

March 14, 2018

## **Ariel Porat**

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### **Education**

1979-1983	LL.B. (magna cum laude), Faculty of Law, Tel Aviv University (first in a class of 105)
1983-1985	LL.M. Studies, Faculty of Law, Tel Aviv University
1986-1989	J.S.D. (direct course for the degree of JSD), Faculty of Law, Tel Aviv University
1989-1990	Visiting Scholar (Post Doctorate Studies), Yale Law School, New Haven, U.S.A.

### **Experience**

2014-present	Member of the Israeli Academy of Sciences
20013-2014	Head of the Tel Aviv University Strategic Steering Committee
2007-2011	Member in the Tel Aviv University Appointment Committee
2008-2011	Board Member of the American Law and Economics Association (ALEA)
2006-present	Incumbent, The Alain Poher Chair in Private Law, Tel Aviv University
2003-present	Fischel-Neil Distinguished Visiting Professor of Law, University of Chicago
2005-present	Member of the American Law Institute
2002-2006	Dean, Faculty of Law, Tel Aviv University
1999-2003	Founder and Editor in Chief, <i>Theoretical Inquiries in Law</i>
1997-2002	Director of the Cegla Center for Interdisciplinary Research of the Law
2002-2003	President, The Israeli Law and Economics Association (ILEA)
1990- present	Professor of Law, Faculty of Law, Tel Aviv University

## Visits

2003-present	Fischel-Neil Distinguished Visiting Professor, University of Chicago (Visits on an Annual Basis)
2016 (F)	Visiting Professor, Stanford University
1998-9, 2017 (S)	Visiting Professor, Berkeley University
2015 (F)	Distinguished Visiting Professor, University of Toronto
2010 (F)	Visiting Professor, NYU
2005 (F), 2007 (F),	Visiting Professor, Columbia University
2017 (F)	Visiting Professor, Columbia University
2004 (F)	Visiting Professor, University of Virginia
2007 (F)	Distinguished Visiting Professor, University Of Southern California (one week visit)
2017 (Sum.)	Visiting Professor, Bucerius Law School, Germany (one week visit)
2014	Visiting Professor, Gujarat National Law University, India (one week visit)

## Prizes

2014	The EMET Prize
2012	Zeltner Prize for Academic Excellence
2010	Rector's Teaching Distinction
2010	Chesin Prize for Academic Excellence
1991	Zusman Prize for Junior Faculty

## Publications in English

### Books – Authored

*Getting Incentives Right: Improving Torts, Contracts and Restitution* (Princeton University Press, 2014) (with R. Cooter).

*Tort Liability under Uncertainty* (Oxford University Press, 2001) (with A. Stein).

### Books – Edited

*The Economics of Remedies* (Edward Elgar Publishing Ltd., series eds., Richard Posner and Francesco Parisi, 2012).

*Fault in American Contract Law* (Cambridge University Press, 2010, ed. with O. Ben-Shahar).

## Articles

"The Restoration Remedy in Private Law" 119 *Columbia Law Review* (forthcoming 2018) (with O. Ben-Shahar).

"Personalizing Mandatory Rules in Contract Law" *University of Chicago Law Review* (forthcoming 2018) (with O. Ben-Shahar).

"Limited Inalienability Rules" 107 *Georgetown Law Journal* (forthcoming 2018) (with S. Sugarman).

"Can Resitution Save Fragile Spiderless Networks?" 8 *Harvard Business Law Review* 1 (forthcoming 2018) (with R.E. Scott).

"Unbundling Efficient Breach: An Experiment" 14 *Journal of Empirical Legal Studies* 527 (2017) (with M. Bigoni, S. Bortolotti and F. Parisi).

"Threats and Criminal Deterrence in Several Dimensions" [2017] *Illinois Law Review* 1333 (with S. Levmore).

"Book Review: The Future of Law and Economics and the Calabresian External Moral Costs" 17 *Jerusalem Review of Legal Studies* 153 (2017).

"Personalizing Negligence Law" 91 *NYU Law Review* 627 (2016) (with O. Ben-Shahar).

"A Welfarist Perspective on Lies" 91 *Indiana Law Journal* 617 (2016) (with O. Yadlin).

"Remedies" in *Handbook on Law and Economics* (F. Parisi ed., Oxford University Press, 2017).

