



Law and Emergencies: A Comparative Overview

The Minerva Center for the Rule of Law under Extreme Conditions

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Emergency Laws and Regulations in Israel: Executive Summary

Legislative Framework

The general regulation of states of emergency in Israel appears in the constitutional level as well as in primary and secondary legislation. On the constitutional level, The Basic Law: The Government defines how and by whom an emergency is declared. Legislation relating to emergencies refers both to legislation that is depending on the declaration of a state of emergency (such as the Law Governing the Control of Commodities and Services, 1957, ect.) as well as legislation that does not depend on the existence of a general declaration of a state of emergency, mainly the Civil Defence Law, 1951 and the Police Ordinance [New Version], 1971 (as well as British Mandatory law: The Defence (Emergency) Regulations, 1945.) Additional regulations appear in specific legislation, in "inner" provisions that regard emergencies, such as The Air Navigation Regulations (Safety at Aerodromes of the Airport Authority), 1992; Section 91 of The Natural Gas Sector Law, 2002; Section 46 of The Broadcasting Authority Law, 1965 and Sections 50-51 of the Second Authority for Television and Radio Law, 1990.

Entrance into a State of Emergency

Entrance into a general state of emergency is defined in The Basic Law: The Government. Though a formal definition of a "state of emergency" is not given, the Basic Law states that the Knesset (Israeli legislature) may declare a state of emergency upon ascertaining that the State is in a state of emergency. Such declarations should be published in the official Gazette (Reshumot). The Government itself also has the power to declare a state of emergency under certain conditions. Additional conditions regarding the procedures of declaration appear in the Knesset's rules of procedure. Notably, the validity of many laws that were passed over the years depends on the existence of a declaration of a state of emergency. The duration of a declaration of a state of emergency by the Knesset shall not exceed one year, and yet may be renewed. In fact, since the declaration of independence in 1948, Israel has been under the declaration

of a state of emergency, which is yet to be revoked. According to the Civil Defense Law, the government can declare also a “Special Situation on the Home Front, and according to Article 90B(a) of the Police Ordinance the Minister of Public Security may declare “Mass Disaster Event”.

Legal Powers

During a general state of emergency (as well as in a state of war) the Government may make emergency regulations for the defense of the State, public security and the maintenance of supplies and essential services. Such emergency regulations must be submitted to the Foreign Affairs and Security Committee. In the existence of an immediate and critical emergency, the Prime Minister is empowered to make emergency regulations or empower a minister to make them. Generally, emergency regulations shall expire three months after the day of their enactment unless their force is extended.

Rights in a State of Emergency

According to the Basic Law: The Government, emergency regulations “may alter any law, temporarily suspend its effect or introduce conditions, and may also impose or increase taxes or other compulsory payments unless there be another provision by law”. However, subsections (d) and (e) restrict the scope of the regulation by stating that "emergency regulations may not prevent recourse to legal action, or prescribe retroactive punishment or allow infringement upon human dignity" and "emergency regulations shall not be enacted, nor shall arrangements, measures and powers be implemented in their wake, except to the extent warranted by the state of emergency". Basic Law: Human Dignity and Liberty, explicitly states that it may not “be varied, suspended or made subject to conditions by emergency regulations" noting that rights may be denied or restricted only for a proper purpose and for a period and extent no greater than is required.

Emergency Laws and Regulations in Israel: synopsis

Introduction

Israel has no formal constitution and its emergency legislation is widely distributed in different - basic and regular laws, as well as many governmental decisions. Israeli emergency legislation addresses three main states of emergency: a General state of emergency, by virtue of Basic Law: The Government; “Mass Disaster Event” by virtue of the Police Ordinance; and “War” or “Special Situation on the Home Front”, by virtue of Civil Defense Law. In 1948, the date of the establishment of the state of Israel, a general state of emergency was declared. Since the Validity of many laws depend on the existence of this declaration, the general state of emergency in Israel is consistently extended.

1. The Legislative Framework

Reference to emergencies in Israel can be found at several levels:

- On the constitutional level, reference as such can be found in the **Basic Law: The Government**, which replaced the arrangement that existed in the **Law and Administration Ordinance**, 1948.
Article 38 of the Basic Law: The Government determines how an emergency is declared and who has the authority to do so. Article 39 deals with the setting up of emergency regulation and Article 40 deals with declaration of war (see below).
- On the statutory level (primary and secondary legislation), emergency legislation includes:
 - British Mandatory law: The Defence (Emergency) Regulations, 1945, which do not depend on the existence of a state of emergency.
 - Israeli legislation, which includes:
 - Legislation depending on the declaration of a state of emergency, such as the Law Governing the Control of Commodities and Services, 1957 and The Emergency Powers (Detention) Law, 1979.
 - Legislation that does not depend on the existence of a general declaration of a state of emergency: primary (Knesset) legislation that allows the declaration of specific states of emergencies, independently of the existence of a general state of emergency (e.g.: the Civil Defense Law, 1951 and the Police Ordinance [New Version], 1971 (hereinafter: the Police Ordinance)).

In addition, in many existing "regular" laws and regulations "inner" provisions regarding emergencies can be found (e.g.: the Air Navigation Regulations (Safety at Aerodromes of the Airport Authority), 1992; Section 91 of The Natural Gas Sector Law, 2002; Section 46 of The Broadcasting Authority Law, 1965 and Sections 50-51 of the Second Authority for Television and Radio Law, 1990).

Consequently, it can be seen that the regulation of emergencies is done through extensive legislation dealing with various subjects, including:

| Social-economic states of emergency | Terrorist events and Wars | Natural disasters |
|--|--|---|
| <ul style="list-style-type: none"> • The Arrangements Law - originally presented as emergency legislation that was supposed to deal with a severe economic crisis that threatened to become an economic state of emergency.¹ In Practice, the law exceeded its initial purpose and it is passed every year in order to achieve budget policies, independently of the existence (or absence) of a financial emergency. • No specific reference to social-economic extreme conditions was found in Israel. | <ul style="list-style-type: none"> • Declaration of a Special situation on the home front, by virtue of the Civil Defence Law, 1951. • Fighting against terror organizations, in accordance with the Prevention of Terrorism Ordinance, 1948; the Defense (Emergency) Regulations, 1945 and provisions in the Penal Law, 1977. Note: The Counterterrorism Bill' 2011. • Prohibition on terror funding: Prohibition on Terrorist Financing Law, 2005. | <ul style="list-style-type: none"> • Floods: the Drainage and Flood Control Law 1957 (hereinafter: the Floods Law). • Fires: the Firefighting Services Law, 1959; the National Fire and Rescue Authority Law, 2012 and the Prevention of Field Fires Law, 1949. • Infectious Diseases: the Public Health Ordinance, 1940. • Hazardous substances: the Hazardous Substances Law, 1993. • Earthquakes: National Master Plan for strengthening existing buildings against earthquakes (Hereinafter TMA 38) |
| <p>"Generic" legislation: "Mass Disaster Event", by virtue of the Police Ordinance [New Version], 1971.</p> | | |

¹ Tal Golan, The Democratic Deficit of the Arrangements Law and the erosion of Israeli Welfare State, *11 MISHPAT UMIMSHAL* 243, 248 (2008).

