Message from the Dean

Dear Colleagues,

We are pleased to update you on the scholarship produced by our faculty since 2015. Situated on the flagship campus of a premier, research-intensive public university, University at Buffalo School of Law has long been associated with innovative, interdisciplinary research and critical approaches to the study of law. Many of our faculty members hold doctorates in areas other than law, and the thoughtful scholarship catalogued here reflects this rich and diverse background. We hope you enjoy getting to know their work.

Yours sincerely,

Aviva Abramovsky
Dean

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Aviva Abramovsky
DEAN AND PROFESSOR
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“... My research is focused on insurance law with emphasis on re-insurance. I am particularly interested in global insurance products and disaster and catastrophe liability. Insurance is a gatekeeper for all corporate behavior and as such the industry’s laws and policies are relevant to every aspect of the world’s economy.”

AREAS OF INTEREST
INSURANCE LAW
COMMERCIAL LAW
REGULATION OF FINANCIAL ENTITIES
LEGAL ETHICS

BOOKS
UNIFORM COMMERCIAL CODE, WEST’S
MCKINNEY’S FORMS FOR NEW YORK
(Thomson Reuters, 2016-18)

CHAPTERS
AREAS OF INTEREST
FIRST AMENDMENT
LEGAL HISTORY
MASS MEDIA LAW

BOOKS


Laws of Image: Privacy and Publicity in America (Stanford University Press, 2015)

ARTICLES
The Esquire Case: A Lost Free Speech Landmark. WILLIAM AND MARY BILL OF RIGHTS JOURNAL (forthcoming, 2018)


CHAPTERS

CONFIDENTIAL CONFIDENTIAL
CONFIDENTIAL CONFIDENTIAL: THE INSIDE STORY OF HOLLYWOOD’S NOTORIOUS SCANDAL MAGAZINE (Chicago Review Press, 2018) presents a thoroughly-researched history of America’s first celebrity gossip magazine and the legal disputes that led to its end. With an extensive network of informants, Confidential soiled celebrities’ pristine reputations by publishing the stars’ scandalous secrets, such as extramarital affairs and drug use, in lurid detail. By 1955, Confidential was the nation’s bestselling publication on newsstands, forcing many to question the scope of freedom of the press and society’s moral obligation to censor indecent content. Ultimately, a slew of multimillion dollar libel lawsuits brought against the magazine by celebrities and simultaneous prosecution by the state of California for obscenity and criminal libel led to the magazine’s downfall. Confidential ceased publishing scandalous gossip in 1957, yet the magazine’s legacy lives on. Confidential established the foundation for future gossip tabloids such as People, the National Enquirer and TMZ.

“
My work examines the interconnections between law, social history and the history of mass communications. Drawing on my earlier research in media history, published as Movie Crazy: Fans, Stars, and the Cult of Celebrity (Palgrave Macmillan, 2001), and The First Lady of Hollywood (University of California Press, 2005), it focuses on the first modern media revolution — the advent of mass-market publishing, radio, film and television in the early to mid-20th century.”
My research is in civil procedure, specifically the tension between class actions’ enforcement potential and heightened procedural and evidentiary rules. On the one hand, judicial resources are far from absolute, and such rules can promote judicial efficiency. On the other hand, a raft of new procedural hurdles threaten class actions’ potential to regulate corporate behavior. It is now harder to get into court; harder to plead a claim; and harder to certify a class. I analyze how such hurdles impact class actions, and then identify ways to balance efficiency and enforcement goals. Because rule interpretation is primarily left to the judiciary, my work analyzes judicial interpretation and decision making.”

“

Christine P. Bartholomew

ASSOCIATE PROFESSOR

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AREAS OF INTEREST

CIVIL PROCEDURE
ANTITRUST
EVIDENCE
CONSUMER PROTECTION
REMEDIES

ARTICLES

The Venue Shuffle: Forum Selection Clauses & ERISA (with James A. Wooten), UCLA LAW REVIEW vol. 66 (forthcoming, 2019)

E-Notice, DUKE LAW REVIEW (forthcoming, 2018)

Exorcising the Clergy Privilege, VIRGINIA LAW REVIEW vol. 103: 1015-1077 (2017)

The Failed Superiority Experiment, VANDERBILT LAW REVIEW vol. 69: 1295-1348 (2016)


Saving Charitable Settlements, FORDHAM LAW REVIEW vol. 83: 3241-3292 (2015)

