

Administrative arrests - a dictatorial regime's weapon against the public

Zulat's position regarding the proposal to grant powers to the Minister of National Security to issue administrative arrest orders and impose restrictions on the liberties of citizens and residents of the State of Israel

The proposed amendment: The private bill expected to be discussed by the Ministerial Committee for Legislation on 2.7.23 proposes to give the Minister of National Security the authority to issue administrative arrest warrants within the territories of the State of Israel for vague reasons of public security. In addition, it proposes to impose restrictions on a person's liberties, such as movement within the state and exit from it, prohibiting Internet use, prohibition of work or employment in a specific place, an obligation to live in one particular location, and more.¹ This follows Amendment 37 to the Police Ordinance [New Version], 1971, which already officially anchored the politicization of the police by subjecting it to the Minister of National Security and also solidified the Minister's authority to formulate policy and determine the enforcement and investigation policy of the police.²

Zulat's position

- ☒ Zulat opposes the administrative arrest of any person. Although international law permits preventive arrests in exceptional security circumstances, these arrests contradict every person's fundamental right to a fair trial and the rights to dignity, freedom, and equality. Already today, the State of Israel makes extensive use of the tool of administrative detention to hold in mass detention Palestinians, men, women, and even children, without conducting legal proceedings against them, without presenting evidence at the required level, and without giving them and their representatives a real opportunity to defend themselves and respond to the evidence.
- ☒ The proposal befits dictatorial regimes such as China, Russia, Vietnam, Venezuela, and Belarus, which use such tools for internal purposes. In these countries, preventive arrests are frequently used to limit the freedoms of human rights activists, opposition activists, minorities, and journalists - who criticize the regimes and undermine them -

¹ [Proposed Administrative Powers Law \(Detentions and Restrictions\) \(Temporary Order\)](#), 2023

² Eitay Mack, [The Regime in Israel: Quasi-Authoritarian State En Route to Dictatorship](#), *Zulat* (28.5.2023), pp.14-13

and to deter others from joining the opposition. In Israel, the proposal comes at a time of heightened security threats, compounded by the failure of law enforcement agencies to deal with crime in Arab society. This context will justify the severe violation of the rights of the Arab minority and other minorities and protesters against the government.

- ☒ The proposal is not constitutional and even more draconian than the special permission provided by international and Israeli law for administrative arrests and imposing restrictions on liberties. The proposal will violate rights protected by the Basic Law: Freedom of Occupation and the Basic Law: Human Dignity and Liberty. The proposal does not require a state of emergency or a person to be an exceptional threat to state security. It will also allow the issuance of arrest orders and imposition of restrictions to prevent any criminal offenses. The proposal will also violate Israel's international obligations under the treaties to which it is a party - particularly, the International Covenant on Civil and Political Rights (1966) - and customary international law.
- ☒ The proposal would allow the Minister of National Security to bypass the legal process and criminalize actions that are not considered offenses, in a manner that resembles non-democratic regimes. The proposal would allow the denial of a person's liberties without evidence required by criminal law or based only on "intelligence information". This information can be all but entirely concealed from detainees and their legal representatives. In addition, the Penal Law 1977 includes a long list of offenses incorporated from the British Mandate. These offenses are vaguely formulated and limit freedom of expression and protest. Therefore, the State Prosecutor and the Attorney General have yet to file indictments based on these regulations. The proposal would allow the Minister to enforce these political offenses - arcane as they might be.
- ☒ The Minister of National Security, Itamar Ben-Gvir, has repeatedly proved that he abuses his powers for political purposes, especially his intervention in how law enforcement handles protesters objecting to the regime revolution. In a discussion in a special Knesset committee, the deputy to the Attorney General, Dr. Gil Limon, said their fears regarding Amendment 37 to the Police Ordinance had been realized: "Our investigations, as well as statements and tweets by the minister, heightened our

concern that the minister is issuing specific instructions about specific events. In our opinion, the way this is implemented does not conform to police independence".³

- ☒ After amendment 37 to the Police Ordinance already curtailed its independence, the Chief of Police can no longer be considered as the authority in charge when he requests the Minister of National Security to issue an administrative arrest order or impose restrictions on a person's freedoms. For example, the candidate favored by the Minister of National Security, Commissioner Yoram Sofer, said in an interview that he sees no reason to say "no" to the minister.⁴ In addition, concerning the protests against the regime revolution, the police already abused their powers to prevent a person from exercising his right to protest by setting draconian bail conditions. Rather than stating explicitly that a person is forbidden to participate in any protest, bail conditions are set to keep arrested protesters away from areas or cities where the protests occur for extended periods. Since this violates the fundamental right to protest and the nature of a democratic regime, the courts or appeal panels dealing with these bail conditions repeatedly cancel or significantly limit them.

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³ Noa Shpigel, [Deputy to the Attorney General: Although only part of it was approved, our fears about the Police Ordinance have materialized](#), *Haaretz* (14.3.23)

⁴ Yossi Mizrahi, [The leading candidate to the Chief of Police: "why should I say no to the minister?"](#) *N12* (18.6.23)