

## **BARAK MEDINA**

### **PERSONAL DETAILS**

Date of birth: March 6, 1966

Home address: Nir-Banim 7952500 Israel

Office Address: Law Faculty, The Hebrew University of Jerusalem, Mount Scopus,  
Jerusalem 91905, Israel

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### **HIGHER EDUCATION**

<b>Date</b>	<b>Institution</b>	<b>Area of studies</b>	<b>Degree</b>	<b>Supervisors</b>
3/1991	Tel-Aviv University	Law	LL.B. (Cum Laude)	
3/1991	Tel-Aviv University	Economics	B.A. (Cum Laude)	
12/1991	Tel-Aviv University	Economics	M.A. (Cum Laude)	Alex Cukierman
6/1996	Harvard University	Law	LL.M.	Louis Kaplow
9/1999	Hebrew University	Economics	Ph.D.	Joram Mayshar & Uriel Procaccia

### **ACADEMIC APPOINTMENTS AT THE HEBREW UNIVERSITY**

2023–present: Landecker-Ferencz chair in the study of Protection of Minorities and Vulnerable Groups

2014–2023: Justice Haim H. Cohn Chair in Human Rights Law

2012–present: Full Professor

2007–2012: Lawrence D. Biele Associate Professor (with Tenure)

2003–2007: Joseph H. and Belle R. Braun Senior Lecturer in Law

### **ACTIVITIES AT THE HEBREW UNIVERSITY**

2023-present: Academic Director, the Minerva Center for Human Rights, Hebrew University

2017–2022: Rector of the Hebrew University

2016–2017: Co-Academic Director of the Center for the Study of End-of-Life

2016–2017, 2022–: Academic Director of the Center on Multi-Culturalism and Diversity

2013–2017: Head of the Office of Assessment & Evaluation, the Hebrew University

2013–2017: Chair of the academic committee of the Center for Clinical Legal Studies

2013–2017: Co-Academic Director of the Program in Transitional Justice

2013–2015: Chair of the Law Faculty's Appointments Committee

2009–2012: Dean of the Law Faculty

2003–2007: Co-Editor-in-Chief of the *Israel Law Review* (Volumes 36-40)

2003–2006: Coordinator of scientific meetings, Faculty of Law

2008–2009: Head of the Advanced Studies Programs, Faculty of Law

2007–2009: Vice Dean for Academic Affairs, Faculty of Law

## **SERVICE IN OTHER ACADEMIC AND RESEARCH INSTITUTIONS**

- 2022–present: Board member, The Van Leer Jerusalem Institute
- 2012–2013: Rosalind and Arthur Gilbert Distinguished Visiting Professor, University of California at Berkeley, School of Law
- 2006–2007: Visiting Professor, Columbia University School of Law, NY
- 5/2004: Visiting Professor, Scuola Superiore Sant’Anna, Pisa, Italy
- 2001–2003: Senior Lecturer, the College of Management Academic Studies Law School
- 1997–2001: Lecturer, the College of Management Academic Studies Law School

## **OTHER ACTIVITIES AND PRIZES**

- 2018: Gorny Prize, the Israeli Public Law Association
- 2017–present: Board member, The Association for Civil Rights in Israel (ACRI)
- 2017: Justice Cheshin Prize for Excellence in Legal Research
- 2015: The Movement for Quality Government in Israel Award
- 2014: Fattal Prize for Excellence in Reserach, Haifa University
- 2012–present: Substitute Member, the Venice Commission (the European Commission for Democracy through Law, the Council of Europe’s advisory body on constitutional matters)
- 2010–2012: Member, Van-Leer Project on Regulating Privatization, the Van-Leer Jerusalem Institute
- 2004: Ellis and Alma Birk Prize
- 2003–2006: Secretary of the Israeli Association of Public Law
- 1992–1993: Asocciate, Dr. J. Weinroth & Co. Law Offices
- 1991–1992: Clerk, Dr. J. Weinroth & Co. Law Offices
- 1992: Addmitted to the Israeli Bar