AMICUS BRIEFS


AFMS LLC v. United Parcel Services, Inc. & FedEx Corp., No. 15-55778 (9th Cir. 2017)
My recent work examines the relationship between law, technology and advertising. Through a variety of mechanisms, including intellectual property law, privacy law, contract law and the First Amendment, the legal system is struggling to set an appropriate balance between commercial freedom and consumer protection in the midst of a modern marketing revolution. Figuring out where this balance should be set is a difficult project. My approach is to mine psychology, which tells us how consumers think, and history, which tells us how lawmakers approached similar questions in the past, to help assess the costs and benefits of advertising in new forms and new spaces.”
I study cultures of bureaucracies and courts, the institutions that implement and interpret the law, approaching them as social arenas and as nodes embedded in wider social worlds. Although we sometimes take the legitimacy of democratic governance for granted, that legitimacy is not something that inheres in a particular political form; it’s a dynamic, culturally specific outcome of continuous work by numerous participants. So I’m particularly interested in how bureaucrats and judges legitimize their actions in democracies. Working through ethnography, interview, and textual analysis, I illuminate how government actors understand, describe, and shape law and governance. In recent work, I’ve uncovered presuppositions about communication and democracy in judicial opinions and interviewed government administrators in the U.S. and Taiwan about how they give law life on the ground.”

Anya Bernstein
ASSOCIATE PROFESSOR
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JD, Yale Law School
BA, Columbia College
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AREAS OF INTEREST
ADMINISTRATIVE LAW AND
COMPARATIVE ADMINISTRATIVE LAW
ADMINISTRATIVE PRACTICE IN
DEMOCRACIES
LAW AND SOCIETY
ASIAN LEGAL CULTURES
JURISDICTION & CIVIL PROCEDURE

ARTICLES
Democratizing Interpretation,
WILLIAM AND MARY LAW REVIEW
vol. 60: (forthcoming, October 2018)

Before Interpretation,
UNIVERSITY OF CHICAGO LAW
REVIEW vol. 84: 567-645 (2017)

Bureaucratic Speech: Language Choice
and Democratic Identity in the Taipei
Bureaucracy, PoLAR: POLITICAL AND
LEGAL ANTHROPOLOGY REVIEW

Differentiating Deference,
YALE JOURNAL ON REGULATION

CHAPTERS
Agency in State Agencies in DISTRIBUTED
AGENCY: THE SHARING OF INTENTIONS,
CAUSE, AND ACCOUNTABILITY (N.J.
Enfield and Paul Kockelman, editors)
(Oxford University Press, 2017) (41-48)

The Songs of Other Birds in
INSIDERS, OUTSIDERS, INJURIES,
AND LAW: REVISITING THE OVEN
BIRD’S SONG (Mary Nell Trautner,
editor) (Cambridge University
Press, December 2017) (219-236)

BOOK REVIEWS
Regimes of Expertise and the Law,
PoLAR ONLINE: POLITICAL AND
LEGAL ANTHROPOLOGY REVIEW (2016)
(Invited review of THE CLINIC AND THE
COURT (Ian Harper, Tobias Kelly, and
Akshay Khanna editors) (Cambridge
University Press, 2015) and THE ROLE
OF SOCIAL SCIENCE IN LAW (Elizabeth
Mertz editor) (Ashgate, 2008))
My book, *The Oxford Introductions to U.S. Law: Criminal Law* explains the key concepts and persistent controversies in American criminal law in light of its history. The English common law of crimes enforced a royal peace by conditioning punishment on unauthorized force and harm to particular victims. The story of American criminal law has been the emergence of a utilitarian conception of criminal offending as the imposition of risk or the violation of consent, combined with culpability. Yet to understand contemporary criminal law, we must also remember the model of offending as trespass against sovereignty out of which it emerged.”
My research examines various intersections of law and sexuality, from obscenity regulation to same-sex marriage. I’m interested in how the law favors, tolerates or disfavors particular expressions of sexuality and intimacy, and how such treatment relates to moral systems, social arrangements and political ideologies. Often I explore these questions from a historical perspective, as in current projects on Anita Bryant’s pivotal 1977 campaign against gay rights and the 1895 trials of Oscar Wilde.”
My research focuses on the relationship between law, science, and nature—broadly construed. In Planted Flags: Trees, Land and Law in Israel/Palestine (2009), I explored the war over tree landscapes in this contentious region. Next, Zooland: The Institution of Captivity (Independent Publisher Award Winner, 2012) took readers behind the zoo to make surprising interconnections between our understandings of the human and the nonhuman. My following monograph, Wild Life: The Institution of Nature (2015), explored the relationship between captive and wild animal population management. Finally, my new book, Coral Whisperers: Scientists on the Brink (2018), captures a critical moment in the history of coral reef science, documenting a community caught in an existential crisis and alternating between despair and hope.”
Coral Reefs as Catalysts for Action

In recent years, a catastrophic global bleaching event devastated many of the world’s precious coral reefs. Working on the front lines of ruin, today’s coral scientists are struggling to save these important coral reef ecosystems from the imminent threats of rapidly warming, acidifying, and polluted oceans. Coral Whisperers: Scientists on the Brink (University of California Press, 2018) captures a critical moment in the history of coral reef science. Gleaning insights from over one hundred interviews with leading scientists and conservation managers, Irus Braverman documents a community caught in an existential crisis and alternating between despair and hope. In this important new book, corals emerge not only as signs and measures of environmental catastrophe, but also as catalysts for action.
S. Todd Brown

