
Israel Law Review

Volume 4

1969

THE ISRAEL LAW REVIEW ASSOCIATION
under the auspices of
THE FACULTY OF LAW, HEBREW UNIVERSITY OF JERUSALEM

EDITORIAL BOARD

B. AKZIN S. GINOSSAR A. V. LEVONTIN
G. TEDESCHI U. YADIN R. YARON
 P. ELMAN

©1969 The Israel Law Review Association

Printed in Israel at the Jerusalem Post Press, Jerusalem

GLOSSARY

<i>Divrei HaKnesset</i>	— Records of Knesset proceedings
<i>HaPraklit</i>	— Law Journal published by the Jewish Bar Association (1943–48), now the Israel Bar, and since 1964, in cooperation with the Faculty of Law of the Hebrew University, Jerusalem
<i>Hatza'ot Hok</i>	— Legislative Bills
<i>'Iton Rishmi</i>	— The Official Gazette during the tenure of the Provisional Council of State
<i>Kitvei Amana</i>	— Israel Treaty Documents
<i>Knesset</i>	— Israel Legislative Assembly
<i>Kovetz HaTakanot</i>	— Subsidiary Legislation
<i>Piskei Din</i>	— Law reports of the Supreme Court, published by the Ministry of Justice (1948–)
<i>Psakim</i>	— Law reports of the Supreme Court and District Courts, published privately (1948)
<i>Psakim 'Elyon</i>	— Law reports of the Supreme Court, published by the Israel Bar Association (1948–1961)
<i>Psakim Mehoziim</i>	— Law reports of the District Courts, published by the Israel Bar (1949–)
<i>Reshumot</i>	— Official Gazette
<i>Sefer HaHukim</i>	— Principal Legislation
<i>Yalkut HaPirsumim</i>	— Government Notices

ABBREVIATIONS

A.L.R.	— Annotated Law Reports (1943–47)
F.H.	— Further Hearings
K.A.	— <i>Kitvei Amana</i> (in Hebrew)
K.T.	— <i>Kovetz HaTakanot</i> (in Hebrew)
L.S.I.	— Laws of the State of Israel
P.D.	— <i>Piskei Din</i> (in Hebrew)
P.E.	— <i>Psakim 'Elyon</i> (in Hebrew)
P.L.R.	— Palestine Law Reports, 1920–47
P.M.	— <i>Psakim Mehoziim</i> (in Hebrew)
P.M.S.	— <i>Psakim Mehoziim</i> Summary (in Hebrew)
P.G.	— Palestine Gazette
Rot.	— Rottenberg's Law Reports (1919–36)
S.C.J.	— Annotated Supreme Court Judgments (1937–42)
S.D.C.	— Selected Cases of the District Court (1943–47)
S.J.	— Selected Judgments of the Supreme Court of Israel (1948–58)

TABLE OF ARTICLES—AUTHORS

	PAGE
BEIN, DAN. <i>The "Completed Offence" and the Attempt—Some Problems in Criminal Law Interpretation</i>	216
BEN-PORATH, MIRIAM. <i>Extinction of Cause of Action by Release or Covenant not to Sue</i>	201
ELMAN, PETER. <i>Co-operative Housing in Israel</i>	333
ELON, MENACHEM. <i>Jewish Law and Modern Medicine</i>	467
ELON, MENACHEM. <i>The Sources and Nature of Jewish Law and its Application in the State of Israel, Part IV</i>	80
GREEN, L. C. <i>The Impact of the New States on International Law</i>	27
LAPIDOTH, ARYEH. <i>The Tests for the Determination of the Scope of Taxes</i>	392
LAPIDOTH, RUTH. <i>The Security Council in the May 1967 Crisis: A Study in Frustration</i>	534
LERNER, NATAN. <i>The Convention on the Non-Applicability of Statutory Limitations to War Crimes</i>	512
LIKHOVSKI, ELIAHU. <i>Can the Knesset Adopt a Constitution which will be the "Supreme Law of the Land"?</i>	61
LIVNEH, ERNST. <i>Factors Determining the Amount of Damages</i>	175
LIVNEH, ERNST. <i>The Influence of Insurance on the Award of Damages</i>	494
MERON, THEODOR. <i>Israel's Acceptance of the Compulsory Jurisdiction of the International Court of Justice</i>	307
SHAKI, A. H. <i>Is Age a Matter of Status?</i>	371
SHAPIRA, AMOS. <i>The Security Council Resolution of November 22, 1967—Its Legal Nature and Implications</i>	229
SILVING, HELEN. <i>Toward a Contemporary Concept of Criminal Justice</i>	479
TEDESCHI, G. <i>Art Forgeries and their Prevention</i>	364
TEDESCHI, G. <i>Authorization of Torts</i>	1
YARON, REUVEN. <i>Foreign Merchants at Ugarit</i>	70

