
International Junior Scholars Forum in Law and Social Science

December 1 - 3, 2020
Presented via Zoom



清华大学 法学院
School of Law, Tsinghua University



COASE-SANDOR INSTITUTE
FOR LAW AND ECONOMICS
THE UNIVERSITY OF CHICAGO LAW SCHOOL

ETH zürich

International Junior Scholars Forum in Law and Social Science Schedule

December 1, 2020

MODERATOR: William H. J. HUBBARD

7:20 am Chicago /
2:20 pm Zurich /
9:20 pm Beijing

Introductory Remarks

7:30 am Chicago /
2:30 pm Zurich /
9:30 pm Beijing

Maria Maciá, University of Notre Dame Law School

“The Disparate Impact Standard and Housing Discrimination in Mortgage Lending”

8:15 am Chicago /
3:15 pm Zurich /
10:15 pm Beijing

Sangchul Park, Seoul National University School of Law

“Systematizing Trademark Similarity Tests with Natural Language Processing and Machine Learning: Prospects and Challenges”

9:00 am Chicago /
4:00 pm Zurich /
11:00 pm Beijing

End Time

December 2, 2020

MODERATOR: Simin GAO

7:30 am Chicago /
2:30 pm Zurich /
9:30 pm Beijing

Roe Sarel, Institute of Law and Economics, University of Hamburg

“Crime and Punishment in Times of Pandemics”

8:15 am Chicago /
3:15 pm Zurich /
10:15 pm Beijing

Yoan Hermstrüwer,

Max Planck Institute for Research on Collective Goods

“Transparency and Fairness in School Choice Mechanisms”

9:00 am Chicago /
4:00 pm Zurich /
11:00 pm Beijing

End Time

December 3, 2020

MODERATOR: Stefan BECHTOLD

7:30 am Chicago /
2:30 pm Zurich /
9:30 pm Beijing

Jens Frankenreiter, Columbia Law School - Ira M. Millstein Center for Global Markets and Corporate Ownership

“Are Lawyers’ Case Selection Decisions Biased? A Field Experiment on Access to Justice”

8:15 am Chicago /
3:15 pm Zurich /
10:15 pm Beijing

Benjamin Chen, The University of Hong Kong Faculty of Law

“The Fair Notice Argument for Textualism”

9:00 am Chicago /
4:00 pm Zurich /
11:00 pm Beijing

End Time

CONFERENCE ORGANIZERS

Stefan BECHTOLD

Professor of Intellectual Property
Center for Law & Economics
ETH Zürich

Omri BEN-SHAHAR

Leo and Eileen Herzel Professor of Law
Kearney Director of the Coase-Sandor
Institute for Law and Economics
University of Chicago Law School

Simin GAO

Associate Professor and Associate Dean
For International Affairs and Academics
Tsinghua University School of Law

William H.J. HUBBARD

Professor of Law
University of Chicago Law School

BOARD OF DISCUSSANTS

Elliott ASH

Assistant Professor of Law, Economics, and
Data Science
Center for Law & Economics
ETH Zürich

Anthony J. CASEY

Deputy Dean, Professor of Law, Faculty
Director, The Center on Law and Finance
University of Chicago Law School

Adam CHILTON

Professor of Law
Walter Mander Research Scholar
University of Chicago Law School

Guobin CUI

Associate Professor
Tsinghua University School of Law

Christoph ENGEL

Director and Professor
Max Planck Institute for Research on
Collective Goods

Lee FENNELL

Max Pam Professor of Law
University of Chicago Law School

Fernando GÓMEZ POMAR

Professor
Universitat Pompeu Fabra

Haibo HE

Professor
Tsinghua University School of Law

Tami KRICHELI-KATZ

Associate Professor
Buchmann Faculty of Law
Tel-Aviv University

Dongyang LAO

Professor
Tsinghua University School of Law

Zhuang (John) LIU

Assistant Professor of Law and Economics
School of Management and Economics
Chinese University Hong Kong, Shenzhen

Richard McADAMS

Bernard D. Meltzer Professor of Law
University of Chicago Law School

John RAPPAPORT

Professor of Law
Ludwig and Hilde Wolf Research Scholar
University of Chicago Law School

Adriana ROBERTSON

Honourable Justice Frank Iacobucci Chair in
Capital Markets Regulation and
Associate Professor of Law and Finance
University of Toronto Faculty of Law

