

The Rise and Fall of Israel's Senior Citizens' Law

Dr. Israel Doron*

Department of Gerontology

Haifa University, Haifa, ISRAEL 31905

Tel: 972-4-8249954; Fax: 072-4-8249946; Email: idoron@univ.haifa.ac.il

* LL.B., LL.M., Ph.D., Lecturer, Department of Gerontology and School of Social Work.

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Abstract

Within the broad and complex framework of laws in Israel relating to the older population, this article focuses on a single act of legislation: the Senior Citizens Law, 5750-1989 (hereinafter “the Senior Citizens’ Law”). During its hitherto brief life, this law has undergone numerous transformations, ups and downs, additions and deletions, successes and failures.

At the time of its enactment, there were those who placed great hopes for the future of older people's rights on the law. As of today, however, this article will attempt to argue that the law has failed to realize its objectives. The article includes two sections: the first section will describe the history of the law and the transformations it has undergone, while the second will attempt to show why, despite certain achievements, the law has ultimately failed to fulfill its promise.

Key words: Politics and Ageing; Ageing and Legislation; Seniors' Rights; Elder Law; Law and Ageing;

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Unfortunately, I must tell you, Members of Knesset, that many old people in this country live in conditions that are a shame – a shame on the State of Israel and a shame on Israeli society... To transfer this law [the Senior Citizens' Law] today from the Prime Minister's Office to the Ministry of Labor and Social Affairs is effectively to say that the law is superfluous... We do not need a special law for this... We could do without this law.

MK Meir Shetrit (Likud), June 15, 1993

This law [the Senior Citizens' Law] as submitted to the Knesset... is a credit to the Members of Knesset. It is a credit to us all that we are today supporting a law that aims to make life easier for senior citizens in the State of Israel.

MK Meir Shetrit (Likud), January 13, 1998

Introduction

Like other weak and minority population groups, older people are struggling to change their status and secure social and political recognition. They struggle both alongside and against others in an effort to secure what they consider an equitable and just portion of the cake of public resources. This struggle takes place across numerous spheres and fronts. In many cases, the struggle of senior citizens takes place within the context of powerful constraints: poverty, discrimination, ageism, the lack of political power, and deeply-entrenched social stigmas.

One sphere in which the struggle for social and political recognition takes place is that of legislation. The legislature, the legal code, the courts and the other agencies of law constitute an important arena for the struggle by older people to secure their rights. As a tool for realizing and actualizing public policy, the law reflects and plays a key social role in the allocation of resources and the granting of rights. It also reflects the power and capacity (or the weakness and incapacity) of

older people to translate their growing social and political weight given the reality of the demographic revolution of aging.

Israeli law has made reference to older people from its inception. This reference has been manifested in diverse ways and in numerous legal dimensions. At least one model has noted at least five different spheres of reference within which the law in Israel has related to the older population (Doron, 2003). These spheres of reference refer to universal dimensions, such as core legal values, as well as particularistic legal dimensions, such as the paternalistic sphere, which claims to protect old people against exploitation and violence; the sphere of planning and prevention, which enables the elderly to plan their lives and avoid unnecessary legal proceedings such as guardianship; and the legal sphere, which supports informal support systems.

Within the broad and complex framework of laws in Israel relating to the older population, this article focuses on a single act of legislation: the Senior Citizens Law, 5750-1989 (hereinafter “the Senior Citizens’ Law”). During its hitherto brief life, this law has undergone numerous transformations, ups and downs, additions and deletions, successes and failures. At the time of its enactment, there were those who placed great hopes for the future on the law. As of today, however, this article will attempt to argue that the law has failed to realize its objectives. The article includes two sections: the first section will describe the history of the law and the transformations it has undergone, while the second will attempt to show why, despite certain achievements, the law has ultimately failed to fulfill its promise.

Part One: History of the Senior Citizens' Law

1. Before the Senior Citizens' Law

Until the early 1980s, no attempts or pretenses were made to enact legislation defining the rights of the elderly, as distinct from legal arrangements relating to vulnerable population groups in general. The legal rights of the elderly were dispersed among a wide range of laws regulating relevant areas of life for diverse population groups, such as wards, legally incompetent or helpless individuals. Thus, for example, the Legal Competence and Custodianship Law, 5722-1962, which is of great relevance for older people who become unable to manage their own legal affairs, does not include any specific reference to old people. The law refers to “persons unable to care for any or all of their affairs” or “legally incompetent persons” (persons suffering from mental disability or illness).

