



**TEL AVIV & CENTRAL ISRAEL
CHAMBER OF COMMERCE**
Israel's Organization of the Free Business Sector

**The right way to ground and strengthen
the business sector**

**Bill - Basic Law:
Employer Rights**

**Submitted to the Government, the Knesset, and the
entire business sector by the Tel Aviv & Central Israel
Chamber of Commerce**

July 2012



Uriel Lynn, President

From the President's Desk

We have considerable economic achievements which are undoubtedly a result of the sound economic policy, formulated with courage and accountability, in 2003. The main principles of this economic policy are budgetary responsibility, greater economic freedom, increased competition, and reduced taxes. This plan continues to a great degree today.

Thanks to this policy, motivation has increased for opening new businesses and developing the existing ones, thereby generating an upswing in growth, the fruits of which are still being harvested today.

And indeed, the world views our economy as a strong economy able to survive global crises almost unscathed. During my meetings abroad, I'm often told: "You have a strong economy." The truth is that we can commend ourselves and say that despite the crises we've encountered during the last decade, we are doing well.

I have great esteem for the Minister of Finance, Dr. Yuval Steinitz, and nothing I'm about to say derogates from this. However, I intend to point out several serious trends that threaten the future growth of the business sector, trends that force us to unite and say - STOP!

There is no doubt that the first and foremost goal for all of us is the continued growth of the business sector and, in this regard, one must know what to do and sometimes, even more importantly, what not to do.

In the field of economics, one must never become complacent and self-assured. Correct economic management, and especially the management of a national economy, is based on the ability to identify the outcomes of destructive processes before they cause crises or collapse.

We've witnessed many economic crises around the world, such as the global economic crisis of 2008, the crisis in the U.S., the current crisis in Europe, etc. One might ask: How could this happen when all of these countries have so many senior economic consultants, research institutes, ministers and governments? How can they all fail to identify the processes leading to collapse and crises before they occur?

Obviously, in retrospect, everyone knows how to analyze why a crisis occurred. But how did all this massive thinking capability, the larger part of which was financed by taxpayers, fail to identify these processes and to alert us in advance: "Hold on! This is where we should stop in order to prevent a crisis from occurring."

In my opinion, the solution to this problem lies in focusing all those 'economy sages' on the macro, rather than on the field itself. Today, I'd like to balance this situation and speak to you from the field.

There are fundamental problems of perception and comprehension and we're forgetting that the State of Israel, with all its achievements, abilities, ambitions and prospects, rests, literally, on the shoulders of the business sector.

Terrible crises may occur if the business sector stops growing or weakens; social problems may become severely aggravated and the State's ability to cope with social and security issues may be greatly diminished.

Unfortunately, this simple truth hasn't resonated deeply enough with some of those who exert executive and legislative powers in Israel. They seem to view the business sector as an enemy that may or should be constantly attacked.

The public service sector and its clerks have yet to realize that it is their duty to provide the business sector with the best service they can. Instead, they are waging a war of bureaucratic attrition against it, making countless demands before providing the coveted permit and then behaving as if they did us a huge favor.

The business sector in Israel has a distorted image in the public's mind, as if it's comprised solely of tycoons, pyramid scams, giant conglomerates, and international companies.

But the real business sector is a broad framework of hundreds of thousands

of small and medium-sized businesses, all those people who build their businesses by investing their private savings and many years of hard work while putting themselves at great risk. If, God forbid, their businesses collapse - there is no one there to help them or to apologize - neither the workers' unions nor the State.

In recent years six central anti-business-sector trends have developed. If these trends are allowed to continue, the desire to do business in Israel will cease and the motivation to build businesses will wither. Allow me to briefly present these trends:

First: Attacking the basic rights of the employer. We're witnessing increased attacks on the employer's proprietary rights in Labor Court decisions granting workers 'quasi-proprietary' rights to the employer's business and deducing further operative conclusions on this basis. Denial of the freedom of contracts occurs when an employer is obliged to conduct negotiations and enter into contracts, and when almost unlimited powers are granted to workers' unions, who may physically enter the employer's business premises.

Second: A continuation of the same burdensome bureaucracy that can only be remedied from above, by the ranks of ministers and government, and not from the level of general managers who lack the right motivation.

Third: Heavy costs are imposed on the business sector by absolute, state-owned monopolies, such as the Ports and Railways Authority, the Electric Company, local authorities, etc.

Fourth: There is a growing, unparalleled, and severe phenomenon of "criminalization of the business management field." Today, if you're running a business in the State of Israel, you run a very high risk of becoming a criminal. This is so because more and more criminal offences are being fabricated and lodged against business managers and owners in crucial areas, such as labor laws, consumer protection, environmental protection, and the capital market.

