

## **AVIHAY DORFMAN**

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### **EDUCATION**

2006-08 Yale Law School, J.S.D.

2005-06 Yale Law School, LL.M.

2001-05 Haifa University, B.A. (Economics)

2000-04 Haifa University, LL.B.

### **APPOINTMENTS AND EXPERIENCE**

- **Tel Aviv University**, Faculty of Law: 2009-12, Lecturer; 2012-15, Senior Lecturer (tenured); 2015-present, Law Professor

Courses taught: Torts; Remedies; Private Law Theory

- **Cornell Law School**, Visiting Professor, Fall 2019

Courses taught: Torts (1L class); Privatization (seminar)

- **Cornell Law School**, Visiting Professor 2016-17

Courses taught: Torts (1L class); Advanced Torts (upper-level class); Private Law and Justice (seminar)

- **Harvard Law School**, Visiting Professor 2015-16

Courses taught: Torts (1L class); Private Law and Justice (seminar)

### **Practical and Academic Experience**

- Law Clerk to the Honorable Chief Justice Aharon Barak, Supreme Court of Israel (2004-2005)

- Legal Advisor to the Honorable (then) Justice Esther Hayut, Supreme Court of Israel (2005)

- Chief Editor, Tel Aviv University Law Review (Vols. 37-38)

### **COMPETITIVE GRANTS, SCHOLARSHIPS, PRIZES, AND AWARDS**

2013-14 Israel Science Foundation, a one-year Grant for “Privatization: Moral and Legal Analysis” (w/ Alon Harel)

2013 Justice Cheshin Prize for Academic Excellence (junior legal scholar)

2013 Selected for paper presentation at the 1st Israeli Junior Faculty Forum

2011-12 Cegla prize for the best law review article published by junior faculty in Hebrew

2011	Selected for paper presentation at the Harvard-Stanford International Junior Faculty Forum
2011	Selected for paper presentation at the Stanford/Yale Junior Faculty Forum
2011	Alon Fellowship (the Council of Higher Education in Israel)
2005-2007	Fulbright Grantee

## **Articles**

*The Domain of Private Law*, UNIVERSITY OF TORONTO LAW JOURNAL (forthcoming 2020) (w/ Hanoch Dagan)

*Substantive Remedies*, 96 NOTRE DAME LAW REVIEW (forthcoming 2020) (w/ Hanoch Dagan)

*Relational Justice and Torts*, in RESEARCH HANDBOOK ON PRIVATE LAW THEORIES (Hanoch Dagan & Benjamin Zipursky eds., forthcoming 2020)

*The Limited Case for Discrimination's Legality*, LAW & CONTEMPORARY PROBLEMS (forthcoming 2020)

*The Law of the Markets*, LAW & CONTEMPORARY PROBLEMS (forthcoming 2020) (w/ Hanoch Dagan, Roy Kreitner, and Daniel Markovits)

*Reply to Commentators: Relational Justice on Legal, Political, and Critical Theory*, 41 TEL AVIV UNIVERSITY LAW REVIEW 439 (2019) [in Hebrew] (w/ Hanoch Dagan)

*Relational Justice*, 41 TEL AVIV UNIVERSITY LAW REVIEW 307 (2019) [in Hebrew] (includes a chapter on Israeli Private law and relational justice) (w/ Hanoch Dagan)  
reviewed and commented by: Itzhak Benbaji, Ariel Porat, and Manal Totri-Jubran (forthcoming 2019) [TBD]

*Justice, Politics, and Interpersonal Human Rights*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 139 (2018) (w/ Hanoch Dagan)

*Against Market Insularity: Market, Responsibility, and Law*, 27 CORNELL JOURNAL OF LAW & PUBLIC POLICY 553 (2018)

*Interpersonal Human Rights*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW 361 (2018) (w/ Hanoch Dagan)

reviewed and commented by: Roxana Banu, *From the Law of Nations to the Private Law of Mankind*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 101 (2018); Evan Fox-Decent, *Dagan and Dorfman's Jus Gentium Privatum*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 112 (2018); Mitchel Lasser, *Purging Private Law of the State*,

51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 119 (2018); Ralf Michaels, *The New, Old, Jus Gentium Privatum*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 125 (2018); Horatia Muir Watt, *On the Moral Commitments of Private Law and the Curbing of Global Corporate Power*, 51 CORNELL JOURNAL OF INTERNATIONAL LAW ONLINE 133 (2018)

*Private Law Exceptionalism? Part II: A Basic Difficulty with the Argument from Formal Equality*, 31 CANADIAN JOURNAL OF LAW & JURISPRUDENCE 5 (2018)

*Justice in Private: Beyond the Rawlsian Framework*, 37 LAW & PHILOSOPHY 171 (2018) (w/ Hanoch Dagan)

*Postscript to Just Relationships: Reply to Gardner, West, and Zipursky*, 117 COLUMBIA LAW REVIEW ONLINE 261 (2017) (w/ Hanoch Dagan)

*The Human Right to Private Property*, 18 THEORETICAL INQUIRIES IN LAW 391 (2017) (w/ Hanoch Dagan)

*Negligence and Accommodation*, 22 LEGAL THEORY 77 (2016)

selected for presentation at the 1st ISRAELI JUNIOR FACULTY FORUM; an earlier draft has been selected for review by Prof. Gregory Keating in JOTWELL; a much earlier draft has been selected for presentation at the STANFORD/YALE JUNIOR FACULTY FORUM, June 2011, and at the HARVARD-STANFORD INTERNATIONAL JUNIOR FACULTY FORUM, November 2011

