



פורום המרצות | מנדי מחאזרות  
המרצים למשפטים | ומחאזרי القانون  
למען הדמוקרטיה | من أجل الديمقراطية  
The Israeli Law Professors' Forum  
for Democracy

## The Israeli Law Professors' Forum For Democracy

### Position Paper No 45: The Impact of the Proposed Regime Changes on the Environment

Published May 7th, 2023\*

The Israeli Law Professors' Forum for Democracy, an ad hoc and voluntary group of experts on Israeli law and specifically Israeli public law, expresses its grave concern over the apparent intention to abolish the independence of the judiciary, to subordinate it to the government and to the partisan political considerations of the executive branch, to undermine the independent status of the attorney general and civil service legal counsels, and to violate human rights. **In this paper we present the Forum's position concerning the anticipated environmental impact of the proposed regime changes.**

#### **We find that:**

- The Supreme Court has traditionally protected the public and the environment from corporate pollution and from inadequate state enforcement. Among other things, courts have intervened in the content of proposals concerning the ammonia tank in the bay of

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\*We, members of the Israeli Law Professors' Forum for Democracy, hold different academic views regarding the details of the various reforms proposed by Israel's 37th Government to change Israel's democratic regime. However, we are united in the opinion that the host of the government's proposals - which are an unprecedentedly severe attack on the independence of the judiciary, the Attorney General and government legal advisors, the police, the military, and public broadcasting - will seriously damage the rule of law and Israel's democratic character. Therefore, we joined this forum to make our professional opinion available to the public at this fateful time. The position papers or other professional materials produced by us reflect the prevailing position among the members, even if they are not unanimous. The list of Forum's members and all position papers on our behalf are available at <https://lawprofsforum.org>. Follow us on Twitter: <https://twitter.com/lawprofsforum>. Contact us: [lawprofessorsforum@gmail.com](mailto:lawprofessorsforum@gmail.com).

Haifa and in the expansion of the oil refineries. The reform proposed by the Minister of Justice seeks to limit and weaken the power of the court, and this will clearly undermine its ability to protect the public from environmental risks.

- In recent decades the Supreme Court has developed progressive environmental law doctrines, including the precautionary principle and the principle of sustainable development, and has applied them in a series of decisions protecting open spaces for the benefit of future generations, and protecting the public from environmental risks. The proposal to limit the doctrine of reasonableness may undermine the capacity of Israeli courts to rely on these doctrines.
- Revoking the independent status of government legal advisors is also likely to have a negative effect on the environment since it will make it easier for government ministries to ignore environmental considerations and it will facilitate wrongful practices such as political appointments that can only undermine the professionalism of the Ministry of Environmental Affairs.
- Comparative analysis demonstrates that courts all over the world, and particularly supreme courts, play a key role in promoting responsible climate policies and in overseeing the implementation by the government of climate policies it has adopted. Restricting the independence of the Supreme Court will damage its ability to perform this function just at a time when responsible climate policies are needed more than ever.