

Socio-Legal NEWSLETTER No 61 SLSA

THE NEWSLETTER OF THE SOCIO-LEGAL STUDIES ASSOCIATION

SUMMER 2010

SMALL GRANTS POT INCREASED TO £10,000

At its May meeting, the SLSA Executive Committee agreed to increase the fund for small grants from £8000 per year to £10,000. It also decided that the maximum amount per project would go up from £1500 to £2000.

The Small Grants Scheme has been running since 1999 and in that time has been a source of finance for members to pursue areas of research which would otherwise have gone unexplored. Many projects have been the launchpad for further, much bigger, grant applications and resulted in important publications. In this issue, four projects from the 2009 round report on their findings (see pages 7–9). The closing date this year is **31 October 2010**. The Research Grants Committee is currently reviewing the terms and conditions for applicants. These will be confirmed by August and published on the SLSA website. Members will be informed via the weekly e-bulletin. If you have any queries about the scheme, contact the chair of the Research Grants Committee, Dermot Feenan [e d.feenan@ulster.ac.uk](mailto:d.feenan@ulster.ac.uk).

PAST AND FUTURE ANNUAL CONFERENCES

University of the West of England, Bristol, 2010

In the spring, more than 260 scholars met in Bristol for three days of stimulating and thought-provoking debate. The SLSA Executive would like to thank the organisers, Phil Rumney and Mark O'Brien, and their team for their generous hospitality and hard work in organising such a successful event.

The conference featured 22 streams and five themes. The latter were a new introduction for this year intended to widen discussion and accommodate papers that would not necessarily fit comfortably into any of the streams (see page 6 for a review of this aspect of the conference).

University of Sussex, Brighton, 12-14 April 2011

Preparations are already well underway for 2011. Details of the call for themes are now available (see right). The call for papers and stream organisers will be published on the conference website which will be up and running shortly. Members will be informed via the weekly e-bulletin when this happens.

Future venues: Aberdeen and York

The SLSA is delighted to announce that our 2012 conference will take place in Aberdeen at Robert Gordon University and our 2013 conference will be at the University of York.

BRIGHTON 2011: CALL FOR THEMES

Following the success of the 2010 conference's addition to the usual subject streams of a number of 'themes' aimed at promoting discussion on topical, cross-subject and interdisciplinary topics, it has been agreed that a similar format will be used for the 2011 conference. This article is a call for anyone with an interesting idea for a theme for the 2011 conference to contact the organisers.

The law school at Sussex itself hosts a number of research groups which operate in the broad areas of: constitutionalism and citizenship; governance, solidarity, security; and responsibilities and rights. These groups carry out work across many aspects of law, notably: child and family law; European law; international law; criminal law and criminal justice; health care law; comparative law; law and gender; and environmental law. At Sussex Law School, work of faculty within the Centre for Responsibilities, Rights and the Law also explores the importance and limits of human rights and the growing allocation and content of responsibilities in domestic, European and international law.

A particular hallmark of the University of Sussex is interdisciplinarity and this too figures highly in the research agenda of Sussex Law School. Links between law and anthropology are particularly strong. Equally, the Centre for the Study of Justice and Violence brings together members of the school with scholars located in various departments including Anthropology, International Relations and Politics. Law also has a presence in the Sussex Centre for Migration Research.

In the light of this research activity and also current debates in society, possibilities for research themes include:

- rights and responsibilities;
- social solidarity;
- law, war and security;
- governance and constitutional change; and
- citizenship and diversity.

If you are interested in being involved in the organisation of a conference theme along the above lines, or have an idea for a different theme, please contact the conference organisers, providing a short summary of the proposed theme, indicating how many panel sessions you anticipate organising and suggesting some potential speakers on the theme (you do not need to have secured their participation at this stage). To enable us to make progress with the planning of the conference, suggestions should be submitted by **31 August 2010**.

Contact: Jo Bridgeman ✉ [Friston Building 204, School of Law, Politics and Sociology, University of Sussex, Falmer, Sussex BN1 9SP t 01273 554643 e j.c.bridgeman@sussex.ac.uk](mailto:j.c.bridgeman@sussex.ac.uk).

Sue Millns

Also in this 20-page issue . . .

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www.slsa.ac.uk

The SLSA website contains comprehensive information about the SLSA and its activities. The news webpage is updated almost daily with socio-legal news, events, publications, vacancies etc. To request the inclusion of an item on the news page and for all other queries about the content of the website, contact Marie Selwood e marieselwood@btinternet.com.

Disclaimer

The opinions expressed in articles in the *Socio-Legal Newsletter* are those of the authors and not necessarily those of the SLSA.

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Newsletter sponsorship

The *Socio-Legal Newsletter* is sponsored by a consortium of law schools interested in promoting socio-legal studies in the UK.

If you think that your institution would like to become involved in this initiative, please contact SLSA chair Sally Wheeler
e s.wheeler@qub.ac.uk.



The University of Nottingham



KEELE UNIVERSITY



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School of Law



School of Law



University College London



WARWICK LAW SCHOOL



EXPLORING THE 'SOCIO' OF SOCIO-LEGAL STUDIES

Forthcoming SLSA one-day conference

Date: Wednesday 3 November 2010

Venue: Institute of Advanced Legal Studies, London

Keynote speaker: Susan S Silbey, Professor of Sociology and Anthropology, MIT, USA; co-author of *The Common Place of Law: Stories from Everyday Life* (with Patricia Ewick); former editor of *Studies in Law, Politics and Society* and the *Law and Society Review*.

Confirmed invited speakers: Professor Nicola Lacey, LSE, and Professor John Clarke, Open University (UK).

