



**ZU-LAT**  
Equality and Human Rights

**PROTECTION BY STATE INSTITUTIONS**

**Human Rights Commissions  
and State Comptroller**

**Authors:**

**Eyal Lurie-Pardes**

**Attorney Mor Harnik Blum**

**Einat Ovadia**

**Policy Paper No. 8 (A)**

**March 2021**

© All rights reserved

# SUMMARY

This operational policy paper seeks to thoroughly examine ways to strengthen the protection of human rights by state institutions in Israel and to ensure their ability to promote them. It was written in the aftermath of a survey conducted by Zulat – for Equality and Human Rights in February 2021, which found that the vast majority of Israelis believe that human rights issues are not the top priority of the parties running in the upcoming Knesset elections. At the same time, many respondents said, the degree of the parties' commitment to human rights would affect their vote.<sup>1</sup>

Consequently, following a comparative study of human rights protection by state institutions in other countries and regimes and of the diverse measures they have adopted on the matter, we would like to propose a number of solutions and operational steps. The implementation of these measures will ensure a better and fuller protection of human rights in Israel, significantly improve the way in which authorities and state institutions address the issue, and cement this protection by independent non-governmental entities.

Our research focused on state solutions that guarantee the protection and preservation of human rights regardless of subject matter, independently and regardless of the incumbents at any given time.

We therefore propose the following steps:

- 1. Establishing a national human rights commission in Israel.**
- 2. Establishing human rights commissions in local authorities.**
- 3. Anchoring the State Comptroller's role as chief protector of human rights in the existing basic law.**

---

<sup>1</sup> To read the full survey, [click here](#)

# STATE INSTITUTIONS PROTECTING HUMAN RIGHTS - IN ISRAEL AND WORLDWIDE

Throughout its 72 years of existence, Israel has scored impressive achievements in human rights struggles. Civil society organizations, as well as Israel's citizens, have often proved their readiness to fight rather than abandon the demand for freedom of expression, equality, and social justice.

However, the State of Israel has lagged behind when it comes to establishing independent, neutral, and effective state institutions to protect, preserve, and promote human rights. For the sake of comparison, Zulat checked and found that over 120 countries have at least one state body in charge of promoting and protecting human rights.<sup>2</sup>

Our research led us to the realization that the establishment of human rights commissions, at both the national and municipal levels, will guarantee the protection of human rights in Israel in a more consistent, meaningful, and effective manner.

## Human Rights Commissions Worldwide

The Paris Principles,<sup>3</sup> ratified by the UN General Assembly in 1993, laid the basis for the establishment of human rights commissions in countries around the world, and set down clear and uniform criteria for examining the effectiveness of state institutions in protecting and promoting human rights.

---

2 National Human Rights Institutions: History, Principles, Roles and Responsibilities, pp. 167-170, UN High Commissioner for Human Rights, 2010

3 Principles Relating to the Status of National Institutions (The Paris Principles), UN High Commissioner for Human Rights, 20 December 1993

These criteria include autonomy from government, a broad mandate guaranteed by statute, real ability to protect and promote human and civil rights, adequate and independent budgets, adequate authority to investigate public complaints and conduct inspections, responsibility and authority to publish reports, recommendations, and opinions, and responsibility to promote national legislation that is consistent with international obligations.<sup>4</sup>

Since then, the UN General Assembly has repeatedly emphasized the important role that state institutions play as they are a cornerstone in the ability to protect and promote human rights within the borders of a state.<sup>5</sup>

## **Roles Played by Human Rights Commissions**

As part of their role as human rights protectors, the commissions created in many countries discharge two roles:

### **1. Protection of Human Rights**

Commissions assist with the identification and investigation of human rights violations committed by government entities. They submit recommendations for legislative changes to help prevent violations, and are responsible for operating a call center where citizens may report personal grievances.

### **2. Active Promotion of Human Rights**

Commissions conduct informative activities to teach the general public about the importance of human rights. They initiate legislative proposals and government measures to advance human rights, and assist with the rectification of failures by the authorities.<sup>6</sup>

---

<sup>4</sup> [From \State Comptroller to Human Rights Commissioner - A Short and Necessary Way](#), Eli Marzel, Matan Gutman and Alon Rodas, Studies in State Audit 63, State Comptroller's Office, 2018 (Hebrew)

