Transnational Law Institute Newsletter
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The Dickson Poon School of Law, King’s College London

Recent TLI Think! Papers

The TLI Think! Papers Series covers a broad range of methodologies and topics of transnational legal scholarship. The papers are published electronically and are freely available online or through email distribution. The most recent TLI Think! Papers are:

- ‘Antitrust Appraisal of Vertical Agreements in the ASEAN Economic Community: Proposals for a More Harmonised Approach’ by Alison Jones
- ‘From Trade Liberalisation to Transnational Governance and TTIP: How Dani Rodrik, Karl Polanyi and the Varieties of Capitalism Studies May Help Us to Understand the Present State of Globalization’ by Fabian Bohnenberger and Christian Joerges
- ‘Detention and Delusion in Australia’s Kafkaesque Refugee Law’ by Satvinder Juss

The TLI Think! paper series is online at SSRN and can be subscribed to here. The series is edited by Dayan Farias-Picon, TLI Research Fellow, and Professor Peer Zumbansen, TLI Director.
Recent events

CONFERENCE: STRESS TESTING THE LAW OF THE SEA: DISPUTE RESOLUTION, DISASTERS AND NEW CHALLENGES

A two-day conference at The Dickson Poon School of Law brought together leading practitioners and scholars to examine pressing challenges of maritime peace, security and environmental protection. 'Stress Testing the Law of the Sea: Dispute Resolution, Disasters and New Challenges' was hosted by the TLI in collaboration with the Law of the Sea Institute at the University of California, Berkeley, School of Law (LOSI), with additional sponsorship from The Honorable G. William and Ariadna Miller Institute for Global Challenges and the Law, Berkeley Law. The conference was convened by Stephen Minas, Senior Research Fellow, TLI and Jordan Diamond, Executive Director, LOSI.

The conference hosted three keynote addresses. Judge Vladimir Golitsyn, President of the International Tribunal for the Law of the Sea, discussed the 'Settlement of International Disputes related to the Use of Natural Resources under UNCLOS'. Professor Gudmundur Eiriksson, Executive Director of the Centre for International Legal Studies at Jindal Global Law School, spoke on 'Forty Years of the Law of the Sea: Some Lessons Learned'. Professor Kristina Gjerde, Senior High Seas Policy Advisor to IUCN’s Global Marine and Polar Programme, gave a presentation on 'Marine Conservation beyond Boundaries: Protecting Biodiversity in the High Seas and Seabed Area'. A report on the conference, participant biographies, presentation abstracts and the conference programme are available here.

SIGNATURE LECTURE AND READING LAB: THE CORRUPTION OF CAPITALISM

Guy Standing, Research Professor at the University of London and a founder and co-president of the Basic Income Earth Network (BIEN), gave a lecture in which he argued that there is a lie at the heart of global capitalism. Politicians, financiers and global bureaucrats claim to believe in free competitive markets, but have constructed the most unfree market system ever. It is corrupt because income is channelled to the owners of property - financial, physical and intellectual - at the expense of society.

Professor Standing’s lecture may be viewed here. An interview of Professor Standing by PhD Candidate Laura Knopfel is online here.

THE FUTURE OF EU CLIMATE CHANGE AND SUSTAINABLE ENERGY DIPLOMACY: PANEL DISCUSSION & PUBLICATION LAUNCH
The TLI hosted a panel discussion on the future of European Union climate change and sustainable energy diplomacy, to analyse the direction and ongoing salience of EU climate diplomacy. Panelists included Francesca Manchi, Political Officer, European Commission Representation in the UK, Barry Gardiner MP, Shadow Secretary of State for International Trade, Europe, Energy & Climate Change, Mr Nick Mabey, Chief Executive of E3G and Dr Yuliya Yurchenko, Lecturer, International Business and Economics Department, University of Greenwich.

The event marked the launch of a publication on the future of EU climate and sustainable energy diplomacy, produced as a collaboration of the Foundation for European Progressive Studies (FEPS), the Transnational Law Institute and Fondation Jean-Jaurès. The publication includes a report by TLI Senior Research Fellow Stephen Minas and shorter contributions by Swedish foreign minister Margot Wallström and Member of the European Parliament Miriam Dalli. The publication is online here. A report of the event is online here.

