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Professor of Law  
Nathan and Lilly Shapell Chair in Law  
University of Southern California Law School  
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## **EDUCATION**

1987          Harvard Law School, Cambridge MA  
                J.D. Magna Cum Laude  
                Harvard Law Review Editor

1984          Yale College, New Haven CT  
                B.A. Summa Cum Laude, Phi Beta Kappa  
                Major: Political Philosophy

## **PUBLICATIONS**

### **CONTRIBUTIONS TO BOOKS**

The Return of Religion: Legal Secularism's Rise and Fall and Possible Resurrection, in **Handbook of Law and Society** (Austin Sarat and Patricia Ewick, eds., Wiley Blackwell, 2015).

Is There Such a Thing as Non-State Law? Lessons From Kiryas Joel, in **Negotiating State and Non-State Law: The Challenges of Global and Local Legal Pluralism** (Michael Helfand, ed., Cambridge University Press, 2015).

"Bd. of Education of Kiryas Joel Village School District v. Grumet: A Religious Group's Quest For Its Own Public School" in **Law and Religion: Cases in Context** (Leslie C. Griffin, ed., Aspen, 2010).

"Free Speech and Free Love: The Law and Literature of the First Amendment," with Hilary M. Schor, in **Teaching Law and Literature** (Austin Sarat, Catherine O. Frank, Matthew Anderson, eds., Modern Language Association, 2011).

"Facts on the Ground," in **Property and Community** (Eduardo Penalver & Gregory Alexander, eds., Oxford U. Press, 2010).

“Maternity and Paternity,” in **The Child: An Encyclopedic Companion** (Richard Schweder, ed., University of Chicago Press, 2009).

“The Profanity of Law,” in **Law and the Sacred** (Austin Sarat, Lawrence Douglas & Martha Merrill Umphrey, eds., Stanford U. Press, 2007).

“‘Spiritual Custody’: Religious Freedom and Coercion in the Family,” in **The Jewish Role in American Life: An Annual Review**, Volume 3, 1-39 (Barry Glassner & Hilary Taub Lachoff, eds., 2004).

“The Phantom of Integration, or the Uncanny Case of Kaadan,” in **The Jewish Political Tradition**, Volume 2, 554-561 (Michael Walzer, Yair Lorberbaum & Noam Zohar, eds., Yale U. Press, 2003).

“Bastard Daughters and Illegitimate Mothers: Burning Down the Courthouse” (co-authored with Hilary M. Schor) in **REAL Yearbook of Research in English and American Literature: Law and Literature**, Vol. 18, 109-129 (2002).

“The Culture of Property,” in **Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies** (Richard Shweder, Martha Minow, & Hazel Rose Markus, eds., Russell Sage Foundation Press, 2002).

“Jiminy Cricket: A Commentary on Professor Hill’s Four Conceptions of Conscience,” in **NOMOS XL: Integrity and Conscience** (Ian Shapiro & Robert Adams, eds., New York University Press, 1998).

“A Tale of Two Villages (or Legal Realism Comes to Town,” in **NOMOS XXXIX: Ethnicity and Group Rights** (Ian Shapiro & Will Kymlicka, eds., New York University Press, 1997).

“The Puzzling Persistence of Community: The Cases of Airmont and Kiryas Joel,” in **From Ghetto to Emancipation: Historical and Contemporary Reconsiderations of the Jewish Community** (David N. Myers & William V. Rowe, eds., University of Scranton Press, 1997).

## JOURNAL PUBLICATIONS

It’s About Money: The Fundamental Contradiction of *Hobby Lobby*, 88 USC Law Review 727 (2015).

Introduction: Religious Accommodation in the Age of Civil Rights (with Douglas NeJaime), 38 Harvard Journal of Law & Gender vii (2015).

Political Theology With a Difference, 4 U.C. Irvine Law Review 407 (2014).

Righting the Relationship Between Race and Religion in Law, 31 Oxford Journal of Legal Studies 583 (2011).