PROFESSOR
VICE DEAN FOR ACADEMIC AFFAIRS
DIRECTOR OF THE CENTER FOR THE STUDY OF BUSINESS TRANSACTIONS

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JD, Columbia University School of Law
BA, Loyola University of New Orleans
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AREAS OF INTEREST
BANKRUPTCY
MASS TORT AND BUSINESS LAW

ARTICLES

My research currently focuses on the intersection of corporate bankruptcy, bankruptcy trusts and mass tort litigation. Recent articles include a study outlining the performance of 32 bankruptcy trusts and the implications for future asbestos personal injury victims, an analysis of individual plaintiffs’ roles in multidistrict mass tort litigation, and the practices that underlie specious claim patterns in comprehensive settlements and the use of stratified and targeted sampling to address these practices. My next article discusses the use of the debtor’s settlement history in the bankruptcy estimation process in asbestos related bankruptcies.”
AREAS OF INTEREST
ANIMAL CRUELTY LAWS
CRIMINAL LAW
CRIMINAL PROCEDURE
TORTS
JURISPRUDENCE

ARTICLES
The Puzzle of Inciting Suicide (with Guyora Binder), AMERICAN CRIMINAL LAW REVIEW vol. 56 (forthcoming, 2019)

Comparative Law as an Antidote to Tunnel Vision in the Criminal Law: The Example of Complicity, LAW RUTGERS LAW REVIEW (forthcoming, 2018)

Mens Rea in Comparative Perspective, MARQUETTE LAW REVIEW (forthcoming, 2018)

The Model Penal Code and Mass Incarceration, GEORGE MASON LAW REVIEW (forthcoming, 2018)

Solving the Riddle of Rape by Deception, YALE LAW & POLICY REVIEW vol. 35: 407-460 (2017)


My research lies at the intersection of criminal law, philosophy and comparative law. Drawing from my experience teaching and lecturing about criminal law in the United States, Canada, Latin America, Europe and Asia, my work aims to understand and critique domestic criminal law doctrines by looking at how other countries approach basic concepts of criminal theory.”
Kim Diana Connolly  
**Professor**  
**Vice Dean for Experiential and Skills Education**  
**Director of Clinical Legal Education**  
**Director of the Advocacy Institute**  

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### Areas of Interest

- Administrative Law  
- Clinical Legal Education  
- Environmental Law  
- International Law  
- Law and Science  
- Law and Social Science  
- Legal Education  
- Legislation  
- Natural Resources Law

### Books

**Beyond Jurisdiction: Essential Wetlands Law and Policy**  
Questions For Our Time (American Bar Association, forthcoming, 2019)

**The Big Thaw: Policy, Governance and Climate Change in the Circumpolar North**  
(with Errol E. Meidinger and Ezra B.W. Zubrow, editors) (SUNY Press, forthcoming, 2019)

### Chapters


My substantive research focuses on a number of related areas, including wetlands law and policy as well as other environmental regulatory and related subjects. More recently I have added an interest in how the mass media covers environmental law and policy matters. I have also conducted research on student learning and andragogical issues, including work on experiential and interdisciplinary learning. In all cases, I seek to bring serious scholarly study to pressing issues facing people and ecosystems on various levels.”
My research studies the relationship between law and economic inequality. While we may well condemn inequality as an injustice in itself, it also has many negative side effects: a corrosion of the political process, skewed public policies, and an unstable financial system, to name a few. While the causes of rising income inequality are many and complex, the law undoubtedly plays a role. Traditionally, the economic analysis of law has focused on efficiency—how the law can make society’s economic pie larger. While using many of the same economist-inspired tools, my research uses a more sociologically-inspired set of questions to ask how the law distributes—slices up—the economic pie.”
David M. Engel  
SUNY DISTINGUISHED SERVICE PROFESSOR

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MA, University of Michigan  
AB, Harvard University

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My research traces the ways in which rights become active, identities are forged, and law is woven into the fabric of day-to-day experiences. One line of work examines the earliest stages of the tort law system, when individuals suffer traumatic physical harms and, in most cases, refuse to lodge a claim or even consult a lawyer. I explain this overwhelming preference for law avoidance by drawing on interdisciplinary studies of injury and cognition. Another line of work explores recent transformations in law, culture, and society in Southeast Asia, with particular attention to Thailand.