BOARD OF DISCUSSANTS (CONTINUED)**Holger SPAMANN**

Lawrence R. Grove Professor of Law
Harvard University

Lior J. STRAHILEVITZ

Sidley Austin Professor of Law
University of Chicago Law School

Alex STREMITZER

Professor of Law and Economics
Center for Law & Economics
ETH Zürich

Xin (Sean) TANG

Professor
Tsinghua University School of Law

Anne van AAKEN

Alexander von Humboldt Professor, Chair for
Law and Economics, Legal Theory, Public
International Law and European Law and
Director of the Institute of Law and Economics
University of Hamburg Faculty of Law

Angela ZHANG

Associate Professor
Hong Kong University Faculty of Law

PRESENTERS AND ABSTRACTS

December 1, 2020



Maria Maciá

Visiting Assistant Professor of Law
University of Notre Dame

Maria Maciá is an economist whose research considers the regulation of corporations and valuation issues through an empirical approach. She considers the effects of regulations that encourage corporate social responsibility and risk management, and she has a particular interest in disclosure requirements and the regulation of banks. Previously, she has written on the usefulness of well-

being measures for tailoring compensation in the eminent domain context. She teaches corporate finance.

Maciá holds a JD from the University of Chicago Law School, where she was an articles editor for the University of Chicago Law Review; a PhD in Economics, also from the University of Chicago; and a BA in Economics and Political Science from Swarthmore College. Before coming to Notre Dame, she served as a law clerk to Judge Andrew Hurwitz on the United States Court of Appeals for the Ninth Circuit. She worked as an economic consultant on antitrust matters and as a teacher at a Great Books high school prior to law school.

The Disparate Impact Standard and Housing Discrimination in Mortgage Lending

Abstract

This paper investigates the effect of changes in the legal standard for proving discrimination on lending differentials between black and white and hispanic and white applicants by exploiting variation in when US Circuit Courts changed the standard. Between 1974 and 2015, different US Circuit Courts (and eventually the Supreme Court) gradually relaxed the strict burden of proof required to sue for housing discrimination, moving to allow a showing of disparate impact (that is, a differential effect) on protected classes rather than requiring a showing of intent to discriminate. Three different measurements that provide evidence for discrimination in the Home Mortgage Disclosure Act Data are used to assess this impact, two looking at minority-majority differentials in quantity and one measuring discrimination by looking at profitability. The measurement tracking rejection rates provides evidence that the movement to the disparate impact standard reduced the black-white and hispanic-white differentials in the decision to accept a home mortgage application. Movement to a disparate impact standard reduces the rejection differential between blacks and whites by 4.1 percentage points, compared to a 12.4 percent differential under an intent standard. The same movement leads to a reduction in the rejection differential between hispanics and whites by 2.7 percentages points, compared to a 4.4 percent differential absent the standard. This is interpreted as evidence of a reduction in taste-based discrimination due to the analyzed loans being essentially risk-free for the banks. The measurement of profitability after the change in the legal standard provides evidence for a higher quality pool of accepted borrowers, which is also consistent with a reduction in taste-based discrimination.

December 1, 2020



Sangchul Park

Assistant Professor

Seoul National University School of Law

Sangchul Park is an assistant professor at Seoul National University School of Law. He completed his JSD at the University of Chicago and his undergraduate studies at Seoul National University. His main research area is the application of machine learning to legal studies. At the law school, he is teaching artificial intelligence & law and information & telecommunications law. Prior to beginning his academic career, he spent more than 13 years in private practice

specializing in technology, media, and telecommunications.

Systematizing Trademark Similarity Tests with Natural Language Processing and Machine Learning: Prospects and Challenges

Abstract

This study explores a way to systematize trademark similarity tests through natural language processing and machine learning. To do so, similarity indexes are extracted from 2,037 pairs of word marks which the Trademark Trial and Appeal Board (TTAB) judged similar or dissimilar during the 2010s. Models are then trained on the indexes to predict similarity in each pair of the marks. The outcomes unveil different weights the TTAB had placed on similarity tests and substantiate a shift in its focus of attention from textual similarity to phonetic and semantic similarity. They also suggest an expert opinion based on the model could pass judicial gatekeeping if the following conditions are met. First, a virtuous cycle should be created between the court's consistency and the model's predictive accuracy. Second, structured surveys or experiments should be conducted to keep the model aligned with the recollection of the average purchaser.

