

UNIVERSITY OF
LUCERNE

INSTITUTE FOR INTERDISCIPLINARY
LEGAL STUDIES – LUCERNAIURIS
ANNUAL REPORT 2023

Lucernaiuris
Institut für Juristische Grundlagen

Annual Report 2023

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Antonia Hirsch, Double Blind

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A stack of light green rectangular blocks, possibly made of wood or cardboard, is shown in a close-up, shallow depth-of-field shot. The blocks are stacked on a dark, reflective surface. The text "I: INSTITUTE" is overlaid on the image in a bold, black, sans-serif font. The background is blurred, showing more of the same blocks and some indistinct shapes, suggesting an office or institutional setting.

I: INSTITUTE

PROFILE

The Institute for Interdisciplinary Legal Studies – *lucernaiuris* is a hub for leading-edge teaching and research that crosses traditional boundaries between law, the humanities and the social sciences. It holds a distinctive position within the national and international academic landscape as a vibrant site for critical and creative thinking.

The institute's main priorities are to:

- provide a rallying point for inter- and transdisciplinary work on the foundations of law and justice
- foster intellectual and methodological innovation in teaching and research
- promote the training of postgraduate and early career researchers in interdisciplinary legal studies
- stimulate collaborative activities with national and international partners

To borrow a distinction from the late legal historian Marie Theres Fögen, the institute has long seen its role as more that of 'troublemaker' than 'troubleshooter'. A consistent priority has been to undertake work that critiques and unsettles accepted categories and concepts, norms and discourses, practices and methods. This impulse continues to shape the identity of the institute today. Faced with the urgency of our present moment, however, we also turn our attentions increasingly to the future – to pursuing new forms of future-oriented critical thinking; to imagining future alternatives or alternative futures; to asking not just what is happening now, but what happens next.

A NOTE ON OUR NAME

During the middle ages, "lucerna iuris" was a term applied to the most significant Bolognese jurists. In taking the name for our institute, we of course lay no personal claim to it – we are but mere dwarves on the shoulders of giants. Rather, the title serves to acknowledge a connection to one of the mythical 'origins' of legal studies (Bologna), and to underline our commitment to a critical engagement with the modern 'Bologna Process' and its implications for teaching and research in law.

MESSAGE FROM THE HEAD

I am delighted to present this annual review of our activities over the past twelve months. 2023 began as a year of reorganising, with our previous head, Malte Gruber, moving on to a new appointment at the University of Giessen. I take this opportunity to thank Malte for his valued leadership and for leaving the institute in such good health as I now start my second stint as head. In this, I am pleased to be supported by our new deputy head Anna Coninx as well as our other longstanding members Steven Howe, Michele Luminati and Klaus Mathis.

Looking back, we can claim another successful year of activity and achievement. Now entering its fifteenth year, our institutional lecture series continues to thrive as a forum for critical thinking and discussion around diverse topics. Over the past twelve months we have heard talks on liberalism and human agency in times of crisis, on the global circulation of texts in law and literature, on Hans Kelsen's pure theory of law and questions of constitutional jurisdiction, and on Eugen Huber, drafter of the Swiss Civil Code. In the spring semester, we dedicated our Law and Theory Workshop to a detailed reading of Katharina Pistor's book *The Code of Capital*, which spawned a string of lively conversations. In the autumn, the team on the SNSF Imagining Justice project ran a series of vibrant online seminars on law and visual culture in Weimar Germany that drew a broad and engaged audience of listeners from around the world. We were also able to again welcome two outstanding young visiting scholars, Cody Rei-Anderson (Wellington) and Péter Techet (Freiburg / Zurich), for research stays at the institute, and were delighted to share numerous productive exchanges with them.



The mid-point of the year brought a particular highlight – our week-long summer school on Movement(s). Convened with our international partners from across five continents, the event was a triumph for all involved. Bringing together a global cohort of excellent PhDs and graduate students, the school offered a genuinely unique opportunity for learning, discussion and exchange across disciplinary and cultural lines. I would like to thank here our colleagues from the partners for their contributions and support, with a special note of gratitude to Desmond Manderson from The Australian National University for his energy and commitment in helping to put together the programme.

Casting our eyes forward, 2024 promises to be a memorable year as we celebrate the twentieth anniversary of the institute's founding. To mark the occasion, we will be running a colourful programme of activities throughout the year. Several events are already planned, including a new iteration of the summer school, an international conference on law and visuality, and a special research workshop with Katharina Pistor. Further events will be added to the agenda in due course, and I hope that many of you will be able to join the celebrations at some point over the next twelve months.

In the meantime, I wish everyone a happy and productive 2024, and thank you all for your continued interest in our work.

Vagias Karavas

TEAM & ORGANISATION 2023

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Professor of Legal History,
University of Roma Tre

Prof. Michelle Cottier
Professor of Civil Law, University of Geneva

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The Australian National University, Canberra

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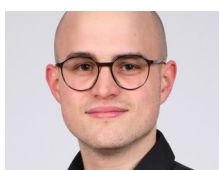
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II: TEACHING



TEACHING PROFILE

At the core of our teaching philosophy lies a firm conviction of the importance of what in German are usually referred to as the 'foundational subjects' (*juristische Grundlagenfächer*) for the discipline of legal studies. Our courses encourage students to engage with the historical, philosophical, social, cultural, economic and technological contexts of law, in the belief that such an approach is vital in:

- strengthening contextual and foundational knowledge
- enhancing methodological competence in understanding structural and systemic connections
- promoting critical reflection on the meaning and validity of positive law
- boosting key skills needed for practice as a lawyer, including analysis, evaluation and communication

Two further principles are also central to our teaching programme. The first is the view that legal education in Switzerland should strive for a more intensive exchange with neighbouring disciplines in the humanities and social sciences. Thus alongside lectures in legal history, legal philosophy and legal sociology, we also offer a set of supplementary seminars and workshops that pursue new interdisciplinary directions. The second is the belief that the study of law should also become more international in content and outlook. To this end, we aim to help familiarise students with other legal cultures and orders by opening up teaching to international guest lecturers, developing collaborative projects with partner universities, and nurturing student exchange relationships.

LECTURES AND SEMINARS 2023

BACHELOR

Grundlagen des Rechts

Prof. Vagias Karavas, Prof. Michele Luminati, Prof. Klaus Mathis

Bachelorseminar: Wie schafft das Recht Ungleichheit?

Prof. Vagias Karavas, Prof. Michele Luminati

Einführung in das juristische Arbeiten

Prof. Michele Luminati

Introduzione alla scienza giuridica

Prof. Michele Luminati, Dr. Filippo Contarini

MASTER

Workshop: Wie schafft das Recht Ungleichheit?

Prof. Vagias Karavas

Immaterialgüterrecht

Prof. Vagias Karavas, Dr. Gregor Wild

Geschichte des Strafrechts und des Strafvollzugs:

«Schlagen, Verstümmeln, Einsperren»

Prof. Michele Luminati, Dr. Silvan Schenkel

Law and Justice in Literature and Film

Dr. Steven Howe

Rechtsökonomie

Prof. Klaus Mathis

Recht der digitalen Medien

Prof. Vagias Karavas

Law and Economics of Justice: Efficiency, Reciprocity, Meritocracy

Prof. Klaus Mathis

Law and Society in a Global Context

Prof. Vagias Karavas

Biomedizinrecht

Prof. Vagias Karavas

Integrationsseminar Recht und Politikwissenschaft: Heilige Neutralität? Neutralitätsrecht und Neutralitätspolitik im 21. Jahrhundert

Prof. Michele Luminati, Dr. Stefan Rieder

LAW AND THEORY WORKSHOP

The law and theory workshop is a fortnightly gathering of students, PhDs, postdocs and staff, who meet to discuss select essays and book chapters on key legal and theoretical issues. Each semester is organised around a particular thematic focus, which is looked at from a range of critical perspectives.

The workshop provides a relaxed space for open discussion and exchange. As much as it is an intellectual exercise for members of the institute, it is also designed as an opportunity for students to gain exposure to advanced critical reading and thinking in law and theory.

2023 WORKSHOPS

In the spring term, the law and theory workshop centred on a reading of Katharina Pistor's book *The Code of Capital: How the Law Creates Wealth and Inequality*. Across several sessions, members of the institute met with a group of engaged students to work through Pistor's ideas, leading to a series of constructive and intense discussions. In autumn, the workshop was left thematically open for conversations around select texts suggested by our PhDs and postdocs, and for the presentation of current works in progress.



