

INTRODUCTION

The current issue of the *Israel Law Review* features the eulogy for Shabtai Rosenne, given by Professor Yehuda Zvi Blum upon the donation by the Rosenne family of Shabtai Rosenne's personal law library to the Law Faculty. It also features five articles dealing with a variety of public law, international law and human rights issues relevant to Israel and other legal systems. The lead article, co-authored by Guy Davidov and Maayan Davidov – 'How Judges Use Weapons of Influence: The Social Psychology of Courts' – examines judicial decision-making processes from an inter-disciplinary perspective, focusing on the techniques applied by courts vis-à-vis the government, the legislature and the public at large, when trying to secure legitimacy and acceptance of their decisions. The authors draw on research on compliance which has shown that people can be induced to comply with various requests through influence techniques, such as 'foot in the door', 'low-balling', 'having a reputation to uphold' and 'door in the face', and provide examples from Israeli case law of the use of such techniques by the courts.

The second article, 'The Human Right to Water in Israel: A Case Study of the Unrecognised Bedouin Villages in the Negev', written by Sharmila L Murthy, Mark Williams and Elisha Baskin, discusses the Israeli Supreme Court's decision in *Abadallah Abu Massad v Water Commissioner*. This decision – which arose from a petition brought by residents of unrecognised Bedouin villages in the Negev (a desert region in southern Israel) who do not have access to household water – examined the right to water under Israeli law. In it the Israeli Supreme Court held that the right to water deserves constitutional protection under Israel's Basic Law: Human Dignity and Freedom and found additional support for the right to water in international human rights law and Israeli statutory law. At the same time, the Court held that the right to water is not absolute, but must be balanced against the interests of the state, ultimately upholding the Israeli Water Authority's policy in unrecognised villages in the Negev. The article attempts to place the *Abu Massad* decision in its proper historical and political context in light of the long-standing land disputes between the indigenous Bedouin population and the State of Israel. Drawing on empirical research conducted in December 2011, the authors conclude that it may be prudent for the Israeli Water Authority to re-assess the effectiveness of its existing water policy in unrecognised Bedouin villages in the Negev.

The next article, by Thorbjörn Björnsson, 'Inside and Outside the EFTA Court: Evaluating the Effectiveness of the EFTA Court through its Structures', examines the structures of the EFTA Court (serving three small northern European countries) in order to gain insights into its effectiveness. For this purpose the article relies on a rational system approach, developed within social sciences, to improve understanding of the performance of public organisations and calibrated to examine international courts. Under this conceptual and analytical framework,

the article examines the main structures of the EFTA Court, such as its budget, jurisdictional rules, judicial independence and main legal doctrines.

The next article, ‘Defamation Law in Turbulence: Does Israel Need “Libel Reform”?’, authored by Tamar Gidron, examines a controversial bill proposed during the tenure of the 18th Knesset (Israeli Parliament) to amend Israel’s Defamation (Prohibition) Law, so as to increase the caps on statutory damages (without proof of special or general damage). The bill, which principally targets the media, aims to attach a higher price tag to libellous publications while focusing on remedies, leaving liability tests (including defences) untouched. The article argues that this bill is both unnecessary and detrimental. Based on case law from the last eight years on damages awarded by Israeli courts in defamation cases – both damages awarded ‘without proof of damage’ (the plaintiff does not need to prove damage caused by the publication) *and* damages awarded as ‘general damage’ (*some* general damage needs to be proved) – the article concludes that the spectrum of judicial discretion is sufficiently broad to accommodate any level of deterrence seen fit by the courts in any circumstances. Gidron thus maintains that, absent reasonable justifications based on identifiable changes in cultural, social or other circumstances over time, attempts to change the currently accepted balance between the rights of reputation and freedom of speech in Israeli defamation law in terms of damages awards should be rejected.

The final article in this issue, Yaël Ronen’s ‘Applicability of Basic Law: Human Dignity and Freedom in the West Bank’, examines the applicability of Israel’s Basic Law: Human Dignity and Freedom in the West Bank in light of international law, in theory and practice. The first part of the article addresses the need for such applicability in light of alternative domestic and international legal regimes. The article then explores three bases for extraterritorial application of the law, and examines the relevant international practice. Finally, the article addresses the consequences of extraterritorial applicability of the Basic Law for Israel’s compliance with its obligations under the law of occupation. It argues that the application of the Basic Law extraterritorially in the West Bank may result in violation of Israel’s obligations under the law of occupation.

Authors interested in submitting their work for publication in the *Israel Law Review* are kindly invited to send a copy of their manuscript to the journal’s academic editor (ilr@savion.huji.ac.il). While we cannot promise publication of all, or even most, submissions, we can promise a prompt and professional review process, leading to a relatively speedy publication in a prestigious law journal!

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