GAMES OF LAW

PLAYING (WITH) THE DOUBLE BIND OF JUDICIAL DECISION-MAKING: THE CONTRIBUTION OF PHILOSOPHICAL HERMENEUTICS AND LEGAL NARRATOLOGY

JEANNE GAAKEER • ERASMUS UNIVERSITY ROTTERDAM

Playing (with) the double bind challenges the persistent formalist view that judging is the unmediated application of objective legal norms to easily stated facts. This idea of a iudex deductor who, as U.S. Supreme Court Chief Justice John Roberts had it at his 2005 confirmation hearing, as an umpire simply calls balls and strikes is incorrect. Playful though Roberts' metaphor may be, contrariwise the hermeneutic movement between norm and fact is always dialectic, shifting from the specific to the general and back, which is a play but differently. This is so because legal rules are not self-explanatory and/or self-applying, i.e. no rule is a priori available for the application of a specific rule in the case at hand. The practicing jurist's methodology is always the combined effort of the perception and assessment of the facts against the background of what legal norm can mean. This includes the awareness that the whole process is governed by the dynamics of the interpretive frame that is itself subject to constant developments and challenges. Therefore, jurists should also bear in mind the influence of their own interpretive frameworks on both fact and norm, because as humans we cannot escape our hermeneutic situation of being culturally determined, professionally as well as personally. I will explore the hermeneutic and narratological aspects of the double bind of legal, more specifically judicial, decision-making, i.e., the freedom to decide and the obligation to obey the law, on the view astutely voiced by Paul Ricoeur, that 'The reader is absent from the act of writing; the writer is absent from the act of reading.' This exploration will include, among others, the topics of practical wisdom as a form of cognition, the creative and productive imagination necessary in an imaginary decision space, and Paul Ricoeur's narrative model of mimesis.

ENDGAME OF INTERNATIONAL LAW: SINGULARITY AS EMBEDDED FAILURE

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My paper will set the theory I've been recently developing – of singularity of international law – in the conceptuality of games and game metaphors. To this purpose, I will draw on two readings: of Samuel Beckett's Endgame and Carl Schmitt's Nomos der Erde. Singularity of international law is a term borrowed from Hegel's conceptuality. In Hegel, it forms part of a famous triad, together with universality and particularity. Singularity is a universality that incorporates its limitations and recognises that it does not have a properly universal power, but rather a limited field surrounded by negativity. As I will argue, singularity is a concept particularly well suited to grasp the work of international law – a system which has a normative nature, but due to the position of sovereignty that its subjects are endowed with, always encounters its boundaries in the refusal of effectively binding force.

Singularity of international law explains what kind of games can and cannot be played by this law. As Schmitt famously argued, modern international law marks the end of the ius publicum Europaeum, which was a set of rules for an elitist club playing in war and peace. Due to many reasons, amongst which legal prohibition of war comes to the fore, international law was disturbed in its game role and turned into a failed normative system. In my paper I am going to critically explore this failure of this game, trying to grasp the transition to the current singularity of international law. In this analysis Beckett's Endgame, with its temporality of game played but lost, will be a crucial source of inspiration.

'DECEIVING WITH A SWEET BANANA': PETITIONERS IN TRUST TERRITORIES AS THEORISTS OF INTERNATIONAL LAW

NICOLE ŠTÝBNAROVÁ • COPENHAGEN BUSINESS SCHOOL

In my research, I examine petitions sent by the inhabitants of trust territories (former colonies under the UN's supervision) to the UN Trusteeship Council between 1945-1968. In this contribution which is a chapter of my book-in-the-making, I discuss ways of analysing the petitioners' argumentation not for its substance (which I explore in other chapters) but for its form.

The petitioners wrote to the UN with the intention to influence a change in international law and the trust territories' governance. They argued with a distinct rhetorical style, using linguistic devices uncommon to traditional legal argumentation. They used, for example, irony, metaphors, proverbs, paradiastole, storytelling, interjections, lamentations and expressions of nihilism to contest the existing policies and law and to persuade the addresses at the Trusteeship Council. They further wrote with a personal tone which apparently valued personal experiences over systemic coherence of arguments within an abstracting order (such as law, democracy, ethics, etc.), and used indirect figurative descriptions of reality rather than directive reasoning.

