

Prof. EYAL ZAMIR

LIST OF PUBLICATIONS

BOOKS

Hebrew

1. [STATE LAND IN JUDEA AND SAMARIA – THE LEGAL STATUS](#) (The Jerusalem Institute for Israel Studies, Jerusalem, 1985) 75 pp., including Summary in English;
2. SALE LAW, 1968, in COMMENTARY ON LAWS RELATING TO CONTRACTS, G. Tedeschi, ed. (The Harry Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1987) 867 + 43 pp.;
3. [THE CONFORMITY RULE IN THE PERFORMANCE OF CONTRACTS](#) (The Harry Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1990) 465 pp.;
4. [THE LEGAL STATUS OF LANDS ACQUIRED BY ISRAELIS BEFORE 1948 IN THE WEST BANK, GAZA STRIP AND EAST JERUSALEM](#) (The Jerusalem Institute for Israel Studies, 1993, with E. Benvenisti) 320 pp., including appendices;
5. CONTRACT FOR SERVICES LAW, 1974, in COMMENTARY ON LAWS RELATING TO CONTRACTS, G. Tedeschi, ed. (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1994) 875 pp.;
6. BRIEF COMMENTARY ON LAWS RELATING TO PRIVATE LAW (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1994, with Prof. A.M. Rabello and Prof. G. Shalev) 488 pp.;
7. INTERPRETATION AND GAP FILLING IN CONTRACTS (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1996) 167 pp.;
8. BRIEF COMMENTARY ON LAWS RELATING TO PRIVATE LAW, 2d ed. (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 1996, with Prof. A.M. Rabello and Prof. G. Shalev) 848 pp.;
9. [PRIVATE PROPERTY IN THE ISRAELI-PALESTINIAN CONFLICT – CURRENT STATUS AND POSSIBLE SOLUTIONS](#) (The Jerusalem Institute for Israel Studies, 1998, with E. Benvenisti) 86 pp.;
10. SALES (HOUSING) LAW, 1973, in COMMENTARY ON LAWS RELATING TO CONTRACTS founded by G. Tedeschi (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 2002) 1092 pp.

English

11. [LAW, ECONOMICS, AND MORALITY](#) (OUP, 2010) 376 pp. (with B. Medina); Chinese translation by Xu Dafeng (Fu Dan University Press, Shanghai China, 2015);
12. [LAW, PSYCHOLOGY, AND MORALITY: THE ROLE OF LOSS AVERSION](#) 258+18 pp. (OUP, 2014).

EDITED BOOKS

Hebrew

1. THE DRAFT CIVIL CODE: A CRITICAL ANALYSIS, 36 MISHPATIM 183-909 (Guest ed. with I. Gilead and B. Medina, 2006);
2. THE JUDICIAL LEGACY OF AHARON BARAK (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, 2009, with C. Fassberg and B. Medina) 658 pp.

English

3. [THE OXFORD HANDBOOK OF BEHAVIORAL ECONOMICS AND THE LAW](#) 824 + 13 pp. (co-edited with D. Teichman, OUP 2014).

ARTICLES AND BOOK CHAPTERS

Articles in Referreed Journals – Hebrew

1. “Unreasonableness – A Ground for Judicial Intervention in Administrative Law,” 12 MISHPATIM (The Students Law Review of the Hebrew University) 291-328 (1982);
2. “Comments on the *Gofen* Case,” 35 HAPRAKLIT (Israeli Bar’s Law Journal) 101-107 (1983);
3. “The Contractor’s Liability as a Bailee – Policy Considerations,” 17 IYUNEI MISHPAT (Tel Aviv University Law Review) 95-120 (1992);
4. “On the Distinction between an Employee and an Independent Contractor,” 22 MISHPATIM 113-168 (1992);
5. “The 1990 Amendment to the Sale (Housing) Law – A Critical Analysis,” 18 IYUNEI MISHPAT 201-234 (1993);
6. “Sub-Contracting: The Relationship between the Employer, the Contractor and the Sub-Contractor,” MEHKAREI MISHPAT (Bar-Ilan University Law Review) 45-97 (1994);
7. “Legislative Proposals Relating to Contracts for Services,” 26 MISHPATIM 97-168 (1995);
8. “Market Overt, Common Mistake, and Unjust Enrichment,” 26 MISHPATIM 359-78 (1995);
9. “Free Will, Economic Efficiency, and Equality in Exchange,” 29 MISHPATIM 783-99 (1998);

