

14th Annual South Asia Legal Studies Workshop

Thursday, October 15 & Friday, October 16, 2020



University of Wisconsin Law School

Note to participants about the workshop format: There will be no formal presentations at the workshop. Each session will feature a discussion of a short pre-circulated proposal or paper (10-12pp.), which attendees are expected to read in advance.

Note: The papers indicated with an * are incubator proposals. All others are short papers.

Times given are Central Standard Time, USA and Canada.

Day 1: Thursday, October 15, 2020

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| 8:00-8:30am | Welcome and Introductions
Mitra Sharafi
<i>University of Wisconsin-Madison</i> |
| 8:30-9:00am | Paper 1: “Nine Voices: A Journey Through the Opinions of the Women Justices of the Supreme Court of India”
Shivangi Gangwar
<i>Jindal Global University, India</i>

Commentator: Tarunabh Khaitan
<i>Melbourne Law School/Oxford University</i> |
| 9:00-9:30am | Paper 2: “Silicosis and the State: Reframing Contestations between Capital and Labor in Contemporary India”*
Shruti Iyer
<i>University of Oxford, U.K.</i> |

Commentator: James Jaffe
University of Wisconsin-Whitewater (emeritus)

9:30-9:45am

Break

9:45-10:15am

Paper 3: “The South Asia Fourth Branch: Designing Election Commissions for Constitutional Resilience”

Michael Pal

University of Ottawa, Canada

Commentator: Maryam Khan

University of Wisconsin Law School

10:15-10:45am

Paper 4: “The Power to do Complete Justice: Notes on the Absolutist Jurisdiction of the Indian Supreme Court”

Sayantana Saha Roy

University of Chicago, USA

Commentator: Cynthia Farid

University of Wisconsin Law School

Day 2: Friday, October 16, 2020

8:00-8:30am

Paper 5: “The Noose: To Kill or Not to Kill”

Alistair McClure

University of Hong Kong, Hong Kong

Commentator: Uponita Mukherjee

Columbia University

8:30-9:00am

Paper 6: “Refugees, Minority Citizens, and the Law: Sindh’s Deterritorialized Partition”

Uttara Shahani

University of Cambridge, U.K.

Commentator: Mishal Khan
University of Texas at Austin

9:00-9:30am **Paper 7: “Reshaping legal Norms: Technological (Algorithmic) Governance and Resistance”**
Salwa Tabaussum Hoque
New York University, USA

Commentator: Sunil Rao
University of Wisconsin Law Library

9:30-9:45am Break

9:45-10:15am **Paper 8: “A Moral Hazard? Risk, Religion, Modern Finance in the Indian Ocean World, 1850-1950”***
Elizabeth Lhost
Dartmouth College, USA

Commentator: Hayden Bellenoit
United States Naval Academy

10:15-10:45am **Paper 9: “State, Development and Conflict in Adivasi Lands of India: Access to Justice a Way Forward”**
Arvind Kumar
University of Victoria, Canada

Commentator: Michael Pal
University of Ottawa, Canada

10:45am **Concluding Remarks**
Mitra Sharafi
University of Wisconsin-Madison

Biographies of Presenters and Commentators

Hayden j. Bellenoit

Hayden J. Bellenoit is an Associate Professor of History at the US Naval Academy. He is the author of *The Formation of the Colonial State in India: Scribes, Paper and Taxes, 1760-1860* (2017), *Missionary Education and Empire in late Colonial India, 1860-1920* (2007), and has authored articles in *Modern Asian Studies*, *South Asian History and Culture*, and has reviewed books in the *Indian Economic and Social History Review* and the *American Historical Review*. Focusing on modern Indian religious, cultural and social history, he obtained his D.Phil in Modern History from Oxford University and is currently working on articles that explore the historical origins of Kayasthas' legal caste status and debates over vegetarianism and alcohol consumption in early 20th century India.

Cynthia Farid

Cynthia Farid is a legal historian and a lawyer with experience in legal practice as well as international development, with a particular focus on court reform. Having completed her bar in the UK and Bangladesh, she graduated with a master's degree (LL.M) from Cornell University and a doctoral degree (SJD) at the University of Wisconsin Law School in Madison, USA. Cynthia's research interests include legal history, constitutional and administrative law, and law and development.

Shivangi Gangwar

Shivangi Gangwar is an Assistant Professor at the Jindal Global Law School, Sonapat, India. She holds a B.A.LL.B. (Honors) from NALSAR, Hyderabad and an LL.M. from the University of Chicago. Her research interests lie in the fields of constitutional law, comparative law, empirical research and legal ethnography.

