

Ruth Gavison

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Some publications are available on <http://ssrn.com/author=819270>

Others are available at [www.metzilah.org.il](http://www.metzilah.org.il)

Education:

1969: Hebrew University, Jerusalem: LLB, *cum laude* (first student in class).

1970: Hebrew University, Jerusalem: BA, Philosophy and Economics

1971: Hebrew University, Jerusalem: LLM, *summa cum laude*

1975: Oxford, England: D.Phil (legal Philosophy)

Professional Training:

1970: Clerk to Justice B. Halevi, Israel Supreme Court

1971: Admitted to the Israeli Bar

Academic Appointments

1969-2010: teaching appointments, Faculty of Law, HU

1978-1980: Visiting Associate Professor of Law, Yale Law School

from 1984: Incumbent, Haim H. Cohn Chair for Human Rights, HU

from 1990: Full Professor, Faculty of Law, HU

1990-1991: Visiting Professor of Law, USC, LA.

1998-99: Fellow, Center for Human Values, Princeton University

From 2010: Haim h. Cohn Professor of Human Rights (emerita), HU.

2011-2012: fellow, Straus center for Social Justice and Tikvah Center for Jewish Law and Civilization, NYU.

Spring 2017: distinguished scholar in residence, Crown center for Jewish and Israel Studies, Northwestern University

Teaching Areas:

Philosophy of law, Human Rights, Law and Morals, Law and Society, State and religion; Law, Democracy and Civil Society; Law and....; Democracy and Human Rights in Israel; The Law of Return and the 'Right' of Return; Processes of Constitution-Making, Israel as a Jewish and Democratic State; democracy and human rights.

Other Activities:

**Association for Civil Rights in Israel (ACRI):**

From 1974 – member

1976-1978,1982-1984,1986-1987, 1992-94: Chairperson.

1996-1999: President.

**Minerva Center of Human Rights, HU:**

1993-1998, 2001-2003: Chair, Academic Committee

1993-1998: Member, Executive board

2005-2010: Member, Academic Committee

**Metzilah, Center for Zionist, Jewish, Liberal and Humanist Thought**

2005-2007, 2012 to present: Chairperson of the Board

Since 2007: Founding President

Since 1983: Member, Israel Association of Parliamentarism

1983-1990, 2003-present: Fellow, the Van Leer Institute in Jerusalem

1993-1998: Member, Executive Board, Jerusalem Institute for Israel Studies

since 1994: Member, academic committee, Mishkenot Shaananim

1997-2007: Member, International Commission of Jurists

1997-2003: Senior Fellow, Israel Democracy Institute

2001-2008: Member of the Presidium of Yahad Council (Secular-religious council)

1999-2001: IDI, head, a Jewish-Arab dialogue group (proceedings of meetings online in IDI site)

1999-2002: (together with Rav. Y. Medan), work towards a new understanding between secular and religious Jews in Israel.

2000-2002: IDI, head, a working group on social and economic tensions in Israel

2002: Chair, working group on Jewish identities, Posen Center, Bar-Ilan University

March 2005 – Feb 2006 : Senior Consultant to the constitutional process in the Knesset.

August 2013- October 2014: Appointed by Minister of Justice Livni to make recommendations on Constitutional enactment of the Vision of Israel as a Jewish and Democratic State.

**Public committees:**

1976: Member, The Kahan Committee on Privacy (generated Israel's law of privacy 1981).

1983: Member, committee on the privacy of information in governmental data-banks (chair: H. Klugman). (generated an amendment to the privacy law).

1987-1990: Member, a public committee on orthodox-secular relationships in Israel.

1994-1997 Member, National Committee for Scientific and Technological Infrastructure.

1996- 1997 Member, Zadok committee on press laws

1997 - 1998 Member, Shamgar Committee on the Appointment of the Attorney-General and Related Issues.

Dec 2003- Jan 2004: Member, Bach Committee to appoint the AG

September 2006 – January 2008: member, Winograd Commission to investigate the 2<sup>nd</sup> Lebanon War

**Media**

since 1983 to present, a frequent and regular contributor to the national press and the electronic media on issues of law, human rights, democracy and Israeli society.

**Prizes and Awards**

1997 - Zeltner Prize for Legal Research.

