

Eighteenth Knesset

Proposed by Members of Knesset:

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Proposed Basic Law: Social Rights

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| Basic principles | 1. | The basic rights of a person in Israel are based on the recognition of the value and sanctity of human life and of the freedom of human beings, and these rights will be respected in the spirit of the principles underlined by the Declaration of Independence of the State of Israel. |
| Purpose | 2. | The purpose of this Basic Law is to protect the individual's social rights and dignified living without discrimination, in order to enshrine in a Basic Law the values of the State of Israel. |
| Social rights and the state's obligation | 3. (A) | Every person has the right to have their human needs guaranteed in a decent and appropriate level in order to enable them to live in human dignity, including the realization of the rights stipulated in this Basic Law, in an egalitarian manner and without discrimination. |
| | (B) | The state is obligated to the ongoing development and advancement of the conditions ensuring the realization of social rights, until allocating the majority of the resources available to it, in a gradual manner in accordance with its economic capability. |
| Dignified living | 4. | Every person is entitled to a decent standard of living enabling a dignified existence, including the assistance and social services required in the event of unemployment, sickness, incapacity for work, becoming widowed, old age, or other want. |

- Nutritional security 5. Every person is entitled to access to clean water appropriate for drinking and to nutritional security, including access to nourishing and safe food, in a sufficient quantity according to the person's physical needs, preferences, and what is required for an active and health life.
- Housing 6. Every person is entitled to appropriate, affordable, and accessible housing; to protection from arbitrary eviction; to the protected possession of their place of residence; and to access to services and infrastructures in the vicinity of their place of residence. Every person has the right to choose their place of residence as they wish.
- Health 7. Every person is entitled to enjoy the best available standard of physical and mental health, including the right to a healthy environment, the right to access to preventative medicine, and the right to receive medical treatment through national health insurance. National health insurance is based on the principles of justice, equality, and mutual aid, whereby medical treatment will be provided without the need for direct payment and under considerations of medical need only.
- Education 8. Every person is entitled to education in the framework of free state education until the age of 18, or in the framework of another institution recognized by the state in accordance with the conditions that have been established. Every person is also entitled to higher education that is accessible to all.
- Social security 9. Every person is entitled to social security, including by means of social insurance.
- Employment 10.(A) Every person has the right to work for a living in a job that they choose freely.
- (B) Every person is entitled to enjoy fair pay and equal wage for work of equal value, decent work and employment conditions, a safe and healthy working environment, and paid rest and vacation.
- (C) The state will act to promote the realization of the right to work by taking steps to increase employment and to promote populations and individuals who wish to participate in the working world.

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| Workers' and employers' organizations | 11. | Workers are entitled to associate in workers' organizations as they choose, and employers are entitled to associate in employers' organizations as they choose. These organizations are permitted to negotiate and to associate in collective agreements, all in accordance with the principles of labor law. |
| Strikes | 12. | Workers are entitled to strike, in accordance with the principles of labor law, in order to protect their rights and to promote their economic and social interests. |
| Equality | 13. | Every person has the right to equality. A person must not be discriminated against in the realization of the rights in accordance with this Basic Law on the grounds of sex, sexual orientation, gender identity, personal status, age, race, origin, religion, nationality, beliefs, possessions, descent, or any other status, with the exception of a provision intended to correct existing discrimination or to promote the actual equality of a group formerly subjected to discrimination. |
| Violation of rights | 14. | Rights in accordance with this Basic Law are to be violated solely by a law consonant with the values of the State of Israel, intended for an appropriate purpose, and to a degree that does not exceed what is required, or by a law as stated on the basis of explicit authority therein. |
| Right to access the courts | 15.(A) | Any person is entitled to turn to the court in order to realize their rights in accordance with this law. |
| | (B) | Any person is entitled to appropriate and accessible representation by an attorney in a legal proceeding for the realization of rights in accordance with this law. |
| Applicability | 16. | All government authorities and anyone acting on their behalf are obliged to respect the rights in accordance with this Basic Law. |
| Stability | 17. | Emergency regulations cannot change this Basic Law, temporarily suspend its validity, or establish conditions within it; however, when the state faces an emergency situation, emergency regulations may be enacted on the basis of Article 39 of the Basic Law: The Government, which could negate or restrict basic rights in accordance with this Basic Law, provided that the negation or restriction shall be for an appropriate purpose and to a degree not exceeding what is required. |

