

## 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) Anna-Maria Marshal, Charles Epp, Gad Barzilai, Edward Rubin, *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 1 (Malcolm Feeley (ed.);) (2015)  
(2) Martin Edelman, *Law and Politics Book Review* 25(3) LPBR) 43 (March 2015)
2. *ZAMIR BOOK: ON LAW, SOCIETY AND POLITICS* (Hebrew University of Jerusalem, Harry Sacher Institute for Legislative Research and Comparative Law, Co-edited with Ariel Bendor, 2003) (Hebrew)
3. *JUDICIAL ACTIVISM IN THE ISRAELI HIGH COURT OF JUSTICE* (Magnes Press, Co-authored with Ruth Gavison and Mordechai Kremnitzer, 2000) (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 and Reasonableness, 51 MISHPATIM (HU Law Rev.) (2021, forthcoming).
2. *Chevron* in Israel? Interpretative Powers and Strategic Dilemmas following C.A. 7488/16 *Seligman v. Phoenix Ins. Co.* 34 *Iunei Mishpat Forum*[Tel Aviv Un. Law Rev.) – *On Line* (October 2020)
3. The Noise of the Revolutionary Drums and the Voice of the Piccolo: The Constitutional Legacy of Justice Mishael Cheshin (Law & Business, 2020, forthcoming)
4. *The Common Real-Life Reference Point* Methodology – or: "*The McDonald's Index*" for Comparative Administrative Law and Regulation (in OXFORD HANDBOOK FOR COMPARATIVE ADMINISTRATIVE LAW, Peter P. Cane, Peter Lindseth & Herwig Hofmann (eds) (2021) 991
5. *Deference and Disagreement in Administrative Law*, 71:4 *Administrative Law Review* 761 (2019)
6. *Can Institutions Make Voters Care about Corruption?* 82(4) JOURNAL OF POLITICS (June 2020) (with Raanan Sulitzeanu-Kenan & Omer Yair)  
[Reviewed at: Guy Rubinstein, "Anticorruption Court Rulings as a Gentle Reminder to Voters: Candidates' Integrity Is Important" GAB: The Global Anti-Corruption Blog, August 3, 2020 at <https://globalanticorruptionblog.com/2020/08/03/anticorruption-court-rulings-as-a-gentle-reminder-to-voters-candidates-integrity-is-important/>]

7. *Between the Agency and the Court: Ex Ante Review of Regulations*, AMERICAN JOURNAL OF COMPARATIVE LAW (published 9.8.2020) (with Michael Asimow, Gabriel Bocksang, Marie Cirotteau & Thomas Perroud) (available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3365140](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3365140))
8. *Impeachment by Judicial Review: Israel's Odd System of Checks and Balances*, 19(2) THEORETICAL INQUIRIES L. 705 (2018) (available at <http://www7.tau.ac.il/ojs/index.php/til/article/view/1587/1685>)
9. *The Public Lawyer: The Servant of Two Masters*, DORIT BEINISCH BOOK 157(A). Barak, S. Lifshitz, I. Bar-simantov, K. Azulai eds., 2018) (available at <https://kotar.cet.ac.il/KotarApp/Viewer.aspx?nBookID=104787938#6.3210.6.default>)
10. *Will Procurement Officials be Biased to Disregard Procurement Rules in Favor of a Low-priced, albeit Defective, Bid?* 14(2) INT'L REV. L. & ECON. (6 August 2017) (with Omer Dekel) (available on line at <https://doi.org/10.1515/rle-2016-0014>)
11. *Open and Closed Judicial Review of Agency Action: The Conflicting U.S. and Israeli Approaches*, 64 AM. J. COMP. L. 521 (1 October 2016). (with Michael Asimow) (available at <https://law.stanford.edu/wp-content/uploads/2015/08/AJCL-Open-Review-Article-PDF-copy-.pdf>) (also published in *Comparative Administrative Law*, 2<sup>nd</sup> ed. 446 (S. Rose Ackerman, Peter L. Lindseth & B. Emerson eds., Elgar, 2017))
12. *Hired Guns and Ministers of Justice: The Role of Government Attorneys in the US and Israel*, 49(1) ISRAEL LAW REVIEW 3 (29 February 2016) (with Michael Asimow) (available at <https://doi.org/10.1017/S0021223714000284>)
13. *The Boundaries of Social Transformation through Litigation: Women's and LGBT Rights in Israel, 1970-2010* 48(1) ISRAEL LAW REVIEW 3 (29 January 2015) (available at <https://doi.org/10.1017/S0021223714000284>)
14. *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')* 14 SOCIETY, LABOR & LAW 207 (2015) (Hebrew) (available at: <https://www.nevo.co.il/books/%d7%9b%d7%aa%d7%91%d7%99%20%d7%a2%d7%aa/%d7%9b%d7%aa%d7%91%d7%99%20%d7%a2%d7%aa/%d7%9e%d7%a9%d7%a4%d7%98%20%d7%94%d7%a2%d7%91%d7%95%d7%93%d7%94/%d7%9b%d7%a8%d7%9a%20%d7%99%d7%93/mishpat-havoda-14-207.pdf>)
15. *The Different Effect of Cognitive Bias on Different Decision Types – An Experimental Study on Government Procurement*, 45 MISHPATIM (HU Law Rev.) 689 (February 2015) (with Omer Dekel) (Hebrew) (available at <https://lawjournal.huji.ac.il/article/12/1186>)
16. *Solving the Counter-majoritarian Difficulty?* 11 I-CON: INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 13 (7 January 2013) (with Or Bassok) (available at: <https://academic.oup.com/icon/article/11/1/13/776170>)
17. *Judicial Activism and Government Practices in Litigation in the Israeli High Court of Justice 1970-2000* EMPIRICAL LEGAL ANALYSIS: ASSESSING THE PERFORMANCE OF LEGAL INSTITUTIONS 159 (Yun-chien Chang ed., Academia Sinica, Routledge, 2013) (available at:

