KENNETH A. BAMBERGER

The Rosalinde and Arthur Gilbert Foundation Professor of Law
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CURRENT POSITION

University of California, Berkeley, School of Law (Boalt Hall)

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

Professor of Law (2011-2016)

Assistant Professor of Law (2005-2011)

Ongoing Appointments

- *Faculty Director*, Berkeley Center for Law and Technology
- *Faculty Director*, Berkeley Institute for Jewish Law and Israel Studies
- *Affiliated Faculty*, Center for the Study of Law and Society
- *Co-Chair*, Public Law Curriculum

Sabbatical Appointment, 2015-2016

- *Visiting Professor*, Cegla Center for the Interdisciplinary Study of Law, Tel Aviv University

PREVIOUS POSITIONS

Co-Chair, Jewish Studies, University of California, Berkeley (2013-2015)

Associate, then Counsel, Wilmer Cutler Pickering Hale and Dorr LLP (2002-2005)

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; Information Policy, Privacy and Cybersecurity; Technology and Governance; Corporate Compliance; Regulation and Governance; Freedom of Expression; Law and Religion

COURSES TAUGHT

Core Courses: Administrative Law; First Amendment; Torts
Short Courses: Information Privacy; Consumer Protection and the FTC;
Introduction to the U.S. Regulatory System
Seminars: Technology and Governance; Jewish Law; Law, Organizations and Compliance

FORTHCOMING PUBLICATIONS/CURRENT SCHOLARLY PROJECTS

Platform "Lock-In:" Market Failure, Market Power, and the Shaping of Public Values, BERKELEY JOURNAL OF LAW AND TECHNOLOGY (forthcoming 2017)

The Coming Design Wars: Addressing Public Values in Technology Choices (with D. Mulligan) (in progress)

Premodern Insights for Postmodern Privacy: Lessons from the Jewish Tradition (in progress)

SCHOLARLY PUBLICATIONS

Book

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

Articles and Chapters

Public Values, Private Infrastructure and the Internet of Things: the Case of Automobiles, 9 JOURNAL OF LAW & ECONOMIC REGULATION 7 (with D. Mulligan) (2016)

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*

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) (peer reviewed) (2011).

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

> *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).

SCHOLARLY PUBLICATIONS (continued)

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).

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).

Selected Shorter Works

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 Deirdre K. Mulligan) (republished at law.com)

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

"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)

SELECTED PRESENTATIONS AND PANELS

Recent presentations:

- "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)
- "The Privacy Professional in the 21st Century," Event of the Confederation of European Data Protection Officers, International Conference of Data Protection Commissioners, Amsterdam, Netherlands (October 2015)
- "Privacy on the Ground," Book Launch Event and 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)

SELECTED PRESENTATIONS AND PANELS

2014-present (continued):

- 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 Presentations

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; Cambridge University; 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

- Co-Chair, *Reflections on the Legacy of Nuremberg: The 70th Anniversary of the Nuremberg Trials*, UC Berkeley, School of Law, April 27-28, 2015
- Chair, *Israel Through the High-Tech Lens*, UC Berkeley Haas School of Business and School of Law, February 1-2, 2012
- 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)
- *Member*, Faculty Appointments Committee (2008-2009; 2009-2010; 2012-13)
- *Co-Chair*, Public Law Curriculum (2011-present)
- *Member*, multiple tenure review committees (2012-present)
- *Chair*, Committee on Judicial Clerkships (2010-2011)
- *Member*, Dean's Interdisciplinary Appointments Special Subcommittee (2012-2013)
- Law School Graduate Programs Committee (2010-present)
- *Academic Director*, Tel Aviv-Berkeley LL.M. Program (2009-present)
- Member of 6 doctoral committees
- *Faculty Advisor*, *California Law Review* (2007-2009; 2010-2011)
- Co-Coordinator, Junior Administrative Law Scholars Conference (2007-2008)
- Financial Aid Committee (2006-2007; 2007-2008)
- *Chair*, Grant-Aid Financial Aid Subcommittee (2006-2007)
- *Member*, *ad hoc* Disciplinary Panel, (2007)
- Preparation of School's Congressional Testimony Regarding Sullivan Amendment (2007)
- *Member*, Law School Business Law Appointments Special Subcommittee (2007)

Selected University Service

- Founding Co-Chair, Center for Jewish Studies (2013-2015)
- Chair, Undergraduate Jewish Studies (2013-2014)
- Member, University Task Force on Jewish Studies (2012-13)
- Member, Chancellor's *ad hoc* Tenure Review Committee (2012)
- Outside Member of five Doctoral Committees (School of Information; Department of Sociology; Program on Jewish Studies)

Selected Additional Service

- Board of Advisors, The Future of Privacy Forum, Washington, DC
- Board of Advisors, The Israel Institute, Washington, DC
- Board of Advisors, Taube Foundation for Jewish Life and Culture, San Francisco, CA
- Program Committee, European Privacy Law Scholars Conference (PLSC)
- Member, Task Force on Internet Hate, Inter-Parliamentary Coalition for Combating Anti-Semitism

COMPETITIVE GRANTS

Competitive Research Grants

- Principal Investigator, "Privacy Officers in Europe" (2010-2013).
  Research 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, University of California, "Of Forgetting and Repentance: Privacy Lessons From Jewish 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, National Science Foundation, "How Institutions Think About the Unthinkable: Organizational Learning and Communication About Catastrophic Events," (2006-09).

Institutional Grants

- Faculty Director (PI), Berkeley Institute for Jewish Law and Israel Studies.
  Grants/gifts totaling over $4m from, among others:
  - The Rosalinde and Arthur Gilbert Foundation
  - The Koret Foundation
  - The Jim Joseph Foundation
  - The Lisa and Douglas Goldman Fund
  - AICE/Richard and Rhoda Goldman Foundation
  - The Schusterman Family Foundation
  - The Campini Family Foundation