Selected speakers: Professor Panu Minkkinen, University of Leicester; Professor David Nelken, University of Macerata and Cardiff University; Professor Alan Norrie, University of Warwick; Dr Julia JA Shaw, De Montfort University; and Professor Hilary Sommerlad, Leeds Metropolitan University; and others to be confirmed.

SLSA TO CO-SPONSOR HONOLULU 2012

The SLSA is delighted to announce that it will be co-sponsoring, with the Law and Society Association (LSA), the Research Committee on Sociology of Law (RCSL) and the Japanese Association of Sociology of Law (JASL), an international socio-legal studies meeting in Honolulu from 5 to 8 June 2012. Read on to see how you can help us make this event an intellectual success. Amanda Perry-Kessaris is SLSA liaison for this event.

The LSA is a focal point for those interested in socio-legal studies in the USA and abroad. It traditionally holds an annual meeting in an international location every five years. These meetings are co-sponsored with the RCSL of the International Sociological Association (ISA). The ISA was founded in 1949 under the auspices of the UN Educational Scientific and Cultural Organization and the RCSL was established 13 years later to 'act as a free association of scholars active in sociology of law or socio-legal studies all around the world, whatever their nationality, opinion and scientific or methodological tendency'.

In 2007, the SLSA joined with these two organisations – as well as the JASL, the Vereinigung Fur Rechtssoziologie and the Sociology of Law Section of the German Sociological Association – to co-sponsor a highly successful meeting in Berlin. As the SLSA Berlin liaison, Bronwen Morgan, wrote at the time, it was a 'stimulating, and exciting' meeting of '2377 attendees from 72 countries, including a significant number from the developing world' and 264 from the UK (*SLN* 53:3). The SLSA sponsored seven postgraduate students to attend the conference, some of whom made presentations, and all of whom found the experience of meeting socio-legal scholars from around the world to be rewarding (*SLN* 53:5).

International meeting links

LSA: [w http://lawandsociety.org](http://lawandsociety.org)

RCSL: [w www.isa-sociology.org/rc12.htm](http://www.isa-sociology.org/rc12.htm)

JASL: [w www.soc.nii.ac.jp/hosha/english/eindex.htm](http://www.soc.nii.ac.jp/hosha/english/eindex.htm)

IRCS: [w www.kent.ac.uk/nslsa/content/view/176/277/#IRC](http://www.kent.ac.uk/nslsa/content/view/176/277/#IRC)

Conference aims

The conference will provide an opportunity to explore the meanings and implications of the 'socio' aspect of socio-legal studies, and to lay out potential pathways for future study.

The rationale for the conference is available at: [w www.kent.ac.uk/nslsa/content/view/253/282/#rationale](http://www.kent.ac.uk/nslsa/content/view/253/282/#rationale).

Academic co-ordinator: Dermot Feenan, SLSA Executive Committee: [e d.feenan@ulster.ac.uk](mailto:d.feenan@ulster.ac.uk).

Fees

SLSA full members **£59**; non-SLSA members **£79**; SLSA student members **£30** (which student fee is refundable upon attendance). Non-members may join the SLSA via the link at: [w www.slsa.ac.uk](http://www.slsa.ac.uk) (student membership free for first year).

Programme and registration

A preliminary programme and conference registration form will be available from **Friday 9 July 2010** via a link at: [w www.slsa.ac.uk](http://www.slsa.ac.uk). Places are limited and will be allocated on a first-come, first-served basis. Registration deadline: **1 October 2010**.

I will be acting as the SLSA liaison member of the Honolulu Advanced Planning Committee that met at the LSA annual meeting in Chicago (2010) and will meet again in San Francisco (2011). My role is to ensure that the knowledge, skills, interests and concerns of SLSA members are represented before, during and after the Honolulu meeting.

So, what can you do? The LSA recently issued a detailed request for proposals for International Research Collaboratives (IRCs). The deadline for submissions is **16 July 2010** so there is still time to organise a group around a specific scholarly project. If you happen to be developing a proposal for the publication of a socio-legal book for 2012, you might wish to alert your publishers to the fact that your book can be introduced to an international audience at this high-profile event. If you are developing a proposal for funding a project that is likely to be at a mature stage in June 2012, then why not include the costs of the conference in your bid? If you have an idea for a theme that ought to be explored at the conference, contact me so that I can get your proposal on the table. I look forward to hearing from you. [e a.perry-kessaris@bbk.ac.uk](mailto:a.perry-kessaris@bbk.ac.uk)

SLSA annual subscription renewal

Members are reminded that their subscriptions are due for renewal on **1 July 2010**. Full membership is still frozen at £30, students at £10 (with the first year free). Details are on the website [w www.slsa.ac.uk](http://www.slsa.ac.uk). Those who are no longer students are reminded that they need to upgrade their membership. Queries should be addressed to Dermot Feenan [e d.feenan@ulster.ac.uk](mailto:d.feenan@ulster.ac.uk).

SLSA membership benefits

- three newsletters per year
- discounted SLSA conference fees
- weekly e-bulletin
- personal profile in the online directory
- eligibility for grants, competitions and prizes
- free student membership for the first year, discounted thereafter
- . . . and much more.

Visit [w www.slsa.ac.uk](http://www.slsa.ac.uk).

SOCIO-LEGAL SEMINARS

In this year's SLSA seminar competition, the judging panel agreed that two entries, representing very different facets of socio-legal work, were outstanding and deserved to be supported. Extra funding was provided to extend awards to these two high quality bids.