2. Declaration of a State of Emergency: A Table of Analysis

| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|----------------------------|--|---|---|--|
| General state of emergency | The Basic Law: The Government, does not provide a formal definition to the term "state of emergency" | According to Article 38(a) of the Basic Law: The Government: "Should the Knesset ascertain that the State is in a state of emergency, it may, of its own initiative or, pursuant to a Government proposal, declare that a state of emergency exists". However, the Government itself has the power to declare a state of emergency, meeting the conditions of Article 38(c) of the Basic Law: The Government: "Should the Government ascertain that a state of emergency exists in the State and that its urgency necessitates the declaration of a state of emergency, even before it becomes possible to convene the Knesset, it may declare a state of emergency...". Moreover, the Knesset's rules of | The Validity of many laws that were passed over the years depends on the existence of a declaration of a state of emergency. If this declaration will be terminated, these provisions/laws will be repealed along with termination of the state of emergency. Hence, a state of emergency in Israel is consistently extended. ² Among the above mentioned laws one can find specific provision of the Tort Ordinance; the Emergency Land Requisition (Regulation) Law, 1949; provisions of the Legal and Administrative Matters (Regulation) Law | The duration of a declaration of a state of emergency by the Knesset will be in accordance with the period prescribed in the declaration, but may not exceed one year. The Knesset may repeatedly declare a state of emergency (renew the declaration as stated); as mentioned, every year she does so. ³ In fact, since the declaration of independence in 1948, Israel has been under the declaration of a state of emergency, which is yet to be revoked. ⁴ As to a declaration made by the Government, according to Article 38(c) of the Basic |

² About the continuous declaration of state of emergency in Israel (Hebrew), Knesset website, <http://main.knesset.gov.il/About/Lexicon/Pages/emergency-announcement.aspx> (last visited 12/24/2015)

³ The Knesset declared a state of emergency for the period: 16.12.2013-31.5.2014.

⁴ Menachem Hofnung, ISRAEL – SECURITY NEEDS VS. THE RULE OF LAW 52 (Jerusalem: Nevo 1991).

| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|-----------|------------------------------|---|---|--|
| | | <p>procedure (Chapter 6) set a number of conditions and procedures regarding the declaration (both by Government and the Knesset). For example, the Knesset's decision to declare a state of emergency will not be accepted without a recommendation from the joint committee, that includes the Knesset's Constitution, Law and Justice Committee and the Foreign Affairs and Defense Committee (hereinafter: the joint committee). The joint committee must submit her recommendation to the Knesset for approval. If the recommendation is regarding renewal of a state of emergency, the recommendation must be submitted to the Knesset's approval no later than 14 days before the state of emergency comes to end. If a state of emergency has been declared by the government, the government must immediately notify the Speaker of the Knesset and the chairman of the joint committee. The committee should discuss the declaration and submit the recommendation to the Knesset for</p> | <p>[Consolidated Version], 1970; the Emergency Powers (Detention) Law, 1979, that provides the legal framework for administrative detentions (see below); the Law Governing the Control of Commodities and Services, 1957, which enables to impose regulation on the market. The law enables that by using orders that allow for general control over commodities and services, including price controls, control over sales and purchases of goods and services that were declared as "subjects to control" and control over the actions and conduct of factories engages in "crucial activity", as it is defined by the law; Prevention of Terrorism Ordinance, 1948; and more.</p> | <p>Law: The Government, "the declaration's validity shall expire upon 7 days from its proclamation, if not previously approved or revoked by the Knesset, pursuant to a decision by a majority of its members; should the Knesset fail to convene, the Government may make a renewed declaration of a state of emergency as stated in this subsection". As mentioned, the Knesset has the power to terminate a declaration of a state of emergency at any time, regardless the question what branch of the government declared it (such termination should be published in Reshumot)</p> |

| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
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| | | <p>approval "as soon as possible". According to Article 38(d) to the Basic Law: The Government, the declarations should be published in the official Gazette (Reshumot) and " should publication in Reshumot not be possible, another appropriate manner will be adopted, provided that notification thereof be published in Reshumot at the earliest possible date".</p> | | |

| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|---------------------|---|--|--|---|
| Mass Disaster Event | According to Article 90(a) of the Police Ordinance, a "Mass Disaster Event" is an "event that is causing serious harm to the public welfare, personal security or property relating to a large public or a large area, or an event that or is liable to cause such harm, including due to natural disaster, environmental hazard, hazardous substances event, chemical or biological event, radiological radiation event, accident or terrorist activity" (this Article also defines specifically the terms " | In general, according to Article 90B(a) of the Police Ordinance, the power to declare "mass disaster event" is vested in the Minister of Public Security. However, regarding six specific situations, the power to declare such an event is given, instead, to the Prime Minister or the Minister of Defense, as required by the nature of the event (e.g.: in a mass disaster event originated, in whole or in part, within the area of a defense installation or in a territory held by the IDF – the power to declare a "mass disaster event" is vested in the Prime Minister or the Minister of Defense). In some cases, the law requires prior to the declaration, consultation with another minister, which the event falls within his legal responsibility, whether by law or by Government Decision. Basic Law: The Government, allows the Government, with the approval of the Knesset, to change, transfer, abolish, establish, unite or divide the functions of the Government among the Ministers. Notice of a declaration of a mass disaster event should be submitted to the Minister of Defense and the Inspector General of Police ⁵ (in a few of the | Mass Disaster Event | According to Article 90(a) of the Police Ordinance, a "Mass Disaster Event" is an "event that is causing serious harm to the public welfare, personal security or property relating to a large public or a large area, or an event that or is liable to cause such harm, including due to natural disaster, environmental hazard, hazardous substances event, chemical or biological event, radiological radiation event, accident or terrorist activity" (this Article |

⁵ According to the Police Ordinance, an "Inspector General of Police" is the senior police officer that at that time fulfills the duties of the Inspector General of

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| | <p>hazardous substances event", " chemical or biological event" and ", radiological radiation event")</p> | <p>specific situations mentioned above, it should also be submitted to the Chief of staff of the IDF); with its submission to the latter – the declaration comes into force.</p> <p>It should be mentioned that a constable may use the powers granted to him regarding a mass disaster event (under the Police Ordinance) as long as he has the approval of a police officer and within the time prescribed in that approval, or as long as a mass disaster event declaration is in force (see: Article 90D(c) of the Police Ordinance). A police officer may grant such approval within a period not exceeding 2 days after the day in which the police became aware of the occurrence of a mass disaster event, and if a declaration of a mass disaster event was given – the police officer may grant such approval as long as the declaration is valid (see: Article 90D(d)(2) of the Police Ordinance).</p> <p>Hence, it appears that during a period of 2 days a police officer may grant permission to a constable to use the powers listed in Article 90D(c) of the Police Ordinance regarding a mass disaster event, even if a formal declaration of a "mass disaster event" was not given.</p> | | <p>also defines specifically the terms " hazardous substances event", " chemical or biological event" and ", radiological radiation event")</p> |
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| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|---|---|--|---|--|
| War and Special situation on the home front | There is no formal, explicit definition of a state of emergency arising from war. ⁶ Section 9C of the Civil Defense Law allows for the declaration of a "special situation on the home front", which is defined as a situation where there is likely to occur an attack on the civilian population | According to Basic Law: The Government, Article 40(a), the "state may only begin a war pursuant" to a Government decision". Section 40(c) of the Basic Law: The Government states that "Notification of a Government decision to begin a war under the provision of subsection (a) will be submitted to the Knesset Foreign Affairs and Security Committee as soon as possible; the Prime Minister will also give notice to the Knesset plenum as soon as possible..." It should be noted that "notification regarding military actions as stated in subsection (b)", which states that nothing in the provisions of section 40 "will prevent the adoption of military | No Emergency Laws that explicitly come into force during a special situation on the home front or war were found. | If the Foreign Affairs and Defense committee did not summon the relevant officials within 48 hours as aforementioned (see: section 9C(2) of the Civil Defense Law), the declaration shall expire within 5 days of the day it was given. The Government may extend the declaration's validity with a prior approval of the Foreign Affairs and Defense Committee. If the aforementioned officials (the Prime Minister, the Minister of Defense or the Commander-in-chief of the IDF), which were summoned by the Committee, |

