

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); 2015-19, Law Professor; 2019- Full Professor
Courses taught: Torts; Advanced Torts; Remedies; Private Law Theory; Legal Theory
- **Cornell Law School**, Visiting Professor, 2019-20, 20-21, 22-23
Courses taught: Torts (1L class); Property (1L class); Reclaiming the Public/Private Distinction (seminar); 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

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|---------|---|
| 2020-22 | Israel Science Foundation, a two-year grant for "Poverty and Private Law" (w/ Hanoach Dagan) |
| 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 Tort of Discrimination, JOURNAL OF TORT LAW (forthcoming 2023) (w/ Hanoch Dagan)

The Necessity of Institutional Pluralism, OXFORD JOURNAL OF LEGAL STUDIES (forthcoming 2023) (w/ Alon Harel)

Public Nuisance for Private Persons, 73 UNIVERSITY OF TORONTO LAW JOURNAL (forthcoming 2023) (w/ Hanoch Dagan)

Poverty and Private Law, 68 AMERICAN JOURNAL OF JURISPRUDENCE (2023) (w/ Hanoch Dagan)

Whose Loss is it? Justice and Disability in Torts, in JUSTICE RIVLIN FESTSCHRIFT (Aharon Barak et al. eds., 2023) [in Hebrew]

The Work of Tort Law: Why Nonconsensual Access to the Workplace Matters?, 24 THEORETICAL INQUIRIES IN LAW 74 (2023)

Justice in Contracts, 67 AMERICAN JOURNAL OF JURISPRUDENCE 1 (2022) (w/ Hanoch Dagan)

When, and How, does Property Matter?, 72 UNIVERSITY OF TORONTO LAW JOURNAL 81 (2022)

Precontractual Justice, 28 LEGAL THEORY 89 (2022) (w/ Hanoch Dagan)

Law as Standing, 4 OXFORD STUDIES IN THE PHILOSOPHY OF LAW 93 (John Gardner, Leslie Green & Brian Leiter eds., 2021) (w/ Alon Harel)

The Domain of Private Law, 71 UNIVERSITY OF TORONTO LAW JOURNAL 207 (2021) (w/ Hanoch Dagan)

Relational Justice and Torts, in RESEARCH HANDBOOK ON PRIVATE LAW THEORY 321 (Hanoch Dagan & Benjamin Zipursky eds., 2021)

Substantive Remedies, 96 NOTRE DAME LAW REVIEW 513 (2020) (w/ Hanoch Dagan)

The Limited Case for Discrimination's Legality, 83 LAW & CONTEMPORARY PROBLEMS 175 (2020)

The Law of the Markets, 83 LAW & CONTEMPORARY PROBLEMS i (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 Professors Itzhak Benbaji, Ariel Porat, and Manal Totri-Jubran at 41 TEL AVIV UNIVERSITY LAW REVIEW 399; 41 TEL AVIV UNIVERSITY LAW REVIEW 385; 41 TEL AVIV UNIVERSITY LAW REVIEW 438, respectively. [in Hebrew].

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 Admudson in JOTWELL

Asymmetric Relations of Due Care, 29 BAR ILAN UNIVERSITY LAW REVIEW 25 (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

From Civil Recourse to Class Actions: A Comment on Goldberg and Zipursky's Recognizing Wrongs,
27 JERUSALEM REV. LEGAL STUD. 57 (2023) (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)

Articles (works in progress)

Public Ownership

The Value of Personal Rights of Action (w/ Hanoch Dagan and Issi Rosen-Zvi)

Books

THE CAMBRIDGE HANDBOOK OF PRIVATIZATION (Avihay Dorfman & Alon Harel eds., 2021)

RECLAIMING THE PUBLIC (Cambridge University Press, forthcoming 2023) (w/ Alon Harel)

RELATIONAL JUSTICE: A THEORY OF PRIVATE LAW (Oxford University Press, forthcoming 2024) (w/ Hanoch Dagan)

Books (works in progress)

CONFLICT BETWEEN EQUALS: A VINDICATION OF TORT LAW