

De iure

Rosh Hashanah 5778, September 2017

The Tel Aviv University
Buchmann Faculty of Law
Magazine

The Taste of Justice

Prof. Aeyal Gross and Dr. Yofi Tirosh offer a taste of a new book they have edited that explores the social and ethical aspects of food, law, and culture



Buchmann Bulletin

A round-up of the latest news from the Buchmann Faculty of Law

A Tale of Light and Liberty

Do we have a basic right to electricity? Interview with Adv. Hicham Chabaita and Adv. Adi Nir-Binyamini of the Faculty's Human Rights Clinic

Family in the Global Age

Interview with Prof. Daphna Hacker about her pioneering new book that explores the global changes revolutionizing family law

New Faces at the Faculty

Introducing two new faculty members: Prof. Assaf Hamdani and Dr. Natalie Davidson

Note from the Dean

On the occasion of the publication of the Faculty's New Year magazine



Welcome to the Buchmann Faculty of Law magazine, brought to you twice a year, at Rosh Hashanah and Passover, in two languages, Hebrew and English. Out of the rich and varied activities of the Faculty, the current issue reviews in detail some of our news and latest developments.

We are very proud of the Faculty and its myriad achievements, including those of our graduates, and we would like to congratulate two in particular: Hon. Justice Esther Hayut, who was recently elected Israel's next Chief Justice of the Supreme Court, and Justice Hanan Melcer, elected Deputy Chief Justice of the Supreme Court. As heads of the judicial system in Israel, there are no greater roles or accolades, and their success is our success in every sense of the word.

This has been a year of great momentum at the Faculty and we are thriving in the three areas we operate – research, education, and societal change. We are undergoing a period of phenomenal growth and productivity and I am delighted to announce two new faculty members who will be joining in the fall: Prof. Assaf Hamdani, world-renowned expert in corporate law who will be joining us from the Hebrew University of Jerusalem, and Dr. Natalie Davidson, graduate of our Zvi Meitar Center for Advanced Legal Studies, who will embark on her academic career as a senior lecturer at the Faculty. Dr. Davidson is the first Zvi Meitar Center for Advanced Legal Studies graduate to join the academic faculty, after 20 other graduates have joined faculty at other academic institutions in Israel and overseas.

Another area of immense growth concerns the Faculty's centers. The Edmond J. Safra Center for Ethics, which completes its five year run to great achievement and acclaim, has won a renewal of support from the Edmond J. Safra Foundation for the next five years. The Foundation's generous donation will also allow us to build a permanent new home for the Centre at the Faculty. I wish to thank Prof. Shai Lavi, who has done a tremendous job of running the Center, and Prof. Hanoach Dagan, previously Dean of the Faculty, who will manage the Center in the New Year.

Another outstanding contribution is the Parasol Foundation's renewal of support for the Parasol Foundation International LL.M. Program, allowing us to significantly extend the reach of the current program. The unique curriculum and exceptional specialty courses it offers have become internationally renowned, attracting lawyers from across the globe.

Conversely, along with the happy events, we are deeply saddened by the recent passing of Adv. Gad Naschitz. Gad, a dear friend and a true gentleman, was involved in many of the Faculty's activities over the years. May he rest in peace.

In the current edition you will find a mixture of news and features on a wide range of topics that showcase the high-quality, broad-scope research and activities we are involved in. To kick things off, you can read about the Faculty's Human Rights Clinic and learn about the important cases relating to the protection of vulnerable communities. Also in this edition, an interview with Prof. Daphna Hacker about her pioneering new book that explores the global changes responsible for revolutionizing family law. And for dessert, Prof. Aeyal Gross and Dr. Yofi Tirosh offer a taste of a new book they have edited that looks at the ethical and social aspects of food, law and culture.

As we prepare to greet the New Year, I want to thank each and every member of our community – academic, administrative, clinical, adjunct faculty, library staff, visiting lecturers, students, alumni and dear friends for their support and continuing commitment to excellence.

I wish you and your families a joyous holiday and all the best for a happy and healthy New Year. Happy reading!

Sincerely yours,
Prof. Sharon Hannes, Dean

Save the Date

Upcoming Events at the Buchmann Faculty of Law



>5.10

The Ethical Challenges of the Market.

An Edmond J. Safra Center for Ethics special conference, Cornell University, Ithaca, NY.

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>13-14.10

Freedom, Choice, and Contract.

An Edmond J. Safra Center for Ethics special conference, Columbia Law School, NY.

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>15.11

The Minerva Center for Human Rights Annual Lecture.

Prof. Owen M. Fiss (Sterling Professor of Law, Yale Law School): "Political Freedom and the Power of the Purse."

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>21.11

The Buchmann Faculty of Law and Women and Gender Studies Program Book Launch:

Prof. Daphna Hacker's "Legalized Families in the Era of Bordered Globalization" (Cambridge University Press, 2017).

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>22.11

The Minerva Center for Human Rights Guest Speaker:

Judge Sergio Torres (Buenos Aires, Argentina).

>23.11

The David Berg Foundation Institute for Law and History and Minerva Center for Human Rights Guest Speaker:

Prof. Martti Koskenniemi (Professor of International Law, University of Helsinki): "After Globalization?"

.....

>28.11

The David Berg Foundation Institute for Law and History Book Launch:

Prof. Assaf Likhovski's "Tax Law and Social Norms in Mandatory Palestine and Israel" (Cambridge University Press, 2017).

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>1.1.2018

The Cegla Center for Interdisciplinary Research of the Law International Workshop:

"The Problem of Theorizing Privacy".

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>2.1.2018

Buchmann Faculty of Law LL.B. Ceremony

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>16.1.2018

Buchmann Faculty of Law LL.M. Ceremony



Buchmann Bulletin

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Tel Aviv University

Buchmann Bulletin

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news from the Buchmann
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Introducing the New Parasol Law Program



The Buchmann Faculty of Law is grateful to the Parasol Foundation for its renewal of support for the Parasol Foundation International LL.M. Program.