- 1999 – (with ACRI) The Bar Association Prize
- 2000 – Recognition by the Right to Know Association
- 2001 – HU rector prize for research and teaching
- 2001 - Avi-Hai prize for the New Covenant Between Secular and religious Jews (with R. Medan).
- 2002 – The Jerusalem Toleration Award.
- 2002 – Toleration Association Award (with R. Medan)
- 2003 – E.M.E.T prize in Law
- 2003: Honorary Doctorate, Jewish Theological Seminary
- 2009: Cheshin Prize for Excellence in Research
- 2009: Honorary Doctorate, Bar-Ilan University, ISRAEL.
- 2011: Israel Prize in Law.
- 2014: Honorary fellow, the Open University
- 2015: Member, Israel Academy of Science and the Humanities

Academic PublicationsBooks:

1. Discretion in Law Enforcement: The Power of the Attorney General to Stay Criminal Proceedings, Jerusalem 1991 (Heb)
2. Human Rights in Israel, Broadcast University, 1995 (Heb). (TLV)
3. The Constitutional revolution: A reality or a Self-Fulfilling Prophecy? 1998 (Heb). (Jerusalem)
4. Israel: A Jewish and Democratic State, Van Leer and Hakibutz Hameuhad, 1999 (Heb).
5. (with Issam Abu Riyya), The Jewish-Arab Rift in Israel 1999 (IDI, Heb)
6. (With M. Kremnitzer and Y. Dotan), Judicial Activism For and Against: The Role of The Supreme Court in Israeli Society Magnes Press 2000 (Heb)
7. (With R. Y. Medan), **Foundations to A New Covenant on State and Religion Issues in Israel**, Hebrew, 2003. (Hebrew and English short versions available at <http://www.gavison-medan.org.il>)(Jerusalem)
8. **A super goal for Israel and Its Implications**, (Neaman Institute and Metzilah) 2007
9. **The Law of Return at 60: History, Ideology and Justification** (Metzilah) (2010)
10. **Constitutional Entrenchment of Israel's Vision? (2015) (Hebrew)**

Books Edited

1. Civil Rights in Israel: Essays in Honour of H.H.Cohn ACRI, Jerusalem, 1982 (Heb)
2. Issues in Contemporary Legal Philosophy: The Influence of H.L.A. Hart Oxford 1986
3. (with M. Kremnitzer) Eigthy to Shimon Agranat Jerusalem 1986 (Heb)
4. The Freedom to Believe: Essays in Memory of Chamman P. Shelach ACRI and Poalim Library, 1990 (Heb)
5. Human Rights in Israel: A Reader (3 vols) (1991-92) (Heb)
6. (with Daphna Hacker), The Jewish-Arab Rift in Israel: A Reader (IDI, 2000) (in

Hebrew)(Jerusalem)

7. Haim H. Cohn: Being Jewish: Culture, Law, Religion, State, (Hebrew) (Kinneret, Zmora, Bitan, 2006)
8. The 60<sup>th</sup> Anniversary of the 29<sup>th</sup> November Resolution: Reflections and Sources (Metzilah) 2007 (Heb) English: **The Two State Solution: Essays and Sources** (Edited by Ruth Gavison) (Continuum Press, 2013)

Articles (major works are marked by \*)

1. 'Offences of Moral Turpitude and Disqualification for Public Office', 1 *Mishpatim* 1968 176-182 (Heb)
2. 'The Pardon Act, 1967: A Further Note', 2 *Mishpatim* 1969 218-220 (Heb)
3. 'The Duty of the High Court of Justice (HCJ) to Give Reasoned Decisions', 2 *Mishpatim* 1970 84-95 (Heb)
4. 'The Relationships between written and unwritten sources of law', **Israeli reports to the 8<sup>th</sup> international congress of comparative law** (1971) 36-53.
5. 'Section 15 of the Commissions of Enquiry Act and Judicial Review', 6 *Mishpatim* 1976 548-561 (Heb).
6. Comparative Analysis of Privacy Laws in Various Countries, The Kahan Report on Privacy 1976 8-22, 33-36 (Heb).
7. Should We Have a general Right to privacy in Israel? 12 **Isr.L.Rev.** 155-171 (1977)
- \*8. 'The Enforcement of Morals and the Status of the Principle of Liberty', 27 *Iyun* 274-294 (1976-77); published also as Thought, Language and Society: Essays in Memory of Y. Bar Hillel (Magnes 1977), 274-294 (Heb).
9. 'Enforcement of Morals, Breach of Promise to Marry and the Duty to Give Reasoned Decisions', 8 *Mishpatim* 1978 282-301 (Heb).
10. The Minimal Area of privacy Protection – Israel, in **Israeli reports to the 10<sup>th</sup> international congress of comparative law**, 176-206 (1978)
- \*11. 'Aspects of the Enforcement of Morals in Modern Society: A Response to Professor Shellef', *Iyun* 28 1978 282-301 (Heb).

