



A Man with a Plan

Prof. Ariel Porat, former Dean of the Buchmann Faculty of Law, was recently named the ninth President of Tel Aviv University. We met with him to talk about his plans for Israel's largest institution of higher education | p. 8

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Message from the Dean

Welcome to De Jure, the magazine of the Buchmann Faculty of Law at Tel Aviv University.

Over the past year it has been rewarding to witness the unprecedented achievements on the part of the Faculty's students. The Faculty ranked first among law faculties in Israel Bar Exam pass rates, with an impressive 97 percent. Many of our undergraduate students attained prestigious clerkships, including at the Supreme Court of Israel. A team of students won first place in the prestigious Jean-Pictet Competition for international law, and graduates of the Zvi Meitar Center for Advanced Legal Studies earned important awards. These achievements are a testament to the Faculty's vision, mission and commitment to excellence.



Another exciting development for the Faculty is the opening of the new LL.M. Program. The one-year academic master's degree has been in great demand, admitting a first class of 160 students. Another achievement is the opening of the new class of the Parasol Foundation International LL.M. Program, bringing 23 students from 16 different countries to Tel Aviv! The undergraduate program has also seen a significant increase in enrollment.

These successes could not have been achieved without the trust and support of our generous donors. I would like to take this opportunity to extend our most heartfelt thanks to the Faculty's community of donors, and to congratulate Tzipi Roitman, graduate of the Faculty and lay leader of the German Friends of TAU, who joined our donor community in March.

This issue offers a mix of news and features on a wide variety of subjects reflecting the depth and breadth of our activities. To begin with you can read about the Environmental Justice and the Protection of Animal Rights Clinic, which filed an important class action lawsuit against industrial polluters in the Haifa Bay. This year the Clinic will receive a generous donation from the Jeremy Collier Foundation and another philanthropic foundation. You will also find a series of

fascinating interviews: with Professor Ariel Porat, former dean of the Faculty, in which he lays out his plans as the new president of Tel Aviv University; Dr. Mickey Zar, a graduate of the Zvi Meitar Center; and two students who tell us about the unconventional paths that brought them to the Faculty.

Happy reading!
Professor Sharon Hannes
Dean of the Faculty

News from the Faculty

➔ In the past year the Faculty signed an academic cooperation agreement with the Sciences Po Law School in Paris. Last March, a joint conference titled "Migration and Human Rights" was held in Paris for the two faculties, in honor of **Bettina Roth**. Speakers at the conference included Prof. **Yishai Blank** and Prof. **Issi Rosen-Zvi**. A benefit was held in June to support the collaboration. The Faculty is grateful to Mr. **François Heilbronn**, president of the French Friends of Tel Aviv University, **Danielle Schemoul**, and Adv. **Odile Cohen**, without whose efforts the collaboration would not have been

possible. Also this year, Prof. **Roy Kreitner** headed a delegation from the Faculty to the PhD candidates' week at Sciences Po. Among the delegates were Prof. **Michael Birnhack** and PhD candidates **Or Cohen-Sasson**, **Bell Yosef**, and **Dalit Flaiszhaker**.

➔ A team from the Faculty won the 32nd edition of the Jean-Pictet Competition for international law, in France. The team – **Tomer Levinger**, **Dina Wecker**, and **Layan Yassin** – came in first place out of 50 teams representing universities from

around the world and competing in timed lawyering simulations.

➔ Dr. **Mickey Zar** won the 2019 Bahat Prize for her forthcoming book: "The Politics of Privacy: The Technological Drama in the Information Sphere", as well as the Cegla Young Faculty Prize for her article: "People who read this article also read...: Between privacy and profiling". Dr. Zar is a post-doctoral fellow at the **Edmond J. Safra Center for Ethics**. She completed her master's degree and PhD at the **Zvi Meitar Center for Advanced Legal Studies**, established thanks to the generous donation of the Zvi and Ofra Meitar Family Fund.

➔ 23 students recently began studying in the Parasol Foundation International LL.M. Program. This group of students came from 16 countries, including the United States, China, the United Kingdom, Germany, Spain, Kenya, and Nepal. The program was established thanks to the generous donation of Ms. **Ruth Parasol**.

