

CURRICULUM VITAE

Alex Stein

Professor of Law
Benjamin N. Cardozo School of Law
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PERMANENT APPOINTMENTS

2004- Professor of Law, Benjamin N. Cardozo School of Law
teaching: Evidence
Torts
Medical Malpractice
Constitutional Criminal Evidence
Economic Analysis of Criminal Law

Chair of the Academic Standards Committee: 2005-06

Chair of the Appointments Committee: 2007-08

Chair of the Steering Committee for Promotion and Tenure: 2009-10

1991-2004 Sylvan M. Cohen Professor of Law, Faculty of Law, Hebrew University of Jerusalem
taught: Evidence
Civil Procedure
Criminal Procedure

Vice-Dean in 1998-99

1989-1991 Lecturer in Law, Brunel University, Uxbridge, England
taught: Evidence
Criminal Law

VISITING POSITIONS

2008-2009 George W. Crawford Visiting Professor of Law, Yale Law School
teaching: Evidence
Criminal Procedure

2006-2007 Visiting Professor of Law, Yale Law School
taught: Evidence
Criminal Law

- 2002 (Fall) &
2003-2004 Visiting Professor of Law, Benjamin N. Cardozo School of Law
taught: Evidence
Torts
Medical Malpractice
Constitutional Criminal Evidence
- 2000 (Fall) Visiting Professor of Law, Columbia Law School
taught: Evidence
- 1999 (Fall) Visiting Professor, University College Oxford (short visit with condensed teaching)
taught: Class Actions (part of A.A.S. Zuckerman's Civil Procedure for BCL students)
- 1998 (Fall) Distinguished Visiting Professor of Law, University of Toronto Faculty of Law
taught: Causation and Uncertainty
- 1994-1995 Visiting Professor of Law, University of Miami School of Law
taught: Evidence
Analysis of Evidence
- 1996
(Spring) Visiting Professor of Law, Benjamin N. Cardozo School of Law
taught: Evidence
Tort Liability under Uncertainty

PRACTICE OF LAW

- 1986-1987 Private practice with Wiskind & Stein, Jerusalem, Israel: partner specializing in commercial litigation
- 1984-1986 Private practice with Raveh, Abramson & Co., Jerusalem, Israel: associate specializing in commercial litigation
- 1983-1984 Law Clerk for Justice Menachem Elon, Israel Supreme Court
- 1982-1983 Law clerk for Hon. Rachel Sukar, Head of the Criminal Litigation Department, Attorney-General's Office, Israel

PUBLICATIONS

BOOKS

- 2005 *Foundations of Evidence Law* (Oxford University Press)
- 2001 *Tort Liability Under Uncertainty* (Oxford University Press) (co-authored with Ariel Porat)
- 1992 *Evidence and Proof*, Volume XI in the International Library of Essays in Law & Legal Theory (New York University Press) (co-edited with William Twining)

ARTICLES

- 2010 Liability for Future Harms, forthcoming in Richard S. Goldberg, ed., *Perspectives on Causation* (Hart Publishing, Oxford) (with Ariel Porat)
- 2009 Originality, 95 *Virginia Law Review* 1505-1550 (with Gideon Parchomovsky)
- 2009 Reconceptualizing Trespass, 103 *Northwestern University Law Review* (forthcoming) (with Gideon Parchomovsky)
- 2009 Self-Incrimination, *Encyclopedia of Law and Economics*, (3rd ed., Edward Elgar) (forthcoming)
- 2008 On the Epistemic Authority of Courts, 5 *Episteme* 402-410 (special issue on Evidence & Law, edited by Frederick Schauer and Walter N. Sinnott-Armstrong)
- 2008 The Right to Silence Helps the Innocent: A Response to Critics, 30 *Cardozo Law Review* 1115-1140 (Symposium on The Future of Self-Incrimination: Fifth Amendment, Confessions, and Guilty Pleas)
- 2008 Torts and Innovation, 107 *Michigan Law Review* 285-315 (with Gideon Parchomovsky)
- 2008 Constitutional Evidence Law, 61 *Vanderbilt Law Review* 65-124
- 2008 The Trial-Time/Forum Principle and the Nature of Evidence Rules, in *Current Trends in Criminal Procedure and Evidence – A Collection of Essays in Honor of Professor Eliahu Harnon* (Anat Horovitz & Mordechai Kremnitzer, eds., forthcoming)
- 2007 Deterrence, Retributivism, and the Law of Evidence, 93 *Virginia Law Review In Brief* 173-182 (with Richard A. Bierschbach)
<http://www.virginialawreview.org/inbrief/2007/09/18/bierschbach.pdf>
- 2007 Mediating Rules in Criminal Law, 93 *Virginia Law Review* 1197-1258 (with Richard A. Bierschbach)

