



Buchmann  
Faculty of Law  
Tel Aviv University



# עבר הווה ועתיד בחקר המשפט העברי

כנס לציון מאה שנים ליסוד חברת המשפט העברי,  
מוסקבה 1917

## Мишпат иври: прошлое, настоящее и будущее

100-летие создания Общества  
"Мишпат Иври" в Москве

## Mishpat Ivri: Past, Present and Future

100 Year Anniversary of the Establishment  
of the "Mishpat Ivri Society" in Moscow

# Jewish Law Association 20<sup>th</sup> International Conference

Moscow State University Law School, Moscow

**July 23–26, 2018**



### The Organizing Committee:



Prof. Alexander Golichenkov Dean, MSU  
Prof. Arye Edrei, TAU  
Prof. Andrey Sherstobitov, MSU  
Prof. Natalia Kozlova, MSU  
Ms. Evgenia Krukova, MSU  
Dr. Haim Ben-Yakov, TAU  
Prof. Anton Kanevskiy, JU  
Prof. Phillip Lieberman, JLA  
Dr. Amos Israel, SAC

### The Academic Committee:

Prof. Arye Edrei, TAU  
Prof. Shaul Stampfer, (emeritus) HU  
Prof. Gayane Davidyan, MSU  
Prof. Olga Dyuzheva, MSU  
Prof. Assaf Likhovski, TAU  
Dr. Yifat Monnikendam, TAU  
Prof. Anton Kanevskiy, JU  
Dr. Amos Israel, SAC  
Prof. Suzanne Last-Stone, YU  
Prof. Phillip Lieberman, JLA  
Dr. Shay Wozner, TAU

### Conference Supported By:

The Buchmann Faculty of Law, TAU | Euro-Asian Jewish Congress | The Jewish Law Association | The Zimin Foundation, TAU | The Friends Association of TAU | Eliyahu Foundation Program for Instruction and Research In *Mishpat Ivri*, supported by the Koschitzky Family | Embassy of the State of Israel in Moscow | The Center for the Study of Law and Religion, Emory University School of Law | David Berg Foundation Institute for Law and History, The Buchmann Faculty of Law, TAU | Taubenschlag Institute of Criminal Law, The Buchmann Faculty of Law, TAU |

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ДЛЯ КОМПАНИЙ

## Monday, July 23

14:00–15:00 Lunch

### 15:00–16:30 Preliminary Session: Jews and Judaism in the Russian Empire

Moderator: **Prof. Gayane Davidyan**

**Dr. Evgeniya Abakomava:** Recognition of Jewish Judicial Autonomy in the Russian Empire: XVIII- Early XIX century

**Prof. Anton Kanevskiy:** The Place of *Halakha* in the Legal System of the Russian Empire

**Dr. Levi Cooper:** Russian Clothing Decrees: Fashioning the Hasidic Haberdashery

### 17:00–19:00 1. Ceremonial Opening Session

Chair: **Dr. Amos Israel**

Greetings:

**Prof. Alexander Golichenkov,** Dean of the Law School Moscow State University, Chair of the Environmental and Land Law, Meritorious Scientist of the Russian Federation

**Prof. Gideon Libson,** JLA Honorary President

### Keynote Lectures:

**Prof. Assaf Likhovski:** Moscow 1917-Moscow 2018: Looking Back at One Hundred Years of Jewish Law Scholarship

**Prof. Haim Shapira:** Israeli Law and Jewish Law: Human Dignity (*Kevod Ha-adam and Kevod Ha-briyot*)

19:00–20:00 Dinner

9:00–11:00 **2. Characteristics of Legal Thinking in Jewish Law**  
**Parallel sessions in Hebrew and English**

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**2a. English Session**

Moderator: **Prof. Benjamin Brown**

**Dr. Stephan Wendehorst:** Jewish Law and Jewish Courts in the Holy Roman Empire. An Example of Collaborative and Contested Legal Pluralism

**Prof. Yair Lorberbaum:** Rules and Reasons in the Jurisprudence of the Israeli Supreme Court and in Modern Jewish Law (*Halakhah*)

**Dr. Yaron Unger:** "The Holy One, Blessed Be He, Desires Only Faithfulness" - The Riddle of Fiduciary Duties in Jewish Law

**2b. Hebrew Session**

Moderator: **Lilac Torgeman**

**Prof. Avinoam Rosenak:** Jewish and Western Values, Limits for Integration: Intermarriage as Test Case

**Prof. Menachem Katz:** Categorizing Types of Theft in Jewish Law and their Moral and Legal Significance

**Prof. Mordechai Sabato:** Concerning the Change Introduced by Rabbi Akiva in the List of Relatives who are Disqualified to Give Testimony

**Prof. Ron S. Kleinman:** Adjudication According to Civil Laws – How Much Room for Discretion Do Rabbinical Judges Have?