⁶ It appears that the Knesset will use its power to declare a State of Emergency under section 38 of Basic Law: The Government, also in respect to war. It should be noted that this question was discussed by the Knesset's Constitution, Law and Justice Committee. The following was stated in the Committee's protocol: "For discussion - is it appropriate to specify substantial causes for declaration (an existential threat to the state, to the public order or public safety due to war, natural disaster, armed insurrection, severe economic crisis) or whether such causes will not include all the possible conditions (inclusive or non-inclusive list)? And if not causes – is it appropriate to Burden the declaration with procedures to discourage unnecessary use of this tool? Should there be a distinction between different types of emergencies?"
(See: <http://main.knesset.gov.il/Activity/Constitution/Pages/ConstPEmergency.aspx>).

| Situation | Definition of an "emergency" | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|------------------|---|---|--|--|
| | | <p>actions necessary for the defense of the state and public security", will be submitted to the Foreign Affairs and Security Committee of the Knesset "as soon as possible".</p> <p>The power to declare a "special situation on the home front" is vested, in general, in the government, if it is convinced that it is indeed likely that an attack on the civilian population as aforementioned will occur.</p> | | <p>did not appear in front of it, or if the Committee decided not to approve the declaration, the declaration shall expire within 48 hours from the time of the proclamation.</p> <p>If the Committee approved the declaration or its extension for a certain determined period, the Government may ask once again for the Committee's approval to extend the duration of the declaration. It should be noted that the law does not impose any restriction on the number of times the government can ask for an extension.</p> |
| Terrorist events | The Israeli legislation regarding declaration of an emergency situation, does not refer specifically to states of emergency originated in a terror event. It seems that the most relevant legislation on powers in terror events is the part of the Police Ordinance dealing with a "mass disaster event" (see above) | | | |

| Situation | Definition of an “emergency” | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|-------------------------|---|---|--|--|
| Floods and Water Crises | There is no statutory obligation or authorization to formally declare a state of emergency arising from floods and water crises. According to Article 53 of the Floods law, the Minister of Agriculture may declare, by order, that a flood affected area is to be a protected area (under certain conditions, see below). In that order or in a later order he may also prohibit the "pasture or movement of animals in the area, the cultivation of land in the area in any form or any work done on the land, including extermination, uprooting, burning or removal of any vegetation". Under section 53(a)(2) of the Floods Law, the Minister of Agriculture has the power to order the Director of the National Authority for Water and Sewage "to perform any work or action in the protected area by him or by his emissaries, which he believes is urgently needed for repairing the damage caused by flood or for its prevention in the future, provided that no land will be expropriated, | Regarding floods, as mentioned the power to declare that a flood affected area is to be a protected area is vested in the Minister of Agriculture. The authority to declare a water damage event is vested in the Director of the National Authority for Water and Sewage. | None found | According to section 18A(c), the "Council of the National Authority shall make rules regarding the declaration of a water damage event, the means of treating such an event, the means of preventing it, stopping it, restoring the previous condition and preventing its recurrence and regulating water supply for consumers that were harmed by the event". However, according to the State Controller's report regarding the water sector preparedness for emergencies ⁷ the "Council of the National Authority has yet to approve the rules regarding the declaration of a water damage event or the |

⁷ State Comptroller Report, *Water Sector's Emergency Preparedness*, 64A Annual Report 793: http://www.mevaker.gov.il/he/Reports/Report_113/a1eff1b1-a076-4b0f-b2fe-b3c5bb920de1/132-water-new.pdf?AspxAutoDetectCookieSupport=1 (last visited 12/24/2015).

| Situation | Definition of an “emergency” | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
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| | <p>nor any right concerning that land and that no building or permanent facility will be installed within it".</p> <p>In addition, under section 18A of the Water Law, 1959, the "Director of the National Authority may declare a water damage event", which is defined as an "event that is causing or which is liable to cause substantial damage to the supply of water designated for drinking, the quality of water or the ability of a water source and water infrastructure which are designated for drinking to be used for their intended purpose".</p> | | | means of treating such an event". |
| Fires | <p>There is no statutory obligation to formally declare a state of emergency arising from fire. When a significant emergency situation resulting from or including fire occurs, the various powers that exist in the National Fire and Rescue Authority Law, 2012 may be used.</p> <p>It should be noted that in 2010 an extensive forest fire occurred in northern Israel (the Mount Carmel forest fire). The relevant government officials that dealt with the fire, those responsible for the response and the preparedness for the disaster (the fire and rescue services, the Israeli Police force, Israel Nature and Parks Authority, etc.) were heavily criticized by the State Comptroller in his final report regarding the fire.⁸ This event was one of the factors that led to the enactment of the National Fire and Rescue Authority Law.⁹</p> | | | |

⁸ State Comptroller Report, *Report on the Carmel Fire of December 2010: Failures, Omissions and Conclusions* (2012).

⁹ The National Fire and Rescue Authority bill, 2012, Reshumot: Bills 600, 600.

| Situation | Definition of an “emergency” | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|----------------------------|--|---|--|---|
| Hazardous substances event | <p>Section 1 of the Hazardous Substances Law, 1993 defines "a hazardous substances event" as "an uncontrolled event or accident, in which a hazardous substance is involved, which endangers or is liable to endanger human beings or the environment, including a spill, leak, diffusion, evaporation, fire"; "Hazardous substance" means "a hazardous material or harmful chemical", while "Harmful chemical" is defined as " each of the substances specified in Schedule One [of the law], whether in its simple form or mixed or blended into other substances".</p> <p>The definition of a "mass disaster event" under section 90A of the Police Ordinance also includes, as mentioned, ""a hazardous substances event". For defining the terms "hazardous substance" and ""a hazardous substances event" the Police Ordinance refers to the Hazardous Substances Law. Consequently, in a case of a hazardous substances event that is causing "serious harm to the public welfare, personal security or property relating to a large public or a large area, or an event that or is liable to cause such harm" the Minister of Public Security may declare a "mass disaster event".</p> | <p>The Minister of Public Security has the power to declare such an event, whether of his own initiative or at the request of the Minister of Environment, and if necessary in consultation with the Minister of Environment (see section 90A above). See also the explanation regarding a mass disaster event above.</p> | <p>No Emergency Laws that explicitly come into force during a hazardous substances event were found.</p> | <p>See above the part concerning a mass disaster event.</p> |

| Situation | Definition of an “emergency” | Who may declare the state of emergency and under what conditions? | Statutes that come into force during emergency | How does a state of emergency end? |
|---------------------|---|--|---|---|
| Infectious Diseases | Section 20 of the Public Health Ordinance (titled "emergency powers") grants the authority to declare emergency: "if it appears that over a part of Israel hovers a danger of a terrible, local or contagious epidemic disease or it is infected by such disease, that is, plague, cholera, yellow fever, smallpox, typhoid or other disease declared by the Minister of Health as a contagious dangerous disease..." | The authority to declare that an emergency exists, and as stated in the Public Health Ordinance: that a great danger is hovering over the public's health, arising from the threat or the existence of such a disease in Israel or in neighboring territories, is vested in the Minister of Health | No Emergency Laws that explicitly come into force during an emergency arising from infectious diseases were found | The law does not specify when such declaration shall expire |
| Natural Disasters | Is should be noted that the Natural Disaster Victims Compensation Law (Compensation for damages to agriculture infrastructures), 1989 allows the declaration of a "natural disaster", but only for purposes concerning the compensation of those in the agriculture sector who suffered damages resulting of natural disaster (for further details, see below under section 5 – regulation). | | | |