Liberalism in Love, 28 Quinnipiac Law Review 593 (2010).

Comment on Annelise Riles's "Collateral Expertise" (with R.C. Lim), 51 Current Anthropology 6 (2010).

Theses on Secularism, 47 San Diego L. Rev. 1041 (2010).

Liberalism in a Romantic State, 5 Law, Culture & the Humanities 194 (2009).

Anti-Anxiety Law: Winnicott and the Legal Fiction of Paternity, 64 American Imago 339 (2007).

Waldron's Locke and Locke's Waldron: A Review of Jeremy Waldron's *God, Locke, and Equality* (with Gideon Yaffe), 49 Inquiry 186 (2006).

Liberals and Libertines: The Marriage Question in the Liberal Political Imagination, 42 San Diego Law Review 949 (2005).

The Return of the Repressed: Illiberal Groups in a Liberal State, 12 Journal of Contemporary Legal Issues 897 (2002).

What We Talk About When We Talk About Culture, 103 American Anthropologist 442 (June 2001).

The Culture of Property, 129 Daedalus 169 (2000).

Bentham's Theory of Legal Fictions -- A "Curious Double Language," 11 Cardozo Studies in Law and Literature 223 (1999).

Marriage As a Legal Metaphor: Commentary on Rachel Adler, 7 S.Cal. Review of Law & Women's Studies 203 (1998).

A Book of Laughter and Forgetting: Kalman's "Strange Career" and the Marketing of Civic Republicanism, 111 Harvard Law Review 1025 (1998).

Un-Covering the Tradition of Jewish "Dissimilation": Frankfurter, Bickel, and Cover on Judicial Review, 3 Law & Southern California Interdisciplinary Law Journal 809 (1994).

"He Drew A Circle That Shut Me Out": Assimilation, Indoctrination, and the Paradox of A Liberal Education, 106 Harvard Law Review 581 (1993).

Community, Constitution, and Culture: The Case of the Jewish Kehilah, co-authored with David N. Myers, 25 Michigan Journal of Law Reform (1992).

Note, Political Rights as Political Questions: The Paradox of Luther v. Borden, 100 Harvard Law Review 1125 (1987).

## **EDITORIALS/POPULAR PRESS/OCCASIONAL WRITINGS**

"The Purist's Dilemma: Spiritual Pollution in a Modern World," Los Angeles Review of Books, May 17, 2015.

"State Legislatures Pit Religious Freedom Against Civil Rights" (with Sarah Barringer Gordon), Religion & Politics, March 3, 2015.

"Hobby Lobby Aftermath: Christian College Demands An Exemption ... From The Exemption," Religion Dispatches, July 5, 2014.

"The Hollow Promise of Justice Alito's Plan B," Huffington Post, July 7, 2014.

"Hobby Lobby, Wheaton College, and a New Religious Order" (with Sarah Barringer Gordon), Religion & Politics, July 14, 2015.

"When the Personal is Political: What's So Jewish About Justice Kagan's Opinion in Town of Greece?" (with Lila Corwin Berman), Huffington Post, May 13, 2014.

"Kiryas Joel: Theocracy in America?," (with David N. Myers), The Huffington Post, December 4, 2011.

Rethinking Secularization Theory (with David N. Myers), AJS Perspectives, Spring 2011, 37.

"The Separation of Church and State and American Politics," The Huffington Post, October 26, 2010.

"Sometimes 'Un-American' Is Actually Ultra-American," (with David N. Myers), The Jewish Daily Forward, June 2, 2010.

"Today, Religion Looms Larger in Judicial Selections," Los Angeles Daily Journal, April 15, 2010.

## **WORKS IN PROGRESS**

**American Shtetl: Kiryas Joel Through The Lens of Jewish History and American Law**

The Law of the Father and the Law of the Mother: Psychoanalytic Models of Law

Divine Accommodation and Dirty Hands: A Different Political Theology

## **SELECTED LECTURES, CONFERENCES, SEMINARS, AND WORKSHOPS**

The Law of the Father and the Law of the Mother: The Varying Implications of Freud and Winnicott for Understanding Law, International Association for Law and Mental Health Annual Conference, panel on Law and Psychoanalysis, Freud University, Vienna, July 14, 2015.

