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Publications

[Books]

Democracy in New Haven: A History of the New Haven Board of Alderman. New Haven: City of New Haven, 1989.

Complicity: Ethics and Law for a Collective Age. New York: Cambridge University Press, 2000.

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Reviews:

Law & Politics Book Review 14: 420-423 (2004) (http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/kutz604.htm), Emmanuel Melissaris; *Philosophy & Phenomenological Research* 67:236-38 (2003), Margaret Gilbert *Res Publica* 8: 201-210 (2002), Garrath Williams; *Social Theory And Practice* 28: 167-187 (2002) (review essay of Bass and Kutz), Margaret Gilbert; *Philosophical Review* 111: 143-47 (2002), Larry May.

[Articles]

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"Parliamentary Self-Government: Comment on Waldron," *Philosophy of Law and Politics (Rodôpi),* ed. Enrique Villanueva (2001).

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"The Lawyers Know Sin: Complicity in Torture," ed. Karen J. Greenberg, *The Torture Debate in America* (New York: Cambridge University Press, 2006), 241-46.

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"Fearful Symmetries." In David Rodin and Henry Shue, eds., *Just and Unjust Wars* (Oxford University Press, forthcoming).

"Against Political Luck." In Daniel Callcut, ed., *Reading Williams* (Routledge, forthcoming)

"Beyond law to morality." Gro Nystuen, Andreas Follesdall, and Ola Mestad, *Corporate Complicity, Human Rights Violations, and Disinvestment* (Cambridge University Press, forthcoming).

[Reviews]
(1) Review of Arthur Ripstein, *Equality, Luck and Responsibility*. *Toronto Faculty Journal* (2000): 133-4.

(2a) "Pragmatism Regained." Review of Jules Coleman, The Practice of Principle. Michigan Law Review 100: 1639-1660 (2002).

(2b) "Why We Obey the Law," Review of Jules Coleman, The Practice of Principle. Times Literary Supplement June 3, 2003 (abridged variant of 2a above).

Work in Progress

[Books]
Democracy at the Margins: Collective Agency and the Possibility of Self-Government (under contract with Princeton University Press). This is a philosophical and legal examination of the Rousseauean paradox at the heart of democratic liberalism: how can we remain free in the circumstances of collective life? This book aims to define the scope of individual freedom in the modern state by determining the

limits to the notion of collective autonomy.

[Articles]

"Epistemethics." I take up the problem of lay choice among conflicting experts, and argue that lay people may legitimately deploy essentially ethical criteria as basis for making epistemological judgments of expertise. The argument applies centrally to the case of medical decisionmaking, and to juror evaluation of expert testimony.

"The abhorrence of secret law." In the wake of revelations of secret legal opinions by the US government, effectively amending the scope of anti-torture and anti-wiretap laws, this paper examines why, although secret law is a conceptual possibility, it has been such a despised concept across history and across political regimes. The paper argues that the value of publicity in law goes beyond mere functionality, and is part of any adequate conception of law. It thus suggests one way in which, contrary to the strictest versions of legal positivism, law's character is deeply rooted in certain moral values.

"In praise of anemic democracy: the legitimacy of international legal institutions." This paper argues that the legitimacy of international law is best found by their relation to representational or quasi-representational institutions reflecting the persons affected by the relevant norms.

"The death of deterrence." References to deterrence play a central role in justifying certain substantive criminal law doctrines, including felony murder liability and provocation. Yet the concept of deterrence has been greatly undermined by recent work in psychology and economics. This paper considers the effects of current work on deterrence for substantive criminal law. It argues that substantive criminal law needs to be justified without reference to specific claims about deterrence, whether or not it ultimately can be justified in consequentialist terms.

"Self-government and the political life in the modern liberal tradition." This paper examines the tradition in modern liberal thought, beginning with Kant and culminating in Rawls, according to which collective government is only legitimate when conceived as a form of self-government. I argue that the proper liberal understanding of the relation of collective self-government requires a model of collective agency implicit and rarely explicated in these authors.