

Max Planck-Cambridge Prize for International Law

Interview with *Professor Eliav Lieblich* on the Occasion of the 3rd Max Planck-Cambridge Prize Ceremony

Fabian Eichberger & Liana Minkova in Conversation with Eliav Lieblich

The following interview with Professor Eliav Lieblich took place on the occasion of the award ceremony of the 3rd Max Planck-Cambridge Prize. The Max Planck-Cambridge Prize is a joint initiative of the Lauterpacht Centre for International Law, University of Cambridge, and the Max Planck Institute for Comparative Public Law and International Law, Heidelberg. Awarded biennially, the prize highlights the relevance of fundamental research in the field of international law in a phase of reconfiguration of the global order. Its aim is to identify an outstanding mid-career legal scholar whose contributions to the study of international law have enriched the field and are likely to continue and develop further. The interview was conducted by Dr. Fabian Eichberger and Dr. Liana Minkova, both postdoctoral researchers and Fellows of the Lauterpacht Centre.

Career & Personal Trajectory

Fabian Eichberger (F) & Liana Minkova (L): Our warmest congratulations on the award, Eliav. This is a significant achievement, and we would like to start this interview with some questions about the career path that has led you to this moment.

F: You began your legal career serving as a clerk at the Israeli Supreme Court before moving into academia. How did that early experience shape your interest in international law?

Eliav Lieblich (E): Thank you so much! I think, in the most immediate sense, what shaped my interest from early on is seeing how international law

hits reality. A lot of us are conditioned to think, when we study international law, that it mainly serves to constrain state power. Back then – and it was quite a while back and very different times – the Supreme Court was hearing many ‘wall cases’¹. These involved Palestinians from the West Bank petitioning against parts of the West Bank Wall which encroached into their lands or limited their freedom of movement or ability to access their fields. This was just after the International Court of Justice gave its Advisory Opinion which held that the entire Wall was unlawful because it was aimed to incorporate parts of the West Bank into Israel.² I remember being struck how two Courts that seemingly apply similar norms of international law reach opposing conclusions concerning a similar set of facts, which got me interested in the ways in which states are not only constrained by law, but how they use it as a legitimating tool.

I also remember how these proceedings looked: on the one hand you had Palestinian villagers that probably needed a special permit to enter Israel for the hearing and perhaps left their homes at 3 AM to get through all the checkpoints and get to Court on time. On the other side you’d have the state lawyers with their maps and presentations and uniformed officers explaining the extreme necessity of it all, of course arguing in front of Israeli judges. Sometimes the petitioners would ‘win’ in an isolated case, but I recall thinking what is law *really* doing here? Does it constrain in any way or is it mostly used to legitimate a broader project? So these types of questions initially pushed me into the field.

L: You have studied, held visiting professorships, and taught in a variety of academic settings around the world. How have these experiences influenced your scholarly work or perspectives? More specifically, have you found that each institution or context has offered distinct insights or approaches that have informed your research or teaching?

E: Legal scholarship is approached differently in different places and obviously you take something from everywhere you go. US legal scholarship is very pragmatic and tends to emphasise how law works in ‘real life’ and stays away from purely conceptual discussions. German scholarship is incredibly respectful of doctrinal rigour. The UK’s tradition has not only strong doctrinal and critical elements, but also occasionally approaches legal

¹ See e. g. Supreme Court of Israel, *Mara’abe v. Prime Minister*, judgment of 15 September 2005, HCJ 7957/04.

² ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, ICJ Reports 2004, 136.

scholarship through the lens of analytical philosophy. In my home institution at Tel Aviv University, there is no assumption or doctrine that must be taken for granted, so there's a certain creative impulse in that way of thinking. I try to learn from all of these traditions in my work.

Teaching in different places is also radically different and depends on expectations, culture, and class composition. When I teach at home, I teach things that are extremely explosive in public discourse. My class composition is also very complex in terms of students' lived experiences. To teach (I hope) effectively, I must structure my courses in a way that students have enough knowledge before discussing the most difficult things, so that we have a basis for an informed discussion. Law has a way of 'structuring' exchanges in that way. The downside of course is that sometimes this numbs things that we should not be numb about.

F: In 2021, you published a guide on 'How to Do Research in International Law', which I recall consulting myself early in my PhD research.³ The piece has been downloaded thousands of times and has become a point of entry for students of international law around the world. Could you share the story behind this guide?

