

HILA KEREN, PH.D.

Associate Dean of Research & Paul E. Treusch Professor of Law
Selected as Montgomery Foundation Scholar, 2021-22 & 2022-23
SOUTHWESTERN LAW SCHOOL
Email: hkeren@swlaw.edu

CURRENT POSITION

- SOUTHWESTERN LAW SCHOOL, Professor of Law, 2010 to present (tenured as of 2013; Associate Dean for Research as of 2019; Paul E. Treusch Professor of Law as of 2020).
 - Courses regularly taught:
Contracts I and II, two semesters, 5 units
Business Associations, upper-division, spring semester, 4 units

PREVIOUS ACADEMIC POSITIONS

- UNIVERSITY OF CALIFORNIA-BERKELEY SCHOOL OF LAW, Visiting Professor, 2007-2008.
 - Courses taught:
Contracts (fall semester, 5 units)
Challenges to Legal Rationality (seminar, spring semester, 3 units)
- HEBREW UNIVERSITY SCHOOL OF LAW, Associate Professor of Law (tenure-track), 2005 to 2010
 - Courses taught:
Contracts (two classes, annual, 6 units each)
 - Outstanding Teaching Award, 2005-2006 (university-wide prize)

HIGHER EDUCATION

- UC BERKELEY, CENTER FOR THE STUDY OF LAW AND SOCIETY, POST-DOCTORAL STUDIES 2003-2005
 - First year: Feminist analysis of Contract Law
 - Second year: Critical Race Analysis of Contract Law; Law and the Emotion of Hope
- HEBREW UNIVERSITY, FACULTY OF LAW, PH.D 2001
 - Dissertation Title: "Contract Law from a Feminist Perspective"
- HEBREW UNIVERSITY, FACULTY OF LAW, ACCELERATED DOCTORAL PROGRAM 1993-1996
 - Supplementary studies at the Women Studies Department
 - Advanced studies in business law
- HEBREW UNIVERSITY, FACULTY OF LAW, LL.B. 1992, *magna cum laude*

SELECTED PRIZES AND FELLOWSHIPS

- The Montgomery Foundation Scholarship Award 2022-2023
- The Montgomery Foundation Scholarship Award 2021-2022
- The Birk Foundation Award, Outstanding Young Researcher (2010)
- Outstanding Teaching Award (2005-2006)
- Polonsky Prize for Creativity and Originality in the Humanistic Disciplines (2006)
- The Golda Meir Fellowship, Hebrew University of Jerusalem (2005-2006)
- Post-doctoral Scholarship by the Hebrew University of Jerusalem for two years of research fellowship at the Center for the Study of Law and Society, UC Berkeley (2003-2005)

PUBLICATIONS

Books:

- *CONTRACT LAW FROM A FEMINIST PERSPECTIVE* (The Harry and Michael Sacher Institute for Legislative Research and Comparative Law, Jerusalem, (2005) (in Hebrew).

Articles and Book Chapters:

- *Contracts Unequals: The Promise of Social Mobility in the Antebellum South*, 56 CREIGHTON L. REV. (forthcoming, invited symposium contribution).
- *Market Humiliation*, 56 LOYOLA OF LOS ANGELES L. REV. (forthcoming, supported by the 2021-2022 Montgomery Foundation Award).
- *The Unbearable Narrowness of Undue Influence*, in RESEARCH HANDBOOK ON THE PHILOSOPHY OF CONTRACT LAW (Mindy Chen-Wishart & Prince Saprai eds., forthcoming).
- *Separating Church and Market: The Duty to Secure Market Citizenship for All*, 12 UC IRVINE L. REV. 909 (2022).
- *Divided & Conquered: The Neoliberal Roots and Emotional Consequences of the Arbitration Revolution*, 72 FLA. L. REV., 575 (2020).
- *Feminism and Contract Law*, in RESEARCH HANDBOOK ON FEMINIST JURISPRUDENCE (Robin West & Cynthia Bowman Eds., 2019).
- *Valuing Emotions*, 53 WAKE FOREST L. REV., 829 (2018).
- *Contracts' Enforcement and the Social Contract*, in *The Best and Worst of Contracts Decisions: An Anthology*, 45 FLORIDA ST. L. REV., 889 (2018).
- *Women in the Shark-Tank: Entrepreneurship and Feminism in a Neoliberal Age*, 34 COLUM. J. GENDER & L. 75 (2016).