**UNIVERSITÄT
LUZERN**

RECHTSWISSENSCHAFTLICHE
FAKULTÄT

INSTITUT FÜR JURISTISCHE
GRUNDLAGEN – LUCERNAIURIS

**LEKTÜREWORKSHOP ZUR AKTUELLEN
JURISTISCHEN GRUNDLAGENFORSCHUNG
FS 23**

**WIE SCHAFFT DAS
RECHT UNGLEICHHEIT?**

MITTWOCHS, 16.15-18.00H, RAUM 4.B54

Hauptlektüre:
Katharina Pistor, *Der Code des Kapitals:
Wie das Recht Reichtum und Ungleichheit schafft* (2021)

22.02.23 Einführungsveranstaltung für Studierende
08.03.23 Kapitel 1: Ein Imperium des Rechts (S. 15-49)
22.03.23 Kapitel 2: Die Codierung von Grund und Boden (S. 49-85)
Kapitel 3: Das Klonen juristischer Personen (S. 85-129)
05.04.23 Kapitel 4: Schulden produzieren (S. 129-175)
19.04.23 Kapitel 5: Die Einhegung des Codes der Natur (S. 175-211)
Kapitel 6: Ein Code für die Welt (S. 211-251)
03.05.23 Kapitel 7: Die Herren des Codes (S. 251-289)
17.05.23 Kapitel 8: Ein neuer Code? (S. 289-321)
Kapitel 9: Das Kapital regiert
durch das Recht (S. 321-367)

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LLM IN LEGAL THEORY

In 2009/10, the European Association for the Teaching of Legal Theory (AEETD) and the European Academy of Legal Theory (EALT) launched an initiative to establish a new collaborative Master's Course in Legal Theory. The following year, the AEETD and a consortium of European partner universities (Lucerne, Vienna, Frankfurt, Brussels, Cracow and Stockholm) prepared and submitted a successful funding application to the EU's Lifelong Learning Programme (Erasmus Multilateral Projects – Curriculum Development), designed to facilitate the development and implementation of a new "EALT LLM Programme in Legal Theory". Subsequently, the partner universities collaborated intensively, over the course of three years, on the design of the teaching curriculum in preparation for its accreditation at the Goethe-University, Frankfurt. In summer 2014, accreditation was approved, and the course was opened to its first cohort of students.

As the only course of its kind in Europe, the LLM in Legal Theory offers a unique perspective on the study and practice of law. Based around a series of subject-specific modules, taught by specialists from the various partner universities, the programme is designed to equip students with the conceptual tools and skills required for a thorough understanding of the workings of law in a modern, globalised world. Strongly interdisciplinary in orientation, the modules promote a productive synthesis of the study of the intellectual heritage of law's traditions and institutions with deep methodological and theoretical reflection, allowing participants to not only gain expertise in a wide range of domestic, European and international subject areas, but to also develop advanced, transferable analytical and critical skills.

Since 2014, the institute has contributed a number of modules to the LLM programme, particularly in the fields of Law and Economics (Klaus Mathis) and Law and Literature (Steven Howe).

III: RESEARCH



RESEARCH PROFILE

The institute is committed to advancing pioneering research and projects. We pride ourselves on being a hub of contact and exchange – an open laboratory for the discussion of issues and ideas, methods and theories. This openness is reflected in the work of our members, much of which is based on innovative, often cross-disciplinary, collaborations with colleagues in Lucerne or at other institutions at home and abroad.

The research undertaken at the institute spans local, national and international concerns in areas as diverse as law and technology, law and economics, legal history and law and humanities studies. Our core interest lies in exploring the conceptual foundations of law, its assumptions and aspirations, and its workings and effects in diverse social and cultural contexts, both historical and contemporary.

Each year, we run a varied schedule of lectures, seminars, workshops and conferences, together with a visiting fellow programme for young scholars. These activities enable us not only to foster a vibrant research community that brings together established and emerging academics, but to also consolidate existing national and international networks, and support new collaborations.

LABORATORIUM LUCERNAIURIS

Lecture Series

Initiated in 2009, the laboratorium lucernaiuris lecture series provides a public forum for critical discussion and debate. Scholars and thinkers – both established and emerging – are invited to present aspects of their research and to share their expertise with students, faculty and the broader community.

The series aims to strike a balance between convention and innovation. While open to lectures on traditional legal subject matter, it also strives to nurture a space for showcasing original work that moves beyond traditional disciplinary borders. Speakers are, moreover, actively encouraged to think outside the box, and to take the opportunity to test new ideas and approaches.

2023 LECTURES



Monday 5 June 2023

Movement(s): Liberalism and Human Agency in Times of Existential Crisis

Radha D'Souza (University of Westminster)

In this talk I will reflect briefly on how critical scholars in the post-World Wars world have responded to the crises of nature and societies that manifest as climate and immigration crises and the influences that their interpretations of the crises have had on the actions of radical movements for transcending and/or mitigating the crises. The present context raises more fundamental questions about human agency, and human relations to all form of life: humans, animal, plants, and non-life existences. I will argue that there is need to fundamentally rethink the conception of humans implicit in liberalism, to recognise the paradoxical nature of human agency, and address the human conundrum that arises from a sense of being trapped between the desire for freedom and the recognition of constraints. The source of the conundrum is the paradoxical and contradictory nature of the relationships of the Self, the world and the cosmos. Understanding and awareness of the interrelatedness of the Self, the world and the cosmos, and its indeterminacy that generates this conundrum is necessary to guide and direct human actions and social movements during these times of existential crises.



Wednesday 7 June 2023

Circulating Texts in Law and Literature

Marco Wan (University of Hong Kong)

What might it mean to think about the interdiscipline of Law and Literature in an expanded, global frame? In this lecture, I posit one answer to this question by drawing on the notion of 'circulation' from the debates about world literature. I will begin with a survey of recent developments in Law and Literature, and then examine questions of reception, interpretation, and translation raised by the ways in which literary texts circulate into new legal-cultural environments. My discussion will be anchored in a close reading of Dai Sijie's *Balzac and the Little Chinese Seamstress* (2000), a novel about two teenage boys who are sent to the mountains for re-education through labour during the Cultural Revolution in China, and who discover a suitcase of forbidden Western classics.



Dienstag, 26. September 2023

Warum braucht eine Verfassung (k)eine Verfassungsgerichtsbarkeit?

Péter Techet (Albert-Ludwigs-Universität Freiburg / Universität Zürich)

Ist die verfassungsrichterliche Kontrolle eine rechtslogische Notwendigkeit, welche sich aus der stufenweisen Rechtskonkretisierung ergibt? Erfordert das Primat der Verfassung (als Norm) eine oberste Instanz, welche die Anwendung der Verfassung, etwa in der Gesetzgebung, zu überprüfen hat? Ist eine Verfassung ohne Verfassungsgerichtsbarkeit weniger gültig und wirksam? Können politische (Verfassungs-)Konflikte verrechtlicht und richterlich entschieden werden? Und wenn die „Rechtsanwendung“ immer auch rechtsschöpferische Elemente beinhaltet, ist die Verfassungsgerichtsbarkeit letztendlich doch nicht Verfassungsgebung, wozu ihr aber die demokratische Legitimität fehlt?

Im Vortrag werden diese Fragen aufgrund der „Reinen Rechtslehre“ des österreichisch-amerikanischen Rechtswissenschaftlers, Hans Kelsen erörtert. Kelsen gilt als Begründer des europäischen Modells des „judicial review“ und er war selbst Verfassungsrichter in Österreich zwischen 1919 und 1930. Angesichts der damaligen politischen Attacken gegen die Rechtsprechung des dortigen Verfassungsgerichtshofes radikalisierte Kelsen seine Rechtsanwendungslehre: Er bewies, dass und warum jede richterliche, rechtsanwendende Tätigkeit zugleich neues Recht erzeuge. Dabei stellt sich aber die Frage, ob die rechtstheoretische Erklärung der rechtsschöpferischen Macht eines bestehenden Verfassungsgericht(shof)es die Verfassungsgerichtsbarkeit an sich begründen kann bzw. ob und wie die Rechtswissenschaft angesichts fehlerhafter, aber rechtskräftiger Entscheidungen eine Kontrollfunktion ausüben kann. Die Frage, ob und wie eine richterliche Verfassungsmäßigkeitskontrolle notwendig und demokratisch legitim sein kann, ist sowohl in der Schweiz als auch in mehreren Staaten (Israel, Polen, Ungarn) angesichts politischer Attacken gegen die richterliche Macht von aktueller Relevanz. Der Vortrag will dazu beitragen, diese Debatten aus einer rechtstheoretischen und historischen Perspektive neu zu interpretieren.