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AREAS OF INTEREST

TORTS  
LAW AND SOCIETY  
ASIAN LEGAL CULTURES  
LEGAL ETHNOGRAPHY  
RIGHTS CONSCIOUSNESS

BOOKS

INJURY AND INJUSTICE: THE CULTURAL POLITICS OF HARM AND REDRESS (with Anne Bloom and Michael McCann, editors) (Cambridge University Press, 2018)


LE DROIT À L’INCLUSION: DROIT ET IDENTITÉ DANS LES RÉCITS DE VIE DES PERSONNES HANDICAPÉES AUX ÉTATS-UNIS, Éditions EHESS (Translation by Yohann Aucante and Thomas Cayet of David M. Engel and Frank W. Munger’s RIGHTS OF INCLUSION: LAW AND IDENTITY IN THE LIFE STORIES OF AMERICANS WITH DISABILITIES (EHESS, May 2017)

THE MYTH OF THE LITIGIOUS SOCIETY: WHY WE DON’T SUE (University of Chicago Press, 2016)

ARTICLES

Legal Consciousness in Asia (with Lynette Chua) ASIAN JOURNAL OF LAW AND SOCIETY vol. 5: 1-4 (2018) (Editor’s Note to Special Issue)


Keynote Address: Reimagining Law and Society Research in Southeast Asia, CHIANG MAI UNIVERSITY LAW REVIEW (2015)


CHAPTERS

Chairs, Stairs, and Automobiles: The Cultural Construction of Injuries and the Failed Promise of Law in INJURY AND INJUSTICE: THE CULTURAL POLITICS OF HARM AND REDRESS (Anne Bloom and Michael McCann, editors) (Cambridge University Press, 2018)


**TWO BOOKS WITH AN EYE ON SOCIETY**

CAMBRIDGE UNIVERSITY PRESS HAS released two books this year reflecting a career of interdisciplinary work by Professor David Engel.

For the first, INJURY AND INJUSTICE: THE CULTURAL POLITICS OF HARM AND REDRESS (2018), Engel was one of three co-editors. Squarely in the law and society tradition, the book examines how cultures worldwide understand injury and its relation to the justice system.

Engel also contributed a chapter, titled “Chairs, Stairs, and Automobiles: The Cultural Construction of Injuries and the Failed Promise of Law.” It draws on the thinking that went into his 2016 book THE MYTH OF THE LITIGIOUS SOCIETY.

“The theory of tort law,” he says, “is that litigation will deter dangerous or risky behavior; it will compensate people when they suffer injuries and struggle with their medical bills and damaged careers; and it will provide a moral statement of who’s to blame when unnecessary risks are posed. But those promises fail if very few people with valid claims actually use the tort system.”

The second book grew from a Baldy Center conference that took place in 2015. In INSIDERS, OUTSIDERS, INJURIES, AND LAW: REVISING “THE OVEN BIRD’S SONG” (2017), legal scholars take stock of a groundbreaking article by Engel first published in 1984. In that article, he examined how predominant norms and values in a rural Illinois county discouraged injury litigation, even when residents believed they had suffered serious wrongs. Engel argued that anxiety about social and economic changes in the community found expression in negative perceptions of tort claims as compared to positive perceptions of contract claims.

“‘THE OVEN BIRD’S SONG’ is such an enduringly influential work that law and society scholars around the world turn to David’s work again and again and again for insight and inspiration,” the book’s editor, UB sociology professor Mary Nell Trautner, writes in her introduction.
My research focuses on the gender-based impact of seemingly neutral tort doctrines. I am studying caps on non-economic damages to demonstrate that caps have a disparate impact on women, the elderly, and children’s death cases. I’m also exploring why non-economic damages are an under-sustained challenge, and why women tend to receive greater proportions of their tort awards in non-economic damages, as well as other important empirical questions about the hidden or unintended consequences of tort reform, including how it will affect lawyers’ case selection and settlement strategies. Better understanding of the actual consequences of legal change on the institutional players and the people who seek access to the civil justice system can lead to sounder and more equitable law reform.”
AREAS OF INTEREST
ANTHROPOLOGY OF LAW
COMPARATIVE LAW
LAW AND RELIGION
PROPERTY LAW AND SOCIAL SCIENCE
BUDDHISM AND LAW

ARTICLES
The Anthropology of Religion and Law, RELIGIOUS STUDIES REVIEW (forthcoming, 2018)


Editor’s Introduction, BUDDHISM, LAW AND SOCIETY vol. 1: vii-xvii (2016)


In the course of my investigation of the Tibetan legal system, I discovered a gaping hole in the substantial discipline of Religious Legal Studies — the study of Buddhist legal systems. Incredibly, almost nothing has been written on the legal systems that were influenced by Buddhism, one of the largest world religions with a 2,500 year history and 500 million followers. My project for the last few years has been to write in this area and to organize a wide array of international scholars to talk, think and write about this exciting new subject matter.”

Rebecca R. French
PROFESSOR
PhD, Yale University
LLM, Yale Law School
JD, University of Washington Law School
BA, University of Michigan

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Americans have long fretted about the disjunction between our high aspirations for the democratic electoral process and the desultory reality of the modern election campaign. My research examines the role of the law in constituting this disjunction. I am interested in how the law regulating campaigns operates in its actual institutional setting; how the findings of empirical social science determine what kinds of campaigns the law might feasibly aspire to institutionalize; and how democratic theory addresses the normative desirability of these institutional options.