Challenges to the Sovereign Shtetl: Communitarianism From the Bottom Up, Oxford Summer Institute on Modern and Contemporary Judaism, July 5, 2015.

It's About Money: The Fundamental Contradiction of *Hobby Lobby*, Conference on Religious Accommodation in the Age of Civil Rights, co-sponsored by USC's Center for Law, History and Culture, the Williams Institute, the ACLU and Harvard Law School, Harvard Law School, April 4, 2014; Program on Religious Accommodation and the Center for Law, History and Culture joint workshop, October 31, 2014, and at the Duke Law School Identity Politics & Law Colloquium, January 21, 2015 and the Seminar on Secularism at the U.C. Irvine English Department, March 12, 2015.

What Is "The Jewish Question" in Local Government Law? A Commentary on Kenneth Stahl's "Local Government, One Person/One Vote, and the Jewish Question", Harvard Civil Rights-Civil Liberties Law Review Colloquium, Harvard Law School, November 18, 2013.

Only in America! Kiryas Joel – A Satmar Hasidic Village and School District in Suburban New York (with David Myers), NYU-Skirball Department of Hebrew and Judaic Studies and the Goldstein-Goren Center for American Jewish History, NYU, November 5, 2013.

Can A Religious Community Be a Legal Municipality? The Case of Kiryas Joel, New York (with David Myers), Pepperdine Law School and the Glazer Institute for Jewish Studies, September 11, 2013.

The Law of the Father and the Law of the Mother: Implications of Freud's and Winnicott's Psychoanalytic Theories for Law, presented at the Annual Conference of the Association for the Study of Law, Culture and the Humanities, London, March 2013.

Non-State Law Doesn't Exist: Lessons from Kiryas Joel, presented at the International Legal Theory Conference on Non-State Law, American Society of International Law, May 2, 2013, and at the Progressive Property Roundtable, New Orleans, May 2013.

Divine Accommodation, Dirty Hands and Freedom of the Church, first presented at the Institute for Law and Religion, University of San Diego, inaugural conference on The Freedom of the Church in the Modern Era, October 13, 2012. Also presented at Rutgers (Camden) School of Law Faculty Workshop, October 22, 2012. Revised as Dirty Hands, Divine Accommodation, and Secularism: A Different Political Theology, presented at the USC Law Faculty Workshop, April 5, 2013 and the Religion Roundtable, Stanford Law School, June 28, 2013; further revised version presented at the Fordham Law School Legal Theory Workshop, February 4, 2015 and at

the Association for the Study of Law, Culture and the Humanities Annual Conference, March 7, 2015.

Divine Accommodation, Symposium on “Law As ... II: History as Interface for the Interdisciplinary Study of Law,” U.C. Irvine School of Law, March 9, 2012.

Divine Accommodation, International Conference on Judicial Politics and the Accommodation of Religious Minorities, Munk School of Global Affairs, University of Toronto, April 30, 2011.

Ghosts of Property: Reshaping the Future by Rewriting the Past Through the Establishment of Facts on the Ground, panel on “Property’s Futures,” annual conference of the Association for the Study of Law, Culture & Humanities, Las Vegas, March 15, 2011.

Property and Memory, convener and commentator, 10<sup>th</sup> Anniversary Center for Law, History & Culture Conference on Law & Memory, February 26, 2011.

Facts on the Ground, Progressive Property Roundtable, June 8, 2010.

Theses on Secularism, Conference on Freedom of Conscience, Institute for Law & Philosophy, University of San Diego, April 23, 2010.

Law, Education and Religious Interpretation, Church, State and Scripture Seminar, Princeton University Center for Human Values, April 14, 2010.

