Expert Opinion

Name of Expert: **Dr. Michael Karyanni**
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I, the undersigned, Dr. Michael Karyanni, have been asked by the Seattle University Ronald A. Peterson Law Clinic to offer my legal opinion on the issues described below which are related to the First Amended Complaint in Civil Action No. C05-5192 that was filed to the United States District Court of the Western District of Washington, at Seattle.

I submit this opinion in lieu of testifying and I declare hereby that I know well that, for the purpose of Israeli or United States Criminal Law regarding sworn false testimony in Court, my opinion, signed by me, has the same effect as if I rendered a sworn testimony in Court.

My professional CV and list of publications is appended as **Appendix A** hereto.

In order to give the opinion, I have been presented by the aforementioned Legal Clinic with the following documents:

a. First Amended Complaint in Civil Action No. CV-05192-FDB *Corrie v. Caterpillar Inc.*
b. Original Complaint in Civil Action No. CV-05192-FDB *Corrie v. Caterpillar Inc.*
c. Defendant's Motion to Dismiss in Civil Action No. CV-05192-FDB *Corrie v. Caterpillar Inc.*
d. Opinion of Prof. Daniel More in Support of Defendant's Motion to Dismiss in Civil Action No. CV-05192-FDB *Corrie v. Caterpillar Inc.*
e. Statement of claim in C.C. (Haifa District Court) 371/05A *Corrie v. State of Israel*

The following is my expert opinion outlining the principal rules of personal jurisdiction under Israeli law and the applicable choice of law rule in torts under Israeli law with special reference to the West Bank and Gaza Strip:

A. General Overview of Personal Jurisdiction Doctrine under Israeli Law

1. Israeli law in respect of personal jurisdiction is based, to a large extent, on that of English common law. This originated from the period of the British Mandate when local legal doctrine was molded according to that of English law, especially in such fields as private international law (conflict of laws) and civil procedure. Accordingly, the basic principle guiding Israeli courts in determining whether they possess personal jurisdiction against the defendant is the existing procedure dealing with service of opening summons on the defendant. In functional terms, it can thus be said that if a defendant is served with the opening summons in compliance with the existing rules of service of process, then an Israeli court is considered to have personal jurisdiction over the defendant.

2. As a result of their common law origins, the Israeli rules of service of process on a defendant were also heavily influenced by notions of territorial sovereignty and the existence of effective sovereign power over the defendant's person. Therefore, one set of rules for service of process developed with respect to defendants present inside the territorial borders of the State of Israel and another set of rules developed with respect to defendants absent from the territorial borders of the State of Israel. If the defendant is physically present in Israel at the time he or she is served with the opening summons, then that is considered to be sufficient for establishing personal jurisdiction against the defendant in *in personam* actions. If the defendant happens to be an absent defendant, then a special, an rather complicated, procedure is to be undertaken seeking a special leave from the court for serving the opening summons in the country where the defendants happens to be present. This special procedure was devised given the fact that establishing jurisdiction against an absent defendant is something that runs against the notion of territoriality.[1]

3. The existing rules of service of process (also considered to be the rules for the service of the opening summons) are principally contained in the Rules of Civil Procedure, 1984. A supplementary body of law as to the discretion of courts when dealing with service of process under these rules has been produced by the Israeli courts, guided by the Supreme Court of Israel.

[1] *See* YOEL SUSSMAN, THE LAW OF CIVIL PROCEDURE 34-41 (Shlomo Levin ed., 7th ed., 1995)

4. With respect to the rules of service of process in the West Bank and Gaza Strip, an additional set of rules exist, the first is that of Rules of Civil Procedure (Service of Documents in the Administered Territories), 1969; and the second is contained in Emergency Order (Judea and Samaria and Gaza Strip – Jurisdiction over Offences and Judicial Assistance) (The Palestinian Authority Territories – Judicial Assistance in Civil Matters) 1999.[2] These legal instruments set out a special mode for service of process in the West Bank and Gaza Strip to parties that are present in these territories. The provisions of both of these instruments are not identical, given the change of status of some parts of the West Bank and Gaza Strip as a result of the Oslo Accords.

5. It is important to note that the West Bank and Gaza Strip are judicial units that are outside what Israeli law considers to be as Israel proper. This is also true for those parts of the West Bank and Gaza Strip that are not controlled by the Palestinian Authority (PA) (referred to under the Oslo accords as Area "A"), but are still controlled by the Israeli forces (IDF) (Area "B" which is under municipal control of the PA but security wise is still controlled by the IDF and Area "C" (containing Israeli settlements) controlled both in terms of local government and in terms of security by IDF).[3]

6. This note is of special importance to the rules of personal jurisdiction of Israeli courts (i.e. rules of service of process) since such rules apply only in respect of the territory of the State of Israel that does not include the West Bank and the Gaza Strip. In terms of Israeli principles of conflict of laws, thought the West Bank and the Gaza Strip (including Area "A") fall short of a sovereign state they are still considered to be separate judicial entities in which Israeli law does not apply nor are considered to be under the direct judicial control of Israeli courts (even in respect of Areas "B" and "C"). Ever since the occupation of the West Bank and the Gaza Strip in 1967 until present time they have been considered to be a separate judicial territory with a separate judiciary and a separate body of laws. (However, as indicated latter on this separateness is not complete).

7. Accordingly, under Israeli choice of law rules, the West Bank and Gaza Strip are considered to be judicial units the law of which can be applicable in an Israeli court if the relevant choice of law rule of the Israeli conflict of laws will consider the law of the West Bank or the Gaza Strip as the

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[2] *See generally*, Eli Natahn, "Israeli Civil Jurisdiction in the Administered Territories", 13 ISRAEL YEARBOOK ON HUMAN RIGHTS 90 (1983); Barcuh Bracha, "Service of Documents to the Administered Territories" 4 MISHPATIM 119 (1972-1973) (Hebrew); EYAL BENVINISTI, LEGAL DUALISM, THE ABSORPTION OF THE OCCUPIED TERRITORIES INTO ISRAEL 23 – 28 (1989); Celia Wasserstein Fassberg, "Israel and the Palestinian Authority; Jurisdiction and legal Assistance", 28 ISRAEL LAW REVIEW 318 (1994).

