



*Between Law & Justice:
Ethics, Politics & the State*

**SJD Association
Workshop 2018**

May 17
Harvard Law School
Lewis Int. Law Center

03:30-07:00PM



05:00-07:00PM Closing Reception
at LEW 214A

05:15PM Closing Remarks
at LEW 214A

8. Technology, Regulation & Human Rights

03:30-05:00PM at LEW 302

7. Law, Political Movements & Social Change

03:30-05:00PM at LEW 202

03:00-03:15PM Break

6. Foundational Concepts in Legal Theory

01:45-03:15PM at LEW 302

01:45-03:15PM

5. Law & Development

01:45-03:15PM at LEW 202



Lunch 12:45-01:45PM
at LEW 214B

08:30-09:00AM Coffee & Registration
at LEW 214A&B



09:00-09:15AM Opening Remarks by Prof. Alford at LEW 214A

1. Feminist Legal Theory & Public Law

09:30-11:00AM at LEW 202

2. Globalism vs. Populism

09:30-11:00AM at LEW 302

11:00-11:15AM Break

3. Constitutional Structure & Design

11:15AM-12:45PM at LEW 202

4. Law & Distribution

11:15AM-12:45PM at LEW 302

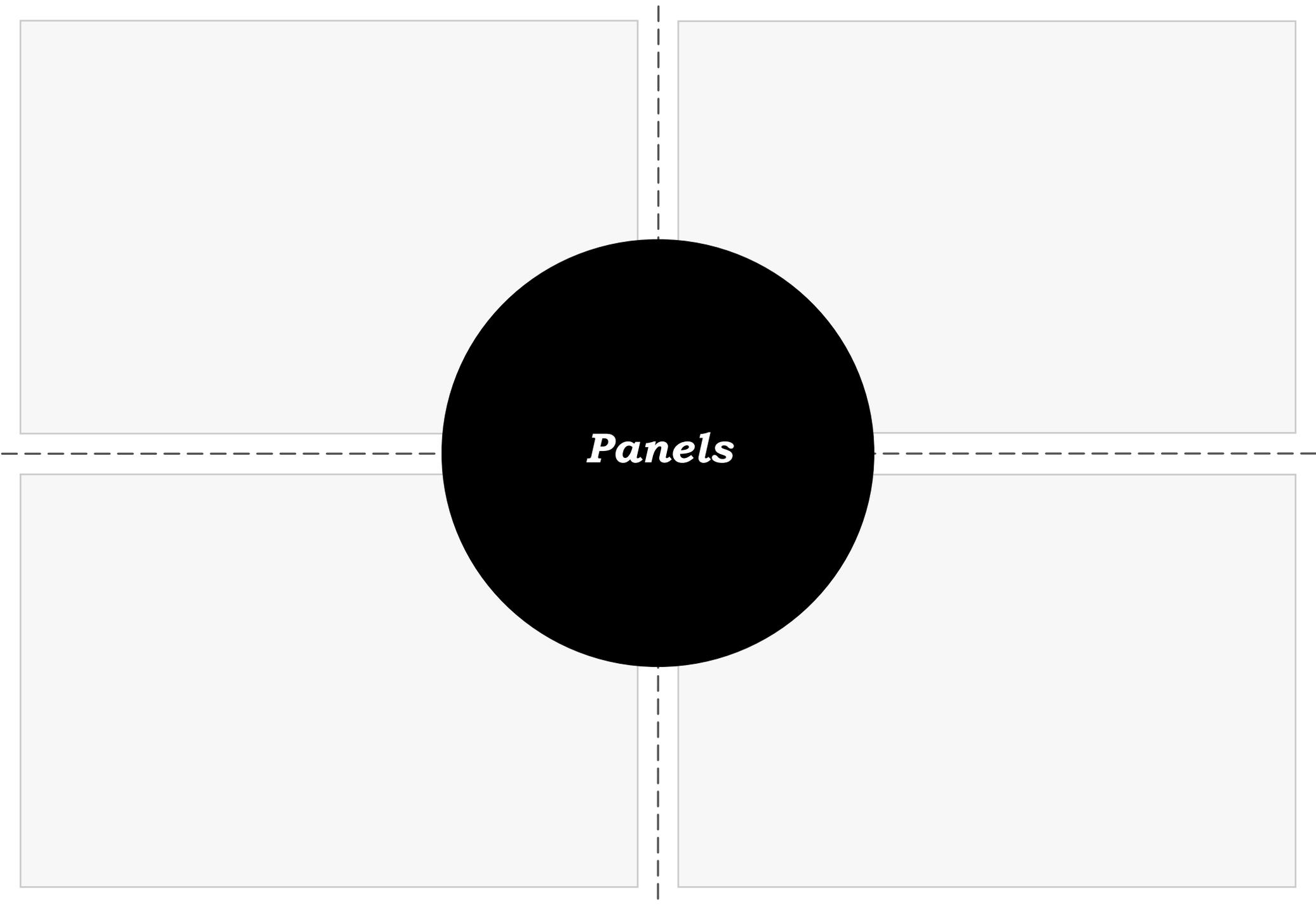
11:15AM-12:45PM

08:30-11:00AM

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Panels

A (Left) Theory of Sex



Heidi Matthews

Feminist Jurisprudence for Farmed Animals



Jessica Eisen

1
**Feminist Legal Theory
& Public Law**
09:30-11:00AM | LEW 202
Moderator: Sarah Deibler



Frances Olsen

Is the Casting Couch a Castaway? Sexual Harassment in Hollywood

Regina Larrea



***Developing Feminist Law in Mexico:
The Feminist Campaign for Voluntary Motherhood***

Frances Olsen SJD '84 is Professor of Law at UCLA School of Law. Her areas of research include legal theory, social change and feminism. During law school, Professor Olsen did legal aid work for migrant farm workers in Colorado and was the notes & comments editor of the *University of Colorado Law Review*. She clerked for the chief judge of the U.S. District Court in Colorado. She represented Native Americans at Wounded Knee in 1973. She established the first feminist public interest law firm in Denver, and, while an S.J.D. student, founded