The generous donation will enable the Faculty to extend the reach, breadth and growth of the current program by introducing five additional components: LL.M. scholarships, international PhD fellowships, post-doctoral fellowships, hosting visiting lecturers and new courses on innovation and entrepreneurship, combining theoretical rigor with a unique focus on experiential and practical learning. To attract even more qualified students and increase the

diversity of the international student body, the Parasol Law Program will allocate additional funds towards scholarships for students from lower-income countries.

The aim of the new Parasol Law Program is to attract more students, fellows and visiting professors from around the world, facilitating mutually beneficial collaborations and developing international links. As the field of law becomes more dynamic and complex, these scholars will boost the global sphere of legal studies at TAU and position the University as a bridge between Asia, Europe and the Americas. ~

Renewal of Support for The Edmond J. Safran Center for Ethics



The Buchmann Faculty of Law is grateful to the Edmond J. Safran Foundation for its generosity in steadfastly supporting the Edmond J. Safran Center for Ethics, and for the renewal of its funding over the next five years.

Since its formation in 2012, the Center has become a vibrant hub of research activity and an academic home to dozens of fellows, faculty and researchers. The generous support of the Edmond J. Safran Foundation has helped to shape numerous successes, including a prestigious fellowship program that has attracted scholars from the world's top universities, including Harvard and NYU.

With the renewal of the Foundation's support, the Center will strengthen its reputation as an international leader in the field of ethics and ensure a permanent home at Tel Aviv University. ∞



Congratulations to Faculty Members!



We are proud to report that four members of our academic staff have been awarded prestigious research grants. These projects will not only promote and enhance the Faculty's scholarship but strengthen partnerships throughout Israel and further afield, allowing Faculty members to significantly contribute to the advancement of knowledge through independent and original research in law.

∞ **Dr. Hila Shamir**
European Research Council (ERC)
"Trafficking and Labor Rights: A Global Perspective"

∞ **Prof. Chaim Gans**
Israel Science Foundation (ISF)
"Cosmopolitanism, Ethno-Cultural Nationalism, and the Distribution of Cultural Rights"

∞ **Prof. Guy Mundlak**
Israel Science Foundation (ISF)
"New Organizing in Israeli Trade Unions: Causes and Outcomes"

∞ **Dr. Eliav Lieblich**
Israel Science Foundation (ISF)
"Untangling Proportionality in Armed Conflict: Law and Ethics"

The Zvi Meitar Center for Advanced Legal Studies Celebrates 10th Anniversary



Daphna, Ofra and Aviad Meitar celebrating the 10th anniversary of the Zvi Meitar Center for Advanced Legal Studies

The Zvi Meitar Center for Advanced Legal Studies marked its landmark tenth year anniversary of its establishment on July 11 at a reception at Tel Aviv University. Ten students received the status of Meitar Associates and ten graduates who received their Doctorate degrees in this year's University ceremony presented their PhD research.

The Meitar family extended their warmest greetings and spoke of the achievements of the Center over the past ten years. Also in attendance was Prof. Hanoch Dagan, who set up the Center with the late Zvi Meitar, as well as Prof. Raanan Rein, Vice President of Tel Aviv University, and Prof. Sharon Hannes, Dean of the Buchmann Faculty of Law. ~



The Institute of Legal Arts

We are delighted to announce the establishment of the Institute of Legal Arts. Scheduled to commence activity in the Spring Semester 2018, the Institute will expand the Faculty's breadth of academic offerings and provide even greater options and flexibility for busy professionals, offering masterclasses in mediation, arbitration, negotiation and leadership.

The courses will provide the perfect setting for developing new methods of practice and delivery in these fields while training future and current legal professionals to succeed in the ever-changing landscape. The courses will be delivered by judges, top lawyers and leading lecturers. Graduates will be awarded participation certificates and given the opportunity to network and collaborate with leading law and business executives in the U.S. and Israel. ~





At the Forefront of Innovation

Combining theory with work-based learning and activism: the "Philanthropy in Practice" course

Innovation in teaching includes not only curriculum design and delivery but the integration of practical, hands-on strategies and technological advances into teaching. The Buchmann Faculty of Law stands at the forefront of this innovation.

For over a decade, the Legal Clinics' unique position at the interface of academia and activism permits students to take part in representing clients in various fields relating to the protection and promotion of the rights of vulnerable populations.

In recent years, the Faculty has incorporated more ways for its students to experiment with legal action as they integrate their knowledge into practical discipline mastery and expertise. The Faculty offers three courses in cooperation

with the Attorney General's Office ("State Representatives in the Courts – A Practical Course in the Civil Attorney's Office", "Tax and Economic Crimes" and "The Attorney General Office in Action") where students study the work of the councilor and take an active role in supporting real cases.

In addition, the Faculty, in conjunction with three leading universities in the United States (Chicago, Berkeley and Northwestern), offers courses in negotiating international transactions. In the negotiations, students on both sides of the Atlantic take part in a simulation of business negotiations around a large international deal, using a range of role play exercises to bring experiential learning to students. In two of the courses, the final negotiations take place in Tel Aviv, where

"advocates" representing the other side travel to Israel from the U.S., and in the third course the final negotiations are undertaken by way of a transatlantic conference call.

The Faculty also offers practical courses on human rights and disability rights. In these courses, students combine theory with work-based learning and activism in civil society organizations, affording them with a first-class foundation for legal practice in the field.

The range of innovative courses on offer at the Faculty enhance the learning experience by providing students with practical opportunities to practice skills of enquiry and analysis, while experiencing the work of lawyers in the private sector and civil society, fully preparing them for their future as legal practitioners. 