[3] *See e.g.*, C.A. 1432/03 *Yanouun v. Kara'an* (2004)

governing law (lex causea).[4] Similarly, an Israeli court can decline to exercise its personal jurisdiction over the defendant if it finds the courts of the West Bank or the Gaza Strip, or for that matter any other foreign court, as the more appropriate court for litigation.[5]

8. The impression from what has been stated so far with respect to the West Bank and Gaza Strip is one that implies the following: under Israeli conflict of laws these two territorial units are in essence two separate states each operating under a separate body of law and a separate judiciary. Indeed, even under Palestinian law itself, the laws applicable in the West Bank are not necessarily the same as those applicable in the Gaza Strip – given there different legal inheritance (the West Bank being under Jordanian rule (1948-1967) and the Gaza Strip being administered by Egypt (1948-1967) it was just natural that their legal system diverge.[6]

9. However, this impression is not all together accurate. The West Bank and Gaza Strip have not been treated as totally independent judicial units.

10. First, under Israeli law, the IDF Commander of the West Bank and Gaza Strip is considered to be the sovereign authority. Consequently, the military authorities have enacted legislation in the West Bank and Gaza Strip part of which amended exiting local laws, part of which added to the existing body of law new statutory schemes that in essence we replicates of Israeli legislation, and part of which was meant to apply to Israelis that settled in the West Bank and Gaza Strip and to them alone.[7]

11. Second, since Israel occupied the West Bank and the Gaza Strip (generally regarded by official Israeli terminology as the Administered Territories) it in fact enacted special legislation in respect of these separate judicial units that were genuinely different from the applicable legislation with respect

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[4] *See e.g.*, C.A. 6860/01 *Hamadeh v. HaMagar Hisraeli*, (2002). *See also* Celia Wasserstein Fassberg, "Israel and the Palestinian Authority; Jurisdiction and legal Assistance", 28 ISRAEL LAW REVIEW 318, 320 n. 8 (1994) ("[t]he existence of a separate legal system in the areas administered by Israel since 1967 [i.e. the West Bank and Gaza Strip] was recognized and formally maintained by Israel throughout. The law existing in the territories prior to the Israeli administration remained in force subject only to modifications by the Military Government."); C.A. 61/89 *Bank Hapoalim v. Dakas*, 44(i) P.D. 201 (1989).

However, this does not apply to East Jerusalem and the Golan Heights. These territories have been annexed to Israel by special legislation of the Israeli Parliament (Knesset) and are thus under full Israeli sovereignty, so at least from the point of view of Israeli conflict of laws.

[5] P.C.A. 4716/93 *The Arab Insurance Company v. Zrikat*, 48(iii) P.D. 265 (1994); C.A. 2705/91 *Abu-Ghachla v. The East Jerusalem Electric Co.* 48(i) P.D. 554 (1993); C.A. 300/84 *Abu Attiyah v. Arabtisi* 39(i) P.D. 365 (1985).

[6] Celia Wasserstein Fassberg, "Israel and the Palestinian Authority; Jurisdiction and legal Assistance", 28 ISRAEL LAW REVIEW 318, 320 n. 8 (1994)

[7] *See* DAVID KRETZMER, THE OCCUPATION OF JUSTICE, THE SUPREME COURT OF ISRAEL AND THE OCCUPIED TERRITORIES 19, 61-65 (2002).

to foreign states. After all, the controlling power in the West Bank and Gaza Strip was the IDF, an Israeli organ.[8]

12. Third, as a result of the Oslo Accords special provisions were added to the Israeli body of conflicts rules that became necessary in light of the internal division of the West Bank and the Gaza Strip into three sub-divisions: Areas A, B and C.[9]

13. The doctrine of *forum non conveniens* and the doctrine of *forum conveniens* are also part of the Israeli law of personal jurisdiction. A defendant served with the opening summons while present inside of Israel (or the West Bank and Gaza were service according to the 1969 Rules when applicable) can move for the stay of the proceedings based on the forum non conveniens doctrine, thereby bringing the Israeli court to decline exercising a personal jurisdiction power it duly posses. Additionally, one basic condition for granting leave to serve the opening summons outside of Israel when the defendant happens to be absent from Israel is the plaintiff proving to the Israeli court that it also happens to be the *forum conveniens* for litigation. If the plaintiff fails in this endeavor leave for service outside of Israel can be denied, or if granted *ex parte*, be set aside, thereby denying the Israeli court personal jurisdiction over the absent defendant.

Summary: Territorial notions of sovereignty, notions that were originally inherited from English common law, still heavily influence Israeli rules of personal jurisdiction. As a result there exists a basic distinction between a defendant that is present inside of Israel at the time of conducting service of the opening summons and a defendant that is absent from the territory of the state of Israel, in which case a special course of procedure is to be undertaken. The West Bank and Gaza Strip are principally considered as independent judicial units for personal jurisdiction, forum non conveniens and choice of law purposes, though certain Israeli regulations have worked to bring such territories under special rule.

B. The Ordinary Rules of Personal Jurisdiction under Israeli Law

1. As stated earlier the rules defining the personal jurisdiction of Israeli courts are to a large part the existing civil procedure rules with respect to the service of process. These rules make a basic distinction between two fact predicates when choosing the proper procedure for serving the opening summons, i.e. the process by which civil legal action is initiated. The first is when the defendant is personally present inside of territory of the State of Israel and the second is when the defendant is absent from

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[8] See C.A. 179/77 *Bank Hapoalim v. Hirshberg*, 32(i) P.D. 617; P.C.A 61/89 *Bank Hapoalim v. Dakas*, 44(i) P.D. 201 (1989).

[9] The implications of the Oslo Accords have been widely discussed, *see e.g.* GEOFFREY R. WATSON, THE OSLO ACCORDS, INTERNATIONAL LAW AND THE ISRAELI-PALESTINIAN PEACE AGREEMENTS (2000).

such territory. It should be mentioned in this respect that Israeli personal jurisdiction doctrine follows another common law personal jurisdiction characteristic, namely that in assessing personal jurisdiction reference is initially made to the identity and the whereabouts of the defendant and not those of the plaintiff.

Service on a Present Defendant

2. In the case the defendant is personally present inside of Israel, an Israeli court will have personal jurisdiction over the defendant if the defendant is served with the opening summons during such presence. This form of personal jurisdiction conforms, as it is indeed derived from, the common law rule of transient jurisdiction, or more commonly known in the U.S. as "tag" jurisdiction. (*Burnham v. Superior Court of California*). Accordingly, there needs to be no other contact with Israel in order to establish jurisdiction under this heading, other than the presence of the defendant in the state of Israel at the time service is conducted. And if jurisdiction is established, it is of the general jurisdiction type, meaning that it applies to any personal cause of action the plaintiff has against the defendant. This type of jurisdictional authority could be relevant in assessing the personal jurisdiction by an Israeli court against Caterpillar Inc., if Caterpillar Inc. happens to have a branch office operating in Israel. This branch office could be identified with Caterpillar Inc. itself, thereby making service on the branch office as service on Caterpillar Inc..