TABLE OF ARTICLES—TITLES

	PAGE
ART FORGERIES AND THEIR PREVENTION. <i>G. Tedeschi</i>	364
AUTHORIZATION OF TORTS. <i>G. Tedeschi</i>	1
CAN THE KNESSET ADOPT A CONSTITUTION WHICH WILL BE THE "SUPREME LAW OF THE LAND"? <i>Eliahu Likhovski</i>	61
"COMPLETED OFFENCE" AND THE ATTEMPT, THE — SOME PROBLEMS IN CRIMINAL LAW INTERPRETATION. <i>Dan Bein</i>	216
CONVENTION ON THE NON-APPLICABILITY OF STATUTORY LIMITATIONS TO WAR CRIMES, THE. <i>Natan Lerner</i>	512
CO-OPERATIVE HOUSING IN ISRAEL. <i>Peter Elman</i>	333
EXTINCTION OF CAUSE OF ACTION BY RELEASE OR COVENANT NOT TO SUE. <i>Miriam Ben-Porath</i>	201
FACTORS DETERMINING THE AMOUNT OF DAMAGES. <i>Ernst Livneh</i>	175
FOREIGN MERCHANTS AT UGARIT. <i>Reuven Yaron</i>	70
IMPACT OF THE NEW STATES ON INTERNATIONAL LAW, THE. <i>L. C. Green</i>	27
INFLUENCE OF INSURANCE ON THE AWARD OF DAMAGES, THE. <i>Ernst Livneh</i>	494
IS AGE A MATTER OF STATUS? <i>A. H. Shaki</i>	371
ISRAEL'S ACCEPTANCE OF THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE. <i>Theodor Meron</i>	307
JEWISH LAW AND MODERN MEDICINE. <i>Menachem Elon</i>	467
SECURITY COUNCIL IN THE MAY 1967 CRISIS, THE: A STUDY IN FRUSTRATION. <i>Ruth Lapidoth</i>	534
SECURITY COUNCIL RESOLUTION OF NOVEMBER 22, 1967, THE—ITS LEGAL NATURE AND IMPLICATIONS. <i>Amos Shapira</i>	229
SOURCES AND NATURE OF JEWISH LAW AND ITS APPLICATION IN THE STATE OF ISRAEL, THE — Part IV. <i>Menachem Elon</i>	80
TESTS FOR THE DETERMINATION OF THE SCOPE OF TAXES, THE. <i>Aryeh Lapidoth</i>	392
TOWARD A CONTEMPORARY CONCEPT OF CRIMINAL JUSTICE. <i>Helen Silving</i>	479

NOTES ON LEGISLATION

	PAGE
ARONOVSKY, M. <i>Comments on the New Law of Sales</i>	141
ELMAN, PETER. <i>The Basic Law: The Government</i>	242
GOULDMAN, M.D. <i>Recent Changes in Israel's Nationality Law</i>	551
LANDAU, LEAH and RAKOVER, N. <i>The Gift Law, 1968</i>	260
WEISMAN, JOSHUA. <i>Principles of the Pledges Law, 1967</i>	417

NOTES ON CASES

	PAGE
AKZIN, BENJAMIN. <i>Judicial Review of Statute</i>	576
ELMAN, PETER. <i>Judicial Review of Statute</i>	565
ELMAN, PETER. <i>The Use of a Company's Name</i>	156
ENGLARD, IZHAK. <i>Causation, Contributory Fault and Contributory Conduct</i>	273
KLEIN, CLAUDE. <i>Judicial Review of Statute</i>	569
KRETZMER, DAVID. <i>The Acquiring of Equitable Title</i>	452
P.E. <i>A digest of Recent Cases</i>	159, 285, 458, 582
PROCACCIA, G. <i>The Use of a Company's Name</i>	449
TOPOL, ALLAN J. <i>Jewish Law: A Misapplication in New York?</i>	578

