

University of Pittsburgh School of Law



CENTER FOR
INTERNATIONAL
LEGAL EDUCATION



The University of Pittsburgh School of Law

**Center for International
Legal Education (CILE) and
The Law and Humanities
Institute (LHI)**

Are proud to co-sponsor

Sovereignty, Humanity, and Law

**Thursday, April 8 and
Friday, April 9, 2021
2-5:15 p.m. EDT**

Conference Co-Sponsors

Center for International Legal Education (CILE), University of Pittsburgh School of Law

The Center for International Legal Education (CILE) at the University of Pittsburgh School of Law exists to advance legal education and the rule of law, both at the School of Law and throughout the world. CILE programs are designed to benefit Pitt Law JD students, foreign students enrolled in LLM and SJD programs, and external constituencies. These programs benefit students by responding to personal academic and career goals and providing opportunities that help each student achieve their goals. CILE offers students exposure to the world of international and comparative law in settings that help develop the necessary competence to become a global lawyer. CILE brings students to the School of Law from around the world to educate them in comparative legal systems, develop relationships, and create diversity in understanding the rule of law. CILE reaches out to countries in transition, providing training and a focus on legal education as core to a functioning legal system that is necessary to the rule of law, and trains those who will educate future generations of lawyers in those transition countries. Without lawyers there cannot be rule of law, and without good legal education there cannot be the type of lawyers who will help establish and sustain the rule of law.

Law and Humanities Institute (LHI)

The Law & Humanities Institute (LHI) is a not-for-profit organization in its fifth decade of encouraging work inter-weaving law with the humanities. LHI supports amicus briefs where literary expression is being censored, endeavors to make the law clearer as it interacts with ordinary people, assists with new readings of canonic and lesser known stories, and co-sponsors events such as this one on "Sovereignty" so that in recent years it has contributed to presenting such disparate themes as the "Blood Libel," the "Rosenberg Spy Trials," "How we Value Lives," "Shylock vs Antonio on Appeal [a mock trial with scenes presented from THE MERCHANT OF VENICE]," and "The Abolition of War."

Conference Theme

While the conference will focus generally on the concept of sovereignty, the more specific focus will be on how the concept of sovereignty affects the law and, in particular, the way in which the law does or does not facilitate the development of human rights in the relationship between the sovereign and the citizen. Panels will reflect both a legal focus as well as a focus on law and literature.

Thursday, April 8, 2021

2-2:10 p.m.

Welcome

*Dean Amy Wildermuth
Ronald Brand, CILE
Richard Weisberg, LHI*

2:15-3:45 p.m.

**Panel 1: Current Litigation of
Sovereign Responsibility**

This panel will discuss recent legal developments in the law of U.S. foreign sovereign immunity. A divergence of views has led to an inter-circuit conflict which the Supreme Court is poised to resolve this term on issues of the exhaustion of local remedies, the role of international human rights and international comity under the Foreign Sovereign Immunities Act. This panel will examine these issues and consider potential paths forward as the law develops.

Moderator

Elena Baylis, Professor of Law, Pitt Law

Panelists

A Critique of the Genocide Exception to Sovereign Immunity

Vivian Curran, Distinguished Professor of Law, Pitt Law

**The Perverse Reappearance of the Executive Branch
in FSIA Disputes**

*Richard Weisberg, Visiting Professor of Law, Pitt Law; Walter Floersheimer
Professor of Constitutional Law at the Benjamin N. Cardozo School of
Law, Yeshiva University*

Exhaustion of Remedies Under the FSIA

Yanis Klumpp

Comments

*Todd Grabarsky, Deputy Attorney General,
California Department of Justice*

3:45-4 p.m.

Break

4-5 p.m.

Keynote Address

Holocaust Justice and Sovereignty

Stuart E. Eizenstat, Senior Counsel, Covington & Burling

Friday, April 9, 2021

2:00-3:30 p.m.

Panel 2: The Sovereign and the Individual in the Law

This panel will address the concept of sovereignty and individual rights from multiple perspectives, especially considering private parties engaged in economic relationships with governments. Attention will be given to the role of the sovereign in the twenty-first century. The question of sovereignty in the relationship between the state and private parties in dispute resolution often is segmented, with a focus on either human rights litigation or economic rights litigation. The panel will cross these lines, considering the importance of decisions and developments in international economic law (e.g., bilateral investment treaties, international trade agreements, etc.) as well as decisions and developments in international human rights law.