Mittwoch, 22. November 2023

Eugen Huber (1849-1923):

Ein rechtshistorischer Blick hinter die Kulissen des Schweizer Zivilgesetzbuchs

Sibylle Hofer (Universität Bern)

Der Name Eugen Huber ist untrennbar verbunden mit dem Schweizer Zivilgesetzbuch, dessen Entwurf er verfasste. Das Inkrafttreten dieses Gesetzes im Jahr 1912 wurde in der Schweiz als Meilenstein für die nationale Rechtseinheit und im Ausland als Muster einer volkstümlichen Kodifikation gefeiert. Es folgte eine „Mythisierung Hubers, die jede historisierende Rekonstruktion erschwerte“ (Caroni). Einhundert Jahre nach Hubers Tod erscheint es an der Zeit, eine solche Rekonstruktion endlich vorzunehmen. Das ZGB berührte brisante gesellschafts- und wirtschaftspolitische Fragen der Zeit um 1900, so etwa die Agrarkrise, die Frauenbewegung oder die Energiegewinnung aus Wasserkraft. Mit diesen Fragen setzte sich Huber eingehend auseinander und bezog bemerkenswerte Positionen. Ausserdem beschränkte sich seine Leistung nicht darauf, einen Gesetzentwurf zu erstellen. Ihm war auch bewusst, dass er für dessen Realisierung kämpfen musste. Als ein Meister der Taktik setzte sich Huber nicht nur als Jurist, sondern auch als Parlamentarier und Literat tatkräftig für seine Vision eines einheitlichen Schweizer Zivilrechts ein.

CRITICAL TIMES 2023: MOVEMENT(S)

Convenors: Steven Howe and Desmond Manderson (ANU)



Movement is a key marker and maker of twenty-first century life. From travel to communication, in social and political life, technological developments have nurtured ever-quickening and ever-intensifying flows of bodies, materials, ideas and commodities. But the challenges of migration, climate change and political violence are turning mobility, as freedom and as control, into one of the key frontiers of contemporary politics. The experience of covid-19 has, moreover, forced us to look again at the dynamics of mobility and immobility, and at the deep flows of inequality and uneven accessibility around us. What can we do to address these perilous exigencies? Which spaces might be claimed for enabling the emergence of transformative social movements for change? How can we harness the power of art and creativity to such movements? What will be the role(s) of law and politics in shaping the imaginaries of the future?



Over five days in early June, an international cohort of PhDs, postdocs and early career researchers gathered to discuss these and other provocations at the 2023 Critical Times summer school. Convened together with the Centre for Law, Arts and Humanities at The Australian National University, and run in partnership with prestigious institutions from across five continents, the school presented a unique space for critical and creative thinking about the relations between im/mobilities and justice, about the entanglements of movement with questions of meaning and power, and about law's own patterns of motion – across multiple contexts, scales and situations.

The core programme was organised around a series of innovative morning seminars delivered by distinguished faculty from the partner institutions. In the afternoons, participants were invited to present and discuss their own work with an interdisciplinary group of scholars working in similar or related fields. The evening sessions included two special guest lectures, a workshop session on methods and methodologies, as well as a special screening of the play *Twenty Minutes with the Devil*, co-written by summer school co-convenor Desmond Manderson.

All told, the summer school was an unqualified success. Academic standards were exceptionally high across the board. The composition of the participant group was rich and diverse, and the conversations were lively, vibrant and engaging. Feedback – from students and speakers – was overwhelmingly positive, and we look forward to convening our next session in 2024.

Faculty and Speakers: Shane Chalmers (University of Hong Kong), Radha D'Souza (University of Westminster), Debjani Ganguly (University of Virginia), Steven Howe (University of Lucerne), Vagias Karavas (University of Lucerne), Fiona Macmillan (University of Roma Tre & Birkbeck), Desmond Manderson (The Australian National University), Teresa Numerico (University of Roma Tre), Sarah Nuttall (University of Witwatersrand), Laura Petersen (University of Lucerne), Valeria Vazquez Guevara (University of Hong Kong), Marco Wan (University of Hong Kong). Full programme details at www.lucernaiuris.ch.

CULTURES OF LEGALITY IN WEIMAR GERMANY

Convenors: Steven Howe, Laura Petersen, Nicole Schraner

In October and November, the team on the SNSF project *Imagining Justice* ran a series of online seminars on Cultures of Legality in Weimar Germany. Over successive weeks, three leading scholars were invited to speak from their various disciplinary and methodological perspectives on the connections and confluences of law, politics and visual culture during the Weimar era. Joined by an online audience from across the world, the talks (and the discussions afterward) ranged across themes such as: the publicness of imagery and the impact on the law, the productivity of the aesthetic gaze, the limits and possibilities of representation as defined and generated by law, the tactics of reform and the role of public display by the police force, and the way images were asked to do all kinds of (new) cultural work, including legal work, in the Weimar Republic.



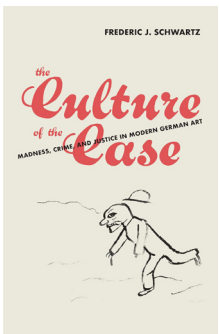
Friday 27 October 2023

Law, Love and Desire in the Work of Christian Schad
Sabine Kriebel (University College Cork)

Christian Schad's artistic career during the Weimar Republic was, in a manner of speaking, facilitated by the Law. His father Carl Schad was an influential lawyer who served council to the Crown and managed its assets, a good friend of the Duke Carl Theodor of Bavaria, of the Bavarian House of Wittelsbach and the brother of Empress Elisabeth of Austria ("Sisi"). Carl Schad also financed his son's artistic career until 1930, enabling him to pursue his artistic inclinations without needing to please markets or patrons.

Schad's artistic trajectory included spiritualistic Expressionism, anarchic Dada, and cool New Objectivity and traversed cosmopolitan centres Munich, Zurich, Geneva, Rome, Vienna, Paris, and Berlin from the advent of World War I until the advent of National Socialism. Schad's legal connections even secured him access to the Vatican and permission to paint Pope Pius XI, doing so over a series of front-row observations in silent mass. In terms suggested by the psychoanalyst Jacques Lacan, we might say that Christian Schad's orientating signifiers were aligned with the Big Other, the collective symbolic order that governs the subject under a set of customs, institutions, mores, norms, and traditions in the name of the Father: Law, Monarchy, Patriarchy, Church.

This talk, however, will interrogate the aesthetic and cultural terms of Schad's symbolic resistance, for his pictures most often depicted and celebrated subjects who defied the law: incarcerated "madmen", a woman on trial for mariticide, necrophiliacs, transvestites, lesbians, and homosexuals, whose behaviour was deemed illegal under Paragraph 175 and punishable by law. Now often synonymous with the hedonistic Weimar Republic, Schad's pictures represent the lawlessness of a society in transition, arguably generating a new symbolic order out of the groundlessness that characterizes this historical moment.



Wednesday 8 November 2023

Lustmord: Images of Violence and the Legal Contours of the Public Sphere in Weimar Germany
Frederic J. Schwartz (University College London)

The so-called *Lustmord* images—graphic representations of sexual violence by artists such as George Grosz, Otto Dix, Rudolf Schlichter and others—remain a problem in the study of early twentieth-century German art. They offer a privileged view into the challenges to masculine identity at a certain stage in modernity and the way sex and violence are inscribed in the constitution of modern masculinity. But these extraordinarily complex images function according to logics beyond that of patriarchy, endemic violence

toward women then and now, and the disturbing role of such images as sources of male visual pleasure. Their tropic movement throughout the culture of the time, for example, shows how they were interwoven with complex practices of publicity. In this talk, however, I shall be looking at the material conditions of these images' production and circulation. This was the time of fundamental changes in many media, from increasing capitalisation (in, for example, film) to the increased speed of circulation of images by means of developing print technology, and also changing conditions of representation as legal limitations on what could be made public were altered, at the same time as relations between media and genres were being renegotiated. A few examples will allow us to explore how these images worked across and between media at the time, and also how the law constituted a complex and contested space of the legally representable, arguably generating a new symbolic order out of the groundlessness that characterizes this historical moment.

