

John Mikhail

DEGREES

B.A. 1991
Amherst

M.A. 1996, Ph.D. 2000
Cornell

J.D. 2002
Stanford

EXPERIENCE AND AFFILIATIONS

Law Clerk, Hon. Rosemary Barkett, U.S.
Court of Appeals for the Eleventh Circuit
Associate, Simpson Thacher & Bartlett

Lecturer and Research Affiliate,
Department of Brain and Cognitive
Sciences, Massachusetts Institute of
Technology

Teaching Fellow, Harvard University

COURSES

Law, Cognitive Science, and Human
Rights Seminar; Law and Philosophy
Seminar; Legal Justice Seminar; Torts

REPRESENTATIVE PUBLICATIONS

"Moral Heuristics or Moral Competence?
Reflections on Sunstein," 28 (4) *Behavioral
and Brain Sciences* (2005)

"Islamic Rationalism and the Foundation of
Human Rights," in Arend Soeteman, ed.,
Pluralism and the Law, Franz Steiner
Verlag (2004)

"Law, Science, and Morality: A Review of
Richard Posner's *The Problematics of
Moral and Legal Theory*," 54 *Stan. L.
Rev.* 1057 (2002)

Review, "John Rawls, The Law of
Peoples," 36 *Stan. J. of Int'l. L.*
357 (2000)

"Toward a Universal Moral Grammar," 20
*Proceedings of the Cognitive Science
Society* 1250 (1998)

JOHN MIKHAIL IS A MAN ON A REMARKABLE MISSION. THE MISSION IS TO REVIVE A CENTURIES-OLD THEORY ABOUT how human beings perceive the moral and legal world, show how well it jibes with today's cutting-edge cognitive science, and apply it to the law. In our relativistic age, the theory is as old-fashioned as can be: it holds that a universal moral grammar is hard-wired into every normal human being, regardless of culture or upbringing.

Universal moral grammar is just what it sounds like: a set of fundamental rules governing the way we form moral judgments. To take a simple example, John and his co-workers have discovered through experiments that adults and even 8-year-old children agree that inflicting harm intentionally is worse than inflicting it merely as an unavoidable byproduct of other actions. If that seems unsurprising to you, it confirms John's point: the principle is so deeply ingrained in us that we can hardly conceive of matters being otherwise. As Justice Holmes famously observed, even a dog knows the difference between being tripped over and being kicked. Not surprisingly, principles like these are deeply embedded in the way we think about responsibility in tort and criminal law. John and his colleagues are continuing their intriguing psychological research, with adults and young children as subjects, on other basic principles that structure our moral and legal perceptions.

You will not be surprised to learn that John holds a Ph.D. in philosophy as well as a J.D. He spent several years before law school working with the legendary linguist Noam Chomsky at MIT while teaching an assortment of courses at Harvard and MIT on the side. Chomsky's influence is notable in John's thinking—for it is Chomsky who has argued for decades that all human languages derive from a single universal grammar. In 1999, John began studies at Stanford Law School, where he performed the remarkable feat of completing his Ph.D. dissertation while a first-year law student. After his law degree, he worked briefly as a litigation associate at Simpson Thacher & Bartlett, then clerked for Judge Rosemary Barkett on the Eleventh Circuit Court of Appeals—and, in the odd hours, worked on his first book, which will be published by Cambridge University Press.

But John's legal interests spread far wider than the arcane worlds of philosophy and cognitive science. Indeed, his interests are staggering in their breadth. He has written on topics as wide-ranging as human rights in Islamic political thought, the implications of the Supreme Court's right-to-die decisions, and the career of James Wilson, the constitutional founder who (for better or for worse) gave us the electoral college. In fact, John hopes someday to write the definitive biography of Wilson.

However, John's first "published work" at the Law Center is far different from any of these: two weeks after arriving here from Miami, John, his wife Sarah, and their daughter Hannah proudly announced the healthy arrival of a son, Andrew David Mikhail. John's colleagues have already come to know him as a warm and gracious presence on the faculty—a man of substance and judgment as well as a formidable intellectual presence.

By David Luban