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| Rigidity | 18. | This Basic Law is to be amended only by means of a Basic Law adopted by a majority of the Members of Knesset. |
| Transitional provisions | 19. | Legislative provisions that, were it not for this Basic Law were valid prior to the enactment of this Basic Law, shall remain valid until the end of five years from the date of enactment of this law, unless they have been nullified or amended prior to that. However, the interpretation of the said provisions shall be in the spirit of the provisions of this Basic Law. |

Explanatory Notes

In 1950, the Knesset has decided that the constitution of the State of Israel “shall be constructed section by section, in such manner that each section shall constitute a Basic Law in its own right.” The section addressing human rights, which constitutes a major part of any constitution in a democratic country, has yet to be completed. In 1989, the Ministry of Justice prepared a Basic Law: Basic Human Rights. The proposed draft was discussed by the Knesset Constitution, Law, and Justice Committee, but it was eventually decided that Israel’s Bill of Rights would itself be legislated section by section, and the comprehensive proposal was divided into several proposed Basic Laws.

In March 1992, the Knesset passed two Basic Laws relating to human rights – the Basic Law: Human Dignity and Liberty and the Basic Law: Freedom of Occupation. These two Basic Laws have become cornerstones in the constitutional law of the State of Israel and have transformed the rights stated therein from unwritten rights to written and legislated rights that enjoy a supra-legal status. Other rights, which are also part of the system of basic rights in Israel, have not yet been explicitly included in the Basic Laws of the state. The process of enshrining these rights should continue, since the existing state of affairs, in which only part of the recognized basic rights have achieved legal enshrinement, renders the Basic Laws an incomplete constitution.

The social rights of human beings are no less important than their civil and political rights and do not substantively differ from them. All human rights exist in the context of society, and all rights require the state to act both in order to prevent injury to the right and in order to secure equal access thereto. The principle of human dignity demands not only that the state will refrain from intervening in a person’s life in a manner that injures his dignity, but also that the state will create conditions enabling a person to live in human dignity. The State of Israel has recognized this obligation, both by enacting laws intended to ensure that the residents of the state enjoy decent means of existence and by ratifying (in 1991) the International Convention on Economic, Social and Cultural Rights.

The existing Basic Laws give decisive weight to economic, property, and quasi-property interests and to the right of property owners to be protected from intervention by the authorities. They do not recognize the basic rights of those who do not have property to exist in human dignity, nor to social rights in the fields of employment, education,

health, housing, and social welfare. For those who took to the streets to demand “social justice” and for wide populations in Israeli society, these are the central issues of life, and they demand that the state meet their needs in these areas.

This Basic Law is vital in its own right, and even more vital in light of the legislative fabric in Israel, which includes the Basic Law: Freedom of Occupation, which has been interpreted as protecting employers’ rights, while social rights and workers’ rights have not yet been enshrined in a Basic Law are therefore insufficiently protected. This fact has created an asymmetrical situation in Israel, which entails a constitutional flaw and presents a tangible danger of imbalance between workers and employers and between the weaker and stronger sections of society.

This Basic Law is also vital in light of the damage caused to social rights in Israel in recent years through government actions.

Therefore, this Basic Law proposes to grant constitutional protection to social rights.

The structure of this proposed Basic Law is similar to the structure of the Basic Laws protecting certain civil and political rights: Constitutional protection is afforded by establishing the right, alongside the establishment of a restriction clause that sets conditions for the infringement of that right. In accordance with international conventions, the obligation imposed on the state is to act for the realization of the rights in accordance with its economic capability as determined by the government.

The importance of this proposed Basic Law lies not only in the declaration of the existence of social rights, but also in granting these rights their proper constitutional status, in order to prevent the impression that, when human rights of different types clash, seniority is granted to the rights that enjoy explicit constitutional protection, such as the right to property and the freedom of occupation. In light of this, it is of both legal and educational importance to enshrine these rights in a Basic Law.

