

Kenneth W. Simons

Chancellor's Professor of Law
Professor of Philosophy (courtesy)
University of California, Irvine School of Law
401 E. Peltason Drive
Irvine, CA 92697
(949) 824-3863
ksimons@law.uci.edu

EMPLOYMENT

Chancellor's Professor of Law, The University of California, Irvine School of Law

2015-present. Visiting Professor, Fall 2014.

- *Courses* (at UC Irvine and at Boston University): Common Law Analysis: Torts; Products Liability; Statutory Analysis: Criminal Law; Advanced Torts (Defamation and Privacy); Constitutional Law; Advanced Constitutional Law (Liberty and Property); and numerous seminars including: Law and Ethics of War (with Prof. Robert Sloane); Crime and Punishment (Philosophical Perspectives); Philosophical and Policy Perspectives on Tort Law; Equal Protection; The Idea of Equality; Justice and Rights; Liberal Theory and Law (John Rawls and Ronald Dworkin); Mental States; and Supreme Court Decision-making.
- Co-director, Center for Law and Philosophy
- Member, Advisory Board, Center for Knowledge, Technology and Society, School of Humanities.
- *Notable Committee Responsibilities*: Chair, Strategic Planning Committee, 2018 (organized school-wide retreat). Member, Law School Dean Search Committee, 2017-2018 (appointive position). Member, University-level Graduate Council, 2017-2020. Member, Faculty Advisory Committee, 2019-2021 and 2016-2017 (elective position).

Professor of Philosophy, The University of California, Irvine

Joint appointment, 2016-present. Co-director, Center for Legal Philosophy, 2017-present.

Chief Reporter, Restatement Third of Torts: Intentional Torts to Persons, American Law Institute

2012-present. Professor Jonathan Cardi, Associate Reporter since 2015. Professor Ellen Pryor, Associate Reporter, 2014-2015. (Professor Pryor was co-Reporter from 2012-2014.) Responsible for drafting and editing provisions concerning battery, assault, false imprisonment, transferred intent, consent, self-defense, and other topics.

Professor of Law, Boston University School of Law

- Associate Professor of Law, 1982-1988. Professor of Law, 1988-2015. Received tenure in 1988. George Michaels Faculty Research Scholar, 1996-1998. M.L. Sykes Scholar, 2000-2004. The Honorable Frank R. Kenison Distinguished Scholar in Law, 2004-2015.
- *Notable Committee Responsibilities*: Member, University Appointments, Promotion and Tenure Committee, 2012-2013. Co-chair, Faculty Self-Study for ABA Accreditation, 2002-2003. Member, University Promotion and Tenure Committee, 2001-2002. Chair, Faculty Appointments Committee, 1997-1999.

Associate Dean for Research, Boston University School of Law

2006-2008. Responsibilities included: organizing the mentoring of untenured faculty; encouraging and facilitating faculty research, workshops, and attendance at conferences;

advice to the dean and other administrators; helping to organize conferences at the law school; and improving publicity about faculty research.

Visiting Professor of Law, The University of Michigan Law School

Fall 1999. Taught Torts and a seminar, Rights and Justice.

Associate Dean for Academic Affairs, Boston University School of Law

1990-1993. Responsibilities included organizing the J.D. curriculum, supervising academic programs, processing faculty appointments, administering student academic regulations, reviewing faculty benefit requests, and advising faculty and students concerning academic policies.

Law clerk to Justice Thurgood Marshall

1981-1982. United States Supreme Court, Washington, D.C.

Associate, Goodwin, Procter & Hoar

1979-1981. Boston, Massachusetts. Practiced in the field of civil litigation, including commercial, tort, contracts, and prisoners' rights. Admitted to Massachusetts Bar, 1979.

Law clerk to Judge James L. Oakes

1978-1979. United States Court of Appeals for the Second Circuit, Brattleboro, VT and New York, NY.

Summer associate, Dobrovir, Oakes, Gebhardt & Scull

Summer, 1977. Washington, D.C. Firm specialized in public interest law.

Legislative intern to U.S. Congressman Paul Tsongas

Summer, 1976. Washington, D.C.

EDUCATION

University of Michigan Law School. J.D., 1978.

- *Honors:* Order of the Coif. Magna Cum Laude. Helen L. DeRoy Memorial Award (best student contribution to the Michigan Law Review).
- *Activities:* Michigan Law Review: Associate Editor, Note Editor.

Yale University. B.A. in Philosophy, 1975.

- *Honors:* Summa Cum Laude. Phi Beta Kappa. Honors in Philosophy.

PUBLICATIONS

Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 7 (November 30, 2020) (American Law Institute) (addressing consent to sexual conduct, citizens' arrest, privilege to prevent crime, privileges of parents and teachers to use force, comparative responsibility, and fraud causing harm to person or property) (co-authored with Jonathan Cardi)

The Willful Blindness Doctrine: Justifiable in Principle, Problematic in Practice, _ Ariz. State L.J. _ (2021) (forthcoming) (invited symposium)

