

KENNETH A. BAMBERGER

The Rosalinde and Arthur Gilbert Foundation Professor of Law
 University of California, Berkeley
 School of Law 446, Berkeley, CA 94720-7200

CURRENT POSITION

University of California, Berkeley

The Rosalinde and Arthur Gilbert Foundation Professor of Law (2016-present)

Professor of Law (2011-16); Assistant Professor of Law (2005-11)

Ongoing Appointments

- *Faculty co-Director, Berkeley Center for Law and Technology*
- *Faculty co-Director, Berkeley Institute for Jewish Law and Israel Studies*
- *Core Faculty, Berkeley Center for Law and Business*
- *Public Law Curriculum Co-Chair, Berkeley Law*
- *Faculty, Berkeley Center for Jewish Studies*
- *Affiliated Faculty, Center for the Study of Law and Society; Center for Long-Term Cybersecurity; Center for the Study of Religion*
- *Affiliated Faculty, Federmann Cybersecurity Center, Hebrew University of Jerusalem*

Awards

- *2016 Privacy Leadership Award, International Association of Privacy Professionals*
- *2014 Academic Vision Award, Jewish Community Relations Council*
- *2011; 2013, & 2017 (Hon. Mention), Privacy Papers Award, Future of Privacy Forum*

PREVIOUS POSITIONS

Co-Chair, Jewish Studies, University of California, Berkeley (2013-15)

Associate, then Counsel, Wilmer Cutler Pickering Hale and Dorr LLP (2002-05)

Law Clerk, Justice David H. Souter, Supreme Court of the United States (2000-01)

Bristow Fellow, Office of the Solicitor General, U.S. Department of Justice (1999-00)

Law Clerk, Judge Amalya L. Kearse, U. S. Court of Appeals (Second Circuit) (1998-99)

EDUCATION

Harvard Law School, JD, 1998. *President, Harvard Law Review*

Cambridge University. Lady Julia Henry Fellow (History), 1990-1991

Harvard University, AB (History), 1990

RESEARCH INTERESTS

Administrative Law; Technology and Governance; Privacy; Information Policy; Machine Learning/Artificial Intelligence; Corporate Compliance; Government Regulation; Regulation of Expression; Jewish Law

TEACHING

Core Courses:

- Administrative Law
- The First Amendment (Speech and Religion)
- Jewish Law
- Law and Technology Writing Workshop
- Privacy Counseling and Compliance
- Technology Expertise in Law and Policy
- Torts

PUBLICATIONS

Works in Progress

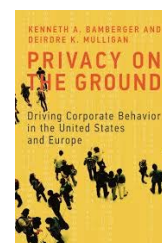
Zero-Knowledge Proofs: Addressing the Verification Problem in Law (with Prof. Shaffi Goldwasser)

Premodern Insights for Postmodern Privacy: Lessons from the Jewish Tradition

Book

[PRIVACY ON THE GROUND: DRIVING CORPORATE BEHAVIOR IN THE UNITED STATES AND EUROPE](#) (with D. Mulligan) (MIT Press: Nov. 2015)

- Awarded 2016 Privacy Leadership Award by the International Association of Privacy Professionals (IAPP)



Articles and Chapters

[Can You Pay for Privacy? Consumer Expectations and App Behavior](#), 35 BERKELEY TECHNOLOGY LAW JOURNAL (with S. Egelman, *et al.*) (*forthcoming* 2020)

[Procurement as Policy: Administrative Process for Machine Learning](#), 34 BERKELEY TECHNOLOGY LAW JOURNAL (with D. Mulligan) (*forthcoming* 2019)

[Do You Get What You Pay For? Comparing The Privacy Behaviors of Free vs. Paid Apps](#), The Workshop on Technology and Consumer Protection (CONPRO '19) (2019) (with Catherine Han, *et al.*)

PUBLICATIONS (continued)

Articles and Chapters (cont.)

[*Saving Governance-by-Design*](#), 106 CALIFORNIA LAW REVIEW 697 (with D. Mulligan) (2018)

[*Platform Market Power*](#), 32 BERKELEY TECHNOLOGY LAW JOURNAL 1051 (with O. Lobel) (2017)

[*Public Values, Private Infrastructure and the Internet of Things: the Case of Automobiles*](#),

9 JOURNAL OF LAW & ECONOMIC REGULATION 7 (with D. Mulligan) (2016)

- Published in Korean translation as: 공적 가치, 사적 기반 그리고 IoT: 자동차 사례를 중심으로
- 2017 Future of Privacy Forum Privacy Papers Award (Honorable Mention/top-9 paper of 2017)

[*Privacy in Europe: Initial Data on Governance Choices and Corporate Practices*](#),

81 GEORGE WASHINGTON UNIVERSITY LAW REVIEW, (with D. Mulligan) (2013)

- 2013 Future of Privacy Forum Privacy Papers Award

[*What Regulators Can Do to Advance Privacy Through Design*](#), COMMUNICATIONS OF THE ACM, vol. 56 (with D. Mulligan) (2013).