Monday 13 November 2023

Between Education and Promotion: Sex, Power and Visual Culture at the Great Police Exhibition (1926) in Weimar Germany
Birgit Lang (University of Melbourne)



The 1926 Great Police Exhibition in Berlin attracted over half a million visitors over the course of three and a half weeks. The exhibition was aimed at reforming the image of the police force and building trust with the German public, portraying the police as a modern and progressive institution. The exhibition organizers used visual materials and the inherently visual nature of the event itself to contemporaneously push differing educative and promotional agendas. Heike Bauer et al. have recently argued that visual archives have provided “new temporal and geographical frames for investigating the historical relationships of sex and visual production.” The analysis of visual materials in the Police Exhibition provides us with surprising insights, challenging historiographical debates surrounding Weimar “trash and filth” and the role of “criminalistic fantasy” (Todd Herzog). Only months before the prohibitive Law to Protect Youth from Trashy and Filthy Publications was passed in December 1926, the police encouraged the viewing audience to engage with a new perspective on previously criminalized materials of a sexual nature by redrawing some old moral boundaries, presenting a more differentiated sexual ethics. This new police approach was heavily informed by sexological expertise, relied on the use of relevant visual archives and resulted in an unprecedented number of images and objects being presented to the exhibition audience without drawing much public critique. At the same time visual materials aimed to underline police competency and to showcase cutting-edge technological advances (in particular when relating to solving violent (sex) crimes) tell a different story. Here, the display of a wide range of forensic photographs and objects from police archives including the replica of the living room of Fritz Haarmann—Weimar Germany’s most notorious serial killer—was aimed at underlining police competency and also helped to draw in crowds. Yet, it was these more promotional strategies that created public ire voiced across a wide range of newspapers, rather than the otherwise omnipresent debates concerning “trash and filth”.

VISITING FELLOWS

The visiting fellows programme is designed to facilitate intellectual exchange between our members and the wider academic community. The scheme accommodates junior scholars who wish to spend a period of time in Lucerne pursuing work that overlaps with or otherwise complements scholarly activities currently being pursued at the institute. During their stay, fellows enjoy access to our specialist resources, and are invited to share and develop their ideas under the supervision of one or more of our faculty.

Tailored to PhD candidates and postdoctoral researchers, the programme is open to all working critically, theoretically and innovatively at the intersections between law, the humanities and the social sciences. A leading aim of the scheme is to foster conversations that cut across borders both geographic and disciplinary. We strongly believe that the academic and international diversity of our fellows greatly enriches the intellectual life of the institute.

2023 FELLOWS



Cody Rei-Anderson

Copyright and Speculation: How Do We Value Creative Work?

Cody Rei-Anderson researches the roles copyright law plays in structuring contemporary creative economies, focusing particularly on its impacts on smaller creators who work on and through digital platforms. His work brings a Marxian commodity analysis to copyright law. This novel perspective helps to break through the author's rights-users' rights stalemate in copyright discourse by emphasising the common interests of creators and users as against platform and publisher intermediaries. He will be investigating the relationships between copyright law and different conceptions of value, including market value, social value, and artistic value, and how these can inform copyright law's response to artistic works generated by artificial intelligence.

Cody studied at the University of British Columbia in Vancouver, where he received his JD and LLM, and as a doctoral student at Victoria University of Wellington. His PhD thesis, titled „Copyright, Commodification, and the Structure of Digital Media Economies: Independent Podcasting in Context“, is currently under examination.



Péter Techet

The Pure Theory of Law as Reaction and Reflection: A Historical Contextualisation of Hans Kelsen's Work as Constitutional Judge

Péter Techet is lawyer and historian. In his PhD in Modern European History, he deconstructed the narrative of “nationality conflicts” of the Late Habsburg monarchy by focusing on the Upper Adriatic region. For this work, he won the Award of the German Fritz and Helga Exner Foundation and the Italian Carolus L. Cergoly Prize. In his PhD in Legal Theory, he analysed the anti-positivist legal traditions of German legal thinking. He has been researcher at the Leibniz Institute for East and Southeast European Studies (in Regensburg) and at the Leibniz Institute of European History (in Mainz), as well Visiting Fellow at the Austrian Historical Institute in Rome, at the New York University and at the University of Genoa. He is currently postdoctoral researcher at the University of Freiburg (in Germany) and at the University of Zurich.

His current research is on the historical contextualization of Hans Kelsen's “Pure Theory of Law”, especially on how the (post-) imperial legacies and Kelsen's experiences as constitutional judge in Austria (between 1919 and 1930) shaped the theory. From a historical perspective, Kelsen's turn to a non-cognitivist theory of law-application can be re-read as reflection of his own work at the Constitutional Court as well as reaction to the political attacks he was facing in the interwar period. By using the historical example of Austria and the development of Kelsen's legal theory, the research project also deals with the general question of whether judicial review is political.

RESEARCH PROJECTS

Milan and Ticino (1796-1848): Shaping the Spatiality of a European Capital (SNSF Sinergia Project)

Michele Luminati

This research aims to study the evolution of Milan and of the Swiss Canton of Ticino between 1796 and 1848 via an international cooperation and interdisciplinary partnership. The study of the city's physical transformations and its projects is based on the use of a cross-cutting approach to the three fields that had a strong impact on the shaping of public space: legal changes, editorial policies, public opinion and political thought. The research addresses urban spatiality – a physical and cultural reality – taking the example of Milan and its territory and the Swiss Canton of Ticino in the first half of the 19th century: a case-study that can be used to construct a sophisticated model of hybridisation, in which physical, architectural and urban transformation, changes in culture and legal frameworks, were determined by the domination first of Paris and then Vienna, while not interrupting the continuity of practices and customs specific to the Italian-speaking areas in Italy and Switzerland that were its principal field of influence. Adopting a leading hypothesis defining spatiality as a reality both physical and cultural, this research combines, in interdisciplinary fashion, approaches used by the history of law, cultural history and history of architecture. The study period, 1796-1848, corresponds to the time when Milan assumed the status of a capital city, first “French” and then, from 1815, “Austrian” in the Lombardo-Venetian Kingdom. This historical shift, with its impact on the city's physical and cultural transformations, also saw Ticino acquire a political identity under French domination. In Milan there emerged an assertion of a consistent cultural policy that occupied its physical and intellectual space and turned it into a laboratory of modernity for all Italian-speaking areas – a laboratory that caused Ticino to examine the specific nature of its membership of the Helvetic Confederation. Milan will be presented as the archetype of a contemporary European capital: an alternative to the model of national capitals that involves an idea of spatiality combining the city's physical, intellectual and cultural dimensions. The project's general objective is to develop, starting from the Milanese example, a method and instruments that are valid for addressing a wider corpus of European cities, and thus to propose a new paradigm that will identify, indeed assert, the characteristics and values of relative centrality within a complex territorial system in which Ticino played a leading role.

Imagining Justice: Law, Politics and Popular Visual Culture in Weimar Germany (SNSF Project)

Steven Howe, Laura Petersen, Nicole Schraner

This project proposes a first extended investigation of the relations between law, justice and popular visual culture during the era of the Weimar Republic. Its leading premise is that the interwar period in Germany witnessed a remarkable confluence of law, politics and cultural representations that radically altered the shape and texture of the legal imagination. Historical scholarship has not been blind to this, and there is a substantial body of work that considers how traditional journalistic and literary forms contributed to the development of a new popular legal culture. What has been almost entirely overlooked, however, is the impact of the ‘new’ visual media of the era – cinema, photography and mass image-reproduction techniques – that literally changed how legal subjects and the legal system were seen, and which engendered new spaces of conversation, contestation, dissent and critique. The project seeks to excavate this neglected archive of visual material as a way of opening new lines of enquiry on how perceptions and understanding of law and justice were experienced, constructed, conditioned or challenged through the new image regimes of the Weimar period. Working across three distinct media forms – cinema, visual art, photography – the aim is to develop a set of new and innovative critical perspectives on (i) the forms of legal image-making engendered by the visual media of the Weimar era; (ii) the meanings these images generate in the context(s) of their production, circulation and reception; and (iii) the cultural work these images perform in fostering and shaping a popular legal imagination outside the formal spaces of law and politics.

