

No Law

Curtin 118

Panel Chair: Nadine Kozak

Marcus Paul Bullock (UW-Milwaukee)

“Justice Antonin Scalia Says *No* to Poetry and Philosophy: How the Law Has Been Changed by the Obergefell versus Hodges Decision on Marriage Equality of June 2015”

Justice Kennedy’s majority opinion in the Obergefell versus Hodges case heard by the Supreme Court argues that equal protection restricts the power of the law to say “no” to a petitioner. Justice Scalia’s dissent expresses his sense of a loss suffered by the law, of territory surrendered, even while accusing the majority of overreaching its powers in a “judicial putsch.” His complaint disputes the right of the law to say “no longer” to a “no” inherited from tradition. The minority opinions all bewail this contraction of territory as though it were struck against the vulnerable exterior of an organism whose life, they hold, has evolved in a continuous tradition from beyond the notion of constitutional law itself. This fear of loss springs from the same root as the concept of an endangered “sovereignty” more explicitly developed in Carl Schmitt’s legal theory almost a century ago in Germany. I will argue that the invective identifying recent currents in America as “fascistic” is largely misleading when applied to the way power is exerted, but historically correct in identifying a shared reaction to the fear of diminishment. Looking at literary and philosophical writings by Walter Benjamin, Franz Kafka, and Ernst Jünger from the Weimar period, I compare their manner of representing the majesty of the law under siege with Justice Scalia’s protest against Justice Kennedy’s recourse to “poetry” and “philosophy” in his decision, and Scalia’s warning that lines of exclusion have been abandoned and the law made vulnerable to penetration by these foreign intrusions.

Marcus Filippello (UW-Milwaukee)

“Seeking a Normal Administrative Life? How a Subtle Refusal Impacted Dahomean Prisoners and Exposed the Banality of French Colonial Rule”

Early one morning at the end of June 1938, 90 African prisoners and 15 guards from a penal camp located on the outskirts of Pobé in French colonial Dahomey trekked for the first time down a path that switch backed into a marshy valley. Soon after reaching the foot of the escarpment that rested below, the detainees began clearing brush, digging embankments, and laying track for a road that colonial planners hoped would stretch 45 kilometers north to the city of Kétu. French administrators gathered convicts from prisons throughout Dahomey after members of the local community living in the valley refused to work on the project as wage laborers. To the extent that historians of Africa have examined naysaying as either a category of analysis or as a descriptive component in their work, they have done so only peripherally in the context of resistance. In saying no to colonial overtures, however, members of the local community were not protesting the building of a road. On the contrary, evidence indicates they declined the offers of the colonial government because farming activities promised them greater earning potential. This paper examines how an otherwise subtle refusal by members of an African community to work on the project set into motion new plans that impacted the prisoners selected to build the road, the guards chosen to oversee their imprisonment and labor, and indirectly challenged a philosophical shift in the way French leaders envisioned colonial rule during the interwar era.

Supriya Karudapuram (American University)

“From AmeriCAN 2 AmeriCAN’T: From the Myth of the Free Market to Freeing the Market as Trump’s—OH NOOOOO!—Ill-Begotten Legacy”

The U.S is cacophonous with sounds of No and naysaying. From outright repudiation of Donald Trump’s dubious candidacy for electoral triumph as leader of the putative Free World to rejection of various “isms” while gainsaying hubris and travesties arguing against the evidence to censor saying no to the new orthodoxies of critical dogma, No is the name of the shame, blame, tame, game that the U.S. wages in an immoral and unjust manner in the disastrous zone of global capitalism. Yet this paper does a *volte face* by saying that the inside story of the deeply recessing and hemorrhaging capitalist system here and elsewhere is not because of free markets but *au contraire* that the market is incarcerated by a rulescism.

The paper will be interspersed by painful and eviscerating ruminations over my contentious homilies that intensified last year as I battled the Goliath of arbitrary noise, pardon me, rule makers of customer “disservice” corporate American decultures with their irksome “Can we help you?” catatonic discordant robotism of all and sundry colors and stripes when in fact it is simply to say No. Institutions include banks, credit cards, and wire transfer outfits. I conclude by wrapping a philosophy of communication *weltanschauung* drawing from Charles Berger’s phenomenal exegesis of laws, rules, and systems that rules are seldom known *a priori* unless broken including my Texas-style refusal to being “messed” with in this messy social media infected epigrammatic lapses! All along I tragically herald, or rather TRUMPET, the most execrable “Just Say No” brand presidential candidate morphed president for all faux American and Western democratic aeons and nanoseconds of intense parasitism to restore a free American market *qua* peace cosmologies.