



11th Annual Conference

Sponsored by

University of California at Berkeley
& San Francisco State University

March 28-29, 2008

8am - 7pm

Boalt Hall, UC Berkeley

Annual Meeting
Association
for the Study of

Law, Culture &
the Humanities

Imagining
Justice
&
Injustice

Please see website for Conference program.

<http://www.law.syr.edu/academics/centers/lch/main.html>

This conference was made possible by the generous support of several units
at UC Berkeley and San Francisco State University:

Janet Broughton, Dean of Arts and Humanities, UC Berkeley

Christopher Edley, Jr., Dean, UC Berkeley Law School

Joel Kassiola, Dean of Behavioral and Social Sciences, San Francisco State University

and

Paul Sherwin, Dean of the Humanities, San Francisco State University

We would also like to thank Professors Michael Mascuch of UC Berkeley's Department of Rhetoric and Jonathan Simon of UC Berkeley's Jurisprudence and Social Policy Program for their help.

Annual Meeting
Association for the Study of Law,
Culture & the Humanities

“Imagining Justice and
Injustice”

11th Annual Conference

Sponsored by

San Francisco State University and the University of California at
Berkeley

Boalt Hall School of Law, UC Berkeley

March 28-29, 2008

Program Committee

Laura Dickinson, School of Law, University of Connecticut
Reginald Oh, Cleveland State University
Ravit Reichman, Brown University
Austin Sarat, Amherst College, Chair
Jessica Silbey, Suffolk University Law School

Local Arrangements

Marianne Constable, UC Berkeley, Dept. of Rhetoric
James Martel, SFSU, Dept. of Political Science
Leti Volpp, UC Berkeley, Boalt Hall School of Law
Katherine Lemons, UC Berkeley, Dept. of Rhetoric
Rion Roberts, SFSU, Dept. of Political Science
Ayn Lowry, Boalt Hall School of Law

Organizing Committee

Keith J. Bybee, President, Law and Political Science, Syracuse University
Reginald Oh, Secretary, Law, Cleveland State University
Adam Thurschwell, Treasurer, Law, Cleveland State University
James Martel, Political Science, San Francisco State University
Susan Sage Heinzelman, English/Women and Gender Studies, University of Texas at Austin
Nan Goodman, English, University of Colorado at Boulder
Shai Lavi, Law, Tel Aviv University
Linda Meyer, Law, Quinnipiac University
Jodi Dean, Political Science, Hobart and William Smith Colleges
Eugene Garver, Philosophy, College of Saint Benedict, Saint John's University
Rebecca Johnson, Law, University of Victoria
Martha Umphrey, Law, Jurisprudence, and Social Thought, Amherst College
Jessica Silbey, Law, Suffolk University
Austin Sarat, Editor, Law, Culture and Humanities, Law, Jurisprudence, and Social Thought,
Amherst College
Kevin Noble Maillard, Webmaster, Law, Syracuse University

Prize Committees

Julian Mezey Dissertation Award:

Penelope Pether, Villanova School of Law
Serena Mayeri, University of Pennsylvania
Linda Meyer, Quinnipiac University School of Law

James Boyd White Award:

Nan Goodman, University of Colorado at Boulder
Ravit Reichman, Brown University
Jeannine DeLombard, University of Toronto at Mississauga

Association for the Study of Law, Culture & the Humanities
11th Annual Conference: March 28 & 29

Friday, March 28

8:00 a.m. – 5:00 pm

Registration (Laub Lobby)

10:00 am – 5:00 pm

Book exhibit (Goldberg Room)

8:15 Welcome (Booth Auditorium)

8:30 – 10:15 a.m. (room numbers are in parentheses)

- 1.1 Life and Death in the New Frontier: Imaginings of Justice (107)
- 1.2 Reflections on the Legacy of the Late Supreme Court of Canada Justice Bertha Wilson (121)
- 1.3 Imagining Rights in the Era of Globalization (115)
- 1.4 Examining Pedagogical Norms: Explaining Why the "Haves" Come Out Ahead (110)
- 1.5 Social Justice Feminism: Words, Movements, Theory, and Practice (105)
- 1.6 Song Lines (124)
- 1.7 Lay Analysis: Psychoanalysis, Law and Literature (100)
- 1.8 Assessing the Struggle for Justice: Historical and Comparative Perspectives (122)
- 1.9 Envisioning Torture (123)
- 1.10 The "Child" as a Legal Subject (111)
- 1.11 Complicating Debates with Stories: Mexicamericans as Workers, Organizers, Immigrants, and Citizens (145)

10:30 a.m. – 12:15 p.m.

- 2.1 Food, Law, and Culture I (111)
- 2.2 Re-Examining Fundamental Concepts in Political and Legal Thought (105)
- 2.3 Roundtable: Vico: Imagining Justice (124)
- 2.4 Law and Love (100)
- 2.5 Theme Panel: The Color of Justice (110)
- 2.6 Roundtable: Territoriality and Citizenship: Insights from the Periphery (121)
- 2.7 Governance and Regulation (145)
- 2.8 Sexuality as a Legal and Political Category (122)
- 2.9 Religion & Religious Identity (107)
- 2.10 Gender, Judges and Judging (123)

12:15 – 2:00 p.m.

Bag Lunches available in East Lobby

Lunch groups (for new participants who signed up with the following Board members):

- Keith Bybee and Jessica Silbey (room 121)
- Jodi Dean and Adam Thurschwell (room 122)
- Rebecca Johnson and Shai Lavi (room 123)
- James Martel and Susan Sage Heinzelman (room 124)
- Linda Meyer and Austin Sarat (room 107)
- Reginal Oh and Martha Umphrey (room 111)

Friday, March 28

2:00 – 3:45 p.m.

- 3.1 Food, Law, and Culture II (111)
- 3.2 Haunted Justice, Haunted Communities (107)
- 3.3 Event, Rebellion, and Constitution: Political Imagination and Resistant Sovereignties in the Americas, 1615-2005 (100)
- 3.4 Private Eyes: Detecting Subjects in Modern Law and Literature (110)
- 3.5 Law & Literature: Between Speech and Silence (124)
- 3.6 Roundtable: We Meet (Again): Justice, Injustice and Lacan's "Excommunication" (122)
- 3.7 Roundtable: South African Dignity Jurisprudence (121)
- 3.8 On the Continuing Salience of Race (145)
- 3.9 The Anti-Discrimination Paradigm (115)
- 3.10 Performances of Justice and Injustice: Historical and Contemporary Perspectives (123)
- 3.11 Envisioning Law: Film and Popular Legality (105)

4:00 – 5:45 p.m.

- 4.1 Roundtable: Dead Certainty: The Death Penalty and the Problem of Judgement (121)
- 4.2 Do You Believe in Magic? (107)
- 4.3 Telling Stories: Reconnoitering Rape Law (122)
- 4.4 Law and Faith in the Islamic and Post-Secular Culture (123)
- 4.5 Theme Panel: Feminism v. Feminism: Conceptions of Justice in Transnational Criminal Law (110)
- 4.6 Speaking Subjects and Legal Procedures (111)
- 4.7 Reading "Blackness" (115)
- 4.8 Film as a Legal Text (105)
- 4.9 Constructing the Human (100)

6:00 – 7:15 p.m.

Plenary "Imagining Justice and Injustice: (Booth Auditorium)

7:30 – 9:15 p.m.

Reception and Awards Ceremony for Association Prizes: Julian Mezey Dissertation Award and James Boyd White Award (East Lobby/Steinhart Courtyard)

Saturday, March 29

8:00 a.m. – 3:30 p.m.

Registration (Laub Lobby)

8:30 a.m. – 5:00

Book exhibit (Goldberg Room)

8:30 – 10:15 a.m.

- 5.1 Contestations in Indigeneity, Race, Culture and Property (115)
- 5.3 Roundtable: Justice and Instrumentalism in Private Law (121)
- 5.4 Making (Up) Subjects in Law, Literature and Culture (100)
- 5.5 Theme Panel: Justice and the Geographical Imagination I (110)
- 5.6 Willing the Juridical (123)
- 5.7 Identifying the Self and the Social (124)
- 5.8 What Can the Humanities Offer to Law? (122)
- 5.9 Reading the Body (107)
- 5.10 Family, Culture, Citizenship, and the Law in Modern America (111)
- 5.11 Law's Labour's Lost? The Racial Limits of the Human Rights Programme (105)

10:30 a.m. – 12:15 p.m.

- 6.1 Just Intimacy (121)
- 6.2 Ontology and Legal Theory (122)
- 6.3 The Cultural Lives of the Judiciary (145)
- 6.4 Imagining Justice/Imagining Integration (107)
- 6.5 The Free Exercise of Culture (111)
- 6.6 Theme Panel: Justice and the Geographical Imagination II (110)
- 6.7 Theorizing Justice/Injustice (123)
- 6.8 Visual Media and The Law (100)
- 6.9 Identity in Law and Literature (105)
- 6.10 Law and the Sacred (115)
- 6.11 Law's Body (124)

12:15 – 2:00 p.m.

Lunch on your own ; check registration packet for suggestions

1:00-1:45:

Out of Balance, Out of Focus: A Performance and Installation by Julie Lassonde (Room 13)

2:00 – 3:45 p.m.

- 7.1 From Bios to Thanatos: On the Centrality of Death for Politics and Law (100)
- 7.2 C'est Injuste!: The French Legal Imaginary (107)
- 7.3 The Legal Imaginary in the Novels of Thomas Hardy (111)
- 7.4 Invoking Justice: The Rhetoric of Recognition and Reconciliation (122)
- 7.5 Masculinity and the Constitution (115)
- 7.6 Discipline, Disobedience and Regimes of Pluralism (124)
- 7.7 What Judges Do or The Work of Legal Interpretation (110)
- 7.8 Regulating Sexuality and Sexual Expression (121)
- 7.9 On the Meaning of Capital Punishment (123)
- 7.10 Gender in Literature (105)
- 7.11 Emotions in the Courts (145)

Saturday, March 29

4:00 – 5:45 p.m.

- 8.1 Roundtable: The Role of Theory and the Theorist in Political and Legal Thought (121)
- 8.2 Films and Political Responsibility (110)
- 8.3 Sexual Deviance: Challenging the Norms of Physical Intimacy (115)
- 8.4 Roundtable: Contested Citizenship and Identities (122)
- 8.5 E.M. Forster and the Question of Social Justice (124)
- 8.6 Imagining the Law in Political Theory (105)
- 8.7 Legal Responses to "Unconventional Family Arrangements" (123)
- 8.8 Performance Possibilities (107)
- 8.9 Dramatizing Justice and Injustice (145)
- 8.10 Thinking About Places and Spaces (100)
- 8.11 Law, Emotion and Culture (111)

6:00-6:30 p.m.

Re-Imagining Justice and Injustice: Open Discussion (Booth Auditorium)

Friday, March 28, 2008
8:30 am-10:15 am
Room: 107

1.1 Life and Death in the New Frontier: Imaginings of Justice

Chair Sheryl Hamilton
Carleton University

Panelist Dianne George
Carleton University
Just Bears, the Power of Ursus Major in Cree Culture

Panelist Sheryl Hamilton
Carleton University
Making Up the Moral Nation

Panelist Diana Young
Carleton University
Shifting Images of Justice in the Foucaultian Wild West: Michael Cimino's Heaven's Gate

Friday, March 28, 2008
8:30 am-10:15 am
Room: 121

1.2 Reflections on the Legacy of the Late Supreme Court of Canada Justice Bertha Wilson

Chair Elizabeth Adjin-Tettey
University of Victoria

Discussant Gillian Calder
University of Victoria

Panelist Elizabeth Adjin-Tettey
University of Victoria
What Difference Would It Have Made Had the Tort of Discrimination Survived?

Panelist Bev Baines
Queen's University
Feminism, Gender, and Justice Wilson

Panelist Gillian Calder
University of Victoria
The Significance of Culture Background ... Abates Over Time: Social Understandings of Family in the Judgements of Justice Bertha Wilson

Friday, March 28, 2008
8:30 am-10:15 am
Room: 115

1.3 Imagining Rights in the Era of Globalization

- Chair Juliet Stumpf
Lewis & Clark Law School
- Discussant Juliet Stumpf
Lewis & Clark Law School
- Panelist Anthony Colangelo
Southern Methodist University, Dedman School of Law
A Jurisdictional Theory of International Double Jeopardy
- Panelist Jeffrey Kahn
Southern Methodist University, Dedman School of Law
International Travel and the U.S. Constitution During the War on Terror
- Panelist Michelle McKinley
University of Oregon School of Law
Refugee and Asylum Law: The Genealogy of Difference in International Law
- Panelist Hari Osofsky
University of Oregon School of Law
The Geography of Justice Wormholes: Dilemmas From Property and Criminal Law
-

Friday, March 28, 2008
8:30 am-10:15 am
Room: 110

1.4 Examining Pedagogical Norms: Explaining Why the "Haves" Come Out Ahead

- Chair Robin Barnes
University of Colorado Law School
- Discussant Robin Barnes
University of Colorado Law School
- Panelist Robin Barnes
University of Connecticut School of Law
Counterfeit Rules of Law and Professionalism
- Panelist Stephanie Wildman
Santa Clara University School of Law
Pedagogy of Law and Social Justice

Friday, March 28, 2008
8:30 am-10:15 am
Room: 105

1.5 Social Justice Feminism: Words, Movements, Theory, and Practice

- Chair Kristin Kalsem
University of Cincinnati College of Law
- Discussant Emily Houh
University of Cincinnati College of Law
- Panelist Leslie Annexstein
Director, Homelessness Outreach and Prevention Project,
Urban Justice Center
Social Justice Feminism: Practice
- Panelist Kristin Kalsem
University of Cincinnati College of Law
Social Justice Feminism: History and Principles
- Panelist Verna Williams
University of Cincinnati College of Law
Social Justice Feminism: History and Principles

Friday, March 28, 2008
8:30 am-10:15 am
Room: 124

1.6 Song Lines

- Chair Maria Aristodemou
School of Law, Birkbeck College, University of London
- Discussant Patrick Hanafin
Birkbeck Law School
- Panelist Sara Ramshaw
Queen's University Belfast
"My man wouldn't give me no breakfast..." - Billie's Blues or Just Not Hungry?
- Panelist Paul Stenner
Social Psychology, University of Brighton
Heaven Knows I'm Miserable Now

Friday, March 28, 2008
8:30 am-10:15 am
Room: 100

1.7 Lay Analysis: Psychoanalysis, Law and Literature

- Chair Anne Dailey
University of Connecticut School of Law
- Panelist Amy Adler
New York University School of Law
Can the Naked Female Body 'Speak'?
- Panelist Anne Dailey
University of Connecticut School of Law
Psychoanalysis and the Legal Imagination
- Panelist Bruce Hay
Harvard Law School
Spectral Jurisprudence: The Gothic Imagination in Contemporary American Law
- Panelist Ravit Reichman
Brown University
Trials of Memory: Remembering, Revising and Working-Through
-

Friday, March 28, 2008
8:30 am-10:15 am
Room: 122

1.8 Assessing the Struggle for Justice: Historical and Comparative Perspectives

- Chair Jennet Kirkpatrick
University of Michigan
- Discussant Jennet Kirkpatrick
University of Michigan
- Panelist Laura Appleman
Willamette University
Taking Back the Jury Trial Right
- Panelist Nicole Aylwin
York University
Law, Culture and Development: Imagining a New 'Culture' of Development through the Legal Framework of Cultural Rights
- Panelist Cassandra Sharp
University of Wollongong, Australia (Legal Intersections Research Center)
Will the 'Real' Justice Please Stand Up? How Australian Public Perception of Justice is Constructed Through Stories

Friday, March 28, 2008

8:30 am-10:15 am

Room: 123

1.9 Envisioning Torture

- Chair Christiane Wilke
Carleton University
- Discussant Christiane Wilke
Carleton University
- Panelist Thomas Crocker
University of South Carolina School of Law
Guided By Theory: Vision, Human Rights, and Torture
- Panelist Christina Harrison Baird
Carleton University
The International Prohibition of Torture: Can TV Play a Role in Eroding a Peremptory Norm of International Law?
- Panelist Jinee Lokaneeta
Drew University
"Liberal" Torture: Race, Gender and Colonial Distinctions in Abu Ghraib (2004) and Madras (1855)
- Panelist Maya Sabatello
New York University
Representation of Torture & Justice
-

Friday, March 28, 2008

8:30 am-10:15 am

Room: 111

1.10 The "Child" as a Legal Subject

- Chair Linda Meyer
Quinnipiac Law School
- Discussant Linda Meyer
Quinnipiac Law School
- Panelist Susan Ayres
Texas Wesleyan University School of Law
[Not-So] Safe Havens?
- Panelist Melina Bell
Washington and Lee University
Liberty, Equal Opportunity, and Justice Between Generations
- Panelist Lisa Lewis
St. John's University School of Law
Lawyer, Relative or Adult Friend? A Proposal to Protect Juvenile Miranda Rights During Custodial Interrogation
- Panelist Joshua Tate
Southern Methodist University
Disinheritance and the Case for Testamentary Freedom

Friday, March 28, 2008
8:30 am-10:15 am
Room: 145

1.11 Complicating Debates with Stories: Mexicamericans as Workers, Organizers, Immigrants, and Citizens

Chair Susan Sage Heinzelman
University of Texas at Austin

Discussant Susan Sage Heinzelman
University of Texas at Austin

Panelist Elvia R. Arriola
Northern Illinois University, College of Law
Stories of Women Organizing on the U.S.-Mexico Border

Panelist Virginia Marie Raymond
Texas After Violence Project
Alberta Zepeda Snid, San Antonio ISD v. Rodriguez and the Failure of the Fourteenth Amendment in Texas

Panelist Sara Phalen
Northern Illinois University
Building Community: Creating a Dialogue about Mexican Immigration and its Effects on Constructing a Communal Identity Through Oral Histories

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 111

2.1 Food, Law, and Culture I

Chair Christopher Buccafusco
University of Chicago

Discussant Christopher Buccafusco
University of Chicago

Panelist Donna Byrne
William Mitchell College of Law
Organic Junk Food and Cloned Meat: Mandatory and Permissive Food Labeling

Panelist Charlene Elliott
Carleton University
The Governance of Taste: Food Marketing, Food Law and Childhood Obesity in Canada

Panelist Peter Huang
Temple University Beasley School of Law
Legal Responses to Mindless Eating

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 105

2.2 Re-Examining Fundamental Concepts in Political and Legal Thought

Chair Roger Berkowitz
Bard College

Discussant Roger Berkowitz
Bard College

Panelist Thomas Dumm
Amherst College
Justice After Law: The Meaning of the Sentence

Panelist Eric Sapp
Stanford University
The Priority of Injustice

Panelist George Wright
University of Wisconsin - Superior
Heidegger and the Mind/Body Problem

Friday, March 28, 2008

10:30 am - 12:15 pm

Room: 124

2.3 Roundtable: Vico: Imagining Justice

Chair Francis J. Mootz III
Penn State University, The Dickinson School of Law

Presenter Lief Carter
Colorado College

Presenter Marianne Constable
University of California at Berkeley

Presenter Willem Witteveen
Tilburg University

Friday, March 28, 2008

10:30 am - 12:15 pm

Room: 100

2.4 Law and Love

Chair Nasser Hussain
Amherst College

Discussant Nasser Hussain
Amherst College

Panelist Jennifer Culbert
Johns Hopkins University
Law, Love, and the Stateless Person

Panelist James Martel
San Francisco State University
Kafka's Law and Love: The "connection without connection" in The Castle

Panelist Martha Merrill Umphrey
Amherst College
Watching Trial Watching

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 110

2.5 Theme Panel: The Color of Justice

- Chair Jessica Silbey
 Suffolk University Law School
- Presenter Frank Rudy Cooper
 Suffolk University Law School
 Cop Macho
- Presenter Emily Houh
 University of Cincinnati College of Law
 Contracting Identities
- Presenter Daniel Kim
 Brown University
 Nisei, Negroes and Gooks: The Korean War and Racial Justice in Hollywood Cinema

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 121

2.6 Roundtable: Territoriality and Citizenship: Insights from the Periphery

- Chair Tayyab Mahmud
 Seattle University School of Law
- Presenter Denise Ferreira da Silva
 University of California, San Diego
- Presenter Tayyab Mahmud
 Seattle University School of Law
- Presenter Michelle McKinley
 University of Oregon School of Law
- Presenter Reginald Oh
 Cleveland-Marshall College of Law
- Presenter Ileana Porras
 Sandra Day O'Connor College of Law, Arizona State University
- Presenter Rose Villazor
 Southern Methodist University, Dedman School of Law
- Presenter Leti Volpp
 University of California, Berkeley School of Law

Friday, March 28, 2008

10:30 am - 12:15 pm

Room: 145

2.7 Governance and Regulation

- Chair Jonathan Simon
University of California, Berkeley
- Discussant Jonathan Simon
University of California, Berkeley
- Panelist Brenda Cossman
University of Toronto
Anxiety Governance
- Panelist Jodi Short
University of California, Berkeley
The Self-Regulation Compromise: Governing Without Commands or Controls
- Panelist Indra Spiecker
Max Planck Institute on Research on Collective Goods/ University of Constance, Germany
How safe is safe enough? On the influence of perception on legal decision making and its control.
- Panelist Marilyn Terzic
McGill University
Mobile Movies: New Revenue Streams and Regulatory Regimes

Friday, March 28, 2008

10:30 am - 12:15 pm

Room: 122

2.8 Sexuality as a Legal and Political Category

- Chair Renee Heberle
University of Toledo
- Discussant Renee Heberle
University of Toledo
- Panelist Hadar Aviram
U.C. Hastings College of Law
Geeks, Goddesses, Leather and Heinlein: Political Mobilization and the Cultural Locus of the Polyamorous Community in the San Francisco Bay Area
- Panelist Anne Bloom
University of the Pacific, McGeorge
The Regulation of Sexual Identity in Tort Law
- Panelist I. Bennett Capers
Hofstra University, School of Law
Cross-Dressing and the Criminal
- Panelist Anthony Infanti
University of Pittsburgh School of Law

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 107

2.9 Religion & Religious Identity

- Chair Benjamin Berger
University of Victoria
- Discussant Benjamin Berger
University of Victoria
- Panelist Melicent Arig
Philippine Association of Communication Teachers
Negotiating Religious Identity: For Better or For Worse
- Panelist Li Chen
Columbia University
Preachers of the Gospel or the Civilizing Mission: Early Protestant Missionaries' Commentaries on China, 1815-1850
- Panelist Joseph Jenkins
University of California-Irvine
Inheritance of the State of Exception in the Western Idea of Theological Election
- Panelist Karl Shoemaker
University of Miami Law
The Devil's Justice
-

Friday, March 28, 2008
10:30 am - 12:15 pm
Room: 123

2.10 Gender, Judges and Judging

- Chair Leslie Moran
University of London, School of Law, Birkbeck College
- Discussant Constance Backhouse
University of Ottawa
- Panelist Mary L. Clark
American University, Washington College of Law
Women Judges Speaking Out: Some Reflections on Modes and Efficacy of Women's Judicial Leadership
- Panelist Dermot Feenan
University of Ulster, School of law
Gendering Judging, Justifying Diversity
- Panelist Erika Rackley
Durham University, Department of Law
Detailing Difference: Gendered Judging in the House of Lords

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 111

3.1 Food, Law, and Culture II

- Chair Christopher Buccafusco
University of Chicago
- Discussant Christopher Buccafusco
University of Chicago
- Panelist Ernesto Hernández-López
Chapman University School of Law
A Free-trade "Tortilla Discourse" ? : NAFTA Corn Tariffs and Mexican Food Identity
- Panelist Doris Long
The John Marshall Law School
Patenting Mother Earth: Food, Famine, and Intellectual Property
- Panelist Doris Witt
University of Iowa
Food Rules for the World? The Codex Alimentarius and the Project of Culinary Harmonization in Public International Law
-

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 107

3.2 Haunted Justice, Haunted Communities

- Chair Sheryl Hamilton
Carleton University
- Discussant Sheryl Hamilton
Carleton University
- Panelist Doris Buss
Carleton University
The Rwanda Tribunal and the Making of Ethnic Rape
- Panelist Lindy Ledohowski
University of Toronto
Ukraine as the Specter That Haunts
- Panelist Christiane Wilke
Carleton University
Judging Ghosts

Friday, March 28, 2008

2:00 pm - 3:45 pm

Room: 100

3.3 Event, Rebellion, and Constitution: Political Imagination and Resistant Sovereignties in the Americas, 1615-2005

- Chair Oscar Guardiola-Rivera
School of Law, Birkbeck College, University of London
- Discussant Ricardo Sanin
Universidad de Antioquia, Colombia
- Panelist Denise Ferreira da Silva
University of California, San Diego
The Edges of the World: Universality and Raciality in the Writing of the Radical Political Subject
- Panelist Kolapo Abimbola
School of Law, University of Leicester
Legal Cosmopolitanism: Indigenous Religions and Legal Legitimacy in the Americas
- Panelist Oscar Guardiola-Rivera
School of Law, Birkbeck College, University of London
Thomas Jefferson and Felipe Guaman Poma de Ayala: Event, Rebellion & Constitution in Classical Revolutionary Thought in the Americas

Friday, March 28, 2008

2:00 pm - 3:45 pm

Room: 110

3.4 Private Eyes: Detecting Subjects in Modern Law and Literature

- Chair Matthew Anderson
University of New England
- Discussant Matthew Anderson
University of New England
- Panelist Florence Dore
Kent State University
Through Closed Doors: Privacy Law and Southern Modernist Houses
- Panelist Cathrine Frank
University of New England
Prying Eyes: Inside the Victorian Criminal Character
- Panelist Susanna Lee
Georgetown University
Crime Fiction's Marginal Authorities: Private Lives, Public Domains

Friday, March 28, 2008

2:00 pm - 3:45 pm

Room: 124

3.5 Law & Literature: Between Speech and Silence

- Chair Elena Loizidou
School of Law, Birkbeck College, University of London
- Discussant Elena Loizidou
School of Law, Birkbeck College, University of London
- Panelist Maria Aristodemou
School of Law, Birkbeck College, University of London
Gnosis and Agnosia or, Knowledge and Ignorance, in Jose Saramago's 'Blindness', and 'Seeing'
- Panelist Julia Chryssostalis
University of Westminster
Beyond Autonomy, or Beyond the Law of Law's Ear
- Panelist Patrick Hanafin
Birkbeck Law School
A Voice Beyond the Law: Narrating Violence in Law and Literature
- Panelist Elizabeth M. Sturgeon
Mount St. Mary's College
Imagining (In)justice in THE MIRROR FOR MAGISTRATES (1559)
-

Friday, March 28, 2008

2:00 pm - 3:45 pm

Room: 122

3.6 Roundtable: We Meet (Again): Justice, Injustice and Lacan's "Excommunication"

- Chair Ravit Reichman
Brown University
- Discussant Susan Schmeiser
University of Connecticut School of Law
- Presenter Nan Goodman
University of Colorado at Boulder
*"I'd Never Join a Club that Would Allow a Person Like Me to Become a Member":
Banishment and Identity in Lacan*
- Presenter Ravit Reichman
Brown University
The Disqualified Subject: Seeking Justice In Lacan
- Presenter Adam Sitze
Amherst College
The Question of Law Analysis

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 121

3.7 Roundtable: South African Dignity Jurisprudence

Chair	Roger Berkowitz Bard College
Presenter	Jaco Barnard University of Cape Town Law
Presenter	Roger Berkowitz Bard College
Presenter	Jennifer Culbert Johns Hopkins University
Presenter	Shai Lavi Tel Aviv University
Presenter	Linda Meyer Quinnipiac Law School
Presenter	Jill Stauffer John Jay College, CUNY

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 145

3.8 On the Continuing Salience of Race

Chair	Katherine Franke Columbia Law School
Discussant	Katherine Franke Columbia Law School
Panelist	Anna Hartnell University of Birmingham <i>Hurricane Katrina's 'Refugees': Exile, Dispersal, and the Rhetoric of National Non-Belonging</i>
Panelist	Sarah Mangin San Francisco State University <i>Excepting the Self: Political Theology, Miscegenation and Autobiography in Bloke Modisane's Blame me on History</i>
Panelist	Richard Bailey Faculty of Law, The University of Sydney & School of Law, Birkbeck College, The University of London <i>"I could make my own decisions": Law, Life and Resistance in the Camp</i>

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 115

3.9 The Anti-Discrimination Paradigm

Chair	Jacqueline Stevens University of California, Santa Barbara
Discussant	Jacqueline Stevens University of California, Santa Barbara
Panelist	Jill Anderson Western New England College School of Law <i>Just Semantics: The Lost Readings of the ADA</i>
Panelist	Darren Rosenblum Pace Law School <i>The Case for Abolishing CEDAW</i>
Panelist	Patricia Seith Columbia Law School <i>Equality in Networks</i>

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 123

3.10 Performances of Justice and Injustice: Historical and Contemporary Perspectives

Chair	Patrick Timmons San Jose State University
Discussant	Patrick Timmons San Jose State University
Panelist	Angela Crocker and Stephen Pete University of KwaZulu-Natal <i>Letting Go Of The Lash: The Extraordinary Tenacity and Prolonged Decline of Judicial Corporal Punishment in Britain and Its Former Colonies in Africa</i>
Panelist	Jennet Kirkpatrick University of Michigan <i>Come a Little Closer: Law and Identification in Liberal Democracies</i>
Panelist	Trinyan Mariano Rutgers University <i>Reckoning and Retribution: The Logic of Compensatory Justice and Lynch Law in the Marrow of Tradition</i>
Panelist	Joshua Wilson John Jay College <i>Rights & Political Passions: Using Law to Justify Aggressive and Uncivil Politics</i>

Friday, March 28, 2008
2:00 pm - 3:45 pm
Room: 105

3.11 Envisioning Law: Film and Popular Legality

Chair Jessica Silbey
 Suffolk University Law School

Discussant Jessica Silbey
 Suffolk University Law School

Panelist Ruth Buchanan
 Osgoode Hall Law School, York University
 Dead Man: Re-envisioning the Colonial Encounter in the Western

Panelist Rebecca Johnson
 University of Victoria
 Empire on the Frontier: Reading Deadwood in 'Post-Colonial' Times

Panelist Martha Merrill Umphrey
 Amherst College
 Law and Loss: Justice and Mourning in Touch of Evil

Panelist Naomi Mezey
 Georgetown Law School
 Law's Visual Afterlife: Thoughts on Law, Film and Translation Theory

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 121

4.1 Author-Meets-Readers: Jennifer Culbert, *Dead Certainty: The Death Penalty and the Problem of Judgement*

Chair	Stewart Motha Kent Law School
Presenter	Roger Berkowitz Bard College
Presenter	Timothy Kaufman-Osborn Whitman College
Presenter	Shai Lavi Tel Aviv University
Presenter	Austin Sarat Amherst College
Presenter	Jill Stauffer John Jay College, CUNY
Presenter	Adam Thurschwell Cleveland-Marshall College of Law
Author	Jennifer Culbert Johns Hopkins University

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 107

4.2 Do You Believe in Magic?

Chair	Christine Corcos Louisiana State University Law Center
Discussant	Christine Corcos Louisiana State University Law Center
Panelist	Sydney Beckman International Brotherhood of Magicians; Charleston School of Law <i>Smoke and Mirrors: An Escomateur as an Expert Witness</i>
Panelist	Garrett Epps University of Oregon School of Law <i>"When You Awake You Will Feel No Remorse": Stage Hypnotism and the Law</i>
Panelist	Susan Rozelle Capital University Law School <i>The Type of Possession Is Nine-Tenths of the Law: Criminal Responsibility for Acts Performed Under the Influence of Hypnosis or Bewitchment</i>

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 122

4.3 Telling Stories: Reconnoitering Rape Law

- Chair Penelope Pether
Villanova University School Of Law
- Discussant Linda Meyer
Quinnipiac Law School
- Panelist J. Amy Dillard
University of Baltimore School of Law
Determined to Save the Only Life They Can Save: Stories of Non-Disclosure and Survival
- Panelist Toni Irving
University of Notre Dame
Constituting Americans: Race, Sexual Assault, and Citizenship
- Panelist Ruth A. Miller
University of Massachusetts, Boston
Rape as a Political Trope in European and Middle Eastern Dream Literature
- Panelist Penelope Pether
Villanova University School Of Law
Exceptional Subjects: Reconstituting Rape
-

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 123

4.4 Law and Faith in the Islamic and Post-Secular Culture

- Chair Marinos Diamantidis
School of Law, Birkbeck College, University of London
- Discussant John Strawson
School of Law, University of East London
- Panelist Lior Barshack
Radzyner School of Law, The Interdisciplinary Center Herzliya
Sovereignty, Time, and the Power Over Life
- Panelist Marinos Diamantidis
School of Law, Birkbeck College, University of London
Law and Faith in Secular and Islamic Contexts
- Panelist Adam Gearey
School of Law, Birkbeck College, University of London
One Law Against Another? Human Rights, Divine Authority and the Common Law
- Panelist Evgenia Kermeli
Bilkent University

Legal Pluralism in the Ottoman Empire: 17th-18th Centuries

Panelist Amr Shalakany
The American University in Cairo
Challenging Dominant Islamic Law Historiography: The Example of Sodomy

Friday, March 28, 2008

4:00 pm - 5:45 pm

Room: 110

4.5 Theme Panel: Feminism v. Feminism: Conceptions of Justice in Transnational Criminal Law

Chair Laura Dickinson
University of Connecticut School of Law

Presenter Katherine Franke
Columbia Law School

Presenter Janet Halley
Harvard Law School

Presenter Valerie Oosterveld
University of Western Ontario

Friday, March 28, 2008

4:00 pm - 5:45 pm

Room: 111

4.6 Speaking Subjects and Legal Procedures

Chair Richard Perry
San Jose State, University of California, Berkeley

Discussant Richard Perry
San Jose State, University of California, Berkeley

Panelist Orna Alyagon Darr
Haifa University
Confessions as Evidence in Witch Trials in Early Modern England

Panelist William Griffith
George Washington University
The Meaning of Denial of Habeas Corpus

Panelist Diana Tietjens Meyers
University of Connecticut
Victims' Narratives and Human Rights Norms: Overcoming Empathic Deficiencies

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 115

4.7 Reading "Blackness"

- Chair Donna Maeda
Occidental College
- Discussant Donna Maeda
Occidental College
- Panelist Jeannine DeLombard
University of Toronto
Be Upright and Circumspect in Your Conduct: The Address of Abraham Johnstone to the People of Color
- Panelist Jason Gillmer
Texas Wesleyan University School of Law
The Murder of Isaac Baughman: Race and Violence in Reconstruction Texas
- Panelist Anoop Mirpuri
University of Washington
The Human Problem: Politics as Warfare in the Age of Formal Legal Equality
- Panelist Eden Osucha
Bates College
Un-Dead Metaphors: Racial Analogizing for a "Post-Racial" Legal Imaginary

Friday, March 28, 2008
4:00 pm - 5:45 pm
Room: 105

4.8 Film as a Legal Text

- Chair Anja Louis
University of Sheffield
- Discussant Anja Louis
University of Sheffield
- Panelist Fiona Barnett
Duke University
Gender, Genre, and the Ga(y)ze in the Evidence of Aileen Wuornos and Brandon Teena
- Panelist Sharon Cowan
University of Edinburgh
"We Walk Among You": Trans-identity Politics in the Movies
- Panelist David Denny
Marylhurst University
The Sovereign's Decision as Fantasy in Lars Von Trier's "Manderlay"