- 2007 A Liberal Challenge to Behavioral Economics: The Case of Probability, 2 *New York University Journal of Law & Liberty* 531-540 (Symposium on the Behavioral Law & Economics' Challenge to the Classical Liberal Program)
- 2006 Ambiguity Aversion and the Criminal Process, 81 *Notre Dame Law Review* 1495-1551 (with Uzi Segal)
- 2006 Healthcare Intermediaries, 29(4) *Regulation* 20-25
- 2005 Overenforcement, 93 *Georgetown Law Journal* 1743-1781 (with Richard A. Bierschbach)
- 2004 Auctioning for Loyalty: Selection and Monitoring of Class Counsel, 22 *Yale Law & Policy Review* 69-124 (with Alon Harel)
- 2003 Indeterminate Causation and Apportionment of Damages: An Essay on *Holtby, Allen* and *Fairchild*, 23 *Oxford Journal of Legal Studies* 667-702 (with Ariel Porat)
- 2001 Of Two Wrongs that Make a Right: Two Paradoxes of the Evidence Law and their Combined Economic Justification, 79 *Texas Law Review* 1199-1234
- 2000 The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege, 114 *Harvard Law Review* 430-510 (with Daniel J. Seidmann)
- 2000 How to Resolve the Indeterminate Causation Problem that Arises in Medical Malpractice Litigation, 23 *Yiuney Mishpat* 755-775 (Hebrew)
- 2000 Evidential Rules for Criminal Trials: Who Should be in Charge?, in Sean Doran & John Jackson, eds., *The Judicial Role in Criminal Proceedings* 127-143 (Hart Publishing, Oxford)
- 1999 The Evidential Damage Doctrine: A Response to Critique, 30 *Mishpatim* 349-376 (Hebrew) (with Ariel Porat)
- 1999 Israel, in Craig M. Bradley, *Criminal Procedure: A Worldwide Study* 217-244 (Carolina Academic Press) (with Eliahu Harnon)
- 1998 An Essay on Uncertainty and Fact-Finding in Civil Litigation, with Special Reference to Contract Cases, 48 *University of Toronto Law Journal* 299-351
- 1998 The Evidential Damage Doctrine: A Positive Analysis of the Law, 21 *Yiuney Mishpat* 191-258 (Hebrew) (with Ariel Porat)
- 1998 Theory and Fortuity in Judicial Reasoning, 29 *Mishpatim* 5-15 (Hebrew)
- 1997 Liability for Uncertainty: Making Evidential Damage Actionable, 18 *Cardozo Law Review* 1891-1960 (with Ariel Porat)

- 1997 Bayesioskepticism Justified, 1 *International Journal of Evidence & Proof* 339-342
- 1997 Against Free Proof, 31 *Israel Law Review* 573-589
- 1996 The Refoundation of Evidence Law, 9 *Canadian Journal of Law & Jurisprudence* 279-342
- 1996 Judicial Fact-Finding and the Bayesian Method: The Case for Deeper Scepticism About their Combination, 1 *International Journal of Evidence & Proof* 25-47
- 1996 Allocating the Burden of Proof in Sales Litigation: The Law, Its Rationale, A New Theory, And Its Failure, 50 *University of Miami Law Review* 335-344
- 1995 Probability and Proof in *State v. Skipper*: An Internet Exchange, 35 *Jurimetrics Journal* 277-310 (with Ronald J. Allen, et. al.)
- 1995 Symposium on Implied Hearsay – Discussion, 16 *Mississippi College Law Review* 93, 95, 106, 108, 193, 194
- 1995 The Form and Substance of the Hearsay Doctrine: A Response to Professor Seidelson, 16 *Mississippi College Law Review* 55-60 (Symposium on Implied Hearsay)
- 1995 The Bank-Client Evidentiary Privilege, 25 *Mishpatim* 45-85 (Hebrew)
- 1993 Reform Movements in Criminal Procedure and the Protection of Human Rights in Israel, 64 *Revue Internationale de Droit Penal* 1177-1192 (with Eliahu Harnon)
- 1993 Defending Liberal Law (reviewing Andrew Altman, *Critical Legal Studies: A Liberal Critique*, Princeton University Press, 1990), 22 *Anglo-American Law Review* 194-220
- 1993 From Blackstone to *Woolmington*: On the Development of a Legal Doctrine, 14 *Journal of Legal History* 14-27
- 1993 The Admissibility of Out-of-Court Statements as Evidence in Criminal Trials: On the New Bill, New Ideas, and the Same Old Tenets, 10 *Mechkarey Mishpat* 157-181 (Hebrew)
- 1992 Hearsay Statements as Evidence in Criminal Trials: Is and Ought, 21 *Mishpatim* 325-351 (Hebrew)
- 1992 Introduction, in William Twining & Alex Stein, eds., *Evidence and Proof*, Volume XI in the International Library of Essays in Law & Legal Theory xv-xxx (New York University Press) (with William Twining)
- 1991 After *HUNT*: The Burden of Proof, Risk of Non-Persuasion and Judicial Pragmatism, 54 *Modern Law Review* 570-576