Negotiating international transactions: Israeli and American students closing a deal

A Tale of Light and Liberty



Do we have a basic right to electricity? What about the right to gender reassignment? The Human Rights Clinic at the Buchmann Faculty of Law deals with dozens of cases relating to the protection of human rights in Israel, focusing on disadvantaged populations such as the LGBT community, the Arab minority, and people with disabilities. We talked with Adv. Hicham Chabaita and Adv. Adi Nir-Binyamini, Clinical Instructors at the Clinic, about the important cases on the agenda and the new legal tools employed in the protection of human rights.

Adv. Nir-Binyamini: “The Clinic was established in the 1990s to handle lawsuits alleging discrimination in Israel, including issues relating to the LGBT community and people with disabilities. Emphasis was placed on the rights of the Arab minority, mirrored in the operational makeup of the Clinic, which is managed by two lawyers – one Jewish, and the other Arab.”

Adv. Chabaita adds: “The concept of human rights is so broad that one could include many of its derivatives, such as workplace rights, health and safety, and social welfare.”

You represent both individuals and non-governmental organizations, is that correct?

Adv. Nir-Binyamini: “Exactly. Historically, only a small number of civil society organizations had legal departments that provided litigation services, and when a particular organization encountered a problem but didn’t have the wherewithal or manpower to initiate legal proceedings, it turned to us as a body that specializes in litigation.”

Why would an individual turn to the Clinic, for instance, and not an organization?

Adv. Chabaita: “Well, they could refer to an organization, but if the case isn’t the organization’s top priority, or if they don’t have the time or the resources, the individual could turn to us and we will represent them and the organization, or each one of them separately.”

Do you get involved in policymaking as well as litigation?

Adv. Nir-Binyamini: “Litigation sometimes requires us to get involved in parallel proceedings relating to policy development, for instance during discussions in the Knesset or the Ministry of Justice. We attended a meeting there recently with respect to a transgender petition to gain legal recognition in their acquired gender. The bone of contention, on this occasion, was the issue of gender registration on ID cards. The case is now in the process of deliberation and policy development. Another example is electricity supply disconnection. There, too, by way of petition to the Supreme Court, we are involved in policymaking.”

Speaking of which, electricity supply disconnection is one of the Clinic’s major current undertakings. How did it start?

Adv. Nir-Binyamini: “The project started three years ago during a successful petition concerning water supply disconnection. We managed to change the law and today it is forbidden to disconnect domestic customers for non-payment. At the time, we identified several particularly difficult cases of energy disconnections and started handling individual cases. We formed collaborations with local councils and social workers from all over the country began contacting us on the matter. We took on a number of select cases and encountered truly difficult stories – single mothers, the elderly, people living in poverty, families who require asthma



Adv. Adi Nir-Binyamini

inhalation machines for their children and all manner of personal adversity. Our fundamental claim is that every person has a basic right to electricity, and a certain minimum must be retained per person. If a utility company wishes to disconnect an individual in order to recover a debt, they may do so providing they retain the bare minimum that allows that person to live in dignity.”

But is it possible to disconnect while retaining the minimum?

Adv. Nir-Binyamini: “It is possible, unlike water. There are two alternative solutions; the first is a reduced fuse that affords little light and energy and is insufficient, in our opinion, for a person to live in dignity. It isn’t a good technical solution anyway because it can’t be installed in every house. The second solution is a prepayment electric meter which allows you to pay for power before you use it. The meter can be topped up and when you run out of



Adv. Hicham Chabaita

cash, you’re disconnected, but this too is problematic. We see people living in considerable hardship and personal difficulties who are forced to take loans or beg neighbors in order to reconnect, and a week later they’re cut off again because they simply don’t have the money to maintain over time.”

I see. So what’s the goal?

Adv. Chabaita: “To prevent a situation where a person living in poverty is cut off from electricity.”

Adv. Nir-Binyamini: “And if that person has outstanding arrears, then these debts should be recovered by way of an authorized enforcement agency, but disconnections should not be used as a standard method of debt enforcement. When we started to handle cases, we created a dialogue with the Israel Electric Corporation and they have acknowledged the problem. The Corporation is in the process of

formulating new rules and guidelines for recovering arrears from poor people but it’s a very slow process and the solutions are so far ineffective.”

Was that the reason for your petition to the Supreme Court?

Adv. Nir-Binyamini: “The petition calls for the formulation of rules that will let a person live in dignity during a policy of disconnection. The petition is expediting the process. And at the end of it, assuming the new rules will not reflect the fundamental claim that every person has a basic right to electricity, we will file an additional petition when the new rules take effect. This is what happens in many cases; we petition the court, the State offers an intermediate solution, and the next step is to challenge it as the solution is seldom good enough.”

Tell us about the transgender petition.

Adv. Chabaita: “Historically, in order to change gender in the civil registry one had to undergo sex reassignment surgery. Israel is one of the last Western countries to require it and it’s greatly damaging to transgender people. So we filed a petition on behalf of the LGBT community”.

Adv. Nir-Binyamini: “I didn’t understand the full consequence of this until I met someone who enlightened me. Think about it, when you walk into a bank and have to show your ID, and your appearance is that of a woman but your ID states that you are a man, or vice versa, they think you’re a crook.”

Adv. Chabaita: “And the issue repeats in every meeting with the authorities... the

post office, airports, government offices, health clinics. Of course, in clinics they’ve already found a practical solution and record the gender that a person requests regardless of the civil registry. Following our petition, the State agreed that surgery is no longer necessary and appointed a panel of experts, led by the Ministry of Health, tasked with monitoring and substantiating whether a person has changed their gender. We, and of course the LGBT community, argue that this violates human rights. Why should a ‘panel of experts’ decide for a person who they are and who they’re not? Gender is a fundamental element of our personal identity, and is self-identified in nearly all instances. What gives a panel the right to determine my own personal gender identity? So at the moment we’re in the process of contending the new rule.”



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Our fundamental claim is that every person has a basic right to electricity. If a utility company wishes to disconnect an individual in order to recover a debt, they may do so providing they retain the bare minimum that allows that person to live in dignity

Adv. Nir-Binyamini



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Gender is a fundamental element of our personal identity, and is self-identified in nearly all instances. What gives a panel the right to determine my own personal gender identity?

