ABOUT THE CONFERENCE

1st Edition of the ‘Harvard-Hamburg Conferences on New Approaches to Legal Reasoning’

In one way or another, equity has been associated with certain styles of reasoning through long periods of history and across a wide variety of legal systems. What is this style of reasoning? Is it mere discretion or the crafting of exceptions? Is it a matter of standards or principles rather than rules? Does it reflect some special kind of morality or appeal to conscience not found in other parts of the law? Or is its essence more structural, in that it involves defeasibility or operation from outside the regular law? All of these questions are relevant to the role equity plays—and should play—in the legal system. Equity has at various times been seen as contradicting, supplementing, and fulfilling the law. Each of these roles might correspond to a different type of reasoning.

Whether there is a special kind of equitable function that comes with its own kind of reasoning or even logic is complicated by the diversity of doctrines and institutions that are said to implement equity (whatever that is). Many common law jurisdictions once had (and a few still do have) separate courts of equity, and large parts of the law in such jurisdictions are still denominated “equitable”. In contrast, civilian jurisdictions mostly never had separate courts of equity, yet they do feature doctrines of good faith and abuse of right that closely resemble common law equity in many ways, including in their mode of reasoning.

This conference will bring together scholars from multiple disciplines and legal cultures to address the kind of reasoning associated with equity and how it should be implemented institutionally. The goal will be both to get a handle on the role equity plays in the law and through an exploration of equity to identify different modes of reasoning. Emphasis will be placed on bringing new tools—new logics, new models, new disciplinary perspectives—to bear on the time-honored questions of equitable reasoning.

HOSTS

Prof. Dr. Matthias Armgardt
Nucleus Professor for Global Legal History and Private Law, Universität Hamburg

Prof. Dr. Henry Smith
Fessenden Professor of Law, Harvard Law School

Prof. Dr. Scott Brewer
Professor of Law, Harvard Law School

CONTACT

Ms. Chaofeng Chen (chaofeng.chen@uni-hamburg.de)
Secretary of Prof. Dr. Matthias Armgardt

CHAIRS

Monday Morning: Prof. Dr. Saskia Leetmaier (Christian-Albrechts-Universität zu Kiel)
Monday Afternoon: Prof. Dr. Markus Kotzur (Universität Hamburg)
Tuesday Morning: Prof. Dr. Matthias Armgardt (Universität Hamburg)
Tuesday Afternoon: Fessenden Prof. Dr. Henry Smith and Prof. Dr. Scott Brewer (both Harvard Law School)
Wednesday Morning: Prof. Dr. Ralf Michaels (Max-Planck-Institute (MPI) for Comparative and International Private Law)

1ST EDITION OF THE HARVARD-HAMBURG CONFERENCES ON NEW APPROACHES TO LEGAL REASONING

CONFERENCE ON REASONING ABOUT EQUITY AND LAW

JUNE 26-28, 2023

UNIVERSITÄT HAMBURG

Monday, June 26th: Warburg Haus, Heilwigstrasse 116, 20249 Hamburg
Tuesday, June 27th: Warburg Haus, Heilwigstrasse 116, 20249 Hamburg
Wednesday, June 28th: Grand Elysée Hotel Hamburg, Tagungsraum "Hamburg"
Rothenbaumchaussee 10, 20148 Hamburg

Hosts

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M O N D A Y, 2 6 T H J U N E 2 0 2 3
Warburg Haus, Heilwigstrasse 11, 20249 Hamburg

9:00 – 9:30
OPENING OF CONFERENCE
Prof. Dr. Tilman Repgen, Dean of Faculty of Law, Universität Hamburg

9:30 – 10:15
EQUITY IN COMPARATIVE PROPERTY LAW
Prof. Dr. Yun-chien Chang, Jack G. Clarke Professor in East Asian Law, Cornell Law School, USA

10:15 – 10:45
Discussion

10:45 – 11:15
Coffee break

11:15 – 12:00
EQUITY IN INSOLVENCY LAW
Prof. Dr. Reinhard Bork, Professor (Emeritus) for Civil Procedure Law and General Procedural Law, Universität Hamburg, Germany

12:00 – 12:30
Discussion

12:30 – 13:30
Lunch break

13:30 – 14:15
ABUSE OF RIGHTS - FUNCTIONAL ANALYSIS OF ADJUSTMENTS OF LAW FOR REASONS OF EQUITY
Prof. Dr. Claudia Schubert, Professor for Civil Law, Labor Law, Corporate Law, and Comparative Law, Universität Hamburg, Germany

14:15 – 14:45
Discussion

14:45 – 15:30
EQUITY, DEFEASIBILITY, AND POSITIVISM
Prof. Dr. Carsten Bäcker, Professor for Public Law, Constitutional Theory, and Legal Philosophy, Universität Bayreuth, Germany

15:30 – 16:00
Discussion

16:00 – 16:45
Coffee break

16:45 – 17:15
DINNER AT HAMBURGER FISCHERSTUBE, COLONNADEN 49

19:00
Dinner at Hamburger Fischerstube, Colonnaden 49

W E D N E S D A Y, 2 8 T H J U N E 2 0 2 3
Grand Elysée Hotel, Tagungsraum Hamburg, Rothenbaumchaussee 10, 20148 Hamburg

9:00 – 9:45
COFFEE BREAK

9:45 – 10:15
EQUITY IN INTERNATIONAL INVESTMENT ARBITRATION: A LOGOCRATIC ANALYSIS
Prof. Dr. Gabriel Lentner, Assistant Professor, Department for Legal Studies and International Relations, University for Continuing Education Krems, Germany

10:15 – 10:45
Discussion

10:45 – 11:30
HOW ENGLISH IS EQUITY?
Prof. Dr. Ben McFarlane, Professor of English Law, University of Oxford, UK

11:30 – 12:00
Lunch break

12:00 – 13:00
GOOD FAITH AND ABUSE OF RIGHT AS EQUITABLE META-LAW
Fessenden Prof. Dr. Henry Smith, Professor of Law, Harvard Law School, USA

13:00 – 13:45
Discussion

13:45 – 14:15
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Fessenden Prof. Dr. Henry Smith, Professor of Law, Harvard Law School, USA

15:30 – 16:00
Discussion

16:00 – 16:45
Coffee break

16:45 – 17:15
EQUITY, META LAW AND CONSISTENCY
Prof. Dr. Matthias Armgardt, Nucleus Professor for Global Legal History and Private Law, Universität Hamburg, Germany

19:00
Dinner at SVAAdish Winterhude, Poßmoorweg 6

T U E S D A Y, 2 7 T H J U N E 2 0 2 3
Warburg Haus, Heilwigstrasse 11, 20249 Hamburg

9:00 – 9:45
SLOUCHING TOWARD THE ABSORPTION OF EQUITY IN LAW: A LOGOCRATIC ANALYSIS OF SOME AMERICAN CONTRACT LAW CASES
Prof. Dr. Scott Brewer, Professor of Law, Harvard Law School, USA

9:45 – 10:15
Discussion

10:15 – 10:45
COFFEE BREAK

10:45 – 11:30
THE ROLE OF EQUITY IN PUBLIC INTERNATIONAL LAW
Prof. Dr. Stefan Oeter, Professor for Public Law, International Public Law and Comparative Public Law, Universität Hamburg, Germany

11:30 – 12:00
Discussion

12:00 – 14:00
Lunch and Final Discussion