"Disgorgement Damages for Accidents" 44 *Journal of Legal Studies* 249 (2015) (with R. Cooter).

"Getting Incentives Right – Responding to Critiques" 12 *Jerusalem Review of Legal Studies* 237 (2015) (with R. Cooter).

"Offsetting Benefits" 100 *Virginia Law Review* 1165 (2014) (with E. Posner).

"Personalizing Default Rules and Disclosure with Big Data" 112 *Michigan Law Review* 1417 (2014) (with L. Strahilevitz).

"Lapses of Attention in Road Accidents and Products Liability" 15 *Theoretical Inq. L.* 329 (2014) (with R. Cooter).

- "Ex-Post Right, Ex-Ante Wrong" 89 *Notre Dame Law Review* 1209 (2014).
- "Harm-Benefit Interactions" 16 *American Law and Economics Review* 86 (2014) (with O. Bar-Gill).
- "Symposium on the Common European Sales Law: The Law and Economics of Mistake in European Sales Law" 50 *Common Market Law Review* 127 (2013).
- "Aggregation and Law" 122 *Yale Law Journal* 2 (2012) (with E. Posner).
- "Asymmetries and Incentives in Evidence Production" 122 *Yale Law Journal* 690 (2012) (with S. Levmore).
- "Misalignments in Tort Law" 121 *Yale Law Journal* 82 (2011).
- "Bargaining with Double Jeopardy" 40 *Journal of Legal Studies* 273 (2011) (with S. Levmore).
- "Book Review: Eyal Zamir and Barak Medina, Law, Economics, and Morality" 3 *Jerusalem Review of Legal Studies* 91 (2011).
- "Commensurability and Agency: Two Yet-To-Be-Met Challenges for Law and Economics" 96 *Cornell Law Review* 749 (2011) (with A. Harel).
- "Willingness to Pay, Death, Wealth, and Damages" 13 *American Law and Economics Review* 45 (2011) (with A. Tabbach).
- "Liability for Future Harm" in *Perspectives on Causation* 221 (Hart Publishing, Richard S. Goldberg ed., 2011) (with A. Stein).
- "Viewing Unconscionability Through a Market Lens" 52 *William and Mary Law Review* 133 (2010) (with D. Gilo).
- "Private Production of Public Goods: Liability for Unrequested Benefits" 108 *Michigan Law Review* 189 (2009).
- "Forward: Fault in Contract Law" 107 *Michigan Law Review* 1341 (2009) (with O. Ben-Shahar).
- "Criminal Responsibility for Unspecified Offenses" 94 *Minnesota Law Review* 261 (2009) (with A. Harel).
- "A Comparative Fault Defense in Contract Law" 107 *Michigan Law Review* 1397 (2009)

"Symposium: The Restatement Third on Torts: Expanding Liability for Negligence Per Se" 44 *Wake Forest Law Review* 979 (2009).

"Book Review: Tsachi Keren-Paz, Torts, Egalitarianism, and Distributive Justice" 29 *Legal Studies* 509 (2009).

"Offsetting Risks" 106 *Michigan Law Review* 243 (2007).

"Unconventional Use of Transaction Costs," *Boilerplate: Foundations of Market Contract* (Cambridge University Press, Omri Ben Shahaar ed.) 66 (2007) (with D. Gilo).

"Total Liability for Excessive Harm," 36 *Journal of Legal Studies* 63 (2007) (with R. Cooter).

"When Do Irreparable Benefits Matter? A Response to Douglas Lichtman on 'Irreparable Benefits'" 116 *Yale L.J. Pocket Part* 385 (2007)

"Liability Externalities and Mandatory Choices: Should Doctors Pay Less?," 1 *Tort Law Journal*, Issue 1, Article 2 (2006) (with R. Cooter).

"The Hidden Roles of Boilerplate and Standard Form Contracts," 104 *Michigan Law Review* 983 (2006) (with D. Gilo).

"Promoting Consensus in Society Through Deferred Implementation Agreements," 56 *University of Toronto Law Journal* 151 (2006) (with O. Yadlin).

"Implementing the Law by Impartial Agents," 5 *Theoretical Inquiries in Law* 1 (2005) (with E. Benvenisti).

"Decreasing Liability Contracts," 33 *Journal of Legal Studies* 157 (2004) (with R. Cooter).

