

JERUSALEM LETTER / VIEWPOINTS

Jerusalem Center for Public Affairs

VP:101 8 Sivan 5750 / 1 June 1990

A DEMOCRATIC SAFEGUARD: ISRAEL'S STATE COMPTROLLER

David Clayman

The Comptroller's 40th Annual Report / A New Activist Stance / Funds for Politically Protected Institutions / Short-Sighted Policies Prove Costly / Poor Planning for Immigrant Absorption / Political Appointments in Government Service

With all the scrutiny and critique of the character of Israel's democracy that seems to be constantly underway, especially in light of the most recent and prolonged government crisis, it is important to point out the strengths of Israel's democratic system which sometimes go unnoticed.

One of those strengths, as has often been noted of late, is Israel's judiciary, which has served as a remarkable restraint and corrective to government excesses and legislative inadequacies. Israel's Supreme Court, sitting as the High Court of Justice, performs a unique role in protecting the ordinary citizen from the authority and power of the government.

Similarly, the institution of the Attorney General (albeit not necessarily the current incumbent) has protected Israeli society and preserved its demo-

cratic character through the exercise of its wide-ranging powers and ability to restrain government excesses.

There is yet another institution which is not always familiar to audiences outside of Israel: the State Comptroller. Each year, the State Comptroller issues a report on the activities of all government ministries and institutions financed by the state budget.

The Comptroller's 40th Annual Report

Last month, Israel's State Comptroller, former Supreme Court Justice Miriam Ben Porat, presented the 40th Annual State Comptroller's Report to the Knesset. By law, the State Comptroller is required to investigate, study and report on all irregularities, illegal practices, and violations of the law committed by government officials,

Daniel J. Elazar, Editor and Publisher; Zvi R. Marom, Associate Editor; Mark Ami-El, Managing Editor
21 Arlozorov St. Jerusalem, 92181, Israel; Tel. 02-639281. © Copyright. All rights reserved. ISSN:0334-4096

The opinions expressed by the authors of Viewpoints do not necessarily reflect those of the Jerusalem Center for Public Affairs

agencies or institutions. This institution has served to strengthen Israel's democratic character, at least by not allowing unrestrained activity not subject to public scrutiny, review and criticism. However, the weakness of this institution has generally been that the State Comptroller does not have the power to correct irregularities, but rather only the power to investigate and reveal. Since the Comptroller's Report is submitted to those very bodies that it is investigating, namely, the Knesset and the government, this is somewhat of a contradiction in terms. Nevertheless, the fact that government officials and political leaders cannot carry on their business without the scrutiny of judicial review combines with the State Comptroller's enquiries and a free-wheeling press to maintain and strengthen Israel's democratic character.

A New Activist Stance

If one of the characteristics of the Annual Report has been that it reports but does not correct abuse, another has been that it dealt with past events and not those of current or future concern to the government. This year's report is different, however, in that Mrs. Ben Porat has not followed these two trends. For the first time, a state comptroller has decided to take corrective action rather than simply report and reveal. Under special powers provided by the State Comptroller Law which have never before been invoked, the State Comptroller may subpoena witnesses and convene a committee of enquiry.

Funds for Politically Protected Institutions

The Comptroller is making use of these provisions to begin a special investigation into the allocation of special funds to religious institutions on the basis of "non-objective criteria." Although state comptrollers have been warning the government for many years against this practice of granting special allocations of funds to various institutions (not only religious ones) without criteria, the politicians have persisted in this practice. "Not only has

the situation not improved, but it has worsened over the years," Ben Porat maintains. "It cannot be that those who hold the keys to the public coffers use it as their own private cash register."

About ten years ago, the State Comptroller and the Attorney General disallowed the distribution of public funds unless they were in accord with known objective criteria. However, in response to these legal rulings, the Knesset simply passed a special allocation law not subject to the instructions of the Attorney General, by having the allocations themselves written into the law. But Ben Porat noted that the method of distribution is nevertheless subject to the Comptroller's review. "To whom are these funds being transferred? Do these organizations actually exist, or are they only post boxes? And what are the funds actually used for? I will not hesitate to use all my powers, including those not normally used, to get to the truth of the matter."

Since the publication of the Comptroller's 1,140 page Report, the media have focused on the long known problems in the distribution of these special funds. Generally, these funds have gone to fictional, as well as real, religious institutions affiliated or associated with various political parties in the Knesset. These have been the recipients of millions of dollars as payoffs for electoral support. In recent weeks the news media have been full of reports on institutions listed for special allocations which are to receive hundreds of thousands and even millions of shekels. Some of these institutions have little more than a post box or someone else's office address as a place of business; others are non-profit bodies created several years ago that have been dormant in terms of fulfilling their stated purposes, while receiving substantial sums to carry out these non-existent good works.