<sup>5</sup> [Ibid](#), p. 52

<sup>6</sup> [UN High Commissioner for Human Rights](#) (see note 2), p. 21

## How Do Commissions Carry Out These Roles?

- A. They function as liaisons between human rights organizations in civil society on the one hand, and the government and the legislative branch on the other.
- B. They serve as liaisons between the state and international human rights bodies. This enables them to issue updates and regular reports and to coordinate the presentation of updates and reports to the UN Commission on Human Rights.
- C. They provide highly effective and efficient representation, legal protection, and guidance to marginalized minority groups (especially when they require representation before government bodies in cases of discrimination and exclusion).<sup>7</sup>

## **The Situation in Israel Today**

Although a human rights commission has yet to be established in Israel, some of the functions such a commission would fulfill are already carried out today by three major bodies:

1. Equal Employment Opportunity Commission:

Established in 2005, it is responsible for raising public awareness about the importance of equality in the workplace, handling complaints of discrimination at work, and in some cases even filing lawsuits in Labor Court.

2. Commission for Equal Rights of Persons with Disabilities:

Established in 2000, it is responsible for the implementation of the UN Convention on the Rights of Persons with Disabilities, enforcement of accessibility regulations, measures to prevent discrimination and promote the integration of people with

---

7 Ibid, p. 22

disabilities in Israeli society, and for formulating initiatives for government and parliamentary policy on the subject.<sup>8</sup>

### 3. Office of the National Anti-Trafficking Coordinator:

Established in 2006 following the activities of the Knesset Committee for the Struggle Against Trafficking in Women led by former MK Zehava Galon.<sup>9</sup> Operating within the Ministry of Justice, the office serves as a liaison between the Israeli state vis-a-vis civil society and international bodies and is responsible for assisting in the formulation of government and parliamentary policy and for issuing annual reports about human trafficking in Israel.<sup>10</sup>

---

8 Ministry of Justice's Commission for Equal Rights of Persons with Disabilities (Hebrew)

9 [Knesset Committee for the Struggle Against Trafficking in Women](#) (Hebrew)

10 Ministry of Justice's Coordination of the Fight Against Trafficking of Human Beings

# ISRAEL HUMAN RIGHTS COMMISSION: COMPREHENSIVE PROTECTION BY STATE INSTITUTIONS

The status of human rights and their protection are of concern to every Israeli and directly impacts them. In a survey conducted by Zulat in February 2021, over 88% of respondents indicated that the right to earn a decent living, the right to health services, and the right to equality before the law were very important to them.

Despite the global consensus regarding the importance of creating a national institution for the protection and promotion of human rights, such a commission has yet to be established in Israel. A bill to this effect was submitted in the past, but not in the current Knesset.<sup>11</sup> The bill incorporated all the components of the Paris Principles, as well as conclusions reached by commissions in other democratic states. Under the bill, the commission would be assigned the two traditional roles recommended by the UN: protection and proactive promotion of human rights.

## **National Human Rights Commission**

The aforementioned three Israeli entities focus on specific subjects only. In contrast, the National Human Rights Commission would be a consolidated national body that would offer state protection of all human rights. It would examine the status of different rights and recommend broad steps independently of government ministries and regardless of subject matter.

## **Operational Recommendation**

We recommend adopting the bill that was submitted in the past.

---

<sup>11</sup> [Human Rights Commission Draft Bill](#), 11 May 2015 (Hebrew)

Its adoption will lead to the creation of a National Human Rights Commission that will meet international standards and will best ensure the protection of human rights and their promotion by state institutions.

### **Municipal Government Human Rights Commission**

Local authorities in Israel wield great power and authority. As such, they can significantly influence human rights problems within their municipal boundaries. In our view, these commissions should be given some of the same powers assigned to the national commission, as spelled out in the Paris Principles.

In light of the lack of checks and balances in Israel's municipal government (due to weak local opposition and media), we attach even more importance to the creation of an effective municipal mechanism for the protection and promotion of human rights. Municipalities could handle such topics as the right to vote, the right to freedom of expression, socio-economic rights, workers' rights, gender equality, and at times even the rights of asylum seekers.

### **Operational Recommendation**

Under the model we propose, local commissions will be established to ensure the protection and promotion of human rights on the municipal level. It is a modular model in order to enable local authorities to adapt it to their size, the resources at their disposal, and the nature of the challenges they face.

# STATE COMPTROLLER: CHIEF PROTECTOR OF HUMAN RIGHTS

Along with the recommendations on the establishment of commissions, our research brought Zulat to the realization that amending Basic Law: The State Comptroller can round out the protection of human rights in Israel and significantly guarantee their preservation.

What we propose is a relatively minor legislative change that is easy to implement and enforce.

## Basic Law Amendment to Include Human Rights Protection

Since the State Comptroller is best positioned to fulfill the role of protector of human rights, we seek to include this role within his duties under law.