[*PIA Requirements and Privacy Decisionmaking in U.S. Government Agencies*](#), in PRIVACY IMPACT ASSESSMENTS: ENGAGING STAKEHOLDERS IN PROTECTING PRIVACY (De Hert and Wright, eds.) (2012) (with D. Mulligan)

[*Foreword: Technology's Transformation of the Regulatory Endeavor*](#), 26 BERKELEY TECHNOLOGY LAW JOURNAL 1315 (2011)

[*New Governance, Chief Privacy Officers, and the Corporate Management of Information Privacy in the United States*](#), 33 LAW AND POLICY 477 (with D. Mulligan) (2011)

[*Privacy on the Books and on the Ground*](#), 63 STANFORD LAW REVIEW 247 (2011) (with D. Mulligan)

- Awarded 2011 Future of Privacy Forum Privacy Papers Award

[*Technologies of Compliance: Risk and Regulation in a Digital Age*](#), 88 TEXAS LAW REVIEW 669 (2010)

[*Importers as Regulators: Product Safety in a Globalized World*](#), in COGLIANESE & ZARING, EDS., IMPORT SAFETY: GOVERNANCE CHALLENGES IN THE GLOBAL ECONOMY (with A. Guzman) (2010)

[*Chevron's Two Steps*](#), 95 VIRGINIA LAW REVIEW 611 (with P. Strauss) (2009)

[*Normative Canons in the Review of Administrative Policymaking*](#), 118 YALE LAW JOURNAL 64 (2008)

PUBLICATIONS (continued)

Articles and Chapters (cont.)

[Keeping Imports Safe: A Proposal for Discriminatory Regulation of International Trade](#), 96 CALIFORNIA LAW REVIEW 1405 (with A. Guzman) (2008)

[Privacy Decisionmaking in Administrative Agencies](#), 75 UNIVERSITY OF CHICAGO LAW REVIEW 75 (with D. Mulligan) (2008)

[Global Terror, Private Infrastructure, and Domestic Governance](#), in 2 GLOBALIZATION COMES HOME: HOW THE UNITED STATES IS BEING TRANSFORMED BY GLOBALIZATION (2008)

[Regulation as Delegation: Private Firms, Decisionmaking, and Accountability in the Administrative State](#), 56 DUKE LAW JOURNAL 377 (2006)

[Provisional Precedent: Protecting Flexibility in Administrative Policymaking](#), 77 N.Y.U. LAW REVIEW 1272 (2002)

[Note, Deference to Legislative Fact Determinations in First Amendment Cases After Turner Broadcasting](#), 111 HARVARD LAW REVIEW 2312 (1998)

Shorter Works

[Foreword](#), in BART CUSTERS, ET AL. (EDS.), EU PERSONAL DATA PROTECTION IN POLICY AND PRACTICE vii-viii (2019) (with D. Mulligan)

[Public Law Norms for Governance-by-Design](#), 44 ADMINISTRATIVE AND REGULATORY LAW NEWS 14-20 (2018) (with D. Mulligan)

[Privacy Law – on the Books and on the Ground](#), in BART VAN DER SLOOT AND AVIVA DE GROOT (EDS.), THE HANDBOOK OF PRIVACY STUDIES: AN INTERDISCIPLINARY INTRODUCTION 349-355 (2018) (with D. Mulligan)

[Berkeley and Israel: Past, Present and Future](#), THE TIMES OF ISRAEL (Jan. 2, 2018)

- Published, with minor variation, as [Berkeley's Roots and Branches are Deep and Wide in Israel](#), JWEEKLY (Jan. 9, 2018)

[Teenagers Already Know the Key to Protecting Your Privacy](#), TIME (Mar 29, 2017), (with D. Mulligan)

[Is Your Data Really Safer in Europe?](#), CHRISTIAN SCIENCE MONITOR (June 6, 2016)

[The Triumph of the Privacy Profession: An Interview with Bamberger and Mulligan](#), by Daniel Solove, TeachPrivacy (March 23, 2016)

[Apple v. FBI: Just One Battle in the 'Design Wars'](#), THE RECORDER (March 21, 2016, p.6) (with D. Mulligan) (republished at law.com)

PUBLICATIONS (continued)

Shorter Works (cont.)