E: It was during the height of the Covid pandemic. I remember that things slowed down and there was not much to do; but I had to prepare a new seminar about theories of international law. I thought that it was a good time to prepare something that could help students understand both the types of questions that legal scholarship asks, and their relations to different theories. I got carried away and it became 25 pages, so I decided to upload it to SSRN. I tweeted it and the next morning, when I woke up, it had already been downloaded over a thousand times and happily is still being used. I think this also has to do with the way Twitter was working back then and the international legal community it formed. Unfortunately, today it's a bit different.

Research

F&L: Thank you for sharing some insights into your professional journey with us. Now, we would like to turn to your academic work, and, more broadly, to your broader research process, including how you identify specif-

³ Eliav Lieblich, 'How to Do Research in International Law? A Guide for Beginners', Harv. Int'l L. J. 62 (2021), 42-67.

ic research questions, and how your work connects to both history and real-life experiences.

F: Your work is described by the prize committee as ‘outstanding, innovative, and highly original’ and positions you as ‘a leading authority’ in ius in bello and ius contra bellum. Which are the themes or questions in these fields that most excite you right now?

E: First of all, I was extremely honoured to read that description of my work! But to be honest, October 7, the war in Gaza, and the shocking local and global developments we are witnessing almost on a daily basis have made it quite difficult to be genuinely excited about ‘pure’ scholarship at this point in time. Personally, in the past two years, I found myself devoting a lot of time (along with some of my colleagues) addressing current events because it just felt wrong to do something else.⁴

But more broadly, I am preoccupied now with a more primordial question about the role of (international) legal scholarship in times in which many basic premises that we took for granted are unravelling. For example, for decades, critical approaches to international law highlighted the legitimating function of law. But that assumes that people and politicians care about legitimacy. When I look around, I see an era of vice signalling: some leaders gain political capital precisely from demonstrating that they don’t care about this stuff. So what do we do? Should we withdraw into scepticism, or should we double down on our normative commitments? I think many of us are concerned with questions of this order right now, and we should be.

L: Your recent article on prohibition of forcible reprisals⁵ and your discussion of the figure of the ‘common judge’ made me think about a dilemma we have in the field of international relations scholarship. The anarchical nature of global governance has been a common theme of international relations scholarship and the reason why scholars who define themselves as ‘realists’ have remained deeply sceptical about international law. At the same time, realism can become a self-fulfilling prophecy as states can use such theoretical arguments to justify non-compliance. In your article you make a strong argument that the absence or failure of a common judge is not a justification for

⁴ See Kai Ambos, ‘Respect for International Law in Gaza: The Perspective of Israeli Scholars’, *Verfassungsblog*, 23 July 2025, doi: 10.59704/a8afd62366c0f5e2.

⁵ Eliav Lieblich, ‘The Death and Life of the Prohibition on Forcible Reprisals’, *Yale J. Int’l L.* 51 (2026), 1-42.

opportunistic behaviour. Could you tell us a bit more about your argument and how it can help us rethink international affairs?

E: That article argues that throughout centuries, thinkers of international law have justified using inter-state force as a form of punishment, by arguing that there is no central authority in the international system (a common judge) to punish violators – and that accordingly, that right reverts to individual states. My article basically says that the fact that there is no central authority cannot alone justify lethal force, unless you have a pre-existing justification to use such force. If we believe that the only possible justification to use lethal force is self-defence, the absence of a common judge cannot be a justification to use force for other purposes, such as punishment.

Of course, my argument cannot ‘convert’ a political realist since such realists generally do not believe that normative concepts have a meaningful application between sovereigns, as these exist in an anarchical ‘state of nature’. My argument can work, however, if your international relations perspective is liberal, constructivist or idealist, since these theories accept that normative ideas can have a role in international relations.

F: You have co-authored a book with Eyal Benvenisti,⁶ with whom many of us worked closely in his capacity as Whewell Professor here at Cambridge. As a scholar, how have you experienced collaborating closely with others in your academic writing?

E: I think that it is unfortunate that we do not cooperate enough in legal academia, and our institutions also do not encourage it too much. Thinking about ideas together generates more insights, and there is also something comforting about it. Having said that, since legal scholarship is so theoretically and methodologically diverse, it is crucial that you work with people that have roughly similar points of departure as you – not about everything of course, but *at least* about what counts as ‘law’ as a field of analysis and what legal scholarship should be doing. When you write about international law you need to have a clear theory about your object of research. Is it legal doctrine? Does it include policy considerations? Does it include societal interactions? Does it focus on power relations? When selecting collaborators, you have to make sure that you both share a reasonably common understanding about such things.