Friday, March 28, 2008

4:00 pm - 5:45 pm

Room: 100

4.9 Constructing the Human

Chair	Jodi Dean Hobart and William Smith Colleges
Discussant	Jodi Dean Hobart and William Smith Colleges
Panelist	Maneesha Deckha University of Victoria <i>Law and Defining the Human: Species and Commodification Anxiety in the Assisted Human Reproduction Act</i>
Panelist	Marie Fox Keele University <i>Framing the Human: Regulatory Responses to the Creation of Human-Animal Hybrid Embryos</i>
Panelist	Kimberly Leighton George Mason University <i>Unnatural Law: Reproductive Technology and the Need for Origins</i>

Friday, March 28, 2008

6:00 pm - 7:15 pm

Room: Booth Auditorium

Plenary "Imagining Justice and Injustice"

Chair	Ravit Reichman Brown University
Presenter	Leora Bilsky Tel Aviv University
Presenter	Carol Greenhouse Princeton University
Presenter	Alison Young University of Melbourne

Saturday, March 29, 2008
8:30 am-10:15 am
Room: 115

5.1 Contestations in Indigeneity, Race, Culture and Property

- Chair Rose Villazor
Southern Methodist University, Dedman School of Law
- Discussant Kevin Noble Maillard
Syracuse University College of Law
- Panelist Carmela Murdocca
York University
When Water Kills: Race, Resources, Violence
- Panelist Angela Riley
Southwestern Law School
Indigenous Peoples' Claims to Traditional Knowledge Through a Human Rights Lens
- Panelist Rose Villazor
Southern Methodist University, Dedman School of Law
Indigenous Land Alienation Laws in American Samoa, Fiji and New Caledonia: Protecting Culture and Exercising the Right of Self-Determination
-

Saturday, March 29, 2008
8:30 am-10:15 am
Room: 121

5.3 Roundtable: Justice and Instrumentalism in Private Law

- Chair Jeffrey Lipshaw
Suffolk University Law School
- Presenter Peter Alces
William & Mary Marshall Wythe School of Law
- Presenter Alan Calnan
Southwestern Law School
- Presenter Jeffrey Lipshaw
Suffolk University Law School
- Presenter Nathan Oman
William & Mary Marshall Wythe School of Law
- Presenter Franklin G. Snyder
Texas Wesleyan University School of Law
- Presenter Robin B. Kar
Loyola Law School Los Angeles

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 100

5.4 Making (Up) Subjects in Law, Literature and Culture

Chair Nan Goodman
University of Colorado at Boulder

Panelist Nan Goodman
University of Colorado at Boulder
"For Their and Our Security": Jurisdictional Identity and the Praying Indians of Deer Island

Panelist Naomi Mezey
Georgetown Law School
Immaculate Feminism: Making Up the Modern Maternal Subject

Panelist Hilary Schor
University of Southern California
Who's the Stranger?: Bastards, Women, Jews, and Authors in Daniel Deronda

Panelist William MacNeil
Griffith Law School, Griffith University
"No sacrifice is too great for the Cause!": Cause(less) Lawyering and the Legal Trials and Tribulations of Gone with the Wind

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 110

5.5 Theme Panel: Justice and the Geographical Imagination I

Chair Reginald Oh
Cleveland-Marshall College of Law

Presenter Anthony Farley
Boston College Law School

Presenter Helen Liggett
Cleveland State University

Presenter Hari Osofsky
University of Oregon School of Law

Saturday, March 29, 2008
8:30 am-10:15 am
Room: 123

5.6 Willing the Juridical

- Chair Robert Meister
University of California - Santa Cruz
- Discussant Robert Meister
University of California - Santa Cruz
- Panelist Elisabeth Anker
Brown University
Individualism and the Legalization of Post-9/11 Violence
- Panelist Sara Kendall
University of California, Berkeley
Violence and the Comfort of The Juridical
- Panelist Zhivka Valiavicharska
University of California, Berkeley
Willing the Juridical Away: Looking Back into Lenin's "State and Revolution"

Saturday, March 29, 2008
8:30 am-10:15 am
Room: 124

5.7 Identifying the Self and the Social

- Chair Eric Sapp
Stanford University
- Discussant Eric Sapp
Stanford University
- Panelist Irus Braverman
SUNY Buffalo
Nature and the City: A Sociolegal Reading of Street Trees
- Panelist William Rose
Albion College
Legal Modernism and the Politics of Expertise: Law's Discovery of the Social
- Panelist Steven L. Winter
Wayne State University Law School
Sexuality and Self-Governance
- Panelist Anna Krakus
New York University
"I find you guilty of cheating": How TV Judges Give Personal Problems a Legal Dimension

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 122

5.8 What Can the Humanities Offer to Law?

Chair	David Fisher North Central College
Discussant	David Fisher North Central College
Panelist	Julen Etxabe University of Michigan <i>Resisting the Empire of Force</i>
Panelist	Sieglinde Pommer Harvard Law School <i>Comparative Law and the Challenge of Language</i>
Panelist	Kyle Scott University of North Florida <i>The Platonic Critique of Codification</i>
Panelist	Joseph Slaughter Columbia University <i>Humanitarian Reading</i>

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 107

5.9 Reading the Body

Chair	Rebecca Johnson University of Victoria
Discussant	Rebecca Johnson University of Victoria
Panelist	Elisabetta Bertolino School of Law, Birkbeck College, University of London <i>Vulnerable and Singular Bodies Versus Female Genital Cutting</i>
Panelist	Ummni Khan University of Toronto <i>Boys on the Bottom: Managing the Threat to Masculinity Posed by Female Dominants in Law Film</i>
Panelist	James McGrath Texas Wesleyan University School of Law <i>"Are You a Boy or a Girl?"</i>

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 111

5.10 Family, Culture, Citizenship, and the Law in Modern America

- Chair Kerry Abrams
University of Virginia School of Law
- Discussant Kerry Abrams
University of Virginia School of Law
- Panelist Serena Mayeri
University of Pennsylvania Law School
"A Life Experience of Equality with Men to Protect": Reframing Family Structure, Equal Employment Opportunity, and Racial Progress in the Post-Moynihan Era
- Panelist Melissa Murray
University of California, Berkeley School of Law
The Space Between: The Intersection of Criminal Law and Family Law in State v. Koso
- Panelist Sarah Song
University of California at Berkeley
Dilemmas of Citizenship, Gender, and Culture: Revisiting the Case of the Santa Clara Pueblo
-

Saturday, March 29, 2008

8:30 am-10:15 am

Room: 105

5.11 Law's Labour's Lost? The Racial Limits of the Human Rights Programme

- Chair Denise Ferreira da Silva
University of California, San Diego
- Discussant Stewart Motha
Kent Law School
- Panelist Mark Harris
La Trobe University, Australia
Lost to Law? Indigenous Australians Between the International and The Domestic
- Panelist Julietta Hua
San Francisco State University
Trafficking Women's Human Rights
- Panelist Sherene Razack
University of Toronto, Canada
Memorializing Power on Racialized Bodies: Land and Police Brutality

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 121

6.1 Just Intimacy

Chair Katherine Franke
Columbia Law School

Discussant Katherine Franke
Columbia Law School

Panelist Elizabeth Emens
Columbia Law School
Intimate Discrimination

Panelist Dean Spade
UCLA School of Law & Harvard Law School
Intimacy, Privacy, and State Fantasy

Panelist Susan Schmeiser
University of Connecticut School of Law
Intimacy Problems

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 122

6.2 Ontology and Legal Theory

Chair Mark Modak-Truran
Mississippi College School of Law

Discussant Francis J. Mootz III
Penn State University, The Dickinson School of Law

Panelist Larry Cata Backer
Tulane University School of Law
The Mechanics of Perfection: Philosophy, Theology and the Perfection of American Law

Panelist Roshan de Silva Wijeyeratne
Griffith University Law School
On the (Im)possible Nature of Community and the Limit Point of Identity: Ontology Without Essence

Panelist Mark C. Modak-Truran
Mississippi College School of Law
Constructive Postmodern Relational Ontology: Moving Beyond Modern and Deconstructive Postmodern Legal Theory

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 145

6.3 The Cultural Lives of the Judiciary

- Chair Dermot Feenan
University of Ulster
- Panelist Piyel Haldar
School of Law, Birkbeck College, University of London
The Private Life of Indian Jones
- Panelist Ruth Herz
Former Judge, Associate Researcher, Centre for Criminology of the University of Oxford
From the Bench to the Screen: A Judge on German Television
- Panelist Leslie Moran
University of London, School of Law, Birkbeck College
Judicial Portraits in the Age of Mechanical Reproduction

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 107

6.4 Imagining Justice/Imagining Integration

- Chair Charles Forster
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
- Discussant David Witzling
University of Montana
- Panelist Charles Forster
Lawyer's Committee for Civil Rights of the San Francisco Bay Area
The Black Nationalism of Malcolm X: A Human Rights Perspective
- Panelist Andrew Sargent
West Chester University of Pennsylvania
Black, White, and Blue: The Black Policeman and Civil Rights in In the Heat of the Night
- Panelist David Witzling
University of Montana
Living for the City: Post-Integrationist Feeling in James Baldwin's New York Essays

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 111

6.5 The Free Exercise of Culture

- Chair Elaine Chiu
St. John's University School of Law
- Panelist Elaine Chiu
St. John's University School of Law
Culture and Religion: A Fair Comparison?
- Panelist Jerome Eric Copulsky
Goucher College
Religion, Law and Culture: the Case of Judaism
- Panelist Michael Kessler
Georgetown University, Berkley Center
Protecting Culture If Religion Is Its "Depth-Dimension"
- Panelist Nelson Tebbe
Brooklyn Law School
Cultural Rights, Religious Freedom, and African Customary Law
-

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 110

6.6 Theme Panel: Justice and the Geographical Imagination II

- Chair Reginald Oh
Cleveland-Marshall College of Law
- Presenter Keith Aoki
UC Davis School of Law
- Presenter Benjamin Forest
McGill University
- Presenter Kunal Parker
Cleveland-Marshall College of Law

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 123

6.7 Theorizing Justice/Injustice

- Chair Kyle Scott
University of North Florida
- Discussant Kyle Scott
University of North Florida
- Panelist Michael Feola
Stanford University
Doing Justice to the Heterogeneous: Adorno, Aesthetics and Justice
- Panelist Stewart Motha
Kent Law School
Christianity, Universality, and the European Left
- Panelist Sara Ramshaw
Queen's University Belfast
Encountering the Imaginary: Blanchot's Cadaverous In/justice
- Panelist Peter Swan
Carleton University
"There'll be the breaking of the ancient western code": Explorations of Law and Justice in the Apocalyptic Political Theology of Schmitt, Benjamin and Kojève
-

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 100

6.8 Visual Media and The Law

- Chair William MacNeil
Griffith Law School, Griffith University
- Discussant William MacNeil
Griffith Law School, Griffith University
- Panelist Gina Herrmann
University of Oregon
Documentary's Labors of Law: How Television Journalism is Uncovering the Human Rights Abuses in Spain's Francoist Past
- Panelist Anja Louis
University of Sheffield
Imagining Divorce: Spanish TV Lawyers in the Transition to Democracy'
- Panelist Nancy Marder
Chicago-Kent College of Law
The Conundrum of Cameras in the Courtroom

Panelist Jennifer Schulz
University of Manitoba
Mediators in the Movies: Food Films and Mediation Styles

Saturday, March 29, 2008

10:30 am - 12:15 pm

Room: 105

6.9 Identity in Law and Literature

Chair Sieglinde Pommer
Harvard Law School

Discussant Sieglinde Pommer
Harvard Law School

Panelist Ogechi Anyanwu
Eastern Kentucky University
Justice, Gender, and the Challenges of Sharia Law in Nigeria Since 2000

Panelist Naminata Diabate
University of Texas at Austin
Through Missionary Eyes: Nineteenth Century Boloki Women of the Congo in John H. Weeks' Among Congo Cannibals (1913)

Panelist Elizabeth Stockton
Southwestern University
The Property of Blackness: The Legal Fiction of Frank J. Webb's The Garies and Their Friends

Saturday, March 29, 2008

10:30 am - 12:15 pm

Room: 115

6.10 Law and the Sacred

Chair Martha Merrill Umphrey
Amherst College

Discussant Martha Merrill Umphrey
Amherst College

Panelist Melissa Ptacek
University of Chicago
The Persistence of Durkheim?: Islamic Headscarves and French National Identity

Panelist Matthew Scherer
University of California at Berkeley
The Impossibility of Secular Discourse?

Panelist Mark Strasser
Capital University Law School
Repudiating Everson: On Buses, Books and Teaching Articles of Faith

Saturday, March 29, 2008
10:30 am - 12:15 pm
Room: 124

6.11 Law's Body

- Chair John Kang
 St. Thomas University School of Law
- Discussant Robin Barnes
 University of Colorado Law School
- Panelist Anthony Farley
 Albany Law School
 Rights-Bearers Without Bodies
- Panelist John Kang
 St. Thomas University School of Law
 Taking Safety Seriously: Using Liberalism to Fight Pornography
- Panelist Reginald Leamon Robinson
 Southern Illinois University School of Law
 Yin, the Female Body, and the Inner Journey to Spiritual Empowerment and Substantive Justice: A Critical Analysis of Sex in Family Law Jurisprudence

Saturday, March 29, 2008

1:00 - 1:45 pm (installation begins at 1:00; performance at 1:15)

Room: 13

Out of Balance, Out of Focus: A Performance & Installation by Julie Lassonde



Julie Lassonde
Independent Practitioner

No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning.

Robert Cover

Julie Lassonde will perform excerpts from the interdisciplinary graduate work in law and visual arts she undertook at the University of Victoria, Canada, for which she received an Innovative Electronic Theses and Dissertations Award in May 2007, in Uppsala, Sweden (see www.law.uvic.ca/lassonde). Involving solo movement improvisation, video and text, this 30-minute piece explores how live embodied interactions produce discomforts that affect judgment, and that often result in imbalances, injustices and misframed legal narratives. It also reveals how law, as a practice, is developed through embodied acts of communication. As a feminist lawyer and a performance artist, Julie Lassonde is interested in imagining how one can use the body, in addition to text and video, to explore how law is performed in daily life.

Saturday, March 29, 2008
2:00 pm - 3:45 pm
Room: 100

7.1 From Bios to Thanatos: On the Centrality of Death for Politics and Law

Chair Sarah Lochlann Jain
Stanford University

Discussant Sarah Lochlann Jain
Stanford University

Panelist Bradley Bryan
University of Victoria
Death Chances: Triage, Law, and the Politics of Safety

Panelist Shai Lavi
Tel Aviv University
Back to the Animal Kingdom: Old Reflections on the New Politics of Death

Panelist Stuart Murray
Ryerson University
Thanatopolitics: On Imagining Justice, Otherwise

Saturday, March 29, 2008
2:00 pm - 3:45 pm
Room: 111

7.3 The Legal Imaginary in the Novels of Thomas Hardy

Chair Sheryl Hamilton
Carleton University

Discussant Sheryl Hamilton
Carleton University

Panelist Logan Atkinson
Carleton University
The Furmity-Woman and the Magistrate: Law, Justice and Perceptions of Power in the Mayor of Casterbridge

Panelist Diana Majury
Carleton University
Searching for Justice in Desperate Remedies

Panelist Neil Sargent
Carleton University
Living Common Law in Thomas Hardy's Wessex: Between the Real and the Imaginary of Law

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 122

7.4 Invoking Justice: The Rhetoric of Recognition and Reconciliation

- Chair Keally McBride
University of San Francisco
- Discussant Keally McBride
University of San Francisco
- Panelist Sarah Burgess
University of San Francisco
Invoking the Law: Extra-Legal Demands in a Scene of Recognition
- Panelist Erik Doxtader
University of South Carolina
Before the Law, A Constitutive Sacrifice: Reconciliation's Place in the South African Transition
- Panelist Sylvia Schafer
University of Connecticut
The Civil Individual and the Chicaning Crowd: L'Assistance judiciaire and the Specter of Revolutionary Litigation in Nineteenth-Century France
-

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 115

7.5 Masculinity and the Constitution

- Chair Keith Bybee
Syracuse University
- Discussant Keith Bybee
Syracuse University
- Panelist Larry Cata Backer
Tulane University School of Law
Gendering Rule of Law Male
- Panelist David Cohen
Drexel University School of Law
No Boy Left Behind: Single-Sex Education and Essentialized Masculinity
- Panelist John Kang
St. Thomas University School of Law
Gentlemanly: On the Relationship Between Manliness and the American Constitution

Saturday, March 29, 2008
2:00 pm - 3:45 pm
Room: 124

7.6 Discipline, Disobedience and Regimes of Pluralism

- Chair Paul Passavant
Hobart and William Smith Colleges
- Discussant Matt Scherer
University of California at Berkeley
- Panelist Paul Apostolidis
Whitman College
Discipline, Biopolitics, and Identity: Immigrant Workers and Protest in the Contemporary US
- Panelist Paul Passavant
Hobart and William Smith Colleges
No Protest Zone
- Panelist Lars Toender
Northwestern University
A Deeper Pluralism: Merleau-Ponty, Deleuze, and the Cartoon War
-

Saturday, March 29, 2008
2:00 pm - 3:45 pm
Room: 110

7.7 What Judges Do or The Work of Legal Interpretation

- Chair Steven L. Winter
Wayne State University Law School
- Discussant Steven L. Winter
Wayne State University Law School
- Panelist Elton Fukumoto
Syracuse University, College of Law
Legal Realism Revisited: How Just Is Judging a Case According to Its Facts?
- Panelist Sieglinde Pommer
Harvard Law School
Finding Meaning in Law: On Intention, Context and Culture
- Panelist Ashrita Prasad
Nalsar University of Law, Hyderabad, India
Judicial Interpretation and Imaginings of Justice and Injustice
- Panelist Harini Sudersan
Nalsar University of Law, Hyderabad, India
Judicial Interpretation and Imaginings of Justice and Injustice

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 121

7.8 Regulating Sexuality and Sexual Expression

- Chair Hadar Aviram
UC Hastings College of Law
- Discussant Hadar Aviram
UC Hastings College of Law
- Panelist Nora Gilbert
University of Southern California
The Sounds of Silence: Discourse vs. Censorship in Thackeray's "Vanity Fair"
- Panelist Elizabeth Loeb
Law and Society Program, New York University
Get Your Law Off My Genitals: a Brief Case Study of the Preemption Doctrine in U.S. Law
- Panelist Meredith Olson
Marylhurst University
Plague of the Obscene: Foucault, Meese, Starr and the Money Shot

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 123

7.9 On the Meaning of Capital Punishment

- Chair Austin Sarat
Amherst College
- Discussant Austin Sarat
Amherst College
- Panelist Noa Ashkenazi
York University
Black Men are Still Hanging From the Poplar Tree, White People Still Call It Justice: A mechanism of racism: the similarities between lynching and executions of black men in the US South
- Panelist Glenda Grace
Hofstra University, School of Law
Mental Illnesses Barring Death Penalty Prosecution: A Prophylactic Measure to Insure that the Mentally Insane are not Executed
- Panelist Benjamin Yost
Harvard University
The Irrevocability of Capital Punishment

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 105

7.10 Gender in Literature

Chair
Bruce Carolan
Dublin Institute of Technology

Discussant
Bruce Carolan
Dublin Institute of Technology

Panelist
Kritika Agarwal
University of Texas at Austin
Adultery and Cruelty: George Eliot's Critique of Nineteenth Century Divorce Laws in Middlemarch and Daniel Deronda

Panelist
Kate Elder
University of San Francisco
Compassion and "Comfort Women": The Representation of Rape and Responsibility in American Law and Literature

Panelist
Melissa Lingle-Martin
Indiana University of Pennsylvania
The Quality of Mercy Is Strained: Reimagining Justice in Nineteenth-Century Women's Narratives

Saturday, March 29, 2008

2:00 pm - 3:45 pm

Room: 145

7.11 Emotions in the Courts

Chair
John E. Stannard
Queen's University, Belfast

Discussant
John E. Stannard
Queen's University, Belfast

Panelist
Heather Conway
Queen's University, Belfast
Legalizing Theft or Rewarding Initiative: The Conflicting Emotions of Adverse Possession

Panelist
Terry Maroney
Vanderbilt University Law School
Folk Theories of Emotion as Law

Panelist
Eimear Spain
University of Limerick
Emotions and the Reasonable Man: an Exploration

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 121

8.1 Roundtable: The Role of Theory and the Theorist in Political and Legal Thought

Chair	Jeremy Elkins Bryn Mawr College
Presenter	Jeremy Elkins Bryn Mawr College
Presenter	Jodi Dean Hobart and William Smith Colleges
Presenter	Andrew Norris University of California, Santa Barbara

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 110

8.2 Films and Political Responsibility

Chair	Leslie Moran School of Law, Birkbeck College, University of London
Discussant	Leslie Moran School of Law, Birkbeck College, University of London
Panelist	Oscar Guardiola-Rivera School of Law, Birkbeck College, University of London <i>A Tale of Two Cities</i>
Panelist	Morris Kaplan Purchase College - SUNY <i>Whose Cold Blood? The Killer, The Writer and the State</i>
Panelist	Elena Loizidou School of Law, Birkbeck College, University of London <i>Punishment Park</i>

Saturday, March 29, 2008

4:00 pm - 5:45 pm

Room: 115

8.3 Sexual Deviance: Challenging the Norms of Physical Intimacy

- Chair Kevin Maillard
Syracuse University, College of Law
- Discussant Darren Rosenblum
Pace Law School
- Panelist Kevin Maillard
Syracuse University, College of Law
Group Marriage and Sexual Freedom (?) in the Oneida Community
- Panelist Laura Rosenbury
Washington University Law School
Lapdance Lessons
- Panelist Maura Strassberg
Drake University, School of Law
Same-sex Marriage and Fundamentalist Mormonism

Saturday, March 29, 2008

4:00 pm - 5:45 pm

Room: 122

8.4 Roundtable: Contested Citizenship and Identities

- Chair Michelle McKinley
University of Oregon School of Law
- Presenter Annie Bunting
Osgoode Hall Law School, York University
- Presenter Katherine Franke
Columbia Law School
- Presenter Robert Tsai
University of Oregon School of Law
- Presenter Leti Volpp
University of California, Berkeley School of Law

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 124

8.5 E.M. Forster and the Question of Social Justice

- Chair Ravit Reichman
Brown University
- Discussant Ravit Reichman
Brown University
- Panelist Austin Gorman
Brown University
Bast's Plight: Howards End and Cultural Capital
- Panelist Christopher Holmes
Brown University
The Two Edward Cunninghams: Forster's Manuscripts and the Repetition of "Sameness" in Howard's End
- Panelist Jennifer Schnepf
Brown University
Insuring Against the Future: Social Interdependence and the Risk-Sharing Imagination in Howards End
-

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 105

8.6 Imagining the Law in Political Theory

- Chair Jennifer Culbert
Johns Hopkins University
- Discussant Jennifer Culbert
Johns Hopkins University
- Panelist Mark Antaki
McGill University
The Turn to Imagination in Legal Theory
- Panelist Susan Dianne Brophy
York University
A Critical Unpacking of the Kantian Ideology of Law Found in Agamben's 'State of Exception'
- Panelist Lida Maxwell
Cornell University
From Procedural to Legal Justice: A Reading of Arendt's Eichmann in Jerusalem
- Panelist Allison Thomas
The University of Chicago
Mourning, Justice, and the Imagination: An Examination of the Role of Public and Private in Plato and Arendt

Saturday, March 29, 2008

4:00 pm - 5:45 pm

Room: 123

8.7 Legal Responses to "Unconventional Family Arrangements"

Chair Susan Sterett
University of Denver

Discussant Susan Sterett
University of Denver

Panelist Marie Ashe
Suffolk University- Boston
Re-Reading Reynolds: Notes for the Post-Pluralism Project

Panelist Jeffery Johnson
Eastern Oregon University
Privacy, Authenticity & Equality: The Moral and Legal Case for the Right to Homosexual Marriage

Panelist Suzanne A. Kim
Rutgers School of Law, Newark
Toward a Contextual Approach to Language Disputes in Family Law

Panelist Kelly Phipps
University of Virginia School of Law
From Slavery's Twin to a Crime Against the Race: Congressional Responses to Polygamy, 1862-1887

Saturday, March 29, 2008

4:00 pm - 5:45 pm

Room: 107

8.8 Performance Possibilities

Chair Adam Thurschwell
Cleveland-Marshall College of Law

Discussant Adam Thurschwell
Cleveland-Marshall College of Law

Panelist Camille Nelson
Saint Louis University
Dancing in the Closet: Lyrical Assault in the Dancehall

Panelist Lara Nielsen
Macalester College
Dance Documents: Imagining Justice

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 145

8.9 Dramatizing Justice and Injustice

- Chair Susan Sage Heinzelman
University of Texas at Austin
- Discussant Susan Sage Heinzelman
University of Texas at Austin
- Panelist David Fisher
North Central College
Supplementing Justice: Supplication as a Quasilegal Practice
- Panelist Melissa Lingle-Martin
Indiana University of Pennsylvania
*Staging Injustice: Langston Hughes' Dramatization of Representational Politics in
Scottsboro, Limited*

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 100

8.10 Thinking About Places and Spaces

- Chair Reginald Oh
Cleveland-Marshall College of Law
- Discussant Reginald Oh
Cleveland-Marshall College of Law
- Panelist Elizabeth Glazer
Hofstra University, School of Law
Unifying the Right(s) to Exclude
- Panelist Lisa Pruitt
University of California, Davis
Of Spheres and Spaces: What Critical Geography Can Teach Law about Rural Women
- Panelist John Strawson
School of Law, University of East London
More Law, Less Space: Disappearing Palestine
- Panelist Patrick Timmons
San Jose State University
A Mexican de Tocqueville? Manuel Payno's 1845 Essays about Visits to U.S. Penitentiaries

Saturday, March 29, 2008
4:00 pm - 5:45 pm
Room: 111

8.11 Law, Emotion and Culture

Chair Terry Maroney
Vanderbilt

Discussant Terry Maroney
Vanderbilt

Panelist Matthew Hall
Sheffield University
Getting Stories Across: the Narratives of Victims in Adversarial Criminal Justice

Panelist Kathryn Abrams Hila Keren
University of California School of Law, Berkeley
Law in the Cultivation of Hope

Panelist John E. Stannard
Queen's University, Belfast
Inspector Goole's Empty Threat: Criminal Law and Emotional Harm

Saturday, March 29, 2008
6:00 p.m. – 6:30 p.m.
Booth Auditorium

Re-imagining Justice and Injustice: Open Discussion

A chance for all participants to discuss the themes and ideas raised throughout the conference and an opportunity to talk about plans for the next year's ASLCH conference in Boston.

Moderators: Keith Bybee, Syracuse University, ASLCH President
Jessica Silbey, Suffolk University, 2009 ASLCH Conference On-site Organizer

PAPER ABSTRACTS:

1.1 Life and Death in the New Frontier: Imaginings of Justice

Dianne George *Just Bears, the Power of Ursus Major in Cree Culture:* Searching for a more just way to regulate human/bear relations requires a more realistic concept of bears than the contemporary North American holds. Therefore, some contemporary authors and scholars are examining the ways in which bears were considered by peoples whose experience with them was lived directly.

In this paper, I will recount the fictional story of a bear and a Northern Cree community in Joseph Boyden's *Three Day Road* and a similar description in *Reordering the Natural World* by Suskind. Both these accounts indicate the anxiety of indigenous North Americans to accord sufficient respect to bears or to face the consequences. The consequences of our failure to attend to the reality of bears will be their extinction. Theoretical possibilities to understand this problem will be about the body and cosmopolitanism.

Sheryl Hamilton *Making Up the Moral Nation:* In 1994, when Sue Rodriguez - a Canadian woman who had been diagnosed with amyotrophic lateral sclerosis (ALS) - wanted to legally end her own life, she turned to the courts and the media in order to force the issue, as the Canadian state had repeatedly declined to legalize assisted suicide. The ensuing case generated not merely a legal decision from the highest court in the land, but also significant amounts of print and broadcast media coverage, social group activism, a made-for-t.v. movie, a documentary film, policy inquiries, popular books, and copious academic commentary. The case became a mediated legal event catalyzing people across the country into moral talk. While the moral talk in this and other mediated legal events did and does not necessarily result in consensus on specific moral values, it is an increasingly central mechanism through which we imagine the nation as just.

Diana Young *Shifting Images of Justice in the Foucaultian Wild West: Michael Cimino's Heaven's Gate:* Theorists in the Kantian tradition tend to see the abstract image of justice as having real content and meaning through purely rational processes, imbuing it with the characteristics of stability and universality. But Foucaultian theory suggests that the abstract concept of justice only derives content through cultural reference points that give it meaning. American Western films often have a monological view of justice. But *Heaven's Gate* presents us with a more multivocal conception, as the breakdown of existing cultural reference points exposes the highly contestable nature of justice. In this film, justice is not an ideal that is achieved through enlightenment; rather it emerges as a discourse through a complex interaction of social forces. Under some conditions justice, often seen as the key to the discipline of unruly emotions, seems to be a less reliable guide for action than the human feeling people have for one another.

1.2 Reflections on the Legacy of the Late Supreme Court of Canada Justice Bertha Wilson

Elizabeth Adjin- *What Difference Would It Have Made Had the Tort of Discrimination Survived?:*

aboard commercial air carriers. Was this their right or merely an activity permitted by their government? What statutory and constitutional restrictions exist on the ability of Americans to leave and return home? The countervailing, twin forces of economic globalization and international terrorism render answers to these questions both more difficult and more urgent. Most American citizens imagine their right to engage in international travel - a right proclaimed by numerous international treaties - to be much more secure than it really is. This paper explores these questions through the harrowing case of two American citizens denied their "right" to return home from travel abroad because of government suspicion of terrorist entanglements. How have legal conceptions of a "right to international travel" changed over time, particularly during periods of heightened threats - real and imagined - to national security?

Michelle McKinley

Refugee and Asylum Law: The Genealogy of Difference in International Law: The 1951 Refugee Convention grants relief to citizens fearing persecution on account of race, nationality, political opinion, religion, and social group membership. Culture was not a grounds for persecution, despite the recognition of "cultural practices" that "shocked the conscience" in the development of human rights jurisprudence and humanitarian law. In contemporary asylum claims, culture is increasingly claimed as a basis for persecution. Asylum seekers alleging persecution based on the cultural practices of their social group provide a fruitful opportunity to test theories of citizenship, state protection and exclusion. Who is dominating the legal, normative, and political arguments determining the classification of the "culture" as it relates to citizenship? Where are these discourses being produced and consumed, and what are the relationships between the colonial past and the post-colonial present? How do we account for the accommodation of cultural difference, when culture is demonized and used to demarcate difference? My paper explores the intersection of asylum claims based on "cultural persecution"-- that ultimately encode a racialized view of culture- with more nuanced humanistic and ethnographic approaches to the processes of identity formation, alterity and membership.

Hari Osofsky

The Geography of Justice Wormholes: Dilemmas From Property and Criminal Law: This Article provides a law and geography analysis of the ways in which our legal structures constrain the possibilities for justice for categories of people. It explores "wormholes" in the U.S. legal system that transport people pursuing claims under multiple theories of law into another timespace in which basic protections are absent. In particular, the Article compares the barriers faced by post-9-11 "enemy combatants" and the indigenous peoples who were this country's original inhabitants. Through an analysis of two representative case examples-the "enemy combatant" designation of recently convicted José Padilla and the taking of Mary and Carrie Dann's land-the Article considers: (1) the way in which place, space, and time structure procedural and substantive injustice; (2) how different conceptions of "United States spaces" impact the possibilities for remapping these wormholes; and (3) the implications of this analysis for limiting and preventing wormholes.

1.4

Examining Pedagogical Norms: Explaining Why the "Haves" Come Out Ahead

Robin Barnes

Counterfeit Rules of Law and Professionalism: According to renowned scholar Deborah L. Rhodes, "Equal Justice Under Law" is one of America's most firmly

embedded and widely violated legal principles. Law embodies images and rhetoric that are profoundly implicated in a collective psyche that imagines that we enjoy democratic governance, according to the will of the people freely expressed. Legal institutions have a lot to answer for. Law Professors, in the discharge of their ethical and professional responsibilities, are being called upon to re-examine longstanding pedagogical norms. Normative processes of reason and debate in law school classrooms tend to explain away the structural basis for pervasive injustice. This paper discusses the nature of calls for modifying the ways in which we teach law, across subject areas, so that questions of distributive justice can safely move from the margins to the center of relevant discussions.

Daniel Friedson

Sovereignty, Resources and Distributive Justice in the Clinical Setting: To be an "individual sovereign" today, one must learn what contemporary sovereigns do. This equates to self-governance expressed through an understanding of resources, corporate structure, and financial purpose. "Distributive justice" is defined as "the obligations of the community to the individual, and requires fair disbursement of common advantages and sharing of common burdens." Black's Law Dictionary, 864 (6th ed. 1990). I believe the field of "Community Economic Development" encompasses the distributive justice of education. The gap of economic and educational disparities can be narrowed through education and one-on-one counseling. Clinical ethics can be and often are born from a marriage between the concepts of individual sovereignty and distributive justice.

Stephanie Wildman

Pedagogy of Law and Social Justice: Marc Galanter, in his landmark article *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, analyzes inequality of power in litigation. Repeat players within the litigation setting have many advantages, like the ability to settle cases selectively or to play for long-term rules. In contrast, one time litigants (one-shots) cannot match that leverage. Galanter emphasizes the uneven playing field for one-shot, "have-not" litigants.

Justice Louis Brandeis said: "You can have wealth concentrated in the hands of a few, or democracy. But you cannot have both." If systematic structures mean that "haves" always win, democracy is at risk. "Haves" may win for many reasons. Repeat player status is only one factor among many social and economic advantages and disadvantages that are built into the operation of the legal system. Structural advantages include the protection of wealth in the form of corporations, the transmission of wealth between generations, the advantages of the wealthy in every area of education, and superior health care. The operation of law includes the leverage provided by campaign contributions to legislatures and the executive branch of government, as well as the influence of lobbyists. In contrast, legal services lawyers are now prohibited from engaging in lobbying or consulting with legislatures on behalf of their low-

income clients.

This paper discusses one portion of the interaction of the system of lawyers and the system of law. These systems interact in the role of legal education in maintaining a status quo that supports "haves." Protecting democracy by combating inequality is the task of social justice lawyers. Leaders in legal education and the bar have been calling on law schools to make consciousness about social justice pervasive in law schools and accessible to all students, even those who might choose other career paths. Yet, in spite of bar and academic leaders' call for change, few lawyers serve the needs of disenfranchised clients.

Any hope for change in this pattern must begin with professional education. As the gatekeepers for the profession, law schools play a critical role in educating students for social justice. Two groups of students attend law school: those who wish to pursue careers in public interest and social justice work and the rest of the student population, who need to understand that access to justice is the province of all lawyers. Legal education need not dissociate students from the aspiration for justice that motivated many of them to choose law as a profession.

