

## PUTTING TOGETHER A SUCCESSFUL CONFERENCE PROPOSAL

by

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In 2008, Linda Kerber published three short articles titled “Conference Rules” that offered sage advice on presenting a paper, commenting, and chairing. (The AHA reprinted the articles in the May, September, and October issues of *Perspectives*; we have included links to these wonderful articles at the end of our advice.) Our goal is to offer some advice on another crucial element of presenting at a professional academic conference: putting together a conference proposal. Our advice is tailored with the ASLH in mind, but applies to many other conferences as well.

• **Point #1 Learn Something About the Organization.** It is helpful, as a starting point, to know something about the organization and the annual meeting at which you hope to present. Since often times the first time you attend a conference it’s because you’re on the program, we offer here some background on the ASLH. The ASLH is a membership organization dedicated to fostering scholarship, teaching, and study concerning the law and institutions of all legal systems, both Anglo-American and those that do not operate in the Anglo-American tradition. The ASLH holds its annual meeting in late October or November. The conference runs from Thursday evening through Saturday evening, with sessions on Friday and Saturday. ASLH meetings are relatively small (250-350 people) and welcoming. All who attend the conference, including those on the program, need to register for the conference and pay the appropriate registration fee. Information about conference registration, hotel rooms, and travel will appear on the ASLH web page in early summer. The conference includes open receptions with plenty of food and drink on both Thursday and Friday evening that most people coming to the conference attend, as well as buffet breakfasts on Friday and Saturday morning before sessions begin (again for all registered participants), and a lunch on Saturday (there’s an additional charge for the lunch, but again, most people attend the lunch, and it’s a great way to meet people, so buy a ticket for lunch). All this food and socializing means that there are lots of opportunities to mix, mingle, and meet new folks. These structured socializing opportunities, along with the quality of the panels, mean that attendance at sessions is high whether you find yourself on the first session on Friday morning or the last on Saturday afternoon. There are no panels on Sunday. There are generally five sessions in each time slot for a total of 35 sessions. The session time-slots are 105 minutes long. The most traditional format for sessions is three papers with a chair and commentator, but every ASLH includes panels with alternative formats, including roundtables, author meets reader, and panels with a larger number of presenters (5 to 6) doing short papers (10 minutes) and no commentator. Generally program committees are very open to alternative formats. What’s important is that the structure suit the panel’s purpose. Two

final important details about the annual meeting: the ASLH welcomes graduate students on the program and there is (limited) financial support for international scholars and graduate students who are on the program. If you are a graduate student, you should also consider whether you are eligible for the Kitty Preyer Prize (for additional information, see <http://www.h-net.org/~law/ASLH/awards.htm#PrSch>).

• **Point #2 Read the Call for Papers Carefully and Follow the Rules for Submission.**

Program committees volunteer their time and are sifting through many proposals. It is simply a matter of common sense to understand that you will maximize your chances of getting onto the program if you follow the rules for submission set out in the call for papers. This means submitting a proposal that meets all the requirements set out by the program committee, including, format, details relating to deadline, length of paper abstracts, length of panel summary, and bios for panelists (including whether and in what capacity they appeared on the preceding year's program). In the interest of maximizing participation at the annual meeting, the program committee considers whether an individual has been on the program the preceding year. The capacity in which an individual appeared in the preceding year matters. So, for example, chairing or commentating in one year leaves open the possibility of presenting a paper the following year or vice versa. Those who have presented a paper in one year should generally assume that they would not present a paper the following year. There's no bar to someone serving as a chair or commentator in successive years.

• **Point #3 The Advantage of a Panel over a Solo Paper.** For most conferences, including the ASLH, you have a far better chance of getting on the program as part of a well-constructed panel than if you submit a solo paper. There are many elements to a well-structured panel.

