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Short Bio

Isaac Shai Herzog is a faculty member at The Ono Academic College School of Law and researcher in the field of law. He received his LL.M & J.S.D. from Columbia Law School (Stone scholar, Fulbright scholar, respectively). He also has extensive experience in the practice of law, though in the past years he focused on research alone.

Courses: administrative law, administrative contracts, public law, regulation, seminar in administrative contracts, seminar in public law.

Herzog's practice: focused primarily on administrative law, government acquisition agreements, government subsidies, contracts and constitutional law.

Research: Fields of interest include: American constitutional law, constitutional interpretation, legal interpretation, the nature of legal and constitutional rights, balancing tests

in constitutional adjudication, the judicial text, problem-solving and alternative processes, and the Mediterranean gas reserves.

Selected Publications by Discipline

A). Constitutional Law Comparative Constitutional Law & Political Science

When Structure Speaks

When Structure Speaks: a Comparative Study of Apex Courts 62-3 COLUMBIA J OF TRANSNATIONAL LAW 637 (2024).

An earlier version of the paper led Arend Lijphart added an addendum to the recent condition of his seminal Pattern of Democracy accrediting an earlier draft of When Structure Speaks. *See* AREND LIJPHART, PATTERNS OF DEMOCRACY: GOVERNMENT FORM AND PERFORMANCE IN THIRTY-SIX COUNTRIES 223 (2012) (FOR the accreditation, *see supra*, at 224.

The paper was presented at a joint Columbia University School of Law & OAC Faculty of Law conference on Legal Positivism, Democracy, and Constitutional Interpretation and benefited from the advice and comments of Arend Lijphart, Jeremy Waldron, Gordon S. Wood, Michal Dorf, Amichai Cohen, Jon Elster, and Ken Himma.

The Vanishing Trump? American Constitutional Rights in Comparative Perspective (forthcoming). This paper explores to what extent a significant difference is presently manifest between American and German Constitutional Rights adjudication. The paper benefited, *inter alia*, from comments of colleagues at the Society & Law 2026 Conference, at an OAC School of Law seminar, and ongoing correspondence and conversations with American constitutional law specialists.

The Constitutional Revolution

The Constitutional Revolution in Israel: a Textual Analysis, 9 Law's Forum (Kiryat Hamishpat) 203-262 (2011) (in Hebrew). This was the first study that noted that the Constitutional Revolution aimed not only at subjecting statutes to judicial review but also at subjecting *constitutional amendments* to judicial review.

Panel Setting

Panel Setting in Constitutional Interpretation 9 Law's Forum (Kiryat Hamishpat) 203-262 (2011) (in Hebrew). This was the first study that noted the multifaceted significance of plenary sessions in constitutional adjudication. Additionally, more generally, the paper was one of the first studies that noted that the growing gap between structure and emerging authority, e.g., the composition and operation of the Israeli Supreme Court have not been adapted following the constitutional revolution. Recently, the issue of panel setting triggered an unprecedented conflict within the Supreme Court amongst the justices over this particular point.

Another noteworthy aspect are several jurisprudential questions addressed, which in spite of the centrality are quite often overlooked, e.g., does the authority of constitutional interpretation stem from the arbiter's Hercules' qualities, as Ronald Dworkin's put it? Or does interpretive authority stem also from the collegial composition of the panel?

B). Law and Literature & Problem-solving Adjudication

A Problem-solving Opinion? (Forthcoming). Therapeutic and problem-solving processes keep gaining momentum, however, the judicial opinion is most commonly not suited to attain problem-solving objectives, for both principled and practical reasons.

The paper suggests that the problem-solving potential of the judicial opinion is much greater than commonly presumed, particularly in unique circumstances, such as the the landmark gas deal opinion, the test case at the focal point of the paper.

A close reading of the opinion reveals that most of the text aims at resolving a complex problem beneath the surface of the concrete controversy.

This paper benefited from the comments of participants at an OAC School of Law faculty seminar and the feedback Prof. Michal Alberstein, who commented on the paper.

C). Biblical & Talmudic Studies

Saturday Rules on Friday?! A Critical Analysis (free translation) 10 Magdal 35 (Bar-Ilan affiliated Talmudic Journal) (winner of the Aharonovitz Prize).