

YOAV DOTAN – PUBLICATIONS LIST

BOOKS

1. *Lawyering for the Rule of Law: Government Lawyers and the Rise of Judicial Power in Israel* (Cambridge Un. Press, 2014)
Reviewed at:
(1) Book Symposium on Yoav Dotan's *Lawyering for the Rule of Law: Government Lawyers and the Rise of Judicial Power in Israel*, *Jerusalem Review of Legal Studies* (Malcolm Feeley (ed.); Anna-Maria Marshal, Charles Epp, Gad Barzilai, Edward Rubin) (2015) 1-50
(2) Martin Edelman, *Law and Politics Book Review (LPBR)* Vol. 25 No. 3 (March 2015) pp. 43-44
2. *Zamir Book on Law, Society and Politics* (Hebrew University of Jerusalem, Harry Sacher Institute for Legislative Research and Comparative Law, 2003 Co-edited with Ariel Bendor, Hebrew)
3. *Judicial Activism in the Israeli High Court of Justice* (Magnes Press, 2000, Co-authored with Ruth Gavison and Mordechai Kremnitzer, Hebrew)
4. *Administrative Guidelines* (Hebrew University of Jerusalem, Harry Sacher Institute for Legislative Research and Comparative Law, 1996, Hebrew)

ARTICLES

1. Two Concepts of Deference, 71:4 *Administrative Law Review* (2020) (forthcoming)
2. Can Institutions Make Voters Care about Corruption? *Journal of Politics* (forthcoming 2019) (with Raanan Sulitzeanu-Kenan & Omer Yair)
3. Between the Agency and the Court: Ex Ante Review of Regulations, *American Journal of Comparative Law* (forthcoming 2019) (with Michael Asimow, Gabriel Bocksang, Marie Cirotteau & Thomas Perroud)
4. *The Common Real-Life Reference Point Methodology – or: "The McDonald's Index"* for Comparative Administrative Law and Regulation (in *Oxford Hand for Comparative Administrative Law*, Peter P. Cane, Peter Lindseth & Herwig Hofmann (eds) (forthcoming 2019)
5. Impeachment by Judicial Review: Israel's Odd System of Checks and Balances, 19(2) *Theoretical Inquiries in Law* (forthcoming 2018)
6. Will Procurement Officials be Biased to Disregard Procurement Rules in Favor of a Low-priced, albeit Defective, Bid? *Review of Law & Economics* (2018) (forthcoming; available on line at <https://doi.org/10.1515/rle-2016-0014>) (with Omer Dekel)
7. The Public Lawyer: The Servant of Two Masters (in Dorit Beinisch Book, A. Barak, S. Lifshitz, I. Bar-simantov, K. Azulai eds., 2018) p. 157-179
8. Open and Close Judicial Review of Agency Action: The Conflicting US and Israeli Approach, 64(3) *American Journal of Comparative Law* (2016) p.521-553 (with Michael Asimow) (also published in *Comparative Administrative Law*, 2nd