My proposal is that the formal features of the texts – (in)directness, (in)coherence, personal tone, figurative linguistic devices – can be seen as functioning together with the content of the text in the discursive transformation effectuating social change. Therefore, I study the petitioners' texts not only as a discourse in the socio-theoretical sense, but also in a socio- linguistic sense. This means that I focus not just on its political and ideological dimensions but I also study 'semantic change as a part of an attempt to effect cultural change'. In this endeavor, I analyze how the distinct language brought about to the UN by the petitioners can challenge the established scripts for change-oriented argumentation in (international) law.

Theoretically, this chapter is inspired by socio linguistics and pre-figuration theory which it combines with the normative approach of praxis- and grounded theory.

GREENWASHING LEGAL POWER: THE ILLUSION OF REFORM IN INTERNATIONAL INVESTMENT LAW THROUGH CLIMATE CLAUSES AND SUSTAINABILITY LANGUAGE

DENISA HLUŠIČKOVÁ • PALACKÝ UNIVERSITY

International investment law has increasingly adopted the language of environmental protection and sustainable development, particularly through the inclusion of climate and environmental clauses in modern International Investment Agreements (IIAs). These provisions—purporting to affirm states' regulatory autonomy and signal alignment with global climate goals—are often celebrated as evidence of a greening investment regime. However, this paper argues that such developments amount to a rhetorical shift that obscures, rather than resolves, the structural power imbalances embedded within the investment treaty system.

While climate-related clauses are proliferating in IIAs concluded since 2015, they are typically framed in aspirational or non-binding terms. They rarely impose enforceable obligations on investors, nor do they substantively rebalance the asymmetrical distribution of legal risk between host states and foreign investors. In contrast, investor protections—such

as fair and equitable treatment and protections against indirect expropriation–remain robust and enforceable through investor-state dispute settlement (ISDS), which continues to constrain states' ability to implement climate-related regulations.

This paper critically examines the performative function of sustainability language in IIAs, suggesting that these clauses often operate as a form of legal greenwashing: legitimising a regime that remains structurally skewed in favour of capital while masking the limited legal mechanisms available to address environmental harms or support climate justice. Drawing on critical legal theory and postcolonial perspectives, the paper interrogates how the apparent convergence between investment law and sustainability serves to reinforce existing hierarchies, particularly disadvantaging Global South states engaged in climate regulation. By exposing the disjunction between the rhetorical and legal effects of climate clauses, the paper contributes to broader debates on the ethical legitimacy of the international investment regime and the urgent need for treaty reform that centres environmental justice and legal accountability.

RULES TO PLAY, WIN OR LOSE? BETWEEN RULES OF LEGAL GAMES AND RULES OF WINNING THEM

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WERONIKA DZIĘGIELEWSKA • ADAM MICKIEWICZ UNIVERSITY

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A prominent Polish legal theorist and former Constitutional Court judge, Sławomira Wronkowska, remarked in a 2018 interview that throughout her career she has been more concerned with the "rules of game" (pol. reguły gry) than with the rules of winning (pol. Reguły wygrywania)", referring specifically to the practice of law. This metaphor offers a valuable conceptual incentive for further developing the line of inquiry we initiated in Dybowski et. Al (2022). In that paper, we distinguished between two senses of the term "legal game": the first, where the game is identical with its rules or general practices of playing by such rules (called "GAME"), and the second, where the game represents a specific instance of individuals participating in it ("game"). Our goal was to propose an account of law as the GAME in terms of reasons and thus extend a typical picture of law limited to constitutive rules, by adding practical stakes. Additionally, we distinguished between three types of reasons employed by the participants of the legal game: legal reasons ('L-reasons' which derive from legal rules), epistemic reasons ('E-reasons', understood as propositions of fact) and stake reasons ('S-reasons', rooted in the idea that there are different possibilities to resolve a particular case and different consequences thereof).

In the present paper, we aim to elaborate on the distinction between the rules of specific games and the rules of winning. We identify key questions that guide participants in the legal practice as they seek the appropriate rules: What do I want to achieve? What is at stake? What are the consequences of doing A or B? Which of these approaches brings me closer to achieving my stake? We explore whether the rules of winning emerge from their experiences with the rules of the game.

Furthermore, we argue that the rules of winning can be identified and characterized based on S-reasons. It seems that the presence of stakes in legal games determines the possibility of "wins" (and – on the other hand – "losses") in such games. In other words, there can be no winning without the stakes. We also examine whether it is possible to identify "rules of losing" (i.e., can one "lose in game" while still achieving a certain stake?). Briefly, we examine the relationship between rules of game and rules of winning and losing.

