

2015 Hurst Summer Institute in Legal History

Program

Sunday, June 14th

Agenda:

- After 3:00 Lowell Center check-in (if guests arrive before 3:00pm, they can ask for early check-in; if the Lowell Center is unable to accommodate early check-in, guests may leave their luggage at the front desk until 3:00)
- 6:00 Gather in the Lowell Lobby
- 6:15 Leave for opening reception at the home of Professor Tonya Brito, **1925 West Lawn Avenue, Madison**
We will arrange for cabs to pick you up from the Lowell Center at 6:15 and take you to Tonya's house
At the opening reception, Professor Howie Erlanger will give a short talk on the history of the Hurst Institute
- 9:00 Return to the Lowell Center
We will arrange for cabs to pick you up from Tonya's house at 9:00 and take you back to the Lowell Center

Monday, June 15th

Chair: Barbara Young Welke, Professor of History and Professor of Law, McKnight Distinguished University Professor, University of Minnesota

Topic: Introduction and Overview: Doing Legal History

Readings:

- (1) Hendrik Hartog: "Pigs and Positivism," *Wisconsin Law Review* (1985)
- (2) Inga Markovits: *Justice in Lüritz: Experience Socialist Law in East Germany*
 - a. Chapter 1, "The Files" (pp. 1-7)
 - b. Chapter 4, "Property" (pp. 26-41)
- (3) Matthew H. Sommer, 2005: "Making Sex Work: Polyandry as a Survival Strategy in Qing Dynasty China," in Bryna Goodman and Wendy Larson, eds., *Gender in Motion: Divisions of Labor and Cultural Change in Late Imperial and Modern China*, Rowman and Littlefield, pp. 29-54
- (4) Constance Backhouse: *Carnal Crimes: Sexual Assault Law in Canada, 1900-1975*, The Osgood Society for Canadian Legal History (2008)
 - a. Chapter 9, "'Sordid' but 'Understandable under the Circumstances': Kohnke, Croft, and Wilson, 1967"

Agenda:

- 8:30-9:00 Coffee and Conversation in the Lower Lounge Meeting Room
- 9:00-10:30 AM Session 1: Hartog & Markovits
- 10:30-10:45 Break

- 10:45-12:00 AM Session 2: Sommers & Backhouse
 12:00-1:30 Lunch at the Pyle Center (a few doors down from the Lowell Center, about a five minute walk; two tables will be reserved for “Hurst”)
 1:30 Adjourn until dinner
- 6:30 Group Dinner at the home of Professor Mitra Sharafi, **1715 Chadbourne Ave., Madison**
 We will arrange for cabs to pick you up from the Lowell Center at 6:30 and take you to Mitra’s house
 9:00 Return to the Lowell Center
 We will arrange for cabs to pick you up from Mitra’s house at 9:00 and take you back to the Lowell Center

Tuesday, June 16th

Guest Scholar: Nicholas Parrillo, Professor of Law and Professor of History, Yale University

Readings: Selected chapters from *Against the Profit Motive: The Salary Revolution in American Government, 1780-1940*

- (1) Introduction
- (2) Introduction notes
- (3) Chapter 7: Criminal Prosecution: Cash for Convictions
- (4) Chapter 7 notes

Agenda:

- 8:30-9:30 Coffee and conversation in the Lower Lounge
 9:30-10:30 AM Session 1
 10:30-10:45 Break
 10:45-12:00 AM Session 2
 12:00-1:30 Lunch in the Audubon Room at the University Club, 803 State Street
 1:30-2:30 Break
 2:30-3:30 Optional tour of the Wisconsin Historical Society Library
 Optional one-hour tour designed for legal historians led by Librarian Nancy Mulhern. Check in at the reception desk by 2:30pm. Following the tour, there will be about 60 minutes for additional library research before closing

Wednesday, June 17th

Chair: Young Welke

Topic: The Work Law Does

Readings:

- (1) James Willard Hurst: *Law and the Conditions of Freedom in the Nineteenth-Century United States* (University of Wisconsin Press, 1956)

