

# Socio-Legal NEWSLETTER No 90 **SLSA**

THE NEWSLETTER OF THE SOCIO-LEGAL STUDIES ASSOCIATION

SPRING 2020

## SLSA PORTSMOUTH 2020

*From 1–3 April delegates will be gathering in Portsmouth for our 2020 Annual Conference.*

More than 450 abstracts have been received from the 35 streams and six current topics. The current topics this year are as diverse as they are topical and include: animals and the law; law, governance and belonging; law, politics and judicial behaviour; social media, political participation and populism; the end of the international legal order and human dignity in practice: socio-legal perspectives. Several of the current topics engage with this year's theme of 'Law in the Age of Populism', including the legal implications of the social divisions wrought by populists; threats to the international legal order arising from populist anti-globalisation sentiment; legal regulation of social media or fake news, both major tools of populists; and populist attacks on the rule of law following judicial decisions on the workings of Brexit.

For those arriving in Portsmouth before the conference programme begins, an optional guided walking tour of Nelson's Trail will provide an insight into Portsmouth's naval heritage. The conference will open on Wednesday with two afternoon sessions each comprising 20 concurrent streams. The plenary will also take place on Wednesday afternoon and will explore the intersection of populism, gender/sexuality and law. The speakers will discuss how gender and queer feature in populism and in resistance to the liberal legal order. The plenary will be chaired by Professor Matthew Weait and speakers include Professor Davina Cooper, Professor Nuno Ferreira, Dr Senthoran Raj and Professor Alex Sharpe. In the evening the drinks reception will take place on HMS Warrior where delegates will be able to enjoy drinks and canapés on the fully restored gun deck. HMS Warrior is located a short walk from Gunwharf Quays, a waterfront retail and leisure venue, which boasts 30 restaurants and bars.

The second day of the conference has four sessions featuring panels from 30 of the streams and current topics. The day finishes with the conference dinner and prize-giving held in Portsmouth Guildhall. The dinner will be followed by a disco. For postgraduates, there will be two consecutive workshops, one on wellbeing and the other on publication. The Poster Competition will also give PGRs an opportunity to share their work, with a prize awarded for best poster. After the conference closes on Friday, delegates can embark on a Harbour Tour and enjoy views of Portsmouth from the sea.

Portsmouth is accessible by rail, car, bus, coach, plane and ferry. The website contains details of all the major travel routes.

### Download this issue for instant access

The *Socio-Legal Newsletter* is also available as a pdf for download to your smartphone or other device, giving you instant and permanent access not just to all the news and features, but all the embedded links. No more putting off booking for that conference, or buying that book!

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Accommodation is not included in the conference package, but the website provides details of a number of hotels with rooms held at preferential rates. Portsmouth is a compact city and all the conference venues are easily accessible from the university. For those delegates who have time to spend in the city, it is well worth exploring our naval history by visiting the Mary Rose museum or, for those with an interest in literature, there is the Charles Dickens museum – or perhaps delegates would prefer to just find a few moments to take a walk along the beach. See website for details: **SLSA 2020**. Registration closes: **16 March 2020**.

*SLSA 2020 Conference Team e [slsa2020@port.ac.uk](mailto:slsa2020@port.ac.uk)*

### SLSA annual general meeting

The AGM will take place on **2 April 2020** at the University of Portsmouth during the conference. All members are welcome to attend. Please allow one hour for this. To suggest an agenda item, email SLSA secretary Neil Graffin by **Friday 13 March 2020 e [neil.graffin@open.ac.uk](mailto:neil.graffin@open.ac.uk)**.

### PGR activities at SLSA 2020

As your reps, we are really looking forward to welcoming our postgraduate colleagues to Portsmouth next month. Over the next few weeks we will be working on finalising the arrangements for the PGR activities. These have been hugely successful in previous years, as they involve constructive and informative sessions that PGRs have found to be really valuable. The sessions are also interactive and engaging and are typically held in the morning before registration opens, which enables PGRs to get to know each other before the main conference starts at lunchtime on day one.

The first PGR session this year will be on wellbeing in academia. Led by Dr Caroline Strevens and Dr Jane Creaton, the event will be a reflective and thoughtful introduction to SLSA 2020. There will also be a session, presented by Professor Chris Ashford, on publishing in academic journals, which we are really excited about. We will be running a networking session again this year, which will offer PGRs an opportunity to speak to ECRs and share experiences and ask questions. We will be sharing more information about the activities and registration details in due course, so keep an eye out for these!

*Tahir Abass and Rachael Blakey [slsapgrp@gmail.com](mailto:slsapgrp@gmail.com)*

### Also in this issue

- SLSA Chair Rosie Harding explains the reasons for the SLSA's new charity status and outlines the most important changes: *[read more on page 3](#)*
- The Rt Hon Sir Nicholas Green, Chair of the Law Commission of England and Wales, outlines the ways academics can become involved in its work: *[read more on page 11](#)*
- New membership discount on Palgrave books: *[read more on page 13](#)*
- 2020 prize shortlists (*[page 4](#)*) and the latest new grantholders (*[page 5](#)*)

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# SOCIO-LEGAL STUDIES ASSOCIATION REGISTERED AS A CHARITY

*SLSA Chair Rosie Harding summarises the reasons for the SLSA's recent change of status and its possible impact on future plans.*

The Socio-Legal Studies Association is now a Charitable Incorporated Organisation (CIO), registered in England and Wales, number 1186333.

At the 2019 SLSA AGM, the membership unanimously voted in favour of a resolution to authorise the Executive Committee to take all necessary steps to register the SLSA as a charity and to transfer the assets of the existing unincorporated association to the SLSA CIO. The Executive Committee worked hard throughout 2019 to make this happen, with the support of charity lawyers from Stone King. The Charity Commission registered the SLSA as a CIO (association model) in October 2019. A deed of transfer was executed at the January 2020 Executive Committee meeting, which formally transferred all of the SLSA activities to the new SLSA CIO from midnight on 31 January 2020.

## Why did we decide to register the SLSA as a CIO?

In the 30 years since the SLSA was founded in 1990, our membership has grown significantly, including a large group of postgraduate research students. As more and more legal academics engage in socio-legal research, the SLSA Annual Conference has grown larger (with over 600 delegates in 2019), and the administrative demands of running the SLSA have increased. Changing patterns of banking mean that processes that used to work well for small numbers of members are no longer feasible for our larger membership. Registering as a CIO allows the SLSA to put in place new policies and procedures to better manage these administrative demands and will allow the SLSA to employ administrative staff in the future if the SLSA continues to grow.

## What will the changes as a result of being registered as a charity make to the SLSA?

The key difference for the SLSA is that we have a new constitution and slightly amended objects.

Under the new CIO Constitution, the object of the SLSA is:

The object of the CIO is for the public benefit to advance education and learning in the field of socio legal studies and to promote research, the useful results of which shall be published for the public benefit, teaching and the dissemination of knowledge in the field.

This is only slightly different from the objects of the unincorporated association, with the addition of express clauses about public benefit. Registration as a CIO will not mean significant immediate changes to the activities of the SLSA – all of our current grants, seminars, funding schemes and prizes will continue as before. Becoming a charity does, however, mean that the SLSA can expand its activities in a variety of ways that enable us to fulfil this object for the public benefit. We are in the process of reviewing all SLSA policies and procedures and ensuring that these are appropriate for the charity. The new constitution is available to download from the SLSA website.

There are some other minor changes to SLSA practice that will follow from our charitable status:

- The Executive Committee will, in future, be called the Board of Trustees.
- Elected members of the Board of Trustees are charity trustees and are subject to the legal requirements which govern who can be a charity trustee.

- The Chair, Vice-chair, Treasurer, Secretary and Membership Secretary are ex-officio trustees, directly elected by the membership at the AGM.
- Trustees and ex-officio trustees are elected by the membership at the AGM and serve terms of three years.
- The constitution prescribes that nine years is the maximum number of years anyone can be a trustee without standing down for at least one year. This will apply to ex-officio trustees as well as to elected trustees, with the usual duration being expected to be up to two terms of three years (six years). The longer, nine-year, term is expected only to apply to ex-officio trustees who served on the Board before election to an ex-officio role.
- Conference reps and PG reps will attend Board meetings, without being charity trustees.
- The SLSA CIO is required by law to keep a list of members and to retain membership records for 10 years after any member ceases their membership.

## What happens next?

At the 2020 AGM at the University of Portsmouth on 2 April, the membership will be asked to formally dissolve the unincorporated association, under the terms of its constitution according to the terms of this resolution:

With regard to the unanimous resolution at the AGM in 2019 to register the Socio-Legal Studies Association as a Charitable Incorporated Organisation (CIO), and to transfer the assets of the unincorporated organisation to that registered CIO, the Socio-Legal Studies Association is now a CIO registered in England and Wales, number 1186333. Accordingly, the members resolve that the unincorporated SLSA be dissolved in accordance with Article 13 of the Constitution, and that any remaining assets be transferred to the Socio-Legal Studies Association CIO.

**Proposed by:** Rosie Harding, Ed Kirton-Darling, Naomi Creutzfeldt, Roxanna Dehaghani, Vanessa Munro and Flora Renz.

This is a formality, as all of the work of the unincorporated association has been taken over by the CIO.