- <http://search.ebscohost.com/login.aspx?direct=true&db=nlebk&AN=677213&site=eds-live>)
18. *Informal Privatization and Distributive Justice in Israeli Administrative Law* 27 36 HAMLIN L. REV. (2012-13) (Conference Issue) (available at: [https://heinonline.org/HOL/Page?handle=hein.journals/hamlrv36&div=7&g\\_sent=1&casa\\_token=&collection=journals](https://heinonline.org/HOL/Page?handle=hein.journals/hamlrv36&div=7&g_sent=1&casa_token=&collection=journals))
  19. *Constitutional Adjudication and Political Accountability – Comparative Analysis and the Peculiarity of Israel* CONSTITUTIONAL LAW OF ISRAEL 91 (G. Sapir, D. Barak-Erez & A. Barak eds., Hart Pub. 2013) (available at: <http://portal.igpublish.com/iglibrary/obj/HARTB0000845>)
  20. *Non Delegation and the Revised Principle of Legality* 42 MISHPATIM 379 (HU Law Rev.) , 2012) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/1559>)
  21. *Causation in Administrative Law*, MISHAEL CHESSIN BOOK 261 (Aharon Barak, Itzhak Zamir & Yigal Marzel (eds.), Jerusalem, 2009) (Hebrew)
  22. *Privatization in Israeli Administrative Law* 37 MISHPATIM 287 (2007) (with Barak Medina) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/1678>)
  23. *Judicial Review of Legislation – The Accountability Question* 10 Mishpat Umimshal 33489 (2007) (Hebrew) (available at: <http://law.haifa.ac.il/images/lawGov/vol10-2/3-dotan.pdf>)
  24. *Making Consistency Consistent*, 57(4) ADMINISTRATIVE LAW REVIEW 995 (2005) (available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/admin57&div=42&id=&page=>)
  25. *The Public, the Private and the Norm of Equality* 20 CANADIAN JOURNAL OF LAW & SOCIETY 207 (2006) (available at: <https://doi.org/10.1353/jls.2006.0021>)
  26. *Legal Defeats - Political Wins: Why Do Elected Representative Go to Court?* 38 (1) COMPARATIVE POLITICAL STUDIES 75 (2005) (with Menachem Hofnung) (available at: <https://journals.sagepub.com/doi/pdf/10.1177/0010414004270969>)
  27. *The Spillover Effect of Bills of Rights: A Comparative Assessment of the Impact of Bills of Rights on Courts in Canada and Israel*, 53(2) AMERICAN JOURNAL OF COMPARATIVE LAW 293 (2005) (available at: <https://heinonline.org/HOL/Page?handle=hein.journals/amcomp53&id=303&collection=journals&index=journals/amcomp>)
  28. *The High Court of Justice During the Intifada* ZAMIR BOOK ON LAW, GOVERNMENT AND SOCIETY (Yoav Dotan and Ariel Bendor (eds.), 2005) 399 (Hebrew)
  29. *Campaign Finance Reform and the Social Inequality Paradox*, 37(4) MICHIGAN JOURNAL OF LAW REFORM 955 (2004) (available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/umijlr37&div=31&id=&page=>)
  30. *Legalizing the Unlegalizable: Terrorism, Secret Services and Judicial Review in Israel 1970-2001*, JUDICIAL REVIEW AND BUREAUCRATIC IMPACT 190 (Marc Hertogh and Simon Halliday eds. Cambridge Un. Press, 2004) (available at: <https://doi.org/10.1017/CBO9780511493782>)

