Guest Editor's Introduction

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Law is an important ingredient in politics, and politics is an important layer in law. Law is always being shaped, formed, articulated, and enforced in the context of socio-political power relations. This is true regarding any political regime, and it is also true in Israel. While the number of publications on law and society in Israel is vast and multi-disciplinary, edited volumes on law, politics, and society in Israel are relatively rare. Hence, the initiative of the *Israel Studies Review* to dedicate its first guest-edited issue to the topic "Law, Politics, Justice, and Society: Israel in a Comparative Context" is certainly an encouraging move as part of a more general effort to promote research on the multifaceted aspects of Israel's society, nation-state, law, and political regime.

The challenge of this issue has been to capture two different dimensions of the Israeli political setting. The first, like any other political regime and nation-state, is that the political elite has controlled major strongholds of political power, for example, national security issues and agencies, economic resources, and national symbols. The Israeli political elite has in many ways manipulated control over land and space, economic resources, national security, religion, national identities, and powers of punishment. The second dimension is that Israeli society has experienced the dynamic effects of neo-liberal globalization that have affected both private and public law. The articles in this issue reveal, explain, and conceptualize these processes that have characterized Israeli politics, law, and society.

Zvi Triger's article deals with the domination of Israeli Jewish Orthodoxy over issues of marriage and divorce and the control of the rabbinical

courts over adjudication of these issues among Jews. Triger argues that, contrary to general belief, the rabbinical courts have expanded their jurisdiction instead of narrowing it. In fact, despite the general secularization of Israeli Jewish society, the rabbinical courts' powers have remained intact or even increased. Yoav Mehozay's article is similarly focused on one of the major power strongholds of Israel's political elite—national security. Mehozay writes that Israel's security conception of emergency powers has been not only a reaction to external threats and other military and terrorist activities, but also a means to monitor the Israeli Arab-Palestinian minority and to maintain the essence of Israel as a Jewish state. Both of these articles illustrate the degree to which the Jewish nation-state has preserved its traditional power strongholds.

Raphael Cohen-Almagor's article demonstrates certain strengths of Israel's democratic fundamentals, focusing on freedom of expression, which was already entrenched as a major principle in Supreme Court rulings of the early 1950s, grounded largely in the Israeli Declaration of Independence. The article follows the court rulings and laws with regard to 'hate speech' and discusses the norms for assessing the extent of tolerance for extreme hate speech in Israel. Cohen-Almagor's article also reminds us that there are dangers to free society due to the rise and increasing visibility of ultra-nationalist trends, characterized by racism and incitement to violence against Arab citizens of Israel. He demonstrates the balance that courts and society must strike to protect unwelcome speech yet not to the extent that it endangers other essential democratic values.

The main guardian of freedom of expression in Israel—the Supreme Court—has of course not functioned in an empty institutional space. Assaf Meydani's article analyzes the strategies used by the Court as a necessarily political actor, especially in the 1980s and thereafter when Israel's governing structure became increasingly dysfunctional. He argues that the Supreme Court has "had an essential, although not exclusive, role as an idea shaper in the design of institutional change that occurred in Israel from 1948 to 2007." Meydani maintains that Israeli politicians and Israel's society at large have increasingly looked to the Court to develop social policies, making it *de facto* the most powerful branch of the government.

Meydani's article focuses to a great extent on the interactions of the Supreme Court with other governmental institutions in Israel, offering an institutional strategic perspective for understanding the judiciary. Both Cohen-Almagor and Meydani focus in their articles on democratic facets in Israel that may be conducive to maintaining it as a democracy despite intimidating non-democratic and anti-democratic proclivities in the Israeli political setting.

One of the most dynamic trends in Israel—especially after the late 1970s and even more so after the late 1990s—is its neo-liberal development and the effects of neo-liberal socio-economic forces. Eli Bukspan focuses primarily on the effects of neo-liberalism on Israeli private law and on Israel's civil and commercial law. Bukspan shows that the Israeli Supreme Court has read a pervasive requirement of 'good faith' into Israeli contract and corporate law that has resulted in a more socially responsible culture and a more responsive business climate. Privatization is depicted in his article as a positive phenomenon as long as it does not lead to an abdication of social responsibility by the state and its government or by communities and individuals.

