Spring 2012 Colloquium: "Religion, the Constitution, and the State: Contemporary Controversies"

The revival of religion in pluralist and multicultural settings deeply immersed in identity politics poses serious theoretical and practical challenges to the legitimacy and viability of the dominant conception of constitutionalism, which seems inextricably linked to the principle of secularism. What is at stake on the theoretical plane is a radical challenge to the essential tenets that animate the project of the Enlightenment: acceptance of a clear-cut distinction between the realm of faith and that of reason together with a commitment to ruling the public sphere according to the dictates of reason; and promotion of equal liberty for all. Certain contemporary religions seem compatible with the rule of reason in the public sphere, but others do not. Thus, fundamentalist religions and even certain non-fundamentalist ones have objected to secular rule constrained by public reason as being morally debilitating.

A great number of practical problems raising difficult constitutional issues are linked to the theoretical challenge outlined above. These include: religious education in public schools; wearing religious symbols in public places (e.g., the Islamic veil in public schools); secular state-imposed subjects to be taught in religious schools (e.g., tolerance, pluralism, gender equality); minority religions' practices that go against mainstream law and culture (e.g., ritual slaughtering of animals for food under Jewish or Muslim religious law); speech that offends religion, and in particular a minority religion (e.g., the controversy over the Danish cartoons deemed profoundly offensive to Islam); virulent religious fundamentalist speech that advocates hatred or violence against other religions or against secularists (e.g., jihadist exhortations by fundamentalist imams); and clashes between religious laws, practices, or customs and the spread of liberal values and rights such as those pertaining to gender equality. To examine these issues, the Colloquium gathers specialists with a broad spectrum of perspectives ranging from secular ones to ones rooted in particular religious traditions. These specialists are from a number of different countries and from many disciplines such as law, history, and political theory.

Convenors
Susanna Mancini, University of Bologna; The Johns Hopkins University Bologna Center; Cardozo School of Law
Michel Rosenfeld, Cardozo School of Law

Speakers
Floersheimer Center for Constitutional Democracy
at Cardozo School of Law

January 30 - Suzanne Last Stone, Cardozo School of Law
Paper: Public Space

February 6 - Michel Troper, University of Paris X
Paper: Sovereignty and Laicite

February 13 - Bernhard Schlink, Humboldt University
Readings: Memo to participants; Packet I; Packet II; and Packet III

February 20 - Ran Hirschl, University of Toronto
Ayelet Shachar, University of Toronto
Readings: Demystifying Culture

February 27 - Pierre Birnbaum, University of Paris I, Pantheon-Sorbonne
Readings: Jewish Supreme Court Judges and the Wall of Separation; On the Secularization of the Public Square

March 5 - Susanna Mancini, University of Bologna; The Johns Hopkins University Bologna Center; Cardozo School of Law
Readings: The Free Exercise of Exclusion; and Patriarchy as the exclusive domain of the other

March 12 - Lama Abu-Odeh, Georgetown University Law Center
Readings: Law, Religion and Authoritarianism

March 19 - Anna Loretoni, Scuola Superiore Sant'Anna
Readings: Pluralism and Secularism in the European Public Space

March 26 - Patrick Weil, Yale Law School; University of Paris, Pantheon-Sorbonne
Readings: Headscarf v. Burqa: Two French Bans with Different Meanings

April 2 - Christopher McCrudden, Oxford University
Readings: Courts and Consociations

April 16 - Gila Stopler, The Tikvah Center for Law and Jewish Civilization, NYU Institutes on the Park; Academic Center of Law and Business
Readings: Exclusively Religious Education

April 23 - Gary Jacobsohn, The University of Texas at Austin
Reading: Constitutional Borrowing in South Asia
Spring 2010 Colloquium:
"Global and Comparative Public Law Theory"

The Spring 2010 Floersheimer Center Legal Theory Colloquium was presented in cooperation with the NYU School of Law and the *International Journal of Constitutional Law (I•CON)*, which published several of the papers in Volume 8.