➔ The Faculty opened an academic track in the field of animal rights. In addition to the Environmental Justice and



Credit: Yair Landler

The new class of the Parasol Foundation International LL.M. Program. Students from 16 countries.

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News from the Faculty



Credit: Noam Hefez

Prof. Arye Edrei, Justice Neal Hendel and the students from the Faculty who participated in the historical trial.

the Protection of Animal Rights Clinic, a new course was introduced this past year into the program, under the auspices of the **Jeremy Collier** Foundation, providing an overview of the socio-economic and ideological contexts of animal welfare legislation.

➔ **Tzipi Roitman**, a graduate of the Faculty and lay leader of the German Friends of TAU, joins the Faculty's donor community.

➔ This year, the Faculty hosted a reenactment of a historical trial, led by Prof. **Arye Edrei**, in collaboration with the University of Vienna Faculty of Law, Cardozo Law School at Yeshiva University, New York, and Moscow University. Participating students attended the trial reenactment following two and a half weeks of preparation in Tel Aviv and Vienna. The original

trial, apparently held in 1759 in the Imperial Court in Vienna, centered around an inheritance dispute among Jews from Frankfurt on the matter of the estate and last will and testament of a wealthy, childless Jewish man. The participants stepped into the shoes of the lawyers of both parties and discussed fascinating legal questions such as: whether the case should be discussed in the Jewish court or the civil court; whether it should be heard under Jewish or Roman law; as well as the very validity of the will. The panel of judges was led by Israeli Supreme Court Justice Neal Hendel.

➔ Prof. **Daphna Hacker** won the Academic Excellence Prize in Honor of Michel Halperin, granted by Ben-Gurion University of the Negev. The prize this year was on the subject of "law and justice, policy,

and human rights in the global age."

➔ Prof. **Ehud Kamar** won the 2019 Fattal Prize for Excellence in Legal Research. The prize, awarded by the Law Faculty of Haifa University, was granted this year for academic excellence and meaningful contribution to the advancement of legal discourse and knowledge in the field of commercial law.

➔ Prof. **Alon Klement**, Prof. **Assaf Jacob**, and Dr. **Yuval Procaccia** received the Aaron Polonsky Prize for an outstanding article in the field of tort law.

➔ Dr. **Doreen Lustig** won the 2019 Zeltner Prize for distinguished junior legal scholar.

➔ Dr. **Lena Salaymeh** won a prestigious Guggenheim fellowship. As a Guggenheim fellow, Salaymeh will continue her present research project, examining historical precedents and legal justifications in Islamic law. In addition, she will conduct a collaborative research in decolonial comparative law.

➔ Five out of fourteen grants given this year by the Israel Science Foundation went to researchers from the Faculty: Prof. **Leora Bilsky** (Cultural Genocide: Between Criminal and Civil Law); Prof. **Issi**

Rosen-Zvi and Prof. **Yishai Blank** (Regionality as a Legal Concept); Prof. **Ehud Kamar** and Dr. **Kobi Kastiel** (An Empirical Study of the Relationship between Independent Directors and Controlling Shareholders); Dr. **Natalie Davidson** (How Domestic Violence has Turned into Torture: A Socio-Legal Study); Dr. **Eliav Lieblich** (Laws of Occupation in International Law in Light of the Characteristics of Control in Today's International System).

➔ This year, Prof. **Ronen Avraham**, the academic supervisor of the Human Rights Clinic, founded the "social accountability taskforce", which today numbers nearly 80 members. Members of the group, senior executives from the Israeli business arena, have organized to express their opinions on important public interest issues in Israel, and they recently signed a petition expressing their opposition to the passing of "personal" legislation and processes that are eroding the rule of law in Israel.

➔ The Faculty launched a new master's program headed by former Supreme Court justice, Prof. **Yoram Danziger**. The one-year program offers a core curriculum taught by leading lecturers from the Faculty. The program has three tracks: civil-commercial, criminal-forensic, and public law.

➔ The Tel Aviv Northwestern LL.M. in Public Law Program continues to attract many of the country's most prominent judges, prosecutors, regulators, private sector lawyers, and others. The one-year degree deepens its participants knowledge on issues related to human rights, globalization, privatization, and legislation. The program includes two semesters in Tel Aviv and a summer semester in Chicago. With completion of their studies, students receive an LL.M. degree from both universities.