31. *Pre-Petitions and Constitutional Dilemmas Regarding the Role of the Attorney General Office* 7 MISHPAT UMIMSHAL 159 (2003) (Hebrew) (available at: <http://law.haifa.ac.il/images/lawGov/vol7-1/5-dotan.pdf>)
32. *The Supreme Court as the Protector of Social Rights* ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN ISRAEL 69 (Yoram Rabin and Yuval Shani (eds.),2003) (Hebrew) (available at: <https://kotar.cet.ac.il/KotarApp/Viewer.aspx?nBookID=96262459>)
33. *Two Concepts of Reasonableness* 459 SHAMGAR BOOK (Y. Marzel (ed.), 2003) (Hebrew)
34. *Government Lawyers as Adjudicators: Pre-petitions in the High Court of Justice Department* 35(2) ISRAEL LAW REVIEW 453 (2001) (available at: <https://heinonline.org/HOL/P?h=hein.journals/israel35&i=461>)
35. *The Duty to Give Reasons in Administrative Law*, 19 *Mechkarei Mishpat* 5 (Bar Ilan Un. Law Review) (2002) (Hebrew) (available at: <https://www.jstor.org/stable/24269653>)
36. *Judicial Accountability in Israel: The High Court of Justice and the Phenomenon of Judicial Hyperactivism*, 8(4) ISRAEL AFFAIRS 87 (2002) (available at: <https://doi.org/10.1080/13537120208719659>)
37. *The Global Language of Human Rights: Patterns of Cooperation between State and Civil Rights Lawyers in Israel*, CAUSE LAWYERING AND THE STATE IN A GLOBAL ERA 244 (Austin Sarat and Stuart Scheingold (eds), Oxford Un. Press, 2001)
38. *The Knesset as "Legislating for Itself" in the Jurisprudence of the Supreme Court*, 31(4) MISHPATIM 771 (HU Law Rev.) (2001) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/822>)
39. *Interest Groups in the Israeli High Court of Justice: Measuring Success in Litigation and in Out-of-Court Settlements*, 23(1) LAW AND POLICY 1 (2001) (with Menachem Hofnung) (Hebrew) (available at: <https://heinonline.org/HOL/P?h=hein.journals/lawpol23&i=11>)
40. *The Lawyer, The Public Cause and the Individual Client: A Preliminary Observation into the Relative Success of Political Lawyers in Litigation*, 23 *Iunei Mishpat* 697 (Tel Aviv Un. Law Review) (2000) (Hebrew) (available at: <https://heinonline.org/HOL/P?h=hein.journals/telaviv23&i=700>)
41. *Administrative Promise to the Public*, 5 MISHPAT UMIMSHAL 465 (Law and Government) (2000) (Hebrew) (available at: <http://law.haifa.ac.il/images/lawGov/vol5-2/7-dotan.pdf>)
42. *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 1059 (1999) (available at: <https://heinonline.org/HOL/P?h=hein.journals/lwsocrw33&i=1069>)
43. *Does Israel Need a Constitutional Court?* 5 MISHPAT UMIMSHAL 117 (Law and Government) (2000) (Hebrew) (available at: <http://law.haifa.ac.il/images/lawGov/vol5-1/6-dotan.pdf>)
44. *Public Lawyers and Private Clients: An Empirical Observation on the Relative Success Rates of Cause Lawyers*, 21(4) LAW AND POLICY 401 (1999) (available at: <https://doi.org/10.1111/1467-9930.00079>)