According to the basic law, one of the State Comptroller's duties is to examine the legality of the Israeli Government's actions.<sup>12</sup> Indeed, since the 1990s, the institution of the State Comptroller has increasingly been dealing with human rights issues,<sup>13</sup> both as part of these duties and in his additional capacity as ombudsman.<sup>14</sup> In fact, he could be appointed Israel's de-facto human rights commissioner based on his current powers under the law without necessitating any constitutional change.<sup>15</sup>

Prof. Aharon Barak, former president of the Supreme Court, frequently addressed this issue, saying that given the constitutional status accorded to Basic Laws in a Supreme Court ruling in 1995, human rights issues are supposed to be part of the State Comptroller's examination of the legality of government actions.<sup>16</sup> Barak also said that "as long

---

12 [Basic Law: The State Comptroller, Article 2\(b\)](#)

13 [Marzel, Gutman, and Rodas](#), p. 61 (see note 4) (Hebrew)

14 [Ibid](#), p. 68 (see note 4)

15 [Ibid](#), p. 70 (see note 4)

16 State Comptroller and Human Rights in Israel, p. 1, 2019 (Hebrew)

as there is no special legislation in the matter of a Human Rights Commission, it is incumbent upon the State Comptroller, both as part of his overall duties and in his capacity as ombudsman, to see the role of Human Rights Commissioner as one of his duties."<sup>17</sup>

Indeed, human rights have increasingly featured in State Comptroller Reports over the years, covering such issues as food security, treatment of foreigners and asylum seekers, education, prevention of racism, non-implementation of social rights, and employment of minorities and people with disabilities.<sup>18</sup> Furthermore, in light of his regular proactive auditing of state authorities, the State Comptroller appears to be the institution best positioned to promote the protection of social rights.<sup>19</sup>

It should be noted that the previous State Comptroller, Adv. Yosef Chaim Shapira, wrote this explicitly in the State Comptroller's Manual published in 2015: "State auditing has changed emphases and approaches over the years [...] and today focuses on the preservation of individual rights and democratic values."<sup>20</sup>

Shapira made this even clearer in another document: "Given that we live in the constitutional age after 'the rights revolution,' it is both the obligation and the right of the State Comptroller and the Ombudsman to play a central role in the realization of our constitutional democracy. In keeping with my policy, the State Comptroller and Ombudsman examines whether the actions of the audited bodies meet the stipulations of human rights laws in the broad sense of the term."<sup>21</sup>

### **Operational Recommendation**

We propose to add subsection (c) to Article 2 of Basic Law: The State Comptroller, to read as follows: "The State Comptroller will be in

---

<sup>17</sup> [Ibid](#), p. 70

<sup>18</sup> [Marzel, Gutman, and Rodas](#), p. 71 (see note 4) (Hebrew)

<sup>19</sup> [The Role of the State Comptroller in the Defense of Human Rights – Social Rights as a Case Study](#), Judge Salim Jubran, p. 47, 2018 (Hebrew)

<sup>20</sup> [State Comptroller: Professional Guide](#), Article 1.3, (Hebrew)

<sup>21</sup> [State Audit's Protection of Human Rights in the Constitutional Age](#), Yosef Chaim Shapira, 2015 (Hebrew)

charge of examining the implementation of Israeli and international human rights law in all government authorities.”

Over the years, there has been considerable and welcome progress in the way the State Comptroller fulfills his two main functions: examining the legality of the Israeli Government’s actions and as de-facto human rights commissioner. However, this duty must be enshrined in the basic law, so that it does not hinge solely on the way a particular state comptroller conceives his duties. Moreover, anchoring this duty in law will give the state comptroller the power and public legitimacy to expand his involvement in such matters.

Such a step will noticeably guarantee the protection of human rights by state institutions until a national human rights commission is established (a move likely to take some time). Assigning this duty to the State Comptroller’s Office is even more essential in light of his ability to examine not only government ministries but also local authoriti



In May 2020, we launched Zulat for Equality and Human Rights, a unique institute that combines research and analysis via social media networks and conventional media, and acts as a bridge between the political arena and civil society. Zulat's studies portray the political and public reality, but our work only begins there. As an activist think tank, we fight back by working to set an alternative agenda, change the public discourse, and advance policy and legislation to uphold democracy and human rights. We represent a broad perspective on human rights, that looks at universal rights, civil rights - private as well as collective, and social rights – as a whole. We believe all different types of rights depend and relay on one another.

[Read our full mission statement](#)

Contact us: [info@zulat.org.il](mailto:info@zulat.org.il)

Zulat website: [zulat.org.il](http://zulat.org.il)

Donations: [Fund Me by IsraelGives](#)