This year's winners were:

- The role of databases in transitional justice research
Organisers: **Louise Mallinder** and **Catherine O'Rourke**, Transitional Justice Unit, University of Ulster, £4000
- Socio-legal perspectives on contemporary mobilities: theoretical and policy implications (two events)
Organiser: **Louise Ackers**, Liverpool Law School, £3500

The seminar funded by last year's competition organised by Bettina Lange and Dania Thomas took place in Oxford in April and their report will appear in the next issue of the newsletter.

The role of databases in transitional justice research

Transitional Justice Institute, University of Ulster, Belfast, Tuesday 26 October 2010

Organisers: Louise Mallinder and Catherine O'Rourke

This international and interdisciplinary seminar will explore the role of databases in categorising, compiling and interpreting data on transitional justice. Transitional justice has been evolving as a field of scholarship and praxis since the mid-1980s. Today, it shapes decisions of domestic actors in countries moving away from tyranny and conflict and the policy priorities of intergovernmental organisations and donor states. Database research is emerging as a key part of efforts to evaluate transitional justice concepts and mechanisms as the compilation of systematic and defined datasets enables researchers to conduct large comparative analyses of how legal processes operate at the domestic level, including their legal, political, social and cultural impacts, and to explore how they relate to international law. Databases are being used by scholars in a range of disciplines to address both quantitative and qualitative issues relating to mass human rights violations. However, the construction of transitional justice databases raises conceptual, methodological and ethical concerns, which this seminar will explore.

Themes

- 1 Defining variables, categorising data
- 2 Issues of access: obtaining reliable and comprehensive data
- 3 Political and legal implications of data classification
- 4 Role of databases in consolidating and furthering transitional justice knowledge

Speakers

- Lorena Balardini, Database of Human Rights Trials in Argentina, Centro de Estudios Legales y Sociales
- Prof Christine Bell, Peace Agreement Database, Transitional Justice Institute
- Dr Cath Collins, Database of Human Rights Trials in Chile, Universidad Diego Portales
- Kristine Eck, Uppsala Conflict Data Programme, Uppsala Universitat
- Prof Brandon Hamber, INCORE, University of Ulster
- Dr Louise Mallinder, Amnesty Law Database, Transitional Justice Institute
- Dr Catherine O'Rourke, Peace Agreement Database, Transitional Justice Institute
- Prof Leigh Payne, Transitional Justice Database Project, University of Oxford

- Dr Megan Price, Human Rights Data Analysis Group
- Prof Gillian Robinson, ARK, University of Ulster
- Prof Kathryn Sikkink, Human Rights Trials Dataset, University of Minnesota
- Dr Leslie Vinjamuri, School of Oriental and African Studies, University of London

This event will be free to attend and the presentations will be made available as podcasts. For further information, please contact: Louise Mallinder [e l.mallinder@ulster.ac.uk](mailto:l.mallinder@ulster.ac.uk) and Catherine O'Rourke [e cf.orourke@ulster.ac.uk](mailto:cf.orourke@ulster.ac.uk).

Socio-legal perspectives on contemporary mobilities: theoretical and policy implications

Centre for Research in the Arts, Social Sciences and Humanities, University of Cambridge

Friday 19 and Saturday 20 November 2010

Organiser: Louise Ackers

Professor Ackers has recently completed a study for HEFCE on the impact of research and it is clear that one of the barriers to impact is the separation of policy and academic events (creating time and cost constraints). One way of maximising the opportunities for policy exchange is to hold two workshops on consecutive days: day one will focus on academic debates: and day two will be policy focused. In addition to the pressures on academic researchers, policy makers rarely show interest in more 'abstract' events but prefer policy specific encounters. Bringing the events together but targeting them on the needs of different audiences increases the potential for policy exchange and provides an opportunity to encourage researchers to identify and tailor their findings and hopefully for at least some policy-makers to listen to academic debates. Professor Ackers will play a supportive role in encouraging this to take place effectively, by organising 'back-to-back' events and encouraging people to attend on both days!

Presenters on day one have agreed to produce a three-page 'policy messages' summary to help policy makers and provide a supportive context within which the researchers can deliver socio-legal outputs relevant to the current 'impact agenda' (and the SLSA Statement of Principles of Ethical Research Practice).

Workshop objectives

- 1 To increase interdisciplinary engagement between legal academics working in the area of free movement and citizenship and empirical researchers working on contemporary mobility.
- 2 To improve legal understandings of migration processes and the role that law plays in shaping migration behaviour and post-migration experience.
- 3 To support the re-theorisation of migration that has been taking place to capture the spatial and temporal complexity of highly skilled mobility.
- 4 To support the translation of this interdisciplinary knowledge into policy-relevant messages carefully targeted to the needs of policy makers concerned with the relationship between mobility, internationalisation and knowledge transfer processes at European, national and institutional level.