One-third of the Board is required to step down each year at the AGM. If not at the end of their term, trustees may stand for re-election at the AGM. As a result of trustees coming to the end of their terms of office, there will be elections of up to five new charity trustees at the 2020 AGM. Anyone who is interested in serving the SLSA as a trustee is welcome to get in touch with Rosie Harding [e r.j.harding@bham.ac.uk](mailto:r.j.harding@bham.ac.uk) for more information about what is involved.

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### SLSA admin

The SLSA has a dedicated email address for applications for and queries about all prizes, competitions and funding schemes:  
 e [admin@slsa.ac.uk](mailto:admin@slsa.ac.uk)

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## SLSA PRIZE SHORTLISTS 2020

The SLSA Board is delighted to publish the shortlists for this year's book and article prizes.

### Hart—SLSA Book Prize

- Kate Bedford (2019) *Bingo Capitalism: The law and political economy of everyday gambling*, Oxford University Press
- Insa Lee Koch (2018) *Personalizing the State: An anthropology of law, politics, and welfare in austerity Britain*, Oxford University Press
- Nicole Rogers (2019) *Law, Fiction and Activism in a Time of Climate Change*, Routledge

### Hart—SLSA Prize for Early Career Academics

- Lauren Dempster (2019) *Transitional Justice and the 'Disappeared' of Northern Ireland: Silence, memory, and the construction of the past*, Routledge
- Insa Lee Koch (2018) *Personalizing the State: An anthropology of law, politics, and welfare in austerity Britain*, Oxford University Press
- Johanna Mugler (2019) *Measuring Justice: Quantitative accountability and the National Prosecuting Authority in South Africa*, Cambridge University Press

### SLSA Theory and History Prize

- Renisa Mawani (2018) *Across Oceans of Law: The Komagata Maru and jurisdiction in the time of empire*, Duke University Press
- Rose Parfitt (2019) *The Process of International Legal Reproduction: Inequality, historiography, resistance*, Cambridge University Press
- Kate Seear (2019) *Law, Drugs and the Making of Addiction: Just habits*, Routledge

### SLSA Article Prize

- Alex Batesmith and Jake Stevens (2019) 'In the absence of the rule of law: everyday lawyering, dignity and resistance in Myanmar's "disciplined democracy"' 28(5) *Social and Legal Studies* 573–599.
- Rosemary Hunter (2018) 'Feminist judging in the "real world"' 8(9) *Oñati Socio-Legal Series*
- Jane Scoular, Jane Pitcher, Teela Sanders, Rosie Campbell and Stewart Cunningham (2019) 'Beyond the gaze and well beyond Wolfenden: the practices and rationalities of regulating and policing sex work in the digital age' 46(2) *Journal of Law and Society* 211–239.

The winners will be announced at the Annual Conference dinner in Portsmouth on 2 April 2020.

## SLSA POSTGRADUATE CONFERENCE 2020

Giorgos D Vrakas, a third-year PhD student at the University of Edinburgh, reports on this year's two-day event for PGRs.

The most recent SLSA Postgraduate Conference took place from 8–9 January 2020, hosted by the University of Edinburgh in the newly refurbished Old College, and featured a range of interesting and valuable talks.

Participants were split into two groups of 25 with all talks double-streamed, allowing for a more intimate setting. I was placed in group B, and my first session was 'Supervising your supervisor', led by Rosie Harding and Mike Adler who gave practical advice on how to effectively tackle issues arising in a supervisory relationship. In the second session, on conference posters, Smita Kheria and Naomi Creutzfeldt conducted a group exercise in which we were asked to aesthetically assess a number of posters before being provided with a number of tips on how to succeed in presenting a poster at a conference. This was followed by an open discussion on getting published, led by Dave Cowan and Vanessa Munro, which provided greater insights into the REF and the ranking of journals before offering practical advice on how to deal with rejection. The final session on day one, dealing with funding and impact, was led by Rosemary Hunter and Dave Cowan. This session also took on the format of an open discussion where different types and sources of funding were outlined, and the growing importance of having research impact was emphasised before attendees were offered some guidance on how to achieve this.

The first day came to an end with a fantastic dinner where we were able to network with colleagues from other institutions who are also carrying out socio-legal research.

The second day began with a discussion led by Rosie Harding and Ed Kirton-Darling, entitled 'Getting a job'. This session emphasised the importance of standing out in a progressively competitive market, and we were given valuable advice on how to do this. The second talk of the day, by Vanessa Munro and Ed Kirton-Darling, focused on conference papers.

This provided practical ideas on how to succeed in presenting our work at academic conferences as PhD students. Finally, a research ethics session, led by Naomi Creutzfeldt and Rosemary Hunter, covered a range of resources which could act as guidance when applying for ethical approval. We also talked about the main ethical issues we face as PhD students carrying out empirical research. Finally, we were encouraged to put our knowledge into practice using hypothetical scenarios.

I would like to thank the SLSA, and the organisers and speakers for this event, and would highly recommend it to other socio-legal postgraduate researchers. I look forward to seeing colleagues that I met in Edinburgh and also meeting more socio-legal researchers at SLSA 2020 in Portsmouth in April.

Next year's event will be hosted by Cardiff University.

### SLSA membership benefits

Benefits of SLSA membership include:

- three 16-page (minimum) newsletters per year;
- discounted one-day and SLSA Annual Conference fees;
- weekly ebulletin;
- eligibility for grants (research and fieldwork);
- eligibility for funding schemes (Seminar Competition, and Research Training Grants);
- eligibility for SLSA prizes;
- members' priority in newsletter publications pages;
- discounted student membership (with first year free);
- free annual Postgraduate Conference;
- student bursaries for SLSA Annual Conference;
- discounts on selected books;
- 20 per cent discount on Hart books bought online;
- 20 per cent discount on Palgrave Macmillan books bought online;
- special membership category for retired members;
- ... and much more.

Visit [w website](#) for details.

## SLSA TRAINING GRANT REPORT: SRA QUESTIONNAIRE DESIGN AND TESTING

Margaret Downie, Academic Strategic Lead, The Law School, Robert Gordon University

In July 2019, the SLSA kindly proved me with £600 of funding to go on a Social Research Association (SRA) Questionnaire Design and Testing training course. This made an important contribution to my academic development as I did not follow the traditional route into academia by doing a PhD. Instead, I practised as a solicitor for 18 years, teaching in the evenings at my local further education college before seeing the light and becoming a full-time lecturer at Robert Gordon University in Aberdeen.

Earlier in my academic career, I focused on doctrinal legal research. However, my background in further education influenced my research interests and, for the last six years, I have been increasingly involved in research into law students transitioning from further education to higher education and the difficulties they face. It was only then that I realised I had missed out on the traditional academic training on empirical methods. I set about acquiring the necessary skills by attending the excellent training offered by the SRA and undertook its three-day course in qualitative interviewing. That training proved invaluable in allowing me to carry out a research project into students transitioning from Aberdeen College to Robert Gordon University. Funding from the Legal Education Research Network (LERN) allowed me to expand that project using focus groups and questionnaires. I reported to LERN and started to disseminate the results of these research projects through conference papers and journal articles. Subsequently, I wished to scale up the project by submitting a Nuffield bid with two collaborating institutions. However, in order to design a robust project, I required training in the use of questionnaires.

Living and working in Aberdeen, as I do, training is not always easy to find locally and usually necessitates a trip to

Edinburgh or London, which adds to the cost. Since I had already spent my staff development budget for the year presenting a paper at the very enjoyable SLSA conference in Leeds, funding was not available from my institution, so I was immensely grateful when the SLSA agreed to fund this one-day course at the Grand Connaught Rooms in Queen Street, London.

I must admit that, after a 10-hour train journey and a night in London, I was not the liveliest student in the class. However, the course provided an excellent grounding in the theory of questionnaire design. It also provided ample opportunity to practise our skills by drafting questions (which were then torn apart by our fellow students). The materials were excellent and the trainer, Dr Pamela Campanelli, emailed further reading material, which was also very useful since I had another 10-hour train journey home and plenty of time to kill.

One thing the course reminded me of was that there is always more to learn and, even though I have stripped my questionnaire of hypothetical questions and managed to get my head around Grice's maxims, there is still room for improvement. I see there are training courses on writing up your findings coming up ...

I would like to thank the SLSA for funding what may prove to be just another step on a very long journey of discovery.

See box below for further details of this scheme.

### SLSA Research Training Grants

Applications are invited for these grants aimed at supporting training in social science research methods and the use of data analysis software (e.g. SPSS and NVivo) for SLSA members who do not possess but wish to acquire these skills and do not have access to sources of institutional support to do so.

Full details are available at [w research training grants](#). The annual deadline for this scheme is **1 June**.

## SLSA GRANTS SCHEME

*The SLSA offers two types of grants: Research Grants and PhD Fieldwork Grants. This year the SLSA Board has decided to support six projects to the value of around £12,000. In the summer issue, this cohort will provide summaries of their planned projects. On pages 8–10 of this issue five previous grantholders report on four completed projects: Agata Fijalkowski, Dave Cowan, Sharon Thompson, and Ciara Fitzpatrick and Alexandra Chapman. For more information on this scheme, please visit the [w SLSA website](#).*

### Research grants 2020

- Jenny Lander, De Montfort University, £2990, 'Shifting subjects: a socio-legal study of new indigenous claims on Mongolia's mining frontier'
- Raphael Schlembach, Brighton University, £1105, 'Conflicts and contestation in a public inquiry'
- Simon Flacks, Westminster University, £2214, 'Parental substance use and family justice'

### Fieldwork grants 2020

- Linda Mensah, Strathclyde University, £1931, 'Unearthing the law from the pits: legal mapping of customary and living laws as an alternative to formalising artisanal and small-scale mining (ASM) in Ghana.'

