Committee on Philosophy and Law

2013-2014 Membership

Melinda Roberts, chair (2015)
Matthew Lister, associate chair (2015)

David Gray (2015)
Alex Guerrero (2016)
Gabriel Mendlow (2014)
David Plunkett (2015)
Maria Sanders (2016)

Christopher Griffin, newsletter editor
Steven Scalet, newsletter editor
MEMBERS OF THE COMMITTEE (7/1/2013-6/30/2014)

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<tr>
<th>Name</th>
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<th>Start Date</th>
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*Editors of Philosophy and Law Newsletter

CHANGE IN MEMBERSHIP AS OF JULY 1, 2014

Gabriel Mendlow, to whom we owe enormous gratitude, rotated off the committee 6/30/13.

We welcome Michelle M. Dempsey and Win-Chiat Lee:

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Matthew Lister began serving as associate chair of the committee 7/1/2014 and is expected to begin serving as chair of the committee 7/1/2015 which will extend his term on the committee through this year and then for an additional three years.

PHILOSOPHY AND LAW NEWSLETTER
In spring 2014, the Philosophy and Law Newsletter published an issue devoted to the Berger Prize session held at the Pacific Division Meetings in April 2013. Kimberly Kessler Ferzan’s contribution, “Moving Beyond Crime and Punishment,” which was itself related to her winning paper, "Beyond Crime and Commitment: Justifying Liberty Deprivations of the Dangerous and Responsible," was included in the issue. Comments on her paper by Gideon Yaffe, Douglas Husak and Louis-Philippe Hodgson were also published, along with Ferzan’s reply. The published issue can be found at: http://www.apaonline.org/?law_newsletter

LISTSERV ADDRESS

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BERGER PRIZE COMPETITION

Evaluation of the papers submitted for consideration for the Berger Prize is now underway.

COMPLETED EVENTS

Eastern Division Meetings – December 27-30, 2013 – Baltimore

1. Organized by Matthew Lister

Title: Mala Prohibita and the Reach of the Criminal Law

III-H/11:15 a.m.-1:15 p.m.

Abstract: Legal theorists have traditionally distinguished between mala in se, crimes that are wrong in themselves, independently of the criminal law, and mala prohibita, crimes that are not wrongs prior to their criminalization (though this phrasing is oversimplified). Whereas justification of mala in se is fairly straightforward for most plausible accounts of criminal law and punishment, justifying mala prohibita has proven to be more difficult. For those who subscribe to legal moralism, the notion that the criminal law should be concerned with moral wrongdoing, it is not clear what justifies criminalizing behavior that is not, independently of its criminalization, wrong. Similarly, rights forfeiture theorists of punishment may struggle to explain what justifies criminalizing behavior that apparently does not violate anyone’s moral rights (i.e., is not pre-legally wrong). This panel will explore questions regarding how best to conceptualize mala prohibita and its relationship to mala in se — as well as whether, and when, mala prohibita are justified.
Chair: Zachary Hoskins (University of Minnesota)

Speakers: Susan Dimock (York University, Toronto), "Reconciling Mala Prohibita Offenses with the Wrongfulness Constraint on Criminalization"

Chad Flanders (St. Louis University School of Law), "Are All Crimes Really Mala Prohibita?"

Stuart Green (Rutgers School of Law – Newark), "Three Modes of Mala Prohibita"

2. Organized by Kenneth Ehrenberg

Title: Jurisprudential Methodology: Conceptual Analysis Versus Naturalized Jurisprudence

Session VII-J/9:00-11:00 a.m.

Abstract: What is the right method for understanding the nature of law? What is the proper role for scientific investigations about legal practices and practitioners and how should those inform legal theories (if at all)? Is there still room for conceptual analysis and is it really in opposition to scientifically informed approaches? Some have recently called for a turn to scientific methodology for the investigation of the nature of law. But what would that scientific method look like when asking questions about the nature of law? Is "armchair" legal theorizing really devoid of empirical data? We will conduct a discussion on these and related topics looking particularly to discover how different these methodologies really are and what strengths and weaknesses each has.

Chair: Kenneth Ehrenberg (University of Alabama)

Speakers: Michael Giudice (York University – Ontario)

Kenneth Himma (Seattle Pacific University)

Dennis Patterson (Rutgers University and European University Institute)

Georgios Pavlakos (University of Antwerp)

Dan Priel (York University – Ontario)

Veronica Rodriguez-Blanco (University of Birmingham – UK)
1. Organized by: Zachary Goldberg

Title: *The Work of Peter A. French*

Abstract: This session will explore the philosophical work of Peter A. French and its continuing influence on contemporary issues in moral and political philosophy.