Convenors
Mattias Kumm, Professor of Law, NYU School of Law
Michel Rosenfeld, Justice Sydney L. Robins Professor of Human Rights, Cardozo School of Law
Joseph H.H. Weiler, University Professor and Joseph Straus Professor, NYU School of Law

Speakers
January 20, 2010 - John McCormick, Professor of Political Science, The University of Chicago
Paper: "Greater, More Honorable and More Useful to the Republic": Plebeian Offices in Machiavelli's "Perfect" Constitution

January 27, 2010 - Sujit Choudhry, Professor of Law, The University of Toronto
Paper: "He Had a Mandate": The South African Constitutional Court and the African National Congress in a Dominant Party Democracy

February 3, 2010 - Stephen Gardbaum, MacArthur Foundation Professor of International Justice and Human Rights, UCLA School of Law
Paper: Reassessing the New Commonwealth Model of Constitutionalism

February 10, 2010 - Vlad Perju, Assistant Professor of Law, Boston College
Paper: Cosmopolitanism and Constitutional Self-Government [Canceled]

February 17, 2010 - Katharine Young, Centre for International Governance and Justice, Regulatory Institutions Network, Australian National University
Paper: A Typology of Economic and Social Rights Adjudication

February 24, 2010 - Alexander Somek, Charles E. Floete Chair in Law, The University of Iowa
Paper: Constitutionalism and the Common Good

March 3, 2010 -- Patrick Weil, Visiting Professor, Yale Law School, and Director, Center for the Study of Immigration, Université Paris I, Panthéon-Sorbonne
Paper: A New Strategic Link Between the Nation-State and the Citizen: A Multidimensional Citizenship in a Globalized World

March 10, 2010 - Rainer Forst, Professor of Philosophy, Johann Wolfgang Goethe University, Frankfurt
Paper: The Justification of Human Rights and the Basic Right to Justification: A Reflexive Approach
Spring 2009 Colloquium:  
"Truth, Trust, and Law: A Comparative Perspective"

This course explored the challenge posed to a legal order by the dual injunctions of pursuing justice and of maintaining the terms of social community, empathy and solidarity. Law must not only protect the moral community but maintain that community. This tension between doing justice and fostering solidarity among citizens is evident across legal traditions. It most frequently is expressed as a tension between justice and mercy. For example, should criminals always receive their just desert or is there room for mitigating circumstances or for nullifying judgment? More generally, should law revolve around truth-seeking or around mediating disputes and solving problems? In our global political world, the nature of the moral community is no longer clear and self-understood. Consequently, demands for mercy or mitigating punishment predicated on shared communal understandings are hotly disputed.

The course approached this large topic from a comparative and interdisciplinary perspective. In the first class, the class viewed and discussed Shakespeare’s play *The Merchant of Venice*, analyzing the conflicting demands of upholding contracts and of communal recognition. The class then went on to read Murphy and Hampton, Forgiveness and Mercy, and then looked at how this problem is treated in different legal cultures, including American criminal law and Confucian, Jewish, Christian and Islamic thought.

Codirectors  
Prof. Suzanne Stone, Cardozo School of Law  
Prof. Adam Seligman, Boston University Department of Religion

Cosponsor
Spring 2008 Colloquium:
"Religion and Political Space"

This weekly colloquium focused on the comparative study of religion and political space. Political space is that arena of public action, organized by the sovereign forces of rule for the ordering of public life and the realization of the public good. In examining the relationship between religion and political space, the colloquium examined two critical questions: First, historically, what role has religion and religious groups played in the political sphere? Second, how have different religions and different religious traditions understood their relationship to the political space? How have different religious traditions understood, theorized, or given
legitimacy to the society's dominant political authority? The colloquium examines these questions in a host of different political arrangements, including the ancient polis, the city-state, empire, the Christian ecumene, the nation-state, and what is now termed by many, the nation-state.

Codirectors
Prof. Suzanne Stone, Cardozo School of Law
Prof. Adam Seligman, Boston University Department of Religion

Cosponsor
Yeshiva University Center for Jewish Law and Contemporary Civilization at Cardozo