Adv. Chabaita

But isn't the fact that you were invited to discuss the matter at the Ministry of Justice proof of the State's willingness to listen and cooperate?

Adv. Chabaita: “The State knows that we and the LGBT community do not like the new rule. I don't think any real change will happen without a new trial. Most countries require a medical document corroborating that a person has been checked by a doctor, rather than a panel like in Israel. I think the State will go that way in the end, that is to say, a medical certificate.”

The Clinic affords students with a unique exposure to litigation which they wouldn't normally be exposed to at this stage of their education.

Adv. Nir-Binyamini: “When we deal with a specific case and observe the way a court operates, students are also exposed to fatal flaws in litigation and to barriers in proceedings. Sometimes litigation loses its relevance and is no longer fit for purpose. However, the connection between theory and practice provides further impetus to continue filing cases, even if, realistically

speaking, the act seems a little fruitless at times.”

So the educational merit is in the practical value?

Adv. Chabaita: “It's more complex than that. Along with the academic considerations, we're also in the field of social action and firmly believe that we can effect real social change, even if it seems a little naïve. In addition, since our work concerns human rights, it's important that the issues reach the courts, even if the case is hopeless. We believe that the greater the number of proceedings in a court of law about a certain injustice, we stand a greater chance of obliging the legal system to engage that issue head-on and consequently trigger changes to the legislation. However, we will never file a case for its educational value only. First, it's not fair to the client, and secondly, I'm not convinced it has any added value for the student.”

Isn't that the way it's done in the U.S. for example?

Adv. Chabaita: “Yes, some legal clinics in the U.S. deal with made-up cases only. They learn the legal technique through a mock trial and various court simulations.”

Adv. Nir-Binyamini: “We believe that by filing a case you contribute to the process by making it wider and more tangible, but the case is only one mechanism involved in achieving societal change. Speaking of petitions as a traditional tool to bring about social

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These cases change lives and provide the impetus for movement and social reform within our justice system, and the educational value for our students is priceless.

Adv. Nir-Binyamini

change, in recent years we have been developing the use of damages as a tool for promoting human rights.”

Tell us about that.

Adv. Nir-Binyamini: “We have more and more civil suits seeking compensation for breach of human rights. This tool is hugely innovative because it's seldom used to promote human rights in Israel. Generally speaking, it's perceived as a strange activity in civil society organizations but over the years we've become convinced of its effectiveness in certain cases.”

What about class action suits?

Adv. Chabaita: “In many cases it isn't possible for all kinds of reasons.”

Can you provide examples of compensation cases you're handling?

Adv. Chabaita: “In the housing sector, we're prosecuting several private or



contracting companies who refused to sell apartments to Arabs, especially in the mixed Arab-Jewish cities. First, we have to prove the discrimination, i.e. that Jews were able to buy property while Arabs were denied.”

Adv. Nir-Binyamini: “Next week I’m arguing a case against an employer who refused to employ a person with HIV. We’re seeking compensation on the grounds of discrimination. In the next few days we’re going to file a lawsuit on behalf of a disabled man who was told to get off a plane because his wheelchair was allegedly unsafe.”

[Talk about checking your dignity at the gate. Hasn’t the airline taken a wheelchair user before?](#)

Adv. Nir-Binyamini: “Well, the gentleman was told to leave the flight.

We’re filing a lawsuit against the air carrier and seeking compensation.”

Adv. Chabaita: “The civil wrongs ordinance indirectly references the anti-discrimination law that prohibits discrimination by private employers against minority groups based on gender, nationality, race, skin color, age and disabilities. In principle, the ordinance refers to rules relating specifically to discrimination and we utilize these laws in our cases.”

[And the airline, for instance, is willing to go to court?](#)

Adv. Nir-Binyamini: “Most of these cases end in compromise. But they expose the students to another legal instrument and to crucial questions of what type of case to file and the advantages and obstacles inherent

to each, and critically, what value we attach to human dignity. These cases change lives and provide the impetus for movement and social reform within our justice system, and the educational value for our students is priceless. I can draw from my own personal experiences here as a former student of the Clinic. Students are exposed to clients and a diverse range of issues and communities, often for the first time, and the immense power of the courts to move processes; these experiences leave a deep imprint on you for many years.”

[You encourage students to propose their own cases, which is unique to the Clinic.](#)

Adv. Chabaita: “That’s right. We allow students to initiate their own cases, and if they have strong legal merit we’ll also try to file them. But the exercise isn’t just for the sake of pedagogy; the whole point is to illustrate to our students the difficulty of building a viable case in court. They have to find not only an injustice that hasn’t been recently debated in a court of law, but one that carries a feasible legal solution and an actual client, not a theoretical entity. The students trawl the newspapers for prospective case material, contact organizations and develop a keen eye for sifting the essential from the inessential. The students then present their cases and we discuss their viability and analyze the difficulties together, and sometimes we actually file these cases. We’ve had several big cases over the years that were initiated by students.”

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It means a great deal to be able to work in a place that allows you to make a lasting and fulfilling contribution and bring about significant societal change.

Adv. Nir-Binyamini

[To what extent can the Clinic rejuvenate the field and push the implementation of human rights forward? Is it in demand?](#)

Adv. Chabaita: “It’s one of the most popular Clinics.”

Adv. Nir-Binyamini: “We encourage an atmosphere that questions and criticizes everything, often discussing controversial topics and analyzing them from all angles, leaving no stone unturned and no voice unheard. For this reason, it is crucially important that the Clinic’s student demographic is diverse and includes, amongst others, Arab students and religious Jews. The greater the student demographic, the deeper the reflection and analysis, and this certainly filters through to the classroom – whether we’re debating LGBT rights, surrogacy or women’s rights – it is vitally important to showcase all opinions, even conflicting rights. For example, we’re dealing with a case of a religious fertility doctor who refused to perform artificial insemination for a lesbian couple; the question here is whether a doctor should be forced against his or her conscience to perform an elective procedure? We’re representing the lesbian couple, but we will always address these questions and be open to

hearing all opinions on the matter, even if the opinion is that, actually, it’s the doctor’s right to refuse treatment if it is against their conscience.”