- 1991 Criminal Defences and the Burden of Proof, 28 *Coexistence* 133-147
- 1988 A Political Analysis of Procedural Law (reviewing Mirjan R. Damaška, *The Faces of Justice and State Authority*, Yale University Press, 1986), 51 *Modern Law Review* 659-675
- 1987 Bentham, Wigmore and Freedom of Proof (reviewing William Twining, *Theories of Evidence: Bentham & Wigmore*, Weidenfeld & Nicolson, London, 1985), 22 *Israel Law Review* 245-276
- 1985 Eavesdropping and Electronic Surveillance in Criminal and National Security Investigations, 14 *Mishpatim* 527-557 (Hebrew)
- 1984 Promises of Public Authorities, 14 *Mishpatim* 255-294 (Hebrew)
- 1983 On the Probative Value of Out-of-Court Statements, 13 *Mishpatim* 154-158 (Hebrew)

OTHER

- 1992 The Accused's Right to Due Process, in Tamar Ben-Gal *et al.*, eds., 3 *Human Rights and Civil Liberties in Israel – A Reader* 355-358 (published by the Association for Civil Rights in Israel)
- 1992 Human Rights in the Law of Evidence, in Tamar Ben-Gal *et al.*, eds. 3 *Human Rights and Civil Liberties in Israel – A Reader* 420-425 (published by the Association for Civil Rights in Israel)

ACADEMIC PRESENTATIONS

- 2009 The Kauffman Foundation Summer Legal Institute, Dana Point, California
Participated in a roundtable discussion on *Law, Innovation and Growth*
- 2009 The Nineteenth Meeting of the American Law & Economics Association, University of San Diego School of Law
Presented *Reconceptualizing Trespass* (See Articles)
- 2009 Virginia Law School, Faculty Workshop
Presented *Reconceptualizing Trespass* (See Articles)
- 2008 Yale Law School, Conference in Honor of Mirjan Damaška
Presented *Bentham, Damaška, and the Epistemic Authority of Courts*
- 2008 University of Southern California School of Law, Center of Law, Economics and Organization Workshop
Presented *Torts and Innovation* (see Articles)
- 2008 Yale Law School Faculty Workshop
Presented *Torts and Innovation* (see Articles)

- 2008 The Kauffman Foundation Conference on Law & Innovation, Dana Point, California
Presented *Torts and Innovation* (see Articles)
- 2008 Dartmouth College, Conference on Law and Evidence organized by the Dartmouth College Philosophy Department & *Episteme – A Journal of Social Epistemology*
Presented *The Epistemic Authority of Courts* (see Articles)
- 2008 University of Southern California School of Law, Conference on Law, Economics and Neuroscience
Presented *Economizing Neuroscience: Comments on Mark Dean, et al, Measuring Beliefs and Utilities: A Neuroeconomic Approach*
- 2008 Benjamin N. Cardozo School of Law, The Cardozo Law Review Symposium on The Future of Self-Incrimination: Fifth Amendment, Confessions, and Guilty Pleas
Presented *The Right to Silence Helps the Innocent: A Response to Critics* (see Articles)
- 2008 Benjamin N. Cardozo School of Law, faculty seminar
Presented *Torts and Innovation* (see Articles)
- 2007 Yale Law School Faculty Workshop
Presented *Constitutional Evidence Law* (see Articles)
- 2007 University of Minnesota Law School, Institute for Law and Rationality
Presented *Mediating Rules in Criminal Law* (see Articles)
- 2006 Conference on the Behavioral Law & Economics' Challenge to the Classical Liberal Program
New York University Journal of Law & Liberty, New York University School of Law
Presented *A Liberal Challenge to Behavioral Economics: The Case of Probability* (see Articles)
- 2006 The Sixteenth Meeting of the American Law & Economics Association, University of California at Berkeley School of Law
Presented *Ambiguity Aversion and the Criminal Process* (see Articles)
- 2006 Hebrew University of Jerusalem Faculty of Law, Conference on *Foundations of Evidence Law* (see Books)
- 2006 University of Texas School of Law, Law & Economics workshop
Presented *Ambiguity Aversion and the Criminal Process* (see Articles)
- 2006 University of Connecticut School of Law, faculty seminar
Presented *Ambiguity Aversion and the Criminal Process* (see Articles)
- 2006 Hebrew University of Jerusalem Faculty of Law, Symposium on Evidence and Procedure
Presented *Ambiguity Aversion and the Criminal Process* (see Articles)