- **First, think about your audience.** A well-constructed panel should both be structured to appeal to the audience at the particular conference and have appeal beyond a narrow subfield. Particularly for scholars working in smaller subfields, one way to broaden the potential audience for a panel (and thereby increase your chances of getting on the program in the first place) is to make the panel comparative in some way. This might mean structuring the panel to incorporate scholars working on similar questions in other geographic or chronological fields or scholars working in fields beyond history or law (e.g., sociology, anthropology, political science, legal practitioners).
- **Second, the goal of a conference presentation is to share your work-in-progress with a broader audience, get feedback on that work, and make connections with scholars interested in similar questions that can extend beyond the conference.** Program committees look for panels that foster these goals. One way of putting this point is that you want to construct a panel that is diverse. Diversity takes a range of forms: representation by scholars of different rank, diverse institutions, and diversity of presenters in terms including sex and race. If you're a graduate student or an independent scholar, you will get more out of a conference session and maximize your chances of getting on the program in the first place by including others on your panel (presenters/commentator/chair) who are known through their previously published work in the field. Your advisor though should not be the commentator, no

matter how well known she/he is in the field. Panels with multiple individuals from the same institution are far less likely to get on the program.

- **Third, plan ahead. Constructing a good panel takes time.** The deadline for submissions for the 2010 ASLH is February 28. Start now!

• **Rule #4. Panel Construction Nuts and Bolts.** There are several steps here. If this will be the first (or one of the first) time(s) you've presented at a conference, we'd recommend putting together a traditionally formatted panel with three papers, a commentator, and a chair. Because putting together a panel takes real work, you will find many overwhelmed folks who are delighted to be part of your enterprise because you have shouldered the heavy lifting.

- **Decide on a Topic.** Your first task is to think about the general topic/question that you'd like to shape the panel around. This will likely relate to your work, but should be framed broadly enough to support a panel with multiple papers and attract an audience. A good place to start is by looking at a past program for the ASLH. You can download the conference program from the 2009 ASLH meeting through this link: [http://www.legalhistorian.org/conferences/aslh\\_conference\\_2009.shtml](http://www.legalhistorian.org/conferences/aslh_conference_2009.shtml).
- **Begin thinking about a Commentator.** Second, you should begin to think about who you would like to have comment on your work. You'll need to hold off on contacting your first choice until you have put the core of the panel together and see who is most appropriate for the panel as it comes together, but you should have ideas.
- **Find other panelists.** Third, you need to find other panelists. This is a key opportunity to build professional networks beyond your own institution. How do you go about this? Lots of possibilities here. Talk to others at your institution, including your advisor(s), for suggestions, consider a former student working on related questions from your institution who now teaches elsewhere, check dissertation abstracts and recent journal articles to identify scholars working on related questions, contact friends at other institutions who might have suggestions, place a post on H-Law, H-Net or some other electronic list, noting that you're putting together a panel. A post is the least targeted approach. If you do this, be sure to note the conference (including dates and place) and explain the general topic for the panel. And remember, the papers need to fit together well to make a successful panel.
- **Invite someone to comment.** Once you have the panelists set (including abstracts for their papers), you are ready to contact your first choice to serve as commentator for the panel. It can seem like a scary thing to email someone you don't know, but whose work you respect. (This applies to other panelists as well.) We say, dive in. You'll likely find senior scholars who are supportive and interested in your work. Be sure your email notes the conference (including place and dates) and topic and title of the panel, the names of other presenters, who and where they are, and their paper titles and abstracts. Do not feel discouraged or rejected if someone turns you down. Everyone in this business has many demands on their time. If your first choice can't do it, turn to your next choice.
- **Invite someone to chair.** The chair is a vital member of a panel and like the commentator should be an established scholar in the field(s) to which your panel relates. The chair handles introductions, keeps track of time to ensure that all panel

participants get their fair share of time, sets the tone of the panel and guides the discussion that follows. These are crucial tasks.

