▶ Professor Peucker remarked that no matter how much Haneke's purview is broadened to include socio-political strife, the political is allegorized through the nuclear family at the film's center. She noted that although Haneke's films frequently address class tensions, *Caché* brings the question of interracial adoption into the mix, adding a compelling political layer.

Brian Price, Assistant Professor of Film Studies at Oklahoma State University, emphasized that Haneke's most intriguing talent lies in addressing the political in terms of what we see and how we see it. "Haneke … is really interested in problematizing this idea that we can just look at something and understand it simply by looking at it," Price observed, "because what we already think and what we already believe will impact what we see and how we see it." In *Caché*, this question of perception is at the heart of the central character's conundrum.

> *"It's very akin to what we see and do in psychoanalysis. We don't take the surface as what's real. We are always looking for what is hidden."*

The panelists spent several minutes parsing the final sequence of the film, which is a long fixed shot of the front of a school where, unbeknownst to most viewers, two pivotal characters meet and hold an inaudible conversation as the credits roll. After polling the audience to see how many missed this sequence, **Garrett Stewart**, James O. Freeman Professor of Letters at the University of Iowa and author of *Framed Time: Toward a Postfilmic Cinema*, wondered what the conversation was intended to signify to those attentive enough to notice it. He speculated that it might be a continuation of an earlier dream sequence, while Grundman theorized that it could in fact be the scene that launches the entire story, further highlighting Haneke's unconventional take on chronology.

Psychoanalyst and Center Co-Director **Edward Nersessian** reiterated how helpful it was to see the film twice. Laying aside his original expectations of a "Hitchcockian puzzle," he realized that the film is not only about visual perception, but also about psychological perception. For Nersessian, the film underscores the fact that the cohesiveness of a narrative does not mean that the narrative is truthful, and he pointed out the danger of making assumptions based on appearances. "It's very akin to what we see and do in psychoanalysis. We don't take the surface as what's real. We are always looking for what is hidden." *A.L.*

Roy Grundman

The Presumption of Rationality: Psychological Challenges to Legal Certainty

The failure of justice epitomized by prisoner treatment at Abu Ghraib and Guantanamo Bay has prompted many people to ask what has happened, in the last several years, to the rule of law. This question begs another, deeper question, one that was at the center of the October 25 roundtable, *The Presumption of Rationality: Psychological Challenges to Legal Certainty*. Moderator **Anne Dailey**, Evangeline Starr Professor of Law at the University of Connecticut, pinpointed this line of inquiry at the event's outset, asking, "Where do laws come from?" Dailey then laid out a set of related, interwoven questions for her fellow panelists, challenging them to unravel the many strands of analysis that constitute our notion of justice. Does the rule of law derive from reason? What happens when we think of law as a product not of reason but of imagination, of how we imagine the world should be? Does the full embrace of the imagination lead us in the direction of more authoritarian, less democratic forms of law?

Kenji Yoshino, Professor of Constitutional Law at New York University, was quick to remark on the historical provenance of such deliberations. "The distinction between imagination and reason with respect to statecraft is as old as Plato's *Republic*, which argues that reason should be the basis for law because reason can be found." However, according to Plato, the rational person is in fact imaginary and non-existent, as opposed to the poet, who is by definition irrational and must therefore be banished. Paradoxically, we must use imagination in order to conceive of a rational construct. Yoshino proposed that historically the law is not against the use of imagination, but against the use of reason that is not backed up with the threat of punishment.

> *What happens when we think of law as a product not of reason but of imagination, of how we imagine the world should be?*

In response to Yoshino's implication that, from a historical perspective, might makes right, or at least that reason backed up by deterrent force is preferable to reason alone, **Peter Brook**, Mellon Visiting Professor at Princeton's University Center for Human Values, mused about the long-standing difficulties inherent in deciding how to treat suspects. With or without the threat of punishment, proving guilt beyond a reasonable doubt is a slippery undertaking, one that often cedes to the more palatable but less conclusive exercise of determining *mens rea*, or a guilty conscience. In the absence of reasonable proof, we look for other means of determining guilt, the most conspicuous being confession. But this leads to the obvious problem of false or coerced confessions, one of the most glaring flaws in the "imaginative" application of the law at Guantanamo.

Nomi Stolzenberg, Nathan and Lilly Shapell Professor of Law at the University of Southern California Law School, challenged Brook's assertion that the rule of law fails to adequately account for the treatment of criminal suspects, arguing that the presumption of innocence accounts for the fallibility inherent in determining guilt. The problem of the justice system, she contended, is that it "can never know that the guilty are in fact guilty." She maintained that mindfulness of the risk of error, even in the medieval period and in biblical criminal law, resulted in procedural law that was surprisingly liberal. "It was all about due process in the name of the inherent fallibility of ▶▶

Peter Brook

▶ human reason," she noted. However, Stolzenberg observed, this same caution about absolute guilt also raises doubts about absolute innocence, leading to the kind of equivocal thinking used to justify incarceration without evidentiary process. Mocking the reasoning of an authoritarian government, she shrugged, "Look, people are doing terrible things, so we have to relax the rule of law and due process standards."