The proposed Basic Law emphasizes the common features of the various human rights, both civil and social. Their basic principles are identical and are founded on the recognition of the value of human beings and the sanctity of human life. The commitment to protect and promote all human and social rights stems from the values of the State of Israel.

Article 3 of the proposed Basic Law establishes that any resident has the right to the guaranteeing of his human needs in a decent and appropriate level to achieve a dignified living and social welfare. Articles 4 through 12 specify the main rights guaranteed to any person for a dignified human existence and social welfare:

- A. The right to a dignified living and a decent standard of living, which constitutes the foundation for the conditions enabling a person to live without want;
- B. The right to access to water and nourishing food in sufficient quantity is the basis for the physical existence of every person;
- C. The right to housing, which has been recognized in international conventions as part of the right to decent living conditions;

- D. The right to health, which is inexorably linked to the right to life and to physical integrity;
- E. The right to education seeks to enable the full development of a person's personality and sense of dignity, while providing the necessary tools for every person to actively participate in social processes. This, while maintaining the collective rights of religious, cultural, and ethnic minorities;
- F. The right to social security ensures that the core of basic life needs will be guaranteed to every person, regardless of their abilities;
- G. The right to employment prospects enshrines a person's right to work, to optimal working conditions, and to a decent wage;
- H. The right of workers to unionize is a democratic and basic right;
- I. The right to strike is a basic principle of workers' rights;
- J. The principle of equality, a basic principle of our system, ensures that a person's dignity will not be injured due to receiving different treatment and enshrines equality in its broad sense, which includes egalitarian access to resources and to rights.

An essentially similar proposed bill was tabled before the Thirteenth Knesset by the Constitution, Law, and Justice Committee (#2256) and passed its First Reading in February 1996.

Essentially similar proposed bills were tabled before the Fourteenth Knesset by Member of Knesset Anat Maor and a group of Members of Knesset (P/25 and P/1933) and by Member of Knesset Amir Peretz (P/14/1277, P/14/2191, and P/14/2666).

Essentially similar proposed bills were tabled before the Fifteenth Knesset by the Constitution, Law, and Justice Committee (#3068); by Member of Knesset Anat Maor and a group of Members of Knesset (P/15/75 and P/15/2581); by Member of Knesset Tamar Gozhansky and a group of Members of Knesset (P/15/171); by Member of Knesset Amir Peretz (P/15/187 and P/15/3314); by Member of Knesset Tzachi Hanegbi and a group of Members of Knesset (P/15/1120); by Member of Knesset Uri Savir and a group of members of Knesset (P/15/1373); and by Member of Knesset Tzachi Hanegbi (P/15/1574).

Essentially similar proposed bills were tabled before the Sixteenth Knesset by Member of Knesset Amir Peretz (P/16/137, P/16/1634, P/16/1871, and P/16/3916); by Member of Knesset Haim Oron (P/16/683, P/16/1239, P/16/1836, and P/16/3838); by Member of Knesset Ophir Pines-Paz (P/16/432, P/16/1941, P/16/3476, and P/16/39131); by Member of Knesset Naomi Blumenthal (P/16/1830); by Member of Knesset Muhammad Barakeh (P/16/432, P/16/1941/ P/16/3476, and P/16/3931); by Member of Knesset Orit Noked (P/16/1872); by Member of Knesset Avraham Shochat (P/16/1959);

by Member of Knesset Nissan Slomiansky (P/16/1940); and by Member of Knesset Abdul Malik Dahamsheh (P/16/3898).

Essentially similar proposed bills were tabled before the Seventeenth Knesset by Member of Knesset Muhammad Barakeh (P/17/179 and P/17/2916); by Member of Knesset Orit Noked (P/17/204); by Member of Knesset Ophir Pines-Paz (P/17/2864); by Member of Knesset Haim Oron (P/17/2944); and by Member of Knesset Amir Peretz (P/17/3162).

Essentially similar proposed bills were tabled before the Eighteenth Knesset by Member of Knesset Haim Oron (P/18/20); by Member of Knesset Amir Peretz (P/18/256); by Member of Knesset Ophir Pines-Paz (P/18/543); and by Member of Knesset Zahava Gal-On (P/18/3194).

This proposed Basic Law was formulated with the help of the Association for Civil Rights in Israel (ACRI).