"Indeterminate Causation and Apportionment of Damages: An Essay on Holtby, Allen and Fairchild," 23 *Oxford Journal of Legal Studies* 667 (2003) (with A. Stein).

"The Many Faces of Negligence," 4 *Theoretical Inquiries in Law* 105 (2003).

"Anti Insurance," 31 *Journal of Legal Studies* 203 (2002) (with R. Cooter).

"Should Courts Deduct Non-Legal Sanctions from Damages?" 30 *Journal of Legal Studies* 401 (2001) (with R. Cooter).

"Questioning the Idea of Correlativity in Weinrib's Theory of Corrective Justice," 2 *Theoretical Inquiries in Law* 161 (2001).

"Enforcing Contracts in Dysfunctional Legal Systems: The Close Relationship Between Public and Private Orders," 98 *Michigan Law Review* 2459 (2000).

"Does Risk to Oneself Increase the Care Owed to Others? Law and Economics in Conflict," 29 *Journal of Legal Studies* 19 (2000) (with R. Cooter).

"Liability for Uncertainty: Making Evidential Damage Actionable," 18 *Cardozo Law Review* 1891 (1997) (with A. Stein).

"The Contributory Negligence Defence and the Ability to Rely on the Contract," 111 *Law Quarterly Review* 228 (1995).

"Tort Law," in *Introduction to the Law of Israel* 127, Kluwer, Holland, A. Shapira ed. (1995).

"Contributory Negligence in the Law of Contracts: Toward A Principled Approach," 28 *University of British Columbia Law Review* 141 (1994).

## **Publications in Hebrew**

### **Books**

*Tort Law* (The Institute for Legislative Research and Comparative Law, 2013).

*Comparative Fault in Contract Law* (The Institute for Legislative Research and Comparative Law 1997).

### **Articles**

"Victims' Incentives and Anti-Insurance" *Gabriela Shalev Book* (forthcoming 2017).

"Preferences Change by the Law: A Preliminary Account" *Law, Culture and Literature: Nili Cohen Book* 551 (2017).

"When Good Things and Bad Things Come Together" 20 *Law & Business* 41 (2016) (*Issue dedicated for Uriel Procaccia*).

- "Ex-Post Reasonable – Ex-Ante Negligent" 29 *Bar-Ilan Law Review* 147 (Issue dedicated for Justice Rivlin) (2013).
- "The Wrongful Risks Condition" *Theodore Orr Book* 119 (2013).
- "Probabilistic Recoveries after *Malul*" *Shlomo Levin Book* 375 (2013).
- "Tort Law" in *Economic Analysis of Law* 271 (U. Procaccia ed., 2012).
- "Book Review: Eyal Zamir and Barak Medina, Law, Economics, and Morality (2010)" *Mishpatim, The Hebrew University of Jerusalem Law Journal* 415 (2011).
- "Advocating a General Duty of Restitution" 31 *Tel Aviv University Law Review* 521 (2009).
- "Under what Conditions the Parties to a Contract Will Allow 'Efficient Breach'?" *Daniel Friedmann Book* 171 (N. Cohen & O. Grosskopf eds., 2008).
- "Offsetting Risks and Defensive Medicine" 30 *Tel-Aviv University Law Review* 9 (2006).
- "Lost Years, Lost Income and the Value of Human Life" *Essays in Memory of Professor Menashe Shava*, A. Barak & D. Friedmann eds. 143 (2006).
- "Achieving Consensus for Wealth Redistribution Through Deferred-Execution Agreements" 28 *Tel-Aviv University Law Review* 717 (2004) (with O. Yadlin).
- "The Tobacco Industry Litigation and the New Challenge of Tort Law," 33 *Mishpatim (Laws), The Hebrew University of Jerusalem Law Journal* 477 (2003).
- "Liability for Lost Chances: An Exact Science or Law?" 27 *Tel-Aviv University Law Review* 357 (2003).
- "Standard Contracts," in *Contracts*, Vol. 3, 729, D. Friedmann & N. Cohen, eds (2003).
- "Negligence and Self-Risk," 26 *Tel Aviv University Law Review* 321 (2002).
- "Negligence and Interests," 24 *Tel Aviv University Law Review* 275 (2000).
- "Compensation for Risk-Creating and Loss of Chances," 23 *Tel Aviv University Law Review* 605 (2000).

