

### 11:30–13:30 Session 9: Emergency Constitutions

Chair: **Hillel Sommer**, IDC Herzliya

**Daphne Barak-Erez**, Tel Aviv University

**The National Security Constitution and the Israeli Condition**

**Rivka Weill**, IDC Herzliya

**War and Peace and Other Sundry Matters**

**Barak Medina**, Hebrew University

**The Role of the Legislature in Determining Legitimate Responses to Security Threats: The Case of Israel**

Respondent: **Adam Tomkins**, Glasgow University

### 13:30–15:00 Lunch

### 15:00–17:00 Session 10: A Constitution in a Nation State

Chair: **Ruth Gavison**, Hebrew University

**Chaim Gans**, Tel Aviv University

**Jewish and Democratic: Three Zionisms and the Post-Zionist Critique**

**Gila Stopler**, Academic Center of Law & Business

**The role of the Israeli Supreme Court in Maintaining Religious Pluralism**

**Aviad Bakshi**, Bar-Ilan University

**A Jewish Nation State and the Family Reunification Case**

Respondent: **Michel Rosenfeld**, Cardozo Law School

### 17:00–17:30 Concluding Remarks

**Aharon Barak**, IDC Herzliya

**Lorraine Weinrib**, University of Toronto

The sessions will take place at:

**May 22** at Bar-Ilan University,  
Faculty of Law building 305, Moot Court Hall 11.

**May 23** at Tel Aviv University, The Buchmann  
Faculty of Law, Trubowicz Building, Sonia Kossoy  
Conference Room (Room 307, Third Floor).

**May 24** at The Interdisciplinary Center (IDC)  
Herzliya, School of Sustainability and School of  
Economics Building, Room E103

Administrative Organization:

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## Israeli Constitutional Law in the Making – Comparative and Global Perspectives

May 22–24, 2011

Bar-Ilan University, Tel Aviv University,  
The Interdisciplinary Center (IDC), Israel

Organizers:

**Prof. Gideon Sapir**

**Prof. Daphne Barak-Erez**

**Prof. Aharon Barak**

The conference sessions will be held in English

## SUNDAY, MAY 22, 2011, BAR-ILAN UNIVERSITY

### 10:30-11:00 Greetings

Gideon Sapir, Bar-Ilan University

Arie Reich, Dean, Faculty of Law, Bar-Ilan University

### 11:00-13:00 Session 1: Constitution Making

Chair: Yedidia Stern, Bar-Ilan University, The Israel Democracy Institute

Menachem Mautner, Tel Aviv University

**'A Bridge too Far': Thoughts on the Rise of the New Administrative and Constitutional Jurisprudence in Israel**

Tsvi Kahana, Queen's University

**Who Framed the Constitution? – Constitutionalism, Dialogue, and the Framing Effect**

Respondents: Sanford Levinson, University of Texas

Susanna Mancini, University of Bologna

### 13:00–14:30 Lunch

### 14:30-16:30 Session 2: Constitutional Law in an Age of Globalization

Chair: Yaffa Zilbershats, Bar-Ilan University

Moshe Cohen-Eliya, Academic Center of Law & Business  
**The Israeli Case of a Transformative Constitution**

Iddo Porat, Academic Center of Law & Business  
**The Use of Foreign Law in Israeli Constitutional Adjudication**

Margit Cohn, Hebrew University  
**Proportionality in Israel and Beyond: Four Aspects**

Respondent: Vicki Jackson, Georgetown University

### 16:30-17:00 Coffee Break

### 17:00-19:00 Session 3: Why a Constitution?

Chair: Yitzhak Benbaji, Bar-Ilan University

Alon Harel, Hebrew University  
**The Right to Judicial Review: The Israeli Case**

Ariel Bendor, Bar-Ilan University  
**The Purpose of the Israeli Constitution**

Gideon Sapir, Bar-Ilan University  
**Why a Constitution?**

Respondent: Jeremy Waldron, New York University

## MONDAY, MAY 23, 2011, TEL AVIV UNIVERSITY

### 8:30-9:00 Greetings

Daphne Barak-Erez, Tel Aviv University

Hanoch Dagan, Dean, Faculty of Law, Tel Aviv University

### 9:00-11:00 Session 4: Institutional Models of JR

Chair: Claude Klein, Hebrew University

Yoav Dotan, Hebrew University

**Constitutional Adjudication and Political Accountability – Comparative Analysis and the Peculiarity of Israel**

Joshua Segev, Netanya Academic College

**Justifying Judicial Review: The Changing Methodology of the Israeli Supreme Court**

Ori Aronson, Bar-Ilan University

**Between Diffuse and Concentrated Judicial Review: An Israeli Hybrid and Its Alternatives**

Respondent: Victor Ferreres-Comella, Pompeu Fabra University

### 11:00-11:30 Coffee Break

### 11:30-13:30 Session 5: Unremunerated Rights and Constitutional Interpretation

Chair: Amnon Rubinstein, IDC Herzliya

Frances Raday, College of Management  
**The Missing Rights of the Israeli Constitution**

Tamar Hostovsky-Brandes, Ono Academic College  
**Human Dignity as a Central Pillar in Constitutional Rights Jurisprudence in Israel: Definitions and Parameters**

Sharon Weintal, Netanya Academic College  
**The Inherent Authority of Judges in a “Three-Track Democracy”**

Respondent: David Fontana, George Washington University

### 13:30-15:00 Lunch

### 15:00-17:00 Session 6: Constitutional Balancing

Chair: Yofi Tirosh, Tel Aviv University

Mordechai Kremnitzer, Hebrew University, The Israel Democracy Institute

**Constitutional Proportionality – Curbing a “Wild Horse”?**

Yaacov Ben-Shemesh, Ono Academic College  
**The Deficiencies of Balancing: Restricting Speech due to Offense to Feelings**

Yossi Nehushtan, College of Management  
**Offensive Expression: The Limits of Neutral Balancing Tests**

Respondent: Sujit Choudhry, Toronto University

### 17:00-17:30 Coffee Break

### 17:30-19:30 Session 7: Social Rights

Chair: Guy Mundlak, Tel Aviv University

Aeyal Gross, Tel Aviv University  
**In Search of the Right to Health in Israeli Constitutional Law**

Neta Ziv, Tel Aviv University  
**Constitutional Review of “eligibility conditions” in Social Rights Litigation**

Amir Paz-Fuchs, Ono Academic College  
**The Fiscal Objection to Social Welfare Rights – A Closer Look**

Respondent: Mark Tushnet, Harvard University

## TUESDAY, MAY 24, 2011, IDC HERZLIYA

### 8:45-9:00 Greetings

Aharon Barak, IDC Herzliya

Yishai Beer, Dean, Law School, IDC Herzliya

### 9:00-11:00 Session 8: Constitutional Law and Private Law

Chair: Amnon Lehavi, IDC Herzliya

Aharon Barak, IDC Herzliya

**Constitutional Rights and Private Law**

Amnon Reichman, Haifa University  
**Constitutional Rights in Private Law: In Support for Non-Applicability**

Michal Tamir, Shaarei-Mishpat Academic College  
**Human Rights in Israeli Private Law**

Respondent: Stephen Gardbaum, UCLA

### 11:00-11:30 Coffee Break