This reality began to change in the early 1980s. For the first time, Israeli society began to be exposed to and to internalize processes of aging and the social ramifications of expected demographic changes in the field of gerontology. This period also saw a trend within Israeli legislation toward an emphasis on a more rights-oriented approach. Civil society actions intended to promote the interests and status of minority groups or weak sectors began to emerge. Within this framework, the first signs could be seen of various initiatives to enact laws in which the elderly per se constituted the sole target and reference group. In 1982, for example, a private bill entitled The Safety for the Elderly Law, 5742-1983, was proposed by MK Moshe Shahal. The purpose of this law was to ensure that safety measures would be installed to protect the safety of the elderly. Two years later, MK E. Speiser proposed the Assistance for Pensioners Law, which provided that elderly people, 85% of whose monthly income came from retirement or budgetary pension funds, would be entitled

to a reduction of 50% on any tax, levy or other compulsory payment due to a local authority. However, none of these laws were actually advanced or reached any concrete stage of the legislative process.

The First Rise and Fall of the Senior Citizens' Law: 1988-1993

The First Rise

The idea of the Senior Citizens' Law was born against the background of these developments. The first private bill on the subject was proposed by Member of Knesset Nava Arad. MK Nava Arad was a member of the Labor Party, and had identified the elderly population as an electoral target. Moreover, as the former national secretary of the Association of Social Workers in Israel, she had knowledge and experience in the field of advancing the rights of minority and weak population groups. On the basis of this background, MK Nava Arad initiated and established a parliamentary lobby, which she headed, and which at the height of its activities included some seventy Members of Knesset (out of a total of 120 Knesset members) from all political factions.

The Senior Citizens' Law thus began its life as a private bill proposed by MK Nava Arad on February 1, 1988. The timing was no coincidence, since at the time it was already known that general elections to the Knesset were due to take place in November of the same year. The proposed law (Senior Citizens Proposed Law, 1988) was relatively modest and compact, including just 8 articles and establishing three new arrangements:

1. Senior Citizen's Card: The first arrangement was the issue of a "Senior Citizen's Card" for every senior citizen. The law defined "senior citizen" in an identical manner to the definition of "aged person" in the National Insurance

Law in terms of eligibility for old age pension, i.e. 65 years for men and 60 years for women.

2. Advisor on Senior Citizens' Affairs: The second arrangement was the granting of authority to appoint an advisor on senior citizens' affairs, who was to be accountable to the Prime Minister. The advisor was also supposed to function as a liaison office for the work of the government as a whole on matters relating to senior citizens.
3. Public Council for Senior Citizens: The third arrangement was the establishment of a Public Council for Senior Citizens, with a number of members not greater than 35 and not less than 21. The Council was supposed to include representatives from different sectors, including representatives of central government, local government representatives, public representatives and representatives of various voluntary organizations. The goal of the Council was to develop and initiate actions intended "to better and improve the quality of life of senior citizens."

Since this was a private bill, the law had to pass a Preliminary Reading before the usual legislative process of three Knesset Readings could begin. During the course of the Knesset debate on the Preliminary Reading, however, it emerged that the government was opposed to the bill. The Deputy Minister of Labor and Social Affairs argued that there was no need for the law, since numerous bodies existed to attend to the rights of the elderly, including the Council for the Aged (see above). Moreover, the Deputy Minister argued that the issuing of Senior Citizen's Cards would create a negative stigma against the elderly. Despite the government's opposition, however, the bill passed the Preliminary Reading in the Knesset plenum, and was forwarded for preparation for its First Reading in the Knesset Labor and Social Affairs Committee.

Following the decision to forward the bill for preparation for its First Reading, a preliminary discussion of the proposed law took place on July 13, 1988 in the Labor and Social Affairs Committee. MK Nava Arad presented the proposal and the “model” according to which she had developed the law:

“We have learned from our experience that if we want to secure national prioritization for issues raised in the committee, a position to address the subject must be established in the Prime Minister’s Office... One of the greatest achievements was that, as the result of the establishment of the Council for the Status of Women, we reached a situation whereby the government ministries have special advisors on the status of women.”