Justizgeschichte des schweizerischen Bundesstaates: Justizelite zwischen Recht und Politik, 1848-2020

Michele Luminati

Die zunehmende Bedeutung der Justiz in der globalisierten Welt hat zu einem beträchtlichen Aufschwung der Justizforschung und Justizgeschichte geführt. Eine markante Lücke besteht allerdings in Bezug auf die Schweiz. Mit diesem langfristigen Forschungsprojekt (teilfinanziert durch den SNF, den Fonds zur Förderung des Akademischen Nachwuchses der UZH und die Stiftung Ecoscientia) sollen die Grundlagen für eine methodisch abgesicherte und international vernetzte Beschäftigung mit der Geschichte der Justiz im schweizerischen Bundesstaat geschaffen werden.

Ein erster Schwerpunkt liegt bei der rechts- und sozialgeschichtlichen Untersuchung des Schweizerischen Bundesgerichts. Auf der Grundlage einer prosopographischen Datenbank entsteht ein biographisches Lexikon der

Bundesrichterinnen und Bundesrichter für die Periode 1848 – 2020. Parallel dazu werden laufend multifaktorielle Analysen der gesammelten Daten publiziert, die Aufschluss über die Dynamik von Richterwahlen, Richterkarrieren und Richterprofilen liefern und über die Entwicklung der schweizerischen Justizelite Auskunft geben. Ein zweiter Schwerpunkt bildet die Frage nach den Wechselwirkungen zwischen Rechtsprechung und Gesetzgebung in der Schweiz. Insbesondere wird der Umgang des Schweizerischen Bundesgerichts mit den grossen Kodifikationen (OR, ZGB und StGB) untersucht. In diesem Zusammenhang stellen sich etwa folgende Fragen: Was bedeutet Gesetzesbindung und Umsetzung des gesetzgeberischen Willens? Wie werden Konflikte zwischen unterschiedlichen (kantonalen) Rechtsprechungstraditionen gelöst?

Third-Party Funding of Collective Redress. A Law and Economics Perspective (SNSF Doc.CH Project)

Klaus Mathis, Philipp Anton Burri

Für eine Einzelperson lohnt sich eine Klage gegen ein Unternehmen wegen der hohen Kosten und des Aufwandes oft nicht. In der Folge werden Schaden verursachende Unternehmen zivilrechtlich regelmässig nicht zur Rechenschaft gezogen. Der kollektive Rechtsschutz ist ein Instrument, das einer Vielzahl geschädigter Konsumentinnen und Konsumenten den Zugang zum Gericht erleichtern soll, indem in einem einzigen Verfahren über die Ansprüche vieler Klagender entschieden wird und so Gerichtskosten und Honorar für die Anwältinnen und Anwälte geteilt und eingespart werden. Prozessfinanzierer können sich an diesen aufwändigen und teuren Prozessen beteiligen und im Erfolgsfall der Klage einen Anteil der an die Klagenden ausbezahlten Summen erhalten. Während in den USA mittels Sammelklagen hohe Schadenersatzzahlungen erwirkt werden konnten, sollen Sammelklagen in der EU und in der Schweiz erst noch eingeführt werden.

Für Prozessfinanzierer bestehen monetäre Anreize, Sammelklagen zu unterstützen und so den Rechtsschutz für Konsumentinnen und Konsumenten zu verbessern. Es stellt sich aber die Frage, ob dabei das Profitmotiv statt Konsumentenschutz zum Leitgedanken solcher Verfahren werden kann. In seiner Dissertation mit dem Arbeitstitel “Third-Party Funding of Collective Redress. A Law and Economics Perspective” will Philipp Anton Burri die Frage klären, ob und inwiefern die Prozessfinanzierung im kollektiven Rechtsschutz besonders reguliert werden sollte. Für das von Prof Klaus Mathis betreute Projekt soll die Thematik aus rechtlicher und ökonomischer Perspektive beleuchtet werden. Es werden mögliche regulatorische Massnahmen wie Verbote, Preisregulierung, Einschränkungen der Einflussnahme auf die Verfahren, Offenlegungspflichten, Kapitalvorschriften sowie die Regelung der Verteilung von Gerichtskosten untersucht. Die Ergebnisse des Forschungsprojektes können als Grundlage für die mögliche Einführung von Instrumenten des kollektiven Rechtsschutzes in der Schweiz dienen.

Law as Material

Veronica Pecile

This project considers how property law was used by Italian colonisers as a tool to claim ownership of colonial lands. A complex relationship – multitemporal and multispatial – exists between property law as it was deployed in the colonies and the one used in the metropolis. Italian elites experimented in the colonies with a property system borrowed from the newly acquired territories of the former Habsburg Empire, based on registration instead of transcription, which proved to be more effective for the control of colonial lands and the entry of private capital. The hypothesis is that the use of law by Italian colonisers tells a peculiar story of Italian modernity, on in which fragmentation was deployed as a structure of domination.

Symbiotic Associations of Humans and Social Robots: Tracing the Effects of Human-Robot Interaction, Collaboration and Physical Coupling on the Legal Subject

Rüya Tuna Toparlak

This research project inspects human-robot social interactions and its effects on the legal subject. Due to our emotional and physical entanglement, collaboration, and joint decision-making, a symbiotic association of humans and social robots emerges. This symbiotic association holds the potential of restructuring private law. This research introduces a novel perspective to the legal subjectivity debate that concentrates on our interaction with robots, rather than the existing view of closing the liability gaps arising from the robot's autonomy. To understand the characteristics of the emerging symbiosis, a cross-disciplinary view will be adopted. Methods from other social sciences will be borrowed as they pertain to the post-humanist discourse this research will lead towards. To inspect the meaning of robots for humans, and our ability to connect and interact with them, this research conceptualises case studies about sex robots. Legal tensions arise as these robots hold a different value for users, they elicit a sense of reciprocity and are considered more than mere property. Capturing this social reality means assigning certain rights to social robots, not to protect them “as such” but to protect the interaction and the emerging

symbiotic association. This research will then illustrate that the human-social robot symbiosis makes it a futile act to try to disentangle the responsibility of human and robot from each other. Thus, it will suggest new liability spheres to address the symbiotic association. Through these suggestions, the research inspects a new ontological category for social robots, between an object and a subject.

Das personalisierte Recht

Suad Salihi

Wenn Künstliche Intelligenz auf Recht trifft, dann für gewöhnlich in folgenden zwei Konstellationen: Entweder geht es um die Suche nach rechtlichen Antworten auf informationstechnologische Entwicklungen – das Immaterialgüter- und das Datenschutzrecht als Dauerthemen unserer Zeit geben Zeugnis hiervon – oder um informationstechnologische Lösungen zur Weiterentwicklung der juristischen Rechtspraxis. In diesem zweiten Themenbereich ist die Rede von AI expert systems, judge analytics und etwa die Möglichkeit, Anwälte durch künstliche Intelligenzen zu ersetzen. Unter der Bezeichnung Legal Technology wird insbesondere letzteres als eine für das Recht disruptive Entwicklung gehandelt.

Suad Salihi untersucht in seiner Dissertation einen davon abweichenden Aspekt der Digitalisierung im Recht. Nach der darin vertretenen Auffassung markiert die Digitalisierung noch keinen Wendepunkt, solange sie sich auf die Automatisierung der Rechtspraxis und der Rechtsanwendung beschränkt. Informationstechnologische Entwicklungen entfalten viel mehr erst dann disruptive Kraft im Recht, wenn sie auf die Rechtsnorm und ihren allgemein-abstrakten Charakter und damit auf die Wesensart des modernen Formalrechts zielt. So soll es gemäss Befürwortern eines sogenannten personalisierten Rechts möglich sein mithilfe von Big Data und KI, allgemein-abstrakte Normen durch personalisierte, d.h. individuell-konkrete, Regelungen zu ersetzen.

Diese Tendenz hin zur Personalisierung ist dabei auch in anderen Gesellschaftsbereichen bemerkbar. So ist etwa die Rede von personalisierten Preisen, personalisierter Werbung oder personalisierten Therapiemethoden. Noch vor jeder Zustimmung oder Ablehnung untersucht Suad Salihi das personalisierte Recht deshalb vor dem Hintergrund einer gesamtgesellschaftlichen Entwicklung hin zur Personalisierung. Die rechtssoziologische Arbeit soll aufzeigen, wie eine übergreifende Verschiebung der sozialen Logik vom Allgemeinen, Gleichen und der Gleichbehandlung hin zu einer neuen sozialen Logik des Besonderen, des Individuellen und des Unterscheidens Einzug ins Recht hält.

