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Born in 1974 in Hamburg, Germany
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PROJECT

A Model of Law

My project aims to construct a mathematical, positive model of law's binding force on judges. The model has three simple ingredients, all of which are widely accepted, fundamental elements of human behavior. I expect this model to clarify and unify divergent theories in legal theory and to reconcile a strong binding force of the law in most circumstances with well-known troublesome facts such as partisan judging on the US Supreme Court. It will generate new testable hypotheses regarding questions such as the role of legal education in imparting priors on legal (in)determinacy. I hope it will connect legal theorists and social scientists.

Recommended Reading

- Spamann, Holger. "Monetary Liability for Breach of the Duty of Care?" *Journal of Legal Analysis* 8, 2 (2016): 337-373.
-. "Justice is Less Blind, and Less Legalistic, than We Thought: Evidence from an Experiment with Real Judges." *The Journal of Legal Studies* 45, 2 (2016): 255-280.
-. "Empirical Comparative Law." *Annual Review of Law and Social Science* 1 (2015): 131-153.

TUESDAY COLLOQUIUM, 10.12.2019

How Does Law Bind?

In the hands of judges, the law suffers from split personality disorder. On the one hand, judges are bound by the law. On the other hand, judges make the law. How can judges be bound by something that they make? To be sure, the ability to "make" does not necessarily imply the ability to "unmake," so judges can be limited by their own past decisions. In reality, however, judges do seem able to sidestep past decisions. Cynics think judges are able to sidestep all past decisions, at least if they try hard enough. The data suggest that the cynics are more right than most people previously thought. On a theoretical level, law is expressed in language and hence necessarily partakes in its ambiguity. Worse, legal language demarcates conflicting interests that consciously and unconsciously warp the language's meaning. But the language resists. This tension holds the law's split personalities together. Modelling this tension promises deeper insight into the legal process.

Spamann, Holger (Nashville, Tenn.,2022)

Comment on "Temperature and decisions : evidence from 207,000 Court Cases"

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1818357747>

Spamann, Holger (Rochester, NY,2021)

Judges in the lab : no precedent effects, no common/civil law differences

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1765312205>

SSRN eLibrary ; 2020

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1765312205>

Spamann, Holger (Cambridge, MA,2020)

Judges in the lab: no precedent effects, no common/civil law differences

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1747921416>

Discussion paper ; no. 1044 update (11/2020)

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1747921416>

Spamann, Holger (Cambridge, MA,2020)

No, judges are not influenced by outdoor temperature (or other weather) : comment

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724844431>

Discussion paper ; no. 1036 (07/2020)

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724844431>

Spamann, Holger (Cambridge, MA,2019)

On inference when using state corporate laws for identification

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1685432158>

Discussion paper ; no. 1024 (12/2019)

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1685432158>

Spamann, Holger ([Place of publication not identified],2018)

Corporations

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1685767362>

Corporations (Casebook)

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1685767362>

Spamann, Holger (Cambridge, Mass.,2016)

Monetary liability for breach of the duty of care?

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1668587726>

Spamann, Holger (Chicago, Ill.,2016)

Justice is less blind, and less legalistic, than we thought : evidence from an experiment with real judges

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1668585758>

Spamann, Holger (Palo Alto, Calif.,2015)

Empirical comparative law

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1668814498>