Speakers
Jan. 17: Introduction: Professors Seligman and Stone
Jan. 24: Prof. Stephen Scully, Boston University, Department of Classical Studies
Session Title: Religion and Political Space in Aeschylus' Oresteia
Reading: Aeschylus, The Oresteia
Jan. 31: Prof. Silvio Ferrari, Universita degli Studi di Milano
Session Title: The Law of God and the Modern State: The Impact of Religious Legal Traditions on State-Religion Relations
Reading: Remi Brague, The Law of God: The Philosophical History of an Idea, Part I, ch.3 (Historical Conditions of Alliance), Part IV (Law and Cities in the Middle Ages)
Feb. 7: Prof. Allan Silver, Columbia University, Department of Sociology
Readings: Allan Silver, "Two Different Sorts of Commerce" -- Friendship and Strangership in Civil Society; Allan Silver, Friendship and Sincerity; Allan Silver, The Curious Importance of Small Groups in American Sociology; Allan Silver, Some Perspectives on Friendship: Religious and Secular
Feb. 14: Prof. Robert Weller, Boston University, Department of Anthropology
Session Title: Boundary and Power in Chinese Globalizing Societies
Readings: Robert Weller, Discovering Nature: Globalization and Environmental Culture in China and Taiwan, ch. 2; Emma Jinhua Teng, Taiwan's Imagined Geography: Chinese Colonial Travel Writing and Pictures, 1683-1895, ch. 1
Feb. 21: Prof. Deeana Klepper, Boston University, Department of Religion
Session Title: The Inclusion/Exclusion of Jews in the Formation of a Medieval European Polity
Readings: Jonathan Elukin, Living Together Living Apart: Rethinking Jewish-Christian Relations in the Middle Ages, chs 3-5; Deeana Klepper, Christian Views of Jewish Expulsion in the Middle Ages: Theology and Policy
Feb. 28: Prof. Mark Lilla, Columbia University, Department of Religion
March 6: Prof. Shlomo Fischer, Tel Aviv University

March 20: Prof. Shmuel Trigano, Université Paris X - Nanterre, Département de Sociologie
Session Title: How the Modern Nation State Influenced Jewish Existence and Continuity

April 10: Prof. Adriaan Lanni, Harvard Law School (4-6pm)
Reading: Adriaan Lanni, Law and Order in Ancient Athens

April 10: Prof. James Whitman, Yale Law School (7-8:45 pm)
Reading: James Whitman, The Origins of Reasonable Doubt: Theological Roots of the Criminal Trial (Yale Univ. Press, 2007)

April 17: Prof. Ayhan Kaya, Istanbul Bilgi University, Department of International Relations
May 1: Prof. Andrew March, Yale University, Department of Political Science
Session Title: Islamic Meta-Ethics and Grounding Principled Moral Obligation to Non-Muslims in the Conditions of Modernity

Spring 2007 Colloquium:
"Constitutionalism in an Era of Globalization and Privatization"

This colloquium concentrated on how globalization and privatization are altering the constitutional relationship between the nation-state and its citizens and other relevant parties. Both globalization and privatization draw power away from the nation-state towards transnational or global institutions and towards national and multi-national private actors. Do these two related trends require the articulation of new constitutional rights or the revision or reconceptualization of old ones? Do they call for internationalization of constitutional law and constitutionalization of international law? Must sovereignty be redefined? Must part or the whole words of private transactions become constitutionalized? Must private actors be given constitutional duties? These questions were examined through weekly presentations by leading scholars in the relevant fields coming from the United States and several foreign countries.

Convenors
Andrew Arato, Dorothy Hart Hirshon Professor of Political and Social Theory, The New School for Social Research
Jean Cohen, Professor of Political Science, Columbia University
Michel Rosenfeld, Justice Sydney L. Robins Professor of Human Rights, Benjamin N. Cardozo School of Law.

Speakers
Jan. 29: Prof. Patrick Macklem, The University of Toronto Faculty of Law
Reading: What Is International Human Rights Law?
Feb. 5: Prof. Joseph Weiler, New York University School of Law
Reading: Putting the Toothpaste Back In the Tube: The European Union Without a European Constitution?
Feb. 12: Prof. Andras Sajo, Central European University Faculty of Law
Reading: From Militant Democracy to the Preventative State?
Feb. 21 (Wed.): Prof. Grainne de Burca, Fordham University Law School
Reading: Developing Democracy Beyond the State
Feb. 26: Prof. Michel Troper, University of Paris X-Nanterre Law School
Reading: L’Europe politique et le concept de souveraineté (Europe and the Concept of Sovereignty)
Mar. 5: Prof. Michiel Scheltema, University of Utrecht
Reading: Law of the Future
Mar. 12: Prof. Sujit Choudhry, The University of Toronto Faculty of Law
Readings: Does the World Need More Canada: The Politics of the Canadian Model in Constitutional Politics and Political Theory; Rethinking Comparative Constitutional Law: Multinational Democracies, Constitutional Amendment and Secession
Mar. 19: Prof. Gunther Teubner, The Johann Wolfgang Goethe University of Frankfurt, School of Law
Mar. 26: Prof. Hélène Ruiz-Fabri, University of Paris I (Panthéon-Sorbonne) Faculty of Law
Reading: The Constitutionalization of International Law
Apr. 16: Prof. Jose Alvarez, Columbia University School of Law
Reading: International Organizations: Then and Now
Apr. 19 (Thurs): Prof. Vicki Jackson, Georgetown University Law Center
Readings: Introduction; Constitutional Engagement with the Transnational -- Choices for the Future
Apr. 23: Prof. Susan Marks, King’s College London School of Law
Readings: Preface; Exploitation as an International Legal Concept
Spring 2006 Colloquium: "Democracy and Discourse"