Here we're not talking about tens of criminal offences, but about thousands of them! We are dealing with a tangled web of criminal offences, one in which even the best and most cautious business owner will fail - because he's considered responsible for the deeds of others while carrying the burden of proof of his own innocence.

Let's take the consumer protection laws as an example. I'm often approached by people asking me what all the complaints are about. There are other countries where consumers can return their purchases and receive their money back. That's true. But, in those countries, the product-return policy is part of the selling policy of the business. It's not a legal duty!

In Israel now, thanks to consumer populism, the customer becomes an irresponsible consumer. A customer can arrive at a place of business, buy a completely satisfactory product and then return it undamaged, without any attempt at deception, merely because he changed his mind about it. This contradicts Jewish law and, in fact, goes against the basic concepts of contract and sale of goods laws. These are not fair or healthy commercial relations.

Fifth: This trend is exhibited in the manner in which the State strives to increase its tax collection. In the past, when I was the Director of State Revenue, I worked ceaselessly to increase tax collection without placing an added burden on businesses. Today, the method is straightforward - imposing obligatory online VAT reporting for every transaction, as well as the required electronic signature. Tax collection will probably increase, but at the cost of an additional burden imposed on the business sector.

Sixth: The epitome of craziness is surely reached in the area of labor laws. I'd like to present to you real data that none of you would even deem possible. My investigations have revealed that, since the year 2000, 118 labor law amendments and new labor laws were ratified in primary legislation; 37 amendments were passed in subsidiary legislation. To make it clear - with each additional change or amendment, further burdens are imposed on employers.

Moreover, in just the last two years, 60 new criminal offences were added in the field of labor law. Please understand what's going on here. This is about a crazy influx of obligations placed on employers. To these, add Labor Court decisions that protect the rights of the workers, and their rights only, causing repeated damage to the fundamental rights of the employers.

All the above indicates that the State of Israel is drifting toward becoming a state of extreme socialism; thus, regressing some 50-60 years back. This is no longer a free-market state, because we've allowed this flow of socialist legislation to continue, as if employers are criminals who should be educated and placed under more and more constraints.

These trends endure, consolidate, and gain momentum thanks to support provided by Knesset members aspiring to gain populist achievements and

seize various government offices.

This conduct carries on as if the business sector is the mule of the state, some mythical, legendary mule, upon which more and more can be loaded incessantly.

We've lost the central control that sees the whole picture.

To illustrate, let's examine the environmental protection laws. A close friend of mine deals with importing medication to Israel. These drugs, packed in cardboard boxes, are sent to hospitals and are intended to treat people who need them. The law provides that the importer is obligated to collect these cardboard boxes from the hospitals.

Why the importer, you might ask? Why aren't the consumers or the local authorities approached? The answer is simple - it's easier to impose this burden on the business sector. My friend has been accused of polluting the environment only because he imported medication to Israel!

This is a twisted mentality, a way of seeing things that must be stopped!

It is time to ask why these processes are allowed to continue? Why don't they stop? My answer is that they persist because they employ the attrition method. The trunk of a tree isn't severed by one blow of an axe, but is rather gradually "chopped" through. This is done until the breaking point is reached when the whole tree falls - just as the motivation to do business in Israel will eventually run out.

Understand that if the business sector in Israel finds itself in such a crisis, it won't be as a result of the crisis in Europe or of global conditions - it will be the result of our own actions.

This will be the shortsighted outcome of those laboring to pass laws against the business sector; those acting against the business sector under the guise of protecting the workers will be those who create unemployment.

I trust the Minister of Finance is sitting here in the audience. I know he is managing a responsible budgetary policy, from which he won't deviate. But the crisis won't happen due to the macro-budgetary policy; it will arrive due to this incessant gnawing at the business sector.

We, in the business sector, have joined the social protest and are devising ways to make things easier for the Israeli public. In our opinion, the protective tariffs should be lowered, food products should cost less, and it would also be wise to deal with the cost-of-living and housing prices.

However, the actions undertaken by the Government of Israel to pacify the wave of protest won't benefit the public and will only harm the business sector. Thus, for example, the Company Tax was raised from 24% to 25% and the tax on dividends was raised retroactively from 25% to 30%. This taxation, however, missed the giant conglomerates, where the Company Tax is supposed to be 6% or 12% and the tax on dividends is half.

This is neither fair nor just. Such taxation lands a direct blow to the business sector and, most of all, to the broad framework of hundreds of thousands of small and medium-sized businesses that are the ones creating most of the jobs in Israel.

There is also a problem within the business sector. Everyone is busy with sectorial problems; everyone is dealing with the specific problems in their own areas. They see the trees, but not the forest. The business sector is conducting itself miserably. It's defensive, trying to justify itself while absorbing blows. In fact, its allowing all these trends that harm it to continue.

