Seminars

Seminar 1
Metaphors of Visibility in Law, Politics, and the Economy:
From the Invisible Hand to the Black Box of Technology, from Misframing Justice to Getting Framed
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How do metaphors of in/visibility structure modern knowledge and practical action? We consider this question across three key areas of contemporary life: in the enduring effects of colonialism; in the context of sovereignty and environmental degradation; and with respect to AI and algorithmic decision making.

We introduce the work of metaphor by looking at Emma Rothschild's short article on the notion of the "invisible hand" in Adam Smith's work. Economists and politicians have taken this to mean that when individuals freely pursue their individual interests, with no view to the common good, then, as if moved by an invisible hand, the common good can still be achieved. This has been called "one of the great ideas of history and one of the most influential." (Arrow and Hahn) Why might this metaphor be so influential? How does it compare to another metaphor Rothschild mentions, the story of the "emperor's new clothes"? We turn then to three contemporary problems:

1. In the context of colonialism, Boaventura de Sousa Santos argues that Western law and thought intentionally *produce* invisibility. The distinction between visible and invisible is then relied on to legitimate simultaneously a number of contradictory practices: on the one hand, freedom and progress for the coloniser, on the other, the expropriation of colonised resources, as well as of peoples and ways of thinking which are "produced as nonexistent". Santos claims that this problematic – of what is seen and unseen – underlies and persists as a logic of exploitation throughout modern societies. Irene Watson, an Aboriginal law professor, describes the experience of being "disappeared" in this way, sharing what it means to live in this invisible place, to be "buried alive". She contrasts the style and effects of modern western knowledge and law with Aboriginal conceptions.

2. Daniel Matthews argues that the problematic of framing and in/visibility are central to how the state-centric international order is complicit with the harms of global warming and environmental degradation. Specifically, he demonstrates how the dominant western concept of "sovereignty" shapes a particular kind of *aesthetic*, one that de-sensitises us to the reality of ecological harms. The "sovereignty frame" thus acts as an *an-aesthetic* that dulls our senses and sensibilities and which, accordingly, needs rethought and re-imagined if pressing ecological problems are to be addressed.

3. Digital technologies increasingly deploy surveillance techniques that register and organise our behaviour. Since this happens in ways that are largely hidden from us, the "Black Box Society", as Frank Pasquale calls it, raises crucial concerns about "algorithmic injustice". If the ideal of the rule of law is based in clarity, transparency, and reciprocity between rule makers and citizens, then how should the hidden operations of artificial intelligence and digital governance be understood and responded to?

Readings
·   Emma Rothschild, 'Adam Smith and the Invisible Hand', *American Economic Review* (1994), 1-4
·   Boaventura de Sousa Santos, 'Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges', *Review* 2007, 45-89 [especially 45-53]
·   Irene Watson, 'Buried Alive', *Law & Critique* 13 (2002), 253-269 [especially 253-257]
·   Daniel Matthews, 'Reframing Sovereignty for the Anthropocene,' *Transnational Legal Theory* (2021), 1-34
·   Jeff Ward, 'Black Box Artificial Intelligence and the Rule of Law', *Law and Contemporary Problems* (2021), 1-5
·   Bennedetta Brevini and Frank Pasquale, 'Revisiting the Black Box Society by Rethinking the Political Economy of Big Data", *Big Data and Society* (2020), 1-4