12. Liberty vs. Equality in Education”, in S. Goldstein (ed.) **Equality, Education and the Law**, Van Leer 1980, 191-202.
13. “Privacy and Computerized Systems”, 1 **Information Privacy** 270-272 (1979)
14. (with A Margalit and Edna Ullman-Margalit), “Causal Over-determination: Resolution of a Puzzle”, 37 **Philosophical Studies** 381-390 (1980)
15. “M.R. Cohen: An Introductory Note”, 16 **Isr.L.Rev.** 273-281 (1981)
16. Introduction to the Hebrew edition of HLA Hart's Law, Liberty and Morality, 1981, 9-21. (Heb).
- \*17. 'Privacy and the Limits of Law', 89 Yale L.J. 421-471 (1980); reprinted in F.D. Schoeman (ed), Philosophical Dimensions of Privacy: An Anthology, Cambridge U.P. 1984, 346-402.
- \*18. Introduction, Civil Rights in Israel: Essays in Honour of H.H. Cohn (ed. R. Gavison), ACRI Jerusalem 1982, 9-46 (Heb).
- \*19. 'Prohibition of Privacy Invading Publications: The Right to Privacy and the Public's Right to Know', Civil Rights in Israel, 177-240 (Heb).
- \*20. 'Natural Law, Positivism and the Limits of Jurisprudence - A Modern Round' (Book Review of Raz's The Authority of Law and Finnis's Natural Law and Natural Rights), 91 Yale L.J. 1250-1285 (1982).
- \*21. 'Information Control: Availability and Exclusion', ch. 5 in Public and Private in Social Life (eds S.I. Benn and G.F. Gaus) Croom Helm 1983, 113-134.
22. A Tribute to Ch. Perelman, 19 **Isr.L.Rev.** 5-9 (1984)
- \*23. 'Abolition of the Mejelle: Custom and the Fiqe Principles', 14 Mishpatim 325-366 (1985)(Heb).
- \*24. 'The Controversy over Israel's Bill of Rights', 15 I.Y.H.R. 113-154 (1985).
25. 'Human Rights and Democracy', Skira Hodshit 1985, 10, reprinted in Gavison and Schneider (eds.), Human Rights in Israel – A Reader, vol. 1 pp. 25-34 (Hebrew).
- \*26. '20 Years to the Yardor Decision - The Right to Be Elected and the Lessons of History', Eighty to Shimon Agranat (eds. Gavison and Kremnitzer) Jerusalem 1986, 145-213 (Heb)
- \*27. 'Custom in Law Enforcement : The Power of the Attorney General to Stay Criminal

Proceedings', 21 Isr.L.Rev. 333-357 (1986).

28. Introduction to Gavison (ed.) **Issues in Contemporary Legal Philosophy: The Influence of H.L.A. Hart**, (OUP 1987) 1-5.

29. 'The Nature of Legal Theory – A Comment on Dworkin', in 28 *supra*, pp. 21-34.

30. 'Privacy', in **Blackwell Encyclopedia of Political Thought**, Blackwell 1987, 400-401.

31. 'Freedom of Expression, State Security, and Nuclear Capacity', Proceedings of an International Conference on Freedom of Expression and State Security, 1989.

\*32. 'The Implications of Jurisprudential Theories For Judicial Election, Selection and Accountability', 61 U.S.C.L.Rev. 2701- 2746 (1988).