Introducing the perspective of individual psychology to the discourse, **Carol Gilligan**, University Professor at NYU School of Law, asserted that legal rationality fails to take into account the insights of psychoanalysis. Freud's studies on hysteria, she explained, led to the concept of dissociation, which yields a conclusion that upends the primacy of rationality: What if we don't really know what we think we know? "What happens to the law," Gilligan declared, "when we bring into doubt the rationality of men?" Her pointed reference to *men's* rationality, as opposed to women's, provoked a lengthy discussion about how gender issues influence the execution of justice. Before the panelists took questions from the audience, Professor Yoshino offered a final thought on how to transcend the debate about whether or not the rule of law is a man-made (or woman-made) construct. "We can engage in collective decision-making once we let go of the idea that God is going to show us the truth." A.L.

Voters and Friends

As president-elect Obama prepares to assume office, the excitement of a dramatic election season is beginning to fade. But for those who study voting behavior, the data that comes out of the election results offers its own kind of excitement. On October 15, the night of the second presidential debate, the Center's Re: Mind group hosted the roundtable, *Voters and Friends: Group Influence in Political Belief*. Moderator **Eric Dickson**, Assistant Professor in the Department of Politics and the Center for Experimental Social Science at New York University, began the discussion by asking panelists to respond to the question of how "reality deviates from the classical story we tell about how democracy works and how individuals make decisions about what candidate to vote for."

According to **Bryan Caplan**, Associate Professor of Economics at George Mason University and author of *The Myth of the Rational Voter: Why Democracies Choose Bad Policies*, psychologists and political scientists have long mistrusted the idea that opinions about matters of public interest are formed from solid, evidence-based reasoning. **Howard Lavine**, Associate Professor of Political Science and Psychology at the State University of New York at Stony Brook, commented that people want to maintain their prior beliefs, and at the same time make "efficient and accurate" voting decisions. "Political party identification allows us to maximize these goals. We can often make good decisions without knowing too much," he noted. But he went on to point out that people also evaluate and critique their party, especially during times of unrest. "Elections that arouse a lot of anxiety, like this one … elections that are really about something, I think generally produce more folks that are willing to pay attention to the facts, and generally produce more good decisions."

Referencing the classic Aristotelian division of rhetoric into logos (logic), pathos (emotion), and ethos (character), Caplan estimated the general breakdown of voting decisions to about 10% logos, 50% ethos, and 40% pathos. **Jeff Merritt**, the founder of Grassroots Initiative, a non-profit election-consulting firm, observed that the effectiveness of different types of appeals used by candidates varies from election to election. "This is the kind of election where people are thinking about logos," Merritt said. He explained how his organization and others analyze voter behavior. Census records indicate who has voted in a particular election, which suggests whether they're likely to vote in the next one. From this information, the demographics of a particular voting district can be approximated.

Kristina Hoke, President of the Manhattan Young Democrats, offered insight into direct appeals to voters. Exploiting the power of a personal connection, one of her colleagues will pretend to have the same last name as the person he's soliciting on the phone. "It's amazing the results he gets," Hoke said. "When I'm hung up on over and over again, people will talk to him." Hoke was surprised to find that in the recent election "generally the older people were, the more likely they were to engage in some kind of conversation." Though most canvassers are young, she added, other young people don't necessarily want to talk with them.

Responding to a question about class in relation to voting decisions, Caplan pointed out that class affiliation isn't necessarily defined by economic status. "Generally education crushes income," he observed. "If you go and talk to a PhD driving a taxi cab … they generally think like other PhDs. On the other hand, if you have the self-made man who dropped out of high school, he generally thinks like other people who have dropped out of high school in terms of policy." Caplan also offered a challenging perspective on efforts to increase voter turnout: "In academia you can ask questions that would get you booed off the stage, such as *is it really a good idea to encourage turnout?*" More educated people tend to vote at higher rates, and they also tend to have more political, economic, and scientific knowledge. "It follows that if we could actually get a hundred percent turnout, the typical voter would be much less informed than he is today," Caplan said.

When an audience member questioned the increasing duration of presidential campaigns, and whether this serves our electoral process, Levine commented, "The election is for all intents and purposes eight weeks, because most people who have made up their minds and are paying attention for two years at a stretch are not persuadable voters." Dickson agreed, but added, "A candidate like Barack Obama, if the election were genuinely eight weeks, would never stand a chance…. Maybe the vast majority of people aren't paying attention throughout the two year process, but most people in the sort of opinion elite are, and if a candidate is able to go through a campaign for two years and is able to seem sane and informed and not say too many crazy things … that probably tells us a lot." *P.R.*