Day 1: Mobilities, transnationalism and 'partial migrations': interdisciplinary approaches

- Louise Ackers, CRASSH Fellow and Liverpool Law School: 'Being two places at once? Capturing contemporary mobilities: academic mobility, transnationalism and knowledge transfer processes'
- Carol Porter, Liverpool Law School: 'Understanding the dynamics of knowledge transfer and translation processes'

in North–South health care partnerships: interdisciplinary perspectives’

- Chris Coey, Liverpool Law School: ‘Human resources policy in English higher education institutions and the internationalisation of academic work’
- Heike Jöns, Loughborough University: ‘Varying geographies of academic mobility’
- Oxana Golynger, University of Leicester: ‘The European Union as a single working–living space: EU law and new forms of intra-community migration’
- Charlotte O’Brien, University of York: ‘Real links, abstract rights and false alarms: the relationship between the ECJ’s “real link” case law and national solidarity’
- Sammie Currie, Liverpool Law School: ‘Member state implementation of the Posted Workers Directive’
- Allan Williams, Institute for the Study of European Transformations, London Metropolitan University ‘Applying theories of “risk” to contemporary migration behaviour’
- Jo Waters, University of Liverpool: ‘International student (im)mobilities: emergent transnational educational spaces’
- Russell King, Sussex Centre for Migration Research: ‘International student mobility, motivations and experience of UK students studying abroad’
- Carolina Canibano and Javier Otamendi, Institute for Knowledge and Innovation Management, Spain: ‘Revealing the hidden mobility of researchers: short-term international movements in the Spanish research system’

Day 2: The policy event: developing metrics to capture internationalisation

Representatives from the following institutions and organisations will be invited to attend the policy event.

- University Careers Service, University of Cambridge
- Research Councils UK
- DG Research European Commission
- International Science and Innovation Unit, Department for Business, Innovation and Skills
- Vitae
- Universities UK International Unit
- Professional Services, University of Liverpool
- International Development Office, University of Liverpool
- Spanish Ministry of Science and Innovation
- Finnish Ministry of Education (The Finnish Ministry has developed an electronic system of capturing academic mobility, including short stays, for all staff.)

All enquiries to Louise Ackers [e louise.ackers@liv.ac.uk](mailto:louise.ackers@liv.ac.uk) or Carol Porter [e c.j.porter@liv.ac.uk](mailto:c.j.porter@liv.ac.uk)

One-day conferences

The SLSA is keen to sponsor one-day conferences of interest to the socio-legal community. Events should be self-funding, although the SLSA is prepared to underwrite them to a limited extent and also provides endorsement.

If you have an idea for a one-day conference. Please contact the SLSA chair or a member of the Executive Committee for an informal discussion. Past conference themes have included: socio-legal studies and the humanities; ethics; grant-writing workshop; and innocence projects. The next one-day conference is entitled ‘Exploring the “socio” of socio-legal studies’ (see page 3). Details of past events can be found on the SLSA website at [w www.slsa.ac.uk](http://www.slsa.ac.uk) and follow the events link.

SLSA EXECUTIVE COMMITTEE

After five years, Daniel Monk, Birkbeck, stood down as SLSA treasurer at our recent AGM. Huge thanks are due to him for all his hard work and commitment during his time in the post.

New committee members who joined at the AGM are: Linda Mulcahy, LSE (treasurer); Mark O’Brien, UWE (2010 conference organiser); Lydia Hayes, Bristol University (postgraduate rep); Chris Ashford, Sunderland University; Julie McCandless, Oxford Brookes; and Jo Shaw, Edinburgh University.

SOCIO-LEGAL BOOK AND ARTICLE PRIZES 2011

The annual socio-legal book and article prizes are open for nominations for the 2011 round. The three prizes are sponsored by Hart Publishing: the Socio-Legal Article Prize; the SLSA–Hart Book Prize; and the Hart Socio-Legal Prize for Early Career Academics. The aim of the prizes is ‘to advance the dissemination of knowledge in the field of socio-legal studies’. Full details of rules plus nomination forms are available on the SLSA website. The closing date is **Monday 4 October 2010**. Please note that from this year all submissions MUST be in electronic format only.

SLSA ONLINE DIRECTORY: PRIZE DRAW

The winner of our prize draw was Robert Dingwall of Nottingham University. The prize was a donation of £75 to a project via the [w www.globalgiving.co.uk](http://www.globalgiving.co.uk).

Robert chose to support a project to promote education for girls in rural Burkina Faso. He explained, ‘I have just been there for a week at the University of Ouagadougou and I was very impressed with the drive and ambition shown by people in a desperately poor country. SLSA have given me an unexpected opportunity to put a little extra back in return for the welcome I received there.’ The money will be used to support the education of a village girl for 13 years.

In order to encourage yet more members to update their Online Directory entries, we are re-running the draw. Members moving institutions or taking on new posts are particularly urged to check that their details are up to date. The same terms and conditions will apply (see *SLN* 60:1). The closing date will be **20 September 2010** and the winner will be drawn at the SLSA Executive Committee meeting the following Wednesday. To enter, simply email [e marieselwood@btinternet.com](mailto:marieselwood@btinternet.com) with the words ‘prize draw’ in the subject line.

To begin updating your profile, visit [w www.slsa.ac.uk](http://www.slsa.ac.uk) and go to the Members Login menu.

The newsletter needs your contributions

Do you have an idea for an article or news item for the newsletter? News and feature articles are always needed, plus information about books, journals and events. Deadlines are advertised well in advance (the next is **24 October 2010**). If you would like to discuss your ideas for articles or features, you are welcome to contact the newsletter editor Marie Selwood at [e marieselwood@btinternet.com](mailto:marieselwood@btinternet.com) or [t 01227 770189](tel:01227770189).

VARIATIONS ON A THEME

A new departure at our Bristol conference this year was the inclusion of themes alongside the usual streams. Broad themes enabled links to be made across traditional divides as well as providing fora for papers which would not fit readily into standard streams. In all, the themes attracted around 30 papers and – as the following reports from some of the convenors demonstrate – provided the focal points for stimulating and new discussions.

Penny English

International economic law: justice and development

The impact of international economic law and institutions upon justice and development is an issue that justifiably commands attention from all quarters – local politicians and international celebrities, savvy pharmaceutical companies and bewildered farmers, moral philosophers and foreign investors. The aim of this theme was to engage in a critical examination of the law, institutions and practice constituting global and local economies. The theme produced two sessions and included papers from PhD students, new and established academics, from ‘old’, ‘new’ and foreign institutions, and from within and outside of law.