[Has the Clinic been accused of politicization?](#)

Adv. Chabaita: “We sometimes deal with controversial issues, but not party politics.”

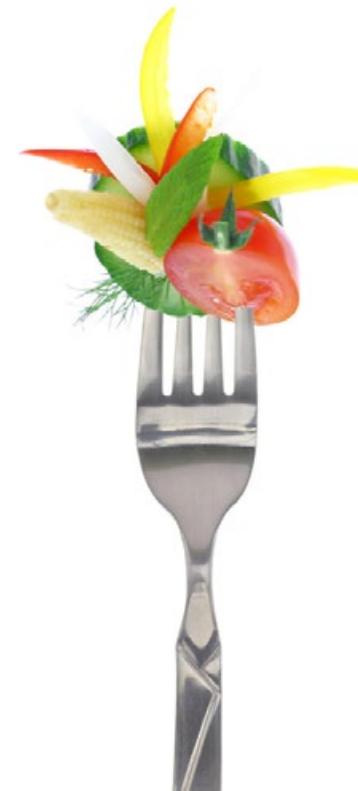
[What does the work of the Clinic mean for you? Has it changed your approach to practicing law?](#)

Adv. Nir-Binyamini: “It means a great deal to be able to work in a place that allows you to make a lasting and fulfilling contribution and bring about significant societal change. Also, it’s a privilege to be able to expose our students to certain issues and communities for the first and possibly last time, and every case has immense value. Beyond that, and on a more personal level, I’m inspired to think about my work in a more critical and skeptical eye. I think it develops me both as a person and as an attorney. As I become more exposed to the issues at hand and forced to contend with the moral dilemmas – which might be less relevant in a place that doesn’t require this level of inquiry – it makes me a better lawyer. The fact that we have to constantly debate and analyze every small issue with students, amongst ourselves, in the classroom and in the corridors, affords us with a deeper level of insight and understanding in each case, giving it tremendous value.”



Prof. Aeyal Gross and Dr. Yofi Tirosh from the Buchmann Faculty of Law offer a taste of a new book they have edited, "Studies In Food Law", part of the "Law, Society & Culture" book series which seeks to foster and advance interdisciplinary research of the place of law in various cultural contexts. In this volume, the ethical and social aspects of food, law and culture are explored in detail and provide much food for thought.

The Taste of Justice



In his description of the covert influence of the law, often obscured from daily life, Prof. Menachem Mautner, outgoing chief editor of "Law, Society & Culture", writes:

In the first hour of the day, before I leave my house, the law wraps around me like a gossamer veil... it allows me to buy milk and cereal for breakfast. It requires the milk manufacturer to meet a certain standard of hygiene in its production. It requires the cereal manufacturer to provide information about its nutrients.

The law shapes the contents of our plate in many ways, but even the many modes in which Prof. Mautner explains the relationship between the law, milk and breakfast cereal is not exhaustive. Consumer protection laws provide a normative framework for the production and marketing of milk and cereal, as well as the information given about their nutrient composition and costing. Food safety standards guarantee the hygiene of these foods along with the legislation that regulates the nutritional composition of foods and their pricing.

Indirectly, there are laws governing milk quotas and the cultivation of cereal crops, as well as rules that regulate the ratio between milk production and dairy imports. Additionally, there are rules governing animal welfare in the dairy industry, the working conditions of workers in the food industry and best practice guidelines concerning the recommended sugar content of breakfast cereals. Additional rules involve the protection of intellectual property rights of breakfast cereal



Studies In Food Law

recipes, the identification of the seeds used to cultivate the grains, and laws relating to a consumer's freedom of expression to write a review of the product. In addition to state laws, there are rules that originate in other sources, such as religious dietary laws, and ethical questions pertaining to the consumption of animal products for health or environmental considerations.

We hope the book contributes to transforming the ways in which the law regulates the contents of our plate and makes it less hidden from view. It is a

local foundation and testament to a field that is blossoming all over the world in recent years: food law and policy. A symposium on the subject held at Yale University in 2013 quoted a statement published in the Harvard Law School magazine shortly before, that food law is probably the hottest topic in law schools today. A Harvard Law publication devoted a cover story to it in 2014.

Now the topic is flourishing in Israel, too. In 2011, the Buchman Faculty of Law, instigated by Dr. Yofi Tirosh, held a conference on the subject and Dr. Tirosh is the first Israeli academic to teach a seminar on food law and policy in Israel. In editing the book, we are developing the topic and demonstrating its importance; an importance that stems from the pivotal role of food in our lives and the significance of highlighting the places where the two intersect.

The ways in which the law influences food are multifaceted and affected by the many meanings food holds in our lives. There is no legal area lacking in questions concerning food, and the articles in the book touch upon many legal disciplines – constitutional and social rights, international law, corporate law, foreign trade law, Jewish Law, refugee law, tort, consumer protection, bioethics, criminal law, intellectual property, etc. Alongside the legal articles, the book includes essays by people working in the food industry or having other connections to food from different perspectives, such as restaurateurs, wine and culinary experts, journalists and others.

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It is a local foundation and testament to a field that is blossoming all over the world in recent years: food law and policy.