⁶ Eliav Lieblich and Eyal Benvenisti, *Occupation in International Law* (Oxford University Press 2022).

L: In your article on ‘whataboutism’ in international law you do something very intriguing – you engage with a concept whose meaning is often taken for granted, partly due to the negative connotations commonly associated with it, and you seek to ‘unpack’ that concept by distinguishing between the different forms such rhetoric could take and by examining the role of social context.⁷ Was it challenging to engage in this kind of conceptual inquiry? And in your view, why is it important for international legal scholarship to ask these kinds of challenging, perhaps uncomfortable, questions?

E: The basic argument in this article is that ‘whataboutism’ is essentially an argument about inconsistency, and that this can be a normatively relevant argument if there are relationships of public power between the person making an allegation and the one making a whataboutist objection. This is because a duty to act consistently is a duty of fairness that exists in situations when public power is exercised. In international law, there is a peculiar situation in which states are simultaneously perceived as private entities interacting with each other as individuals (think of the Lotus model), and as public entities exercising public authority over one another and over individuals. This creates a sense of confusion about whataboutism on the international level.

What was especially challenging here was to find the theoretical ‘handle’ that would help me understand whether whataboutism is necessarily a logical fallacy (as alleged many times) or rather, that it can be at times a good argument. I found a useful theoretical outlook in a branch called informal logic, which deals precisely with the question what makes arguments good and relevant. I think it is crucial for us to ask such questions, at least some of the time, because this type of engagement is what separates us, as legal academics, from practising lawyers or judges. Not that there is anything wrong with being a practitioner or doctrinal scholar – far from it! – but I think we need to say ‘something more’ to justify the academic enterprise in law as something that goes beyond a trade school.

F: Many international lawyers struggle with the dissonance between the law and practice on the ground. Do you remember particular moments that prompted you to reflect on the practical impact of your work – both positively and negatively?

E: This happened quite a lot in the past several years, less in relation to research and more in the context of ‘scholactivism’ for lack of better

⁷ Eliav Lieblich, ‘Whataboutism in International Law’, Harv. Int’l L. J. 65 (2024), 343–386.

word.⁸ Many of my colleagues and I were involved in efforts to respond to first what we saw as shocking authoritarianism by the Netanyahu government,⁹ and then violations of international law in Gaza.¹⁰ Once you engage in such work, people are going to use it in ways that lack nuance, or that are abusive.

In a sense when you are positioned in such an explosive public context, whatever you do might get appropriated. What guides me personally when engaging in public discourse is an awareness of the problematic role that international law academics had throughout history in legitimating governmental power in a myriad of ways. I think that governments of powerful states can take care of themselves and while legal academia should care about the society in which it operates, it should be extremely careful not to become an instrument of state power.

F: Given that you also focus on the history and theory of international law, what role do you believe historical analysis plays in helping us understand contemporary legal dilemmas relating to war and the use of force?

E: I think that history is worth knowing intrinsically, but what I found especially worthwhile in analysing law from a historical perspective is that it exposes continuities. Often, different actors portray something as a ‘new’ challenge, and then there is an impetus that if something is ‘new’ we need ‘new’ law, which is usually more permissive precisely since there is a ‘new’ challenge. Well, if the challenge is not *really* new, this deflates the argument somewhat.

History also allows us to understand persistent trends in the way states argue. For example, the argumentation the USSR used to justify its 1956 intervention in Hungary is remarkably similar to the argument Russia used for its full-blown invasion of Ukraine in 2022.

Historical analysis can also demonstrate that while some legal arguments and doctrines indeed change throughout time, the underlying power relations remain and so the ‘new’ legal argument basically gives a new form of legitimation to the practices that are virtually similar. I think TWAIL approaches have been especially influential in this type of thinking.

⁸ For a critique of scholactivism see Tarunabh Khaitan, ‘On Scholactivism in Constitutional Studies: Skeptical Thoughts’, I.CON 20 (2022), 547-556.

⁹ Ittai Bar-Siman-Tov, Tamar Hostovsky Brandes, Eliav Liebllich, Yaniv Roznai and Adam Shinar, ‘Scholactivism in the Service of Counter-Populism: The Case of the Constitutional Overhaul in Israel’, I.CON 22 (2025), 1059-1093.