1.5 Social Justice Feminism: Words, Movements, Theory, and Practice

Leslie Annexstein

Social Justice Feminism: Practice: Legal practitioners working on social justice issues do not frequently have the opportunity to step back from the day-to-day battles to think about the larger context in which we conduct our work. We also do not necessarily concern ourselves with labeling our work in one particular way. Indeed, the term "social justice" implies a concern with a broad array of issues and a broad approach to achieving a better world. The concept of "social justice feminism" is therefore appealing to practitioners who work on feminist issues everyday, but whose work is often overlooked as being feminist. My paper focuses on my Homelessness Outreach and Prevention Project's "social justice feminist" work in the area of access to post-secondary educational opportunities for single parents on public assistance in New York City.

Kristin Kalsem and
Verna Williams

Social Justice Feminism: History and Principles: For the past three years, women leaders from national groups, grassroots organizations, academia, and beyond have gathered to examine the state of the women's movement. This effort, dubbed the New Women's Movement Initiative (or "NWMI"), forced participants to examine critically the cause that many had made their life's work. Participants were diverse in terms of race, ethnicity, economic status, sexuality, geographic locale, and age, among other things. Not surprisingly, they came with myriad perspectives on feminism: indeed, deep divisions caused many to question whether they were part of the same movement. Ultimately, the participants reached some consensus about what might revitalize the women's movement: basing its work on principles of "social justice feminism." As feminist law professors, we puzzled over the significance and implications of putting "social justice" and "feminism" together.

We also were intrigued by a documentary that the NWMI participants viewed at one of their gatherings, "The Sisters of '77." This film tells the story of the National Women's Conference, a federally-funded gathering of over 20,000

women that was held in Houston, Texas in 1977 and that resulted in a 26-plank National Plan of Action to improve the lives of the nation's women. Participants at that 1977 conference confronted and struggled with many of the same issues that the NWMI was addressing thirty years later.

In this paper, we explore aspects of the history of "feminism" and "social justice," analyzing their differences and similarities and the possibilities that might emerge from their joinder-offering some initial thoughts on defining aspects of "social justice feminism." We also historicize the National Women's Conference, exploring what we argue are the seeds of social justice feminism that were sown there. Finally, we suggest some methodological tools that might be employed in analyzing the law from a social justice feminist perspective.

1.6 Song Lines

- Sara Ramshaw *"My man wouldn't give me no breakfast..." - Billie's Blues or Just Not Hungry?:* This paper will develop an alternative to the standard narrative of Billie Holiday's tragic descent into booze and drugs hell, pushed beyond the brink by unjust laws and the tyranny of patriarchal exploitation. Where does the balance of justice lie between this account, and other possible narratives of self realization and the accepted fragility of life lived in the sung moment?
- Paul Stenner *Heaven Knows I'm Miserable Now:* The question of human rights is inevitably one of emotions. Not only, as Nietzsche says, are all sensations at their root moral, but also the passage from claim to right is identifiably a movement to feeling not only right, but feeling good. This paper explores this theme, drawing in particular on certain of the lyrics of the Smiths, a band whose rise and rise paralleled that of certain forms of contemporary human rights discourse.

1.7 Lay Analysis: Psychoanalysis, Law and Literature

- Amy Adler *Can the Naked Female Body 'Speak'?:* In *Speculum of the Other Woman*, Luce Irigaray asked the question, "What if the 'object' started to speak?" In this paper, I suggest that the Supreme Court, in its "nude dancing" cases, inadvertently began to answer the question. Here for the first time in the Court's jurisprudence, the sexualized "pornographed" woman, that ultimate object, claimed that she was a First Amendment speaker. Contemplating the First Amendment status of the nude dancer's body, the Court concluded that this body was only "marginally" speech, only at the "outer perimeters of the First Amendment". This was unprecedented. Until these cases, the Court had always treated the determination of speech as we treat the determination of, say, pregnancy – as a yes or not question, without room for "margins." Of course, the Court has indicated that some speech is less important than other speech. This is the essence of the "low value" speech doctrine. But the low value speech cases do not suggest that an utterance is so low value that it is not full-fledged speech; instead, those cases indicate that some utterances, while unquestionably "speech," are just not as valuable as other kinds of speech. In the nude dancing cases, however, the Court says something new. With no explanation, it created a unique category: the not-quite speech, quasi-speech, marginal speech.

Why did the Court use these cases to create a new category of marginal

speech? And if there were a previously unidentified perimeter of the First Amendment, why would the sexualized female body be its marker? I argue that the Court couldn't come to grips with the idea of a woman's speaking body because to do so would have disrupted unspoken gendered foundations in both culture and free speech law. In short, I argue that the concept of a woman's speaking body is an "impossible" idea. This paper draws on an array of sources, primarily psychoanalytic, to map the relationship between speech on the one hand and gender, sexuality and the body on the other.

Anne Dailey

Psychoanalysis and the Legal Imagination: This paper situates psychoanalysis at the crossroads of what I refer to as the twin traditions of Romantic and Enlightenment psychologies. One of the defining features of the Romantic tradition in psychology is the concept of the creative imagination, a cluster of ideas which find their counterpart in Enlightenment ideas about the cognitive powers of imaginative thought. Modern legal scholarship has taken up with enthusiasm the tradition of Enlightenment thinking as it finds modern expression in the notion of cognitive imagination. This valuable scholarship, I argue here, nevertheless presents an unnecessarily parsimonious concept of human nature, one which needs to be supplemented with psychoanalytic ideas about the role of the creative imagination in the processes of individual choice and decision-making. Together the two perspectives on imagination give us a fuller, more integrated picture of individual choice in law than either tradition alone.

Bruce Hay

Spectral Jurisprudence: The Gothic Imagination in Contemporary American Law: Conservative legal discourse in this country is filled with tropes associated with the gothic literary tradition –illegitimacy, the law of the fathers, porous boundaries, bright lines versus shadowy penumbras, madness and unstable subjectivity, monstrous figures (the "progeny" of *Roe v. Wade*), even fears of miscegenation (foreign law seeping into American law). This paper explores this gothic sensibility as it appears in recent supreme court cases involving topics such as sex, murder, piracy, and terror, and considers its relation to psychoanalytic and other theories of the gothic.

Ravit Reichman

Trials of Memory: Remembering, Revising and Working-Through: What purpose does memory serve? This paper takes as its basic premise that memory – specifically, its incarnation in the work of the twentieth-century's "masters of memory," Freud and Proust, as well as its extension in legal memory – is necessarily instrumental. But in what sense is this so? Paying particular attention to Proust's *Swann's Way*, the argument focuses on the tension between two positions, regretting and revising, suggesting that the *process* of remembering bears striking resemblance not to the English process but to the French *procès* – that is, to the structure of a trial and with it, the rhetoric of legal discourse. Does the language of Proust's narrator Marcel offer a way of doing justice to the past, or does it imply only that memory is at best a passing of judgment on – but not a doing justice to – the past?

1.8

Assessing the Struggle for Justice: Historical and Comparative Perspectives

Laura Appleman

Taking Back the Jury Trial Right: The time has come to reevaluate the origins and historical meaning of the criminal right to a jury trial. The Supreme Court's most recent sentencing reforms have reaffirmed the jury trial right in criminal justice, relying on the jury's historical and constitutional origins as reasons why

juries must determine all aspects of punishment. Although much has been written about the origins of the jury trial right, however, it has been largely focused on the concerns of the defendant. Thus, the existing scholarship on the community's jury trial right is incomplete. This article contends, through the use of historical sources and contemporary legal philosophy, that the right to a jury trial, particularly in the criminal context, was viewed almost exclusively as the people's right, not as a right of the accused. Our understanding of the jury trial right as an extension of the defendant's individual liberties came later, and with a much different gloss. These latter-day interpretations have shifted the meaning of the jury trial right away from its original meaning.

Nicole Aylwin

Law, Culture and Development: Imagining a New 'Culture' of Development through the Legal Framework of Cultural Rights: Development discourses continue to leave little room for voices that make claims for multiple and alternative understandings of development which are not based on economic imperatives and the adoption of neo-liberal governance regimes. International legal frameworks and the discourses of human rights and cultural rights are becoming an increasingly important site of struggle where indigenous communities are attempting to challenge the claims a self-professed 'culturally sensitive' development industry. This paper will examine how human rights and cultural rights may potentially provide indigenous groups and other subaltern communities with resources to imagine and articulate alternative discourses of development.

Cassandra Sharp

Will the 'Real' Justice Please Stand Up? How Australian Public Perception of Justice is Constructed Through Stories: Storytelling is one way in which the imagination is put to practical effect. It is a vehicle for connecting and transforming our understandings of law and justice. This is most potently seen after a criminal sentence has been handed down and the victim's family is telling the story of their lack of faith in the legal system. The typical catch cry is "Where is the justice? All we want is justice!" But of course, their complaint begs a questioning not only of the role of law in achieving (or at the very least promoting) justice; but also in the nature of public imaginings of justice. This paper seeks to explore how Australian popular culture, and in particular popular stories about justice, capture the public imagination and contribute to perceptions about the way law 'should' operate.

1.9 Envisioning Torture

Thomas Crocker

Guided By Theory: Vision, Human Rights, and Torture: Considering the prevalence of imagined dystopias, utopias, veils of ignorance, or states of nature the importance of vision and imagination, and their opposite, blindness, to the theory of justice seems undeniable. In order to understand how states of vision and blindness operate, I argue, contrary to theory skeptics such as Stanley Fish, that theory plays a specific role in making visible particular aspects of our world. Theory guides and directs, organizes and situates, constructs and develops. It does all this, not from a foundational or transcendent location, but rather from inside social practices. That is, the terms by which theory guides are all ones that arise in and are meaningful within the particular practice. When it comes to claims of justice arising from assertions of human rights cultural critiques and anti-essentialism place those claims on uncertain theoretical grounds. I will explore the role theory plays, in terms of guiding

vision, in imagining and making visible claims of justice. In particular, I will examine the ways that theories of human rights and their limits circulate images of justice and injustice through the practice and rhetorical articulation of torture.

Christina Harrison
Baird

The International Prohibition of Torture: Can TV Play a Role in Eroding a Peremptory Norm of International Law?: Scholars have argued that the international prohibition of torture has reached the status of jus cogens. In support of this proposition, it is asserted that no State admits condoning torture. Rather, States acknowledge that torture occurs, but say they condemn it, which is consistent with a conviction that they are bound by a peremptory norm. A possible exception may be the USA, which has attempted to narrow the definition of torture and to identify instances in which torture may be acceptable. This paper will examine the absolute prohibition of torture, the efforts of successive American administrations to constrain US obligations in this regard, and the portrayal of torture in two American TV dramas. What is the role of this cultural expression in shaping public opinion about torture? What impact does public opinion have on State practice? Can TV play a role in eroding a peremptory norm of international law?

Jinee Lokaneeta

"Liberal" Torture: Race, Gender and Colonial Distinctions in Abu Ghraib (2004) and Madras (1855): In this paper, I examine the state discourses on torture in a historical document from the British colonial period in India namely the Madras Commission Report on Torture (1855) and compare it with a contemporary Report on torture in Abu Ghraib Prison - the Schlesinger Report (2004). Although the reports undoubtedly illustrate certain features which are specific to their particular contexts, there are certain common features about the state discourses on torture across these two contexts. As strategies of denial regarding the very existence of torture fail, both the U.S. official report and the (British) Madras Commission Report blame the torture on the police working at the lower rung of the administration. While these might be strategies of distancing the state policy from individual state agents in most "liberal" rule of law based systems, here it is the colonial context that becomes an additional feature of significance. The goal in both the state narratives is to reclaim the legitimacy of a liberal system of values. The very setting up of these enquiries serves to erase the particular interplay of race, gender and colonial distinctions in these contexts. Torture, thus, is portrayed as a way of life in the occupied societies and the detainee or victim accounts are rendered marginal to the narrative of upholding the "rule of law" based systems.

Maya Sabatello

Representation of Torture & Justice: The paper examines the relationship between law and the rhetorical and visual representation of torture in literature and media since the Abu Ghraib events. It does so in light of the experience of contemporary human rights movements, particularly the international disability movement and the feminist movement. Is the habitual analogy between a psychopath, a terrorist and one with (mental and other) disabilities in place? To what extent does this construction of terrorists permit a different treatment, i.e., one that allows interrogative torture? And what are the judicial implications of this "Othering"? The argument I advance is that these "external" representations of torture create a distinct sphere of informal legal discourse. They shape the public perception of the issue on the basis of existing social prejudices and in a manner that ultimately also averts terrorist suspects who claim to be victims of torture from being accorded justice.

1.10

The "Child" as a Legal Subject

Susan Ayres

[Not-So] Safe Havens?: This presentation examines the rhetoric's surrounding legalized abandonment (Safe Haven or Baby Moses laws), abortion, and neonaticide. I examine the competing civic rhetoric's of pro choice, pro life, culture of life, and other rhetoric's of sexual freedom, women's choice, and saving babies. From a pragmatic standpoint, I re-evaluate the profile of neonaticidal mothers and argue that in order for Safe Havens to be more effective, more education and more advertising are needed. In support of this argument, I consider whether states or cities that have increased education/advertising efforts have seen an increase in legally abandoned babies. While Safe Havens will not prevent all neonaticides, I argue that they are an important piece of the strategy for prevention and do not exist as "stealth symbolism" to undermine Roe v. Wade, as some scholars, such as Carol Sanger, have argued.

Melina Bell

Liberty, Equal Opportunity, and Justice Between Generations: Rawls's principles of justice, selected in the original position by rational adults, fail to account adequately for the interests of children. In particular, the lexical priority of the principle of liberty with respect to the principle of fair equality of opportunity results in an intergenerational conflict of interest. In the original position, the quality of one's own childhood, which depends a great deal on the opportunities available, is not a consideration; the quality of one's life as a parent, in which liberty plays a much greater role, might be. Rawls's rigid ordering of the principles sometimes results in social policies that are, or should be, incompatible with our considered judgments regarding justice in a liberal democratic society. I suggest that, compared with the original position, Norman Daniels's prudential lifespan account of justice across generations is a better model for balancing claims of liberty and equal opportunity because it ensures intergenerational justice.

Lisa Lewis

Lawyer, Relative or Adult Friend? A Proposal to Protect Juvenile Miranda Rights During Custodial Interrogation: In the pre-Gault era, the Supreme Court announced two decisions that broadened the due process protections given to juveniles in the interrogation room: *Haley v. Ohio* and *Gallegos v. Colorado*. The Court held that children's immaturity, youthfulness and lack of comprehension placed them on "unequal footing" in confrontations with police. The pre-Gault decisions recommended that a parent, adult ally or attorney be present during the police interrogation to give the juvenile "the protection which his own immaturity could not."

This article reviews application of the totality of the circumstances test and argues that in light of current empirical research in juvenile comprehension and brain development juvenile waivers are not knowing, voluntary and intelligent. Furthermore, the state application of the per se approach which requires the presence of a parent or guardian is ineffectual because adults may have a conflict of interest or themselves fail to understand Miranda. Accordingly, the article advocates for a rule requiring that juveniles have a non-waivable right to consult with an attorney prior to and during the interrogation.

Joshua Tate

Disinheritance and the Case for Testamentary Freedom: In most European

countries, children have a right to inherit from their parents absent unusual circumstances. England and other Commonwealth countries protect the rights of children to inherit through family maintenance statutes. By contrast, in all but one of the American states, a parent can disinherit his or her child for any reason or no reason. This paper will evaluate the justifications for the American rule and consider whether some version of the European or Commonwealth system would be more appropriate. The paper will take into account the increasing eldercare problem and the needs of children who provide care for their parents, considering whether this phenomenon offers new support for the American rule. Historical and comparative insights will be brought to bear on the problem.

1.11 **Complicating Debates with Stories: Mexicamericans as Workers, Organizers, Immigrants, and Citizens**

Elvia R. Arriola *Stories of Women Organizing on the U.S.-Mexico Border:* This paper will share stories from the Mexican border of workers surviving and struggling for justice under the impact of free trade policy. Labor rights are intertwined with other struggles as workers organize collectively for immigration *and* labor rights. This activism takes place during an historical transition from a period when the Southwest border was relatively open to a postwar, post-civil rights militarized border policy. In this latter, current period, workers are particularly vulnerable to exploitation and appropriation by minority racist and xenophobic vigilante movements that undermine the integrity of the American belief in freedom, equality, and justice for all. This paper is based, in part, on cross-border organizing efforts of groups in the U.S. working collaboratively with the *Comite Froteriza de Obreras* (The Border Committee of Women Workers), a group that educates workers about their rights under Mexican constitutional law and NAFTA, using popular education methods.

Virginia Marie Raymond *Alberta Zepeda Snid, San Antonio ISD v. Rodriguez and the Failure of the Fourteenth Amendment in Texas:* What's in a case name? The short text, *San Antonio ISD v. Rodriguez* (1973), evokes, erases, and calls into existence a multitude of stories. Oral histories, pleadings, community memories, and close reading of this text – and the Supreme Court opinion it references – suggest that the legal actors in *Rodriguez* failed to recognize people and situations that did not fit ossified legal categories. These failures produced devastating effects on low-income and racialized people in Texas. How so?

This paper finds answers in one subplot, the story of Alberta Zepeda Snid, a union-made stealth Chicana organizer. Although acknowledged as the prime organizer of the Edgewood Parents Association in 1968, Snid is absent in most versions of these parents' challenge of the Texas school funding scheme. Perceived simultaneously as not "Mexican" enough and disturbingly (if vaguely) "Un-American," Snid troubled her ostensible advocates in ways that prefigured other misreadings and misapprehensions.

Sara Phelan *Building Community: Creating a Dialogue about Mexican Immigration and its Effects on Constructing a Communal Identity Through Oral Histories:* As a reaction to the "recent problem" of Mexican immigration to a U.S. Midwestern town, this paper explores the origins of Mexican immigration through two major waves, one fueled by the railroads in the 1920s, and another by agriculture in the late 1940s. The foundations these two waves created set a

social standard, influenced by national immigration policy and attitudes, to marginalize Mexican workers. The findings, drawn from a film and museum exhibition project in progress, illuminate the roles of industry, immigration law, and border policy that simultaneously “support” undocumented immigration to the U.S. and create conditions in which exploited immigrants endure systematic human rights violations at work, home, and in public spaces. These stories also reveal the intertwined nature of labor rights and civil rights. Specifically, Mexican immigrant laborers joined with civil rights activists in Midwestern urban centers to demand improvements in working conditions for people of color.

2.1 Food, Law, and Culture I

Donna Byrne

Organic Junk Food and Cloned Meat: Mandatory and Permissive Food Labeling: Food labeling laws require certain bits of information and prohibit others. A product is "misbranded" when required information is missing, when label information is false, or when label information is true, but misleading. For example, to label applesauce as "Fat Free" would be misleading because applesauce is generally fat free anyway.

This paper explores the implications of voluntary, mandatory, and "misleading" label information in several contexts, most notably milk from cows not treated with rBST, meat or milk from clones and their progeny, and organic fish and vegetables. When voluntary information is allowed and consumers care about the information, labeling is essentially provided by default for non-labeled products (de facto labeling). This paper argues that de facto mandatory labeling exists when consumers care about the information provided, and that consumers are better served by explicit label information than by implicit information. In other words, "they" should tell "us" what we want to know.

Charlene Elliott

The Governance of Taste: Food Marketing, Food Law and Childhood Obesity in Canada: Food marketing comprises a core part of the current food environment and is routinely identified as a main contributor to childhood obesity. Excess body weight affects over 26% of children in Canada-prompting a range of interventions to address the problem.

Studies dealing with the socio-cultural aspects contributing to childhood obesity, for example, tend to focus on the same line up of 'suspects' when it comes to food-the sale and consumption of sugary sodas, 'junk' foods and fast foods, and the food-related media messages (particularly on television) which encourage the consumption of high-sugar, low-nutrient foods. Such studies pertain to what Brownell and Horgen (2004) christened the "toxic environment" or what Swinburn et. al. (1999) call the "obesogenic environment". Whether toxic or obesogenic, this environment is one which promotes an excess of calorie consumption over calorie expenditure, generally through the over-consumption of poorly nutritious foods.

Food policy and regulation form a key strategy in current attempts to combat the toxic environment, and this paper outlines the various modes of regulation that work to govern children's "taste" in Canada. In particular, it details some of the promising, and problematic, aspects of seeking legal solutions to public health problems, especially when it comes to children and children's food marketing.

Peter Huang *Legal Responses to Mindless Eating*: Brian Wansink in his books: *Mindless Eating: Why We Eat More Than We Think* & *Marketing Nutrition: Soy, Functional Foods, Biotechnology, and Obesity* describe his own & related psychological & marketing research about mindless eating & possible responses. This paper analyzes legal & policy implications of this research. It also connects this research to recent research about mindfulness, meditation, & happiness.

2.2 **Re-Examining Fundamental Concepts in Political and Legal Thought**

Thomas Dumm *Justice After Law: The Meaning of the Sentence*: A reexamination of the meaning of punishment and sentencing based upon the second essay in Nietzsche's *On the Genealogy of Morals*.

Eric Sapp *The Priority of Injustice*: Schopenhauer's remarks on justice in *Parerga und Paralipomena* resemble the theological *via negativa*, or way of negative definition. Though the content of his theory of justice (roughly, protection of private property by an absolutist monarchy) is unappealing, the logical form of the theory is illuminating. Justice is defined in terms of injustice, not vice versa. This only seems paradoxical if we are fooled by the prefixes of the words into thinking that justice must be more basic an idea than injustice. An experience of injury or a sense of injustice is primary. This matches the experience of movements for social justice, equality and democracy. The latter do not apply pre-existing concepts of justice to discover that persons are being treated unjustly. Rather, the experience of oppression forms the basis for a claim of injustice; the idea of justice, then, functions as the imagined state of the absence of injustice.

George Wright *Heidegger and the Mind/Body Problem*: One outcome of the pitched academic debate that accompanied the public and legal debate over the *Romer v. Evans* case was John Finnis's claim that only in heterosexual marriage can one achieve the union of body and soul that is the true, that is, spiritual, goal of physical intimacy.

But, it was precisely this thought of the division of body and soul that Martin Heidegger sought in *Being and Time* to counter by way of his analysis of human existence, first as care and then as temporality. This is clear in this discussion of "spatiality" and "being-in," as he explains in *Being and Time* at H56.

The paper that I propose will investigate how Heidegger's thought undermines precisely the distinction upon which Finnis relies.

2.4 **Law and Love**

Jennifer Culbert *Law, Love, and the Stateless Person*: This paper argues that what prevents men from being "legitimately" unified by the "iron bands" of totalitarianism in Hannah Arendt's philosophy of law is not a divine command or an absolute inherent in the notion of humanity that would invalidate a particular political regime. Rather, law resists (but does not necessarily prevent) the possibility of totalitarianism to the extent that, by definition, it assumes and depends upon affection. To demonstrate this argument, the paper focuses on Hannah Arendt's remarks about stateless persons. In a nation state system in which rights attach to individuals only when they are recognized as members by state

authorities, when recognition is withdrawn individuals lose even the “right to have rights.” Rather than claiming that the human status or any other absolute entitles men to certain consideration, Arendt turns to the public and private institution that foster difference and advocates trust in the man-made world rather than faith in a supernatural one. Rights are attached to the world men make – through work and speech and deed – not to men themselves or to any divine nature. Taking up Arendt’s famous use of the phrase *amor mundi* (love of the world), this paper shows that for Arendt law only properly functions when the deadly force it may employ to constitute and preserve the polis is informed by this affective respect. In light of this observation we appreciate a new the importance of loving the world, but how one loves the world remains an open question. The response, this paper ventures, is to care for the conditions of statelessness.

James Martel

Kafka's Law and Love: The "connection without connection" in The Castle: In much of his work, Franz Kafka seems to evoke the spirit of paranoia, spinning modern parables of mistrust, anomie and despair. And yet, there is a sub-current in Kafka that speaks to the possibility of a kind of community, perhaps even a conspiratorial one that can be formed amidst such conditions. This is a community bound, not by ties of friendship and interpersonal connection so much as a mutual embeddedness in some kind of power relationship. This “connection without connection” can be seen perhaps most clearly in Kafka’s magnum opus *The Castle* in which K., the narrator finds himself in a society in which all life is organized around a central mystery, one which asserts itself only negatively by its silence, its absence and its stealth. Despite this, a community is organized and intense bonds of love and sociality are produced (and then un-produced) all in the shadow of the central mystery. In *The Castle*, Kafka shows how a community that stands in messianic anticipation of Halakah is bound together in some kind of collective understanding – it allegorizes the condition of modern people, who are set against each other by the ravages of the state and the market, but who nonetheless are also tied together by some sort of collective immanence. The conspiratorial side of Kafka shows how this collectivity without collectivity, this collectivity of love before the law, can be made to function not simply as a hollowed out faux society but as a functional political community in the face of messianic anticipation, albeit a community that is not aware of itself as such nor which looks anything like the kinds of communities that we generally expect to find.

Martha Merrill
Umphrey

Watching Trial Watching: A number of scholars have argued that despite their relative rarity, trials play a critical symbolic role in constituting a relationship, or more precisely an imagined relationship, between citizen and law. That relationship is based not on fear but on certain processes of identification, misidentification, and interpolation – that is, certain processes of binding that draw us into the heart of law. Trials, because they are public and performative, invite those who watch them into an arena where we can not only judge defendants but also law itself. To the extent that such a fantasy coincides with the fundamentals of popular sovereignty, trials enable our own law-making fantasies. In the law, we see ourselves. This paper explores the narcissistic dynamics of trial watching by examining the ways in which trial films – that is, certain film fantasies of trials – represent and enact the problematics of spectatorship. Trial films literalize the relation between juror and spectator and offer a space into which we can project ourselves. If the screen is, in Lacanian terms, a mirror in which we misrecognize ourselves as subjects, what can trial

films tell us about the way, through trials, we conjure ourselves as legal subjects and popular sovereigns? What desires and fantasies about law do trial films stage?

2.5 Theme Panel: The Color of Justice

Frank Cooper *Cop Macho*: This project applies masculinities studies to criminal procedure by identifying a hegemonic pattern of police officer masculinity. That pattern leads to racial profiling and excessive force while making it harder to implement cooperative and restorative forms of policing. Drawing on intersectionality studies of gender and race, this project shows that the hegemonic model of police officer masculinity is presumed in both legal doctrine and popular depictions of policing. In response, the project proposes various means of "regendering" police forces.

Emily Houh *Contracting Identities*: This project discusses how equitable contract doctrines function discursively to construct "contracting identities." By looking critically at some of the judicial opinions that have contributed significantly to the development and acceptability of certain modern equitable doctrines—such as undue influence, unconscionability, and misrepresentation—the paper shows how these doctrines construct "deserving" types of "victim" parties. Because the exploited parties in these cases are often female, poor, of-color, and/or gay, the applicability of equitable doctrines to them does two things: it offers the victims some relief from contractual exploitation, which in most cases was predicated on their group-status; and it reinforces and perpetuates problematic stereotypes of the "victims" by representing them as exemplary victims who are worthy of contractual protection.

Daniel Kim *Nisei, Negroes and Gooks: The Korean War and Racial Justice in Hollywood Cinema*: Integration came to the U.S. Army in 1951, one year before Thurgood Marshall filed the brief that would bring *Brown v. Board of Education* before the Supreme Court. It took place in the battlefields of Korea, impelled by the high casualty rate that American forces were experiencing—once it was determined that combat units could be replenished more quickly if black soldiers were not set aside for segregated units, full integration took place with more than deliberate speed. My presentation examines how Hollywood imagined this process in the 1950s, focusing on cinematic depictions of the American combat unit as a privileged site for rectifying the injustices of domestic racism, against both African Americans and Japanese Americans. It analyses how two war films—*The Steel Helmet* (1951) and *Pork Chop Helmet* (1959)—depict the formation of an equitable interracial fraternity among white, African American and Japanese American soldiers and how that fraternity is mediated by a Korean presence whose assimilability remains in question. A primary concern of this essay is with the disturbing ways in which these films imagine the exceptional suspension of civilian codes of justice—of everyday conceptions of the law—that combat requires as the necessary precondition to the building of a racial order that is more democratic, just and American.

2.7 Governance and Regulation

Brenda Cossman *Anxiety Governance*: Anxiety has long been deployed as an underlying explanation of a social phenomenon, yet is rarely explored as a particular form of governance. I am interested in the role of anxiety in neo-liberal self

governance projects, where citizens are called upon to govern themselves; to take responsibility for their wellbeing and manage their risk. Anxiety, as a mental state of apprehension, dread or fear to some perceived threat or danger, is an individualized psychic condition through which risk is experienced and then managed. My paper addresses some of the ways that governance through anxiety is apparent across a range of terrains: from the regulation of intimate relationships to health and health care, to climate change and the environment. Through anxiety, individuals are called upon to take responsibility and manage the risks for the wellbeing of their marriages, or their mental and physical health, or their carbon footprint to reduce global warming. Anxiety, risk and personal responsibility go hand in hand in this new governance.

Jodi Short

The Self-Regulation Compromise: Governing Without Commands or Controls: This paper revisits the late twentieth century regulatory reform debate and traces how lawyers construct a critique of regulation that makes strategic use of economic arguments. I demonstrate that the legal critique of regulation is grounded in concerns about the "coercive" nature of government regulation, as opposed to concerns about cost, but that lawyers turn to self-regulation, rather than deregulation or market-based regulation, to respond to these concerns. I argue that self-regulation is in part the product of a legal discourse that mediates economic critiques through multiple lenses, like legal institutions and professional interests.

Indra Spiecker

What Do You Think How Safe Is Safe?: Risk Perception, Risk Communication and Fairness have been long explored in Psychology and Economics. However, their effects have not yet entered legal theory. The paper explores the possibility of legal concepts to include risk perception, risk communication and fairness effects in Administrative and Constitutional Law. It especially shows how a comparison of alternative institutions in regulation can be guided by the standards set in risk perception and communication, e.g. in the use of the proportionality principle.

Marilyn Terzic

Mobile Movies: New Revenue Streams and Regulatory Regimes: By law, the Canadian broadcasting system is "a public service essential to the maintenance and enhancement of national identity and cultural sovereignty, [and should] serve to safeguard, enrich and strengthen the [country's] cultural, political, social and economic fabric" (Canadian Radio-television and Telecommunications Commission [CRTC], 1991). The law is founded on public, private, and community undertakings, each of which is subject to ownership restrictions and content regulations. However, as the proliferation of portable media players fuel the demand for mobile video content, the CRTC finds itself in an interesting regulatory quagmire: the licensing of pay-per-view film services streamed from American-based servers onto Canadian terminal devices. What decision was rendered? How will it affect the Commission's ability to maintain and preserve the country's cultural broadcasting industry? To answer these questions, this presentation traces the history of pay television policy in Canada and examines how market-driven pay-per-view services (terrestrial, direct-to-home, and mobile) have been allowed to circumvent the public interest/protectionist measures that apply to the rest of the broadcasting industry.

- Hadar Aviram *Geeks, Goddesses, Leather and Heinlein: Political Mobilization and the Cultural Locus of the Polyamorous Community in the San Francisco Bay Area:* The San Francisco Bay Area, characterized by progressive politics and particularly by its supportive position in the marriage equality struggle, is home to a vibrant, activist community of people living in polyamorous (consensual, responsible non-monogamous) relationships. Despite its lively organization, the community has not actively and visibly sought public legal status for polyamorous relationships. This paper aims to explain this reluctance through a journey to the community's cultural origins and its involvement in the Bay Area alternative scene. Based on an ethnographic research design (observations, community events and in-depth interviews with activists), the paper identifies the community's cultural influences as the Free Love movement of the 1960s, sexual subcultures, alternative spiritualities, and the science fiction literary scene, particularly Robert Heinlein's *Stranger in a Strange Land*. As argued in the paper, these cultural origins, while encouraging originality and nonconventional lifestyles, also reflect a basic mistrust of conventional government structures and a tendency toward utopianism, which are not conducive to legal activism.
- Anne Bloom *The Regulation of Sexual Identity in Tort Law:* This article examines the role of tort law in enforcing and reproducing cultural/legal norms which determine sexual identity. The article focuses on demonstrating how tort law enforces a binary (male/female) conception of sexual identity. To make this point, I draw upon a variety of tort cases, some involving transsexuals and transvestites but also many ostensibly "run of the mill" tort cases, involving products liability, medical malpractice and other types of claims, where sexual identity is not directly at issue. I also look closely at two legal doctrines - the professional negligence standard and the Daubert evidentiary standard - and show how they also operate to reproduce and enforce cultural expectations about sexual identity in tort cases.
- I. Bennett Capers *Cross-Dressing and the Criminal:* "Cross Dressing and the Criminal" argues that cross-dressing-as a metaphor, as a sign, as a practice-has the potential to subvert not only expectations about gender, but also about race, sexuality, class, and status. Taking up Judith Butler's suggestion that feminism could benefit from serious play, and turning to the criminal arena, I conceptualize a justice system in which officers, prosecutors, jurors, and judges engage in imaginative acts of cross-dressing in cases where implicit biases may be present. Such imaginative acts, I argue, would not only have the salutary effect of foregrounding such biases. It would also allow decision-makers to override them.
- Anthony Infanti *Deconstructing the Duty to the Tax System: Unfettering Zealous Advocacy on Behalf of Lesbian and Gay Taxpayers:* Due to taxpayers' significant advantages in the tax enforcement process, tax lawyers are thought to owe a special duty to the tax system, which requires them to temper the zealotry of their advocacy in order to preserve the integrity of the tax system. For lesbian and gay taxpayers, however, the realities of the tax enforcement process starkly contrast with the conventional picture. Unlike other taxpayers, lesbians and gay men are subject to overt and covert invidious discrimination in the application of the tax laws. Thus, if a tax lawyer tempers her advice to lesbian and gay

clients as required by the duty to the tax system, she risks compounding this discrimination and seriously harming her clients. This paper attempts to open the necessary ethical space for crafting an alternative view of the duty to the tax system, one that better suits the interests of lesbian and gay clients.

2.9 Religion & Religious Identity

Melicent Arig *Negotiating Religious Identity: For Better or For Worse:* This paper discusses and examines how Christians negotiate their religions for self-convenience and the enforcements of communication norms. It drew on the triangulation of data from two stages of qualitative research, first a series of interviews with the converts, and second, a focus group interview with the imams or the Muslim priests. Then, a quantitative data was conducted from the converts.

Religion should not be changed with the aim of obtaining self-satisfaction but not everyone can afford an annulment, an equivalent of divorce in America. For this reason, the only way out for breaking that marriage vow is to embrace Islam for the Islamic law encourages men to have more than one wife.

The research showed that conversion to Islam had confused the convert's religious identity but the relief that came out from the previous marriage was more than enough for them.

Li Chen *Preachers of the Gospel or the Civilizing Mission: Early Protestant Missionaries' Commentaries on China, 1815-1850:* Prior scholars have paid relatively little attention to the crucially important role played by Protestant missionaries in shaping Western perception of Chinese law and society in the early nineteenth century. This paper investigates the dynamics and mechanisms by which the first generation of Anglo-American Protestant missionaries came to produce, distribute, and normalize an influential body of knowledge about Chinese law and criminal justice. I critically reexamine and contextualize the global circulation of this discourse on Chinese punishments in the context of imperialism in order to explore the complex relationship between religion and politics, knowledge and power, as well as culture and empire. This paper also illuminates the historical process of the politicization of cultural sentiments and the formation of racial boundaries within the universalizing discourse of civilization, humanity, and modernity.

