ATHENS INSTITUTE

Abstract Book

23rd Annual International Conference on Law
13-18 July 2026, Athens, Greece

Edited by
Jorge Emilio Núñez & Olga Gkounta

Assisted by
Fotini Verarou

2026

Abstracts
23rd Annual International Conference on Law

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(In Alphabetical Order by Author's Family Name)

Preface

This book includes the abstracts of all the papers presented at the *23rd Annual International Conference on Law* (13-18 July 2026), organized by the Athens Institute.

A full conference program can be found before the relevant abstracts. In accordance with Athens Institute's Publication Policy, the papers presented during this conference will be considered for inclusion in one of the Athens Institute's many publications only after a blind peer review process.

The purpose of this abstract book is to provide members of the Athens Institute and other academics around the world with a resource through which they can discover colleagues and additional research relevant to their own work. This purpose is in congruence with the overall mission of the association. Athens Institute was established in 1995 as an independent academic organization with the mission to become a forum where academics and researchers from all over the world can meet to exchange ideas on their work and consider the future developments of their fields of study.

To facilitate the communication, a references section includes all the abstract books published as part of this conference (Table 1). I invite the readers to access these abstract books –these are available for free– and compare how the themes of the conference have evolved over the years. According to the Athens Institute's mission, the presenters in these conferences are coming from many different countries, presenting various topics.

Table 1. *Publication of Books of Abstracts of Proceedings, 2010-2026*

Year	Papers	Countries	References
2026	46	15	Núñez and Gkounta (2026)
2025	65	19	Frenkel and Papanikou (2025)
2024	88	26	Frenkel and Gkounta (2024)
2023	32	16	Frenkel and Gkounta (2023)
2022	37	16	Frenkel and Gkounta (2022)
2021	26	14	Papanikos (2021)
2020	27	14	Papanikos (2020)
2019	46	22	Papanikos (2019)
2018	31	17	Papanikos (2018)
2017	34	13	Papanikos (2017)
2016	25	13	Papanikos (2016)
2015	47	15	Papanikos (2015)
2014	52	25	Papanikos (2014)
2013	60	20	Papanikos (2013)
2012	43	17	Papanikos (2012)
2011	52	13	Papanikos (2011)
2010	61	12	Papanikos (2010)

It is our hope that through Athens Institute's conferences and publications, Athens will become a place where academics and researchers from all over the world can regularly meet to discuss the developments of their disciplines and present their work. Since 1995, Athens Institute has organized more than 400 international conferences and has published over 200 books. Academically, the institute is organized into 7 divisions and 37 units. Each unit organizes at least one annual conference and undertakes various small and large research projects.

For each of these events, the involvement of multiple parties is crucial. I would like to thank all the participants, the members of the organizing and academic committees, and most importantly the administration staff of the Athens Institute for putting this conference and its subsequent publications together.

Gregory T. Papanikos
President

Editors' Note

These abstracts provide a vital means to the dissemination of scholarly inquiry in the field of Law. The breadth and depth of research approaches and topics represented in this book underscores the diversity of the conference.

Athens Institute's mission is to bring together academics from all corners of the world in order to engage with each other, brainstorm, exchange ideas, be inspired by one another, and once they are back in their institutions and countries to implement what they have acquired. The *23rd Annual International Conference on Law*, accomplished this goal by bringing together academics and scholars from 15 different countries (Canada, Germany, Israel, Italy, Oman, Poland, Romania, Slovenia, South Africa, South Korea, Thailand, The Netherlands, Türkiye, UK, USA), which brought in the conference the perspectives of many different country approaches and realities in the field.

Publishing this book can help that spirit of engaged scholarship continue into the future. With our joint efforts, the next editions of this conference will be even better. We hope that this abstract book as a whole will be both of interest and of value to the reading audience.

Jorge Emilio Núñez & Olga Gkounta
Editors

FINAL CONFERENCE PROGRAM
23rd Annual International Conference on Law, 13-18 July 2026, Athens, Greece

PROGRAM

Monday 13 July 2026

08:30-09:15
Registration

09:15-10:00
Opening Speech and Welcoming Remarks (*ROOM A*)

- **09:15-09:50 Speaker: Gregory T. Papanikos**, President, Athens Institute & Professor (Adjunct), University of Tennessee, Knoxville, USA.
- **09:50-10:00 Speaker**: **Jorge Emilio Núñez**, Head, Law Unit, Athens Institute & Reader, Manchester Metropolitan University, UK.

10:00-11:30 Session 1

Session 1a
Moderator: Jacomina Horn, Associate Professor, University of the Free State, South Africa.

1. **Llezlie Green**, Professor, Georgetown University Law Center, USA.
   Title: *Democratic Erosion in Frontline Courts.*
2. **L. Ali Khan**, Emeritus Professor, Washburn University School of Law, USA.
   Title: *War Powers, Immunity, and Disregard for International Law: The Rise of an Unaccountable U.S. President.*
3. **Michael Birnhack**, Professor, Tel Aviv University, Israel.
   Title: *Demonstrations as a Site of Surveillance.*
4. **Atinuke Adediran**, Associate Professor, Fordham University School of Law, USA.
   Title: *Presidential Power and the Corporate Governance of Race.*

Session 1b
Moderator: Jacqueline Maholo, Lecturer, Nelson Mandela University, South Africa.

1. **Hyeon Tak Shin**, Professor, Korea University, South Korea.
   Title: *AI Sycophancy and the Regulatory Gaps.*
2. **Claudio Sarra**, Associate Professor, University of Padova, Italy.
   Title: *Talking with the Machine: Legal Relevance of Algorithmic Persuasion.*
3. **Doina Popescu Ljungholm**, Senior Lecturer, National University of Science and Technology Politehnica Bucharest, Romania.
   Title: *Ensuring Justice and Non-discrimination in Automated Decision-Making: A Fundamental Rights Perspective.*

11:30-13:00 Session 2

Session 2a
Moderator: L. Ali Khan, Emeritus Professor, Washburn University School of Law, USA.

1. **Prapin Nuchpiam**, Associate Dean for Academic and International Affairs, National Institute of Development Administration (NIDA), Thailand.
   Title: *Applying the Veil Piercing Doctrine*

Session 2b
Moderator: Claudio Sarra, Associate Professor, University of Padova, Italy.

1. **Mahlubandile Ntontela**, Lecturer, Nelson Mandela University, South Africa.
   Title: *Incorporating Multilingualism into the Learning and Teaching of the Llb Curriculum at Nelson Mandela University.*

in Thailand: The Study of Section 44 of the Consumer Case Procedure Act. 2. **Elias Grivoyannis**, Associate Professor, Yeshiva University, USA. ***Title:*** *The Malpractice Decoupling: A Five-Iteration Meta-Synthesis and Conceptual Framework for Forensic Economics.* 3. **Jacomina Horn**, Associate Professor, University of the Free State, South Africa. ***Title:*** *A South African Approach to the Transformation of Property Characteristics.* 4. **Nick Papatheodorakos**, Faculty Member, Concordia University, Canada. ***Title***: *The Case for Labour Board Appointments in Arbitration Cases.*	2. **Jill St George**, Lecturer, The Open University, UK. ***Title:*** *Constructing a Legal Gap Analysis: Barbados and LGBTQ+ Persons.* 3. **Magdalena Katz**, Independent Researcher, Poland. ***Title:*** *The EU as an Area of Freedom, Security and … Diplomacy.* 4. **Hafiz Gaffar**, Associate Professor, College of Law, Sultan Qaboos University, Oman. ***Title:*** *The Integration of Clinical Legal Education in Omani Law Schools: Challenges and Expectations.*
13:00-14:30 Session 3	
Session 3a **Moderator: Nick Papatheodorakos**, Faculty Member, Concordia University, Canada.	**Session 3b** **Moderator: Mahlubandile Ntontela**, Lecturer, Nelson Mandela University, South Africa.
1. **Kamalesh Newaj**, Associate Professor, University of Pretoria, South Africa. ***Title:*** *Closing the Gap: Compensation for Sexual Harassment Under South Africa's Occupational Injuries Framework.* 2. **Daniel Fenwick**, Senior Lecturer, Northumbria University, UK. **Helen Fenwick**, Professor, Durham University, UK. ***Title:*** *Online Suicide Sites: Protection for Children Under Online Regulation?* 3. **Manuela Luciana Borgese**, PhD Student, Magna Graecia University of Catanzaro, Italy. ***Title:*** *Protecting Minors in European Law: Consumer Regulation in Gaming.* 4. **Sharna-Lee Clarke**, Deputy Dean, Faculty of Law, Emeris University, South Africa. ***Title:*** *Re-Imagining Equality and Participation under the African Human Rights System to Ensure Digital Accessibility and Political Participation of Children with Disabilities*	1. **Rachelle Perkins**, Associate Professor, George Washington University Law School & Tenured Professor, George Mason University Law School, USA. ***Title:*** *Compliance Whiplash and the Politics of Invisible Income.* 2. **Domenico Bilotti**, Associate Professor, Magna Graecia University, Italy. ***Title:*** *The Path to the Relationship between Constitutional and Religious Freedom: Joaquim, Telesio and Rossi.* 3. **Veronique Tatchell**, Lecturer, University of Fort Hare, South Africa. ***Title:*** *Transforming Workplace Culture: Racism, Equality, and the Limits of Legal Regulation.* 4. **Anka Mohoric Kenda**, Affiliated Researcher, Institute of Public Administration, University of Ljubljana, Slovenia. ***Title:*** *Realizing the Right to*

	Life in the Context of Health Care. 5. **Anusara Sawangchai**, PhD Student, Thammasat University, Thailand. ***Title:*** *Barriers to Justice for Cyber Fraud Victims in Digital Banking System.*

14:30-15:30 Lunch

15:30-17:30 Session 4
Moderator: Doina Popescu Ljungholm, Senior Lecturer, National University of Science and Technology Politehnica Bucharest, Romania.

1. **Raphael Reiss**, Research Assistant & PhD Student, University of Cologne, Germany.
   Title: *A Comparative Overview of Confidentiality Protections in Mediation – How Safe are your Secrets?*
2. **Wanchai Akpornpis**, PhD Student, Thammasat University, Thailand.
   Title: *The Senate's Role in Overseeing the Reform of Justice in Thailand: A Case Study on Legislative Consideration and Public Participation.*
3. **Lavinia Olivia Iancu**, Associate Professor, Tibiscus University of Timișoara, Romania.
   Title: *Recent Amendments to Romanian Insolvency Law.*
4. **Zeynep Guler Ozer**, Attorney at Law, Güler Law & Consultancy, Türkiye.
   Title: *The Child's Right to Know their Origins in Turkish Law: A Comparative Analysis with German and Swiss Law.*
5. **Mihaela Palade-Ropotan**, PhD Student, "Dunărea de Jos" University of Galati, Romania.
   Title: *The Vision of Romanian Legislation Regarding the Admissibility of Evidence, in General, and Electronic Evidence, in Particular, in Cross-Border Criminal Proceedings Within the European Union.*

18:00-20:00 Session 5 – Visit Aristotle's Lyceum

This is not a guided tour, and participation in this visit is **not included in any conference registration fee**. **It requires pre-booking.** It includes visits to Aristotle's Lyceum, the Panathenaic Stadium (Kallimarmaro), the National Garden, the statues of Sophocles, Aeschylus, and Euripides, and Syntagma Square, where the tour concludes in front of the Hellenic Parliament. Click here for more details.

20:30-22:30 Athenian Early Evening Symposium (Sequence of Events: Ongoing Academic Discussions, Dinner, Wine and Water, Music, Dance)

Tuesday 14 July 2026

09:00-10:30 Session 6
Moderator: Raluca Laura Dornean Paunescu, Associate Professor, Dragan European University, Romania.

1. **Magdalena Rybaczewska-Blazejowska**, Professor, Kielce University of Technology, Poland.
   Title: *Corporate Environmental Transparency: An Analysis of mWIG40 ESG Disclosure Practices.*
2. **Tanya Wagenaar**, Senior Lecturer, Nelson Mandela University, South Africa.
   Title: *Best Available Climate Science: A Guiding Principle or a Legal Obligation?*

3. **Daniel Humpel,** Lecturer, University of Fort Hare, South Africa.
   Title: *Existing in the Periphery: Moral Patienthood as a Basis for Personhood for Non-human Animals.*

10:30-11:30 Session 7
Moderator: Magdalena Katz, Independent Researcher, Poland.