Highly Cited Election Law Scholar

The Election Law Blog’s 2018 Ranking of Top Scholarly Impact once again includes Professor James Gardner. The list of top ten faculty in election law identifies faculty from the more than 200 ABA law schools whose work in election law is cited most frequently in law review articles. The ranking shows that other scholars cited Gardner’s work 275 times in articles published from 2013–2017. Gardner was also a part of the influential blog’s biennial top ten list in both 2014 and 2016.
I am broadly interested in how law either promotes or impedes collective action and power-building in subordinated communities. Specifically, I study how the decline of labor unions has spawned experimentation by immigrant workers into new forms of organizing, collective bargaining, and worker protection. I am also interested in how immigration law leads to the exploitation and subordination of immigrant communities.”
Meredith Kolsky Lewis  
PROFESSOR  
VICE DEAN FOR INTERNATIONAL AND GRADUATE PROGRAMS  
DIRECTOR OF THE CROSS-BORDER LEGAL STUDIES CENTER  
JD, Georgetown University Law Center  
MSFS, Georgetown University  
BA, Northwestern University  
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“
My research focuses on international trade law, particularly issues relating to the World Trade Organization, free trade agreements, dispute settlement and trade policy. My scholarship is influenced by my background in international relations and economics. I also have a strong interest in the Asia-Pacific, a result of having lived and worked in New Zealand and Japan.”

AREAS OF INTEREST  
INTERNATIONAL ECONOMIC LAW  
INTERNATIONAL TRADE LAW  
INTERNATIONAL DISPUTE SETTLEMENT  
FREE TRADE AGREEMENTS  
WORLD TRADE ORGANIZATION LAW

BOOKS  
RECONCEPTUALIZING THE MULTILATERAL TRADING SYSTEM (Cambridge University Press, forthcoming, 2019)

ARTICLES  
The “New” Plurilateralism in International Trade Law, JOURNAL OF WORLD INVESTMENT & TRADE (forthcoming, 2019)


CHAPTERS  
Dissents in RESEARCH HANDBOOK ON WTO DISPUTE SETTLEMENT (Simon Lester and Bryan Mercurio, editors) (Edward Elgar, forthcoming)

Import and Export Controls in INTERNATIONAL COMMERCIAL CONTRACTS (Petra Butler, editor) (Oxford University Press, forthcoming)

The TPP as a Potential New Paradigm for Trade Agreements: Implications and Opportunities in EL TLCAN FREnte a NUEVAS NEGOCIACIONES COMERCIALES REGIONALES: EL TPP y el TTIP (María Celia Toro Hernández, editor) (forthcoming, 2018) (Translated into Spanish)


The United States’ Path to Concluding the Trans-Pacific Partnership: Will TPA + TAA = TPP? in *European Yearbook of International Economic Law, vol. 7: 495-505* (Marc Bungenberg, Christoph Herrmann, Markus Krajewski and Jörg Philipp Terhechte, editors) (Springer, 2016)


**BOOK REVIEWS**


**OTHER**


My research investigates how we should regulate government authority in contexts where secrecy is common and public deliberation is often limited. Recent work examines the problem of secret rules and methods in the national security and law enforcement programs, and explores strategies for vindicating values of transparency, free speech, and democratic deliberation in these domains. I am also particularly interested in the accountability and transparency challenges that are posed by new and emerging information technologies.

**Rise of the Machines**

Hard decisions about criminal justice are increasingly being turned over to “smart machines” that use computer algorithms to analyze vast amounts of data to make decisions such as where to deploy more police patrols.

An ambitious new project spearheaded by Assistant Clinical Professor Jonathan Manes, along with five UB colleagues, will examine ethical and social concerns raised by the increasing use of artificial intelligence. The group has been awarded $25,000 in seed funding for a year-long series of projects as part of the University at Buffalo’s Germination Space program, which promotes interdisciplinary research on major societal challenges.

“This grant is meant to bring together people who are building AI tools – the computer scientists and engineers – and people who are thinking about how they affect society.

“We want to work in both directions – to build concerns about ethics, fairness and accountability into the tools as they’re developed, and to think about ways to regulate the tools after they’re built. I’m learning from my colleagues in computer science and other technology disciplines about how these systems work and how the law can respond in a way that preserves fairness and accountability.”
Isabel Marcus  
**PROFESSOR**  
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JD, University of California, Berkeley School of Law  
MA, University of California, Berkeley  
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**AREAS OF INTEREST**
- FAMILY LAW
- DOMESTIC VIOLENCE
- INTERNATIONAL HUMAN RIGHTS
- INTERNATIONAL WOMEN’S HUMAN RIGHTS
- REMEDIES

**ARTICLES**
Compensatory Women’s Rights  

“

For the past 20 years, I have devoted my scholarly, activist and pedagogical attention to human rights issues, with particular emphasis on women’s human rights. Much of my lecturing, training and provision of scholarships has been to NGO lawyers focusing on women’s rights in Eastern Europe and the former Soviet Union. More specifically, I have worked with them on violence against women in post-socialist societies. My concerns extend to legal, political and social theory and practice regarding gender, nationalism, civil society and efforts to develop and implement a rule of law. To supplement my domestic teaching, I teach at universities and consult with NGOs in post-socialist countries on a regular ongoing basis.”
AREAS OF INTEREST