Particularly noteworthy was the panel on Cross-border Relationships in International Development, co-organised by Clair Gammage and Sarika Seshadri (both PhD candidates at Bristol University). Each of the three, engagingly presented, papers in that panel was a high quality example of the application of socio-legal methods to critical effect in the international economic sphere. Such studies are relatively rare and the theme appears to have served as an important focal point for researchers who would otherwise not have thought of attending the conference.

Convenor: Amanda Perry-Kessaris, Birkbeck

Challenging ownership: meanings, space and identity

The title of this theme embraces conflicts over ownership as well as challenges to the meaning of the concept of ‘ownership’. It aimed to include any context in which the law seeks to define, regulate, limit or conceptualise the ownership of tangible or intangible property. It encompasses topics such as: forms of land ownership or regulation; rights to intangible, indigenous and cultural property; the boundaries between public and private ownership and the relationship of property to individual and collective identity (social, local or national).

The theme sought to fill a gap in the scope of the streams traditionally represented at the SLSA conference. It brought together papers which discussed common themes across three continents. These ranged from Pacific island states and the challenges they face in balancing long-standing traditions and customs with new constructions of property rights, to Africa and the links between the concept of the common heritage of mankind and the communal ownership of land, familiar in most African native land tenure systems.

Closer to home, papers considered related issues in the contexts of pseudo-public physical and virtual spaces and the legal protection of allotments. New contacts were made and new conversations started.

The theme demonstrated (together with the questioning localism theme) that there is scope to build on this in the future, to develop a focal point for work which falls within the emerging field of critical legal geography.

Convenor: Penny English, Anglia Ruskin University

Questioning localism

A (re)turn to localism, with its emphasis on the devolution of power to the local level, on decision-making by those most closely affected by decisions, and on local accountability, is increasingly presented as an effective response to the negative implications of centralisation and globalisation. This theme sought to explore a range of dimensions to this localism agenda, including ideas and practices of democracy, of citizenship, and of regulation. All manner of substantive policy areas can be implicated by a turn to localism and the theme therefore invited contributions from any field.

There were four panels, which were broad ranging in their substantive coverage – from the sociology of science, to environmental justice, from UK devolution debates, to homosexual citizenship. The theme brought scholars together who would perhaps not otherwise have come into contact with each other, given their substantive ‘homes’, and made for some very refreshing, constructive and illuminating discussions.

Convenor: Jo Hunt, University of Cardiff

Financialisation and after

This theme aimed to examine what might result from the collapse of financialisation (if in fact that is what has happened). One session was arranged with two papers. The first discussed the law of global capital and the second covered retail margin lending and securities lending in Australia.

Convenor: Sally Wheeler, QUB

Caring relationships, legal relationships

This theme aimed to explore caring relationships throughout the lifecycle from childhood to old age, in particular, questions of: how the law facilitates and regulates relationships between carers and the cared for; how it encourages us to care for ourselves; and when can and should the state step in to take care of individuals.

It attracted sufficient papers to run two sessions plus a joint session with the mental health and mental incapacity stream. In addition, we also welcomed members of the Law Commission team currently consulting on reform of the law relating to adult social care which provided a very useful insight into the proposals and an opportunity to discuss with and feedback to those involved with the project.

The first session entitled State Intervention in Caring comprised papers from the Care, Autonomy and Inequality Research Group at Bristol University. The three papers indicated how important the idea of care is over a range of legal issues – from notions of consent in rape, to unpaid childcare, and how it fits with current notions of welfare, to the equal pay claims of ‘care’ workers. The issues raised in the last two papers were also picked up in the second session on Responses to Caring in a paper which looked at the relationship between unpaid care and employment. The idea of collective caring for our children and our responsibilities for other people’s children came out in the second paper in that session.

The joint session with the mental health stream provided an opportunity to explore how to secure equal citizenship rights for those with disability and how judges have responded to the regulation of care homes. The theme provoked interesting discussion drawing together a range of theoretical approaches to care and the very practical and real issues of care provision in a modern society.

Convenors: Caroline Hunter, University of York, and Morag McDermont, University of Bristol

SOCIO-LEGAL SCHOLARS REPORT THEIR FINDINGS

In the following pages, four projects from our 2008–09 round of awards present their research findings. Their investigations focused on: parenthood; the regulation of the legal profession; consent in rape cases; and attitudes to male rape. This year's closing date: 31 October 2010.

Rewriting parenthood: a policy perspective of the reform of reproductive technology law

Julie McCandless, Oxford Brookes University, and Sally Sheldon, Kent University, £1443

Background

While English law has developed a range of strategies for recognising the significance which multiple 'parent' figures may play in a child's life (eg through the concept of parental responsibility, Children Act 1989), it has remained steadfast in refusing to recognise more than two legal parents. Further, while greater legal recognition of same-sex partnerships has included moves to recognise two same-sex parents (eg Adoption and Children Act 2002), the basis on which such parenthood is attributed remains framed within the model of the two-parent heterosexual family (Diduck 2007).

In this project we examined the influence of this model in the reform process culminating in the Human Fertilisation and Embryology Act 2008. One purpose of which is to regulate the attribution of legal parenthood when certain (mostly licensed) reproductive techniques have brought about conception. The main change saw the extension of parenthood provisions to a second female under certain conditions. The legislation also contains a 'welfare' clause requiring practitioners to consider a number of factors before offering treatment. The statutory duty to consider the child's 'need for a father' was replaced by the need to consider 'supportive parenting'.