- Selbi Durdiyeva, Ulster University, £2000, 'Reimagining civil society's involvement in transitional justice: Russia's approach to the repressive past after the breakup of the USSR'
- Daniela Travaglia, University of Birmingham, £2000, 'Right to a fair trial in Brazilian courts: a perspective through the lens of the feminist theory'

## AcSS: CALL FOR NOMINATIONS

As a member of the Academy of Social Sciences (AcSS), the SLSA can nominate eminent socio-legal scholars for appointment as academicians. Full details of the process are available on the [w AcSS website](#).

The paramount requirement for successful nomination is that the nominee be 'a leading figure in their field and have already left a clear mark on it'. The AcSS notes that suitable nominees should 'merit the esteem of their peers for the excellence of their work and their championing of social science'.

SLSA members already admitted as fellows include all the winners of our prestigious annual prize. See the [w AcSS website](#) for the full list of current fellows.

Please send nominations (maximum 500 words) to Vanessa Munro e [v.munro@warwick.ac.uk](mailto:v.munro@warwick.ac.uk) by **31 April 2020**.

## UC AND GENDER EQUALITY: WORKSHOPPING A FEMINIST JUDICIAL REVIEW

*This SLSA-funded seminar was organised by Nicole Busby, University of Glasgow; Meghan Campbell, University of Birmingham; Carla Clarke, CPAG; Ciara Fitzpatrick, Law Centre NI, Marilyn Howard and Morag McDermont, University of Bristol.*

This one-day workshop was held at Birmingham Law School on 21 October 2019 with participants from legal practice and civil society organisations, as well as from academia. Building on the international success of the Feminist Judgments Project, the purpose of the workshop was to adopt a feminist judgments methodology (FJM) as a means of highlighting and responding to the gendered inequalities caused and perpetrated by the UK's social security reforms, such as universal credit (UC). FJM applies a feminist lens to established jurisprudence to demonstrate how judgments could have been written and cases could have been decided differently. By taking this established methodology and applying it to a 'live' area in which the use of judicial review as a means of challenging UC's implementation is still developing, the workshop was aimed at providing an opportunity to exchange knowledge and develop new thinking on the judicial review process, to inform and influence strategic litigation and to identify a related research agenda. By discussing the policy and legal framework, decided case law and applying FJM to a series of fictional scenarios, the workshop participants were able to consider what alternative 'feminist' challenges to UC would look like, how they would be decided and how this would shape the legal and policy landscape.

### Background

Despite its relationship with many areas of interest to the socio-legal community – including poverty and disadvantage, social class, race and sex discrimination, inequalities in care provision, labour law, children's rights, disability rights, socio-economic rights and human rights – social security is under-researched in this context.

The UK's social security system has been subjected to sweeping reform in recent years, originating from the Coalition government's view that modernisation was required to increase affordability and to reduce poverty, worklessness and fraud. Devolution has resulted in different approaches to the implementation of UC payment arrangements in Northern Ireland and Scotland. UC has been widely critiqued, including by the Women's Budget Group (WBG) in its evidence on the Welfare Reform Bill and in research by Women's Aid and the Trades Union Congress. As highlighted by the UN Special Rapporteur on extreme poverty during his visit to the UK in 2018, concerns relate specifically to UC's impacts on the equality rights of protected groups such as children and disabled people and, as research by the Child Poverty Action Group (CPAG) has shown, its disproportionate and negative impact on women.

### The workshop's aims

By engaging a range of participants working in this area across the UK's jurisdictions in legal practice, policy and civil society organisations/NGOs and in academia, our objective was to focus specifically on two policies directly affecting gender equality: the single household payment, which creates and reinforces unequal relationships and facilitates financial abuse; and the two-child limit (including the non-consensual sex exemption, or 'rape clause') which, it has been argued, breaches the UN Convention

on the Rights of the Child and contravenes rights to family life under the European Convention on Human Rights.

We wanted to explore substantive legal arguments concerning gender equality in relation to both policies and to identify the potential for further legal challenge. Although judicial review has already been used with some limited success, certain barriers have restricted the number of cases and issues being litigated. These include costs rules, time limits, victim status for Human Rights Act 1998 challenges, the permissibility of expert group interventions within the restrictions imposed by the Criminal Justice and Courts Act 2015, and limited funding and capacity within the welfare rights sector and for legal aid.

Our aims were to:

- use the findings and proceedings from the workshop to inform strategic litigation and to influence policy debates and decision-making in the relevant Westminster and devolved government departments;
- establish a network for which further funding will be sought from an alternative source for a larger-scale project focusing on the publication of a collection of alternative feminist judgments;
- develop a range of alternative outputs including: one or more 'new' fictional cases for use in simulated hearings to explore what is currently left out of litigation; a deconstruction/critique of the judicial review process through a feminist lens; and redrafting of the legislation and overarching policy.

### What happened on the day?

Introduced by Nicole Busby and Morag McDermont, the workshop started with a series of short 'lightning' presentations. Zoe Leventhal from Matrix Chambers summarised her concerns about the judicial review process (short time-scales, exclusions, difficult for NGOs to challenge without someone with 'victim' status, and impact of the lived experience being lost when only written evidence is presented), explaining that she sometimes 'self-regulates' what she says so that it is acceptable to the court. Mary-Ann Stephenson from the UK Women's Budget Group highlighted that social security is always gendered because women are more likely to need to claim than men because of their relationship to the labour market and disproportionate responsibility for care within families; particular issues relating to UC were the single monthly payment, disincentives for second-earners, conditionality for parents of young children, and the two-child limit.

In open discussion, participants explored issues such as differences in Scotland and Northern Ireland and use of equality impact assessments. The workshop then split into three smaller groups to discuss the substantive issues: the UC single payment, the two-child limit and other gender issues in UC. The afternoon session began with a presentation by Rosemary Hunter on FJM and its development, which provided an excellent backdrop to an open discussion of the potential for a 'feminist judicial review' project to develop this methodology further.

### Discussion at and beyond the event

Discussion on the UC single payment noted concerns that payment to one person could create an environment within which financial abuse could be facilitated which would create and/or further entrench power imbalances between couples. Whilst the online claiming process now 'nudges' claimants to nominate the main carer's bank account, this does not help couples without children or tackle gender inequality. It was thought that migration of claimants from existing benefits and tax credits onto UC, which exposes differences between the new and former systems, could form the basis of a new legal challenge under the Public Sector Equality Duty; and the fact



that the Scottish government wishes to facilitate separate payments to each member of a couple shows that different arrangements could be made in practice.

The practical barriers to challenging the current system are proving difficult to overcome using litigation. Although the two-child limit is regarded as indirect discrimination against women and direct discrimination against children, human rights arguments had been lost before the courts. The 'rape clause' raised particular concerns, but both Women's Aid and Rape Crisis England have been refused permission to intervene at the Court of Appeal stage. Courts are reluctant to 'interfere' when there has been a parliamentary process, despite the fact that this could disadvantage groups that are under-represented in Parliament and may highlight limits to 'judicial empathy'.

The Department for Work and Pensions' 'gender-neutrality' was challenged in the small group discussion on other gender issues, with the need to do more and better equality impact assessments flagged up. Discussion further highlighted alternatives to judicial review which include taking Equality Act claims to County Courts (the Sheriff Court in Scotland) and to explore with the Fawcett Society whether a feminist moot could be undertaken, and an alternative judgment written on its (unsuccessful) judicial review of the Treasury's failure to do a cumulative impact assessment of the 2010 Emergency Budget.

Discussion on the day highlighted enthusiasm to take this forward, and that a 'fictional judicial review' could be useful in raising social security and gender issues without the constraints of an actual case. This could include setting up a moot hearing in collaboration with artists, academics and NGOs, which could then be used for a range of purposes including policy influencing, legal training (especially of government lawyers) and legal education. As well as delivering a different verdict on a

substantive issue, it was also important to critique judicial review itself. The lack of relevant data for undertaking gender analysis was also identified as an issue which needs to be tackled.

### Next steps and forward plans

Next steps were discussed in the final workshop session, which included looking at the possibility of re-running the Fawcett Society case, exploring if any organisations are planning to undertake a judicial review of the UC single payment, and bringing in more collaborators from Northern Ireland. Participants and those who noted interest but were unable to attend have also indicated their willingness to be part of a wider network of academics, NGOs and practitioners to take these issues forward.

Since the workshop, some members of the organising team have also attended the Law Centre NI conference in Belfast and facilitated a workshop on these issues at the Law Centres Network conference. Potential further funding bids were discussed at the Birmingham workshop, and these are being actively explored by the organising team. To develop the ideas further the organising team is planning to present three papers in a dedicated session at the SLSA Annual Conference in April 2020.

The workshop provided a valuable starting point in the development of a Feminist Judicial Review Project in which FJM will be applied to the legal processes and substantive issues concerning welfare reform as a means of merging critical socio-legal scholarship with cutting-edge legal practice.

The organisers are extremely grateful to the SLSA for supporting this important first step.