- *In the Land of Choice*, in PRIVATIZATION, VULNERABILITY AND SOCIAL RESPONSIBILITY (Martha Fineman Ed.) (Routledge 2016).
- *Undermining Justice: The Two Rises of Freedom of Contract and the Fall of Equity*, 2 CANADIAN J. COMP. & CONTEMP. L. 339 (2016).
- *Guilt-Free Market? Unconscionability, Conscience, and Emotions*, 2016 BYU L. REV. 427 (2016).
- *Law and Economic Exploitation in an Anti-Classification Age*, 42 FLA. ST. L. REV. (2015).
- *Legal Hopes: Enhancing Resilience Through the External Cultivation of Positive Emotions*, 64 NORTHERN IRELAND LAW QUARTERLY 111 (2013) (co-Authored with Prof. Kathryn Abrams).
- *Consenting under Stress*, 64 HASTINGS L.J. 679 (2013).
 - *** Reprint: DEFENSE LAW JOURNAL
 - *** Cited in the NAACP’s brief in GREEN v. BRENNAN, 2015 U.S. S. Ct. Briefs
- *Who’s Afraid of Law and the Emotions*, 94 MINNESOTA L. REV. 1997 (2010) (co-Authored with Prof. Kathryn Abrams)
 - *** Reprint: THE EDWARD ELGAR RESEARCH HANDBOOK ON LAW & EMOTIONS (2020) (named one of the three leading “Classic Articles” on the topic)
- *Considering Affective Consideration*, 40 GOLDEN GATE L. REV. 165 (2010).
- *Crossing Conceptual Borders: The Contribution of Chief Justice Barak to Contract Doctrine* in THE JUDICIAL LEGACY OF AHARON BARAK, pp. 411-462 (2009).
- *Law in the Cultivation of Hope*, 95 CAL. L. REV. 319 (2007) (Co-Authored with Prof. Kathryn Abrams).
- *Contractual Rape under the Anticipated Private Law Codification: Is There Anything New under the Sun?* in STUDIES IN LAW, GENDER AND FEMINISM (Daphna Barak-Erez ed., 2007).
- *Can Separate Be Equal? Intimate Economic Exchange and the Cost of Being Special*, 119 HARVARD. L. REV.F. 19 (2006).
- *The Advantage of Having (Critical) Theory of Contracts* (invited comment on Peter Linzer, *E. Allan Farnsworth’s Theory* 13 TEXAS W. L. REV. (2006).
- *Textual Harassment: A New Historicist Reappraisal of the Parol Evidence Rule with Gender in Mind*, 13 AMERICAN UNIVERSITY J. GENDER, SOCIAL POLICY & LAW, 251-325 (2005).
 - *** Awarded the Polonsky Prize for Creativity and Originality in the Humanistic Disciplines.
 - *** Cited in Knapp, Crystal, & Prince, PROBLEMS IN CONTRACT LAW (several editions).

- *“We Insist! Freedom Now”*: Does Contract Doctrine Have Anything Constitutional to Say? 11 MICHIGAN J. RACE & LAW 133 (2005).
- Allen D. Boyer. *Sir Edward Coke and the Elizabethan Age* JOURNAL OF LAW, CULTURE AND THE HUMANITIES 401 (2005).
- *Equality within Contract Law: a Feminist Call*, 31 MISHPATIM 269 (2000).

Op-Ed Contributions Selected by National Outlets:

- *The Alarming Legal Strategy Behind a SCOTUS Case that Could Undo Decades of Civil Rights Protections*, SLATE (March 9, 2022).
- *Texas Anti-Abortion Law’s Fear Factor Could Backfire*, BLOOMBERG LAW (September 23, 2021).
- *Why the Murder of George Floyd Remains a Deep Wound to the Public Psyche*, LA TIMES (May 25, 2021).
- *Trans Students Aren’t a ‘Hotly Contested Issue.’ They’re a Reality and Deserve Respect*, USA TODAY, (April 16, 2021).