3. Legal Powers

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
|--|--|---|---|---|
| <p>General state of emergency – the making of emergency regulations</p> | <p>Under Article 39 of Basic Law: The Government, "During a state of emergency the Government may make emergency regulations for the defense of the State, public security and the maintenance of supplies and essential services; emergency regulations will be submitted to the Foreign Affairs and Security Committee at the earliest possible date after their enactment." In addition, "Should the Prime Minister deem it impossible to convene the Knesset, given the existence of an immediate and critical need to make emergency regulations, he may make such regulations or empower a Minister to make them".</p> <p>As for their duration, section 39(f) states that "The force of emergency regulations shall expire three months after the day of their enactment unless their force is extended by law, or they are revoked by the Knesset by law, or pursuant to a decision of a majority of the members of Knesset".</p> <p>If the state of emergency ceases to exist "the regulations enacted will remain in</p> | <p>As aforementioned, in general the power is conferred to the Government. However in some cases (see above) the Prime Minister may make such regulation "or empower a Minister to make them" (see section 39(b))</p> | <p>According to Article 39(c) of the Basic Law: The Government, "Emergency regulations may alter any law, temporarily suspend its effect or introduce conditions, and may also impose or increase taxes or other compulsory payments unless there be another provision by law". However subsection (d) states that "Emergency</p> | <p>According to section 39(e) of the Basic Law: The Government, "Emergency regulations shall not be enacted, nor shall arrangements, measures and powers be implemented in their wake, except to the extent warranted by the state of emergency." The regulations "shall come into force on the day of their publication in Reshumot; should publication in Reshumot not be possible, another appropriate means of publication will be adopted provided that they be published in Reshumot as soon as possible." (See section 39(g)).</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
|----------------------------|--|--|---|---|
| | <p>force for the duration of the prescribed period, however not longer than for 60 days after the termination of the state of emergency; state of emergency regulations whose force was lengthened by law shall remain in force."</p> <p>The making of emergency regulations is also possible during a state of war.</p> | | <p>regulations may not prevent recourse to legal action, or prescribe retroactive punishment or allow infringement upon human dignity."</p> | |
| <p>Mass Disaster Event</p> | <p>During a mass disaster event (even if no formal declaration was made – see the conditions for exercising the power), and except for an event that is subject to a declaration by the Defense Minister or the Prime Minister (instead of the Minister of Public Security), a constable is certified under section 90D(c) of the Police Ordinance (and in addition to the regular powers granted to him not during a mass disaster event in accordance with section 4A of the Ordinance) to exercise the following powers, with permission to use reasonable force against individuals or property in order to force the compliance with these provision:</p> | <p>The above mentioned powers (except for those dealing with the execution of an exercise in preparation for a mass disaster event), are conferred to a constable or a person fulfilling a role in a rescue body and also a soldier in the case of certain mass disaster events.</p> | <p>People and property</p> | <p>A constable may exercise the powers mentioned in section 90D(c) with the approval of a police officer and within the time specifies in that approval or if a declaration of a mass disaster event was given – as long as the declaration stays in force. In should be noted, as aforementioned, that a police officer may grant such approval within a period not exceeding 2 days passed the day in which the police became aware of the occurrence of a mass disaster event, and if a declaration of mass disaster event was given –</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
|-----------|--|-------------------------------|---------------------------|---|
| | <p>(1) Order a Rescue body (as defines by the Ordinance) to act within its role and authority and operate the equipment in its possession for the purpose of carrying out its duties.</p> <p>(2) Order any person found within the area of the event or within an area that may be harmed as a result of the event any reasonable order.</p> <p>(3) Order those who have in their possession, control or supervision material or equipment to provide that material or equipment for Israel Police or the Rescue Bodies Authority.</p> <p>(4) Close an area or place and prevent anyone from entering or exiting it, and require any person found within the area of the event or within an area that may be harmed as a result of the event to stay where he is, leave or enter a place as he may require.</p> <p>In addition, under section 90D(f) of the Police Ordinance, in a mass disaster event a constable or any person who fulfills a duty in a rescue body may enter any place, as far as it is necessary in order to perform his duties, and use reasonable force for the purpose of</p> | | | <p>the police officer may grant such approval as long as the declaration is valid.</p> <p>The powers of a constable or any other person who fulfills a duty in a rescue body under section 90D(f) (entry to premises) can be exercised under the conditions that that person identified himself in front of those present in the place, informed them of the purpose of which the entry is required, and warned them that he intends to use force.</p> <p>These conditions will not apply if the person that makes use of these powers believes that no one is present in the relevant place. In addition, the use of these powers, when carried out in the area of a security installation or in an area held by the IDF or in the area of the nuclear research centers under the responsibility of the Israel Atomic Energy Commission, requires the consent of the Commander-in-chief of the IDF</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
|------------|--|-------------------------------|---------------------------|---|
| | <p>exercising the above mentioned power of entry.</p> <p>Moreover, the Hazardous Substances Event Inspector is granted with some powers, which will be elaborated below under the category of "hazardous substances", during a hazardous substances event or while he acts as a rescue body under section 4A(a)(2) or Chapter Six 1 of the Police Ordinance, and during an exercise in preparation for hazardous substances event.</p> <p>Regarding the preparation phase to a mass disaster event, a District Commander or a region Commander has the power to order the execution of an exercise in preparation for a mass disaster event.</p> <p>In addition, under Article 90D(b) of the Ordinance, "any rescue body and any governmental office or any other body shall be empowered and responsible to take all the necessary measures for the preparation for a mass disaster event and for the prevention or reduction of damages during the occurrence of such an event in the area they are responsible for under any law" ...</p> | | | <p>or the head of security, as the case may be, or of who was empowered by them for this purpose.</p> |