An American Shtetl: Politics and Piety in Kiryas Joel, New York (with David N. Myers), The Silvers Visiting Scholar Lecture, University of Pennsylvania Law School, co-sponsored by the Herbert D. Katz Center of Advanced Judaic Studies and the Department of History, University of Pennsylvania, April 14, 2010.

Property and Sovereignty: The Intertwined Fate of Private and Public Claims to the Holy Land, Conference on The History and Future of the Israeli-Palestinian Conflict, The Fletcher School of Law and Diplomacy, Tufts University, April 9, 2010.

American Shtetl: Reading Kiryas Joel Through Jewish and American Lenses, Scholion Institute, Hebrew University, January 3, 2010.

Facts on the Ground, USC Law Workshop, October 30, 2009.

Accommodation Without Civil Society Is Not Accommodation, Symposium on Religious Minorities in a Liberal Society: Israeli and American Perspectives, UCLA Israel Studies Program, October 29, 2009.

Liberalism in Love, A Conference on Law and Love, Quinnipiac Law School, October 3, 2009.

Law, Loss, and Facts on the Ground, Association for Law, Culture and Humanities, March 2009.

The Presumption of Rationality: Psychological Challenges to Legal Certainty, Philoctetes Institute Roundtable, October 25, 2008, New York City.

Communitarianism From the Bottom Up, Conference on The Social Frameworks for Cultural and Religious Pluralism, sponsored by the Washington University Politics, Pluralism, and Religion Initiative in collaboration with the Paris Research Laboratory on Religions, Societies, and Laicities, at Washington University in Saint Louis, May 2, 2008.

Liberalism in a Romantic State, presented at the Law & Society Conference, Berlin, July 2007 and the Association for Law, Culture and Humanities, Berkeley, March 2008.

Facts on the Ground, presented at the London School of Economics Conference on Techniques of Ownership, July 20-21, 2007.

The Paradox of Tolerance: How Religious Groups Are Undermined and Empowered by American-Style Liberalism and Constitutional Values, The Prince Alwaleed Bin Talal Bin Abdulaziz Al Saud Center for American Studies & Research, American University of Beirut, February 2007.

Gender, Sex, and Culture and the Paradox of National Liberation: A Comment on Walzer, presented at the conference on The Theological-Political Predicament and the Jewish State, UCLA Center for Jewish Studies, February 12, 2006.

Communitarianism From the Bottom Up in Kiryas Joel, presented at the Conference on Jews and the Legal Profession, Cardozo Law School, October 24, 2006.

Rule Without Others, presented at the Jewish Law Session on Rule Over Others, AALS Conference, Washington, D.C., January 5, 2006.

Liberals and Libertines: The Marriage Question in the Liberal Political Imagination, presented at the conference on The Meaning of Marriage, San Diego Law and Philosophy Group, January 14, 2005.

The Paradox of Tolerance, presented at the Cornell Law School faculty workshop, October 22, 2004 and the Minneapolis Law School faculty workshop, November 18, 2004.

Anti-Anxiety Law: Uncertainties and Presumptions, presented at the Law, Culture and Humanities Conference, University of Pennsylvania, March 9, 2002.

The Profanity of Law, Keck Lecture Series on Law and the Sacred, Amherst College, February 18, 2002.

Commentary on "The Network Inside/Out," by Annelise Riles, book talk sponsored by the USC Center for Law, History and Culture, January 25, 2002.

Thoughts on Jewish Civilization and Culture, talk delivered at Conference on Jewish Civilization and Its Discontents, UCLA, November 3-5, 2001.

Participant, Conference on The Jewish Political Tradition: Diverse Perspectives on Community, organized by the Ethikon Institute and the Skirball Institute on American Values, chaired by Michael Walzer, September 6-9, 2001.

The Return of the Repressed: Illiberal Groups in a Liberal State, paper delivered at the Symposium on Illiberal Communities and American Constitutionalism, University of San Diego School of Law, February 1-3, 2001.