a legal academic women's group, the Fem-Crits. She has taught at Harvard, Oxford, Cambridge, Berlin, Frankfurt, Tokyo, Jerusalem. She was a fellow at Oxford University in 1987 and holds a Life Fellowship at Churchill College, Cambridge University. Professor Olsen has edited *Feminist Legal Theory I: Foundations and Outlooks* and *II: Positioning Feminist Theory Within the Law* (1995). In addition to writing some 100 articles published world-wide, including in the *Harvard Law Review* and *Yale Law Journal*, she co-authored *Cases and Materials on Family Law: Legal Concepts and Changing Human Relationships* (with Weyrauch and Katz, 1994).

Heidi Matthews SJD '14 is Assistant Professor of law at Osgoode Hall Law School in Toronto. She researches and teaches in the areas of international criminal law, the law of war, international legal history, political theory and the law of sexuality. Her work theorizes contemporary shifts in the practice and discourse of the global legal regulation of political violence, with particular attention to history and gender, as well as political, critical and aesthetic theory. She is also writing a book on a left political theory of sex.

Regina Larrea is a S.J.D. candidate and a Graduate Program Fellow. Her current research focuses on the historical development of feminist law in Mexico. Her broader academic interests include the intersection between gender, sexuality, and the law, feminist theory, legal theory, legal history, and constitutional law. Before coming to Harvard, Regina worked in the Mexican Supreme Court, where she helped develop the Court's Gender Equality Program. She holds an LL.B. from Instituto Tecnológico Autónomo de México (ITAM) with highest honors and an LL.M. from Harvard Law School (waived). She is the editor of the Mexican case law in Steven Calabresi et al., *The U.S. Constitution and Comparative Constitutional Law: Texts, Cases, and Materials* (2016) and a frequent contributor to Nexos Magazine.

