



UNIVERSITÉ PARIS II
PANTHÉON-ASSAS

LAW & HUMANITIES

INTERDISCIPLINARY STUDIES IN LAW,
POLITICAL SCIENCE, ECONOMICS
AND CULTURE

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COLLOQUE EN PARTIE FILMÉ



UNIVERSITÉ PARIS II
PANTHÉON-ASSAS

COLLOQUE

THE DARK SIDES OF THE LAW IN COMMON LAW COUNTRIES

LES CÔTÉS OBSCURS DU DROIT DANS LES PAYS DE *COMMON LAW*

15 - 17 JUIN 2017

avec

Judith Resnik, Arthur Liman Professor of Law, Yale Law School
Paul Raffield, Professor at the School of Law, Warwick University

Salle des conseils - Université Paris II Panthéon-Assas
12 place du Panthéon 75005 Paris - Escalier M - 2^e étage

The University Paris II Panthéon-Assas “Law and Humanities” research centre is pleased to announce its first international conference to be held in Paris (France) on June 15-17, 2017. As an interdisciplinary group working on the connections between law and politics, economics, and literature, we are seeking papers exploring the dark sides of the law from a wide range of perspectives in the United Kingdom, the United States and Commonwealth countries.

Darkness and obscurity, in the literal and figurative senses, are very much present in the law and legal language. One of the main roles of the courts is to clarify obscure legal issues in order to improve access to law and justice. For example, in *Burwell v. Hobby Lobby* 573 U. S. (2014) or *Director of Public Prosecutions v Dziurzynski* [2002] EWHC 1380 (Admin), the judges asked the parties to “enlighten” them.

Legal language has been criticised for the intricacies of its jargon, starting with the Pleading in English Act 1362 rejecting the use of “Law French” in common law courts, to the extensive use of legalese that has been recently limited by the Plain Language Movement. Legalese has been removed to some extent, but some dark areas remain, due to almost irreducible procedural formalism.

The increased liberalisation of the legal market is giving rise to issues of translation, not only from one language to another but also from one common law jurisdiction to another.

In the political world, darkness may characterise the relationship between the various branches of government or between the government and the private/public sectors and/or the people. For example, in the UK, the voluntary sector has long been intertwined with the government, thus endangering its independence.

Darkness is present in the literary and visual representations of the law and the legal world. Ever since the English Renaissance, drama and other literary genres have challenged the dark aspects of law and justice, mocking the legal professions or exposing unfair court procedures or decisions. For the past sixty years, cinema and TV series have explored the darkest aspects of the law. The dynamic relationship between darkness and light, opacity and transparency, may also be embodied in the architecture of courts.

Since the 19th century, judges have resorted to psychological analyses. Nowadays expert psychiatrists are summoned to court in order to explain the dark workings of the mind, particularly in criminal law.

Thursday, June 15th

8:30-9:00

Welcoming of participants and registration

9:00-10:00

Plenary session: Keynote speaker Paul Raffield (Professor at the School of Law, Warwick University): "The Dark and Ancient Palace of Common Law"

Break

Morning session 1: Transgressing the Law in Literature

10:10-11:05

Chair: Armelle Sabatier, University Paris II Panthéon-Assas

- Danièle Frison (Paris-Nanterre University): "The Dark Sides of the Law in *Measure for Measure*"
- Michel Imbert (Denis-Diderot University): "Escape Clauses: Evasions in *Benito Cereno*'s Deposition and Loopholes in the Fugitive Slave Act of 1793"

Break

Morning session 2: Victorian Fictions of the Law

11:20-12:15

Chair: Armelle Sabatier, University Paris II Panthéon-Assas

- Françoise Dupeyron Lafay (UPEC University): "Dark Sides of the Law in Wilkie Collins's *The Law and the Lady* (1875)"
- David R. Sorensen (Philadelphia University): "'Do-Nothingism' or Darkness: Victorian Fiction, the Law, and the Challenge of the Governor Eyre Prosecution of 1866"

Lunch break

Afternoon session 1: Law, Corporations and Consumers

2:00-3:00

Chair: Anne Brunon-Ernst, University Paris II Panthéon-Assas

- Reem Radhi (Durham University): “The Dark Side of Common Law: How Courts in the UK and USA began to Recognise Corporations as Criminals Under the Law”
- Mizuki Hashiguchi (Attorney at law, New York): “Shadows of Uncertainty in United States Intellectual Property Law”

Break

Afternoon session 2: Law and Society

3:15-4:15

Chair: Geraldine Gadbin-George, University Paris II Panthéon-Assas

- Jacob Maillet (Paris-Descartes University): “Shades of Privacy: Mass Electronic Surveillance and the US Constitution”
- Anne Brunon-Ernst (University Paris II Panthéon-Assas): “The Dark Side of Consent in EU Privacy Law”