- **Following through.** If you've initiated things, you're the one who will have to see it through – that is collect paper abstracts and bios and get everything submitted in the proper format to the program committee on time. This all takes time and work, but what you're doing here is beginning to construct the kinds of collegial networks that can then continue for years.
  - **Samples from the 2009 Program.** We've included as an Appendix three session proposals with paper abstracts from panels that were on the 2009 ASLH program. In the interest of not making this longer than necessary, we have omitted bios/cvs – you will, of course, need to include these critical elements in any proposal you submit.
- **Rule #5 Conference Rules.** Finally, there's the conference itself. We cannot do better than to refer you to Linda Kerber's knowledgeable advice reprinted in *AHA, Perspectives*, May, September, and October 2008:
- "Conference Rules: Everything You Need to Know about Presenting a Scholarly Paper in Public," by Linda K. Kerber, <http://www.historians.org/perspectives/issues/2008/0805/0805pro1.cfm>
  - "Conference Rules, 2: Everything you need to know about introducing speakers and running a panel discussion," by Linda K. Kerber (<http://www.historians.org/perspectives/issues/2008/0809/0809pro1.cfm>)
  - "Conference Rules, 3: Everything you need to know about your role as a commentator or a member of the audience," by Linda K. Kerber (<http://www.historians.org/perspectives/issues/2008/0810/0810pro2.cfm>)

We look forward to seeing the wonderful panels you construct!

BYW/KL

**APPENDIX:  
SAMPLE PANEL PROPOSALS FROM THE 2009 ASLH ANNUAL MEETING**

[Note: We have not included the required biographical information for panelists]

**Example 1. “Blurred Sovereignties: U. S. Law at the Edge”**

Chair: Elizabeth Borgwardt, Associate Professor of History, Washington University,  
Comment: Barbara Y. Welke, Associate Professor of History and Professor of Law,  
University of Minnesota

Presenters: Michael Willrich, Associate Professor of History, Brandeis University  
Rachel St. John, Assistant Professor of History, Harvard University  
Andrew Wender Cohen, Associate Professor of History, Syracuse University

**Session Abstract**

This panel will discuss the history of US law during the late nineteenth and early-twentieth centuries, when international migration, global investment, military conquest, and territorial expansion troubled stable relationships between residence, citizenship, and authority. Inhabitants of distant lands became American subjects, without the protections of the Constitution, while ambitious businessmen found their property subjected to the dominion of foreign sovereigns. Manufacturers and workers called for their government to exercise greater rigor at the border, while merchants and farmers asked the state to liberate the movement of people, goods, and capital.

The three papers discuss how individuals maneuvered their way through this thicket, stressing not only their struggles to challenge laws governing the interaction of Americans and foreigners, but the attempts to exploit holes in the ambiguous order that emerged. Officials implemented coercive policies in lands where Constitutional freedoms did not exist, while debates about the limits of American power outside the US helped construct new rights for citizens at home.

In “War Is Health: U.S. Military Medicine and Police Power at the Edges of Empire,” **Michael Willrich (Associate Professor of History, Brandeis University)** explores the military campaign against disease in America’s new territories following the Spanish-American War of 1898. Working in lands denied the protections of the US Constitution, officials advocated an expanded notion of the state’s police power that allowed them to compel a reluctant population to accept a range of public health reforms.

In “Between Nations: American Capitalists and the Politics of Corporate Nationality on the Baja California Border, 1900-1930,” **Rachel St. John (Assistant Professor of History, Harvard University)** discusses the legal origins of transnational economic development on the California-Mexico border. She shows how corporations operating in developed strategies to blur national identities and evade regulations on international commerce and investment.

In “The Perils of Inspection: Smuggling, Globalism, and the Right to Privacy” **Andrew Wender Cohen (Associate Professor of History, Syracuse University)** contends that the modern right to privacy emerged amidst debates over the regulation of global trade in the late nineteenth century. Looking particularly at the Supreme Court case *Boyd v. US* (1886), Cohen suggests that privacy represented a compromise between those who favored high tariffs and the interdiction of smugglers and those who favored free trade and minimal policing of the border.