Service on a "Representative"

3. In addition to serving the defendant personally while present in Israel, there are a number of other provisions in the Rules of Civil Procedure allowing service in Israel on someone in lieu of the defendant, which service has the same effect as if it were made on the defendant personally. Such service is valid for personal jurisdiction purposes even if the defendant happens to be absent from the state of Israel. What matters is that service is made on the defendant's "representative" while the latter is present in Israel, and that under the rules of civil procedure such representation is of the kind that the Rules consider as sufficient.[10]

These instances include:

(1) service on the defendant's attorney (unless the power of attorney specifically denies or prohibits the attorney from accepting service on behalf of the defendant) (CPR 477);
(2) service on a person with special authorization to accept process on behalf of the defendant (CPR 478)
(3) service on the manager or the agent of the defendant's business where the suit is related to such business and the defendant does not live in the judicial jurisdiction (CPR 482);

[10] *See* STEPHEN GOLDSTEIN & ELISHEA HACOHEN, CIVIL PROCEDURE: ISRAEL § 99 (1994)

(4) service on the manager of the defendant's real property in a suit related to such to such property where it is impossible to serve the defendant personally (CPR 483); and
(5) service at the defendant's home on an adult member of his family, if the defendant cannot be found (CPR 481).

4. Most probably, it is the second instance that could be relevant in assessing personal jurisdiction against Caterpillar Inc. by an Israeli court. If Caterpillar Inc. happens to operate inside of Israel not through a branch office of its own organization (in which case service will be governed by the transient jurisdiction rule) but through a locally incorporated representative, dealership or agency, then service can be possible on such a representative in lieu of service on Caterpillar Inc. itself, if the cause of action is related to such representation. In such case the court issuing the process will be considered under Israeli law with proper personal jurisdiction against Caterpillar Inc. However, to able to assess the applicability of this option, more information is needed in respect of the nature and kind of representation has in Israel.

Forum Non Conveniens

5. Still, even if an Israeli court will have personal jurisdiction to adjudicate a given dispute under the aforementioned rules this does not mean that the court will necessarily exercise such jurisdiction. The defendant can bring to a stay of the proceedings if the defendant is able to persuade the Israeli court that there is another forum, which under the circumstance is clearly the appropriate forum for conducting litigation. This could be done under the *forum non conveniens* doctrine which is also part of Israeli conflicts law.[11]

6. In conducting the *forum non conveniens* inquiry the Israeli court will take into consideration the various contacts of the parties and the underlying cause of action to Israel as well as to the suggested alternative forum and assess which of the two is clearly the one with the majority of contacts, or has the most substantial connection, or is simply the "natural" forum for conducting litigation.

7. Contacts that have figured centrally in a forum non conveniens inquiry conducted by an Israeli court with respect to disputes that were also tied to the Occupied Territories of the West Bank and Gaza Strip were:
    - the place where the events bringing rise to the cause of action occurred; in one Supreme Court decision dealing with a tort cause of action that occurred in the Occupied Territories where both parties were local Palestinian resident of the Occupied Territories it was also determined

[11] *See* Stephen Goldstein, "Israel" in DECLINING JURISDICTION IN PRIVATE INTERNATIONAL LAW 259 (James J. Fawcett ed., 1995).

that this contact could be of a pivotal nature in the forum non conveniens assessment;[12]

- place of domicile and or normal place residents of the concerned parties, and or the place of conducting business related to the cause of action by the concerned parties;
- place of residence of potential witnesses and location of evidence, and ease in producing such evidence before each of the contending forums;[13]
- party expectations as to where litigation is to take place.

8. Factors that have been characterized as factors of a "public" nature have also been taken to be relevant in the forum non conveniens inquiry under Israeli law.[14] Such factors relate to the prospected burden the litigation will have on the local judiciary, the interest of the local forum to adjudicate the case and the difficulties associated with the choice of law and the possible need to apply foreign law.[15] However, Israeli law has questioned whether such public factors should be accorded equal weight to that of the "private" factors mentioned in section 7. This has been resolved by concluding that an Israeli court can take public factors into consideration when the private factors are in equilibrium, meaning that they do not clearly point to one of the contending forum as being the natural forum for litigation.[16]

9. One other important aspect of the forum non conveniens inquiry as adopted by Israeli courts is that the inquiry is essentially optional; namely that only if the defendant has raised the forum non conveniens in a timely fashion after the court was seized with the action will the court consider applying the doctrine. Accordingly, if the defendant has agreed in advance to litigate the pending dispute before the Israeli courts, such a defendant is precluded to argue that the Israeli forum is a forum non conveniens.[17]

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[12] *See* P.C.A. 4716/93 *The Arab Insurance Company v. Zrikat*, 48(iii) P.D. 265, 272 (1994).

[13] It should be noted that in the Supreme Court decision in *HaGavis v. The Lockformer*, 52(i) P.D. 109, the court seemed to think that given the facilities provided today by modern communication and transportation services such factors should be given less weight, something that also implies the limited role the *forum non conveniens* is to play in modern time. However, this trend was criticized, see Michael Karayanni, , and the Supreme Court itself went against the implication made in the aforementioned HaGavis decision in at least two latter cases, *see*

[14] This categorization was taken from the U.S. Supreme Court decision in Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947).

[15] See Stephen Goldstein, "Israel" in DECLINING JURISDICTION IN PRIVATE INTERNATIONAL LAW 259, 264-265 (James J. Fawcett ed., 1995).

[16] See P.C.A. 4716/93 *The Arab Insurance Company v. Zrikat*, 48(iii) P.D. 265 (1994); C.A. 2705/91 *Abu-Ghachla v. The East Jerusalem Electric Co.* 48(i) P.D. 554 (1993). On the categorization, *see* Michael M. Karayanni, "The Myth and Reality of a Controversy: 'Public Factors' and the Forum Non Conveniens Doctrine", 21 WISCONSIN INT'L L.J. 327 (2003).

[17] *See* Ra'ad v. Chai, 40(ii) P.D. 453 (1986); Mutli-lock v. Rav-bariachn 36(iii) P.D. 272 (1982).

