Living Law faculty talks

Monday, August 15, 2016
Law School, Rooms F109, F209, F309

#MiamiLawLEAP
www.law.miami.edu/orientation
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<td>If everything about you, from what you do online, to your DNA, to someday even your thoughts, can be captured, what, if anything, should we do about it? A. Michael Froomkin</td>
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**David Abraham**  
Professor of Law Emeritus

*When we talk about immigration, who is included in the word “we”?:*

When we talk about Immigration and Citizenship laws, we talk about creating egalitarian citizenship while also considering who from the outside should enter to both join and change the inside. Particularly in these anxious times, the issues of membership raised by Immigration and Citizenship laws could not be more critical and will be discussed in the talk.

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**Anthony V. Alfieri**  
Professor of Law & Dean’s Distinguished Scholar; Director, Center for Ethics & Public Service; Founder, Historic Black Church Program

*What can you do about civil rights violations without even yet having a law degree?:*

This talk discusses the intersection of classroom teaching, academic research, clinical advocacy, and experiential learning in the field of environmental justice.

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**Caroline Bradley**  
Professor of Law

*Will Brexit break the EU?:*

UK citizens voted for Brexit in June. What actually happens next, however, will be the product of the incomplete text of the EU treaty, and political, rather than legal, negotiations that may end up changing UK law. In the meantime, businesses will need to take account of the new uncertainties in planning their actions and in their contracts. This talk begins to explore just how lawyers will help businesses do that.

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**Donna Coker**  
Professor of Law

*What if punishing campus sexual assaulters doesn’t really help victims?:*

Some reformers call for increasingly severe forms of punishment for students who sexually assault, but many survivors of assault do not seek punishment for the person who harmed them. Instead, these survivors seek interventions that have the potential to change the way the assaulting student thinks. This talk considers Restorative Justice processes that confront not only the person who did harm, but also the personal and public support systems that allowed the harm to occur.

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**Charlton Copeland**  
Professor of Law & M. Minnette Massey Chair in Law

*Is federalism a resource or obstacle in achieving LGBT equality?:*

Many believe that federalism and struggles for racial, gender, religious and LGBT equality are inherently at odds. But the modern movement for lesbian and gay equality has challenged this notion. The movement
for LGBT equality achieved important successes at the state level—recognition of same sex marriage and the outlaw of anti-sodomy laws—long before they were recognized or outlawed at the national level. However, with the achievement of marriage equality and the ability to count the Obama Administration as an ally, the commitment to LGBT equality has “gone national.” Moreover the actions of recalcitrant states have placed the national government and the movement in opposition to state governments on marriage equality, religious liberty, and, most recently, transgender inclusion. In light of these events, we might ask if federalism and LGBT equality are antithetical. Or, are there insights for the relationship between equality and federalism that can be learned from the LGBT equality movement?

Andrew B. Dawson
Associate Professor of Law

What would happen if businesses could obtain bankruptcy relief without the expense and stigma of “bankruptcy”?

This talk explores the possibility of using state debtor-creditor proceedings to obtain most of the benefits of bankruptcy, but at a significantly lower cost and associated stigma, particularly for small businesses. Ultimately, questions remain about whether these costs savings come at the expense of creditors, potentially making the case for uniform national bankruptcy law, after all.

Michele DeStefano
Professor of Law; Co-Founder & Director, LawWithoutWalls

How can law schools leverage globalization and the rise of technology to better prepare our future lawyers with the skills to succeed?

Given the needs of the new global, complex, multi-disciplinary legal marketplace, successful lawyers must be creative problem solvers, as well as leaders with a high risk tolerance and business mindset who can use technology, social media, teaming and communication skills to overcome the walls of law. This talk will describe how law school can cultivate those skills.

Marc A. Fajer
Professor of Law

Can the law accommodate both equal access to marriage for same-sex couples and the service providers who hold sincere religious beliefs opposing same-sex marriage?

The legal system is often called on to resolve seemingly irreconcilable conflicts between people with different values. This talk briefly introduces the relevant interests in this important current conflict, exploring potential resolutions that would be respectful to both sides of the debate.

Mary Anne Franks
Professor of Law; Legislative and Tech Policy Director & Vice-President of the Cyber Civil Rights Initiative

What could the law be?

Law is generally presented as a finished product, to be interpreted and applied according to prior practice and precedent. This talk, however, explores not only the question of what law is, but what it could be, with a focus on two areas in which the current state of law is particularly deficient: privacy and free speech. Clear, thoughtful, and effective laws that protect against threats to privacy and freedom of expression are urgently needed in light of rapidly changing technology and shifting social norms.
Christina M. Frohock
Professor of Legal Writing &
Lecturer in Law

Should we think about
Guantánamo as a terrorist
detention site or as the United
States’ oldest overseas military
base?
This talk will combine legal analysis
and personal anecdotes to describe
both the legal basis for the United
States’ presence in Guantánamo,
Cuba, and the naval station’s unique
blend of both countries. Although
the word “Guantánamo” connotes
terrorist prisons, the story of the naval
station reaches far beyond its current
controversy.

A. Michael Froomkin
Laurie Silvers and Mitchell Rubenstein
Distinguished Professor of Law

If everything about you, from what
you do online, to your DNA, to
someday even your thoughts, can
be captured, what, if anything,
should we do about it?
This talk explores what (limited) tools
law has to protect privacy against
technology, why those limitations are
a problem, and what are some things
that lawyers and technologists might
do given the constraints of current
legal doctrine.