10. "The Bailees Law, 1967 and Its Interpretation" (Book Review of Shirley Renner, *THE BAILEES LAW*, 1967) ," 30 *MISHPATIM* 393-424 (1999);
11. "The Theoretical Foundations of the Sales (Housing) Law," 30 *MISHPATIM* 459-512 (2000);
12. "Remedies for Breach of Contract: Expectation Damages, Reliance Damages, Restitution of Unjust Enrichment, and Restoration of the Contractual Equivalence," 34 *MISHPATIM* 91-195 (2004);
13. "The Effect of Subsequent Expropriation on a Contract for the Sale of Land: Impossibility, Interpretation, or Transfer of Risk?," 35 *MISHPATIM* 331-57 (2005) (with T. Kricheli-Katz);
14. "The Regulation of Specific Contracts in the Draft Civil Code – A Critical Analysis," 36 *MISHPATIM* 531-593 (2006);
15. "Towards an Integrative Legal Scholarship," 4 [DIN U'DVARIM](#) (Haifa Law Review) 131-66 (2008);
16. "Law, Economics, and Deontological Morality – A Response to Ariel Porat," 41 *MISHPATIM* 439-453 (with B. Medina) (2011);
17. "Further Thoughts on Contract Interpretation and Supplementation," 43 [MISHPATIM](#) 5-53 (2012);
18. "Consumer Protection Law – A Unique and Separate Legal Sphere?" 8 *MOZNEI MISHPAT* (Netanya Academic College Law Review) 409-17 (2012);
19. "Empirical Legal Studies: A Critical Review" 44 [MISHPATIM](#) 671–88 (2015, with D. Teichman);
20. "Illegal Contract or Contract For Appearance Sake?," 45 [MISHPATIM](#) 251–76 (2015, with M. Cohen);
21. "Behavioral Analysis of Judicial Decisionmaking: Achievements and Challenges" 19 [MISHPAT VA'ASAKIM](#) (Law and Business) 57–100 (2015, with D. Teichman);
22. "Procedural and Substantive Fairness in Contract Law: Exploitation and Duress as Test Cases" 13 [ALEI MISHPAT](#) (College of Law and Business Law Review) 7–35 (2016);
23. "A Contingent Fee at the Rate of 100%" – [MISHPATIM](#) – (forthcoming, 2017, app. 18 pages).

Articles in Refereed Journals – English

24. "The Failure of the Remedy of Reduction in Israeli Law – Causes and Lessons," 23 *ISR. L. REV.* 469-505 (1989);
25. "Market Overt in the Sale of Movables: Israeli Law in a Comparative Perspective," 24 *ISR. L. REV.* 82-127 (1990);
26. "The Extent of Similarity Required between the Content of the Contract and its Performance," 25 *ISR. L. REV.* 187-218 (1991);
27. "Toward a General Concept of Conformity in the Performance of Contracts," 52 *LOUISIANA L. REV.* 1-90 (1991);
28. "Private Claims to Property Rights in the Future Israeli-Palestinian Settlement," 89 *AMERICAN J. INTERNATIONAL LAW* 295-340 (1995) (with E. Benvenisti).