1. **Gina Orga-Dumitriu**, Associate Professor, Lucian Blaga University of Sibiu, Romania.
   Title: *Commission v. Malta: The End of Citizenship by Investment?*
2. **Raluca Laura Dornean Paunescu**, Associate Professor, Dragan European University, Romania.
   Title: *Brief Considerations Regarding Virtual Private Space (VPS) in Tax Matters.*
3. **Corina Negrutiu**, Lecturer, Dragan European University, Romania.
   Raluca Laura Dornean Paunescu, Associate Professor, Dragan European University, Romania.
   Title*: Transposition of European Directive 2024/2831 on Improving Working Conditions in Platform Work, a Difficult (Important) Mission for Member States.*

11:30-13:00 Session 8
Moderator: Sharna-Lee Clarke, Deputy Dean, Faculty of Law, Emeris University, South Africa.

1. **Carlos Joel Tchawouo Mbiada**, Senior Lecturer, University of Venda, South Africa.
   Title: *South African Collective Bargaining Process: Is it Time for a Policy Change? A Reflection on National Union of Metalworkers of South Africa v. Trenstar.*
2. **Jacqueline Maholo**, Lecturer, Nelson Mandela University, South Africa.
   Title: *Bank Liquidation in South Africa: A Depositor Protection Perspective.*
3. **Kais Nasser**, Lecturer, Tel-Aviv University, Israel.
   Title*: The Interaction between Civil and Canon Laws: The Case of the Greek Orthodox Patriarchate of Jerusalem.*
4. **Ilaria Nigro**, PhD Student, University of Molise, Italy.
   Title: *The Travel Rule and Unhosted Wallets: Regulation and Practical Implications.*
5. **Mthuthukisi Malahleka**, PhD Candidate, Erasmus University Rotterdam, The Netherlands.
   Title: *The Right to Erasure in the Presence of Data Leakage: A Law and Economic Approach.*

13:00-15:00 Session 9 – Microsymposium on "Criminal Law in an Age of Democratic Decline: Institutions, Power, and Resistance"
Moderator: Tanya Wagenaar, Senior Lecturer, Nelson Mandela University, South Africa.

1. **Alexis Hoag-Fordjour,** David Dinkins '56 Professor of Law & Co-Director of the Center for Criminal Justice, Brooklyn Law School, USA.
   Title*: Challenging Evidence Law's Carceral Curriculum.*
2. **Daniel Harawa**, Professor, New York University School of Law, USA.
   Title*: Racial Justice Federalism.*
3. **Alice Abrokwa**, Associate Professor, University of Virginia School of Law, USA.
   Title: *Challenging State Force in Open Institutions.*
4. **Ngozi Okidegbe**, Professor, Boston University, USA.
   Title: *Participation as Friction.*
5. **Adriana Iuliana Stancu**, Associate Professor, Dunărea de Jos University of Galați, Romania.
   Title: *Artificial Intelligence and Human Rights in the Context of Globalization. Challenges and European Regulations.*
6. **India Thusi**, Professor & Senior Scientist, Kinsey Institute, Indiana University Bloomington, USA.
   Title*: Corporeal Punishment.*

15:00-15:45 Lunch

15:45-19:30 Session 10 **Old and New-An Educational Urban Walk**
The urban walk ticket is not included as part of your registration fee. It includes transportation costs and the cost to enter the Parthenon and the other monuments on the Acropolis Hill. The urban walk tour includes the broader area of Athens. Among other sites, it includes: Zappion, Syntagma Square, Temple of Olympian Zeus, Ancient Roman Agora and on Acropolis Hill: the Propylaea, the Temple of Athena Nike, the Erechtheion, and the Parthenon. The program of the tour may be adjusted, if there is a need beyond our control. This is a private event organized by the Athens Institute exclusively for the conference participants.

20:30-22:30
Closing Remarks by Gregory T. Papanikos: "Wine, Words, and Wisdom: An Ancient Athenian Dinner Symposium" followed by an Ancient Athenian Dinner

Wednesday 15 July 2026
An Educational Visit to Selected Islands
or Nafplio & Mycenae Visit

Thursday 16 July 2026
Visiting the Oracle of Delphi

Friday 17 July 2026
Visiting the Ancient Corinth and Cape Sounion

Saturday 18 July 2026
09:00-10:00 – The Academic Discussion continues in the downtown open agora (close to the Aristotelian Lyceum)

Alice Abrokwa
Associate Professor, University of Virginia School of Law, USA

Challenging State Force in Open Institutions

The United States Supreme Court's 5-4 decision in *Ingraham v. Wright* was almost immediately infamous for curtailing students' constitutional rights to challenge the use of corporal punishment by school officials. One aspect of *Ingraham's* Eighth Amendment cruel and unusual punishment analysis is the Court's conclusion that the Eighth Amendment only extends to punishments following criminal proceedings. Yet another rationale for the decision in *Ingraham* warrants further attention given its broader implications for the erosion of constitutional protections against violence inflicted by the state: in deeming the Eighth Amendment inapplicable, Justice Powell reasoned that "[t]he schoolchild has little need for the protection of the Eighth Amendment" because "the public school remains an open institution." 430 U.S. 651, 670 (1977). In Powell's view, the public school system is a far more open environment than the carceral setting because students return home every day and, while at school, are visible to peers and other adults "who may witness and protest any instances of mistreatment." *Id.* Given this difference, Powell found private tort law and criminal legal proceedings against school officials who assault students to be sufficient substitutes for constitutional protection.

The presumption on which Powell relied was evident as a legal fiction even under the facts of the case, but public education in the United States has become an even *less* open institution since *Ingraham*. Firstly, the U.S. public education system has become a less open institution in terms of who is permitted to be there, as illustrated by the increase in school-based arrests, disciplinary removals, and the "hardening" of schools through enhanced surveillance and security measures. Secondly, it has become a less open institution in terms of the limited opportunity the public has to learn about and scrutinize what occurs in public schools. Consider the challenges that families and media organizations have faced in accessing surveillance footage regarding school-based incidents that prompt a law enforcement response, in addition to cell phone bans in many school districts which limit students' ability to self-report experiences of violence or abuse at school. Beyond the flawed factual premise, *Ingraham's* reasoning prompts a more foundational question: why should constitutional protections from state-inflicted violence be contingent upon the openness of the institution in which the violence occurs? From state-sanctioned public lynchings to fatal shootings by immigration officers, examples abound of how the public nature of an

encounter can actually embolden state actors to use greater levels of force. The type of constraint on available constitutional tools to challenge state violence suggested by *Ingraham* is thus unwarranted as a general matter, and it poses a particularly grave risk of enabling abusive state power during periods of authoritarianism.

Atinuke Adediran
Associate Professor, Fordham University School of Law, USA

Presidential Power and the Corporate Governance of Race

Legal scholarship has yet to address how presidents influence corporate governance outside of regulatory functions performed by federal agencies. This Article is the first to examine the issue of executive influence on corporations, not as a matter of regulation by federal government agencies, or in terms of regulatory capture where firms influence the agencies established to regulate them, but in terms of presidential use of executive orders and other directives to influence what private firms have done in terms of racial segregation, discrimination, and inequality since the 1930s. This Article is therefore grounded in an untold historical account of how American presidents' political ideals and the public and political climate of their time, influence how private companies calibrate and recalibrate their approaches on issues of race.

This history is important because it adds an important lens to the growing scholarship on who and what influences how corporations are governed. Scholars have recognized that laws from the state of Delaware, Congress, the Securities and Exchange Commission and other agencies as major influences on internal corporate governance. Scholars have also recognized a range of mostly private institutions and entities, including investor groups, stock exchanges, and the media as influencing corporate governance. Other scholars have also recognized nonprofits as influencers of social and environmental issues of corporate governance historically and contemporarily.

This Article contributes to that growing literature and shows that American presidents have had a heretofore unrecognized influence on corporate governance in relation to issues of race. This historical account reveals that both outside and within federal agencies, pressured by political mobilization, the president's pen and rhetoric can wield a lot of influence on corporations. Corporations have often followed the president's bidding on issues of race. When the president is progressive, corporations tend to be progressive. When the president takes a conservative stance on issues of race, presidents tend to do so as well. Exceptions are few and far between. This history has implications for the field of corporate law, because it grounds public law as integral to how corporations have addressed issues of race for almost a century of American history. It also has implications for how the field of corporate law and corporate governance think about the role of stakeholders. Political mobilizations and social movements, which include

stakeholders like employees, customers, NGOs and others, have been major drivers of the direction of presidents on race. This history also adds a rich background to policy implications around the role of stakeholders in corporate governance.

Wanchai Akpornpis
PhD Student, Thammasat University, Thailand

The Senate's Role in Overseeing the Reform of Justice in Thailand: A Case Study on Legislative Consideration and Public Participation

Justice reform remains a central challenge in Thailand, affecting political stability, social equality, and public confidence in state institutions. Under the Constitution of the Kingdom of Thailand B.E. 2560 (2017), the Senate has been assigned a redefined role as a "complementary chamber," tasked with legislative scrutiny, oversight of state administration, and participation in the appointment of individuals to key positions in independent constitutional bodies. This article examines the role of the Senate in overseeing justice reform in Thailand, with particular emphasis on legislative consideration and public participation.

Using doctrinal legal analysis and policy-oriented examination, the study explores the constitutional framework governing the Senate's powers, the functions of its standing committees—especially those relating to law, justice, police administration, and political development—and the Senate's involvement in advancing the National Reform Plan on the Justice Process. The article situates the Senate's role within the broader context of Thailand's justice system, which remains structurally fragmented and has been subject to persistent criticism regarding inefficiency, inequality in access to justice, delays, and limited public trust. The analysis highlights the significance of Chapter 16 of the Constitution on National Reform, which formally institutionalises justice process reform as a national priority, and assesses how the Senate contributes to this reform agenda through legislative scrutiny, oversight mechanisms, and committee-based investigations. Particular attention is given to public participation in lawmaking under Section 77 of the Constitution, which mandates stakeholder consultation and regulatory impact assessment prior to the enactment of legislation. The article identifies key obstacles to effective public participation, including inadequate consultation mechanisms, limited timeframes, accessibility barriers, and institutional constraints, while also examining proposals to enhance participatory governance. The study finds that the Senate plays a pivotal role in linking justice reform objectives with democratic principles, especially through its oversight of legislation and facilitation of public engagement. However, structural limitations within the justice system, combined with challenges in coordination among state agencies and insufficient participatory mechanisms, continue to hinder

comprehensive reform. The article concludes that strengthening the Senate's oversight capacity, improving public participation processes, and enhancing institutional coordination are essential to advancing justice reform, reinforcing the rule of law, and restoring public confidence in Thailand's justice system.

Domenico Bilotti
Associate Professor, Magna Graecia University, Italy

The Path to the Relationship between Constitutional and Religious Freedom: Joaquim, Telesio and Rossi

Even if nowadays commonly considered a region exposed to irremovable critical conditions, the South of Italy has always offered a peculiar and somehow anticipatory observatory to the current discourse on the culture and the legal theory of fundamental human rights.

The slow and progressive development of the reflection on religious freedom is still a considerable case study, because that right implies surpassing the conception of the equal belonging of political and religious communities, at most conceding a status of tolerance to different cults, confessional orders and adepts.

The small city of Cosenza has gained in the second millennium of the Christian era a specific forerunner role. The aim of this essay is to trace back three different witnesses of that enormous evolution in considering the right of religious freedom from the heterodoxy to the complete inheritance of the human personality.

The first logical step is represented by the theologian Joachim da Fiore in the Twelfth century: the abbot was part of a generation fundamentally discovering the opportunities of the monastic rules to create quite autonomous juridical figurative spaces in the extensive and all-encompassing tension between Church and Empire. Furthermore, Joachim elaborated a critical political theory of the Roman Empire and its fall, noticing the difference between the strength of decisional powers and the simultaneous decline of its ethics. After the so called "age of the Son" (related to the New Testament), the coming of utopia is not a merely contemplative condition, but an ideal environment even to encounter the religious difference, avoiding traditional prejudices. His thought is well known in the Catholic progressive doctrine in North America, including a significant renewal since the Second Vatican Council.

The second one, dating from the Renaissance period, must take into consideration the work of Telesio, a scientist and a philosopher who defended in the public law cognition of that time the importance of local authorities and legal bodies.

The epistemological theory of Telesio was the very first basis of the Anglo-Saxon empiricism and then the Scottish Enlightenment. Through his attempt to use exclusively a doctrine based on the possibility of mechanizing every explanation of the world – in a binary kind of knowledge oriented toward distinguishing cold and heat – seems contemporarily too vague and too obsessive, he used to add to these

elements the power of soul as a wandering spirit able to animate human coexistence. The universality of his method is an effort to suspend the political bindingness of religious arguments, too, in an era still affected by both subterranean and evident religious conflicts.