What the grant allowed us to do

The grant allowed us to conduct in-depth interviews with important actors in this reform process. These included key officials from the Department of Health (DH); the deputy chair of the Human Fertilisation and Embryology Authority; the chair (an MP) and a further member (a peer) of the Joint House of Lords and House of Commons Committee which scrutinised the proposed legislation; two of the academic advisors to the parliamentary committees involved in the passage of the legislation; and officials at the General Register Office. The grant covered travel costs to interviews and transcription of interview data. Where possible, we conducted the interviews together. This approach fostered our collaboration on the research and proved fruitful in maximising the potential of the data collected.

These interviews granted an insight into the reform process that would not otherwise have been possible through a purely textual analysis of documentation. For example, we were able to ascertain a number of possibilities in relation to the parenthood provisions, mooted early in the reform process, but not carried through into the formal documentation, and why these possibilities were rejected. We also gleaned insights into how choices were made and agendas set in the reform process, adding further depth to critical readings of the documentation.

The research grant, therefore, not only allowed us to add a rich empirical component to our critical socio-legal project, but to further hone our qualitative research methods skills and to develop contacts in policy-related circles for future projects.

Findings

Some of our key findings were:

- In relation to why less radical possibilities were not carried forward, there was at once a concern with political expediency as well as an anxiety from the DH around disrupting general family law principles.
- That parenthood provisions went relatively under-scrutinised during the reform process due to parenthood being framed in 'intuitive' terms of what a family should look like, as well as the prioritisation of other issues.
- That the complexity of the parenthood provisions did not provide an adequate reason for their lack of scrutiny, given that other equally complicated provisions received much attention. Instead, the welfare clause was a rather polarising focal point for a range of more general debates about parenthood, despite the arguable lack of impact that the reform of this provision will have in practice.
- That, while reform of parenthood provisions now better incorporates some lesbian couple families, the concept of parenthood remains informed by the heterosexual family form. Without further consideration of how we conceptualise parenthood and respond legally to diverse family forms and practices, processes of exclusion and inclusion within the legal framework will persist.

Outputs and dissemination

Two papers were given towards the end of the interview schedule and at the start of the analysis process. These were at a workshop organised by the AHRC Centre for Law, Gender and Sexuality, entitled 'The Human Fertilisation and Embryology Act 2008: new directions in biolaw and bioethics' (Keele University, 2009) and the SLSA annual conference in April 2009 at De Montford University. Feedback obtained at these events was very valuable in writing up the research results for publication. Further papers have since been delivered at our own institutions, as well as other universities (eg King's College London and Oxford) and policy-related organisations (eg One-Plus-One). We will also participate in the forthcoming final workshop for the ESRC 'Parenting cultures' seminar series, which focuses on the regulation of reproductive practices.

Two co-authored articles have been written. One focuses on the parenthood provisions (McCandless and Sheldon 2010), while the second focuses on the welfare provision (McCandless and Sheldon, forthcoming 2010). A short piece was also written for the electronic newsletter, *Bionews* (McCandless and Sheldon, 2009), which is widely read by academics and practitioners interested in human reproduction and genetics.

Future directions of the research

We are both currently developing ESRC funding applications for empirically informed socio-legal projects that stem from this research. Sally's project focuses on the application of the newly worded welfare clause by practitioners, while Julie's project relates to birth registration.

References

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Regulating the legal profession after Clementi

John Flood, University of Westminster School of Law, and Daniel Muzio, University of Leeds School of Business, £1500

The aim of the project was to analyse the legal profession's response to the new directions of regulation. Government had for the last 20 to 30 years progressively rolled back self-regulation for professions, instituting in its place systems of audit and external verification backed by a regulatory structure that removed control from the profession itself.

Until recently, law had largely escaped this trend, by deft manipulation of the political process. However, moves by competition authorities combined with a rise in consumer complaints made the position of professions, and the legal profession in particular, untenable. Government responded by setting up the Clementi Review which was followed by the Legal Services Act 2007 (LSA).

Although we are still waiting for the full impact of the LSA to be felt throughout the legal profession, it is already having considerable effect on lawyers' values and ambitions for their business. Clementi and the LSA proposed that an entirely new regulatory structure replete with a super-regulator – the Legal Services Board (LSB) – should be established. The new structure would also separate regulatory activities from representative ones. Thus, the Bar, solicitors, legal executives and conveyancers, among others, had to create new institutions to regulate their members' activities while being overseen by the LSB.

The biggest change was organisational where legal services could be provided by alternative business structures (ABSs) that in effect would be multidisciplinary practices. ABSs became

synonymous with a supermarket-style provision of legal services labelled 'Tesco law'.

The grant enabled us to interview a range of people in the legal profession either affected by these changes or implicated in making change. Interviewees included partners in law firms, regulators and consultants to the legal profession. Responses ranged from sadness at the change to the old order to excitement at the possibilities that would come about.

During our research two significant reports were issued: the Smedley Report advocated a new regulatory approach to large law firms, since it was felt that the largest group of malfeasors was found not in large firms, but in solo or small ones; the Hunt Report recommended a more autonomous advance in regulation that would apparently re-embrace aspects of self-regulation for those firms deemed a good risk. This was combined with a move away from individual lawyer regulation towards firm-based (entity) regulation. We have attempted to capture these changing moments as they occurred.

The situation is one in flux and we are continuing with our interviews. The recent financial crisis is exercising a radical and unforeseen impact on the landscape of the legal profession, challenging existing practices and models whilst also raising a series of regulatory implications. In particular, many of the restructuring opportunities allowed for by the new regulatory framework seem to be less likely in the new context.