## **BARAK MEDINA, LIST OF PUBLICATIONS**

### **Books**

1. Amnon Rubinstein, THE CONSTITUTIONAL LAW OF THE STATE OF ISRAEL (5th edition by Amnon Rubinstein and Barak Medina, 1996) [Hebrew]
2. Rhanan Har-Zahav and Barak Medina, THE LAW OF HIGHER EDUCATION (2000) [Hebrew]
3. Avi Weinroth and Barak Medina, THE LAW OF BANK LOANS (2000) [Hebrew]
4. Amnon Rubinstein and Barak Medina, THE CONSTITUTIONAL LAW OF THE STATE OF ISRAEL: FOUNDATIONS (6th edition, 2005) [Hebrew]
5. Amnon Rubinstein and Barak Medina, THE CONSTITUTIONAL LAW OF THE STATE OF ISRAEL: INSTITUTIONS (6th edition, 2005) [Hebrew]
6. Eyal Zamir and Barak Medina, LAW, ECONOMICS, AND MORALITY (Oxford University Press, 2010) [Reviews: Christopher T. Wonnell, *Deontology, Thresholds, and Efficiency*, 17 LEGAL THEORY 301 (2011); Symposium, 3 JERUSALEM REVIEW OF LEGAL STUDIES 45-146 (2011); Guha Krishnamurthi, *Book Review, Money Can't Buy Me Love*, 89 TEXAS LAW REVIEW dicta (2011)]
7. Barak Medina, HUMAN RIGHTS LAW IN ISRAEL (2016) [Hebrew]

### **Books Edited**

8. Celia Fassberg, Barak Medina, and Eyal Zamir, STUDIES OF AHARON BARAK'S JURISPRUDENCE (Sacher Institute, Hebrew University of Jerusalem, 2009). [Hebrew]
9. Celia Fassberg, Barak Medina, and Joshua Weisman, STUDIES IN LAW—HONORING AVIGDOR LEVONTIN (Sacher Institute, Hebrew University of Jerusalem, 2013) [Hebrew]
10. Christian Walter, Barak Medina, Lothar Scholz, and Heinz Bernd Wabnitz, INTRODUCTION TO THE LAW OF ISRAEL (Beck-Nomos (German), Hart (English), 2019)
11. Aharon Barak, Barak Medina, and Yaniv Roznai, THE OXFORD HANDBOOK OF THE ISRAELI CONSTITUTION (Oxford University Press, forthcoming)

### **Chapters in Collections**

1. Barak Medina, *Frustration of Contract* in CONTRACT LAW – THE FORM OF THE CONTRACT 411–472 (Daniel Freidmann and Nili Cohen eds., 2004) [Hebrew]
2. Barak Medina, *The State's Duties to Provide Basic Needs: From a "Discourse of Rights" to a "Public Finance Theory"* ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN ISRAEL 131–194 (Yoram Rabin and Yuval Shany eds., 2004, Ramot, Tel-Aviv University) [Hebrew]
3. Barak Medina, "Economic Constitution," *Privatization and Public Finance: A Framework of Judicial Review of Economic Policy* in ZAMIR BOOK ON LAW, SOCIETY AND POLITICS 583–670 (Yoav Dotan and Ariel Bendor eds., 2005, Sacher Institute, Hebrew University) [Hebrew]
4. Barak Medina, *Renegotiation, Efficient Breach and Adjustment: The Choice of Remedy for Breach of Contract as a Choice of a Contract-Modification Theory*, in COMPARATIVE REMEDIES FOR BREACH OF CONTRACT 51–72 (Nili Cohen and Ewan McKendrick eds., 2005, Oxford: Hart Publishing)
5. Barak Medina, *Does the Establishment of Religion Justify Regulating Religious Activities? The Israeli Experience* in RELIGION IN THE PUBLIC SPHERE: A COMPARATIVE ANALYSIS OF GERMAN, ISRAELI, AMERICAN AND INTERNATIONAL LAW 299–332 (Winfried Brugger and Michael Karayanni eds., Heidlenberg, Max Planc Press, 2007); reprinted in RELIGIOUS FREEDOM AND NEUTRALITY (N. Sudarshan ed., Amicus Books, 2008)

