

Table of Contents

<i>Acknowledgements</i>	v
<i>List of Contributors</i>	xi
<i>Table of Cases</i>	000
<i>Table of Legislation and Documents</i>	000
1. Introduction: Israeli Constitutional Law at the Crossroads <i>Gideon Sapir, Daphne Barak-Erez and Aharon Barak</i>	1
Part 1 Towards a Full-Fledged Constitution	
2. Why a Constitution – in General and in Particular in the Israeli Context? <i>Gideon Sapir</i>	9
3. The Right to Judicial Review: The Israeli Case <i>Alon Harel</i>	25
4. The Purpose of the Israeli Constitution <i>Ariel L Bendor</i>	41
5. Consensus, Dissensus, and Constitutionalism <i>Sanford Levinson</i>	59
Part 2 Models of Judicial Review in Israeli Constitutional Law	
6. Majestic Constitutionalism? The Notwithstanding Mechanism in Israel <i>Tsvi Kahana</i>	73
7. Constitutional Adjudication and Political Accountability: Comparative Analysis and the Peculiarity of Israel <i>Yoav Dotan</i>	91
8. Justifying Judicial Review: The Changing Methodology of the Israeli Supreme Court <i>Joshua Segev</i>	105
9. The Democratic Case for Diffuse Judicial Review in Israel <i>Ori Aronson</i>	121
10. Constitutional Adjudication in Israel: Some Comments <i>Victor Ferreres Comella</i>	139
Part 3 Global Impacts on Israeli Constitutional Law	
11. The Use of Foreign Law in Israeli Constitutional Adjudication <i>Iddo Porat</i>	151

12. The Israeli Case of a Transformative Constitutionalism <i>Moshe Cohen-Eliya</i>	173
13. Proportionality in Israel and Beyond: Four Aspects <i>Margit Cohn</i>	189
14. Constitutional Law in an Age of Globalization <i>Vicki C Jackson</i>	205
Part 4 Balancing in Israeli Constitutional Law	
15. Constitutional Proportionality: (Appropriate) Guidelines <i>Mordechai Kremnitzer</i>	225
16. The Deficiencies of Balancing: Restricting Speech due to Offence to Feelings <i>Yaacov Ben-Shemesh</i>	239
17. Proportionality: Comparative Perspectives on Israeli Debates <i>Sujit Choudhry</i>	255
Part 5 'Unenumerated Rights' in Israeli Constitutional Law	
18. Human Dignity as a Central Pillar in Constitutional Rights Jurisprudence in Israel: Definitions and Parameters <i>Tamar Hostovsky Brandes</i>	267
19. The Inherent Authority of Judges in a Three-Track Democracy to Recognise Unenumerated Constitutional Rights: The Israeli Story of a Judicial Mission with No Ammunition <i>Sharon Weintal</i>	285
20. Perpetual Constitutional Moments: A Reply to Hostovsky Brandes and Weintal <i>David Fontana</i>	303
Part 6 Social Rights in Israel	
21. In Search of the Right to Health in Israeli Constitutional Law <i>Aeyal Gross</i>	311
22. The Fiscal Objection to Social Welfare Rights: A Closer Look <i>Amir Paz-Fuchs</i>	333
23. Constitutional Review of 'Eligibility Conditions' in Social Rights Litigation <i>Neta Ziv</i>	349
24. The New Consensus on Enforcing Social Welfare Rights: Comments on Three Papers <i>Mark Tushnet</i>	369

Part 7 Constitutional Rights and Private Law

25. Constitutional Rights and Private Law <i>Aharon Barak</i>	379
26. Human Rights in Private Law: Hybridization of the Balancing Tests <i>Michal Tamir</i>	401
27. Private Actors and Constitutional Rights <i>Stephen Gardbaum</i>	419

Part 8 Constitutional Rights and ‘State of Emergency’

28. The National Security Constitution and the Israeli Condition <i>Daphne Barak-Erez</i>	429
29. The Role of the Legislature in Determining Legitimate Responses to Security Threats: The Case of Israel <i>Barak Medina</i>	445
30. Of Law, Constitutions and Security <i>Adam Tomkins</i>	461

Part 9 Israel – ‘Jewish and Democratic’

31. Jewish and Democratic: Three Zionisms and Post-Zionism <i>Chaim Gans</i>	473
32. A Jewish Nation-State: A Discussion in Light of the Family Reunification Case <i>Aviad Bakshi and Gideon Sapir</i>	487
33. National Identity and Religion-State Relations: Israel in Comparative Perspective <i>Gila Stople</i>	503
34. The Dilemmas of Identity in a Jewish and Democratic State: A Comparative Constitutionalist Perspective on Bakshi and Sapir, Gans, and Stople <i>Susanna Mancini and Michel Rosenfeld</i>	517
<i>Index</i>	531