29. "The Inverted Hierarchy of Contract Interpretation and Supplementation," 97 [COLUMBIA L. REV.](#) 1710-1803 (1997);
30. "The Efficiency of Paternalism," 84 [VIRGINIA L. REV.](#) 229-86 (1998);
31. "The Missing Interest: Restoration of the Contractual Equivalence," 93 [VIRGINIA L. REV.](#) 59-138 (2007);
32. "Law, Morality, and Economics: Integrating Moral Constraints with Economic Analysis of Law," 96 [CALIFORNIA L. REV.](#) 323-91 (2008) (with B. Medina);
33. "Revisiting the Debate over Attorneys' Contingent Fees: A Behavioral Analysis," 38 J. LEGAL STUD. 245-88 (2010) (with I. Ritov);
34. "Notions of Fairness and Contingent Fees," 74 [LAW & CONTEMPORARY PROBLEMS](#) 1-32 (2011) (with I. Ritov);
35. "Law, Economics, and Morality: Response to Critiques," 3 [JERUSALEM REV. LEGAL STUD.](#) 107-46 (2011) (with B. Medina);
36. "Loss Aversion and the Law," 65 [VANDERBILT L. REV.](#) 829-94 (2012);
37. "Loss Aversion, Omission Bias, and the Burden of Proof in Civil Litigation," 41 J. LEGAL STUD. 165-207 (2012) (with I. Ritov);
38. "Who Benefits from the Uniformity of Contingent Fee Rates?" 9 [REVIEW OF LAW AND ECONOMICS](#) 357-88 (2013) (with B. Medina & U. Segal);
39. "Seeing is Believing: The Anti-Inference Bias," 89 [INDIANA LAW JOURNAL](#) 195-229 (2014) (with I. Ritov & D. Teichman);
40. "Rational Choice versus Lawful Choice: On Law, Economics, and Morality," 170 JOURNAL OF INSTITUTIONAL AND THEORETICAL ECONOMICS 129-36 (2014);
41. "Contract Law and Theory – Three Views of the Cathedral," 81 [UNIVERSITY OF CHICAGO LAW REVIEW](#) 2077–2123 (2014);
42. "Affirmative Action and other Group Tradeoff Policies: Identifiability of the Adversely Affected People" 125 [ORGANIZATIONAL BEHAVIOR AND HUMAN DECISION PROCESSES](#) 50-60 (2014) (with I. Ritov);
43. "Standard Form Contracts: Empirical Studies, Normative Implications, and the Fragmentation of Legal Scholarship" 12 [JERUSALEM REVIEW OF LEGAL STUDIES](#) 137–70 (2015) (with Y. Farkash);
44. "It's Now or Never! Using Deadlines as Nudges" [LAW AND SOCIAL INQUIRY](#) (35 pp., 2016, with D. Lewinsohn-Zamir and I. Ritov);
45. "New Evidence about Circumstantial Evidence" 41 [LAW AND PSYCHOLOGY REV.](#) 107–58 (with Elisha Harlev and Ilana Ritov);
46. "Tastes, Values, and the Future of Law and Economics" ____ [JERUSALEM REVIEW OF LEGAL STUDIES](#) (Forthcoming, 2017);
47. "Explaining Self-Interested Behavior of Public-Spirited Policymakers" [PUBLIC ADMINISTRATION REVIEW](#) (Forthcoming, 2017) (with R. Sulitzeanu-Kenan).

Book Chapters – Hebrew

48. "Toward Legislation of the Law of Brokerage," in ESSAYS IN MEMORY OF PROFESSOR GUIDO TEDESCHI 225-64 (A. Barak, I. Englard, A.M. Rabello & G. Shalev, eds., Jerusalem, 1996);