- The Hegemony of the Reasonable Person in Anglo-American Tort Law*, in Oxford Studies in Private Law Theory: Volume I (Paul Miller & John Oberdiek, eds. 2021)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 7* (August 7, 2020) (American Law Institute) (addressing consent to sexual conduct, privileges of parents and teachers to use force, comparative responsibility, and fraud causing harm to person or property) (co-authored with Jonathan Cardi)
- Is Tort Law Hopelessly Fragmented?*, JOTWELL (July 27, 2020) (reviewing Kenneth S. Abraham & G. Edward White, *Conceptualizing Tort Law: The Continuous (and Continuing) Struggle* __ Md. L. Rev. __ (2020)), <https://torts.jotwell.com/is-tort-law-hopelessly-fragmented/>
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 5* (April 15, 2020) (American Law Institute) (addressing general principles of privileges, self-defense, defense of property, privilege to arrest, and other privileges) (co-authored with Jonathan Cardi)
- Prosser Award Acceptance Speech*, 12 Journal of Tort Law 1 (2019), DOI: <https://doi.org/10.1515/jtl-2019-0006>.
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 6* (November 22, 2019) (American Law Institute) (addressing general principles of privileges, self-defense, defense of property, privilege to arrest, and other privileges) (co-authored with Jonathan Cardi)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 6* (August 23, 2019) (American Law Institute) (addressing general principles of privileges, self-defense, defense of property, privilege to arrest, other privileges, and comparative responsibility) (co-authored with Jonathan Cardi)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 4* (April 1, 2019) (American Law Institute) (addressing battery, consent, general principles of privileges, and defense of property) (co-authored with Jonathan Cardi)
- Hate (or Bias) Crime Laws*, in The Palgrave Handbook of Applied Ethics and the Criminal Law (Larry Alexander & Kim Ferzan, eds. 2019)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 5* (September 21, 2018) (American Law Institute) (addressing battery, consent, self-defense, and defense of property) (co-authored with Jonathan Cardi)
- The Morality of Risking*, JOTWELL (September 14, 2018) (reviewing John Oberdiek, *Imposing Risk: A Normative Framework* (2017)), <https://torts.jotwell.com/the-morality-of-risking/>
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 3* (April 6, 2018) (American Law Institute) (addressing false imprisonment and participation in an intentional tort) (co-authored with Jonathan Cardi)

- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 5* (March 16, 2018) (American Law Institute) (addressing consent, self-defense and defense of property) (co-authored with Jonathan Cardi)
- Restating the Intentional Torts to Persons: Seeing the Forest and the Trees*, 10 *Journal of Tort Law* (2018) (peer-reviewed) (co-author with Jonathan Cardi)
- Decoding Guilty Minds: How Jurors Attribute Knowledge and Guilt*, 71 *Vand. L. Rev.* 241 (2018). Co-author with Matthew Ginther, Francis Shen, Richard Bonnie, Morris Hoffman, and Owen Jones
- Self-defense, Necessity and the Duty to Compensate, in Law and Morality*, 55 *San Diego L. Rev.* 357 (2018) (symposium issue) (invited submission)
- Can Strict Criminal Liability for Responsible Corporate Officers Be Justified by the Duty to Use Extraordinary Care?*, 12 *Crim. L. & Phil.* 439 (2018) (symposium issue)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 4* (September 22, 2017) (American Law Institute) (addressing offensive battery, participation, and consent) (co-authored with Jonathan Cardi)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 2* (March 10, 2017) (American Law Institute) (addressing offensive battery and false imprisonment) (co-authored with Jonathan Cardi)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 4* (March 6, 2017) (American Law Institute) (addressing offensive battery, false imprisonment, and consent) (co-authored with Jonathan Cardi)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 3* (September 27, 2016) (American Law Institute) (addressing false imprisonment) (co-authored with Jonathan Cardi)
- Parsing the Behavioral and Brain Mechanisms of Third-Party Punishment*, *J Neuroscience* 36(36): 9420-9434; doi:10.1523/JNEUROSCI.4499-15.2016 (peer-reviewed). Co-author with Matthew Ginther, Richard Bonnie, Morris Hoffman, Francis Shen, Owen Jones, and Renee Marois
- Discrimination is a Comparative Injustice: A Reply to Hellman*, 102 *Va. L. Rev. Online* 85 (2016)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 3* (March 11, 2016) (American Law Institute) (addressing false imprisonment and consent) (co-authored with Jonathan Cardi)
- Victim Fault and Victim Strict Responsibility in Anglo-American Tort Law*, 8 *Journal of Tort Law* 29 (2016) (peer-reviewed)
- Reluctant Pluralist: Moore on Negligence*, in *Festschrift for Michael Moore* (Kimberley Ferzan & Stephen Morse eds., Oxford: Oxford University Press) (2016)

- Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 1* (April 8, 2015) (American Law Institute) (addressing battery, assault, purposeful infliction of bodily harm, and transferred intent) (co-authored with Ellen Pryor)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 2* (February 16, 2015) (American Law Institute) (addressing purposeful infliction of bodily harm and false imprisonment) (co-authored with Ellen Pryor)
- Punishment and Blame for Culpable Indifference*, Inquiry: An Interdisciplinary Journal of Philosophy 58:2, 143-167 (2015) (symposium issue)
<http://dx.doi.org/10.1080/0020174X.2015.986853>
- The Language of Mens Rea*, 67 Vand. L. Rev. 1327 (2014). Co-author with Matthew Ginther, Francis Shen, Richard Bonnie, Morris Hoffman, Owen Jones, and Renee Marois
- Consent and Assumption of Risk in Tort and Criminal Law*, in Unravelling Tort and Crime (Matthew Dyson, ed., Cambridge University Press 2014)
- Exploring the Relationship between Consent, Assumption of Risk, and Contributory Fault*, in Philosophical Foundations of the Law of Torts (J. Oberdiek ed., Oxford University Press 2014)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 2* (September 16, 2014) (American Law Institute) (addressing battery, assault, purposeful infliction of bodily harm, and transferred intent) (co-authored with Ellen Pryor)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Discussion Draft* (April 4, 2014) (American Law Institute) (addressing battery, assault, purposeful infliction of bodily harm, and transferred intent) (co-authored with Ellen Pryor)
- Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 1* (August 28, 2013) (American Law Institute) (addressing battery, assault, and transferred intent) (co-authored with Ellen Pryor)
- Book Review: Is Complexity a Virtue? Reconsidering Theft Crimes* (Reviewing Stuart Green, Thirteen Ways to Steal a Bicycle: Theft Law in the Information Age (2012)), 47 New Eng. L. Rev. 927 (2013) (invited submission)
- Is Strict Criminal Liability in the Grading of Offences Consistent with Retributive Desert?* 32 Oxford J. Legal Stud. 445 (Issue 3, Autumn 2012) (peer-reviewed)
- Ignorance and Mistake of Criminal Law, Noncriminal Law, and Fact*, 9 Ohio St. J. Crim. L. 487 (2012) (in *Symposium: Punishment and Culpability*)
- Statistical Knowledge Deconstructed*, 92 B.U. L. Rev. 1 (2012)
- When is Negligent Inadvertence Culpable? Introduction to Symposium, Negligence in Criminal Law and Morality*, 5 Crim. L. & Phil. 97 (2011) (invited submission)
- Guest Editor, *Special Issue: Negligence*, 5 Crim. L. & Phil., Number 2 (June 2011)

