

## **The lure of success in the courts**

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In its way, Israeli democracy has been able to strike a relative balance between a legal situation based on the periodic extension of the “state of emergency”, and between the semi-constitutional guarantee of the principle of freedom of expression. In the background is the growth of anti-democratic legislation that reflects an impetus that is rightist in its thinking and attitude, and that is establishing a new legal situation (Walter Benjamin) that restricts general freedoms, and especially freedoms of expression and assembly. Those who are generating this momentum, who are holding tight to the reins of power, are keen in their current outburst to establish the “state of emergency” as a permanent state, a final “normal situation”, so to speak. It is a situation in which the authorities allow themselves to redistribute freedoms between “friends” and “enemies” (Carl Schmitt).

It is extremely tempting to come out legally and politically against the freedoms that are granted to anti-democratic, rightist forces which exploit them to spread a discourse of hate; this is already very much present. It is a temptation that for us lies in three arguments: the need to defend ourselves, the need to adopt a principled approach towards freedom of expression, and the chance of success in the courts. Yet this success in particular could turn out to be a trap when the precedent against the radical right-wing, counted as “friends”, turns into a similar procedure against the Arab minority, counted as “enemies” in the growing atmosphere of a “state of emergency”. And while the right’s partial loss of freedom of expression means nothing, since it is holding onto power, which gives it an enormous capacity to act, the loss by the Arab minority of freedom of expression, even in part, means losing a significant part of its ability to act.

It is unwise to attack freedom of expression in Israel in its current form, and which is likely to shrink further, because any limit placed on this freedom will ultimately work against the groups that are most in need of it, i.e. the most vulnerable groups. And this at a time in which we, as Arab citizens, do not suffer from a lack of freedoms so much as the brunt of the policies that are imposed upon us, and which can be summed up as the unfair distribution resources, including symbolic and political resources.

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