(Minutes of the Knesset Labor and Social Affairs Committee, July 13, 1988, p. 2)

The Ministry of Labor and Social Affairs disapproved of this legislative strategy and its operational ramifications. The Ministry had traditionally seen itself as the body responsible for representing and caring for the elderly in Israel, and the strategy embodied in the Senior Citizens’ Law effectively sought to remove the field of old age from the Ministry’s professionals. Accordingly, it was unsurprising that the director of the Service for the Aged in the Ministry of Labor and Social Affairs, who was invited to a hearing at the Knesset to present the Ministry’s position, did not oppose the issuing of new senior citizen cards, but expressed strong opposition to the establishment of a public council. In light of the short timetable and the political disagreement, the legislative process was halted.

In early November 1988, general elections were held. The Likud, led by Mr. Yitzhak Shamir, won the largest number of seats. Shamir decided to continue the National Unity Government with the Labor Party, though this time he would serve as Prime Minister for the entire term. Following this arrangement, MK Ora Namir

continued to serve as chairperson of the Labor and Social Affairs Committee in the new Knesset. The committee reconvened on April 10, 1989, decided to apply the Contiguity Law to the Senior Citizens' Bill, and continued discussion of the law from the point where it had stopped prior to the elections. The basic positions remained unchanged: the Ministry of Labor and Social Affairs reiterated its opposition to the establishment of the function of an advisor, since "there was no need" for this; the Ministry again asked that the Council be established within the Ministry, and not in the Prime Minister's Office; and when it became apparent that its positions were likely to be rejected, the Ministry even attempted to postpone the deliberations. This time, committee chairperson MK Ora Namir was determined to approve the bill ahead of its Second and Third Readings. She forcefully rejected the pressure to postpone the discussion. Due to her persistent approach, the committee eventually approved the Senior Citizen's Bill ahead of its Second and Third Readings.

After various delays, the bill was brought before the Knesset plenum for its Second and Third Readings. The government submitted reservations relating to two aspects of the law, requiring firstly – the transfer of authority from the Prime Minister's Office to the Ministry of Labor and Social Affairs; and secondly – the abolition of the position of the Advisor on Senior Citizens' Affairs. After brief discussion, the government's reservations were rejected and the law was approved.

The passage of the law was naturally the source of great satisfaction for its initiators and supporters. Despite the lack of cooperation from the Prime Minister's Office and the Ministry of Labor and Social Affairs, the law was approved, and efforts to delay its passage and change its content were defeated. Following this success, MK Nava Arad justifiably presented the law as her own political success and

that of the Pensioners' Histadrut (Arad, 1990). For the older population in Israel, this was a moment of satisfaction.

The First Fall

With hindsight, celebration of the passage of the Senior Citizens' Law was short-lived. Within a relatively short period of time, the Senior Citizens' Law underwent processes that led to its first fall, with significant ramifications for its future development. We shall now describe these processes:

1. Change in the ministerial responsibility for the Senior Citizens' Law

As explained above, one of the main components of the Senior Citizens' Law was the fact that its principal institutional mechanisms, i.e. the advisor and the council, were placed within the framework of the Prime Minister's Office. This was important in symbolic terms, in that the subject was placed under the responsibility of the head of the executive, who carried the greatest political weight.

In complete contradiction to the original rationale of the law, and exploiting changed political circumstances, the Ministry of Labor and Social Affairs managed within a few years to change the structure of legal responsibility for the law. The move exploited the fact that in the early 1990s, the late Prime Minister Yitzhak Rabin was preoccupied with foreign affairs and defense issues and did not wish to relate to the senior citizens issue. Moreover, the Ministry of Labor and Social Affairs was now headed by a strong woman minister who had formerly chaired the Labor and Social Affairs Committee, Mrs. Ora Namir (see the description of the subject in the comments of MK Nava Arad, February 6, 1996, p. 4073). Mrs. Namir was very familiar with the law and the political potential it embodied. This combination of forces led to a situation whereby, in 1993, the government decided to transfer the

authorities in accordance with the Senior Citizens' Law from the Prime Minister to the Minister of Labor and Social Affairs (Official Publications, 5753, 3566).

