



Faculty  
Scholarship  
2016 to 2019

## Message from the Dean

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Dear Colleagues,

We are pleased to update you on the scholarship produced by our faculty since 2016. 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

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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 (the definitive set on the New York Uniform Commercial Code and official companion to MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED) (Thomson Reuters, 2016-2019) (updated annually).

## CHAPTERS

*Insurance Online: Regulation and Consumer Protection in a Cyber World* (with Peter Kochenburger), in *THE "DEMATERIALIZED" INSURANCE: DISTANCE SELLING AND CYBER RISKS FROM AN INTERNATIONAL PERSPECTIVE* 117, 117-42 (Pierpaolo Marano, Iōannēs Rokas & Peter Kochenburger, eds., Springer 2016).



# Samantha Barbas

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## AREAS OF INTEREST

FIRST AMENDMENT

LEGAL HISTORY

MASS MEDIA LAW

## BOOKS

MORRIS ERNST: CIVIL LIBERTIES  
PIONEER (University of Chicago  
Press forthcoming).

CONFIDENTIAL CONFIDENTIAL:  
THE INSIDE STORY OF HOLLYWOOD'S  
NOTORIOUS SCANDAL MAGAZINE  
(Chicago Review Press 2018).

NEWSWORTHY: THE SUPREME  
COURT'S BATTLE OVER PRIVACY  
AND FREEDOM OF THE PRESS  
(Stanford University Press 2017).

## ARTICLES

*The Esquire Case: A Lost Free Speech  
Landmark*, 27 WILLIAM AND  
MARY BILL OF RIGHTS JOURNAL  
287, 287-361 (Dec. 2018).

*The Most Loved, Most Hated Magazine  
in America: The Rise and Demise of  
Confidential Magazine*, 25 WILLIAM  
AND MARY BILL OF RIGHTS JOURNAL  
121, 121-93 (2016).

## CHAPTERS

*Privacy and the Right to One's Image: A  
Cultural and Legal History*, in INJURY  
AND INJUSTICE: THE CULTURAL POLITICS  
OF HARM AND REDRESS 202, 202-28  
(Cambridge University Press 2018).



My work examines the interconnections between law, American social and cultural history, and the history of mass communications. I have focused on the history of privacy, defamation, and free speech law, looking at topics ranging from the 1957 trial of Confidential magazine, to the 1967 Supreme Court case *Time v. Hill*, to the history of the ACLU and the career of famed civil liberties attorney Morris Ernst.”

## LEADING AN INTERDISCIPLINARY CHARGE

INTELLECTUAL CROSS-POLLINATION IS WHAT THE BALDY CENTER FOR LAW & SOCIAL POLICY – UB SCHOOL OF Law's signature scholarship engine – is all about.

With Professor Samantha Barbas as its new director, the center moves into its fifth decade looking to cast its net even wider. Barbas, who holds a doctoral degree in history as well as a J.D., embodies the center's philosophy in her own scholarship. She has written three books on media law and history.

“Buffalo Law has a very long tradition of being a center of interdisciplinary scholarship,” Barbas says. “That is part of our identity, this intellectual scholarly production.”

Among her plans for the Baldy Center: expanding its intellectual reach to even more disciplines, including history; engaging more student involvement; expanding the center's visibility through social media; and reaching out to the wider community with public-facing lectures by well-known intellectuals.



# Christine P. Bartholomew

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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."

## AREAS OF INTEREST

CIVIL PROCEDURE

ANTITRUST

EVIDENCE

CONSUMER PROTECTION

REMEDIES

## BOOKS

LEGAL ARGUMENT: THE STRUCTURE AND EFFECTIVE LANGUAGE OF EFFECTIVE ADVOCACY (with James A. Gardner) (Carolina Academic Press, 3rd ed. forthcoming).

## ARTICLES

*The Venue Shuffle: Forum Selection Clauses & ERISA* (with James A. Wooten), 66 *UCLA LAW REVIEW* 862, 862-910 (April 2019).

*E-Notice*, 68 *DUKE LAW REVIEW* 217, 217-74 (Nov. 2018).

*Exorcising the Clergy Privilege*, 103 *VIRGINIA LAW REVIEW* 1015, 1015-77 (2017).

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

*Twiqbal in Context*, 65 *JOURNAL OF LEGAL EDUCATION* 744, 744-71 (2016).

## CHAPTERS

*Antitrust Norms in the United States and Financial Corruption*, in *XLI JORNADAS INTERNACIONALES DE DERECHO PENAL, CRIMINAL, CONTEMPORÁNEA Y CORRUPCIÓN: ¿EFECTIVIDAD DEL LA PENNA PRIVATIVA DE LA LIBERTAD?* (Universidad Externado de Colombia forthcoming 2020) (translated into Spanish).

*Motions for Class Certification vs. Proceedings on the Merits*, in *ANTITRUST DAUBERT HANDBOOK* (ABA Antitrust Section forthcoming 2020).

*Privilege and the Fight Against Corruption in the United States*, in *XLI JORNADAS INTERNACIONALES DE DERECHO PENAL, CRIMINAL, CONTEMPORÁNEA Y CORRUPCIÓN: ¿EFECTIVIDAD DEL LA PENNA PRIVATIVA DE LA LIBERTAD?* (Universidad Externado de Colombia forthcoming 2020) (translated into Spanish).

## AMICUS BRIEFS

Brief of Scholars as Amici Curiae Supporting Petition for Certiorari, *Robertson v. U.S. District Court*, (U.S. 2019) (No. 18-1341) (co-lead author).

Brief of Antitrust Law Professors as Amici Curiae Supporting Petition for Certiorari, *AFMS LLC v. United Parcel Services, Inc. & FedEx Corp.*, 138 S. Ct. 1180 (U.S. 2018) (No. 17-1092) (lead author).

Brief of Law Professors as Amici Curiae Supporting Plaintiff-Appellant's Petition for Rehearing, or In the Alternative, Rehearing *En Banc*, *AFMS LLC v. United Parcel Services, Inc. & FedEx Corp.*, 696 Fed. Appx. 293 (9th Cir. 2017) (No. 15-55778) (contributing author).







# Mark Bartholomew

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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.”

## AREAS OF INTEREST

INTELLECTUAL PROPERTY

CYBERLAW

LEGAL HISTORY

ADVERTISING LAW

## BOOKS

ADCREEP: THE CASE AGAINST MODERN MARKETING (Stanford University Press 2017).

## ARTICLES

*Neuromarks*, 103 MINNESOTALAW REVIEW 521, 521-85 (2018).

*The Law of Advertising Outrage*, 19 ADVERTISING & SOCIETY QUARTERLY (Sept. 2018), [muse.jhu.edu/article/704485](http://muse.jhu.edu/article/704485).

*The Political Economy of Celebrity Rights*, 38 WHITTIER LAW REVIEW 1, 1-24 (Spring 2018).

## CHAPTERS

*From Debbie Does Dallas to The Hangover: The Changing Landscape of Trademark Law in Tinseltown* (with John Tehranian), in HOLLYWOOD AND THE LAW 47, 47-68 (Paul MacDonald, Emily Carman, Eric Hoyt & Philip Drake, eds., BFI/Palgrave Press 2016).

## BUILDING STRENGTH IN CYBERSECURITY

TRAINING THE NEXT GENERATION of experts who will protect the United States from cyberattacks is vital work. Professor Mark Bartholomew, a co-principal investigator, helped secure a five-year, \$2.4 million grant from the National Science Foundation to engage UB students in a cross-disciplinary cybersecurity curriculum.

Up to 18 scholars are expected to receive this training. The grant covers their costs and pays them a stipend; in exchange, they agree to work for the federal government for two years after graduation.

The grant extends a highly successful initiative at UB that has already graduated 30 cybersecurity specialists, who have gone on to work for the FBI, CIA, Department of Homeland Security, National Security Agency, Federal Trade Commission and Office of the Inspector General, among other agencies.

Bartholomew is collaborating on the project with scholars and educators in UB's computer sciences, mathematics and business programs.



# Anya Bernstein

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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

*Interpenetration of Powers: Channels  
and Obstacles for Populist Impulses*,  
28 WASHINGTON INTERNATIONAL  
LAW JOURNAL 461, 461-86 (2019).

*Porous Bureaucracy: Administrative  
Culture in Taiwan*, LAW & SOCIAL  
INQUIRY 1, 1-24 (2019).

*Democratizing Interpretation*,  
60 WILLIAM AND MARY LAW  
REVIEW 435, 435-506 (Nov. 2018).

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

*Bureaucratic Speech: Language Choice  
and Democratic Identity in the Taipei  
Bureaucracy*, 40 POLAR: POLITICAL AND  
LEGAL ANTHROPOLOGY REVIEW  
28, 28-51 (2017).

*Differentiating Deference*, 33 YALE  
JOURNAL ON REGULATION 1, 1-53 (2016).