[The Modern Privacy Function: Balancing Strategy with the Operational](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (April 8, 2013) (with D. Mulligan)

[Why Are German and U.S. Practices So Similar, If Their Regulatory Structures Are So Different?](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (March 28, 2013) (with D. Mulligan)

[Operationalizing Privacy: How Empowered Is Your Privacy Office?](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (February 27, 2013) (with D. Mulligan)

[A Plan to Make Imports Safe](#), *San Francisco Chronicle* (February 25, 2009)

[Who Should Pay the Cost of Unsafe Goods?](#), *San Jose Mercury News* (Jan. 27, 2009)

LEGAL BRIEF

[Amicus Curie Brief in Support of Respondent, Federal Trade Commission \(Bamberger, et al.\)](#)
in LabMD, Inc. v. FTC, U.S. Court of Appeals for the 11th Circuit (Feb. 16, 2016)
(see [Faculty Trio Files Brief Supporting FTC's Power to Police Data Security](#))

SELECTED PRESENTATIONS AND PANELS

Recent presentations:

- “The Law and Policy of Online Privacy,” *Regulating Cyberspace: Proposals for New Regulatory Regimes*, Stanford Law School (October 2019)
- *Keynote*, GDPR and the CCPA, Cyber Week, Tel Aviv University (June 2019)
- “Can You Pay for Privacy?,” Privacy Law Scholars Conference (May 2019)
- *Framing Remarks*, *Governing Machines: Public Policy Values in AI Systems*, International House, Chevron Auditorium, UC Berkeley (April 2019)
- *Welcome Keynote*, Association for Israel Studies 2018 Annual Conference, International House, Chevron Auditorium, UC Berkeley (June 2018)
- “Israel at 70: Religion and State,” Association for Israel Studies 2018 Annual Conference Panel Chair, Berkeley Law (June 2018)
- “Saving Governance-by-Design,” [daylong forum on my paper], Haifa University Cyber Forum. (May 2018)
- “GDPR: Implications for US and Israeli Firms,” Conference Keynote: The General Data Protection Regulation, Tel Aviv Bar Association, Beit Ha-Praklit. (May 2018)

Recent presentations (cont):

- “Changes in the Israeli Privacy Scene,” Interview with Israeli Deputy Privacy Commissioner Sharon Azarya, Israel Tech Policy Forum, Tel Aviv. (May 2018)
- “Privacy, Big Data, and Lock-In,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum. (April 2018)
- “Privacy and Sustainable Governance,” Berkeley Sustainable Business and Investment Forum, Haas School of Business (November 2017)
- “Using the Full Privacy Toolkit,” Panel with EU regulator Karolina Mojzesowicz and Israeli Chief Privacy Regulator Alon Bachar, Cyber Week, Tel Aviv University, (June 2017)
- “The Coming Design Wars,” Conference, Privacy By Design: Can Engineers And Organizations Do It?, Tel Aviv University, Haifa University, and Hewlett Packard Enterprise (April 2017)
- “Platform Market Power,” Conference, Regulation of Internet Platforms: Public and Private Governance, UC Berkeley School of Law (April 2017)
- “Data Privacy in India: What you Need to Know,” Webinar, US-India Business Council (January 2017)
- “Privacy on the Ground,” Faculty Scholarship Workshop, Boston University School of Law (November 2016)
- “Jewish Copyright Law: a Story of Legal Competition in the Face of Technological Change – Comments on Neal Netanel’s *From Maimonides to Microsoft*,” Haifa University Law School (May 2016)
- Comments on receipt of the 2016 Privacy Leadership Award, International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC (April 2016)
- *Keynote Address*, “Professionalism as a Regulatory Tool,” International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC (April 2016)
 - Address before 3500 attendees
- “Regulatory Choices And Privacy Consequences,” CPDP Computers, Privacy and Data Protection: Invisibilities and Infrastructures, Brussels, Belgium (January 2016)
- “Data, Dignity and Technology - Exploring Digital Ethics,” CPDP Computers, Privacy and Data Protection: Invisibilities and Infrastructures, Brussels, Belgium (January 2016)
- “Privacy on the Ground,” Haifa University CyberForum (January 2016)
- “Democratic Guidance from the Talmud,” Jewish and Democratic Law: Redrawing Boundaries (Inaugural Conference of the Center for Jewish and Democratic Law), Bar Ilan University, School of Law (December 2015)
- “Privacy on the Ground,” Book Launch Event and Panel, Center for Democracy and Technology, Washington DC (December 2015)
- “From the Bookshelf to the Battlefield: Two New Books that Have Transformed the Privacy Landscape,” University of Amsterdam School of Law, Institute for Information Law Conference, Amsterdam, Netherlands (October 2015)