11:00–11:30 Break

11:30–13:30 **3. Russia, Judaism and Jewish Law**

Sponsored by CSLR Emory University School of Law

Moderator: **Dr. Levi Cooper**

**Prof. Motti Zalkin:** The Emergence of Hebraic Public and Professional Discourse in Early 20th Century Russia

**Prof. Michael J. Broyde:** Understanding the Last Great *Posek* of the Russian Empire: The Methodology & Jurisprudence of Rabbi Yechiel Michel Epstein (*Aruch HaShulchan*)

**Dr. Konstantin Andreev:** Limitations on Jewish Religious Practices in Modern Russia Jurisprudence

**Prof. Yehuda Brandes:** Communist Russia in Halakhic Discourse (Heb.)



13:30–18:30 **Sightseeing Tour of Moscow (lunch included)**

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19:00–21:00 **Dinner and Session at the Choral Synagogue of Moscow**

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**4. Back to the Beginning: The Choral Synagogue and the Mishpat Ivri Society**

Sponsored by the Eliyahu Foundation at TAU, supported by the Koschitzky Family

Moderator: **Prof. Shahar Lifshitz**

Welcome and Greetings: **Deputy Chief Rabbi of Moscow Eliezer Reichman**

**Prof. Amihai Radzyner:** From Moscow to Jerusalem: The Rise and Decline of *Hevrat ha-Mishpat ha-Ivri*

**Dr. Anatoly Kleimenov:** Moscow Jewish Legal Experience: 100 years perspective

21:30–22:30 Meeting of JLA Business Committee (at the hotel).

8:00 Breakfast

9:00–11:00 **5. Roundtable: Jewish Law in the State of Israel – The Principal Question**

Moderator: **Prof. Suzanne Last-Stone**

**Prof. Nir Kedar:** Hebrew Law and the Jewishness of the Law in Israel

**Prof. Shahar Lifshitz:** The Liberal Argument for Incorporating Jewish Law in the Law of the State

**Dr. Amos Israel:** The Need for (a Richer) *Mishpat Ivri*

**Adv. Yardena Cope-Joseph:** The Proposed “Jewish State” Bill’s “Hebrew Law” Provision: Demon or Genie

11:00–11:30 Break

11:30–13:30 **6. Criminal Law and Family Law (Parallel Sessions)**

**6a. Criminal Law**

Sponsored by the Taubenschlag Institute of Criminal Law, TAU

Moderator: **Dr. Shay Wozner**

**Dr. Ya’acov Habba:** Can Jewish Criminal Law Apply in Israel (Heb.)

**Prof. Hanina Ben Menahem:** Donkey’s Burial as Punishment in Jewish Law (Heb.)

**Dr. Iris Brown:** Shaming Punishments (Heb.)

**Rabbi Dr. David Fine:** The Value of Life as Political Polemic in Ancient Jewish Law (Eng.)

**6b. Family Law**

Moderator: **Prof. Olga Dyuzheva**

**Prof. Benny Shmueli:** Private Law vs. Jewish Law: Civil Strategies Based on Israeli Solutions to Combat the Phenomenon of Refusal to Divorce in the Jewish Sector

**Dr. Michael Wygoda:** The Recent Supreme Court Ruling on Child Support

**Rabbi Dr. Shlomo E Glicksberg,** Treatment of Get Refusal in the Rabbinical Court of Johannesburg

13:30–14:15 Lunch

14:15–16:15 **7. Plenary Session: Perspectives on Jewish Law Scholarship**

Sponsored by David Berg Foundation Institute for Law and History, TAU

Moderator: **Prof. David Rabban**

**Prof. Steven Wilf:** Embodiment, Genre, and Appropriation in the Longue Durée of Jewish Law

**Prof. Benjamin Brown:** The Contribution of Jewish Thought to the Research of Jewish Law

**Prof. Gideon Libson:** Law and Reality: The Case of Jewish Law and Islamic Law

**Prof. Yuval Sinai:** Jewish Legal Research and Tort Law

16:15 Transfer to the Hotel

18:30 Tour of the Jewish Museum

19:30–22:00 **Gala Evening at the Jewish Museum  
Celebrating 100 years of *Mishpat Ivri*, Moscow 1917- 2018**