Salwa Tabassum Hoque

Salwa Hoque is a Ph.D. candidate in the Media, Culture, and Communication department at New York University. Her research explores the relationship between law and technology; she analyzes legal proceedings in the "secular" state court and "Islamic" non-state court in Bangladesh in order to reconceptualize justice. Various forms of technology such as legal research software, documents, smartphones, etc. play a crucial role in legal research and judicial proceedings. The legal reasoning and use of technologies or lack thereof in Islamic courts are dominantly regarded as backwards. She explores how subaltern groups, namely women, benefit from Islamic legal proceedings in certain ways they do not in secular courts. Hence, the larger goal of the project is to decolonize law, technology, and legal proceedings and rethink how to approach justice. Salwa teaches at NYU and has an interdisciplinary background; she has a M.A. in South Asia Studies from Columbia University and a B.A. in Communication and English (Honors) from the University of Washington.

Shruti Iyer

Shruti Iyer is currently an MPhil candidate at the Centre for Socio-Legal Studies at the University of Oxford. She graduated in Politics, Philosophy and Law from King's College London, and was a researcher at the Centre for Equity Studies in New Delhi. Her research interests are on the relationship between law and social movements, particularly informal labor and women's movements in the Global South, and in ethnographic approaches to labor and occupational health. She co-founded the 'Law, Activism and Critique' group at the University of Oxford and is actively involved with Oxford Worker Justice, a campaign for the rights of workers at the University to organize and demand better working conditions. When she is not at a desk or a demonstration, she enjoys listening to 90s R&B, learning about plants, and reading novels.

James Jaffe

James Jaffe is Emeritus Professor of History at the University of Wisconsin-Whitewater and, currently, Honorary Fellow at the Institute for Legal Studies at the University of Wisconsin Law School. He is also a Fellow of the Royal Historical Society. He has published in the fields of British social and labor history as well as the socio-legal history of India. His interests focus on the history of panchayats and, most recently, the history of trial by jury in India. He serves on the editorial board of the journal *Historical Studies in Industrial Relations* and has held the U.S.-U.K Fulbright Chair. A compilation of historical documents on the history of panchayats co-edited with Marc Galanter is forthcoming.

Tarunabh Khaitan

Tarunabh Khaitan is the Professor of Public Law and Legal Theory at Wadham College (Oxford). He is also a Professor & Future Fellow at Melbourne Law School, working on a project on the resilience of democratic constitutions, with a focus on South Asia. He specializes in legal theory, constitutional law and discrimination law. He is the founding General Editor of the *Indian Law Review*, founder and Chief Advisor of the Junior Faculty Forum for Indian Law Teachers, an Affiliate of the Bonavero Institute of Human Rights and an Associate of the Oxford Human Rights Hub. He completed his undergraduate studies (BA LLB Hons) at the National Law School (Bangalore). He then came to Oxford as a Rhodes Scholar and completed his postgraduate studies (BCL with distinction, MPhil with distinction, DPhil) at Exeter College. He has also been a Global Visiting Professor of Law at NYU Law School.

Maryam Khan

Maryam S. Khan is a Research Fellow at the Institute of Development and Economic Alternatives (IDEAS), Pakistan, and presently an SJD candidate at the UW Law School. Maryam's published works and ongoing research focus on themes of socio-legal studies in South Asia, including comparative constitutionalism and constitution-making; law and social movements; judicial activism and judicialization; sociology of the legal profession; and women's collectivization in the contemporary state. Her work has appeared in several international publications, including the *Yale Journal of International Law*, *Harvard Journal on Racial & Ethnic Justice*, *Temple Journal of International & Comparative Law*, and *Georgetown Journal of International Affairs*. Her latest work on the constitutional founding in Pakistan was published in an edited volume by Hart Publishing in 2019.

Mishal Khan

Mishal Khan is a historical sociologist focusing on histories of labor regulation after the abolition of slavery in South Asia and the British Empire - with an emphasis on the Bombay Presidency and India's western coastal region. Since completing her doctorate at the University of Chicago, Mishal has held a position as a postdoctoral fellow at the Bernard and Audre Rapoport Center for Human Rights and Justice at the University of Texas School of Law at Austin. Her work focuses specifically on exploring early twentieth century legal regimes around contracts, customary law, and race, and examines how imperial norms and categories were enshrined in international institutions such as the League of Nations and the International Labour Organization.