Short-Sighted Policies Prove Costly

The second emphasis in the Comptroller's Report has been the focus on events which are not finished, but which are with

us today and will, more than likely, be critical in the days ahead. Ben Porat attacked the government's common practice of concentrating on immediate or short-term gain rather than considering the long-term needs of the country and the national interest. One example concerns the over-utilization of ground water, resulting in contaminated aquifers. Another was the failure to perform road repairs, allowing Israel's highway infrastructure to deteriorate. Today, 46 percent of Israel's inter-city road network is in need of a complete overhaul, as compared with only 2 percent fifteen years ago. Unfortunately, huge sums of money will now be required to repair the damage, far more than regular maintenance would have cost.

Similarly, the Health Ministry was slammed for putting preventive medicine at the bottom of priorities. For example, 5,000 Israelis die each year from diseases directly caused by cigarette smoking such as lung cancer, heart attacks, and asthma. Yet the Health Ministry did not encourage family doctors to impress upon their patients the importance of giving up cigarettes or recommend how to stop. In fact, in some hospitals the doctors themselves are permitted to violate no-smoking rules, thereby sending the wrong message to the patients. Additionally, little is being done to teach young people about healthy lifestyles. Indeed, the Health Ministry failed to promote legislation that would require food manufacturers to have nutritional information listed on product labels.

The Comptroller revealed another example of short-sightedness which cost Israel heavily. Extensive bureaucratic wrangling between the Foreign Ministry and the Finance Ministry over the purchase of a building for the Israeli Embassy in Rome delayed the transaction for seven years, during which time the price had jumped from \$3 million to \$12 million.

In yet another example, the Comptroller took to task the former supervisor of banks at the Bank of Israel, as well as the Finance Ministry, for their role in the

kibbutz financial crisis. Although both agencies knew by 1985 that the kibbutzim would be unable to pay their debts, they allowed business to continue as usual for three more years, allowing them to run up huge debts at increasingly high interest rates, which in the end required a general government bail-out.

Poor Planning for Immigrant Absorption

The timely matter of the government's handling of immigration and absorption also came under Ben Porat's microscope. "The successful absorption of immigrants is a rare chance which should not be missed. This task is extremely difficult and requires the marshalling of all of our available resources and powers to rise to this great challenge," said Ben Porat. The Comptroller charged in her report that the various responsible agencies have neglected to prepare plans to deal with the wave of immigrants now arriving in Israel. The plans which have been prepared are partial at best and not ready for immediate implementation. Ben Porat lamented the fact that although massive Soviet immigration had been forecast for some time, the government only started to move seriously in May of 1989. The report calls for the creation of a new authority to coordinate absorption policy. The interministerial committee on absorption and immigration headed by Yossi Beilin had played an important role in coordination between various government offices and ministries. But, claimed Ben Porat, it has suffered from a lack of clear guidelines and a specific mandate.

The Comptroller's recommendation of an overall authority to coordinate immigrant absorption is a suggestion that has been fought by politicians such as Absorption Minister Rabbi Yitzhak Peretz who fear an erosion of their power. Ben Porat is undaunted by such petty political concerns. "It cannot be that narrow considerations will prevent taking the decisive steps demanded by the magnitude of the hour. Experts and commissions over the years have reached the conclusion that the

present administrative structure is an impediment to absorption and a waste of resources."

Political Appointments in Government Service

Ben Porat was especially critical of political appointments in government service, calling this widespread practice "a cancerous growth in our society." She noted that despite her criticism of this practice in her Annual Report last year, the practice has nevertheless not only continued, but seems to have gotten worse. "Public officials seem completely unaware that they hold their positions on trust and must serve the public without any other interest in sight." This has resulted in a public service system that operates at a mediocre level, according to the Report, and the blame is placed on the political level, as well as the administrative level, which "has failed to act as needed to improve the situation." Following this criticism, the Knesset has just passed a law to prohibit top civil servants from serving at the same time on the central committees of political parties, a major step forward in the drive to separate politics from government service.

In the past, the State Comptroller's Annual Report has been criticized for not naming names when reporting on malfeasance in the government. While policies and practices are examined and critiqued, the perpetrators seem to go unscathed except by innuendo and indirect criticism. In this year's Report, for the first time the State Comptroller does cite names, in one instance, and in three cases referred matters to the state Attorney General for possible prosecution.

The State Comptroller's 40th Annual Report serves as a reminder that not only must we have a workable system of government, but also one that provides for clean government as well. Quite naturally, it emphasizes the government's deficiencies and failures in both areas as it always has. What is particularly promising is that the State Comptroller is now beginning to use her full powers to deal with those deficiencies and failures and to improve the system.

* * *

David Clayman is Executive Director of the Israel Office of the American Jewish Congress and a Fellow of the Jerusalem Center for Public Affairs.