6. Barak Medina & Yuval Shany, *Separation of Powers in Treaty Making: Foundations*, in THE POWER TO RATIFY TREATS IN ISRAEL: CRITICAL EVALUATION AND A SUGGESTED REFORM 5–30 (Moshe Hirsch et al. eds., 2009). [Hebrew]
7. Barak Medina, *Economic Analysis of Public Law*, in LAW AND ECONOMICS 565– 636 (Uriel Procaccia ed., Sacher Institute, Hebrew University of Jerusalem, 2012). [Hebrew]
8. Barak Medina, *The Role of the Legislature, in Determining Legitimate Responses to Security Threats: The Case of Israel*, in ISRAELI CONSTITUTIONAL LAW 445-460 (Aharon Barak, Daphne Barak-Erez, & Gidon Sapir eds., Oxford: Hart Publishing, 2014)
9. Barak Medina, *Legislating Responses to Security Threats: The Requirement of Legislative Authority to Take Anti-Terrorist Measures*, in CONSTITUTIONAL INTERPRETATION (Fort Fu-Te Liao ed., Justitutum Jurisprudentiae of Academia Sinica, Taiwan, 2014)
10. Barak Medina and Yotam Zeira, *The Right to Equality and Sexual Orientation*, in THE RIGHTS OF LGBT IN ISRAEL 159–194 (Alon Harel et. Al. eds., Sacher Institute, Hebrew University of Jerusalem, 2016). [Hebrew]
11. Barak Medina and Ilan Saban, *On Reconciliation in a Rifted Society*, in Law, Society, and Culture 375–388 (Raef Zreik and Ilan Saban Eds., 2017)
12. Barak Medina, *Equality and Non-Discrimination: The Scope of the Duty to “Neutralize the Difference”* in TOVA STRESBEG-COHEN BOOK 203–227 (Aharon Barak et al. eds., 2017) [Hebrew]
13. Barak Medina, *The Right to Live in Dignity: Critical Evaluation of the Israeli Supreme Court Approach*, in EDMOND LEVY BOOK 197–247 (Ohad Gordon et al. eds., 2017) [Hebrew]
14. Eyal Zamir and Barak Medina, *Deontological Morality and Economic Analysis of Law*, OXFORD HANDBOOK OF ETHICS AND ECONOMICS 521–543 (Mark White Ed., 2019)
15. Barak Medina and Asor Watzman, *Article 7*, in Commentary on Basic-Law: Israel the Nation State of the Jewish People 507–537 (Yuval Shany and Nadiv Mordechai eds., 2022)
16. Barak Medina and Tamir Berkman, *Freedom of Conscience: The Forgotten Right*, in JACOB WEINROTH BOOK 351–385 (Avi Weinroth et al. eds, 2022) [Hebrew]
17. Barak Medina and Romi Kaufman, *The Legal Status of the Temple Mount*, in STUDIES ON THE TEMPLE MOUNT 351–392 (Yedidya Stern ed., 2022) [Hebrew]

### **Articles in Academic Journals**

18. Barak Medina, *Declaratory Judgment—Economic Analysis*, 24 MISHPATIM (Hebrew University Law Review) 605–621 (1995) [Hebrew]
19. Barak Medina, *Directing Behavior through the Negligence Rule*, 4 HAMISHPAT (The College of Management Academic Studies Law Review) 255–293 (1999) [Hebrew]
20. Barak Medina, *Inducing Investment in Gathering Information by Settling Conflict of Rights between a Bona Fide Purchaser and the Original Owner*, 5 HAMISHPAT (The College of Management Academic Studies Law Review) 117–148 (2000) [Hebrew]
21. Barak Medina, *Economic Analysis of the Duty to Act in Good Faith in Contractual Negotiation*, 29 MISHPATIM (Hebrew University Law Review) 513–543 (2000) [Hebrew]
22. Barak Medina, *Directing Behavior by Default Rules: The Purpose of the Law of Remedies for Breach of Contract*, 22 IYONEY MISHPAT (Tel-Aviv University Law Review) 685–744 (2000) [Hebrew]