45. *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 319 (1999) (available at: <https://heinonline.org/HOL/P?h=hein.journals/lwsocrw33&i=329>)
46. *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 193 (1998) (available at: <https://heinonline.org/HOL/P?h=hein.journals/injlepro5&i=183>)
47. *Judicial Review and Political Accountability in Israel*, 32 ISRAEL LAW REVIEW 448 (1998) (available at: <https://heinonline.org/HOL/P?h=hein.journals/israel32&i=458>)
48. *Should Prosecutorial Discretion Enjoy Special Treatment in Judicial Review: A Comparative Analysis of the Law in England and in Israel*, 3 PUBLIC LAW 513 (1997)
49. *Why Administrators Should Be Bound by Their Policies*, 17 OXFORD JOURNAL OF LEGAL STUDIES 23 (1997) (available at: <https://heinonline.org/HOL/P?h=hein.journals/oxfjls17&i=37>)
50. *The Constitutional Status of the Right for Private Property*, 28 MISHPATIM 535 (HU Law Rev.) (1997) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/748>)
51. *A Constitution for Israel? The Constitutional Dialogue after 'the Constitutional Revolution'*, 27 MISHPATIM 149 (HU Law Rev.) (1997) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/733>)
52. *Administrative Contracts and Promises*, PUBLIC LAW IN ISRAEL (I. Zamir and A. Zysblat (eds), Oxford Un. Press, 1996)
53. *Publication of Administrative Guidelines*, 3(2) MISHPAT UMIMSHAL 475 (Law and Government) (1996) (Hebrew) (available at: <http://law.haifa.ac.il/images/lawGov/vol3-2/6-dotan.pdf>)
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58. *The Duty to Publish Administrative Rules*, 23 MISHPATIM 437 (HU Law Rev.) (1993) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/897>)
59. *Instead of Relative Voidness*, 22 MISHPATIM 587 (HU Law Rev.) (1993) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/1259>)

60. *Letter of Credit - Fraud in the Transaction and Fraud in the Documents*, 17 MISHPATIM 92 (HU Law Rev.) (1987) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/976>)
61. *Tort Liability of Public Officials with Discretionary Powers*, 15 MISHPATIM 245 (HU Law Rev.) (1985) (Hebrew) (available at: <https://lawjournal.huji.ac.il/article/12/481>)

## REVIEW ARTICLES

1. *Is the Legislature Bound by the Principle of Relevancy* (Review of Barak Medina, *Human Rights in Israel*, Sacher Inst. Heb. Un. & Nevo, Jerusalem, 2016) 12 MISHPATIM ON-LINE (5 August 2018) (available at: <https://lawjournal.huji.ac.il/article/24/1610>)
2. *Lawyering for 'The Rule of Law' or 'Lawyering for the Court'?—A Response to Barzilai, Epp, Rubin, and Marshall*) 11 JERUSALEM REVIEW OF LEGAL STUDIES 42 (28 April 2015) (available at: <https://academic.oup.com/jrls/article/11/1/42/2412455>)
3. *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) 6 MISHPATIM ON-LINE (2013) (available at: <https://lawjournal.huji.ac.il/article/24/1269>)

## BLOG & REPORTS

1. *Continuous Judicial Review in Coronavirus Times*, THE REGULATORY REVIEW (May 2020) (available at: <https://www.theregreview.org/2020/05/11/dotan-continuous-judicial-review-coronavirus-times/>)
2. *Judicial Impeachment of Elected Officials in Constitutional Perspective*, ICON-S Blog (May 2020) (Hebrew) (available at: <https://israeliconstitutionalism.wordpress.com/2020/05/04/%d7%94%d7%93%d7%97%d7%94-%d7%a9%d7%99%d7%a4%d7%95%d7%98%d7%99%d7%aa-%d7%a9%d7%9c-%d7%a0%d7%91%d7%97%d7%a8%d7%99-%d7%a6%d7%99%d7%91%d7%95%d7%a8-%d7%91%d7%9e%d7%91%d7%97%d7%9f-%d7%97%d7%95%d7%a7%d7%aa/>)
3. *Relative Voidness and Remedial Flexibility in Israeli Administrative Law*, ADMINISTRATIVE LAW BLOG – MELBOURNE UNIVERSITY (Farrah Ahmed, ed.) (2 November 2017) (available at: <https://adminlawblog.org/2017/11/02/yoav-dotan-relative-voidness-and-remedial-flexibility-in-israeli-administrative-law/>)
4. *Judicial Review and Election's Dirty Tricks in an Age of Hyper-Activism* – VERSA – OPINIONS ON THE SUPREME COURT OF ISRAEL (May 16, 2015) (available at: <http://versa.cardozo.yu.edu/viewpoints#sthash.PsvLt9cj.dpuf>)

5. *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>)
6. *Administrative Procedure in Israel – Report on the Codification of Administrative Law* (International Academy of Comparative Law, Jean-Bernard Auby, ed., Bruylant Press, 2013,)
7. *Rhetoric and Impact in Supreme Court Rulings – Comment on Menachem Moutner's: Liberalism in Israel*, ICON-S-IL Blog (May, 2021)

## 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*