Moderator

Haider Ala Hamoudi, Professor of Law, Pitt Law

Panelists

Sovereignty, Agency, and the Division of Powers: Historical Models

Paul Guyer, Professor of Philosophy, Brown University

Private Rights and Sovereign Obligations under International Law

Charles Kotuby, Partner, Jones Day, Washington, D.C.

The Role of Sovereignty in International Law

Ronald A. Brand, Professor of Law, Pitt Law

Comments

Jules Lobel, Professor of Law, Pitt Law

3:30-3:45 p.m.

Break

Friday, April 9, 2021 (Cont.)

3:45-5:15 p.m.

Panel 3: The Sovereign in Literature and History

This panel approaches the concept of sovereignty from a literary perspective, ranging from Nietzsche's genealogical approach to Shakespeare's representations and those of other imaginative writers.

Moderator

Bernard Hibbitts, Professor of Law, Pitt Law

Panelists

Pardoning After Trump

Bernadette Meyler, Carl and Sheila Spaeth Professor of Law, Stanford Law School

Angels and Diplomats: Sovereignty, Dignity, and the Human

Christopher Warren, Associate Professor of English with a Courtesy Appointment in History, Carnegie Mellon University

Nietzsche's Sovereign Individual and the Sin of Sodom

Michael Pantazakos, Adjunct Professor of Legal Writing, Cardozo Law School

Comments

*Shaina Trapedo, Lecturer **in English**, Yeshiva University*

5:15-5:30

Closing Remarks



The Law & Humanities



Institute

Speaker Bios



Stuart E. Eizenstat is the former U.S. Ambassador to the European Union. Ambassador Eizenstat now heads the international practice of the Washington, D.C. office of Covington & Burling. His work at Covington focuses on resolving international trade problems and business disputes with the US and foreign governments, and international business transactions and regulations on behalf of US companies and others around the world. During a decade and a half of public service in three US administrations,

Ambassador Eizenstat has held a number of key senior positions, including chief White House domestic policy adviser to President Jimmy Carter (1977-1981); U.S. Ambassador to the European Union, Under Secretary of Commerce for International Trade, Under Secretary of State for Economic, Business and Agricultural Affairs, and Deputy Secretary of the Treasury in the Clinton Administration (1993-2001).

During the Clinton Administration, he had a prominent role in the development of key international initiatives, including the negotiations of the Transatlantic Agenda with the European Union (establishing what remains of the framework for the US relationship with the EU); the development of the Transatlantic Business Dialogue (TABD) among European and US CEOs; the negotiation of agreements with the European Union regarding the Helms-Burton Act and the Iran-Libya Sanctions Act; the negotiation of the Japan Port Agreement with the Japanese government; and the negotiation of the Kyoto Protocol on global warming, where he led the US delegation.

Much of the interest in providing belated justice for victims of the Holocaust and other victims of Nazi tyranny during World War II was the result of his leadership of the Clinton Administration as Special Representative of the President and Secretary of State on Holocaust-Era Issues. He successfully negotiated major agreements with the Swiss, Germans, Austrian and French, and other European countries, covering restitution of property, payment for slave and forced laborers, recovery of looted art, bank accounts, and payment of insurance policies. His book on these events, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II*, has been favorably received in publications like the *New York Times*, *Los Angeles Times*, *Washington Post*, *Business Week*, and *Publisher's Weekly*. It has been translated into German, French, Czech and Hebrew.

Ambassador Eizenstat has received eight honorary doctorate degrees from universities and academic institutions. He has been awarded high civilian awards from the governments of France (Legion of Honor), Germany, Austria, and Belgium, as well as from Secretary of State Warren Christopher, Secretary of State Madeleine Albright, and Secretary of the Treasury Lawrence Summers. In 2007, he was named "The Leading Lawyer in International Trade" in Washington, DC by *Legal Times*. His articles appear in *The New York Times*, *Financial Times*, *International Herald Tribune*, *Washington Post*, *Los Angeles Times*, *Foreign Policy* magazine, and *Foreign Affairs* magazine, on a variety of international and domestic topics. Ambassador Eizenstat grew up and was educated in the public schools of Atlanta. He is a Phi Beta Kappa, cum laude graduate of the University of North Carolina at Chapel Hill and of Harvard Law School.



Vivian Curran, Distinguished Professor of Law, University of Pittsburgh School of Law, Vice-President of the International Academy of Comparative Law, past President of the American Society of Comparative Law, and President of the North-American Section of the Société de législation comparée. She has been decorated by the governments of Austria and France. She most recently wrote about the Foreign Sovereign Immunities Act in *The Foreign Sovereign Immunities Act's Evolving Genocide Exception*, 23 UCLA JOURNAL OF INTERNATIONAL LAW AND PUBLIC AFFAIRS 46 (2019).