Finally, we draw attention to the relationship between the rules of games and rules of GAME, as well as rules of winning games and rules of winning GAME. In this context, we observe that the distinction under discussion offers the possibility to redefine the issue of the instrumentalization of law. The problem of instrumentalization is almost automatically viewed in a negative light; however, by distinguishing between stakes and, consequently, the rules for achieving them (rules of winning), we can also conclude that instrumentalization is an inherent feature of legal practices. Whether it is virtuous or vicious may depend on the value ascribed to stakes that one aims to achieve.

PLAYERS AND SPECTATORS IN THE GAME OF LAW. POWER-KNOWLEDGE RELATIONS OF LEGAL AND NON-LEGAL INTERPRETIVE COMMUNITIES

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The metaphor of law as a game has a rich history in legal theory. What attracted most scholars is the idea that both law and games are enterprises possible only within certain rules understood and accepted by the community of the players. Some scholars claim that the other meaning of a game, a match ("a particular occurence of people playing") is even more significant to the notion of law. In this paper I would like to analyze both meanings. Regarding the first, I will focus on Stanley Fish's concept of interpretive communities as an example of such theory and its relation to other game analogies in legal theory. Regarding the second, I would like to introduce another aspect of the metaphor, namely the function of a spectacle and the role of a spectator in a game. I claim that although there are games without spectators, the law is far from it. As much as legal theory focuses on the normative aspect of a game, folk theory of law and cultural narratives of legal fiction seem to enforce the idea of sports-like match. However, what differs law from games like chess or football is that losing side is effectively not one of the players, but rather a spectator, represented by a professional player. That creates unique power-knowledge dynamic between different interpretive communities involved in the Game of Law. The distinction between legal player and non-legal spectator provokes a rulemaking paradox: the spectator lacks the knowledge to play by the rules but has enough knowledge to create the rules (through democratic process). On the other hand, not taking the spectator into consideration ignores the reason why the game is played in the first place.

THE GAME METAPHOR IN LAW: DEAD OR ALIVE?

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MARTA DUBOWSKA • INDEPENDENT

In order to answer the question what the particular metaphor (like the game metaphor) can tell us about a given phenomenon, one need first to recognize the general explanatory power of metaphors as such. For instance, is the metaphor a living one, or half-dead or quite dead already? Also, metaphors may be misapplied, and thus, unrecognized. Francis Bacon famously tried to metaphorize the term „form", so it would apply to ways in which the world works, but failed boldly. Only later on, his related analogy between „form" and „lex" grounded the well know metaphor of „laws of nature". The latter is nowadays a pretty worn off metaphor, rarely recognized as such.

In our preliminary paper we will revive an insightful theory of metaphors developed by Owen Barfield, poet and lawyer, a forgotten Founder of the Law and Literature movement. In Poetic Diction, The History of English Words, and a seminal paper Poetic Diction and Legal Fiction, Barfield developed a Theory of metaphors as motors of evolving cultural consciousness. By applying his Theory, we will evaluate the strength of „law as game" metaphor (as living, dead, or otherwise). We will also expand Barfield's account by adding an element of Austin's theory of performatives/ speech acts. By this token one could talk about the illocutionary strength of the metaphor. This is a preliminary study, though by a referring to Barfield's theory, we would like not only to remind the fundamentals, but also to bring recognition to this forgotten scholar.

UNLUCKY IN LAW: THE HIDDEN CONSEQUENCES OF CONSTITUTIONAL TIMEKEEPING

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The temporal dimension of judicial decision-making can decisively shape the outcome of a case. While litigants often treat timing as a matter of strategic risk management, certain constitutional courts have institutionalised the power to determine the temporal effects of their rulings, thereby influencing not only future legal norms but also the retrospective and prospective rights of individuals. This contribution examines how these temporal decisions

(particularly, the postponement of a judgment's publication), being rules of the game, impact individual claims (i.e. players) and implicate broader questions of fairness and legal responsibility. Constitutional courts typically apply decisions ex nunc, affecting only future cases. Yet, some legal systems permit courts to modulate the temporal scope of decisions: applying them retroactively (ex tunc), prospectively (pro futuro), delaying their publication to grant the legislature time to adjust legal norms (P. Popelier et al., 2014). While such postponements may aid institutional stability and legislative compliance, they can simultaneously disadvantage individuals harmed by unconstitutional laws, denying them access to remedies or compensation.