Chair: Zachary J. Goldberg (Universität Regensburg)

Speakers: Toni Erskine (Aberystwyth University and UNSW – Canberra)

Deborah Tollefson (University of Memphis)

Commentator: Peter A French

2. Organized by Matthew Lister

Title: *History of Philosophy as Philosophy of Law*

Abstract: This session will explore uses of figures from the history of philosophy for contemporary issues in legal philosophy. That is, it will look at how we can learn important morals or gain important insights into contemporary issues for legal philosophy and jurisprudence by looking at the history of philosophy. Rather than primarily addressing the proper exposition of the thought of historical figures, this panel will address how these figures can help us with our current problems.

Chair: Maria A. Sanders (Plymouth State University)

Speakers: David Brink (University of California, San Diego), “A Closer Look at Mill’s Harm Principle”

Brian Leiter (University of Chicago School of Law), “Marx, Law, Ideology”

Ekow Yankah (Cardozo Law School), "Franchise: Ancient and Modern"

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1 Zachary Goldberg is not a member of the committee but was invited by the committee to organize this session.
Pacific Division Meetings – April 16-20, 2014 – San Diego

1. Organized by Kevin Toh

Title:  Law and Language

Abstract: Some of the most intense and clamorous recent public debates has centered on the meanings of legal texts and their implications for the judicial activity of legal interpretation. Some theorists of law and language have been arguing that a conception of legal language disciplined by contemporary philosophy of language furnishes more clear cut implications for the activity of legal interpretation than hitherto acknowledged. This session was organized with the aim of assessing this hypothesis, and to delve into the question of what kinds of implications, if any, contemporary philosophy of language has for interpretation of constitutional texts in particular.

Chair:  Kevin Toh (San Francisco State University)

Speakers: Scott Soames (University of Southern California), “Originalism, New Originalism, and Deferentialism”

Jack Balkin (Yale Law School), “Must We Be Faithful to Original Meaning?”

Commentators:

Mark Greenberg (UCLA)

Mitchell Berman (University of Texas School of Law)

PLANNED EVENTS

Eastern Division Meetings—Philadelphia (12/27/2014-12/30/2014)

Two sessions were proposed to the committee and accepted; organization in each case was not completed due to uncertainties relating to commitments by participants.

Central Division Meetings—St. Louis, Missouri (2/18/2015-2/21/2015)

1. The organization of session remains in progress.
1. Berger Prize Session

2. Organized by Matthew Lister

Title: Author Meets Critics: Allen Buchanan, *The Heart of Human Rights*

Participants:

Critics: Erin Kelly, Tufts University Department of Philosophy
William Talbot, University of Washington, Department of Philosophy
Brooke Ackerly, Vanderbilt University, Department of Political Science

Author/respondent: Allen Buchanan, Duke University, Department of Philosophy

Chair: Matthew Lister, University of Pennsylvania, Wharton School of Business, Department of Legal Studies

Abstract:

Over the last two decades, Allen Buchanan has been one of the most important and influential writers on philosophical issues relating to human rights law and practice. His recent book, *The Heart of Human Rights*, summarizes and defends his distinctive approach to the issue. This session will bring together three critics, working from distinct perspectives on human rights, to both address the importance of and to challenge Buchanan's approach. Buchanan will reply to the critics.

3. Organized by Alex Guerrero

Title: Democracy in an Age of Inequality

Participants:

Samuel Issacharoff (New York University School of Law)
Richard Pildes (New York University School of Law)
Niko Kolodny (UC Berkeley, Department of Philosophy)

Two other individuals have been invited to participate as well.

Chair: Alexander Guerrero (University of Pennsylvania, Department of Philosophy)
Abstract:

Is “real” democratic governance possible in an age of great economic inequality? Answering this question requires addressing a number of background questions: What is good or normatively desirable about democracy? What is required for a system to be democratic? What is required in terms of equality of voice, educational opportunity, and social standing? How should we think about representation and diversity? What is required in terms of political equality?

More concretely, what electoral and institutional mechanisms are required? What reforms would need to be made? How much difference do the recent Supreme Court rulings make in the United States? What is the best path to reform, if reform is needed? Are there examples of flourishing democracies in contexts of substantial economic inequality? What do they look like? Is economic inequality the real threat to democracy, or is there something else, or something more fundamental?

This panel will bring legal scholars working on election law, electoral and institutional reform, and comparative law of democracy into conversation with philosophers working on democratic theory, theories of political and social equality, and theories of freedom and oppression.

Session request: 3 hour session