- ed. (S. Rose Ackerman, Peter L. Lindseth & B. Emerson eds., Elgar, 2017 p. 446-461).
9. Hired Guns and Ministers of Justice: The Role of Government Attorneys in the US and Israel, 49(1) *Israel Law Review* (2016) p. 3-21 (with Michael Asimow)
 10. The Boundaries of Social Transformation through Litigation: Women's and LGBT Rights in Israel, 1970-2010 48 *Israel Law Review* (2015) 3-38
 11. Human Dignity, Social Justice and Socio-Economic Rights (Response to Aharon Barak, 'Social Rights as Constitutional Rights: Human Dignity and the Right for Minimal Livelihood') *Society, Labor & Law* (Hebrew) (2015) 207-225
 12. The Different Effect of Cognitive Bias on Different Decision Types – An Experimental Study on Government Procurement, 45 *Mishpatim* (HU Law Rev.) (2015) 689-729 (Hebrew) (with Omer Dekel)
 13. Solving the Counter-majoritarian Difficulty? 11 *I-CON: International Journal of Constitutional Law* 13-33 (2013 with Or Bassok)
 14. Judicial Activism and Government Practices in Litigation in the Israeli High Court of Justice 1970-2000 (in *Empirical Legal Analysis: Assessing the Performance of Legal Institutions* Yun-chien Chang ed., Academia Sinica, Routledge, 2013) 159-180
 15. Informal Privatization and Distributive Justice in Israeli Administrative Law, *Hemline Law Review* 36 *Hamline L. Rev.* (2012-13) 27-38 (Conference Issue)
 16. Constitutional Adjudication and Political Accountability – Comparative Analysis and the Peculiarity of Israel (in *Constitutional Law of Israel*, G. Sapir, D. Barak-Erez & A. Barak eds., Hart Pub. 2013) 91-104
 17. Non Delegation and the Revised Principle of Legality, 42 *Mishpatim* 379-447, 2012) (Hebrew)
 18. Causation in Administrative Law (In *Mishael Chessin Book*, Aharon Barak, Itzhak Zamir & Yigal Marzel (eds.) Jerusalem, (2009) (Hebrew)
 19. Privatization in Israeli Administrative Law *Mishpatim* (2007) 287-347 (with Barak Medina) (Hebrew)
 20. Judicial Review of Legislation – The Accountability Question *Mishpat Umimshal* 33-64 (2007) (Hebrew)
 21. Making Consistency Consistent, 57(4) *Administrative Law Review* (2005) 995-1069
 22. The Public, the Private and the Norm of Equality (Review Article) 20 *Canadian Journal of Law & Society* 207-221 (2006)
 23. Legal Defeats - Political Wins: Why Do Elected Representative Go to Court? 38 (1) *Comparative Political Studies* 75-103 (2005) (with Menachem Hofnung)
 24. The Spillover Effect of Bills of Rights: A Comparative Assessment of the Impact of Bills of Rights on Courts in Canada and Israel, *American Journal of Comparative Law* 293-342 (2005)
 25. Campaign Finance Reform and the Social Inequality Paradox, 37 (4) *Michigan Journal of Law Reform* 955-1015 (2004)
 26. Legalizing the Unlegalizable: Terrorism, Secret Services and Judicial Review in Israel 1970-2001 (in *Judicial Review and Bureaucratic Impact*, Marc Hertogh and Simon Halliday eds. Cambridge Un. Press) (2004) 190-220

27. Pre-Petitions and Constitutional Dilemmas Regarding the Role of the Attorney General Office, 7 *Mishpat Umimshal* (Law and Government) (2003) 159-205 (Hebrew)
28. The Supreme Court as the Protector of Social Rights (in *Economic, Social and Cultural Rights*, Yoram Rabin and Yuval Shani (eds.) (2003) 69-129
29. Two Concepts of Reasonableness (in *Shamgar Book*, Y. Marzel (ed.), (2003) 459-510
30. The High Court of Justice During the *Intifada* (in 1 *Zamir Book on Law, Society and Politics*, Yoav Dotan and Ariel Bendor (eds.), 2003, 399-439
31. Government Lawyers as Adjudicators: *Pre-petitions* in the High Court of Justice Department 35 *Israel Law Review* (2003) 453-480
32. The Duty to Give Reasons in Administrative Law, 19 *Mechkarei Mishpat* (Bar Ilan Un. Law Review) (2002) 1-66 (Hebrew)
33. Judicial Accountability in Israel: The High Court of Justice and the Phenomenon of Judicial Hyperactivism (in *Developments in Israeli Public Administration*, Moshe Maor (ed.)), 8(4) *Israel Studies* (2002) 87-106
34. The Global Language of Human Rights: Patterns of Cooperation between State and Civil Rights Lawyers in Israel (in *Cause Lawyering and the State in a Global Era*, Austin Sarat and Stuart Scheingold (eds), Oxford Un. Press, 2001, 244-263 =
35. The Knesset as "Legislating for Itself" in the Jurisprudence of the Supreme Court, *Mishpatim* (2000) 771-796 (Hebrew)
36. Interest Groups in the Israeli High Court of Justice: Measuring Success in Litigation and in Out-of-Court Settlements, 23(1) *Law and Policy* (2001) 1-27 (with Menachem Hofnung)
37. The Lawyer, The Public Cause and the Individual Client: A Preliminary Observation into the Relative Success of Political Lawyers in Litigation, 23 *Iunei Mishpat* (Tel Aviv Un. Law Review)(2000) 697-715 (Hebrew)
38. Administrative Promise to the Public, 5 *Mishpat Umimshal* (Law and Government) (2000) 465-495 (Hebrew)
39. Note: Do the 'Haves' Still Come Out Ahead? Resource Inequalities in Ideological Courts: The Case of the Israeli High Court of Justice, 33(4) *Law and Society Review* (1999) 1059-80
40. Does Israel Need a Constitutional Court?" 5 *Mishpat Umimshal* (Law and Government) (2000) 117-163 (Hebrew)
41. Public Lawyers and Private Clients: An Empirical Observation on the Relative Success Rates of Cause Lawyers, 21 (4) *Law and Policy* (1999) 401-425
42. Judicial Rhetoric, Government Lawyers and Human Rights: The Case of the Israeli High Court of Justice during the *Intifada*, 33 (2) *Law and Society Review* (1999) 319-364
43. Cause Lawyers Crossing the Lines: Patterns of Fragmentation and Cooperation between State and Civil Rights Lawyers in Israel, 5 *International Journal of the Legal Profession* (1998) 193-208
44. Judicial Review and Political Accountability in Israel, 32 *Israel Law Review* (1998) 448-474