10. As to the possibility that an Israeli court will not exercise its jurisdiction under the forum non conveniens doctrine, if and when Caterpillar Inc. is sued before an Israeli court, and an Israeli court will find itself to have personal jurisdiction under the aforementioned rules, it is not possible for me to assess at the moment. The documents I reviewed, have not disclosed any facts as to the place of residence of potential witnesses and location of evidence. Such factors are of paramount value under Israeli law, since as mentioned earlier private factors, as opposed to the public factors are regarded to be the leading factors in the forum non conveniens inquiry.

11. Professor More has indicated in his expert opinion that "[s]o far the State of Israel have [sic] never denied jurisdiction in cases of Palestinians and other injured in Judea Sameria and the Gaza Strip, suing the State of Israel in Israeli courts. They have also refrained from claiming form non conveniens against such claims." In principle I agree, but from what is indicated in the claim, the action submitted by the representatives of the estate of Rachel Corrie and the other Palestinian family representatives, was not submitted against the State of Israel, but against Caterpillar Inc. This makes all of the concerned parties to this action as foreign parties as far as an Israeli court is concerned. From the extensive research I have conducted on the forum non conveniens doctrine,[18] my impression was that when all parties of the action are foreign to the forum seized with the action and the cause of action arose outside the forum state, most chances are that the forum seized will decline to exercise its jurisdiction. This is the pattern in cases submitted by Palestinian plaintiffs against Palestinian defendants with respect to tort actions that arose in the West Bank and Gaza – most of which were stayed on forum non conveniens grounds.[19] However, given the fact that most of the private factors in this case are unclear to me, I am unable to reach a definite conclusion and also unable to assess whether the public factors can play a role, and if so in what direction they will point to.

12. In addition, I am inclined to think that Professor More might want to reconsider his assessments (sections 16-21 to his expert opinion) as to the willingness of Israeli courts to entertain tort action filed by plaintiffs that were injured by actions committed by the Israeli security forces in the Occupied Territories given the fact that the Israeli Knesset has just enacted a law that makes it possible to relieve the State of Israel from tort liability in such cases. It is also important to note that the law applies retrospectively with respect to causes of action that based on actions that took place after September 29, 2000, unless an action with respect to such a cause of action has been initiated and have reached the stage of trial

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[18] *See* MICHAEL KARAYANNI, FORUM NON CONVENIENS IN THE MODERN AGE (2004).

[19] *See e.g.*, P.C.A. 4716/93 *The Arab Insurance Company v. Zrikat*, 48(iii) P.D. 265 (1994); C.A. 2705/91 *Abu-Ghachla v. The East Jerusalem Electric Co.* 48(i) P.D. 554 (1993); C.A. 300/84 *Abu Attiyah v. Arabtisi* 39(i) P.D. 365 (1985)

itself. The law is called, Law of Civil Wrongs (State Responsibility) (Amendment No. 7), 2005.

Service Outside of Israel

13. If the defendant happens to be absent from the state of Israel, the plaintiff can still have an Israeli court acquire personal jurisdiction against such a defendant under special rules dealing with service of process outside of Israel (CPR 500-503). These rules are in effect the Israeli version of a long-arm statute enacted by a state legislature in the U.S. the purpose of which is to define under what circumstances a local forum can acquire personal jurisdiction against an absent defendant. However, unlike the American practice under Israeli law the plaintiff must acquire a special leave from the court ceased with the action before effectuating process on the absent defendant. This practice was transplanted from English law. For such a leave to ultimately cause the Israeli court to acquire personal jurisdiction against the absent defendant, the plaintiff must carry the burden of proving to the Israeli court three major cumulative elements: the first is a nexus or a contact between the defendant or the underlying cause of action and the state of Israel that is specifically listed in Rule 500. The second is that the plaintiff has, at least, a *prima facie* case, or a good arguable case on the merits. The third is that under the circumstances Israel is a *forum conveniens* for litigation. In addition, leave can be denied if the court finds that the plaintiff, when filing the petition for the leave to serve process outside of Israel, did not file such a petition in a timely fashion or when filing the petition plaintiff concealed some important facts.[20]

14. The nexuses and contacts contained in the list of Rule 500 are:
    (1) a remedy is requested against a defendant who is domiciled or considered an ordinary resident of the State;
    (2) the subject of the action is real property situated in the State
    (3) a petition is made for interpreting, amending, canceling or execution a bill, a will, a contract or an obligation in respect of real property situated in the State;
    (4) the claim is made to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain any other remedy in respect of the breach of a contract, being (in either case) a contract which -
        (a) made within the State
        (b) was made by or through an agent trading or residing within the jurisdiction on behalf of a principle trading or residing out of the jurisdiction; or
        (c) is by its terms, or by implication governed by English law.

[20] See STEPHEN GOLDSTEIN & ELISHEA HACOHEN, CIVIL PROCEDURE: ISRAEL § 102 (1994)

(5) the claim is brought in respect of a breach committed within the State – and it is irrelevant where the contract was made – even if such a breach was preceded by another breach or simultaneously occurred with another breach both of which mad it impossible for the contract to be acted upon in the State;
(6) an injunction is sought ordering the defendant to do or refrain from doing anything within the State, or to do away with a nuisance present within the State, whether or not damages are also claimed in respect thereof);
(7) the claim is based on an act or an omission committed within the State;
(8) a claim is made for the execution of a foreign judgment as defined under the Enforcement of Foreign Judgments Law, 1958 or a arbitral award as defined under the Arbitration Law, 1968;
(9) a claim is made to rescind an arbitral award as defined in the Arbitration Law, 1968 and issued against an Israeli domiciliary, if the court is convinced that the claimant will not receive a just treatment in the country where the award was issued or in the country according to which's law the award was issued;
(10) a claim is made under the Jurisdiction to Dissolve Marriages (Special Cases) Law, 1969;
(11) the party outside the jurisdiction is a necessary or a proper party to a claim filed against a person duly served within the State.