## CHAPTERS

*Agency in State Agencies*, in DISTRIBUTED  
AGENCY: THE SHARING OF INTENTION,  
CAUSE, AND ACCOUNTABILITY (N.J.  
Enfield & Paul Kockelman, eds.,  
Cambridge University Press 2017).

*The Songs of Other Birds*, in INSIDERS,  
OUTSIDERS, INJURIES, AND LAW:  
REVISITING THE OVEN BIRD'S  
SONG (Mary Nell Trautner, ed.,  
Oxford University Press 2017).

## BOOK REVIEWS

*Regimes of Expertise and the Law*,  
POLAR ONLINE: POLITICAL AND  
LEGAL ANTHROPOLOGY REVIEW  
(2016) (reviewing THE CLINIC AND  
THE COURT (Ian Harper, Tobias Kelly  
& Akshay Khanna, eds., Cambridge  
University Press 2015) and THE  
ROLE OF SOCIAL SCIENCE IN LAW  
(Elizabeth Mertz, ed., Ashgate 2008)).

“

“I study the cultures of bureaucracies and courts, the institutions that implement and interpret the law. We sometimes take the legitimacy of democratic governance for granted, but 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. I use ethnography, interview, and textual analysis to 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.”



# Guyora Binder

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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.”

## AREAS OF INTEREST

CRIMINAL LAW  
JURISPRUDENCE  
LAW AND LITERATURE

## BOOKS

CRIMINAL LAW, THE OXFORD INTRODUCTIONS TO U.S. LAW (Oxford University Press 2016).  
CRIMINAL LAW: CASES AND MATERIALS (with John Kaplan and Robert Weisberg) (Wolters-Kluwer, 8th ed. 2016).  
CRIMINAL LAW: TEACHER'S MANUAL (with Robert Weisberg) (Wolters-Kluwer, 8th ed. 2016).

## ARTICLES

*A Political Interpretation of Vagueness Doctrine* (with Brenner Fissell), 2019 ILLINOIS LAW REVIEW 1527, 1527-88 (2019).  
*The Puzzle of Inciting Suicide* (with Luis Chiesa), 56 AMERICAN CRIMINAL LAW REVIEW 65, 65-135 (Winter 2018).  
*Unusual: The Death Penalty for Inadvertent Murder* (with Brenner Fissell & Robert Weisberg), 93 INDIANA LAW JOURNAL 549, 549-618 (Summer 2018).

*Capital Punishment of Unintentional Felony Murder* (with Brenner Fissell & Robert Weisberg), 92 NOTRE DAME LAW REVIEW 1141, 1141-1214 (2017).

*Penal Incapacitation: A Situationist Critique* (with Ben Notterman), 54 AMERICAN CRIMINAL LAW REVIEW 1, 1-56 (2017).

*What is Criminal Law About?* (with Robert Weisberg), 114 MICHIGAN LAW REVIEW 1173, 1173-1205 (2016).

## CHAPTERS

El Aspecto Subjetivo en los Delitos de Homicidio: Visiones Comparadas, in Universidad Finis Terrae, EL DERECHO PENAL CONTINENTAL Y LOS ANGLOSAJON EN LA ERA DE LA GLOBALIZACION (Thomson Reuters 2016).

## BOOK REVIEWS

*Law and the Modern Mind: Consciousness and Responsibility in American Legal Culture*, 57 AMERICAN JOURNAL OF LEGAL HISTORY 121, 121-22 (2017) (reviewing SUSANNA L. BLUMENTHAL, LAW AND THE MODERN MIND) (2016).



# Michael Boucai

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## AREAS OF INTEREST

GENDER, SEXUALITY, & LAW

FAMILY LAW

CONSTITUTIONAL LAW

CRIMINAL LAW

LEGAL HISTORY

## ARTICLES

*Before Loving: The Origins of the Right to Marry*, UTAH LAW REVIEW (forthcoming 2019).

*Is Assisted Procreation an LGBT Right?*, 2016 WISCONSIN LAW REVIEW 1065, 1065-1125 (2016).

## BOOK REVIEWS

Book Review, 31 CANADIAN JOURNAL OF LAW & SOCIETY 315, 315-16 (2016) (reviewing AFTER LEGAL EQUALITY: FAMILY, SEX, KINSHIP (Robert Leckey, ed., Routledge 2015)).



I study the law of marriage, family, gender, and sexuality, often from a historical perspective. My research engages multiple bodies of legal doctrine—most importantly constitutional, criminal, and family law—and a number of disciplines outside of law and history, including sociology, anthropology, philosophy, critical theory, and literary studies. My historical work focuses mainly on LGBT identities, communities, and politics in Britain and the United States since the mid-nineteenth century.”





# Irus Braverman

PROFESSOR AND WILLIAM J. MAGAVERN  
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LLB, The Hebrew University of Jerusalem

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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 most recent 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.”

## AREAS OF INTEREST

ANIMAL STUDIES

NATURE AND CONSERVATION BIOLOGY

ISRAEL/PALESTINE

LAW AND GEOGRAPHY

LAW AND GENETICS

LEGAL ETHNOGRAPHY

LAW AND SOCIETY

SCIENCE AND TECHNOLOGY STUDIES

## BOOKS

BLUE LEGALITIES: THE LAW AND LIFE OF THE SEA (Irus Braverman & Elizabeth R. Johnson, eds., Duke University Press forthcoming 2020).

ZOO VETERINARIANS BETWEEN WELFARE AND CONSERVATION (Routledge forthcoming 2020).

CORAL WHISPERERS: SCIENTISTS ON THE BRINK (The University of California Press 2018).

GENE EDITING, LAW, AND THE ENVIRONMENT: LIFE BEYOND THE HUMAN (Irus Braverman, ed., Routledge 2017).

ANIMALS, BIOPOLITICS, LAW: LIVELY LEGALITIES (Irus Braverman, ed., Routledge 2016).

## ARTICLES

*Environmental Justice in the Occupied West Bank*, NATURE AND SPACE: ENVIRONMENT AND PLANNING E (special issue: forthcoming 2020).

*Fleshy Encounters: Meddling with Zoo and Aquarium Veterinarians*, HUMANIMALIA (forthcoming 2020).

*Nof Kdumim: Imagining the Ancient Landscape in East Jerusalem's National Parks*, NATURE AND SPACE: ENVIRONMENT AND PLANNING E (forthcoming 2020).

*Shifting Baselines in Coral Conservation*, NATURE AND SPACE: ENVIRONMENT AND PLANNING E (special issue: 1, 1-20, 2020).

*Corals in the City: Cultivating Ocean Life in the Anthropocene City*, CONTEMPORARY SOCIAL SCIENCE: JOURNAL OF THE ACADEMY OF SOCIAL SCIENCES (special issue: Urban Animals: Cartographies of Radical Encounters forthcoming 2019).

*Fish Encounters: Aquariums and their Veterinarians on a Rapidly Changing Planet*, 11 HUMANIMALIA (Fall 2019).

*Living on Coral Time: Debating Conservation in the Anthropocene*, ENVIRONMENT & SOCIETY PORTAL, ARCADIA (Spring 2019), [www.environmentandsociety.org/arcadia/living-coral-time-debating-conservation-anthropocene](http://www.environmentandsociety.org/arcadia/living-coral-time-debating-conservation-anthropocene).

*Silent springs: The Nature of Water and Israel's Military Occupation*, ENVIRONMENT AND PLANNING E: NATURE AND SPACE 1, 1-25 (June 27, 2019), [journals.sagepub.com/doi/full/10.1177/2514848619857722](http://journals.sagepub.com/doi/full/10.1177/2514848619857722).



*Uprooting Identities: The Regulation of Olive Trees in the Occupied West Bank*, 71 OPEN ANTHROPOLOGY (March 2019).

*Law's Underdog: A Call for Nonhuman Legalities*, 14 ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE 127, 127-44 (Oct. 2018).

*Renouncing Citizenship as Protest: Reflections by a Jewish Israeli Ethnographer*, 44 CRITICAL INQUIRY 379, 379-86 (Winter 2018).

*Saving Species One Individual at a Time: Zoo Veterinarians between Welfare and Conservation*, 9 HUMANIMALIA 1, 1-27 (Spring 2018).

*Captive: Zoometric Operations in Gaza*, 29 PUBLIC CULTURE 191, 191-215 (2017).

*Nature as Spectacle*, 101 TOPOS: THE INTERNATIONAL REVIEW OF LANDSCAPE ARCHITECTURE AND URBAN DESIGN 80, 80-85 (Jan. 2017).

*Anticipating Endangerment: The Biopolitics of Threatened Species Lists*, 12 BIOSOCIETIES 132, 132-57 (2016).

*Biopolarity: Coral Scientists between Hope and Despair*, 8 ANTHROPOLOGY NOW 26, 26-40 (2016).

*Bleached!: Managing Coral Catastrophe*, 92 FUTURES 12, 12-28 (2016).