45. Should Prosecutorial Discretion Enjoy Special Treatment in Judicial Review: A Comparative Analysis of the Law in England and in Israel, [1997] *Public Law* 513-531
46. Why Administrators Should Be Bound by Their Policies, 17 *Oxford Journal of Legal Studies* (1997) 23-41
47. The Constitutional Status of the Right for Private Property, 27 *Mishpatim* (Hebrew Un. Law Review) 535-579 (1997) (Hebrew)
48. Administrative Contracts and Promises (in *Public Law in Israel*, I. Zamir and A. Zysblat (eds), Oxford Un. Press, 1997)
49. A Constitution for Israel? The Constitutional Dialogue after 'the Constitutional Revolution', 27 *Mishpatim* (Hebrew Un. Law Review) 149-209 (1997) (Hebrew)
50. Publication of Administrative Guidelines, 3 *Mishpat Umimshal* (Law and Government) 475-508 (1996) (Hebrew)
51. Ripeness and Politics in the High Court of Justice, 20 *Iunei Mishpat* (Tel Aviv Un. Law Review) 93-139 (1996) (Hebrew)
52. Public Cause of Action and Damages without Fault, 2 *Mishpat Umimshal* (Law and Government) 97-108 (1994) (Hebrew)
53. Discrimination in Favor of Others, 1 *Mishpat Umimshal* (Law and Government) 489-507 (1993) (Hebrew)
54. Judicial Review of Delegated Legislation and the Exceptional Case," 24 *Mishpatim* (Hebrew Un. Law Review) 425-461(1994) (Hebrew)
55. The Duty to Publish Administrative Rules, 23 *Mishpatim* (Hebrew University Law Review) 437-472 (1993) (Hebrew)
56. Instead of Relative Voidness, 23 *Mishpatim* (Hebrew University Law Review) 587-640 (1993) (Hebrew)
57. Letter of Credit - Fraud in the Transaction and Fraud in the Documents, 17 *Mishpatim* (Hebrew University Law Review) 92-145 (1987) (Hebrew)
58. Tort Liability of Public Officials with Discretionary Powers, 15 *Mishpatim* (Hebrew University Law Review) 245-286 (1985) (Hebrew)

REVIEW ARTICLES

1. Lawyering for 'The Rule of Law' or 'Lawyering for the Court'?—A Response to Barzilai, Epp, Rubin, and Marshall, *Jerusalem Review of Legal Studies* (2015) Vol. 11 42-50 doi:10.1093/jrls/jlv001
2. On the Relationships between Power and Accountability (Review on *Public Responsibility in Israel*, Raphael Cohen-Almagor, Ori Arbel-Ganz & Asa Kasher eds., Kibbutz Hameuchad Pub. & The Jerusalem Center for Ethics, 2012) *Mishpatim on-line* 2013.

OTHER PUBLICATIONS

1. Relative Voidness and Remedial Flexibility in Israeli Administrative Law, *Administrative Law Blog – Melbourne University* (Farrah Ahmed, ed.) (Nov. 2nd 2017) at: <https://adminlawblog.org/2017/11/02/yoav-dotan-relative-voidness-and-remedial-flexibility-in-israeli-administrative-law/>

2. Judicial Review and Election's Dirty Tricks in an Age of Hyper-Activism – VERSA – Opinions on the Supreme Court of Israel (May 16, 2015) (<http://versa.cardozo.yu.edu/viewpoints#sthash.PsvLt9cj.dpuf>)
3. Judicial Conservatism and Intellectual Courage: A Homage to President (ret.) Asher Grunis – VERSA – Opinions on the Supreme Court of Israel (May 24, 2015) (<http://versa.cardozo.yu.edu/viewpoints#sthash.PsvLt9cj.dpuf>)
4. Administrative Procedure in Israel – Report on the Codification of Administrative Law (International Academy of Comparative Law, Jean-Bernard Auby, ed., Bruylant Press, 2013,)

WORK IN PROGRESS

1. Judicial Review of Administrative Action (Book – 4 parts) (Under Contract by Harry Sacher Inst. for Legal Studies and Comparative Law)
2. Castles, Cavaliers and Windows: Judicial Behavior, Legal Mobilization and Governmental Positions in Litigation
3. Anti-Corruption and Rule of Law in the Israeli Supreme Court Jurisprudence