Based on Nagel (Nagel, 1993) Herstein identifies specifies legal luck as specific instances of moral luck (Herstein, 2019). Drawing on Herstein's articulation of 'legal luck' as a subset of moral luck, this paper identifies how temporal discretion in constitutional adjudication introduces circumstantial legal luck (i.e. 'luck in the circumstances of conduct where those circumstances are both beyond one's control as well as influence what one does' (Herstein, 2019)). Whether an individual can seek redress for unconstitutional harm may hinge not on legal merit but on the contingent fact of timing (specifically, when the court elects to make its ruling public). As Honoré argued, '[a]ny principle which can justify responsibility for bad luck must be fair' (Honoré, 1988). Thus, attributing responsibility in such cases requires fairness-based justification. Yet current frameworks often lack such normative grounding, as constitutional courts typically justify postponing rulings on consequentialist, policy-driven grounds, aimed at supporting legislative efforts or minimising costs to the state.

This paper makes two central claims. Theoretically, it argues that temporal decisions in constitutional adjudication generate morally arbitrary outcomes that should be conceptualised as instances of legal luck, raising concerns of fairness and legitimacy. Empirically, it will demonstrates that the European supranational legal order provides inadequate constraints on the discretionary use of temporal effects by constitutional courts, thereby leaving affected individuals insufficiently protected. In particular, based on the example of selected constitutional courts' legal reasoning I will illustrate the difficulties to raise the credibility of temporal choices to individuals, making the temporal choice of a judgment a lottery. Ultimately, the paper asks whether the right to a fair trial and principles of legal certainty can and should impose normative limits on constitutional courts' discretion in shaping the temporal scope of their decisions.

PLAYING WITH TIME IN LEGAL INTERPRETATION

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Time is rarely highlighted as a significant factor influencing the process of legal adjudication. As French (2001) aptly observes: *"time is always necessary in the law, yet it is rarely examined."* Time is typically treated as linear, moving steadily forward like the hands of a clock toward the future. This is, of course, one way of conceptualizing time; however, in legal practice, we often encounter a more complex, non-linear temporal structure.

A single legal case may involve a "collision" of different temporalities–those brought in by the participants to a dispute, and those presupposed by the adjudicating authority. The period during which a case is heard also matters, as do the time frames and temporal understandings from which the parties to the legal process derive their arguments. Most commonly, this involves a conflict between psychosocial time (individually experienced, including by the judge) and legal time (structured by the legislator and shaped by the interpretive community).

When adjudicating a case, the judge essentially "juggles time"–weighing to what extent the law should act as a "weapon against time," as Barthes put it, or as a responsive instrument capable of adapting to changing socio-economic circumstances. The temporal conditioning of legal application thus reveals a distinct interplay between the pursuit of stability and the need for responsiveness to present-day realities.

This paper aims to illustrate this "temporal play" undertaken by judges in the process of legal interpretation, using selected case studies from Polish jurisprudence. I will focus on how interpretive arguments are either adapted or stabilized over time–in other words, how judges reconcile different understandings of time in the interpretive process to deliver coherent and persuasive justifications for their rulings.

I would also like to emphasize that the individual perception of time by the judge adjudicating a given case is a factor that legal provisions have limited influence over–much more impact is exerted by the interpretive community. This is a subjective element of the legal application process, one that is difficult to predict: what kind of "game" will the judge choose to play? Will they freeze the meaning of legal terms as if nothing has changed, or will they significantly expand the interpretive boundaries of statutes that the legislator has left formally untouched?

A GAME OF DIALOGUE WITH THE LEGISLATOR (PRETENSE AND MAKE-BELIEVE), OR A REAL ONE?

LINDA TVRDÍKOVÁ • MASARYK UNIVERSITY

In my earlier works and presentations, I tried to present the interpretation of law as a game, namely a game of giving and asking for reasons (Tvrdíková, 2022, Tvrdíková, 2025), where my obvious inspiration was mainly the works of Ludwig Wittgenstein, Wilfrid Sellars, and Robert B. Brandom. However, during my research, I have concluded that this game has its own specific characteristics within the interpretation of law (see Tvrdíková, 2025). In this paper, I would like to focus on one of these specific characteristics. In a dialogue with a "concrete" person, we can infer what is implicitly involved in the utterance from the context and the intentions of that person (see, for example, Grice, 1989). In the interpretation of law, we often pretend to do the same in an imaginary dialogue with the legislator. But is this possible? Can we talk about the legislator as a singular entity with its own intentions? Or are we merely pretending that? I believe that social ontology can help us answer these questions. Margret Gilbert's theory (e.g., Gilbert, 1989) seems to be the most suitable for defending the thesis that the legislator is a real plural entity with its own intentions, so I will focus on her theory and whether we can use it to defend the idea that the legislator has its own intentions.