AI Authorship, AI Inventorship, and the Protection of Intellectual Property Rights in the Age of Innovation

Teona Kvirikashvili

Amongst the many areas in which Artificial Intelligence (AI), in its many forms, has caused confusion and raised questions, of course stands the law as the leading mechanism for social regulation. Law at large is naturally challenged by the emergence of this new powerful actor in almost all areas of its application. How does one regulate something which is often too complicated, if not impossible, to understand equally for lawmakers and average humans? What we are facing currently has been described as “the wisdom gap” – the gap between the rising interconnected complexity of our problems and our ability to make sense of it all. From both governments and various organizations, efforts and suggestions are being made to ensure ethical and legal norms are respected in areas of heavy AI involvement. There is a continued need of further analysis and perhaps creation of new, clearer, and ethically balanced legal norms to adequately respond to the challenges caused by AI.

This Ph.D. project concerns itself with exploring the Intellectual Property (IP) law – specifically copyright and patent implications of so-called generative AI. In the light of ever-increasing AI emergence, the author will analyze how the classical concepts of authorship and inventorship are challenged by AI activities in creative and innovative industries. From the copyright side, it needs to be decided how, if at all, the works produced by generative AI machines & software should or could be protected by IP law. Concept of creativity and authorship will be looked at to understand whether machines have become truly creative or if despite their increased autonomy they still remain to be simply another kind of a tool, some version of which humans have always used in their creative process. On the other hand, when it comes to patents, the concept of an inventor has already been challenged by a specific case commonly known as the DABUS with many more to surely follow. Here again, the question is whether inventions of high AI involvement or supposedly fully AI generated can be patented, considering that the laws in virtually all jurisdictions have so far required a human inventor. The thesis shall look at the consequences of both AI inventorship recognition and denial.

Ultimately the project will showcase what it means for current copyright and patent law frameworks to operate in this new world, where machines also produce or at least take a major role in producing creative pieces as well as technical innovations.

Die Genese des Rechts auf Wahrheit als neues Menschenrecht im internationalen Recht

Emiliano Chiera

Neuere Entwicklungen in der Menschenrechtstheorie und -praxis haben ein bedeutendes rechtswissenschaftliches Paradigma hervorgebracht, das als "Recht auf Wahrheit" bekannt ist. Die Frage, ob ein derart komplexes und abstraktes Konzept wie die Wahrheit tatsächlich als Gegenstand oder Objekt des Rechts betrachtet werden kann oder ob es sich lediglich um eine bloße Utopie handelt, steht im Zentrum dieser wissenschaftlichen Diskussion. Diese Dissertation zielt darauf ab, eine umfassende Analyse der Entstehung und Entwicklung des Rechts auf Wahrheit als neues Menschenrecht im internationalen Recht durchzuführen, beginnend von seinen historischen Anfängen bis zur gegenwärtigen Zeit. Der Schwerpunkt liegt darauf, die noch weitgehend unklaren Ursprünge dieses Rechts und seine Evolution hin zu einer rechtsverbindlichen Norm des internationalen Menschenrechts zu untersuchen. Insbesondere wird analysiert, wie aus einem ursprünglichen ethisch-moralischen Bedürfnis bzw. Verlangen, die Wahrheit über Kriegsverbrechen, schwere Menschenrechtsverletzungen und das Schicksal vermisster Angehöriger zu erfahren, ein fest etabliertes Recht im internationalen Rechtssystem entstehen konnte. Das Hauptziel besteht darin, die rechtshistorischen Ereignisse zu rekonstruieren und zu ermitteln, die diesen Verrechtlichungs- und Transformationsprozess ermöglichten und vorantrieben sowie die Existenz und Notwendigkeit dieses Rechts als autonomes Menschenrecht zu bewerten, indem die Bedürfnisse und Interessen der Betroffenen identifiziert und berücksichtigt werden. Ferner soll die transformative Kraft dieses Rechts für individuelle Opfer abscheulicher Gräueltaten und deren Angehörige sowie für die betroffene Gesellschaft und die Menschheit als Ganzes beleuchtet werden. Diese Forschungsarbeit trägt zum Verständnis der rechtshistorischen, politischen und gesellschaftlichen Zusammenhänge bei, die zu seiner Anerkennung und Verrechtlichung geführt haben, und betont die Bedeutung dieses Rechts für die Förderung von Gerechtigkeit, Wahrheit und Versöhnung auf globaler Ebene.

Das Eigentum in Recht und Politik und der Einfluss der Universität in Basel in der Zeit um die Helvetik

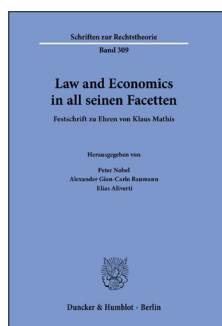
Lukas Romer

Die Ausgestaltung des Rechtsinstituts Eigentum hat einen bedeutenden Einfluss auf die ökonomischen Verhältnisse einer Gesellschaft und damit auch auf ihre soziale Struktur. Die Eigentumskonzepte sind gleichzeitig immer wieder Reformen unterworfen, die entsprechende Veränderungen in der Gesellschaft mit sich bringen.

Am Wendepunkt von der Frühen Neuzeit zur Moderne erfährt das Recht als Ganzes und mit ihm folglich das Eigentumsinstitut eine starke Veränderung: von feudalen und teilweise kollektiven Strukturen hin zum bis heute vorherrschenden Privateigentum. Diese Veränderung zu untersuchen und anhand des rechtswissenschaftlichen Diskurses und der Rechtsanwendung darzustellen, ist Ziel dieses Dissertationsprojekts. Denn auch vor der Alten Eidgenossenschaft machten die revolutionären Ideen während der Helvetik nicht halt, wenn sie sich auch nur am Rande in Umstürzen wie im benachbarten Frankreich manifestierten.

Mit Basel als Untersuchungsort wurde dabei einerseits der Ort der Alten Eidgenossenschaft ausgewählt, an dem es während der Helvetik zu einem politischen Umsturz und später auch zur Kantonsteilung kam. Andererseits war Basel seit 1460 Universitätsstadt – bis dato die einzige der Eidgenossenschaft. Wie weit sich nun der Einfluss der juristischen Fakultät der Universität auf die Gesellschaft und das vorherrschende gemeine Recht wie auch auf das Rechtsinstitut Eigentum auswirkte und wie weit sich dieser Einfluss auch in den politischen Umwälzungen zeigte und zu entsprechenden Veränderungen des Rechtsinstituts führte, soll anhand der Archivbestände aus Stadt und Landschaft Basel untersucht werden.

NEW BOOKS



Peter Nobel, Alexander Gian-Carlo Baumann und Elias Aliverti (Hrsg.), Law and Economics in all seinen Facetten. Festschrift zu Ehren von Klaus Mathis. Berlin: Duncker & Humblot, 2023

Die Festschrift würdigt den ausserordentlichen Beitrag von Klaus Mathis an der Schnittstelle von Recht und Ökonomie und bildet ein kohärentes Nachschlagewerk für die rechtsökonomische Analyse. Nach grundlegenden Gedanken zu Effizienz, Gerechtigkeit und Interdisziplinarität folgen Beiträge zu fünf Anwendungsbereichen einer ›Law and Economics‹-Perspektive: Unternehmensverantwortung, Umwelt, Digitalisierung, Wirtschafts- und Sozialpolitik sowie Konsumenten- und Versicherungsschutz. Dem beeindruckenden akademischen Spektrum von Klaus Mathis folgend, verdeutlicht die Festschrift die Vielseitigkeit von ›Law and Economics‹ und die Chancen, die damit für die Rechtsentwicklung einhergehen. Sie leistet dadurch, ganz im Sinne des Jubilars, einen Beitrag zum interdisziplinären Miteinander über die Fachgrenzen hinaus.



