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PCATI and Zulat's Position on the Amendment of Criminal Procedure Law: Stricter Conditions for Release on Bail

The Public Committee Against Torture in Israel (PCATI) and Zulat for Equality and Human Rights wish to express their opposition to the draft amendment submitted to the Knesset: Criminal Procedure Law (Powers of Enforcement – Arrests): Stricter Conditions for Release on Bail-2023.

The bill seeks to significantly tighten the conditions for release on bail that a commanding police officer may impose on detainees. According to the proposed amendment, a commanding police officer will be able to bar entry to a certain geographic area for 90 days (instead of 15 days at present), ban an assembly for 90 days (three times the permitted period at present), confine a person to a specific place for 30 days (instead of 15 days at present), and impose house arrest for 15 days (versus 5 days at present).

PCATI and Zulat warn that the bill will cause disproportionate harm to citizens, who will be subject to restrictive and unreasonable conditions before any indictment has been filed. It will lead to an increase in unnecessary arrests of those unable to meet the conditions for their release and it may seriously harm the rights of detainees because it will give investigating officers far-reaching authority to impose restrictive conditions for long periods without any proper judicial review.

Moreover, our main concern is that under the guise of the need to fight serious crime, police officers, be they senior or junior, will be at liberty to impose draconian restrictions on citizens, including so-called offenses related to political protest, participation in demonstrations, and freedom of expression.

The right to demonstrate is one of the main basic civil rights in Israel, a fundamental right that shapes the democratic character of the country. Demonstrations enable the citizen or resident's active participation in political and social processes and attest to a positive social-civic involvement that deserves to be encouraged. Demonstrations are a central tool for raising issues to the public agenda and bring to light claims about political and social injustices. They allow protesters to voice their opinion and try to influence decision-makers in democratic ways. Likewise, the right to demonstrate is an essential component of a person's overall freedom of self-expression and autonomous thought. For these reasons, the Supreme Court recognized it as a constitutional right and an integral part of the freedom of political expression.



As determined in Supreme Court rulings, the policy toward suspects who commit offenses related to their participation in demonstrations should be one of reduced enforcement in order not to harm a constitutional right or the desire of Israel's citizens/residents to make their voices heard and take part in the political process. The court also ruled that the Israel Police must respect the right to demonstrate, and not only are they not allowed to unnecessarily restrict it but are obliged to assist in its realization. In view of the high status of the right to freedom of expression and demonstration, the court declared that not every breach of the order or security justifies restricting the right to demonstrate, and that 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.

In practice, the Israel Police has built a "bypass route" to the rulings that reduced license requirements and restrictions on rallies and marches by using the commanding police officer cited in Article 42(b) of the Criminal Procedure Law (Powers of Enforcement - Arrests)-1996 to set draconian conditions for release from detention, which primarily aim to prevent a person from exercising their right to demonstrate.

Usually, the terms of release do not explicitly state that a person is prohibited from participating in any demonstration whatsoever but set conditions that keep detainees away from entire regions or cities where demonstrations are taking place, and for extended periods at that. In other words, these conditions are clearly aimed at preventing a person from continuing to participate in a protest that is close to his heart and views. Since this constitutes a violation of the basic right to demonstrate and of the democratic character of the State of Israel, the tribunals and appellate courts hearing the cases either cancel these conditions altogether or significantly reduce them.

In light of this reality and due to the special sensitivity of so-called offenses related to freedom of expression and protest, PCATI and Zulat are of the opinion that not only should police officers not be awarded broader authority to restrict detainees, but their ability to enact far-reaching restrictions on freedom of expression, protest, and demonstration should be substantially limited. Such restrictions, to the extent that they are necessary, should be imposed in exceptional cases, sparingly, and in consultation with legal counsels.

Therefore, we call on MKs of all factions of the House to strongly oppose Criminal Procedure Law (Powers of Enforcement - Arrests): Stricter Conditions for Release on Bail-2023.