- 2006 Bar-Ilan University Faculty of Law, Law & Economics workshop
Presented *Ambiguity Aversion and the Criminal Process* (see Articles)
- 2005 University of Pennsylvania School of Law, Institute for Law & Philosophy
Participated in a roundtable symposium on *Risk* (discussing, inter alia, Chapter 4 of Ariel Porat & Alex Stein, *Tort Liability Under Uncertainty*, Oxford University Press, 2001)
- 2004 University of Chicago School of Law, John M. Olin Workshop in Law & Economics
Presented *Overenforcement* (see Articles)
- 2004 University of Pennsylvania School of Law, Conference on Conflict of Interests
Presented *Does Scholarship Involve Agency Problems? A Comment on Steven Sugarman's Paper*
- 2004 Benjamin N. Cardozo School of Law, faculty seminar
Presented *Understanding the Law of Evidence through Paradoxes of Rational Belief* (Chapter 3 of Alex Stein, *Foundations of Evidence Law*, Oxford University Press, 2005)
- 2003 Benjamin N. Cardozo School of Law, faculty seminar
Presented *Indeterminate Causation and Apportionment of Damages: An Essay on Holtby, Allen and Fairchild* (see Articles)
- 2002 University of Pennsylvania School of Law, John M. Olin Workshop in Law & Economics
Presented *Indeterminate Causation and Apportionment of Damages: An Essay on Holtby, Allen and Fairchild* (see Articles)
- 2002 Fordham University School of Law, faculty seminar
Presented *Indeterminate Causation and Apportionment of Damages: An Essay on Holtby, Allen and Fairchild* (see Articles)
- 2001 Bar-Ilan University Faculty of Law, faculty seminar
Presented *The Evidential Damage Doctrine: A Positive Analysis of the Law* (see Articles)
- 2001 Tel-Aviv University Faculty of Law & Business School Seminars on Law & Economics
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 2000 University of California at Berkeley School of Law, John M. Olin Workshop in Law & Economics
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)

- 2000 Columbia Law School, faculty seminar
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 2000 Fordham University School of Law, faculty seminar
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 2000 Benjamin N. Cardozo School of Law, faculty seminar
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 2000 University of Connecticut School of Law, faculty seminar
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 2000 Hebrew University of Jerusalem Faculty of Law, faculty seminar
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 1999 Nottingham University Seminars on Criminal Justice
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 1999 Second World Conference on Evidence and Fact-Finding in Litigation, Amsterdam, Holland
Presented *The Right to Silence Helps the Innocent: A Game-Theoretic Analysis of the Fifth Amendment Privilege* (see Articles)
- 1999 Conference on the New Corporate Law and Securities Class Actions, Hebrew University of Jerusalem
Presented *The Class Action Agency Problem* (part of *Auctioning for Loyalty: Selection and Monitoring of Class Counsel*, see Articles)
- 1998 Conference on Legal Theory, Federalism Institute, Freiburg, Switzerland
Presented *Theory vs. Pragmatism*
- 1998 Hebrew University of Jerusalem Faculty of Law, faculty seminar
Presented *The Evidential Damage Doctrine: A Positive Analysis of the Law* (see Articles)
- 1997 University of Pennsylvania School of Law, faculty seminar
Presented *An Essay on Uncertainty and Fact-Finding in Civil Litigation, with Special Reference to Contract Cases* (see Articles)
- 1997 Benjamin N. Cardozo School of Law, faculty seminar
Presented *An Essay on Uncertainty and Fact-Finding in Civil Litigation, with Special Reference to Contract Cases* (see Articles)