*The Pet Keeping Industry in the American City*, 42 SQUADERNO 51, 51-55 (2016).

## CHAPTERS

*Blue Legalities: Untangling Ocean Laws in the Anthropocene* (with Elizabeth R. Johnson), in BLUE LEGALITIES: THE LAW AND LIFE OF THE SEA (Duke University Press forthcoming 2020).

*Robotic Life in the Deep Sea*, in BLUE LEGALITIES (Irus Braverman & Elizabeth R. Johnson, eds., Duke University Press forthcoming 2020).

*Coral Restoration and Citizen Scientists in the Anthropocene*, in THE NATURE OF DATA: INFRASTRUCTURES, ENVIRONMENTS, POLITICS (Jenny E. Goldstein & Eric Nost, eds., Nebraska University Press forthcoming 2019).

*Law and Life in the Deep Sea*, in HANDBOOK OF SPACE, PLACE AND LAW (Jennifer Carter & Robyn Bartel, eds., Edward Elgar Publishing forthcoming 2019).

*Military-to-Wildlife Geographies: Bureaucracies of Cleanup and Conservation in Vieques*, in HANDBOOK ON THE GEOGRAPHIES OF REGIONS AND TERRITORIES 268, 268-83 (Anssi Paasi, John Harrison & Martin Jones, eds., Edward Elgar Publishing 2018).

*Zooland: The Institution of Captivity*, in SURVEILLANCE STUDIES: A READER 59, 59-62 (Torin Monahan & David Murakami Wood, eds., Oxford University Press 2018).

*Editing the Environment: Emerging Issues in Genetics and the Law* (An Introduction), in GENE EDITING, LAW AND THE ENVIRONMENT: LIFE BEYOND THE HUMAN 1, 1-17 (Irus Braverman, ed., Routledge 2017).

*Gene Drives, Nature, and Governance: An Ethnographic Perspective*, in GENE EDITING, LAW, AND THE ENVIRONMENT: LIFE BEYOND THE HUMAN 55, 55-73 (Irus Braverman, ed., Routledge 2017).

*The Life and Law of Corals: Breathing Meditations*, in RESEARCH METHODS IN ENVIRONMENTAL LAW: A HANDBOOK 458, 458-81 (Andreas Philippopoulos-Mihalopoulos & Victoria Brooks, eds., Edward Elgar Publishing 2017).

*Lively Legalities: An Introduction*, in ANIMALS, BIOPOLITICS, LAW: LIVELY LEGALITIES 2, 2-16 (Irus Braverman, ed., Routledge 2016).

*The Regulatory Life of Threatened Species Lists*, in LIVELY LEGALITIES: ANIMALS, BIOPOLITICS, LAW 19, 19-38 (Irus Braverman, ed., Routledge 2016).



# S. Todd Brown

PROFESSOR

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BA, Loyola University of New Orleans

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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

BANKRUPTCY

MASS TORT AND BUSINESS LAW

## ARTICLES

*Consent, Coercion and Bankruptcy*

*Administration*, 11 JOURNAL OF BUSINESS AND TECHNOLOGY LAW 25, 25-57 (2016).



# Luis E. Chiesa

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## AREAS OF INTEREST

ANIMAL CRUELTY LAWS

CRIMINAL LAW

CRIMINAL PROCEDURE

TORTS

JURISPRUDENCE

## ARTICLES

*Incompatibilism a la Carte: Burdens of Proof and the Inculcation-Exculpation Asymmetry*, RUTGERS LAW REVIEW (forthcoming 2019).

*Sexual Lynching*, CORNELL JOURNAL OF LAW AND PUBLIC POLICY (forthcoming 2019).

*Mens Rea in Comparative Perspective*, 102 MARQUETTE LAW REVIEW 575, 575-603 (Winter 2018).

*The Puzzle of Inciting Suicide* (with Guyora Binder), 56 AMERICAN CRIMINAL LAW REVIEW 65, 65-135 (Winter 2018).

*Comparative Analysis as an Antidote to Tunnel Vision in Criminal Law Reform: The Example of Complicity*, 70 RUTGERS LAW REVIEW 1117, 1117-41 (Summer 2018).

*The Model Penal Code, Mass Incarceration and the Racialization of American Criminal Law*, 25 GEORGE MASON LAW REVIEW 605, 605-52 (Spring 2018).

*Animal Rights Unraveled: Why Abolitionism Collapses into Welfarism and What it Means for Animal Ethics*, 28 GEORGETOWN ENVIRONMENTAL LAW REVIEW 557, 557-87 (2017).

*Solving the Riddle of Rape by Deception*, 35 YALE LAW & POLICY REVIEW 407, 407-60 (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

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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.”

## 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

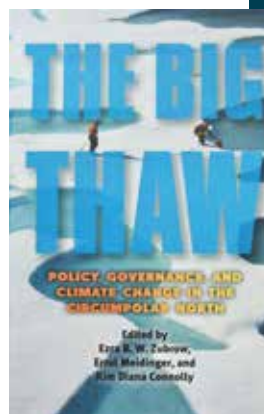
THE BIG THAW: POLICY, GOVERNANCE AND CLIMATE CHANGE IN THE CIRCUMPOLAR NORTH (Kim Diana Connolly, Errol Meidinger & Ezra B.W. Zubrow, eds., SUNY Press 2019).

## CLIMATE CHANGE AND HOPE IN THE ARCTIC

GLOBAL CLIMATE CHANGE IS transforming the world’s ecosystems, and nowhere is that happening faster than in the Arctic region. A major new book, co-edited by Professors Kim Diana Connolly and Errol Meidinger, takes a widely interdisciplinary look at how warming temperatures are affecting the landscape and the peoples of the Arctic.

THE BIG THAW: POLICY, GOVERNANCE, AND CLIMATE CHANGE IN THE CIRCUMPOLAR NORTH (SUNY Press) includes contributions by legal scholars, biologists, anthropologists and other social scientists with expertise in the Arctic, which scientists find is warming at almost twice the rate of areas elsewhere on the globe. It grows out of a seminal conference at the School of Law’s Baldy Center for Law & Social Policy.

The book’s interdisciplinary approach sheds new light on a much-discussed topic. “Not only did we talk about what’s going on in the United States in the usual policy sphere,” says Meidinger, “but we also tried to place it in terms of how it looks from different perspectives, such as those of indigenous people, the global power struggle among nation-states, and the relationship between climate governance and arctic governance. Global issues and local issues are completely intertwined – everything that’s done globally has huge impacts in the Arctic.”





# Matthew Dimick

PROFESSOR

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## AREAS OF INTEREST

INCOME TAX

TAX POLICY

LABOR AND EMPLOYMENT LAW

LAW AND ECONOMICS

## ARTICLES

*Counterfeit Liberty*, 3 CATALYST 47, 47-88 (2019).

*The Law and Economics of Redistribution*, 15 ANNUAL REVIEW OF LAW & SOCIAL SCIENCE 559, 559-82 (2019).

*Models of Other-Regarding Preferences, Inequality and Redistribution* (with David Rueda & Daniel Stegmueller), 21 ANNUAL REVIEW OF POLITICAL SCIENCE 441, 441-60 (May 2018).

*Better than Basic Income? Liberty, Equality, and the Regulation of Working Time*, 50 INDIANA LAW REVIEW 473, 473-515 (2017).

*The Altruistic Rich? Inequality and Other-Regarding Preferences for Redistribution* (with David Rueda & Daniel Stegmueller), 11 QUARTERLY JOURNAL OF POLITICAL SCIENCE 385, 385-439 (2016).

*Should the Law Do Anything About Economic Inequality?*, 26 CORNELL JOURNAL OF LAW AND PUBLIC POLICY 1, 1-69 (2016).

*Wage-Setting Institutions and Corporate Governance* (with Neel Rao), 44 JOURNAL OF COMPARATIVE ECONOMICS 854, 854-83 (2016).

## BOOK REVIEWS

Book Review, 45 CONTEMPORARY SOCIOLOGY 93, 93-95 (2016) (reviewing Kathleen A. Thelen's VARIETIES OF LIBERALIZATION AND THE NEW POLITICS OF SOCIAL SOLIDARITY (Cambridge University Press 2014)).



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

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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.”

## 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* (David M. Engel, Anne Bloom & Michael McCann, eds., Cambridge University Press 2018).

*INSIDERS, OUTSIDERS, INJURIES, AND LAW IN THE 21ST CENTURY: REVISITING “THE OVEN BIRD’S SONG”* (Mary Nell Trautner, ed., Cambridge University Press 2017) (Collection of essays commemorating David M. Engel’s “The Oven Bird’s Song: Insiders, Outsiders, and Personal Injuries in an American Community” (1984)).

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

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

## ARTICLES

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

*Blood Curse and Belonging in Thailand: Law, Buddhism, and Legal Consciousness*, 3 *ASIAN JOURNAL OF LAW AND SOCIETY* 71, 71-83 (2016).