Suad Salihi und Rüya Tuna Toparlak (Hrsg.), Neue Adressaten des Rechts. Junge Rechtswissenschaft Luzern. Zürich: Schulthess, 2023

Die Gesetzgebung vermag mit ihren herkömmlichen Kategorien der Rechtsperson weder neuartige Künstliche Agenten noch Tiere oder schutzwürdige Naturentitäten adäquat zu erfassen. Häufig werden diese Phänomene im Hinblick auf ihre Verantwortlichkeiten untersucht, um die auftretenden Haftungsfragen juristisch aufzufangen. Die Haftbarkeit ist mit dem rechtlichen Personenstatus zwar eng verbunden, allerdings geht die Frage der Rechtssubjektivität jener der Haftung voraus. Die Rechtsordnung braucht weitere juristische Kategorien, um neue Träger von Rechten und Pflichten adressieren zu können. Dieser Band soll diese Lücke schliessen. Unter dem Titel „Neue Adressaten des Rechts“ bietet der 9. Sammelband der jungen Rechtswissenschaftler der Universität Luzern einen über die Rechtstheorie hinaus interdisziplinäre Perspektive auf neue Subjekte des Rechts.



Silvan Schenkel, Der Deutsche Juristentag 1933. Die kumulative Selbstmobilisierung der juristischen Professionalselite in der Formierungsphase des NS-Regimes. Dissertation, Universität Luzern, 2021. In: Beiträge zur Rechtsgeschichte des 20. Jahrhunderts 122, Tübingen 2023

Silvan Schenkel untersucht mit dem Deutschen Juristentag 1933 in Leipzig ein zentrales Ereignis für die Konstitution der juristischen Professionalselite in der NS-Zeit. Seit 1860 waren die Juristentage der zentrale wissenschaftliche Kongress für Juristen. Der Parteijurist Hans Frank okkupierte den traditionellen »Deutschen Juristentag« und verwandelte die Tagung in ein propagandistisches Forum für die Rechtserneuerung nach dem Leitprinzip »Durch Nationalsozialismus dem deutschen Volk das deutsche Recht«. Ausgehend von den polykratischen Strukturen analysiert der Autor die Reden, den Tagungsverlauf sowie die Wirkungsgeschichte des Juristentages 1933. Deutlich wird dabei, wie dieser Tagung die Schlüsselrolle für die Formierung jener Juristenmilieus zukam, die in den folgenden Jahren das juristische System zu einem effektiven und aus Sicht vieler Deutscher legitimierenden Teil der NS-Herrschaft machten.

FURTHER PUBLICATIONS

VAGIAS KARAVAS

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ANNA CONINX

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STEVEN HOWE

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- The Power of an Image: How Cartoons Championed and Criticised the Constitution in the Weimar Republic. In: *Verfassung – gestalterische Potenziale und historische Horizonte: Bulletin of the Swiss Academy of Humanities and Social Sciences (SAGW)* 27 (2) (2023), 48-52

VERONICA PECILE

- Rethinking Legal Time: The Temporal Turn in Socio-Legal Studies. In: *Onati Socio-Legal Series* 13 (1) (2023), 386-401
- I tempi del diritto: crisi climatica e mutamento delle forme giuridiche. In: *Sociologia del diritto* 2 (2023), 101-116
- We are Family: A Queer Analysis of Non-Conjugal Relationships. In: *Cardozo Electronic Law Bulletin* 29 (2) (2023) (with Antonio Vercellone)

EMILIANO CHIERA

- Zukünftige Generationen als (neue) Rechtssubjekte im internationalen Recht? In: Suad Salihu und Rüyü Tuna Toparlak (Hrsg.), *Neue Adressaten des Rechts. Junge Rechtswissenschaft Luzern*. Zürich 2023, S. 53-69

TEONA KVIRIKASHVILI

- DABUS Problem: AI as an Inventor. In: Suad Salihu and Rüyü Tuna Toparlak (eds.), *Neue Adressaten des Rechts. Junge Rechtswissenschaft Luzern*. Zürich 2023, pp. 185-201

SUAD SALIHU

- Recht als abstrakte Kunst: Die Konstruktion der Rechtsperson. In: Suad Salihu und Rüyü Tuna Toparlak (Hrsg.), *Neue Adressaten des Rechts. Junge Rechtswissenschaft Luzern*. Zürich 2023, S. 3-18

RÜYA TUNA TOPARLAK

- Between a Subject and an Object: Addressing the Social Valence of Robots. In: Suad Salihu and Rüyü Tuna Toparlak (eds.), *Neue Adressaten des Rechts. Junge Rechtswissenschaft Luzern*. Zürich 2023, pp. 203-224
- What is Ethical AI? A Multidisciplinary Thought Exchange. Online article at *All Tech is Human* (with Leah Junck and Paul Schütze)
- Criminalising Deep Fake Pornography: A Gender-Specific Analysis of Image-Based Sexual Abuse. In: *Cognitio* 1 (2023)

PRESENTATIONS

VAGIAS KARAVAS

- Das Rechtssubjekt des personalisierten Rechts (mit Suad Salihu)
5. Kongress der deutschsprachigen Rechtssoziologie-Vereinigung, Innsbruck
- Biomedical Collective Labour: Politics, Sovereign Subjects and Empowerment in Biobank Research
Critical Times Summer School on Movement(s), University of Lucerne
- Beyond False Dilemmas: Developing Innovative Governance Mechanisms for Data Flows Beyond the Paradigms of Privacy and Property
Conference on Data Privacy, Data Property and Data Sharing: An Interdisciplinary Dialogue for Post-Pandemic Transnational Research, Brocher Foundation, Geneva

ANNA CONINX

- Gefährliche Menschen und unser Umgang mit ihnen - Erkenntnisse aus der Forschung
1. Winterthurer Tagung zum Recht der inneren Sicherheit, ZHAW School of Management and Law, Winterthur
- Revision des Haftrechts
Revision der Strafprozessordnung, Recht aktuell, Basel
- Formazione continua e aggiornamento per giuristi: sviluppi attuali del diritto penale materiale e del diritto delle sanzioni
Formazione continua e aggiornamento per giuristi, Universität Lugano
- Entwicklungen in der bundesgerichtlichen Rechtsprechung im materiellen Strafrecht und im Sanktionenrecht
Express-Fortbildung für Anwältinnen und Anwälte, Universität Luzern
- Aktuelle Entwicklungen im Sexualstrafrecht
Bachelor Info-Abend, Universität Luzern

MICHELE LUMINATI

- Ein Gespräch über die Geschichte von Justiz, Psychiatrie und Vormundschaft in Obwalden
Diskussionsbeitrag an der Veranstaltung des Obwaldner Institut für Justizforschung zum Thema Das Schicksal von Friedrich Amstutz: Ein Gespräch über die Geschichte von Justiz, Psychiatrie und Vormundschaft in Obwalden, Engelberg

STEVEN HOWE

- The Art of Assembly
Critical Times Summer School on Movement(s), University of Lucerne
- The Art of Refusal. Or: Toward a Radical Imagination of Law
AIDEL Conference on Bio-Democracy and Human Entanglements: A Quest for a New Order, University of Perugia

LAURA PETERSEN

- The Bourbaki Panorama: Encounters Between Art and Law
Law in Context Workshop, University of Oxford
- Movement and Method: A Conversation (with Shane Chalmers and Valeria Vázquez Guevara)
Critical Times Summer School on Movement(s), University of Lucerne
- "Everywhere the Mystery of the Corpse": The Art of Death in the Weimar Republic
Interdisciplinary Workshop on Visualising the Corpse in Law and Art, La Trobe University
- Making an Impression: Käthe Kollwitz and the Art of the Woodcut
Deus Ex Machina, Conference of the Law, Literature and Humanities Association of Australasia, Queensland University of Technology

SILVAN SCHENKEL

- Der Deutsche Juristentag 1933 in Leipzig. Propagandistische Massenkundgebung oder zentrales Ereignis der Rechtsgeschichte?
Vortragsveranstaltung der Leipziger Juristischen Gesellschaft e. V. in Zusammenarbeit mit der Juristenfakultät der Universität Leipzig
- Political and Social Movements in Switzerland in the 19th and 20th Century and the Reaction of the State Power
Critical Times Summer School on Movement(s), University of Lucerne

VERONICA PECILE

- Rethinking Law Beyond Linear Time and the Individual Subject
Interdisciplinary Conference on Law and Time, Collegium Helveticum, ETH Zurich
- Improductive: Theory and Praxis of a “Splendid Failure”
Narrating Labour: Posture and Positionality, Aix-en-Provence Université
- Nature as a Subject of Law? Legal Tools for the Ecological Crisis
No-one is an Island, Istituto Svizzero di Roma

TEONA KVIRIKASHVILI

- DABUS Case: AI as an Inventor?
Critical Times Summer School on Movement(s), University of Lucerne