- 1996 Israel Supreme Court, Anglo-Israeli Academics and Judges Symposium
Presented *Admissibility of Confessions*
- 1996 Keynote Speaker at the Academic Year Opening Ceremony, Hebrew University of Jerusalem Faculty of Law
Presented *Theory and Fortuity in Judicial Reasoning* (see Articles)
- 1995 Levin College of Law, University of Florida, Gainesville, faculty seminar
Presented *The Refoundation of Evidence Law* (see Articles)
- 1995 International Seminar on Evidence and Inference in Litigation, Benjamin N. Cardozo School of Law
Presented *The Refoundation of Evidence Law* (see Articles)
- 1994 Law Academy, Moscow, Russia
Delivered a series of lectures in Russian: *Overviewing the Common Law Systems of Litigation*
- 1993 International Conference on the Rights of the Accused, Crime Control and Protection of Victims, Hebrew University of Jerusalem
Presented *Against Free Proof* (see Articles)
- 1992 Annual Conference, International Association of Penal Law, Vancouver, Canada
Presented *On the Unbearable Lightness of "Weight"* (part of *The Refoundation of Evidence Law*, see Articles)
Presented *Procedure and Evidence in Terrorist Trials*
- 1991 Annual Conference, International Association of Penal Law, Toledo, Spain
Presented *Reform Movements in Criminal Procedure and the Protection of Human Rights in Israel* (with Eliahu Harnon) (see Articles)
- 1991 Conference on the Erosion of the Hearsay Rule and Rights of the Accused, Hebrew University of Jerusalem
Presented *Hearsay Statements as Evidence in Criminal Trials: Is and Ought* (see Articles)
- 1990 Anglo-Russian Conference on Criminal Law, University College London
Presented *Criminal Defences and the Burden of Proof* (see Articles)

PEER & FACULTY REVIEW

Harvard Law Review
International Commentary on Evidence
International Journal of Evidence & Proof
Journal of Law, Economics & Organization
Journal of Law, Medicine and Ethics
Journal of Legal Studies
Journal of Moral Philosophy
Law, Probability & Risk
Legal Theory

Public Choice
Israel Law Review
MISHPATIM – Hebrew University Law Review
YIUNEY MISHPAT – Tel-Aviv University Law Review

OTHER PROFESSIONAL ENGAGEMENTS

Member, Editorial Board, *International Journal of Evidence & Proof* (2000-)
<http://www.vathek.com/ijep/index.shtml>

Faculty Advisor, *The Cardozo Law Review Symposium on the Future of Self-Incrimination: Fifth Amendment, Confessions, and Guilty Pleas* (2008)

Member, *Revision Committee*, Israel Bar (2000-2003)

Founding Editor & Member of the Editorial Board, *Theoretical Inquiries in Law* (1999-2002)
<http://www.tau.ac.il/law/ceglajournal.htm>
<http://www.bepress.com/til>

Co-Chairperson, *International Conference on Contemporary Legal Scholarship: Achievements and Prospects*, Tel-Aviv University Faculty of Law, 1999, published in 2:1 *Theoretical Inquiries in Law* (2001)

Guest Editor of 31:1-3 *Israel Law Review* – a special volume containing papers accepted by the *International Conference on the Rights of the Accused, Crime Control and Protection of Victims*, Hebrew University of Jerusalem (1997)
<http://law.msc.huji.ac.il/law1/ilr/Default.htm>

Member, Advisory Board, *International Journal of Evidence & Proof* (1996-2000)

Organizing Committee, *International Conference on the Rights of the Accused, Crime Control and Protection of Victims*, Hebrew University of Jerusalem (1993)

Institute for Advanced Judicial Studies, Israel (lectured to judges on various legal issues between 1992 and 2004)

Member, *Law Commission for the Review of the Law of Criminal Procedure*, Ministry of Justice, Israel (1992-2003)

Chairperson, *Conference on the Erosion of the Hearsay Rule and Rights of the Accused*, Hebrew University of Jerusalem (1991)

Arbitrator, *Israel Chess Federation* (1985-1987)

Member, Editorial Board, *MISHPATIM*, Hebrew University Law Review (1984-1985)
<http://law.msc.huji.ac.il/law1/newsite/hebrew.html>

COMMUNITY SERVICE

Co-founder of the Israeli Indigent Criminal Defense Association (prior to the establishment of the Public Defender's Office) (1991-94)

Association for Civil Rights in Israel, Pro Bono Advisor on Criminal Defense (1984-87)

Pro bono representation of the Black Hebrew Israelites residing in Dimona, Israel, in their Supreme Court petition against deportation (1986)

EDUCATION

University of London (University College) Ph.D. (1990)

Hebrew University of Jerusalem LL.B. (1983), LL.M. (1987)

BAR MEMBERSHIP Israel (1984-)

LANGUAGES English, Hebrew, Russian

HOBBIES

Chess. Chess Master, played professionally 1964-1982

Soccer. Played in amateur teams