2. The focus on financial benefits

The second key transformation concerned the main areas of focus of the work of the council. As will be discussed below, the appointment of the advisor and the council did not reflect a genuine desire to advance the goals of the law, but were the reluctant product of parliamentary pressure. At the first substantive meeting on March 26, 1992, the Public Council for the Affairs of Senior Citizens adopted a deliberate course of action (minutes of the meeting, March 26, 1993). The meeting was chaired by Mr. Haim Amar, Advisor to the Prime Minister on the Affairs of Senior Citizens. The meeting began by discussing the issuing of senior citizen's cards; it emerged that, due to logistical problems, these had not yet been sent to all those entitled to receive them. It further emerged during discussion of this subject that since the law did not define concrete reductions, the certificate did not grant actual benefits. Accordingly, it was decided to publish a booklet of benefits and discounts for senior citizens, to be produced by a private entrepreneur, and including all benefits and discounts provided for senior citizens by the various government ministries.

The council then heard a review by Prof. Dan Shavit of the legal status of the aged in Israel, followed by a review of the findings of a survey commissioned from the Brookdale Institute relating to the level of knowledge and utilization of discounts and benefits among the elderly. The meeting closed without reaching any operative decisions. The most interesting point is that, in summarizing the meeting, the chairperson of the Council, Mr. Haim Amar, defined its function as follows: "The council is an advisory council, and its principal fields are the benefits established in legislation, and we need to ensure that a budget is available for this subject."

In other words, the strategic direction adopted by the Council for the Affairs of Senior Citizens and the advisor who headed the council was to focus on the subject of providing financial discounts for the elderly. It should be recalled that the law permitted them to develop diverse fields of activity: to establish new frameworks, such as information service; to establish an ombudsperson for the age; to provide legal advice; to nurture new community services; and many other diverse frameworks, most of which drew on the American experience with their own parallel law – the Older Americans Act. Unfortunately, the course of action actually adopted was that of least resistance – financial discounts and benefits. While these were undoubtedly important, they could not secure a fundamental change in the social status or civil power of the older people in Israel.

The Second Rise and Fall: 1994-1997

The Second Rise

Toward the end of 1994, the Senior Citizens' Law began to attract renewed interest. The reason was simple – elections began to appear on the horizon. The Pensioners' Histadrut and MKs from the lobby for the elderly realized that they could not expect anything from the government ministries. Accordingly, MKs from various factions began to propose private bills, whether as personal initiatives or in response to pressure and lobbying from the Pensioners' Histadrut, in order to actualize the inherent potential of the Senior Citizens' Law.

On November 4, 1995, Prime Minister Yitzhak Rabin was assassinated. The realization that elections were ahead, and might even come sooner than expected, expedited events, and the efforts to “revive” the Senior Citizens' Law gained momentum. Senior citizens were suddenly courted by politicians (Tal, 1996). Indeed, no fewer than five private bills were proposed by Members of Knesset from both the

right and the left. Most of these proposals concentrated on adding substantive content to the Senior Citizens' Law by granting financial discounts and benefits to the elderly.

In practical terms, a political agreement was reached between the different MK to introduce a joint bill, that included a long list of discounts for senior citizens: 50% on public transport; 50% on the television license; 50% on entrance fees to national parks and nature reserves, museums and cultural performances that received state funding; a 30% reduction on municipal tax for a residential apartment not larger than 100 square meters (those receiving supplementary income would continue to receive full exemption from municipal tax); and, lastly, a special tariff for medicines in the HMOs (only for those receiving supplementary income). With the exception of the discount on medicines, all the benefits were universal in nature, requiring no additional test beyond the fact that the recipient was a senior citizen.

The bill was approved at its First Reading without opposition (with 11 supporters). The law returned to the Knesset plenum very quickly, and on February 6, 1996, the Amendment of the Senior Citizens' Law Bill was brought for its Second and Third Readings. Naturally, the opportunity was once again seized to score points among senior citizens. For example, Member of Knesset Ran Cohen declared:

“This law includes financial benefits. This is true. There are discounts. This law is of significance, particularly in terms of the living standards of ordinary people among the senior citizens. This is true. But the message is more important than the money. The message is that the Knesset is today passing a law that aims to salute the elderly, and to provide dignity and not just money. Appreciation, consideration and sensitivity are all also more important than money. The fact that we are today here to grant discounts and benefits, but more importantly to salute and honor our senior citizens, opens the gate for us to continue this work in the future.” (p. 4075, February 6, 1996).

The law was ultimately approved and came into force. The amendment of the law and the success in securing financial discounts and benefits was presented as an impressive achievement by all those involved.