Joseph Jenkins *Inheritance of the State of Exception in the Western Idea of Theological Election:* This paper seeks to make readable two important moments of origin in the Western history of belief in theological election: the state of guilt-ridden "malaise" that Freud, in *Moses and Monotheism*, finds throughout the Mediterranean at the time of Paul; and the moment at which the idea of election by the hidden God of nominalism becomes unbearable. Major changes in the election idea at both these moments reveal an aspect of the state of exception not usually foregrounded: not the power of a sovereign to dominate a juridical order by force of will without regard to established normative precepts; but rather the fall of logic, of the sovereignty of an ultimate trope. Reading for the falls in the history of an idea (such as election, in this case) delineates a constellation, the aim of which, according to Benjamin, is to make the provisionality of the current juridical order readable.

Karl Shoemaker *The Devil's Justice:*

2.10 Gender, Judges and Judging

- Mary L. Clark *Women Judges Speaking Out: Some Reflections on Modes and Efficacy of Women's Judicial Leadership*: This paper examines women judges' commentary on public policy matters through speeches, articles, and dissenting opinions (i.e., by means other than majority opinions). This includes examination not only of dissent-writing, but, even more importantly, dissent-reading, as seen in the U.S. Supreme Court's last Term with Justice Ruth Ginsburg's reading aloud from her dissents in the partial birth abortion and pay disparity cases. Drawing from my previous writing on the history of women's judicial appointments and why it matters, from a feminist theoretical perspective, that women have served and continue to serve as judges, this paper takes a new and different look at the significance of women's judicial service by examining the public policy commentary of certain state and federal judges. The central inquiry is whether these forms of commentary can be understood as modes of judicial leadership, and, if so, how effective they have been.
- Dermot Feenan *Gendering Judging, Justifying Diversity*: The disadvantage experienced by women applicants to judicial office is imbricated in the constitution of the judge, judging and judicial authority, registering as male, masculine, white, heterosexual, able-bodied, and class-privileged. Women, and other groups, have been symbolically excluded from the constitution of the notion of the judge, and denied judicial authority. A survey of women judges in Northern Ireland confirms this exclusion. While few respondents in the survey support the concept of women judging in a 'different voice', many identify distinctive approaches which can potentially enrich notions of judging and judicial authority; suggesting that justifications for more women, and indeed other under-represented groups, as judges on the basis of diversity may also need to account for the potential that differently situated groups can bring distinctive approaches to judging and understandings of judicial authority.
- Erika Rackley *Detailing Difference: Gendered Judging in the House of Lords*: In January 2004 Brenda Hale became the first woman to sit on the Appellate Committee of House of Lords, the highest court in the United Kingdom. Five years on, she has brought to her judicial role a lightness of touch that belies her increasingly significant impact on the court's jurisprudence. Early forecasts that she is 'just a bit different' from her male companions have proved prophetic. However such assessments have tended to stem primarily from a focus on her decision-making on a case-by-case basis. But what of her jurisprudence to date as a whole? Is it possible, for example, to identify common themes in her opinions or dissents? And, if so, to what extent, if any, are they grounded in her 'difference' (however so defined)?

3.1 Food, Law, and Culture II

- Ernesto Hernandez-Lopez *A Free-trade "Tortilla Discourse" ? : NAFTA Corn Tariffs and Mexican Food Identity*: This presentation analyzes NAFTA's corn tariff regime from a food studies perspective. Mexican food offers a rich history, ripe for analysis. In 2008, NAFTA requires Mexico to completely eliminate corn tariffs, which protected the important cultural item of corn. What will be the national identity impact in Mexican food posed by these changes?

Historical negotiation between indigenous, European, traditional, and modernization influences produced Mexico's current cuisine. The choices people make on what to eat and the socio-economic forces providing these items are mutually influential. Dishes such as tortillas, tamales, mole poblano, and chiles en nogada are served after history prepared them as central to national identity. This is exemplified in a "tortilla discourse" (labeled by Jeffrey Pilcher) when "modern" justifications attempt to eliminate corn. Popular forces have resisted these impositions. Currently, US exports provide cheaper corn for Mexico. Reacting to global demand for ethanol, corn and tortilla prices have increased. Popular forces now seek political relief. NAFTA cements these changes to the national menu.

Doris Long

Patenting Mother Earth: Food, Famine, and Intellectual Property: Food security may be one of the most significant issues the global community faces today. Despite advances in genetic modification of foods to combat diverse diseases, as well as soil and climate conditions, the threat of the 21st Century equivalent of the Irish Potato Famine remains a powerful reminder of how insignificant man's technological achievements may be when faced with the practical problem of how to feed the world's growing population on increasing smaller percentages of arable land. At a time when biodiversity is critical to assure sufficient food security, the recognition by the United States that modified plants themselves may now be the subject of utility patents (as opposed to plant varieties) threatens not only access to critical food reserves, but the diversity which traditional knowledge protection may assure. By granting utility patent protection, US law has removed food security safeguards contained in plant variety protocols, including the benefits of "fair use" for farmers and other critical experimenters in the area of food innovation. Utility patents have already largely replaced plant varieties as the approved method of protection for modified plants in the United States and threatens to do so globally. Worse, the exclusivity concepts of utility patenting threaten to derail diversity efforts based on university research of traditional indigenous agricultural techniques. Unless steps are taken soon to remedy the situation on a global scale, propertized "food" may replace indigenous staples, leading to increased incidents of localized famine in the future.

Jennifer Schulz

Food Films: Successfully Subversive Mediation in the Movies: Law & Film scholars have noted the many things lawyers can learn about themselves and the legal system through an analysis of the trial genre of films. My paper analyses what we can learn about mediators and mediation from the food genre of films. Food films suggest the nourishing metaphor of the mediator as cook, to be contrasted with trial films which generally use battle metaphors and depict the lawyer as warrior. I will explore the vitality of the metaphor of cooking and how it relates to the work of dispute resolution. I will trace the metaphor of the mediator as cook through several films, explore what it reveals to us about mediation methods, and describe at least five mediation styles depicted in the food genre of films. Importantly, I will highlight how film depicts a subversive mediation style that while contrary to classic dispute resolution teachings, is successful.

Doris Witt

Food Rules for the World? The Codex Alimentarius and the Project of Culinary Harmonization in Public International Law: The Codex Alimentarius was established in 1963 as a joint venture of the Food and Agriculture and World Health Organizations. This formerly obscure regulatory food code has become

since the mid-1990s a site of increasing contestation because nations whose food regulations conform to Codex standards are largely insulated in the WTO from charges of economic protectionism. As a result, the pro-industry bias of the Codex Commission membership and the lack of democratic accountability in its procedural mechanisms have given rise to arguments by legal scholars for reform, such as subjecting Commission decisions to review by an independent dispute resolution body. Without denying the political utility of these reformist efforts, I argue in this paper for the value of cultural theory in helping us understand not only the aesthetic strategies through which the Commission has attempted to legitimate its existence but also the divergent interpretive modalities-ranging from consumer rights and conspiracy theory to post-colonialism and neo-agrarianism-through which Codex critics have framed their discontent with the project of culinary harmonization in public international law.

3.2 Haunted Justice, Haunted Communities

Doris Buss

The Rwanda Tribunal and the Making of Ethnic Rape: The Rwanda Tribunal is set to complete its prosecutions of crimes committed in the 1994 genocide by the end of this year, leaving an uneven and much criticized record on the prosecution of rape and sexual violence crimes. The Rwanda Tribunal decisions, I argue, give relatively high prominence to a recognition of rape as a generic 'fact' of the genocide while, at the same time routinely acquitting individuals charged with acts of rape. This paper explores this apparent contradiction as illuminating political practices made possible in the narratives of violence, and particularly sexual violence. The ways in which rape is visible in the decisions, I suggest, raises questions about what is un-visible. Drawing on the work of Wendy Brown and others, I consider how the Tribunal decisions with their focus on the spectacular dimensions of rape, may depoliticize aspects of the genocide and sexual violence.

Lindy Ledohowski

Ukraine as the Specter That Haunts: In *Specters of Marx*, Derrida describes Marx as belonging to a time of disjunction, to that "time out of joint" that inaugurates an "in-between" in the language of borders and homes, immigrants and aliens. Derrida evokes a sense of Marx haunted by ghosts as one not only caught in time that is "out of joint," but also a place that is "out of joint." Taking Marlene Goldman and Joanne Saul's comment that contemporary Canadian authors are obsessed with ghosts and haunting as a starting-point, my paper analyzes how diasporic communities are haunted by the specters of "imaginary homelands" (Salman Rushdie). I use a case-study analysis of Ukrainians in Canada to examine how a lost homeland can haunt an immigrant community after more than four generations in the "New World." Ukraine is a specter that haunts Ukrainian-Canadians and informs their conception and construction of themselves as a political community within Canada.

Christiane Wilke

Judging Ghosts: How should we think about trials in which the judgment not only speaks to and about the defendant, but also to others who are not present and about injustices from a more distant past? I propose to examine the German post-1990 trials for human rights violations committed in the former East Germany as instances of haunted justice: the courts not only adjudicate the present cases, but also to "go back and make whole what has been smashed" (Benjamin) by their own lack of judgment in the failed trials of the Nazi perpetrators. Attention to the ghostly dimension of prosecutions of human

rights violations that evoke Holocaust trials helps to discern the peculiar temporality and structure of the justice claims in these cases. An engagement with the ghosts is necessary for a more just reckoning with injustices. Yet often the courts fail to do justice to both the ghosts and the defendants.

3.3 **Event, Rebellion, and Constitution: Political Imagination and Resistant Sovereignties in the Americas, 1615-2005**

Denise Ferreira da Silva *The Edges of the World: Universality and Raciality in the Writing of the Radical Political Subject*: This paper is an attempt to discuss the contemporary left theorizing return to the theme of the universal in the framing of a radical political subject - such as Žižek's and Badiou's embracing of St Paul in light of the current political transformation in Latin American states, such as Venezuela and Bolivia, in which racial subaltern subjects -- the mestizo and the Indian -- are articulated in the framing of a revolutionary subject. By reading these trends as responses to the multiculturalists legal reforms deployed in the past 10 years or so, I will argue that this apparent contraction is an indication of how the present global economic-juridical structuring challenges us to imagine emancipatory projects that take seriously the centrality of racial/cultural difference in the mapping of the post-Enlightenment political terrain.

Pablo Ghetti *Eventness & the World Social Forum*: This paper would seek to answer the question about the eventness of the WSF. Is the establishment of a movement of movements that somehow gathers the forces of alter-globalization amenable to analysis from the perspective of theorizations concerning the event, its lack of foundation or its seemingly liminal nature? Is the WSF, in this sense, the limit of hegemonic globalization? Or else, rather than inaugurating a reflection on the limit (of capitalism, of political responsibility, of empire and so on) isn't it the case that the 'eventness' of the WSF allows for a theorization of the limitlessness that underlies hegemonic globalization, capitalism and empire, and thus, the necessity for a thought of the lack of limits (the infinite, the real) in relation to radical political activity, law and so on.

Crucially, the 'situated' nature of the WSF, its origins and development in Porto Alegre in Northern Brazil, points towards a juncture between particularity and limitlessness, between the promise of a better or 'possible' world (instantiated also in the Brazilian constitution of the post-dictatorship era) and deferral, the 'to come', as Derrida would say, that has been hitherto ignored in current debates on universality, particularity and the (ontological) quality of the political event and the foundation of the law in political philosophy and elsewhere.

Oscar Guardiola-Rivera *Thomas Jefferson and Felipe Guaman Poma de Ayala: Event, Rebellion & Constitution in Classical Revolutionary Thought in the Americas*: This paper engages in a comparative reading of certain aspects of the thought and practice of two classical figures of rebellious and/or revolutionary political thought in the early (post)colonial period of the Americas: Felipe Waman Puma de Ayala, in the South, and Thomas Jefferson, in the North. Although the former is a descendent of the native inhabitants of the Andes, and the latter a descendent of settlers and colonizers, the paper proposes that both of them based their radical proposals for 'good government' on a common recognition of the practices and the social machinery that allowed certain societies (nowadays commonly called 'traditional') to refuse power relations by preventing the

desire for submission from coming into being, that is, by containing the formation of a single point of accumulation of power within the society through the deployment of a certain political economy of exchanges. From this perspective, Puma's proposal that the peoples of the Andes were never 'conquered' but rather, that the relationship between the Spanish crown and the inhabitants of the Americas involved an act of donation and an economy of gift and substitution that founds legal obligations (itself an intervention in the Lascasian terms of the 1550 Valladolid debates, crucial in the development of modern international law), and Jefferson's proposal that the constitution should be voted every twenty years, pertain to a common prescription: that no one among the many is worth more than another, and thus, that one cannot be equal to many. This prescription is typical of an archaic, primordial economy of exchanges whose presence is nearly universal, according to anthropological evidence. Thus, far from this being an instance of a 'primitive law' that is best left behind as a relic of the past, Jefferson and Puma recover a universal injunction at the basis of their radical political proposals for the present and the post-revolutionary future.

Indeed, this is the same motif that had traveled to France years ago and informed there the composition of Etienne de la Boetie's *Discours de la servitude volontaire* and Montaigne's reflections in the *Essais*, and which returns, many years afterwards, in Derrida's reflections on Montaigne, sacrifice, the force of law and the politics of friendship.

Furthermore, one could ask whether or not it is the residue and the trace of the vanishing injunction to equality, as recovered and transformed by people like Jefferson and Puma de Ayala, what informs the struggle and the practice of the indigenous peoples of contemporary Bolivia and elsewhere.

3.4 Private Eyes: Detecting Subjects in Modern Law and Literature

Florence Dore *Through Closed Doors: Privacy Law and Southern Modernist Houses*: Mississippi mansions on fire, houses afloat on flooded Florida lakes, leaky apartments: Southern modernists portray houses in collapse in dense prose. This paper examines these images as expressions of the failure of privacy in American law. Beginning with an analysis of "inviolable personality" in the 1890 privacy tort, I show that both the law and the literature of the era contribute to a broad retreat away from a new, racially mixed urban public. Privacy has been analyzed as Brandeis' way to consolidate his Brahmin class status. I argue that Faulkner's infamously impenetrable prose, for example, constitutes a similar evocation of a lost "inviolable" class—the creation of an elite readership, which, like privacy, is created to ward off the corrosive effects of urban mixture. Southern modernists seek to reveal the futility of this rhetorical return in collapsed houses, and to expose American privacy as similarly prone to collapse.

Cathrine Frank *Prying Eyes: Inside the Victorian Criminal Character*: Detective fiction is replete with canny observers of criminal behavior and its effects. Whether Dickens's Inspector Bucket, Collins's Sergeant Cuff, or Conan Doyle's master of deduction, these detectives are very good at uncovering crime once it's happened. But there are two late Victorian criminals who anticipate the detective's prying eye. Dr. Jekyll and Mr. Hyde (1886) and *The Picture of Dorian Gray* (1890) focus on criminal heroes whose behavior is externalized and registered not just in their actions (or in Jekyll's case the persona of Hyde as well) but also in a text-for

Jekyll, the log of his scientific experiment and, for Dorian, the portrait. If the detective seeks to uncover crime and with it something about the nature of criminality, then both novels would seem to facilitate his project by making criminality legible. But Jekyll's and Dorian's texts are literally and figuratively hidden from detection, reserved for their own private eyes and the careful reader's. As objects initially of scientific and aesthetic interest, these texts become character studies, the narrative a literal construction and examination of moral character by the criminal personality itself. This paper looks at the convergence of legal, scientific, and aesthetic discourse in the late Victorian era in order to raise the broader questions of how law and literature create the criminal character and why.

Susanna Lee

Crime Fiction's Marginal Authority: Private Lives, Public Domains: The most salient characteristic of hardboiled crime heroes is nonconformity. In the face of the corruption or insufficiency of institutions, the maverick detective of the early twentieth century came to incarnate the otherwise unenforceable principles of justice and compassion. But that idealized individualism itself did not endure, for, as post-hardboiled literature reveals, nonconformity could turn into a perilous disregard for civilized society.

The sense that neither institutions nor individuals can be trusted as repositories of authority produces a curious void in the post-hardboiled world. This paper examines the navigation of that void in the novels of Fred Vargas, one of the most popular and critically acclaimed contemporary crime writers. Her civilian characters live on the margins of society, combining a return to the noble savage with a utopian vision of community. The center of her narratives, though, is the policeman Adamsberg, a compassionate ambassador to those margins. I propose that Adamsberg's institutional role paradoxically gives his empathic nonconformity the force of narrative resolution. In Vargas's fiction, we see that while individuals can drive a crime narrative, only a civil servant can close it: the very idea of resolution is inextricably intertwined with the de-privatization of the individual.

3.5 Law & Literature: Between Speech and Silence

Maria Aristodemou

Gnosis and Agnosia or, Knowledge and Ignorance, in Jose Saramago's 'Blindness', and 'Seeing': This paper revisits the classic metaphor in western philosophy of knowledge as a form of seeing through the twin lens of Jose Saramago's dystopian fictions, "Blindness" (1995) and "Seeing" (2004). What are the implications for what it means to be a subject, and for our political systems, if seeing is a form of blindness and blindness a form of seeing? Are we humans perhaps always, and/or even already, condemned to, as the saying goes, "hitting out blindly"?

Julia Chrysostalis

Beyond Autonomy, or Beyond the Law of Law's Ear: Can the relationship between law and literature be thought of in terms of a conversation? Can the law still 'hear' the voice of a writing that has come before it, yet is outside the frame of the 'hearing' and the rules of 'standing'? And when literature speaks, what does it say? Perhaps what the law has always known...

Patrick Hanafin

A Voice Beyond the Law: Narrating Violence in Law and Literature: In her writings, Dacia Maraini explores the problem of the exclusion of women from full citizenship, focusing on the institutional barriers to female emancipation in

patriarchal political and cultural contexts. Throughout her work she evokes a society in which violence against women is the norm. Maraini engages in an unweaving of the often unjust reality of legal narratives. She calls for a rereading of law through literature. In this regard, there are similarities with the work of Italian sexual difference philosopher Adriana Cavarero who also seeks to undo patriarchal meta-narratives through, inter alia, the use of literature. In this paper, I attempt to read Maraini's literary production as an example of the kind of relational narrativity which Cavarero adverts to in her theoretical writings and in so doing point to another way of doing justice beyond the realms of patriarchal legal language. Both writers in their different ways could be seen to conceive of a relational politics in which the embodied self acts, speaks and thinks for herself. This amounts to a move from a masculine univocality (the politics of an imposed classical masculine voice) to a politics of relational plurivocality.

Elizabeth M. Sturgeon

Imagining (In)justice in THE MIRROR FOR MAGISTRATES (1559) THE MIRROR FOR MAGISTRATES (1559), perhaps, the most popular history book in Elizabethan England, repeatedly imagines justice by depicting scenes of injustice. From Chief Justice Robert Tresilian, the Judge of the King's Common Law Bench, who voices the first complaint, to the rebel Jack Cade who springs up mid-way through the history book, bloody and bruised ghosts are imagined as returning from the grave to launch a searing critique of criminal justice in Elizabethan England. Given this history book's biting sociopolitical commentary and the fact that it was based on King Henry VIII's HALL'S CHRONICLES which had been banned under Queen Mary, it is not surprising that THE MIRROR was censored in 1554/5 before it became a best-seller. In this interdisciplinary paper, I examine how THE MIRROR weds discourses of the law, culture, and the humanities to model how an early modern history book could aspire to critique the law, and thereby, reform society.

3.6 Roundtable: We Meet (Again): Justice, Injustice and Lacan's "Excommunication"

Nan Goodman

"I'd Never Join a Club that Would Allow a Person Like Me to Become a Member": Banishment and Identity in Lacan:

Ravit Reichman

The Disqualified Subject: Seeking Justice In Lacan:

Adam Sitze

The Question of Law Analysis: This paper questions the dominant style of legal scholarship in the humanities. This style of scholarship instrumentalizes theory as a kind of "lens" the limited purpose of which is to sharpen our focus on positive law as an object of knowledge. The problem with this style of scholarship, this paper suggests, is that it forecloses on our understanding of the way that forces of law are both prior to and generative of the body of work we have come to know as "theory" itself. Through a close reading of Jacques Lacan's January 15, 1964 lecture "Excommunication," this paper will argue that Lacan's famous return to Freud's basic concepts could only have taken place under the conditions of Lacan's banning by the state-sanctioned International Psychoanalytic Foundation. As such, the paper will suggest, it is a mistake to limit Lacanian psychoanalysis to its use as a lens for the better perception of positive law. Because it is a certain force of law that spurs Lacan to define psychoanalysis as a discipline and a profession in the first place, Lacan's text exemplifies the need for legal scholars in the humanities to attend to law's "pre-disciplinary" effects, namely, the way law silently but decisively

determines the very genesis of the objects and inquiries upon which humanities scholars then work.

3.8 On the Continuing Salience of Race

Anna Hartnell

Hurricane Katrina's 'Refugees': Exile, Dispersal, and the Rhetoric of National Non-Belonging: This paper explores the fact that the New Orleans tragedy of 2005 stretched the limits of the language of national inclusion to breaking point. When the term 'refugee' began to circulate in the US media to describe those displaced by the storm, the African American community in particular reacted in outrage. This symbolic labeling of a group of people made up primarily of black Americans resonated with centuries of injustice and oppression on US soil. This paper argues, however, that this label, though deeply insulting, was shot through with a deeper truth. Perhaps above all else Katrina painfully underscored the crossovers between sections of black America and non-white peoples living in the so-called 'Third World'. Indeed the brutal dispersal of African Americans across the nation, with almost no regard paid to the maintenance of family ties, was reminiscent of the Middle Passage and the experience of slavery - a time when blacks could not even lay claim to the protections conferred by 'American citizenship'. Here I explore the symbolic linkages between the internally displaced peoples of Katrina and the 'refugee status' that spokespeople for the African American community so vehemently - and understandably - claimed should be reserved for those external to the United States, for 'some others from somewhere lost, needing charity' (Al Sharpton).

Sarah Mangin

Excepting the Self: Political Theology, Miscegenation, and Autobiography in Bloke Modisane's Blame Me on History: Carl Schmitt's theory of juridical exception adumbrates Bloke Modisane's attempt to merge his personal and political subjectivities in 1950s South Africa. By repeatedly violating the country's Immorality Act of 1957 prohibiting interracial sex, this black Sophiatown writer can bodily invent his own extrajudicial sovereignty to protest his society's normative racist oppression. To perform such politically-motivated seductions, however, Modisane must acquiesce into a composite cultural whiteness, and subsequently, the autobiography itself becomes a spectral study in self-effacement.

Richard Bailey

'I could make my own decisions': law, life and resistance in the camp. Based on interviews with former Australian immigration detainees conducted by the author, this paper will call into question Agamben's twin conclusions that nothing short of a complete re-founding of ontology is required to liberate humanity from biopower and that this refoundation can spring from bare life. The interviews explored the experience and understanding of resistance while in detention. Contrary to Agamben's depiction, the camp proves to be a place of determined and often successful defence of a relation of politics and life based not on the camp and biopower, but on solidarity and freedom. Detainees in the Australian immigration detention, like the prisoners in the Nazi concentration camps, refused to abandon their politics. Rather than seeking to transform bare life, they rejected it and made their own decision on life and politics.

3.9 The Anti-Discrimination Paradigm

- Jill Anderson *Just Semantics: The Lost Readings of the ADA* : The ADA has veered far off course from its mandate of broadly protecting people with disabilities---actual or perceived---from discrimination. Blame tends to fall on the statute's disability definition and the courts' "literalist" parsing of it. I argue just the opposite: the courts' mistake lies not in reading the statute too closely, but in not reading it closely enough. For the ADA manifests a structural ambiguity that we resolve in natural language every day, but which courts have not apprehended. This ambiguity renders the ADA's "regarded as" prong susceptible of no fewer than nine distinct readings. In a striking failure of interpretive imagination, the courts have ignored all but one of them. Invoking ordinary intuitions about sentence meaning and borrowing conceptual tools from linguistics, this article aims to make ambiguity in the ADA visible, an interpretive move that holds the potential to realign ADA jurisprudence with the statute's purpose.
- Darren Rosenblum *The Case for Abolishing CEDAW*: This paper argues for abolishing the Convention for the Elimination of All Forms of Discrimination against Women ("CEDAW"). Critiques of CEDAW cannot be addressed by simply strengthening the current regime. CEDAW's focus mistakenly draws on Second Wave Feminist constructions of women as a discrete minority. To eliminate discrimination against women, men must be included in the design as well as the implementation of remedies. Separating women's rights into a distinct construction exempts CEDAW from the many advantages of rights-based systems rather than identity based systems. It is also folly to advocate for women's rights on the global stage to ignore the centrality of sexuality. Although gender carries heavy cultural contingencies, its use in the effective gender mainstreaming movement reflects its ability to do the work that essentialist notions of womanhood fail to achieve in guaranteeing real rights for people regardless of their gender.
- Patricia Seith *Equality in Networks*: Antidiscrimination law predominantly remedies discrimination at an initial point of contact, such as an application for a job, or at a secondary point such as when an employee seeks a promotion. While classical antidiscrimination law has served this purpose considerably well, it has been arguably less effective in remedying the underlying network gaps that prevent an individual from reaching that point of contact in the first place. Business and sociological literature have documented the role of an individual's social networks - or "social capital" - in creating various opportunities, as well as the continued network disparities encountered by disadvantaged groups. This paper explores several areas of law and policy that have either remedied discrimination resulting from exclusion from social networks or fostered the creation of networks between historically disconnected communities. This paper also considers when and whether the law should be involved in regulating our social interactions in the name of equality.

3.10 Performances of Justice and Injustice: Historical and Contemporary Perspectives

- Angela Crocker *Letting Go Of The Lash: The Extraordinary Tenacity and Prolonged Decline of Judicial Corporal Punishment in Britain and Its Former Colonies in Africa*: Judicial corporal punishment is still widely used in many countries in Africa. Even those African countries which have abolished the practice have only done so relatively recently. In Britain, calls for a return to judicial corporal punishment continue to be made, more than half a century after its abolition in that country. The idea

that the lash is the only form of punishment that is able to curb rampant criminality continues to exert a powerful hold over the public imagination in both Britain and its former colonies in Africa. After examining the status of judicial corporal punishment in these countries, this article seeks to explain why a method of punishment which many consider to be outmoded, continues to be used in certain countries in Africa. The extraordinary and continuing popularity of the idea of judicial corporal punishment in the both the British and African contexts, is examined and explained.

Jennet Kirkpatrick

Come a Little Closer: Law and Identification in Liberal Democracies: Come a Little Closer: Law and Identification in Liberal Democracies Paper Abstract: Citizens calling themselves the Minutemen are now patrolling and policing the Southern border of the United States for undocumented migrants from Mexico and other points South. A similar type of civic activism is currently taking place on the internet, as citizens in an Oregon-based group called Perverted Justice, or PeeJ, conduct on-line sting operations to identify suspected pedophiles and assist in their arrests. A question raised by vigilantes (or digilantes, as PeeJ is sometimes called) is to what extent should citizens in liberal democracies be a part of the life of the law? What is gained and lost by understanding the normative relationship between citizens and law as immediate, continuous, and equivalent? To get at these questions, I turn to Carl Schmitt, Abraham Lincoln, and Jean-Jacques Rousseau.

Trinyan Mariano

Reckoning and Retribution: The Logic of Compensatory Justice and Lynch Law in the Marrow of Tradition: This paper is concerned with models of compensatory justice, especially as they relate to post-civil war attempts to compensate for slavery. Analyzing Charles Chesnutt's novel, *The Marrow of Tradition*, I argue such reparations operate on the same conceptual ground as segregation to the extent that both rest on group rather than individual justice. This alignment is at its most extreme in the post-reconstruction South's practice of lynching. The discourse of lynching, I claim, shares with segregation and reparations a reliance on group identity, not individual culpability, for assessing compensation, and thus, in important ways, the logic of compensation becomes the logic of lynching—a "dark" version of compensatory justice. The menace of lynching reveals not only the insistent human need for justice, but also the horror that can accompany attempts to achieve it. Chesnutt's novel insists on "fiat justitia" and that unaddressed wrongs thwart social healing. But at the same time, this healing is threatened by the very prospect of compensation, overwhelming in its enormity. Within this tension, *Marrow* struggles to articulate an alternative language for justice, an alternative that, I argue, ultimately fails. What does emerge is a complex interplay of compensation and forgiveness, a revision of vengeance and redress that dethrones compensatory justice in order to define a place for mercy and reconciliation.

Stephen Pete

Letting Go Of The Lash: The Extraordinary Tenacity and Prolonged Decline of Judicial Corporal Punishment in Britain and Its Former Colonies in Africa:

Joshua Wilson

Rights & Political Passions: Using Law to Justify Aggressive and Uncivil Politics: Be it through supplying normative labels or overt coercion, one of the goals of law is to civilize the struggle for power. This paper explores the role of legal norms, language, and processes in the attempt to civilize the street politics of abortion. Specifically, this paper examines how a range of ground-level actors involved in three First Amendment abortion protest regulation cases interpret

and use aspects of the law to give meaning to the events that they were involved in. What is found is that while there is ample evidence of a shared conception of the purpose, value, and limits of speech rights, both sides are able to use the First Amendment to justify positions and actions that can be seen as uncivil, overly aggressive, and/or intolerant. Thus law, in one respect, fails to civilize the conflict.

3.11 Envisioning Law: Film and Popular Legality

Ruth Buchanan *Dead Man: Re-envisioning the Colonial Encounter in the Western:* The Western is a genre replete with significance for legal scholars interested in film, because of its engagement with the big themes of law's founding on the frontier, as well as the divides between law-abiding citizens and outlaws, civilization and savagery, justice and vengeance. It was not surprising then, that independent film-maker Jim Jarmusch, no stranger to legal themes (*Down by Law*), undertook a contemporary re-examination of the genre. *Dead Man* is no ordinary western, however. With a haunting soundtrack provided by Neil Young, *Dead Man* works on its viewers through both the affective and narrative dimensions to profoundly destabilize many of the assumptions underpinning the western – including assumptions about the nature of law, the divides between citizens and outlaws, and most significantly, about the nature of the encounter between white settlers and indigenous inhabitants of the American northwest. The film offers an alternative vision of the colonial encounter in the relationship that is established between its two main characters, William Blake the young innocent from Cleveland played by Johnny Depp and an indigenous man named Nobody (Gary Farmer). None of the usual rules seem to apply when the doomed accountant Blake, having become an outlaw, meets the educated and literate Nobody, an admirer of the poetry of William Blake. The paper will explore the possibilities for re-imagining the legal subjects of imperialism offered by the destabilization of legal subjectivities within the film.

Rebecca Johnson *Empire on the Frontier: Reading Deadwood in 'Post-Colonial' Times:* In Culture and Imperialism, Edward Said points out that literature, and particularly stories about our past, tell us less about 'the past' than about cultural attitudes in the present. Further, such stories participate in creating (what Raymond Williams referred to as) "structures of feeling." Said argues that the structures of feeling in English literature supported, elaborated, and consolidated the practices of empire (Said, 1994: 14). He thus looks to the structures of feeling embedded in literature to better understand the persistence of empire in the face of formal decolonization. His approach aligns well with that taken in law-and-film scholarship which asserts that popular films and television can and should be read as jurisprudential texts, as they participate in constructing as well as in reflecting upon our nomos. The cinematic Western has often been the subject of study, for it is one of our nomos' more prolific and powerful genres for the exploration of accounts of masculinity, violence, and law's origins. In this paper, drawing on post-colonial and law –and-film scholarship, I consider the 'structures of feeling' present in North American tales of the past articulated and made visual in the HBO series, *Deadwood*. The series engages with the place of law in the context of 'unlawful' (economic) settler appropriations on and of Indian lands. Here, drawing on postcolonial concerns with the persistence of Empire, and informal (economically rooted) patterns of colonization, I consider what a law and film approach to the series suggests about the shape of current North American structures of feeling. How do those

structures participate in making visible or obscuring the ways we as members of our nomos continue to imagine (and occupy a place in) ongoing informally structured colonial and imperial relations?

Martha Merrill
Umphey

Law and Loss: Justice and Mourning in Touch of Evil: In this paper I read Orson Welles' *Touch of Evil* (1958) for the ways it signals and navigates certain fundamental tensions in the relation between modern legality and justice, and as a way to meditate on the relation between legal violence and mourning. Welles situates his masterful noir/western hybrid on the US-Mexico border, and metaphorizes the literal border into a meditation on the thin, unstable line between legitimate and illegitimate policy practice. Playing with doublings and racial inversions, border crossings and sexual disruption, Welles situates law in a disorienting liminal space that disrupts modern, due-process oriented conceptions of the relation between law and justice. In this liminal zone, the loss or threatened loss of wives impels two lawmen toward a robust, substantive mode of doing justice without regard for procedural niceties, placing law in an anxious relation to legitimacy. Mourning and fear of loss catalyze a kind of legal violence that both instantiates and threatens law itself.

Naomi Mezey

Law's Visual Afterlife: Thoughts on Law, Film and Translation Theory: In Walter Benjamin's essay, "The Task of the Translator," Benjamin argues that translations enable a work's afterlife. Afterlife is not what happens after death but what allows a work (or event or idea) to go on living and to evolve over time and place and iteration. In its afterlife, the original is transformed and renewed. In this piece I explore film's visual translation of law and the role film plays in law's afterlife. Film translates law not by translating from one language to another, but by translating between media and discourses. The cultural-critical lens of translation highlights the discursive similarities and dissonances between law and film; it allows us to see the legal in the aesthetic and the aesthetic in the legal; and it gives us new purchase on thinking about the ways that word, image, power and justice operate in and through different media. I take up the film *Minority Report* and the HBO series *Deadwood* to explore the representations of law and violence at the borderland of time, place and authority as well as to illustrate the layers of legal translation that film can occasion and its effect on law's visual afterlife.

4.2 Do You Believe in Magic?

Sydney Beckman

Smoke and Mirrors: An Escamateur as an Expert Witness: Discussing the magician as expert, with demonstrations by the author-magician.

Garrett Epps

"When You Awake You Will Feel No Remorse": Stage Hypnotism and the Law: In some ways, stage hypnotism is the most "magical" of theatrical magics, because the audience does the tricks. Indeed, the audience in a sense is the trick. Given that volunteers--and some who don't strictly speaking volunteer, but go into a trance in the audience--do things that in a "normal" state of consciousness they might have preferred not to do in front of hundreds of people, it is striking that in the United States there are almost no tort claims for alleged injuries incurred while in a hypnotic trance in a public performance.

After analyzing the existing case law, I relate how I went deeper into the subject, studying stage hypnotism at a seminar in Las Vegas and volunteering at a public show at which, to my surprise, I was transformed into a dog. I conclude

by noting that I wasn't embarrassed by this and didn't want to sue anybody.

Susan Rozelle

The Type of Possession Is Nine-Tenths of the Law: Criminal Responsibility for Acts Performed Under the Influence of Hypnosis or Bewitchment: When criminal defendants claim they were possessed, we tend to think the defense for them is insanity. But a belief in magic alone does not make someone mentally ill. Indeed, a number of jurisdictions recognize hypnosis as a defense, and it may be that bewitchment is just hypnosis by another name. Certainly both function through the power of the mind, itself a power that is poorly-understood and manifestly vast. Magic may not be real, but something really happens when the mind is tapped. People brushed with harmless leaves they believe are poisonous get rashes; fraternity pledges drinking a non-alcoholic beverage they believe is beer throw up and pass out. Maybe possession--by whatever name--should be a defense.