33. '40 Years to Israel's Constitutional Law', 1990 *Mshpatim* (Heb); 1991 *Isr.L.Rev.*

34. *Law and Politics: A Programmatic Analysis*, Van Leer, 1990

35. Introduction, Gavison (ed.) The Right to Believe, 1990, 7-22. (Heb)

36. 'The Right to a Hearing, Equality and the AG', (1990) *Iyyunei Mishpat* (Heb)

\*37. 'Legal Theory and the Role of Rules', 14 Harvard J. Law and Public Policy, 727-770 (1991)

\*38. 'Too Early for a Requiem: Warren and Brandeis Were Right About Privacy vs. Free Speech', 43 S. Carolina L.Rev. 437-471 (1992).

\*39. 'Feminism and the Private-Public Distinction', 45 Stan.L.Rev. 1-45 (1992).

\*40. 'State and religion: Separation and Privatization', 2 Mishpat u-Mimshal, 55-96 (Heb) 1993

\*41. "A Jewish and Democratic State - Political Identity, Ideology and Law", Iyunei Mishpat 19, 1995, 631-682 (Hebrew).

\*42. "Legal Systems and Public Attitudes During Negotiations Towards Transitions from Conflict to Reconciliation: The Middle East, 1992-1994", in Eugene Cotran and Chibli Mallat (eds.) The Arab-Israeli Accords: Legal Perspectives, Kluwer Law International, 1996, ch. 2, pp. 21-44.

\*43. "The Attorney General: A Critical Look at Some New Trends", 5 Plilim 1996, 27-120 (Hebrew).

\*44. "(Public) Law and (Private?) Religion", in John Tasioulas (ed), Laws, Values and Social

Practices, Dartmouth, 165-190 1997

\*45. "The Constitutional Revolution: Not A Reality But an Attempt At Self-Fulfilling Prophecy" 1977, 28 Mishpatim 23-147 (Hebrew)

46. "Silencing Speech and the Limits of Law", R. Post(ed) Censorship and Silencing: Practices of Cultural regulation (1998).

\*47. "Israel as a Jewish and Democratic State: Challenges and Prospects", in Mautner et al (eds.) Multiculturalism in a Jewish and Democratic State: A Book In Honor of Ariel Rosen-Zvi, Ramot 1998, pp. 213- 278 (Heb).

\*48. "Holmes' Heritage: Living Greatly in the Law ", 1998 78 B.U.L.Rev. 843-883

49. "A Constitutional Revolution?", in Gambaro A., Rabello A.M. (eds.) Toward a New European Ius Commune, 1998 Jerusalem.

\*50. "Jewish and Democratic? A Rejoinder to the Ethnic Democracy debate", 1999 4(1) Israel Studies. 44-72

\*51. "The Role of Courts in Rifted Democracies", 33 Isr. L.Rev., 216-258 (1999)

52. "Does Equality Require Integration? The Jaffa School Case" a policy paper, The Center of Study of Arab Society, Beit Berl 1999 (in Hebrew)

\*53. "Does Equality Require Integration: A Case Study" (an expanded and modified version of 52) 2000 3 Democratic Culture, 37-88.

\*54. "Zionism in Israel? Comments on Qaadan", Mishpat u-mimshal 6(1): 25-51 (2001), (in Hebrew)

\*55. (With Or Schwartz), "Residential Discrimination and Discrimination: The US experience" Iyunei Mishpat 25(1):73-142 (2001) (in Hebrew)

\*56. (With Allan Shapiro), Introduction to the Hebrew Edition of the Federalist Papers, Shalem 2001 (In hebrew). 2002, 11-72.

\*57. The Lessons of The Federalist and Israel's Constitution, Tchelet 11, 2001, 21-27 (Heb), adapted as: A Constitution For Israel? Lessons from the American Experiment", 12 Azure (2002), 133-192.

