

Workshop Idea

Theories of Legal Proof

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In legal proceedings, a fact-finder needs to decide whether a defendant is to be found guilty or not. Such legal decisions are governed by a burden of proof. A criminal conviction, for example, requires the prosecution to prove the defendant's guilt *beyond reasonable doubt*. It is far from clear, however, what exactly this legal standard is supposed to mean. The same situation applies to other standards of legal proof like *preponderance of the evidence*—the burden of proof in civil trials.

The workshop *Theories of Legal Proof* will bring together philosophers and legal theorists to discuss the prospect of a theory of legal proof. The prospect is hampered by the *proof paradoxes*—a set of examples which suggest that there is something wrong with probabilistic standards of proof. Discussion questions are not limited to but include:

- (1) Is it possible to formalize standards of legal proof?
- (2) If we can formalize standards of legal proof, is the best formalization in terms of logical arguments, or probabilities, or something else?
- (3) What decision rules, if any, are encoded in standards of legal proof?
- (4) What is the role of expected utility theory for evidence-based decision making?

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- (5) What is so-called “statistical evidence” as opposed to “individual evidence”?
- (6) How can we, if at all, best resolve the proof paradoxes?

The workshop aims to foster an interdisciplinary debate on evidential reasoning and deliberative decision making in the law. It should be of interest to researchers working on legal reasoning, argumentation theory, the interface between probability, psychology and argumentation; legal scholars in evidence law, as well as criminal and civil procedure; philosophers of law, legal epistemologists, logicians and probability theorists.

Perhaps there will be a final panel discussion on the question to which extent legal epistemology should have an impact on the law.