SUAD SALIHU

- Das Rechtssubjekt des personalisierten Rechts (mit Vagias Karavas)
5. Kongress der deutschsprachigen Rechtssoziologie-Vereinigung, Innsbruck
- Personalised Law
Critical Times Summer School on Movement(s), University of Lucerne
- Das digitale Subjekt: Grundlage für die Personalisierung des Rechts
Young Digital Law 2023, Bias in Law-Making: How Assumptions about Technology, Trustworthiness and Human Agency underpin European Digital Law, Universität Wien
- Das personalisierte Recht
Dies Academicus, Universität Luzern

RÜYA TUNA TOPARLAK

- Between a Subject and an Object: Addressing the Social Valence of Robots
Critical Times Summer School on Movement(s), University of Lucerne
- He, She, It: Addressing the Social Valence of Robots
Young Digital Law 2023, Bias in Law-Making: How Assumptions about Technology, Trustworthiness and Human Agency underpin European Digital Law, University of Vienna

IV: COVER IMAGE

ANTONIA HIRSCH, DOUBLE BLIND (2008)

Double Blind, Antonia Hirsch's large-scale artwork in the atrium of the north building on the Broadway Campus of Vancouver Community College (VCC) is not, at first glance, an easy read. As a formal presence, it lacks the kind of heavy "materiality" expected from public work; the formal heft of iron, bronze or steel gives way here to a luminous collection of convex acrylic security mirrors that protrude, bubble like, from concrete walls. The materials—the kind one might find in any number of security-conscious convenience stores—hint at the artist's larger project: to make visible overarching systems of control and exclusion.

The work is a disjointed reflection. In descending layers, the mirrors spell out a four-storey Snellen eye chart—that familiar series of letters that many of us recognize from routine eye exams—as enormous braille letters. The domes present a formal conundrum—they remain unreadable for people without sight, and, for those that can see, the array at first appears as a random association of dots, vague punctuations unable to express. In the words of the artist, it is an "eye chart for the blind," and this sensory inconsistency brings us to a far-reaching conclusion that the work refers to a more widespread cultural invisibility.

On a basic level, the work reveals the inaccessibility of mainstream communication for the blind and relates to VCC's programming for visually impaired adults. *Double Blind* brings into relief cultural exclusions that most take for granted. A plaque next to the sculpture explains in braille the concept behind the work, and while developing the piece, Hirsch had ongoing consultations with students, staff and faculty in VCC's program for the visually impaired. The work "makes visible" the situation of not seeing—and the implications of exclusion in a place of higher learning, with its promises of knowledge, social interaction and professional advancement. The fact that students of VCC's School of Health Sciences might learn about "double blind" medical trials during their studies makes an additional connection between Hirsch's eye chart and the activities and pedagogies going on elsewhere in the building.

More generally, the work poses questions about "seeing" as a means of control. The convex security mirrors make an explicit reference to the links between sight and power; those who have the wider view preside over those who, in their visibility, might be "counted." One is reminded of Michel Foucault's writing on the Panopticon—an architecture that allows for a seemingly all-seeing vantage point—as a tool to enforce power, and it seems fitting that these mirrors reflect the goings-on in an institutional hall of windows, balconies and open sight lines. Thus, *Double Blind* elevates the surface of the mirrors to a reflection of consciousness: our realization that we are watched, and that, as we ascend staircases and sit in classrooms, we are also watching. In this way, *Double Blind* doubles back on itself, making systems of power visible through the obfuscation of clear meaning. With a series of sensory dead-ends, pointed cultural associations and a canny awareness of surrounding architecture, Hirsch has created a piece that reflects our own reality back to us—but with insights that do not sit on the surface to be seen.

Text by Vanessa Kwan, Vancouver-based artist and writer

ANTONIA HIRSCH

Antonia Hirsch lives and works in Berlin. She was born in Frankfurt am Main, Germany, and earned her BA at Central Saint Martin's College of Art and Design in London, England. The German-Canadian artist has been the recipient of numerous awards from institutions such as the Canada Council for the Arts, the British Columbia Arts Council (Canada), the City of Vancouver (Canada), Stiftung Kunstfonds (Germany), and Hessische Kulturstiftung (Germany). She was Artist in Residence at institutions such as the Banff Center for Arts and Creativity (Canada), the Cité des Arts in Paris (France), and CCA Andratx (Spain).

Antonia Hirsch's work has been exhibited, among others, at the Contemporary Art Gallery, Vancouver (Canada); MIT List Visual Arts Center, Cambridge (USA); The Power Plant, Toronto (Canada); Salzburger Kunstverein (Austria); Taipei Fine Arts Museum (Taiwan); Tramway, Glasgow (Scotland); FKA Witte de With Center for Contemporary Art, Rotterdam (The Netherlands); and ZKM Center for Art and Media Karlsruhe (Germany).

Her works can be found in public collections such as that of the Vancouver Art Gallery (Canada), the National Gallery of Canada, and the Sackner Archive for Concrete and Visual Poetry, Miami Beach (USA).

Her projects and texts have appeared in publications such as *C*-magazine, *Fillip*, *The Happy Hypocrite*, and *Triple Canopy*. In addition to artist books, she published the anthology *Intangible Economies* (Fillip, 2012) and the reader *Negative Space: Orbiting Inner and Outer Experience* (SFU Galleries, 2015). From 2009 to 2015, she was Associate Editor at *Fillip*.

Antonia Hirsch has lectured at institutions such as Artist's Space, New York City (USA); the Banff Centre for Arts and Creativity (Canada); Tensta Konsthall, Stockholm (Sweden); Western Front, Vancouver (Canada); and Whitechapel Gallery, London (UK). She has taught as a sessional or visiting lecturer at institutions such as Emily Carr University, Vancouver (Canada); Konstfack, Stockholm (Sweden); Kyushu University, Fukuoka (Japan); Piet Zwart Institute, Rotterdam (The Netherlands); and the School of the Museum of Fine Arts, Boston (USA).

V: 2024 – A PREVIEW

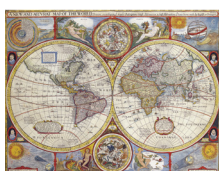
CRITICAL TIMES SUMMER SCHOOL: UN/SEEN



In June 2024, the latest in our series of Critical Times events will take place at the University of Lucerne. This year's summer school will revolve around the theme 'Un/Seen' and will invite participants to immerse themselves in a week of critical and creative thinking on the interplay between law, politics and visuality.

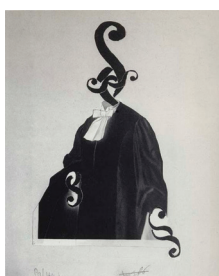
Confirmed speakers: Mieke Bal (University of Amsterdam), Shane Chalmers (University of Hong Kong), Julen Etxabe (University of British Columbia), Greta Olson (University of Giessen), Desmond Manderson (The Australian National University) and Scott Veitch (University of Hong Kong).

LAW AND THEORY WORKSHOP



The fortnightly workshop on contemporary issues in law and theory will return in early spring. The first session will inquire into the idea of a capitalism without democracy, focalised via a reading of Quinn Slobodian's *Globalists: The End of Empire and the Birth of Neoliberalism*. The topic(s) of the second session will be confirmed during the spring semester.

IN THE THICK OF IMAGES: LAW, HISTORY AND THE VISUAL



This two-day conference aims to foreground novel lines of enquiry into the entanglements of law and visuality through history. Bringing together a cohort of established and emerging scholars from around the world and across diverse disciplines, *In the Thick of Images* invites multiple viewpoints and approaches to converge around this lead theme, and encourages new thinking on the ways in which images work, on how visual shifts transform conditions for the circulation of legal ideas and ideologies, and on the stakes involved in thinking law and legal history with and through images.

Confirmed keynotes: Valérie Hayaert (University of Warwick), Desmond Manderson (The Australian National University), Jolene K. Rickard (Cornell University) and Frederic J. Schwartz (University College London).

VISITING FELLOWS 2024

We are delighted to announce the following two fellowships for 2024:



Lana Gotvan
University of Ljubljana

A Behavioural Approach to the Initiation Problem in Insolvency Law



Veronica Pecile
Istituto Svizzero di Roma

Law as Material: The Making of Italian Colonies through Legal Fiction

For further information, and to keep up-to-date with our programme, please visit www.lucernaiuris.ch. If you would like to subscribe to our mailing list, please send a short message to lucernaiuris@unilu.ch.