15. When establishing jurisdiction under Rule 500, an Israeli court is required to assess such a jurisdictional capacity with caution. As indicated earlier, the fact that an Israeli court is required to extend its personal jurisdiction over a defendant that is absent from Israel, runs against the notion of territorial sovereignty, that has been taken to lie behind personal jurisdictional theory as adopted by Israeli court. [21] As a result, the Israeli Supreme court has noted that this caution practically means that if the personal jurisdiction analysis under Rule 500 leaves the court with a doubt as to whether personal jurisdiction exists or not, then the defendant is the one that should benefit from it. Additionally, it has also been provided that the list of contacts in Rule 500 is a closed list. In other words, an Israeli court cannot add additional contacts to the list of contacts provided in Rule 500, even if it thinks that such an addition is necessary.[22]

16. Therefore, if an Israeli court should consider establishing jurisdiction against Caterpillar, Inc. according to Rule 500, then all of the aforementioned condition are to be satisfied, the burden of proof being in principal on the plaintiff. And so, once again it becomes essential for the Israeli court to consider whether it is a forum conveniens, and related to the same factors indicated before. In addition, an Israeli court would need

[21] *See* YOEL SUSSMAN, THE LAW OF CIVIL PROCEDURE 40 (Shlomo Levin ed.7th ed., 1995)
[22] *See* C.A. 98/67 *Liebhar v. Gazit Ushaham*, 21(ii) P.D. 243 (1967).

to determine whether there is a good arguable case against Caterpillar, Inc. in Israel.

C. Personal Jurisdiction of Israeli Courts in respect of Disputes Filled Against Parties Present in the West Bank and Gaza Strip

1. In 1969, the Israeli Minister of Justice issued what was called Rules of Civil Procedure (Service of Documents in the Administered Territories), 1969. (These rules were supplemented by an order issued by the Israeli commanding officer in the west Bank and Gaza Strip making it possible to serve process issued by Israeli courts inside the territories.) This set of Rules first sought to define what it termed as "the Area" (*HaAizor*), being that as "any territory held by the Israel Defense Forces". This provision was followed by another rule, Rule 2(a), providing that if an action is filed before an Israeli court and a party seeks to serve a document on a person in "the Area" then such service is to be performed according to the rules of civil procedure governing service inside of Israel.[23] Since according to these latter rules, service of process on a person present in Israel could be made in a direct fashion, i.e. by service of process on the defendant's person without the need of any leave from court, it was also held to be the case with respect to a person present within the West Bank and Gaza.[24] In essence what this meant was that any person present in the West Bank and Gaza Strip came to be under the personal jurisdiction of an Israeli court, notwithstanding the fact that the West Bank and the Gaza Strip were never annexed to Israel. This form of jurisdictional capacity is of the general jurisdiction type, which means that personal jurisdiction exists with respect to any personal cause of action brought against the defendant as long as service of the opening summons issued by the Israeli court is served on the defendant while he or she happened to be present in the "Area".

2. The personal jurisdiction indicated here is that of Israeli courts in respect of defendants that happen to be present in the "Area" at the time service of the opening summons is made. The rules governing personal jurisdiction of Palestinian Courts operating in the West Bank and Gaza Strip, both

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[23] The rule provided:

(a) When an action has been filed in a Court or an application for the execution [of a court judgment] has been filed to the Execution Office, and the Court, the Execution Office or any party to the suit seek to serve a document on person present in the Area, or if a Public Notary seeks to serve a document in the Area, such document shall be served in the manner prescribed for the service of process under Section 6 of Chapter 12 or Sections 1, 2 and 3 of Chapter 27 to the Rules of Civil Procedure, 5723-1963, as the case may be.

(b) The document served under subsection (a), shall be accompanied with an Arabic translation thereof

[24] P.C.A. 55/71 *Abu Al Khir v. "Hoprim"*, 25(ii) P.D. 13 (1971).

before and after the Oslo Accords are genuinely different. I do not have the proper expertise to assess this jurisdictional authority, for it requires an expertise in the body of law in effect in the mentioned territories, which as stated earlier is not that of Israel. However, it is common knowledge in Israel that jurisdiction of an Israeli court to deal with a certain case can exist in concurrence with the jurisdiction of a Palestinian court operating in the Occupied Territories.[25]

3. However, in many cases that came under the personal jurisdiction of Israeli courts in accordance with the rule states in Section C.1, Israeli courts exercises their discretion and stayed the action based on the *forum non conveniens* doctrine, so at least was the trend when all parties to the actions were Palestinians and the cause of action originated in total in the West Bank or the Gaza Strip. Cases in which the action was not stayed were, when the court deemed the case to have a "substantial Israeli element", like the plaintiff being an Israeli, domiciliary or resident.[26]

D. Personal Jurisdiction of Israeli Courts in respect of Disputes Filled Against Parties Present in the West Bank and Gaza Strip in light of the Oslo Accords

1. As already mentioned above, in the wake of the Oslo Accords, the West Bank and Gaza Strip were divided into three categories: Area A, under full jurisdiction of the PA both in security and civil matters; Area B, where the civil authority was transferred to the PA while the security powers remained in the hands of the IDF; and Area C still controlled in all aspects by the IDF and the Israeli Civil Administration (with minor exceptions pertaining to personal jurisdiction over Palestinians).

2. Pursuant to the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip of September 28, 1995 a special order was enacted by the Israeli Minister of Justice: Emergency Order (Judea and Samaria and Gaza Strip – Jurisdiction over Offences and Judicial Assistance) (The Palestinian Authority Territories – Judicial Assistance in Civil Matters) 1999. Under the provisions of this order a special procedure of judicial assistance was composed facilitating the service of official documents originating in Israeli courts in the areas of the PA. Section 3 of this order prescribes that service of documents of an Israel court in the PA is to be handed to the Israeli official responsible for judicial assistance who will

[25] EYAL BENVINISTI, LEGAL DUALISM, THE ABSORPTION OF THE OCCUPIED TERRITORIES INTO ISRAEL 23 (1989).
[26] *See* C.A. 5118/92 *Al Taraifi Company v. Salaimih*, 50(v) P.D. 407.

forward the documents to the Palestinian counterpart who in turn will serve them on the intended party.

3. However, these provisions did not abolish the Civil Procedure Regulation of 1969 that enables service of process in what is defined as the "Area" in a direct manner. And since the judicial assistance channel has not been operational since the *Al-Aqas Intifada* broke out a questions that looms within the courts in Israel is whether the procedure of judicial assistance is of an exclusive nature or not.

4. Another question is whether Area A can still be considered as an "Area" governed by the IDF as defined in the 1969 Regulations.