LAW AND ECONOMICS
WELFARE LAW
GENDER AND LAW
CRITICAL LEGAL STUDIES
HEALTH LAW
EMPLOYMENT LAW
FAMILY LAW
DISABILITY LAW
CIVIL RIGHTS LAW
RACE AND THE LAW
INSURANCE AND THE LAW
OCCUPATIONAL SAFETY AND HEALTH
GOVERNMENT ETHICS
REGULATION
ENERGY LAW
HIGHER EDUCATION LAW
FINANCE

My interest is in exploring questions of economic policy and regulation from outside the conventional boundaries of ‘private’ law and neo-classical economics. I am interested in how law and politics shape markets and in how economic policies reflect and reproduce ideas about citizenship and social status. I draw on critical perspectives of legal theory to examine the relationships between questions of economics and questions of race, gender, class, sexuality and disability status. My work challenges the divide between economic and moral or social regulation.”

ARTICLES


Are We Economic Engines Too? Precarity, Productivity and Gender, TOLEDO LAW REVIEW (Symposium Issue, Gender Equality: Progress and Possibilities) (forthcoming, 2018)

Defining the Economic Pie, Not Dividing or Maximizing It, CRITICAL ANALYSIS OF LAW vol. 5(1): 77-98 (2018)


Framing Middle Class Insecurity: Tax and the Ideology of Unequal Growth, FORDHAM LAW REVIEW vol. 84: 2699-2720 (2016)

Law and Economics: Contemporary Approaches (Casebook Introduction) (with Frank Pasquale and Jennifer Taub) YALE LAW AND POLICY REVIEW vol. 35: 297-308 (2016)


CHAPTERS


Personal Responsibility for Systemic Inequality in EDGAR ELGAR HANDBOOK ON POLITICAL ECONOMY AND THE LAW (Ugo Mattei and John Haskell, editors) (Edward Elgar, 2016) (227-245)
“My research focuses on how non-governmental actors interact with each other and with governments to establish and maintain transnational regulatory programs in fields where governments have typically been the main regulators — e.g., environmental protection, human rights, and food safety. I am studying how effective, fair, and democratic the emerging governance ecosystems are, and particularly, how competition and cooperation among the different regulators affects the overall system. It is important to understand these processes because the nation states have had great difficulty in creating effective international environmental and social regulatory programs. As non-governmental programs become more important, we may also need to revise some of our main assumptions about what counts as law and how law is made and implemented.”
AREAS OF INTEREST
CONSTITUTIONAL LAW
CIVIL RIGHTS LAW
CORPORATE LAW AND REGULATION
CRITICAL RACE, ECONOMIC, AND FEMINIST LEGAL THEORY

ARTICLES


“My work is inspired by much of the activism (both recent and historical) around the pursuit of human dignity, democracy, justice, and prosperity. My scholarship focuses specifically on issues related to racial, economic and gender justice. In it, I seek to map the mechanisms by which law, together with other social structures, works to both hinder and support these justice pursuits.”
My scholarship has centered on state legitimacy, postcolonialism, constitutionalism and the critiques of the human rights idiom. In a world that is increasingly defined by relativism — and the expansion of the meaning and content of freedom — shackles of state power are constantly being loosened. Human rights is the medium of choice for this discourse which has become indispensable in post-colonial societies, by far the overwhelming majority of the earth’s inhabitants. How societies resolve the questions I tackle may very well determine the pace at which the chasm between power and powerlessness shrinks or grows.”
Much of my research lies at the intersection of criminal procedure and structural constitutional law. I am currently exploring how political and economic conditions affect the capacity of courts to solve difficult doctrinal problems. Using a methodological approach that integrates doctrinal analysis with legal theory and social science, my work challenges some common assumptions concerning how institutional pressures shape both constitutional and statutory interpretation.”
My research centers on the evolving meaning of property. I am particularly interested in how shifting meanings and interpretations affect environmental values and regulatory schemes. My recent line of inquiry examines the intersection between ‘public’ and ‘private’ land conservation and how that moving line influences property and environmental law. I am intrigued by our relations to land and decisions about conservation at multiple scales. I have been engaging with individual decisions regarding land use and the emergence of conservation easements as a preferred method of conservation. Where private agreements regarding land use form the backbone of our conservation strategies, we elevate the role of the private landowner over community needs and desires.”

