 2016

¹⁵ Noa Landau, [*PR Firm Behind Likud's Hidden Cameras in Arab Polling Sites Boasts of Lowering Voter Turnout](#), *Haaretz*, 10 April 2019; Dafna Liel, [Here Is What Likud's 'Documenting Activists' Were Instructed to Do at Polling Stations](#), *N12*, 18 August 2019.

¹⁶ [Tweet in Netanyahu's Account](#), X (formerly Twitter), 26 February 2022.

¹⁷ Michael Milshtein, [*The Arab Public's Votes for the 25th Knesset: Trend Analysis and Future Prospects](#), *Reichman University's Institute for Policy and Strategy*, November 2022.

¹⁸ [Basic Law: The Knesset \(Amendment No. 9-1985\)](#), *Knesset's National Legislation Repository*, 31 July 1985.

¹⁹ [Basic Law: The Knesset \(Amendment No. 35-2002\)](#), *Knesset's National Legislation Repository*, 15 May 2002.

²⁰ Yonah Jeremy Bob, [*High Court Green Lights Israeli Arab Heba Yazbak's Run for Knesset](#), *The Jerusalem Post*, 9 February 2020.

provides for the termination of an incumbent MK, based on a motion of the Knesset House Committee and with a majority of 90 MKs, on the same grounds as for disqualification from running for election. Although the effort to oust MK Ofer Cassif (Hadash-Ta'al) in February 2024 failed to muster the necessary majority in the plenum, the process was accompanied by wild incitement against him and all representatives of the Arab minority in the Knesset.²¹

- It is part of a series of racist laws designed to send a message to Arabs, who constitute 20% of the country's population, that at best they are second-class citizens in the State of Israel. In parallel with his endeavor to make Likud the sole ruling party, Netanyahu stepped up his efforts to enact discriminatory legislation that sends the message to Arab citizens that even in the 21st century they are still not equal-rights citizens, and should therefore give up and refrain from participating in Knesset elections. The most salient discriminatory laws enacted are: Basic Law: Israel-The Nation-State of the Jewish People ("The Nationality Law"),²² Amendment No. 116 to the Planning and Building Law ("The Kaminitz Law"),²³ the amendments to the Cooperative Societies Ordinance ("The Admission Committees Law"),²⁴ and Amendment No. 40 to the Budget Foundations Law-1985 ("The Nakba Law").²⁵

The bill to amend Basic Law: The Knesset underscores the connection between the regime revolution advanced by the current government and the ideology of Jewish supremacy, which is rooted in the persecution and exclusion of Israel's Arab citizens. Not coincidentally, the practical meaning of the proposed legislation is that it "kills two birds with one stone": it targets only Arab lists and candidates and it perpetuates the rule of Binyamin Netanyahu and the Far Right.

Author and legal consultant: Adv. Eitay Mack

²¹ Eliav Breuer, *[MK Ofer Cassif Avoids Impeachment in Political Drama, Vote Splits Coalition and Opposition](#), *The Jerusalem Post*, 19 February 2024.

²² [Basic Law: Israel-The Nation State of the Jewish People](#), *Nevo*, updated to 18 September 2023.

²³ [Planning and Construction Law \(Amendment No. 116-2017\)](#), *Knesset's National Legislation Repository*, 25 February 2020.

²⁴ [Cooperative Societies Ordinance \(Amendment No. 8-2011\)](#), *Knesset's National Legislation Repository*, 22 March 2011.

²⁵ [Budgetary Principles Law \(Amendment No. 40-2011\)](#), *Knesset's National Legislation Repository*, 22 March 2011.