*Perception and Decision at the Threshold of Tort Law: Explaining the Infrequency of Claims* (Eighteenth Annual Clifford Symposium on Tort Law and Social Policy) 62 *DEPAUL LAW REVIEW* 293, 293-334 (2013) (Translated into Japanese and published in *LAW AS EVERYDAY PRACTICE: SOCIOLOGY OF LAW ON CLINICAL KNOWLEDGE* (Hidekazu Nishida & Kenji Yamamoto, eds., 2016)).

## 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 & Michael McCann, eds., 2018).

*Looking Backward, Looking Forward: Past and Future Lives of “The Oven Bird’s Song,”* in *INSIDERS, OUTSIDERS, INJURIES, AND LAW IN THE 21ST CENTURY: REVISITING “THE OVEN BIRD’S SONG”* (Mary Nell Trautner, ed., 2018).

## RECOGNITION FOR A LIFETIME OF INSIGHT

THE LAW AND SOCIETY ASSOCIATION, THE WORLD'S PREMIER ORGANIZATION OF scholars who use the tools of the social sciences to study law, honored Emeritus Professors David M. Engel and Lynn Mather with its inaugural Legacy Awards.

The awards recognize lifetime achievement by individuals in the field, both for their scholarship and their contributions to the Law and Society Association.

Engel, who previously received the association's highest honor, the Harry S. Kalven Prize, served as the group's president in 1997-98. He has long studied and written about American tort law and Asian legal cultures, with particular interest in the culture of Thailand.

Mather was president of the Law and Society Association in 2001-02, and built ties with the organization's counterpart north of the border, the Canadian Law and Society Association.







# Lucinda M. Finley

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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

TORT LAW AND GENDER ISSUES  
FEMINIST LEGAL THEORY  
REPRODUCTIVE RIGHTS  
EQUAL PROTECTION LAW AND EQUALITY THEORY  
FIRST AMENDMENT AND LIMITS ON PROTEST ACTIVITY

## BOOKS

FEMINIST JUDGMENTS:  
REWRITTEN TORTS OPINIONS (with Martha Chamallas) (Cambridge University Press forthcoming 2020).

## CHAPTERS

*Commentary on Emerson v. Magendantz*, in FEMINIST JUDGMENTS: REWRITTEN TORTS OPINIONS (Martha Chamallas & Lucinda Finley, eds., Cambridge University Press forthcoming 2020).

*Introduction (with Martha Chamallas)*, in FEMINIST JUDGMENTS: REWRITTEN TORTS OPINIONS (Martha Chamallas & Lucinda Finley, eds., Cambridge University Press forthcoming 2020).

*Geduldig v. Aiello*, in FEMINIST JUDGMENTS: REWRITTEN OPINIONS OF THE UNITED STATES SUPREME COURT 185, 185-207 (Linda L. Berger, Bridget J. Crawford & Kathryn M. Stanchi, eds., Cambridge University Press 2016).





# Rebecca R. French

## PROFESSOR

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### 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*, 45 RELIGIOUS STUDIES REVIEW 153, 153-61 (July 2019).

*Is Buddhist Law “Sophisticated”?*, 2 BUDDHISM, LAW AND SOCIETY vii, vii-xvii (2018).

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

### CHAPTERS

*Is There Such a Thing as a Buddhist Legal Tradition?*, in GROSS NATIONAL HAPPINESS AND THE LAW (Kristen DeRemer, ed., forthcoming).



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.”





# James A. Gardner

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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.”

## AREAS OF INTEREST

CONSTITUTIONAL STRUCTURE OF POLITICS

LAW AND DEMOCRATIC THEORY

ELECTION LAW

FEDERALISM

STATE CONSTITUTIONAL LAW

## BOOKS

COMPARATIVE ELECTION LAW (Edward Elgar Publishing forthcoming 2020) (edited volume).

LEGAL ARGUMENT: THE STRUCTURE AND EFFECTIVE LANGUAGE OF EFFECTIVE ADVOCACY (Carolina Academic Press, 3d ed. forthcoming) (work in progress).

ELECTION LAW IN THE AMERICAN POLITICAL SYSTEM (with Guy-Uriel Charles) (Aspen, 2d ed. 2018) (1st ed. 2012).

## ARTICLES

*The Theory and Practice of Contestatory Federalism*, 60 WILLIAM & MARY LAW REVIEW 507, 507-46 (Nov. 2018).

*Active Judicial Governance*, 51 NEW ENGLAND LAW REVIEW 545, 545-54 (Sept. 2018).

*Canadian Federalism in Design and Practice: The Mechanics of a Permanently Provisional Constitution*, 9 PERSPECTIVES ON FEDERALISM 1, 1-30 (2017).

*La contienda intergubernamental en sistemas federados*, 28 YEARBOOK OF THE NATIONAL ACADEMY OF LAW 123, 123-40 (2017) available at [www.acaderc.org.ar/la-contienda-intergubernamental-en-sistemas-federados](http://www.acaderc.org.ar/la-contienda-intergubernamental-en-sistemas-federados).

*Claims of Distinctive Identity in Federal Systems: Judicial Policing of the Limits of Subnational Variance* (with Antoni Abat i Ninet), 14 INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 378, 378-410 (2016) (Translated into Russian and reprinted, in two parts, as *Trebovaniya priznaniya samobytnosti v federativnoiy sisteme: sudebnyi nadzor za regional'noiy svobodoiy*, SRAVNITEL'NOE KONSTITUSIONNOE OBOZRENIE (2017), 4: 69-91; and vol. 5: 48-56).

*Justice Brennan and the Foundations of Human Rights Federalism*, 77 OHIO STATE LAW JOURNAL 355, 355-85 (2016).

*Practice-Driven Changes to Constitutional Structures of Governance*, 68 ARKANSAS LAW REVIEW 335, 335- 69 (2016).

## BOOK CHAPTERS

*Conceptions of Politics in Comparative Perspective*, in COMPARATIVE ELECTION LAW (James A. Gardner, ed., Edward Elgar Publishing forthcoming 2020).



*El Misterioso Exito de una Democracia Federal, in DEMOCRACIA Y FORMA CONSTITUCIONAL* (Pablo C. Riberi & Pedro Salazar, eds., Instituto de Investigaciones Juridicas, Universidad Nacional Autónoma de México forthcoming 2020).

*Presidential Selection: Historical, Institutional, and Democratic Perspectives, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES* (Eugene Mazo & Michael Dimino, eds., forthcoming 2020).

#### **BOOK REVIEWS**

*Francesco Palermo & Karl Kössler's Comparative Federalism: Constitutional Arrangements and Case Law* (June 2018) (reviewing 48 PUBLIUS: THE JOURNAL OF FEDERALISM).





# Lise Gelernter

## TEACHING FACULTY

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I have concentrated my research on arbitration, an alternative dispute resolution method. I am particularly interested in the rapidly evolving legal doctrines governing and affecting arbitration in the labor, employment and commercial arenas. As a labor arbitrator,

I have also authored many arbitration awards (decisions) in cases in which the parties have asked me to resolve their disputes under a collective bargaining agreement.”

### AREAS OF INTEREST

LABOR AND EMPLOYMENT LAW

ARBITRATION

PUBLIC POLICY

ADMINISTRATIVE LAW

### ARTICLES

*The Impact of Epic Systems in the Labor and Employment Context*,  
2019 JOURNAL OF DISPUTE  
RESOLUTION 115, 115-27 (2019).





# Nicole Hallett

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## AREAS OF INTEREST

WORKPLACE LAW

IMMIGRATION LAW

CIVIL RIGHTS

LAW AND SOCIAL MOVEMENTS

## ARTICLES

*Immigrant Women in the Shadow of #MeToo*, 49 UNIVERSITY OF BALTIMORE LAW REVIEW (forthcoming 2019).

*The Problem of Wage Theft*, 37 YALE LAW & POLICY REVIEW 93, 93-152 (2019).

*The #Buffalo 25 and the New Era of Immigration Enforcement*, 21 CUNY LAW REVIEW 1, 1-34 (2017).



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

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VICE DEAN FOR INTERNATIONAL AND GRADUATE PROGRAMS

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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

THE COMPREHENSIVE AND PROGRESSIVE

TRANS-PACIFIC PARTNERSHIP

AGREEMENT: IMPLICATIONS AND

OPPORTUNITIES (Cambridge

University Press forthcoming).

## ARTICLES

*The Origins of Plurilateralism in International Trade Law*, 20 THE JOURNAL OF WORLD INVESTMENT & TRADE (forthcoming 2019).

*The United States' Path to Concluding the Trans-Pacific Partnership: Will TPA + TAA = TPP?*, 7 EUROPEAN YEARBOOK OF INTERNATIONAL ECONOMIC LAW 495, 495-505 (Bungenberg et al., eds., 2016).