- a. Chapter 1: “The Release of Energy” (pp. 3-32)
- (2) Christopher Tomlins: “Introduction: The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History,” in Tomlins and Bruce Mann, eds., *The Many Legalities of Early America*, Omohundro Institute of Early America (2001), pp.1-24
- (3) Robert W. Gordon, “Critical Legal Histories,” 36 *Stanford Law Review* 57-125 (1984)
- (4) Hendrik Hartog: “Introduction to Symposium on ‘Critical Legal Histories,’” *Law & Social Inquiry* 37 (Winter 2012), pp. 147-154
- (5) Robert W. Gordon: “‘Critical Legal Histories Revisited’: A Response,” *Law & Social Inquiry* 37 (Winter 2012), pp. 200-215

Agenda:

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| 8:30-9:30 | Coffee and conversation in the Lower Lounge |
| 9:30-10:30 | AM Session 1: Hurst & Tomlins |
| 10:30-10:45 | Break |
| 10:45-12:00 | AM Session 2: Gordon, Hartog, & Gordon |
| 12:00-1:30 | Box lunches delivered to the meeting room
Patio space is reserved for Hurst guests right outside the main lobby (by the front desk)—look for the Hurst sign on the door; guests can choose to eat their lunch in the meeting room if they prefer |
| 1:30 | Adjourn until dinner |
| 7:00: | Group Dinner at Steenbock’s on Orchard
330 N Orchard St, Madison, WI 53705
Steenbock’s on Orchard is about a 15 minute walk from the Lowell Center
Reservations have been made under Hurst Institute for 7:00pm |

Thursday, June 18th

Guest Scholar: Dylan Penningroth, Professor of History, Northwestern University, Research Professor, American Bar Foundation

Topic: Publishing Journal Articles

Readings:

- (1) Dylan Penningroth: “African Americans and Local Courts, 1866-1964,” Introduction
- (2) Dylan Penningroth: “Jim Crow divorce law: The Preacher’s Wife”
- (3) Dylan Penningroth: “The courts and the bar in the Jim Crow era (incl. legal knowledge)”
- (4) Barbara Young Welke: “The Cowboy Suit Tragedy: Spreading Risk, Owning Hazard in the Modern American Consumer Economy,” *Journal of American History* (June 2014): 97-121
 - a. Original article manuscript
 - b. Letter and review
 - c. Final article

Agenda:

- 8:30-9:30 Coffee and conversation in the Lower Lounge
9:30-10:30 AM Session 1: Penningroth
10:30-10:45 Break
10:45-12:00 AM Session 2: Penningroth
12:00-1:30 Lunch at the Pyle Center (a few doors down from the Lowell Center, about a five minute walk; two tables will be reserved for “Hurst”)
1:30-2:30 Break
2:30:4:00 PM Session: Article Publishing in Peer-Review Journals (Welke)
4:00 Adjourn

Friday, June 19th

Guest Scholars: Mitra Sharafi, Associate Professor of Law, University of Wisconsin Law School and Bhavani Raman, Associate Professor, University of Toronto Scarborough

Readings:

- (1) Bhavani Raman, “Counterinsurgency and the Empire of Law: Rebel Trials and Military Courts under East India Company Rule in India” (draft paper)
- (2) Mitra Sharafi, “Abortion in Colonial India: A Medico-Legal History” (work-in-progress draft paper), 1-47
- (3) Bernard Cohn, “Law and the Colonial State in India,” 57-75 in B. Cohn, *Colonialism and its Forms of Knowledge*, Princeton University Press (1996)

Agenda:

- 8:45-9:00 Walk to Law School for sessions in Lubar Commons (7200)
9:00-10:30 AM Session 1
10:30-10:45 Break
10:45-12:00 AM Session 2
12:00-2:00 Buffet Lunch with faculty and staff in Lubar Commons
About 12:30 Tonya Brito will introduce Barbara, who will briefly introduce the Hurst Fellows
2:00 Walk back to the Lowell Center
2:00-3:00 Break
3:00-4:00 Session led by Karl Shoemaker, Associate Professor of History, University of Wisconsin Law School: “The League of Nations and the Last Crusade: Modern Legacies of Medieval Jurisprudence”
4:00 Adjourn

5:30-6:30 Cocktails at the home of Karl Shoemaker
123 N. Blount St. #506, Madison, WI
7:00: Group dinner at Capital Tap Haus
107 State St, Madison, WI 53703
The Capital Tap Haus is about a 10 minute walk from Karl’s house
Reservations have been made under Hurst Institute for 7:00pm

Saturday, June 20th: Free Time

Sunday, June 21st: Free Time

Monday, June 22nd

Chair: Young Welke

Agenda:

8:30-9:00	Coffee and Conversation in the Lower Lounge Meeting Room
9:00-10:30	Fellow Presentation #1
10:30-11:00	Break
11:00-12:30	Fellow Presentation #2
12:30-1:30	Lunch in the Audubon Room at the University Club, 803 State Street
1:30-2:30	Break
2:30-4:00	Fellow Presentation #3
4:00	Adjourn

Tuesday, June 23rd

Chair: Young Welke

Agenda:

8:30-9:00	Coffee and Conversation in the Lower Lounge Meeting Room
9:00-10:30	Fellow Presentation #4
10:30-11:00	Break
11:00-12:30	Fellow Presentation #5
12:30	Box lunches delivered to the meeting room Patio space is reserved for Hurst guests right outside the main lobby (by the front desk)—look for the Hurst sign on the door; guests can choose to eat their lunch in the meeting room if they prefer
1:30-2:30	Break
2:30-4:00	Fellow Presentation #6
4:00	Adjourn

Wednesday, June 24th

Chair: Young Welke

Agenda:

8:30-9:00	Coffee and Conversation in the Lower Lounge Meeting Room
9:00-10:30	Fellow Presentation #7

10:30-11:00 Break
11:00-12:30 Fellow Presentation #8
12:30-1:30 Lunch at the Pyle Center (a few doors down from the Lowell Center, about a five minute walk; two tables will be reserved for “Hurst”)
1:30-2:30 Break
2:30-4:00 Fellow Presentation #9
4:00 Adjourn

Thursday, June 25th

Chair: Young Welke

Agenda:

8:30-9:00 Coffee and Conversation in the Lower Lounge Meeting Room
9:00-10:30 Fellow Presentation #10
10:30-11:00 Break
11:00-12:30 Fellow Presentation #11
12:30-1:30 Box lunches delivered to the meeting room
Patio space is reserved for Hurst guests right outside the main lobby (by the front desk)—look for the Hurst sign on the door; guests can choose to eat their lunch in the meeting room if they prefer
1:30-2:30 Break
2:30-4:00 Fellow Presentation #12
4:00 Adjourn

Friday, June 26th

Guest Scholar: Constance Backhouse, Distinguished University Professor and University Research Chair at the Faculty of Law, University of Ottawa

Readings:

(1) Constance Backhouse: Excerpt from draft of socio-legal biography on Claire L’Heureux-Dubé: Chapter 1, Ewanchuk

Agenda:

9:15-9:30 Walk to Law School for sessions in Lubar Commons (7200)
9:30-12:00 AM Session 1
10:30-10:45 Break
10:45-12:00 AM Session 2
12:00-1:30 Lunch in the Audubon Room at the University Club

4:00 Adjourn at 1:30; reconvene in Lowell Lobby by 5:45.

5:45-6:15 Group Photo in Lowell Lobby: We have a photographer booked for a very short period. Please gather in the lobby before 5:45 so we can do this in 15-20 minutes and be on our way to the reception. Thank you!

6:30-9:00 Reception and Banquet at Harvest Restaurant, 21 North Pinckney Street
Harvest is about a fifteen minute walk from the Lowell Center

Guest Scholar Bios

Nicholas R. Parrillo is a Professor of Law at Yale, with a secondary appointment as Professor of History. He teaches administrative law, legislation, remedies, and American legal history, as well as seminars on government bureaucracy. His book, *Against the Profit Motive: The Salary Revolution in American Government, 1780-1940* (New Haven: Yale University Press, 2013), received the Hurst Prize of the Law and Society Association for the year's best book on socio-legal history, as well as the Annual Scholarship Award of the ABA Section on Administrative Law for the year's best book or article on administrative law. Parrillo's published articles include "Leviathan and Interpretive Revolution: The Administrative State, the Judiciary, and the Rise of Legislative History, 1890-1950," which appeared in the *Yale Law Journal* in 2013 and received the Cromwell Article Prize of the American Society for Legal History for the year's best article on American legal history by an early-career scholar.

Dylan C. Penningroth specializes in African American history and in U.S. socio-legal history. He is Professor of History at Northwestern and a Research Professor at the American Bar Foundation. His first book, *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (2003), won the Avery Craven Prize from the Organization of American Historians. His articles have appeared in the *Journal of American History*, the *American Historical Review*, and the *Journal of Family History*. Penningroth has held fellowships from the NEH, NSF, and the Stanford Humanities Center, and has been recognized by the Organization of American Historians' Huggins-Quarles committee, a Weinberg College Teaching Award, a McCormick Professorship of Teaching Excellence, and a MacArthur Foundation fellowship.