"The Evidential Damage Doctrine: A Response to Critique" 30 *Hebrew University of Jerusalem Law Journal* 349 (1999)(with A. Stein).

"Israeli Law - The Seventies," in *The Courts of Law - Fifty Years of Adjudication in Israel* 98 (1999) .

"Justice Considerations and Behavior-Guiding Considerations in the Law of Contracts," 22 *Tel Aviv University Law Review* 647 (1999).

"The Evidential Damage Doctrine: A Positive Analysis of the Law," 21 *Tel Aviv University Law Review* 191 (1998) (with A. Stein).

"Negligence Law in the Supreme Court: Search for the Underline Theory," 3 *Yearbook on Israeli Law* 357 (1996).

"Collective Responsibility in the Law of Torts, " 23 *Mishpatim (Laws), The Hebrew University of Jerusalem Law Journal* 311 (1994).

"Means of Payments," in *The Law of Obligations - General Part* 431, D. Friedmann, ed. (1994).

"Apportionment of Payments," in *The Law of Obligations - General Part* 569, D. Friedmann, ed. (1994).

"Application of the Contributory Negligence Defence in the Law of Contracts," 18 *Tel Aviv University Law Review* 103 (1993).

"Tort Law," 2 *Yearbook on Israeli Law* 247 (1993).

"Tort Law," 1 *Yearbook on Israeli Law* 221 (1991).

"Sharing Responsibility in Cases of Frustration of Contract," 16 *Tel Aviv University Law Review* 65 (1991).

"Hardship to Third Parties and the Remedy of Specific Performance," in *Luvenberg Book* 138, D. Friedmann & I. Shilo, eds. (1987).

### **International Presentations (2000-Present)**

*Personalized Law*, Congresso Internacional de Direito e Tecnologia (University of Brasilia, Brazil, November 2017).



*The Restoration Remedy in Private Law: A Novel Approach to Compensation for Emotional Harm* (Columbia University, September 2017).

*Inducing Negligence*, The Annual Conference of the American Law & Econ. Association (Yale University, May 2017).

*Liability for Personal Governmental Services*, The Annual Conference of the American Law & Econ. Association (Yale University, May 2017).

*Offsetting Risks*, Seminar on Liability & Innovation (Keele University, UK, May 2017).

*Personalizing Default Rules and Disclosure Conference on Granular Legal Norms: The End of Typification?* (German-Italian Center for European Excellence, Italy, March 2017).

*Personalizing Negligence Law*, Paris Conference on Law and Big Data (Institut François GénY and the University of Chicago Law School, France, March 2017).

*Endogenous Preferences* (University of California, Berkeley, February 2017).

*Liability for Personal Governmental Services* (University of California, Berkeley, February 2017).

*Liability for Personal Governmental Services* (University of Southern California, February 2017).

*Inducing Negligence* (University of California, Berkeley, January 2017).

*The Future of Law and Economics and the Calabresian External Moral Costs*, Conference on CALABRESI, THE FUTURE OF LAW AND ECONOMICS (The Hebrew University, December 2016).

*Liability for Personal Governmental Services* (Stanford University, December 2016).

*Inducing Negligence* (University of Texas, October 2016).

*Personalizing Negligence Law* (Stanford University, October 2016).

*Disclosure Rules in Contract Law*, The Annual Conference of the American Law & Econ. Association (Harvard University, May 2016).

*Unity in Torts and Restitution: The Model of Internalization and Deterrence*, The Annual Conference of the American Law & Econ. Association (Harvard University, May 2016).

*Personalizing Negligence Law* (University of Chicago, January 2016).

*Personalizing Negligence Law* (University of Toronto, September 2015).

*Personalizing Negligence Law*, Tort Law Group (NYU, May 2015).

*Personalizing Negligence Law*, The Annual Conference of the American Law & Econ. Association (Columbia University, May 2015).

*A Welfarist Perspective on Lies*, The Annual Conference of the American Law & Econ. Association (Columbia University, May 2015).

*Getting Incentives Right* (Hitotsubashi ICS, Japan, April 2015).

*Aggregating Probabilities* (University of Tokyo, Japan, April 2015).

