

Singapore Symposium in Legal Theory Seminar

Intrinsic Duties and Constitutional Goods

Associate Professor Lael ('Lulu') Weis, University of Melbourne

Tuesday, 26 August 2025 | 5.00pm to 7.00pm

Lee Sheridan Conference Room, NUS Law (Bukit Timah Campus)

ABSTRACT

This paper examines the concept of 'intrinsic duties' and its implications for theorising constitutionally-guaranteed goods. The concept is an underexplored idea from the work of Joseph Raz, who introduced it to demonstrate the limitations of right-based theoretical frameworks in accounting for the normative structure of morality. Raz argued that intrinsic duties are necessary to account for certain duties in relation to 'collective goods' that are 'of intrinsic, even if not necessarily of ultimate value' (The Morality of Freedom (OUP 1988) 201). A crucial feature of intrinsic duties is that they cannot be derived from or justified by rights: the duties express or are constitutive of intrinsic values and are not reducible to the interests that individuals have in collective goods. Properly understood, we argue that the concept of intrinsic duties as a type of legal duty is particularly helpful, and perhaps even necessary, to understand certain features of constitutional law. These include: directive principles and other duties-based constitutional provisions; 'third generation' constitutional guarantees, such as culture, religion, language and environmental well-being; as well as structural features of how courts reason about the scope of rights and limitations on rights. In each area, there are state duties in relation to constitutionally-guaranteed goods that are similarly difficult to account for using right-based theoretical frameworks. We suggest that these may be more helpfully analysed as intrinsic duties.

ABOUT THE SPEAKER



Lael ('Lulu') Weis (PhD, JD, MA, Stanford University) is an Associate Professor in Law at the University of Melbourne. A philosophically-trained legal scholar, Weis's research focus is comparatively-informed and empirically-grounded constitutional theory, examining foundational questions about the nature of constitutional norms and their relationship to other legal norms. Her principal areas of expertise include: constitutional interpretation and judicial reasoning; constitutional duties, such as directive principles; and the constitutionalisation of property (broadly understood). Her current research project explores the principles of green (non-anthropocentric) constitutionalism. The most recent output from this project, co-authored with Robert Mullins, 'Does Nature Need Rights?' was published in the Oxford Journal of Legal Studies.

Weis is the founder and co-convenor of Melbourne Law School's Legal Theory Workshop, and a founding General Editor for the international journal 'Comparative Constitutional Studies'. She is also actively involved with the Australasian Society of Legal Philosophy and has previously served as the Society's Treasurer.

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