However, I don't want to conclude with words of complaint, because we are men of action. An analysis conducted by the Economic Division of the Chamber of Commerce revealed that there are no less than 2 million people whose economic future is linked directly to existing Israeli businesses.

Since the language understood by the government is that of political power, it must be said that the business sector is also a political force. Not a political party, but a political force.

Unfair attacks on the business sector, those aforementioned two million, those who invested their savings and many years of hard work in building their businesses in Israel, will give rise to an appropriate reaction.

The business sector will start examining its representatives also through the prism of the damage they have caused it.

We are in the midst of furious legislation against the business sector. Has anyone stopped to think that the employers' rights should be protected as well? It's about time to think about this, because the employer has rights too.

Therefore, the Chamber of Commerce has prepared a Bill for the "Basic Law of Employer Rights".

This basic law is the only one of its kind in the world, because, for some reason, no one ever considered such a basic and simple law.

This bill is on the tables before you. It was formulated by our legal staff, lawyers Shlomi Loyah and Dan Carmeli.

This proposed basic law will constitute a turning point in the attitude of the State of Israel toward the business sector and forms the axis of our struggle. If this law is ratified, it will become Israel's strongest banner for attracting investments and will serve as genuine promotional stimulus, encouraging those who wish to establish a business in the State of Israel.

This law will provide the basis for true growth of the national economy, for an increase in the State's revenue, for better attainment of social goals, and for generating new jobs.

This law is the one that will promote our economy, rather than those laws constantly eroding the rights of the employers.

BILL - BASIC LAW: EMPLOYER RIGHTS

Purpose	1. The purpose of this Basic Law is to protect the fundamental rights of the employer in Israel and to entrench them as inalienable rights, on the basis of the recognition that the Israeli economy is founded upon principles of free market and the promotion of competition.
Proprietary Rights	2. a) The employer alone has proprietary rights in his business and his business assets. b) There shall be no infringement of the employer's proprietary rights except by a law befitting the values of the State of Israel, enacted for an appropriate objective, and to an extent no greater than required, or as explicitly authorized by such law. c) Entry to the business premises of the employer is subject to his consent, except for the purpose of saving an endangered life or for a purpose related to national defense. d) There shall be no infringement of the employer's proprietary rights by way of a judicial decision or by creating quasi-proprietary rights.
Freedom of Contracts	3. a) There shall be no infringement of the employer's freedom to contract. b) An employer shall not be required to conduct negotiations or enter into contracts against his free will.
Exception to Criminal Sanctions	4. An employer, including a corporation, shareholder, affiliate, director, officer, manager, or any other employee of a business, shall not be subject to criminal prosecution in relation to any financial matter within the limits of the employment relationship.
Prohibition on Charging Retroactive Payments	5. No retroactive taxation or retroactive payment obligation shall be imposed on an employer for accrued profits or a prior business activity.
No Compulsory Employment Relationship	6. a) An employer shall not be compelled to employ workers against his will, except as provided in this article. b) Compelling an employer to enter into an employment relationship shall be permitted only in a state of emergency and shall be predicated on national defense considerations, by virtue of authority conferred by law and as explicitly authorized by it.

Right to Determine the Occupational Structure of a Business	7. There shall be no infringement of the employer’s freedom to determine the occupational structure of his business.
Demarcation of activities	8. There shall be no imposition of activities to be performed, duties, or liability on the employer that diverge from his sphere of business activity, except as explicitly instructed by law, which instruction shall be derived from national defense considerations.
Duty of Consultation	<p>9. The State, or any public authority, shall conduct a consultation procedure within a reasonable time beforehand, and shall cooperate with the employer, or the employers’ organization that represents him, with regard to any proposal that they intend to legislate, including orders, administrative orders, proclamations, and circulars, which have a significant effect on the conduct of his business.</p> <p>For the purpose of this article, “significant effect” - a proposal that the performance or non-performance of which:</p> <ul style="list-style-type: none"> (1) Requires a financial expenditure; (2) Imposes civil, administrative or criminal sanctions; (3) Affects in another manner the activity of the business sector.
Preservation of Laws	10. Nothing in this Basic Law shall detract from the provisions of the Basic Law: Freedom of Occupation.
Application	11. All governmental authorities are obliged to respect the rights under this Basic Law.
Stability of the Law	12. Emergency regulations cannot alter, temporarily revoke, or place conditions on, this Basic Law; notwithstanding, where a state of emergency is declared by virtue of article 9 of the Law and Administration Ordinance, 1948, emergency regulations denying or restricting the rights under this Basic Law may be regulated pursuant to said article, provided that such denial or restriction is for an appropriate objective, and for a period and to an extent no greater than required.



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