➔ Various practical courses are held in the Institute for Legal Arts, headed by former district court judge Dr. **Daphna Avnieli**, sponsored by the ILDC

Group. Courses include trainings for mediators and arbitrators, courses in business negotiation, and medical law. The Institute's courses are given by judges, leading lawyers, academics, and business leaders.

➔ Prof. **Menachem Mautner**, a leading Israeli legal scholar, retired this summer from the Faculty after decades of teaching generations of legal scholars. A two-day retirement conference, held in his honor, was attended by senior judges, lawyers and academics. Mautner joins Professors **José Brunner**, **Elimelech Westreich** and **Eyal Benvenisti**, who retired recently from the Faculty after many years of teaching. We wish him the best of luck!



Students from the Tel Aviv Northwestern LL.M. in Public Law, Chicago, 2018.

Credit: Janet A. Garesché

Bay Watch

Factories in Haifa Bay. The defendants include some of Israel's most powerful corporations.



Credit: iStock

The Environmental Justice and the Protection of Animal Rights Clinic has filed a bold class action lawsuit, demanding that the court shed light on one of Israel's most painful public health issues.

The Environmental Justice and the Protection of Animal Rights Clinic recently filed a request to the Jerusalem District Court to certify a class action lawsuit against thirty companies operating facilities in the Haifa Bay. The request was filed on behalf of Citizens for the Environment, an organization that has worked for many years to raise awareness of environmental issues, one of the most painful of which is the high incidence of cancer in the Haifa Bay and the possible linkage with the environmental pollutants from factories in the area.

The suit has revealed statistics about the high rates of lung cancer (related to exposure to poisonous gases) and non-Hodgkin's

lymphoma (related to chemical exposure) in the Haifa Bay area, in comparison to the national average. The plaintiffs argue that these diseases have been caused by pollution from the factories.

The defendants include some of Israel's most powerful corporations: the Israel Electric Company, Neshar Cement Factories, Israel Shipyards, the Haifa Distilleries, as well as three of Israel's largest fuel companies. According to the plaintiffs, attempts at dialogue were made with these corporations prior to filing the suit, but in vain. The plaintiffs are asking the court to rule that the defendants violated the Clean Air Act through criminal negligence, and to appoint an individual or a committee whose role it will be to determine the

amount of compensation to be paid to each of the 3,000 members of the group (present and past residents of the area who have contracted one of the two above illnesses). According to the Clinic's team, the compensation must include indemnity for present and future medical expenses as well as damages as a result of loss of work ability and income for the ill and their families.

The suit began taking shape over three years ago, when a Haifa woman approached the offices of the Clinic and told its attorneys and students about an issue related to pollution in the Haifa Bay. Although the Clinic's team was doubtful they could give her the legal relief she needed, her story touched

them and they decided that a legal response was necessary to address the frustration of so many residents of the area. But they didn't know how to continue.

A few months later, in September 2015, the Kishon River affair was finally decided in the Supreme Court, with the petition being rejected by Justice Yitzhak Amit on the grounds that no causal relation could be proven between pollution from the factories and the divers' and fishermen's illnesses. Ostensibly this should have hampered any possibility of continuing to attack this issue, but the lawyers and students of the Clinic (operating thanks to the generous support of the Jeremy Collier Foundation), took Amit's ruling to mean that the

best avenue to address the issue would be through a class action lawsuit. After poring over Amit's and other relevant rulings, they concluded that if they could prove a higher than the national average of incidence of cancer in the Haifa Bay, they could demand proportional damages.

This past July, after more than three years of collecting vast volumes of medical data and analyzing the court rulings, they filed the suit. Many media outlets picked up the story and cited the troubling data that had been collected by the plaintiffs, and thus once again brought to the fore one of the most painful public health issues in Israel today. ■

Shortly after being named ninth president of Tel Aviv University, Prof. Ariel Porat declared that this was the position of a lifetime. Once dean at the Faculty of Law, where he led far-reaching changes, now he confronts the challenges that face Israel's largest institution of higher education. Not surprisingly, Porat believes the University can learn a thing or two from the experience of the Faculty of Law, which has developed international collaborations over the years and enjoys a reputation overseas as well. "The Faculty of Law is a pioneer on the campus in the international realm," he said in our conversation with him. "The rest of the departments in the University can definitely learn from it, whether we are talking about student exchange programs, international English-language programs, or the joint programs with American universities, not to mention English-language courses given by visiting professors from abroad."