Other Published Contributions:

- *Vast Scale Undue Influence*, JOTWELL (May 20, 2022) (reviewing Jamie Luguri & Lior Strahilevitz, *Shining a Light on Dark Patterns*, 13 J. LEGAL ANALYSIS 43, 2021).
- *Resilience Drainage and The Role of Private Law*, Law & Political Economy Blog (September 13, 2021).
- *Contract Law v. Tort Law*, JOTWELL (May 19, 2021) (reviewing Zahra Takhshid, *Assumption of Risk in Consumer Contracts and the Distraction of Unconscionability* 42 CARDOZO L. REV. 2183 (2020).
- *Should What Happened in the Room Stay in the Room? Contract Law has the Answer*, CONTRACTSPROF - Official Blog of the Association of American Law Schools’ Section on Contracts (June 17, 2020).
- *I Am Altering The Deal. Pray I Don’t Alter It Any Further*, JOTWELL (May 4, 2020) (reviewing Shmuel I. Becher & Uri Benoliel, *Sneak In Contracts* 55 GA. L. REV. 657 (2020).
- *The Public Voice of Contract Law*, JOTWELL (July 1, 2019).
- *Law in the Cultivation of Responsibility and Trust*, JOTWELL (July 13, 2017).
- *Life Without Parol Evidence: A Utopia?*, CONTRACTSPROF - Official Blog of the Association of American Law Schools’ Section on Contracts (June 12, 2006).
- *Happy 400th birthday to the Parol Evidence Rule*, CONTRACTSPROF - Official Blog of the Association of American Law Schools’ Section on Contracts (November 17 2004).
- *Feminism and Contract Law*, CONTRACTSPROF - Official Blog of the Association of American Law Schools’ Section on Contracts (June 22, 2004).

Works in Progress:

- *Market Citizenship and Resilience Allocation* (invited book chapter for RE-CONCEIVING EQUALITY AND FREEDOM: VULNERABILITY, DEPENDENCY, AND THE RESPONSIVE STATE (Martha Albertson Fineman & Laura Spitz, eds., Routledge 2022/3).
- *Laws of Fear* (essay/article, supported by the 2022-2023 Montgomery Foundation Award).
- *Beyond Discrimination: Private Law and Market Dignity* (essay/article, second piece supported by the 2021-2022 Montgomery Foundation Award).

MEDIA APPEARANCES:

- November 15, 2022, *The Morning Show* of Wisconsin Public Radio, an interview with host Kate Archer, discussing *303 Creative v Elenis*
- December 3, 2022, Amicus with Dahlia Lithwick, *The Blockbuster Case That You Probably Haven't Heard About*.
- February 7, 2023, Dissent, The Intercept, interview with host Jordan Smith, discussing the oral arguments in *303 Creative v Elenis*

SELECTED INVITED PRESENTATIONS:

- “Outside of the Private Paradigm: Contracting, the Inducement of Emotions, and the Role of Contract Law,” keynote speaker, at a conference on *Beyond Consensus Ad Idem*, at (June 2021), Sydney, Australia.
- “Uber Chuchem: Disability & the Limits of the Discrimination,” Selected paper presented at a workshop on the Politics of Public Health: Disability, Age, and Other ‘Categories’ of Universal Human Vulnerability, (September 2019), Lund, Sweden.
- “Law and the Value of Emotions” – Ted-style talk at the 2018 meeting of the Society of Affective Sciences (April 2018), UCLA.
- “Emotions, Property & the Problem of Social Resilience” – Selected paper presented in a workshop on *Vulnerability, Property, and Resilience* (September 2017), University of Essex, United Kingdom.
- “Emotional Value and the Value of Emotions” – Workshop for advanced PhD and LLM students, (June 2017), Hebrew University of Jerusalem, Israel.
- “Why ‘Impeach Persky’?” – Selected paper presented in a workshop on *Sex, Violence and Vulnerability*, The Vulnerability Initiative, (November 2016), Emory, Atlanta.
- “The Affective Role of Law in a Neoliberal Age” – Keynote Lecture at a conference on *Emotions in Legal Practices*, The ARC Centre of Excellence for the History of Emotions, (September 2016), Sydney Australia.