- Understanding the Topography of Moral and Criminal Law Norms*, in Philosophical Foundations of Criminal Law 228 (R. A. Duff & S. P. Green, eds., Oxford University Press 2011) (invited submission)
- Dworkin's Two Principles of Dignity: An Unsatisfactory Nonconsequentialist Account of Moral Duties* (prepared for September 2009 Conference on Ronald Dworkin's book, Justice for Hedgehogs), 90 B.U. L. Rev. 715 (2010)
- Book Review: Retributivism Refined—Or Run Amok?* (Reviewing Crime and Culpability: A Theory of Criminal Law (Larry Alexander and Kimberly Kessler Ferzan, with Stephen Morse) (Cambridge University Press 2009)), 77 U. Chi. L. Rev. 551 (2010) (invited)
- The Restatement Third of Torts and Traditional Strict Liability: Robust Rationales, Slender Doctrines*, 44 Wake Forest L. Rev. 1355 (2009) (part of symposium issue)
- Retributivists Need Not and Should Not Endorse the Subjectivist Account of Punishment*, 109 Colum. L. Rev. Sidebar 1 (2009) [Sidebar is the online supplement to the Columbia Law Review], http://www.columbialawreview.org/Sidebar/volume/109/1_Simons.pdf
- Requiring reasonable beliefs about self-defense ensures that acts conforming to those beliefs are reasonable; Excuse doctrine should eschew both the reasonable and the ordinary person; The distinction between negligence and recklessness is unstable* (Three commentaries, published in: Criminal Law Conversations (Oxford University Press 2009) (P. Robinson, S. Garvey, & K. Ferzan, editors))
- Mistake of Fact or Mistake of Criminal Law? Explaining and Defending the Distinction*, 3 Crim. L. & Phil. 213 (2009)
- Tort Negligence, Cost-Benefit Analysis, and Tradeoffs: A Closer Look at the Controversy*, 41 Loyola L. Rev. 1171 (2008) (part of symposium issue)
- Self-Defense: Reasonable Beliefs or Reasonable Self-Control?*, 11 New Crim. L. Rev. 51 (2008) (part of symposium issue)
- The Crime/Tort Distinction: Legal Doctrine and Normative Perspectives*, 17 Widener L. J. 719 (2008) (part of symposium issue)
- A Restatement (Third) of Intentional Torts?*, 48 Ariz. L. Rev. 1061 (2006) (invited contribution to symposium issue)
- Book Review: The Conceptual Structure of Consent in Criminal Law* (reviewing Peter Westen, The Logic of Consent: The Diversity and Deceptiveness of Consent as a Defense to Criminal Conduct (Ashgate 2004)), 9 Buff. Crim. L. Rev. 577 (2006)
- Exploring the Intricacies of the Lesser Evils Defense* (commenting on Larry Alexander, *Lesser Evils: A Closer Look at the Paradigmatic Justification*), 24 Law & Phil. 645 (2005) (part of symposium issue)
- The Relevance of Victim Conduct in Tort and Criminal Law* (commenting on Vera Bergelson, *Victims and Perpetrators: An Argument for Comparative Liability in Criminal Law*), 8 Buff. Crim. L. Rev. 541 (2005) (part of symposium issue)

Compensation: Justice or Revenge? (comment on Emily Sherwin, *Compensation and Revenge*), 40 San Diego L. Rev. 1415 (2003) (part of symposium issue)

Should the Model Penal Code's Mens Rea Provisions Be Amended?, 1 Ohio State J. Crim. L. 179 (2003) (part of symposium issue)

The Story of Murphy v. Steeplechase Amusement Co.: While the Timorous Stay at Home, the Adventurous Ride the Flopper, in Torts Stories 179-206 (Robert L. Rabin & Stephen D. Sugarman eds. Foundation Press 2003)

Does Punishment for "Culpable Indifference" Simply Punish for "Bad Character"? *Examining the Requisite Connection between Mens Rea and Actus Reus*, 6 Buffalo Crim. L. Rev. 219 (2002) (part of symposium issue)

Reflections on Assumption of Risk, 50 UCLA L. Rev. 481 (2002) (part of symposium issue)

Dimensions of Negligence in Criminal and Tort Law, 3 Theoretical Inquiries in Law 283 (July 2002)

The Hand Formula in the Draft Restatement (Third) of Torts: Encompassing Fairness as Well as Efficiency Values, 54 Vand. L. Rev. 901 (2001)