Break

Afternoon session 3: Criminal Trials and Fiction

4:30-5:45

Chair: Claire Wrobel, University Paris II Panthéon-Assas

- Raluca Andreescu (Bucarest University): “‘A Senseless Act of Children, Wandering Around in the Dark’: Legal Culture and Social Science in a Semi-Fictional Rendition of the Leopold and Loeb Trial”
- Meredith M. Malburne-Wade (North Carolina University): “Blacktown, Whitetown: Emmett Till, James Baldwin, and American Justice”
- François Sablayrolles (University Paris II Panthéon-Assas): “‘Through a Glass Darkly’: Reflections on the Dark Sides of the Law in Northern Ireland Through the Prism of the Irish Crime Novel”

Friday, June 16th

9:00-10:00

Plenary session: Keynote speaker Judith Resnik (Arthur Liman Professor of Law, Yale Law School): “From Courthouses to Prisons: Spaces of Legal Imagination, Despair, and Rights”

Break

Morning session 1: Law and Society

10:10-11:05

Chair: Dino Meloni, University Paris II Panthéon-Assas

- Alicia-Dorothy Mornington & Alexandrine Guyard-Nedelec (Panthéon-Sorbonne University): “Adoption Without Consent: Too Dark to Be True?”
- Alexis Chommeloux (François-Rabelais University): “The Dark Sides of Preventive Law - Especially for Those With Dark Faces”

Break

Morning session 2: Law and Society

11:20-12:15

Chair: Yvonne-Marie Rogez, University Paris II Panthéon-Assas

- Marion Charret-Del Bove (Jean-Moulin University): “Jury Instructions in Common Law Criminal Procedure. Are Jurors Left in the Dark?”
- Shaeda Isani (Grenoble-Alpes University): “The Most Reviled of All Professionals? Negative Public Perceptions and Representations of Contemporary American Lawyers”

Lunch break

Afternoon session 1: Law and Access to Justice

2:00-3:15

Chair: Alexis Chommeloux, François-Rabelais University

- Zalman Rothschild (New York University): “The Necessity for Adjudicative Darkness”
- Gang Luo (Panthéon-Sorbonne University): “The Negative Relationship Between Access to Justice and High Legal Costs in English Common Law: Reluctant Introduction of Aarhus Convention Claim into the UK as an Example of Common Law Approach of Non Intervention”
- Géraldine Gadbin-George (University Paris II Panthéon-Assas): “The Dark Sides of UK courts: Towards the Robotisation of Justice?”

Break

Afternoon session 2: On the Fringes of US Law

3:30-4:45

Chair: Marion Charret-Del Bove, Jean-Moulin University

- Yvonne-Marie Rogez (University Paris II Panthéon-Assas): “Shopping Carts, Property Rights and the Fourth Amendment: Dealing with Homelessness in Contemporary North-America.”
- Pierre Lagayette (Paris-Sorbonne University): “‘Into Their Own Hands’: Self-Defense, Defiance and Deviances of the Law in the American West”
- Claire Wrobel (University Paris II Panthéon-Assas): “The Dark Side of American Institutions: *House of Cards* as Washington’s Gothic”

Break

Afternoon session 3: Law and Linguistics

5:00-6:00

Chair: Armelle Sabatier, Panthéon-Assas University

- Matt Lady (Strasbourg University & Adelaide University): “Property in the Common Law: Conceptual Obscurity and Contestability”
- Daniel Cahoy and Lynda Oswald (Pennsylvania University & Michigan University): “Nuanced or Obscure? The Impact of Court Specialization on the Vocabulary of Patent Doctrine”

Cocktail: Main hall, University Paris II Panthéon-Assas, 92 rue d'Assas, 75006 Paris

Saturday, June 17th

Morning session 1: Law and Linguistics

10:00-10:55

Chair: Delphine Cingal, University Paris II Panthéon-Assas

- Christopher Whitehead (Mc Gill University): “Why Lawyers Should Stop Believing that the Active Voice is Better than the Passive—According to One Lawyer (and Frustrated Linguist)”
- François Labatut (Sorbonne-Nouvelle University): “Amicus Brief: What is Beyond the ‘Friend’? A Cognitive Linguist Approach to the Role of Amicus Brief Within the US Judiciary System”

Break

Morning session 2: (In)justice and Literature

11:10-12:05

Chair: Juliette Ringeisen-Biardeaud, University Paris II Panthéon-Assas

- Suhasini Vincent (University Paris II Panthéon-Assas): “The Opium Trade and the Dark Side of the Law in Amitav Ghosh’s *The Ibis Trilogy*”
- Delphine Cingal (University Paris II Panthéon-Assas): “A Certain Justice, the Dark Side of the Law, the Dark Side of the Soul”

End of the conference