- “Undermining Justice: The Two Rises of Freedom of Contract and the Fall of Equity” (March 2016), USC’s Center for Law, History, and Culture
- “Predatory Prenups and the Gender of Vulnerability” (May 2013), Annual Meeting of the Law and Society Association, Boston (presenter and panel co-organizer).
- “Consenting under Stress” (March 2012), Annual International Spring Conference on Contracts, San Diego CA.
- “Privatization and the Problem of Vulnerability in the Land of Choice: The Case of Consenting under Stress” (February 2012), Workshop of the Vulnerability Project, Emory School of Law.
- “Consenting under Stress” (October 2011), UC Irvine School of Law.
- “Law and the Affective Dimensions of Resilience” (October 2011), Workshop of the Vulnerability Project, Emory School of Law, with Prof. Kathryn Abrams.
- “Considering Affective Consideration” (February 2010), Annual International Spring Conference on Contracts, Las Vegas NA.
- “Giving is Receiving” (June 2009), International Conference on Interdisciplinary Approaches to contract theory, Hebrew University School of Law, Jerusalem.
- “Law in the Cultivation of Hope” (February 8-9, 2007), conference on “Law and the Emotions: New Directions in Scholarship”, Berkeley CA.
- “Emotions and the Law: the Case of Hope”, (Jan 17th 2007), Hebrew University School of Law, Jerusalem.
- "Barak Unlimited: The Contribution of Chief Justice Barak to the Law of Contracts", (Nov. 1st, 2006), invited speaker at a panel dedicated to Chief Justice Barak and his contribution to the law of contracts, Hebrew University School of Law, Jerusalem.
- “Just Economics: Using Law and Economics to Foster Social Change” (May 24 2006), guest speaker at the conference Advances in the Law of Contract Formation, Hebrew University School of Law, Jerusalem.
- “The Use of Feminist Theories to Improve Contract Doctrine” (February 24-25, 2006), invited speaker at the opening panel of the entitled Theory and Anti-Theory in Contract Law. International Contract Law Conference, Texas Wesleyan Law School, Fort Worth, Texas.
- "The Interpretation Revolution in Contract Law", (December 13th, 2005), guest speaker at a panel honoring the book Contract Law: Toward Codification (2005) by Prof. Gabriela Shalev, Van Leer Institute, Jerusalem.

- "The Public is the Private: The Impact of Public Law on the law of Contracts", (November 25th 2005), guest speaker at the annual meeting of the Israeli Public Law Association, Caesarea.
- "Work, Family, Sperm, and Contracts: Recognition of Non Financial Incentives in Market Transactions" (Jan. 4th, 2005), invited panel's chair and moderator, Berkeley Conference on Socio-Economics.
- "Textual Harassment: A New Historicist Reappraisal of the Parol Evidence Rule on its Four Hundredth Anniversary" (October 18th 2004), Bag Lunch Speaker Series, the Center for the Study of Law and Society, UC Berkeley.
- "Legal New Historicism and the Parol Evidence Rule" (October 13th 2004), guest speaker at the Gender and Race Faculty Curriculum at Touro College, Jacob D. Fuchsberg School of Law, New York.
- "Science-Fiction and the Fiction of Science: A Feminist Critique of the Parol Evidence Rule" (May 27th 2004), 40th Annual Meeting of the Law and Society Association, Chicago.
- "What Do Women Want? What Do Women Give? – The Image of the Wife in Contract Law" (June 18, 2001), Lafer Center for Women Studies, Van Leer Institute, Jerusalem.

OTHER ACADEMIC ACTIVITIES

- Co-Organizer of the 13th Annual International Conference on Contracts.
- Invited Commentator, *Contracts Panel* in "Women Rethinking Equality" AALS Conference, Washington DC 2011.
- Reviewer of manuscripts for various academic journals and grant applications in Europe and the US (2005 onwards).
- Initiated and organized the conference "Law and the Emotions: New Directions in Scholarship" UC Berkeley USA, (February 8-9, 2007), (with Kathryn Abrams, Susan Bandes and Terry Mahoney).
- "One-Size Cannot Fit All: Flaws of the Unisex Contract Law Doctrine" (May 27th 2004), Panel organizer, 40th Annual Meeting of the Law and Society Association, Chicago.

PROFESSIONAL ACTIVITIES

- AT SOUTHWESTERN LAW SCHOOL
 - Associate Dean of Research (2019 to present)
 - Southwestern's Bar Passage Task Force, 2016 to present
 - Faculty Development Committee, 2010 to 2012, 2018, 2019 to present (as chair)
 - Ad-Hoc Best Practices Committee, 2011 to 2012