December 2, 2020



Roe Sarel
Research Associate
Institute of Law and Economics, University of Hamburg

Dr. Roe Sarel is both a lawyer and an economist. His dual-background includes a doctorate in economics from the Frankfurt School of Finance & Management and degrees in law and business (LL.B & M.B.A) from the Hebrew University of Jerusalem. Previous positions include a lecturer and lab manager post-doc at the Economics department of the Frankfurt School of Finance; an associate lawyer at a Litigation & Banking department of Yigal Arnon & Co. law firm; a blockchain entrepreneur; and various research and teaching assistant positions in law, economics, and finance. Roe is currently a post-doctoral research associate at the Institute of Law & Economics of the University of Hamburg. His research combines empirical, experimental, and theoretical methodologies and focuses on topics such as blockchain technology, implications of the Covid-19 pandemic, crime, pro-social behavior, and judicial incentives. Roe has published in leading journals, such as the Journal of Legal Studies, and his work has been presented in many top international conferences, such as the American Law & Economics Association, European Association of Law & Economics, American Economic Association, and the Conference on Empirical Legal Studies in Europe. More information can be found on his website: www.roeesarel.com

Crime and Punishment in Times of Pandemics

Abstract

How should we think about crime deterrence in times of pandemics? The economic analysis of crime tells us that potential offenders will compare the costs and the benefits from crime and from innocence and then choose whichever option is more profitable. We must, therefore, ask ourselves how this comparison is affected by the outbreak of a pandemic and the policy changes which may accompany it, such as governmental restrictions, social distancing, and economic crises. Using insights from law and economics, this article investigates how the various components in the cost-benefit analysis of crime might change during a pandemic, focusing on Covid-19 as a test case. Building on classical theoretical models, existing empirical evidence, and behavioral aspects, the analysis reveals that there are many potentially countervailing effects on crime deterrence. The article thus highlights the need to carefully consider which aspects are applicable given the circumstances of the pandemic, as whether crime deterrence will increase or decrease should depend on the strength of the effects at play.

December 2, 2020



Yoan Hermstrüwer

Senior Research Fellow

Max Planck Institute for Research on Collective Goods

I am currently a Senior Research Fellow at the Max Planck Institute for Research on Collective Goods in Bonn. My research focuses on law and market design (matching markets, auctions, school choice, refugee law), technology law, constitutional law, international law, experimental law and economics, and empirical legal studies. Prior to working in academia, I passed the First State Exam and the Second State Exam in Germany. From 2014 to 2016, I gained some practical experience as a law clerk in Germany, at the German Embassy in South Korea, and at the World Bank in Washington, D.C. I hold a Ph.D. in Economics from the University of Jena (Dr. rer. pol.), a Ph.D. in Law from the University of Bonn (Dr. iur.), and a Licence en droit from Université Panthéon-Assas (Paris 2). I have been a Visiting Researcher at Yale Law School in 2013 and a Fellow of the Transatlantic Technology Law Forum at Stanford Law School from 2018 to 2020.

Transparency and Fairness in School Choice Mechanisms

Abstract

This article explores the impact of procedural information on the behavior of students under two school admissions procedures commonly used in the US, the EU and other jurisdictions: the Gale-Shapley mechanism and the Boston mechanism. In a lab experiment, I compare the impact of information about the mechanism, information about individually optimal application strategies, and information about both. I find that strategic and full information increase truth-telling and stability under the Gale-Shapley mechanism. Under the Boston mechanism, however, the adoption of equilibrium strategies remains unaffected. Contrary to prevailing assumptions in matching theory, the Boston mechanism improves perceived fairness. These results underscore the importance of procedural transparency in public law and suggest that eliminating justified envy may not be sufficient to foster fairness and mitigate litigation risks.

December 3, 2020



Jens Frankenreiter

Postdoctoral Fellow in Empirical Law and Economics
Columbia Law School - Ira M. Millstein Center for Global Markets and Corporate Ownership

Jens Frankenreiter is the Postdoctoral Fellow in Empirical Law and Economics at the Ira M. Millstein Center for Global Markets and Corporate Ownership at

Columbia Law School.

Jens's research interests lie at the intersection of business law, contract law, and empirical methods. Much of his work uses quantitative methods and other computational tools such as automated text analysis and machine learning. His writing has appeared in leading academic journals, among them the Journal of Empirical Legal Studies and the Southern California Law Review.

Jens holds a Ph.D. from the Swiss Federal Institute of Technology (ETH Zürich) and a LL.M. from Harvard Law School. Before coming to Columbia, he was a Senior Research Fellow at Max Planck Bonn and a Visiting Associate Professor of Law at the University of Virginia School of Law.