**AREAS OF INTEREST**

ENVIRONMENTAL LAW
PROPERTY LAW
NATURAL RESOURCES LAW
FEDERAL INDIAN LAW
LEGISLATION AND STATUTORY INTERPRETATION
ADMINISTRATIVE LAW
CLIMATE CHANGE

**BOOKS**

Rethinking Sustainability to Meet the Climate Change Challenge (with Keith H. Hirokawa, editor) (Environmental Law Institute Press, 2015)

**ARTICLES**


Understanding the Complicated Landscape of Civil War Monuments (with Jess Phelps) INDIANA LAW JOURNAL vol 93: 15-33 (2018)


Adapting Conservation Easements to Climate Change (with Adena R. Rissman, M. Rebecca Shaw and Barton H. Thompson), CONSERVATION LETTERS vol. 8: 68-76 (2015)


From Vacant Lots to Full Pantries: Urban Agriculture Programs and the American City (with Tonya Lewis) UNIVERSITY OF DETROIT MERCY LAW REVIEW vol. 91: 233-258 (2015)


CHAPTERS

The Endangered Species Act: An Environmentalist Prospective in ENDANGERED SPECIES ACT: LAW, POLICY, AND PERSPECTIVES (3rd edition) (with Brett Hart!) (Don Baur & Ya-Wei Li, editors) (forthcoming, 2018)


The Use of Property Law Tools for Soil Protection in INTERNATIONAL YEARBOOK OF SOIL LAW AND POLICY (Harald Ginzky, Elizabeth Dooley, Irene Hauser, Till Markus and Tianbao Qin, editors) (Springer, 2018) (339-357)

Flexible Conservation in Uncertain Times (with David Takacs) in CONTEMPORARY ISSUES IN CLIMATE CHANGE LAW AND POLICY: ESSAYS INSPIRED AT THE IPCC (Robin Kundis Craig and Stephen R. Miller, editors) (Environmental Law Institute, 2016) (65-104)

Sustainability Thinking for the Climate Change Generation in RETHINKING SUSTAINABILITY TO MEET THE CLIMATE CHANGE CHALLENGE (with Keith H. Hirokawa, editors) (Environmental Law Institute Press, 2015) (5-21)
We tend to think of law as a logical system of rules, but legal rules are ultimately made of words and the relationships between them. My work focuses on the implications of that simple fact, using concepts from rhetorical theory, narrative theory, cognitive linguistics, and other disciplines to question the conventional understanding of what legal rules are, how they work, and how lawyers, judges, and juries reason in real-world cases.

**Areas of Interest**
- Law and Narrative
- Law and Rhetoric
- Refugee and Asylum Law

**Articles**
My current research encompasses three topics. First, along with other innovators in the field of Mindfulness and Law, I have integrated mindfulness meditation into my substantive teaching and plan to collaborate on empirical research into the efficacy of mindfulness techniques for improved cognitive functioning, emotional regulation and stress management. Second, I am co-teaching a series of seminars in African-American legal history, with a related book project. Third, I continue to develop my expertise in theologies of religious pluralism, as applied to the constitutional framework for managing religious diversity.”
I am at work on a book about law and economy in the 1950s. What fascinates about this now long passed time is that its understanding of what makes up a ‘good economy’ is so unlike our own, and yet, that lost understanding structures so much of the debate about today’s economy. Such nostalgia for an unrecoverable past is pathological, but there may be a theme here. Most of my earlier work is directed toward recovering pasts that have been pathologically distorted in our presents.”
I study the history and development of Anglo-American legal institutions. In England, my primary interest is the King’s Parliament. In America, it is popular assemblies and courts of law.”

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Areas of Interest
Constitutional History
Constitutional Law
Legal Theory
The Common Law

Books
Constitutional Law: Sources and Problems (digital casebook) (ChartaCourse, 2017)

Articles
The Security Court, MARYLAND LAW REVIEW ONLINE (forthcoming, 2018)


Bills of Attainder, HOUSTON LAW REVIEW vol. 53: 767-908 (2016)


Immigration has long been viewed as a quintessential national issue. At the same time, it is becoming increasingly apparent that the local dimensions of immigration play a significant role in not only the development of our immigration policies, but also how immigrants are perceived in American society. My research aims to bridge this divide by exposing the intricate and complex relationship between immigration and local government law. I am currently examining how local government law’s systematic organization of space and community serves, in many instances, as a ‘second order’ regulatory component of our immigration regime, and questioning the manner in which legal doctrines frame our conceptualization of cities in the immigration context.”
Cynthia G. Swann
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BA, University at Buffalo
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AREAS OF INTEREST
CONSTITUTIONAL LAW
LEGAL RESEARCH AND WRITING

BOOKS
The United States Supreme Court’s Assault on the Constitution, Democracy, and the Rule of Law (with Adam Lamparello) (Routledge, 2016)