The last sequence of our merely ideal overview speaks about the intuitions of the socialist, non-Marxist doctor, collective psychologist, and intellectual Pasquale Rossi in the first decade of the Twentieth century. His studies on the concept of multitude and crowd have had a significant influence on the development of left-wing constitutionalism not only in Italy (Negri, Vattimo, Agamben); moreover, his critical lecture on the distinction between legality and illegality still seems to be the key to a more liberal public morality, based on intersubjective cooperation rather than the formally positivistic notion of confessionalism (State religions) and prohibition.

Michael Birnhack
Professor, Tel Aviv University, Israel

Demonstrations as a Site of Surveillance

The law treats demonstrations as a site of expression and typically examines their limits when speech conflicts with public order. This paper rearticulates demonstrations as sites of surveillance. Integrating insights from surveillance studies, privacy law and theory, and an empirical ingredient of the 2023 Democracy demonstrations in Tel-Aviv, I argue that participants in mass demonstrations should enjoy a right to privacy.

Historically, until the 2010s, demonstrations operated within limited surveillance ecosystems. Their collective nature allowed individuals to remain anonymous within crowds. Journalists documented events, few protesters carried personal cameras, and governments rarely used surveillance technologies.

In contrast, recent protests, such as the 2020 George Floyd demonstrations in the United States or the 2023-2024 protests in Korea and Turkey feature ubiquitous CCTV networks, protesters' livestreaming, police body cameras, and drones used by the media, police and the protesters themselves. This proliferation of visual technologies has reshaped the power dynamics of protest, to the extent that contemporary demonstrations are intensely monitored environments. Visual monitoring has become central to the politics and governance of mass protests. Demonstrations are now a dense web of intersecting gazes, each controlled by different actors, marking a profound shift from earlier eras.

The consequences of this transformation are contradictory. On one hand, surveillance diminishes the anonymity once afforded by large crowds. Protesters in the 1980s could reasonably expect to blend into the mass unless they acted conspicuously. Today, pervasive recording enables authorities to identify individuals within crowds, potentially chilling participation and strengthening state control. Contemporary demonstrators therefore enjoy far less anonymity, raising concerns about deterrence and suppression.

On the other hand, the same technologies empower protesters. Smartphones, livestreaming, and citizen journalism have eroded the state's monopoly over real-time visual documentation. Protesters frequently record police actions, especially during confrontations, prompting police to respond with body cameras and personal devices. This produces a battle of cameras, in which each side simultaneously surveils and is surveilled, generating recursive cycles of monitoring and counter-monitoring.

The paper situates these developments within broader debates in surveillance studies. Demonstrations now encompass multiple modes of watching: state surveillance, sousveillance from below, coveillance among participants, and media observation, operating simultaneously. These overlapping gazes form a complex surveillance assemblage and fuel a surveillance arms race in which actors imitate one another's technological practices.

The 2023 Democracy mass demonstrations in Tel-Aviv lasted for 39 weeks. Through interviews, field observations, and autoethnographic participation, I show how spatial infrastructure, permanent CCTV, media practices, police and protesters' actions collectively transformed protests into a dense surveillance site.

The legal question is about the demonstrators' privacy. Today's surveillance technologies threaten to re-individualize the mass, undermining this essential feature. Hence, despite the initial intuition to classify demonstrations as a public act taking place in public spaces, I argue that ordinary protesters who do not seek attention should retain a reasonable expectation of anonymity, even in public spaces, especially vis-à-vis state actors such as the police. Demonstrators' privacy is not absolute and should be constructed in relation to the identity and power of the surveilling party.

Manuela Luciana Borgese
PhD Student, Magna Graecia University of Catanzaro, Italy

Protecting Minors in European Law: Consumer Regulation in Gaming

The present contribution analyzes the problematic profiles of the juridical and operational vulnerability that characterizes the protection of minors in the gaming sector, in relation to European consumer and data protection legislation. In a sector with a strong economic and social impact, where the category of minor users is certainly the most numerous, considerations are necessary to assess whether gaming, despite being a playful environment and a real right of children, has the potential to transform into a high-risk space.

The analysis of the most recent rulings by national and European supervisory authorities concerning violations detected on gaming platforms suggests that these risks are more real than potential. On the contractual level, we will examine how the context of in-game purchases is characterized by manipulative schemes (dark patterns and loot boxes) inserted during the design phase. These mechanisms exploit user vulnerabilities to deviate their contractual will, leading to serious violations of the fundamental rights provided for by consumer protection legislation, especially regarding the right of withdrawal and transparency.

High risks regarding personal data are also related, in stark contrast with the very high precautions provided by the GDPR concerning minors, considered as vulnerable categories and recipients of special protection. The incentive to prolong gaming sessions, implemented through manipulative patterns, is aimed at triggering the ideal conditions for the increased continuous production of data. The goal is to create greater commercial advantages enhanced by the implementation of commercial profiling policies on data generated by the gaming environment, which, however, are often implemented aggressively and in the absence of regulatory guarantees. Following the comparison between practical cases and normative principles, the possible shortcomings of the protection systems linked to parental responsibility and the possible recourse to the paradigm shift introduced by the Digital Services Act (DSA) will be examined, also in light of recent orientations regarding safety by design obligations in the design phase, to overcome power asymmetries against manipulative design.

Sharna-Lee Clarke
Deputy Dean, Faculty of Law, Emeris University, South Africa

Re-Imagining Equality and Participation under the African Human Rights System to Ensure Digital Accessibility and Political Participation of Children with Disabilities

Political participation is a foundational commitment of South Africa's constitutional democracy. Yet the modalities through which participation is exercised have shifted substantially as political communication, mobilisation, consultation and civic deliberation increasingly occur in digital spaces. For youth with disabilities, these developments present an ambivalent constitutional picture. Digital platforms can lower barriers to participation by expanding information access and enabling new forms of association. At the same time, inaccessible technologies, high connectivity costs, and the persistence of exclusionary design norms can reproduce and intensify pre-existing marginalisation, effectively rendering political participation contingent on functional ability and socio-economic status. This paper evaluates whether South Africa's legal framework adequately affords youth with disabilities the right to political participation in the digital environment.

The paper proceeds on the premise that political participation cannot be limited to voting. A purposive reading of section 19 of the South African Constitution, interpreted in light of sections 7(2), 9, and 10, supports a broader conception of participation that includes access to political information, engagement in public deliberation, and influence over decision-making processes that increasingly unfold online. My paper adopts a doctrinal methodology. It synthesises South Africa's constitutional jurisprudence on meaningful participation, substantive equality and reasonable accommodation, together with relevant legislative and policy frameworks, to identify the obligations that arise when the State relies on digital channels to facilitate participation. International and regional instruments serve as interpretive and normative guides, with particular attention to the Convention on the Rights of Persons with Disabilities and the African Disability Rights Protocol, both of which regard accessibility and inclusive design as preconditions for equal participation in political and public life.

The core argument is that digital exclusion constitutes a legally cognisable barrier to political participation and may amount to indirect discrimination where apparently neutral digital systems impose disproportionate burdens on youth with disabilities. Where the State adopts digital mechanisms for political communication or participatory governance without ensuring accessibility, it risks undermining the

normative core of political rights and hollowing out democratic legitimacy. The paper further argues that South Africa's current framework remains normatively promising but institutionally incomplete. While constitutional values and international commitments strongly support inclusive participation, the absence of binding digital accessibility standards, consistent enforcement mechanisms, and clear accountability pathways creates a gap between principle and practice.

My paper contributes to constitutional and human rights scholarship in three ways. First, it develops a doctrinal account of digitally mediated participation under section 19, attentive to contemporary political realities. Secondly, it locates accessibility within substantive equality and reasonable accommodation, framing inaccessible digital participation as a constitutional injury rather than a technological inconvenience. Thirdly, it centres youth with disabilities as a politically relevant constituency whose exclusion exposes a broader structural problem in the design of democratic participation. My paper concludes by outlining the constitutional implications of treating accessible digital participation as a discretionary policy goal, and by proposing a principled framework for interpreting participation rights in a digital constitutional democracy.

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Brief Considerations Regarding Virtual Private Space (VPS) in Tax Matters

The study aims to present and analyze the general law regulation *de lege lata*, namely Order no. 1090/2022 on the approval of the Procedure for communication by electronic means of remote transmission between the central fiscal body and individuals, legal entities and other entities without legal personality issued by the President of the National Agency for Fiscal Administration.

As a general rule, fiscal administrative acts issued in electronic form by the central fiscal body are communicated by electronic means of remote transmission through the "VIRTUAL PRIVATE SPACE" service, hereinafter referred to as VPS, available on the portal of the National Agency for Fiscal Administration.

VPS consists of making available to individuals, legal entities and other entities without legal personality a virtual space, located on the servers of the Ministry of Finance, through which electronic communication of information and documents are carried out between the central fiscal body and the individual, legal entity or other entity without legal personality in relation to their own financial or fiscal situation. Through VPS, the central fiscal body may communicates documents or information, to the extent that they are held and are provided for in this procedure.

The author provides appropriate clarifications regarding the categories of documents that may be subject to communication through VPS, as well as the procedure and conditions for electronic communication of fiscal administrative acts issued by local fiscal bodies.

In conclusion, the most important provision in this register will be highlighted, namely that in the case of using VPS, no other means of communication of the administrative-fiscal act is used, which leads to the presentation of some auspicious changes in this field *de lege ferenda*.

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&
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Online Suicide Sites: Protection for Children Under Online Regulation?

Some suicides and self-harming by teenagers have been attributed by parents and others to immersion in images posted on online self-harm 'suicide sites'. For example, in 2019 there was mass media coverage of the death of teenager Molly Russell, who killed herself after visiting a site featuring images of suicide, given that there appeared to be a causal link between viewing such images and engaging in self-harm. Her death in part prompted various organisations to campaign for social media platforms in particular to take more responsibility for the proliferation of such content on their sites. Content promoting suicide has been found by a number of researchers to be a major and rising concern for users aged 13-17, on the basis of finding a correlation between suicidal or self-harming behaviour in under-18s and visiting sites depicting images of self-harm and suicide. For example, Ofcom has found that age is a risk factor: the risk of encountering and being influenced by such content increases with the age of children and teenagers. Further, those with existing mental health challenges may be more likely to engage with this content and self-harming behaviour or suicidal ideation may therefore increase. Children and teenagers, the Report pointed out, are also more susceptible to a contagion effect than adults: they are more likely to imitate behaviours encountered online and give in to impulse.

The Online Safety Act 2023 (OSA) in the UK was introduced partly to address the harm to under-18s created by the presence and influence of self-harm and suicide sites. This paper will critically examine the efficacy of its response. It will consider the new offence of encouraging self-harm or suicide introduced under the OSA s184 which also translates in effect into illegal content for regulatory purposes. It will argue that while tech company moderators, whether human or machine-based, may be able to identify content based on the actus reus of this offence, they are more likely to find leeway to maintain that the mens rea element is not clearly present. Since under the OSA scheme all the elements of an offence must appear to be present on the reasonable inference test, if the mens rea element may be absent, usually judged on the basis of the nature of the content alone, the content must be adjudged legal, requiring no action from the service provider. The result, therefore,

in a number of instances, would be likely to be that content of this nature, although identified in various studies as harmful to under-18s – and most harmful to children or younger teenagers – could remain available to them online. The leeway created for evasion of this aspect of the illegal content duty also, it will be argued, undermines the duties pertaining to legal but harmful content in relation to under-18s which could cover certain postings or sites, falling outside the illegal content duty arising under s184. The paper will therefore conclude with some recommendations for development and reform of the OSA regime.

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The Integration of Clinical Legal Education in Omani Law Schools: Challenges and Expectations

Legal education in Oman is evolving to integrate clinical legal education (CLE) as a core component of the curriculum. This integration addresses several pressing issues, including the ability of law graduates to meet the expectations of various stakeholders, the need to comply with new general accreditation standards based on the general principles of legal education established by the Omani Ministry of Justice (Mkwebu, 2020), the Government of Oman, and the new National Strategy for Higher Education. Legal education is no longer simply the theoretical transmission of human knowledge from academics to students in a lecture hall; it has become a dynamic and interactive training system (Radtke Bliss, 2014). Clinical legal education aims to equip graduates with the legal skills necessary to participate effectively in society (A. Rosenbaum, 2014). Based on this critical need to integrate clinical legal education, stakeholder perspectives and empirical evidence are gathered to provide a clearer picture of the current situation in the Sultanate of Oman.

Despite the importance of integrating theoretical education and practical training, significant challenges hinder the future and sustainability of clinical legal education in Omani law schools. This paper will provide a historical overview of legal education in Oman, including its concept and structure, potential stakeholders, implementation phases and supporting elements, challenges, educational perspectives, initial stakeholder expectations, and comparative information on the current situation in neighboring regions. It will then explore the obstacles that limit the effectiveness of clinical legal education in Oman, thereby facilitating the development of appropriate solutions to overcome these obstacles.