The Second Fall

The political celebration around the amendment of the Senior Citizens' Law did not last long. General elections to the Knesset were held in May 1996, and, for the first time, were accompanied by direct elections for Prime Minister. Benjamin Netanyahu won the election for Prime Minister, and soon established a right-wing government under his leadership. A few weeks after his election, he announced his intention to cut NIS 4.9 billion from the state budget in 1997. This move formed part of Mr. Netanyahu's political and economic agenda, reflecting his neo-Liberal approach and Thatcherite style. As part of the far-reaching cuts in the fields of welfare, health and education, the Senior Citizens' Law was also slated for cuts (Shacham, 1996). Accordingly, the proposed Arrangements for the National Economy Law (the legislative amendments required in order to secure the budget objectives for 1997), 5757-1996, proposed on October 23, 1996, effectively advocated the deletion of all the legislative achievements of the amendment of the law as secured just a few months earlier.

The bill, and the move to abolish the benefits that had just been added to the Senior Citizens' Law, reflected the worldview of the Ministry of Finance and the new Prime Minister. There was an ideological opposition to the granting of economic benefits on a universal basis, rather than on the basis of means tests. There was also opposition to "earmarked" legislation collating the rights of older people in a single law, and preference for specific arrangements for the rights of old people in a series of different laws. This latter preference was not, of course, neutral in character, but

reflected the realization that this format would facilitate the erosion and narrowing of the rights of the elderly.

The government proposal to annul the various benefits in the Senior Citizens' Law met with opposition from the ranks of the coalition and the opposition alike. Members of Knesset from the Labor Party who had been involved in introducing the new benefits and discounts, such as MKs Yossi Katz and Ra'anan Cohen, as well as Members of Knesset from coalition factions that claimed a "social" orientation, such as MK Maxim Levy from the Gesher faction, announced that they would oppose and fight the above-mentioned proposal (Katz, 1996; Shacham, 1996). As MK Katz stated:

“Not a month passed since Benjamin Netanyahu moved into the Prime Minister's Office, and now we hear that the Netanyahu and Meridor team have decided on a new economic policy – a Republican policy, or I would even say a Thatcherite one. As part of this policy, the government decided to adopt the Ministry of Finance's reserve plan, and a brief meeting was sufficient to decide on extensive cuts in the state budget. As usual, Ministry of Finance officials singled out pensioners, released soldiers and those receiving benefits as the punching bags for their blows.” (Katz, 1996).

In practice, however, the abolition of the benefits in the Senior Citizens' Law passed almost without opposition. On December 31, 1996, the Second and Third Readings were held in the Knesset. The Arrangements Law was approved, and all the benefits in the Senior Citizens' Law were abolished (Unger, 1997).

The Third Incarnations of the Senior Citizens' Law: 1998 to Date

The Third Rise

The abolition of the financial benefits for senior citizens, which had been trumpeted as an impressive political and parliamentary achievement just months earlier, aroused

fierce opposition. It also provided the Pensioners' Histadrut with a rare opportunity for a show of strength against the government of Mr. Benjamin Netanyahu. Following the abolition of the financial benefits, the Pensioners' Histadrut launched a political campaign to annul the cuts. All sources of support were recruited, enabling a new struggle to begin for the realization of the Senior Citizens' Law. The newspaper headlines left no room for doubt – the pensioners were on the warpath.

Within a few weeks from the abolition of the benefits, no fewer than three private bills were proposed in an effort to turn back the clock. One bill was proposed a group of Members of Knesset headed by MK Anat Maor (Labor); another by MK Ra'anana Cohen (a Labor MK who had been closely involved in the last incarnation of the law); and one by MK Maxim Levy (Gesher). All three bills shared a common purpose – to annul the amendment of the Senior Citizens' Law that removed the benefits added in the previous Knesset. These Members of Knesset received massive support from the Pensioners' Histadrut in the General Histadrut, which launched its own powerful political campaign to reinstate the abolished benefits.

The political pressure began to have an effect. On June 18, 1997, a Preliminary Reading was held of the Senior Citizens' Law (Amendment), 5757-1997. The debate in the Knesset plenum emphasized the cross-party effort to abolish the cuts. Indeed, Members of Knesset from right and left cooperated in the effort. As MK Anat Maor noted, “the bill I now submit is the common effort of several Members of Knesset, and this is no coincidence. The subject of pensioners' rights unites all sections of this House, and here there is no opposition or coalition” (Knesset Protocols, June 18, 1997, p. 6971). In the end, with the impressive majority of 62 MKs in favor and none against, the Knesset plenum voted to return all the bills to the Knesset Labor and Social Affairs Committee in preparation for their First Reading.

