

THE ENIGMATIC BUT UNIQUE NATURE OF THE ISRAELI LEGAL SYSTEM

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SUMMARY

The Israeli legal system is unique in that it straddles the two otherwise opposing worlds of tradition and innovation. This creates an enigma for the comparatist, making the exploration of this system an onerous and challenging task. The author wishes to maintain that the system in question is highly innovative and ascribes this quality to the proactive character of the Israeli Supreme Court, whose activism has had a major impact on the character of the domestic system as a whole. While the author explores the reasons why this has been the case, one of his main concerns in this paper will be to examine the innovative character of the Israeli Supreme Court *per se*, in comparison with equivalent courts in other parts of the world. In addition the author will seek to establish *inter alia* the character of the Israeli legal system by focusing on the three different elements that co-exist in the Israeli socio-legal structure (the Jewish element vis-à-vis the Arab element; the Liberal element vis-à-vis the Orthodox element within the Jewish community; and the Civilian element vis-à-vis the Common law element). The author wishes to posit that the amalgamation of different legal and cultural traditions in Israel created a *sui generis* state of affairs for the legal system as a whole. This results in an overall systemic-methodological amalgamation which does not occur elsewhere in the world. The article concludes that the enigmatic and innovative characteristics of the Israeli legal system derive from the novel way in which the legal mix has occurred in this system (as opposed to the ingredients of the elements in the mix). In this respect, Israel may have contributed much to the reinvigoration of the modern comparative law agenda, and it may continue to do so in the future, as the system is not one of legal *stasis* (a mixed system) but one of legal *kinesis* (a mixing system).

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