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Israel’s ‘Law of Return’ is often referred to as “a central feature of Israeli immigration law”\(^\text{20}\) and it is sometimes even argued that it constitutes the foundation of Israeli ethnic democracy.\(^\text{21}\) The Law of Return, adopted by the Knesset, the Israeli Parliament, on 5 July 1950, in general provides that every Jew has the right to immigrate to Israel. According to Prime Minister David Ben-Gurion,

> This law [the Law of Return] recognizes that it is not the State which generates for the Jew outside the Land [of Israel] a right to settle in the State, but rather this right is imprinted in him in the very fact that he is a Jew, if he merely has the will to join the settlement of the Land.

And he concluded that “the historical right of every Jew, no matter where he is, is to return and settle in the Land of Israel.”\(^\text{22}\)

From a historical perspective, the adoption of the Law of Return was obviously heavily marked by the post-Second World War context and the need to address the issue of Jewish refugees. On the international stage, the adoption of the Law of Return coincided with the emergence of the status of refugees under international law, also developed to cope with the same issue. Drawing on this historical parallel, this article presents the legal parallels and interactions between the international law concept of the refugee and the Israeli Law of Return and shows how the two legal corpuses offered two fundamentally different solutions to the same problem.

This article focuses on the period between 1945 and 1967. From 1950 to 1967, given the aftermath of the Second World War and the forced migration of Jews

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\(^{22}\) David Ben-Gurion, in *Divrei Haknesset* (Knesset Debates) 6 (1950), 2035–37 (Hebrew); quoted in Ernst, “Meaning,” 565.
from a number of Arab countries, including Morocco, Algeria, Tunisia, Egypt, Iraq, Yemen, etc. Implementation of the Law of Return was essentially turned toward coping with the refugee question. Thereafter, a number of other issues arose, such as the legal definition of a ‘Jew’ for purposes of the Law of Return, as indicated by the 1970 amendment of the law. From an international law perspective, the years 1945–1967 marked the adoption of the entire and definitive corpus of international law relating to the status of refugees, as shown in the following brief chronology:

- 20 April 1946, establishment of the International Refugee Organization (IRO);
- 15 December 1946, adoption of the constitution of the IRO;
- 14 December 1950, the Office of the United Nations High Commissioner for Refugees was created by a resolution of the UN General Assembly;
- 28 July 1951, adoption of the UN Convention relating to the Status of Refugees;
- 28 September 1954, adoption of the UN Convention relating to the Status of Stateless Persons;
- 30 August 1961, adoption of the Convention on the Reduction of Statelessness;
- 4 October 1967, adoption of the Protocol relating to the Status of Refugees.

This article adopts the approach developed by Justice Haim Cohn on the Jewish aspects of international law, who writes that

looking at international law today . . . , something has changed: the Jews are no longer only an object of international law . . . ; they, as incorporated in a Jewish State, have now become one of the subjects of international law.

Examining the intention and the scope of the Law of Return in light of international law, this article tests and answers the two questions raised by Justice Cohn: With respect to the refugee question, what does it mean “to become a subject of international law” and what does it mean “to be a subject of international law.”

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