Photography: Zohar Kohavi

Dr. Yofi Tirosh



Photography: Gal Hermoni

Prof. Aeyal Gross

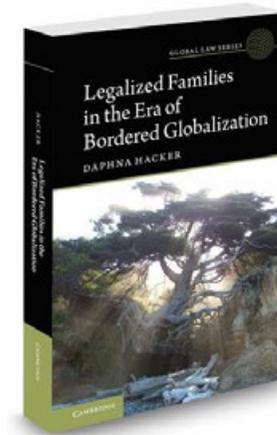
Following the introduction and interview with eminent food writer and cultural anthropologist Claudia Roden, the book is divided into four sections. The first, "Food Security and the Right to Food", deals with the most basic function of food and its importance for the survival of the species and the role of the law in ensuring access to food. The second section, "The Ethics of Eating and Feeding, Diet and Nutrition", explores the ethical aspects of food and feeding, such as questions relating to the treatment of animals and dilemmas about suffering, accountability, truth and power. All articles in this volume revolve around the cultural aspects of food in one way or another, but the third section, "Food, Culture and Identity", contains texts that address these questions directly and engage with issues such as eating pork and the global culinary scene.

The fourth and last section, "Food and Borders", looks at the creative tensions between food and spatial-geographical themes, both cultural and political. State borders, of course, have a dramatic impact on issues such as access to food and the labor conditions of workers in the food industry. But the writers in this section are not only concerned with national borders, but in regional boundaries, and in the symbolic dividing lines between cultures and classes, as well as the intersection between different roads of academic disciplines, and in boundaries that are both concrete and extant, fluid and stable, like Israel's borders since its inception.

As the saying goes, it takes a whole village to publish a book. Certainly a book of this calibre and magnitude of collaborators. Alongside the work with its many writers, external reviewers, copy editor, designer, project coordinator and chief editor, the highlight for us was the important role undertaken by student members of the editorial board. Our three associate editors did a tremendous job of managing the process, while taking an active role in helping to formulate the editorial policy, conceptual line and style. Student members of the editorial board added to the external reviews and their input was always profound, insightful and enhanced the texts in a long process of feedback, comment, and criticism. This workflow is a unique experience of law schools in Israel and across the world, and it seems that both authors and students greatly benefit from it.

When we started working on the book, we feared that the pioneering nature and newness of the field would mean we wouldn't have enough quality material. Much to our joy and surprise, the number of proposals received in response to the call for papers was several times bigger than the number of articles we could accommodate. We hope the book whets the appetite of researchers, students and other legal professionals and encourages them to continue developing the field in Israel. ~

Prof. Aeyal Gross, Dr. Yofi Tirosh



What happens to families in a global age where increased international trade and the freer movement of people and ideas are fundamentally reshaping family law? We spoke with Prof. Daphna Hacker from the Buchman Faculty of Law and Women and Gender Studies Program about her new book, published in August 2017, which explores the powerful global processes involved in transforming the face of the modern family.

Research Spotlight

Family (law) isn't what it used to be

"I don't think it is possible nowadays to understand the concept of family, and the role of the law in managing and creating what can be called a family, without understanding the global context," summarizes Prof. Daphna Hacker the essence of her new book. At the same time, she insists on a concept she coined, Bordered Globalization, to emphasize the fact that in the global age borders continue to be significant.

"How do you run a modern family in light of the relationship between borders and globalization? Take, for example,

the Israeli phenomenon of importing migrant workers from the Philippines to care for aging parents. In my book, I discuss the available research concerning the children of Filipino care workers who remain in the Philippines. A recent study estimates that some 10 million children in the Philippines are living without one of their parents, and the question is what does this do to the families? Even within the Israeli family, the migrant care worker often becomes a substitute child, or substitute grandchild, and this raises questions about the tenuous distinctions between strangers and family members."



The way the book is edited is unique; each chapter mirrors the lifespan of a family as you trace the consecutive stages, from relationships to old age. So let's start at the birth of a family, i.e. the couple. You talk about the difficulties a couple faces when they come from different cultures and religions.

“Yes, and also minority culture clashes with that of the adopted country. An interesting statistic is that in Britain, a third of Muslims are not legally married. While theoretically they can get married, even in religious ceremonies, they don't bother to register and so in the eyes of the law, they are single. This carries implications for the property and inheritance rights of women.”

You also ask whether a citizen has the right to bring a foreign spouse to their country. There's a growing anxiety in Europe right now around this question.

“What was once taken for granted, i.e. of course a citizen has the right to marry whomever they want and live with that person in their country, today there are more and more rules and regulations trying to prevent it. Similarly, I discuss the idea of parental citizenship and ask if a child and parent have the right to live in the same country. For example, 4.5 million children in the U.S. have at least one parent who is an illegal immigrant, while the children themselves are American citizens. I discuss the mechanism for the deportation of illegal immigrants, which leads to the separation of thousands of families each year, causing heartbreaking stories.”

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The migrant care worker often becomes a substitute child, or substitute grandchild, and this raises questions about the tenuous distinctions between strangers and family.

How did you get involved in these issues?

“The field of family law suddenly seemed too narrow in its current guise. Nationality law, immigration law, labor law, international law, public and private – all these have become relevant to the regulation of families. I call it Families' Laws, i.e. the multitude of family forms and branches of law, beyond traditional family law, that have become relevant to the process of making and breaking transnational families.”

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When we inspect these issues through a global lens and see how things correlate and interact, we can no longer talk about family law as a national phenomenon. In that sense, my book is a kind of rabble-rousing challenge to subvert the field and shake it up.



In a subsequent chapter, you discuss child hunger in developing countries and the ineffective methods employed to manage the problem.

“I look at three such methods. First, when immigrant parents send their wages home. We're under the illusion in the West that this is a good poverty reduction solution that helps children to escape their poverty, but there is no hard evidence that the money actually reaches the children and does them any good. I highlight the immense discrepancy within Western discourse that espouses a child's need for both their parents, while ignoring the fact that children in the East often remain without theirs. Another solution is child labor. International discourse states that children should not work, that it's abject exploitation, not dissimilar to child trafficking. However, in many countries,

Can you give an example?

“For instance, in cases where an elderly parent bequeaths property to the Filipino care worker. It begins during the 'shiva' mourning process. We see obituaries thanking the care worker but the family doesn't take kindly to the parent actually leaving anything to her; they see it as a form of betrayal. I provide many other examples pertinent to the issue under discussion, and when we inspect these issues through a global lens and see how things correlate and interact, we can no longer talk about family law as a national phenomenon. In that sense, my book is a kind of rabble-rousing challenge to subvert the field and shake it up.”