Jessica Eisen is a doctoral candidate at Harvard Law School and a Visiting Researcher at Osgoode Hall Law School's Institute for Feminist Legal Studies. She will be joining the University of Alberta Faculty of Law as an Assistant Professor in July, 2018. Her research interests include comparative constitutional and equality law, feminist legal theory, animal law, and food law and policy. Jessica has previously studied at Barnard College (BA, Political Science and Human Rights Studies); The University of Toronto Faculty of Law (JD); and Osgoode Hall Law School (LLM). Her work has been published in the *Journal of Law and Equality*, the *Animal Law Review*, *Transnational Legal Theory*, the *Canadian Journal of Poverty Law*, *Queen's Law Journal*, *ICON: The International Journal of Constitutional Law*, and the *Michigan Journal of Law Reform* (forthcoming). She is a member of the Ontario Bar, and has practiced in the areas of human rights, labor and employment, and constitutional law.

Brexit and Misconceptions of Governance



Damjan Kukovec

Trumpism and Feminist Resistance



Maria Grahn-Farley

2

Globalism v. Populism

09:30-11:00AM | LEW 302
Moderator: Duncan Kennedy

Nikitas Hatzimihail



Images of the "International" Landscape – and Governance – in Private International Law

Matjaz Nahtigal



Globalization, Populism and the Role of International Legal Institutions

Nikitas E. Hatzimihail SJD '02 is Associate Professor of Private Law, Comparative Legal History and Dispute Resolution and former Chairman of the Department of Law at the University of Cyprus. He obtained his law degree from the University of Athens (1995) and continued with graduate studies at Harvard Law School (LLM 1997, SJD 2002), receiving the Adison-Brown Prize in 1997 and 2003. His supervisors were Professors David Kennedy and Charles Donahue. [His committee members and dissertation examiners were Professors Duncan Kennedy, Arthur von Mehren and Bernard Audit] Nikitas teaches and researches on contract and commercial law, dispute resolution processes, comparative law and legal history. His publications include: "The Many Lives -and Faces- of Lex Mercatoria," 71 L. & Contemp. Probs 169 (2008); Cross-Border Class Actions (co-edited with Arnaud Nuyts, Sellier, 2014); "On Law, Legal Elites and the Legal Profession in a (Biggish) Small State: Cyprus" in Small States in a Legal World (Springer, 2017) and Preclassical Conflict of Laws: An Historical Introduction to Private International Law (Cambridge University Press, 2019).

Matjaz Nahtigal SJD '01 is associate professor at the Faculty of Management, University of Primorska. He graduated at the Faculty of Law, University of Ljubljana, where he completed a doctorate in 1999. In 2001 he has completed his doctoral program (SJD) at Harvard University School of Law. His area of research: legal institutions and development, EU law and comparative business law. He has published two monographs on the legal reforms and transition in Central and Eastern Europe. His scientific articles are published in national and international reviews. He was legal adviser to the prime minister and the president of the Republic of Slovenia. Currently he collaborates with the FEPS foundation in Brussels on more inclusive and sustainable future of the European integration.

Damjan Kukovec SJD '15 earned his master's and doctoral degrees at Harvard Law School. He practiced, among other places, at the Legal Service of the European Commission, the European Court of Justice and at the Special Court for Sierra Leone. He successfully pleaded numerous cases before the European Court of Justice. He has published in the fields of EU law, international law and international trade, competition law and legal theory. He has taught at Harvard Law School, at FGV Law School in Rio de Janeiro, at the EUI in Florence and at Kent Law School in Brussels and lectured at several other universities worldwide. He was recently appointed Senior Lecturer at Middlesex School of Law, London.

Maria Grahn-Farley SJD '13 teaches Swedish Constitutional Law and International Public Law. Her research areas are Critical Race Theory, Feminist Theory, Child Rights and Postcolonial Theory.

Judges, Judging and the Fragility of Formal Institutions:

Another Look at Corruption in the Judiciary



Sam Amadi

Governing by Chief Executives



Oren Tamir

3

Constitutional Structure & Design

11:15AM-12:45PM | LEW 202
Moderator: Vicki Jackson

Leia Castañeda



Beatriz Botero



***Compromise and Contradiction:
The Construction of Philippine Legal Theory in the
Early 20th Century***

***The Promise of Local Autonomy in
Colombian Local Government Law***

Leia Castañeda Anastacio SJD '09 is a legal historian whose research explores the ideological and institutional as well as the social and cultural dimensions of legal diffusion and development and applies to their analysis critical, comparative, and interdisciplinary methodologies in contexts both colonial and imperial, national and international. Holding *A.B.* and *J.D.* degrees from the Ateneo de Manila University in the Philippines, she is a 1996 *LL.M.* and 2009 *S.J.D.* graduate of Harvard Law School and has been a Visiting Scholar and a Research Fellow with its East Asian Legal Studies program. Placing first in the 1993 Philippine Bar Examinations, Leia received Harvard Law School's Yong Kim '95 Memorial Prize in 2008 and the American Society of Legal History's William Nelson Cromwell Dissertation Prize in 2010. She is the author of *The Foundations of the Modern Philippine State: Imperial Rule and the American Constitutional Tradition in the Philippine Islands, 1898-1935* (Cambridge University Press, 2016).

Sam Amadi SJD '04

Beatriz Botero Arcila is a second year SJD candidate at Harvard Law School. Her research interests focus on law and economic development, constitutional law, legal theory and law and technology. She holds an LLB from Universidad de los Andes, in Bogotá, Colombia, and an LLM from Harvard Law School.

Oren Tamir is a third year SJD candidate at Harvard Law School, after completing the LLM program there in 2015. Oren holds a bachelor's degree in law from the Hebrew University of Jerusalem, Israel. Following his graduation, Oren served as a law clerk to the current President of the Israeli Supreme Court, the Honorable Esther Hayut. Before beginning his graduate studies, Oren worked for three years in the Office of Legal Counsel and Legislative Affairs in the Israeli Ministry of Justice, where he advised senior government officials and ministers on complex matters of public law and policy and represented the Israeli government regularly in the Israeli legislature, the Knesset. At Harvard, Oren served (and currently still serves) as a teaching fellow in various classes on constitutional law, comparative constitutional law, political theory, and legal interpretation. You can find more details about him on his website here: <http://hls.harvard.edu/dept/graduate-program/oren-tamir/>.

***A Financial Infrastructure for Housing
Integration: Fannie, Freddie & HUD's New Rule
on Affirmatively Furthering Fair Housing***



Nadav Orian

***Engendering Parenthood - A Distributive
Analysis of Parental Leave Law***



Joanna Noronha

4

Law & Distribution

11:15AM-12:45PM | LEW 302
Moderator: Janet Halley

Erum Sattar

Isabel Jaramillo



***Watering Change:
Fluidity and Rigidity in Legal Development***



***Pain and Distribution:
Toward a Critique of the Humanitarian Gaze***

Erum Sattar SJD '17 is an ILSP: Law and Social Change Fellow at Harvard Law School and teaches Water Law at Pace University School of Law. She received her Doctorate in Juridical Sciences (S.J.D.) from Harvard Law School in 2017 where she also completed an LL.M. She has an LL.B. from the University of London, an LL.M. from Queen Mary, University of London and is a Barrister-at-Law from The Honorable Society of Lincoln's Inn, London. Her research focuses on comparative water federalism, trans-boundary water-sharing, the legacy of British colonial-era legal regimes in the context of expert-led development in the Indus and international development organizations. She is the past Editor-in-Chief of the *Harvard Asia Quarterly*, the journal of the Harvard Asia Center and co-founded the Water Law Study Group at Harvard Law School.

Isabel C. Jaramillo Sierra SJD '07 holds a lawyer degree from Universidad de los Andes (Cum Laude, 1997) and an SJD from Harvard Law School (LLM waived, 2000, 2007). Her academic work has centered on the question of feminist legal reform: how is it imagined; how is it pursued; how may we think about what is gained and lost in reform. Her books on the reform of abortion law (with Tatiana Alfonso, *Mujeres, Cortes y Medios*, Bogotá, Universidad de los Andes, 2008) and the evolution of family law (*Derecho y Familia en Colombia. Historias de Raza, Sexo y Propiedad, 1580-1990*, Bogotá, Universidad de los Andes, 2013) are recognized as critical contributions to the field in Latin America. She has also been consultant to the Colombian government on issues of sexual and reproductive rights, and institutional reform for the transition. She is currently AD HOC Justice to the Colombian Constitutional Court and the State Council. She was nominated in 2017 to the Colombian Constitutional Court by President Juan Manuel Santos.