On Equality, Bias Crimes, and Just Deserts (response to Harel & Parchomovsky, *On Hate and Equality*, 109 Yale L. J. 507 (1999)), 91 J. Crim. L. & Criminol. 237 (2000)

Book Review: Social Meaning, Retributivism, and Homicide, Review article: Samuel H. Pillsbury, Judging Evil: Rethinking the Law of Murder and Manslaughter, 19 Law & Philosophy 407 (2000)

The Relevance of Community Values to Just Deserts: Criminal Law, Punishment Rationales, and Democracy, 28 Hofstra L. Rev. 636 (2000) (Symposium issue)

The Logic of Egalitarian Norms, 80 B.U. L. Rev. 693 (2000)

Negligence, 16 Soc. Phil. & Pol. 52 (1999) (part of symposium on Responsibility) (reprinted in Responsibility (E. F. Paul, F. D. Miller, J. Paul, eds., Cambridge U. Press 1999))

When is Strict Criminal Liability Just?, 87 J. Crim. L. & Criminol. 1075 (1997)

Justification in Private Law, book review of E. Weinrib, The Idea of Private Law, 81 Cornell L. Rev. 698 (1996)

Deontology, Negligence, Tort, and Crime, 76 B.U. L. Rev. 273 (1996) (in Symposium: The Intersection of Tort and Crime)

Contributory Negligence: Conceptual and Normative Issues, in Philosophical Foundations of Tort Law (Clarendon Press, Oxford, David G. Owen ed. 1995)

The Puzzling Doctrine of Contributory Negligence, 16 Cardozo L. Rev. 1693 (1995), reprinted in 45 Defense L. J. 1 (1996)

Culpability and Retributive Theory: The Problem of Criminal Negligence, 5 J. Contemp. L. Issues 365 (1994) (in Symposium: Harm v. Culpability in Criminal Law)

Justice Thurgood Marshall: A Reminiscence, 3 B.U. Public Int. L. J. 1 (1993)

Rethinking Mental States, 72 B.U. L. Rev. 463 (1992)

Jules Coleman and Corrective Justice in Tort Law: A Critique and Reformulation, 15 Harv. J. L. & Pub. Pol. 849 (1992) (in Symposium on Risks and Wrongs)

Doctrinal Change in Tort Law: Some Methodological Musings, 26 Ga. L. Rev. 757 (1992)

Mistake and Impossibility, Law and Fact, and Culpability: A Speculative Essay, 81 J. Crim. L. & Criminol. 447 (1990)

Corrective Justice and Liability for Risk-Creation: A Comment, 38 U.C.L.A. L. Rev. 113 (1990)

Self-Defense, Mens Rea, and Bernhard Goetz, book review of G. Fletcher, *A Crime of Self-Defense*, 89 Colum. L. Rev. 1179 (1989)

Overinclusion and Underinclusion: A New Model, 36 U.C.L.A. L. Rev. 447 (1989)

Offers, Threats, and Unconstitutional Conditions, 26 San Diego L. Rev. 289 (1989)

Assumption of Risk and Consent in the Law of Torts: A Theory of Full Preference, 67 B.U. L. Rev. 213 (1987) (reprinted in A Torts Anthology (L. Levine, J. Davis, E. Kionka, eds. 1993) (Anderson Publishing Co.))

Equality as a Comparative Right, 65 B.U. L. Rev. 387 (1985)

Rescinding a Waiver of a Constitutional Right, 68 Geo. L.J. 919 (1980)

Philosophical Perspectives on Affirmative Action, book review of Equality and Preferential Treatment: A Philosophy & Public Affairs Reader, 77 Mich. L. Rev. 513 (1979)

Equal Protection: A Closer Look at Closer Scrutiny, 76 Mich. L. Rev. 771 (1978) (student note)

WORK IN PROGRESS

“Is current tort doctrine adequate to address the emerging opportunities and problems raised by new technology and artificial intelligence?” (invited symposium contribution)

“Actual, Apparent and Hypothetical Consent in Tort Law” (invited symposium contribution)

“Sorting Guilty Minds: Projects on circumstance elements and on extreme recklessness.” Co-author with Richard J. Bonnie, Matthew R. Ginther, Morris B. Hoffman, Owen Jones, and Francis Shen, of follow-up studies of popular understandings of criminal law mental states. (The original study, *Sorting Guilty Minds*, was published at 86 N.Y.U. L. Rev. 1306 (2011).)

Book project, “States of Mind and Legal Responsibility.” Critique of prevailing cognitive focus of modern mental state criteria in criminal and tort law.

LECTURES, PRESENTATIONS & CONFERENCES

Video presentation, Comment on *Grimshaw v. Ford Motor Co.*, for American Museum of Tort Law, <https://www.tortmuseum.org/> (forthcoming)

Presented paper, “Willful Blindness Doctrine: Justifiable in Theory, Problematic in Practice,” Arizona State University, Symposium on Mens Rea Reform, September 25-26, 2020 (invited symposium).

Presented paper, “Willful Blindness Doctrine: Justifiable in Theory, Problematic in Practice,” Workshop, UC Irvine, School of Law, July 28, 2020.

Presented paper, “Willful Blindness Doctrine: Justifiable in Theory, Problematic in Practice,” Southern California Criminal Justice Scholars Roundtable, July 27, 2020 (invited symposium).