## CHAPTERS

*Dissents*, in RESEARCH HANDBOOK ON WTO DISPUTE SETTLEMENT (Simon Lester & Bryan Mercurio, eds., Edward Elgar Publishing forthcoming 2019).

*Import and Export Controls*, in INTERNATIONAL COMMERCIAL CONTRACTS (Petra Butler, ed., 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, ed., forthcoming 2019) (translated into Spanish).

*The Embedded Liberalism  
Compromise in the Making of  
the GATT and Uruguay Round  
Agreements*, in *THE FUTURE  
OF INTERNATIONAL ECONOMIC  
INTEGRATION: THE EMBEDDED  
LIBERALISM COMPROMISE REVISITED*  
(Gillian Moon & Lisa Toohey, eds.,  
Cambridge University Press 2018).

*Mega-FTAs and Plurilateral Trade  
Agreements: Implications for the  
Asia-Pacific*, in *THE TRANS-PACIFIC  
PARTNERSHIP: A PARADIGM SHIFT IN  
INTERNATIONAL TRADE REGULATION?*  
(Julien Chaisse, Henry Gao &  
Chang-fa Lo, eds., Springer 2017).

*The ASEAN-Australian-New  
Zealand Free Trade Agreement*, in  
*BILATERAL AND REGIONAL TRADE  
AGREEMENTS: CASE STUDIES*  
(Lorand Bartels, Simon Lester &  
Bryan Mercurio, eds., Cambridge  
University Press 2d ed. 2016).

*International Political Economy  
and the Prisoner's Dilemma:  
Compliance with International  
Law*, in *THE POLITICAL ECONOMY  
OF INTERNATIONAL LAW: A  
EUROPEAN PERSPECTIVE* 178,  
178-201 (Alberta Fabricotti, ed.,  
Edward Elgar Publishing 2016).

*When Popular Decisions Rest on Shaky  
Foundations: Systemic Implications  
of Selected WTO Appellate Body  
Trade Remedies Jurisprudence*, in  
*INTERNATIONAL ECONOMIC LAW AND  
GOVERNANCE: ESSAYS IN HONOUR  
OF MITSUO MATSUSHITA* 9, 9-27  
(Julien Chaisse & Tsai-Yu Lin, eds.,  
Oxford University Press 2016).

## OTHER

*Bilateralism*, in *ELGAR ENCYCLOPEDIA  
OF INTERNATIONAL ECONOMIC LAW*  
32, 32-33 (Thomas Cottier & Krista  
Nadakavukaren Schefer, eds.,  
Edward Elgar Publishing 2017).

*Multilateralism*, in *ELGAR  
ENCYCLOPEDIA OF INTERNATIONAL  
ECONOMIC LAW* 33, 33-35  
(Thomas Cottier & Krista  
Nadakavukaren Schefer, eds.,  
Edward Elgar Publishing 2017).

*Plurilateralism*, in *ELGAR  
ENCYCLOPEDIA OF INTERNATIONAL  
ECONOMIC LAW* 35, 35-36  
(Thomas Cottier & Krista  
Nadakavukaren Schefer, eds.,  
Edward Elgar Publishing 2017).

*Voluntary Export Restraints (VERs)  
and Orderly Marketing Arrangements  
(OMAs)*, in *ELGAR ENCYCLOPEDIA  
OF INTERNATIONAL ECONOMIC LAW*  
366, 366-68 (Thomas Cottier &  
Krista Nadakavukaren Schefer, eds.,  
Edward Elgar Publishing 2017).



# Jonathan M. Manes

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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.”

## AREAS OF INTEREST

CIVIL RIGHTS/CIVIL LIBERTIES

FREEDOM OF SPEECH

INFORMATION PRIVACY

TRANSPARENCY LAW

TECHNOLOGY LAW

NATIONAL SECURITY LAW

## ARTICLES

*Secrecy and Evasion: Against Secret Innovation in Police Technology*, 34 BERKELEY TECHNOLOGY LAW JOURNAL (forthcoming 2019).

*Secret Law*, 106 GEORGETOWN LAW JOURNAL 803, 803-69 (March 2018).

*Online Service Providers and Surveillance Law Transparency*, 125 YALE LAW JOURNAL FORUM 343, 343-58 (2016).

## AMICUS BRIEFS

Brief of AI Now Institute, ACLU, EFF, NYU Center on Race, Inequality, and the Law, and Knight First Amendment Institute at Columbia University as Amici Curiae Supporting *Food Marketing Institute v. Argus Leader, Inc.* (Sup. Ct. 2019) (No 18-481).

Brief of Scholars of First Amendment Law as Amici Curiae Supporting *United States v. Terry Albury* (D. Minn. 2018) (No. 18-cr-67).

Brief of Information Society Project and Scholars of Intellectual Property and Free Expression Law as Amici Curiae Supporting Defendant-Petitioner, *Flo & Eddie, Inc. v. Pandora Media, Inc.* (Cal. Sup. Ct. Jan. 12, 2018) (No. S240649).

Brief of Floyd Abrams Institute for Freedom of Expression and First Amendment Scholars as Amici Curiae Supporting Parties Under Seal, *In re National Security Letter*, 863 F. 3d 1110 (9th Cir. 2017).

Brief of Law Professors as Amici Curiae Supporting Plaintiffs' Opposition to the Motion to Dismiss, *Microsoft v. Department of Justice*, 233 F. Supp. 2d 887 (W.D. Wash. 2017).



# Martha T. McCluskey

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## 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

## ARTICLES

*All Costs Have a Right, in Eleven Things They Don't Tell You About Law and Economics: An Informal Introduction to Political Economy and the Law*, 37 *LAW & INEQUALITY: A JOURNAL OF THEORY AND PRACTICE* 105, 105-10 (2018).

*Are We Economic Engines Too? Precarity, Productivity and Gender*, 49 *TOLEDO LAW REVIEW* 631, 631-56 (Spring 2018) (Symposium Issue, Gender Equality: Progress and Possibilities).

*Civil Justice in the United States: How Access to Courts is Essential to a Fair Economy* (with Thomas McGarity, Sidney Shapiro, Karen Sokol & James Goodwin), *CENTER FOR PROGRESSIVE REFORM* (Sep. 2018).

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

*Following the Money in Public Higher Education Foundations*, 103 *ACADEME* 27, 27-31 (Jan./Feb. 2017).

*Constitutional Economic Justice: Structural Power for "We the People,"* 35 *YALE LAW & POLICY REVIEW* 271, 271-96 (2016).

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

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

## CHAPTERS

*Big Government Against Social Responsibility: A Vulnerability Critique of Privatization's Public Priorities*, in *PRIVATIZATION, VULNERABILITY, AND SOCIAL RESPONSIBILITY* 24, 24-33 (Martha A. Fineman, Ulrika Andersson & Titti Mattsson, eds., Ashgate/Routledge 2017).

*Personal Responsibility for Systemic Inequality*, in *EDGAR ELGAR HANDBOOK ON POLITICAL ECONOMY AND THE LAW* 227, 227-45 (Ugo Mattei & John Haskell, eds., Edward Elgar Publishing 2016).

“

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.”



# Errol Meidinger

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BA, University of North Dakota

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“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

ADMINISTRATIVE LAW

ENVIRONMENTAL LAW

INDIGENOUS PEOPLES' LAW

INTERNATIONAL BUSINESS TRANSACTIONS

INTERNATIONAL ENVIRONMENTAL LAW

INTERNATIONAL TRADE AND ENVIRONMENT

LEGAL THEORY

SOCIOLOGY OF LAW

## BOOKS

TRANSNATIONAL BUSINESS GOVERNANCE INTERACTIONS: ADVANCING MARGINALIZED ACTORS AND ENHANCING REGULATORY QUALITY (Stepan Wood, Rebecca Schmidt, Burkard Eberlein & Kenneth Abbott, eds., Edward Elgar Publishing forthcoming).

THE BIG THAW: POLICY, GOVERNANCE AND CLIMATE CHANGE IN THE CIRCUMPOLAR NORTH (Kim Diana Connolly, Errol Meidinger & Ezra B.W. Zubrow, eds., SUNY Press 2019).

## ARTICLES

*Forward: Tempering Power*, 67 BUFFALO LAW REVIEW 519, 519-26 (May 2019).

## CHAPTERS

*Governance Interactions in Sustainable Supply Chains Management*, in TRANSNATIONAL BUSINESS GOVERNANCE INTERACTIONS: ENHANCING REGULATORY CAPACITY, RATCHETING UP STANDARDS, AND EMPOWERING MARGINALIZED ACTORS (Errol Meidinger, Stepan Wood, Rebecca Schmidt, Burkard Eberlein & Kenneth Abbott, eds., Edward Elgar Publishing forthcoming).

*The Trans-Pacific Partnership Agreement and Environmental Regulation*, in MEGAREGULATION CONTESTED: GLOBAL ECONOMIC ORDERING AFTER TTP 175, 175-95 (Benedict Kingsbury, et al., eds., Oxford University Press 2019).