MARITIME SECURITY AND DISPUTES IN THE EAST CHINA SEA

Dr Alessio Patalano, senior lecturer at King's College London's Department of War Studies, presented on the maritime security and disputes in the East China Sea, which has become a zone of security competition between China and Japan. The collective economic rise of East Asia has been attended by the sharpening national security tensions and increasing military capacities of regional powers. The region’s seas, including the South And East China Seas, are vital trade routes and are subject to competing territorial claims.

THE RESILIENT CONSTITUTION? CONSTITUTIONALISM AND THE POLITICAL CRISIS IN BRAZIL

The 1988 Constitution of Brazil marked an end to 20 years of military rule. Since then, Brazil has undergone several economic and political crises that have tested the capacity of the legal and political system. The TLI and the Bingham Centre for the Rule of Law, with the support of Jones Day, hosted a panel including Professor Oscar Vilhena Viera, Dean of Fundação Getúlio Vargas - São Paulo School of Law, Professor Christina Murray (Bingham Centre) and Dr Timothy Power (Oxford University). The debate took Mr Vilhena Viera's working paper entitled 'Maximization Compromise, Consensual Democracy and Gradual Development; Reflections on the Resilient Brazilian Constitution’ as a starting point to reflect on the current political situation in Brazil.
POST-BREXIT AND THE CRISIS OF TRADE MULTILATERALISM: HEARTBREAK OR MESS? OUGHT WE BE WORRIED?

Daniel Drache, Professor emeritus of political science at York University in Toronto, presented on the following questions: Are Britain/EU being left behind by the current crisis of trade governance? Does the UK post-Brexit need to rethink its support for an unreformed WTO, or seek other trade partners elsewhere? Should it strategically be closer to China’s new Silk Road’s global initiative to address the Global South’s infrastructural crisis?

Professor Drache's lecture may be [viewed here](#). An interview of Professor Drache by Farnoush Ghadery, TLI Research Fellow and PhD Candidate is [online here](#).

TRANSNATIONAL LEGAL EDUCATION - WHAT IS AT STAKE? PERSPECTIVES FROM AFGHANISTAN, ARGENTINA AND JAPAN

The 2016-2017 Transnational Law Colloquium is dedicated to the investigation of the politics and stakes of transnational law in theory, practice and in the classroom. Our first colloquium in the 2016-2017 series brought together highly skilled legal teachers with experiences in teaching and law school curriculum design in Afghanistan, Argentina and Japan: Dai Yokomizo, Professor at Nagoya University, Graduate School of Law; Yuki Asano, Professor of Doshisha Law School; Nafay Chaudhury, PhD Candidate, KCL; Previously Assistant Professor of Law at the American University of Afghanistan (2012-2016); and Martín Hevia, Executive Dean and Associate Professor, School of Law, Universidad Torcuato Di Tella (Argentina).

SIGNATURE LECTURE AND BOOK LAUNCH: HOW WILL CAPITALISM END?

Professor Wolfgang Streeck is one of the most highly regarded sociologists and political economists of our time and a director of the Max Planck Institute for the Study of Societies until 2014. At this event, Verso, London proudly launched Professor Streeck’s new book "How will Capitalism End? Essays on a Failing System". In his lecture, Professor Streeck examined whether we are witnessing a long and painful period of cumulative decay: of intensifying frictions, of fragility and uncertainty, and of a steady succession of normal accidents - and what can be done about it.

ARBITRAL LAWMAKING AND STATE POWER: AN EMPIRICAL ANALYSIS OF INVESTOR-STATE ARBITRATION
Professor Alec Stone Sweet, National University of Singapore, presented the results of research focusing on (i) arbitral lawmaker, conceived as the development of precedent-based frameworks of argumentation and justification, and (ii) state responses to that lawmaking, as registered in subsequent treaty-making. The lecture addressed four overlapping questions. First, what types of state measures have tribunals reviewed? Second, how have tribunals arbitrated claims in which states plead the general interest? Third, how do tribunals consider investors' entitlements in relation to the state's regulatory prerogatives, in particular, have tribunals been biased in favor of investors? We are not only interested in who wins and loses, but how and the extent to which tribunals take into consideration a state's regulatory prerogatives, that is, its "right to regulate." Fourth, have states used their treaty-making authority to constrain arbitrators going forward?