*Marilyn Howard and Nicole Busby*

### SLSA Blog

The SLSA blog went live in summer 2016 and has proved a great success, attracting regular posts and a steady stream of visitors. The blogeditors welcome contributions. If you have an idea for a short article (maximum 1000 words) on a hot topic of interest to your SLSA colleagues and others, please email [blogeditors@slsa.ac.uk](mailto:blogeditors@slsa.ac.uk). See [w SLSABlog](#).

### SLSA weekly eBULLETIN

The SLSA weekly ebulletin is published every Friday in termtime. As well as providing updates on SLSA activities and schemes, it also provides a weekly round-up of members' and other news including events, research, publications, vacancies and much more. If you would like an item included in the ebulletin, please send it by lunchtime on a Friday to [editor@marieselwood.co.uk](mailto:editor@marieselwood.co.uk).

### *Social and Legal Studies* 29(3) (June 2020)

Markets, regulation and drug law reform: towards a constitutive approach – Toby Seddon

Problematising symbolic reparation: 'complex political victims', 'dead body politics' and the right to remember – Kevin Hearty

Finding a voice: silence and its significance for transitional justice – Janine Natalya Clark

Recognising an ecological ethic of care in the law of everyday shared spaces – Jane Holder and Donald McGillivray

A question of sacrifice: the deep structure of deaths in police custody – Ian Loader

Fighting corruption in Russia: its characteristics and purpose – Leand Kazirytski

### Forthcoming SLSA events

*Each year the SLSA runs or supports a number of workshops, seminars and conferences both in the UK and abroad, either independently or in partnership with academic institutions or other learned associations.*

- **SLS-JAC-SLSA Workshop on Judicial Appointments: 'Academics as judges'**, Coventry University, 21 March 2020
- **SLSA 2020**, University of Portsmouth, 1–3 April 2020: registration closes: 16 March 2020.
- **Interdisciplinarity as Resistance**, Gothenburg, Sweden, 23–25 April 2020
- **Legal Design: Concepts, Methods, Norms and examples**, City University of London, 10–11 June 2020
- **SLSA Postgraduate Conference**, Cardiff University, January 2021 (dates tbc)
- **SLSA 2021**, Cardiff University, 30 March–1 April 2021

# SLSA

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## The Polish lawyers project: the war crimes trials

Agata Fijalkowski, Leeds Law School, £675

A 2018 SLSA Grant Scheme award for the project 'The Polish lawyers project: the war crimes trials' provided financial support towards travel and accommodation to Warsaw to access archival materials at the Polish Institute of National Remembrance.

The award could not have come at a better time. Interdisciplinary studies on lawyers have generated important work (such as Cownie 2015). In general terms, lawyers are perceived as 'agents, rather than principals' (Vadi 2017), but this is changing. My investigation reaches across disciplines and explores the life accounts of the Polish legal team at the Commission to Investigate German-Nazi Crimes in Oświęcim and the Supreme National Tribunal. These remarkable individuals were part of an important project that had as its aim holding war criminals accountable in a domestic forum. Between 1946 and 1948 the Supreme National Tribunal adjudicated seven major war crimes trials. In these trials Polish lawyers interpreted and applied international criminal legal principles in innovative and far-reaching ways. The team faced many personal and professional challenges during a time when the country was undergoing significant legal and political reforms. These current legal historical narratives do not disclose a full picture of this period, nor do they fully acknowledge the role Poland played in shaping international criminal law.

The tribunal was the answer to what Polish authorities perceived as marginalisation at Nuremberg – but also to judge those responsible for fascistisation of the country. The national trials are the subject of several works under the wider headings of 'justice behind the Iron Curtain' or 'forgotten trials of the Holocaust'. These excellent studies show that the Nuremberg trials and Nuremberg justice should be considered more broadly to include more information about the domestic trials as well as engaging with the respective backgrounds of the lawyers involved (Drumbl 2013).

By employing the socio-legal methodology of legal/judicial biography, I am able to generate useful questions to evaluate how these persons engaged with their legal work and what underpinned their approach to prosecuting war crimes. The key points relating to the social, economic, educational and political background of the respective members of the legal team accompany the information about their role in that team. The details are a critical tool for analysing the significant features of the trial and to inform our understanding about the prosecutorial speech or strategy of the defence counsel. In themselves judges do represent a narrative of sorts, as seen in Philippe Sands' *East West Street* (2016). Biographies that draw on published works, official records, personal letters, and/or audio-visual sources encourage a broader discussion than has taken place to date about ideas of lawyering, judicial identity, and the changes which have occurred to these notions over time. The study of both written and visual evidence can generate significant data that foregrounds the legal/judicial biography in international criminal law. Presently, I am analysing the materials concerning two of the judges, three members of the prosecutorial team, and one defence counsel. My initial findings show a connection in their approach to their work on the legal team that is not only rooted in their personal background and legal education, but also in their personal hobbies and unwavering commitment to the victims of the atrocities committed on Polish soil (such as Tadeusz Cyprian, pictured). This legal team drew on their experiences and knowledge of national law to try war criminals. There was an urgency created by a political landscape that could be unpredictable. And, indeed, without any warning, the tribunal was disbanded in

1948. An investigation of these life accounts will show how complex that time was, and how much more we can learn about the development of law, to give this peculiar legal historical narrative a more complete record.

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*Tadeusz Cyprian, year unknown. Cyprian (1898–1979) was one of the prosecutors at the Supreme National Tribunal. He was also a professional photographer. Photo: from the private collection of @Tomasz Mościcki.*



## Spatial precarity: a study of houseboats

Dave Cowan, University of Bristol, £2385

I was delighted to be awarded an SLSA small grant for the transcription of interviews on a project about people living on what I called at that point 'houseboats', a term which I now appreciate to be contested and was inappropriate. Together with a former MSc (socio-legal studies) student, Barbara Hardy, we conducted 30 interviews with people who were continuous cruisers living on board their boats (CCLs) on a particular canal in England. We also conducted a focus group with officers working for the charitable body formed in 2012, the Canal and River Trust (CRT), which both manages and regulates much of the inland waterways. The CCL label is a construction of the annual licence which is granted by the CRT and its re-grant also depends on the distance travelled by CCLs.

It soon became apparent that the key issues experienced by the CCLs related to their governance by the CRT. The legislation (section 17(3), British Waterways Act 1995) requires that boats are to be used 'bona fide for navigation' and CCLs are required to move their boats every 14 days 'or such longer period as is reasonable in the circumstances'. The CRT has interpreted these requirements in a particular way, which affects various parts of the CCL community differently. So, for example, households with children in education or with a person with mobility difficulties have different needs; although the CRT has begun to make provision for the latter group, the former are particularly affected by the movement requirement. The monitoring and governing of individual CCL movement has also produced friction, particularly as the CRT has developed a more particular approach to enforcing the requirement. CCLs have also developed their own strategies for dealing with the CRT's requirements; but the overriding impression was that many of our CCL participants were considering their position on the canal, believing that the CRT wanted to make it a pleasure boat experience, something which was exaggerated during our



fieldwork by the CRT's 're-branding' of itself as a well-being organisation.

One perhaps unexpected feature of the interviews, at least from our perspective, was a focus on what has been described in the literature on the home as the 'life support mechanism', that is the provision of utilities such as water, refuse collection, and places to empty toilets. The CRT provides these facilities in return for the licence fee, but the impression of CCLs was that the CRT was largely failing to maintain those utilities. This perceived lack of maintenance further contributed to the view that the CRT was seeking to gentrify the waterways.

The award was used to pay for interview transcription, the rest of the study being 'self-funded'. It has given rise to three different presentations (given at different conferences), and currently two articles, one of which has been published in *Housing, Theory and Society*, the other of which is out for review. A further article on charity is planned. As originally intended, it has also contributed to Barbara's development as a socio-legal scholar. The work has now been expanded to other waterways, including rivers, and is hoped to form the basis for a short monograph, as well as larger grant applications considering the features of this study in other spheres.

## The Married Women's Association: the twentieth-century campaigns that family law forgot

Sharon Thompson, Cardiff University £2999

The Married Women's Association was a little known, yet important, pressure group active from 1938 to 1980, which focused its campaigns on achieving economic equality in marriage. While it is often excluded from family law texts and accounts about the women's movement in the twentieth century, it made a distinctive and significant contribution to the development of the legal status of married women. I was fortunate to receive SLSA funding for socio-legal and historical research to record, for the first time, the impact of this group on family law.

The objectives of the project were twofold: to determine the impact of the Married Women's Association's campaigns on the property rights of married women; and, to explore the experiences, views and strategies of the association's members, and whether this could inform proposals for family law reform today. SLSA funding enabled me to carry out these objectives by undertaking archival research at the LSE (collating more than 6000 documents) and by interviewing nine individuals closely connected to association members. This combination of empirical and archival research adds a new perspective to the Married Women's Association's campaigns through understanding the personalities and approaches of the members pressing for reform. Members included Helena Normanton (first woman to practise as a barrister), Ambrose Appelbe (a prominent lawyer and activist formerly married to first woman solicitor Carrie Morrison), Edith Summerskill (Labour MP and doctor), Vera Brittain (author and pacifist) and Dora Russell (author and wife of Bertrand Russell). I discovered previously unaccessed sources, such as an unpublished autobiography of Married Women's Association member Doreen Gorsky (Liberal politician and editor of women's programmes at the BBC), which was in her family's private collection. I was also granted special permission by the Women's Library, LSE, to access closed files, so that I could review letters sent to Edith Summerskill by married women seeking her help.