THE LAW TEACHER'S DUTY TO PLAY

THOMAS GIDDENS • UNIVERSITY OF DUNDEE

Incumbent on the office of law teacher is a duty to be complicit in the (re)production of social, legal, and institutional form through the care of pedagogic space, community, and practice. There is no neutral pedagogy, and the inhabitant of the law teacher's office always exerts power in their administration of what they make present for their students and how they guide engagement with materials, knowledge, and understanding. The way law teachers administer their educational materials and conduct unavoidably shapes the law that students are trained into and their subsequent conduct of postgraduate and legal office, within and beyond the legal profession. The law teacher's obligation to be complicit also comes with an implied duty to play, as the practical means by which knowledge and understanding are encountered and the (re)production of legal form takes place. Engagement with learning requires creativity and inhabiting imaginary structures, features that are characteristic of play and that require play to take place. Broadly understood, play is the means by which knowledge and understanding is staged for and encountered by learning subjects. Recognising this play enables the unavoidable complicity of those administering the law teacher's office to be recognised and reflected upon. This in turn opens legal education to critical potential, beyond the unthinking repetition of existing forms or harmful practices in the resolution of social conflict that underpins law's institutional function. The law teacher has a duty to play, can do nothing but play, and recognising this duty and necessary conduct opens legal pedagogy to reflection on its own critical conduct.

PLAYTEST

THOMAS GIDDENS • UNIVERSITY OF DUNDEE

DAVID YURATICH • UNIVERSITY OF EXETER (IN ABSENTIA)

Developed to help students and the wider public engage with the structures of common law reasoning, Judge! Play with Reason is a table-top card game that opens to discussion of the form and limits of the common law 'method' in the resolution of social conflict. Drawing on the broadly rhetorical or constructive nature of legal knowledge and process,

Judge! is founded on principles of game-based learning in which playing games forms the primary mode of pedagogic engagement. By internalising the rules of the game, players approach the intended learning outcomes–in this case, an appreciation of the hegemonic structures of common law reasoning and how they function to authoritatively resolve conflict in legal disputes. Whilst it is hoped that the game will also appeal to a wider game-playing public, its primary use will be as a resource for teaching core principles of common law reasoning as a springboard to critical reflections on its nature and form. Those in attendance at this session will both witness the game in action and reflect on its play mechanics and how these support its critical pedagogic value. This interactive session will involve a staged demonstration of the game, followed by a facilitated general discussion on the game's potential, merits, and limitations as a tool for critical legal pedagogy.

JUST A GAME?
THE ETHICS OF PERFORMING LAW

MARKÉTA ŠTĚPÁNÍKOVÁ • MASARYK UNIVERSITY

HYNEK VRÁNA • MASARYK UNIVERSITY

Portraying law can be both an exciting and a hazardous task for artists as well as for law students. It is a performance ludic in nature and educational in purpose–that combines enjoyment with demanding work, for both actors and audiences alike. This enactment of legal issues takes place on various stages: literal intended for professional theatre, or figurative ones such as moot courtrooms. In each setting, we are engaged in a shared play about law.

Yet does this mean that legal theatre is "just a game"? What are the connections between artistic representations of law and "real law"? Which of these are "real", and which are mere shadows, playful simulations, or even deliberate distortions? And is such a distinction relevant or even possible?

Although such questions may seem overly theoretical, impractical, or confined to the Law and Literature field, this paper argues that creative portrayals of law can meaningfully influence legal understanding and practice. The focus will be on the ethical dimensions of these representations, exploring how they shape perceptions of law's truth, authenticity, and authority.

CONFLICT MODERATION IN VIRTUAL WORLDS:
QUESTIONS OF TRANSPARENCY, PROPORTIONALITY, AND ACCOUNTABILITY

ONDŘEJ BÖHM • MASARYK UNIVERSITY

TOMÁŠ HAVLÍČEK • MASARYK UNIVERSITY

This paper examines video game environments as spaces of legal and normative conflict, where community rules, player behaviour, and formal regulation collide. Focusing on the European Union's Digital Services Act (DSA), the paper explores how emerging legal obligations around content moderation play out in multiplayer games, where speech and conduct often blur the lines between role-play, provocation, and harm.