5. On one occasion, the District Court of Haifa, speaking through its president. Micha Lindenstraous, today the Comptroller of the State of Israel, decided that service in the Area A, requires the defendant to seek a the leave of a court according to Rule 500. Such a ruling can be taken so as to state that as far as Israeli courts are concerned territories held by the Palestinian Authority are to be considered as territories held be a foreign state, at least for personal jurisdiction purposes.[27]

6. Another aspect of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip of September 28, 1995 worth mentioning is the jurisdictional limitations imposed by the agreement on Palestinian courts. The provisions concerning civil jurisdiction are contained in Article III of Annex IV of the Agreement. These provision are asymmetric in the sense that they sought to define, or rather limit, the Jurisdiction of Palestinian courts when an Israeli entity or individual is a party to the proceedings, but did not define nor limit the jurisdiction of Israeli courts when a Palestinian entity or individual is party to the action. Under the provisions of the aforementioned Article III, Palestinian courts were recognized as having civil jurisdiction against an Israeli party only in following cases cases: "when the subject matter of the action is an ongoing Israeli business situated in the Territory"; the subject matter of the action is real property located in the Territory"; the Israeli party "is a defendant in an action and has consented to such jurisdiction by notice in writing"; the Israeli party is a plaintiff who has filed an action in a Palestinian court". It has also been provided that "[t]he jurisdiction of the Palestinian courts and judicial authorities does not cover actions against the State of Israel including its statutory entities, organs and agents." The common denominator of these limitations imposed on the Palestinian courts is evidently when an action has an Israeli party.[28] However, when the action does not involve an

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[27] C.A. 452/00 *The Arab Bank – Ramallah Branch v. Machoul-Zreik* (2001). *See also* Celia Wasserstein Fassberg, "Israel and the Palestinian Authority; Jurisdiction and legal Assistance", 28 ISRAEL LAW REVIEW 318, 322 n.12 (1994)

[28] Israeli parties has been defined in Article III(4) as:

Israeli party, as the current action against Caterpillar, Inc., then the existing Article in the aforementioned Interim Agreement dealing with civil jurisdiction does not limit the jurisdiction of the Palestinian courts to deal with such an action. For it has been recognized that the aforementioned Interim Agreement "recognizes the legitimate existence of an independent fully functional legal system within the Palestinian Authority."[29] Thereby, reason gives to believe that in such cases where the agreement does not limit the jurisdiction of the Palestinian courts, then as far as the aforementioned Interim Agreement is concerned it is up to the Palestinian courts to define their own personal jurisdiction capacity.

E. Personal Jurisdiction of Israeli Courts in respect of Disputes Filled Against Foreign Parties Absent from the West Bank and Gaza Strip

1. In assessing the personal jurisdiction of Israeli courts against a foreign party, such as Caterpillar Inc., a party that has no presence either in Israel or the West Bank and the Gaza Strip (so at least I assume for purpose of this overview) recourse is to be made primarily to Rule 500 of the Rules of Civil Procedure. This provision takes cognizance only of contacts with the State of Israeli itself, as differentiated from the West Bank and Gaza Strip which as mentioned earlier are not considered to be part of the judicial unit of the State of Israel itself, but as separate judicial units. So when Rule 500 speaks of a contract made within the State of an act or an omission committed within the State reference is to the State of Israel proper, i.e. the territory of the State of Israel without the West Bank and Gaza Strip. Therefore, for an Israeli court to be able to have personal jurisdiction against Caterpillar Inc. (if it is to be regarded as absent from Israel or the West Bank), a contact between Caterpillar Inc. and the State of Israel itself is to be established under Rule 500. However, in such a case it will still be essential to satisfy all other conditions of Rule 500 as mentioned before.

F. Whether Israeli Courts are Prepared to Apply the Law of the West Bank and Gaza Strip?

(1) In principle the answer is in the affirmative. Ever since Israeli occupation of the West Bank and Gaza Strip these territories were considered to be as separate judicial units for choice of law purposes. The body of law that existed in both of these units was different from that that existed in Israel, though some enactment was similar and even identical.

"including registered companies of Israelis, conducting commercial activity in the Territory are subject to the prevailing civil law in the Territory relating to that activity..."

[29] Celia Wasserstein Fassberg, "Israel and the Palestinian Authority; Jurisdiction and legal Assistance", 28 ISRAEL LAW REVIEW 318, 320 (1994).

(2) On a number of occasions, the Israeli Supreme Court discussed the question whether the applicable law in a civil suit filled before an Israeli court (mainly a tort action) is that of the West Bank or that of Israel.[30] Applying the choice of law rules of the Israeli conflict of law, the Israeli Supreme Court (as well as courts of a lower status) found on some occasions that the applicable law is that of the West Bank and on other occasions has found the law of Israeli to be the applicable law.[31] All depended on the choice of law rule in the specific area of law. Up until recently the choice of law rule in tort actions was that of the most significant contact test, very similar to that contained in the American law Institute' Restatement (Second) on the Law of the Conflict of Laws. However, in a relatively recent decision the Supreme Court abolished this choice of law rule, adopting instead the rule designating the law of the place where the tort has been committed (lex loci delicti) as the governing law in torts. The court made an exception to this rule in cases where the place of the wrong is totally fortuitous in terms of its relationship to the state in which the wrong in effect took place.

(3) The case in which the guiding choice of law in torts has been determined is C.A. 1432/03 *Yanouun v. Kara'an*, handed down by the Israeli Supreme Court on September 1, 2004. In fact this case involved once again the question whether Israeli law or the law applicable in the West Bank is the governing law. The case dealt with a personal injury claim filed by a Palestinian employee of an Israeli corporation that operated a factory in a settlement area located in the West Bank. The Israeli employer who argued for applying West Bank law to the case, which was a Jordanian no fault workers compensation enactment under which the plaintiff will be entitled to a caped sum of 187,200 NIS (~40,000$) and the Palestinian plaintiff argued for the application of the Israeli law under which if fault is proven the plaintiff would have been entitled to an award in the sum of 1.4 million NIS (~300,000$). In devising the choice of law rule, the court adopted the lex loci delicti commissi rule to be Israel's choice of law rule in torts. However the court noted that, in exceptional and rare circumstances when the relationship between the place where the wrong has been committed and the wrong itself is fortuitous it is then that the court will need to apply the law of the state that has the most significant relationship to the wrong. In the *Yannoun* case itself the court found such an exception to exist, given the fact that the factory operated in a settlement area termed by the court as an Israeli "enclave".