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Democratic Erosion in Frontline Courts

In the midst of the persistent threats to the rule of law and democracy, much of the literature on democratic erosion and the role of the courts in the United States has focused on the federal system. When discussing, for example, the role of litigation in a democracy, class and other collective litigation receives substantial attention from legal scholars. Democratic erosion, moves more quickly, however, when a country's masses have little understanding of or engagement with democratic ideas, or have little understanding of or faith in the rule of law in their lives. Given that most people experience the legal system through their involvement with the lower state courts, rather than the federal courts, it follows that the democratic benefits of litigation should flow from those experiences.

In her book, In Praise of Litigation, Professor Alexandra Lahav argues that beyond its dispute resolution role, litigation also serves a critical role in the preservation of American democracy. In particular, she identifies four democratic values of litigation: "… it helps to *enforce* the law; it fosters *transparency* by revealing information crucial to individual and public decision-making; it promotes *participation* in self-government; and it offers a form of *social equality* by giving litigants equal opportunities to speak and be heard."[1]

Through the lens of wage and hour litigation, this article explores whether plaintiffs pursuing their substantive legal rights in the lower courts experience the rule of law in ways that affirm democratic values. It also considers whether the remote hearings that now typify many lower court proceedings create a shift in plaintiffs' experiences within the justice system that enforce or degrade litigation's potential to promote democracy.

Wage and hour cases provide particularly valuable spaces for evaluating litigation's relationship to democracy. Given the centrality of work in American culture, and its role in workers' sense of dignity, litigation challenging violation of workplace laws provides a thread that links work, dignity, justice, the rule of law, and democracy. In other words, challenges to pursuing wage and hour suits not only threaten litigation's critical role in a democratic society, but also threaten the public's belief that the rule of law functions in space that has become

[1]Alexandra Lahov, In Praise of Litigation, 1-2 (2017).

central to Americans' understanding of their dignity and self-worth: the workplace.

This article builds upon the growing body of scholarship on state civil court by moving away from the individual defendant-oriented perspective and centering the experiences of individual plaintiffs seeking to adjudicate their substantive legal rights in the courts typically available to them. In doing so, it conceives of democratic principles from the plaintiff's perspective.

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The Malpractice Decoupling: A Five-Iteration Meta-Synthesis and Conceptual Framework for Forensic Economics

This research investigates the endogeneity between forensic economic modeling and state-level tort reform. A Five-Iteration Recursive-Relational methodology is developed to synthesize the *Journal of Forensic Economics* corpus. The synthesis identifies a Malpractice Decoupling where statutory caps and evidentiary gatekeeping trigger a Balloon Effect, rupturing the restorative make-whole doctrine and prompting the systematic monetization of new objective damage categories to restore equilibrium. The paper introduces Total Admissible Recovery (TAR) as a function of gross loss filtered by adversarial jurisdictional friction. Three hypotheses are proposed for the future structural stability of medical liability amid diagnostic advances and shifting federal healthcare safety nets.

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The Child's Right to Know their Origins in Turkish Law: A Comparative Analysis with German and Swiss Law

Recent developments in assisted reproductive technologies, changing family structures, and the growing recognition of children's identity rights have intensified legal debates concerning the child's right to know their origins. Questions relating to biological parentage, donor anonymity, adoption, and access to origin-related information increasingly challenge traditional understandings of family, privacy, and parenthood. In this context, the child's interest in obtaining information concerning their biological background has emerged as a significant issue within contemporary family law and human rights discourse.

Biological background and genetic heritage constitute an essential part of personal identity. To fully understand oneself, one must have access to the truth concerning one's origins. Therefore, the child's right to know their origins should not be understood merely as a factual "right to know," but also as a fundamental human right connected to dignity, personal integrity, identity formation, and a sense of belonging. Denial of access to such information may leave an individual's identity incomplete and may negatively affect self-understanding, emotional stability, and psychological well-being.

Regarding the legal nature of this right, there are two main approaches in legal doctrine. The first considers the right to know one's origins as an independent fundamental right deserving autonomous legal protection. The second approach recognizes the child's right to know their origins, but accepts that it may be restricted in order to protect competing rights and interests, such as privacy, family peace, and personal data protection.

This paper examines the child's right to know their origins primarily within the framework of Turkish law and comparatively analyses the legal approaches adopted in German and Swiss law. It first explores the conceptual foundations of the right to know one's origins, particularly its relationship with personality rights, identity formation, and the best interests of the child. The paper then analyses the extent to which Turkish law recognizes and protects this right, especially in matters relating to parentage, adoption, and medically assisted reproduction. In order to place Turkish law within a broader comparative context, the study also examines developments in German and Swiss law, both of which have been the subject of significant legal and doctrinal discussions concerning access to information about biological origins.

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Racial Justice Federalism

What is racial justice? The phrase is everywhere in contemporary criminal justice debates, and yet its meaning is elusive. The presentation will interrogate what we mean by term. The indeterminacy of racial justice is not merely academic. It shapes the course of criminal law reform (and reform debates more broadly). This paper presentation takes the concept of racial justice as the object of analysis by asking what does racial justice mean in criminal law debates. How is the term invoked by different actors? Should the term take different shapes in different historical moments—i.e., moments of retrenchment and revisionism? And does definitional clarity even matter? In its attempt to answer these questions, the paper develops a taxonomy of competing usages. Mapping the varying invocations of “racial justice” across various criminal justice debates illuminates not only how the term functions in criminal law, but also the stakes of definitional choices for reform movements.

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Challenging Evidence Law's Carceral Curriculum

This project examines the ways in which evidence law teaching—particularly the case method and problem-based approaches—reinforces the logics, assumptions, and hierarchies of the carceral state. Building upon existing critiques of carceral pedagogy, this project situates evidence law within a growing body of scholarship that critiques legal education's role in sustaining punitive legal frameworks. While existing literature explores how criminal law and procedure instruction can normalize surveillance, punishment, and state violence, far less attention has been given to the pedagogical architecture of evidence law. Yet evidence law is the doctrinal space where harm is made invisible, where race, class, and power can define credibility and relevance, and where students learn—often uncritically—to privilege the state's narrative over the lived realities of criminal defendants.

This project argues that conventional pedagogical techniques in evidence law replicate a narrow vision of legal reasoning tethered to finality, efficiency, and deference to state actors. The case method approach prioritizes appellate decisions that sanitize violence, procedural collapse, and inequity. Meanwhile, problem-based teaching often positions students as prosecutors and judges, subtly reinforcing the presumption that the legal system is functioning legitimately and that defendants are objects of regulation rather than people deserving of constitutional protection and human dignity. As a result, law students learn to accept law enforcement officials as experts, that defendants should remain silent at trial, and that defendants' prior wrongs or bad acts should be admitted.

This paper intervenes in this pedagogical landscape by offering a framework for evidence law instruction that disrupts carceral assumptions and reorients student engagement toward humanity, equity, and systemic critique. Drawing from critical pedagogy and abolitionist legal theory, it recommends incorporating dynamic role-playing simulations, defendant-centered narratives, and case studies beyond the criminal charges. For example, rather than assigning problems framed from the prosecution's viewpoint, students might engage in a role-play that includes the accused, impacted family members, and community stakeholders. Such exercises help illustrate how the evidentiary rules operate not only as doctrinal filters but as mechanisms that determine whose voices are heard and whose experiences are deemed relevant. Additionally, exposing students to the ways the criminal legal system impacts people with marginalized identities can help students interrogate core evidence doctrines, such as relevance, prejudice, and expertise. These interventions are not merely pedagogical supplements—they are necessary correctives to a curriculum that trains students to replicate carceral logics rather than question them.

Ultimately, this project seeks to shift evidence law teaching from a neutral or technical enterprise to one that acknowledges its role in shaping legal consciousness and perpetuating structural harm. The hope is to help prepare young lawyers to challenge, rather than reflexively reproduce, the penal status quo.

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A South African Approach to the Transformation of Property Characteristics

The future of property law in South Africa is increasingly shaped by the tension between classical private-law principles and the transformative demands of a constitutional order committed to equality, access, and social justice. Core characteristics of property law, including elasticity, absoluteness, transferability, and publicity, remain foundational to the legal system, yet each requires reinterpretation in light of contemporary social, constitutional, and economic realities. This paper reflects on these principles and evaluates their continued relevance within the evolving framework of South African property law. The paper is presented from a comparative and explanatory perspective and is intended to remain accessible to an international audience, particularly scholars unfamiliar with the historical and constitutional context of South African property law.

The discussion begins with a consideration of the traditional characteristics of property law, followed by an examination of the impact of South Africa's transformative constitutional regime. While the principle of elasticity traditionally underscores the resilience of ownership, restoring full ownership once limited real rights expire, this principle must be reconsidered within a society engaged in ongoing land reform and redistribution. These processes increasingly give rise to long-term limitations on ownership and growing concerns regarding tenure security in pursuit of broader public interests.

Similarly, the principle of publicity, historically safeguarded through deeds registration and delivery, is undergoing significant change in the digital era. The emergence of electronic registration systems promises greater efficiency and accessibility, yet simultaneously raises concerns relating to reliability, technological inequality, and legal certainty.

In contrast to many European jurisdictions and the United Kingdom, South African property law does not adhere strictly to a closed doctrine of numerus clausus regarding limited real rights. Although this flexibility may create some uncertainty regarding the recognition of novel real rights, it also creates space for accommodating informal landholding practices and customary tenure systems in accordance with constitutional imperatives.

Finally, the notion of absoluteness is in need of substantial reconsideration. Ownership in South Africa increasingly reflects a conditional and socially embedded entitlement, constrained by statutory

regulation, neighbour law, environmental obligations, and the constitutional property framework embodied in section 25 of the Constitution.

The paper argues that the traditional characteristics of property law are not being abandoned but rather transformed. Their reinterpretation presents both challenges and opportunities in developing a property system that is context-sensitive, constitutionally responsive, and globally relevant within contemporary comparative property law discourse.

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Existing in the Periphery: Moral Patienthood as a Basis for Personhood for Non-human Animals

Legal personhood is a construct that affords humans and artificial entities legal recognition (categorically classified as natural and juristic persons, respectively), which enables them to bear rights and duties. The same treatment has been sought for non-human animals (traditionally classified as legal objects, things or *res*), a development that has recently gained significant traction. Jurisdictions such as India and Argentina have proven that conferring legal personhood is not only *prima facie* theoretically possible but also practically achievable. This demonstrates the malleability of legal personhood, yet it remains conceptually problematic when scrutinised through moral, metaphysical, and linguistic lenses. These challenges can be attributed to the anthropocentric orientation of current legal paradigms, which continually shapes intense resistance to expanding legal personhood to include non-human animals.

As such, this paper proposes moral patienthood as a conceptual tool for adapting the current configuration of legal personhood to an extent that safeguards the welfare interests of non-human animals. This remains a contentious area in academic discourse, as several known and emerging theories of legal personhood often fragment the construct without formulating a stable foundation for its conferment to non-human animals. On the contrary, moral patienthood, a status that is already utilised in law for recognising the interests of infants and persons with cognitive impairments, is dependent on the minimum threshold of sentience. Sentience confers moral status, which recognises a being having intrinsic moral value and the capacity to be harmed. Sequentially, moral status requires that a being's interests must be accorded moral consideration, regardless of their lack of agency or capacity to bear duties, ultimately leading to moral patienthood. Conclusively, moral patients are conferred legal personhood, thereby demonstrating that agency is not a precondition for their recognition.

Moral patienthood can serve as a vital tool and principled lens for reconceptualising the current classification of non-human animals as things in South African law, a status that has remained unchanged and is, in essence, a legal habit inherited from Roman law. This paper examines the construct of legal personhood and the role of moral patienthood as a precursor for conferring a limited form of legal

personhood to non-human animals as a means of meaningfully safeguarding their welfare interests.

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Recent Amendments to Romanian Insolvency Law

The recent amendments introduced by Laws No. 202/2025 and 239/2025 bring a series of targeted yet significant changes to the Romanian insolvency framework established by Law No. 85/2014. Rather than reshaping the system through a comprehensive reform, the legislator intervenes through punctual adjustments aimed at increasing procedural discipline, limiting abusive practices, and enhancing the overall efficiency of insolvency proceedings.

A central aspect of these amendments concerns the regulation of persons closely related to the debtor. At the same time, the amendments introduce stricter conditions regarding the feasibility and implementation of reorganization plans. Another important dimension of the reform lies in the strengthening of legal tools aimed at challenging suspect transactions, particularly those involving persons connected to the debtor.

Taken together, these legislative developments point towards a gradual reconfiguration of Romanian insolvency law, characterized by a shift from flexibility towards control, and from tolerance of complex intra-group arrangements towards heightened scrutiny. While these changes may contribute to greater procedural rigor and predictability, they also raise questions regarding the balance between efficiency and the preservation of genuine restructuring opportunities.

