Israel Law Review

A journal of human rights, public and international law

Introduction Malcolm N Shaw QC, Yuval Shany and Yaël Ronen

CELEBRATING 50 YEARS OF SCHOLARSHIP: REFLECTIONS ON KEY ARTICLES FROM THE FIRST FIVE DECADES

An Article that Changed the Course of History? **Eyal Benvenisti**

The Missing Reversioner: Reflections on the Status of Judea and Samaria Yehuda Z Blum, originally published in (1968) 3 Israel Law Review 279

A Mystery No Longer? Opinio Juris and Other Theoretical Controversies Associated with Customary International Law

Omri Sender and Michael Wood

The Subjective Element in the Formation of Customary International Law *Raphael M Walden*, originally published in (1977) 12 *Israel Law Review* 344

Domestic Human Rights Adjudication in the Shadow of International Law: The Status of Human Rights Conventions in Israel

Barak Medina

The Influence of International Human Rights Law on the Israeli Legal System: Present and Future *Eyal Benvenisti*, originally published in (1994) 28 *Israel Law Review* 136

Courts, Legitimacy and the Rule of Law Shaheed Fatima QC

The Role of Courts in Rifted Democracies **Ruth Gavison**, originally published in (1999) 33 *Israel Law Review* 216

All You Need Is Time? Discrepancies between the European Court of Human Rights Case Law and Liberal Normative Theory on Long-Term Migrants **Başak Çalı**

Rights in Immigration: The Veil as a Test Case Gila Stopler, originally published in (2010) 43 Israel Law Review 183



Faculty of Law, The Hebrew University of Jerusalem





Editors-in-Chief

Professor Malcolm N Shaw QC, Senior Fellow, Lauterpacht Centre for International Law, University of Cambridge and practising barrister, Essex Court Chambers, London Yuval Shany Hebrew University of Jerusalem, Israel

EXECUTIVE EDITOR

Danny Evron Hebrew University of Jerusalem, Israel

ACADEMIC EDITOR

Yaël Ronen Hebrew University of Jerusalem, Israel

STUDENT EDITORS

Hebrew University of Jerusalem, Israel

Rebecca Baskin Zafrir Yakira Heller Rotem Dahan Gilad Katzir Yahel Dar Yelena Korshin Amitai Edri Errel Peli Michal Goldzweig Oded Sabar Itamar Granot Elchanan Segal Adi Greenfeld Tsruva Sicron Leah Grumet Stav Zeitouni

INTERNATIONAL ADVISORY BOARD

Justice Rosalie Abella, Supreme Court of Canada	Prof. Anne Peters, Max Planck Institute for Comparative
Prof. Dapo Akande, University of Oxford	Public Law and International Law, Heidelberg
Prof. Aharon Barak, Interdisciplinary Center Herzliya	Prof. Monica Pinto, University of Buenos Aires
Judge Daphne Barak-Erez, Supreme Court of Israel	Prof. Kerry Rittich, University of Toronto
Prof. Tom Ginsburg, University of Chicago	Prof. Naomi Roht-Arriaza, University of California Hastings
Prof. Oren Gross, University of Minnesota	Prof. Maurice Sunkin, University of Essex
Prof. Michael Karayanni, Hebrew University of Jerusalem	Prof. Adam Tomkins, University of Glasgow
Prof. Kieran McEvoy, Queen's University Belfast	Prof. Armin von Bogdandy, Max Planck Institute
Prof. Barak Medina, Hebrew University of Jerusalem	for Comparative Public Law and International Law,
Justice Andreas Paulus, Federal Constitutional Court of Germany	Heidelberg

Focusing on law in times of tension and conflict, the *Israel Law Review* is a leading publication in the field of human rights, public law and international law.

The *Review* is a peer-reviewed journal with a long-standing reputation for excellence, and attracts a combination of established authors and new voices writing on cutting edge topics. It is the oldest and most acclaimed Israeli law journal published in English, established in 1966.

The *Israel Law Review* is published under the auspices and management of the Minerva Center for Human Rights at the Law Faculty of the Hebrew University of Jerusalem. Under this stewardship, it focuses on scholarship in the fields of human rights, public law and international law. It also examines the application of legal norms under conditions of conflict and political uncertainty, highlighting the relevance of the Israeli experience in these fields to other parts of the world and that of other societies to Israel.

ISRAEL LAW REVIEW

Volume 50	Number 3	2017
Introduction		
	Yuval Shany and Yaël Ronen	265
CELEBRATING 50 YEA REFLECTIONS ON KEY	RS OF SCHOLARSHIP: (ARTICLES FROM THE FIRST FIVE DECADES	
An Article that Changed the Eyal Benvenisti	he Course of History?	269
•	er: Reflections on the Status of Judea and Samaria inally in (1968) 3 <i>Israel Law Review</i> 279	276
Associated with Customar	<i>pinio Juris</i> and Other Theoretical Controversies y International Law <i>ael Wood</i>	299
	in the Formation of Customary International Law riginally in (1977) 12 <i>Israel Law Review</i> 344	310
The Status of Human Right	Adjudication in the Shadow of International Law: hts Conventions in Israel	331
The Influence of Interna Present and Future	ational Human Rights Law on the Israeli Legal System:	
Eyal Benvenisti, origin	nally in (1994) 28 Israel Law Review 136	371
Courts, Legitimacy and the Shaheed Fatima QC .	e Rule of Law	389
The Role of Courts in F Ruth Gavison, origin	Rifted Democracies ally in (1999) 33 Israel Law Review 216	403
Rights Case Law and Libe	iscrepancies between the European Court of Human eral Normative Theory on Long-Term Migrants	447
Rights in Immigration:		463

ACKNOWLEDGEMENTS

The *Israel Law Review* gratefully acknowledges the financial assistance provided by the permanent endowment fund established by Abraham D. Slavitt of Norwalk, Connecticut, USA, in memory of his beloved wife, Jennie A. Slavitt; by the Minerva Foundation, through the Minerva Center for Human Rights at the Hebrew University of Jerusalem; by the Faculty of Law at the Hebrew University of Jerusalem; and by the Bruce W. Wayne Chair in International Law at the Hebrew University of Jerusalem.