



IUS COMMUNE / GLOBAL LAW LECTURE SERIES

Organized by the **INSTITUTE FOR GLOBAL LAW** and the **CENTRE FOR LAW AND GOVERNANCE IN EUROPE** at **UCL Faculty of Laws**

LECTURE SERIES 2011-12

Convened by Dr. Ioannis Lianos (UCL)

13 January 2012, 2.30 – 6pm

The System of the Constitution

Professor Adrian Vermeule (Harvard Law School)

Chaired by Dr Jeff King (UCL)

Commentators:

Nick Barber (Fellow and Tutor in Law, Trinity College, Oxford)

Timothy Endicott (Professor of Legal Philosophy and Dean, Faculty of Law, Oxford)

Jeff King (Senior Lecturer, University College London)

Christian List (Professor of Political Science and Philosophy, LSE)

Thomas Poole (Reader in Law, London School of Economics)

About this lecture:

Professor Adrian Vermeule (Harvard Law School) is one of most interesting and dynamic scholars of public law and constitutional theory now writing in the United States. His work combines deep and broad knowledge of legal and political theory, decision theory and organizational behavior, as well as careful attention to legal doctrine and the plethora of empirical studies on judging within the American system. His earlier work *Judging Under Uncertainty* (2006), *Law and the Limits of Reason* (2008), and *The Executive Unbound* (2011) present formidable challenges to the received wisdom about the role of appellate judges in constitutional democracies. Professor Vermeule is a notable advocate of judicial restraint.

In *The System of the Constitution* (OUP, 2011) Vermeule presents a systems-analysis of constitutional orders, arguing that constitutional orders are 'aggregates within aggregates, systems nested within systems.' Legal and political theorists often fail to account for this structure, and make invalid inferences from what might be true of part of the system, to what is true of its whole (the fallacy of composition), or, by contrast, they assume that what is true of the whole must also be true of all or some of its parts (the fallacy of division)." Vermeule takes us deep into systems theory, offering a concrete and readable account of it and showing what difference it makes to our understanding of constitutionalism in any complex society. He explores the general theory of second-best, applying it to constitutions, and brings the book's insights to bear on process of legal interpretation undertaken by judges. Notably, he argues that theorists have overlooked the dynamic mutual adjustments that occur between selection of constitutional actors (e.g. judges) and the interpretive doctrines they are meant to apply.

For this event, five notable scholars of constitutional or political theory will examine Professor Vermeule's book in critical detail, and Vermeule will respond before the floor opens for discussion. The first panel will convene from 2:30-4:00, and the second from 4:30-6:00, and guests are invited to attend either or both.

RSVP: <http://ucl-constitution.eventbrite.co.uk>

19 January 2012, 1-2pm

Courts, Climate Expertise, and Civic Epistemologies

Professor Sheila Jasanoff (Kennedy School of Government, Harvard University)

Chaired by Dr Ioannis Lianos

About this lecture:

The role of experts in the legal process has generally been examined from the standpoint of juridical capacity to distinguish reliable from unreliable knowledge. In an era of globalization it is more important to understand how courts evaluate the universal claims of science in relation to background cultural norms of reason, demonstration, and evidence—in short, to the collective knowledge ways that I have elsewhere termed “civic epistemologies.” Using climate science as an example, I compare US and UK developments in climate law and policy to illustrate how courts reproduce the background norms of reasoning that give specificity to modern political cultures. Courts in this analysis are sites in which competing, quasi-constitutional understandings of the right relations between knowledge and power are tested and dominant ones are reaffirmed. Judicial decisions are at once markers of national difference and signposts to the epistemic habits that must be acknowledged and addressed in building common legal responses to global public problems.

RSVP: <http://ucl-jasanoff.eventbrite.co.uk/>

2 February 2012, 1-2pm

Global Administrative Law and Global Governance: The Normative Agenda

Professor Richard Stewart (NYU Law School)

Chaired by Dr. Ioannis Lianos

About this lecture:

Many different global regulatory bodies and their domestic counterparts increasingly follow global administrative law practices of transparency, participation, reason giving and review in making decisions. This lecture will address two fundamental questions regarding this striking new development. First, can Global Administrative Law improve global governance by, for example, fostering the rule of law, securing accountability, protecting disregarded interests, or promoting democratic values? Second, and related, to what extent are the elements of global administrative law “law,” as opposed to simply good administrative practice? The answers have profound implications for the legal profession and for law’s contribution to global governance.

RSVP: <http://ucl-stewart.eventbrite.co.uk/>

3 May 2012, 1-2pm

**The Proliferation of Preferential Trade Agreements:
The Beginning of the End of the Multilateral Trading System?**

Professor Michael Trebilcock (University of Toronto Law School)

Chaired by Dr. Ioannis Lianos

About this lecture:

The moribund state of Doha Round WTO negotiations has heightened concerns about the impact of preferential trade agreements (PTAs) on the progress of global trade liberalization. PTAs have proliferated over the past two decades. There are approximately 300 PTAs now in force, and all but one WTO member is now party to a PTA. The nature of PTAs is also rapidly evolving, with agreements encompassing issue areas beyond WTO commitments and increasingly involving developing countries.

Compared with an ideal world of multilateral free trade, the welfare implications of PTAs are deeply troubling. However, considered in the actual context of persistent barriers to global trade, the theoretical and empirical literature is ambivalent on whether PTAs enhance or detract from global welfare. This is an issue unlikely to be resolved, and the debate has now moved beyond whether PTAs should be categorically opposed. PTAs are firmly entrenched in the law and politics of international trade. The question is how the relationship between these two modes of trade liberalization can best be managed to enhance complementarities and minimize conflicts.

The paper identifies key challenges to multilateralism posed by the growing number and changing nature of PTAs. Lessons are drawn from the international investment regime, where, in the absence of a comprehensive

multilateral treaty governing investment, over 2600 bilateral investment treaties (BITs) have been formed in the past 20 years. Recommendations are made for reform at the WTO and in the institutional design of PTAs, with a view to safeguarding the multilateral trading system in the context of PTA proliferation.

RSVP: <http://ucl-trebilcock.eventbrite.co.uk/>

23 May 2012, 6-7pm

Macroeconomic Cooperation and International Law

Professor Eric Posner (University of Chicago)

Chaired by Professor Philippe Sands QC (UCL)

About this lecture:

The macroeconomic policies of states can produce significant harms and benefits for other states, yet international macroeconomic cooperation has been one of the weakest areas of international law. We ask why states have had such trouble cooperating over macroeconomic issues, when they have been relatively successful at cooperation over related issues like trade. We argue that although the theoretical benefits of macroeconomic cooperation are real, in practice it is difficult to sustain because states' macroeconomic interests are diverse and frequently change over time, creating end-game problems for individual governments; the benefits require cooperation among a large group of states rather than small groups or pairs, so that free-riding becomes a problem; and there is a great deal of uncertainty about optimal policy. For these reasons, robust macroeconomic cooperation across populations may require monetary unification, which itself is frequently impossible and in any event raises numerous, even more complex issues for states. The European monetary union, the Bretton Woods Systems, and the gold standard are discussed.

RSVP: <http://ucl-posner.eventbrite.co.uk/>