Video presentation, “Reporters’ Guide to Restatement of the Law Third, Torts: Intentional Torts to Persons, Tentative Draft No. 5” (with Jonathan Cardi), American Law Institute, May 2020. <https://vimeo.com/414074919>

Presented invited lecture, “Is current tort doctrine adequate to address the emerging opportunities and problems raised by new technology and artificial intelligence?,” as part of Conference, New Frontiers in Torts: The Challenges of Science, Technology, and Innovation, Southwestern Law School, Los Angeles, February 7, 2020.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 6” (with Professor Jonathan Cardi, Associate Reporter), to the Council, American Law Institute, New York City, January 17, 2020.

Participated in Supreme Court Preview panel discussion, UC Irvine School of Law, October 2, 2019.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Prelim. Draft No. 6” (with Professor Jonathan Cardi, Associate Reporter), to Members’ Consultative Group and Advisers, American Law Institute, Philadelphia, September 20, 2019.

Presented paper, “The Hegemony of the Reasonable Person in Anglo-American Tort Law,” Oxford Studies in Private Law Theory Workshop, London, August 10, 2019.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Tentative Draft No. 4” (with Professor Jonathan Cardi, Associate Reporter), to Annual Meeting, American Law Institute, Washington, D.C., May 21, 2019.

Contributed to American Law Institute “Reasonably Speaking” podcast, “Consent and Sexual Assault in Criminal v. Tort Law” (with Professor Erin Murphy), March 26, 2019. <https://www.ali.org/news/podcast/episode/consent--criminal-v-tort-law/>

Presented paper, “The Hegemony of the Reasonable Person in Anglo-American Tort Law,” Melbourne Law School, Melbourne, Australia, March 6, 2019.

Presented paper, “Actual, Apparent, Hypothetical, and Implied-in-law Consent in Tort Law,” University of Sydney Law School, Sydney, Australia, March 13, 2019.

Presented invited lecture, “Intention in Tort Law,” Roundtable at the Supreme Court of New South Wales, to Australian justices and law faculty, Sydney, Australia, March 14, 2019.

Presented paper, “Actual, Apparent, Hypothetical, and Implied-in-law Consent in Tort Law,” to Research School of Social Science, Australian National University, in Canberra, Australia, March 25, 2019.

Invited participant, Consent and Coercion Seminar, taught by Professors Scott Hershovitz and Sarah Moss, Michigan Law School, December 4, 2018. Presented paper, “Actual, Apparent, Hypothetical, and Implied-in-law Consent in Tort Law.”

Invited participant, Law, Reason and Value Colloquium, sponsored by Center for Legal Philosophy, UC Irvine School of Law, November 29, 2018. Presented paper, “The Justifiable Scope of Hate or Bias Crime Legislation.”

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 5” (with Professor Jonathan Cardi, Associate Reporter), to the Council, American Law Institute, New York City, October 19, 2018.

Invited participant, Southern California Criminal Justice Roundtable, UC Irvine School of Law, August 5, 2018. Commented on paper, Anders Kaye, “The Hidden Mechanics of the Neuroscience Threat to Criminal Responsibility.”

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Tent. Draft No. 3” (with Professor Jonathan Cardi, Associate Reporter), to Annual Meeting, American Law Institute, Washington, D.C., May 21, 2018.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Prelim. Draft No. 5” (with Professor Jonathan Cardi, Associate Reporter), to Members’ Consultative Group and Advisers, American Law Institute, Philadelphia, April 13, 2018.

Invited participant, North American Private Law Theory-V, University of Southern California Gould School of Law, Los Angeles, December 1-2, 2017. Presented paper, “Actual, Apparent and Hypothetical Consent in Tort Law.”

Invited participant, Law, Reason and Value Colloquium, sponsored by Center for Legal Philosophy, UC Irvine School of Law, November 9, 2017. Presented paper, “Actual, Apparent and Hypothetical Consent in Tort Law.”

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 4” (with Professor Jonathan Cardi, Associate Reporter), to the Council, American Law Institute, New York City, October 20, 2017.

Invited participant, Conference on Alexander & Ferzan, Reflections on Crime and Culpability (book manuscript), University of Virginia School of Law, September 15-16, 2017.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Tent. Draft No. 2” (with Professor Jonathan Cardi, Associate Reporter), to Annual Meeting, American Law Institute, Washington, D.C., May 22, 2017.

Participant, Roundtable on Identified v. Statistical Victims, University of San Diego School of Law, April 29, 2017.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Prelim. Draft No. 4” (with Professor Jonathan Cardi, Associate Reporter), to Members’ Consultative Group and Advisers, American Law Institute, Philadelphia, April 30, 2017.

Invited participant, Conference on Crime Without Fault: The Justifiability of Public Welfare Offenses and the Responsible Corporate Officer Doctrine, Georgetown Law School, March 30, 2017. Presented paper, “Can Strict Criminal Liability for Responsible Corporate Officers be Justified by the Duty to Use Extraordinary Care?”

Invited participant, Conference on Self-Defense, University of San Diego School of Law, November 11-12, 2016. Presented paper, “Self-defense, Necessity and the Duty to Compensate, in Law and Morality.”

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 3” (with Professor Jonathan Cardi, Associate Reporter), to the Council, American Law Institute, New York City, October 21, 2016.

Invited participant, Obligations VIII Conference, Revolutions in Private Law, University of Cambridge, England, July 19-22, 2016. Presented paper, “The Hegemony of the Reasonable Person in Anglo-American Tort Law.”

Presented paper, “The Hegemony of the Reasonable Person in Anglo-American Tort Law,” University of San Diego School of Law Faculty Colloquium, April 29, 2016.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Prelim. Draft No. 3” (with Professor Jonathan Cardi, Associate Reporter), to Members’ Consultative Group and Advisers, American Law Institute, Philadelphia, April 8, 2016.

Presented Chancellor’s Lecture, “Assumption of Risk and Consent in the Twenty-First Century,” University of California, Irvine School of Law, March 30, 2016.