(4) In the pending case against Caterpillar, Inc. it could be reasonably argued that if an Israeli court will consider the case, it might reach the conclusion that the governing law is the law were the alleged wrongs had taken place,

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[30] *See e.g.*, C.A. 6860/01 *Hamadeh v. HaMagar Hisraeli*, Takdin 2003(1) 506 (2003); C.A. 300/84 *Abu Attiyah v. Arabtisi* 39(i) P.D. 365 (1985)

[31] *See* C.A. 6860/01 *Hamadeh v. HaMagar Hisraeli*, Takdin 2003(1) 506 (2003)

(1) which from the documents I reviewed all seem to be either in the West Bank or in the Gaza Strip. Moreover, if alleged wrong is determined to be the selling of Caterpillar, Inc. products, then the place of wrong can be regarded as one that took place either in the U.S. or in Israel depending on the actual course of the transactions, details that I have no knowledge of. In all cases it will still need to be determined whether the exception will be applied.

I declare under penalty of perjury under the laws of Israel and the United States of America that the foregoing is true and correct.

Michal Karayanni

Appendix A

Michael Karayanni - Detailed cv

Personal Details

Name: Michael Mousa Karayanni

Home Address: Naveh Shalom - Wahat Al Salam

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

Tel: 972-2-588-2542

E-Mail: michaelk@mscc.huji.ac.il

Higher Education

1. 1990 – Bachelor of Laws (LL.B.), Bar-Ilan University, Ramat-Gan, Israel;
2. 1994 – Master of Laws (LL.M.), The George Washington University National Law Center, Washington, DC, USA. Thesis: "Forum-Selection Clauses and Public Policy: A Case Study of the Public Policy Doctrine", under the supervision of Prof. Ralf G. Steinhardt. Awarded the grade of "A";
3. 2000 - Doctor of Laws (LL.D.) *summa cum laude*, The Hebrew University of Jerusalem, Israel. Thesis: "The Influence of the Choice of Law Process on International Jurisdiction", under the supervision of Prof. Celia Wasserstein Fassberg;
4. 2003 - Doctor of Juridical Science (S.J.D.), University of Pennsylvania Law School, Philadelphia, Pennsylvania, USA. Thesis: "Forum Non Conveniens in the Modern Age: A Comparative and Methodological Analysis of Anglo-American Law" under the supervision of Prof. Geoffrey C. Hazard, Jr.

Appointments at the Hebrew University

1. 1996-1997 – Teaching Assistant, Faculty of Law, Civil Procedure;
2. 1997-1999 – Instructor, Faculty of Law, Private International Law;
3. 2000-2001 – Instructor-Doctor, Private International Law;
4. 2001 - 2005 – Lecturer, Private International Law, Civil Procedure;
5. 2005 to present – Senior Lecturer (with tenure) Private International Law, Civil Procedure.

Additional Functions/Tasks at the Hebrew University

1. 2001-2002, Member, Teaching Committee, Faculty of Law;
2. 2003 to present, Member, Steering Committee of the Legal Clinics, The Faculty of Law;
3. 2004 to present, Acting Academic Director, The Minerva Center for Human Rights.

Service in other Academic and Research Institutions

1. 1997 (4 months) – Visiting Scholar, The Max Planck Institute for Foreign Private and Private International Law, Hamburg, Germany;

2. 1997-1999 – Instructor, Bar-Ilan University, Ramat Gan, Israel;
3. 1997-2000 – Adjunct Lecturer, Haifa University;
4. 2000 (3 months) – Visiting Scholar, The Max Planck Institute for Foreign Private and Private International Law, Hamburg, Germany;
5. 2000-2001 – Instructor-Doctor, Bar-Ilan University, Ramat Gan, Israel;
6. 2000 to present, Member, Public Council, The Israel Democracy Institute;
7. 2004-2006, Member, The Forum of Young Scholars in the Social Sciences and Humanities of the Israel Academy of Sciences and Humanities.

Other Activities

1. 2002, Organizer, Conference on the Legal Status of the Arab Minority in Israel;
2. 2001-2002, Member, the Committee for Equality in Education, a sub-Committee of the Committee for the Implementation of the Convention on the Rights of the Child, The Ministry of Justice, Chaired by Judge Saviona Rot Levi;
3. 2003-present, Member, Board, Association for Civil Rights in Israel.

Awards and Fellowships

1. 1992-1994 – The Israeli Arab Scholarship Program. Awarded by the United States Embassy in Tel-Aviv for Graduate Studies in the United States;
2. 1995 – Judge Kassan's Award for Academic Achievements, The Hebrew University of Jerusalem;
3. 1996 – The Bar-Ilan Medal of Gratitude, for Academic Achievements (1996);
4. 1997 – The German Academic Exchange Service (DAAD) Scholarship, Awarded by the Deutcher Akademischer Austauschdienst and the German Embassy for Short Term Research at the Max Planck Institute for Foreign Private and Private International Law, Hamburg, Germany;
5. 1997 – Scholarship, Max Planck Institute for Foreign Private and Private International Law, Hamburg, Germany;
6. 1997 – The Ellis & Alma Birk Prize of Academic Achievements and Excellence, Awarded by the Board of Trustees and the President of The Hebrew University of Jerusalem;
7. 1998 – Mishpatim's (the Hebrew University Law Review) Prize for Best Article Published by a Young Scholar in Volume 29;
8. 1999 – The Yaacov Herzog Award for Outstanding Doctoral Research, Awarded by the Herzog family, the Israeli Academy of Sciences and the Hebrew University;
9. 2000 – The Konrad Adenauer Scholarship for Short Term Studies in Germany;
10. 2000 – The Z. Zeltner Scholarship Awarded by the Max Planck Institute for Foreign Private and Private International Law, Hamburg, Germany;
11. 2001 – The Allan Bronfman Prize for Outstanding Doctoral Dissertation in the Humanities and Law, The Hebrew University of Jerusalem;
12. 2002 – The Zeltenr Award for Young Scholar;
13. 2002-2003 – The Fulbright Scholarship;
14. 2002-2003 – The Rothschild Fellowship;
15. 2003-2006 – The Ma'of Fellowship.

Supervision of Master's and Doctoral Degree Students

Master Degree Students:

2001 – 2004, Sharon Feldeman, Faculty of Law, Bar-Ilan University; graduated *magna cum laude*.

2004 to present, Alex Mishkenblat, Faculty of Law, The Hebrew University, work in progress.

Doctoral Degree Students:

2004 to present, Onn Anthony Stock, Faculty of Law, The Hebrew University, work in progress.

2004 to present, Banna Shougri-Badarneh, Faculty of Law, The Hebrew University, work in progress.