What steps do you plan to take in order to help make the University into more of an international player?

"We are going at this from three different directions. The first entails establishing new English-language programs. Today the University offers a few programs in English, most of them at the graduate level. There are two English-language undergraduate programs (electrical engineering and liberal arts), and I would like to see this expand to the social sciences and the School of Management as well, and perhaps also to computer science. The second direction is joint international programs. Today the University has three joint programs with leading universities abroad:

Mr. President

President of Tel Aviv University is one of the most important positions in the educational system in Israel. A few months ago, The Buchmann Faculty of Law's very own Prof. Ariel Porat was chosen for this position. We met with him to talk about some of the pressing issues on his agenda.

The School of Management has the Kellogg-Recanati International Executive MBA (in cooperation with the Kellogg School of Management at Northwestern University), and the Faculty of Law has the Berkeley Executive LL.M., focusing on Israeli business law, as well as the Tel Aviv Northwestern Executive LL.M. in public law. I would like to see a lot more joint programs of instruction such as these, as well as joint research programs. The third direction is to establish branches of the University in other parts of the world, with a focus on fields where we have a competitive advantage, such as entrepreneurship and hi-tech. This can improve the University's reputation, attract students, and of course if it raises revenues, we won't object."

Almost abandoned his academic career

He is 62 years old, married, and a father of three. After his military service as an intelligence officer, he registered for law studies at Tel Aviv University, convinced he would follow in his parents' footsteps, practicing law and maybe one day sitting – just like both of them – on the judge's bench. But when he finished his undergraduate studies, and after a clerkship in the Tel Aviv District Attorney's Office, he found himself on a direct track to a PhD in the Faculty.

During his doctoral studies, he had doubts about his future in academia. In order to resolve the matter once and for all he went to do a post-doctorate at Yale Law School.



Ariel Porat. His years in the dean's office left their mark on the University management.

Mr. President

Only there did he decide that his future was not in legal practice but in academia. This was thanks to a course he took with Guido Calabresi, one of the fathers of the law and economics movement, which was gaining status in those days in a few universities in the US. "In Calabresi's course I understood for the first time that it is possible to look at any given legal field through economic analysis, and that had a big impact on me," Porat recalls. "I assume that had I arrived at Yale before Calabresi and others started to develop the economic analysis of law, I would have returned to Israel, abandoned academics, and become a lawyer. I think I might have made a pretty good lawyer."

But he did take that course, and it enthralled him. When he returned to Israel, he took up the offer of then Dean of the Faculty, Uriel Reichman, and joined the Faculty of Law. He researched and taught contract law and tort law, incorporating the interdisciplinary theories he had absorbed initially at Yale. He served as a visiting professor at the Universities of Chicago, Stanford, Columbia, New York, Virginia, and Berkeley. In parallel, he headed the Cegla Center for Interdisciplinary Research of the Law, during which time he founded and edited the internationally renowned journal *Theoretical Inquiries in Law*.

In 2002, with the financial crisis that struck the University in the backdrop, and at the young age of 45, he was appointed dean of the Faculty of Law. In this position he initiated the establishment of the first two international

executive LL.M. programs at the University outside of the School of Management: the Tel Aviv-Berkeley Executive LL.M. program in commercial law and the Tel Aviv Northwestern Executive LL.M. Program in public law, whose goal, among other things, was to increase the Faculty's revenues from extra-budgetary resources.

At the same time, Porat implemented a groundbreaking undergraduate admissions track. The track targeted outstanding high school graduates from the periphery, independent of their scores on the psychometric exam. By the end of the first year the initiative already proved to be a success. Following this model, a similar admissions pathway was implemented in other faculties on campus.

His years in the dean's office left their mark on the University management. In 2013 he was appointed to head the University's strategic steering committee, which was charged with examining changes in the structure and academic direction of the institution. In this framework he studied all of the departments on the campus in great depth, and at the end of the process the committee produced a report, in cooperation with Shaldor Strategy Consulting. The "Porat Report," as it came to be known at the time, was implemented and brought about far-reaching structural changes in the University.

In the years following he continued his teaching and research, won a number of prizes, and was appointed a member of the Israel Academy of Sciences and Humanities.