## OTHER

*Environmental Principles in U.S. and Canadian Law* (with Daniel A. Spitzer & Charles W. Malcomb), in ELGAR ENCYCLOPEDIA OF ENVIRONMENTAL LAW 405, 405-23 (Edward Elgar Publishing 2018).

## A DISTINGUISHED TITLE

RECOGNIZING HIS FAR-REACHING SCHOLARSHIP PARTICULARLY in environmental law, the State University of New York has awarded Professor Errol Meidinger its highest faculty rank, the title of SUNY Distinguished Professor.

The honor recognizes “individuals who have achieved national and/or international prominence and a distinguished reputation within their chosen field.”

Selection criteria include the honoree’s impact on his field of study, typically through research, and work that essentially raises the bar for his academic colleagues.

“Dr. Meidinger has catalyzed a group of scholars worldwide to transform our understanding of the relationships among and between citizens, institutions and the environment, and to expand strategies for meeting critical environmental challenges,” the university system said in its announcement. “His work has influenced not only this area of study but also the practice of policy, both nationally and internationally.”

# Athena D. Mutua

PROFESSOR AND FLOYD H. AND HILDA L. HURST  
FACULTY SCHOLAR

LLM, Harvard Law School

MA, American University

JD, American University Washington College of Law

BA, Earlham College



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## AREAS OF INTEREST

CONSTITUTIONAL LAW

CIVIL RIGHTS LAW

CORPORATE LAW AND REGULATION

CRITICAL RACE, ECONOMIC, AND  
FEMINIST LEGAL THEORY

## ARTICLES

*Liberalism's Identity Politics: A Reply*

*to Fukuyama*, UNIVERSITY OF

PENNSYLVANIA JOURNAL OF LAW AND

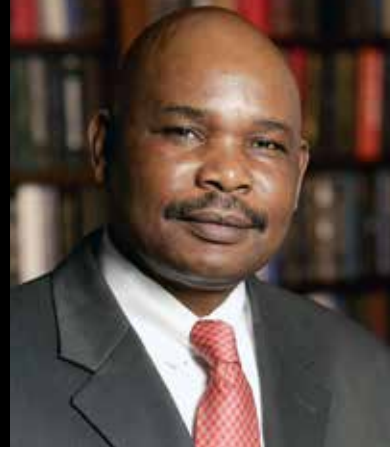
SOCIAL CHANGE (forthcoming).



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.”







# Makau W. Mutua

SUNY DISTINGUISHED PROFESSOR

FLOYD H. AND HILDA L. HURST FACULTY SCHOLAR

SJD, Harvard Law School

LLM, Harvard Law School

LLM, University of Dar-es-Salaam (Tanzania)

LLB, University of Dar-es-Salaam (Tanzania)

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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."

## AREAS OF INTEREST

- PUBLIC INTERNATIONAL LAW
- HUMAN RIGHTS
- INTERNATIONAL BUSINESS TRANSACTIONS
- POST-COLONIALISM
- THIRD WORLD APPROACHES TO INTERNATIONAL LAW (TWAII)
- STATE RECONSTRUCTION
- POST-CONFLICT SOCIETIES
- CONSTITUTION-MAKING
- TRANSITIONAL JUSTICE

## BOOKS

HUMAN RIGHTS STANDARDS: HEGEMONY, LAW, AND POLITICS (David C. Earnest, ed., SUNY Press 2016).

## ARTICLES

*The Richardson Escuela: Law as Politics*, 31 TEMPLE INTERNATIONAL 247, 247-56 (2017).

*Africa and the Rule of Law*, 23 INTERNATIONAL JOURNAL OF HUMAN RIGHTS (Revista Internacional de Direitos Human) 1, 1-6 (2016).

*Mazrui and Barkan: A Tribute*, 33 JOURNAL OF CONTEMPORARY AFRICAN STUDIES 433, 433-40 (2016).

## CHAPTERS

*A Problem of Utopia: Human Rights and Transitional Justice*, in THE OXFORD HANDBOOK OF TRANSITIONAL JUSTICE (Jens Meierhenrich & Alexander Lahan Hinton, eds., Oxford University Press forthcoming).

*Reparations for Slavery: Politics, Legitimation, and Strategy*, in TIME FOR REPARATION?: ADDRESSING STATE RESPONSIBILITY FOR COLLECTIVE INJUSTICE (Jacqueline Bhabha & Caroline Elkins, eds., University of Penn. Press forthcoming).

*Africans and the ICC: Hypocrisy, Impunity, and Perversion*, in AFRICANS AND THE ICC: PERCEPTIONS OF JUSTICE 47, 47-60 (Kamari Clarke, Abel Knottnerus & Eefje de Volder, eds., Cambridge University Press 2016).

*Closing the 'Impunity Gap' and the Role of State Support for the ICC*, in CONTEMPORARY ISSUES FACING THE INTERNATIONAL CRIMINAL COURT 99, 99-111 (Richard H. Steinberg & Martinus Nijhoff Lam, eds., 2016).

*Is the Age of Human Rights Over?*, in THE ROUTLEDGE COMPANION TO LITERATURE AND HUMAN RIGHTS 450, 450-58 (Sophia A. McClennen & Alexandra Schulthesis Moore, eds., Routledge 2016).

# Tolulope F. Odunsi

LECTURER IN LAW, LEGAL ANALYSIS,  
WRITING AND RESEARCH

ASSISTANT DEAN FOR DIVERSITY,  
EQUITY AND INCLUSION

JD, American University, Washington College of Law

BS, Binghamton University

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## AREAS OF INTEREST

LEGAL RESEARCH AND WRITING

EMPLOYMENT DISCRIMINATION LAW

CIVIL RIGHTS LAW

CRITICAL RACE THEORY

DIVERSITY IN LEGAL PRACTICE

## ARTICLES

*Breaking the Silence in the Face*

*of Racial Injustice*, 8 DEFENSE

RESEARCH INSTITUTE, DIVERSITY

INSIDER 3, 3-4 (2016).

## CHAPTERS

*Is Race Really the Issue? Examining the*

*Fallacy of "Back Foreigner Privilege,"* in

PAN AFRICAN SPACES: ESSAYS ON BLACK

TRANSNATIONALISM 31, 31-44 (M.

Kibona Clark, L. Azalia & P. Mnyandu,

eds., Rowmun & Littlefield 2018).



My work focuses on understanding intersectional analysis to address the legal and administrative systems that perpetuate inequality in all facets of society. Since much of the law related to discrimination focuses on single-axis analysis, my work also explores the ways in which legal systems and other institutions have not caught up in recognizing the intersections of race, gender, ethnicity, citizenship, physical ability, and socioeconomic status."





# Anthony O'Rourke

JOSEPH W. BELLUCK AND LAURA L. ASWAD  
PROFESSOR OF CIVIL JUSTICE

DIRECTOR OF THE ADVOCACY INSTITUTE

JD, Columbia Law School

BA, University of Michigan

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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.”

## AREAS OF INTEREST

CRIMINAL LAW AND PROCEDURE

CONSTITUTIONAL LAW

LEGISLATION

STATUTORY INTERPRETATION

LEGAL THEORY

## ARTICLES

*Punishing Self Incrimination, INTERROGATION, CONFESSION AND TRUTH* (Nomos Verlagsgesellschaft forthcoming 2020).

*Parallel Enforcement and Agency Interdependence*, 77 MARYLAND LAW REVIEW 985, 985-1061 (2018).

*Semantic Vagueness and Extrajudicial Constitutional Decisionmaking*, 25 WILLIAM & MARY BILL OF RIGHTS JOURNAL 1301, 1301-24 (2017).

*White Paper of Democratic Criminal Justice* (with Joshua Kleinfeld, et al.), 111 NORTHWESTERN UNIVERSITY LAW REVIEW 1693, 1693-1706 (2017).







# Stephen J. Paskey

LECTURER IN LAW, LEGAL ANALYSIS,  
WRITING AND RESEARCH

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BA, Michigan State University

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## AREAS OF INTEREST

LAW AND NARRATIVE

LAW AND RHETORIC

REFUGEE AND ASYLUM LAW

## ARTICLES

*Telling Refugee Stories: Trauma, Credibility, and the Adversarial Adjudication of Claims for Asylum*, 56 SANTA CLARA LAW REVIEW 457, 457-530 (2016).



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.”





# Stephanie L. Phillips

PROFESSOR

JD, Harvard Law School

BA, University at Buffalo

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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.”

## AREAS OF INTEREST

MINDFULNESS AND LAW

AFRICAN-AMERICAN LEGAL HISTORY

CONFLICT OF LAWS

LAW AND RELIGION

CRITICAL RACE THEORY

## ARTICLES

*Mindfulness in Education: Tools for Effective Conflict Resolution*, JOURNAL OF THE ASSOCIATION OF WOMEN IN COLLEGES OF EDUCATION (Lagos, Nigeria, 2016).