Richard Weisberg is a Visiting Professor of Law at the University of Pittsburgh School of Law, and the Walter Floersheimer Professor of Constitutional Law at the Benjamin N. Cardozo School of Law, Yeshiva University. He has received the Legion of Honor from France for his work over more than a decade to provide a measure of justice to Jewish victims of Vichy France's anti-semitic policies. He is the recipient of Guggenheim and Rockefeller Foundation awards; and he is the author of a half dozen widely translated books as well as 100 or so articles. He has litigated in US federal courts in many cases seeking restitution for Holocaust related harms, including one relating to Hungary that is now stayed in the Seventh Circuit pending SCOTUS resolution of several issues related to the Foreign Sovereign Immunities Act.



Yanis Klumpp studied at the University of Cologne and the Université Paris 1, Panthéon-Sorbonne, where he graduated with a Bachelor of Laws/Maîtrise en Droit. After receiving his LL.M. from the University of Pittsburgh, he returned to Paris and obtained the Master 2 "Juriste International" from the Université Paris 1. He currently is preparing for the German bar exam.



Todd Grabarsky is Deputy Attorney General at California Department of Justice. He was a Law Clerk in both the U.S. District Court for the Northern District of California and the Ninth Circuit Court of Appeals. He was an Associate at the Los Angeles office of O'Melveny & Myers, and has been an Adjunct Professor at the University of Southern California Gould School of Law.



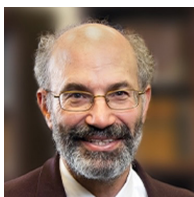
Paul Guyer is the Jonathan Nelson Professor of Humanities and Philosophy at Brown University and Florence R.C. Murray Professor in the Humanities emeritus at the University of Pennsylvania. He earned his AB and PhD at Harvard, where his honors include the Centennial Medal of the Harvard Graduate School of Arts and Sciences (1996). He has been a Fellow of the American Academy of Arts and Sciences since 1999. He has worked throughout his career on the philosophy of Immanuel Kant and his times, but also on the history of philosophical aesthetics. He was General Co-Editor of *The Cambridge Edition of the Works of Immanuel Kant* (16 vols., 1992-2016), in which he co-edited and -translated the *Critique of Pure Reason* (1998), the *Critique of the Power of Judgment* (2000), and *Notes and Fragments* (2005). The author or editor of more than two dozen books, his most recent works include *Kant* (second edition, 2014); *A History of Modern Aesthetics* (3 vols., 2014); *Virtues of Freedom* (2016); *Kant on the Rationality of Morality* (2019), and *Reason and Experience in Mendelssohn and Kant* (2020); *A Philosopher Looks at Architecture* is forthcoming in 2021. He has also written extensively on Kant's political philosophy and its relation to the natural law tradition.



Charles T. Kotuby is partner at the Washington, D.C. office of Jones Day. He has represented states and private parties in international arbitration and litigation of disputes around the globe. He has a practitioner's perspective on the way in which the law both allows and limits claims by private parties against states, and the ability of states to claim special status in international dispute resolution. He is the author of numerous articles on international dispute settlement and the co-author of *General Principles of Law and International Due Process: Principles and Norms Applicable in Transnational Disputes*, with Luke A. Sobota (Oxford Univ. Press, 2017).



Ronald A. Brand is the Chancellor Mark A. Nordenberg University Professor, John E. Murray Faculty Scholar, and Director of the Center for International Legal Education (CILE) at the University of Pittsburgh School of Law. He has written on issues of sovereignty, particularly in the context of dispute regulation, analyzing traditional scholarship on sovereignty and how it applies in contemporary affairs when private parties assert claims against governments, particularly in the realm of violations of international law.



Jules Lobel is the Bessie McKee Walthour Endowed Chair at the University of Pittsburgh School of Law. He co-authored the award winning book, *Less Safe, Less Free: Why America is Losing the War on Terror* (2007) with Professor David Cole, which won the first Roy C. Palmer Civil Liberties Prize for exemplary scholarship exploring the tension between civil liberties and national security. He is also the author of, *Success without Victory: Lost Legal Battles and the Long Road to Justice in America* (2003), and editor of several books on Civil Rights Litigation as well as

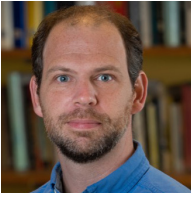
the U.S. Constitution. Lobel is President of the Center for Constitutional Rights, a national human and constitutional rights organization headquartered in New York City. He has litigated numerous cases involving Constitutional and Human Rights issues in the United States Courts and has represented members of Congress challenging various Presidents – both Democratic and Republican – assertions of Executive power to unilaterally initiate warfare. Lobel has been involved in various cases challenging aspects of US policy toward suspected terrorists.



