

FACULTY COLLOQUIUM

MULTIPLE SITES OF LAW AND LAW-MAKING

Global Legal Pluralism as Both a Descriptive and a Normative Project

Global Legal Pluralism recognizes that law is made and enforced in many contexts, not just formal courts and legislatures. As a descriptive project, Global Legal Pluralism offers a more nuanced and detailed understanding of how norms are actually asserted and enforced both within, beyond, and beside the nation-state. As a normative project, Global Legal Pluralism offers a scheme of governance that recognizes the importance of inter-locking networks of communication and cooperation, but also respect for local variation. Such models are preferable to either insistence on universalism or insistence on sovereigntist territorialism. Particularly given the pressing cross-border problems facing the world, tribalism is not possible. But universalism smacks of elitism and hegemony and discounts local variation and creativity. Accordingly, we need structures that respect the norms and values of diverse communities, but seek communication and cooperation across difference.



PAUL SCHIFF BERMAN

Walter S. Cox Professor, George Washington University Law School

Paul Schiff Berman is one of the world's foremost theorists on the effect of globalization on the interactions among legal systems. He is the author of over sixty scholarly works, including *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders*, published by Cambridge University Press in 2012. He was also among the first legal scholars to focus on legal issues regarding online activity, and he is co-author of one of the leading casebooks in the field.

National Security Policymaking in the Shadow of International Law

The United States and other states, international organizations, and civil society groups often disagree about the international legal paradigm that governs extraterritorial counterterrorism operations. The United States has argued that such operations constitute a global war against certain groups and that the rules of international humanitarian law (IHL) therefore apply, whereas others often argue that the more restrictive rules of international human rights apply. This conflict has significant consequences for "interoperability" and cooperation among allies in a variety of types of operations, including targeting and detention. This paper contends that, in the face of this conflict, the United States has adopted a series of "legalistic policies" that, as a matter of policy, embrace practices closer to the human rights paradigm even as the United States continues to reject that paradigm as a matter of law. One such policy was the 2013 the Obama administration Presidential Policy Guidance on Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities (PPG), but this is not the only example. So the crucial question is: what are the advantages and disadvantages of adopting such a voluntary legalistic national security policy as opposed to a formal set of legal rules?



LAURA A. DICKINSON

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Laura A. Dickinson is the author of *Outsourcing War and Peace*, published by Yale University Press in 2011, among many other works. In addition to her scholarly activities, Professor Dickinson has a distinguished record of government service. She served as Special Counsel to the General Counsel of the Department of Defense and was awarded the Secretary of Defense Medal for Exceptional Public Service for her work there. She has also served as a senior policy adviser to Harold Hongju Koh, Assistant Secretary of State for Democracy, Human Rights, and Labor at the U.S. Department of State.

This event qualifies for 1 CPD credit.

MARCH

28

THURSDAY

12:30PM –
1:45PM

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