The DSA establishes responsibilities for platforms to remove illegal content and to justify these interventions through procedural safeguards, such as Article 17's duty to provide clear statements of reasons. In game spaces, however, moderation decisions often arise in fast-moving, high-conflict contexts and are typically enforced through automated systems or informal admin actions or are not executed at all, thus opening up space for the dissemination of malicious content to the public and often to minors. These practices or inactions raise questions about transparency, proportionality, and accountability. Using insights from legal theory, game ethics, and critical legal studies, the paper investigates how conflicts within digital play spaces are governed through overlapping systems of authority. It explores the extent to which DSA principles are internalised, resisted, or reinterpreted by platform operators and player communities. In doing so, the paper highlights how legal regulation interacts with in-game norms, codes of conduct, and emergent hierarchies of power.

The paper argues that video games constitute often underregulated hybrid legal areas, shaped by conflict, improvisation, and soft rule-making. These reveal the limits of applying formal legal categories to fluid, player-driven environments. Rather than neutralising conflict, content moderation in games often becomes a site where competing visions of law, fairness, and identity are contested. The paper concludes by proposing a model of conflict-aware proportionality, one that recognises the performative, dynamic, and plural nature of legal order in virtual spaces.

JUSTICE AS PLAY, OR: CAN LAW BE HUMANE?

ANNA GONOURIE WALDENSTRÖM • UNIVERSITY OF GOTHENBURG

This paper inquires into the relation between evidence and justice and explores the latter as an expression of play. The just judgment is understood as the correct application of the law to the correctly established concrete case with the object to achieve predictability under the rule of law and to avoid the tyranny of the haphazard. The determination of the concrete case is, however, an extra-legal judgment. J.F. Lyotard describes how reality consists of innumerable genres of discourse – all in a constant war over the determination of the sense of facts (phrases). All judgments are therefore the result of one genre of discourse imposing itself on all other. Building on the theory of knowledge of Lyotard, previous research shows that legal judgments as the end result of a judicial procedure follow several previous judgments, examples of which would be the interpretation of the evidence and the determination of the facts. Objectively correct and therefore just legal judgments are consequently impossible. May this mean that the law can only be tyrannical?

In his Aesthetic Letters, Friedrich Schiller discusses the tension between the two restrictions to human freedom: the human form drive of the ideal and the sense drive of concrete life. Reason requires that ideas be applied to the concrete – since only the union between life and form "fulfils the conception of humanity". Understanding play as the drive which dissolves the tension and makes possible "the union of two opposite principles," Schiller holds that it is only in play, that we are completely human. This opens for the question whether the rule of law can ever be humane? Understanding justice as the drive that makes possible the meeting between the law and the case in the dissolution of the ideal and the concrete in the aim to access justice, this project investigates whether Schiller's concept of play may contribute to an understanding of the relation between evidence and justice.

THE LOSER TAKES IT ALL: THE GAMES PLAYED IN INTERNATIONAL TRADE

KAMYA VISHWANATH • CENTRE FOR WTO STUDIES

The Motivations

In a majority of card games around the world, the player with more cards remaining at the end of the game loses, and she who gets rid of all of her cards first wins. This idea works on the "shedding-type" principle and is a common genre of game design. Under normal circumstances, where the rules of the game are fixed, the game proceeds with a sense of certainty. All it takes for a game to turn unpredictable is one single manoeuvre. This very logic can, to a limited extent, be mapped onto the existing state of affairs when two countries are trading with one another. The growing sense of distrust and fear of the Other or things from "outside" sees a resurgence of protectionism in many countries today–be it the fear of immigrants "stealing jobs" or imports that allegedly affect domestic production. In the current international trading regime, the Loser takes it all. The Loser (with a capital L) is unable to engage in fair and equal trade owing to a host of different factors that interfere with it, while they continue playing the game against the Winner. The Loser, often, continues to import from the Winner without being able to export just as easily. These dynamics and games are fundamentally the very crisis of international trade law that threaten it just as much as it keeps it afloat–the very lack in the system that perpetuates its existence.

The Game

To demonstrate this idea further, I am developing a card game. A minimum two-player enterprise that I call Trading Cards, the game mimics the process of what it's like to currently engage in international trade without requiring any expertise on the matter. It works rather intuitively on the similar "shedding-type" principle through the host of different cards. The game focuses on the export and import of goods. The different cards range from goods cards to action cards that are dealt at random after being shuffled. It begins with sets of agricultural and non-agricultural goods cards that the players (countries) will trade amongst themselves. Players can then play tariff cards with ranging values, cards levying non-tariff measures, or other emergency measure cards to disrupt trade flows. The player-so-affected may then employ consultative, countermeasures, deal, or dispute resolution mechanism cards while dealing with the said good concerned. Both players continue to draw from the pile while attempting to make deals and alleviate their existing burdens. All the while, both players will also be provided a tracker to note which country has successfully exported more goods or services. The first country to export five categories of goods wins.