# John Henry Schlegel

UB DISTINGUISHED PROFESSOR

FLOYD H. AND HILDA L. HURST FACULTY SCHOLAR

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## AREAS OF INTEREST

LEGAL HISTORY OF THE AMERICAN ECONOMY

CORPORATE FINANCE

ECONOMIC REDEVELOPMENT OF RUST BELT CITIES

## ARTICLES

*If the Music Hadn't Stopped, or Reflections on the Great Kerfuffle: Historicism's Continuing Grasp for Truth*, YALE JOURNAL OF LAW AND HUMANITIES (forthcoming 2020).

*To Dress for Dinner: Teaching Law in a Bureaucratic Age*, 66 BUFFALO LAW REVIEW 435, 435-80 (April 2018).

*On Absences as Material for Historical Study*, 64 BUFFALO LAW REVIEW 141, 141-59 (2016).

## CHAPTERS

*Wesley Newcomb Hohfeld: On the Difficulty of Becoming a Law Professor*, in THE LEGACY OF WESLEY HISTORICAL LEGAL RESEARCH (S. Balganes, T. Sichelman & H. Smith, eds., Cambridge University Press forthcoming 2020).

*Sez Who?: Critical Legal History without a Privileged Position*, in THE OXFORD HANDBOOK OF HISTORICAL LEGAL RESEARCH 561, 561-76 (Chris Tomlins & M. Dubber, eds., Oxford University Press 2018).

*... and Law?*, in CONTEMPORARY LEGAL THOUGHT 348, 348-62 (Chris Tomlins & Justin Desautels-Stein, eds., Cambridge University Press 2017).

## BOOK REVIEWS

Book Review, 105 JOURNAL OF AMERICAN HISTORY 694, 694-95 (2018) (reviewing ANNE FLEMMING, CITY OF DEBTORS: A CENTURY OF FRINGE FINANCE (Harvard University Press 2018)).

Book Review, 121 AMERICAN HISTORICAL REVIEW 260, 260-61 (2016) (reviewing HERBERT HOVENKAMP, THE OPENING OF AMERICAN LAW: NEOCLASSICAL LEGAL THOUGHT 1870-1970 (Oxford University Press 2014)).

Book Review, 89 THE NEW ENGLAND QUARTERLY 689, 689-92 (2016) (reviewing DANIEL COQUILLETTE & BRUCE A. KIMBALL, ON THE BATTLEFIELD OF MERIT: HARVARD LAW SCHOOL, THE FIRST CENTURY (Harvard University Press 2015)).



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."





# Matthew Steilen

PROFESSOR

JD, Stanford Law School

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BA, Carleton College

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My central research interest is the development of legal institutions and ideas. I am currently at work on an intellectual history of the separation of powers.”

## AREAS OF INTEREST

CONSTITUTIONAL LAW

LEGAL THEORY

## BOOKS

CONSTITUTIONAL LAW: SOURCES AND PROBLEMS (ChartaCourse 2017) (digital casebook).

## ARTICLES

*The Constitutional Convention and Constitutional Change: A Revisionist History*, 24 LEWIS AND CLARK LAW REVIEW (forthcoming Mar. 2020).

*The Legislature at War: Bandits, Runaways and the Emergence of a Virginia Doctrine of Separation of Powers*, 37 LAW AND HISTORY REVIEW 493, 493-538 (Mar. 2019).

*The Security Court*, 78 MARYLAND LAW REVIEW ONLINE 1, 1-13 (Sept. 2018).

*How to Think Constitutionally About Prerogative: A Study of Early American Usage*, 66 BUFFALO LAW REVIEW 557, 557-668 (May 2018).

*The Josiah Philips Attainder and the Institutional Structure of the American Revolution*, 60 HOWARD LAW JOURNAL 413, 413-58 (2017).

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

*Due Process as Choice of Law*, 24 WILLIAM AND MARY BILL OF RIGHTS JOURNAL 1047, 1047-1106 (2016).

*On the Place of Judge-Made Law in a Government of Laws*, 3 CRITICAL ANALYSIS OF LAW 243, 243-60 (2016).



# Mateo Taussig-Rubbo

PROFESSOR

PhD, University of Chicago

JD, Yale Law School

MPhil, Cambridge University

BA, University of Chicago

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## AREAS OF INTEREST

ANTHROPOLOGY OF LAW

CONSTITUTIONAL LAW

CRIMINAL LAW

COMPARATIVE LAW

CONTRACTS

SOCIAL AND POLITICAL THEORY

## ARTICLES

*Appraising 9/11: Sacred Value and*

*Heritage in Neoliberal Times*, 18

UNIVERSITY OF PENNSYLVANIA

JOURNAL OF CONSTITUTIONAL

LAW 1179, 1179-1230 (2016).



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.”





# David A. Westbrook

LOUIS A. DEL COTTO PROFESSOR

CO-DIRECTOR OF THE NEW YORK CITY PROGRAM  
ON FINANCE AND LAW

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BA, Emory University

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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 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 Amy Deen Westbrook on the significance of developments in the equity markets and corporate governance; with anthropologist Mark Maguire on counterterrorism, bureaucracy, and how we experience security; and with computer scientist Perry Alexander on what 'computing' means. I've also 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](http://davidawestbrook.com)."

## AREAS OF INTEREST

GLOBALIZATION AND THE CONTEMPORARY

CORPORATIONS AND CAPITAL MARKETS

ENVIRONMENTAL LAW AND TECHNOLOGY

POLITICAL ECONOMY AND SOCIAL THEORY

## ARTICLES

*Snapchat's Gift: Equity Culture in High-Tech Firms* (with Amy Deen Westbrook), *FLORIDA STATE UNIVERSITY LAW REVIEW* (Summer 2019).

*Those People [May Yet Be] a Kind of Solution: Late Imperial Thoughts on the Humanization of Officialdom* (with Mark Maguire), *67 BUFFALO LAW REVIEW* 889, 889-907 (May 2019).

*Unicorns, Guardians, and the Concentration of the U.S. Equity Markets* (with Amy Deen Westbrook), *96 NEBRASKA LAW REVIEW* 688, 688-741 (Spring 2018).

*The Paradigm Sways: Macroeconomics Turns to History*, *20 INTERNATIONAL FINANCE* 317, 317-24 (2017).

*Governing International Finance after the Global Financial Crisis: Three Views of the Terrain*, *19 INTERNATIONAL FINANCE* 230, 230-43 (2016).

*Magical Contracts, Numinous Capitalism*, *32 ANTHROPOLOGY* 13, 13-17 (Dec. 2016).

*Losing Our Manners: The Current Crisis and Possible Durability of Liberal Discourse*, *Hot Spots, Cultural Anthropology*, *SOCIETY FOR CULTURAL ANTHROPOLOGY* (Oct. 27, 2016), [culanth.org/fieldsights/losing-our-manners-the-current-crisis-and-possible-durability-of-liberal-discourse](http://culanth.org/fieldsights/losing-our-manners-the-current-crisis-and-possible-durability-of-liberal-discourse).

## CHAPTERS

*Magical Contracts, Numinous Capitalism*, in *MAGICAL CAPITALISM* 45, 45-63 (Brian Moeran & Timothy Malefyt, eds., Palgrave July 2018) (substantially revised from the article).

*Leaving Flatland: Planar Discourses and the Search for the G-Axis*, in *POWER, POLICY AND PROFIT: CORPORATE ENGAGEMENT IN POLITICS AND GOVERNANCE* 208, 208-22 (Christina Garsten & Adrienne Sörbom, eds., Edward Elgar Publishing 2017).

*Prolegomenon to a Defense of the City of Gold*, in *TRUMPONOMICS: CAUSES AND CONSEQUENCES* 141, 141-47 (Edward Fullbrook & Jamie Morgan, eds., 2017).

*Critical Issues for Qualitative Research*, in *THE SAGE HANDBOOK OF QUALITATIVE RESEARCH* 915, 915-22 (Norman Denzin & Yvonna Lincoln, eds., SAGE Publications, 5th ed. 2016).





# James A. Wooten

PROFESSOR

PhD, Yale University

MA, Yale University

MPhil, Yale University

JD, Yale Law School

BA, Rice University

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## AREAS OF INTEREST

EMPLOYEE BENEFIT PLANS

LEGAL HISTORY

LEGISLATION

RETIREMENT POLICY

TAXATION

## ARTICLES

*The Venue Shuffle: Forum Selection Clauses & ERISA* (with Christine P. Bartholomew), 66 *UCLA LAW REVIEW* 862, 862-910 (April 2019).



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."







# Baldy Center Fellows in Interdisciplinary Legal Studies

The Baldy Center for Law & Social Policy is an endowed academic center for interdisciplinary research on law and legal institutions. The mission of the Baldy Center is to advance interdisciplinary research on law, legal institutions, and social policy. It does so by supporting research projects, conferences, workshops, fellowships, visiting scholars, speakers, grant proposals, and other promising initiatives.