23. Barak Medina, *Toward A New Social Pact?—Review of Ruth Gavison, Israel as a Jewish and Democratic State* 6 HAMISHPAT (The College of Management Academic Studies Law Review) 369–377 (2001) [Hebrew]
24. Barak Medina, *The Limits of The Knesset's Power to Set Supra-Majority Rules*, 6 MISHPAT UMIMSHAL (Haifa University Law Review) 509–549 (2003) [Hebrew]
25. Barak Medina, *Economic Justifications of Antidiscrimination Laws*, 3 ALEY MISHPAT (The Academic College Law Review) 37–70 (2003) [Hebrew]
26. Amnon Rubinstein and Barak Medina, *The Constitution of the State of Israel*, 8 HAMISHPAT (The College of Management Academic Studies Law Review) 291–356 (2003) [Hebrew]
27. Barak Medina, *The Fall of Formalism and the Rise of Mediation: Consensus-Based Dispute Resolution Mechanisms as “Legal” Ones*, 1 FOCAL POINT 31–45 (2003) [Hebrew]
28. Barak Medina, *Augmenting the Value of Ownership by Protecting it only Partially: The “Market-Overt” Rule Revisited*, 19 JOURNAL OF LAW, ECONOMICS, AND ORGANIZATION 343–372 (2003)
29. Barak Medina, *Political Disobedience in the IDF: The Scope of the Legal Right of Soldiers to be Excused from Taking Part in Military Activities in the Occupied Territories*, 36(3) ISRAEL LAW REVIEW 73–110 (2003)
30. Barak Medina, *A Search for a Theory of Israeli Law of Procurement—A Review of Omer Dekel, The Law of Procurement*, 4 ALEY MISHPAT (The Academic College Law Review) 359–371 (2005) [Hebrew]
31. Barak Medina, *Forty Years to the Yeredor Decision: The Right to Political Participation*, 22 MEHKEREY MISHPAT (Bar-Ilan University Law Review) 327–383 (2006) [Hebrew]
32. Barak Medina, *Critical Evaluation of the Provisions on Impossibility and Frustration of Contract in the Proposed Israeli Civil Code*, 36 MISHPATIM 453–497 (Hebrew University Law Review) (2007) [Hebrew]
33. Barak Medina, *Enhancing Freedom of Religion through Public Provision of Religious Services: The Israeli Experience*, 39(2) ISRAEL LAW REVIEW 127–157 (2006);
34. Barak Medina and Ilan Saban, *On the Freedom of a Knesset Member to Oppose the Occupation (following H CJ 11225/03 Beshare v. AG)*, 37 MISHPATIM (Hebrew University Law Review) 219–251 (2007) [Hebrew]
35. Yoav Dotan and Barak Medina, *Legal Aspects of the Privatization of the Supply of Goods and Services*, 37 MISHPATIM 287–347 (Hebrew University Law Review) (2007) [Hebrew]
36. Barak Medina, *Four Myths about Judicial Review (In Response to Robert Bork's and Richard Posner's Criticism of Aharon Barak's Judicial Activism)*, 3 DIN UDVARIM 399–426 (Haifa University Interdisciplinary Law Review) (2007) [Hebrew]
37. Ofer Grosskopf and Barak Medina, *Regulating Contract Formation: Pre-Contractual Reliance, Sunk Costs, and Market Structure*, 39 CONNECTICUT LAW REVIEW 1977–2032 (2007)
38. Ofer Grosskopf and Barak Medina, *Drennan Revisited: Rationalizing Implied Irrevocability of Price Offers*, 3 REVIEW OF LAW AND ECONOMICS 231–261 (2007)
39. Ehud Guttel and Barak Medina, *Less Crime, More (Vulnerable) Victims: The Distributional Effects of Criminal Sanctions*, 3 REVIEW OF LAW AND ECONOMICS 407–435 (2007)

40. Ofer Grosskopf and Barak Medina, *A Revised Economic Theory of Disclosure Duties and Break-Up Fees in Contract Law*, 13 STANFORD JOURNAL OF LAW, BUSINESS & FINANCE 148–187 (2007)
41. Barak Medina, *A Response to Richard Posner's Criticism of Aharon Barak's Judicial Activism*, 49 HARVARD INTERNATIONAL LAW JOURNAL ONLINE 1–9 (2007)
42. Eyal Zamir and Barak Medina, *Law, Morality, and Economics: Integrating Moral Constraints with Economic Analysis of Law*, 96 CALIFORNIA LAW REVIEW 323–391 (2008)
43. Ofer Grosskopf and Barak Medina, *Remedies for Wrong Preliminary Injunctions: The Case for Disgorgement of Profits*, 32 SEATTLE UNIVERSITY LAW REVIEW 903–941 (2009)
44. Barak Medina and Ilan Saban, *Human Rights and Risk-Taking: On Democracy, Ethnic-Profiles and the "Limitation Clause" (following the Decision on the Validity of the Citizenship and Entry into Israel Law)*, 39 MISHPATIM 47–113 (Hebrew University Law Review) (2009) [Hebrew]
45. Barak Medina and Dror Vagshal, *Demonstrations in Front of Private Homes*, 2 HUKIM (Hebrew University Journal on Legislation) 197–254 (2010) [Hebrew]
46. Barak Medina, *Constitutional Limits to Privatization: The Israeli Supreme Court Decision to Invalidate Prison Privatization*, 8 INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 690–713 (2010)
47. Eyal Zamir and Barak Medina, *Law, Economics, and Deontological Morality*, 41 MISHPATIM 439–453 (Hebrew University Law Review) (2011) [Hebrew]
48. Barak Medina, *The No-Delegation Doctrine—A Reply to Dotan and Sapir*, 42 MISHPATIM (Hebrew University Law Review) 449–479 (2012). [Hebrew]
49. Barak Medina, *On "Infringements" of Human Rights and the "Proper Purpose" Requirement (following Aharon Barak, Proportionality—Constitutional Rights and their Limitations)* 15 IDC LAW REVIEW 281–316 (2012). [Hebrew]
50. Eyal Zamir and Barak Medina, *Law, Economics, and Morality: Response to Critiques*, 3 JERUSALEM REVIEW OF LEGAL STUDIES 91–106 (2012).
51. Barak Medina, *Judicial Supremacy and Delayed Judicial Review—Comment to Sandberg*, 11 INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 771–778 (2013).
52. Barak Medina, *Foundational Originalism*, 5 JERUSALEM REVIEW OF LEGAL STUDIES 1–16 (2013)
53. Barak Medina, Shlomo Naeh, and Uzi Segal, *Ranking Ranking Rules*, 10 REVIEW OF LAW AND ECONOMICS 73–96 (2013)
54. Barak Medina, *Ethnic Profiling is Discriminatory even if it is Efficient (Following Floyd v. City of New York)*, HUMAN RIGHTS CASE NOTES (2013)
55. Eyal Zamir, Barak Medina, and Uzi Segal, *Who Benefits from the Uniformity of Contingent Fee Rates?* 11 REVIEW OF LAW AND ECONOMICS 357–388 (2014)
56. Barak Medina, *The Legal Protection of the Right to Live in Dignity*, 14 LABOR LAW JOURNAL 227–262 (2015) [Hebrew]
57. Barak Medina, *Academic Freedom—Between Law and Ethics (Book Review)*, 53 HA'PRAKLIT (Israel Bar Association Law Journal) 559–570 (2015)
58. Barak Medina and Uria Beeri, *Minority Position and Collective Responsibility: On the Freedom of Speech of Cabinet Members* 8 MA'ASEI MISHPAT 81–94 (2017) [Hebrew]
59. Barak Medina, *The Right to Equality in the Israeli Supreme Court*, 17 MISHPAT U'MIMSHAL (Haifa University Law Review) 63–146 (2016) [Hebrew]