The Article

I will begin in Part I by delving into the nature of the trading regime and the games played in international trade law–particularly on how the rules of the game are ever-changing and whether it is a single "game" or multiple ones. In Part II, I offer a brief exposition on how I went about designing the game and the motivations behind it. This will draw upon principles in game design as well as on some necessary concepts in game theory. I will further dive into the very notion of game and its nexus with Justice, borrowing ideas from political scientists, economists, and philosophers, before turning to psychoanalysts who explain why we continue to play these games. In Part III, I will then expound on these further vis-à-vis the state of flux in international trade law, applying these principles onto it directly. I will then move to Part IV, where I distil findings after administering the game among different groups to study the outcomes, the manner in which the game was received, and other feedback on the way the game panned out, before concluding.

CONSTRUCTING VAGUE LEGAL CONCEPTS WITH LEGO®

TEREZIE SMEJKALOVÁ • MASARYK UNIVERSITY

Legal meaning-making is not a quiet thing (paraphrasing Howarth 2006). Law students are often led to understand legal interpretation as an activity of uncovering meaning that is somehow "out there" and are not aware of the social mechanisms behind its construction, including the fact that they – not only as citizens but also as future lawyers and judges – participate in this construction. To serve as an introduction into classes focused on social construction of meaning, social categorization legal conceptualization, I have developed an exercise using LEGO bricks.

In my ongoing research, I explore vague legal concepts as social representations (Moscovici 2001). The social representations paradigm sees concepts as collective elaborations that are constantly constructed and re-constructed in the process of social communication. Building on this theory, I approach vagueness not as a technical problem to be resolved, but as a symptom of law's embeddedness in broader social and communicative practices that reflect–and reproduce–dominant norms, structures and categorization.

To make this process tangible, I developed an experimental pedagogical exercise using a combination of a research method used in social representations research (specifically hierarchical evocation) and LEGO® bricks, through which students collaboratively construct the meaning of an unfamiliar legal concept. This exercise functions as a critical intervention: it disorients students' assumptions about legal objectivity, and invites them to grapple with the contingent, collective, and contested nature of legal meaning-making. In doing so, it explores how even playful, material methods can unsettle legal formalism and reveal the deep entanglement of law, language, and social power. It shows various types of limitations we face when (re)constructing meaning, played out not only in aspects such as previous knowledge and education or value-orientation, but also the constrictions given by the amount and types of bricks available or by the willingness and skills to participate in the meaning negotiations.

IN LUDO LEX

PETER GOODRICH • YESHIVA UNIVERSITY

As new technologies and social media remove the art of play from the experience of childhood, legality also seems to be increasingly divested of the sensibility of the game of law. In ludo lex will explore the history of the legal artem ludicram, of the bans, infamia, and institutional controls of body and expression that were deemed necessary to maintain both the distinctiveness and the visibility of the game of law. In the first section of Justinian's Codex, it is stipulated that those who do not move like us are mad (dementes vesanoques), a portenteous restraint and instruction that endeavours to mark body and gesture as visible signs of following – of walking in the path – of the law (sequentes legem), and imposing infamia or civil death upon the heretical and outlaw bodies that move and dance differently. Taking up this theme in Roman civil law, I will trace the jealous relation of law to body, gesture, movement, dance, games and play, a sexpartite division, as it impacts the common law and its theatres of legal action.

