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למען הדמוקרטיה | من أجل الديمقراطية  
The Israeli Law Professors' Forum  
for Democracy

## The Israeli Law Professors' Forum for Democracy

### Summary of Position Paper No. 41: Infringement of Employee Rights as a Result of the Proposed Regime Changes

Published on April 4, 2023\*

The Israeli Law Professors' Forum for Democracy, an ad hoc and voluntary group of experts on Israeli law and specifically Israeli public law, expresses its grave concern over the apparent intention to abolish the independence of the judiciary, to subordinate it to the government and to the partisan political considerations of the executive branch, to undermine the independent status of the attorney general and civil service legal counsels, and to violate human rights. **In this position paper, we address the implications of the proposed regime changes on employees' rights and on labor law in Israel.**

#### **Summary of our findings:**

The proposed changes to the labor regime will result in a significant and damaging impact on both collective and individual labor law in Israel. These changes will negatively affect the right to freedom of organization and collective bargaining, labor dispute resolution, and the right to strike.

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\* We, members of the Israeli Law Professors' Forum for Democracy, hold different academic views regarding the details of the various reforms proposed by Israel's 37th Government to change Israel's democratic regime. However, we are united in the opinion that the host of the government's proposals - which are an unprecedentedly severe attack on the independence of the judiciary, the Attorney General and government legal advisors, the police, the military, and public broadcasting - will seriously damage the rule of law and Israel's democratic character. Therefore, we joined this forum to make our professional opinion available to the public at this fateful time. The position papers or other professional materials produced by us reflect the prevailing position among the members, even if they are not unanimous. The list of Forum's members and all position papers on our behalf are available at <https://lawprofsforum.org>. Follow us on Twitter: <https://twitter.com/lawprofsforum>. Contact us: [lawprofessorsforum@gmail.com](mailto:lawprofessorsforum@gmail.com).

Furthermore, they are expected to adversely affect legal rights in employment, including the right to equality, freedom of expression, privacy, property, and employees' pension funds.

- The proposed changes will have a particularly detrimental impact on weaker sectors, low-wage earners, and vulnerable populations.
- The change will negatively affect the labor court system. The composition of the Committee for Judicial Appointments will create dependence of judges on coalition politicians, which will impair their ability to remain impartial and act professionally when handling labor disputes, applications for injunctions against strikes, and the like. Such dependency will also compromise the ability of labor courts to act as neutral mediators in complex collective labor disputes in the labor market, when the Labor Courts are the only institution in Israel that provides such mediation. Additionally, impairing the Supreme Court's power to invalidate laws that profoundly violate labor rights – although cases of invalidation are rare – will significantly affect the protection of employees' rights, as well as harm employers' interests and proper management of the economy.
- Eliminating or restricting the cause of action for "reasonableness" is also likely to adversely affect employees' rights, including health and welfare rights, which fall within the jurisdiction of the labor courts.
- We are concerned that Israel's "labor constitution" will be irreparably damaged by the proposed legislative changes. This "constitution" is based on two foundations. First – an impressive and significant body of laws that balance the interests of employees and employers, enabling the Israeli economy to be managed in a good and proper manner while protecting employees; and second – a body of case law developed over the years by the labor courts and the Supreme Court that interpret the law in an optimal manner. The possibility of enabling employees to exercise these rights is based on the power of organized labor in Israel, which may also be gravely harmed by the proposed legislative changes.