Recent presentations (cont):

- “The Privacy Professional in the 21st Century,” Meeting of the Confederation of European Data Protection Officers, International Conference of Data Protection Commissioners, Amsterdam, Netherlands (October 2015)
- “Privacy on the Ground,” Book Launch Panel, Tel Aviv University, Buchmann School of Law, Cegla Center for the Interdisciplinary Study of Law, Fischer Center for Corporate Governance and Capital Markets Regulation, Safra Center for Ethics, Tel Aviv, Israel (September 2015)
- “The Coming Design Wars,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum. (April 2015)
- “Developing the Academic Field of Israel Studies,” Israel Institute Conference, New York City (February 2015)
- White House Workshop on Big Data: Values and Governance, Berkeley, CA (January 2015)
- Testimony, U.S. House of Representatives, Energy and Commerce Committee, Privacy Working Group
- Privacy Papers for Policy Makers Forum with EU Regulators, Future of Privacy Forum (United States Congress, Rayburn House Office Building)
- Plenary Session, International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC
- “European Privacy Reform From a U.S. Perspective,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum

Selected Other Presentation Venues

University of California, Berkeley (Law School; School of Information; Berkeley Center for Law and Technology; Business School; Center for the Study of Law and Society; Center for European Studies; Public Administration and Organization Theory Working Group); University of Chicago; University of Pennsylvania; George Washington Law School; University of San Diego; University of British Columbia; University of Amsterdam; Hebrew University; Tel Aviv University; Bar Ilan University; U.S. Federal Trade Commission; U.S. Department of Commerce; Annual Conference of International Privacy and Data Protection Commissioners; Guizhou Province (PRC) Commission on Administrative Law Reform; People’s National Congress Commission to Draft the Government Compensation Law (PRC); California Public Health Institute; American Bar Association, Administrative Law Section; Privacy Law Scholars Conference (PLSC); IAPP European Data Protection Intensive (London); IAPP Global Privacy Summit (DC); Knowledgenet Paris; Israeli Law and Society Association; The Jerusalem Forum on Regulation and Governance; Nokia Corporation; Intel Corporation; Microsoft Corporation.

CONFERENCE COORDINATION

- Conference Co-Chair, [34th Annual Conference of the Association for Israel Studies](#), UC Berkeley, June 25-27, 2018.
- Conference Co-Chair, [Reflections on the Legacy of Nuremberg: The 70th Anniversary of the Nuremberg Trials](#), UC Berkeley, School of Law, April 27-28, 2015.
- Conference Chair, [Israel Through the High-Tech Lens](#), UC Berkeley Haas School of Business and School of Law, February 1-2, 2012
- Conference Co-Chair, [Technology: Transforming the Regulatory Endeavor](#), Berkeley Center for Law and Technology, March 1-2, 2011

SERVICE

Selected Law School Service

- Faculty Director, Berkeley Center for Law and Technology (2011-present)
- Faculty Director, Berkeley Institute for Jewish Law and Israel Studies (2011-present)
- Co-Chair, Public Law Curriculum (2011-present)
- Core Faculty, Berkeley Center for Law and Business (2017-present)
- Academic Director, Tel Aviv-Berkeley LL.M. Program (2009-present)
- Core Committee Service
 - Dean's Merit Review Advisory Committee (2016-17, 2019-present)
 - Faculty Appointments Committee (2008-10; 2018-19)
 - Dean's Committee on Equity & Inclusion (2016-18)
 - 7 doctoral committees/chair of 3 (2010-present)
 - multiple *ad hoc* tenure review committees (2012-17)
- Additional Service
 - Advisor, Jewish Students at Berkeley Law (JSABL) (2011-present)
 - Appointments Reading Groups (Administrative Law (2018-19); Interdisciplinary Appointments (2012-13); Business Law (2007))
 - Law School Graduate Programs Committee (2010-2016)
 - Publications Committee (2013-2014)
 - Committee on Judicial Clerkships (Chair) (2010-2011)
 - Faculty Advisor, *California Law Review* (2007-09; 2010-11)
 - Co-Coordinator, Junior Administrative Law Scholars Conference (2007-08)
 - Financial Aid Committee (2006-08)
 - Member, *ad hoc* Disciplinary Panel, (2007)
 - Preparation of Law School's Congressional Testimony Regarding Sullivan Amendment (2007)

SERVICE (cont.)

