

VISITING SCHOLARS SPEAKER SERIES

BRAD ROTH

Professor of Political Science and Law, Wayne State University, Michigan

“The Moral Role of Positive Law in a Pluralist International Legal Order”

I seek to sketch out a “moral reading” of the United Nations Charter-based international system, grounded in the stubborn realities and practical imperatives of global political life, that represents a more compelling account of the system’s fundamental norms than can be furnished by international legal positivism. This moral reading highlights the international legal order’s role as a framework of accommodation among bearers of differing interests and values, and eschews placing impractical conditions on the compromises needed to achieve interstate peace and cooperation.

What counts as law is open to creative efforts to attribute to the society’s processes of political decision a normative scheme that is coherent and that has a presumptive orientation toward values inherent to legal order as a distinctive project. Creativity in legal interpretation is nonetheless properly bounded by relevant social facts that condition the plausibility of the account of any given society’s governing norms.

As applied to the international legal order, the interpretive method must take account of the overall balance of considerations underlying the international legal order. These considerations include not only such “overlapping consensus” as can be found within the international community on questions of justice, but also a concern to maintain self-government of distinct political communities and to guard against the exertions of untrusted (and untrustworthy) would-be implementers of universal principles, as well as to ensure that adherence to the international order’s fundamentals remains a long-term “win-win” for variously situated constituents.

AMANDA GREENE

Associate Professor of Philosophy, University College London

“The Logic of Legitimacy”

All governments claim to be legitimate. But what is legitimacy exactly, and why does it matter? In my view, today’s crisis of legitimacy goes deeper than the state’s exercise of power. It is hard to find any organization in contemporary society that is still the object of broad-based respect and observance, of the sort that would testify to its legitimacy. If there are virtually no institutions –social, economic, cultural — that both merit and receive widespread recognition, then we have entered a unique stage of history. Should we lament this pervasive loss of legitimacy? In this paper I explore whether there is anything general to be said about legitimacy and its value. As I understand it, questions of legitimacy arise in light of the supposed rationale of an institution – whether it is a business, a charity, or a government. For a wide variety of institutions and practices, there is a *raison d’être* – a claim that, if fulfilled, would justify the existence of the institution. I propose that an institution’s legitimacy depends on this claim being fulfilled in such a way that its fulfillment is recognized by the relevant audience. In politics as well as other domains, my account of legitimacy rests on widespread acceptance of valuable forms of social order. The view thus avoids the reduction of legitimacy to other modes of evaluation such as utility, autonomy, rights, democracy, and justice. Instead, legitimacy stands on its own as a distinct good that is worth promoting for its own sake.

TIME Friday, March 18, 2022 | 3:30 – 5:00 p.m.

PLACE [via Zoom Webinar](#) & Philip Selznick Seminar Room, 2240 Piedmont Ave.

INFO csls.berkeley.edu

CATHERINE ALBISTON, FACULTY DIRECTOR | PAMELA ERICKSON, EXECUTIVE DIRECTOR