

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

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Secretary of Prof. Dr. Matthias Armgardt

CHAIRS

Monday Morning: Prof. Dr. Saskia Lettmaier (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



Universität Hamburg
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ZeRdiT
Centre for Law in the Digital Transformation
at the University of Hamburg

MONDAY, 26TH JUNE 2023

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 – 16:30** Coffee break
- 19:00** Dinner at Hamburger Fischerstube, Colonnaden 49

TUESDAY, 27TH JUNE 2023

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** **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
- 11:30 – 12:00** Discussion
- 12:00 – 13:00** Lunch break
- 13:00 – 13:45** **HOW ENGLISH IS EQUITY?**
Prof. Dr. Ben McFarlane, Professor of English Law, University of Oxford, UK
- 13:45 – 14:15** Discussion
- 14:15 – 15:00** **GOOD FAITH AND ABUSE OF RIGHT AS EQUITABLE META-LAW**
Fessenden Prof. Dr. Henry Smith, Professor of Law, Harvard Law School, USA
- 15:00 – 15:30** Discussion
- 15:30 – 16:00** Coffee break
- 16:00 – 16:45** **EQUITY, META LAW AND CONSISTENCY**
Prof. Dr. Matthias Armgardt, Nucleus Professor for Global Legal History and Private Law, Universität Hamburg, Germany
- 16:45 – 17:15** Discussion
- 19:00** Dinner at SVAAdish Winterhude, Poßmoorweg 6

WEDNESDAY, 28TH JUNE 2023

Grand Elysée Hotel, Tagungsraum Hamburg, Rothenbaumchaussee 10, 20148 Hamburg

- 9:00 – 9:45** **EQUITY IN INTERNATIONAL LEGAL REASONING**
Prof. Dr. Anne van Aaken, Professor for Law and Economics, Legal Theory, Public International Law and European Law, Universität Hamburg, Germany (Co-author *Dr. Veronika Fifak*; University College London, United Kingdom)
- 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