58. 'On Human Rights and Prayer in the Kotel" 1 Masechet 2002, 161-194 (Heb)

59. 'Yes to a Jewish Public Sphere', Meimad 24, 2002, 7-11. (Heb)



- \*60. "What Belongs in a Constitution?" in Stefan Voigt and Hans Wagener (eds.), *Constitutions, Markets and the Law*, Elgar, Cheltenham, 2002, 1-25. A slightly abridged version appeared in *13 CPE (Constitutional Political Economy) 2002*, 89-105.
- \*61. "The Relationships between Civil and Political and Social and Economic Rights", in Coicaud et al (eds.) *Globalization of Human Rights*, UNU Press 2003, 23-55. a modified version is published in Hebrew: Rabin and Shani (eds.) *Social, Economic and Cultural Rights in Israel*, 2004,
- \*62. (With Eitan Levontin), "On the (non) Bindingness of the opinions of the Attorney-General, in A. Barak (ed.) 2003, Book in honor of M. Shamgar, Vol. 1, 221-286. (Heb)
- \*63. 'The Jewish State: Legitimacy and Character' (Hebrew), *Tchelet* 13, 2002, 50-88; 'The Jews' Right to Statehood: A Defense', *15 Azure* (2003) English, 70-108.
64. 'Privacy', *The New Encyclopedia of the Social Sciences* 2002
- \*65. 'Constitutions and Political reconstruction? Israel's Quest for a Constitution', *International Sociology* 18(1) 55-73, 2003
66. 'The Significance of Israel in Modern Jewish Identities', in Ben Rephael and others (eds.) *Contemporary Jewries: Convergence and Divergence*, Brill, 2003, 118-129. In Hebrew: In Bareli (ed) *Iyunim Bitkumat Yisrael*, 2003,
67. Implications of The Jewishness of the State to Immigration, 2003, Heb, 27 Meimad, 4-7
68. "Neve Shalom: An Island of Co-existence in a Sea of Conflict: Lessons to the Educational System" (Hebrew) in D. Avnon (ed.), *Citizen's Language in Israel*, Magnes, Jerusalem 111-160, 2005; English version: papers in the center for rationality.
- \*69. "Meaning and Implications of the Jewishness of Israel", in Ravitzky and Stern (eds.) **Israel as a Jewish and Democratic State**, IDI 2007, at pp.107-178 (Hebrew)
- \*70. Legislatures and the Phases and Components of Constitutionalism, in Bauman and Kahana (eds.), *The Least Examined Branch: The Role of Legislatures in the Constitutional State* (Cambridge, Cambridge UP) 2006, 198.
- \*71. Legislatures and the Quest for a Constitution: The Case of Israel, *11:2 Review of Constitutional Studies*, 345-400 (2006)
72. "On the Future of the Relationships between Jews and Arabs in Israel", in Reiter I. (ed), *Dilemmas in Jewish-Arab Relations in Israel*, (Schoken 2005) 175-189 (Heb).
73. "Can There be a Dialogue between Religious and Secular Jews in Israel? The Contribution of R. David Hayim Halevi, in *Book in Memory of H.D. Halevi* (N. Zohar and

A. Sagi eds.) Hartman, 2005

74. War and the Rule of (International) Law in the 21<sup>st</sup> century – Lessons from Israel", Democracy and Security 1:119-126

\*75. Postscript to the 2<sup>nd</sup> edition of HLA Hart's Law, Liberty and Morality in Hebrew, 2006, 118-145.

76. \*"Law, Adjudication, Human Rights and Society", 40 **Isr.L.Rev.** (2007) 31-55

77. \*"Days of Worship and Days of Rest: The Case of Israel", in Brugger W. and M. Karayanni (eds.) Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law, Springer 2007, pp. 379-414.

78. (Editor), Five questions in Legal Philosophy pp. Morten E.J. Nielsen

79. \*With Nahshon Perez, "Days of Rest in Multicultural Societies: Private, Public, Separate?" 2008 In Cane Peter, Carolyn Evans and Zoe Robinson (eds.), **Constituting Religion: Law, Society and Faith in the 21<sup>st</sup> Century**.