Arvind Kumar

Arvind Kumar is a second-year PhD student at the Faculty of Law, University of Victoria, Canada. He graduated in Law from National Law University (RMLNLU), Lucknow, India and received his Master's in Law degree (Access to Justice) from Tata Institute of Social Sciences (TISS), Mumbai. Before joining the PhD program, he worked on issues pertaining to under-trial prisoners, Dalit and Adivasi rights. Further, he worked towards strengthening access to justice in the north-eastern and central provinces of India. His PhD research explores the prospect of mainstreaming access to justice in Adivasi lands of India in the context of the Naxal Movement.

Elizabeth Lhost

Elizabeth Lhost is currently a postdoctoral fellow in the Society of Fellows and the History Department at Dartmouth College. Her research explores the intersections of law, religion, and society in modern South Asia. Her first book project, *The Office of Islamic Law: Everyday legal life and the making of modern South Asia (1800–1950)*, follows the history of Islamic law and legal practice in British India from the perspective of paperwork and quotidian writing practices. Before joining Dartmouth, she was a Mellon Postdoctoral Fellow and taught courses in the Legal Studies Program at UW–Madison. Her new research examines the histories of global finance capital, local financial forms, and religious-ethical thought in and around the Indian Ocean World in the age of European imperialism and anti-colonial nationalism.

Alastair McClure

Alastair McClure is an assistant professor in the Department of History at the University of Hong Kong. His research focuses largely on the relationship between violence, law and sovereignty in the context of nineteenth and twentieth century India and the Indian Ocean world. He is currently writing a book that examines criminal law and politics in India between 1857 and 1922.

Uponita Muckerjee

Uponita Mukherjee is a doctoral student at the Middle Eastern, South Asian and African Studies Department in Columbia University. She studies legal history, history of science and colonialism. Her Ph. D research examines the emergence of legal ideas of evidence in the common law world with a specific focus on institutional developments in British India, particularly, the interdisciplinary practices of criminal detection in the 19th and early 20th centuries. Before joining the Ph.D program at Columbia, she completed her M.A. and M. Phil at the Centre for Historical Studies in Jawaharlal Nehru University in India.

Michael Pal

Michael Pal is an Associate Professor in the Faculty of Law at the University of Ottawa, focusing on the law of democracy and comparative constitutional law. He has a J.D. and a doctorate in law from the University of Toronto and an LL.M in Legal Theory from NYU. He is working on a manuscript on the comparative constitutional politics of the fourth branch of government. He was the legal advisor for Ontario's recent campaign finance reforms and served as a Commissioner with the Far North Electoral Boundaries Commission in 2017. He has forthcoming publications in the McGill Law Journal on the unwritten principle of democracy in constitutional interpretation, the Election Law Journal on social media and democracy, the Edward Elgar Handbook of Election Law on constitutional design, and in the Osgoode Hall Law Journal on voter privacy. He is on the Advisory Board for the Indian Law Review.

Sunil Rao

Sunil Rao is the Foreign and International Law Librarian at the University of Wisconsin Law Library. He provides access to information in the areas of foreign, comparative, and international law. He holds a J.D. from Marquette University Law School, and an M.L.S. from the University of Wisconsin-Madison.

Sayantana Saha Roy

Sayantana Saha Roy is a Postdoctoral Teaching Fellow at the University of Chicago. He is a legal anthropologist by training and specializes in law and society, constitutionalism, and politics in India. His current book manuscript is on the politics of right to life in India.

Uttara Shahani

Uttara Shahani has a BA in law and an MA in migration and law. Her recent PhD in history from the University of Cambridge focused on Sindh and the partition of India. She works on the partition of India, refugee migration, citizenship, and decolonization with a special focus on Sindh and the Sindh diaspora.

Mitra Sharafi

Mitra Sharafi is Professor of Law and Legal Studies at the University of Wisconsin-Madison, where she is affiliated with the History Department and Center for South Asia. She holds degrees in history (BA McGill 1996, PhD Princeton 2006) and law (BA Cambridge 1998, BCL Oxford 1999). Her first 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 Hurst Prize. She is currently working on her second book project, "Fear of the False: Forensic Science in Colonial India" as an ACLS Burkhardt Fellow (National Humanities Center 2020-1). Professor Sharafi's recent publications examine forensic bloodstain analysis and abortion in colonial India. She is also working on an article on the disbarment of South Asian and West African law students at the Inns of Court in London circa 1900. Her research has been recognized by the Institute for Advanced Study, the Andrew W. Mellon Foundation, the National Endowment for the Humanities, the National Science Foundation, and the Social Science Research Council. She hosts the South Asian Legal History Resources website (which turns ten this year) and is a regular contributor to the Legal History Blog. Follow her on Twitter @mjsharafi