Nadav Orian SJD '16 is Visiting Assistant Professor at Tulane Law School. His scholarship and teaching focus on the law of financial institutions (banking, capital markets, and derivatives), international finance and community development. Before joining the Tulane Law faculty, he worked as a business economist at the Federal Reserve Bank of Chicago and completed an S.J.D. at Harvard Law School. As a member of the Israel Bar Association, Orian Peer also practiced commercial litigation, specializing in bankruptcy and secured transactions. Recent work by Orian Peer includes *Negotiating the Lender-of-Last-Resort: The 1913 Fed Act as a Debate Over Credit Distribution* (forthcoming in the NYU Journal of Law & Business); *A Constitutional Approach to Shadow Banking: The Early Shadow System* (forthcoming in Inside Money: Re-Theorizing Liquidity, University of Pennsylvania Press, Christine Desan ed.) and *The CCP Insolvency Game: The Default Auction as a Stag Hunt* (work in progress with Rebecca Lewis).

Joanna V. Noronha is an SJD candidate at Harvard Law School. Her main research areas are family law, gender and sexuality, institutional design, and law and development.

***The Development Strategies of Developed Countries in Developing Countries:
The Future, the Present and the Past***



Raymond Atuguba

***Corporate Law in the Human Rights Zone:
Loyalty, Humanity and the Global Firm***



Malcolm Rogge

5

Law & Development

01:45-03:15PM | LEW 202
Moderator: Helena Alviar



Xiaoqian Hu

***Prosperity, Legitimacy, and Illegality in
Peri-Urban China***

Xiaoqian (Xiao) Hu is an SJD candidate at Harvard Law School. Her dissertation, “Property, Prosperity, and Authority: Three Tales of China’s Rural Transformation,” studies property rights, state-citizen dynamics, and class and gender relations in contemporary rural China as it undergoes agricultural modernization and localized urbanization. Xiao's research interests include property, cultural property, law and anthropology, law and development, rural studies, and post-1949 China. Before her Harvard education, she received a PhD degree in law from the University of Turin (Italy) and master's and bachelor's degrees in law from East China University of Political Science and Law in Shanghai, China.

Raymond A. Atuguba SJD '04 is Associate Professor at the University of Ghana School of Law, where he teaches Conflict of Laws, Ghana Legal System and Method, Jurisprudence, and several Law and Development and Human Rights Seminars. A graduate of the University of Ghana and of Harvard Law School, he has taught at several universities in Africa, Europe, and the United States of America. His research interests are in “Policy, Law and Development” and “Human Rights and Community Lawyering”. Dr. Atuguba has also worked in the public sector (he was one time the Executive Secretary to the President of Ghana); the private sector (he is the Team Leader of the Law and Development (LADA) Group of companies); and the Non-profit sector (he is co-founder and former Executive Director and former Board Chairman of the Legal Resources Centre).

Malcolm Rogge is in his 5th year in the Harvard Law SJD program. Rogge has been active at the intersection of human rights and business as an activist, filmmaker and scholar for over twenty years. He is currently authoring a theory of business and human rights under the supervision of Professors John Ruggie (Global Governance), Amartya Sen (Philosophy and Economics) and Robert Clark (Corporate Law and Governance).