### Paper Abstracts

#### **Michael Willrich, “War is Health: U. S. Military Medicine and Police Power at the Edges of Empire”**

This paper presents original research from my work-in-progress: a history of the great wave of smallpox epidemics that struck the United States and its new overseas territories at the turn of the twentieth century, spurring the growth of modern public health authority and engendering widespread social, legal, and political opposition to the government policy of compulsory vaccination. The book aims to deepen historical knowledge of the struggles for personal liberties that attended the growth of institutional power in America during the Progressive Era.

During the Spanish-American War of 1898 and its colonial aftermath, the U.S. government attempted in Puerto Rico and the Philippines something it could not possibly have tried on the mainland: to wage an aggressive military campaign of disease eradication using strategies of population surveillance, sanitation, and, wholesale vaccination. The government’s campaigns against epidemic smallpox in the new overseas possessions began as a necessity of war and occupation—a classic *cordon sanitaire* to protect the troops against “native” disease. But the tropical campaigns against smallpox developed into something much larger: a “great sanitary undertaking” that, along with other campaigns against bubonic plague, yellow fever, and cholera would foster the development of new medical knowledge and public health technologies, protect American lives and commercial interests, and, most grandly, demonstrate the moral righteousness and technical superiority of U.S. militarism and colonialism.

Building upon a formidable historical literature about European colonial health systems, historians of American medicine have recently published a number of fascinating studies of U.S. colonial health interventions in the tropics. The historical relationship of these interventions to American legal institutions and domestic politics, however, has received very little scholarly attention. In my paper, I’ll show that in their war against smallpox, Army Medical Department surgeons and U.S. colonial health officers drew upon the long American tradition of police power. Public health stood at the center of that tradition. In the American system of government, judges and law-makers had often likened public health authority to the power of the sovereign to protect the people from invasion. Here in the new tropical possessions, that old analogy took on a violent new literalism. Absent the institutions of popular sovereignty and due process (which the Americans planned to withhold until the indigenous peoples proved themselves fit for a measure of self-

government), police power was military power. The Army's smallpox eradication campaigns far exceeded the normal bounds of the police tradition, which had always been assumed to originate in the sovereignty of local communities of free people. The scale and scope of governmental intervention were greater, the colonial space was different, and the fact that an institution of the national government—the U.S. Army—was undertaking these measures was altogether revolutionary.

**Rachel St. John, “Between Nations: American Capitalists and the Politics of Corporate Nationality in the Baja California Border, 1900-1930”**

Focusing on U.S. investment along the Baja California border, this paper will explore the calculations and legal mechanisms that allowed American capitalists and Mexican and U.S. state officials to embark on a program of trans-border economic development at the turn of the twentieth century. I argue that, rather than a rejection of national categories and the boundaries between them, transnational investment depended on a rethinking of national membership and a blurring of national divisions. Corporate nationality—the ability of American capitalists to incorporate under Mexican law and gain access to the privileges of Mexican nationality as a corporation—was at the center of the rethinking of the boundaries between nationality, territory, and economic activity. Particularly on the border, where a Mexican law prohibited foreigners from owning land, corporate nationality enabled American capitalists to buy land and access resources that were officially off-limits.

More than simply an evasive legal measure, the turn to corporate nationality suggested that both American capitalists and Mexican state officials had come to believe that economic imperialism could be contained within an expansive national umbrella. While previous generations of Mexicans and Americans had assumed that economic activity would lead to territorial annexation—a belief borne out in the Texas Rebellion in 1836 and at the conclusion of the Mexican-American War in 1848—, by the turn of the century, some Mexican state-builders and American capitalists no longer saw the need for a nation's economy to be confined by its territorial boundaries. In the midst of an era of expanding global capitalism, a small group of Mexican and American political and economic elites discovered not that national boundaries had ceased to matter, but that they could call on corporate nationality to blur these boundaries in ways that were advantageous to both private investors and the U.S. and Mexican states. Although corporate nationality did not survive the Mexican Revolution, its history provides insight not just into the history of the U.S.-Mexico border, but into the expansive history of how both independent capitalists and sovereign states made the transition from nationally-bounded economies to transnational capitalism.