ARTICLES


My interest lies in analyzing the processes that courts and legal readers and writers adopt to shape the law and to create meaning. With respect to the former, my work focuses on the integrity of the legal decision-making process and the relationship between the Supreme Court and coordinate branches, the federal government and the states, and citizens and their elected representatives. With respect to the latter, my interests lie in the increasing use of images in legal text and what that means for how we write, understand, and deploy the law through both a visual and written lens.”
Interweaving my concerns as a legal scholar with my training in cultural anthropology, my work has focused on a set of legal and theoretical challenges posed by changes in the nature of state sovereignty in an era of privatization and globalization. In two geographical areas, I consider these changes by examining both institutional forms (law and policy) and moral, ethical and social values. In my U.S.-focused work, and especially my work on the military, I examine what happens when the logic of market exchange collides with sectors of our society organized around such ideas as service, honor and sacrifice. In more recent work in East Africa, I examine the way that sovereignty is defined through relationships with external actors.”
Now that the financial crisis has settled and our wars have become interminable, I’m again taking a longer view. I am thinking about the possibilities for politics and social thought ‘After Globalization.’ Global capitalism has transformed our structures of meaning in deep ways, so I’m trying to get a handle on the contemporary through a number of projects. I’m working with anthropologist Christina Garsten and her team on ‘Global Foresight’ within institutions; with computer scientist Perry Alexander on what ‘computing’ means as an intellectual enterprise; and I’ve written and spoken about the changing ontology of ‘the university.’ In addition, I’ve drafted a book about the rise of commercial country music as an American response to the contemporary. More, and pictures, available at davidawestbrook.com.”
My research focuses on employee-benefits law and policy and, especially, the regulatory regime created by the Employee Retirement Income Security Act of 1974. ERISA is a large and complicated statute that governs private-sector pension and welfare plans. ERISA’s sweeping preemption clause has been particularly controversial. I am currently writing a series of articles that explain the political and policy concerns that led lawmakers to include broad preemption language in ERISA.”
OUR POSTDOCTORAL FELLOWS
Baldy Postdoctoral Fellows are highly promising scholars from a variety of disciplines who have completed or are pursuing their PhDs and/or JDs at other universities, but have not yet commenced tenure track positions. Chosen in an extremely competitive process, they carry out their scholarly projects with the full array of UB research resources and participate regularly in Baldy Center talks, discussions, workshops, and conferences.

Amanda Hughett
2017–19 POSTDOCTORAL FELLOW
PHD, DUKE UNIVERSITY
MA, Duke University
BA, University of Tennessee-Knoxville
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Hughett’s research documents the efforts of civil liberties lawyers to secure procedural protections for inmates during the 1970s. Her work illuminates the limitations of individual rights claims in the postwar era while helping to explain why American prisons continue to punish more harshly than their counterparts in any Western country.

David McNamee
2017–19 POSTDOCTORAL FELLOW
PHD CANDIDATE, PRINCETON UNIVERSITY
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McNamee’s scholarship, titled The Citizens’ Constitution, asserts that it is the responsibility of the citizens to directly participate in constitutional interpretation in certain roles—as voters and jurors, litigants and disobedients, partisans and deliberators. This theory sheds new light on the old idea of the Constitution as fundamental law.

Daniel Platt
2018–20 POSTDOCTORAL FELLOW
PHD, BROWN UNIVERSITY
MA, University of Connecticut
BA, Loyola University Chicago
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Platt’s research reconsiders the growth of household credit in the American economy during the late nineteenth and early twentieth centuries by focusing on legal contests over the rights of debtors and creditors. Such disputes routinely turned on the appeal of the contention that ungoverned finance threatened the integrity of both racial hierarchy and the patriarchal household. Platt’s work traces the initial vitality and gradual waning of this argument and the consequential freeing of household credit from traditional legal restraints that followed.

OUR 2018–19 SENIOR FELLOWS
Baldy Senior Fellows are accomplished academics and professionals, usually faculty members at other universities, who pursue intensive scholarly projects closely related to the mission of the Baldy Center. They utilize UB’s extensive research resources, participate regularly in Baldy Center events, and share their expertise with the larger Baldy community.

Nancy S. Marder
2018–19 SENIOR FELLOW
PROFESSOR OF LAW
IIT CHICAGO-KENT COLLEGE OF LAW
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Marder’s research focuses on the book, The Power of the Jury: Transforming Citizens into Jurors, which examines how every stage of the jury process helps to transform ordinary citizens into responsible jurors. Marder’s theory starts from the premise that citizens can be complicated and have biases, as all people do, rather than assuming a simplistic model of jurors who are either biased or unbiased, as the traditional view does. This new theory nonetheless allows for understanding the creation of impartial jurors through the jury process.

Werner Reutter
2018–19 SENIOR FELLOW
RESEARCH FELLOW OF POLITICAL SCIENCE
HUMBOLDT UNIVERSITY OF BERLIN, GERMANY
PhD, Free University of Berlin
MA, The London School of Economics and Political Science
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Reutter’s publications include books and articles on interest groups, international trade union politics, constitutional politics, German federalism, and state constitutional courts. He will explore whether, and to what extent, decisions of a German subnational constitutional court and an American state supreme court infringe on the competencies of state legislatures.

Learn more about our Baldy Fellows at baldycenter.info
Areas of Scholarly Interest

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