This combination of new and previously unseen data is important given that interwar feminism, of which the Married Women's Association was a part, has been traditionally



Married Women's Association badge dated between 1947–1949. Photo: badge owned by the author and photograph taken by the author.

neglected. Historians such as Barbara Caine have argued that this is because of assumptions that such activism was not radical, instead entrenching the sexual division of labour in the home by emphasising the importance of motherhood and housework (B Caine (1997) *English Feminism 1780–1980*, OUP, 173). But my research has shown that the Married Women's Association's attempts to reform family law were radical. One of the key demands was for housewives to have a legal right to an equal share of their husband's income. They drafted legislation providing for community property, which they repeatedly attempted unsuccessfully to put before Parliament in the 1940s, 1950s and 1960s. The association's argument that unpaid work in the home should create entitlement in matrimonial property is now an established principle in the modern family courts, but, in the 1950s, this was a radical idea. The 1956 Royal Commission of Marriage and Divorce (also known as the Morton Commission) rejected the association's demands for equal partnership in marriage through community property because, it said, individuals (i.e. wives) would unjustly gain a share in someone else's property by doing nothing.

My research on the Married Women's Association's failure to comprehensively reform married women's property rights is central to my forthcoming monograph with Hart Publishing titled *Quiet Revolutionaries of Family Law: The story of the Married Women's Association*. Examining the failures of the association is a subversive act; by looking at what could have been and what was rejected, it is possible to glean a different understanding of how law reform functions, and how the seeds for future developments are sown. Yet the association was not entirely unsuccessful in its efforts either. It led a 20-year campaign to reform the law on housekeeping savings, which culminated in the Married Women's Property Act 1964 giving wives a one-half share in housekeeping savings. These incremental reforms are significant stages in the development of family law, establishing a legal principle based upon economic equality in marriage.

In addition to my forthcoming monograph, I have published a chapter in *Women's Legal Landmarks* (E Rackley and R Auchmuty (eds) (2018) Hart) on the Married Women's Property Act 1964 and have an article forthcoming in *Women's History Review*. I have also written about the association for the *Law Society Gazette*, spoken about married women's property on BBC Radio 4 series *The Battles that Won our Freedoms*, and have delivered talks on my findings to the Friends of the Women's Library and at conferences such as the Women's History Network conference.

I would like to express my gratitude to the SLSA for funding this project and to the Women's Library at LSE for helping me on my many research visits. More information on this project is available at [www.marriedwomensassociation.co.uk](http://www.marriedwomensassociation.co.uk) and on twitter [@MWA\\_research](https://twitter.com/MWA_research). A podcast on this project is currently being developed, which will include extracts from my interviews and the words of Married Women's Association members voiced by an actor.

## In-work progression and the ageing worker in Northern Ireland

Ciara Fitzpatrick and Alexandra Chapman, Ulster University, £2640

### Background to the research

In-work progression is a relatively untested concept, but, despite this, when universal credit (UC) is fully rolled out around one million people are likely to be in the 'working with requirements' group who will be expected to attain an 'earnings threshold' set at the level of effort that is reasonable for an individual to undertake. This means that working-age adults between 16–64 are subject to conditionality until they work full-time at national minimum wage, which means that those who are already in work must comply with job-search requirements to satisfy this condition. An early estimate from the Resolution Foundation indicated that people over 50 with a spouse will comprise nearly a quarter of those low-paid working people who will be subject to the new rules (Cory 2013). The authors undertook a research study to understand how this new requirement could affect part-time workers aged over 50 and employers in Northern Ireland.

The government has yet to produce a tailored strategy for this age-group, despite evidence to show that those over 50 face a number of age-related barriers in obtaining and sustaining employment. Furthermore, workers in Northern Ireland face additional challenges in terms of limited availability of jobs and opportunities for those over 50 to increase their earnings and/or working hours (Gray et al 2015). The government has carried out a randomised controlled trial 'as a way of testing an in-work service'. However, this trial did not include the participation of Jobcentres in Northern Ireland, where political and socio-economic conditions are very different. Underpinning the importance of this research is the fact that these voices are noticeably absent from recent policy and research discussions across the UK.

Using qualitative research methods, the authors engaged with 15 individuals, over 50, currently in receipt of working tax credit, who will eventually be migrated to UC. They also engaged with five employers, currently employing workers over 50 claiming working tax credit, to explore their understanding of the concept and assess their views on how the conditions attached to UC for those who are working will affect their organisations' daily business, management behaviour and productivity.

### Research findings

The research found that there was a very limited understanding and awareness of UC, and consequently the concept of in-work progression, amongst both groups of participants: employees and employers. The lack of awareness identified in this research correlates with a recent Welfare Reform (NI) Baseline Survey carried out by the Department for Communities in Northern Ireland which found that 23% of people have never heard of UC; 38% have heard of but know nothing of UC; and 29% know just a little about UC.

Furthermore, there was very little support for the concept of in-work progression. Many employees currently claiming working tax credit had chosen to work 30 hours or less per week because of their individual circumstances, for example, due to childcare or family responsibilities and/or age-related health issues, and felt that in-work conditionality would remove this choice by the expectation it sets, namely, that those of working age should work full-time.

*(27.5 hours) it's enough because my son and his partner both work, so I watch the wee ones when I come in, maybe 2 or 3 days a week to let them go to work ... (Employee 2)*

*I'm divorced now. I don't mind saying that, so I was sort of you know on my own with a child myself, you know, so I had to work around his timetable really, you know, so that's why the (16 hours) post appealed to me ... (Employee 4)*

*I would be quite bad with cirrhosis and whatever, which in turn causes a bit of osteoarthritis, so you know there are days and weeks when you are not feeling in powerful form you know. I kind of thought when you get to a certain age you kind of want to take things a wee bit easier and maybe not just be having to head out to work five days a week for those reasons ... (Employee 3)*

Employers anticipated that the concept of in-work progression would be unpopular with their workers who were over 50, many of whom are seeking to decrease their hours, rather than increase them due to their age and other commitments that fall outside of the formal labour market.

*I think they [government] will have an awful lot of unhappy people, they will have a workforce that are disgruntled. I think in terms of our over fifties that wasn't something that they had expected to be forced into a position to do ... that's really going to cause a significant shift. (Employer B)*

In addition, employers were concerned that they might not always be in the position to offer additional hours to their employees, and therefore some employees may seek full-time employment elsewhere, which could have a detrimental effect on staff retention and morale, which in the long-term could impact business efficiency and productivity.

*So if our part-time staff say to us look under Universal Credit we now have to have full-time hours or we've to have 35 hours, I don't know where we're getting those [hours] from. (Employer B)*

Employers and their ability to offer additional hours or better paid work will be integral to the successful operation of in-work progression. However, there seems to be minimal support or incentives in place for employers to accommodate claimants who are expected to increase their hours. The Department for Work and Pensions has produced an Employer Guide to UC which states: 'If you aren't able to give them opportunities to increase their earnings they may need to look for work elsewhere.' Thus, explicitly acknowledging that employees may be forced to leave their current positions.

### Conclusion

The research shows that the concept of in-work progression in Northern Ireland is not well known, understood or supported. As the impending migration from working tax credit to UC for working-age claimants draws closer, it is crucial that the Department for Communities commences meaningful engagement with ageing workers who will eventually migrate to UC, and also their employers who will face increased requests for additional work and/or pay.

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### *Journal of Law and Society (summer 2020)*

- Participation as a framework for analysing consumers' experiences of ADR – Christian Gill, Jane Williams, Naomi Creutzfeldt and Nial Vivian
- Making the state responsible: intersex embodiment, medical jurisdiction and state responsibility – Fae Garland and Mitchell Travis
- Tax fraud and selective law enforcement – Rita de la Feria
- Jurist in context: William Twining in conversation with David Sugarman – William Twining and David Sugarman
- Economic crises, crisis of labour law? Lessons from Weimar – Michel Coutu



## THE LAW COMMISSION AND ACADEMIC ENGAGEMENT

*The Law Commission of England and Wales has a strong tradition of engagement with the academic community. Here, its Chairman, the Rt Hon Sir Nicholas Green, outlines the ways academics can become involved in its work.*

The appointment of Professor Sarah Green and Professor Penney Lewis as Commissioners, as announced in the previous edition of this newsletter (SLN 89:8), means that four of the five current Commissioners – including the Chairman – have worked in academia. We are keen to strengthen our links with academia, building on the hugely successful conference on **Impact and Law Reform** that took place last June at the Institute of Advanced Legal Studies, co-organised by the SLSA and Society of Legal Scholars in collaboration with us.

Such engagement is mutually beneficial – the Law Commission benefits from your expertise to inform projects at every stage, from inception to conclusion, while you benefit from a unique opportunity for your research to help shape law and policy.