Invited participant, Criminal Law Theory Conference, Michigan Law School, Ann Arbor, MI, November 13-14, 2015. Presented paper, “Punishment and Blame for Culpable Indifference.”

Invited participant, The North American Workshop on Private Law Theory, University of Toronto, October 23-24th, 2015.

Invited participant, Yale Center for Law and Philosophy, Roundtable on Douglas Husak, Ignorance of Law: A Philosophical Inquiry, New Haven CT, September 11-12, 2015.

Presented “Restatement of the Law Third: Torts: Intentional Torts to Persons, Tent. Draft No. 1” (with Professor Ellen Pryor, Associate Reporter), to Annual Meeting, American Law Institute, Washington, D.C., May 20, 2015.

- Presented invited lecture, "Can jurors understand the mental state categories employed in the criminal law?," at Criminal Justice Forum, Cleveland-Marshall College of Law, Cleveland State University, April 2, 2015.
- Presented "Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 2" (with Professor Ellen Pryor, Associate Reporter), to Members Consultative Group and Advisers, American Law Institute, Philadelphia, March 6, 2015.
- Invited participant, Buffalo Criminal Law Center, Colloquium Series (commenting on paper by Michael Cahill), Buffalo, New York, February 27, 2015.
- Presented "Restatement of the Law Third: Torts: Intentional Torts to Persons, Council Draft No. 2" (with Professor Ellen Pryor, Associate Reporter), to the Council, American Law Institute, New York City, October 17, 2014.
- Invited participant, Buffalo Criminal Law Center, Colloquium Series (commenting on paper by Anthony Dillof), Buffalo, New York, October 3, 2014.
- Presented paper, "Punishment and Blame for Culpable Indifference," University of California at Irvine School of Law, Law, Reason and Value series, colloquium in jurisprudence, co-sponsored by the School of Humanities and the School of Law, October 2, 2014.
- Presented "Restatement of the Law Third: Torts: Intentional Torts to Persons, Discussion Draft" (co-authored with Professor Ellen Pryor), to Annual Meeting, American Law Institute, Washington, D.C., May 20, 2014.
- Presented paper, "Punishment and Blame for Culpable Indifference," at Conference, Comparative Conversations on Causation and Culpability in the Criminal Law, sponsored by the Buffalo Criminal Law Center, SUNY Buffalo Law School, May 2, 2014.
- Presented paper, "Victim Fault and Victim Strict Liability in Anglo-American Tort Law," at University of California, Irvine School of Law, January 30, 2014.
- Presented paper, "Consent and Assumption of Risk in Tort and Criminal Law," at Workshop, Unravelling Tort and Crime, University of Cambridge, England, February 16-17, 2013. Final version presented at workshop, Unravelling Tort and Crime II, University of Cambridge, Cambridge, England, January 18-19, 2014 (organized by Dr. Matthew Dyson). Published in Unravelling Tort and Crime (Cambridge University Press 2014).
- Presented "Restatement of the Law Third: Torts: Intentional Torts to Persons, Preliminary Draft No. 1" (co-authored with Professor Ellen Pryor), to Members Consultative Group and Advisers, American Law Institute, Philadelphia, September 19 & 20, 2013; and to the Council, American Law Institute, New York City, October 18, 2013.
- Invited participant, Conference on Moral and Legal Accountability, sponsored by Centre for the Study of Mind in Nature, University of Oslo, Norway, June 24-25, 2013. Presented paper, "Punishment and Blame for Culpable Indifference." Papers to be published in the journal *Inquiry*.
- Co-presenter, with Prof. Ellen Pryor, Discussion of New Project: Restatement Third, Torts: Intentional Torts to Persons, American Law Institute, Washington, D.C., May 22, 2013.

Invited participant, Panel Discussion of Victor Tadros' book, The Ends of Harm, April 24, 2013, sponsored by Harvard Law School.

Invited participant, Panel Discussion, Redefining Theft Law in the Information Age, of Stuart Green's book, Thirteen Ways to Steal a Bicycle: Theft Law in the Information Age (Harvard University Press 2012), March 18, 2013, New England School of Law.

Invited participant, Roundtable, Theories of Complicity: Purpose, Risk, or Causation?, February 22-23, 2013, sponsored by Institute for Law and Philosophy, University of San Diego School of Law.

Invited participant, Roundtable on Criminal Law Theory Casebook Project, sponsored by Institute of Law and Philosophy, University of San Diego School of Law, February 21, 2013.

Participated in Conference, on Philosophical Foundations of the Law of Torts, sponsored by Rutgers School of Law—Camden, November 2-3, 2012. Presented paper, "Exploring the Relationship between Consent, Assumption of Risk, and Contributory Fault." To be published in the book, Philosophical Foundations of the Law of Torts (Oxford University Press).

Participated in Conference, on Shared Responsibility, sponsored by Faculty of Law, University of Oxford (John Gardner and James Goudkamp, organizers), at Oxford, England, September 7-8, 2012. Presented paper, "Victim Fault and Victim Strict Responsibility in Anglo-American Tort Law."

Participated with Professor Michael Harper in Brown Bag talk, "What is Legally and Morally Wrong with Paying Cash 'Bounties' to Professional Football Players if They Injure Opposing Players?" at BU School of Law, April 10, 2012.

Invited participant, Roundtable on Criminal Law Theory Casebook Project, sponsored by University of Pennsylvania Law School, December 2011.

Invited participant and moderator, "Restitution and Unjust Enrichment Conference," BU School of Law, Boston, MA, September 16-17, 2011.

