

Forty Volumes of *Iyunei Mishpat* (Tel Aviv University Law Review)

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This article divides the history of *Iyunei Mishpat* into two periods. The first is “the case law period,” the second “the case law/legal literature period.” The first period lasted more or less through the journal’s first fifteen years, from the early 1970s until the mid-1980s. The second period began in the mid-1980s and continues to this very day.

In the first period, the articles published in the journal aimed mainly at analyzing the opinions of the Supreme Court and at clarifying the legal doctrine created by the Court. They seemed to be aimed at assisting judges and lawyers in their professional work by providing them with adapted legal materials. However, the articles published in this period often went beyond the Court’s case law. Even in this period one can find articles seeking to illuminate Israeli law by way of borrowing materials from the social sciences and the humanities, and jurisprudential articles drawing on political theories. But articles of this type were clearly a minority in this first period. The striking thing about the articles published in the journal in the second period is the continued centrality of the case law in them. However, in this period the discussion of the case law is supplemented by extensive use of theoretical materials. These materials are taken from four sources: first, theories developed in American law (and sometimes in Israeli law) for understanding the normative bases of legal branches, legal institutions, and legal doctrines; second, theories borrowed from the various disciplines of the social sciences; third, jurisprudential theories; and fourth, feminist theories. Also noticeable in this period are articles dealing with legal history.

What is missing in the journal’s second period are articles utilizing literature, poetry, drama and films. This absence is problematic in three respects. First, the great historical contribution of Israel’s legal community has been the entrenchment of liberal principles in the country’s political culture. If one assumes that human beings are meaning-seeking creatures, then one major problem with liberalism is that it is a thin system of meaning: it assumes that it is for the citizens of the liberal state, and not for the state, to determine the meaning in their lives, each individual for herself and on her own. The thinness of liberalism as a system of meaning can be filled up by art – literature, poetry, drama and films. Lawyers are the carriers of liberalism in Israel, and without wide employment of materials borrowed from the arts their messages are inevitably thin and lacking. Second, in contrast to liberalism, which is a political theory, religions provide their followers with thick systems of meaning that encompass human existence in its entirety. In Israel (as well as in many other countries, such as Turkey, Algeria, and Egypt), the liberal traits of the regime, the law and the political culture are being contested by religious sectors. Liberalism’s chances of prevailing over religion are greater if liberalism is applied in tandem with artistic materials, namely materials dealing with fundamental human questions in a way that is thought-provoking, moving and lasting. Third, internalization of art improves the capabilities of lawyers: it exposes the simple-mindedness and narrowness with which the law captures human beings and human interactions, and it encourages lawyers to narrow the gap between what it means to be human, on the one hand, and the law, on the other. A second, additional absence that is discernible in

the articles published in *Iyunei Mishpat* in its second period relates to CLS articles. Insights borrowed from the critical tradition are important for exposing class and other biases and inequalities in the law. Their absence from the articles published in the journal should be a source of concern.