

Law and Emotion



Werner Gephart: Les fleurs de Sigmund Freud, 2000

**Some Reflections
on Passion and
Dispassion of Law
Across Legal Cultures**

**Bonn
November 21st - 22nd, 2019
Käte Hamburger Kolleg
„Recht als Kultur“**

GEFÖRDERT VOM



Bundesministerium
für Bildung
und Forschung



UNIVERSITÄT **BONN**

recht als kultur

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introductory notes INTRODUCTORY NOTES

The complex and multiple interactions between emotion and law are opening up new avenues of research that have theoretical and empirical implications. The discussion of law and emotion as an autonomous field of interdisciplinary research is, however, not entirely new (at least since the 1990s, if not before in France with the Durkheimian's emotive theory of crime and punishment) and can be seen in disciplines from sociology to economics to anthropology, philosophy and gender studies. Nevertheless, new impulses offered by neurosciences – with trends including neuropsychology, cognitive neuroscience, and psychoanalysis in particular – increasingly allow for innovative perspectives and fascinating multi-disciplinary crossovers.

The aim of this workshop is to not only gain an overview of such research in this field, but more importantly draw attention to cultural factors that shape emotional landscapes. Is there an elective affinity between legal cultures and the way the factuality of emotions in law is taken into account? This includes both codified law and informal normative orders, with their entanglements and intertwinements that underlie the production of norms and the making of jurisprudential decisions.

Using both classical approaches (Freud, Durkheim, Weber) as well as the historicity of emotional cultures that shape the dimensions of the law, this workshop aims to answer these pressing questions.

Raja Sakrani (Workshop Organizer)

THURSDAY, NOVEMBER 21

14:15 **Welcome Address** Werner Gephart

14:30 **I. General Considerations on Law, Affect and Emotions**

Peter Goodrich The Comedy of Law: Emotion and Laughter in the Court Room

15:15 **Werner Gephart** The Case of Daniel Schreber and the Over-Rationalized Pandectism of the 19th Century

16:00 Coffee Break

16:30 **II. Affinities between Legal and Emotional Cultures**

Nidesh Lawtoo The Case of Eichmann Reopened: From Arendt to Banality of Mimesis

17:15 **Maurizio Ferraris** Emotions, Emoticons and Affect in Digital Legal Culture

19:00 Dinner

FRIDAY, NOVEMBER 22

9:00 **III. Rational Legal Cultures versus Emotional Legal Cultures:
A Deconstruction of a Dichotomy?**

Raja Sakrani A Passion for the Law? The Case of Islamic Normativities

9:45 **Payam Rouzbahani** The Collision of Emotion and Efficiency: Success or Failure of the Diffusion of Western Normativity in the Middle East

10:30 Coffee Break

11:00 **IV. New Foundations for Moral and Legal Judgement: Affective Normativities**

Jenny Hellmann Transitional Justice and Popular Emotion. An Argentinian Case through the Eyes of a Film Director

11:45 **Greta Olson** From Law and Literature to Legality and Affect

12:30 **Concluding Remarks**

Maurizio Ferraris is Professor of Philosophy at the University of Turin, where he is also President of the LabOnt – Center for Ontology. He is directeur de recherche at the collège d'études mondiales (Paris) and Director of Rivista di Estetica. He has worked in the fields of aesthetics, hermeneutics, and social ontology, attaching his name to the theory of documentality and contemporary new realism.

Werner Gephart is a legal scholar, sociologist, and artist. He is Founding Director of the Käte Hamburger Center for Advanced Study in the Humanities "Law as Culture," editor of the volume Recht of the Max Weber-Gesamtausgabe (MWG I/22-3), editor of Brill Research Perspectives in "Art and Law," and président d'honneur of the Institut Universitaire de France (IUF).

Peter Goodrich is a lawyer and cultural scientist. He was Founding Dean of the Department of Law at Birkbeck College and is currently Professor and Director of the Program in Law and Humanities at Cardozo School of Law, New York. He is one of the leading representatives of the law and literature movement as well as the founder and co-editor of Law and Critique. One of his recent publications is Imago Decidendi: On the Common Law of Images (2017).

Jenny Hellmann is a sociologist and filmmaker. She works for a governmental organization for development initiatives and is an associated researcher at the Käte Hamburger Center for Advanced Study in the Humanities "Law as Culture." As a filmmaker, she has produced the award-winning documentary Algo mío – Argentina's Stolen Children, a topic that also serves as the basis for her doctoral studies.

Nidesh Lawtoo is Professor of Philosophy at the University of Leuven and Principal Investigator of the five-year European Research Council project "Homo Mimeticus," which explores the role mimesis plays in modernist literature, science fiction films, and critical theory. His areas of specialization include postcolonial literature, theories of mimesis, and simulation. He is the author of The Phantom of the Ego: Modernism and the Mimetic Unconscious (2013) and (New) Fascism (2019).

Greta Olson is Professor of English and American Literature and Cultural Studies at the University of Gießen. She is the general editor of the European Journal of English Studies (EJES), and, alongside Jeanne Gaakeer, the co-founder of the European Network for Law and Literature. Her research interests include law and literature, cultural approaches to law, the politics of narrative forms, and feminist and sexuality studies. She is the co-editor of Beyond Gender: Futures of Feminist and Sexuality Studies (2018).

Payam Rouzbahani is a jurist specialist in comparative legal history, focusing particularly on interactions between Roman and Islamic law. He is a teaching assistant for Private Law at the University of Paris II and Orléans. He is the author of Between Islamic Law and Civilian Tradition: The Particular Role of Codification in Making Iranian Civil Law through French Transplants (2018).

Raja Sakrani is a jurist and cultural science scholar as well as a scientific coordinator at the Käte Hamburger Center for Advanced Study in the Humanities "Law as Culture." Her research examines the presence of Islamic normativities in Europe, enlarging the view of how the Other is treated in a complicated normative situation. She was the co-director of the "Convivencia" project at the Max Planck Institute for European Law in Frankfurt (2015-2018). She has conducted research and taught at the Universities of Paris (Sorbonne), Bonn, Basel, and Madrid.

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