Within little more than a month, on July 29, 1997, the laws were again discussed by the Knesset plenum and approved at their First Reading. A few months later, on January 13, 1998, the Knesset convened to debate the Second and Third Readings of the law. Again, the leadership of the Pensioners' Histadrut attended the debate and many pensioners sat in the visitors' gallery. The speaker began by welcoming the leaders of the Pensioners' Histadrut – “we welcome them and wish them good health and many years of activity” (Speaker S. Ben-Zur, Knesset Protocols, January 13, 1998). The substantive discussion was led by MK Maxim Levy (Likud-Gesher-Tzomet), who reiterated the main points and purpose of the law:

“Following the opposition of the Ministry of Finance to the law in its original format, important and key clauses providing assistance for all elderly people were removed...

According to the bill, Article 18 of the Arrangements Law for 1996, which abolished most of the benefits underpinning the Senior Citizens' Law, will be deleted. The original situation will be reinstated, and senior citizens will again receive the dignity they deserve and the series of benefits they were granted by right and not as an act of charity.” (Maxim Levy, Knesset Protocols, January 13, 1998).

The Knesset approved the bill with a relatively large majority of 42 MKs in favor, and none against or abstaining. Again, the sense of euphoria was evident. The Pensioners' Histadrut and the Knesset had defeated the Netanyahu government and Finance Ministry officials, and had managed to turn back the clock. There was a feeling that the Knesset had been able to overcome political divisions and unite around an important social issue such as the rights of the elderly. The headline in the journal *Niv Hagimla'i* left no room for doubt: “When We Fight for What is Right and Don't Give Up – We Win!!!” (*Niv Hagimla'i*, 1998).

The Third Fall

Almost three years after the reinstatement of the benefits in the Senior Citizens; Law, following the outbreak of the Second Intifada and the bursting of the Internet bubble in the early 2000s, Israel faced a serious economic and political crisis. In mid-2001, elections were held for Prime Minister. Prime Minister Ehud Barak of the Labor Party lost his bid, and Mr. Ariel Sharon for the Likud secured a large majority and established a right-wing government. Minister of Finance Benjamin Netanyahu took over the Ministry of Finance, and exploited the grave economic situation and solid parliamentary majority to pass a series of far-reaching economic reforms.

As far as the rights of old people were concerned, the Minister of finance introduced significant measures that Ministry officials had been unsuccessful in implementing over the years. For example, old age pensions were frozen and cut; the long-standing pension funds were nationalized and removed from the control of the Histadrut; the regulations for pension funds were amended; and the rights of those receiving budgetary pensions were amended and curtailed.

Surprisingly, contrary to its past practice and the dramatic cuts in the rights of pensioners in other fields, the Ministry of Finance did not wage any real struggle against the benefits added to the Senior Citizens' Law. However, in the end, after political struggles managed to postpone the cut several times, the ax fell. As part of the 2004 economic plan, the Senior Citizens' Law was amended and the discount in municipal tax was now to be provided only for a senior citizen whose total income from any source did not exceed the average wage (Economic Policy Law, 2004). The amendment to the law was passed almost without parliamentary opposition, and with no real attention from the media.

The End of the Third Incarnation of the Law

At the beginning of 2002, Member of Knesset Amir Peretz (who is both an MK and chair of the General Histadrut) proposed the following question to the Minister of Labor and Social Affairs:

“The Senior Citizens’ Law established that the Minister of Labor and Welfare was to found a Public Council for the Affairs of Senior Citizens. Eleven years have passed since then, and the Council is not active and does not take decisions regarding the improvement of the lives of senior citizens. I would like to ask: 1. Will anything be done to establish the Council in the near future and to ensure its activities? 2. What benefits are currently provided in practice in accordance with the Senior Citizens’ Law? 3. Will the minister appoint an Ombudsman for Senior Citizens?”

The reply of the Deputy Minister (which was not read in the plenum, but presented for the Protocol) stated, with regard to the first question, that “the Council for the Affairs of Senior Citizens was recently established, its first meeting will take place on 26 Shevat 5762, February 7, 2002.” This meeting indeed took place; it was a formal opening session that did not reach any substantive decisions. Since then, the Council has not met again in its plenum forum, and it has not made any substantive decisions or actions.