Selected University Service

- Search Committee, Directorship of the Magnes Collection for Jewish Art and Life (2019)
- Chancellor's Committee on Jewish Life and Campus Climate (2016-present)
- UDAR Endowment Campaign for Jewish and Israel Studies (2015-present)
- Member of 7 Doctoral Committees for students in:
 - the School of Information; the Department of Sociology; the Program on Jewish Studies, Electrical Engineering and Computer Science (EECS), and the Hebrew University School of Public Policy.
- Faculty, Center for Jewish Studies (2013-present)
- Co-Chair, Center for Jewish Studies (2013-15)
 - Chair, Committees on the Undergraduate Jewish Studies Minor, and Post-Doctoral Selection (2013-2015)
- Affiliated Faculty, Center for Long-Term Cybersecurity (2015-present)
- Member, University Task Force on Jewish Studies (2012-13)
- Member, Chancellor's *ad hoc* Tenure Review Committee (2012)

Selected Outside Service

- Board of Trustees, Leo Baeck Institute, New York and Berlin (2019-present)
- Affiliated Faculty Federmann Cybersecurity Center, Hebrew University of Jerusalem (2019-present)
- Arbitrator, U.S. Department of Commerce/European Commission Privacy Shield Framework (2018-present)
- Advisory Board, The Israel Tech Policy Forum, Washington and Tel Aviv (2017-present)
- Board of Advisors, The Future of Privacy Forum, Washington, DC (2013-present)
- Board of Advisors, The Israel Institute, Washington, DC (2013-present)
- Board of Advisors, Taube Foundation for Jewish Life, San Francisco, CA (2012-15)
- Program Committee, European Privacy Law Scholars Conference (PLSC)

Sabbatical Affiliations

- *Visiting Fellow*, Shalom Hartman Institute, Jerusalem (Spring 2017)
- *Visiting Professor*, Buchmann School of Law, Tel Aviv University (2015-2016)

COMPETITIVE GRANTS AND GIFTS

Institutional Grants & Gifts

- Faculty Director (PI), Berkeley Institute for Jewish Law and Israel Studies.
Grants/gifts totaling \$15+ million from, among others:
 - The Helen Diller Family Foundation (\$5m)
 - The Rosalinde and Arthur Gilbert Foundation (\$3.25m)
 - The Koret Foundation (\$3m)
 - The Jim Joseph Foundation (\$1.5m)
 - Anonymous [SF] (\$1m)
 - The Israel Institute (\$600k)
 - The Lisa and Douglas Goldman Fund (\$450k)
 - The Schusterman Family Foundation \$300k)
 - The Morton and Amy Friedkin Fund (\$250k)
 - Anonymous [LA] (\$250k)
 - AICE (Richard and Rhoda Goldman Foundation Fund grants) (\$200k)
 - The Rodan Family Fund (\$175k)

Competitive Research Grants

- Co-Principal Investigator, “The Meaning of Cybersecurity” (2016)
 - Center for Long-Term Cybersecurity
- Co-Principal Investigator, “Privacy Officers in Europe” (2010-2013). Grants from:
 - The Privacy Projects consumer non-profit fund
 - The Future of Privacy Forum
 - The Miller Institute for Global Challenges and the Law
 - The Berkeley Center for Law and Technology
 - Nokia Corp. (through the Berkeley Center for Law and Technology Fund)
 - Intel Corporation, Academic Research Fund
- Research Grant, Robbins Collection for Civil and Religious Law (2012-13).
- Competitive Faculty COR Grants, UC Committee on Research (2008-09; 2010-11).
- Principal Investigator, “Technologies of Compliance” (2009)
 - Berkeley Center for Law and Technology Research Grant
 - Grantee, TRUST (The Team for Research in Ubiquitous Secure Technology), which receives support from the NSF (NSF award number CCF-0424422) (2008).
- Principal Investigator, “Privacy Regulations and Corporate Behavior” (2007-09), Rose Foundation for Communities and the Environment Consumer Privacy Rights Fund Grant.
 - Co-Senior Investigator, NSF, “How Institutions Think About the Unthinkable: Organizational Learning and Communication About Catastrophic Events,” (2006-09).

* * *