| Additional | If a mass disaster event is declared, the | the Minister of | People | In order for the Minister to |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>Under Section 233A of the Municipalities Ordinance [New Version] (titled: assistance to another local authority in a state of emergency), the Minister of Interior may give a municipality a permit to perform outside its territory in order to assist another authority in fulfilling an essential duty, role or authority, all in accordance with the conditions determined by him, including of compensation of an assisting municipality when circumstances justify it, when a mass disaster event occurs or is highly likely to occur.</p> | | | <p>mass disaster event, as defined by the Police Ordinance, is highly likely to occur or is occurring within the jurisprudence of the local authority getting the assistance; the Minister consulted with the Knesset Internal Affairs and Environment Committee's chairman; the Minister is satisfied that the following two conditions are satisfied: (1) due to the circumstances of the emergency the local authority which is getting the assistance is unable to provide its residents essential service or the service delivery was significantly damaged, (2) the performance of the assisting municipality would not be essentially harmed in fulfilling its duties by law or in providing its residents with services.</p> <p>If the Minister exercised the above mentioned power, he shall notify the Internal Affairs and Environment Committee as soon as possible.</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| War and a special situation on the home front | <p>Regarding a state of war – see the part concerning emergency regulations under a general state of emergency, above.</p> <p>Powers regarding a special situation on the home front: According to section 9D of the Civil Defense Law, during a special situation on the home front or during an attack, the Commander-in-chief of the IDF; his deputy; the Head of the Israeli Operations Directorate; the Head of Civil Defense; an officer of the I.D.F, with the rank of Major General when he acts as a Major General in Command in relation to the area which they are in charge of, may issue as necessary any required order, in order to save or ensure human life or property, to any person, any type of people or the entire public, and in particular:</p> <ul style="list-style-type: none"> (a) Impose an obligation to stay in certain places, including in homes or other buildings, bomb shelters or security rooms; (b) Prohibit or restrict schooling in educational institutions (c) Give instructions regarding personal equipment for purposes of civil defense (d) Establish provisions regarding blacking-out and regarding the protection of windowpanes of any kind | The Commander-in-chief of the IDF; his deputy; the Head of the Israeli Operations Directorate; the Head of the Home Front Command; an officer of the I.D.F, with the rank of Major General when he acts as a Major General in Command. | People and property | Orders by virtue of section 9D of the Civil Defence Law, as mentioned above, will expire whenever the person who gave the order revokes it or issues a different order to replace it or whenever the declaration of a special situation on the home front ceases to exist. |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>(e) Revoke licenses granting a right to use bomb shelter for purpose other than sheltering during an attack</p> <p>(f)-(h) Order those who have in their possession bomb shelters and public shelters to open those shelters, clear them for any unnecessary chattels and to regulate their use. In addition, during a special situation on the home front or at a time of an attack, a Civil Defense member may, for the purpose of fulfilling his duty, to use reasonable force when exercising the entry power granted to him in accordance with section 9(a) of the Civil Defense Law.</p> <p>Section 9(e) of the Civil Defense Law details several additional powers that the law grants to an officer serving in Civil Defense during a special situation on the home front or during an attack, as far as it is necessary for saving life or property or preventing serious harm to life or property. These powers include the power to order a Civil Defense member and a volunteer in assisting organization to perform their duties, the power to give any person in the installed territory or in the area that may be under an attack a reasonable order and more.</p> <p>Moreover, when a special situation on the home front is declared with regard to an area</p> | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>within a local authority's territory, the Minister of Interior may permit a municipality to act outside of its territory in order to assist other local authority to fulfill any essential duty, role or power, all in accordance with the conditions determined by him, including regarding matters dealing with compensating an assisting municipality in circumstances justifying it.</p> <p>In addition, during a special situation on the home front:</p> <ul style="list-style-type: none"> • The Minister of Industry, Trade and Labor has the power to employ teenagers after 23:00 (see above). • The Minister of Industry, Trade and Labor may declare by order, after consultation with the Minister of Defense, and if it appears to the Minister of Industry, Trade and Labor that the possibility to provide existential services to the population in the area which the declaration applies on might be harmed, or that malfunctions or real hazard might be caused to the production or the supply system providing existential services, that the provisions of Chapter D of the Emergency Labor Services Law, allowing to summon people by order to enlist to labor services, will apply for the purpose of providing the aforesaid services. The Minister may | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>summon by orders those who are obliged to take part in the labor services, whether their place of residence/workplace/the vital factory are within the aforementioned area or outside it.</p> <p>Order as such will cease to have effect the day the declaration of a special situation on the home front will come to end, unless the order was revoked earlier by the Minister.</p> | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| Terrorist events | <p>The Emergency Powers (Detention) Law, 1979 provides the Government the power to perform administrative detentions: According to section 2(a) of the law, "where the Minister of Defense has reasonable cause to believe that reasons of state security or public security require that a particular person be detained, he may, by order under his hand, direct that such person be detained for a period, not exceeding six months, stated in the order". When the Minister Of Defense "has reasonable cause to believe that reasons of state security or public security still require the detention of the detainee, he may from time to time, by order under his hand, direct the extension of the validity of the original detention order for a period not exceeding six months" (see section 2(b)).</p> <p>The chief of General staff is also granted with similar powers and according to section 2(c) of the law "where the Chief of the General Staff has reasonable cause to believe that conditions exist permitting the Minister of Defense to order the detention of a person under subsection (a) he may, by order under his hand, direct that such person be detained for a period not exceeding 48 hours and not capable of extension by order of the Chief of the General Staff".</p> <p>Note that according to section 4 of the law "where a person is arrested by order of the Minister of Defense under this Law, he shall, within 48 hours of his arrest, or, if immediately before he was under detention by order of the Chief of the General Staff, within 48 hours of his arrest under that order, be brought before the President of a District Court..".</p> | The Minister of Defense, the chief of General staff and Military Commanders, as the case may be | | The exercise of powers by virtue of the Emergency Powers (Detention) Law, 1979 is only possible during a period in which a (general) state of emergency exists in the State. The validity of the Prevention of Terrorism Ordinance, 1948 also depends on the existence of such an emergency (meaning the Ordinance shall only apply during a period in which a (general) state of emergency is in force). |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>If not brought before the President, "or the hearing before him is not begun, within 48 hours as aforesaid, the detainee shall be released unless some other ground for detaining him exists under any law".</p> <p>In addition, the Defense (Emergency) Regulations, 1945 (British mandatory law) grant various powers to Military Commanders for fighting terror:¹⁰</p> <ul style="list-style-type: none"> • Forfeiture and demolition of property (used by terrorist for their actions), by virtue of regulation 119(1): "A Military Commander may by order direct the forfeiture to the Government of Palestine of any house, structure, or land from which he has reason to suspect that any firearm has been illegally discharged, or any bomb, grenade or explosive or incendiary article illegally thrown, or of any house, structure or land situated in any area, town, village, quarter or street the inhabitants or some of the inhabitants of which he is satisfied have committed, or attempted to commit, or abetted the commission of, or been accessories after the fact of the commission of, any offence against the Regulations involving violence or intimidation or any Military Court offence; and when any house, structure or land is forfeited as aforesaid, the Military Commander may destroy the house or the structure or anything on growing on the land..." • Imposition of curfew, by virtue of regulation 124: "a Military | | | |

¹⁰ EMANUEL GROSS, THE STRUGGLING OF DEMOCRACY AGAINST TERRORISM: LEGAL AND MORAL DIMENSIONS, Chapter 4: Powers of Military Commanders in the Struggle against Terrorism (2004)