## 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.



### Sarah Ludin

**2019-2021 POSTDOCTORAL FELLOW**

**PHD, UNIVERSITY OF CALIFORNIA AT BERKELEY**

BA, Dartmouth College

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A SOCIO-LEGAL HISTORIAN OF THE EARLY MODERN German-speaking lands, Ludin's research focuses on law and language, secularity and secularism, law and religion, and Reformation history. Her dissertation, "The Reformation Suits: Litigation as Constitution-Making in a German Imperial Court, 1521-1555" reconsiders the role of civil litigation in the early Reformation in Germany, long regarded as an instance of the instrumentalization of law by "old-faith" authorities against the Protestants.



### Daniel Platt

**2018-20 POSTDOCTORAL FELLOW**

**PHD, BROWN UNIVERSITY**

MA, University of Connecticut

BA, Loyola University, Chicago

danielp@buffalo.edu

PLATT'S RESEARCH CONSIDERS THE HISTORY OF CAPITALISM in the United States, asking how commodities are created by the law and how race and gender ideologies shape such fabrications, particularly when they implicate the integrity of labor and the home. These concerns lie at the heart of his current manuscript, *The Debt Question in Modern America*, under contract with University of Chicago Press.

## OUR 2019-20 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.



### Khohchahar Chuluu

**2019-2020 SENIOR FELLOW**

**ASSOCIATE PROFESSOR, UNIVERSITY OF TOKYO, JAPAN**

LLD, LLM Kyoto University

Env.Sc.M., Aomori University

LLB, Inner Mongolia University

CHULUU'S RESEARCH CENTERS ON COMPARATIVE ASIAN law and history, with a focus on Mongolian legal history and hunting law. His work at the Baldy Center will include a study of laws regulating hunts in Eurasian history, focusing specifically on the hunting institutions and their associated rules, from northeast Asia to some kingdoms in Western Europe. This study aims to clarify how hunting laws related to laws in general and how they promoted socio-political order throughout history.



### Marie Jauffret-Roustide

**SPRING 2020 SENIOR FELLOW**

**RESEARCH FELLOW, FRENCH NATIONAL INSTITUTE OF HEALTH AND MEDICAL RESEARCH, FRANCE**

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MA, Sciences Po, Paris

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JAUFFRET-ROUSTIDE IS THE LEADER OF AN INTERNATIONAL comparative research project on the history of harm reduction between France and the United States. As a Senior Baldy Fellow, she will analyze three representative contemporary drug policy issues affecting both North America (specifically the United States) and partially Europe (France): the history of opioid substitutive treatments, the opioid overdose crisis, and the controversy on drug consumption rooms.



# Areas of Scholarly Interest

Page numbers for faculty profiles by area of interest are indicated by ( ).

**Administrative Law** – Bernstein (7), Connolly (14),  
Gelernter (22), Meidinger (28)

**Advertising Law** – Bartholomew, M. (6)

**Animal Law/Studies** – Braverman (10), Chiesa (13)

**Anthropology of Law** – French (19), Taussig-Rubbo (37)

**Antitrust** – Bartholomew, C. (4)

**Arbitration** – Gelernter (22)

**Asian Legal Cultures** – Bernstein (7), Engel (16)

**Bankruptcy** – Brown (12)

**Buddhism and Law** – French (19)

**Business Law** – Brown (12)

**Civil Procedure** – Bartholomew, C. (4), Bernstein (7)

**Civil Rights Law** – Hallett (23), Manes (26), Odunsi (31),  
McCluskey (27), Mutua, A. (29)

**Clinical Legal Education** – Connolly (14)

**Commercial Law** – Abramovsky (2)

**Common Law, History of** – Steilen (36)

**Comparative Law** – French (19), Taussig-Rubbo (37)

**Administrative** – Bernstein (7)

**Conflict of Laws** – Phillips (34)

**Constitutional Law** – Boucai (9), Mutua, A. (29),  
O'Rourke (32), Steilen (36), Taussig-Rubbo (37)

**Constitutional History** – Steilen (36)

**Constitutional Structure of Politics** – Gardner (20)

**Constitution-Making** – Mutua, M. (30)

**First Amendment** – Barbas (3), Finley (18)

**Freedom of Speech** – Manes (26)

**State Constitutional Law** – Gardner (20)

**Consumer Protection** – Bartholomew, C. (4)

**Contracts** – Taussig-Rubbo (37)

**Corporate Finance** – Schlegel (35), Westbrook (38)

**Corporate Law** – Mutua, A. (29), Westbrook (38)

**Criminal Law** – Binder (8), Boucai (9), Chiesa (13),  
O'Rourke (32), Taussig-Rubbo (37)

**Criminal Procedure** – Chiesa (13), O'Rourke (32)

**Critical Legal Studies** – McCluskey (27)

**Critical Race Theory** – Mutua, A. (29), Odunsi (31),  
Phillips (34)

**Cyberlaw** – Bartholomew, M. (6)

**Democratic Theory, Law and** – Gardner (20)

**Disability Law** – McCluskey (27)

**Diversity in Legal Practice** – Odunsi (31)

**Economics, Law and** – Dimick (15), McCluskey (27)

**Economic Redevelopment** – Schlegel (35)

**Political Economy and Social Theory** –  
Westbrook (38)

**Election Law** – Gardner (20)

**Employment Law** – Dimick (15), Gelernter (22)

**Retirement Policy** – Wooten (39), McCluskey (27),  
Odunsi (31)

**Employee Benefit Plans** – Wooten (39)

**Workplace Law** – Hallett (23)

**Energy Law** – McCluskey (27)

**Environmental Law** – Connolly (14), Meidinger (28)

**Environmental Law and Technology** –  
Westbrook (38)

**Equal Protection Law and Equality Theory** – Finley (18)

**Ethics**

**Government Ethics** – McCluskey (27)

**Legal Ethics** – Abramovsky (2)

**Evidence** – Bartholomew, C. (4)

**Family Law** – Boucai (9), McCluskey (27)

**Federal Jurisdiction** – Bernstein (7)

**Federalism** – Gardner (20)

**Feminist Legal Theory** – Finley (18), Mutua, A. (29)

**Free Trade Agreements** – Lewis (24)

**Gender and Law** – Boucai (9), Finley (18)

**Genetics, Law and** – Braverman (10) McCluskey (27),  
Mutua, A. (29)

**Geography, Law and** – Braverman (10)

**Globalization** – Westbrook (38)

**Health Law** – McCluskey (27)

**Higher Education Law** – McCluskey (27)

**Human Rights** – Mutua, M. (30)

**Immigration Law** – Hallett (23)

**Indigenous Peoples' Law** – Meidinger (28)

**Information Privacy** – Manes (26)

**Insurance Law** – Abramovsky (2), McCluskey (27)

**Intellectual Property** – Bartholomew, M. (6)

**International**

- Business Transactions** – Meidinger (28),  
Mutua, M. (30)
- Dispute Settlement** – Lewis (24)
- Economic Law** – Lewis (24)
- Environmental Law** – Meidinger (28)
- Human Rights** – Mutua, M. (30)
- Globalization** – Connolly (14), Meidinger (28),  
Mutua, M. (30), Westbrook (38)
- Public International Law** – Mutua, M. (30)
- Trade Law** – Lewis (24), Meidinger (28)

**Israel/Palestine** – Braverman (10)

**Jurisdiction** – Bernstein (7)

**Jurisprudence** – Binder (8), Chiesa (13)

**Labor Law** – Dimick (15), Gelernter (22)

**Legal Education** – Connolly (14)

**Legal Ethnography** – Braverman (10), Engel (16)

**Legal History** – Barbas (3), Bartholomew, M. (6),  
Boucai (9), Steilen (36), Wooten (39)

- African-American** – Phillips (34)
- The American Economy** – Schlegel (35)

**Legal Research and Writing** – Odunsi (31)

**Legal Theory** – Meidinger (28), O'Rourke (32),  
Steilen (36)

**Legislation** – Connolly (14), O'Rourke (32), Wooten (39)

**Literature, Law and** – Binder (8)

**Mass Media Law** – Barbas (3)

**Mindfulness and Law** – Phillips (34)

**Narrative, Law and** – Paskey (33)

**National Security Law** – Manes (26)

**Natural Resources Law** – Braverman (10), Connolly (14),  
Meidinger (28)

**Occupational Safety and Health** – McCluskey (27)

**Post-Colonialism** – Mutua, M. (30)

**Post-Conflict Societies** – Mutua, M. (30)

**Property Law** – French (8)

**Protest Activity** – Finley (18)

**Public Policy** – Gelernter (22)

**Race and the Law** – McCluskey (27)

**Refugee and Asylum Law** – Paskey (33)

**Regulation** – Abramovsky (2), McCluskey (27),  
Mutua, A. (29)

**Religion, Law and** – French (19), Phillips (34)

**Remedies** – Bartholomew, C. (4)

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