He received a B.A. (1993) from Yale University and an M.A. (1996) and a Ph.D. (2000) from Johns Hopkins University. From 1999 to 2002 he was Assistant Professor of History at the University of Virginia. Beginning in fall 2015 he will be Professor of Law and History at the University of California at Berkeley.

Penningroth is currently working on a study of African Americans' encounter with law from the Civil War to the modern civil rights movement. Combining legal and social history, the study explores the practical meaning of legal rights for black life. His next project is a study of the legacy of slavery in colonial Ghana.

Mitra Sharafi is a legal historian of South Asia at the University of Wisconsin–Madison. She holds law degrees from Cambridge (BA 1998) and Oxford (BCL 1999) and history degrees from McGill (BA 1996) and Princeton (PhD 2006). She has taught at the UW Law School and Legal Studies program since 2007, and is affiliated with the UW History Department and Center for South Asia. Sharafi's research interests include South Asian legal history; the history of colonialism; the history of the legal profession; law and religion; law and minorities; legal pluralism; and the history of science and medicine. Her book, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772-1947* (Cambridge University Press, 2014) was awarded the Law and Society Association's 2015 J. Willard Hurst Prize for socio-legal history. She is currently working on a book-length project on forensic experts in colonial India, as well as articles on abortion in colonial India and on non-Europeans from across the British Empire who studied law at London's Inns of Court during the nineteenth and twentieth centuries. Sharafi's

research has been recognized and supported by the Institute for Advanced Study, the Andrew W. Mellon Foundation, the National Science Foundation, the Social Science Research Council and others. Since 2010, her South Asian Legal History Resources website has shared research guides and other tools for the historical study of law in South Asia:

<http://hosted.law.wisc.edu/wordpress/sharafi/>

Bhavani Raman is an Associate Professor at the History Department of the University of Toronto. Her research interests are in colonial legal history, state formation, translation and textual practice. Her first book, *Document Raj: Scribes and Writing in Early Colonial South India* (Chicago University Press 2012 and Permanent Black, India, 2015), studied the ways in which colonial paperwork reorganized orientations to writing in Southern India's Tamil speaking region. Her research is on colonial frontier jurisdictions in South and South East Asia. Her research has been supported by Social Science Research Council and the American Institute of Indian Studies.

Constance Backhouse is a Professor of Law at the University of Ottawa, where she holds the positions of Distinguished University Professor and University Research Chair. She has a B.A. (University of Manitoba), a J.D. (Osgoode Hall), an LL.M. (Harvard) and four honorary doctorates. She teaches and researches in the areas of legal history, criminal law, human rights, feminism, and critical race theory.

She is currently writing a biography of the retired Supreme Court of Canada judge, the Hon. Madam Justice Claire L'Heureux-Dubé. Her previous books include *Petticoats and Prejudice: Women and the Law in Nineteenth-Century Canada* (awarded the 1992 Willard Hurst Prize in American Legal History); *Colour-Coded: A Legal History of Racism in Canada, 1900-1950* (awarded the 2002 Joseph Brant Award as the "best book in multicultural history published within the past three years" by the Ontario Historical Society); *The Heiress vs the Establishment: Mrs. Campbell's Campaign for Legal Justice* (co-authored with Nancy L. Backhouse and short-listed in 2004 for the Toronto Book Award); and *Carnal Crimes: Sexual Assault Law in Canada, 1900-1975* (awarded the Canadian Law and Society Association Book Prize).

She has received the Bora Laskin Human Rights Fellowship (1999), was made a Fellow of the Royal Society of Canada (2004), and received the Jules and Gabrielle Léger Fellowship (2006), the Trudeau Fellowship (2006), and the Ramon Hnatyshun Award for "outstanding contribution to law and legal research in Canada" from the Canadian Bar Association (2006). She has received the Killam Prize for Social Sciences and the Gold Medal for Research from the Social Science and Humanities Research Council of Canada. She is a Member of the Order of Canada (2008) and the Order of Ontario (2010).

She has served as the President of the American Society for Legal History (2009-2011).