The Culture of Property, paper delivered at the Social Science Research Council Working Group on Ethnic Customs, Assimilation, and American Law on January 14, 2000.

Bentham's Theory of Fictions -- A "Curious Double Language", paper presented at the University of Michigan Law School Legal Theory Workshop, November 12, 1999.

The Father of Legal Fictions, talk delivered at conference on Theatres of Law and Legal Fictions, Cardozo School of Law, April 18, 1999.

Communitarianism From the Top Down and From the Bottom Up, presented at the Legal Theory Workshop at Boston University School of Law, February, 1999, at the University of Connecticut Law School Legal Theory Workshop, February, 1999, and at the Social Science Research Council Working Group on Ethnic Customs, Assimilation, and American Law meeting in New York City, April, 1999.

The Unasked Question: Can Israel be a Jewish and a *Liberal* State?, co-authored with David N. Myers, paper presented at the conference on Multicultural Democracy, Bar Ilan University, June, 1998.

Bastard Daughters and Illegitimate Mothers: Burning Down the Courthouse, co-authored with Hilary Schor, paper presented at the conference of the Working Group on Law, Culture, and the Humanities, March 27, 1998, Georgetown Law Center, Washington, D.C.

Kiryas Joel and Hasidic Autonomy in a Liberal State, seminar given at the Hartman Institute, December 1997, Jerusalem, Israel.

Hasidic Autonomy in the United States Courts, lecture presented at the Van Leer Jerusalem Institute of Advanced Studies, November, 1997, Jerusalem, Israel.

The Puzzling Persistence of Community: The Case of Kiryas Joel, workshop seminar given at Bar Ilan University Law School, Israel, November, 1997.

A Tale of Two Villages, paper delivered at conference on "From Ghetto to Emancipation? Historical and Contemporary Reconsiderations of the Jewish Community," March 26-27, 1995, University of Scranton, PA.



Spiritual Custody: In the Heart of the Heart of Pluralism, paper delivered for panel on "Pluralism and the Modern State," Law and Society Annual Conference, June 17, 1994, Phoenix AZ.

Tinkering With the Market: A Comment on Ravitch's Means-Tested School Voucher Proposal, delivered as a discussant at the Woodrow Wilson School of Public and International Affairs conference on "Social Policies for Children," May 26, 1994, Princeton NJ.

Subjectivism and the Unfixation of Belief: A Reply to Macedo and a Comment on Carter, McConnell, and Rawls, presented in workshops at Harvard Law School, November 5, 1993, at USC Law School, February 4, 1994, at Yale Law School, February 10, 1994, at Georgetown Law Center, April 22, 1994, and at University of Chicago Law School, April 28, 1994.

The Problem With Tolerance, January 7, 1994, lecture delivered at St. Johns College, Annapolis MD.

Controversies in Feminist Legal Theory, October 20, 1993, talk presented at USC Center for Feminist Research lunchtime series.

Cultural Borders and Representation: Radical and Moderate Transnationalism, lecture delivered at inaugural panel discussion for the Center for Multi-Ethnic and Transnational Studies, USC, November, 1992.

Anti-Essentialism and Anti-Assimilationism, lecture delivered at the Critical Networks Conference, Harvard Law School, February, 1992, Cambridge MA.

Jews, Jurisdiction and Judicial Review: Un-Covering the Tradition of Jewish "Dissimilation", paper delivered at Wisconsin Law School Conference on Jews and the Law in the United States, November 17, 1991, Madison WI.

Toleration and Assimilation: The Free Exercise Challenge to Public Education, lecture delivered at Hebrew University Law School, July 1989, Jerusalem, Israel; Tel Aviv Law School, August 1989, Tel Aviv, Israel; USC Faculty Research and Innovation Fund Lecture Series, October 1989.

Kehillah, Constitution and Culture, co-authored with David N. Myers, paper delivered at Stanford University Conference on Critical Legal Studies, Jewish Law and Jewish History, February 1989, Palo Alto CA.

