

The Israeli Legal System

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The Israeli Legal System

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*To Eliana Sarah Yonah, Bracha Rivka Yonah,
and Reuben Ziv Gelpe Salamon, my three
Israeli and American grandchildren*

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Preface

This book is about the legal system of the country of Israel. The Israeli legal system would be generally understandable to an American lawyer. This book emphasizes the things that are different. This approach supplies the student with the ability to understand the features of Israeli law that would not otherwise be familiar. It also gives the best grounds for comparative law analysis. Most chapters describe the differences between Israeli and American law and investigate the reasons for and the implications of these differences.

Format of This Book

Presentation

Each chapter (except chapter 2) contains original material. American law students and lawyers are accustomed to learning law by reading legal documents, not just by reading about law, and this book follows that valuable tradition. Original material is typically followed by Comments, designed to aid in understanding the original material and its place in the Israeli legal system. Most chapters also have questions designed to foster thoughtful reflection about the material presented.

Translation and Editing

Primary Israeli legal material is published in Hebrew. Unless otherwise noted, the translations from Hebrew in this book are by the author. Translations are not literal, but are designed to convey the same sense in English that is conveyed by the original Hebrew text. The translation of some statutes and cases has been taken from other sources. Where this has been done, the source of the translation is noted. Translations taken from other sources have been edited by the author of this book for style and to make them more understandable to American students of the law.

In places where full paragraphs of Israeli statutes or regulations have been omitted, the omissions are not indicated by ellipses. The original section numbers are retained. Omissions from cases, except those in the middle of paragraphs, are not indicated. Israeli cases with new legal holdings are typically very long, often more than fifty pages, so the cases have been heavily edited to reduce their length. Footnotes in the original Israeli cases have been omitted. All footnotes in cases that appear in this book have been added by the author and explain terms or historical or other references that are likely to be unfamiliar to the American reader.

A Word about Gender

It is customary in English these days to avoid gender-specific language when a statement is not intended to apply only to people of one sex. Partly because everything in Hebrew is necessarily expressed in either male or female form, and partly because of the customary way Hebrew is written, it is not common to use gender-neutral language in Hebrew. The translations do not use gender-neutral language where doing so would require altering the original in a way that obscures its meaning. No offense is intended.

Spelling and Usage

As a result of the influence of the British rule in the area now covered by Israel, discussed in chapter 2, many English-language Israeli publications adopt British spelling and usage, which is in some respects different from spelling and usage common in the United States. For example, the British spelling is “labour,” but the American is “labor.” The British write, “He is in hospital,” but Americans write, “He is in the hospital.” This book adopts American spelling and usage except for documents originally written in English that use British spelling and usage.

Citations and Format

Because citations to Hebrew language materials will not be meaningful to readers of English, most citations within translated cases are omitted without indication of the omissions. Similarly, where a translated case set out in this book includes a quotation from another Israeli case, the quotation may be omitted without indication. Some citations to English language materials are retained to allow the reader to see the types of materials used as sources by the Israeli courts, but where citations are omitted, the omission is not indicated. The format of citations that are given within cases has been changed to conform to Bluebook citation rules. Court cases in Hebrew typically have numbered paragraphs. These are omitted in the cases as presented in this book.

Citations to Israeli statutes do not follow the Bluebook. The Bluebook calls for citation to Laws of the State of Israel (L.S.I.) for statutes. This is a state-published translation of statutes into English. These volumes are not up to date and the translation is not official. The author of this book has translated the statutes to allow, where possible, use of terms familiar to American readers. The L.S.I. translations do not necessarily have this goal. In the few places where the L.S.I. translation is used, the citation to L.S.I. is given. For other statutes, the Bluebook alternative citation is to the official source of original Hebrew Israeli statutes, *Sefer HaChokim* (Book of Statutes), commonly abbreviated as SH. Citations to SH would in most cases be either inaccurate or cumbersome. Most Israeli statutes are frequently amended and accurate citation to SH would require citations to all the places where amendments appear. In any case, these citations are unlikely to be useful to American readers of English. Therefore, no citation source is given for most Israeli statutes. They are cited by name and year, with the name translated into English.

Reported Israeli court cases are cited to the official reporter. Most unreported cases are available through several commercial subscription services and can easily be located in any one of them by case number and name, which are supplied. Many important Israeli Supreme Court cases are published in English by the Supreme Court. Where such English language translations are available, they are indicated in footnotes.

Students wishing to pursue further research in Israeli law but who do not read Hebrew will have limited access to primary materials. Chapter 3 provides information on accessing official materials available in English. Although accessing primary material in English is difficult, it is much easier to find English-language discussions of Israeli law. A great number of law review articles on various aspects of Israeli law are published in American law journals; some also appear in English-language European journals. Most of these are written by Israeli academics, who are encouraged to publish in English to reach a wider audience than they could reach by publishing in their native language. These articles can be located through the usual means of search for law journal publications.

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the Jewish Quarter, *Luzon v. Government of Israel*, *Nahmani v. Nahmani*, *Schnitzer v. Chief Military Censor*, *Solodkin v. Mayor of Tiberias*, and *United Mizrahi Bank v. Migdal Communal Village*: The Supreme Court of the State of Israel. Reprinted with permission. All rights reserved.