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The EU as an Area of Freedom, Security and … Diplomacy

The European Union is a supranational organization. Its law can enjoy direct effect in 27 Member States without a prior transformation. This is a unique constellation since its activity is influenced – to a high level – by the diplomacy and diplomatic relations between Member States, Member States and EU institutions and EU institutions. That is why also the law making process of this organization is influenced to a high level by diplomatic relations.

It is indeed barely possible to measure the extent to which the diplomacy influences every single legal act that the EU issues. But what is possible, is to read between the lines and study some cases of the Court of Justice of the European Union that could offer clarifications if and why it could be like that. This could offer first overview regarding the topic in question.

A careful study of selected judgments of the Court of Justice of the European Union, which have been issued over the years, presents how complicated the law making process can be if the institutions don't work together but are driven by differing or even opposing interests. The following paper deals with the discrepancies between the EU institutions that continue since its beginnings and occur during law marking process. It shows which different interests can be involved. That is why the paper focuses on these matters rather than on legal aspects of the judgments discussed below. Findings of this paper are of importance for those who negotiate EU law, negotiate with EU institutions as well as those who apply European law and struggle to understand any legal act.

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War Powers, Immunity, and Disregard for International Law: The Rise of an Unaccountable U.S. President

Since the attacks of September 11, 2001, the office of the United States President has gained an exceptional concentration of power in national security and foreign policy. While the Constitution establishes a system of separated powers intended to distribute authority among the branches of government, a combination of doctrinal shifts, institutional practices, and judicial decisions has significantly strengthened presidential independence. This article examines the combined impact of six structural factors that collectively elevate the presidency to a uniquely powerful executive office with few effective accountability mechanisms.

First, the president acts as the leading institutional head in foreign relations. Judicial language describing the president as the nation's "sole organ" in external affairs, along with the practical realities of diplomacy, intelligence activities, and military command, empowers the executive to adopt a foreign policy that may conflict with international law.

Second, presidents have repeatedly initiated or expanded military actions without formal declarations of war from Congress, even though the Constitution grants Congress the authority to declare war. The president's role as commander-in-chief has enabled presidents to conduct military operations in various regions without congressional authorization, sometimes in conflict with international law. Congressional acquiescence and funding after the president starts a war further strengthen the presidency.

Third, Article 2 of the Constitution grants the president alone the ultimate decision-making authority. Unlike parliamentary systems that rely on shared cabinet responsibility, the U.S. Constitution does not require the president to seek cabinet approval for major policy decisions. Cabinet officials serve only as advisors, leaving the final authority in the hands of a single individual.

Fourth, Supreme Court jurisprudence recognizing broad presidential immunity for official acts primarily shields the president from civil and criminal liability arising from actions taken in office. This doctrine reduces the legal risks associated with the arbitrary exercise of executive power, even if it is imprudent and violates domestic and international law. However, federal agencies (the so-called administrative state) may slow down the enforcement of reckless decisions.

Fifth, impeachment—the primary constitutional means of removing a president—has proven difficult to carry out in practice. Since conviction needs a two-thirds vote in the Senate, partisan politics often block removal even when serious charges are made.

Sixth, the president may disregard international law since the U.S. holds a veto in the U.N. Security Council and can escape sanctions and other penalties, aside from reputational damage.

Taken together, these six factors—foreign-policy monopoly, military action without congressional approval, solo executive decision-making, legal immunity for official acts, partisan barriers to impeachment, and disregard for international law without penalty—create a presidency with unmatched operational flexibility. The combined effect of these powers threatens international peace and security.

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Bank Liquidation in South Africa: A Depositor Protection Perspective

South Africa has encountered several bank failures over the past three decades due to reasons such as fraud, bad management, and liquidity problems. The most recent failures that led to liquidation involve VBS Mutual Bank in 2018, Habib Overseas Bank in 2023, and the ongoing liquidation application for Ithala Bank (*albeit* never been a registered bank but taking deposits illegally) in 2025. Bank failures can impose significant losses for bank depositors. Deposits, for many individuals, serve as a primary form of saving and to a greater extent, has profound meaning in people's daily lives. People deposit money with banks with a legitimate expectation that their funds will be safe and secure. However, in an unfortunate event where a bank fails, bank depositors stand to suffer loss which may result in significant adversity for those who may not have been in the position to protect themselves against this risk. This harsh reality conjures up the legitimate concern regarding the protection of depositors. This gives rise to the commonly held view that banks should be accorded special treatment in insolvency because banks play a special role in a country's economy in that, collectively, their functions are so important as to constitute a type of public service. In South Africa, the winding up of banks was, until June 2023, facilitated in terms of the Insolvency Act 24 of 1936 which is the general insolvency law applicable to the winding up of insolvent corporations. One of the fundamental principles under Insolvency Law is the *pari passu* principle that provides that depositors rank equally (or "*pari passu*") with other general unsecured claims. This low ranking in the creditor hierarchy means that depositors possess a slimmer chance of recovering their funds from a failed bank's assets should the funds be insufficient – thus posing concerns particularly for the small, less financially sophisticated depositors. However, it is possible to make exceptions to this principle but can only be interfered with where there is some justification that stems from, for example, principles of fairness and equity with the desire that it would command general public acceptance. Following the introduction of the Financial Sector Laws Amendment Act 2021 (FSLAA) and with effect from 1 June 2023, certain sections of the Banks Act 1990 including section 68 regulating the winding-up of banks in South Africa have been repealed. A bank (and its holding company) is now considered a 'designated institution' in terms of the Financial Sector Regulation Act 2017 (FSRA) and the concept of

placing a designated institution in 'liquidation' has been inserted into the FSRA. As a result, the FSLAA amends the creditor hierarchy by creating *inter alia* a depositor preference (in other words, preferring deposits covered by the deposit insurance system over the claims of other unsecured creditors). In this contribution, the author explores this recent development in South Africa's approach to bank liquidation whilst emphasizing the imperative for protecting depositors.

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The Right to Erasure in the Presence of Data Leakage: A Law and Economic Approach

This paper examines and critiques the individual-focused design, practical effectiveness, and scope of the right to erasure in situations involving data leakage. When individuals share personal data with online platforms, they often disclose information not only about themselves but also about others. This phenomenon referred to as “data leakage” arises from common data practices such as indiscriminate sensing, interpersonal data collection, and predictive analytics. When the right to erasure is applied in the presence of data leakage, two key issues are often overlooked. First, individuals requesting erasure focus only on data they personally disclosed and consented to, such as information for which consent has been withdrawn, data that is no longer necessary to be kept by the organization, or data collected unlawfully. They generally do not consider data about them that has been generated or disclosed by others, even though this data also shapes their online profiles. Second, the successful enforcement of the right to erasure can produce spillover effects for third parties whose information is linked to that of the requesting individual, for example through interpersonal data. In this sense, individuals requesting erasure do not take into account how their decision may affect the online profiles of others. Using a law-and-economics framework, the paper evaluates the effectiveness and scope of the right to erasure under Article 17 of the General Data Protection Regulation (GDPR) in light of these spillover effects. The analysis shows that the right to erasure is built around individual control and individual enforcement, while largely ignoring its broader social consequences in contexts characterized by data leakage. As a result, individuals may find it difficult to fully erase information about themselves, while successful erasure may adversely affect third parties whose data is interconnected. Data leakage reduces the expected private benefits of requesting erasure, weakening incentives to exercise the right, while simultaneously generating externalities for third parties upon successful enforcement. These dynamics lead to inefficient privacy protection outcomes at the societal level. Although the right to erasure may function reasonably well in purely individual settings in the absence of data leakage, it fails to address privacy harms that arise from interconnected data practices. The paper therefore argues for a broader, socially informed approach to the right to erasure. The paper asks whether the right to erasure remains an effective and efficient privacy protection mechanism in the presence of

data leakage, and whether, as an *ex post* remedy, it creates appropriate *ex ante* incentives for both organizations and individuals. On this basis, the paper suggests revisiting Article 17 GDPR to explicitly account for data leakage as a societal problem, including through collective or relational dimensions of erasure and shared responsibility models.

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Realizing the Right to Life in the Context of Health Care

The purpose of this article is to examine the significance of realizing the ‘right to life' and to present aspects of its protection based on the judgment of the European Court of Human Rights. The provision that everyone has the 'right to life' is treated as an approach based on the protection and preservation of the sanctity of human life. The research is based on established methods of legal science, using normative-dogmatic, comparative, axiological and sociological methods. Within the theoretical approach, the study of legal sources was based on a review of relevant literature by domestic and foreign authors. The research focuses on the descriptive and explanatory part of the issue and the understanding of the right to life at the international level and in the Republic of Slovenia.

This article reveals and explains the understanding of the normative regulation of the field of scientific study. The term 'inviolability of human life' is treated more strictly in the Constitution of the Republic of Slovenia (URS) than in international documents, which contain a comparable provision stating that everyone has 'the right to life'. International documents do not have a provision such as that contained in Article 17 of the URS, which states that 'human life is inviolable'. The latter means that it protects life as such and not just the right to life. This means that the right to the "inviolability of human life" may have different modalities and degrees of legitimacy, but in the Slovenian legal system it is understood as an absolute right. In international law, the right to life is often described as the most fundamental of all human rights (Article 2 of the ECHR). Without the protection of life, other rights are of limited use. However, it is not an absolute right in any of its expressions. In healthcare, the focus is on the positive obligation arising from the introductory sentence of Article 2 of the ECHR, which states that everyone's right to life is protected by law.

The study concludes that human dignity emphasizes the requirement to respect the autonomy of the patient, which guarantees freedom of choice in the sphere of private life. The requirement to protect dignity (including in the case of terminally ill patients and in the context of their autonomous choices in healthcare) raises a number of ethical, legal, and cultural challenges for doctors, caregivers, healthcare providers, and healthcare policymakers around the world. Traditionally, differing opinions are based on different arguments of medical ethics and law.

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The Interaction between Civil and Canon Laws: The Case of the Greek Orthodox Patriarchate of Jerusalem

The Greek Orthodox of Jerusalem is one of the most ancient churches in the world. The patriarchate owns a lot of lands and real estate In Israel and the west bank.

In 2005, the Patriarchate discovered that foreign companies, familiar with Jewish settlers in Jerusalem, hold contracts signed apparently on behalf of the patriarchate, to own 3 buildings of the patriarchate in the old city of Jerusalem. The Holy Synod which functions as the directory board of the Patriarchate, denied the deals and argued that according to the internal ecclesiastical regulations of the Patriarchate, any contract regarding a real estate deal signed by the Patriarch shall not be valid and binding unless it has the approval of the Holy Synod.

Considering the Patriarchate refusal to admit the deals, the foreign companies suited the Patriarchate in the district court of Jerusalem, asking for a verdict that declares that the mentioned deals are valid, legal and binding. During the trial, the plaintiff companies asked the court to order the patriarchate to expose the protocols of the Holy Synod sessions, which proves that the Synod has never approved the deals. The patriarchate rejected that demand, arguing that the book that contains the protocols of the Holy Synod is classified according to ecclesiastical regulations and traditions of the Patriarchate and the Holy Synod. This conflict reached the supreme court in Israel (Case 5247/15, Verdict issued in 28.18.16). It ruled that the court is willing to approve relative confidentiality of the Holy Synod protocol. Yet, such confidentiality does not grant the patriarchate the right to hide the protocols of the Synod if the district court finds that those protocols are vital for the trial. Accordingly, the court ordered the patriarchate to submit a copy of the protocols to the district court in a closed envelope and the court shall decide aftermath if it should transfer them to the plaintiff companies. Notwithstanding, the patriarchate didn't comply with the court decision and didn't submit a copy of the Synod protocol to the district court insisting that those documents are classified according to the patriarchate regulations. Consequently, the district court rejected the patriarchate argument that the mentioned deals have not got the approval of the Holy Synod, declaring that the deals are valid and legal (Case no. 2035/08, Issued in 30.7.17)

The proposed paper aims to discuss such interaction or conflict between civil law and canon law when it comes to ecclesiastical bodies,

in this case the Greek Orthodox Patriarchate, that are involved in civil deals such as deals of real estate. The paper aims also to present an academic review to the Supreme court ruling and to argue that the path that court designed apparently to balance between the sides was not fair and just since it didn't respect the legal status and sovereignty of the Patriarchate.

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&
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Transposition of European Directive 2024/2831 on Improving Working Conditions in Platform Work, a Difficult (Important) Mission for Member States

The recent global economic changes, driven in particular by digitalization, have required employers and people who want to earn a living to adapt rapidly to labor law. This has also been the case with platform work, which is carried out by people through the digital infrastructure of digital work platforms, offering a service to their clients. This is carried out in a wide variety of fields, hence the difficulty of establishing the rights of platform workers, the rules for improving the protection of personal data of people who provide work on platforms and determining their professional status. In this regard, the Directive (EU) 2024/2831 on the improvement of working conditions in platform work sets out some benchmarks in the field.