4.3 Telling Stories: Reconnoitering Rape Law

J. Amy Dillard

Determined to Save the Only Life They Can Save: Stories of Non-Disclosure and Survival: The process of disclosure of repetitive or familial child sexual abuse is complex, since most victims experience some benefit from public relationships with their abusers. This paper will examine the choice of evils, between disclosure and (what I am tentatively calling) forbearance, for victims and their non-abusive guardians. The paper makes the radical suggestion that a different response to surviving abuse may be more beneficial to the child survivor than a life lost to post-disclosure identity. Working with the text of John Patrick Shanley's *Doubt*, and the personal accounts of "lost girls" who entered The Center at the Psychiatric Institute of Washington, DC, this paper suggests that the negative effects of disclosure, coupled with the abject failure of the legal system to cope with the victims it encourages to disclose, should lead to a careful reflection on whether disclosure is the best choice for child sexual abuse survivors.

Toni Irving

Constituting Americans: Race, Sexual Assault, and Citizenship: Black women are generally displaced as victims of rape.

The police response to the sexual assault of black women in general and lower class black women in particular is illustrative of how sexual ideologies help construct complex social hierarchies that in turn structure rights. How the law currently deals with black women's rape diminishes the sexual assault of black female bodies and places them outside of the narrative frames that legitimate entitlement.

Unpublished and often ignored, the rape narrative is a ripe site to supply oppositional interpretations of national experience and transmit some of the fictions of citizenship. This paper focuses on recent rape cases in Philadelphia to discuss the way black women's personal narratives are structured by competing and overwhelming socio-legal narratives that undercut their reception. Ultimately, this paper interrogates the relationship between the law, social significance and the public imagining of justice.

Ruth A. Miller

Rape as a Political Trope in European and Middle Eastern Dream Literature: Most histories of European and Middle Eastern political philosophy describe the ability or right to consent as an attribute of the modern, rational citizen. In these same studies, the notion that dream interpretation is a valid basis for

governance is usually associated with the medieval or early modern period. This project seeks to build a bridge between the apparent irrationality of dream interpretation and the apparent rationality of consent theory in the Ottoman Empire, Turkey, France, and England. In particular, it will ask why it is that rape has been such a prominent theme in early modern dream-literature as well as in the reformist and revolutionary "dreams" of eighteenth, nineteenth, and twentieth-century liberals. By discussing the political implications of the dream genre, it will address the troublesome relationship between sexual violence and political violence and it will question the rational bases of contemporary liberal-democratic political theory.

Penelope Pether

Exceptional Subjects: Reconstituting Rape: This paper responds to rape doctrine's persisting failure to adequately respond to the social harm of rape by centering its inquiry on a group of cases characteristically positioned at the margins of doctrinal and phenomenal understandings of the binary rape/consensual sex: so called "post-penetration" rape cases. Reading documents produced in a recent Maryland post-penetration rape case, *Baby*, the widely-reported California case *John Z.*, and an earlier New Zealand case, *Kaitamaki*, against survivor testimony in a recent British study of attrition in rape prosecutions and the Australian journalist Paul Sheehan's book *Girls Like You*, an account of controversial post 9/11 rape cases in Australia, this paper will critically account for the construction of "real rape" victims and survivors, false accusers, and perpetrators in legal discourse(s), and consider the implication of those discourses for post-9/11 constitutional criminal procedure.

4.4 Law and Faith in the Islamic and Post-Secular Culture

Lior Barshack

Sovereignty, Time, and the Power Over Life: Hobbes saw clearly that the state shares its fundamental function with the great historical religions: the function of domesticating death and integrating it into the order inhabited by humanity. I argue that the political domestication of death proceeds through the institution of time. The paper offers a new theory of the legal and political foundations of temporality. I further argue, against Hobbes, that in order to domesticate death sovereignty and the power over life and death have to be resigned to the hands of the dead. As many contemporary writers argue, a residue of the power over life remains in the hands of the living. Such a residue, I will claim, does not entirely blur the distinction between founding and conserving violence, a distinction on which the flow of time depends.

Marinos Diamantidis

Law and Faith in Secular and Islamic Contexts: I argue for the possibility of a common understanding of legalism in meta-Christian and Islamic religious and political theologies by pointing out that (a) faith in the one God has not been lost but transformed in modernity and currently returns in the form of relentless epistemological undecidability; (b) all societies struggle with the institution of human subjectivity in which law plays a principal role including by allowing communities and institutions to create and re-create their identities around symbols of faith (c) a modernist reading of the Abbasid period in Islamic legal history which saw the creation Islamic jurisprudence, which Islamists fetishize offers ways for understanding commonalities and differences between an 'aborted positivisation' of Islamic law (which gave rise to a highly rational but not centralized legal system) and today's critiques of legal positivism in post-secular Christian cultures.

- Adam Gearey *One Law Against Another? Human Rights, Divine Authority and the Common Law:* This is an analysis of what remains veiled; a covered face that is the figure of one law coming up against another; one authority challenging another. What can the veiled woman tell us about the relationship between secular and divine authority? This paper focuses on a reading of a recent British 'veil case': *Shabina v Denbigh High School Governors* [2005] EWCA Civ 199. This case appears to show a confrontation between divine law and secular law. However, to interpret it as a kind of jurisprudential clash of civilizations is simply wrong. The scene of opposition in fact obscures a deeper similarity that exists between the common law's construction of human rights and the applicant's (*Shabina Begum*) arguments about religious law. To hint at the problematic that this paper hopes to outline: we are concerned with law's construction of subjectivity, a structural function underlying both secular and divine forms of law.
- Evgenia Kermeli *Legal Pluralism in the Ottoman Empire: 17th-18th Centuries:* The aim of this paper is to discuss the legal methods and tricks used by ottoman subjects in their pursuit of justice. Both Muslim and Christian court records will be utilized in an effort to depict the level of legal freedom enjoyed by Ottomans and the network of legal advice used during the litigation process. It seems that, contrary to common knowledge, the administration of justice in the Ottoman Empire allowed their subjects to apply to a variety of courts and pursue different litigation strategies according to the needs of their individual cases. This legal pluralism applied to both Muslims and Christians alike provided that the litigants observed the prescriptions of the legal system of their choice.
- Amr Shalakany *Challenging Dominant Islamic Historiography: The Example of Sodomy:* This paper argues that dominant Islamic law historiography is "scriptural" in the sense identified by Geertz in his 1968 book, *Islam Observed*. By looking at Ottoman sodomy law as an example, I argue that relying on alternative primary materials, namely Ottoman court records and codes of law, radically questions the definition of Islamic law, its sodomy norms, and the governance of sexuality in the Ottoman Empire before the colonial encounter.

4.6 Speaking Subjects and Legal Procedures

- Orna Alyagon Darr *Confessions as Evidence in Witch Trials in Early Modern England:* The problem of suspects confessing to crimes they did not commit has a long history. The requirement of confessions to be voluntary is one of the main rules of criminal evidence. Contrary to recent scholarship which traces the formation of the confession rule to the eighteenth century I found that in the context of the early modern English witch-trials there was great awareness of the dangers lurking in reliance on confession evidence, as early as 1584. Witchcraft suspects confessed to having committed extraordinary acts. The different participants in the witchcraft debate stressed that confessions should be 'voluntary' and 'free', and discussed at length the meaning of these expressions. All authors were cautious, and none wished to rely solely on confessions, yet they differed in their overall position. The physicians, sounding the most radical voice, entirely rejected confession evidence in witchcraft cases. In contrast, both divines and lawyers found it a valid and legitimate proof, as long as it was supported by corroborating evidence. The debate about confession evidence reveals affinity between evidential dispositions and professional affiliation.

William Griffith

The Meaning of Denial of Habeas Corpus: This is an examination of what it means to a detainee to be disallowed an opportunity to challenge the grounds on which he is being denied his liberty. Currently a rather large number of persons are confined by the U.S. without being formally charged or having an opportunity to test the authority by which they are held. Much of the argument over this is pragmatic -- why it is infeasible to extend the writ to so many swept up, under confused conditions that make review impractical-- or purely constitutional -- whether this counts as a permissible "suspension". I want to look at the meaning conveyed to a prisoner when the U.S. says it is unwilling to hear his side of the story from the prisoner, or look for possible error or mistake, or misuse of authority, despite a situation which invites multiple errors. Is it possible to say that one will not allow a detainee to speak and still maintain one is treating him as a human being and not as a thing?

Diana Tietjens
Meyers

Victims' Narratives and Human Rights Norms: Overcoming Empathic Deficiencies: Because empathy with victimized others is elusive, it would be shortsighted to rest an analysis of the role of victims' stories in generating enforceable rights norms exclusively on an account pairing the affective pull with the compassionate reception of personal narratives. I theorize how personal narratives can make contact with and reconfigure the narrative structures undergirding human rights discourses. Some autobiographical narratives recount experience in a manner that lays claim to the uniqueness of the storyteller's experience and the unduplicatability of the storyteller's point of view. However, personal narratives often depict intersections between individuality and commonality. They represent the person's corporeal existence as a vulnerable human organism and the person's social existence as an enculturated member of a community along with distinctive features of the person's experience. Depending on how a victim's story is told, then, it may mediate between the abstractions of the universal human and the idiosyncratic tropes of individuality. In this way, personal narratives provide a discursive conduit between general legal norms and ineluctably individual human suffering and engage debates as to what counts as a violation of a recognized right as well as debates over what rights ought to be recognized.

4.7 Reading "Blackness"

Jeannine DeLombard

Be Upright and Circumspect in Your Conduct: The Address of Abraham Johnstone to the People of Color: The 1796 abolitionist broadside "To The Free Africans and Other Free People of Color," lists nine "articles of Advice" to regulate the conduct of the growing free black populations in Pennsylvania, New York, and New Jersey. Published the following year, the defiant Address of Abraham Johnstone, A Black Man Who Was Hanged at Woodbury, signifies on both such benevolent regulation and the criminal confession genre itself. The condemned ex-slave's seemingly wholesome admonitions "To the People of Colour" repeat the moral precepts mouthed by legal and religious authorities - and now by white reformers - with the signal difference of highlighting the uniquely embattled position of free African American communities in an increasingly racist North. Responding to white abolitionists' mounting print efforts to police free blacks, Johnstone's Address exploits generic tensions within the gallows genre to challenge the pervasive tendency to misread black civic presence.

Jason Gillmer

The Murder of Isaac Baughman: Race and Violence in Reconstruction Texas:

This paper examines in detail the murder of Isaac N. Baughman, a sheriff of Wharton County, Texas, who was lynched in 1876. The story highlights a period of intense racial conflict and tremendous upheaval in a place that, like many others, was struggling to come to terms with a new social order. Sheriff Baughman was appointed in 1869 under the Davis administration, a Republican governor who sought to incorporate the some 200,000 newly freed slaves into the constitutional community. In Wharton County, where blacks outnumbered whites four to one, Baughman was part of this effort. His actions, moreover, led to numerous accusations by the local white elite of criminal conduct, many of which centered on his associations with blacks and people of color, including a light-skinned woman with whom he allegedly lived. The story is important not just because of the rich details it has to offer; but also because it provides a voice to ordinary men and women-whites and blacks-during a turbulent time in our history.

Anoop Mirpuri

The Human Problem: Politics as Warfare in the Age of Formal Legal Equality: In 1964 Malcolm X argued that "the Afro-American problem is not a Negro problem, or an American problem, but a human problem." While many have understood this as an appeal to an international conception of human rights at the moment when a domestic agenda of civil rights was revealing its limits, I want to question whether this reading is a useful way of thinking about the contemporary crisis of rights. Indeed, Malcolm's analysis of the limits of integrationist discourse shows he was keenly aware of the difficulties with appealing to a universalist notion of the human to protect those that have historically been denied this status. This paper places Malcolm's notion of the "human problem" in conversation with Michel Foucault's understanding of "politics as permanent war" in order to advance the question of whether the appeal to the notion of the "human" or to "rights" continues to be a strategically viable in addressing the realities of racisms today.

Eden Osucha

Un-Dead Metaphors: Racial Analogizing for a "Post-Racial" Legal Imaginary: A prominent and influential argument within cultural studies of the law is that "like race" thinking dominates identity-based legal claims in contemporary American jurisprudence. This argument holds that, within the various movements for gay and lesbian, disabled, and women's rights, legal activists' habitual recourse to the African American Civil Rights movement as an historical precedent and a seemingly unassailable signifier of political legitimacy ties these diverse political projects to identity-based strategies that can contradict and even undermine these groups' stated aims.

This paper explores an under-examined implication that the critique of "like race" thinking in legal culture poses for scholarship at the juncture of law and media studies: that is, how the centrality of "race" for this analogical apparatus relates to increasing evacuation of "race" in American public culture as a sign of certain political specificities, where it is instead reproduced as a metaphor for "political specificity" as a concept. In other words, in a national political culture in which so many identity claims are understood to be "like" race, the political assumptions that ground such analogizing no longer obtain for how the politics of "race" itself are directly understood.

4.8

Film as a Legal Text

Fiona Barnett

Gender, Genre, and the Ga(y)ze in the Evidence of Aileen Wuornos and Brandon Teena: Filming a defendant or victim in court produces certain visual and legal

effects. When those testimonies become not just evidence for the diegetic narrative, but as pre-emptive eulogies from their own deaths, the gaze and the evidence used in front of the camera act as both a form of witnessing and a form of pedagogical possibility. In both 'Monster' (dir. Patty Jenkins, 2003) and 'Boys Don't Cry' (dir. Kimberley Pierce, 1999), gender and genre hinge on a particular use of the gaze and evidence. This evidence - in these narratives and in the texts outside of the Hollywood productions (documentaries, websites, theatre productions, mass market paperbacks) - recirculates to the gaze of Aileen Wuornos and Brandon Teena, identifying both as the posthumous source and the subject of the evidence at hand. By calling into question the genre of serial killing and the genre of gender, these films both require and then reframe the time of not-yet-dead. Both Wuornos and Teena are closely aligned with an anticipatory gaze of a necropolitics that accounts for transgenderism, reconfiguring generic genders and the evidence of possibility. This paper seeks to narrate these positions of the undead, and to distinguish between positions that reframe the binary between life and death by accounting for seriality, expectations, reversals and refusals.

Sharon Cowan

"We Walk Among You": Trans-identity Politics in the Movies: The film *Cabaret* (1972) portrays sex/gender and sexuality as malleable, demonstrating permeable boundaries between sexes/genders through performance. Similarly, in *Hedwig and the Angry Inch* (2001), after a long struggle to try to resolve the question of sexual identity (following failed sex/gender reassignment), Hedwig accepts life as neither/both male/female. In contrast, in *Trans America* (2005), Bree is struggling to pass as a heterosexual woman, and aiming for a distinctly female identity rather than a liminal life on the frontier between genders. These films are not representative of linear chronological developments in trans film making. However, an analysis of the portrayal of trans issues in these films highlights two discernible approaches to trans identity claims, operating in contemporary gender politics, particularly in the area of legal rights. An analysis of cinematic representations of sex/gender offers a lens through which to analyze recent trans rights-based claims for legal and social rights.

David Denny

The Sovereign's Decision as Fantasy in Lars Von Trier's "Manderlay": This paper offers a reading of how Giorgio Agamben's notion of the sovereign ban operates in Lars Von Trier's "Manderlay." I am interested in two crucial aspects of the film that betrays Grace's positionality as the one who assumes the role of the sovereign: the first being her disgust over Mam's laws and the second being the way she whips Timothy at the end of the film. What this betrayal signifies is how her role as the sovereign is structured by and dependent on the sovereign ban. In other words, the freedom she gives to the African American community of Manderlay is utterly contingent on an authority that includes them by excluding them. Grace's desire to make the world better underscores the blindspot at the very heart of liberal democratic regimes: namely, the way that the sovereign ban in liberal societies subject all bare life to liberal principles that in fact disavows the ban itself. To put this in the context of the film, the black community is called to be empowered by a democratic law that actually bans them from anything truly sovereign. So, at the end of the film, when the black community exercises their own sovereignty by authorizing Grace to be their new master the sovereign ban is exposed for what it truly is: an original relation of belonging together that marks the political. Furthermore, I will consider how Agamben's notion of the sovereign ban can be broadened when placed alongside Slavoj Žižek's writing on fantasy and surplus jouissance. I am

particularly interested in how the 'sovereign decision' as fantasy becomes saturated with jouissance - which is clearly demonstrated by Grace's relation to Timothy.

4.9 Constructing the Human

- Maneesha Deckha *Law and Defining the Human: Species and Commodification Anxiety in the Assisted Human Reproduction Act: Western culture has defined humanity largely through opposition to animality. This desire for a strict demarcation stems from the sensibility that the human is unique and a superior being. Anxiety is caused when boundary lines are transgressed and has actually produced the redrawing of the boundary between humans and animals many times over, causing it to entrench and blur to serve elite human interests. The Assisted Human Reproduction Act is a current example of this continued and contested project of defining the human by what it is not - a "mere" thing or animals. The Act, which has a proclaimed focus on new reproductive technologies in humans, actually says much about animality through the commodification and species anxieties it harbours. Recognizing the contribution it makes to long-standing modernist discourses about species difference, with all their racialized, gender, and sexual implications, is important for human and animal advocates to understand.*
- Marie Fox *Framing the Human: Regulatory Responses to the Creation of Human-Animal Hybrid Embryos: This paper traces regulatory responses to applications received by the UK's Human Fertilisation and Embryology Authority (HFEA) in 2006 to create 'cytoplasmic hybrid embryos' for use in stem cell research. The HFEA's consideration of these applications has coincided with an extensive review of the regulatory framework established by the Human Fertilization and Embryology Act 1990, over the course of which I trace a radical shift in the Government's position on the creation of hybrid embryos. Examining the deliberations of the HFEA and Government consultations prompted by the review of the 1990 Act, along with legislative approaches taken elsewhere, this paper seeks to: 1) account for the anxiety generated by hybrid embryos; 2) posit reasons for feminist scholars to feel wary about the potential harms to which the creation of hybrid embryos may give rise; and 3) explore the transgressive potential of such technologies to reshape of intra species relationships.*
- Kimberly Leighton *Unnatural Law: Reproductive Technology and the Need for Origins: Leon Kass, in his infamous essay "The Wisdom of Repugnance," argues that cloning would undermine the sanctity of reproduction through its denigration of the profundity of coitus. Most threatening for Kass is cloning's purported ability to destabilize underlying truths that ground our moral judgments since "biological truths about our origins foretell deep truths about our identity and about our human condition altogether." If epistemic access to these "deep truths" is the source of our moral epistemologies, forgoing that access would risk destroying the very foundations of normativity. This revival of natural law pervades discussions of reproductive technology: some employ it to ground arguments against gamete donation; others use it to evaluate the permissibility of 'genetic enhancement.' This paper examines how discussions of reproductive technology currently employ natural law arguments, what kind of human telos they assume and promote, and how, in such discussions, knowledge of origins is imagined as having moral status.*

5.1 Contestations in Indigeneity, Race, Culture and Property

- Carmela Murdocca *When Water Kills: Race, Resources, Violence*: There is a persistent congruence between liberal strategies of governance which emphasize a doctrine of degeneracy and respectability in the promotion of health, disease and self-regulation and a racial logic which underpins their reconsolidation over time. Government largely continues to focus on the imputed failure of self-regulation on the part of Aboriginal peoples through an official understanding that the legacy of colonialism has resulted in a range of "social disorders" endemic to Aboriginal communities. An analysis of a water crisis in Ontario, Canada serves to highlight these connections and has brought the issue of contaminated water in Aboriginal communities to national and international attention. People in Kaseshewan, a small northern community, have been drinking, bathing and using water that is unfit for consumption. As a result, people and children have been living with diarrhea, fevers, various skin diseases and sores. The crisis hit a pinnacle in October of 2005 when half of the residents of the Kasheshewan reserve were airlifted out of their homes and moved to nearby areas for medical treatment. The relationship between clean water and Aboriginal communities in northern Ontario and elsewhere has been shaped through a series of legally mandated displacements and evictions beginning with the removal of Aboriginal peoples from certain geographical areas. The objective of this paper is to trace the various displacements, political and legal mandates which have produced the current water crisis in northern Ontario. This paper considers the following questions: As resources gain environmental purchase in the interests of shoring up the nation, how do we account for the fact that death and disease prevail? How does the law sustain such structural violence? How do white citizens benefit from the removal and obliteration of Aboriginal peoples? What is the productive function of cultural difference paradigms in sustaining these projects? How are national stories interwoven with strategies of repair and compensation?
- Angela Riley *Indigenous Peoples' Claims to Traditional Knowledge Through a Human Rights Lens*: The past few decades have produced massive changes for most of the world's populations, including indigenous peoples. The convergence of a new age of globalization, vast technological innovations and the internationalization of intellectual property regimes means that the global economic landscape is in flux. These changes are having profound effects on indigenous groups, who are more visible today than ever before in human history. Ironically, increasing recognition of and concern for indigenous peoples does not always yield positive results. On the one hand, growing global awareness of indigenous cultures has created a network of sympathizers who seek to preserve a way of life that they feel is worthwhile and under serious threat. At the same time, however, it also has fueled romantic curiosity about indigenous groups that has led to fetishism and encroachment, threatening indigenous existence. In this global community, of particular concern is the protection of indigenous peoples' traditional knowledge (TK), which includes ancient medicines, farming techniques, literature, music, ceremonies, folklore and art. It is now widely accepted that existing intellectual property regimes, born in the West, fail to protect the TK of indigenous groups. TK protection is vital, not only for the continued survival of indigenous groups, but also because its preservation benefits the entire global community.

In this paper, I explore the growing international movement - led by indigenous groups, legal scholars and human rights activists - toward securing protection for indigenous peoples' TK. In doing so, I place particular focus on key international instruments that are being developed or utilized to further the interests of indigenous groups in relation to TK protection, including the recently adopted UN Declaration on the Rights of Indigenous Peoples. I further examine the emerging international dialogue which attempts to connect the intellectual property rights of indigenous peoples with their broader claims for human rights.

Rose Villazor

Indigenous Land Alienation Laws in American Samoa, Fiji and New Caledonia: Protecting Culture and Exercising the Right of Self-Determination: The right to self-determination has become a fundamental principle of international law. Yet many view the right to self-determination directly in tension with individual rights. The conflict between the right to self-determination and equal protection is illustrated well in the context of indigenous peoples' property rights. For indigenous peoples, the right to self-determination encompass, among other things, the right to own, develop, control and use the lands in their territories and, where relevant, according to their customary laws and traditions. Many States and groups, however, regard any laws and policies that give preferential property laws to indigenous peoples inconsistent with equal protection norms.

This paper examines the tensions between the right to self-determination and the right to equal protection in the context of the struggle of indigenous peoples' to gain or ensure autonomy over their lands. In particular, the paper compares and analyzes land alienation laws in the U.S., France and Fiji that limit ownership of land to indigenous persons. It compares the legal, cultural and political tensions that gave rise to these land alienation laws and examines the role that such laws have played in the exercise of self-determination in these nation states.

5.4 Making (Up) Subjects in Law, Literature and Culture

Nan Goodman

"For Their and Our Security": Jurisdictional Identity and the Praying Indians of Deer Island: This paper discusses the connections between the law of jurisdiction and the making up of Christian Indian subjects in late seventeenth-century New England. It focuses on the confinement of nearly 500 Christian or praying Indians to Deer Island in the Boston harbor at the height of King Philip's War and reads that confinement--as well as the laws that put it into place--as making a newly Christianized person of the Indian convert. Specifically, it argues that in effecting the Indians' confinement, Puritan law-makers were forced to alter their view of them from one dictated by the subject status inherent in the law of territorial jurisdiction--in which subjects were seen solely in terms of where they lived--to one dictated by that of personal jurisdiction-in which subjects were acknowledged according to their self-valuation. The newly Christianized Indian subject that emerged from the Deer Island internment was the figure of the "poor Indian," the long suffering Indian that became a staple of Christian Indian identity for centuries.

Naomi Mezey

Immaculate Feminism: Making Up the Modern Maternal Subject: In this paper we explore the political and cultural implications of public advocacy by mothers and the way such advocacy constructs a modern maternal subject. Our critique

of the on-line advocacy group Moms Rising seeks to place it in the context of recent debates over feminism. Moms Rising is based on the assumptions of equality feminism (women do and should work outside the home but they don't and should have pay equity with men), it plays to the clichés of cultural feminism (they invoke the complex emotional appeal of mother love and maternal care), and it unintentionally embraces radical feminism's exclusion of men. And yet, Moms Rising assiduously avoids any mention of feminism. The rhetoric and images of the maternal performance of Moms Rising appeals to a retro, nostalgic image of mothers, an image that harkens to a time in which many of the issues they champion didn't exist because mothers mainly did not work outside the home, but it is an appeal targeted to young, ironized and "post-feminist" women, many of whom are themselves unironically nostalgic for that "simpler time." Moms Rising steadfastly avoids the "feminist" suggestion that men should be doing more to care for children. But distancing men from their desire and responsibility to parent their children directly frustrates the aims of fuller equality between women and men and helps create the exact political problems that inspire the work of Moms Rising. This paper explores the ironies of Mom's Rising's maternal performance as a way to interrogate one construction of the modern maternal subject and the many conflicted desires that it contains.

Hilary Schor

Who's the Stranger?: Bastards, Women, Jews, and Authors in Daniel Deronda: George Eliot, as we all know, was a fictional person—the literary identity of Marion Evans, the Victorian novelist who lived out of wedlock with George Henry Lewes and wrote novels of such painful moral clarity they continue to chide, and annoy, modern readers. But "George Eliot" was also a trenchant critic of the fictionality of legal identity, and in her later novels came to examine more sharply than any political theorist of the time how the law creates, identifies, and names a variety of subjects. In her final novel, *Daniel Deronda*, Eliot turns to the legal personhood of three "subject" groups, Jews, women, and bastards, tracing the unexpected connections between the different emancipatory movements of 19th century British parliamentary debates. But she also turns her critical attention to the idea of fictional identity, and what we do when we think we know (and particularly, when we "love") fictional characters.

William MacNeil

"No sacrifice is too great for the Cause!": Cause(less) Lawyering and the Legal Trials and Tribulations of Gone with the Wind." No sacrifice is too great for the Cause!—so says *Gone With the Wind's* fulcrum of moral authority, Dr. Meade, about that quintessential "status" cause, the Confederacy and its "peculiar" laws: the right to secede and to own another. Now one can very well query how "legal"—let alone "just"—the Cause of the Old South was: a slave society predicated upon repression rather than *recht*. No wonder that very few lawyers pop up in *GWTW*, rallying to its Cause. Ironic then is *GWTW's* current status as one of the most legally regulated, even policed of texts, the lawyers for the Mitchell estate exercising a kind of "hanging judge" or "lynch mob" ruthlessness against what is this paper's focus: their legal campaign against Alice Randall's recent parody, *The Wind Done Gone*--a renarration of *GWTW* from the point of view of the African-Americans in Mitchell's novel. I want to examine this court proceeding, and, indeed, the (legal) trials and tribulations of *GWTW* writ large, on celluloid and the printed page, in reverential sequel (Alexandra Ripley's *Scarlett*) and satirical send-up (Randall's *TWDG*) from the point-of-view of the

Mitchell estate's solicitors as causeless "cause lawyers" (fighting for truth and justice?), setting their actions against the backdrop of America's on-going "War between the States" (over, *eg*, public display of the emblems of the Confederacy). For it is the contention of this paper that the causeless "cause lawyers" protecting Margaret Mitchell's myth of Dixie have done precisely what even a skilled parodist like Randall could not carry off: they've killed the very emblem of their "Cause", none other than Scarlett O'Hara herself.

5.6 Willing the Juridical

- Elisabeth Anker *Individualism and the Legalization of Post-9/11 Violence:* This paper addresses a post-9/11 political phenomenon in which a majority of the American citizenry sanctioned the legalization of expansive and violent forms of state power, forms that had no clear target and expanded at the expense of the freedoms and civic participation of those who authorized it. I argue that this endorsement was actually sparked by a desire to resist expansive forms of state power. This paper suggests that the norms of liberal individualism, which value individual autonomy and resistance to state power, paradoxically helped to nurture a post-9/11 political subjectivity that supported dramatic increases in state power. Interweaving Nietzsche's theory of the moral psychology of victims and Foucault's reworking of subjectivity, this paper explores how a desire to resist expansive forms of state power metamorphoses into its opposite and comes to idealize the very power subjects endeavor to oppose.
- Sara Kendall *Violence and the Comfort of The Juridical:* This paper begins from the moment of popular political reflection prompted by the violence of private security forces in Iraq. This violence was framed as a problem of lawlessness, with armed forces operating outside the jurisdiction of any recognizable legal authority. This paper interrogates the characterization of these forces as anomic actors, and looks to the way in which law also sanctions their "lawless" presence.
- Zhivka Valiavicharska This paper will revisit Lenin's "State and Revolution" to reexamine the socialists' notion of freedom. A close analysis of some writings by Lenin and Pashukanis will probe into the question how the socialist subject and h/er experience of freedom were imagined to be fundamentally linked to a notion of a social totality, in which the juridical functions of the state are gradually normalized within the subjects' social activity. While acknowledging the totalizing vision of these arguments, the paper will also attempt to recover a notion of freedom that is fundamentally relational: it embraces the subject's radical dependency upon, and answerability to, the other.

5.7 Identifying the Self and the Social

- William Rose *Legal Modernism and the Politics of Expertise: Law's Discovery of the Social:* I explore the relationship between legal theory and legal practice. I focus on the response of late 19th and early 20th century American jurisprudence to a perceived crisis in American legal doctrine, a crisis that threatened to undermine the legitimacy and authority of the American legal profession. Uncertainty and complexity in the law produced an emerging sense of chaos and fragmentation. The jurisprudential 'responses' (formalism and realism) can be read as responses to a crisis of legal modernism - the problem of uncertainty

and complexity in the law. I offer an interpretation that views both approaches as providing alternative discourses of professional authority, emerging not so much as reactions to one another, but to the perceived problems of expertise entailed by the historical transformations manifest in this crisis. I explore dimensions of modernist legal thought that serve as the foundation for a new juridical discourse of professional authority - one which produces, and then seeks to manage, legal uncertainty.

Anna Krakus

I Hereby Find You Guilty of Cheating: How television judges give personal problems legal dimensions: This paper starts off with some questions concerning legal consciousness. By asking why some people frame their problems and conflicts legally and what they expect or desire to get from the law I address the theory of the courts as alternative to violence and how the court room may become a place for getting even rather than getting justice, as argued by Sally E. Merry. After establishing that the courtroom may be an arena for power struggle and violence I turn to television judges such as Judge Judy and Judge Greg Mathis to explore what role television courts play for people's everyday understanding of the law. I pay attention to how the court's extreme publicness and the desires of producers in these very special settings may intensify the violent aspect of the court. Television courts have become part of some people's experience and understanding of the law, but they draw an image of the law quite different from a regular urban small claims court, leaving the floor open to personal grievances that seem to lack a legal dimension up until the judgment. On the one hand TV courts thus offer unrealistic expectations on what to expect from a court, but on the other hand they do provide solutions for those who simply want the court to legitimize their personal problems. These courtrooms become places that spread ideas about the law and thus act as mechanisms for socialization into legal consciousness. At the same time television courts become a place for the self to bring personal desire for confirmation and receive it as their focus is purely personal

Steven L. Winter

Sexuality and Self-Governance: The conceptual vocabulary of democracy depends on concepts of self, agency, and autonomy that many find no longer tenable. What would it mean to rethink democracy, autonomy, and self-governance from a perspective that takes the subject as truly social? By considering the relationship between Kantian autonomy (understood as being governed only by those rules one gives oneself) and liberal autonomy (understood as freedom of decision and action in certain critical spheres of personal and public life) in a context where they appear maximally distinct, we will uncover a perhaps hidden connection between sexual autonomy and political self-governance. This will lead, in turn, both to a reconceptualized notion of "autonomy" as a situated capacity and to an appreciation of the critical role of contemporary social practices with respect to sexuality as a formative ground of political self-governance.

5.8 What Can the Humanities Offer to Law?

Julen Etxabe

Resisting the Empire of Force: The premise of James Boyd White's latest book (*Living Speech: Resisting the Empire of Force*) is quite simple: in our contemporary world there are strong rhetorical forces which constantly work to trivialize our language and experience. These forces are at work whenever we deny the dignity and humanity of those of whom we speak or address, and can

be perceived in much of our cultural, political, and legal discourse and action. The lingering question appears thus natural enough: "How to resist the empire of force?"

I conceive this talk as an opportunity to explore some of the ways White suggests we can develop such ability; to offer some commentary on its political implications; and to invite a reflection on what the law-and-humanities enterprise has still to offer to the study and reflection of law.

Sieglinde Pommer

Comparative Law and the Challenge of Language: Comparatists have a long tradition of preoccupying themselves with issues of language. Comparative law shares with language the pitfalls of miscommunication and misunderstanding. The remarkable recent shift towards legal multilingualism illustrates the close links between theories of language and law. This contribution studies language as a cognitive model for comparative law aiming at combining comparative legal insights with legal theory and language philosophy to produce an institutional structure of legal knowledge that uses elements modeling facts and patterns expressing legal cultural mentalité. Exploring the complex interaction of language and law from legal theoretical and language philosophical perspectives, this presentation investigates the crucial role of language for law and the important consequences for comparative law, addressing the influences of the "Law and Literature" and "Law as Culture" movements as well as ideas from Legal Hermeneutics.

Kyle Scott

The Platonic Critique of Codification: Jeremy Bentham's philosophy of law had great influence in America as he served as the intellectual predecessor to America's codification movement. Criticism of codification has dwindled to almost nothing in the past seventy years. When a country reforms, or create anew, its laws or constitution it does so through codification. This paper suggests that criticism of codification, and legal positivism in general, can be found in a rather unlikely source: Plato. Mainstream legal philosophy does not treat Plato seriously on this point. This paper will turn to Plato for a definition of law and its proper form. In this paper, I show how Plato's definition of law and its proper form serves as a critique of legal positivism and codification showing that they are incapable of justice. This discussion has implications for modern notions of constitutionalism and lawmaking.

Joseph Slaughter

Humanitarian Reading: Richard Rorty and Martha Nussbaum have proposed models of sentimental reading that ask us to enter into relations of "imaginative identification" with others suffering, and they valorize narrative as the premier technology for cultivating this humanitarian faculty. "Humanitarian Reading" extracts a different, perhaps morally less ambitious, model of imaginative identification from J. Henry Dunant's *Un souvenir de Solferino* (1862), which is probably the most objectively successful humanitarian interventionist narrative, prompting both the founding of the International Committee of the Red Cross (1863) and the first Geneva Convention for the treatment of wounded soldiers (1864). The humanitarian scenario in Dunant's narrative exemplifies a banal model of imaginative identification that is quite common, if overlooked, in stories of suffering and that is at the foundation of international humanitarian law. It does not ask readers to try to bridge the imaginative gap between "rich, safe, powerful people" and poor, insecure, miserable sufferers; rather, it invites readers to empathize with the humanitarian, to imagine themselves as the kind of people who would not deny aid and comfort to the suffering.