Are Lawyers' Case Selection Decisions Biased? A Field Experiment on Access to Justice

Abstract

The lawyer-client relationship is pivotal in providing access to courts, and in many instances, the ability to find and retain a lawyer serves as a sine qua non for a successful claim. This paper presents the results from a field experiment exploring how demographic information (as encoded in the names of potential clients) affects how attorneys respond to initial inquiries. We find that inquiries from (perceived) White potential clients received responses 26% of the time, while inquiries from (perceived) minority potential clients received responses 23% of the time ($p < 0.01$). We further examine whether the personal characteristics of attorneys as well as the geographic characteristics where they are located are correlated with differential treatment. We find that attorneys who live in more conservative areas of the country (as measured by vote shares in the most recent presidential election) are more likely to preferentially respond to emails from perceived White potential clients. We further find that attorneys who are statistically likely to be White (based on their names) are more likely to preferentially respond to emails from perceived White potential clients. Significant correlations between differential response rates and attorney race remain, even when geographic factors are held constant. While this finding does not provide conclusive evidence for the existence of "taste-based" as opposed to "statistical" discrimination, it suggests that differences in the treatment of different groups may not merely be a reaction to jurisdiction-level factors that affect the expected payoff of lawsuits.

December 3, 2020



Benjamin M. Chen
Assistant Professor
The University of Hong Kong Faculty of Law

Benjamin Chen is an interdisciplinary legal researcher interested in regulatory and judicial institutions. His current research examines the scope for consequentialist reasoning in law, the diffusion of policy through the courts, and the impact of artificial intelligence on justice and its administration.

Benjamin graduated with a J.D., Order of the Coif, from the University of California, Berkeley in 2017 where he also received his Ph.D in Jurisprudence and Social Policy. He is admitted to practice in the State of California. In addition to his legal qualifications, Benjamin holds a M.A. in Philosophy from University College London, a M.S. in Applied Mathematics from the Ecole Polytechnique, and a B.A. in Economics from the University of Chicago with a minor in Romance Languages and Literatures.

Before joining the Faculty of Law at the University of Hong Kong, Benjamin was assistant professor in public policy at the National University of Singapore. He was previously a postdoctoral research scholar and lecturer-in-law at Columbia University in the City of New York and served as a judicial law clerk on the United States Court of Appeals for the Ninth Circuit.

The Fair Notice Argument for Textualism

Abstract

The opportunity to know the law is one of the bedrocks of legality. It is also a powerful and attractive reason for giving statutory language the meaning it has in everyday discourse. To do otherwise would be to hide the law from those it governs.

Or so the argument goes. Despite its intuitive force, the fair notice argument for textualism is vulnerable to two challenges. The first challenge is to the notion that fair notice requires congruence between ordinary and legal meaning. There is no normative gauge for determining the time and expense a person ought to spend on learning her legal obligations or the amount of skill she is expected to possess. And fair notice is not necessarily impaired by recourse to extratextual sources so long as the rules of interpretation tell officials and citizens which materials to consult and which approach to adopt when reading law. The second challenge arises from the relationship between law, morality, and notice. Social expectations and ethical norms may provide the requisite notice. Alternatively, they may render notice less important. Fair notice is either superfluous or satisfied where the community regards the proscribed behavior as wrongful and the punishment, fitting. Conversely, the demands of fair notice are heightened when the behavior reached by the statute is innocent or when the consequences of violation are disproportionate.

The vitality of these two challenges is empirically tested through a survey experiment fielded on a random sample of the United States adult population. The results indicate that lay judgments of fair notice are influenced by the severity of the legal consequences. They also suggest that conditional on outcome, judicial reliance on legislative purpose and history offends popular notions of fair notice only when the law tells courts to privilege the ordinary meaning of statutes. The findings complicate conventional wisdom about textualism, fair notice, and the rule of law.

ABOUT THE FORUM

The Chicago-ETH-Tsinghua International Junior Scholar Forum on Law and Social Science selected six scholars to present work-in-progress. Each paper will be given a 45-minute slot, which will begin with a brief, 10-minute presentation by the author, introducing the main argument of the paper. The presentation will then be followed by group discussion and Q&A. To facilitate a roundtable workshop format, there will be no prepared comments by the discussants. All papers will be distributed and read by all participants in advance, to enable rigorous and broad conversation.

CONFERENCE SPONSORS



COASE-SANDOR INSTITUTE
FOR LAW AND ECONOMICS
THE UNIVERSITY OF CHICAGO LAW SCHOOL



清华大学法学院
School of Law, Tsinghua University

ETH zürich