Our work with academic colleagues does have to take place within certain parameters. The Commission is an independent body, and policy decisions are ultimately taken by the five Commissioners through a process of peer review. Our recommendations for reform are based on wide public consultation and a close consideration of responses to our Consultation Papers (CPs). Engagement with us, therefore, never comes with a guarantee that our recommendations for reform will align with the outcomes of a particular piece of research. Equally, engaging with us (unless formally as an employed civil servant) does not impede academic freedom to express your views – including, of course, to voice your disagreement with our conclusions! It is also the case that the Commission can only explore areas if the government indicates that there is a serious intention to take forward reform, and the Terms of Reference that we agree with government for our projects can limit the questions under consideration – so there are sometimes restrictions on the issues we can consider. But these constraints leave a wide variety of opportunities open to you.

### What opportunities are there?

**Responding to Consultation Papers** It may sound obvious, but it is worth emphasising the significance of consultation responses. They are central to how we develop our recommendations for reform, and responses are an opportunity to tell us how your research is relevant to our policy development. We value receiving not only responses from individuals, but those that reflect the views of an organisation, or part of an organisation; such as a response from a subject grouping. These need not present a uniformly agreed view. It is more helpful for us to know of a diversity of views that exist within an organisation than to be presented with an ‘agreed’ view that shields differences of opinion.

**Being a member of an Advisory Group** For many of our projects we set up an advisory group, often with a mix of academic and practitioner expert members. Advisory Groups can play a variety of roles throughout a project, including meeting to discuss policy development in our pre-consultation stage when a CP is being prepared, testing policy proposals post-consultation and scrutinising draft Bills. On our recent report on **Electronic Execution of Documents**, for example, academics made up a significant proportion of our advisory panel, complementing the contributions of the practitioners and technical members of the group. In particular, academic members of the advisory panel provided insights as to the

overall historical development of the law in this area, as well as perspectives from other jurisdictions.

**Hosting conferences based around Law Commission work** We welcome debate on our projects at conferences, which can be hugely informative in bringing together a range of perspectives. Our **surrogacy project** has benefited enormously from three conferences organised by Professor Jens Scherpe and Dr Claire Fenton-Glynn from the Cambridge Centre for Family Law, which have brought together academics and practitioners from a range of jurisdictions to share expertise in different legal approaches to surrogacy. Our work on the **Intermediated Securities project** has benefited from a series of workshops led by Professors Louise Gullifer and Jennifer Payne at the Commercial Law Centre at Harris Manchester College. The resulting book includes a range of options for reform which we were explicitly invited to consider.

Conferences can help at any stage of a project. A **Symposium on Confiscation of the Proceeds of Crime** at Northumbria University, held in collaboration with Professor Jackie Harvey, was used to test our early policy thinking on a range of stakeholders from, primarily, the north of England and Scotland. And our **Hate Crime project** was launched with a conference at Oxford Brookes University organised by Chara Bakalis. Academics at all levels presented papers, giving a wide-ranging insight into current hate crime research. Even before we start a project, conferences can provide an invaluable opportunity to help scope our work. We recently attended workshops organised by Dr Sarah Nason at Bangor Law School, as part of her Nuffield-funded research project, **Paths to Administrative Justice in Wales**, which will help inform our forthcoming projects on devolved tribunals in Wales and administrative review.

**Undertaking research projects to inform our work** We are always keen to hear about and support empirical studies that are relevant to current and future projects. We are happy to discuss the relationship between the proposed project and our work when a project is being scoped, and where appropriate we can provide letters of support for funding applications. We are not, however, able to fund work ourselves or (generally) to sit on advisory boards. The earlier you get in touch with us the better. The long lead-in times for research-funding applications can make it challenging to align the timing of research projects so that results are available during our policy development. Independently conducted research projects can, however, play a valuable role in providing an evidence-base for law reform and so help with the development of policy on projects.

In our project on **Making a Will**, we consulted on the introduction of a scheme for supported will-making. Following our consultation, Professor Rosie Harding, Dr Ezgi Taşcıoğlu and Magdalena Furgalska at Birmingham University conducted empirical research of the experiences of intellectually disabled people when making wills. Their research provides us with an invaluable evidence-base in assessing a potential scheme for supported will-making and determining how a scheme could work.

Sometimes, we will actively seek academics to undertake specific pieces of research for a project. For the **Abusive and Offensive Online Communications** project we asked five international academics to write short pieces on the comparable law in their jurisdictions.

**Undertaking a placement with us** If you feel that you have a specific contribution to make to one of our projects because of research you have undertaken, then it may be possible to undertake a placement with us. Placements are not paid, as the expectation is that you would have funding from your institution or elsewhere – such as a research grant (and we would not accept you for a placement unless that were the case).

... continued on page 12 →



**Building the case for reform** The opportunity to contribute to our work is not confined to projects that we are currently undertaking. Academic research has a vital role to play in providing an evidence base to demonstrate that an area of law is in need of reform. When we held a public consultation on our 13th programme of law reform, Professor Janet Ulph from the University of Leicester contacted us about significant problems faced by museums where, as a result of poor or non-existent acquisition records (often from a time when record-keeping did not meet modern standards) legal title is uncertain or the owners are unknown or cannot be found. Her extensive body of research on these **'orphan' items in museum collections**, and existing discussions within the sector, were pivotal in demonstrating to government the need for reform and in securing the inclusion of the project in our programme.

**Come and work for us!** The pathway from research assistant at the Commission to an academic career is a well-trodden one.

Less well known are the opportunities for academic staff to come and work at the Law Commission in other roles – including as team lawyers employed to work on projects in which they have specific expertise, or as expert consultants seconded to work on a project. The latter is a path recently trodden by Professor Rebecca Probert, who is currently bringing her expertise on weddings law to our project reviewing the law, having previously worked on our 2015 Scoping Paper, **Getting Married**.

#### What to do next

If you have expertise that is particularly relevant to our projects, then consider how you could best engage with us and contact the relevant team at the Commission. Be as specific as you can in explaining both how your work is relevant and the type of contribution you feel best placed to make.

For further information, visit the **Law Commission** website.

## Researching law reform, researching court proceedings and linking data to examine longer-term outcomes

Socio-legal research has come a long way since the establishment of the SLSA 30 years ago. Understanding of the ways in which law shapes the actions and decisions of those directly engaged with it and society more generally has developed markedly. The gap between law in books and practice has been explored in many areas, but there are still only a few studies which seek to measure the multiple effects of changing the law. Natural experiments are a research design for studying how reforms change practice, but such studies are rare. *Child Protection in Court: Outcomes for children* (Masson et al 2019) reports the findings of one such study (ESRC ES/M008541/1), which sought to establish the effects of reforms to the care proceedings system on court proceedings and the outcomes of these for children through court and children's services records and linkage to administrative data.

The study examined care cases and their outcomes for children before and after the reforms which imposed a 26-week limit on proceedings. It used two random samples, totalling 373 cases with 616 children. Data were extracted from court documents and linked to administrative records (the Children in Need and Children Looked After datasets) placing the children's proceedings in the context of their involvement with children's services. More detailed accounts of care and support were collected from social care case files for 118 of the children. Qualitative interviews with local authority managers and lawyers and a focus group with judges recounted the experiences of the reforms of those with responsibility for implementing and operating them.

More details of the research and the findings can be found in the downloadable report: ***Child Protection in Court: Outcomes for children***. The data and the instruments used in the study have been deposited in the UK Data Archive.

*Judith Masson, University of Bristol, School of Law*

## AHRC Law and the Human Network

The aim of this AHRC network is to advance and support interdisciplinary research into the theme of law and the human, bringing scholars from several continents into communication across the spectrum of social sciences, law and the humanities. The network was launched on 5 February 2020 with an event at Westminster University. Please see **w website** for further details.

## SLSA prize money donated to charities

Fiona Cownie and Tony Bradney, who were awarded the SLSA Prize for Contributions to the Socio-Legal Community at last year's Annual Conference in Leeds, have divided their prize money between two charities. Fine Cell Work is a charity and social enterprise which enables prisoners to build fulfilling lives by training them in high-quality, skilled creative needlework: **w website**. The Art Fund supports museums and galleries to buy great art for the public benefit: **w website**.

Fiona and Tony will be convening the legal education stream at this year's conference in Portsmouth and look forward to seeing everyone there.

*Fiona Cownie and Tony Bradney*

## Award for ground-breaking legal history scholarship and dedication to mentoring

Professor Emeritus David Sugarman has been awarded an Honorary Fellowship of the **American Society for Legal History** for his 'scholarly distinction and leadership in the field'. He is the first legal historian of modern England (as distinct from medieval or early modern England) to be so recognised. The award recognises his pioneering role in opening up and developing a socio-legal history of modern England and his dedication to mentoring and supporting other scholars. See **w website** for full details.

## Sir Ernest Ryder to join the CSLS as a Senior Associate

The Centre for Socio-Legal Studies (CSLS), Oxford, has announced that the Rt Hon Sir Ernest Ryder will be joining the centre as a Senior Associate. Sir Ernest is a distinguished member of the judiciary, who was appointed a Lord Justice of Appeal in 2013, and the Senior President of Tribunals for the UK in 2015. As such he has led a £1-billion change transformation programme for the justice system which aims to modernise the courts and tribunals system. He is also chair of the Administrative Justice Council and a trustee of the Nuffield Foundation, where he has played an important part in developing a sustainable model for research in justice, welfare and education and building capacity in the field. The CSLS is looking forward to working with Sir Ernest on its programmes of research in dispute resolution, administrative justice and regulation. See **w website** for details.

## Membership discount on Palgrave books

The SLSA Board is delighted to announce that Palgrave is offering SLSA members a 20% discount on Palgrave books bought online: use code **ASLAPalgrave2020** at checkout.

