
HUKIM

THE ISRAELI JOURNAL ON LEGISLATION

Volume 10, October 2017

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HUKIM is published with the generous support of **Erdinast, Ben Nathan & Co.**

HUKIM – THE ISRAELI JOURNAL ON LEGISLATION

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**BETWEEN GENEVA AND JERUSALEM: GOVERNMENT-CIVIL
SOCIETY INTERACTION BEFORE UN TREATY MONITORING
BODIES AS A MEANS OF INCORPORATING INTERNATIONAL
HUMAN RIGHTS IN ISRAEL**

TOMER BROUDE & SHLOMI BALABAN

The article deals with the interaction between civil society organizations and the Government of Israel in the field of human rights. It focuses on human rights treaties and the law and practice generated by United Nations (UN) treaty bodies. This article was written as part of an original project that took place under the auspices of the Minerva Center for Human Rights. As part of the project a few complementary models were used to improve the interface between the government and interested civil society organizations regarding the reporting and follow-up processes. The project was funded by a grant from the European Initiative for Democracy and Human Rights (EIDHR). The article discusses the effectiveness of interstate dialogue, as part of a comparative research and of the experience that was accumulated in the course of the Minerva center's project. The research is based on discussions and interviews we held with individuals who participated in the dialogue process, whether they were government officials, NGO workers or from other organizations that try to enable the dialogue. In addition, the article is based upon activities that were held during the project and on observations of the process that the writers were part of for three years.

The article displays the UN Treaty Monitoring Bodies (TMBs) and their role; a discussion of the TMBs reporting and follow-up process's various stages; a study of the Israeli reporting process, and the involvement of civil society organizations; the Government-Civil Society relations as part of the reporting and follow-up process; an introduction to the Minerva Center for Human Rights' project, and its different features, emphasizing its evolution throughout its operation; conclusions.

THE IMPACT OF HUMAN RIGHTS LAW ON THE ISRAELI LEGISLATIVE PROCESS

AMICHAH COHEN, TAL FILBERG & YUVAL SHANY

This article deals with the impact of international human rights law on Israeli law. The question at the center of this study is the impact of human rights law on the legislative process: The extent to which the existence of an international obligation affects the legislative process in the State of Israel, the extent to which various positions in international law are taken into account during the legislative process, and the division of labor between the official bodies dealing with the incorporation of international law of human rights law into Israeli law.

This article, which is the first of its kind to deal with these questions, examines a series of case studies in which linkage or overlap was found between international law and Israeli law: legislation on the rights of the child, corruption, human trafficking, incitement to racism, bribery, unlawful combatants, tort claims against the military, and treatment of illegal immigrants. In some cases, new legislation was introduced in order to implement international law obligations, and in others a potential contradiction arose between the two systems of law - Israeli law and international law. The review of the case studies was based on the language of Israeli and international law, on a careful reading of the legislative material (bills, reports of Knesset committees, academic writing and government committees), as well as on conversations with people involved in the legislative process.

The article is a first attempt to examine the Israeli legislative process relating to the incorporation of international law, and does not present unequivocal conclusions. However, it maps the main ways in which international human rights law affects Israeli legislation, and the key variables that determine the degree of this influence.

“FREE-STYLE IMPRISONMENT”: ON THE IMPLEMENTATION OF INTERNATIONAL HUMAN-RIGHTS NORMS IN ISRAEL’S PRISON SYSTEM

LESLIE SEBBA & RACHELA EREL

The aim of the article is to determine how far Israel’s prison system complies with international human rights law (IHRL), and to consider possible reasons for any failure to do so. However, as becomes clear from the authors’ examination of IHRL applicable to prisons, its precise substance is difficult to determine owing to the paucity of specific norms in the relevant Conventions, the diffusion of secondary norms and the uncertainty as to which of these have binding legal status. (Particular attention in this context is given to the recently-revised UN Standard Minimum Rules for the Treatment of Prisoners - the Nelson-Mandela Rules.) As a consequence of the uncertainties as to the substance of IHRL, the extent of Israel’s non-compliance may also be disputed. Israel’s prison norms, most of which date from the mandatory period, do not reflect the principle that universal human rights apply to prisoners (despite occasional judicial declarations to this effect). They reflect rather a doctrine referred to here as “privileges and vested rights”. This is facilitated by the non-applicability of the Basic Law: Human Dignity and Liberty to pre 1992 legislation, which operates as a limitation on constitutional oversight by the Israeli courts – thereby leaving the prison authorities with almost unlimited administrative discretion. Moreover, the extent of international monitoring under the Conventions is restricted by Israel’s failure to adhere to the optional provisions whereby individual complaints may be considered – and the prison system overseen (OPCAT). Finally, a review of the exchanges between the UN monitoring agencies’ representatives under the Conventions and Israel’s representatives suggests that the identification of compliance failures and their remedy may have a lower priority on the part of state representatives than defending the state’s policies. Remedial measures are proposed and some positive developments noted.