5.9 Reading the Body

- Elisabetta Bertolino *Vulnerable and Singular Bodies Versus Female Genital Cutting*: Vulnerable and singular bodies versus female genital cutting Paper Abstract: The practice of female genital cutting signifies a way of thinking the body that is metaphysical and essentialised. The female body appears a body conceptualised as proper, truth, propiation, appropriation and possession. However, such logic is constructed and fictitious and can be opened up, unfolded and disentangled. The paper argues that the eradication of the practice requires a conceptualisation of the body as singular, material, vulnerable and relational. The body as unique, material and vulnerable would make possible the disruption of the general and abstract body on which the logic of truth and appropriation is grounded.
- Ummni Khan *Boys on the Bottom: Managing the Threat to Masculinity Posed by Female Dominants in Law Film*: In this presentation, I analyze the cinematic and legal gaze on female-dominant/male submissive erotic dynamics. I argue that this dynamic creates a social anxiety and must be managed by discursively reviving masculine control within the narrative. By deconstructing films like, *Preaching to the Perverted*, *Exit to Eden*, *Basic Instinct*, and *Body of Evidence*, I demonstrate that the story must involve a moment of submission by the female dominant, where she abdicates control to a male figure. If she refuses to do this, she is ultimately destroyed in the tradition of classic femme fatale narratives. I then compare such representations to cases like *R v. Bedford*, where police officers unnecessarily strip-searched female dominatrixes in the course of a bawdy-house investigation. In such cases, I argue the law seeks to discipline women who transgress not just a prostitution-related law, but also a gender norm by assuming a dominant position.
- James McGrath *"Are You a Boy or a Girl?"*: The legal rights of people who are intersexual (neither male nor female under existing accepted definitions of sex) are often clouded by the ambiguity of laws that treat sex as a binary. Analyses made on the rights of intersexuals have historically first determined to which sex the person belongs, categories that are not truly binary. My article explores the effect of reducing multivariate issues concerning human characteristics and behavior to dichotomous variables, and the negative effects this has on disadvantaged populations in general, and the intersexed in specific.

5.10 Family, Culture, Citizenship, and the Law in Modern America

- Serena Mayeri *"A Life Experience of Equality with Men to Protect"*: Reframing Family Structure, Equal Employment Opportunity, and Racial Progress in the Post-Moynihan Era: In the mid- to late 1960s, the dominant view of the relationship between family structure and racial progress was the Moynihan Report-inspired notion that to rescue "the Negro family" from poverty and disorder required the restoration of African American men to their proper place as heads of households. Equal employment opportunity policy, focused on affirmative action for black males, reflected the goal of black conformity to a white middle-class male breadwinner/female homemaker ideal. My paper explores the efforts of feminists, particularly African American women lawyers, to reframe the connection between gender relations and racial equality to encompass egalitarian family structures and equal employment opportunity for women,

and to project an equal partnership model of marriage as an ideal to which white Americans could aspire.

Melissa Murray

The Space Between: The Intersection of Criminal Law and Family Law in State v. Koso: Using *State v. Koso*, a 2005 Nebraska statutory rape case, as a point of entry, this Paper maps the intersection of criminal law and family law in the regulation of intimacy and private family life. In the Paper, I argue that *Koso* implicates the normative values of both family law and criminal law, and in so doing resists easy categorization as either a criminal law case or a family law case.

Instead, attempting to categorize the case within either doctrine leads to deeply unsatisfying results, distorting and disrupting the normative goals and commitments of both doctrines. The Paper examines how these doctrinal commitments are subverted through their exposure to the other doctrine, and then concludes by calling for more sustained inquiry into the interstitial space between family law and criminal law. In considering the intersection of family law and criminal law in the legal regulation of intimate life and the family, the Paper also implicates questions of citizenship. Our understanding of citizenship is dependent on the family as a source of civic values and as a place where future citizens are nurtured and developed. Similarly, one's status as a citizen may hinge on observance of the criminal law; and indeed, criminal punishment may shape one's citizenship status indefinitely. These questions of public and private citizenship, however, become infinitely more complicated where family law and criminal law operate in tandem to regulate one's intimate behavior and relationship with the state.

Accordingly, in exploring the overlapping terrain of criminal law and family law, the Paper also attempts to consider how the intersection of these two doctrines informs the relationship between individuals and the state.

Sarah Song

Dilemmas of Citizenship, Gender, and Culture: Revisiting the Case of the Santa Clara Pueblo: This paper revisits the much-discussed case of the gendered membership rules of the Santa Clara Pueblo to explore a problem that has not received much attention in academic discussion of this case. Arguments in favor of deferring to tribal sovereignty, including arguments made in federal court decisions and by academic defenders of multiculturalism and group rights, have failed to recognize the role of the state in shaping Native American cultures, sometimes in patriarchal ways. Up until the 1930s, when the federal government approved the Pueblo Tribal Council's amendment to its membership rules excluding the children of out-marrying women, American women's citizenship status depended on their husbands'. See in this broader historical context, the Pueblo's membership traditions were not foreign but remarkably similar to the dominant culture's own gendered traditions of membership. Such intercultural congruence complicates the demand for sovereignty based on respect for cultural differences since indigenous traditions are a hybrid product of intercultural interactions.

5.11

Law's Labour's Lost? The Racial Limits of the Human Rights Programme

Mark Harris

Lost to Law? Indigenous Australians Between the International and The Domestic: During the past decades, like other former settler colonies, Australia has ratified numerous international human rights instruments and given effect

to their domestic implementation through the passage of enabling legislation. Despite this there have been numerous occasions where the protection afforded to Indigenous Australians under the Racial Discrimination Act 1975 (Cth) - which gives effect to the provisions of CERD (Convention on the Elimination of Racial Discrimination) - has been specifically removed in legislation. The protection afforded by these human rights instruments therefore becomes a matter of political expediency, as distinct from an inviolable right. Most recently, Australia's refusal to sign the UN Declaration on the Rights of Indigenous Peoples further consolidates this political practice. In this paper, I discuss how, as Peter Fitzpatrick indicates in the *Mythology of Modern Law*, the figure of "native" – the one which is the condition of possibility for law's double being – continues to delimit the proper legal domain. My examination of various instances in which political decisions render unavailable to Indigenous Australians the protections and remedies provided by human rights instruments. In short, this paper suggests how considerations of the political constitutes the a crucial challenge facing postcolonial legal scholarship

Julietta Hua

Trafficking Women's Human Rights: Since the turn of the 21st century there has been a growing body of literature in the United States that looks at the global trafficking of humans, particularly for the sex trade, in part spurred by the passage of the 2000 Trafficking Victims Protection Act (TVPA). Looking at how mainstream and governmental texts frame and imagine the victims of sex trafficking offers a way to address a fundamental problem to current U.S. policies in place to aid victims. Considering the TVPA as part of the broader set of laws dealing with sexual violence, this paper examines the necessity of speaking about sex trafficking through the victim-agency paradigm – in which Third World women consistently figures at "victims." I read the legislation as part of the sexual violence legal tradition that, as legal scholars Mary Lou Fellows and Beverly Balos and others note operates on a logic distinguishing worthy/respectable "victims" from unworthy others. Not only does this paradigm constrict who can be legible as trafficked subjects, as Wendy Chapkis notes, but it provides an occasion to understand the racial, gendered and national implications to anti-trafficking discourse. The paper first establishes how the conditions of subjectivity circumscribing the trafficked "victim" reproduce troubling assumptions of First World/U.S. progressivism against Third and Second World backwardness and second argues that the victim-agency defining U.S. trafficking discourse reveals the continued investment in what Peter Fitzpatrick notes as the myth of modern law.

Sherene Razack

Memorializing Power on Racialized Bodies: Land and Police Brutality: Power must be inscribed on the bodies of the colonized, a "memorializing" as Mbembe puts it that is in evidence at moments of contact. Explaining what he terms Agraphism@ as a principal colonial technology under apartheid, Mbembe describes this process for Black miners as "tracing marks on the body and on the territory". In this paper, I would like to apply these ideas to the context of police violence against Aboriginal peoples in Canada. In this paper, I examine the meaning of marks left on the body of Aboriginal men who died while in police custody or shortly thereafter and discuss how these marks are transformed in law into marks of self-mutilation. Connecting marks on the body to marks on territory, I suggest how the apparatus required to memorialize power on the bodies of the colonized must be seen as a necessary part of colonial dispossession. It shows how, when we take into account how power is

memorialized on racialized bodies in acts of violence by police, human rights instruments are of little use in recognizing such acts of injury. The violence is so embedded in the regular disciplining and surveillance of racialized bodies, that the law routinely forgives it, finding refuge in the explanation that the violence is necessary against populations who pose a threat to the order of society.

6.1 Just Intimacy

- Elizabeth Emens *Intimate Discrimination*: Our sexual exclusions might be understood as a form of discrimination that the law does not recognize. Unlike prospective employees, prospective lovers can't sue if you refuse them based on race or sex or disability or age. Beyond a mere lack of prohibitions, law sometimes requires sexual discrimination. This is most obvious with race (historically) and sexual orientation. Arguably more robust forms of sexual discrimination -- for law and society -- surround age and disability. In these domains, some individuals -- those under a certain age, and those deemed below a certain mental capacity -- are presumed not to be able to have sex at all. This paper is an effort to map our intimate exclusions, under law and norms, along five axes of identity -- disability, age, race, sex, sexual orientation -- that cease to be salient for antidiscrimination law when the domain shifts from the workplace to the bedroom.
- Dean Spade *Intimacy, Privacy, and State Fantasy*: The concept of privacy as protection of the intimate realm has long been problematized by feminists, anti-racists, and critical disability theorists who have recognized that state intrusion into the lives of low-income people, people of color, people with disabilities and women has been a given in American law, and the notion of privacy primarily a domain of those with access to certain goods and services. This paper traces the state's fantasy of an inviolable intimate realm through controversies currently taking place in transgender law and policy, especially those arising around transgender imprisonment. It will put into conversation problems such as whether sex-segregation of prisons prevents sexual assault against women, what types of information about anatomical status states should require of transgender people seeking recognition, and how conceptions of violence itself differ for those seeking to address violence against transgender people through hate crimes laws versus transgender prison abolitionists.
- Susan Schmeiser *Intimacy Problems*: How does the law imagine intimacy? Therapeutic discourse has elevated intimacy to increased prominence in discussions of how citizens should live, together and apart. Like privacy, with which it is frequently conflated, intimacy now informs debates over issues as diverse as domestic violence, sexual acts, parent-child bonds, social clubs, and illegal searches of the home and person. Yet legal constructions of intimacy situate it as both outside of law's reach and integral to law's social ordering. The peculiarly amphibious nature of this category derives from its etymological ambivalence: at once deeply personal to the individual self and thoroughly relational. Thus intimacy describes individual thoughts, feelings, body parts, information, and understanding, as well as mutual associations, attachments, practices, affective exchanges, and spaces that facilitate the proximity of bodies. This project

examines the life of intimacy as a fraught conceptual category around which law organizes rights, privileges, and doctrines of non-intervention.

6.2 **Ontology and Legal Theory**

- Larry Cata Backer *The Mechanics of Perfection: Philosophy, Theology and the Perfection of American Law*: Americans have been obsessed about the mechanics of perfectibility. Perfectibility is built into the constitutive documents of the American Republic. The expression of that perfection is Law, and Government provides the means. The mechanics of perfectibility lies in philosophy and theology. Through these mechanics Americans can discern the spirit of perfection-as God or as the genius of the American community made manifest. The essay considers these notions in the context of two cases, Swift v. Tyson (1842) and Erie Railroad Co. v. Tomkins (1938), which provide both the antipodes of American conceptions of the sources and hierarchy of law, and also suggest the mechanics of a mandatory perfectibility in American. But the judge is not the only intermediary between perfection and its expression in law. The essay suggests the way the political branches also seek the role of privileged (and monopolistically privileged) intermediaries between the people and perfection. The essay ends with a consideration of the value of the theology of faith and reason in the elaboration of American jurisprudence.
- Roshan de Silva
Wijeyeratne *On the (Im)possible Nature of Community and the Limit Point of Identity: Ontology Without Essence*: On the (Im)possible Nature of Community and the Limit Point of Identity: Ontology Without Essence Paper Abstract: At the heart of recent debates in Western societies about the nature and limit point of multiculturalism (itself a term that is synonymous with toleration and a certain economy of calculation), is an overarching question: namely, the question of the Universal, and how that question informs liberal democracy's politics of representation (the "General Will", the "nation", etc.). I will argue that "the social" - let alone the liberal democratic polity - can never be reduced to a single meaning. Instead, a deconstructive account of the social would assert the paradoxical (im)possibility of representation, evoking a vision of the socius that turns on particularities which refuse a self-constituting moment of presence. The figure of the other captures, and distils this dynamic conflict between presence and absence, identity and difference - of the Universal and the Relative. It is not so much that deconstruction heralds the destruction of ontology, but rather opens us to the finitude of Being that always reveals itself in its rigorously singular character and hence to the (im)possibility of community.
- Mark C. Modak-
Truran *Constructive Postmodern Relational Ontology: Moving Beyond Modern and Deconstructive Postmodern Legal Theory*: For modern legal theory, the "Death of God" symbolizes the rejection of a Divine ontological harmony or unity among the self, the other, and the world and a pre-modern religious legitimation of the law. Deconstructive postmodern legal theory, however, uncovers the modern ontology of the self-sufficient subject and discloses the circularity of the "will of the People" constituting both the subject creating the law and the object created by the law. Rather than avoiding ontological assumptions, I will argue that the postmodern "Death of the Subject" radicalizes the ontology of the modern subject. Deconstructive postmodern legal theory thus presupposes an ontology of radical subjectivism that celebrates the creative power of subjects but undermines the legitimation of law.

Alternatively, I will propose a constructive postmodern theory of law based on the relational ontology of process philosophy. This relational ontology not only recognizes a subject with substantial creative powers but also provides for a flexible and culturally sensitive legitimation of law.

6.3 The Cultural Lives of the Judiciary

Piyel Haldar *The Private Life of Indian Jones: Judges like Kings have split personalities. Their official functions divorced from their private obsessions reveal the same set of paradoxes that arise out of Kantorowicz's study of The King's Two Bodies. This paper highlights some of those paradoxes that arise from the life and late career of the eighteenth century judge, Sir William Jones. Jones's private zeal for Oriental cultures helped shore up common law ideals regarding the prestige of judicial office. It will be argued that a more nuanced appreciation of the divide between the zones of dignity and privacy allows us to appreciate the manner in which common law doctrine was developed and continues to develop.*

Ruth Herz *From the Bench to the Screen: A Judge on German Television: This presentation is about my experience as a judge playing my own role on a daily fictional television series. The program, which was planned as a true to life representation of a criminal youth court dealing with typical cases and youth questions revolved around the judge, whose role was largely unscripted. According to the German legal system the judge who interrogates the defendant and the witnesses, hands down the sentence and gives the reasons of her decision indeed plays the central role in the trial. The program achieved an air of authenticity blurring the line between reality and fiction. The images transported in the program such as the choice of cases, the roles and characters portrayed and the use of prejudices are analyzed as well as the behavior in court, which emphasizes emotions as well as the language and clothing and architecture of the set. Finally the possible effects of the program are discussed by placing it in the wider political context of Germany today.*

Leslie Moran *Judicial Portraits in the Age of Mechanical Reproduction: This essay offers a historical study of judicial portraiture based on a sample of images of 16 Chief Justices of the Supreme Court of New South Wales, Australia that span a period from 1824-2007. Beginning with an examination of the aesthetics common to the majority of these portraits the paper begins with a brief historical excursion into the history of this aesthetic tradition. Thereafter the focus shifts to focus upon a number of aesthetic and technological breaks. The paper explores the role of judicial portraits in the construction of the identity of institutions, of collective identities and the identities of those individuals, the sitters, portrayed.*

6.4 Imagining Justice/Imagining Integration

Charles Forster *The Black Nationalism of Malcolm X: A Human Rights Perspective: On April 3, 1964, Malcolm X delivered a speech entitled, "The Ballot or the Bullet," at the Cory Methodist Church in Cleveland, Ohio, criticizing the traditional civil rights struggle as being dominated by white self-interest. Couched in rhetoric of black nationalism and militancy, Malcolm X calls for a "new interpretation" or reimagining of the civil rights struggle as a universal human rights issue. By doing so, black Americans can make their case against discrimination and*

subordination as second-class citizens to the U.N. General Assembly and the larger international community. Through a careful reading of his speech, my paper situates Malcolm X's argument within the universal human rights debates regarding the supremacy of civil and political over economic and social rights. Specifically, my paper places Malcolm X firmly in the economic and social rights camp and explores the liberal ideological barriers to the implementation and expansion of African American civil rights.

Andrew Sargent

Black, White, and Blue: The Black Policeman and Civil Rights in In the Heat of the Night: "The black cop---" wrote one observer in the late 1960s, "an Oreo cookie, a law enforcement officer, an informer, Tom, protector of the black community, Supernigger---it is hard to say which role really fits." This paper reads the Civil Rights-era interracial police drama *IN THE HEAT OF THE NIGHT* in the context of late-1960s debates over the symbolic role that black policemen--and racially integrated law enforcement---could play in achieving social justice. In one sense, the film's iconic introduction of an exemplary black detective can be understood as a liberal attempt to quell white anxieties about racial unrest in the urban north, and to reassert the value of interracial cooperation in an era of increasingly militant black separatism. But the emergence of a self-possessed black cop onscreen also provides an unexpected heuristic for negotiating---if not resolving---the crisis of racial authenticity faced by African-American policemen themselves.

David Witzling

Living for the City: Post-Integrationist Feeling in James Baldwin's New York Essays: During the early sixties, James Baldwin often played the role of mediator between a mainstream national readership and a ghettoized black community. In several essays, Baldwin articulates the "bitterness" produced by life in the "Harlem Ghetto" and influenced by zoning and property rules that enable, for example, segregated public housing in Harlem to be built a few miles from the United Nations. Baldwin's willingness to speak within the national public sphere marked him as a practitioner of an "integrationist poetics" that is often condemned in cultural studies. Through readings of Baldwin's essays, this paper argues that integrationist poetics ought not to be equated with an integrationist politics that perpetuates the collective subaltern status of African-Americans. Baldwin's public success at the time lay in his imagination of affects that could seemingly be translated across sociocultural boundaries and so enable the recognition of injustice in both nationally-centered and black-centered reading communities.

6.5 The Free Exercise of Culture

Elaine Chiu

Culture and Religion: A Fair Comparison?: Culture and religion are both profound influences on the way that people live their lives. They prescribe certain values, encourage particular practices, provide ready-made communities and offer comfort and stress at all stages of life. Are culture and religion essentially the same? Are their similarities meaningful from the perspective of legal regulation? Or are there significant distinctions that explain the different approaches of the law? This presentation looks at non-legal disciplines to gain insight into the nature of culture and religion and draws from these insights to advocate for more thoughtful treatment of culture by the law.

Jerome Eric Copulsky

Religion, Law and Culture: the Case of Judaism: The imagining of a possible constitutional right to the "free exercise of culture," which would follow from

the "free exercise of religion," implies that we can have a clear notion of "culture." Yet, as this history of the jurisprudence shows, the category of "culture," like the category of "religion," may not be so easy to define. Indeed, we may well wonder if a clear line be drawn between "religion" and "culture" can in fact be sustained. To grapple with this problem, this talk will consider the case of Judaism and how it troubles the categories of religion and culture. Drawing upon the academic study of Judaism, I will discuss the fuzzy boundaries between religion, law, custom and tradition. In the end, this talk will suggest that a right to the free exercise of "culture" would run into some of the same conceptual problems as to the free exercise of religion.

Michael Kessler

Protecting Culture If Religion Is Its "Depth-Dimension": Paul Tillich posited that in "every cultural creation an ultimate concern is expressed, and it is possible to recognize the unconditional character of it." If this liberal theological expression is valid, then the difference between religion and culture collapses for the purposes of jurisprudence about protecting free expression of religion. Does this imply that cultural self- and communal-determination must be accorded the same, heightened protection as religious belief and practice? Can current Court doctrine countenance such a congruity between culture and religion? What impact would this model of culture and religion as its depth-dimension have on current Court doctrine?

Nelson Tebbe

Cultural Rights, Religious Freedom, and African Customary Law: What are cultural rights and how do they differ from more longstanding protections for religious freedom? South Africa's constitution, for example, guarantees people the right to collectively practice their religion and enjoy their culture. A separate section declares that "everyone" has the right "to participate in the cultural life of their choice." Does it make sense to speak of religious liberty and cultural autonomy in the same breath? What does legal and constitutional theory have to say about the junctures or disjunctures between the two principles? Such questions have become increasingly important because of recent Constitutional Court cases that pit core tenets of African customary law against gender equality provisions of the Bill of Rights. For instance, a pending case considers whether a woman can succeed to her father's chieftainship. This talk explores such difficult questions concerning the right to culture and proposes approaches to answering them.

6.7

Theorizing Justice/Injustice

Michael Feola

Doing Justice to the Heterogeneous: Adorno, Aesthetics and Justice: In my essay, I will explore Theodor Adorno's peculiar insistence that, within late modernity, justice in its emphatic sense is located within aesthetic forms of meaning. Although the strength of this claim is problematic (particularly its suggestion that it can only be found in these aesthetic moments), I contend that it offers a productive challenge to liberalism. My guiding question will be what exactly the structures of meaning found within modernist art can tell us about justice. As I engage this question, I will argue that what might initially appear an aestheticist flight from practical concerns intends to throw into relief the normatively untoward commitments of liberal models - more precisely, their elision of difference and particularity. To this end, his aesthetically-staged logic of justice would not be an abstract equality between rights-bearers (or etiolated 'preference maximizers'), but rather what he terms "difference without fear."

- Stewart Motha *Christianity, Universality, and the European Left:*
- Sara Ramshaw *Encountering the Imaginary: Blanchot's Cadaverous In/justice:* This paper reads Blanchot's writings on the "imaginary" alongside his work on law and justice in order to claim that in/justice can be but imagined. The image, for Blanchot, is best understood as a cadaver, the shadow of a departed person, which is both real and present and yet also testifies to an absence. Law, as the silhouette in "The Madness of the Day", similarly presents to us something that wanders, something that can not be fully present in the world. Neither completely universal nor completely singular (which Derrida terms "justice"), law exists on the horizon between the two dimensions - a cadaverous aporia, facilitating the possibility of a coming justice, along with change and transformation in Western law and society.
- Peter Swan *"There'll be the breaking of the ancient western code": Explorations of Law and Justice in the Apocalyptic Political Theology of Schmitt, Benjamin and Kojève:* Using the "negative political theology" of the philosopher, Jacob Taubes as a referent, I explore characterizations of the relationship between apocalyptic change and law in three of the most original and controversial figures of 20th century political philosophy: Carl Schmitt, Walter Benjamin and Alexandre Kojève. I locate these thinkers within an "apocalyptic tradition" in which each attempts to resist or to promote fundamental social transformations. I will show how law and justice become central categories of their respective visions of apocalyptic social change. My exploration will reveal radical differences in their views of law for "post historical" humanity: Schmitt's view of law as potentially undermining the political; Benjamin's disruption of legal violence by "divine justice"; and Kojève's commitment to the realization of justice through the juridification of Empire at "the end of history".

6.8 Visual Media and The Law

- Gina Herrmann *Documentary's Labors of Law: How Television Journalism is Uncovering the Human Rights Abuses in Spain's Francoist Past:* Over the past eight years, a team of Catalan investigative television journalists in Spain have been producing made for TV documentaries about mass executions, social repression, and other "criminal" acts perpetrated by the military dictatorship of Francisco Franco in Spain (1936-1939). This paper discusses how these documentaries might be seen to fulfill a judicial role absent in contemporary Spanish society wherein any memorial confrontation with the Francoist past will not include trials or truth commissions. The documentaries construct a discourse of confrontation between victims and perpetrators, thus suggesting an imaginary adjudication of the dictatorship's criminal acts.
- Anja Louis *Imagining Divorce: Spanish TV Lawyers in the Transition to Democracy':* After forty years of dictatorship Spain underwent a transition to democracy in the late 1970s. Law was instrumental in major social changes of the time: in 1978 the new Constitution gave women equal rights; in 1981 the Divorce Law allowed full dissolution of marriage rather than judicial separation. In this paper I will examine the TV series Wedding Rings/Anillos de oro (1983) and ask how major legal changes are imagined by popular culture. I will analyse how both lawyers and clients envision justice at a historical time when the right to divorce was so new that there was no substantial body of case law, or experiential

social knowledge, to refer to and thus social change could only be imagined. I will also explore to what extent each individual case is gendered and how fe/male lawyers deal with melodramatic narratives of family law.

Nancy Marder

The Conundrum of Cameras in the Courtroom: In spite of a communications revolution that has given the public access to new media in new places, the revolution has been stopped cold at the steps to the federal courthouse. The question whether to allow television cameras in federal courtrooms has aroused passions on both sides. This paper will bring balance to an on-going debate by discussing the central question ignored in press coverage: In what ways might cameras change the interaction of people who are being televised, as evidenced by pilot programs in courts and work in psychology and film studies? This paper will consider policy reasons for and against cameras in the courtroom, as well as constitutional issues. It will examine what lessons can be learned from cameras in other governmental settings and whether they lead decision-makers to transform public televised proceedings into mere formalities while moving real decision-making beyond the camera's reach.

Jennifer Schulz

Mediators in the Movies: Food Films and Mediation Styles: Law & Film scholars have noted the many things lawyers can learn about themselves and the legal system through an analysis of the trial genre of films. My paper analyses what we can learn about mediators and mediation from the food genre of films. Food films suggest the nourishing metaphor of the mediator as cook, to be contrasted with trial films which generally use battle metaphors and depict the lawyer as warrior. I will explore the vitality of the metaphor of cooking and how it relates to the work of dispute resolution. I will trace the metaphor of the mediator as cook through several films, explore what it reveals to us about mediation methods, and describe at least five mediation styles depicted in the food genre of films. Importantly, I will highlight how film depicts a subversive mediation style that while contrary to classic dispute resolution teachings, is successful.

6.9 Identity in Law and Literature

Ogechi Anyanwu

Justice, Gender, and the Challenges of Sharia Law in Nigeria Since 2000: The re-introduction of Islamic law of Sharia in 2000 has reshaped Nigeria's criminal justice system. In all societies, the criminal justice system produces social harmony by reaffirming the society's adherence to established norms. As a French sociologist, Emile Durkheim, stated in his work: *The Division of Labor in Society*, "[w]hat confers a criminal character on an act is not the nature of the act but the definition given it by society." Thus, a society's justice system not only reflects the established norms, values, and beliefs but also promote social solidarity by uniting non-violators (society as a whole) in what Durkheim called conscience collective. This paper critically examines the content and implementation of Sharia law as it relates to women since 2000. It will account for, and provide fresh insights on, how the suppression of women's rights, coupled with the selective and harsher punishment perpetrated against women, is repugnant to natural justice, and therefore threatens to destroy Muslims' collective conscience, which the Sharia law seeks to unite.

Naminata Diabate *Through Missionary Eyes: Nineteenth Century Boloki Women of the Congo in John H. Weeks' Among Congo Cannibals (1913):* What, if anything, do African feminists have to gain by reading accounts of women of black Africa in colonial ethnographies? In many cases, these are the only historical records we have of African societies before colonialism. Unfortunately, few African sources exist that document black women's ways of living at the time of contact. Inevitably, Europeans' reports give us a somewhat one-sided and oftentimes biased picture. So we need to develop critical reading strategies that will allow us to see around and through the figure of the colonizer and make contact ourselves with African women of the past.

My reading of *Among Congo Cannibals* thus resulted in trying to discern something of the "real" lives of Boloki women through that same problematic discourse. This essay is a modest contribution to the difficult work of reconstructing the lives of African women of the past, a project that necessarily draws on faulty and imperfect archives.

I read Weeks' text against the grain for its suggestiveness, the ways in which the power and resistance of nineteenth-century women of the Congo push through his limited representations of them.

Elizabeth Stockton *The Property of Blackness: The Legal Fiction of Frank J. Webb's The Garies and Their Friends:* In his 1857 novel *The Garies and Their Friends*, Frank J. Webb depicts a free African American community that embraces stable property, eschews speculation, and enacts a proper understanding of a status-based household-and does so more successfully than any white community. Throughout the novel, Webb repeatedly portrays white men who are on the precipice of losing their self-possession because they are too committed to credit and speculative ventures. Thus, like other nineteenth-century legal theorists, Webb also ties self-possession to race. However, the way Webb associates blackness with property ownership-and whiteness with speculation-powerfully inverts the prevailing legal theories of the nineteenth century. By critiquing white notions of property and value, Webb countered the legal fiction of whiteness as property with his own legal fiction: *The Garies and Their Friends*.

6.10 Law and the Sacred

Melissa Ptacek *The Persistence of Durkheim: Islamic Headscarves and French National Identity:* The various Islamic headscarf affairs that have gripped France recently have received much attention. Typically, comparisons are drawn regarding different systems of relating religion to the public sphere. My paper instead places the issues raised by the headscarf affairs within a historical context, asking whether these affairs reveal the persistence of a Durkheimian understanding of national identity. In this understanding, individuals must sacrifice-in a specifically religious process-their individual (profane) tendencies so as to be elevated into sacred "persons." Paradoxically, then, his conception designates the particular religion, in this case, Islam, as profane, while the secular republican ideal expresses the sacred. Moreover, Durkheim based his understanding on actual practices of ritual blood sacrifices, in particular those in which social outsiders, including especially women, were the victims. This paper argues that the French headscarf affairs suggest that Muslims in France must undergo a process of (symbolic) violent forfeiture of religion.

Adam Reinherz *The "Truth" and Truth about Galileo:* Framed as a text centered on the

reconciliation of Scripture and science, noted for its discourse on biblical exegesis and hermeneutics, and referenced for its sampling of astronomical discoveries, Galileo Galilei's Letter to Grand Duchess Christina (1615) is a text of diverse significance. Nonetheless, despite these merits, at its core, Galileo's letter reveals an author primarily concerned with the pursuit of truth and its consequential reconciliations with contemporary "justice." By reviewing Galileo's textual language, as well as his personal dealings with Italian Jews, this paper argues that Galileo engaged in controversial undertakings (both within this letter and at his trial) with the sole purpose of merging truth and justice.

Matthew Scherer

The Impossibility of Secular Discourse?: For much of the twentieth century, it had been predicted that religion would disappear from public life as the world became modern. Influential political theorists such as John Rawls and Jürgen Habermas incorporated this sociological expectation as a constitutive normative element of their "post-metaphysical" accounts of politics: according to Rawls, religious beliefs should remain a part of our background culture that is to be excluded from public discussion; according to Habermas, concepts endemic to particular religious traditions should be translated into universally acceptable terms before they enter public discussion. However, recent scholarship recognizes that liberal political institutions, and American constitutional jurisprudence, can only fulfill their promises to protect religious freedom at the cost of defining, regulating and thus transforming religious practices (see, e.g., Winnifred Fallers Sullivan, 'The Impossibility of Religious Freedom'). Beginning with this problematic frame, my paper will consider how we distinguish religious from secular discourses in public contexts by way of engagement with William James's "Varieties of Religious Experience."

Mark Strasser

Repudiating Everson: On Buses, Books and Teaching Articles of Faith: Ever since deciding *Everson v. Board of Education*, the Court has wrestled with the proper way to characterize the extent to which the state can give aid to the parents of children attending primary and secondary sectarian schools. The Court's understanding of the limits on this kind of aid has changed markedly over the past sixty years, having once involved whether the state would be aiding religious teaching but then ultimately becoming whether a majority of the Court believes that a person could reasonably impute to the state what admittedly is support of religious teaching. While the changes in the jurisprudence were often not dramatic, they have cumulatively resulted in a jurisprudence which not only contradicts the letter and spirit of *Everson*, even when *Everson* is understood to be much less separationist than is commonly supposed, but guts the basic protections that the Establishment Clause is designed to offer.

6.11

Law's Body

Anthony Farley

Rights-Bearers Without Bodies: Law imagines us as points of light, as rights-bearers without bodies. We, as atomized rights-bearers, are treated, or 'ought' to be treated, as equals, eg "equal justice under law." This is what law tells us. But we are not points of light, we are creatures of flesh and blood. And, as Marx observed, "between equal rights, force decides." In the eyes of the law, then, the deciding force, the deciding force of law, is invisible, occult. But we who are but flesh cannot help but see, and feel, the force that decides between equal rights. That force has many avatars; racism, sexism, capitalism. To be critical is to make visible the invisible deciding force of law.

John Kang *Taking Safety Seriously: Using Liberalism to Fight Pornography:* There are many arguments in the legal literature against pornography, but many of them tend to view liberalism as unhelpful. Specifically, some scholars argue that liberalism, given its epistemic uncertainty, lacks the resources to condemn pornography, while other scholars argue that liberalism, given its naïve optimism about people's ability to discern the truth, gives pornography too much protection under the first amendment. I propose an alternative account of liberalism. I argue that liberalism's principal aim is to protect people's safety. I trace the origins of this argument to some classic liberals: Hobbes, Locke, Montesquieu, and Mill. I then illustrate how this philosophical perspective finds expression in the Supreme Court's jurisprudence, and how, given sufficient attention, it can be worked up into a legal theory to protect women from pornography.

Reginald Leamon Robinson *Yin, the Female Body, and the Inner Journey to Spiritual Empowerment and Substantive Justice: A Critical Analysis of Sex in Family Law Jurisprudence:* Sex in family law is a physical. We use it to make babies. And we use sex for emotional well-being. Sex as object keeps us looking away from the Self for happiness. Yet, the female body is ignored, reviled, violated, abused, dominated, and murdered. She allows these violations; she fears Yin. Yin, feminine energy, not female energy, is a gateway to the Self. Yin and sex mean self-empowerment and substantive justice. To get through it, the female body - the fount of Yin - is indispensable. This gate resides within us, requiring an inward journey. Yin rejects sex and the female body as objects. Sex is not an emotional crutch, without which men and women engage in violence and abuse. Family law reviles the female body. Its logic fuels men and women to see themselves as objects, as bodies. Law must embrace a Tantric Way, a female body.

7.1 From Bios to Thanatos: On the Centrality of Death for Politics and Law

Bradley Bryan *Death Chances: Triage, Law, and the Politics of Safety:* The overarching aim of safety equipment is to prevent accidental and untimely death. Remedies at law often seek to restore the victim of an accident by calculating in terms of "possible real futures," though give nothing upon death - for it is trite to say that it is "cheaper to kill than to maim." This paper attempts to rearticulate the conditions of the political sensibility that underlies the calculation of one's possible life chances, and further, to focus upon situations where the calculus is rendered prior to the deaths in question. Departing from Dahrendorf's notion of "life chances," this paper asks about the conditions according to which politics brokers a bartering over "death chances" - and thereby allows for the justification of politics not according to who lives but who is saved.

Shai Lavi *Back to the Animal Kingdom: Old Reflections on the New Politics of Death:* Contemporary research on thanato-politics has been suffused with talk of "sacred bodies", "sacrificial practices" and "ritual killing", which have their counterpart and perhaps origins in the animal-human relationship. The paper will examine the historical significance of ritual slaughtering of animals and the contemporary controversies surrounding these practices in order to reevaluate the relevance of these traditional practices for contemporary political analysis.