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I call it familial globordered hypocrisy; when a nation-state allows its citizens to travel overseas to do something it doesn't allow them to do at home. For instance, Israel doesn't allow gay couples to use an Israeli surrogate, but it allows them to import babies from overseas.

China's one-child policy is another interesting example.

“That's correct, there were a lot of unwanted baby girls, but internal changes in China resulted in the abolition of the one-child policy. So while statistically one can observe a reduction in the international adoption curve, the reasons are not necessarily driven or influenced by global processes. In this sense, the term globalization is misleading, because it conjures up a border-free imagining of the world when the world is full of borders, and each country, at least in this context, has its own unique story.”

In Chapter 7 you discuss violence against children, and rather shockingly, equate circumcision with female genital mutilation and beauty pageants for little girls.

“I ask why beauty pageants for little

girls, which is a huge industry in the U.S. and broadcast all over the world, is considered legitimate when it should be strictly regulated. But I also discuss child abduction; the Hague Convention imagined fathers abducting their children but statistics show that, today, it's mostly the mothers who kidnap their children to their countries of origin. So what was once meant to protect mothers is now hurting them.”

But circumcision, for instance, is a matter of cultural perception. What's the global angle here?

“The fact that Germany tried to ban it, when Jews haven't been accustomed to such prohibitions since the Inquisition or the Holocaust. In recent years, following the massive immigration of Muslims into Europe, circumcision has become more common and consequently the discussions around it more common, including a child's right to bodily integrity. Speaking of rituals common to both religions, one of the things I discuss in the book is religious mediation in family law. For example, in Canada the Jews always used religious mediation; the Rabbi or Beth Din would help couples to divorce. But when the Muslims requested it too, Canadian law changed in response, and today prohibits religious mediation in family law for all religions. Immigration is transforming nation-states from countries with settled homogenous values to countries that are obligated to engage with multiculturalism. We're

used to it in Israel, because we have several major cultures that don't always agree on everything, but each has autonomy in the field of family law. Now the West is asking whether each culture should have the autonomy to do as they please, or do certain injustices justify intervention? These dilemmas filter through to Israel. For example, there are more and more websites calling for the abolition of circumcision, so the global discourse reaches our shores.”

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I ask why beauty pageants for little girls, which is a huge industry in the U.S. and broadcast all over the world, is considered legitimate when it should be strictly regulated.



children need to work to eat, and on the contrary, we might learn something about the way families function in the East – as a community that carries not only rights but responsibilities, and a contribution of all family members to the household.”

What's the third method, in addition to sending money home and child labor?

“Well, another alleged solution is adopting. But every country has its own story; it might sound like a global phenomenon but it isn't. For instance, in 2012 the U.S. passed a series of laws that annoyed the Russians concerning the corruption of politicians in Russia. Two weeks later, Russia retaliated by signing a bill that bars the adoption of Russian children by Americans. And that's exactly what happened; all adoption processes came to a screeching halt, upending the lives of hundreds of Americans... when there are shocking

orphanages in Russia. It's true that child trafficking and stories of children being snatched from their parents exist – for example, in Guatemala – but on the other hand, one could ask why Africa doesn't 'export' more children. In Ethiopia, for example, it's a matter of national pride, as the state would rather have children living in poverty or in an institution, as long as they remain in Africa.”

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The ideas can be noble, but when we put measurements in place to assess the impact and social consequences of specific policy actions we sometimes find that they cause more harm than good.

But isn't the degree to which I allow the 'Other' to undermine my basic values a question of constitutional law, regardless of whether the approach is driven by supposed respect, or even neo-colonialism? In other words, sure! Let's let members of the other culture kill one another due to 'family honor' or circumcise their kids.

“Generally speaking, yes, it can be a matter of constitutional law, but it appears all the time in disputes between spouses. There's an interesting book about prenuptial agreements between Muslim spouses; all Muslim marriages have one but the question of the legal validity of a prenuptial agreement belongs in contract law and each judge may see it differently. If it's a religious case, and there's a separation of church and state, the judge might say it's none of their business. Another judge might claim that if the agreement meets all the legal requirements of a contract, then it is a contract for all intents and purposes. A third judge might assert that the agreement discriminates against women, while the fourth judge might say the discrimination is actually against men. Even if the state doesn't want to get

involved, it is forced to do so by virtue of the couples bringing their disputes to court and making them impossible to ignore.”

The final chapter deals with old age, your current area of research.

“Yes, my contention is that family law tends to focus on minors. The assumption is that parent-child affairs end when the child turns 18, when in reality it is the relationship between parents and adult children that lasts the majority of our lives. People don't know, for example, that Israeli law requires adult children to pay their parents' nursing home bills if the parents can't afford it... suddenly people receive crazy charges of thousands of shekels a month, and they're completely unprepared for it because they don't know this is the law.”

You could write several volumes about these issues. How do you condense it all into one book?

“Well, it's only a taster,” Prof. Hacker says with a smile. “There is no pretense to solve all the problems. Since it's a pioneering book, I believe the panoramic view has its own power. Posing sweeping solutions to these complicated issues is unrealistic, and possibly immoral, but there are several main themes that speak to the critical relevance of sociology. I'm also a sociologist and the book refers to related studies and analyses, for example in the context of the Hague Convention, as mentioned. The ideas can be noble, but when we put measurements in place to assess the impact and social consequences of specific policy actions we can sometimes find that they cause more harm than good.”



And if you had to choose a central theme?

“Families are not disposable. This is part of my criticism of the discourse on globalization; when you talk or teach globalization the discussion tends to focus on the balance of economic and political interplay between nations, refugees and immigration. My book shows that one of the major motivations for immigration is the family, and if we don't understand that, we don't understand immigration. In this sense, the book is conservative because it doesn't deconstruct the family as a social institution or offer alternatives to family life. There can be no substitute for family. On the other hand, I'm not saying that family is above all. If I had to choose between granting asylum to a war refugee who will be killed if they remained in Syria and the right of a third-generation British Indian to bring an Indian relative to Britain for marriage, I choose the former.”