*Personalized Default Rules*, Conference on Behavioral Industrial Organization and Consumer Protection (University College London, October 2014).

*Valuable Lies* (University of Chicago, October 2014).

*Aggregation and Law*, Keynote Speaker, Conference on Causation and Apportionment in Law, Economics and Philosophy (Institut Jean Nicod (Ecole Normale Supérieure de Paris), September 2014).

*Valuable Lies*, The Annual Conference of the Asian Law & Econ. Association (Taipei, June 2014).

*Offsetting Benefits*, The Annual Conference of the Asian Law & Econ. Association (Taipei, June 2014).

*Credible Threats*, The Annual Conference of the American Law & Econ. Association (University of Chicago, May 2014).

*Disgorgements for Accidents*, The Annual Conference of the American Law & Econ. Association (University of Chicago, May 2014).

*Personalized Default Rules*, The Annual Conference of the American Law & Econ. Association (University of Chicago, May 2014).

*Offsetting Benefits*, The Annual Conference of the American Law & Econ. Association (University of Chicago, May 2014).

*Offsetting Benefits*, The First Meeting of the Turkish Law and Economics Association (Ankara, April, 2014).

*Lapses of Attention in Road Accidents and Products Liability* (University of Chicago, October 2013).

*Lapses of Attention in Road Accidents and Products Liability* (Cegla Conference, June 2013).

*Negligence Liability for Non-Negligent Behavior* (University of California, Berkeley, January 2103)

*Foundational Principles of Contract Law*, Symposium on the forthcoming book of MELVIN EISENBERG, FOUNDATIONAL PRINCIPLES OF CONTRACT LAW (University of California, Berkeley, January 2013).

*Aggregation and Law*, Mini-Symposium on the Article (Yale Law School, October 2012).

*Negligence Liability for Non-Negligent Behavior* (University of Chicago, October 2012).

*Aggregation and Law* (University of Virginia, April 2012).

*Mistake under the Common European Sales Law Symposium on the Common European Sales Law* (University of Chicago, April 2012).

*Misalignments in Tort Law*, Mini-Symposium on the Article (Yale Law School, October 2011).

*Negligence Liability for Non-Negligent Behavior* (University of Amsterdam, November 2011).

*Misalignments in Tort Law*, Mini-Symposium on the Article (Yale Law School, October 2011).

*Misalignments in Tort Law* (University of Michigan, September 2011).

*Misalignments in Tort Law*, The Annual Conference of the American Law & Econ. Association (Columbia University, May 2011).

*Willingness to Pay, Death, Wealth, and Damages*, The Annual Conference of the American Law & Econ. Association (Columbia University, May 2011).

*Misalignments in Tort Law* (University of Chicago, April 2011).

*Misalignments in Tort Law* (Northwestern University, March 2011).

*Willingness to Pay, Death, Wealth, and Damages* (University of California, Berkeley, October 2010).

*Risk of Death*, NYC Tort Group (NYU, October 2010).

*Risk of Death* (University of Texas, October 2010).

*Risk of Death* (Stanford University, September 2010).

*Risk of Death* (Harvard University, September 2010).

*Commensurability and Agency*, Siena-Toronto-Tel Aviv Law and Economics Workshop (Palermo, June 2010).

*Commensurability and Agency*, Cornell-Tel Aviv Conference on the Future of Legal Theory (Tel Aviv University, June 2010).

*Viewing Unconscionability Through a Market Lens*, The Annual Conference of the American Law & Econ. Association (Princeton University, May 2010).