Comment on Lea Brilmayer's **Justifying International Acts**, University of San Diego School of Law, 1988, San Diego CA.

## **COURSES**

Concepts of Law (undergraduate course for the majors in Law, History and Culture and Philosophy, Politics and Law)

First Amendment: The Religion Clauses

Family Law

Property  
Law, Language and Ethics  
Local Government Law  
Major Trends in American Legal Thought (seminar)  
Religion and State in American Culture and Law (seminar)  
Legal Conceptions of Maternity and Paternity (seminar)  
Law and Literature: "Legal Fictions" (seminar)  
Free Speech and Free Love: The Law and Literature of the First Amendment (seminar)  
Multiculturalism and Law (seminar)  
Liberalism and Its Critics (seminar)  
Treating Difference Equally (seminar)

## **UNIVERSITY SERVICE**

Co-director, USC Center for Law, History and Culture, 2001-04, 2006-2009  
Steering Committee, member, USC Center for Law, History and Culture, 2001-present

Director, Program on Religious Accommodation, 2013-present

Faculty advisory board member, USC Casden Institute

Steering committee member, Nemer Lecture Committee

Steering committee member, Law, Culture and History Major Steering Committee

Affiliated faculty, Louchheim School of Judaic Studies, Hebrew Union College/University of Southern California

Law School Admissions Committee, 2011-2013

University CAPP, member, 2006-2009

Law School Academic Affairs Committee, 2007-2009

Law School Self-Study Committee, 2008-2009

University Committee of Academic Review, member, 2002-06

Member, Internal Review Committee for Classics, 2007-09

Chair, Internal Review Committee for Comparative Literature Department, 2003

Member, Appointments Committee, USC Law Center, 1995-97, 1998-2004, 2005-06, 2009-10

Steering Committee Member, USC Center for Feminist Research, 1992-95, 1999-2000  
Present, 1992-95

Remedial Tutor, USC Law Center, 1994-97, 1997-2000

Chair, Tenure Review Committee for Darin Fox, USC Law Center, 1999-2000

Member, Self-Study Committee, USC Law Center, 1999-2000

Member, Advisory Board, Southern California Review of Law and Women's Studies, 1999-2000

Faculty Workshop Coordinator, USC Law Center, 2006, 1995

Board Member, USC Law Center Public Interest Law Foundation, 1989-95

Member, USC Law Center Clerkship Committee, 1989-93

### **NON-UNIVERSITY SERVICE**

Advisory Board Member, University of San Diego Law School Institute for Law & Religion, Spring 2012-present.

Editorial Board Member, Journal of Law, Culture & the Humanities, 2005-present.

Editorial Board Member, Theory and Research in Education Journal, 2009-2011.

### **ACADEMIC ASSOCIATIONS**

Association for the Study of Law, Culture & Humanities, member

Progressive Property Roundtable, member

Religion Roundtable, member

### **FELLOWSHIPS, VISITORSHIPS, AWARDS, GRANTS**

2002            Zumberge Fund Interdisciplinary Research Grant

2002            USC Casden Institute Faculty Research Grant

1997            Visitor, Van Leer Jerusalem Institute, Jerusalem, Israel

1997            Visitor, Hebrew University Law School, Jerusalem, Israel

1995            Visiting Professor of Law, Columbia Law School

1989            Faculty Research and Innovation Fund, University of Southern California

1989            Ben Gurion Exchange Visitor to Tel Aviv and Hebrew Universities, University of Southern California Law Center

1987            Mark De Wolfe Howe Prize

## **PRIOR WORK EXPERIENCE**

- |         |   |
|---------|---|
| 1987-88 | Law clerk to Chief Judge John J. Gibbons, United States Third Circuit Court of Appeals, Newark NJ |
| 1986    | Summer Associate, Foley Hoag & Eliot, Boston MA   |
| 1985    | Summer Associate, Hale and Dorr, Boston MA  |