

# ISRAEL LAW REVIEW

Volume 31, Number 4 • Autumn 1997

Hebrew University  Faculty of Law

W What Can Be Done About Cost and Delay in Civil Litigation?  
*Michael Zander*

The Samaritans in Justinian's Corpus Iuris Civilis  
*Alfredo M. Rabello*

Liability in Bailment in Israeli Law — Rethinking Benefit  
*Shirley Renner*

Cases

International Law

Books

Full table of contents inside

**HEBREW UNIVERSITY OF JERUSALEM      FACULTY OF LAW**  
**Dean: Prof. Uriel Procaccia, S.J.D.**

MIMI AJZENSTADT, Ph.D., Lecturer  
MENACHEM AMIR, Ph.D., *Benjamin Berger Chair in Criminology*, Professor  
YISHAI BEER, LL.B., LL.M., Dr. Jur., Senior Lecturer  
HANINA BEN-MENACHEM, LL.B., LL.M., D. Phil., *Director, Israel Matz Institute for Research in Jewish Law*, Associate Professor  
EYAL BENVENISTI, LL.B., LL.M., J.S.D., Associate Professor  
YEHUDA Z. BLUM, M. Jur., Ph.D., Dr. Jur., *Hersch Lauterpacht Chair of Public International Law*, Professor  
YOAV DOTAN, LL.B., LL.M., Dr. Jur., Lecturer  
ZEV W. FALK, Ph.D., *Jacob I. Berman Professor Emeritus of Family & Succession Law*  
CELIA WASSERSTEIN FASSBERG, LL.B., S.J.D., Associate Professor  
S.Z. FELLER, LL.M., *Ivan C. Rand Professor Emeritus of Criminal Law*  
Ruth Gavison, LL.B., LL.M., B.A., D. Phil., *Justice Haim Cohn Chair of Human Rights*, Professor  
ISRAEL GILEAD, LL.B., LL.D., Associate Professor  
DAVID GLIKSBERG, LL.B., Dr. Jur., Associate Professor  
STEPHEN GOLDSTEIN, B.A., J.D., *Edward S. Silver Chair of Civil Procedure*, Professor  
ZOHAR GOSHEN, LL.B., LL.M., J.S.D., Lecturer  
MIRIAM GUR-ARYE, LL.B., Dr. Jur., *Justice Basil Wunsh Chair in Criminal Law*, Associate Professor  
ALON HAREL, LL.B., LL.M., D. Phil., Senior Lecturer  
ELIAHU HARNON, M. Jur., Dr. Jur., *Sylvan Cohen Chair of Law of Evidence and Criminal Procedure*, Professor  
MOSHE HIRSCH, LL.B., B.A., LL.M., Ph.D., Lecturer  
ORIT KAMIR, LL.B., LL.M., S.J.D., Lecturer  
NADIRA KEVORKIAN, Ph.D., Lecturer  
CLAUDE KLEIN, Lic. en droit, D. en droit, *Edwin A. Goodman Chair of Public Law*, Professor  
MORDECHAI KREMNITZER, LL.B., Dr. Jur., *Ivan C. Rand Chair of Criminal Law*, Associate Professor  
DAVID KRETZMER, LL.B., LL.M., Dr. Jur., *Louis Marshall Chair of Environmental Law; Director, Minerva Center of Human Rights*, Professor  
ITZHAK KUGLER, LL.B., LL.D., Lecturer  
SIMHA F. LANDAU, B.A., Msc. Soc., Ph.D., Associate Professor  
RUTH LAPIDOTH, M. Jur., Dr. Univ., *Bessie and Michael Greenblatt, Q.C., Chair of International Law*, Professor  
DAPHNA LEWINSOHN-ZAMIR, LL.B., LL.D., Lecturer  
AVIGDOR LEVONTIN, LL.M., S.J.D., *Harry M. Fisher Professor Emeritus of Private International and Interreligious Law*  
GIDEON LIBSON, LL.B., LL.M., Dr. Jur., *Frieda and Solomon B. Rosenzweig Chair of Jewish and Islamic Law*, Associate Professor  
BRACHYAHU LIFSHITZ, LL.B., M.A., Dr. Jur., *Henry J. and Fannie Harkavy Chair of Comparative Law*, Professor of Jewish Law  
FIONNUALA NÍ AOLAÍN, LL.B., LL.M., Ph.D., Lecturer  
URIEL PROCACCIA, LL.B., LL.M., S.J.D., *Wachtell, Lipton, Rosen and Katz Chair of Corporate Law*, Professor  
A. MORDECHAI RABELLO, Dr. Jur., Ph.D., *Montesquieu Chair of Comparative Law and Legal History*, Professor  
FRANCES RADAY, LL.B., Dr. Jur., *Elias Lieberman Chair of Labor Law*, Associate Professor  
SHIRLEY RENNER, LL.B., LL.M., J.S.D., Lecturer  
LESLIE SEBBA, M.A., LL.M., Dr. Jur., Associate Professor  
GABRIELA SHALEV, LL.B., LL.M., Dr. Jur., *Lawrence D. Biele Chair in Contract Law*, Professor  
SHIMON SHETREET, LL.B., LL.M., M.C.L., D.C.L., Associate Professor  
PINHAS SHIFMAN, LL.B., LL.M., Dr. Jur., *Jacob I. Berman Chair of Family and Succession Law*, Professor  
SHMUEL SHILO, B.A., LL.M., Dr. Jur., *Joseph J.T. Tanenbaum Chair of Jewish Law*, Professor  
ELIYAV SHOCHETMAN, LL.B., LL.M., Dr. Jur., *Walter E. Meyer Chair of Jewish Law*, Professor  
ALEX STEIN, LL.B., LL.M., Ph.D., Associate Professor  
DAVID WEISBURD, B.A., M.A., M. Phil., Ph.D., *Director, Institute of Criminology*, Associate Professor  
JOSHUA WEISMAN, Dr. Jur., *Mary and Charles D. Satinover Chair of Property Law*, Professor  
VERED WINITSK-SEROUSSI, Ph.D., Lecturer  
REUVEN YARON, Ph.D., Professor Emeritus  
EYAL ZAMIR, LL.B., Dr. Jur., Associate Professor