Presented paper, "Strict Liability in Grading: Forfeiture, Change of Normative Position, or Moral Luck?," at Criminalization Conference, University of Stirling, Scotland, September 7, 2011.

Invited participant, Roundtable on Criminal Law Theory Casebook Project, sponsored by Rutgers University, June 2011.

Presented paper, "Statistical Knowledge Deconstructed," at University of Texas Law School faculty workshop, March 31, 2011.

Presented paper, "Statistical Knowledge Deconstructed," to Harvard Law School Private Law Workshop, February 1, 2011.

Principal organizer, "Fiduciary Law in the 21st Century: A Conference Inspired by the Work of Professor Tamar Frankel," BU School of Law, Boston, MA, October 29, 2010.

Invited participant, Roundtable on Criminal Law Theory Casebook Project, sponsored by University of Illinois College of Law, October 2010.

Invited participant, "Rights, Equality, and Justice: A Conference Inspired by the Moral and Legal Theory of David Lyons," BU School of Law, Boston, MA, March 12-13, 2010.

Invited participant, Roundtable on Ignorance of Law, Rutgers, N.J., November 13-14, 2009, sponsored by the Rutgers Institute for Law and Philosophy.

Invited participant, Roundtable on the Philosophy of Tort Law, San Diego, CA, October 2-3, 2009, sponsored by the Institute for Law and Philosophy of the University of San Diego.

Invited to present paper, "The Distinction between Mens Rea and Actus Reus," Conference of contributors to Oxford University Press, The Philosophical Foundations of Criminal Law, Rutgers, Newark, N.J., September 25-26, 2009.

Presented paper, "Dworkin's Two Principles of Dignity: An Unsatisfactory Nonconsequentialist Account of Moral Duties," Conference on Ronald Dworkin's forthcoming book, Justice for Hedgehogs, BU School of Law, Boston, MA, September 25-26, 2009.

Invited participant and commentator, Conference on book, Alexander, Ferzan, & Morse, Crime and Culpability: A Theory of Criminal Law, sponsored by University of Illinois Program in Law and Philosophy, Chicago, IL, May 10-11, 2009.

Presented paper, "The Restatement Third of Torts and traditional strict liability: Robust rationales, slender doctrines," at Restatement Third of Torts Conference, Wake Forest Law School, April 1-2, 2009.

Invited participant, Liberty Fund Colloquium, "Tort Law, Liberty, and Responsibility," Alexandria VA, September 18-21, 2008.

Presented paper, "Ignorance and mistake of criminal law, noncriminal law, and fact: conceptual and normative issues," at Rutgers Institute for Law and Philosophy Symposium, "The Evolution of Criminal Law Theory," Rutgers Conference Center, New Brunswick, N.J., May 30-31, 2008.

Spoke on panel at "CrimTorts" Symposium, Widener University Law School, Harrisburg, PA, February 25, 2008, discussing: "The traditional understanding of the distinction between criminal law and torts."

Presented paper, "Tort negligence, cost-benefit analysis, and tradeoffs: a closer look at the controversy," at Civil Justice Program and Loyola Law Review Symposium, "Frontiers of Tort Law," Loyola Law School, Los Angeles, January 25-26, 2008.

Organized panel, Association of American Law Schools, Section on Scholarship, "The Future of Legal Scholarship," New York, NY, January 5, 2008. Moderator of panel.

Panelist, Association of American Law Schools, Section on Criminal Justice, on the topic "Voluntary Manslaughter: New Thoughts on an Old Crime," New York, NY, January 6, 2008.

Invited participant, Roundtable on the Reasonable, Manchester VT, November 2-3, 2007, co-sponsored by the Program in Law and Philosophy of the University of Illinois, the Institute for Law and Philosophy of the University of San Diego, the Institute for Law and Philosophy of the University of Pennsylvania, and the Rutgers-Camden Institute for Law and Philosophy.

Presented paper, "Self-Defense: Reasonable Beliefs or Reasonable Self-Control?" at Law and Society Conference, July 2007, Berlin, Germany. Organized panel, "The Reasonable Person in Criminal Law," at which this paper was given.

Invited participant, Third Annual Criminal Justice Roundtable, Yale Law School, April 2007. Commentator on Guyora Binder, "Felony Murder and the Theory of Culpability."

Presented paper, "Is Knowledge a Culpable State of Mind?," at Brooklyn Law School, March 2006.

Invited participant, Dan B. Dobbs Conference on Economic Torts, University of Arizona James E. Rogers School of Law, March 2006. Presented paper, "A Restatement (Third) of Intentional Torts?"

Invited participant and moderator, Symposium: Philosophical Analysis and the Criminal Law, British Academy, London, England, October 2005.

Panelist, Association of American Law Schools, Section on Torts and Compensation Systems, on the topic "The Future of Comparative Responsibility," San Francisco, CA, January 2005. Presented remarks: "Assumption of Risk, Victim Strict Responsibility, and Comparative Responsibility." Also, organized and moderated the Panel.

Moderator, Lochner Centennial Conference, Boston University School of Law, October 15-16, 2004 (Panel II: Lochner's Lessons for Modern Federalism).

Invited participant, Conference, "Justification and Excuse: Philosophical and Legal Perspectives," sponsored by Rutgers-Camden Institute for Law and Philosophy, Rutgers-Camden Law School, May 25-26, 2004. Commentator on Larry Alexander, "Lesser Evils: A Closer Look at the Paradigmatic Justification."

Moderator, Symposium: The Jurisprudence of Slavery Reparations, Boston University School of Law, April 9-10, 2004 (Panels I and II).