Courses Taught

1. Private International and Inter-religious Law, advanced semi-compulsory course;
2. Civil Procedure, advanced compulsory course;
3. International Civil Litigation, advanced course for graduate and undergraduate studies;
4. Inter-Religious Law, research seminar;
5. Alternative Dispute Resolution, research seminar;
6. Private International Law and the Internet, research seminar.

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Michael Karayanni - Publications

Doctoral Dissertation

2000 - Doctor of Laws (LL.D.) *summa cum laude*, The Hebrew University of Jerusalem, Israel. Thesis: "The Influence of the Choice of Law Process on International Jurisdiction", under the supervision of Prof. Celia Wasserstein Fassberg, Published, Books, # 1;

2003 - Doctor of Juridical Science (S.J.D.), University of Pennsylvania Law School, Philadelphia, Pennsylvania, USA. Thesis: "Forum Non Conveniens in the Modern Age: A Comparative and Methodological Analysis of Anglo-American Law" under the supervision of Prof. Geoffrey C. Hazard, Jr., Published, Books, # 2.

Books

1. **Karayanni, Michael**, The Influence of the Choice of Law Process on International Jurisdiction (2002) (The Harry Sacher Institute for Legislative Research and Comparative Law, The Hebrew University) (412 pages) (Hebrew)
2. **Karayanni, Michael**, Forum Non Conveniens in the Modern Age: A Comparative and Methodological Analysis of Anglo-American Law (Transnational Publishers, Ardsley, New York, 2004) (263 pages).

Chapters in Collections:

1. **Karayanni, Michael**, (2002). *Jewish and Democratic" Multiculturalism and the Greek Orthodox Community,* in THE CONFLICT, RELIGION AND STATE IN ISRAEL 227-240, 365-367 (17 pages) (N. Langental and S. Friedman ed., 2002) (Hebrew).

Articles

1. **Karayanni, Michael,** (1996). *The Public Policy Exception to the Enforcement of Forum Selection Clauses*, 34 DUQUESNE LAW REVIEW 1009 - 1055 (45 pages);
2. **Karayanni, Michael,** (1998). *Rule 411 of the Rules of Civil Procedure: The Limits of Optional Appeal Regarding Interlocutory Orders*, 29 MISHPATIM (Hebrew University Law Review) 139 - 177 (39 pages) (Hebrew);
3. **Karayanni, Michael,** (2002). *Forum non Conveniens Considerations: Their Voyage to the end of the Second Millennium and Beyond,* 18 MAHKARI MISHPAT, (Bar-Ilan University Law Review) 67-103 (37 pages) (Hebrew).
4. **Karayanni, Michael,** (2003). *The Myth and Reality of a Controversy: "Public Factors" and the Forum Non Conveniens Doctrine*, 21 WISCONSIN INTERNATIONAL LAW JOURNAL 327-382 (56 pages).
5. **Karayanni, Michael,** (2003). *On the Concept of 'Ours': Multiculturalism with Respect to Arab-Jewish Relations in Israel*, 27 IUYONI MISPAT (Tel-Aviv University Law Review) 71-108 (38 pages) (Hebrew)
6. **Karayanni, Michael,** (2003). *An Ontological Analysis of Diplomatic Immunity: The Bassouinni Affair*, 33 MISHPATIM (Hebrew University Law Review) 63-105 (43 pages) (Hebrew)
7. **Karayanni, Michael,** (2004). *Class Actions in Israel on a Crossroad* 1 DIN UDVARIM (University of Haifa Law Review) 449 - 505 (56 pages) (Hebrew).

Participation in Scientific Conferences, Lectures, and other Activity:

1. 1997 – "Forum Selection Clauses and Public Policy", The University of Haifa Faculty of Law Seminar;
2. 1998 – "Withholding the Right of Appeal in Civil Cases", The Bar-Ilan Faculty of Law Seminar;
3. 1998 – "Israeli Courts' International Jurisdiction", The Law Center, Bier-Zeit University, The West Bank;
4. 1999 –"Current Issues in Israeli Private International Law", The Law Center, Bier-Zeit University, The West Bank;
5. 2001 –"The Changing Attitude of the Forum Non Conveniens Doctrine", The Hebrew University Faculty of Law Seminar;
6. 2001 – "The Forum Non Conveniens Doctrine Today", The Rand Afrikaans University, Johannesburg, South Africa, Conference;
7. 2002 – Organizer, Conference, The Legal Status of Arabs in Israel, The Hebrew University, May 19-21, and Presented a Paper Titled: "The Individual, The Religious Community and the State: The Case of the Greek Orthodox Community", and Commentator on the Lecture of the Attorney General of Israel, Mr. Eliakim Rubenstein;
8. 2002 – "On the Difficulties of Adopting a Constitution in Israel", The Israel Democracy Institute;
9. 2002 – "Issues in International Adoptions", Conference on Children's Rights, The University of Haifa;
10. 2003 – "Class Actions and Collateral Estoppel: Who has the Horse and Who has the Cart?"; Conference on Class Actions, The University of Haifa Faculty of Law ;
11. 2003 – "The Myth and Reality of Multiculturalism in Israel", Conference: Socio-Economic Status of Arab Citizens in Israel, New York University Law School;
12. 2003 – "The Inter-religious Infrastructure and Multiculturalism in Israel", Solomon Asch Center for Study of Ethno-Political Conflict, University of Pennsylvania;
13. 2003 – "The Individual, the Religious Community and the State: Multiculturalism in Israel", Faculty Seminar, University of Pennsylvania Law School.
14. 2004 "Citizenship, Religion and Religious Communities in Israel from a Multicultural Viewpoint", International Conference, Center for Comparative Constitutionalism, University of Chicago Law School.
15. 2004 "Nation, Religion and Identities in the Near East: Challenge or Opportunity for Federal Solution, the Arab Perception", The Jean Nordmann Colloquium on Federal Co-Existence in the Near East, Institute of Federalism, University of Fribourg, Fribourg, Switzerland.
16. 2004 "Jewish and Democratic Ricochets", Mada's 2nd International Conference: Constitutionalism as a Mechanism of Social and Political Change: A Comparative Perspective, Nazareth, Israel.
17. 2004 "Multiculturalism and Group Rights: The Case of the Palestinian-Arab Community in Israel", The International Academic conference on Legal Cultures of Both China and Israel, Research Center of History, China University of Politics and Law, Beijing, China.

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