49. "Trends in Contract Interpretation," in *FIRST JUDGMENTS: REFLECTIONS UPON DECISIONS OF THE ISRAELI SUPREME COURT DURING THE FIRST YEAR OF ISRAEL'S INDEPENDENCE* 95-101 (D. Barak-Erez, ed., 1999);
50. "Allocation of Common Parts in a Condominium to Individual Unit Owners," in *ESSAYS IN HONOUR OF JOSHUA WEISMAN* (D. Lewinsohn-Zamir & S. Lerner, eds., Jerusalem, 2002) 205-79;
51. "Illegal Contracts and their Effect—Thirty Years Later," in [THE BOOK OF DANIEL: ESSAYS IN HONOR OF DANIEL FRIEDMANN](#) (N. Cohen & O. Grosskopf, eds., 2007) 423-66;
52. "Justice Aharon Barak and Contract Law: Between Judicial Activism and Judicial Restraint, Between Freedom of Contract and Social Solidarity, Between Adjudication and Academia," in [THE JUDICIAL LEGACY OF AHARON BARAK](#) (C.W. Fassberg, B. Medina & E. Zamir, eds., 2009) 343-410;
53. "Mistake and Deception in Contract Formation," in [THEODOR ORR BOOK](#) (A. Barak, O. Shaham & R. Sokol eds., 2013) 203-58;
54. "Loss Aversion and the Marginality of the Disgorgement Interest," in [SHLOMO LEVIN BOOK: ESSAYS IN HONOUR OF JUSTICE SHLOMO LEVIN](#) 323-73 (A. Grunis, E. Rivlin & M. Karayanni, eds., 2013);
55. "Mistake as to the Worthwhileness of the Transaction: The Object's Value, Future Developments, Assumption of Risk, and Negligence" (forthcoming in [ESSAYS ON CONTRACT IN HONOR OF GABRIELA SHALEV](#) (Aharon Barak, Yehuda Adar & Efi Zemach eds.);
56. "Behavioral Economics and Contract Law: Theoretical Insights and Empirical Findings" (forthcoming in [ESSAYS ON CONTRACT IN HONOR OF GABRIELA SHALEV](#) (Aharon Barak, Yehuda Adar & Efi Zemach eds.) (with Y. Farkash and D. Teichman; app. 40 pp.).

Book Chapters – English

57. "European Tradition, The Conventions on International Sales and Israeli Contract Law," in *EUROPEAN LEGAL TRADITIONS AND ISRAEL* 499-511 (Jerusalem, 1994, A.M. Rabello, ed.);
58. "Private Law Codification in a Mixed Legal System – The Israeli Successful Experience," in [THE SCOPE AND STRUCTURE OF CIVIL CODES – A COMPARATIVE ANALYSIS](#) 233-8 (Julio Cesar Rivera ed., Springer 2014);
59. "Law's Loss Aversion," in *THE OXFORD HANDBOOK OF BEHAVIORAL ECONOMICS AND THE LAW* 268-99 (Oxford University Press, E. Zamir & D. Teichman eds., 2014);
60. "Judicial Decisionmaking: A Behavioral Perspective," in [THE OXFORD HANDBOOK OF BEHAVIORAL ECONOMICS AND THE LAW](#) 664-702 (Oxford University Press, E. Zamir & D. Teichman eds., 2014) (with D. Teichman);
61. "Law and Behavioral Economics" in [ENCYCLOPEDIA OF THE PHILOSOPHY OF LAW AND SOCIAL PHILOSOPHY](#) (Forthcoming, app. 10 pp.).

Others

1. "In Memoriam: Guido Tedeschi," in ESSAYS IN MEMORY OF PROFESSOR GUIDO TEDESCHI: A COLLECTION OF ESSAYS ON JURISPRUDENCE AND CIVIL LAW (A. Barak et al. eds., 1995);
2. "Introduction," in THE JUDICIAL LEGACY OF AHARON BARAK (C.W. Fassberg, B. Medina & E. Zamir, eds., Jerusalem, 2009) 1-11;
3. "Introduction," 36 MISHPATIM 183-98 (2006);
4. "The Attractiveness of Contingent Fees," 8 ORECH HADIN (Israeli Bar Journal) 76-79 (with I. Ritov) (2010);
5. "The Aharon Barak Center and Interdisciplinary Legal Research," HALISHKA (Jerusalem Bar Journal) (2011);
6. "How will the Law on Contract Interpretation be Interpreted?" 11 ORECH HADIN (Israeli Bar Journal) 98-101 (2011);
7. "The Burden of Proof in Civil Litigation," 15 ORECH HADIN (Israeli Bar Journal) 76-80 (2012);
8. "Law Review Ranking," 16 ORECH HADIN (Israeli Bar Journal) (with B. Medina) 46-48 (2012);
9. "The Bias against Circumstantial Evidence," 23 ORECH HADIN (Israeli Bar Journal) 78-83 (2014);
10. "Introduction," in THE OXFORD HANDBOOK OF BEHAVIORAL ECONOMICS AND THE LAW xi-xiii (with D. Teichman);
11. "Contract Theory: A View from the Other Side of the Atlantic" (forthcoming in JOTWELL).