¹⁰ See Bar-Siman-Tov, Hostovsky Brandes, Liebllich, Roznai and Shinar (n. 9).

Future Plans

F&L: Thank you very much, Eliav. For the remainder of the interview, we would like to turn to the broader impact of your work, as well as your future plans.

L: You are a member of the editorial board of Just Security and have also contributed your own posts. In your view, what unique contributions do such platforms make to the development and dissemination of scholarship in the discipline? What do they contribute to the discipline that more traditional academic formats might not?

E: I think the obvious contribution is speed and accessibility. For example, people do not always have time to read long judgments and want to understand the key issues quickly. In the past, case reports were only published in journals and you would have to wait long months before you could read an analysis of an important case. And blogs are of course open access.

Furthermore, blogs also allow to engage with specific events that are important to highlight, but which might not justify a full-blown journal article. What I also found is that blogs are a great venue for younger people to get themselves in the conversation. At least in my experience most international law blogs are happy to publish PhD students and early-career researchers.

The downside of course (and this also has to do with social media, an entire other issue) is that there is sometimes a rush to get something out there fast, a frame of mind which is not really conducive to the type of deep analysis we expect from academics. And once something is out there, it has a life of its own. But I can say that at least in Just Security there's a good 'quality assurance' system and things are read by several high-level people before they get published. I am extremely impressed with how it works.

F: Are there specific new projects, collaborations, or research directions that you are planning to pursue, which you could share at this stage?

E: I find that current events really require a time to reflect about our role more generally. Still, I find myself thinking about three main themes:

First, how does the rise of 'vice signalling' affect international law? We are accustomed to thinking about state speech as 'positive speech' (even if it is a lie), as states seek to portray themselves in the best possible way. They thus speak in international legal terms, which also affects the formation of custom.

But how does law-destroying discourse affect the validity of the legal norm? Second, I am interested in the change which we already see in BRICS discourse about existing international institutions, as the U.S. rapidly withdraws and creates a vacuum. Suddenly these institutions are far more open to BRICS influence and even ownership. Third, I am thinking about the ‘recollectivisation’ of war: a shift from the notion of individualised war that characterised the post-Cold War laws of war and a return to notions that treat people as collectives. This challenges some of the key assumptions of the scholarship in the field in recent decades and raises many important questions.

F: It is no news that international law is facing immense challenges – Anne Peters, who is here today, has recently written about international law ‘in the Time of Monsters’.¹¹ You have yourself written not only on the rules of international law, but also on its broader argumentative structure. What message would you send to younger scholars entering the field of international law? Or would you perhaps even try to dissuade them from doing so?

E: Setting aside issues of job prospects and the state of academia more generally, I would certainly not dissuade them from doing so. Most of us are sceptical now about law’s ability to influence actors that have no interest in the type of legitimacy that legality provides (and this is also true in many domestic contexts where populism is on the rise). But the truth is that some form of international legality is crucial for our survival. And this is not so much because of any ideal conception of what international law is, or any universalist claim about accepted values, but simply because we are facing problems that cannot be solved without global cooperation. And that we need binding rules to solve collective action and cooperation problems is not something that has been invented by utopian human rights lawyers. Quite the opposite.

So my advice to younger scholars is: do international law, but from a place of reflexivity. There were things that (for better or worse) could be taken for granted fifteen years ago that cannot be taken as a point of departure today. We are not going towards increasing integration; not all constituencies in the global north support globalisation; global international organisations are not going to become progressively stronger; human rights are not universally recognised as the end of sovereignty; the U.S. is not going to underwrite the

¹¹ Anne Peters, *International Law and Its Scholarship in the Time of Monsters* (6 May 2025). Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2025-05, available at SSRN: <https://ssrn.com/abstract=5242721>.

so-called global order; authoritarian states will gain more influence; and BRICS will be increasingly dominant both in terms of economic and political power and in terms of influence over international law. This is where things stand, and the role of internationally minded peoples is to think about how, under these circumstances, we can achieve the cooperation needed. This is not to say that normative scholarship should be abandoned; but again, we must concede the level of contestation that such claims face nowadays.

F&L: Thank you very much for taking the time to speak with us, Eliav.

E: Thank you for taking the time to engage with my work! And again, I am extremely honoured to receive this prize.