Stuart Murray *Thanatopolitics: On Imagining Justice, Otherwise:* This paper argues for a

thanatopolitics-a "politics of death"-that might offer us a way out of our current biopolitical "regime of truth." Using Foucault as a point of departure, if it is true that governmentality ("the conduct of conduct") is organized around the value of life above all else ("to make live, and let die"), then death will be seen as the mere negation of life, something that is "allowed" to happen but that is not in itself significant. But what happens when politics is oriented, instead, around death, where death is a productive power, a power that helps us to imagine justice otherwise? Through a reading of Kant on the imagination and a discussion on suicide terrorism, this paper suggests that such death marks a resistance to Western biopolitics and that a reflection on death is essential in the struggle for justice.

7.3 The Legal Imaginary in the Novels of Thomas Hardy

Logan Atkinson *The Furmity-Woman and the Magistrate: Law, Justice and Perceptions of Power in the Mayor of Casterbridge*: This paper is a first step in an attempt to widen the legal and moral philosophical contextual bases on which the appearance of law in Hardy's novels might be interpreted. It is my observation that, with some exceptions, formal legal settings in Hardy's novels are positioned at the centre of the debate between legal positivists and natural law theorists, a debate which, during Hardy's 30 year novel writing career, was topical, difficult, and in some respects (perhaps most significantly in the law of evidence), urgent. Hardy enlists his readers in this debate, and encourages us to assess formal legal practices and consequences in the context of our perceptions of legal power, objective validity and justice broadly considered. He persuades us to judge on the basis of our perceptions of right conduct and the good, certainly in terms of the characters and circumstances of the novels, but also perhaps in our own personal contexts. He exposes law for its weakness in relying on impressions of and suppositions about power as equivalent to truth, while ignoring moral consensus. He challenges the assumption that the appearance of power is power in fact, and suggests that real power resides in ordinary, common morality. This is the implication, I want to suggest, emerging in the climactic scene of *The Mayor of Casterbridge*, the courtroom challenge of the magistrate by the bootlegging furmity-woman.

Diana Majury *Searching for Justice in Desperate Remedies*: There are many and varied references to formal law in Hardy's first published novel, *Desperate Remedies* -- lawyers, leases, an inquest, legal advice, criminal charges, civil suits. In all of these guises, formal law is consistently presented as limited, rigid, paternalistic and/or inadequate. Law is portrayed as largely ineffectual in providing the resolution that is or might be sought from it. But it is not clear that the other forms of law that compete with formal law in *Desperate Remedies* - moral, social, laws of the heart - offer either a fuller or more attainable vision of justice. This paper will examine the images of justice and injustice that emerge from these varied depictions of law in operation and in expectation in the novel *Desperate Remedies*. The novel provides the opportunity to explore the complex interrelationship between justice and injustice and to ask questions about the role(s) of formal law in the context of that relationship.

Neil Sargent *Living Common Law in Thomas Hardy's Wessex: Between the Real and the Imaginary of Law*: In Hardy's Wessex novels, the idea of formal law as an indicator or repository of "modernity" is often conspicuous for its absence. While the English common law courts were working out the implications of

distinctively modernist notions such as "no liability without fault" within the law of torts, or setting boundaries on the measure of damages for contractual breach based on the moral philosophy of the marketplace, the protagonists in many Hardy novels frequently organize their legal relationships with others in accordance with more traditional, and arguably pre-modern, notions of personal and social responsibility. In Hardy's legal imaginary, the rationalist account of causality which lies at the heart of modern legal conceptions of accountability is replaced by a more phenomenological notion of causality, in which the speaking or acting subject sees cause and effect relationships which are often invisible to the naked legal eye.

Here there are no Limitation Acts or principles of remoteness of damage to protect Michael Henchard from the consequences of his former action in publicly "divorcing" his wife. In a curious twist of fate, it is Henchard himself who is outlawed by this action, rather than his "ex-wife" Susan, whom he "divorced" so summarily and without due cause. In the moral universe inhabited by Henchard and his wife Susan, she remains innocent, her virtue protected by her own belief in the efficacy of the transaction by which she ceased to be Henchard's wife, and became "married" to her new protector.

Thus we see the protagonists inhabiting a curious legal imaginary, a space between customary legal agency and the authority of formal law. In Hardy's novels, the space between these two modes of legal ordering is not occupied by different sets of legal institutions so much as it is by different states of mind. In Michael Henchard's case, he becomes conscious of the difference between divorce by act of parliament and divorce by act of wife sale, and this consciousness ultimately proves to be his undoing. But Susan still lives within a more local moral universe, in which church and public house are alike regarded as sanctified spaces in which public rituals connected with marrying and un-marrying can be enacted. The paper will examine the contours of this mythic legal imaginary in which the boundaries between law and customary morality are both elusive and prescriptive at one and the same time.

7.4 **Invoking Justice: The Rhetoric of Recognition and Reconciliation**

Sarah Burgess

Invoking the Law: Extra-Legal Demands in a Scene of Recognition: Within contemporary liberal democracies, demands for legal recognition are often articulated and justified in a language that is decidedly extra-legal. Recognition is due, it is argued, not only to promote the ends of democracy, but, more importantly, to fulfill the basic needs of human life and mark a collective responsibility and respect for this life. This paper explores how such demands invoke the law to transform or critique the terms that operate within a scene of recognition. Drawing on the work of Alexander Garcia-Düttmann, I argue that extra-legal demands for recognition are ethical forms of address that interrupt the ways positive law subjects individuals to its norms. In other words, these ethical moments-rhetorical moments in which a shared ethos is constructed and invoked-call into question the constitutive power of legal language, illuminating the ways positive law conditions and forecloses the avenues in and through which individuals seek recognition.

Erik Doxtader

Before the Law, A Constitutive Sacrifice: Reconciliation's Place in the South African Transition: In reconciliation: a double offence, a compound break(ing) of reason's law and law's rule. Thus, many doubt reconciliation's promise to turn

enmity toward friendship, particularly as its rhetorical power appears to exceed accountability. More urgent, reconciliation's amnesty appears to preclude justice in the wake of atrocity. Evident in UN policy documents addressed to the "requirements" of transitional justice, these objections are now "legitimate reasons" for subordinating the pursuit of reconciliation to reforms dedicated explicitly to (re)building the rule of law. Drawing from the political-legal debate over the creation of the South Africa's Truth and Reconciliation Commission, this paper contends that the cost of this presumption is an understanding of how reconciliation mounts and supports a critique of law's violence, a historical and conceptual critique that stands before the law in the name of reconstituting the meaning of precedent, the limits of (in)justice, and the relationship between legal institutions and citizens.

Sylvia Schafer

The Civil Individual and the Chicaning Crowd: l'Assistance judiciaire and the Specter of Revolutionary Litigation in Nineteenth-Century France: This paper explores the mid-nineteenth-century debates, and the ambivalence that suffused them, surrounding the drafting and passage of the 1851 French law on public legal aid. These conversations reanimated long-standing liberal questions about balancing the relationship between freedom and order through governmental action, and posed new ones about the regulation of inequality and the legal identity of the poor that were profoundly shaped by revolution of 1848. Despite their optimism about new law's capacity to bring the poor into the embrace of legal civilization, reformers could not purge the suspicion that their work might also have armed the assisted litigant for a revolutionary war of ill-founded actions against the rich and so would allow him to turn the reformers' promise of justice into a carnival of lawless -- and politically disastrous -- cupidity.

7.5 Masculinity and the Constitution

Larry Cata Backer

Gendering Rule of Law Male: This paper considers the dynamics of male on male gendering of law, and the disciplining of its character in this context, by working through its intra-male gender construction in law. Law and legal systems embody the male ideal, and embed structures of subordination based on gender role expectations within the body of law. This effect tends to be a-historical and trans-cultural. It is as present in Aristotle's notions of political and rule ordering, as it is in classic Chinese structuralist theories of the family-state. The paper suggests an approach the context in which intra-sexual gender role hierarchies, based on a normative model of male role supremacy, continue to marginalize the normatively female both within each sex and between the sexes.

David Cohen

No Boy Left Behind: Single-Sex Education and Essentialized Masculinity: In late 2006, the Department of Education changed the Title IX regulations to broaden the permissibility of single-sex education in primary and secondary schools. The changes took place in the context of a growing concern over the performance and well-being of boys in American schools. This article describes, dissects, and critically analyzes the narrative about boys, masculinity, and single-sex education that surrounded these changes.

John Kang

Gentlemanly: On the Relationship Between Manliness and the American Constitution: That conceptions about masculinity play a significant role in the law is not a surprise. There are examples from employment discrimination law,

equal protection, and first amendment issues related to pornography. However, the scholarly analysis in these areas tends to define masculinity by contrasting it with femininity. I try to take a different approach: I argue that masculinity can also be distinguished from manliness.

Specifically, I argue that conceptions of manliness, as distinguished from masculinity, were crucial for coming to terms with the political logic of self-government as understood by the American colonists.

7.6 Discipline, Disobedience and Regimes of Pluralism

Paul Apostolidis *Discipline, Biopolitics, and Identity: Immigrant Workers and Protest in the Contemporary US*: How can immigrant workers organize politically without reproducing the hegemonic dynamics of identity politics that support capitalism and the state and thus effect the subordination of immigrants in the first place? This paper addresses this question by examining interviews with previously undocumented Mexican immigrant meatpackers who mobilized a rank-and-file movement to democratize their local union and to combat hazardous working conditions. A concatenation of informal disciplinary training and the formal application of bio-power, in both the domain of illegality and in the work environment of the slaughterhouse, insulated these immigrants from the individuating, normalizing forces that promote the drive to identity and the politics of resentment, as William E. Connolly and Wendy Brown have argued. This genealogical background to their legalist campaigns as unionists, in turn, mitigated the more intensively disciplinary effects of their entanglements with the state's apparatus of labor regulation and enabled strategies of mobilization de-coupled from logics of identity.

Paul Passavant *No Protest Zone*: Critique has been thought to be essential to checking the power of the sovereign, hence as essential to democracy. Do we think any differently about this if we consider the work of John Yoo in the context of popular sovereignty? Yoo is both an academic law professor and was a participant in the Bush administration's Office of Legal Counsel. As an academic, he presents himself as a critic of mainstream legal scholarship on presidential power, arguing that presidential powers in the US Constitution should be considered a reproduction of the British monarchical system. As a participant in government, he wrote legal memoranda defending torture, the president's power to invade countries of his choosing with or without Congress's authorization, and a president's power to order warrantless surveillance of the people. For one who shares the spirit of the US constitutional tradition, reading Yoo is like seeing the words of law appear slightly alien, the alteration becoming something totally different. One analyst, bemoaning the lack of popular outrage over Yoo's interpretive acts, wonders whether the people are constitutional illiterates. Perhaps the law of liberal democracy has become deactivated—something to be played with in a childlike manner, without responsibility. As Derrida indicates, sovereign power must be shared, thus sharing power with the likes of Yoo shows how easily our democracy can be lost. Yet, a sovereign always must rely on others, on assemblages and assemblies. Therefore, government cannot be absolutely undemocratic. And we ourselves are not completely other to democracy since we have been constituted, in part, through an act of popular sovereignty and its law prescribing a liberal democratic constitution for us. For now, it is our lot to labor amongst democracy's remainders as we share responsibility for

democracy and its ruins.

Lars Toender

A Deeper Pluralism: Merleau-Ponty, Deleuze, and the Cartoon War: In September of 2005, the newspaper Jyllands-Posten printed twelve cartoons of the prophet Muhammad. Offending the Muslim minority in Denmark, the cartoons challenged how we think about pluralism. For not only did the war involve alliances among nonstate actors, it posed issues omitted by established theories of pluralism. The most important ones included the link between practice and belief, the power of images, and the affective components of culture. This paper sees these challenges as an invitation to pursue a novel theory of pluralism-what I call deep pluralism. Like any other theory of pluralism, this one concerns itself with the differences we should recognize as legitimate. But rather than deciding this question from a detached standpoint, deep pluralism plunges into the processes that define our encounter with difference. Attention to this encounter reveals a new notion of depth. First, it shows how pluralism hinges on struggles below reason. Second, it clarifies how pluralism evolves according to principles of becoming. Third, it highlights how pluralism can encourage a care for the nuances, layers, and shades of experience

7.7 What Judges Do or The Work of Legal Interpretation

Elton Fukumoto

Legal Realism Revisited: How Just Is Judging a Case According to Its Facts?: In a recent book Brian Leiter has revived and defended the central claim of Legal Realism: "judges respond primarily to the stimulus of facts. . . judges reach decisions based on what they think would be fair on the facts of the case, rather than on the basis of the applicable rules of law." Judges presumably do so in order to reach a just result. Leiter also defends Legal Realism's jurisprudential sophistication by seeing it as a version of philosophical naturalism, which he calls the dominant view in philosophy.

My paper asks two questions: do judges actually decide cases based on the facts and not the rules? and if they did so, would that likely lead to a more just result?

Sieglinde Pommer

Finding Meaning in Law: On Intention, Context and Culture: The "Plain Meaning Rule" is the fundamental canon of statutory construction which dictates that legal texts are to be interpreted according to the literal meaning of words, unless the result would be absurd. This textual approach raises important questions regarding the understanding of legal texts, the relationship of legal and ordinary language, the incompleteness of language, the limits of linguistic analysis as well as the appropriate framework for interpretation, the use of extrinsic aids to construction, and the issue of the indeterminacy of language. Most importantly, however, the quest for legal meaning challenges the distinction between text and context, the principle of intertextuality, and requires reexamining the role of intention, relevancy, and audience in legal cognition.

Ashrita Prasad

Judicial Interpretation and Imaginings of Justice and Injustice: The dichotomy between justice and injustice and our imaginations of the two inform the law and its study, whether at the stage of legislation, enforcement or interpretation. This is best reflected in judicial process and the statutory rules of

interpretation, and how these are interpreted themselves. This is because judicial process both relies heavily on existing law, and contributes significantly to its evolution. In delivering a judgment, the Judge (usually) interprets a statute. In doing so, he may or may not invoke established rules of interpretation. The questions to be asked here are: When is an established rule of interpretation invoked? And when is a new rule laid down? When a rule of interpretation is invoked, how is it applied or interpreted? Our submission is that it is the imaginations of justice and injustice of a Judge that decide these and that his very imagination is shaped both by some internal or internalized beliefs and certain external influences.

Harini Sudersan

Judicial Interpretation and Imaginings of Justice and Injustice: The dichotomy between justice and injustice and our imaginations of the two inform the law and its study, whether at the stage of legislation, enforcement or interpretation. This is best reflected in judicial process and the statutory rules of interpretation, and how these are interpreted themselves. This is because judicial process both relies heavily on existing law, and contributes significantly to its evolution. In delivering a judgment, the Judge (usually) interprets a statute. In doing so, he may or may not invoke established rules of interpretation. The questions to be asked here are: When is an established rule of interpretation invoked? And when is a new rule laid down? When a rule of interpretation is invoked, how is it applied or interpreted? Our submission is that it is the imaginations of justice and injustice of a Judge that decide these and that his very imagination is shaped both by some internal or internalized beliefs and certain external influences.

7.8 Regulating Sexuality and Sexual Expression

Nora Gilbert

The Sounds of Silence: Discourse vs. Censorship in Thackeray's "Vanity Fair": Although denouncing the Victorians for their prudery has long been a favorite critical pastime, relatively few modern censorship theorists have devoted their energies to exploring the Victorian novel as a specifically "censored" commodity. This critical omission is, no doubt, partly due to the extra-legal nature of the Victorian literary censorship process; ever since 1695, when the House of Commons opted not to renew the Licensing Act that required books to be approved by the government before they could be published, England had, after all, congratulated itself for its ostensibly free press. In this paper, I will use a certain strain of Foucauldian logic to demonstrate the complex relationship between "free" speech and "repressive" censorship in the Victorian novel—a relationship which can, in my opinion, best be seen in the ostentatiously noisy narrative silence of William Makepeace Thackeray's "Vanity Fair."

Elizabeth Loeb

Get Your Law Off My Genitals: a Brief Case Study of the Preemption Doctrine in U.S. Law: My paper analyzes two case studies of pre-emption doctrine: The establishment of the pre-emption doctrine in the Chinese Exclusion Cases, and the pre-empting of native title through the plenary power in *Tee Hit Ton Indians v. U.S.* (1955). I use these cases to show that as a theoretical trope within jurisprudence, the pre-emption doctrine retroactively assigns and fixes an origin to subjects that trouble U.S. sovereignty. My paper then considers the pre-emption doctrine in relation to the "preemptive" assignation of legal binary sex to medically intersexed infants, arguing that connections between these pre-emptions say much about the oppressive workings of sovereignty as a juridical construct. Through these readings, I will suggest that while the current Bush

administration may market "pre-emptive" state action as a necessary mode of preventing unnamed future threats, legal pre-emption has little to do with the actuality of danger, and everything to do with particular consolidations of dominant regimes.

Meredith Olson

Plague of the Obscene: Foucault, Meese, Starr and the Money Shot: How does the adult entertainment industry reach the pinnacle of its economic growth during a period of Conservative Republican domination in American political life? Might the mechanisms used to reduce sexuality to a core of productivity ultimately have created the condition for the possibility of a 27 billion dollar a year pornography industry? This paper will attempt to answer these questions through an analysis of obscenity law and biopolitics. In an exploration of government sanctioned sex-talk, I will demonstrate how, in setting terms for the regulation of obscenity, a perverse relation develops in which one is both compelled to speak of sex while, at the same time, sacrificing the pleasure of speech for the productive ends of the mechanisms of power. Explicit language from both the Meese Report and the Starr Report will be examined as well as the role of economically viable adult-entertainment businesses on the contemporary political stage.

7.9 On the Meaning of Capital Punishment

Noa Ashkenazi

Black Men are Still Hanging From the Poplar Tree, White People Still Call It Justice: A mechanism of racism: the similarities between lynching and executions of black men in the US South: In my paper I will argue that the death penalty, as it is currently exercised in the U.S. South, is a continuation of the same racist legacy that led to the lynching of black men in previous decades. I will compare the historical backgrounds and explore the similarities and differences between lynching and legal executions. By interpreting the meaning behind those similarities and determining the significance of the differences, I will attempt to draw broader lessons about race and justice. Whether lynching and executions are the same or only similar, both acts operate from the same mechanism of racism. I will explore the social function of racism and the influence it exercises on American society. I will conclude my paper with a discussion of how the death penalty connects to racial problems in contemporary American society.

Glenda Grace

Mental Illnesses Barring Death Penalty Prosecution: A Prophylactic Measure to Insure that the Mentally Insane are not Executed: This paper discusses a unique approach to insuring the guarantee of *Ford v. Wainwright*(477 U.S. 399 (1986)) and *Panetti v. Quarterman* (551 U.S. ____ (2007)) that mentally ill individuals are not executed in the United States. Specifically, this paper suggests a pre-trial proceeding for people who suffered from certain classes of mental illnesses prior to committing a capital crime which may exempt individuals from capital prosecution.

Benjamin Yost

The Irrevocability of Capital Punishment: A popular argument against capital punishment runs like this. Execution is a punishment sui generis: execution is unlike any other punishment, because it is irreversible. While an innocent person can be released from prison, and may win civil damages in the process, a dead one cannot be granted relief of any sort. So insofar as legal systems value the ability to make good on their mistakes, legal systems ought not to execute, as even the most rigorous procedures can err. In outline, the view is

persuasive, but most of its adherents fail to consider whether death really is irrevocable, assuming that idea's massive intuitive appeal will carry the day. But Mike Davis, in "Is the Death Penalty Irrevocable?" argues that death is not irrevocable, at least not in the sense required for the abolitionist argument to work. My paper is an attempt to vindicate the claims of abolitionism.

7.10 Gender in Literature

- Kritika Agarwal *Adultery and Cruelty: George Eliot's Critique of Nineteenth Century Divorce Laws in Middlemarch and Daniel Deronda: Under the 1857 Matrimonial Causes Act, women could divorce their husbands on grounds of adultery only when aggravated by incest, bigamy, rape, sodomy, or cruelty. No matter how oppressive the marriage became for a woman, she was only allowed release on these extremely narrow precepts. My purpose in this essay is to explore the issue of marital breakdown in George Eliot's Middlemarch (1872) and Daniel Deronda (1876) in the context of nineteenth century English divorce laws. I will show how Eliot's heroines in these two novels are fettered to their marriages because of gender biased divorce laws which discriminate against women and put immense power in the hands of their husbands. By specifically focusing on how Eliot confronts the issues of "adultery" and "cruelty" in her novels, I will uncover a subtle critique of nineteenth century divorce laws in her work.*
- Kate Elder *Compassion and "Comfort Women": The Representation of Rape and Responsibility in American Law and Literature: Compassion is involved in many of our legal and literary responses to suffering, yet it is an emotion that replicates structural inequalities as often as it leads to their redress. The American representation of the experience of "comfort women" during WWII offers, in both law and literature, an extended history of the politics of compassion. Chang-rae Lee's A Gesture Life, began, in early drafts, as a novel in the voice of women who spoke directly to the unrelenting nature of the horrendous crimes of rape and torture that they were unable to escape. However, Lee ultimately changed his focus to a side character, and the narration was taken over by "Doc Hata", an immigrant haunted in America by both his sympathy for, and his violation of, a woman raped and murdered by Japanese soldiers during WWII. It became a narrative of compassion. The emotion of compassion also animates the legal narratives that address the history of comfort women, from Hwang v. Japan to*
- HR 121. The structural doubleness of compassion plays out in the law as the split between the private and public, feeling and action. Ultimately, the voices of women themselves slip through these texts to evoke and undermine the power of this emotion to serve as the foundation of justice.
- Melissa Lingle-Martin *The Quality of Mercy is Strained: Reimagining Justice in Nineteenth Century Women's Narratives: Over halfway through E.D.E.N. Southworth's best-selling novel The Hidden Hand, the popular heroine Capitola Black exclaims, "Let me have a hearing!" (316). She demands a hearing for all the abused and neglected women suffering under the heavy hand of nineteenth-century paternalistic law. To many readers, Capitola seems a "New Woman" through whom Southworth refutes and revises gender stereotypes. Yet Capitola's call never sparks revolution. Her melodramatic exploits often seem absurd and legally impotent, suggesting that Southworth aimed her fist at more than patriarchy's mistreatment of women. Southworth's most accurate, important, and*

potentially forceful blow is aimed at the institutionalized injustices of conservative majoritarianism. Despite Capitola's feminist failures, Southworth's palimpsestic narrative suggests ways women and other disenfranchised minorities can represent themselves and gain, if not a hearing, a reading. This, I suggest, may accord them more power and allow those on the margins of legal culture to reimagine and revolutionize American jurisprudence.

7.11 Emotions in the Courts

- Heather Conway *Legalizing Theft or Rewarding Initiative: The Conflicting Emotions of Adverse Possession:* Acquiring land through by adverse possession, or 'squatter's rights', attracts mixed reactions, with attitudes ranging from incredulity that the law is sanctioning 'land theft' and ignoring entitlement, to more utilitarian notions of rewarding initiative at the expense of careless landowners. Arguments surrounding the legality and morality of adverse possession have been considered elsewhere. The purpose of this paper is to consider *why* adverse possession provokes such emotive and divergent responses. In the recent English case of *Pye v UK*, squatters claimed 57 acres of land worth £10 million. Aside from the large amount of land, the case reveals interesting judicial attitudes towards the respective parties and the use of adverse possession itself, and as well as public perceptions of the litigation and its outcome. This paper uses *Pye* as a framework for considering how basic but inherently conflicting human emotions affect both the legal and social analysis of such a fundamental construct as adverse possession.
- Terry Maroney *Folk Theories of Emotion as Law:* The Supreme Court too often relies on "folk" theories of emotion in construing rights and obligations. In so doing, it reflects common but discreditable cultural assumptions, including the notion that emotions are universal and easily understood. *Gonzales v. Carhart*, in which a Court majority relied on its "common-sense" evaluation of women's emotions in one particular abortion context, provides one example; similarly complex emotional phenomena meet with similarly cursory analysis in other areas of law. Folk theories of complex emotion create potential for serious error, as collective instincts may be "wrong" in an empirical sense and as any one person's instinct may be so bound by her perspective as to be non-generalizable. Instead, law-making institutions should regard emotion as a legitimate, multifaceted epistemological subject. To take emotion seriously in this manner is an important step to a jurisprudence that is grounded in to the complicated, diverse nature of our emotional lives.
- Eimear Spain *Emotions and the Reasonable Man: an Exploration:* The mechanistic understanding of emotions, as forces which cause a loss of self-control, is epitomised by the understanding of emotions evident in the provocation defence. Although this defence is currently subject to an objective limitation, there have been calls for the abolition of this element of the defence as an objective restriction fails to reflect cultural differences in society and is incompatible with a true understanding of the mechanistic view of emotion. Under this view, emotions cannot be subject to moral evaluation and as such a defence should be allowed if the defendant acted due to emotion which caused a loss in self-control, irrespective of the appropriateness of the emotional reaction. This paper will examine this contention and probe the consequences of the acceptance of an evaluative conception of emotion including whether it would provide a more coherent basis for the imposition of an objective

standard on emotion based defenses.

8.1 Roundtable: The Role of Theory and the Theorists in Political and Legal Thought

Jeremy Elkins, Jodi

Dean, Andrew Norris

This roundtable panel takes up directly the theme of this year's meeting and connects it with some yet broader questions about the role of theorizing and of the theorist. As ASLCH enters its second decade in the midst of extraordinary political and legal developments and controversies concerning, e.g., executive authority, the rule of law, the role of courts, and the relation of all these to democratic citizenship, the panel revisits the question of what role (if any) the study of culture and the humanities should play in relation to these developments and in imagining alternative forms of politics and more just and fair legal doctrines. (Is the aim of theory to study these sorts of developments as cultural phenomena? To advance alternative programs? etc.) While the roundtable will begin with comments from members of the panel, we look forward to a discussion that will include all of those in attendance.

8.2 Films and Political Responsibility

Oscar Guardiola-Rivera

A Tale of Two Cities: The first city is Berlin, the second is Rio de Janeiro. Or perhaps, the first city is that of Augustinian fidelity, recovered in contemporary philosophical debates concerning political responsibility by writers of Badiouian inspiration such as Peter Hallward in his *The Politics of Prescription*. The second is the City of God, the favela that is the subject-matter of Meirelles' film *Cidade de Deus*, which will be presented here as a controversial take on Augustinian fidelity which is perhaps closer to its source of inspiration. The question is that of universalism and political responsibility, or rather, what is known in contemporary radical political philosophy as 'the clash of universalisms'.

This paper will exemplify two opposing understandings of universalism, in relation to the question of political responsibility, by means of a comparison between two controversial, and in their own way, unsettling films: *Sophie Scholl* (Marc Rothemund, 2005) and *Cidade de Deus* [City of God] (Fernando Meirelles and Kátia Lund, 2002). *Sophie Scholl* accurately represents the stakes of a subtractive ethics and a politics of prescription. *City of God* properly depicts what can be termed prophetic or catastrophic universalism.

Morris Kaplan

Whose Cold Blood? The Killer, The Writer and the State: A critical evaluation of the Capote Films, with an emphasis on the question of political responsibility.

Elena Loizidou

Punishment Park: A critical evaluation of Peter Watkins (1971) pseudo-documentary film 'Punishment Park'. The paper will discuss the effects of pseudo-documentary making as both a testimony and trial to the question of political action, policing and responsibility.

8.3 Sexual Deviance: Challenging the Norms of Physical Intimacy

Kevin Maillard

Group Marriage and Sexual Freedom (?) in the Oneida Community: In 1850, citizens from the town of Lenox, New York approached the Grand Jury of Madison County to enter a complaint against a group of people known as the Oneida Community. The complaints charged the Community with "being free-lovers and advocates of licentiousness." For members of Oneida, Community

doctrine intertwined sex and religion in an experiment of communism where men and women, as a group, were not to be married to each other, but to the community as a whole. The freedom to choose sexual partners, and a variety of them, transformed personal and physical gratification into a key ingredient to developing community.

Laura Rosenbury

Lapdance Lessons: The sexual taboo currently affects women differently than men in the United States. Although public sex is discouraged for both men and women, men are entitled to private sexual pleasure in a way women are not. The law, by omission, protects and fosters male sexual pleasure while it simultaneously limits women's opportunities for sexual pleasure by encouraging or even mandating sexual passivity, monogamy, married heterosexuality and motherhood. This paper will examine this phenomenon, and explore ways to disrupt it, by comparing the legal regulation of abortion to the legal regulation of strip clubs. Abortion regulation generally assumes that all female sexuality is procreative, whereas the regulation of strip clubs takes male sexual pleasure as a given. With this starting point, the paper will explore ways that the pleasure of a lap dance can be inverted, so that female sexuality means more than motherhood, or the desire to be desired, but instead embraces the clitoris in all its grinding glory.

Maura Strassberg

Strange Bedfellows Indeed: Same-sex marriage proponents and fundamentalist polygamists: If sexual diversity is to embrace same-sex arrangements and other forms of sexual deviance, is it reasonable to grant the same respect toward polygamy? At least since Justice Scalia's dissent in *Romer v. Evans*, opponents of same-sex marriage have argued that legalization of polygamy is inevitable if same-sex marriage is permitted. This has created a dilemma for supporters of same-sex marriage. Does a real commitment to liberal values require gay marriage advocates arguing for polygamy as well, as some have argued, or should we resist Scalia's invitation to conflate all non-traditional sexual and family arrangements into a single other? We who are so tired of being judged by others cannot avoid making decisions about whether and how to judge others ourselves. The issue is further complicated by the diverse face of contemporary polygamy: it includes fundamentalist Mormons and post-modern polyamorists. An informed analysis of these polygamous practices is an essential starting point, but ultimately it may be our own understanding of what it means to be gay or lesbian that is determinative.

8.5

E.M. Forster and the Question of Social Justice

Austin Gorman

Bast's Plight: Howards End and Cultural Capital: This paper argues that Forster's apprehension of "what is to done" with Leonard Bast is an issue he understood as linked to the complexities of class in the modern age. This paper focuses on Forster's representation of the city and the specific class anxieties that invokes. By delineating the theory of "cultural capital" espoused by Pierre Bourdieu it is possible to grasp the intricacies of modern injustice, which explain both Forster's conservative nostalgia for a simpler past and his resigned acceptance of the modern. This paper shares with the next two papers insofar as it also asks whether Leonard Bast is a type (who must die in order to usher in something else) or if he is a character, befallen by tragedy and imbued by Forster with wistfulness for a forgotten epoch.

Christopher Holmes

The Two Edward Cunninghams: Forster's Manuscripts and the Repetition of

"Sameness" in Howard's End: This paper considers how surviving manuscript versions of *Howards End* complicate the notion of Forster's association with liberal humanism, most especially in the slippage that occurs between two manifestations of the Leonard Bast character. By examining the sometimes-radical character (d)evolutions between the novel as it was published and the manuscript editions, it becomes possible to read Bast as both a tragic type and as what Forster himself would term a "round" character with a knowable interiority. Using an inversion of Derrida's "différence," repetition with sameness, the paper posits the re-writing of Leonard Bast as a series of replacements, which when understood as inseparable from one another, reveal the novel's deeper anxieties regarding class inequality. This paper pursues the question of how the "bastard" of the novel might be most well-placed to speak to the philosophical inheritance of the new liberal classes.

Jennifer Schnepf

Insuring Against the Future: Social Interdependence and the Risk-Sharing Imagination in Howards End: This paper examines the paradigmatic role insurance plays in understanding loss. Rather than conceiving of loss as the occasion for mourning, Forster imagines loss according to principles of insurance, conceptualizing it as an occasion for systematic management that emphasizes replacement rather than bereavement. As employees such as Leonard Bast become subject to replacement the text asks: what are the ethical limits to such a system of replaceability? The paper considers whether insurance offers a form of social justice that reconciles liberal and capitalist approaches to social and economic inequality by reading the text's epigraph "only connect" anew—not as a return to the past, but as a modern form of social cohesion, one that formalizes through capitalist institutions the nation's shared desire to guard against the future.

8.6 Imagining the Law in Political Theory

Mark Antaki

The Turn to Imagination in Legal Theory: At least since the publication of J.B. White's *The Legal Imagination*, many scholars thinking about law have made "imagination" a keyword in their work. "Imagination" has supplemented or displaced other keywords such as "force," "will," "reason." I inquire into the significance of the turn to "imagination" in legal theory and ask whether the turn to "imagination" can be grasped, following Weber, as an attempt to re-enchant the world and law.

Susan Dianne Brophy

A Critical Unpacking of the Kantian Ideology of Law Found in Agamben's 'State of Exception': This paper explores critical views that challenge the authority of state law as expressed by Hart and Dworkin. Here, I unpack the notion of the Kantian-inspired "ideology of law" by linking the issue of consent (Weber and Hunt) to the problem of state law's false appeals to justice (Adorno, Horkheimer, and Benjamin). Reading Agamben's concept of the "state of exception" in this context, I highlight the connection between his and Benjamin's radical approaches to justice, which is the basis for my support of his point that even in its nonapplication, law upholds sovereign authority by employing strategies of "inclusive exclusion" that render life and justice secondary to, and at the service of, state law; however, the point is also made that Agamben's theory does not go beyond a reinstatement of the Kantian-based ideology of law, and therefore cannot offer any insight on how to challenge the state of exception.

Lida Maxwell *From Procedural to Legal Justice: A Reading of Arendt's Eichmann in Jerusalem:* Most readings of Arendt's *Eichmann in Jerusalem* argue that the book teaches us a lesson about the importance of proceduralism for justice. These readings are right to suggest that Arendt sees promise in proceduralism, but this essay argues that they are misleading when they suggest that Arendt pursues a purely procedural approach. Not only does Arendt note the limits of the same proceduralism she also affirms in her treatment of Eichmann's trial, she also lauds and models alternative ways of pursuing justice through law: specifically, politics and theatricality in the courtroom. Perhaps surprisingly, Arendt thus teaches us a lesson about the insufficiency of proceduralism to justice. She also, however, teaches us a lesson about the importance of attending to non-procedural, as well as procedural, ways that citizens and officials may bring law to do justice - a broader concern not just with procedural justice, but with what I call "legal justice."

Allison Thomas *Mourning, Justice, and the Imagination: An Examination of the Role of Public and Private in Plato and Arendt:* Between the public and the private, the discourse of mourning and memory takes a distinctly different form. How this imagining occurs bears heavily on how justice is shaped from moment to moment within our lives not only as citizens, but as subjects. This paper will explore the spectrum between public and private, and will interrogate the schism between these two spaces. Using Plato and Hannah Arendt's discussions of public and private, discussions that historically have framed the place of mourning in the polis, I will argue that a new consideration of the importance for private imaginings of justice in the current political conversation is imperative for the formation of a healthy citizen subject.

8.7 Legal Responses to "Unconventional Family Arrangements"

Marie Ashe *Re-Reading Reynolds: Notes for the Post-Pluralism Project:* In 1879, in *Reynolds v US*, the Supreme Court, interpreting the Free Exercise Clause, upheld Federal law criminalizing Mormon polygamy; participated in identifying women as "victims" of polygamy; characterized polygamy as "always odious among the northern and western nations of Europe;" and observed that "polygamy leads to the patriarchal principle while that principle cannot long exist in connection with monogamy." The broad historical record and its other decisions affecting women during the Reynolds decade belie the Court's construction of itself as "saving" women from polygamy, from patriarchy, and from a particular form of religion. Its recent interpretation of the Free Exercise clause and its year 2007 restriction of abortion rights in the name of protecting women from the consequences of their own moral judgments demonstrate the Court's "return to Reynolds." Re-reading Reynolds becomes an essential project for legal theory examining the intersections of gender/law/religion at the moment of multiculturalism.