What do you hope to achieve with the book?

“I hope it changes the way people teach and understand families and family law. A socio-legal study of families limited to the boundaries of a nation-state is only a partial study. I'm also hoping that lawyers, mediators and judges dealing with families are able to understand their clients within a broader context of the reciprocal relations between borders and globalization. This should be pertinent not only for lawyers who specialize in family law, but also for jurists from other legal disciplines such as immigration law and labor law. For example, an Israeli judge faced with the dilemma of deporting an asylum seeker should also address the issue of whether the migrant has children in Israel, and what their best interest is. When a client consults about buying property in another country, a good lawyer should also refer to international aspects of joint ownership, gift and inheritance

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My book shows that one of the major motivations for immigration is the family, and if we don't understand that, we don't understand immigration.

tax. When a couple consults about a prenuptial agreement, a good lawyer should also check the possibility of temporary or permanent immigration. The reality of many modern families is so complex, and so multifaceted, that lawyers should make contacts with associates from other legal fields and other countries in order to excel in their work and provide the best possible legal advice.”

New Faces at the Faculty

The Buchmann Faculty of Law is delighted to announce two new faculty appointments beginning Fall 2017, Dr. Natalie Davidson and Prof. Assaf Hamdani.



Dr. Natalie Davidson researches and teaches in international human rights law, and she is the first graduate of the Zvi Meitar Center for Advanced Legal Studies to join the academic faculty.

Dr. Natalie Davidson researches international human rights law from historical and empirical perspectives. Her studies look at the political implications of transnational human rights struggles, the players and processes involved in creating norms of international human rights law, and oppressive uses of legal language and institutions by non-democratic regimes.

Dr. Davidson grew up in France and the U.S. and holds undergraduate degrees in law from King's College London and the University of Paris I, a joint program designed to train lawyers in both common law and civil law. She also holds an LL.M. degree from the University of London.

After five years working as a lawyer in the field of corporate law and banking, Dr. Davidson returned to research and pursued a PhD at the Buchmann Faculty of Law. During this time, Dr. Davidson was a research fellow at the GlobalTrust project and later a research fellow at the Rapoport Center for Human Rights and Justice at the University of Texas, Austin.

In 2016, she received her Doctoral degree and became a post-doctoral fellow at the Hebrew University of Jerusalem's Minerva Center for Human Rights "Human Rights Under Pressure" program (a collaboration between the Hebrew University of Jerusalem and Freie Universität Berlin).

On teaching at her alma mater, Dr. Davidson says: "Writing a doctorate is usually described as a lonely experience. In my case this simply wasn't true. Not only because my research involved interviewing dozens of victims, activists, lawyers, journalists and government officials, but mainly because I was part of a vibrant community and had the support of students, faculty, librarians and administrative staff at the Buchmann Faculty of Law. I enjoyed the intellectual richness, the openness and support for research in faraway places. I am thrilled to re-join the community as a faculty member, and look forward to further developing as a teacher, researcher and a colleague." ~



Prof. Assaf Hamdani joins the Faculty from the Hebrew University of Jerusalem. Prof. Hamdani researches and teaches in corporate law, mergers and acquisitions, financial regulation and capital markets.



Photography: D. Gurthrie

Tell us about the main challenges you're facing, and hopes for the new start.

Prof. Hamdani: "There is a high concentration of researchers in the field of financial regulation, corporate and business law at the Faculty working alongside scholars in numerous other branches of law. This combination creates immense potential for research collaborations and a unique opportunity of turning the faculty into a globally leading center of corporate law research. For instance, next year the Edmond J. Safra Center for Ethics will launch a multidisciplinary research group with leading international scholars to reassess the theory, corporate governance and management of corporations. This initiative will deepen the cooperation between the Faculty, State authorities and key players in the market, as well as develop academic insights designed to improve regulation and capital market

development in Israel, in relation to both the regular economy and the technology and innovation-led economy."

And on a personal level?

Prof. Hamdani: "I hope to broaden the research on the relationship between regulatory reform, competition and innovation in Israel. Regulation has a diverse and sometimes covert effect on the development of high-tech companies and other innovation-based enterprises. For instance, regulatory requirements have a direct impact on the availability of funding sources and the ability of companies in the growth phase to compete in the global arena."

Tell us about an interesting course you'll be teaching.

Prof. Hamdani: "I'll be teaching a course called: "Bonds, Corporate Debt and Insolvency". Pension reforms have

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In my opinion, a good jurist should be able to effectively integrate three qualities: a multidisciplinary approach, the ability to distinguish between the essential and incidental, and attention to detail.

contributed to a rapid expansion of the bond market in Israel. However, courses in corporate law tend to focus on the relationship between controlling shareholders, managers and public shareholders. This is the first module of its kind in Israel to focus on the legal aspects of bond market liquidity and provide students with an in-depth understanding of corporate debt."

What are your current research interests?

Prof. Hamdani: "One study looks at the compatibility of Israel's corporate governance framework with Israeli high-tech companies operating in the international arena. Prominent companies, such as Check Point and Wix, were incorporated in Israel but registered their shares in New York. Public discourse tends to focus on encouraging such companies to list their shares for trading on the Tel Aviv Stock

Exchange. My research, however, looks at whether Israeli corporate law can respond to the unique business needs of these international companies."

What are the qualities of a good jurist?

Prof. Hamdani: "In my opinion, a good jurist should be able to effectively integrate three qualities: a multidisciplinary approach, the ability to distinguish between the essential and incidental, and attention to detail."

Do you have any tips for the Faculty's future generation of lawyers?

Prof. Hamdani: "Take advantage of your time to engage with several legal disciplines. Don't succumb to the temptation to take many courses in the same field." ~



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