The purpose of this paper is to analyze the impact of Directive (EU) 2024/2831 on the regulation of platform work, this directive aiming to clarify the legal status of workers and improve their working conditions. In this regard, the paper has several objectives, including: examining the professional status of these workers, analyzing their protection in relation to automated decisions and their personal data, as well as analyzing the main difficulties encountered by Member States in the process of transposing the directive.

The methodology used consists of a legal analysis of the provisions of the directive, compared to doctrinal interpretations and a comparative study, highlighting the practical implications of these regulations.

The relevance of the topic is determined by the need to adapt European Union labor law to the challenges of the digital economy, and by establishing common rules, as Directive (EU) 2024/2831 can contribute to ensuring a balance between labor market flexibility and worker protection.

The transposition of the directive by the European Union states, by December 2, 2026, represents a major responsibility for them, given the diversity of national legal systems. Thus, the success of the transposition of the directive depends on their ability to effectively analyze the new rules and ensure the coherence and effectiveness of the rules they adopt.

Kamalesh Newaj
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Closing the Gap: Compensation for Sexual Harassment Under South Africa's Occupational Injuries Framework

Sexual harassment remains a pervasive feature of South African workplaces, notwithstanding the existence of an extensive legislative and policy framework aimed at preventing and remedying such conduct. Alongside civil, criminal and anti-discrimination remedies, an important and insufficiently explored question concerns the extent to which the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA) can offer compensation for impairment, both physical and psychological, arising from workplace sexual harassment. This presentation examines whether employees who suffer such harm have access to compensation under COIDA, focusing on two interrelated issues: first, whether the harm can be classified as an "occupational injury" or "occupational disease," and second, whether sexual harassment can be said to arise "out of and in the course of employment," as required by the Act. This inquiry highlights the tension between the protective purpose of social security legislation and the restrictive manner in which courts have interpreted COIDA in sexual harassment cases.

The analysis begins by outlining employers' common law and statutory obligations to provide a safe and healthy working environment, obligations that extend beyond physical safety to include psychological well-being. It then revisits COIDA's purpose as a no-fault social security scheme intended to provide accessible compensation for work related harm. Central to the interpretive challenge is whether injuries or diseases caused by sexual harassment satisfy COIDA's core definitional requirements.

South African jurisprudence, particularly the Supreme Court of Appeal decisions in *MEC for the Department of Health, Free State v DN* and *Churchill v Premier, Mpumalanga and Another*, has developed a narrow test: harm is compensable only if the risk giving rise to the injury is "inherent" or "incidental" to the employee's work. Because sexual harassment is not typically regarded as something that "goes with the job," courts have often excluded it from the scope of COIDA. This restrictive interpretation is increasingly difficult to sustain in light of international labour standards, including ILO Convention 190, which adopts a broader understanding of work-related harm and expressly recognises violence and harassment as occupational risks.

The paper argues that the current judicial approach undermines COIDA’s social security objectives, fails to give effect to constitutional commitments to dignity and equality, and has the practical effect of disadvantaging vulnerable employees who may lack resources to pursue complex common law claims. A more generous, purposive interpretation, consistent with international law and the constitutional imperative to promote access to social security, would better reflect the realities of contemporary workplaces and could expand COIDA’s scope to include impairment resulting from sexual harassment.

Ultimately, the paper calls for possible legislative reform to ensure that victims of workplace sexual harassment are not left without meaningful recourse. A clearer, more inclusive framework would help close the remedial gap and strengthen the protective function of social security law in South Africa.

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&
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The Travel Rule and Unhosted Wallets: Regulation and Practical Implications

The extension of the Financial Action Task Force (FATF) Travel Rule to unhosted wallets represents one of the most contested issues in the regulation of crypto-asset transfers. Initially designed for traditional intermediary-based financial systems to mitigate the danger of money laundering and terrorist financing risks, the Travel Rule requires the transmission of originator and beneficiary information (Financial Action Task Force, 2021; Soana, 2024). However, when "transposed" into decentralized environments, especially self-hosted wallets, this regulatory model runs into legal and technical limitations due to the absence of intermediaries, the pseudonymous design of blockchain addresses and the lack of ex ante legal identification mechanisms. (Beleuz Neagu, 2022; Barczentewicz, 2022). This paper asks to what extent the Travel Rule can be effectively applied to unhosted wallets without undermining technological neutrality, privacy protection and the functioning of decentralized ecosystems. In this view, it argues that the current regulatory approaches generate a structural misalignment between rules designed for custodial intermediaries and infrastructures characterized by the absence of identifiable control points. This misalignment is mirrored in the literature, where hosted wallets have been widely discussed, while only a few studies have dealt with the implications for unhosted wallets. Thus, through a comparative analysis, the paper examines the regulatory frameworks of the European Union, Switzerland and the United States. This work fills this gap through qualitative and comparative legal methodology, referring to primary legal sources, including MiCAR, the EU Transfer of Funds Regulation, FINMA guidance and the U.S. Bank Secrecy Act framework, as well as FATF soft-law instruments and relevant academic literature (Barbera, 2023; Gandolfi, 2024). The investigation demonstrates that such transactions with unhosted wallets are deeply fragmented in their regulation. The European Union adopts a particularly rigorous approach and imposes data collection and verification obligations above specific thresholds even for transactions involving unhosted wallets (Reg. 2023/1113/EU). Switzerland uses a more restrictive approach, effectively banning transactions with unhosted wallets through proof-of-

ownership mechanisms (FINMA, 2019; Crypto Valley Journal, 2024). Lastly, the United States has a more flexible approach and excluding self-hosted wallet transactions from direct AML obligations, relying mostly on customer due diligence conducted by regulated entities (FinCEN, 2019; Federal Register, 2020). The study finds that these observed disparities transcend simple variations in application and reflect a deeper structural misalignment between regulatory paradigms originally designed for intermediary-based financial systems. Extending the Travel Rule to unhosted wallets often generates market discrimination in favor of custodial solutions, structural enforcement gaps in peer-to-peer contexts, disproportionate compliance expenditures, and incentives for regulatory arbitrage (Beleuz, 2022; Crystal Intelligence, 2022; Ledger SAS, 2024). Furthermore, identifying unhosted wallets as dangerous tools could compromise technological neutrality, which would significantly affect the principles of data and privacy protection (Barbereau and Bodó, 2023). The study suggests that the regulatory problems posed by unhosted wallets derive not from their technical complexity, but from a regulatory technique that presupposes centralization.

To reconcile anti-money-laundering objectives with innovation and ensure consistency, an anti-money-laundering framework should go beyond analog extensions of custody wallets and adopt harmonized, risk-based and technology-compatible solutions.

Mahlubandile Ntontela
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Incorporating Multilingualism into the Learning and Teaching of the Llb Curriculum at Nelson Mandela University

The paper discusses how the Nelson Mandela University incorporated multilingualism into its LLB curriculum. The Faculty of Law at Nelson Mandela University has adopted several approaches to incorporating multilingualism. The one approach involves a process that is pre-approach, using regulations from internal and external structures and regulations designed to regulate the higher education landscape in South Africa. The approach, which involves a less regulatory framework, incorporates multilingualism through a module designed to teach students legal concepts in multiple languages. This second approach utilises materials that incorporate African legal concepts and indigenous languages to illustrate the role of law in the diverse African society. Both the approaches adopted by the Faculty of Law at Nelson Mandela University are in the learning and teaching space. The paper further argues that a more systematic and coordinated approach is needed if the university is to live by the principles it identifies itself with.

Prapin Nuchpiam
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Applying the Veil Piercing Doctrine in Thailand: The Study of Section 44 of the Consumer Case Procedure Act

In order to protect consumers from legal entities committing frauds, serious misconduct or asset misappropriation that result in undercapitalisation, Section 44 of Thailand's Consumer Case Procedure Act 2008 allows consumer courts to summon shareholders of or any person with significant control over those entities to a trial as co-defendants, and to hold them jointly and personally liable with the defendant for its debts or wrongdoings. The Thai law further prescribes that the burden of proof (reverse onus) rests with the defendant and co-defendant(s) as it treats the consumer-plaintiff as a party at a severe disadvantage due to information asymmetry and bargaining imbalance. This exceptional judicial act of disregarding fundamental corporate law doctrines of separate legal personality and limited liability is widely known and debated as "piercing the corporate veil".

The paper aims to analyse the codification and application of the common law veil-piercing doctrine in the civil law Thailand's consumer case procedure legislation to examine its statutory requirements and how courts invoke this statutory authority and discretion. It employs a doctrinal legal research methodology with a particular emphasis on the constitutional review of Section 44. The Constitutional Court of Thailand ruled that the law has not been in conflict with or in violation of the Constitution under Section 37 (a person's right to property and succession) and Section 26 (the enactment of any law shall not impose too much burden on or restrict the rights and liberties of a person unnecessarily) because Section 44 only works as a rebuttable presumption, which can be challenged by the shareholder-defendants.

The paper argues that the Thai judicial practice of piercing the veil can lead to a misalignment between corporate law, constitutional principles, common law precedents and commercial certainty resulting in vagueness and arbitrariness. For example, the veil piercing doctrine was invoked in order to summon an individual shareholder, having no significant control over the company-defendant and holding only one share, as a co-defendant into the consumer case no. 956/2561. Some Thai scholars suggest that consumer courts should apply the principle of good faith when deciding whether the company-defendant has committed frauds or misconduct. In other words, if the defendant acts in bad faith, then piercing the corporate veil is justified. The writer finds this

suggestion rather far-fetched, which makes the application of veil piercing doctrine even more complicated. The paper proposes an overhaul of Section 44, together with the Supreme Court's guidance on how to determine when the veil piercing is justified. In addition, a different approach to protecting consumers should be looked upon. For example, utilising tort law to hold shareholders directly liable for a specific wrong might be able to protect consumers better than relying on the exceptional remedy by piercing the corporate veil.

Ngozi Okidegbe
Professor, Boston University, USA

Participation as Friction

A recurring concern is that criminal legal institutions procure, develop, implement and/or oversee data-driven practices, up to and including AI decision-making without sufficient community participation. In response, a growing set of law and technology scholars, policymakers, technologists have advocated for directly involving communities in the processes governing the construction and adoption of data-driven practices employed in government decision-making. Reforms range from public hearings that provide communities with an opportunity to comment on data-driven practices to community advisory boards that help public officials evaluate the impact of current or future data-driven practices.

The Article welcomes the focus on community participation. However, the typical justification – that participation promotes procedural justice, quality control, democratic legitimacy, and/or accountability– overlooks another reason to implement participatory-based reforms which is friction. Participatory reforms may serve as a welcomed source of friction. Too often, under-resourced criminal agencies and criminal courts uncritically adopt data-driven practices that undermine the rights, safety, and well-being of individuals and communities, particularly politically marginalized ones. Yet, current policies and regulations are oriented toward supporting seamless adoption and implementation data-driven practices. Much of the criticism of participatory processes is that they elongate adoption. This Article takes a different view. Another way to understand participatory processes is that they are needed friction that can delay harmful algorithmic implementation and can promote public debate about the criminal process that the state was attempting to subject to an algorithm. This different approach offers an alternative understanding of participatory processes that lead to the significant delay or even abandonment of a data-driven practice. Rather than viewing the friction caused by participatory processes as a problem, friction should be welcomed and understood as one mechanism for empowering communities, particularly politically marginalized communities, in the governance of data-driven practices.

Gina Orga-Dumitriu
Associate Professor, Lucian Blaga University of Sibiu, Romania

Commission v. Malta: The End of Citizenship by Investment?

By its recent judgment of 29 April 2025 in *Commission v. Malta*, the Grand Chamber of the Court of Justice of the European Union upheld the action for failure to fulfil obligations brought by the European Commission, finding that Malta's system of acquiring Union citizenship through investment was incompatible with EU law. The Court's sibylline ruling reveals the tension between political activism and well-structured legal reasoning, between the pressures stemming from migration policy and the legal substance of the arguments.

Indeed, the "commercialisation" of Union citizenship undermines the relationship of solidarity and loyalty between the Member States as well as the mutual trust on which Union citizenship is founded, in breach of Article 20 TFEU and of the principle of sincere cooperation enshrined in Article 4 (3) TEU. Nevertheless, Union law does not require the existence of a 'genuine link' between a Member State and an individual other than that which the internal law of a Member State may impose for the acquisition or retention of its nationality.