Invited participant, Conference on the Theory of the Criminal Law's "Special Part," Louisiana State University, Baton Rouge, LA, March 5-6, 2004. Commentator on Jeremy Horder, "Classifying Crimes: A Theory of the 'Special Part' of the Criminal Law."

Presented paper, "The Diminishing Significance of Mens Rea?," at Law and Society Conference, Pittsburgh, PA, June 2003.

Presented paper, "Does Punishment for 'Culpable Indifference' Simply Punish for 'Bad Character'?", at Rutgers-Camden Law School, March 2003.

Invited participant, Conference, "What Do Compensatory Damages Compensate?," University of San Diego Institute for Law and Philosophy, February/March 2003.

Presented paper, "Compensation: Justice or Revenge?" (commenting on Emily Sherwin, "Compensation and Revenge").

Panelist, Association of American Law Schools Criminal Justice Section, on the topic "Does the Model Penal Code Need to be Revised?," Washington, D.C., January 2003. Presented remarks: "Should the Code's Mens Rea Provisions Be Amended?"

Invited participant, Gary Schwartz Memorial Torts Conference, UCLA School of Law, April 2002. Presented paper, "Reflections on Assumption of Risk."

Invited participant, International Conference on Negligence in the Law, Cegla Institute for Comparative and Private International Law, Tel-Aviv University, June 2001. Presented paper, "Dimensions of Negligence in Criminal and Tort Law."

Commentator, John W. Wade Conference on the Third Restatement of Torts: General Principles, Vanderbilt University Law School, September 2000.

Presented paper, "The Relevance of Community Values to Just Deserts," at Michigan Law School, Fall 2000.

Participant, Conference on Responsibility, Social Philosophy and Policy Center, Bowling Green State University, Bowling Green, Ohio, April 1998. Presented paper, "Negligence."

Presented paper, "When is Strict Criminal Liability Just?," at University of Virginia Law School, April 1996; and Tel Aviv University, Buchman Faculty of Law, March 1996.

Participant and Co-organizer, The Intersection of Crime and Tort: An Academic Conference, Boston University School of Law, April 1995. Presented paper, "Deontology, Negligence, Tort, and Crime."

Speaker, Symposium on Professor Ernest J. Weinrib's The Idea of Private Law, Eastern Division Meeting, American Philosophical Association, Boston, MA, December 1994.

Participant, Conference on Harm and Culpability in the Criminal Law, University of San Diego School of Law, February 11-12, 1994. Presented paper, "Culpability and Retributive Theory: the Problem of Criminal Negligence."

Participant, Conference on Professor Jules Coleman's Risks and Wrongs, University of San Diego School of Law, January 30 - February 1, 1992.

Commentator, John A. Sibley Lecture by Professor Gary Schwartz, "The Beginning and the Possible End of the Rise of Modern American Tort Law," University of Georgia School of Law, November 1991.

Presented paper, "Rethinking Mental States," at University of San Diego School of Law, University of Southern California School of Law, and UCLA Law & Philosophy Discussion Group, Spring 1990.

Panelist, American Association of Law Schools Constitutional Law Section, on subject of "Unconstitutional Conditions," New Orleans, Louisiana, January 1989.

Lecture, "Foreseeability and Causation: Questions of Law or Fact?," 1984 Appellate Judges Seminar Series, American Bar Association, Orlando, Florida, November 1984.

PROFESSIONAL ACTIVITIES AND AWARDS

Recipient, AI Teaching Curriculum Grant, awarded by AI Implementation Committee, to develop curriculum on law and technology in connection with Torts, Advanced Torts, and Products Liability classes, Spring 2020.

Recipient, 2019 William L. Prosser Award, conferred by the Association of American Law Schools Section on Torts and Compensation Systems. The Prosser Award recognizes "outstanding contributions of law teachers in scholarship, teaching and service" related to tort law and compensation systems. The award was bestowed at the AALS Annual Meeting in New Orleans, January 2019.

Chief Reporter, Restatement Third of Torts: Intentional Torts to Persons, 2014-present (with Professor Jonathan Cardi, Associate Reporter). Co-Reporter (with Professor Ellen Pryor), 2012-2014. Responsible for drafting and editing provisions concerning battery, assault, false imprisonment, transferred intent, consent, self-defense, defense of property, and other topics.

Elected to American Law Institute, 2002. Members Consultative Group for the following American Law Institute projects: Restatement of the Law, Children and the Law; Restatement of the Law, Liability Insurance; Restatement of the Law Third, Torts: Economic Harm; Restatement of the Law Third, Torts: Liability for Physical and Emotional Harm, Volume 1 (Basic Principles); Restatement of the Law, Fourth: Property; Model Penal Code: Sentencing; Model Penal Code: Sexual Assault and Related Offenses; and Project on Sexual and Gender-Based Misconduct on Campus: Procedural Frameworks and Analysis.

Network Scholar, Working Group on Intent and Punishment, MacArthur Foundation Research Network on Law and Neuroscience (Professor Owen Jones, Vanderbilt University, director), 2013-2018. <http://www.lawneuro.org/affiliatesguests.php>

Dean's Scholarship Award, Boston University School of Law, May 2012.

Silver Shingle Award, Boston University School of Law, for Distinguished Service to the School, October 2011.

Dean's Teaching Award, Boston University School of Law, May 2009.

Member of Editorial Board, Criminal Law and Philosophy (Springer).

Past member of Editorial Board, New Criminal Law Review (University of California Press).

Manuscript reviewer for Cambridge University Press, Harvard University Press and Oxford University Press; and for the following journals: Criminal Law and Philosophy; Law and Philosophy; Legal Theory; New Criminal Law Review; Oxford Journal of Legal Studies.