LEGAL PERFORMATIVITY, LANGUAGE GAMES, AND DISABILITY ACCOMMODATIONS IN THE WORKPLACE

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In this paper, we argue that disabled people must engage in a language game to articulate a framework of rights that challenges systemic ableism. In most Western countries, disabled people face systemic barriers in the labour market, leading to widespread unemployment and precarious jobs. Disabled people are often also excluded from post-secondary education due to physical and attitudinal barriers. The social model of disablement (Abberley 1999, Oliver and Barnes 2012, Russell 1998) teaches us that it is structural barriers that create disabilities that stymie the success of people labelled as disabled. Based on qualitative interviews conducted via Zoom with approximately 39 disabled workers in Ontario (funded by the Social Sciences and Humanities Research Council (SSHRC) of Canada and informed by disability studies scholarship), we consider how Wittgenstein's concept of language games (Wittgenstein 1958, Jacquette 2015) explains how disabled people articulate their struggles. Relying on the pathbreaking work of Alison Kafer (2013) and Ellen Samuels (2017), we suggest that the concept of crip time, or how disabled people experience time is what the philosopher Cornelius Castoriadis (1975) would label a new social imaginary signification that attends to the difficulties disabled people have in articulating their lived experiences in the workplace. Too often disabled people must engage in language games to emphasize or understate their impairments as the legal situation warrants. By better understanding legal performativity, a Castoriadan reading of Wittgenstein's legacy can assist in the construction of a duty to accommodate that better serves disabled people.

PARDON TO THE AVENGER: LEGAL INTERPRETATION AS A LANGUAGE GAME IN JUDGE BAO'S DRAMA

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Stanley Fish, in response to Owen Fiss, uses basketball as an analogy to illustrate that rules are never self-explanatory and always require interpretation. Such interpretation, whether in literature or law, occurs within a shared and reasonable framework because interpreters belong to specific academic communities – legal or literary. Contrary to Fiss's claim, these interpreters do not require additional external constraints (which themselves would also require interpretation) to regulate their work. Law, like the rules of a sport, depends on interpretation grounded in prior understanding of the game, practice, and communal discussion, rather than on the mere textual description of the rules.

In the Yuan legal drama Judge Bao's Case about the Rice Distribution in Chen State (《包待 制陳州粜米》 Baodaizhi Chenzhou Tiaomi), two relatives of a powerful official at the imperial court embezzle funds from the

government's disaster relief program, which involves opening the state granary and distributing rice to victims. They commit fraud by tampering with the measuring scales and substituting rice with bran. A righteous old man is beaten to death for exposing their misconduct. His son files a legal complaint, prompting Judge Bao to travel to Chen State to investigate. In the end, Judge Bao allows the son to take revenge and cleverly uses the emperor's pardon – originally intended to save the corrupt officials – to exonerate him.

Pardon is part of the law; however, it also functions as an independent force outside the legal system, exercised exclusively by presidents or emperors. In other words, on the one hand, a granted pardon must be executed precisely according to the emperor's writ; on the other hand, it remains a legal act that requires interpretation. In Chinese culture, the emperor's words – imperial edicts (聖旨 shengzhi) – are considered divine and unquestionable. Nevertheless, the literary interpretation of a pardon must not only reflect the emperor's will but also satisfy the audience's sense of justice – for instance, avenging a father's murder, as embodied by the judge's moral stance in literature.

This paper examines how the key players – Judge Bao, the powerful official, the emperor, and other characters involved in the drama – produce, interpret, and contest the meaning of the pardon. Drawing on Ronald Dworkin's theories of the "chain novel" and the "law as integrity," the author argues that Judge Bao's interpretation is the most legitimate, grounded in the moral and political values deeply rooted in Chinese culture and legal tradition.

ROLE-PLAYING THE INTERPRETATION GAME COLLABORATIVE CONSTRUCTIONS OF MEANING IN LAW

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Legal language does not just describe, reflect, retrospectively circumscribe. Rather, through speaking legal language, we structure and act out social practices that have real-world consequences. This practice extends beyond the parliament's gates and the courtroom door; it permeates and shapes everyday life. In this paper, I seek to highlight the often overlooked collaborative aspects of legal interpretation language games (Wittgenstein 1953, para. 23; see also Tvrdíková 2025, 554 ff.).

Conventional accounts construe legal interpretation as a competitive, oppositional game: She who can persuade her opponent and other players of a more credible interpretation of a norm wins this game. Against this monodimensional view, I understand legal interpretation as a socially governed joint exercise by a multitude of institutional actors; this approach builds upon speech act theory, as pioneered by Austin (1962) and Searle (1969). Legal interpretation, then, does not only present competing meanings of the law with the ultimate aim of persuasion. Instead, it serves as a move in a shared language game of establishing legal meaning. My analysis draws from discussion of vague legal concepts that are subject to semantic shifts (see Smejkalová 2024), such as good faith.

Reading interpretative uncertainties as functions, not dysfunctions, of legal speech acts, I propose to reconceptualize legal interpretation as a creative-collaborative space of socially driven construction. In light of the law's function to order society and resolve conflicts, this approach allows for integration of diverse epistemologies. Like role players at a table, we are then able to pursue the construction of legal meaning as a creative group effort, instead of yielding the game to lone fighters.