Mihaela Palade-Ropotan
PhD Student, "Dunărea de Jos" University of Galati, Romania

The Vision of Romanian Legislation Regarding the Admissibility of Evidence, in General, and Electronic Evidence, in Particular, in Cross-Border Criminal Proceedings within the European Union

Given the increasingly frequent situations in which criminal activity exceeds the borders of a single Member State of the European Union, extending its impact to others as well, it is necessary for each of these states, as well as at the European level, to have a cohesive legislative system regarding the admissibility of evidence, one capable of demonstrating its effectiveness in combating criminal phenomena.

The need for stringent provisions in this direction also stems from the way society is evolving—particularly in the digital sphere—since many crimes now occur in the digital environment or are connected to it.

Judicial cooperation in criminal matters plays a central role in this framework, and judicial authorities in each Member State must work together alongside the European institutions responsible in this field. The purpose of this collaboration is not limited only to determining the admissibility, within criminal proceedings, of the cross-border evidence obtained, but also includes ensuring respect for the right to a fair trial for the individuals subject to criminal proceedings, as well as other fundamental rights. These goals have often been emphasized in the case law of the European Court of Human Rights and of the Court of Justice of the European Union.

This study aims to present the Romanian legislator's perspective on the admissibility of evidence in criminal proceedings while also analyzing the impact of the new provisions regarding electronic evidence. Additionally, the analysis highlights the admissibility of cross-border evidence obtained through the judicial cooperation instruments in criminal matters that Romania has adopted.

The research objective is to underline the importance of creating a common legal framework at the European level regarding the admissibility of evidence—one that allows states to hold offenders criminally accountable as quickly and efficiently as possible, in compliance with the law and with their rights, especially the right to a fair trial.

Nick Papatheodorakos
Faculty Member, Concordia University, Canada

The Case for Labour Board Appointments in Arbitration Cases

This study investigates the effectiveness of the arbitration process within the domain of academic unions. While a range of arbitration-related challenges have been widely discussed, this research aims to bring attention to particular issues arising from the most prevalent methods of arbitrator selection in the context of academic unions. The analysis centres on the McGill Course Lecturer and Instructors Union (MCLIU) and its market-based approach, in which arbitrators are directly selected and remunerated by the disputing parties themselves. The study underlines how the MCLIU selection model may undermine the credibility of the arbitration process because of an arbitrator's need for repeat appointments. As such, this risks fostering in arbitrators a desire to please and may subconsciously influence them to issue compromise decisions rather than strictly legal ones. Furthermore, the study demonstrates how the consensual selection process at MCLIU tends to reinforce a closed shop, where the same individuals are repeatedly chosen, thereby limiting opportunities for a wider and more diverse pool of candidates. Lastly, the study highlights how this selection model causes delays in the arbitration timeline, significantly slowing down the delivery of important decisions. As a result, unions are often compelled to settle grievances for less than their true value in order to avoid the inherent risks and inefficiencies of the process. By analysing over 500 MCLIU grievances and related arbitration cases from 2015 to 2025, the study demonstrates that the current market based model significantly undermines the credibility and efficiency of labour arbitration and calls for a reassessment of how arbitrators are chosen.

Rachelle Perkins
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Compliance Whiplash and the Politics of Invisible Income

The taxation of "invisible" income streams—particularly tip wages and person-to-person transactions—has long presented enforcement challenges compounded by deeply embedded social norms that support nontaxation of certain informal economic activities. Recent legislative changes have dramatically reshaped this compliance landscape, requiring fresh examination of longstanding assumptions about tax policy, enforcement priorities, and equity. The new $25,000 deduction for tip wages and the retroactive reinstatement of the original higher $20,000 threshold for 1099-K reporting to the Internal Revenue Service have effectively reversed the taxation trajectory for these income streams and overridden the IRS's phased implementation of a significantly lower $600 reporting threshold for digital payment platforms including PayPal, CashApp, Square, and Venmo.

These legislative reversals represent more than mere technical adjustments to tax reporting requirements. They signal a fundamental tension between expanding tax compliance in an increasingly digitized economy and preserving informal economic practices that have historically operated outside formal tax enforcement. The policy shifts raise critical questions about equity, efficiency, and the appropriate scope of tax administration in contemporary society. This Article examines four interconnected dimensions of this evolving compliance landscape.

First, it analyzes the implications of disrupting long-standing patterns of informal noncompliance for invisible income streams. When previously untaxed or under-reported income suddenly faced enhanced reporting requirements, the resulting industry and public opposition was significant. The lower threshold affected not only individual taxpayers, but entire economic ecosystems built around assumptions of limited enforcement. The Article explores whether such disruptions advance or undermine broader tax policy objectives. Second, the Article evaluates the equity implications of both prior and potential tip income and person-to-person transaction reporting rules. Third, the Article examines behavioral adaptations by taxpayers seeking to avoid new reporting obligations or take advantage of the new tip deduction rules. Understanding taxpayer adaptive behaviors is essential for crafting effective and realistic enforcement policies. Finally, the Article proposes approaches for redeploying IRS enforcement resources to better balance competing objectives of fairness, efficiency, and administrative feasibility.

This research contributes to broader debates about tax administration in the digital age, where technological capabilities for tracking transactions increasingly outpace social consensus about which income streams should be taxed and how enforcement resources should be allocated. The Article argues that effective tax policy must account not only for technical feasibility but also for social norms, distributional equity, and the practical limits of enforcement. By examining recent legislative reversals as a case study, the Article offers insights applicable to tax systems grappling with similar tensions between modernization and equity in an evolving digital economy.

Doina Popescu Ljungholm
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Ensuring Justice and Non-discrimination in Automated Decision-Making: A Fundamental Rights Perspective

This paper examines how automated decision-making (ADM) systems based on artificial intelligence impact the right to justice and non-discrimination in the EU legal framework. The study aims to assess whether current legal safeguards are sufficient to protect fundamental rights, especially for vulnerable groups such as ethnic minorities, migrants, and persons with disabilities. The research uses legal doctrinal analysis combined with comparative case studies from EU Member States, focusing on legislation like the AI Act and the GDPR, as well as relevant case law from the CJEU and ECtHR. Findings show that algorithmic systems often lack transparency and accountability, leading to risks of bias, exclusion, and limited access to remedies. The opacity of ADM undermines procedural safeguards such as the right to be heard. The paper concludes that a human-centric approach, with mandatory rights-based impact assessments and independent oversight mechanisms, is essential to ensure justice, inclusion, and the effective protection of human dignity in the digital age.

Raphael Reiss
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A Comparative Overview of Confidentiality Protections in Mediation - How Safe are your Secrets?

It is widely accepted that sturdy confidentiality protections form the backbone of a successful mediation proceeding. Confidentiality refers to the parties' and the mediator's obligation not to disclose information concerning the existence, course and outcome of the mediation. Confidentiality promotes candour. Only a mediation conducted with candour allows parties to identify a common ground and their shared interests. If the parties can reasonably expect confidentiality, they can and usually will disclose the information necessary to allow for a creative and interest-driven resolution of their dispute. It is this view beyond the strictly legal horizon which distinguishes mediation from adversarial methods of dispute resolution. If the parties do, however, fear that the information shared in the mediation proceeding will be later used against them in front of an adjudicatory body or in public, their willingness to divulge information is stifled. In that case, mediation degenerates into a mere box-ticking exercise which wastes time and money.

One might thus be fooled into thinking that courts and legal doctrine around the world have followed suit by comprehensively protecting the parties' confidentiality expectations and interests. While that certainly is the case in some countries, the legal situation in others will leave the parties' reasonable expectation of being able to speak their mind freely in the mediation proceeding dashed. The issues caused by lackluster confidentiality come to a head when, as is often the case, the dispute resolution mechanism is not discussed extensively in the contract negotiations: Dispute resolution clauses have been pejoratively dubbed as midnight clauses, drafted by lawyers only at the end of lengthy contract negotiations when the business people are already clinking to the success of the joint business venture. When a dispute inevitably arises, the parties often fail to agree on the most minute details. If there is no comprehensive default confidentiality regime to fall back on, the parties will be reluctant to share the information necessary for an amicable dispute resolution, stopping mediation dead in its tracks.

My presentation will thus venture into the confidentiality rules of a selected few civil and common law countries and compare the legal bases and scope of confidentiality in mediation. I will also delve into the legal consequences of a breach. Given their prevalence in the mediation landscape, the legal systems chosen for such a comparative analysis are

Germany, France, the US and the UK. Questions that arise are who is bound by confidentiality, whether the respective jurisdictions recognize an implied duty of confidentiality, to what extent exceptions to confidentiality are prescribed by statute or courts and what remedies can be sought in case of a breach. France in particular offers an interesting perspective, having reformed its Civil Procedure Code with a view to promoting mediation as recently as September 2025. The presentation will then close by delineating the good practice with respect to confidentiality and by making suggestions for reform, where appropriate. Both the analysis of good practice and the reform suggestions will heed the necessity of respecting the diverging civilian and common law traditions while also trying to promote a baseline of uniformity.

Magdalena Rybaczewska-Blazejowska
Professor, Kielce University of Technology, Poland

Corporate Environmental Transparency: An Analysis of mWIG40 ESG Disclosure Practices

Corporate sustainability reporting is currently undergoing a profound transformation, shifting from voluntary non-financial disclosures towards a formalised reporting framework. In the European Union, this transition is driven by the Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS), which aim to ensure the comparability of Environmental, Social and Governance (ESG) disclosure. The article examines the quality of environmental disclosure practices among companies listed on the mWIG40 index.

The study employed a desk research methodology, using content analysis of financial and non-financial reports of mWIG40 companies, Poland. The analysis focused on the scope and quality of disclosures, the methodological approaches adopted, and the level of alignment with the ESRS requirements regarding climate change, pollution, water and marine resources, biodiversity and ecosystems, and resource use and the circular economy.

The findings reveal significant disparities in environmental accountability among the mWIG40 companies. Companies operating in high-emission industries, such as energy and manufacturing, demonstrate a significantly higher degree of advancement in sustainability reporting, including measurable environmental key performance indicators (KPIs), compared to those in the service, banking and information technology sectors. The analysis demonstrated that disclosures concerning Greenhouse Gas (GHG) emissions management were the most extensively developed, whereas biodiversity-related disclosures remained significantly underdeveloped. Furthermore, despite ongoing progress in ESG reporting practices, Polish mid-cap companies still encounter significant challenges in achieving full alignment with EU ESG standards. The findings indicate the need for greater standardisation of data collection processes and reporting methodologies to improve the consistency, comparability, and reliability of sustainable disclosures.

Claudio Sarra
Associate Professor, University of Padova, Italy

Talking with the Machine: Legal Relevance of Algorithmic Persuasion

In a well-known passage, Isocrates (436-338 b.C.) wrote: "Indeed, in the other qualities we possess […] we do not differ at all from animals but are in fact weaker than many of them in speed, in strength, and in other capacities. Yet because within us lies the ability to persuade one another and to clarify for ourselves the matters upon which we deliberate, we have not only departed from an animal mode of life; having gathered together, we have also built cities, established laws, devised crafts, and through speech have obtained nearly all the things we have been able to conceive" (Antidosis, 253). Nowadays, with the introduction of Generative Artificial Intelligence (GenAI), social and professional relations are going to be built by communicative practices which include the active presence of communicative artificial social agents. As a consequence, human behaviours are more and more determined by communications exchanges with the AI, which are situational, not predetermined, and leading to potentially unpredicted outcomes.

That opens the problem of studying the conditions and the limits of AI persuasion towards humans and of humans towards AI. Recent reviews of psychological literature on point show that – although lacking methodological standards and metrics – globally considered, the AI can be as persuasive as humans with some slight differences in specific situation. Among the factors that make a difference in the persuasive ability of AI, are: the scale of the model (up to a certain point); the level of personalization of the communication; the disclosure of the artificial authorship of the message; the human ability in prompting and, more in general, the social cues showed by the artifact's behaviour.

These studies have important consequences on law. In my talk I am going to show some of them in the following fields:

a) Legal compliance (e.g. art. 14, § 4, lett. b, Reg. EU 2024/1689 "AI Act");
b) Legal methodology (AI literacy; prompt engineering);
c) Legal professional ethics.