## EDITORIAL BOARD

Chief Editor — FRANCES RADAY

C. FASSBERG  
A. HAREL  
A.M. RABELLO  
D. WEISBURD

S. GOLDSTEIN  
E. HARNON  
G. SHALEV

M. GUR-ARYE  
D. KRETZMER  
S. SHILO  
J. WEISMAN

Coordinating Editor — FAYGE COHEN  
Production and Articles Editor — JUDIE FATTAL  
Editorial Assistant — BARUCH BAR-ALON

---

The Israel Law Review gratefully acknowledges the very generous financial assistance provided by:

The Michael & Morven Heller Charitable Foundation

The P.E.F. Israel Endowment Funds in memory of its founder and first president, Judge Julian W. Mack

A Permanent Endowment Fund established by Abraham D. Slavitt of Norwalk, Conn., U.S.A. in memory of his beloved wife, Jennie A. Slavitt

The Israel Law Review also gratefully acknowledges the financial assistance of the following institutions:

The Faculty of Law, The Hebrew University of Jerusalem  
The Ministry of Justice of Israel  
The Bernard Lazare Fund  
The Nicolas Rosenbaum Endowment Fund  
The S.A. Schonbrunn Research Endowment Fund  
British Friends Legal Group  
British Friends New Leadership Group

Annual Subscription: US \$42 including postage

**ISRAEL LAW REVIEW**  
**c/o Faculty of Law, Hebrew University,**  
**Mount Scopus, P.O.B. 24100, Jerusalem, Israel**  
**Telephone: 02-5882520, 02-5825313**  
**Fax: 972-2-5823042 • Email: [msilr@pluto.mscc.huji.ac.il](mailto:msilr@pluto.mscc.huji.ac.il)**  
**Internet Address: <http://mishpatim.mscc.huji.ac.il>**

© 1997

To be cited: (1997) 31 Is.L.R.

ISSN 0021-2237

---

Printed by Maccabi Press (Jack), Jerusalem

# ISRAEL LAW REVIEW

Volume 31, Number 4 • Autumn 1997

Hebrew University  Faculty of Law

## CONTENTS

### Lionel Cohen Lecture

What Can Be Done About Cost and  
Delay in Civil Litigation? ..... **Michael Zander** 703

### Articles

The Samaritans in Justinian's  
Corpus Iuris Civilis ..... **Alfredo M. Rabello** 724

Liability in Bailment in Israeli Law —  
Rethinking Benefit ..... **Shirley Renner** 744

### Cases

Israel Supreme Court Judgments —  
Translated Extracts with Commentary ..... **Omi** 754  
*Mizrahi Bank v. Migdal (The Gal Amendment)*  
*Ganimat v. State of Israel*

### International Law

The Practice and Case Law of Israel in  
Matters Related to International Law ..... **Rotem M. Giladi** 803  
*Sovereign Immunity — Refugee Status, Non-Refoulement  
and Non-Expulsion — Extra-Territorial Criminal Jurisdiction —  
Treaties and Other Instruments Recently Concluded by the  
State of Israel*

### Books

**Yehuda Z. Blum** — Bruno Simma et al., ed.,  
*The Charter of the United Nations. A Commentary* ..... 854  
**Abraham J. Gafni** — Itzhak Zamir and Sylviane Colombo, eds.,  
*The Law of Israel: General Surveys* ..... 857  
**Talia Einhorn** — David Sassoon,  
*C.I.F. and F.O.B. Contracts* ..... 860