*Just Relationships*, 116 COLUMBIA LAW REVIEW 1395 (2016) (w/ Hanoch Dagan)

reviewed and commented by: John Gardner, *Dagan and Dorfman on the Value of Private Law*, 117 COLUM. L. REV. ONLINE 179 (2017); Benjamin C. Zipursky, *The Cathedral Through the Looking Glass: A Commentary on Dagan and Dorfman's Just Relationships*, 117 COLUM. L. REV. ONLINE 165 (2017); Robin West, *The New Legal Criticism*, 117 COLUM. L. REV. ONLINE 144 (2017)

*Private Law Exceptionalism? Part I: A Basic Difficulty with the Structural Arguments from Bipolarity and Civil Recourse*, 35 LAW & PHILOSOPHY 165 (2016)

*Against Privatization As Such*, 36 OXFORD JOURNAL OF LEGAL STUDIES 400 (2016) (w/ Alon Harel)  
selected for review by Prof. William Admudson in JOTWELL

*Fault of Trespass*, 65 UNIVERSITY OF TORONTO LAW JOURNAL 48 (2015) (w/ Assaf Jacob)

*Foreseeability as Re-Cognition*, 59 AMERICAN JOURNAL OF JURISPRUDENCE 163 (2014)

*Private Ownership and the Standing to Say So*, 64 UNIVERSITY OF TORONTO LAW JOURNAL 402 (2014)

*On Trust and Transubstantiation: Mitigating the Excesses of Private Ownership*, in THE PHILOSOPHICAL FOUNDATIONS OF FIDUCIARY LAW 339 (Andrew S. Gold & Paul B. Miller eds., Oxford UP, 2014)

*Assumption of Risk, After All*, 15 THEORETICAL INQUIRIES IN LAW 293 (2014)  
selected for review by Prof. Benjamin Zipursky in JOTWELL

*Freedom from Religion*, in THE ROLE OF RELIGION IN HUMAN RIGHTS DISCOURSE (Hanoch Dagan et al. eds., IDI, 2014)

*The Case against Privatization*, 41 PHILOSOPHY & PUBLIC AFFAIRS 67 (2013) (w/ Alon Harel)  
selected for review by Prof. William Admundson in JOTWELL

*Asymmetric Relations of Due Care*, 29 BAR ILAN UNIVERSITY LAW REVIEW 25 (Justice Rivlin Festschrift) (2013) [in Hebrew]

*The Normativity of the Private Ownership Form*, 75 MODERN LAW REVIEW 981 (2013)

*Respect for Persons and Constitutional Law in Israel*, 36 TEL AVIV UNIVERSITY LAW REVIEW 109 (2013) [in Hebrew]

*The Society of Property*, 62 UNIVERSITY OF TORONTO LAW JOURNAL 563 (2012)

*Reasonable Care: Equality as Objectivity*, 31 LAW & PHILOSOPHY 369 (2012)  
selected for presentation at the STANFORD/YALE JUNIOR FACULTY FORUM, June 2011, and  
at the HARVARD-STANFORD INTERNATIONAL JUNIOR FACULTY FORUM, November 2011

*Duty of Care*, 42 MISHPATIM 87 (2012) [The Hebrew University L.J.]  
winner of the 2011-2012 Cegla prize for the best law review article published by junior  
faculty in Hebrew

*Property and Collective Undertaking: The Principle of Numerus Clausus*, 61 UNIVERSITY OF  
TORONTO LAW JOURNAL 467 (2011)

*Copyright as Tort*, 12 THEORETICAL INQUIRIES IN LAW 59 (2011) (w/ Assaf Jacob)

*Can Tort Law be Moral?*, 23(2) RATIO JURIS 205 (2010)

*Private Ownership*, 16 LEGAL THEORY 1 (2010)

*What is the Point of the Tort Remedy?*, 55 AMERICAN JOURNAL OF JURISPRUDENCE 105 (2010)

*A Right to a Hearing: Interpersonal vs. Political Morality*, 40 MISHPATIM 279 (2010) [in Hebrew]

*Freedom of Religion*, 21 CANADIAN JOURNAL OF LAW & JURISPRUDENCE 279 (2008)

## **Book Reviews**

*The Value of Rights of Action: From Civil Recourse to Class Actions*, JERUSALEM REV. LEGAL STUD.  
(forthcoming 2021) (w/ Hanoch Dagan)

*Against Private Law Escapism: Comment on Arthur Ripstein, Private Wrongs*, 14 JERUSALEM REV. LEGAL STUD. 37 (2016) (w/ Hanoch Dagan)

*Discovering Private Law: Two Comments on Bruce Ackerman, We The People: The Civil Rights Revolution*, 13 JERUSALEM REV. LEGAL STUD. 39 (2016)

*New Philosophical Foundations of Tort Law?*, NOTRE DAME PHILOSOPHICAL REVIEWS (January 2015)

*Humane Consequentialism*, 3 JERUSALEM REV. LEGAL STUD. 54 (2011)

### **Works in progress**

A Standing Conception of Law (work in progress) (w/ Alon Harel) (draft available)

Poverty and Private Law: Beyond Distributive Justice (w/ Hanoch Dagan) (draft available)

Justice for Contracts (w/ Hanoch Dagan) (working paper)

No Exclusion (working paper)