Bernadette Meyler is the Carl and Sheila Spaeth Professor of Law at Stanford Law School, where she has taught since 2013, and is a scholar of British and American constitutional law and of law and the humanities. She is a 2020 Guggenheim Fellow in Constitutional Studies. Her research and teaching bring together the surprisingly divided fields of legal history and law and literature. They also examine the long history of constitutionalism, reaching back into the English common law ancestry of the U.S. Constitution.

Professor Meyler's books stem from these respective areas of her scholarship. *Theaters of Pardoning* (Cornell UP, 2019) demonstrates that the representation of pardoning tracks changing conceptions of sovereignty within the plays and politics of seventeenth-century England. In doing so, the book considers how the shared audiences of dramatic and historical tragicomedy—whether Kings, students at the Inns of Court, or potential jurors—brought concepts from the literary into the legal arena and back again. Her current project, *Common Law Originalism*, shifts to the American context, looking at the multiple eighteenth-century common law meanings—both colonial and English—of various constitutional terms and phrases. Based on this variety, as well as on the practices of common law interpretation with which members of the Founding generation were familiar, the book argues that we should, in large part, reject the pursuit of a singular and determinate original meaning; instead, it contends, we must embrace a more vigorous debate in the present over contested constitutional meanings. Professor Meyler is also the co-editor of several collections of essays in law and the humanities designed to introduce scholars and students to the field, including, with Elizabeth Anker, *New Directions in Law and Literature* (Oxford UP, 2017) and, with *Simon Stern and Maksymilian Del Mar*, *The Oxford Handbook of Law and the Humanities* (Oxford UP, 2020).

After receiving her BA in Literature with a focus on Classics at Harvard University, Professor Meyler obtained her JD from Stanford Law School and completed a PhD in English at UC, Irvine as a Mellon Fellow in Humanistic Studies and a Chancellor's Fellow. Following law school, Professor Meyler clerked for the Hon. Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit. Professor Meyler previously taught at Cornell University, where she served, most recently, as Professor of Law and English and Faculty Director of Research at the Cornell Law School. She also visited Princeton University as the inaugural Mellon/LAPA Fellow in Law and the Humanities.



Christopher Warren is an Associate Professor of English with a Courtesy Appointment in History, at Carnegie Mellon University. His research spans digital humanities, law and literature, political theory, early modern literature, print culture, and the history of political thought. Warren is the author of *Literature and the Law of Nations, 1580-1680* (Oxford University Press, 2015), which was awarded the 2016 Roland H. Bainton Prize for Literature. He is a member of the MLA's executive committee for 17th-

Century English, and his articles have appeared in journals including *Humanity, Law, Culture, and the Humanities, The European Journal of International Law, English Literary Renaissance, and Digital Humanities Quarterly*. He is co-founder of the digital humanities project Six Degrees of Francis Bacon, and his current projects include work on anachronism and presentism in the history of international law, a "distant reading" of the Oxford Dictionary of National Biography, and developing computer-assisted methods for identifying anonymous early modern printers. A founding member of CMU's Center for Print, Networks and Performance (CPNP), Warren also directs CMU's minor in Humanities Analytics (HumAn) and is co-convenor of the Digital Humanities Faculty Research Group. Prior to joining the faculty at CMU, Warren held teaching positions and research fellowships at Oxford University, University College London's Centre for Editing Lives and Letters, NUI-Galway's Moore Institute, and the University of Chicago.



Michael Pantazakos is an Adjunct Professor at the Benjamin N. Cardozo School of Law, where he has taught legal writing and lawyering skills since 1996. He also teaches courses in remedies of law, and law & literature. He is widely published on law & literature.



Shaina Trapedo is a lecturer in English at Stern College and a Visiting Scholar at the Straus Center for Torah and Western Thought at Yeshiva University. She received her undergraduate degree at Barnard College and her PhD in English from UC Irvine where she specialized in early modern literature, religious studies and hermeneutics, and gender studies. Her current book project, *From Scripture to Script: The Hebrew Bible on the Early Modern Stage* considers the affordances and risks of hermeneutic

engagements in the works of writers including Peele, Greene, Marlowe, Shakespeare, Cary, and Milton. In her teaching and scholarship, she continues to explore the connections between literacy, cultural identity, and social engagement.