**Andrew Wender Cohen, “The Perils of Inspection: Smuggling, Globalism, and the Right to Privacy”**

The paper locates the development of the federal right to privacy in late nineteenth-century debates over American engagement with the world. Given the extraordinary attention legal historians devote to the Constitutional protections against unlawful

searches and privilege against self-incrimination, it is surprising how little we know about the context for the Gilded-age construction of privacy as an element of citizenship, namely the regulation of international trade, the collection of tariffs, and the interdiction of smugglers.

Before the Civil War, the US Supreme Court heard many import seizure cases, but plaintiffs increasingly challenged the Constitutionality of the Customs confiscations after 1861, when Republican officials not only passed high tariffs, but also enacted stringent enforcement laws empowering officials to inspect travelers, arrest merchants, and impound whole shipments. These statutes embodied the economic nationalism of the period, which deprecated global trade as a threat to labor's full participation in the revived republic. Because the objects of inspection were generally either foreigners, or citizens tainted by their association with parts of the world deemed aristocratic, immoral, and uncivilized, the majority of Americans endorsed broad federal powers.

As Reconstruction gave way to the so-called Gilded Age, however, increasing global trade solidified an alliance between Southerners hostile to the federal government, wealthy travelers aggrieved by the indignity of inspection, and large corporations like Phelps, Dodge, & Co. interested in expanding America's economic reach abroad. This alliance began using smuggling cases to resist U.S. authority and invalidate federal powers assumed after the Civil War, initiating a broader retrenchment characterized by the *Civil Rights Cases* (1883).

This was especially noticeable in the case, *Boyd v. United States* (1886). Among Constitutional scholars, *Boyd* is known as a crucial precedent in the history of modern civil liberties, setting the legal limits on federal investigatory power. As John Witt has argued, it also constitutionalized the privilege against self-incrimination, referenced in the Fifth Amendment, but previously justified by reference to common law. Yet, the decision in *Boyd* was very much a product of a particular time, place, and politics. A wealthy importer of French glass repeatedly charged with violating tariff laws, Edward A. Boyd spent over a decade at the center of debates over the authority of federal officers to inspect and seize foreign imports. To Protectionists, Boyd was an elite smuggler, who had undermined the basis for a shared prosperity by illicitly trading with Europe. By contrast, Boyd's untimely death from tuberculosis, contracted in the penitentiary, made him a martyr for free traders, who saw him as a successful businessman broken by a repressive system.

The paper thus suggests that the modern right to privacy traces itself neither to the Constitution of 1789, nor to the twentieth-century rhetoric of Justice Brandeis, but rather to the Gilded-age clash between the anxieties of domestic producers and the global ambitions of the merchant class, between advocates and opponents of federal power [to regulate international trade]. Though part of the court's retreat from Reconstruction, the development of a right to privacy in the 1880s actually depended upon a newly cosmopolitan notion of citizenship, which safeguarded the autonomy of those crossing national borders.