Four Types of Structuralism in Legal Thought



Péter Szigeti

Wesley Hohfeld and the Analytic Roots of Legal Realism



Bharath Palle

6

**Foundational Concepts
in Legal Theory**

01:45-03:15PM | LEW 302
Moderator: Scott Brewer

Raef Zreik

Pieter Van Mallegem



On Duncan and Dworkin



Balancing and Loss of Faith

Raef Zreik SJD '07 earned his LL.B. and LL.M. degree magna cum laude from the Hebrew University, Jerusalem. He practiced law, then he earned another LL.M. from Columbia Law School. In 2001 started his S.J.D. studies at HLS and earned his degree in 2007. His dissertation deals with Kant's legal theory. As of 2010 he is the academic co-director of the Minerva Center for the humanities at TAU, and an associate professor at Ono Academic College where he teaches jurisprudence, property law, law and culture. Raef is senior researcher at Van Leer Institute in Jerusalem. Fields of interest include legal and political theory, citizenship and identity, legal interpretation. Recent publications include "Kant, time and Revolution" forthcoming in *Graduate Faculty Journal of Philosophy*, 2018; "When Does the Settler Become Native" in *Constellation*, 2016; "Israel/Palestine Now and South Africa Then- on the Analogy and Its limits" in *Law Society and Culture-Tel Aviv University Series*, 2017 (with Azar Dakwar) Raef is on the editorial board of: *Theory and Criticism* (Hebrew), *Maftiah -Lexical Review of Political Thought* (Hebrew and English), *Journal of Palestine Studies* (Arabic), *Journal of Levantine Studies* (English).

Péter D. Szigeti SJD '15 received his S.J.D. from Harvard Law School in 2015. He is currently a Hauser Global Postdoctoral Fellow at NYU School of Law, and will begin teaching at the Faculty of Law of the University of Alberta in July 2018. He has held postdoctoral positions at McGill University and the European University Institute; and he also holds an LL.M. from Harvard Law School (2008), a Master 2 recherche from Université Paris I (2006), and a bachelor's degree in Hungarian law from ELTE University, Budapest (2005). Dr. Szigeti teaches property law and immigration law. His research focuses on law and geography, including the interactions between property law and environmental protection, and the spatial imagination of international law and legal theory.

Pieter Van Malleghem holds a Bachelor in Philosophy from the Facultés Universitaires Notre Dame de la Paix, a Masters of Law and a Masters of Economic Policy from the KU Leuven and a M.Sc. in Economics from the Barcelona Graduate School of Economics/Universitat Pompeu Fabra. He waived his LL.M. degree from Harvard Law School. He obtained a PhD in European Union Law from the KU Leuven in 2016 and is currently an S.J.D. candidate at Harvard Law School.

Bharath Palle is a second year SJD student at Harvard Law School. His interests are in the philosophy of law, political philosophy and intellectual history. In his dissertation, he examines how scholars of the classical legal thought tradition, writing in the late 19th Century, theorized the place of equity in the legal system; and the legal realists' response that came to dominate legal thought in the United States in the early decades of the 20th Century.

Revolutionary Movements and the Law in Latin America: Longing for Liberalism



Helena Alviar

Narratives of Equality: Law, Ethnicity and Gender in Ecuador and Bolivia



Carolina Silva

7
Law, Political Movements & Social Change

03:30-05:00PM | LEW 202
Moderator: Beatriz Botero

Lisa Kelly



Policing Child Discipline

Nkatha Kabira



Between Reality and Fantasy: The Quest for Democracy and Legal Process in Kenya

Lisa M. Kelly SJD '15 is an Assistant Professor at Queen's University, Faculty of Law, where she teaches criminal law and evidence. She holds degrees from the University of British Columbia (B.A), the University of Toronto, Faculty of Law (J.D.), and Harvard Law School (S.J.D.), where she studied as a Trudeau scholar. Her research lies at the intersection of criminal law and family law, with a focus on the historical and contemporary legal regulation of sex, reproduction, and family life. Before joining Queen's, Lisa held a postdoctoral fellowship at Columbia Law School and the Center for Reproductive Rights in New York City. She previously served as a law clerk to Justice Marshall E. Rothstein of the Supreme Court of Canada.

Nkatha Kabira SJD '15 is a Lecturer at the Univ. of Nairobi, School of Law and a postdoctoral W.E.B. Du Bois, Hutchins Fellow at Harvard. She is working towards converting her doctoral thesis into a book titled, "The Law of Commissions: A Case Study of The Place of Commissions in Law and Governance in Kenya." The study is the culmination of work done over a period of 10 years in the areas of law and development, constitution making and implementation, legal and institutional reform, rule of law, regulation of the state and the administration of justice. She lectures widely and has taught both in Nairobi and at Harvard and has received awards in recognition of excellence in teaching. Prior to completing the LL.M. Program at HLS in 2008, she worked as a legal associate and pupil at Kaplan and Stratton Advocates in Nairobi. She has worked as a research fellow at the Kenya National Commission on Human Rights, the Kenya Law Reform Commission and the Constitution of Kenya Review Commission. She holds a Bachelor of Laws degree from the University of Nairobi and a postgraduate diploma in legal practice from the Kenya School of Law. She is an Advocate of the High Court of Kenya.