60. Barak Medina and Hagar Segev, *Conflict of Rights: Vertical vs. Horizontal Balancing Tests*, 46 MISHPATIM (Hebrew University Law Review) 529–597 (2017) [Hebrew]
61. Barak Medina, *Domestic Human-Rights Adjudication in the Shadow of International Law: The Status of Human Rights Conventions in Israel*, 50 ISRAEL LAW REVIEW 331 (2017)
62. Barak Medina and Asor Watzman, *The Constitutional Revolution or Human-Rights Revolution? The Constitutional Basis of “Institutional” Norms*, 40 IYONEY MISHPAT 595–662 (Tel-Aviv University Law Review) (2018). [Hebrew]
63. Adam Shinar, Barak Medina, Gila Stopler, *From Promise to Retrenchment? On the Changing Landscape of Israeli Constitutionalism*, 18 International Journal of Constitutional Law (ICON) 714–729 (2020)
64. Barak Medina, *The Unintended Consequences of Prohibiting Advocacy of Hatred and Regulating Campaign-Finance: The Weakening Status of Freedom of Speech in Israel*, 18 International Journal of Constitutional Law (ICON) 804–820 (2020)
65. Barak Medina, *Does Israel have a Constitution? On Formal and Liberal Democracy*, 44 IYONEY MISHPAT 5–48 (Tel-Aviv University Law Review) (2021) [Hebrew]
66. Barak Medina, *Judicial Review of Legislation outside the High Court of Justice*, \_ MISHPATIM \_ (Hebrew University Law Review) (forthcoming)
67. Barak Medina, *The Constitutional Identity of the State of Israel, the Right to Equal Participation in Decision-Making and the Legal ‘Reform’*, MISHPAT U’MIMSHAL (Haifa University Law Review) (forthcoming) [Hebrew]
68. Barak Medina and Ofra Bloch, *The Conflict over Israel’s National Identity*, \_ ISRAEL LAW REVIEW (forthcoming)
69. Lucian Bebchuk and Barak Medina, *Judicial Review of the Israeli Legal Reform*, IYONEY MISHPAT FORUM (Tel-Aviv University Law Review Forum) (forthcoming) [Hebrew]
70. Barak Medina and Yair Sagi, *Denying Judicial Review of the “Reasonableness of a Decision.” On Unlimited Government*, ICON-S IL (forthcoming)
71. Barak Medina, *Legal Challenges of Mass Demonstrations: The Case of Israel*, 2024 JAHRBUCH DES ÖFFENTLICHEN RECHTS (Yearbook on Public Law) (forthcoming)