**Example 2. “Status, Process, Contest: Emancipation, Enslavement, and Identity under Law in the Age of Atlantic Revolutions”**

**Chair:** Jean Allain, School of Law, Queen’s University (Belfast)

**Comment:** Walter Johnson, History, Harvard University

**Presenters:** Alejandro de la Fuente, History, University of Pittsburgh, and Ariela Gross, Law/History, University of Southern California, “Comparing Law and Racial Identity under Slavery in Colonial Cuba, Louisiana and Virginia”

Malick Ghachem, Weil, Gotshal & Manges LLP, “Prosecuting Torture: Risk and Revolution in an Eighteenth-Century Slave Colony”

Rebecca J. Scott, History/Law, University of Michigan, ““She. . . refuses to deliver up herself as the slave of your Petitioner”: Émigrés, Enslavement, and the 1808 Louisiana Digest of the Civil Laws”

**Session Abstract**

This panel brings together a group of scholars whose work proposes new ways of linking the study of slavery and the law. Each author uses the close analysis of case files and trial records to explore the interplay of statutes, codes, and individual strategies in the determination of social, legal, and racial status. Drawing on material from the era of the Haitian Revolution through the beginning of export booms in the nineteenth century, these three papers emphasize the performative and exemplary character of trials of racial determination, slave status, and criminal responsibility, while tracing the pragmatic and instrumental dimensions of litigation of this kind.

**Paper Abstracts**

**Alejandro de la Fuente and Ariela Gross, “Comparing Law and Racial Identity under Slavery in Colonial Cuba, Louisiana and Virginia.”**

This paper takes a comparative approach to the study of racial identity and the law in the Spanish colony of Cuba, the British colony of Virginia, and the “mixed legal tradition” of Louisiana, drawing on statutes as well as trial records of cases involving racial determination. The literature on slavery in the Americas has been heavily influenced by a history of legal comparisons, and an earlier generation of comparative work on race and slavery by Frank Tannenbaum, Herbert Klein, and Carl Degler drew heavily on law to draw contrasts between slavery in the U.S. and in Latin America. Tannenbaum argued that Spanish American slavery was less harsh than that of British America because of the ameliorative influence of the Catholic Church, because Spanish law provided more avenues for emancipation, and because a less restrictive approach to interracial marriage and a less rigid racial system both reflected and yielded less racism in the society as a whole. Revisionists criticized Tannenbaum and Degler for their focus on legislation as providing a top-down history without sufficient attention to the conditions of slavery on the ground. Social historians disproved the mildness of Spanish legal regimes, demonstrating the brutality of sugar plantations, the persistence of racial hierarchy and inequality in Latin America, and the lack of enforcement of paternalist laws about slave

treatment. Demographic factors seemed to explain more of the variation in slavery regimes – for example, imbalances in sex ratios to explain higher rates of interracial marriage or sex, and fluctuations in commodity prices to explain changing rates of manumission. Although most historians of slavery subsequently turned away from legal history, recent work has begun to return to law, but from the bottom up, looking at slaves’ claims in court, trial-level adjudications, and interactions among ordinary people and low-level government officials. This approach makes it possible to see the way slaves took advantage of the gap between rules and enforcement, and to explore racial meanings at the level of day-to-day interactions rather than formal rules. It has been difficult, however, to put these ground-level explorations into a comparative framework. Our paper compares the adjudication of racial identity in three colonies in an effort to draw preliminary conclusions about what we already know of the similarities and differences across national boundaries and to raise questions for future work. The association between blackness, degradation, and a low social status, byproducts of several centuries of racial slavery, is one of the most enduring legacies of the modern Atlantic system. Yet behind this commonality, some differences persist, particularly with respect to racial mixture and interracial marriage. We explore how these differences manifested themselves in the legal determination of racial identity.