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>Commander may by order require every person within any area specified in the order to remain within doors between such hours as may be specified in the order" ...</p> <ul style="list-style-type: none"> • Imposition, by orders, of closure or encirclement, by virtue of regulation 122, 125 and 126. • Declaration of any area or place to be a closed area, by virtue of regulation 125. <p>In addition, the Prevention of Terrorism Ordinance, 1948 allows the closing of any place serving a terrorist organization; the declaration of a particular body of persons to be a terrorist organization and also states that "a person who is a member of a terrorist organization shall be guilty of an offence and be liable on conviction to imprisonment" ...</p> | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
|-----------|---|-------------------------------|---------------------------|---|
| Fires | <p>The "ordinary" powers granted to a firefighter during "a fire and rescue event", which is defined by the National Fire and Rescue Authority Law as "A fire and any other dangerous situation that the Fire and Rescue Authority takes care of, in accordance with its functions", are detailed in Part D of the law (and include: power to entry premises, powers regarding the use of property, etc.).</p> <p>In addition, according to section 25 of the law, during a fire and rescue event in which fear of immediate harm to human life or property arises, a fire and rescue officer (as opposed to a firefighter) may do the following in order to carry out actions that are urgently needed:</p> <p>Use equipment or materials that are in the possession of any person.</p> <p>Give any person orders concerning assistance and use of materials or equipment.</p> | A fire and rescue officer | people and property | A fire and rescue officer may exercise this power only in special circumstances, that is, during a fire and rescue event in which arises fear of immediate harm to human life or property; and – if he is satisfied that the equipment or materials that are available to him are not sufficient for responding to such an event. |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| Floods | <p>Under section 53 to the Floods Law, the Minister of Agriculture has the power to declare, by order, that a flood affected area is to be a protected area" and in that order or in a later order he may:</p> <ul style="list-style-type: none"> • Prohibit the pasture or movement of animals in the area • Prohibit the "cultivation of land in the area in any form or any work done on the land, including extermination, uprooting, burning or removal of any vegetation". • Order the Director of the National Authority for Water and Sewage "to perform any work or action in the protected area by him or by his emissaries, which he believes is urgently needed for repairing the damage caused by flood or for its prevention in the future, provided that no land will be expropriated, nor any right concerning that land, and that no building or permanent facility will be installed within it". | The Minister of Agriculture | People and the Director of the National Authority for Water and Sewage. | The Minister may exercise the power granted to him by virtue of section 53 of the Floods Law if it appears to the Minister that it is necessary for the purpose of preventing frequent danger that cannot be prevented in any other way, or for the purpose of preventing flood or soil erosion or for repairing damage caused by flood or erosion. |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| Water Crises | Under section 18A(b) of the Water Law, once a water damage event was declared, the Director of the National Authority "may order any relevant person to take every necessary measure to deal with the event, prevent it, stop it, restore previous condition and prevent its recurrence, and to regulate the water supply for consumers that were harmed by the event, for a period of time and under conditions that he shall prescribe in the order; and all according to the rules" that will be provided by the Council of the National Authority in accordance with sub-section (c). | The Director of the National Authority for Water and Sewage | People | The Director of the National Authority for Water and Sewage can exercise this power only under the existence of a declaration of "a water damage event". |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| Hazardous Substances | <p>Powers regarding hazardous substances by virtue of the National Fire and Rescue Authority Law</p> <p>Under section 28 of the National Fire and Rescue Authority Law, at the time of a hazardous substances event and during an exercise in preparation for hazardous substances event, in addition to any role, each of the bodies mentioned in subsections (1)-(2) (to this section) will be granted the power subscribed beside it:</p> <p>(1) To an employee of the National Fire and Rescue Authority, which received proper training –</p> <ul style="list-style-type: none"> (a) Detection, identification and monitoring of hazardous substances during a hazardous substances event (b) Assessment of risks while a hazardous substances event is in progress <p>(2) To a Fire and rescue officer, which received proper training –</p> <ul style="list-style-type: none"> (a) Giving professional advice to a police officer or I.D.F officer, at their request, on one of the following: <ul style="list-style-type: none"> (1) on how to deal with hazardous substances in order to prevent, reduce or stop dangers to human beings and the environment (2) on guidelines to the public and to the rescue | Fire and Rescue officers and the employees of the National Fire and Rescue Authority, as the case may be. | People and property, along with police officers and I.D.F officers. | <p>Such powers may be carried out once a hazardous substance event or an exercise in preparation for hazardous substances event occurs, or when there is suspicion regarding the existence of a hazardous substances event, as the case may be.</p> <p>In addition, an employee of the National Fire and Rescue Authority will not use the powers granted to him by virtue of section 29 of the law, unless: "(1) he received proper training [...] as instructed by the Commissioner and (2) he meets additional qualifications, as far as ordered by the Minister" (Also see above for additional conditions regarding the exercise of the powers, e.g.: powers to conduct a search without a judge's Order.)</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>bodies [...]</p> <p>According to section 29 of the law, when there is suspicion regarding the existence of a hazardous substances event, an employee of the National Fire and Rescue Authority will be given the following powers:</p> <ol style="list-style-type: none"> (1) To demand that a person in the event area, or a person any of them has reasons to believe is connected to the event or has information about it, give his name and address and present an ID card or other official document that identifies him (2) To demand that a person in the event area, or a person any of them has reasons to believe is connected to the event or has information about it, provide any information or document that is required in order to perform his functions; in this subsection, "document" – including output, as defined in the Computer Law. (3) To conduct tests or measurements or take substance samples of any substance that he has reasonable grounds to believe is a hazardous substance. (4) To conduct a search in a place without a judge's Order, if he has reasonable grounds to believe that hazardous substances are in that place, and to seize a substance he has reasonable grounds to believe is a hazardous substance, and all as far as necessary to save human life or property or to reduce the extent or results of a hazardous | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>substances event; a substance seized as aforesaid shall be returned to the person from whom it was seized, as far as possible and as soon as possible after the hazardous substances event.</p> <p>Powers regarding hazardous substances by virtue of the Hazardous Substances Law. The Hazardous Substances Event Inspector (which is authorized by the Minister of Environmental Protection "from among the staff of his Ministry or from among the employees of the local authority with the consent of the head of that authority") is granted the following powers:</p> <ul style="list-style-type: none"> • According to section 16C2(a): (1) "Detection, identification and monitoring of hazardous substances during and after a hazardous substances event (2) Assessment of risks while a hazardous substances event is in progress (3) Giving professional advice to the police officer or I.D.F officer, at their request, on how to deal with hazardous substances in order to prevent, reduce or stop dangers to human beings and the environment, as well as giving professional advice as aforesaid in respect of guidelines to the public and to the rescue bodies... (4) Giving professional advice on restoring conditions in the event area to their previous state, and guidelines for the rehabilitation of the event area" | <p>The Hazardous Substances Event Inspector.</p> | <p>People and property, along with police officers and I.D.F officers.</p> | <p>A Hazardous Substances Event Inspector (according to section 16C2(a) to the Hazardous Substances Law) shall have the powers aforesaid "at the time of a hazardous substances event or when he acts as a rescue body under section 4A(2) or Chapter Six 1 of the Police Ordinance, and during an exercise in preparation for hazardous substances event ".</p> |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>• According to section 16C2(b), "for the performance of his functions under subsection (a), a Hazardous Substances Event Supervisor shall have the powers specified below:</p> <p>(1) To demand that a person in the event area, or a person the Supervisor has reasons to believe is connected to the event or has information about it, identify himself</p> <p>(2) To enter any place, as required, in order to treat the hazardous substances event to prevent or reduce danger to human life;</p> <p>(3) To demand documents, study them and take them or copies thereof;</p> <p>(4) To conduct a search in a place without a judge's Order, if he has reasonable grounds to believe that hazardous substances are in that place, which are liable to cause real and immediate danger to human life;</p> <p>(5) To take a sample of any substance that he has reasonable grounds to believe is a hazardous substance;</p> <p>(6) To seize a substance he has reasonable grounds to believe is a hazardous substance, as necessary to save human life or property or to reduce the extent or results of a hazardous substances event; a substance seized as aforesaid shall be returned to the person from whom it was seized, as far as possible and as soon as possible after the hazardous substances event. Section 16C4 of the law provides that "the provision of</p> | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>section 16C2 shall not apply to a hazardous substances event that originated from an area of the nuclear research centers under the responsibility of the Atomic Energy Commission, or from a defense installation or an area held by the I.D.F., as defined in section 90A of the Police Ordinance, unless the Prime Minister or the Minister of Defense, as the case may be, approved the use of the powers of the Hazardous Substances Event Supervisor said in that section".</p> | | | |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| Infectious Diseases | <p>Once the Minister of Health declared by notice that the health of the public is seriously threatened by the existence or a threat of such a disease as aforesaid, under section 20 of the Public Health Ordinance, the Director of Health Services (or a person empowered by him) shall be authorized to regulate or ordain, whether by order, by decree or any other way, that the following will be performed:</p> <p>a) Visits from house to house</p> <p>b) Submission of medical aid, distribution of medicines, provision of housing, care of cleanliness, ventilation and disinfection and prevention of the spreading of the disease.</p> <p>c) All matters or things that he may find necessary for the prevention of the disease or its mitigation;</p> <p>In addition, the Director may impose these arrangements, in whole or in part, on the whole state or any part or parts of it and on any ships that are located within its inner shores or its territorial waters.</p> <p>Furthermore, the Director may, after issuing the declaration notice, regulate or install, whether by order, by decree or any other way, the implementation of any measure among the measures listed under this subsection [subsection (2) of section 20 of the Public Health Order] that it appears as needed for preventing the spreading or the penetration of the disease, that is:</p> <p>(a) To clear, isolate, stop, provide supervision, medical examination and medical care [to] infected people and people that are in contact with them, and also people who are suspected of being recently liable to being infected, and performing all the necessary actions to get lab samples from each of the persons</p> | The Director of Health Services, the governmental services or the Head of a District, as the case may be | People and property | These powers, with the exception of the power regarding the regulation of burial, can be carried out only with the existence of a declaration that the public health is threatened, as aforesaid. The powers granted to the Head of a District regarding building destruction can be used only if an adequate request from the Director or a doctor of the government exists |