Two papers will come out of the project. One by Flood and Muzio on organisational responses to changes in regulation using historical sources; the other by Flood about the move from ethics to regulation as seen through the changing dynamics in law firm organisation through the 20th and 21st centuries.

Rape and the construction of consent: examining male and female perspectives

Anna Carline, Liverpool John Moores University, £816

The research project involved running single-sexed focus groups to investigate male and female perspectives on the issue of consent to sexual intercourse. The notion of consent is pivotal to the offence of rape and a statutory definition of consent was introduced by s 74 of the Sexual Offences Act 2003: 'a person consents if he agrees by choice and has the freedom and capacity to make that choice'. At the time, the Home Office considered this definition to be clear and unambiguous. The purpose of the focus groups was threefold: 1) to analyse whether the legal definition of consent is comprehensible to potential jurors; 2) to examine whether men and women's personal constructions of consent differ from the legal definition; and 3) to analyse the extent to which men and women draw upon different discourses in their constructions of consent.

Eight focus groups were held: three male and five female, with 30 participants (18 women and 12 men) aged from 18–38. The female majority reflected the level of interest in the groups, women generally being more enthusiastic. The groups were presented with two vignettes depicting sexual intercourse between a man and a woman known to each other. They considered whether or not the woman consented and whether or not a belief in consent would have been reasonable. The key aim of this section was to investigate how men and women construct consent and to analyse the extent to which they draw upon stereotypical perspectives. In line with other studies,¹ all groups tended to construct 'real rape' as involving a stranger and/or extreme physical violence. Significantly, many participants – male and female – commented that, while they considered that the woman did not consent, they would not convict the man for rape. Most groups discussed the idea that a lack of consent should be verbalised and while it was generally considered that both parties had an equal responsibility to

ensure that the sexual encounter was consensual, the burden was frequently placed more on the woman.

What was striking was the expectation amongst participants that men and women would respond differently to the vignettes. There was a belief that men and women draw upon different discourses in their constructions of consent. However, the distinction between the sexes was not as vivid as the participants surmised. While the male and female participants adopted slightly different routes in order to reach their outcome, there was little discrepancy in their overall opinion.

The second section involved participants discussing the s 74 definition – none of whom already knew of it. They were asked to discuss whether they considered the definition comprehensible and whether it summed up the meaning of consent for them. Overwhelmingly, participants were not positive: many commenting that it was far too wide, unclear, vague and open to interpretation. One group considered the lack of clarity rendered the definition dangerous and open to abuse. None considered s 74 of assistance in discussions of the vignettes, thus indicating that the reform has been unsuccessful in its stated aim of helping juries. Of particular note was that many participants, male and female, struggled to define consent in their own words. For many, consent was something that a person sensed and therefore could not be easily and adequately defined. This latter finding is significant as it suggests that the law is not able to capture the notion of consent in a manner meaningful to juries. In addition, many groups were unsure of the law's ability to deal with rape and discussed the idea that increased sex education may be a more productive response.

Overall, the findings indicate that s 74 has failed to introduce a clear, unambiguous and useful definition and suggest that more research into the meaning of consent and how this may be portrayed in the law needs to take place. The findings were presented at this year's annual SLSA conference.

1 L Ellison and V Munro (2009) 'Of "normal sex" and "real rape": exploring the use of socio-sexual scripts in (mock) jury deliberations', *Social and Legal Studies* 18(3): 1–22

Attitudes towards male rape

Phil Rumney, University of the West of England and Natalia Hanley, University of Melbourne, £750

Background

Since the early 1990s, there has been increased academic interest in the prevalence, nature and impact of adult male sexual victimisation. This body of research has examined a range of issues, including the attitudes and beliefs of criminal justice professionals (Abdullah-Khan 2008), the impact and prevalence of male and female rape (Elliott 2004 et al; Coxell et al 1999) and male sexual victimisation in prisons (Banbury 2004). Until recently, there has been a relative paucity of research exploring rape myth acceptance in relation to male rape. This project sought to address this gap in academic research by exploring student attitudes towards male rape and to establish the extent to which these attitudes are informed by rape myths and stereotypes.

Methodology

Focus groups were held in 2008–09 with undergraduate criminology students. Each focus group was provided with one of three fictional vignettes designed to encourage discussion of one of the following variables: a male complainant failing to resist during an alleged rape; delayed reporting by the complainant to the police; and an involuntary physical response by the complainant during the alleged rape. The vignettes outlined an alleged incident of rape in which the complainant said he was restrained and raped after going to the defendant's home to watch a DVD. By contrast, the defendant claimed that the complainant had consented to sex. As the primary focus of this research was to explore social attitudes, we were also interested in how focus group participants talked about male rape and how group interaction impacted this talk. The SLSA grant enabled us to have the focus group recordings transcribed.

Findings

The focus group data provided evidence of rape myth acceptance amongst some undergraduate students. For example, participants indicated that delayed reporting and the absence of physical injury undermined the credibility of the complainant. An expectation of physical resistance, commonly expressed amongst participants, was often accompanied with an assumption that a raped male would show evidence of injury. Contrary to these assumptions, research evidence suggests many victims are not physically injured and do not report to the police immediately (Rumney and Hanley 2010). Participants also used explanatory frameworks such as intoxication and sexuality to contextualise the scenario and allocate responsibility and/or blame to the complainant. Discussion about sexuality was also informed by rape myths: specifically that victims of male rape are assumed to be homosexual, even though information about sexuality was not included in the fictional vignette. Indeed, some participants projected a homosexual identity onto the complainant as a result of his pre-rape behaviour, for example, because the complainant talked to the defendant at a party and went to the defendant's home to watch a DVD.