Anusara Sawangchai
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Barriers to Justice for Cyber Fraud Victims in Digital Banking System

The rapid expansion of digital finance worldwide spanning mobile banking, online transfers, and e-commerce has delivered significant convenience but also triggered a surge in cyber fraud and scams, resulting in substantial financial losses for the public. Despite new regulatory protections such as daily transfer limitations, real-time fraud monitoring, and shared accountability frameworks among banks, telcos, and regulators, many victims still experience major hurdles in receiving redress from banks. This study explores the obstacles customers confront when banks respond to cyber fraud in Thailand, focusing on procedural fairness, institutional coordination, and victims' experiences. It covers major study gaps, such as the dearth of victim-centered qualitative studies, the lack of empirical outcome data, and the inconsistent complaint-handling practices between banks. The research utilises a mixed-methods triangulation design incorporating doctrinal and empirical methodologies. Data will be obtained through institutional mapping, case-file analysis, and semi-structured interviews with victims, bank managers, and police officers. The study intends to map procedural processes banks follow following fraud reporting, measure case outcomes, and analyse victims' views of justice and openness. Additionally, it examines interagency coordination between banks and law enforcement to uncover systemic bottlenecks. The study's findings will contribute to understanding how present legal and institutional frameworks affect victims' access to justice and financial restitution, showing gaps in accountability and procedural efficiency. The ultimate goal of this study is to suggest evidence-based changes that improve consumer protection, procedural justice, and confidence in Thailand's digital banking system.

Hyeon Tak Shin
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AI Sycophancy and the Regulatory Gaps

AI sycophancy means the tendency of LLM-based generative AI to unconditionally seek user approval at the expense of accuracy, truthfulness, and safety. Empirical research confirms that AI sycophancy is universal across all major AI systems, including GPT-4o, Claude, Gemini, LLaMA, and various open-source models, and that it intensifies rather than diminishes as model capabilities grow. Users nonetheless systematically prefer sycophantic responses, rating them 9–15% higher in quality than accurate but less validating ones—creating a self-reinforcing cycle that serves AI companies' commercial interests while harming users and broader society.

Sycophancy is structurally embedded in the Reinforcement Learning from Human Feedback (RLHF) process: human annotators' own cognitive bias toward validation-seeking is encoded into AI reward models, producing sycophancy as an emergent optimization artifact rather than a correctable defect. Pre-training on internet text—itself replete with like-minded community discourse—compounds this bias before fine-tuning begins. AI companies face perverse incentives to perpetuate rather than correct the problem, as demonstrated by OpenAI's 2025 GPT-4o episode in which user satisfaction metrics were prioritized over truthfulness guardrails.

Korea's AI Basic Act (effective January 2026) and the EU AI Act (effective August 2024) both fail to adequately address AI sycophancy. Korea's Act employs a sector-specific, high-impact AI framework that cannot capture the cross-cutting psychological and behavioral harms of sycophancy, while its fault-based liability doctrine further limits accountability where sycophancy arises from unavoidable structural features of LLM training. The EU AI Act's prohibition framework (Article 5) potentially reaches the most severe sycophancy cases but faces interpretive barriers, while its AI literacy obligation (Article 4) points in the right direction but carries no enforcement penalties and lacks content specificity—rendering it aspirational rather than operative.

In order to address the regulatory gaps, AI providers shall: (i) conduct systematic, adversarial sycophancy testing across domains; (ii) publish accessible AI testing results; (iii) supply users with domain-differentiated usage guidelines identifying when and how sycophancy is likely to occur; and (iv) notify users of potential harms in high-stakes contexts. Regulatory authorities should supervise compliance through periodic audits and meaningful sanctions, modeled on financial regulatory oversight, rather than relying solely on post hoc liability where causation barriers are prohibitive.

The framework can be deliberately calibrated to preserve AI innovation while ensuring that users have received sufficient, actionable information to make genuinely informed decisions based on the AI systems (and their responses or assistance) upon which the users rely.

Jill St George
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Constructing a Legal Gap Analysis: Barbados and LGBTQ+ Persons

This paper is the first in a planned series of articles which will assist in the development of a legal gap analysis in Barbados, focusing on LGBTQ+ persons and their rights and protections under the law. In 2022, the Barbados High Court, in the case of *Holder-McClean-Ramirez et al v Attorney General of Barbados* (2022) 44/220 determined that ss9 and 12, which criminalised buggery and serious indecency, were unconstitutional. This decriminalisation of same-sex sexual relations through judicial means, as opposed to Parliamentary, created a lacuna in the law regarding rights and protections for LGBTQ+ persons which is yet to be filled. This paper will present an overview of the current legal position, including rights and protections recognised and those absent, enabling future papers to focus on specific absent rights and contextualise their potential position on the Barbadian legal landscape within its socio-cultural framework.

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Artificial Intelligence and Human Rights in the Context of Globalization: Challenges and European Regulations

The expansion of the use of artificial intelligence in public administration, education and other sensitive areas raises essential questions about fairness, transparency and the protection of fundamental rights. At the heart of this article is a simple but urgent question: how can AI be regulated in a way that respects human dignity and leaves no one behind? Starting from the European framework, with a focus on the AI Act and the principle of "human-centric artificial intelligence", the article provides a critical analysis of how these directions are reflected in national realities. The case study on Romania highlights the gaps between ambitious strategies and concrete implementation: from digital justice and public administration to the education system where algorithms are present without a re-al public debate. Issues such as the lack of ethical audit mechanisms, low citizen involvement and systemic risks for vulnerable groups are discussed from an interdisciplinary and applied perspective. The article proposes several solutions to strengthen the democratic framework of AI: establishing real forms of public participation, developing tailored control and monitoring tools, and recognizing the role of universities in promoting an ethical culture of digitalization. Through its critical but constructive tone, the article not only assesses existing regulations, but also provides a direction for the future – one in which technology is put to work for people, not the other way around.

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Transforming Workplace Culture: Racism, Equality, and the Limits of Legal Regulation

The prohibition of racial discrimination is firmly embedded in international human rights law and domestic constitutional systems. Yet workplace racism continues to undermine the practical realisation of equality, dignity, and fair labour standards across jurisdictions. This paper examines South Africa's post-apartheid constitutional framework as a leading example of transformative constitutionalism aimed at addressing the structural legacy of institutionalised racism within both public and private spheres.

Despite an extensive legal architecture, including the Constitution of 1996, the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), and the Employment Equity Act (EEA), racial discrimination persists in contemporary workplaces in both overt and subtle forms. Drawing on a desktop analysis of recent case law, equality jurisprudence, and institutional reports, the paper explores how practices such as racial exclusion, workplace microaggressions, and intra-racial discrimination continue to impair the enjoyment of constitutionally protected rights and undermine substantive equality in employment.

The South African experience highlights a core limitation of legal regulation: while law can prohibit discriminatory conduct and provide remedies, it cannot by itself transform entrenched social attitudes, organisational cultures, or unconscious bias. The paper therefore advances a multidimensional approach that situates workplace racism at the intersection of constitutional law, labour law, and international human rights law. It argues that meaningful equality requires sustained institutional measures, including proactive workplace transformation strategies and continuous education addressing unconscious bias.

By reframing workplace racism as both a legal and structural challenge, the paper offers transferable insights for comparative and international contexts seeking to move beyond formal equality toward the substantive realisation of human rights in the workplace.

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South African Collective Bargaining Process: Is it Time for a Policy Change? A Reflection on National Union of Metalworkers of South Africa v. Trenstar

At the back of the apartheid era, South Africa embarked on a democratic drive of all its institution underpinned by a social justice perspective to eradicate past injustices. These democratic values based on fundamental human rights and equality informed all rights enshrined in the Constitution of the Republic of South Africa, 1996. This means that all rights are therefore infused by social justice perspective and labour rights are no exception. Labour law is therefore regulated to the extent that it is viewed as too rigid. Hence a call for more flexibility to enhance investment and boost job creation. This view articulated by the Free Market Foundation fell on deaf ears as the opponents believe in what is termed regulated flexibility which affords greater protection to vulnerable workers while promoting business opportunities and investment. The question that this paper seeks to examine is to what extent the regulation of labour law will go to protect employees. This question is prompted by the recent Constitutional Court's judgment of *National Union of Metalworkers of South Africa v Trenstar* which barred the employer from employing labour replacement in response to the strike action by its employees. The question whether employers may use replacement labour and have recourse to lock-outs in response to strike action is considered in the context of the dichotomy between the Free market foundation and social justice perspectives which are at loggerheads in the South African collective bargaining process. With the current unemployment rate soaring constantly, the aftermath of the COVID-19 pandemic, the effects of the war in Ukraine and lately the financial burden of load shedding on companies to run their businesses, this paper argues for a policy shift toward deregulation or a lesser state and judiciary intervention. This initiative will relieve the burden on companies to run a viable business while at the same time protecting existing jobs.

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Corporeal Punishment

American lawmakers have increasingly turned to laws that regulate bodily autonomy—not to promote public welfare, but to consolidate political power through the disciplined governance of sex, reproduction, and gender expression. They have been restricting access to abortion, erasing transgender people, criminalizing sex work, and reviving obscenity based rationales for limiting sexual expression. Though these laws span distinct legal domains, this Article argues that they form a unified doctrinal and ideological project: the legal regulation of the body as a mechanism of political control. This project introduces the concept of "corporeal punishment" to describe how law is increasingly deployed not simply to resolve disputes or promote public welfare, but to discipline nonconforming bodies and reinforce normative hierarchies pertaining to sex, reproduction, and sexuality. Unlike corporal punishment, which targets actions, corporeal punishment targets being. It disciplines identity by regulating which bodies may safely exist and reproduce under law.

This piece traces the genealogy from slavery and eugenics to modern bans on abortion and gender care, revealing bodily regulation as a persistent constitutional threat. By situating contemporary abortion restrictions, gender-affirming-care bans, and sexual-expression censorship within this genealogy, it argues that corporeal punishment is the central technology of an emerging American authoritarianism—a repressive legality that cloaks domination in the language of constitutionalism while advancing exclusion, hierarchy, and racial resentment. Doctrinally, the Article demonstrates that the Constitution already encodes an ethic of embodied freedom that corporeal punishment threatens. Habeas corpus provides doctrinal scaffolding for understanding the importance of the body to constitutional interpretation. The Thirteenth Amendment's prohibition on involuntary servitude, the Fourteenth's guarantees of liberty and equality, the Fourth's protection of bodily security, and the First's safeguards for embodied expression collectively mark the body as a limit on state power. Administrative law principles of reasoned decision-making further demand that government justifications for bodily regulation rest on evidence rather than moral pretext. Taken together, these doctrines reveal a constitutional architecture oriented around the protection of the body from domination—a structure that the framework of corporeal punishment makes visible and cohesive. Recognizing corporeal punishment as a constitutional violation clarifies the stakes: whether the state may conscript embodiment in service of ideological order. By examining statutory regimes, judicial reasoning, and administrative practices across these fields, this project shows how the legal system is being mobilized to police the body as a proxy for larger struggles over national identity, demographic destiny, and social power. The result of corporeal punishment is a legal architecture that punishes nonconformity, elevates reproductive normativity, and entrenches hierarchy under the guise of legality.

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Best Available Climate Science: A Guiding Principle or a Legal Obligation?

Climate change is the biggest threat that modern humanity has ever faced, resulting in a climate emergency that requires immediate and decisive action. While States, for the most part, seem to have accepted what the scientific community has reached consensus on, there seems to be some uncertainty as to what their legal responsibilities are to mitigate and adapt to climate change and how best to achieve this. Science has played a crucial role in climate change litigation to date as a means of supporting the courts' deliberations on the scope of a State's human rights obligations in the face of climate change. This signifies the "rights turn", understood to be the shift towards using human rights to hold States responsible for climate inaction. More recently, the focus of climate change litigation appears to be shifting to issues such as risk assessment and attribution in terms of which science is used to establish a causal link between climate harm and climate inaction. The use of science in this way, referred to as the "science turn", is paving the way for evidence-based policy formation. However, questions arise regarding the legal standard applicable and the enforceability thereof. The Paris Agreement provides that member States, *inter alia*, acknowledge that climate action should be guided by the best available science (BAS). While not precisely defined, BAS is an accepted principle of international environmental law and represents the most reliable, valid, current and relevant body of organised knowledge made available through conventional and non-conventional sources and is generated and applied using best practice standards. As stated by the International Tribunal for Law of the Sea and the International Court of Justice, the works of the Intergovernmental Panel on Climate Change reflects the BAS relevant to climate change; and, as per the Inter-American Court on Human Rights, should be utilised by States when designing and implementing climate action. Whether States can be held liable for a failure to take climate action is not in dispute. Whether States can be held liable for a failure to rely on the BAS when taking such action is less clear. However, the International Covenant on Economic, Social and Cultural Rights provides for the right to science as a legally binding human right, albeit underdeveloped and thought to be more aspirational than mandatory. Within the context of climate change this right can be operationalised in two main ways: firstly, through the adoption of mitigation and adaptation strategies guided by the BAS; and secondly, through active efforts to combat

climate disinformation that undermines evidence-based policy formation. Essentially, it can be said that reliance on the BAS is crucial for the realisation of the right to science since it provides the evidence needed to hold States liable for human rights violations resulting from climate inaction. Accordingly, this paper will argue that failure to rely on the BAS when taking climate action constitutes an infringement of the right to science, potentially elevating the BAS yardstick from guiding principle to a legally binding obligation.

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