- Market Failures under Risk of Death* (University of Chicago, December 2009).
- Liability for Future Risks*, A Conference on Causation (University of Aberdeen, Scotland, June 2009).
- Viewing Unconscionability Through a Market Lens*, International Conference on Comparative Contract Law (The Hebrew University, June 2009).
- Criminal Responsibility for Unspecified Offenses*, The Annual Conference of the American Law & Econ. Association (San-Diego University, May 2009).
- Private Production of Public Goods: Liability for Unrequested Benefits*, (San-Diego University, May 2009).
- Expanding Negligence Per-Se. A Conference on the Restatement (Third) on Torts* (Wake Forest University, April 2009).
- Criminal Responsibility for Unspecified Offenses* (Cornell Law School, March 2009).
- Aggregating Probabilities Across Offences in Criminal Law* (University of Chicago, October 2008).
- A Comparative Fault Defense in Contracts*, Conference on Fault in Contract Law (Chicago University, September 2008).
- Aggregating Probabilities Across Offences in Criminal Law*, Sienna-Tel-Aviv-Toronto Conference in Law & Economics (Tel Aviv University, June 2008).
- Liability for Lapses: 'First Order' or 'Second Order' Negligence?* The Cegla International Conference on Patients' Safety (Tel Aviv University, May 2008).
- Liability for Lapses: 'First Order' or 'Second Order' Negligence?* The Annual Conference of the American Law & Econ. Association (Columbia University, May 2008).
- Expanding Restitution: Liability for Unrequested Benefits*, The Annual Conference of the American Law & Econ. Association (Columbia University, May 2008).
- Expanding Restitution: Liability for Unrequested Benefits*, (University of Chicago, February 2008).
- Advocating a General Duty of Restitution*, Tort Law Group (NYU, October 2007).
- Advocating a General Duty of Restitution*, Work in Progress Workshop (Columbia University, October 2007).
- Offsetting Risks* (University of Southern California, September 2007).
- Advocating a General Duty of Restitution* (University of Southern California, September 2007).

*Offsetting Risks*, The Annual Conference of the American Law & Econ. Association (Harvard University, May 2007).

*Liability Externalities and Mandatory Choices* (Stanford University, November 2006).

*Offsetting Risks* (Pennsylvania University, October 2006).

*Liability Externalities and Mandatory Choices*, Conference on Tort law and the Modern State (Columbia University, September 2006).

*The Hidden Roles of Boilerplate*, The Annual Conference of the American Law & Econ. Association (University of California, Berkeley, May 2006).

*The Hidden Roles of Boilerplate* (Hamburg University, January 2006).

*Total Liability for Excessive Harm* (Harvard University, October 2005).

*Total Liability for Excessive Harm* (Columbia University, October 2005).

*The Hidden Roles of Boilerplate*, Conference on Boilerplates in Standard Form Contracts (Michigan University, September 2005).

*Liability Externalities and Mandatory Choices* (University of California, Berkeley, September 2005).

*Total Liability for Excessive Harm*, The Annual Conference of the American Law & Econ. Association (NYU, May 2005).

*Risks* (Conference at University of Pennsylvania, March 2005).

*Total Liability for Excessive Harm* (Northwestern University, February 2005).

*Total Liability for Excessive Harm* (University of Chicago, February 2005).

*Total Liability for Excessive Harm* (University of California, Berkeley, September 2004).

*Deferred Implementation Agreements* (University of Virginia, September 2004).

*Deferred Implementation Agreements*, The Annual Conference of the American Law & Econ. Association (Northwestern University, May 2004).

*Implementing the Law by Impartial Agents*, Conference on Regulating Conflict of Interests (University of Pennsylvania, with Cegla Center, October 2003).

*Deferred Implementation* (University of California, Berkeley, September 2003).

*Decreasing Liability Contracts* (University of Chicago, April 2003).

*Decreasing Liability Contracts* (Columbia University, April 2003).

*The Intercation between Criminal and Non-Legal Sanctions* (The European University, Florence, February 2003).

*Decreasing Liability Contracts*, The Annual Conference of the American Law & Econ. Association (University of Toronto, September 2002).

*Decreasing Liability Contracts*, Conference on the Economic Analysis of Contract Law (University of Virginia, September 2002).

*Anti-Insurance*, The Annual Conference of the American Law & Econ. Association (Washington DC, May 2002).

*Anti-Insurance* (Toronto University, Canada, November 2001).

*Anti-Insurance* (Chicago University, November 2001).

*Anti-Insurance* (Hamburg University, Germany, November 2001).

*Anti-Insurance* (Michigan University, February 2001).

*Anti-Insurance* (University of California, Berkeley, February 2001).

*The Many Faces of Negligence*, The Comparative Law & Economics Forum (Brussels, Belgium, June 2000).

*Should Courts Deduct Non-Legal Sanctions from Damages?* (University of California, Berkeley, 2000).

*Enforcing Contracts in Dysfunctional Legal Systems: The Close Relationship Between Public and Private Orders*, Conference on Empirical Research in Commercial Transactions (Michigan University, February 2000).