Porat's academic achievements, alongside his management and leadership experience at the University, are what led the Executive Council of the University and the Board of Governors to decide that there was no one more suited and capable of addressing the challenges facing the institution today.

One of the main challenges will be to revitalize the humanities and social sciences faculties, which have been suffering from a constant decline in enrollment.

"That's true, and we have some ideas. As I began thinking about this, I realized that when people are in their early 20s, they think of their studies as something instrumental, and they choose fields that they imagine will give them a profession. This might be the reason for which many of them neglect the humanities, because they are perceived as being not practical. But once people are in the workforce, for example, in their thirties and forties – doctors, lawyers, in hi-tech – they might actually prefer to earn a degree, not in a "practical" field, but in the humanities. I think we need to take this demographic seriously, and to offer a course of study tailored to it. This can increase the enrollment in the humanities significantly. Moreover, we are examining another possibility, a four-year combined degree with computer science and the humanities and social sciences. This would be a triple major producing a diverse and broad-minded body of graduates. It will bring students to the humanities who wouldn't otherwise find themselves there." ■

Q&A: Mickey Zar

Dr. Mickey Zar, a fellow at the Edmond J. Safra Center for Ethics, recently won the Bahat Prize for her forthcoming book, *The Politics of Privacy: The Technological Drama in the Information Sphere*, slated for publication in 2020. The book is based on her dissertation as a fellow at the Zvi Meitar Center for Advanced Legal Studies at the Faculty, and it addresses the loss of digital privacy.



Credit: Gilat Neumann

We all know that our online activity is monitored, and yet we are constantly online. The average internet user has all sorts of possibilities to protect their privacy, but the vast majority of us don't do it. Why do you think this is the case?

"More and more of our daily activities and practices have become virtually impossible without the internet, and there are many reasons for which we have such a hard time protecting our privacy. First of all, we're not always aware of the invasion of our privacy. Education about privacy and more generally about life online is not uniform, and relatively few people

are aware of all of the aspects of the actual and potential harm to their digital privacy. But assuming we are aware – people often adopt the faulty rhetoric of "I have nothing to hide" and believe that it won't happen to them, or that there is no reason for this to be an issue for them. Those who are concerned, like myself for example, are put off by the inconvenience of using privacy-enhancing technologies. It's exhausting, and it ends up being a great privilege to have privacy on the internet. There is a new class division – between the many who don't have privacy, and the few who do – and it's hard to know what the repercussions of this will be."

There's a sense that the public conversation on the issue of privacy has picked up in recent years. Is this because academics and the media are dealing with the issue to a greater degree, or is it perhaps because corporations have become more aggressive in collecting data?

"There has been academic research on privacy since the 1970s, with a few peaks, for example around the advent of the internet, and later around what is known as "big data." In recent years there have been some high-profile affairs that have raised public interest and awareness about what academics have been saying for some time. At the same time,

I do think that corporations have become more aggressive or at least more determined with regard to data collection, and this has at least two reasons. The first is that they are aware of the economic value of this data and the power of owning it. The second could be a response to the legal regulations and user counter-reactions. These things could make data collection practices more aggressive or more covert."

In your research you emphasize that without legal regulations and public debate, the internet will turn into a dystopia in which powerful corporations holding onto all of our private information will determine society's norms and values. Could you please expand on this?

"Those who are able to manipulate behavior according to their interests are those who succeed in "telling the story" as they would like it to be. If for the sake of argument a data corporation can manipulate its users to behave in a way that maximizes its profits, or in other words, to determine their economic, social, and political agenda, without the users being aware of this – then we can say that the history of the users is being written behind their back. Maybe this was always the case, but we should be aware that the notion of choice, and the idea of legitimacy of government based on this choice, is an illusion." ■

Eyes on the Prize

We caught up with two students in their fourth year in the Faculty, and asked them to answer a few questions.



**Esther Tayar, 33,
from Kiryat Ye'arim**

How did you make your way to the Faculty?