BOOK REVIEWS

	PAGE
BROWNLIE: Basic Documents in International Law (B.D.W.)	169
DE SMITH: Judicial Review of Administrative Action (I. Zamir)	294
DOUKHAN-LANDAU: Equitable Rights to Land and the Remedy of Specific Performance of Contracts for the Sale of Land (A. M. Apelbom)	165
FISCHER: Die Institutionalisierte Vertretung der Verbände in der Euro- päischen Wirtschafts-Gemeinschaft (J J. Lador-Lederer)	465
JAFFE: Judicial Control of Administrative Action (I. Zamir)	294
MUFFS: Studies in the Aramaic Legal Papyri from Elephantine (R. Yaron)	588
PORTEN: Archives from Elephantine (R. Yaron)	588
ROBINSON: International Law and Organization: General Sources of Information (R. Lapidoth)	594
RUBINSTEIN: Hamishpat Hakonstitutionsi Shel Medinat Israel (B. Akzin)	463
SASSOON: British Shipping Laws (Vol. 5) (R. Gottschalk)	463
SILVING: Constituent Elements of Crime (S. Z. Feller)	299
WARHAFTIG: Dinei Avodah Bemishpat Haivri (P.E.)	591
YAVETZ: Plebs and Princeps (R. Yaron)	591
COMMUNICATION	170

TABLES OF PRINCIPAL CASES CONSIDERED

	PAGE
American Cases:	
<i>Wener v. Wener</i>	578
English Cases:	
<i>Durham v. Michael Jackson</i>	158, 450
<i>Ginty v. Belmont Building Supplies Ltd.</i>	280
Israeli Cases:	
<i>A, an infant v. B.</i>	582
<i>Amsalam v. Katz</i>	273
<i>Arieli v. Tzink</i>	288
<i>Arzi v. The Council of Auditors of Israel</i>	459
<i>Bergheim v. Chief Execution Officer, Tel Aviv</i>	163
<i>Bergman v. The Minister of Finance and State Comptroller</i>	599
<i>Carmel v. The State of Israel</i>	462
<i>Cohen v. Neuman</i>	584
<i>Daklo v. Tel Aviv Assessing Officer</i>	586
<i>Electra (Israel) Ltd. v. Minister of Commerce and Industry</i>	285
<i>Export Bank Ltd. v. Liquidator of Darom Refrigeration and Supply Co. Ltd.</i>	164
<i>Hachsharat HaYishuv Be-Israel Ltd. v. The State of Israel</i>	162
<i>Hapoel Hamizrachi Bank v. Zorger</i>	291
<i>Kashani v. Rassco</i>	289
<i>Kleinman v. Meron Chemical Works Ltd.</i>	461
<i>Melman v. Salam</i>	156, 449
<i>Niche Yakum Ltd. v. Berko</i>	159
<i>Redzmer v. Pomerantz</i>	161
<i>Rozowski v. Dominion Insurance Co. Ltd.</i>	458
<i>Savisah v. Attorney-General</i>	290
<i>Siglov v. Etzion</i>	452
<i>State of Israel v. Abu Ras</i>	586
<i>State of Israel v. Ben Moshe</i>	287
<i>State of Israel v. Yahalomi Keren Or Ltd.</i>	460
<i>Stern v. "Parcel 36 Block 6127" Co. Ltd.</i>	453
<i>Tru Pharmacology Works Ltd. v. Hoffman La Roche A.G.</i>	583
<i>Tel Aviv Assessing Officer v. Godik</i>	585
<i>Yahalomi Plegat Ltd. v. Pinski</i>	160

TABLE OF PRINCIPAL STATUTES CONSIDERED

	PAGE
The Pledges Law, 1967	417
The Sales Law, 1968	141
The Gift Law, 1968	260
The Basic Law: The Government	242
The Nationality (Amendment No. 2) Law, 1968	551