**Malick W. Ghachem, “Prosecuting Torture: Risk and Revolution in an Eighteenth-Century Slave Colony.”**

This paper tells the story of the prosecution of a master for the torture of two slaves in Saint-Domingue (Haiti) on the eve of the French and Haitian revolutions. The colonial law of torture in action showcases the strategy of risk management that was at the heart of colonial slave law generally in Saint-Domingue. Participants in the prosecution of Nicolas Lejeune argued that the trial was attended by the risk of a slave revolt on both of two diametrically opposed sides. On the one hand, it was argued, immunizing masters from punishment for the torture of their slaves would send a message to slaves that their only hopes for ameliorating the brutalities of slavery lay in revolt. On the other hand, permitting slaves to seek redress against their masters in the colonial courts would trigger a wave of insubordination culminating in a general uprising. Both arguments were imbued with a strategic anxiety about the consequences of the terror-torture nexus of eighteenth-century Saint-Domingue. The Lejeune affair highlights the significance of a pragmatic, prudential strand of antislavery critique that must be placed alongside other interpretations of the origins of abolitionism. The trial also points to some troubling resemblances (as well as differences) with the contemporary relationship between terror and torture.

**Rebecca J. Scott, “‘She. . . refuses to deliver up herself as the slave of your Petitioner’: Émigrés, Enslavement, and the 1808 Louisiana Digest of the Civil Laws.”**

This essay looks at the way in which multiple layers of legality concerning slavery – the 1808 *Digest of the Civil Laws now in Force in the Territory of Orleans*, the territorial and state statutes, and the residuum of the Spanish *Siete Partidas* – shaped the situation in

Louisiana of those who had once been slaves but had become free people during the revolution in Saint-Domingue (Haiti). Using a set of cases concerning the émigrée former slave Adélaïde Métayer, it tracks the web of social solidarities, reciprocities, and deceit within which this legality played out. Louis Moreau Lislet plays three roles in the story: as co-compiler of the 1808 Digest, as the judge presiding over the first suit for damages brought by Adélaïde Métayer, and as attorney in two subsequent cases -- representing the man who sought to enslave her. The essay closes by returning to the Digest's definitions of the status of persons, reflecting on the strategies that Adélaïde Métayer and others used to try to place themselves out of danger of re-enslavement, and suggesting the dramatic asymmetries and lack of normative clarity in the legal definition of slave status.

### **Example 3. "Exceptional Women in the Medieval Courtroom"**

Chair: James Brundage, University of Kansas  
Respondent: Susan McDonough, University of Maryland at Baltimore  
Presenters: Marie Kelleher, Assistant Professor of History, California State University, Long Beach  
Jamie Smith, Assistant Professor of History, Alma College  
Sara McDougall, Ph.D. Candidate, Yale University

#### **Session Abstract**

Medieval law codes and legal procedure set standards for behavior and outcomes in continental courtrooms. However, law and normative procedure could not account for every case a court might hear. This panel explores some of the special circumstances women faced in late-medieval court actions, and how the courts and lawmakers handled these exceptional cases. Were the courts bound by the letter of the law? Did lawmakers intervene or provide space for judicial discretion? Was procedure the same across Europe or did it vary by region or by court? Marie Kelleher will focus on a complicated case from fourteenth-century Barcelona that involved contradictory witness testimony from a female slave and a Jewish woman. Kelleher explores the exceptional treatment of these minority women in the court's attempt to administer justice when forced to consider witnesses of unequal status. Jamie Smith explores the special circumstance of "absence" and how wives used their husbands' absence to maneuver in the civil court of late fourteenth-century Genoa. Smith will demonstrate that lawmakers relegated absence to an exceptional status in order to respond to the needs of mercantile families without compromising the integrity of the laws. Sara McDougall examines the behavior of abandoned wives who sought to remarry in fifteenth-century northeastern France. According to canon law, no wife of an absent husband could remarry without first proving that her missing husband had died. Diocesan officials in the Champagne region maintained high standards for proof of a missing spouse's death, these women faced particularly high hurdles in their efforts to remarry. As McDougall will argue, these women responded to these rules in a number of strategic ways. This panel examines women in diverse legal circumstances to illustrate the rich complexities and variations of late-medieval court practice in continental Europe.