Moderator: **Dr. Haim Ben Yakov**, Senior Executive for Regional Development and Public Affairs, TAU

Greetings: **Prof. Joseph Klafter**, President, Tel Aviv University

**Mr. Viktor Vekselberg**, President of the Friends Association of TAU

**Mr. Gary Koren**, Israeli Ambassador to Russia

**Hon. Justice Prof. Daphne Barak-Erez:** Jewish Texts and Legal Discourse

**Prof. Arye Edrei:** Can *Mishpat Ivri* be Jewish Law?

8:00 Breakfast

9:00–11:00 **9. Jewish Law in Israel (Parallel Sessions)**

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**9a. Jewish Law in Israel: Parallels Meet (English Session)**

Moderator: **Adv. Yardena Cope-Joseph**

**Dr. Hila Ben Eliyahu:** Disappearing Law: Reconciliation and Jewish Law

**Dr. Alim Ulbashev:** Jewish law and the Principle of Equality: Is Compromise Possible? (Reflecting on the Israeli Experience)

**Dr. Denis Primakov:** Jewish Identity in Israeli Law: From Rejection to Acceptance

**9b. Jewish Law in Israel: Parallels Meet (Hebrew session)**

Moderator: **Prof. Itay Lipschutz**

**Dr. Yaacov Shapira:** Jewish Law and the Critique of the Rabbinic Establishment

**Dr. Zvi Stampfer:** The Concept of Affirmative Action in Jewish Law as a Source of Inspiration for Israeli Law

**Dr. Menachem (Mario) Klein:** Applying Jewish Law in the Ruling of Modern Israeli Courts from the Viewpoint of a Trial Court Judge

**Dr. Malka Katz:** The Roles of Ashkenazic and Sephardic Halakhic Literature in Shaping *Mishpat Ivri*

11:00–11:30 Break

11:30–13:30 **10. Law and Theory (Parallel Sessions)**

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**10a. Jewish Law in Russia - Between Theory and Practice**

Moderator: **Dr. Anatoly Kleimenov**

**Oleg Khokhlov:** Rabbinical Courts and Modern Russian Arbitration Procedure

Commentator: **Chief Rabbi Pinchas Goldschmidt**

**Prof. Leib Moscovitz:** Hypotheticals in the Halakhic Thought of R. Chaim Soloveitchik

**Dr. Shay Wozner:** Legal Thinking at the Lithuanian Yeshivoth

**10b. Jewish Law and Legal Theory**

Moderator: **Prof. Hanina Ben Menahem**

**Prof. Itay Lipschutz:** Majority Principle in Jewish Law: Majority and Probability (*Rov vs. Histabrut*)

**Dr. Michael Baris:** 'Up in the Air': Shifts in Maimonides' Conceptualization of Doubt

**Prof. Ari Marcelo Solon:** Jewish Law and Socialism in Hans Kelsen

**Prof. Itzhak Brand:** The Separation Between "Religious" and "Legal" in Jewish Law: A Study of the *Poskim* Literature (Heb.)