Regarding the second question, the Deputy Minister detailed the benefits stipulated in the law. Finally, the Deputy Minister’s reply to the third question, however, was the most important and interesting:

“I do not, at this stage, see room to appoint an ombudsman for this law. An attempt in the past to appoint an ombudsman failed. Neither is there any justification for financing the salary of the ombudsman, in these days of difficult cuts. The Public Council as appointed can meet numerous functions, including the protection of the rights of senior citizens under the terms of this law.”

The end result is that, in 2004, the Government of Israel does not have an advisor for the affairs of senior citizens and has no intention or desire to appoint such an advisor; although a Council for the Affairs of Senior Citizens exists on paper, it is not actually active and there is no suggestion that it will become such; one of the main components of the benefits embodied in the law, namely the discount in municipal tax, has been transformed from a universal benefit to a selective one, provided only to those receiving supplementary income or those whose total income does not exceed the average wage.

Discussion

The Illusion of Success

Those who prefer to say that the cup is half full can certainly argue that the Senior Citizens' Law is a success story. On the symbolical level, few debates in the Israeli parliament can have seen such a showering of superlatives as was bestowed on the older population during the debates relating to this law. Flowing prose such as that quoted below symbolized, if only on the declarative level, the commitment of the Israeli legislature to senior citizens:

“We often ask ourselves how, as a Jewish state, we can contribute from Jewish thought and the roots of our people to Israeli legislation. There is no subject more important in the Jewish sources than to help, assist and honor older people and the elderly, to respect their dignity.”
(MK Shaul Yahalom, NRP, June 18, 1997).

The symbolic success of the Senior Citizens' Law was also manifested in the success in forging parliamentary cooperation across party lines. In almost all incarnations of the Senior Citizens' Law, unusual cross-party cooperation was created. There was also a successful formation of a pensioners' lobby that united Members of Knesset from a broad swathe of the Israeli political spectrum, from

Meretz and the Labor Party on the left to the Likud, the National Religious Party, Gesher and the right wing parties.

The success in passing the law and in its continued presence in the Israeli legal code is particularly impressive given the fact that in almost all aspects of the three incarnations the law has undergone to date, it was the product of processes that began as the private initiative of Members of Knesset and not of the government. In most cases, these Members of Knesset worked without the active support of the government, and usually in opposition to the government position, creating the need to overcome opposition from the different government ministries.

Lastly, in the symbolic realm, the success in passing a law that is devoted entirely to elderly people in Israel, rather than general contexts of vulnerability or dependence, such as sickness or nursing care, is ostensibly worthy of praise. The display of strength that led the Ministry of Finance to abandon any effort to abolish the various benefits in the law, at the same time as it did not hesitate to abolish the rights of the elderly as embodied in many other laws (such as the old age pension) would seem to reflect concern at the political strength of the pensioners' lobby in the Knesset and at the popular opposition to the abolition of the benefits embodied in the law.

It is also possible that the success of the law may lie in its inherent future potential. The law is a success in that it is still present in the legal code. It still stands as a statutory provision that might be used in the future to introduce benefits and to activate the functions of the council and the advisor. Accordingly, even if at a given moment in history the fruits of the law cannot yet be seen, it may still serve in the future as a political and legislative springboard for advancing the rights of the elderly in Israel.

The Reality of Failure

Despite the argument that the law is a success, as described above, reality – at least at this point in time – seems to suggest that the law has ultimately proved a resounding failure. This failure may be proved on two different levels. The first level relates to a comparison of the original goals of the law and current-day reality. The second level relates to an analysis of the history of the law relative to its impact on the rights of the elderly in Israeli law.

1. First level – a comparison between the goals of the law and reality

In comparing the original goals of the law to present-day reality, it can clearly be seen that the law has failed to realize its goals.

1.1 Failure of the law to establish organs for advancing the status of the aged

As described above, the first goal of the law was to create a mechanism that would mediate between the older population and the Prime Minister and government. In practice, there is no advisor today, and, with the exception of a brief period, there has never been an advisor. Unlike such groups as women, Arabs and even such sectors as “people with disabilities,” old people do not have a distinct, independent and autonomous function for mediation with the Prime Minister and the executive. In this respect, the law has proved a resounding failure.

Another clear failure relates to the activities of the Public Council for the Affairs of Senior Citizens. This body, too, has not been in existence at most times. Even during the limited periods when the council existed, its activities have had no impact and it has not held any real or substantive discussions. Today, too, while the council exists in formal terms, it does not meet and is not active. The legislative vision of the council as an active, dynamic body serving as a catalyst for social change in the status of the elderly has proved a total failure.