## Paper Abstracts

### **Marie A. Kelleher, “Facing off from the Margins: Female Slaves and Jews in Medieval Procedural Law”**

In areas of the medieval West where not all inhabitants were equal in the eyes of the law, procedural rules had to be adapted to account for the differing condition of litigants and witnesses. Women could be one such group, but courts in the medieval Mediterranean also had to account for the frequent necessity of incorporating the testimony of non-Christians and slaves. This paper examines one such case from fourteenth-century Barcelona, in which part of a case turned on the testimony of two women – one a slave, the other a Jew – whose accounts directly contradicted each other. In attempting to understand how judicial officials would have unraveled this problem, I will begin by outlining how Romano-canonical procedural rules recommended resolving conflicting testimony in general. Next, I will examine what procedural rules existed in both Romano-canonical and local procedure for dealing with the testimony of religious minorities and slaves individually, attempting to reconcile these with the innovative solution that the judicial authorities hit upon in this case where both witnesses were members of different, yet equally legally disadvantaged classes. Finally, I hope to use this case to illuminate the situation of "doubly differenced" women with respect to a legal culture in which the default legal person was free, Christian, and male.

### **Jamie Smith, “Avoiding great harm, danger, and absurdity: legal protection for wives with absent husbands”**

*Civis Januensis ergo mercator* (A Genoese, therefore a merchant). Overseas travel shaped medieval Genoa, affecting the port city’s politics, economics, and even laws. This paper explores the legal repercussions that traveling men imposed upon their wives in conjunction with lawmakers subsequent manipulation of the city statutes to protect mercantile families. Not only would a wife need to assume many of her husbands’ duties, such as acting as the legal guardian for their children, she also had to manage her own affairs which placed her in a legal quandary. According to the laws, a married woman needed the permission of both her father (*pater familias*) and husband to commit a legal act. Rather than incapacitate wives whose husbands traveled, however, lawmakers created the exceptional case of absence to facilitate women left behind. Women whose husbands were listed as “absent from the commune” in the notarial records had access to the court that they otherwise would have been denied. As both the laws and the notarial records reflect, time played a crucial role in determining the kind of recourse a woman had. Six months meant that she could act without his permission, three years resulted in her extracting sustenance from his goods, six years saw restitution of the full dowry monies. A *consilium* of Baldo degli Ubaldi regarding a case in Pavia proves that other fourteenth-century communes faced the same problem with traveling husbands. Baldo’s explanations for allowing a wife to act as if her husband supported her

actions reveal the jurist's understanding of the intention of the laws; the idea of intention allowed lawmakers and judges discretion in exceptional cases.

**Sara McDougall, "Abandoned Wives and the Law in Late-Medieval Champagne,"**

The Hundred Years' War inflicted great devastation upon the Champagne region of Northern France. Whole villages were burned and populations uprooted. Amid this destruction and uncertainty, a substantial number of people disappeared. Some disappeared unwillingly, some quite willingly, eager to begin a new life in a new place with the new opportunities brought by ever-changing circumstances. What happened to those left behind? In particular, what was left for those wives married to absent and missing husbands? In theory, the canon law of the medieval west provided few options for women in these circumstances. A man or woman whose spouse was absent could never legally remarry unless they could first offer definite proof of the death of their spouse. Such proof, however, might not ever be found. On a local level, ecclesiastical courts did not always enforce such high standards. The officiality of Troyes, however, seems to have upheld this law with rigor and with energy. Caught in such uncertain and difficult circumstances, how did the abandoned wives of Troyes respond? This paper explores the legal and extrajudicial means employed by the women left behind in fifteenth-century Champagne who sought to remarry in spite of their uncertain circumstances. To remarry with the authorization of the bishop's ecclesiastical court, these women had to establish their status as widows, both in the community and in the courtroom. If the legal avenues to a new marriage and a new life seemed too difficult, these women also had recourse to a number of extrajudicial strategies. Examining the legal and illicit behaviors of these women, this paper will examine the strategic behavior employed by abandoned spouses of the Champagne region of France in their efforts to remarry despite being already married to a man who had gone away to war, and might never return.