



## Visiting Professor

# Excuse 2.0

**Monday, January 16, 2023 | 17:00**

The Sigmund Gutter conference room (303) Trubowicz Building  
The Buchmann Faculty of Law



## Prof. Yair Listokin

Yair Listokin is the Shibley Family Fund  
Professor of Law at Yale Law School.

Contractual excuse doctrine presents the greatest enigma of contract law. Excuse allows courts to release parties from their contractual obligations. It thus stands in sharp contrast to the basic principles of contract law and adds significant uncertainty to contract adjudication. This Article offers a crucial missing perspective on the doctrine of excuse: the view from a macroeconomic lens. Macroeconomics offers a new justification for the law of excuse, and new ways for understanding the doctrine's mysteries, creating Excuse 2.0.

We offer a simple macroeconomic model of excuse doctrine, highlighting the role the doctrine plays under conditions of economic crisis and potential recession. Our analysis illustrates a counterintuitive advantage of excuse doctrine, suggesting that the legal uncertainty surrounding the doctrine can operate to induce loss-sharing between classes of contractual parties, thus minimizing the costs of long-term economic instability. In the Covid crisis, for example, excuse doctrine enabled an extraordinary wave of contractual renegotiation and loss sharing—without triggering excessive litigation. We discuss the interpretive and normative implications of our analysis and highlight its significance for contemporary policy debates in the wake of the Covid-19 pandemic.

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