Palgrave has a long history of social-science publishing since the nineteenth century. The Palgrave Socio-Legal Studies series, edited by Dave Cowan, is a series of monographs, short 'pivots' and edited collections featuring cutting-edge work which, in the best tradition of socio-legal studies, reach out to a wide international audience. New book proposals are welcomed and can be sent to Senior Commissioning Editor Josephine Taylor e [josephine.taylor@palgrave.com](mailto:josephine.taylor@palgrave.com).

See **w website** for details and to place your order.

If you're having a book published and think your publisher would like to offer SLSA members a discount, please contact our Publisher Liaison Officer Roxanna Dehaghani e [fatemi-dehaghani@cardiff.ac.uk](mailto:fatemi-dehaghani@cardiff.ac.uk).

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## Books

***The Construction of Fatherhood: The jurisprudence of the European Court of Human Rights*** (2019) Alice Margaria, Cambridge University Press £85 214pp

This book tackles one of the most topical socio-legal issues of today: how the law – in particular, the European Court of Human Rights – is responding to shifting practices and ideas of fatherhood in a world that offers radical possibilities for the fragmentation of the conventional father figure and therefore urges decisions upon what kind of characteristics make someone a legal father. It explores the courts's reaction to changing family and, more specifically, fatherhood realities. In so doing, it engages in timely conversations about the rights and responsibilities of men as fathers.

***Confronting Penal Excess: Retribution and the politics of penal minimalism*** (2019) David Hayes, Hart £55 256pp

This monograph considers the correlation between the relative success of retributive penal policies in English-speaking liberal democracies since the 1970s and the practical evidence of increasingly excessive reliance on the penal state in those jurisdictions. It sets out three key arguments: first, that increasingly excessive conditions in England and Wales over the last three decades represent a failure of retributive theory; second, that the penal minimalist cause cannot do without retributive proportionality, at least in comparison to the limiting principles espoused by rehabilitation, restorative justice and penal abolitionism; and, third, that another retributivism is therefore necessary if we are to confront penal excess. See **w website** for details. Use SLSADIS code online for 20% discount.

***Child Perpetrators on Trial: Insights from post-genocide Rwanda*** (2019) Jastine C Barrett, Cambridge University Press £85 366pp

Following a devastating genocide in 1994, the Rwandan government elected to hold all perpetrators accountable – including children. Thousands of children were held in prisons while awaiting charges; some were later convicted. This book is about these children. Drawing on interviews and extensive archival research in Rwanda, it documents their journey through prisons, formal courts, gacaca proceedings or re-education centres. Its insights extend beyond Rwanda, looking at how international law protects children accused of even the most serious atrocities. The book is about law in action and how states, and international organisations, operationalise international standards on child perpetrators in challenging post-conflict conditions. Engaging with theories from international law, international relations and anthropology, it illuminates strategies utilised by UNICEF to promote the rights

of alleged child *génocidaires* and traces UNICEF's positive influence on their protection. It makes the case for principled pragmatism as an approach to human rights promotion in post-conflict societies.

***Research Handbook on Law, Environment and the Global South*** (2019) Philippe Cullet and Sujith Koonan (eds), Edward Elgar £190 520pp

This comprehensive research handbook offers an innovative analysis of environmental law in the Global South and contributes to an important reassessment of some of its major underlying concepts. The volume discusses areas rarely prioritised in environmental law, such as land rights, and underlines how these intersect with issues including poverty, livelihoods and the use of natural resources, challenging familiar narratives around development and sustainability in this context and providing new insights into environmental justice. Enter discount code at checkout: OECD30 (OECD countries 30%) or OECD60 (non-OECD countries 60%).

***The Right to Sanitation in India: Critical perspectives*** (2019) Philippe Cullet, Sujith Koonan and Lovleen Bhullar (eds), Oxford University Press £43.99 304pp

This book seeks to provide a comprehensive analysis of the right to sanitation in India. It covers the most visible aspects of this right, in particular access to toilets, as well as various other dimensions, such as gender, social and environmental ones; plus specific issues such as manual scavenging and sanitation workers. It also offers a comprehensive analysis of the right to sanitation in India in a broader international and comparative setting.

***Digital Family Justice: From alternative dispute resolution to online dispute resolution?*** (2019) Mavis Maclean and Bregje Dijksterhuis (eds), Hart £55 256pp

This book describes how forms of alternative dispute resolution (ADR), such as mediation, have failed to take the place of courts and lawyers, even where public funding for legal help has been removed, despite governments promoting it in order to reduce public spending on private quarrels. Instead, online dispute resolution (ODR) has developed rapidly, led by the Dutch Rechtswijzer. The authors question the speed of this development and stress the need for careful evaluation of how far these services can meet the needs of divorcing families.

***Research Methods for International Human Rights Law: Beyond the traditional paradigm*** (2019) Damian Gonzalez-Salzburg and Loveday Hodson (eds), Routledge £120pp 288pp

This collection brings together an array of different analytical methods and theoretical lenses that can be used for conducting

### ***Social and Legal Studies 29(2) (April 2020)***

Victimization devices: exploring challenges facing litigation-based transnational environmental justice – Sebastián Ureta, Patricio Flores and Linda Soneryd

The European Pillar of Social Rights and the quest for EU social sustainability – Konstantinos Alexandris Polomarkakis

Precarious workers and probationary wives: how immigration law discriminates against women – Catherine Briddick

Visions of public safety, justice, and healing: the making of the rape kit backlog in the United States – Andrea Quinlan

'Quiet' transitional justice: 'publicness', trust and legitimacy in the search for the 'disappeared' – Lauren Dempster

Perversion and perpetration in female genital mutilation law: the unmaking of women as bearers of law – Maree Parry, Juliet Rogers, and Nan Seuffert

research within the field of international human rights law. It provides a coherent, accessible and diverse account of key theories and methods, which range from Marxism, feminism, queer and postmodern theories and legal pluralism, through to disciplinary approaches grounded in geography, history, politics and anthropology. A distinctive feature of this collection is that it adopts a grounded approach to the subject, demonstrating how specific research methods can be applied to individual case studies.

**Scottish Feminist Judgments: (Re)creating law from the outside in** (2019) Sharon Cowan, Chloë Kennedy and Vanessa E Munro (eds) £95 472pp

An innovative collaboration between academics, practitioners, activists and artists, this book rewrites 16 significant Scots law cases, spanning a range of substantive topics, from a feminist perspective. Exposing power, politics and partiality, feminist judges provide alternative accounts that bring gender equity concerns to the fore, whilst remaining bound by the facts and legal authorities encountered by the original court. Paying particular attention to Scotland's distinctive national identity, fluctuating experiences of political sovereignty, and unique legal traditions and institutions, this book contributes in a distinctive register to the emerging dialogue amongst feminist judgment projects across the globe. Its judgments address concerns not only about gender equality, but also about the interplay between gender, class, national identity and citizenship in contemporary Scotland. See [w website](#) for details. Use SLSADIS code online for 20% discount.

**Education, Law and Diversity: Schooling for one and all?** (2020) Neville Harris, Hart £85 616pp

This second edition of *Education, Law and Diversity* provides new and updated legal and policy analysis of how the education system responds to social diversity and the extent to which the social and cultural rights of individuals and groups with interests in it are upheld. There is a particular focus in this context on children's rights. The book includes considerable new material covering a wide range of issues, some of them

controversial, including relationships and sex education, exclusion from school, home education, counter-extremism and academisation. It also retains, but fully updates, areas of debate concerned with issues such as multiculturalism, inclusive education, selective education and the position of religion in schools. See [w website](#) for details. Use SLSADIS code online for 20% discount.

**Feminist Engagement with International Criminal Law: Norm transfer, complementarity, rape and consent** (2020) Eithne Dowds, Hart £70 280pp

This book introduces and develops the feminist strategy of 'norm transfer': the proposal that feminist informed standards created at the level of international criminal law make their way into domestic contexts. Situating this strategy within the complementarity regime of the International Criminal Court (ICC), it is argued that there is an opportunity for dialogue and debate around the contested aspects of international norms as opposed to uncritical acceptance. The book uses the crime of rape as a case study and offers a new perspective on one of the most contentious debates within international and domestic criminal legal feminism: the relationship between consent and coercion in the definition of rape. It argues that the ICC definition of rape is in need of revision to explicitly include a context-sensitive notion of consent and sets out draft legislative amendments to the ICC 'Elements of Crimes' definition of rape and its Rules of Procedure and Evidence. See [w website](#) for details. Use SLSADIS code online for 20% discount.

**Touch** (2020) Caterina Nirta, Danilo Mandic, Andrea Pavoni and Andreas Philippopoulos-Mihalopoulos (eds), Westminster University Press 296pp open access

Described by Aristotle as the most vital of senses, touch contains both the physical and the metaphysical in its ability to express the determination of being: to touch is already to be active and to activate. This volume of *Law and the Senses* attempts to illuminate and reconsider the complex and interflowing relations and contradictions between the tactful intrusion of the law and the untactful movement of touch. Compelling contributors from arts, literature and social science disciplines alongside artists' presentations explore touch's boundaries and formal and informal 'laws' of the senses.