Jeffery Johnson *Privacy, Authenticity & Equality: The Moral and Legal Case for the Right to Homosexual Marriage:* The traditional political values of liberty, authenticity, privacy, and equality are combined to make the normative case that homosexual couples should have the right to marry. The constitutional principle of *stare decisis* is then marshaled to argue that this moral right is also entitled to constitutional protection.

Suzanne A. Kim *Toward a Contextual Approach to Language Disputes in Family Law:* In family

law, the language we use to describe people and relationships matters. This is because family law largely turns on status designations, rather than private negotiations, to confer socio-legal rights and duties. Acknowledging the importance of words, however, does not explain the underlying dynamics at work in disputes over language in family law. This article aims toward a richer explanation of such contests by taking up two debates in family law bearing on the relationship between words and status - whether same-sex couples have the right to the term "marriage" and whether women should use their husbands' surnames upon marriage. This article argues that while conventional approaches to these debates assume an inevitable connection between language and meaning, a more openly contextual approach to such contests identifies them more appropriately as crucibles for broader conflicts about socio-legal status, agency, and power.

Kelly Phipps

From Slavery's Twin to a Crime Against the Race: Congressional Responses to Polygamy, 1862-1887: How did federal lawmakers understand Mormon polygamy as Congress adopted harsher and more effective prohibitions against the practice? This paper argues that the drive behind anti-polygamy legislation in the nineteenth century was inextricably linked to shifts in the racial politics of Northern Republicans. Antebellum and Reconstruction-era anti-polygamists labeled polygamy and slavery the "twin relics of barbarism," analogizing polygamist husbands to Southern slaveholders. However, by the 1880s anti-polygamists rooted their arguments in Chinese exclusionism and avoided sectionalist references to Southern slavery. White cultural nationalism mobilized support for the first effective anti-polygamy statutes in 1882 and 1887. The changing meaning of polygamy demonstrates how the Republican Party came to terms with the South's legacy of slavery and rebellion by embracing a unified white cultural identity.

8.8 Performance Possibilities

Camille Nelson

Dancing in the Closet: Lyrical Assault in the Dancehall: This presentation will detail the recent international controversy surrounding lyrics deemed homophobic in Jamaican dancehall music. I will attempt to situate this controversy within an historical context and highlight the latent issues of colonization lurking just beneath the surface. An essential part of this analysis will be to "localize" this controversy by exploring the distinctly Jamaican context in which these Dancehall artists emerge. Thereafter, I will explore the potential of a tortuous remedy, what I will call "lyrical assault," as a legal tool to address what others have dubbed "murder music." Necessarily, however, this analysis will also recognize that the "reading" and translation of the lyrics of these artists in the international setting reveal both a political discourse of gay-rights which does not resonate in the Jamaican context, and a quasi-Imperial posture of the North-West which belies the fiction of a post-colonial Jamaica.

Lara Nielsen

Dance Documents: Imagining Justice: In this paper I discuss a 2007 dance performance that examines environmental injustice through the lens of the working poor, focusing on women's labor in local and global contexts. The collaborative production intermixes professional with other kinds of performers, imagining "a third world community of women working in extreme conditions." Here affect and gesture carve a link to 'information' about environmental law and policy, inventing a dance document of and for 'the real.' If documentary and other media theory suggests that we need to critique the

ways that teletechnologies beckon 'the real' in interdisciplinary research in performance and the law, then the question of how to attend to the ways that performance resists the authorizations of 'information' - and through ethnographic authority - is especially pressing for thinking interdisciplinary research in performance and the law.

8.9 Dramatizing Justice and Injustice

David Fisher

Supplementing Justice: Supplication as a Quasilegal Practice: Is supplication a quasilegal practice and, if so, what are the forms and justifying norms for this ancient practice today? This essay explores these questions, applying F. S. Naiden's model of ancient supplication practices to readings of an ancient text and a contemporary image of supplication. In both there is a question about what justice demands, and in both supplication supplements law, making visible what law obscures. Naiden claims that "The development of rights does not render supplication obsolete. Some who lack rights supplicate instead and the public sometimes intercedes on their behalf. . . . Supplication varies as much as rights should not." Part I summarizes Naiden account of ancient supplication, including discussion of quasilegal aspects of the practice. Part II applies Naiden's model first to a reading of Euripides' *Hecuba* (lines 786-875,) focusing on the rhetorical strategies deployed in *Hecuba's* speeches to persuade Agamemnon to respond to her plight, against the background of ancient Athenian legal culture. A second reading examines a widely circulated amateur photograph from Abu Ghraib prison. Using the work of W. J. T. Mitchell as a basis for analysis of the photograph the essay shows how circulation of this image on the web constitutes supplication in the contemporary electronic public sphere, making visible what had been placed beyond the reach of law. Despite differences between ancient Athenian and contemporary Western legal cultures, in both trope and visual image serve as quasilegal supplements to legal argument. Part III argues that supplication remains a quasilegal practice today, on the boundary between law and politics. Just as ancient practice combined substantive arguments within established ritual form, so today supplicatory images and texts present ways of seeing "Others" through ritualized repetition of images in the electronic public sphere. Supplication is especially significant for persons or groups in circumstances outside the reach of law who lack sufficient resources to plead or lack legal standing to plead according to rules of law; supplication supplements law, enabling law to see better.

Melissa Lingle-Martin

Staging Injustice: Langston Hughes' Dramatization of Representational Politics in Scottsboro, Limited: In response to the farcical trials referred to as the Scottsboro Controversy, Langston Hughes put America's judicial, social, and mainstream theatrical systems on trial by performing their politics onstage. In *Scottsboro, Limited*, Hughes foregrounds the performative nature of law, media, and theatre, and confronts the injustices of institutionalized representational politics by orchestrating a Nomo-empowered, agit-prop performance that dramatizes the politics of representation stratifying America in the 1930s (and today). Instead of acquiescing to, accepting, and representing the status quo, Hughes drew upon the power of the arts to participate in the wars of power and performance waging over representations of the Scottsboro Boys. He thereby changed the cultural and political conversation, thematically and stylistically, and disrupted the master narratives

of American jurisprudence in order to change the way people interact with and imagine justice and humanity.

8.10 Thinking About Places and Spaces

- Elizabeth Glazer *Unifying the Right(s) to Exclude:* Considerable scholarly energy has been spent theorizing property's right to exclude. Considerable energy has been spent, too, theorizing the First Amendment's right to exclude (i.e., the expressive right not to associate). While these two rights to exclude borrow themes from one another, it is unclear whether the rights share the same theoretical ground. This Paper will examine whether the rights to exclude are one right, or are, instead, two separate rights. Through such an examination, the Paper hopes to offer analytic clarity to both First Amendment and Property laws.
- Lisa Pruitt *Of Spheres and Spaces: What Critical Geography Can Teach Law about Rural Women:* Like other legal scholars, feminists often think about social change in relation to time, using history as a lens through which to reveal disadvantage and injustice. Feminists have thus effectively used society's evolving perception of women and gender roles to inform legal changes, and vice versa. They have observed, for example, that the public-private divide and related separate spheres ideology is a product of historical events. I argue in this paper that a better understanding of women's lived realities, including their encounters with the law, requires legal scholars to engage not only history, but also geography. Because spatial aspects of women's lives implicate inequality and moral agency, they have direct relevance to an array of legal issues. I therefore deploy the tools of critical geographers - space, place, and scale - with a view toward informing law and policy-making about an overlooked population for whom spatiality is particularly relevant: rural women.
- John Strawson *More Law, Less Space: Disappearing Palestine:* The more certain Palestine's legal personality has become, the less secure its territory appears. As the Palestine author and lawyer Raja Shehadeh has observed, "when I began hill walking in Palestine a quarter of century ago, I was not aware that I was traveling through a vanishing landscape" (Shehadeh, *Palestinian Walks: Notes on Vanishing Landscape* (Profile, 2007)). This paper will track Shehadeh's walks interrogate the aggressive spatial appetite that colonial legalism unleashes. It will outline the limitations of postcolonial discourse in addressing the manner in which the imperial reconfiguring of territory has become naturalized in law.
- Patrick Timmons *A Mexican de Tocqueville? Manuel Payno's 1845 Essays about Visits to U.S. Penitentiaries:* In early nineteenth-century Europe, U.S. prisons attracted admiration. But what of non-European parts of the Atlantic World? Did non-European observers visit U.S. prisons? What did they witness? How did they write about these experiences? In what mediums did they publish? Did they focus only on the routines and discipline of the prison? Or, did their prison visits offer observations about the host country and its people? This presentation seeks to broaden inquiry into the penal scholarship of the nineteenth-century Atlantic World. It offers a response to these questions from a Mexican perspective. During the summer of 1845, the Mexico City born writer, former Mexican Army officer, and recently-named diplomat, then thirty-five year old Manuel Payno visited prisons in the north-eastern United States. A critical commentary of his published essays of his 1845 visit comprises the primary source material for this paper.

8.11 Law, Emotion and Culture

- Matthew Hall *Getting Stories Across: the Narratives of Victims in Adversarial Criminal Justice:* This paper examines the place of victims of crime in the adversarial criminal trial. Drawing on psychological and sociological literature, as well as developing notions of 'therapeutic jurisprudence', the paper suggests that putting victims 'at the heart' of criminal justice necessitates a detailed appreciation of the roles of victims' 'stories' within the trial process. The therapeutic benefits of 'story-telling' for crime victims are discussed, whilst criminal trials themselves are construed as collections of stories and interpretations of stories. As such, it is submitted that a victim-centered trial would ensure victims could effectively communicate their *own* stories to the court, and hence derive therapeutic benefits. Thus, putting victims 'at the heart' of the system also means putting their *stories* to the heart of that system. Under the adversarial system, however, a victim's story is often substituted for a version compiled by a number of other actors through the evidence-giving process itself.
- Kathryn Abrams Hila Keren *Law in the Cultivation of Hope:* This paper looks at the relation of law to the positive emotions, in particular the emotion of hope. A focus on positive emotions promises further to enrich law and the emotions scholarship, which has had its primary focus on negative emotions in the criminal context; this inquiry also moves in a more explicitly normative direction, in that it highlights the roles that law might play in *engendering* certain emotions. Drawing on philosophic, literary and cinematic works, we define hope not as wishful thinking or simple aspiration, but as the ability to envision and move concertedly toward distant goals. We then explore a number of different ways that legal actors can affect the emotion of hope: by cultivating it, by managing it, by manipulating it, or even by destroying it. Finally, we assess the possibilities and the dangers of using law in a purposive way to engender this positive emotion.
- John E. Stannard *Inspector Goole's Empty Threat: Criminal Law and Emotional Harm:* The aim of this paper, which is based on JB Priestley's famous play *An Inspector Calls*, is to examine the principle that there is no liability in the criminal law for the imposition of emotional harm. In the play a mysterious policeman, Inspector Goole, exposes the moral responsibility of a wealthy family for the suicide of a young woman, but the law would not have imposed criminal sanctions for such conduct. The paper examines the courts' understanding of the nature of "emotion" and "emotional harm" in the light of current psychological understanding, and then looks at the arguments put forward by the criminal courts for adopting a restrictive approach in this context. Given that there are contexts where the law currently does penalize the causing of emotional harm, it will be suggested that there is no good reason in principle for ruling out criminal liability in cases of this sort.

LCH 2008 Directory

Kolapo Abimbola	amimbola@gmail.com	3.3
Kerry Abrams	kerryabrams@virginia.edu	5.10
Elizabeth Adjin-Tettey	eadjinte@uvic.ca	1.2
Amy Adler	amy.adler@nyu.edu	1.7
Kritika Agarwal	kritika_a@mail.utexas.edu	7.10
Peter Alces	paalce@wm.edu	5.3
Jill Anderson	janderson@law.wnec.edu	3.9
Matthew Anderson	manderson@une.edu	3.4
Elisabeth Anker	Libanker@gmail.com	5.6
Leslie Annexstein	Lannexstein@urbanjustice.org	1.5
Mark Antaki	mark.antaki@mcgill.ca	8.6
Ogechi Anyanwu	ogechi.anyanwu@eku.edu	6.9
Keith Aoki	kaoki@ucdavis.edu	6.6
Paul Apostolidis	apostopc@whitman.edu	7.6
Laura Appleman	appleman@willamette.edu	1.8
Melicent Arig	mjarig@yahoo.com	2.9
Maria Aristodemou	m.aristodemou@bbk.ac.uk	1.6
Maria Aristodemou	m.aristodemou@bbk.ac.uk	3.5
Elvia R. Arriola	earriola@niu.edu	1.11
Marie Ashe	mashe@suffolk.edu	8.7
Noa Ashkenazi	noaa@yorku.ca	7.9
Logan Atkinson	logan_atkinson@carleton.ca	7.3
Hadar Aviram	aviramh@uchastings.edu	2.8
Hadar Aviram	aviramh@uchastings.edu	7.8
Nicole Aylwin	naylwin@yorku.ca	1.8
Susan Ayres	sayres@law.txwes.edu	1.10
Constance Backhouse	backhous@uottawa.ca	2.10
Richard Bailey	rb@student.usyd.edu.au	3.8
Bev Baines	bainesb@queensu.ca	1.2
Jaco Barnard	Alfred.Barnard@uct.ac.za	3.7
Robin Barnes	Robin.Barnes@Colorado.EDU	6.11
Robin Barnes	Robin.Barnes@Colorado.EDU	1.4
Lior Barshack	barshack@idc.ac.il	4.4
Sydney Beckman	sbeckman@charlestonlaw.org	4.2
Melina Bell	bellm@wlu.edu	1.10
Benjamin Berger	bberger@uvic.ca	2.9
Roger Berkowitz	berkowitz@bard.edu	3.7
Roger Berkowitz	berkowitz@bard.edu	4.1
Roger Berkowitz	berkowitz@bard.edu	2.2
Elisabetta Bertolino	elisabettaro@hotmail.com	5.9
Leora Bilsky	bilskyl@post.tau.ac.il	Plenary
Anne Bloom	abloom@pacific.edu	2.8
Susan Dianne Brophy	sbrophy@yorku.ca	8.6
Bradley Bryan	bwb@uvic.ca	7.1
Christopher Buccafusco	chrstphr@uchicago.edu	2.1
Christopher Buccafusco	chrstphr@uchicago.edu	3.1
Ruth Buchanan	rbuchanan@osgoode.yorku.ca	3.11
Annie Bunting	abunting@yorku.ca	8.4
Sarah Burgess	sburgess@usfca.edu	7.4
Doris Buss	dbuss@connect.carleton.ca	3.2

Keith Bybee	kjbybee@maxwell.syr.edu	7.5
Donna Byrne	donna.byrne @wmitchell.edu	2.1
Gillian Calder	gcalder@uvic.ca	1.2
Alan Calnan	acalnan@swlaw.edu	5.3
I. Bennett Capers	i.bennett.capers@hofstra.edu	2.8
Bruce Carolan	professorcarolan@yahoo.com	7.10
Lief Carter	LHCarter@ColoradoCollege.edu	2.3
Larry Cata Backer	lbacker@tulane.edu	6.2
Larry Cata Backer	lbacker@tulane.edu	7.5
Li Chen	lc2069@columbia.edu	2.9
Elaine Chiu	chiue1@stjohns.edu	6.5
Julia Chryssostalis	chryssj@wmin.ac.uk	3.5
Mary L. Clark	mclark@wcl.american.edu	2.10
David Cohen	David.S.Cohen@drexel.edu	7.5
Anthony Colangelo	colangelo@smu.edu	1.3
Marianne Constable	mc@socrates.berkeley.edu	2.3
Heather Conway	h.conway@qub.ac.uk	7.11
Frank Rudy Cooper	fcooper@suffolk.edu	2.5
Jerome Eric Copulsky	jerome.copulsky@goucher.edu	6.5
Christine Corcos	christine.corcos@law.lsu.edu	4.2
Brenda Cossman	b.cossman@utoronto.ca	2.7
Sharon Cowan	s.cowan@ed.ac.uk	4.8
Angela Crocker	crockera@ukzn.ac.za	3.10
Thomas Crocker	crocker@law.sc.edu	1.9
Jennifer Culbert	jculbert@jhu.edu	2.4
Jennifer Culbert	jculbert@jhu.edu	3.7
Jennifer Culbert	jculbert@jhu.edu	4.1
Jennifer Culbert	jculbert@jhu.edu	8.6
Anne Dailey	Anne.Dailey@uconn.edu	1.7
Orna Alyagon Darr	oalyagon@study.haifa.ac.il	4.6
Roshan de Silva Wijeyeratne	r.desilva@griffith.edu.au	6.2
Jodi Dean	jdean@hws.edu	4.9
Jodi Dean	jdean@hws.edu	8.1
Maneesha Deckha	mdeckha@uvic.ca	4.9
Jeannine DeLombard	j.delombard@utoronto.ca	4.7
David Denny	ddenny@marylhurst.edu	4.8
Naminata Diabate	namidia@mail.utexas.edu	6.9
Marinos Diamantidis	m.diamantides@bbk.ac.uk	4.4
Laura Dickinson	l.dickinson@uconn.edu	4.5
J. Amy Dillard	adillard@ubalt.edu	4.3
Florence Dore	fdore@kent.edu	3.4
Erik Doxtader	doxtader@rhetoricaltheory.com	7.4
Thomas Dumm	tldumm@amherst.edu	2.2
Kate Elder	elder@usfca.edu	7.10
Jeremy Elkins	jelkins@brynmawr.edu	8.1
Charlene Elliott	charlene_elliott@carleton.ca	2.1
Elizabeth Emens	eemens@law.columbia.edu	6.1
Garrett Epps	gepps@law.uoregon.edu	4.2
Julen Etxabe	juletx@umich.edu	5.8
Anthony Farley	farleya@bc.edu	5.5
Anthony Farley	farleya@bc.edu	6.11
Dermot Feenan	d.feenan@ulster.ac.uk	2.10
Dermot Feenan	d.feenan@ulster.ac.uk	6.3

Michael Feola	mfeola@stanford.edu	6.7
Denise Ferreira da Silva	dsilva@weber.ucsd.edu	2.6
Denise Ferreira da Silva	dsilva@weber.ucsd.edu	3.3
Denise Ferreira da Silva	dsilva@weber.ucsd.edu	5.11
David Fisher	dhfisher@noctrl.edu	5.8
David Fisher	dhfisher@noctrl.edu	8.9
Benjamin Forest	benjamin.forest@mcgill.ca	6.6
Charles Forster	forster2007@lawnet.ucla.edu	6.4
Marie Fox	m.fox@law.keele.ac.uk	4.9
Cathrine Frank	cfrank@une.edu	3.4
Katherine Franke	kfranke@law.columbia.edu	4.5
Katherine Franke	kfranke@law.columbia.edu	6.1
Katherine Franke	kfranke@law.columbia.edu	8.4
Katherine Franke	kfranke@law.columbia.edu	3.8
Phil Frickey	pfrickey@law.berkeley.edu	5.1
Elton Fukumoto	etfukumo@law.syr.edu	7.7
Adam Gearey	a.gearey@bbk.ac.uk	4.4
Dianne George	dgeorge@ccs.carleton.ca	1.1
Pablo Ghatti	P.A.Ghatti@ex.ac.uk	3.3
Nora Gilbert	ngilbert@usc.edu	7.8
Jason Gillmer	kgillmer@law.txwes.edu	4.7
Elizabeth Glazer	elizabeth.glazer@hofstra.edu	8.10
Nan Goodman	nan.goodman@colorado.edu	3.6
Nan Goodman	nan.goodman@colorado.edu	5.4
Austin Gorman	Austin_Gorman@brown.edu	8.5
Glenda Grace	glenda.grace@hofstra.edu	7.9
Carol Greenhouse	cgreenho@princeton.edu	Plenary
William Griffith	wbg@gwu.edu	4.6
Oscar Guardiola-Rivera	o.guardiola-rivera@bbk.ac.uk	3.3
Oscar Guardiola-Rivera	o.guardiola-rivera@bbk.ac.uk	8.2
Piyel Haldar	p.haldar@bbk.ac.uk	6.3
Matthew Hall	m.p.hall@sheffield.ac.uk	8.11
Janet Halley	tcyr@law.harvard.edu	4.5
Sheryl Hamilton	sheryl_hamilton@carleton.ca	1.1
Sheryl Hamilton	sheryl_hamilton@carleton.ca	3.2
Sheryl Hamilton	sheryl_hamilton@carleton.ca	7.3
Patrick Hanafin	p.hanafin@law.bbk.ac.uk	1.6
Patrick Hanafin	p.hanafin@law.bbk.ac.uk	3.5
Mark Harris	Mark.Harris@latrobe.edu.au	5.11
Christina Harrison Baird	cmh@humanrightsadvocate.com	1.9
Anna Hartnell	a.hartnell@bham.ac.uk	3.8
Bruce Hay	hay@law.harvard.edu	1.7
Renee Heberle	Renee.heberle@utoledo.edu	2.8
Ernesto Hernández-López	ehernand@chapman.edu	3.1
Gina Herrmann	gah@uoregon.edu	6.8
Ruth Herz	rherz@gmx.net	6.3
Kathryn Abrams Hila Keren	krabrams@law.berkeley.edu	8.11
Christopher Holmes	Christopher_Holmes@brown.edu	8.5
Emily Houh	Emily.houh@uc.edu	2.5
Emily Houh	Emily.houh@uc.edu	1.5
Julietta Hua	Huax0012@umn.edu	5.11
Peter Huang	Peter.huang@temple.edu	2.1
Nasser Hussain	nhussain@amherst.edu	2.4

Anthony Infanti	infanti@pitt.edu	2.8
Toni Irving	airving@nd.edu	4.3
Joseph Jenkins	j.jenkins@uci.edu	2.9
Jeffery Johnson	jjohnson@eou.edu	8.7
Rebecca Johnson	rjohnson@uvic.ca	3.11
Rebecca Johnson	rjohnson@uvic.ca	5.9
Jeffrey Kahn	jkahn@mail.smu.edu	1.3
Kristin Kalsem	kalsemkn@ucmail.uc.edu	1.5
John Kang	jkang@stu.edu	6.11
John Kang	jkang@stu.edu	7.5
Morris Kaplan	morris.kaplan@purchase.edu	8.2
Robin B. Kar	Robin.kar@lls.edu	5.3
Timothy Kaufman-Osborn	kaufmatv@whitman.edu	4.1
Sara Kendall	skendall@berkeley.edu	5.6
Evgenia Kermeli	evgenia@bilkent.edu.tr	4.4
Michael Kessler	mjk62@georgetown.edu	6.5
Ummni Khan	ummni.khan@utoronto.ca	5.9
Daniel Kim	Daniel_Kim@brown.edu	2.5
Jennet Kirkpatrick	jennetk@umich.edu	3.10, 1.8
Anna Krakus	annakrakus@yahoo.com	5.7
Julie Lassonde	julie.lassonde@mail.mcgill.ca	Lunch
Shai Lavi	slavi@post.tau.ac.il	3.7
Shai Lavi	slavi@post.tau.ac.il	4.10
Shai Lavi	slavi@post.tau.ac.il	7.1
Reginald Leamon Robinson	reggielr@siu.edu	6.11
Lindy Ledohowski	Lindy.ledohowski@utoronto.ca	3.2
Susanna Lee	sl22@georgetown.edu	3.4
Kimberly Leighton	kim.leighton@tufts.edu	4.9
Lisa Lewis	llewisgog@yahoo.com	1.10
Helen Liggett	liggett@urban.csuohio.edu	5.5
Lissa Lincoln	lissalincoln@hotmail.com	7.2
Melissa Lingle-Martin	m.j.lingle-martin@iup.edu	7.10
Melissa Lingle-Martin	m.j.lingle-martin@iup.edu	8.9
Jeffrey Lipshaw	jlipshaw@suffolk.edu	5.3
Sarah Lochlann Jain	sarjain@stanford.edu	7.1
Elizabeth Loeb	Elizabeth.Loeb@alumni.brown.edu	7.8
Elena Loizidou	e.loizidou@bbk.ac.uk	3.5
Elena Loizidou	e.loizidou@bbk.ac.uk	8.2
Jinee Lokaneeta	jlokanee@drew.edu	1.9
Doris Long	7long@jmls.edu	3.1
Anja Louis	a.louis@sheffield.ac.uk	4.8
Anja Louis	a.louis@sheffield.ac.uk	6.8
Donna Maeda	maeda@oxy.edu	4.7
Tayyab Mahmud	mahmud@seattleu.edu	2.6
Kevin Maillard	maillard@law.syr.edu	8.3
Kevin Maillard	maillard@law.syr.edu	5.1
Diana Majury	dmajury@ccs.carleton.ca	7.3
Sarah Mangin	sarahmangin@gmail.com	3.8
Nancy Marder	nmarder@kentlaw.edu	6.8
Trinyan Mariano	t.mariano@patmedia.net	3.10
Virginia Marie Raymond	lavagirlox@gmail.com	1.11
Terry Maroney	terry.maroney@vanderbilt.edu	7.11
Terry Maroney	terry.maroney@vanderbilt.edu	8.11

James Martel	jmartel@sfsu.edu	2.4
Lida Maxwell	lm286@cornell.edu	8.6
Serena Mayeri	smayeri@law.upenn.edu	5.10
Keally McBride	kdmcbride@usfca.edu	7.4
James McGrath	jmcgrath@post.harvard.edu	5.9
Michelle McKinley	michelle@uoregon.edu	1.3
Michelle McKinley	michelle@uoregon.edu	2.6
Michelle McKinley	michelle@uoregon.edu	8.4
William MacNeil	W.Macneil@griffith.edu.au	6.8
William MacNeil	W.Macneil@griffith.edu.au	5.4
Robert Meister	meister@ucsc.edu	5.6
Martha Merrill Umphrey	mmumphrey@amherst.edu	2.4
Martha Merrill Umphrey	mmumphrey@amherst.edu	6.10
Martha Merrill Umphrey	mmumphrey@amherst.edu	3.11
Linda Meyer	lindarossmeyer@gmail.com	1.10
Linda Meyer	lindarossmeyer@gmail.com	3.7
Linda Meyer	lindarossmeyer@gmail.com	4.3
Diana Tietjens Meyers	Diana.meyers@uconn.edu	4.6
Naomi Mezey	mezeyn@law.georgetown.edu	3.11
Naomi Mezey	mezeyn@law.georgetown.edu	5.4
Ruth A. Miller	ruth.miller@umb.edu	4.3
Anoop Mirpuri	anoop@u.washington.edu	4.7
Mark C. Modak-Truran	mmodak@mc.edu	6.2
Francis J. Mootz III	fjmootz@psu.edu	2.3
Francis J. Mootz III	fjmootz@psu.edu	6.2
Leslie Moran	L.Moran@bbk.ac.uk	2.10
Leslie Moran	L.Moran@bbk.ac.uk	8.2
Leslie Moran	L.Moran@bbk.ac.uk	6.3
Stewart Motha	s.motha@kent.ac.uk	4.1
Stewart Motha	s.motha@kent.ac.uk	5.11
Stewart Motha	s.motha@kent.ac.uk	6.7
Carmela Murdocca	murdocca@yorku.ca	5.1
Melissa Murray	mmurray@law.berkeley.edu	5.10
Stuart Murray	sjmurray@ryerson.ca	7.1
Camille Nelson	nelsonca@slu.edu	8.8
Lara Nielsen	lara.nielsen@nyu.edu	8.8
Andrew Norris	anorris@polisci.ucsb.edu	8.1
Reginald Oh	Reginald.Oh@law.csuohio.edu	2.6
Reginald Oh	Reginald.Oh@law.csuohio.edu	5.5
Reginald Oh	Reginald.Oh@law.csuohio.edu	6.6
Reginald Oh	Reginald.Oh@law.csuohio.edu	8.10
Meredith Olson	merdeolson@juno.com	7.8
Nathan Oman	nboman@wm.edu	5.3
Valerie Oosterveld	vooster@uwo.ca	4.5
Hari Osofsky	hosofsky@uoregon.edu	1.3
Hari Osofsky	hosofsky@uoregon.edu	5.5
Eden Osucha	eosucha@bates.edu	4.7
Kunal Parker	kmparker@princeton.edu	6.6
Paul Passavant	PASSAVANT@hws.edu	7.6
Richard Perry	rperry@email.sjsu.edu	4.6
Stephen Pete	pete@ukzn.ac.za	3.10
Penelope Pether	pether@law.villanova.edu	4.3
Sara Phalen	phalen27@yahoo.com	1.11

Kelly Phipps	kphipps@virginia.edu	8.7
Sieglinde Pommer	spommer@post.harvard.edu	5.8
Sieglinde Pommer	spommer@post.harvard.edu	7.7
Sieglinde Pommer	spommer@post.harvard.edu	6.9
Ileana Porras	Ileana.Porras@asu.edu	2.6
Ashrita Prasad	ashrita1987@gmail.com	7.7
Lisa Pruitt	lrpruitt@ucdavis.edu	8.10
Melissa Ptacek	mmptacek@earthlink.net	6.10
Erika Rackley	Erika.rackley@durham.ac.uk	2.10
Sara Ramshaw	s.ramshaw@qub.ac.uk	6.7
Sara Ramshaw	s.ramshaw@qub.ac.uk	1.6
Sherene Razack	srazack@oise.utoronto.ca	5.11
Ravit Reichman	Ravit_Reichman@brown.edu	1.7
Ravit Reichman	Ravit_Reichman@brown.edu	3.6
Ravit Reichman	Ravit_Reichman@brown.edu	Plenary
Ravit Reichman	Ravit_Reichman@brown.edu	8.5
Angela Riley	ariley@swlaw.edu	5.1
William Rose	wrose@albion.edu	5.7
Darren Rosenblum	Drosenblum2@law.pace.edu	8.3
Darren Rosenblum	Droseblum2@law.pace.edu	3.9
Laura Rosenbury	larosenb@wulaw.wustl.edu	8.3
Susan Rozelle	srozelle@law.capital.edu	4.2
Maya Sabatello	msabatello@nyu.edu	1.9
Susan Sage Heinzelman	sheinz@mail.utexas.edu	1.11
Susan Sage Heinzelman	sheinz@mail.utexas.edu	8.9
Ricardo Sanin	ricardosanin@yahoo.com	3.3
Eric Sapp	ecsapp@stanford.edu	2.2
Eric Sapp	ecsapp@stanford.edu	5.7
Austin Sarat	adsarat@amherst.edu	4.1
Austin Sarat	adsarat@amherst.edu	7.9
Andrew Sargent	asargent@wcupa.edu	6.4
Neil Sargent	nsargent@ccs.carleton.ca	7.3
Sylvia Schafer	sylvia.schafer@uconn.edu	7.2
Matt Scherer	scherer@berkeley.edu	7.6
Matthew Scherer	scherer@berkeley.edu	6.10
Susan Schmeiser	Susan.Schmeiser@law.uconn.edu	3.6
Susan Schmeiser	Susan.Schmeiser@law.uconn.edu	6.1
Jennifer Schnepf	Jennifer_Schnepf@brown.edu	8.5
Hilary Schor	schor@usc.edu	5.4
Jennifer Schulz	j_schulz@umanitoba.ca	6.8
Kyle Scott	k.scott@unf.edu	5.8
Kyle Scott	k.scott@unf.edu	6.7
Patricia Seith	pseith@law.columbia.edu	3.9
Amr Shalakany	shalakany@aucegypt.edu	4.4
Cassandra Sharp	csharp@uow.edu.au	1.8
Karl Shoemaker	kbshoemaker@facstaff.wisc.edu	2.9
Jodi Short	jshort@berkeley.edu	2.7
Jessica Silbey	jsilbey@suffolk.edu	3.11
Jessica Silbey	jsilbey@suffolk.edu	2.5
Jonathan Simon	jsimon@law.berkeley.edu	2.7
Adam Sitze	asitze@amherst.edu	3.6
Joseph Slaughter	jrs272@columbia.edu	5.8
Sarah Song	ssong@law.berkeley.edu	5.10

Dean Spade	SPADE@law.ucla.edu	6.1
Eimear Spain	eimear.spain@ul.ie	7.11
Indra Spiecker	spiecker@coll.mpg.de	2.7
Franklin G. Snyder	fsnyder@law.txwes.edu	5.3
John E. Stannard	j.stannard@qub.ac.uk	7.11
John E. Stannard	j.stannard@qub.ac.uk	8.11
Jill Stauffer	jstauffer@scms1.jjay.cuny.edu	3.7
Jill Stauffer	jstauffer@scms1.jjay.cuny.edu	4.1
Paul Stenner	p.stenner@brighton.ac.uk	1.6
Jacqueline Stevens	jstevens@lawso.ucsb.edu	3.9
Susan Sterett	ssterett@du.edu	8.7
Elizabeth Stockton	stockton@southwestern.edu	6.9
Maura Strassberg	maura.strassberg@drake.edu	8.3
Mark Strasser	mstrasser@law.capital.edu	6.10
John Strawson	john.strawson@virgin.net	4.4
John Strawson	john.strawson@virgin.net	8.10
Juliet Stumpf	jstumpf@lclark.edu	1.3
Elizabeth M. Sturgeon	esturgeon@msmc.la.edu	3.5
Harini Sudersan	harini_sudersan@yahoo.co.in	7.7
Peter Swan	pswan@ccs.carleton.ca	6.7
Charles Talcott	ctalcott@aup.fr	7.2
Joshua Tate	jctate@smu.edu	1.10
Nelson Tebbe	nelson.tebbe@brooklaw.edu	6.5
Marilyn Terzic	mte@sympatico.ca	2.7
Allison Thomas	aathomas@speakeasy.net	8.6
Adam Thurschwell	Adam.thurschwell@law.csuohio.edu	4.1
Adam Thurschwell	Adam.thurschwell@law.csuohio.edu	8.8
Patrick Timmons	ptimmons99@gmail.com	8.10
Patrick Timmons	ptimmons99@gmail.com	3.10
Lars Toender	l-toender@northwestern.edu	7.6
Robert Tsai	rtsai@uoregon.edu	8.4
Zhivka Valiavicharska	zhivka@berkeley.edu	5.6
Rose Villazor	rvillazo@smu.edu	2.6
Rose Villazor	rvillazo@smu.edu	5.1
Leti Volpp	lvolpp@law.berkeley.edu	2.6
Leti Volpp	lvolpp@law.berkeley.edu	8.4
Stephanie Wildman	swildman@scu.edu	1.4
Christiane Wilke	christiane_wilke@carleton.ca	3.2
Christiane Wilke	christiane_wilke@carleton.ca	1.9
Verna Williams	verna.williams@uc.edu	1.5
Joshua Wilson	jcwilson@jjay.cuny.edu	3.10
Steven L. Winter	swinter@wayne.edu	5.7
Steven L. Winter	swinter@wayne.edu	7.7
Doris Witt	doris-witt@uiowa.edu	3.1
Willem Witteveen	W.J.Witteveen@uvt.nl	2.3
David Witzling	dwitzling@earthlink.net	6.4
George Wright	gwright@uwsuper.edu	2.2
Benjamin Yost	bsyost@fas.harvard.edu	7.9
Diana Young	diana_young@carleton.ca	1.1
Alison Young	ayoung@unimelb.edu.au	Plenary