

Seminar 2

Images, Imaginings, and the Imagination of Judges

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What images can guide the work of judges in contemporary societies? How do judges imagine themselves and their authority? How do they frame the issues, the law, and the world in which they act? How do they visualize their various audiences? And how are we members of the public to view all these activities? Are there standards to assess what judges bring into being with their words?

In the first part of the seminar, we will interrogate some images of judges and of the judicial role—both usual and unusual. In particular, we will ask about the role of imagination in judging and how to conceive of it. Are there limits to the judicial imagination? Should there be? How can we distinguish between productive, generative, and legitimate uses of the imagination from fanciful, idiosyncratic, or abusive ones? In the second half, we will turn to the texts in which judges articulate their decisions and flesh out their commitments, which are ethical and political as well as legal. We will focus on questions of character, voice, and community. With what voice should judges speak? How are different voices represented in the judgments? How can a judge speak for the community—or envision one? Can judicial character and authority be pluralized?

Essential Readings

- Albie Sachs, *The Strange Alchemy of Life and Law* (Oxford University Press, 2009), pp. 47-62; 95-112; 122; 140-153
- Maksymilian del Mar, *Artefacts of Legal Inquiry: The Value of Imagination in Adjudication* (Hart, 2020), pp. 143-147; 157-179; 178-180
- James Boyd White, *Justice as Translation: An Essay in Cultural and Legal Criticism* (Chicago University Press, 1990), pp. 89-102; 215-217; 222-225
- Julen Etxabe, 'Pluralising Judicial Authority: The Double-Voiced Opinion', in Karen Crawley et al. (eds.), *The Routledge Handbook of Cultural Legal Studies* (Routledge, 2024), pp. 285-299 [forthcoming]

Suggested Readings

- Eliza Garnsey, 'From Prison to Court', in *The Justice of Visual Art: Creative State-Building in Times of Political Transition* (Cambridge University Press, 2019), pp. 35-55
- Hannah Arendt, 'Imagination', in Ronald Beiner (ed.), *Hannah Arendt Lectures on Kant's Political Philosophy* (University of Chicago Press, 1992), pp. 79-85
- Jennifer Nedelsky, 'Communities and Judgment and Human Rights', *Theoretical Inquiries in Law* 1 (2000), 245-282
- Ben Golder, 'The Politics of Judicial Imagination', *Jurisprudence* 13 (2) (2022), 275-86
- Mark Antaki, 'The Turn to Imagination in Legal Theory: The Re-Enchantment of the World?', *Law & Critique* 23 (1) (2012), 1-20