"I grew up in Kiryat Ye'arim and graduated from high school in the ultra-Orthodox educational system. After getting married I took my matriculation exams because I knew that I wanted to study law. At first, I signed up at a college, but even before I started studying there, I had a bad feeling about the place, in terms of the seriousness and the academic level. So, I gave up on those studies and went on with my life, waiting for another opportunity. I had children and started working in all sorts of temporary jobs, and then one day someone from my husband's synagogue shared a link with a flier that said that the Faculty of Law at Tel Aviv University was opening a special admission track for ultra-Orthodox students. I filled out the forms and sent them in, and I was invited for an interview with Prof. Neta Ziv and Galia Givoly, who runs the admissions project for ultra-Orthodox students at the University. The interview went well, but they said that in order to register for the Faculty I would have to take the psychometric exam, which was being held three weeks later. I think they were surprised when I said no problem. I signed up for the exam

on that very day and I went into it without studying because I thought it was a test of general knowledge. Happily, my score was good enough to be accepted to the Faculty, maybe because I wasn't stressed."

How does it feel to be at the Faculty?

"Sometimes friends from home ask me about how it is to study at the Faculty of Law at Tel Aviv University, which is seen as a secular, leftist institution, but I have to say that I feel entirely at home here, even though I come from a different background. True, in the first year it was difficult, not socially so much as academically. Having small children, it was hard to study in the afternoons, and observing the Sabbath also made things complicated. In general, your first year in an educational system that is so different from what you previously knew just isn't easy. But gradually I got used to the studies, and thanks to the support of my husband, who helps out a lot at home, I made my way."

Getting ready for your clerkship?

"Yes, in March I am starting a clerkship in the commercial law department at Meitar Liquornik Geva Leshem Tal."

Was there a specific course at the Faculty that made an impression on you?

"Yes, Prof. Issi Rosen-Zvi's 'Procedures' course. In the course we learned in depth about the principles behind civil law. 'Procedure' sounds pretty dry, but the theoretical depth of the course, the issues we learned, and most of all the way Issi taught the course, were fascinating. This course had an impact on me because it taught me to think differently than what I was used to, and to look at things from different angles."



Credit: moaad ataman

**Maisaa Asali, 22,
from Kafr Qara**

How did you make your way to the Faculty?

"I grew up in Kafr Qara and I always dreamed of being a lawyer. When I was a girl I was known as the "class lawyer," and everyone was certain I would study law. For a short period I worked in my uncle's health clinic and thought I would sign up for medical school, but during the admissions process I realized I was going against my true desires, and I went back to my original choice. And that's how I decided to sign up for law studies, combined with studies at the School of Management."

Why Tel Aviv University?

"As far as I was concerned, there was no question that I would choose Tel Aviv. Not only because of the

academic level, but also because the University seemed diverse and liberal, and I was curious."

How does it feel at the Faculty?

"Today it feels like home, but at first it wasn't easy. Socially, I felt comfortable from my first year, but the studies were difficult, in part because I was learning complicated subjects in a language that is not my mother tongue. But with time I overcame this difficulty. In my second year things became much easier, and I also participated in extracurricular legal activities: I was the organizational development manager at an NGO that offers law courses in high schools in the periphery; I worked as a research assistant for Prof. Issi Rosen-Zvi, and next semester I will

TA two courses: Contract Law and Introduction to Jewish Law and Islamic Law."

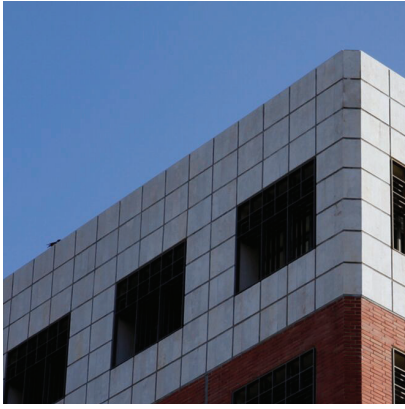
Getting ready for your clerkship?

"Yes, next September I will start clerking at Ficsher Behar Chen Well Orion & Co."

Was there a specific course at the Faculty that made an impression on you?

"Yes. 'Adaptive Leadership,' taught by Adv. Tziona Koenig-Yair. This is a course with theoretical and practical aspects. On the practical side we had to present a life situation in which we demonstrated leadership, laying out all of our failures in the process. It was a very revealing and thought-provoking situation for me, and it taught me a lot about myself." ■

Credit: Aviv Avni, Michal Vumansky, Shiri Licht



**Buchmann
Faculty of Law
Tel Aviv University**