

Zulat's Position on Israel Police's Disproportionate Use of Force and Overpolicing in Civil Protests Against Regime Revolution

- Zulat for Equality and Human Rights promotes the protection of the rule of law and democracy, and concerns itself with the strengthening of authoritarian processes in the State of Israel over the years. These processes have accelerated since the establishment of the 37th government on 29 December 2022, as shown in Zulat's report *The Regime in Israel: Quasi-Authoritarian State En Route to Dictatorship*.¹ The report reviews the moves that have today brought Israel to the brink of full authoritarianism, after the government declared its intention to advance a legislative program aimed at subordinating the Israeli justice system to the executive branch.
- Civil protests unprecedented in scope and duration broke out in response to the 37th government's pronouncements. At various points throughout this period and even more so in recent weeks, Israel Police have used disproportionate force, including such measures as false arrests, unlawful restrictions on protests, and violence against non-violent demonstrators protesting the government's actions,² at a time when the National Security Minister is openly and avowedly seeking to interfere with the authority of the police.
- **Zulat's position:** The use of force against demonstrators, including false arrests, unlawful restrictions, and violence against non-violent protestors, violates a series of binding rulings issued by the Supreme Court regarding freedom of protest against the government (see below). In light of the fact that the demonstrators are protesting the government's intention to expand its own powers and weaken the judicial system, the breach of law provisions and existing rulings pertaining to this issue inevitably gives rise to fear of politicization of the Israel Police and casts a heavy shadow on their ability to fulfill their role as the institution in charge of preserving the right of protest of Israel's citizens.
- In view of the extraordinary legislative amendments enacted on the basis of the coalition agreements, which give the National Security Minister the authority to

¹ Eitay Mack, [The Regime in Israel: Quasi-Authoritarian State En Route to Dictatorship](#), *Zulat*, 28 May 2023 (Hebrew).

² TOI Staff, [Police Arrest 17 at 'Illegal' Anti-Government Protest at Netanyahu's Caesarea Home](#), *The Times of Israel*, 3 June 2023.

intervene in Israel Police's professional procedures,³ as well as his statements that he expects the police to use violence against non-violent protesters who object to his appointment on political grounds,⁴ a serious crisis of confidence has erupted between hundreds of thousands of citizens and the Israel Police, whose image as an independent body has suffered extensive damage.

- Against the backdrop of this unprecedented reality, on 18 June 2023, the Supreme Court issued an interim injunction against the aforementioned legislative amendments, and demanded that the state respond within 90 days as to why these should not be repealed.⁵ The injunction came shortly after dozens of former police commissioners and senior officers wrote to Netanyahu that Ben-Gvir as National Security Minister poses "a tangible and immediate danger to the security of the State of Israel."⁶ In addition, in response to his interference in the police's operations in a number of protest incidents, the Supreme Court ruled in March 2023 that the National Security Minister must "refrain from giving operational orders to the police, either directly or indirectly, especially with regard to anti-government protests and demonstrations." In response, Ben-Gvir reportedly called the ruling a "coup," and stated that the Israel Police Ordinance should be amended once again to ensure not only that the National Security Minister can set police policy, but also to make sure that this policy is implemented in the field.⁷ All the above attest to the unprecedented damage inflicted by the National Security Minister on the public's trust in the Israel Police and on its ability to do its work impartially.
- Supreme Court ruling on freedom of protest: The right to protest is a protected constitutional right derived from the interpretation of Basic Law: Human Dignity and Freedom.⁸ Over the years, the judicial system has provided extensive protection to this right as a cornerstone of Israel's democratic regime. For example, the Honorable Judge Alex Stein ruled in 2019 that the police must meet criteria of reasonableness in their use of force against ultra-Orthodox demonstrators "since the right of a person to

³ [Law on Amendment of Police Ordinance \(No. 37\)-2022](#), Knesset, 28 December 2022 (Hebrew).

⁴ Carrie Keller-Lynn and TOI Staff, [Amid Police Clash With Protesters, Ben-Gvir Vows 'Zero Tolerance for Anarchists'](#), *The Times of Israel*, 1 March 2023.

⁵ Chen Maanit, [Top Court Orders Government To Justify Expanding Far-Right Ben-Gvir's Powers Over Israel Police](#), *Haaretz*, 18 June 2023.

⁶ TOI Staff, ['A Tangible, Immediate Danger': Ex-Police Chiefs Call To Remove Ben-Gvir as Minister](#), *The Times of Israel*, 10 June 2023.

⁷ Jeremy Sharon, [Top Court Says Police Don't Take Orders on Protests From Ben-Gvir, Who Slams 'Coup'](#), *The Times of Israel*,

⁸ [Supreme Court Ruling 2481/93 Yosef Dayan v. Jerusalem Police Commander Yehuda Wilk](#), *Takdin*, 9 February 1994 (Hebrew).

demonstrate and protest is one of the cornerstones of our constitutional regime, and as such it deserves special protection against actions by the authorities that might have a chilling effect and deter citizens who want to demonstrate and protest.”⁹

Pursuant to the above, Supreme Court Ruling 1775/20 Movement for Quality Government in Israel v. Jerusalem Municipality proclaimed that “not every breach of the order or security justifies restricting the right to demonstrate, and it is not enough that a demonstration should cause discomfort, or even great discomfort, to prohibit it. To the extent that the Israeli public wants to live in a democracy, it must, like any civilized country, develop a level of tolerance toward demonstrations, despite the harm to daily routine and the discomfort they cause at times.” Regarding the application of criminal law to protests, the Honorable Judge Muki Landman stated in 2004 that “in a democracy, it is vital to preserve the right to protest and to be careful not to invoke criminal law every time an offense has been allegedly committed during a demonstration. The tension between freedom of expression and the right to protest on the one hand, and maintaining order and protecting the public on the other, at times requires the ‘stretching’ of criminal law, so that rights and freedoms live side by side. As long as no clear line spilling into the criminal has been crossed, law enforcement authorities ought to refrain from using their power, including their power to file indictments.”¹⁰

- In conclusion, Zulat's position is that the Israel Police must stop violating the existing law with regard to the government's duty to proceed very carefully and cautiously when it comes to preventing protests, especially when they are of a distinctly non-violent nature. In view of the fact that the demonstrators are protesting the government's intention to politicize the judicial system, the use of disproportionate force clearly exacerbates the serious crisis of confidence between the Israel Police and the citizens, which has intensified even more on account of the unprecedented conduct of the National Security Minister. For these reasons, the police must enforce the court's rulings regarding freedom of protest and take extra care to safeguard the right of protest of Israeli citizens.

Author: Adv. Nimrod Gorenstein

Legal consultant: Adv. Eitay Mack

⁹ [Supreme Court Ruling 346/21, Truth and Justice NPO v. Israel Police, Nevo](#), 29 July 2021 (Hebrew).

¹⁰ [Tel Aviv Magistrate Court Ruling 5145/04 Israel Police's Criminal Indictments Department v. Eylon Uri et al, Nevo](#), 3 October 2006 (Hebrew).