SUBJECT INDEX

	PAGE		PAGE
ACCOUNTANTS		Bankrupt director	163
Practising licence, refusal of	459	Priority of Creditors in winding up	164
ACTIONS		CONSTITUTIONAL LAW	
Extinction by Release and Covenant not to Sue	201	Basic Law: The Government	242
Joint parties	204	Cabinet secrecy	251
ADMINISTRATIVE LAW		Entrenched clauses	252, 566
Business licence, fees payable for	460	Knesset	61
Judicial Review	294	Parliamentary supremacy	170, 567
		Prime ministerial government	251
AGE		CONTRACT	
As status	371	Ratification	12
Declaratory nature of date of birth	376	COOPERATIVE HOUSING	
As extra-legal natural condition	381	(Condominium)	
Universality	382	Common Property	348
Non-institutional and static nature	385	Legal Status	345
Non-consensual nature	390	<i>See Judicial Review</i>	
ARNOLD M. APELBOM		Ownership of air space	350
In Memoriam	173	Relations of owners	353
AUTOPSY		CRIMINAL LAW	
<i>See Jewish Law</i>		Attempt and Completed Offence	216
BANKING		Automatism	462
Commission or Interest	291	Constituent elements of crime	299
BLOOD TESTS		Concept of Criminal Justice	479
<i>See Family Law</i>		Evidence	224
CAPITAL GAINS TAX		Forgery of Works of Art	364
<i>See Taxation</i>		Premeditated Murder	290
COMPANY LAW		<i>See Jewish Law</i>	
Use of Company's name	156, 449	Supervision as sanction	482
		Unlawful assembly	586
		DAMAGES	
		Ability to bear loss	194
		Adequate causation	178

	PAGE		PAGE
Contributory Negligence	181, 192	INCOME TAX	
Determinative factors	175	Foreign experts	585
Fault	190	See <i>Taxation</i>	
<i>Hadley v. Baxendale</i>	179	INFANTS	
Helpful Third Party	196, 536	Vicarious Liability of	
International Developments	178	Parents	288
Insurance	494	See <i>Legal Capacity</i>	
Negligence	190	INSURANCE	
Pensions	497	See <i>Damages</i>	
Vicarious Liability	192	INTEREST	
Wilfulness	191	See <i>Banking</i>	
Work injury benefits	501	INTERNATIONAL LAW	
Zones of Danger	193	American	32
DEFAMATION		Asylum, Latin American	
See <i>Jewish Law</i>		Approach	36
DOUBLE TAXATION		<i>Calvo</i> doctrine and foreign	
See <i>Taxation</i>		interest	34
ECONOMIC POLICY		Consensual basis	27
Fiscal Legislation	285	Cooperation	53, 56
EQUITY		Diplomatic Intervention	34
See <i>Property</i>		Human Rights	39
ESTATE DUTY		International Court of	
See <i>Taxation</i>		Justice, Compulsory	
EVIDENCE		jurisdiction, Israel's	
Criminal Law	224	acceptance	307
See <i>Jewish Law</i>		Obligations <i>ratione persona</i>	316
Taken abroad	586	Obligations <i>temporis</i>	324
EXTRADITION	526	Obligations <i>materiae</i>	328
FAMILY LAW		New States, impact of	27
See <i>Jewish Law</i>		Organization of African Unity	44
Paternity and blood tests	582	Regional	38
GIFTS		Security Council crisis of	
Israel Gift Law, 1968	260, 271	May, 1967	
See <i>Jewish Law</i>		Security Council Resolution	
HUMAN RIGHTS		of Nov. 22, 1967	229
See <i>International Law</i>		Self-determination and non-	
		intervention	51
		Treaties	50
		War Crimes and Limitations	512
		IMPRISONMENT FOR DEBT	
		See <i>Jewish Law</i>	

	PAGE		PAGE
JEWISH LAW		Covenant against assignment	160, 163
Application in American Law	578		
Autopsy	470	LAWYERS	
Bailees	91	Indemnity of lawyer acting as middleman	458
Bribery	99	LEGAL CAPACITY	
Civil Law	84	See <i>Jewish Law</i>	
Criminal and Public Law	98	LIMITATIONS	
Defamation	100	War Crimes	512
Evidence and Procedure	106	See <i>Torts</i>	
Family Law	114	See <i>Jewish Law</i>	
Gifts	96, 268	MEDICAL PROFESSION	
Imprisonment for Debt	111	See <i>Jewish Law</i>	
In Israel Legislation	80	NATIONALITY	
Judges	103	Israel Law, Changes in	551
Labour Law	85	NEGLIGENCE	
Legal Capacity	122, 591	See <i>Torts</i>	
Limitation of Actions	108	See <i>Damages</i>	
Medical Profession	467	ORGAN TRANSPLANTS	
Modes of Acquisition	592	See <i>Jewish Law</i>	
Organ transplants	472	PATENTS	
Repair and Bodily Harm	89	Compulsory Licence	583
Succession Law	126	PENSIONS	
Surety	92	See <i>Damages</i>	
Witnesses	106	PLEDGES	
JUDICIAL REVIEW		Israel Pledge Law, 1969	417
Justiciability	565	PROPERTY	
Statute	559	Acquisition of Equitable Title	452
See <i>Administrative Law</i>		PROPERTY TAX	
Scope of Taxes in Israel		See <i>Taxation</i>	
Law—tests	392, 414	ROMAN LAW	
KNESSET		<i>Ratihabitio mandato aequiparatur</i>	19
Adoption of Constitution	61		
Basic Laws	63, 243, 567		
Ministerial Responsibility	247		
Supremacy	170, 248		
Violence against Member	287		
LABOUR LAW			
See <i>Jewish Law</i>			
LANDLORD AND TENANT			
Covenant as to use	159		