1.2 The failure of the law to provide additional rights for the aged

As described above, a further key goal of the law was to provide a statutory focus for the future introduction of substantive rights for the older population. In reality, at least to date, this goal has not materialized. Given the prevailing political and legal situation, there is very little chance of amending and changing the Senior Citizens' Law in order to change substantive arrangements relating to the rights of the elderly; and, accordingly, no effort is even made to do so. This is true not only for economic benefits, but also for other substantive arrangements, such as the ombudsman for the elderly; a system of legal assistance and advice for the aged; the allocation of economic resources addressed in the law in order to establish community projects in the field of old age – all these and other aspects do not exist, and, moreover, no one at this stage would seem to delude themselves that such aspects could be added to the Israeli legal code by means of their inclusion in the Senior Citizens' Law.

2. Second level: law as camouflage

The failure of the Senior Citizens' Law does not relate solely to the goals it has failed to realize. This failure also relates to the new reality it has created: a reality that enables the diversion of public and parliamentary debate away from the genuine and pressing problems faced by older people in Israel. Member of Knesset Tamar Gozhansky expressed this point succinctly:

“I add my name to those congratulating the initiators of this law, which aims to correct the injustice done in the Arrangements Law... I think that the bill does not solve the problem of the aged in a thorough manner, particularly the problem of elderly people who live on supplementary income – the problem of elderly people who can barely manage to afford payments for medicine and additional expenses, telephone and so on, and are ultimately left with very little even to purchase good. It does not solve the problem of those tens of

thousands of pensioners who have no source of income other than that from National Insurance... I think that if we reach such a situation, and if every worker in this country is assured a decent pension on reaching retirement, we will no longer need to provide all kinds of gifts for pensioners, because they will receive everything by way of a right.” (Tamar Gozhansky, Knesset Protocols, July 29, 1997, p. 8649).

In other words, the Senior Citizens’ Law has evolved in such a way that it now not only fails to address the substantive legal and social problems facing the elderly population, but it diverts and channels public discussion and social forces, effectively evading the need to cope with the genuine and grave problems faced by the aged, while paying lip service in the form of benefits and discounts through the Senior Citizens’ Law. The Israeli legislature can use flowery language and superlatives in the Knesset plenum as it prides itself on a law which, in fact, lacks any real substance.

Conclusion

The overall picture exposed in this article concerning the Senior Citizens’ Law conveys a sense of a cynical political power game. The law “comes to life” shortly before general elections, only to “die” again soon after. Prime Ministers and Ministers of Labor and Social Affairs show no interest in senior citizens, but use the law cynically to create a caring image that lacks any foundation. Members of Knesset are happy to churn out purple prose lauding Israel’s elderly, but at the moment of truth they are not willing to engage in a real struggle in the face of opposition from the Prime Minister or Ministers of finance or social affairs. Lastly, the legislature is not genuinely interested in the actual implementation of the law, since image is far more important than the lives of old people.

Insofar as the encounter between older persons in Israel and the Senior Citizens’ Law can be taken as a case study, it seems to provide a salutary lesson

regarding the political connection between the social status of older persons and their legal status in the Israeli legal code. Today's Senior Citizens' Law is a tombstone to the failure of a legislative strategy and to the actual weakness of older population on the political level. The main institutions it establishes do not function; the financial benefits it provides are negligible; and the political vision that the law would provide a proper foundation for changing the status of the older population in the Israeli executive and government has not materialized, at least as of today. Worse of all, the Senior Citizens' Law has become a fig leaf for the Israeli government, the Ministry of Finance in terms of advancing the true interests of old people.

.Given this legal reality, the best option at this stage might be to acknowledge the historical and strategic failure that lay behind the enactment of the Senior Citizens' Law. The best course of action now might be to fight for the complete abolition of the Senior Citizens' Law. Its deletion from the Israeli legal code might at least enable the re-emergence of a Senior Citizens' Law in a completely different format. This approach was suggested as early as 1993 by Member of Knesset Meir Shetrit of the Likud during the debate on the government's proposal to transfer the legal authority of the law from the Prime Minister to the Minister of Labor and Social Affairs. We beg to concur with the following words:

“I prefer, Mr. Minister of Justice, that the government might have the courage either to abolish this superfluous law, or, alternatively, to fill it with content – then it might be logical and proper to discuss the matter.”

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