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>mentioned above.</p> <p>(b) To inoculate serum in public officials, pilgrims, immigrants, travelers and touch tools or people who are suspected of being recently liable to be infected</p> <p>(c) Enter at any time any public or private building and examine it in order to locate sick people and to take all necessary measures to prevent the spreading of the disease</p> <p>(d) To introduce and regulate sanitary supervision and disinfect public or private water supplies</p> <p>(e) Seize, arrest, disinfect or destroy infected objects or objects that are liable to infection or may cause infection, provided that it will be possible to compensate for objects and goods</p> <p>(f) Bury the dead or dispose of them in any other way</p> <p>(g) To provide passengers from infected areas with medical supervision</p> <p>(h) To purchase by Angary¹¹ – for a fee – land or buildings for housing people liable to detention or isolation or people who need housing as a result of the implementation of the aforesaid measures</p> <p>(i) Seize, on a fee basis, building or lands in order to install within them temporary hospitals in connection with the measures taken for preventing or eliminating the disease</p> <p>(j) To seize by Angary, on a fee basis, transport means that are required in connection with the measures taken for the elimination</p> | | | |

¹¹ Angary, *Wikipedia*, "Angary , the name given to the right of a belligerent (most commonly, a government or other party in conflict) to seize and apply for the purposes of war (or to prevent the enemy from doing so) any kind of property on belligerent territory, including that which may belong to subjects or citizens of a neutral state." <http://en.wikipedia.org/wiki/Angary> (last visited 12/24/2015)

| Situation | Powers | Who is the power conferred to | Power exercised vis-a-vis | Conditions to be met when exercising the power |
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| | <p>of the disease</p> <p>In addition:</p> <ul style="list-style-type: none"> • The Director or a governmental doctor may regulate matters regarding burial • Pursuant to a requirement of the Director or a governmental doctor, a Head District may order to destroy any building or shelter used for human or animal habitation, that for its non-sanitarian condition it constitutes, in the Director's or the doctor's opinion a spreading center of the disease., also, if an epidemic broke out in a restricted area the Head of the District may order that no man will leave the restricted area and he may take actions such as surrounding the area with a sanitarian chain or other measures, as far as he finds necessary to effectively fulfill the order, and for that purpose he may require the help of the police. | | | |

4. Rights in a State of Emergency

Below is detailed legislation that expressly addresses rights during states of emergencies. It should be emphasized that each of the aforementioned powers embodies a certain balance that constitutes a violation of human rights. Thorough discussion regarding this issue requires further deepening, especially in case law, which is yet to be reviewed in this phase of the research. Hence, the purpose of this chapter is only to demonstrate a legislative involvement regarding this issue (and not provide a detailed review concerning it).

According to Article 39(c) of the Basic Law: The Government: "emergency regulations may alter any law temporarily suspend its effect or introduce conditions, and may also impose or increase taxes or other compulsory payments unless there be another provision by law". However, subsections (d) and (e) restrict to some level the scope of the regulation by stating that "emergency regulations may not prevent recourse to legal action, or prescribe retroactive punishment or allow infringement upon human dignity" and "emergency regulations shall not be enacted, nor shall arrangements, measures and powers be implemented in their wake, except to the extent warranted by the state of emergency".

Basic Law: Human Dignity and Liberty, states explicitly under section 12, that "this Basic Law cannot be varied, suspended or made subject to conditions by emergency regulations". However, this section further provides that "notwithstanding, when a state of emergency exists, [by virtue of a declaration aforesaid] [...] emergency regulations may be enacted [...] to deny or restrict rights under this Basic Law, provided the denial or restriction shall be:

- For a proper purpose and
- For a period and extent no greater than is required".

Similarly, Basic Law: Freedom of Occupation states, under section 6, that "This Basic Law shall not be varied, suspended or made subject to conditions by emergency regulations".

5. Regulations

Below is an initial review of regulatory arrangements of states of emergencies, divided by the following categorization: regulation through information; regulation through licensing; criminal liability; civil liability and regulation through insurance. There is also a possibility of regulation through taxation, which is not mentioned here. Once again, the purpose of this chapter is only to demonstrate the possible use of regulatory arrangements during emergencies (and not provide a detailed review concerning the subject):

Regulation through information:

According to section 2 of the Civil Defense Law, the Civil Defense Service is granted, inter alia, the power to instruct the public regarding every concern of civil defense, and coordinate, the actions of the various government ministries, the activities of local authorities and the activities of private plants regarding all matters relating to civil defense.