Nili Cohen's article continues this theme in a very different context, drilling into the important issue of what privatization and neo-liberalism may mean to the state's power of criminal punishment. Cohen examines the genealogy of criminal punishment, mainly in Europe, and traces the theoretical foundations of the state's control of the means of criminal punishment in modernity. Powers of punishment are also analyzed in the context of families and communities. Cohen identifies some significant dangers in the privatization of criminal punishment but distinguishes it carefully from the privatization of prisons. While the state should maintain its power of criminal punishment and bears responsibility for its fair and democratic enforcement, the management of prisons may be done by private authorities, as long as the process is transparent and the authorities accountable.

Both Bukspan and Cohen consider neo-liberal privatization, when tamed, to be potentially functional with positive effects on the Israeli rule of law, so long as social and state actors do not divest themselves of their major responsibilities to maintain the democratic rule of law. In fact, both authors believe that, with proper regulation, economic liberalism can contribute to the maintenance of democracy.

Neo-liberalism has had other effects that in fact have endangered the well-being of the Israeli political setting. Ravit Hananel's article explicates one of the most intriguing and important recent changes in Israel—its transformation from an agricultural to an industrial society. This has resulted in, among other major alterations, the default classification for land in Israel being changed in 2009 from agricultural to urban. This shift has been empowered through the neo-liberal economy and the spirit of privatization. Hananel explores how the legal mechanisms that permitted such a process were flawed and how the state's land allocations were affected by some powerful interest groups.

Yael Braudo's article considers how liberalism in Israel has touched, framed, and constructed equality in property rights between spouses.

Through a very careful analysis of court rulings and by documenting the history of the relevant Israeli legislation, Braudo concludes that despite feminist pressures and some influences of the values of equality, patriarchy in property rights and discrimination against women has still prevailed. She focuses particularly on the largely forgotten efforts from the 1950s until the early 1970s of Israeli women's organizations to achieve some measure of equality in spousal property division both in intact marriages and on the occasion of divorce.

In their articles, both Hananel and Braudo highlight the problematic ramifications of liberalism on Israeli law and society. Both are inviting a more in-depth investigation of how liberalism and property interests have in fact deepened socio-economic stratification—or at least have not changed society as one might have expected. Hananel is warning against the unchecked privatization of lands, which may entrench inequalities and obscure the efforts of NGOs that strive for a more egalitarian society. Braudo cautions against the effects of liberal discourse, which in fact may weaken feminist social consciousness and collective feminist activism.

The three essays in the Forum section of this issue address additional dimensions of these processes by focusing on different forms of social protest. Nimer Sultany shows how the Israeli nation-state has systematically and structurally marginalized the Palestinian citizens of Israel, and how the legal field has both shaped that marginalization and caused it to be institutionalized. Sultany argues that in fact the Israeli legal system has not prevented—and has even legalized—what he refers to as the 'ghettoization' of the Palestinian minority in Israel until it is not that different from what he describes as the 'bantustanization' of the Palestinians in the Occupied Territories. Shulamit Almog and Gad Barzilai focus on the social protests in Israel in the summer of 2011, which were the democratic world's largest protests since the time of the Vietnam War. Based on field research, they reveal how and why state law and legalistic discourse were marginalized in these demonstrations. Sultany and Almog and Barzilai demonstrate how, in different arenas, state law may fail to respond to or protect essential social needs.

In the third Forum article, Clara Sabbagh and Pieter Vanhuyse empirically investigate how differently Israelis and Germans have viewed pension allocations and explain why Israelis are more inclined than Germans to perceive the allocation of social benefits as unfair. Like the previous essays in the Forum, Sabbagh and Vanhuyse have unveiled voices of social protest in Israel against state law. Hence, this issue is presenting the reader the multifaceted aspects of law, politics, and society while taking into account not only the formalities of law but especially its socio-political, economic, and cultural meanings.

Separate from the theme of law and society, and overseen by the ISR editors, this issue also contains a review essay by Marc Bernstein that discusses three recent books on the burgeoning and highly successful Israeli film industry as well as seven book reviews of a variety of recent publications on Israel.

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