**Intersex Rights: Living between sexes** (2019) Nikoletta Pikramenou, Springer £109.99hb/£87.50eb

This book addresses intersex rights violations and analyses intersex people's legal demands as expressed by intersex activists themselves and delivered through statements and reports issued by intersex rights organisations, the UN and the Council of Europe. Intersex people are born with sex characteristics that do not fit typical notions of male or female bodies, as a result of which they are stigmatised, marginalised and denied recognition of their fundamental rights. Often, they are subjected to involuntary and harmful sex 'normalising' surgeries at birth, violating their bodily integrity, self-determination and informed consent, so as to comply with societal and legal norms. Moreover, binary legal frameworks prevent them from enjoying the rights to access identification documents, start a family, or be free from discrimination in all areas, including employment and sports. This book examines the situation of intersex rights in regional jurisdictions worldwide and within the EU in particular.

**Cultural Heritage in International Law: call for proposals**

This Routledge book series welcomes proposals for monographs and edited collections that focus on cultural heritage and international law. It particularly welcomes proposals including interdisciplinary topics or adopting interdisciplinary approaches. For preliminary expressions of interest, or for submitting book proposals, please contact Valentina Vadi [e v.vadi@lancaster.ac.uk](mailto:v.vadi@lancaster.ac.uk). For information on book proposals, see [w website](#).

### *Journal of Law and Society* (spring 2020)

#### Articles

Law and speed: asylum appeals and the techniques and consequences of legal quickening – Jess Hambly and Nick Gill

The legal and social construction of value in the local contracting state – Richard Craven

Jurisdiction in trans health – Chris Dietz

Constitutional review in the member states of the EU-28: a political analysis of institutional choices – Pablo Castillo-Ortiz

Smoke free? Public health policy, coercive paternalism, and the ethics of long-game regulation – John Coggon

Couldn't you have got a computer programme to do that for you? Reflections on the impact that machines have on the ways we think about and undertake qualitative research in the socio-legal community – Linda Mulcahy and Sally Wheeler

#### Book reviews

Bharat Malkani, *Slavery and the Death Penalty: A study in abolition* – John Bessler

Joe Tomlinson, *Justice in the Digital State: Assessing the next revolution in administrative justice* – Michael Adler

Phil Clark, *Distant Justice* – Sara Dezalay

Rohit De, *A People's Constitution: The everyday life of law in the Indian republic* – Shubhankar Dam

Stina Bergman-Blix and Asa Wettergren, *Professional Emotions in Court* – Meredith Rossner



- **SOCIO-LEGAL DISCUSSION GROUP**  
5 and 12 March 2020: Centre for Socio-Legal Studies, Oxford  
See [w website](#) for details.
  - **APPROACHES TO LAW AND LEGAL METHOD**  
5 and 24 March 2020: Eliot College, University of Kent, Canterbury  
Speakers: Simon Deakin and Ambreena Manji respectively. See [w website](#) for details.
  - **JUSTICE STUDENT CONFERENCE 2020**  
7 March 2020: International Dispute Resolution Centre, London  
See [w website](#) for details.
  - **THE ART OF JUSTICE**  
9 March 2020: Centre for Socio-Legal Studies, Oxford  
See [w website](#) for details.
  - **LAWYERS IN SOCIETY: PHILIP LEWIS AND HIS LEGACY**  
10 March 2020: Wolfson College, Oxford  
See [w website](#) for details.
  - **SOCIO-LEGAL PERSPECTIVES ON THE RULE OF LAW**  
12–13 March 2020: European University Viadrina, Frankfurt, Germany  
This is the annual conference of the German Association for Law and Society. See [w website](#) for details.
  - **CRIME JUSTICE AND SOCIAL HARMS**  
31 March–1 April 2020: Keble College, Oxford  
Organised by the Howard League for Penal Reform. See [w website](#) for details.
  - **CRITICAL PERSPECTIVES ON LAND REGISTRATION**  
6 April 2020: Birkbeck University of London  
See [w website](#) for details.
  - **ASSOCIATION OF LAW TEACHERS CONFERENCE 2020**  
6–7 April 2020: Stirling Court Hotel, Stirling University  
See [w website](#) for details.
  - **MODERN STUDIES IN PROPERTY LAW 2020**  
15–17 April 2020: Northumbria University, Newcastle-upon-Tyne  
See [w website](#) for details.
  - **IALS/CHULS ONE-DAY WORKSHOP**  
21 April 2020: University of Liverpool  
See [w website](#) for details.
  - **THE RULE OF LAW IN MODERN BRITAIN**  
23 April 2020: Liverpool John Moores University  
See [w announcement](#) for details.
  - **SOLIDARITY IN THE CONTEXT OF NATURAL MANAGEMENT RESOURCES**  
23–24 April 2020: University of Catania, Italy  
See [w announcement](#) for details.
  - **TECHNOLOGIES OF REGISTRATION WORKSHOP**  
24 April 2020: Centre for Health, Law and Society, La Trobe University, Melbourne, Australia  
See [w announcement](#) for details.
  - **CORPORATE ACCOUNTABILITY FOR HUMAN RIGHTS ABUSES AND NATURAL RESOURCES GOVERNANCE**  
5–6 May 2020: Centre for Human Rights and Public Law, Cardiff University  
See [w announcement](#) for details.
  - **SUPPORTING LAW STUDENTS IN 2020 AND BEYOND**  
21 May 2020: Leeds Law School, Leeds Beckett University  
See [w announcement](#) for details.
  - **VOICES OF CHANGE: PRESENTS, PASTS AND FUTURES OF ACTIVISM AND PROTEST IN EUROPE**  
21–22 May 2020: University of Birmingham  
See [w announcement](#) for details.
  - **LAW AND SOCIETY ASSOCIATION ANNUAL MEETING**  
28–31 May 2020: Denver, Colorado, USA  
Please see [w website](#) for details.
  - **IMPACT AND WELLBEING**  
19–20 June 2020: Nottingham Law School  
Please see [w announcement](#) for details.
  - **STIGMATIZATION, IDENTITIES AND THE LAW**  
23–24 June 2020: Faculty of Law, National University of Singapore  
Please see [w announcement](#) for details.
  - **FEMINISM, LAW AND CITIZENSHIP**  
24–26 June 2020: University Paris 1 Panthéon Sorbonne, Paris  
Please see [w website](#) for details.
  - **GENOCIDE AND LAW: COMMUNICATING THROUGH VISUAL ARTS AND LANGUAGE**  
26–28 June 2020: Poznan, Poland  
Please see [w announcement](#) for details.
  - **WG HART WORKSHOP 2020**  
29–30 June 2020: Institute of Advanced Legal Studies, London  
See [w website](#). Further details to be announced in due course.
  - **LAW AND HUMANITIES ROUNDTABLE 2020**  
3 July 2020: University of Southampton  
Please see [w announcement](#) for details.
  - **SOGICA FINAL CONFERENCE**  
7–8 July 2020: University of Sussex, Falmer Campus, Brighton  
Organised by the Sexual Orientation and Gender Identity Claims of Asylum Project. See [w website](#) for details.
  - **GENDER DIMENSIONS OF VIOLENCE PREVENTION Seminar Convenors: Dr Ramona Biholar (Faculty of Law) and Dr Dacia Leslie (SALISES). See [w website](#) for details.**
  - **LAW AND DIGITAL SOCIETY: RE-IMAGINING THE FUTURES: CALL FOR PAPERS**  
24–25 August 2020: Lund University, Sweden  
Annual meeting of the Research Committee on Sociology of Law. Call closes: 15 March 2020. See [w website](#) for details.
  - **BRITISH CRIME HISTORIANS SYMPOSIUM: CALL FOR PAPERS**  
2–4 September 2020: Centre for Criminal Justice Studies, Leeds  
See [w website](#) for details. Closing date: 8 April 2020.
  - **CRITICAL LEGAL CONFERENCE 2020**  
3–5 September 2020: University of Dundee  
See [w website](#) for details.
  - **UACES CONFERENCE: HEALTH IN EUROPE PANEL**  
6–9 September 2020: Queen's University Belfast  
See [w announcement](#) for details.
  - **ENHANCING URBAN CLIMATE RESILIENCE: THE ROLE OF LAW**  
10 September 2020: Tilburg, Netherlands  
See [w website](#) for details.
- For details of forthcoming SLSA events, [see page 7](#).

## One-day conferences

The SLSA occasionally sponsors one-day conferences, seminars or workshops of broad interest to the socio-legal community. One-day events should be fully costed and self-funding and will usually involve a member of the SLSA Board in an organisational role. The SLSA may be able to underwrite the event to a limited extent and/or provide endorsement. If you have an idea for a one-day conference and would like an indication of the SLSA's interest, please contact [e admin@slsa.ac.uk](mailto:admin@slsa.ac.uk), or approach a Board member directly to discuss your ideas. Proposals for underwriting should include an outline of the concept, an indication of proposed speakers and/or call for papers, venue, timing, number of attendees and a draft budget showing full costs and how those costs will be covered by registration fees and/or from other sources. Please see [w webpage](#) for details of past and future events under this initiative.



UNIVERSITY OF  
PORTSMOUTH

# SLSA ANNUAL CONFERENCE 2020

University of Portsmouth  
1-3 April 2020



**FIND OUT MORE**

W: [slsa2020.com](http://slsa2020.com)

E: [slsa2020@port.ac.uk](mailto:slsa2020@port.ac.uk)