Donald M. Jones
Professor of Law

Does racial profiling in urban
areas persist because of aversive
prejudice or because of the
invisibility of the people who are
targeted?
While the media proclaims we have
achieved a post-racial society, those
in the urban ghetto increasingly face
hyper-aggressive police regimes in
which stops and frisks become daily
routines, arrests for minor offenses
such as jay-walking are normalized,
and state sponsored violence is
more than a theoretical possibility.
This talk considers how, in our current
historical moment, we should
understand the problem of racial
profiling.

Osamudia James
Vice Dean & Professor of Law

What if instead of focusing on
race, gender, or sexuality when
we talked about freedom, we
only focused on what all humans
need to be free?
A popular response to “Black
Lives Matter” is “All Lives Matter.”
State and federal courts, too,
have increasingly been favoring
universal equality laws that don’t
focus on any particular group of
people when making decisions
about what equality requires. But is
the shift from the particular to the
universal all that it seems? This talk will
challenge the wisdom of universal
equality movements, considering
the important democratic work that
identity movements do in our society.

Tamara Rice Lave
Associate Professor of Law

Are universities adequately
protecting the rights of
students charged with sexual
assault?
Although universities are under
justifiably enormous pressure from
the Department of Education to
respond more effectively to rape
and sexual assault, many are
also troubled by the reduction in
procedural protections afforded to
accused students. This presentation
will provide a major overview of the
issues, discussing the applicable law
necessary for understanding both
sides of the issue.
Felix Mormann  
Associate Professor of Law

Can we lawyer our way out of climate change, or should we just leave it to scientists and engineers?

Global warming, sea-level rise, and other manifestations of anthropogenic climate change are commonly thought of as challenges for scientists, engineers, and other professions with technical expertise to resolve. This talk will highlight a few examples of how lawyers can use their expertise to help advance climate change mitigation and adaptation.

JoNel Newman  
Professor of Clinical Legal Education & Director, Health Rights Clinic

What does the world think are the essential qualities of a new lawyer?

What essential qualities should new lawyers possess? This interactive session will explore that question by first asking what qualities you believe are essential to a new lawyer. We will then review the qualities identified by a national survey of over 24,000 lawyers who were asked the same question. The talk will close by considering how first-year students can begin to develop important core lawyering qualities during their first year in law school and beyond.

Bernard P. Perlmutter  
Professor of Clinical Legal Education & Co-Director, Children & Youth Law Clinic

Are state dependency courts, used to protecting citizen children, really capable of protecting non-citizen children?

This talk describes how law school clinics have developed advocacy, collaborative, and community education strategies to counter recent trends among state dependency courts thwarting the ability of abused, neglected and abandoned noncitizen children to seek court protection under state child protection and federal immigration law.

Dan Ravicher  
Director, Larry Hoffman | Greenberg Traurig Startup Practicum

Does law support or stifle entrepreneurship?

A whole host of legal issues arise for entrepreneurs as they try to turn their ideas into successful businesses. Some laws make it easier for them to do so, while others make it more difficult. This session will explore those effects, considering how society should determine, and then achieve, the optimal balance.

Scott Rogers  
Lecturer in Law & Director, Mindfulness in Law Program

Is a clear and focused mind an essential trait of the best lawyers?

Lawyers have long been stewards of the legal system and the rule of law. Today, the capacity to be steady and see clearly is needed more than ever, but has never been harder to establish and sustain. This talk explores what we can do to cultivate these traits so that we may better serve our clients and help mend and mature our communities.

Robert E. Rosen  
Professor of Law

In a litigious society where lawyers are ready and willing to bring tort suits, what took GM 10 years to recall plainly defective cars?

The auto industry is heavily regulated, and tort suits against car manufacturers are readily available given the incentives lawyers have to bring suits using our system of
contingency fees. Yet, safety defects that result in death and injury to many are far from uncommon. This talk explains why, using the case study of GM’s failure to promptly recall cars for a defect in their ignition switch.

Andres Sawicki
Associate Professor of Law

Is it possible that IP law actually constrains creativity?

Society wants creative things: electric cars, new ways to catch Pokemon, Beyonce albums, and Marvel films. Typically, the law facilitates creativity by giving creators intellectual property rights. The value of those rights, however, come with risks. This talk focuses on how those risks affects creativity.

Stephen J. Schnably
Professor of Law

The Constitution doesn’t protect a right to housing or shelter. So how have lawyers for the homeless in Miami used it to protect their rights and help reduce homelessness?

Read the Constitution and you see nothing about a right to housing or shelter. So how can it protect homeless people’s rights? The Pottinger case tells the story of how creative legal advocacy turned an 18th century text into a living force on the streets of Miami. By ruling out one response to homelessness—criminalizing it—Pottinger’s landmark constitutional ruling spurred the creation of a County-wide shelter system supported by a local meals tax, and helped dramatically reduce the number of homeless people in Miami.

Rebecca Sharpless
Professor of Clinical Legal Education & Director, Immigration Clinic; Roger Schindler Fellow

Do immigrants “become American” by committing a crime?

Although immigrants are less likely than native born U.S. citizens to have a criminal history, the longer immigrants live in the United States, the more likely they are to commit crime. U.S. deportation law and policy, however, prioritize the deportation of immigrants with certain criminal convictions, even when immigrants have U.S. citizen children and have lived in the country for a long time. This talk will explore the intersection of our criminal and immigration justice systems, asking whether deportation for crimes is just or fair.

Kele Stewart
Associate Dean for Experiential Learning & Professor of Clinical Legal Education; Co-Director, Children & Youth Law Clinic

Should we hold parents responsible if their children fail out of high school…even if the parent is the State?

The state fails to adequately educate children in foster care, resulting in dismal educational outcomes experienced by children in the child welfare system who attend public school. This talk shares lessons from an empirical study about how counties across Florida have tried to better address the needs of children in foster care.