Israel Law Review

A journal of human rights, public and international law

Introduction Malcolm N Shaw, Yuval Shany and Yaël Ronen

ARTICLES Absolutist Admissibility at the ICC: Revalidating Authentic Domestic Investigations *Michael A Newton*

The War Crimes of Denying Judicial Guarantees and the Uncertainties Surrounding Their Material Elements Diletta Marchesi

Denying the Right of Return as a Crime Against Humanity Tomer Levinger

Doctors Playing Gods? The Legal Challenges in Regulating the Experimental Stage of Cybernetic Human Enhancement *Thibault Moulin*

The Nation State Law and the Arabic Language in Israel: Downgrading, Replicating or Upgrading? Mohammed S Wattad







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 Professor Yuval Shany Hebrew University of Jerusalem, Israel

EXECUTIVE EDITOR

Advocate Danny Evron Hebrew University of Jerusalem, Israel

ACADEMIC EDITOR

Professor Yaël Ronen Hebrew University of Jerusalem, Israel

DEPUTY EDITORS

Hebrew University of Jerusalem, Israel Tal Gross Shira Solow

Student Editors

Hebrew University of Jerusalem, Israel

Yael Nadler

Omer Nir

Nir Propper

Noa Rubin

Shai Shalgi

Rachelle Taragin

Gabrielle Agus Tali Brecher Mai Diab Elisheva Finkelman Tamar Hacohen Eitan Hagege Omer Lubin

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 54	Number 2	2021
Introduction Malcolm N Shaw QC, Yuv	al Shany and Yaël Ronen	. 141
ARTICLES		
Investigations	e ICC: Revalidating Authentic Domestic	. 143
Their Material Elements	udicial Guarantees and the Uncertainties Surrounding	. 174
	as a Crime Against Humanity	. 205
of Cybernetic Human Enhanc	egal Challenges in Regulating the Experimental Stage	. 236
or Upgrading?	Arabic Language in Israel: Downgrading, Replicating	. 263
ERRATUM		
of Cybernetic Human Enhanc	egal Challenges in Regulating the Experimental Stage cement – Erratum	. 286

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.