80. Constitutional Regulation of Emergencies, in Van Leer seminar 2006, (eds. Y. Shenhav et al) (2009), 35-54 (Heb)

81. \*"Immigration and the Human Rights Discourse: The Universality of Human Rights and the Relevance of States and Numbers", 43 **Isr.L.Rev.** 7-48 (2010) <http://ssrn.com/abstract=1862907>

82. \*"Kymlicka's Multicultural Odysseys – A Comment", *Jrlm Rev. Leg. Studies* 2, 71-90 (2010)

83. "Can Israel Be Both Jewish and Democratic?", 21 **JLAS.** (2011) 115-148

84. "Israel as a National and Liberal State", 14 *Law and Business*, 293-328 (2012) (Hebrew)

85. "Seniority, Despite All", *The Lawyer* 10 (2012) (Hebrew)

86. \*"Taking States Seriously", in Reading Walzer (Eds) Banbaji and Zussman, (2013)

87. "Culture, Society, Law and Adjudication", *International Journal of Constitutional Law*, 2013 11: 1114-1119.

88. "A city with Intermission". *The Lawyer*, (2013) (Hebrew).

89. "Reflections on The Meaning and Justification of "Jewish" in the expression "Jewish and Democratic State", ch. 7 in F. Oz Salzberger and Y. Stern (eds.) *The Israeli Nation State*, 135-163 Academic Studies Press 2014 (A German edition published by edition critic 2017 at pp. 177-208)

90. *Is Israel a Democracy*, in **HANDBOOK OF ISRAEL: THE MAJOR DEBATES** (Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg, Olaf Glöckner eds., 2016).

91. *Constitutional Anchoring to the Vision of the State? Recommendations to the Minister of Justice and background materials*, Jerusalem 2015 (mostly in Hebrew)

92. *What is the State of Democracy? How to Defend it?* forthcoming in I-CoNnect/ICON-S-IL symposium on the Subject of "Constitutional Capture in Israel?" (Blog of the International Journal of Constitutional Law, 2017).
- 93.

#### Edited Position Papers

1. Uzi Rebhun and Gilad Malach, **Demographic Trends in Israel** (Metzilah 2008)
2. Shlomo Avineri, Liav Orgad and Amnon Rubinstein, **An Immigration Strategy for Israel** (Metzilah 2009)
3. Yaffa Zilbershatz and Nimra Goren, **Return of Palestinian Refugees to the State of Israel** (Metzilah 2010)
4. Pinchas Shiffman and Avishalom Westreich, A Civil Framework for marriage and Divorce in Israel, (Metzilah 2013)

#### Memoranda to the Knesset Law and Legislation Committee re the Constitutional Process (2005) (In Hebrew, available on the Knesset site)

1. preamble and general principles
2. principles of the constitutional process
3. (with Tali Babelpur) Minority Rights
4. (with Yoel Cheshin) Citizenship and and Return
5. Religions and State
6. (with Osnat Grady-Schwartz) Land and Settlement

#### Book Reviews

1. Amnon Rubinstein, The Enforcement of Morals in a Secular Society, *7 Mishpatim* 353-363 (Heb)
2. R. Samek, The legal Point of View, 1978 28 Iyun, 77-84 (Heb)
3. R. Dworkin's taking Rights Seriously, 13 Isr.L.Rev. 389-397 (1979)
4. M. Negbi's Justice Under Occupation, 17 Isr.L.Rev. 234-237 (1982)

- \*5. 'Importance in Philosophy: The Work of J.S. Mill' (book review of 2 books), 34 Iyun, 96-111 (1985)
6. Stewart (ed.), Law, Morality and Rights, 20 Isr.L.Rev. 107-108 (1985)
7. Detmold's The Unity of Law and Morality: A Refutation of legal Positivism, 21 Isr.L.Rev. 113-117 (1986)
8. White's Grounds of Liability: An Introduction to the Philosophy of Law, 21 Isr.L.Rev. 220-224 (1986)
9. J. Sklar's legalism, 8 History of European ideas, 771-773 (1987)
10. Dworkin's A Matter of Principle, 22 Isr.L.Rev.
11. Brian Bix's Law, language and Interpretation, Isr.L.Rev. 1994
12. Ben-Refael, Jewish Identities, Israeli Sociology (2002)
13. Eliezer Ben Refael, Jewish Identities, Israeli Sociology (2002) Heb
14. Gerald Rosenberg, The Hollow Hope, 2<sup>nd</sup> edition, Law Acts 2 (2009) 1-32. (Heb)
15. Moshe Berent, A Nation Like All Nations, JRB 3 (2011)
16. Gideon Katz, About Secularism, Cathedra (2014) (Heb)