	PAGE		PAGE
SALE OF GOODS		Negligence and Limitations	461
Israel Sales Law, 1968	141	Principal and Agent	4, 9
STATUS		Ratification	5, 15, 17
Nature	377	Res ipsa loquitur	584
SUCCESSION		Roman Law	19
<i>See Jewish Law</i>		<i>See Infants, Damages</i>	
SURETY		UGARIT LAW	
<i>See Jewish Law</i>		Blood Compensation	75
TAXATION		Regulation of Foreign Merchants	70
Capital Gains Tax	414	VICARIOUS LIABILITY	
Double Taxation, prevention	408	Damages in Tort	192
Estate Duty	412	Master and Servant	210, 289
Income Tax	393	Parents and Infants	288
Property Tax	414	WAR CRIMES	
TORTS		Limitations	512
Authorization	1	WORKS OF ART	
Causation	3	Means of assuring authenticity	364
Contributory Conduct	277	<i>See Criminal Law—forgery</i>	
Contributory Negligence	275		

GLOSSARY

<i>Divrei HaKnesset</i>	— Records of Knesset proceedings
<i>HaPraklit</i>	— Law Journal published by the Jewish Bar Association (1943–48), now the Israel Bar, and, since 1964, in cooperation with the Faculty of Law of the Hebrew University, Jerusalem
<i>Hatza'ot Hok</i>	— Legislative Bills
<i>'Iton Rishmi</i>	— The Official Gazette during the tenure of the Provisional Council of State
<i>Kitvei Amana</i>	— Israel Treaty Documents
<i>Knesset</i>	— Israel Legislative Assembly
<i>Kovetz HaTakanot</i>	— Subsidiary Legislation
<i>Piskei Din (Judgments)</i>	— Law reports of the Supreme Court, published by the Ministry of Justice (1948–)
<i>Psakim (Decisions)</i>	— Law reports of the Supreme Court and District Courts, published privately (1948)
<i>Psakim 'Elyon (Supreme [Court] Decisions)</i>	— Law reports of the Supreme Court, published by the Israel Bar Association (1948–1961)
<i>Psakim Mehoziim (District [Courts] Decisions)</i>	— Law reports of the District Courts, published by the Israel Bar (1949–)
<i>Reshumot</i>	— Official Gazette
<i>Sefer HaHukim</i>	— Principal Legislation
<i>Yalkut HaPirsumim</i>	— Government Notices

ABBREVIATIONS

A.L.R.	— Annotated Law Reports (1943–47)
F.H.	— Further Hearings
K.A.	— <i>Kitvei Amana</i> (in Hebrew)
K.T.	— <i>Kovetz HaTakanot</i> (in Hebrew)
L.S.I.	— Laws of the State of Israel
P.D.	— <i>Piskei Din</i> (in Hebrew)
P.E.	— <i>Psakim 'Elyon</i> (in Hebrew)
P.L.R.	— Palestine Law Reports, 1920–47
P.M.	— <i>Psakim Mehoziim</i> (in Hebrew)
P.M.S.	— <i>Psakim Mehoziim</i> Summary (in Hebrew)
P.G.	— Palestine Gazette
Rot.	— Rottenberg's Law Reports (1919–36)
S.C.J.	— Annotated Supreme Court Judgments (1937–42)
S.D.C.	— Selected Cases of the District Court (1943–47)
S.J.	— Selected Judgments of the Supreme Court of Israel (1948–58)

The Israel Law Review appears four times a year (ca. 600 pp.)

Annual Subscription Rates:

Israel	IL 22
United Kingdom	£ 3
U.S.A. and other countries	\$ 10 or the equivalent (Post Free)

Single Copies:

Israel	IL 6
United Kingdom	17s
U.S.A. and other countries	\$ 2.80 or the equivalent

THE ISRAEL LAW REVIEW ASSOCIATION
c/o Faculty of Law, Hebrew University of Jerusalem