Jan. 30: Habermas and the Concept of the Public Sphere: Anselm Haverkamp
Feb. 6: State and Terror: Michel Rosenfeld
Feb. 27: Governmentality: Subject, discipline and law: Alain Brossat, University of Paris
Mar. 6: Persons and States: Barbara Vinken, University of Munich
Mar. 13: East and West: Marinos Diamantides
Mar. 20: Reproducing the State: Jacqueline Stevens
Mar. 27: Freedom of Speech: Victoria Kahn
Apr. 3: Aesthetics and Terror: Juliane Rebentisch, University of Berlin
Apr. 10: Democratic Matters: Rudiger Campe
Apr. 24: The Place of Law: Closing Statements: Peter Goodrich, Anselm Haverkamp

Spring 2005 Colloquium: "Why Law? Freedom and Legality"

This colloquium will examine the question of the nature of law and the relation between freedom and law. If we are free beings, then why do we need to be bound by law? If we are bound by law, how can we be said to be free beings? What is the legitimacy of that bond? Freedom and authority are not obviously philosophical correlates, nor is free self-development, the ideal of a truly human life necessarily best fostered by imposition or law. In the tradition of liberal thought, the seminar will address the question, why law? Why law as opposed to no law? Why law as against other forms of natural, ethical or communicative ordering? Why law as opposed to conceptions of its future abrogation? The course will attend to the arguments for freedom and freedom of thought within a variety of theoretical traditions from the Greeks to the contemporary. Cynicism, anarchism, liberalism, Marxism, discourse ethics, natural law, critical theory, and utopian blueprints are amongst the range of theories that will be examined and expatiated.

Convenors
Floersheimer Center for Constitutional Democracy
at Cardozo School of Law

Peter Goodrich, Benjamin N. Cardozo School of Law
Simon Critchley, New School University, Dep't of Philosophy

Speakers
Jan 24 - Introduction: Peter Goodrich (Cardozo)
Jan 31 - Anthropologies of Law: David Graeber (Yale)
Feb 7 - The Concept of the Political: Simon Critchley (New School)
Feb 14 - Politics of Interpretation: Joseph Brooker (London)
Feb 28 - Violence and Legality: Anselm Haverkamp (Berlin & NYU)
March 1 - The Subject of Law: Michel Rosenfeld (Cardozo)
March 7 - Institutions: Cornelia Vismann (Frankfurt)
March 21 - Reverence for Legality: Jacques Ranciere (Paris)
March 28 - Ethics and Evil: Alain Badiou (Ecole Normale Superieure)
April 4 - Aesthetics and Law: Desmond Manderson (McGill)
April 11 - Interpreting Freedom: Drucilla Cornell (Rutgers)
April 18 - Kynicism and Legality: Peter Sloterdijk (Karlsruhe)
May 2 - Freedom and Interpretation: Martin Stone (Cardozo)
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Spring 2004 Colloquium:
“Liberalism and the Rule of Law: Discussions of the Liberal Temper and the Character of Law”

Convenors
Peter Goodrich, Cardozo School of Law
Peter Gay, Sterling Professor Emeritus, Yale University

Speakers
January 26 - Introduction: Peter Gay (Yale University)
February 2 - John Locke: Robert Stevens (Oxford University)
February 9 - Baron de Montesquieu: Peter Gay
February 19 - Cesar Beccaria: Peter Gay
February 23 - Denis Diderot: Simon Critchley (New School University)
March 1 - Immanuel Kant: Anselm Haverkamp (University of Berlin)
March 8 - Jeremy Bentham: Piuel Haldar (University of London)
March 15 - Oliver Wendell Holmes: Duncan Kennedy (Harvard Law School)
March 29 - John Stuart Mill: Hugh Collins (London School of Economics)
March 22 - John Stuart Mill: George Kateb (Princeton University)
April 14 - Sigmund Freud: Jerome Bruner (NYU)
April 19 - Hans Kelsen: Michel Troper (University of Paris)
April 26 - John Rawls: Pierre Schlag (University of Colorado Law School)
May 3 - Ronald Dworkin: Michel Rosenfeld (Cardozo School of Law)
Floersheimer Center for Constitutional Democracy
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