13:30 Lunch

**Farewell**

## Participants

**Dr. Abakomava Evgeniya** – The Russian Presidential Academy of National Economy and Public Administration

**Prof. Andreev Konstantin** – The Russian Presidential Academy of National Economy and Public Administration

**Hon. Justice Prof. Barak-Erez Daphne** – Israel Supreme Court

**Dr. Baris Michael** – *Sha'arei Madda Umishpat*: Academic Center for Law and Science, Israel

**Prof. Batnitzky Leora** – Chair, Department of Religion, Princeton University, USA

**Dr. Ben Eliyahu Hila** – Faculty of Law, Bar-Ilan University, Israel

**Prof. Ben Menahem Hanina** – Faculty of Law, Hebrew University, Israel

**Prof. Brand Itzhak** – Faculty of Law, Bar-Ilan University, Israel

**Prof. Rabbi Brandes Yehuda** – President of Herzog Academic College, Gush Etzion and Jerusalem, Israel

**Prof. Brown Benjamin** – Department of Jewish Thought, Hebrew University, Israel

**Dr. Brown Iris** – Ono Academic College, Israel

**Prof. Brojde Michael J.** – Emory University Law School and Center for the Study of Law and Religion, USA

**Dr. Cooper Levi** – Ben-Gurion University of the Negev, Israel

**Adv. Cope-Yossef Yardena** – Israel Ministry of Justice

**Prof. Davidyan Gayane** – Moscow State University Law School, Russia

**Prof. Dyuzheva Olga** – Moscow State University Law School, Russia

**Prof. Edrei Arye** – The Buchmann Faculty of Law, Tel Aviv University, Israel

**Rabbi Dr. Fine David** – Abraham Geiger College, Berlin, Germany

**Rabbi Dr. Glicksberg Shlomo E.** – Yeshiva College, Johannesburg, South Africa

**Chief Rabbi Pinchas Goldschmidt** – President of the Conference of European Rabbis

**Dr. Habba Ya'acov** – Vice Dean, Faculty of Law, Bar-Ilan University, Israel

**Dr. Israel-Vleeschhouwer Amos** – School of Law, Sapir Academic College, Israel

**Prof. Anton Kanevskiy** – Jewish University (Moscow), Russia

**Dr. Katz Malka** – David Yellin Academic College of Education and Herzog College, Israel

**Prof. Katz Menachem** – The Friedberg Manuscripts Society & Hemdat Hadarom College, Israel

**Prof. Kedar Nir** – Faculty of Law, Bar-Ilan University, Israel

**Khokhlov Oleg** – Bryan Cave Leighton Paisner (Russia) LLP

**Prof. Klafter Joseph** – President, Tel Aviv University, Israel

**Prof. Kleiman Ron S.** – School of Law, Ono Academic College, Israel

**Dr. Kleimenov Anatoly** – Mekler & Partners, Russia

**Senior Judge Dr. Klein Menachem (Mario)** – Magistrates' Court, Tel Aviv – Jaffa, Lecturer Bar-Ilan University, Israel

**Prof. Libson Gideon** – Faculty of Law, Hebrew University and Zefat Academic College Law School, Israel

**Prof. Lifshitz Shachar** – Former Dean, Faculty of Law, Bar-Ilan University, Israel

**Prof. Likhovski Assaf** – The Buchmann Faculty of Law, Tel Aviv University, Israel

**Prof. Lipschutz Itay** – Ramat Gan College of Law and Business, Israel

**Prof. Lorberbaum Yair** – Faculty of Law, Bar-Ilan University, Israel

**Prof. Moscovitz Leib** – Department of Talmud, Bar-Ilan University, Israel

**Dr. Primakov Denis** – The Russian Foreign Trade Academy, Moscow, Russia

**Prof. Rabban David** – School of Law, The University of Texas at Austin, USA

**Prof. Radzyner Amihai** – Faculty of Law, Bar-Ilan University, Israel

**Rabbi Reichman Eliezer** – Deputy Chief Rabbi of Moscow

**Prof. Rosenak Avinoam** – The Melton Centre for Jewish Education and the Dep. for Jewish Thought, Hebrew University, and The Van Leer Institute, Israel

**Prof. Sabato Mordecai** – School of Basic Jewish Studies, Bar-Ilan University, Israel

**Prof. Sinai Yuval** – President of Orot Israel College and Professor of Law, Netanya College, Israel

**Prof. Shapira Haim** – Faculty of Law, Bar-Ilan University, Israel

**Dr. Shapira Yaacov** – Israel Ministry of Justice

**Prof. Shmueli Benny** – Faculty of Law, Bar-Ilan University, Israel

**Prof. Solon Ari Marcelo** – Faculty of Law, University of São Paulo (FADUSP), Brazil

**Dr. Stampfer Zvi** – Hebrew University and Orot Israel college, Israel

**Prof. Stone Suzanne** – Cardozo Law School, NY, and Tel Aviv University Faculty of Law, Israel

**Torgeman Lilac** – Bar-Ilan University and David Yellin Academic College of Education, Israel

**Colonel (Ret.) Yoel Tsur** – Military Court Judge, Retired Lecturer of Law: HU, TAU and BIU, Israel

**Dr. Ulbashev Alim** – Moscow State University Law School, Russia

**Dr. Unger Yaron, Adv.** – Superior (Legislation and legal research) Legal department, The Knesset, Israel

**Dr. Wygoda Michael** – The Department of Jewish Law, The Ministry of Justice, Israel

**Prof. Wilf Steven** – Law School University of Connecticut, USA

**Dr. Wendehorst Stephan** – University of Vienna, Austria

**Dr. Wozner Shay** – The Buchmann Faculty of Law, Tel Aviv University, Israel

**Prof. Zalkin Motti** – Jewish History Department, Ben-Gurion University of the Negev, Israel

