

## CIVILITY, LEGALITY, AND JUSTICE IN AMERICA

Throughout American history, the discourse of civility has proven quite resilient, and concern for a perceived lack of civility has ebbed and flowed in recognizable patterns. Today we are in another era in which political leaders and commentators bemoan a crisis of incivility and warn of civility's demise.

*Civility, Legality, and Justice in America* charts the uses of civility in American legal and political discourse. How important is civility as a legal and political virtue? How does it fare when it is juxtaposed with the claim that it masks injustice? Who advocates civility and to what effect? How are battles over civility played out in legal and political arenas? This book brings the work of several distinguished scholars together to critically assess the relative claims of civility and justice and the way law weighs those virtues.

Austin Sarat is William Nelson Cromwell Professor of Jurisprudence and Political Science at Amherst College, where he is also associate dean of the faculty, and Justice Hugo L. Black Senior Faculty Scholar at the University of Alabama School of Law. He is the author or editor of numerous books, including *Gruesome Spectacles: Botched Executions and America's Death Penalty* (with Katherine Blumstein, Aubrey Jones, Heather Richard, and Madeline Sprung-Keyser, 2014); *Re-Imagining To Kill a Mockingbird: Family, Community, and the Possibility of Equal Justice under Law* (2013); and *Legal Responses to Religious Practices in the United States: Accommodation and Its Limits* (2012). Sarat is the editor of the journals *Law, Culture and the Humanities* and *Studies in Law, Politics and Society*. His book *When Government Breaks the Law: Prosecuting the Bush Administration* was named one of the best books of 2010 by the *Huffington Post*.

Cambridge University Press  
978-1-107-67559-9 — Civility, Legality, and Justice in America  
Edited by Austin Sarat  
Frontmatter  
[More Information](#)

---

# Civility, Legality, and Justice in America

Edited by

**Austin Sarat**

Amherst College



**CAMBRIDGE**  
UNIVERSITY PRESS

Cambridge University Press  
 978-1-107-67559-9 — Civility, Legality, and Justice in America  
 Edited by Austin Sarat  
 Frontmatter  
[More Information](#)

## CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom  
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA  
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia  
 314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India  
 79 Anson Road, #06-04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781107675599](http://www.cambridge.org/9781107675599)

© Cambridge University Press 2014

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2014

*A catalogue record for this publication is available from the British Library*

*Library of Congress Cataloging in Publication data*

Civility, legality, and justice in America / edited by Austin Sarat, Amherst College.  
 pages cm

"This volume is the product of a symposium held at the University of Alabama, School of Law on September 27, 2013" – Introduction.

Includes bibliographical references and index.

ISBN 978-1-107-06371-6 (hardback) – ISBN 978-1-107-67559-9 (paperback)

1. Civil society – United States – Congresses. 2. Political culture – United States – Congresses. I. Sarat, Austin.

JC337.C357 2014

300.973-dc23 2014009941

ISBN 978-1-107-06371-6 Hardback

ISBN 978-1-107-67559-9 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Cambridge University Press  
978-1-107-67559-9 — Civility, Legality, and Justice in America  
Edited by Austin Sarat  
Frontmatter  
[More Information](#)

---

To Ben, with gratitude for all he is

## Contents

<i>Contributors</i>	<i>page</i> ix
<i>Acknowledgments</i>	xi
Introduction: The Meanings and Uses of Civility <i>Austin Sarat</i>	1
1. The Difficult Work of Liberal Civility <i>Teresa M. Bejan and Bryan Garsten</i>	15
2. Civility and Formality <i>Jeremy Waldron</i>	46
3. Civility and the Undocumented Alien <i>Leti Volpp</i>	69
4. Against Civility: A Feminist Perspective <i>Linda M. G. Zerilli</i>	107
Afterword: Civility and the Politics of Sexuality <i>Heather Elliott and Gerald Lunn</i>	132
<i>Index</i>	159

## Contributors

**Teresa M. Bejan** is a Mellon Research Fellow in the Society of Fellows in the Humanities and a lecturer in the Department of Political Science at Columbia University.

**Heather Elliott** is associate professor of law at the University of Alabama.

**Bryan Garsten** is professor of political science at Yale University.

**Gerald Lunn** is a J.D. candidate at the University of Alabama School of Law, class of 2015.

**Austin Sarat** is associate dean of the faculty and William Nelson Cromwell Professor of Jurisprudence and Political Science at Amherst College and Justice Hugo L. Black Visiting Senior Scholar at the School of Law at the University of Alabama.

**Leti Volpp** is Robert D. and Leslie Kay Raven Professor of Law in Access to Justice at the University of California, Berkeley.

**Jeremy Waldron** is a University Professor at New York University and Chichele Professor of Social and Political Theory at Oxford University.

**Linda M. G. Zerilli** is the Charles E. Merriam Distinguished Service Professor of Political Science and the college and faculty director of the Center for the Study of Gender and Sexuality at the University of Chicago.

## Acknowledgments

This volume is the product of a symposium held at the University of Alabama School of Law on September 27, 2013. I want to thank the colleagues, students, and staff who helped make it a successful event. I am grateful for the financial support of the University of Alabama Law School Foundation and for the able research assistance of Olivia Truax.