**Upcoming events**

**BREXIT AND FREE TRADE: CAUSES AND EFFECTS**

Location SW1.17 Somerset House East Wing  
When 23/11/2016 (16:30-18:00)  
Registration URL  

Kenneth Armstrong, Professor of European Law at the University of Cambridge where he is also the Director of the Centre for European Legal Studies, will discuss Brexit and free trade. This lecture is part of the Transnational Law Institute's Signature lecture series: Contesting Globalisation (post-Brexit).

**FOURTH MEETINGS OF DEFENCE OFFICES AT THE INTERNATIONAL CRIMINAL COURTS**

Location Nash Lecture Theatre (K2.31) Strand Campus  
When 24/11/2016 (18:30-20:30)  
Registration URL  

On the occasion of the Fourth Meetings of Defence Offices at the International Criminal Courts, a panel discussion will be held on, hosted by Dr Nicola Palmer, (The Dickson Poon School of Law, King's College London) and moderated by Dr. Mark Ellis, Executive Director of the International Bar Association. Panelists will include: Ms Roula El Derbas, Acting Chef de cabinet of the Defence Office of the Special tribunal for Lebanon; Mr Iain Edwards, Barrister (England and Wales), former defence counsel at the ICTR and STL; Ms Catherine Mabille, Lawyer at the Paris
Bar, former defence counsel at the ICTR and defence counsel at the ICC; and Mr David Hooper QC, Barrister (England and Wales), President of the ICC Bar Association.

READING LAB: THE GLOBALIZATION PARADOX

Location SW1.09 Somerset House East Wing
When 30/11/2016 (18:00-20:00)
Registration URL


Over the course of this academic year, the Reading Lab will be hosted by the Transnational Law Institute in collaboration with the International Development Institute at King's College London. Accompanying the Reading Lab is a Transnational Law LL.M. module of the same title at The Dickson Poon School of Law, which is cross-listed to the International Development Institute and the Department of War Studies.

TLI SIGNATURE LECTURE: EUROPE AS A SPIRITUAL CRISIS

Location G.73 Waterloo Campus
Category Lecture
When 01/12/2016 (18:15-20:00)
Registration URL

This lecture is part of the Transnational Law Institute’s Signature lecture series on Contesting Globalisation: Post-Brexit. J.H.H. Weiler, University Professor at NYU Law School and Senior Fellow at the Center for European Studies at Harvard, will discuss deeper long term processes, several unconnected to the Integration Project which have had a deep impact on the anthropology and sociology of the European circumstance—on the self-understanding of the self and society. These factors provide an additional—spiritual—dimension to our understanding of the crisis, of potential importance because not easily addressed by redistributive policies or institutional re-engineering.

EUROPE’S CRISIS OF LEGITIMACY: GOVERNING BY RULES AND RULING BY NUMBERS IN THE EUROZONE

Location SW1.17 Somerset House East Wing
When 25/01/2017 (18:00-19:30)
Registration URL

Vivien A. Schmidt, Jean Monnet Professor of European Integration, Pardee School of Global Studies, Boston University,
argues that in response to the Eurozone crisis, EU institutional actors—ECB, Council, Commission, and EP—all incrementally reinterpreted the rules and recalibrated the numbers 'by stealth,' that is, without admitting it in their public discourse. To theorize about such processes of ideational innovation and discursive legitimation during the Eurozone crisis, Prof. Schmidt uses the neo-institutionalist framework of discursive institutionalism.

Additional activities

Dr Holger Hestermeyer presented on "How Brexit Will Happen: A Brief Primer on EU Law and Constitutional Law Questions Raised by Brexit" at a seminar co-hosted by Wilmer Cutler Pickering Hale and Dorr LLP and Wolters Kluwer to mark the launch of the special BREXIT issue of the Kluwer Journal of International Arbitration.

Dr Octavio Ferraz addressed the London Bioethics Colloquium on the topic of "Who should we treat? Rare diseases, universal health coverage and children's right to health".

Professor Peer Zumbansen presented on "Globalization's Elusive Search for Justice: Categories, Maps, Interventions" as part of the Center for Transnational Legal Studies Colloquium.

Dr Megan Bowman and Stephen Minas attended the 22nd Conference of Parties to the UN Climate Change Convention in Marrakech, Morocco. Stephen Minas presented on climate change legislation at Climate Law and Governance Day 2016 on a panel organised by UN Environment and the Legal Response Initiative.

Professor Satvinder Juss gave evidence to the Women's and Equalities Commission on the effects of Brexit on equality legislation.
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