Regarding earthquakes, in 1975 Israeli Standard SI 413, which deals with earthquake resistant construction was established. In 1980 it was determined that the Standard applies to structures that have been constructed from January 1, 1980 onward. It should be noted that the enforcement of the Standard is problematic.¹²

Regulation through licensing:

In 2005 the "National Master Plan for strengthening existing buildings against earthquakes"¹³ (TMA 38) was approved. The plan's main purpose is to provide incentives for homeowners, to take initiative in strengthening building foundations. TMA 38 provides homeowners with building rights of an extra floor, without the need to issue or change a detailed plan that applies to the structure. The plan had been criticized for not encouraging structural strengthening of public or residential buildings in the peripheries, and its implementation meets various difficulties.¹⁴

¹² State Comptroller Report, *Earthquake-resistant Structures and Infrastructures – Situation Report*, 9,11, (2011).
<http://www.mevaker.gov.il/he/Reports/Pages/116.aspx> (last visited 12/24/2015)

¹³ National Master Plan for strengthening existing buildings against earthquakes (TMA 38), section 1.

¹⁴ FN 12, Comptroller Report at 10.

Criminal liability:

According to section 2 of the Protection of Employees During a State of Emergency Law, 2006, employers are not allowed to dismiss employees who could not make it to work due to emergency circumstances. According to section 7 of the law, an employer not complying with section 2 – shall be guilty of an offense and be liable for a fine under section 61(a)(2) of the Penal Code.

There are also some punitive provisions dealing with matters concerning planning and building (see: sections 204-209 of the Planning and Building Law, 1965), which can be used in matters concerning structural protection, as required by the law.

Moreover, there is a general criminal liability that can be imposed on anyone who interrupts rescue forces during performances or does not comply with their orders. The latter has a particular importance during emergencies.

Civil liability:

(1) The Civil Wrongs (Liability of the State) Law, 1952 regulates the State's liability regarding Civil Wrongs, and states under section 2 of the law that "with respect to civil liability, the state shall be deemed as any incorporated body, except as provided in this law". The law provides for several exceptions, for example, in accordance with section 5 of the law that "the state is not civilly liable for an act performed through a Wartime Action of the Israel Defense Forces".¹⁵ A different exception that was embodied in the law (section 5C) regarding the civil liability of the state with respect to "damages sustained in a zone of conflict" was repealed in 2012 (it should be mentioned that a ruling¹⁶ of the Supreme Court of Israel (in his rule as the High Court of Justice) declaring the annulment of the section preceded the amendment of the law that repealed section 5C). A "Wartime Action" is defined by the law as follows: "including any action of combating terror, hostile actions, or insurrection, and also an action as stated that is intended to prevent terror, hostile actions, or insurrection", which is of the nature of wartime action, in view of all its general circumstances, including the purpose of the operation, the geographical location or the threat imposed on the force exercising it.

¹⁵ Mordechai Kremnitzer, Yuval Shany and Guy Lurie, *State's Civil Liability for Acts to Prevent Terrorism*, The Israel Democracy Institute (2009).

¹⁶ HCJ 8276/05 *Adalah Legal Center for Arab Minority Rights in Israel et. al. v. The Ministry of Defense et. al.* [2006] (2) IsrLR 352. http://elyon1.court.gov.il/files_eng/05/760/082/a13/05082760.a13.pdf (last visited 12/24/2015)

- (2) Different provisions state the State's obligation to compensate people whose property was damaged as a result of its activities during emergencies. For example, according to section 90D(a) of the Police Ordinance, if an equipment that was provided for rescue bodies during a mass disaster event, in accordance with section 90D(3) of the Ordinance, was not returned or damaged, the State Treasury shall compensate the owner, and shall pay user fees for the equipment.
- (3) In respect to civil liability, the Natural Disaster Victims Compensation (Compensation for damages that suffered agriculture infrastructures) Law, 1989 should be mentioned. Section 1A of this law allows the government to declare a "Natural Disaster", upon the recommendation of the Minister of Agriculture and Rural Development, provided that the declaration was pronounced after consultation with the Minister in charge of the Israeli Metrological Service, the Hydrological Service of Israel or the Israeli Geological Survey. This declaration grants compensation rights to those who belong to the agriculture sector and suffered from "damage resulting from natural disaster". "Damage resulting from natural disaster" is defined by the law as damage to agriculture infrastructures, resulting in the loss of income, and all due to a natural phenomenon of unusual extent or unusual intensity or abnormal duration, or due to an unusual accumulation of natural phenomena, which the acceptable measure in agriculture for its prevention and treatment were found inefficient, and that the government has declared it under section 1A to be a "natural disaster". The law states, inter alia, conditions for receiving the compensation money and restrictions regarding its amount. In addition, the law states under section 1A(b) the considerations that the government must take into account when declaring a natural disaster:
 - (1) The estimated total amount of money necessary to evaluate the damages resulted from the natural disaster ... and to pay for the damages aforementioned.
 - (2) The estimated total amount of money of compensation to be paid under this law for damages resulted of the natural disaster.

By virtue of section 3(b), 4 and 7 of the law, regulations setting additional arrangement regarding the implementation of the law (entitlement to receive compensation and its amount) were made. Among other things, the regulations established that the government's declaration of a natural disaster should be published in the Reshumot and in three daily newspapers. In addition, the regulations stipulate that a compensation entitlement committee should be established, while stating explicit orders regarding how to assess and calculate the damage and the compensation.

Regulation through insurance:

According to the Property Tax and Compensation Fund Law, 1961, the state is responsible for the compensation of Israeli Citizens, in respect to direct and indirect damages caused to them as a result of different wartime actions. In addition, by virtue of the law, compensation is also paid for damages caused by drought.¹⁷ It should be mentioned that on January 1, 2013, the Israel Tax Authority published forms and guidelines on how should business from southern Israel, that suffered from indirect damages due to military operation "Pillar of Cloud", submit a claim for compensation, in accordance with Government Decision to give such, and Property Tax and Compensation Fund Regulations (payment of compensation) (war damage and indirect damage) (temporary order), 2012.¹⁸ In addition, according to the Property Tax and Compensation Fund Law and the regulations made under its virtue, household objects (e.g.: furniture, clothes, electrical devices, etc.) can be insured for damages resulting of war, up to a certain value, and in accordance with the regulations. The insurance does not require premium payments.¹⁹

It should be mentioned, that in addition to the Protection of Employees During a State of Emergency Law, 2006, Government Decision 4575 stipulated that parents, which were absent from work in accordance with the guidelines published by the Home Front Command due to the security situation in Gaza and Southern Israel, should be given compensation.²⁰

¹⁷ Israel Tax Authority, Ministry of Finance Official site:

http://taxes.gov.il/EMERGENCYINFORMATIONA_COMPENSATIONFUNDPROPERTYTAX/Pages/MasRechushKerenPitzuinm.aspx (last visited 12/24/2015)

¹⁸ Id. http://taxes.gov.il/about/publicannouncements/pages/ann_010113_3.aspx (last visited 12/24/2015)

¹⁹ Id. http://taxes.gov.il/emergencyinformationa_compensationfundpropertytax/pages/guides/pituyimguideinshurance.aspx (last visited 12/24/2015)

²⁰ Government Decision 4575 "Compensation payments to parents, which were absent from work in accordance with the guidelines published by the Home Front Command due to the security situation in Gaza and Southern Israel (22.04.2012). In Prime Minister's Office Site. <http://www.pmo.gov.il/Secretary/GovDecisions/2012/Pages/des4575.aspx>.) (last visited 12/24/2015)