

# Israel Law Review

A journal of human rights, public and international law

## Introduction

***Nigel Rodley, Yuval Shany and Yaël Ronen***

Transitional Justice Accountability and Memorialisation: The Yemeni Children  
Affair and the Indian Residential Schools

***Ruth Amir***

Hate Speech and Constitutional Democracy in Eastern Europe: Transitional and  
Militant? (Czech Republic, Hungary and Poland)

***Uladzislau Belavusau***

Transitional Justice in Iraq: Learning the Hard Way

***Erin Daly***

Investigations into Military Operations: What Impact on Transitional Justice?

***Laurie R Blank***

Persistent or Eroding Impunity? The Divergent Effects of Legal Challenges to  
Amnesty Laws for Past Human Rights Violations

***Francesca Lessa, Tricia D Olsen, Leigh A Payne, Gabriel Pereira and  
Andrew G Reiter***

Examining the Use of Amnesties and Pardons as a Response to Internal  
Armed Conflict

***Andrew G Reiter***

Taking Community Seriously: Lessons from the Israeli Disengagement Plan

***Shai Stern***



מרכז מינרבה לזכויות האדם  
The Minerva Center for Human Rights  
مركز مينيرفا لحقوق الإنسان



Faculty of Law,  
The Hebrew University  
of Jerusalem

**CAMBRIDGE**  
UNIVERSITY PRESS

### EDITORS-IN-CHIEF

Sir Nigel Rodley *University of Essex, UK*  
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*

Moshe Akirav	Eitan Kaplansky
Elad Barak	Ori Kaufman
Ben Bariach	Guy Keinan
Shay-Nitzan Cohen	Lily Malkiel
Chen Deri	Shani Nyer
Niran Dor	Ori Pomson
Dov Ehrman	Yonatan Romm
Anat Eisenstein Bar-On	Daniel Rosenblatt
Shani Friedman	David Silber
Shira Giveon	Israel Wagshul
Gal Goldstein	

### INTERNATIONAL ADVISORY BOARD

Professor Aharon Barak <i>Inter-Disciplinary Center, Herzliya, Israel</i>	Professor Mordechai Kremnitzer <i>Hebrew University of Jerusalem, Israel</i>
Judge Daphne Barak-Erez <i>Supreme Court of Israel</i>	Professor David Kretzmer <i>Hebrew University of Jerusalem, Israel</i>
Professor Malcolm Feeley <i>University of California, Berkeley, USA</i>	Professor Fionnuala Ní-Aoláin <i>University of Minnesota, USA and University of Ulster, Ireland</i>
Professor Jochen Frowein <i>Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany</i>	Professor Frances Raday <i>College of Management Academic Studies, Rishon Le Zion, Israel</i>
Professor Francoise Hampson <i>University of Essex, UK</i>	Professor William Schabas <i>Middlesex University, UK</i>
Professor Vicki Jackson <i>Harvard Law School, USA</i>	Professor Malcolm Shaw <i>University of Cambridge and Leicester University, UK</i>
Professor Michael Karayanni <i>Hebrew University of Jerusalem, Israel</i>	Professor Henry Steiner <i>Harvard Law School, USA</i>
Professor Eckart Klein <i>Potsdam University, Germany</i>	Professor Ruti Teitel <i>New York Law School, USA</i>

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 47

Number 1

2014

---

---

Introduction

*Nigel Rodley, Yuval Shany and Yaël Ronen* ..... 1

**ARTICLES**

Transitional Justice Accountability and Memorialisation: The Yemeni Children  
Affair and the Indian Residential Schools

*Ruth Amir* ..... 3

Hate Speech and Constitutional Democracy in Eastern Europe: Transitional and  
Militant? (Czech Republic, Hungary and Poland)

*Uladzislau Belavusau* ..... 27

Transitional Justice in Iraq: Learning the Hard Way

*Erin Daly* ..... 63

Investigations into Military Operations: What Impact on Transitional Justice?

*Laurie R Blank* ..... 85

Persistent or Eroding Impunity? The Divergent Effects of Legal Challenges to  
Amnesty Laws for Past Human Rights Violations

*Francesca Lessa, Tricia D Olsen, Leigh A Payne, Gabriel Pereira and  
Andrew G Reiter* ..... 105

Examining the Use of Amnesties and Pardons as a Response to Internal Armed  
Conflict

*Andrew G Reiter* ..... 133

Taking Community Seriously: Lessons from the Israeli Disengagement Plan

*Shai Stern* ..... 149

## 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.