Helena Alviar García SJD '01 studied law at Universidad de los Andes and holds a Master's and Doctorate in law -SJD- from Harvard Law School. She served as the Dean of the Facultad de Derecho at Universidad de Los Andes in Bogota, from 2011 through 2016, and is a Full Professor at the same institution. Since January of 2017 she has been a visiting professor at Harvard Law School. Professor Alviar has taught at universities in Europe, the United States and Latin America. She has published extensively in the areas of feminist theory, property, law and development, social and economic rights and transitional justice.

Carolina Silva-Portero is a fifth-year S.J.D. candidate at Harvard Law School. Carolina's research focuses on questions of nationalism, ethnicity, race, and gender in the Andes, as well as the relationship between law and social movements. Her current dissertation explores the role of people of African descent and indigenous peoples in the processes of constitutional change during the past decades, focusing primarily on Ecuador and Bolivia. By highlighting how racial, ethnic and gender identities have continuously evolved in a constant and fluid process of political negotiation, Carolina is exploring broader historical narratives of constitutional equality and their connection to the emergence of plurinational States in Latin America.

***Can International Human Rights Law
Survive the Rise of Artificial Intelligence?***



Anna Su

***Big Data, Personalization and
Discrimination***



Talia Gillis

8

**Technology, Regulation
& Human Rights**

03:30-05:00PM | LEW 302
Moderator Gabriella Blum

Elettra Bietti

Rana Elkahwagy



How to Think about Online Platforms



***Rethinking Firearms Regulation in the
Age of Technology***

Elettra Bietti is an S.J.D. candidate at Harvard Law School and an Affiliate at the Berkman Klein Center for Internet and Society. Her thesis focuses on information gatekeepers such as Facebook and Google. She is currently exploring these companies' moral and legal obligations towards individuals through a methodology drawn from political theory and public law, considering them as sites of contestation, in which new interests and forms of social organization demand for a reconfiguration of individual rights, entitlements, and obligations. Prior to starting her doctorate, Elettra was a lawyer at a magic circle firm in London and Brussels, focusing on intellectual property disputes, EU and antitrust law. Recently she also worked for an LA-based company in film distribution and sales and volunteered for Privacy International in London. Elettra holds an LLB (Hons) degree from University College London, an LLM from Harvard Law School and a Diploma in IP Law and Practice from Oxford University. Elettra is qualified to practice law in New York, USA, and England and Wales, UK.

Rana Elkahwagy is a fifth year S.J.D candidate at Harvard Law School; her research focuses on the regulation of the production, trade and destruction of conventional arms. Rana is a junior faculty member at Alexandria University Law School in Egypt where she taught international organization and international law of the sea courses. Her main areas of interest are public international law, arms trade and international trade law. She spent an exchange year in Geneva where she conducted research for UNCTAD on trade-related measures contained in environmental agreements especially under the Paris Climate Agreement. Rana holds her LL.B. in Law from Alexandria University and her LL.M. from Harvard Law School.

Anna Su SJD '13 is assistant professor at the University of Toronto Faculty of Law. Her research interests are in law and religion, law and history of international human rights law and comparative constitutional law. She is the author of *Exporting Freedom: Religious Liberty and American Power* (Harvard University Press, 2016).

Talia Gillis is a SJD candidate at Harvard Law School as well as an economics PhD candidate in the joint GSAS and Harvard Business School program. Her research interests are regulation of household finance and mental accounting. She is currently working on research that seeks to understand how changes in technology and advances in research on financial decision making shape the roles of consumer financial protection regulators. In addition, she is working with a number of financial institutions to understand the effect of pay frequency and bill cycles on consumer spending and saving. She holds a LLB from the Hebrew University and a BCL from Oxford University.

Notes:

***Thank you for
participating!***