A commonly raised issue in the groups was the question of whether the complainant was making a false allegation of rape. Interestingly, claims that a false allegation was being made also extended to suggestions that the complainant was 'exaggerating' and that any injuries might be self-inflicted. A multitude of reasons were given as to why the complainant could be lying: for example, that he could be embarrassed about having sex with a man and was concerned about what friends might say. One participant suggested the complainant might have a 'mental health issue' and it was also suggested that a two-day delay in reporting to police might suggest a false allegation. Many

reasons given for a possible false allegation had little, if anything, to do with the vignette. Instead, assumptions regarding the commonality of false complaints appeared to fuel a wide-ranging and detailed discussion of false motives.

Another issue that arose was the question of the relative seriousness of male and female rape. It was suggested by some participants that rape is more of a stigma and more embarrassing for a male than a female. A distinction was also made between heterosexual and gay male victims, with a view that gay males would be less traumatised. This is an observation found in other research and may be explained by an assumption that all gay males have anal or oral intercourse and, as a result, will find such acts less shocking and traumatising when raped. However, this distinction fails properly to recognise the difference between consensual and non-consensual sexual acts. Further, the distinction also assumes that all gay males have anal or oral sex, which is not necessarily the case.

Participants consistently referred to shared meanings and messages and used these, alongside positioning devices, to support and lend credibility to their attitudes and opinions. Students who could identify with the behaviour of the complainant in the vignette were, in some instances, more likely to challenge rape myths. While other participants pointed out that if they, for example, were to go to a man's home after a party, it would indicate a willingness to have sex. Some participants referred to such behaviour on the part of the complainant as 'stupid', 'naive' or irresponsible and argued that everyone has a responsibility to ensure their personal safety. Importantly, when rape myths were challenged by other participants in the focus group, the whole group was more likely to accept the complainant's account.

In addition, 'rape talk' in the focus groups drew upon notions of gender and behavioural norms and expectations. In this sense, the discussions were 'gendered'; female rape was used as a source of comparison by which participants could examine their own likely behaviour in a similar situation, their own attitudes towards the vignette, and the amount of 'blame' that could be attributed to the complainant or defendant. Our findings differ significantly from the focus group work of Anderson and Doherty (2007) in which they found evidence that rape was 'gendered' in the sense that male rape was privileged over the rape of females. We found some limited evidence of this, and indeed, there were also a small number of instances where male rape was judged more harshly than female rape (Rumney and Hanley 2010a). In most instances, however, there was little differentiation made between male and female rape in the focus group discussions.

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Centre for Law, Justice and Journalism

The Centre for Law, Justice and Journalism (CLJJ) was launched on 10 March 2010, with the Honourable Mr Justice Eady delivering a lecture titled 'Protecting free speech in the context of the European Convention on Human Rights'. The event was very successful and widely reported, with over 300 people in attendance, it provided a wide range of networks from students and academics, to solicitors and barristers, journalists and broadcasters, and more. A recording and transcript of the launch is available on our website.

The CLJJ aims to harness and maximise opportunities for research collaboration, knowledge transfer and teaching to bring together expertise in the disciplines of law, criminology and journalism at City University London. Since its launch in March it has sponsored and/or held such events as: a three-day conference entitled 'A global surveillance society?'; a symposium on public sphere and public service media; the book launch of *Reinventing Public Service Communication: European broadcasters and beyond* by Petros Iosifidis of City University London; as well as network meetings and meetings for collaborative conferences in the future. Further information and recordings of past events can be viewed on our webpage.

All information on our research opportunities, past and future events, our members and contact details, and our aims and expertise can be found on our website at www.city.ac.uk/lawjusticejournalism/. **Sarah Mills**

Measuring online access to justice

The Institute of Advanced Legal Studies has been part of a successful bid to the European Commission for a project to Measure Access to Justice, focusing on online dispute resolution (ODR). The eMCOD project is led by Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems. Avrom Sherr and Marc Mason have begun work on the project, joined by colleagues from Tilburg University, University of Haifa, Autonomous University of Barcelona, University of Wroclaw, Bulgarian Institute for Legal Initiatives and The Mediation Room. The project will look at users' experience of ODR processes in terms of costs and fairness of both procedure and outcome, as part of a larger programme of work to develop a system for comparing these across differing paths to justice. For further information, see www.emcod.net/ or contact marc.mason@sas.ac.uk. **Marc Mason**

Guest editorship

The *Journal of Law and Society (JLS)* invites expressions of interest concerning the guest editorship of the *JLS* Special Issue (spring 2012). Readers are invited to contact the editor with their proposal. Send a list of authors – agreed and to be confirmed – and working titles of each contribution, plus a one-page explanation of the purpose and range of the collection. The material must be socio-legal, fit the character of the *JLS*, and have current relevance and appeal to our international and diverse readership. The issue must also be both thematic and coherent. The issue is 75,000 words, inclusive of footnotes and carries between eight to 10 papers. The deadline for completed copy is November 2011. The *JLS* may provide funds to support a meeting for the authors. The issue will appear simultaneously as a book published by Wiley-Blackwell, Oxford. A decision on the 2012 publication will be taken in September 2010 thereby allowing the editor one year to produce the copy.

The Special Issue for 2011 is titled *Governing Transnational Private Regulatory Regimes* and is edited by Colin Scott (University College Dublin), Fabrizio Cafaggi (University of Trento) and Linda Senden (University of Tilburg). Philip Thomas [✉](mailto:phillip.thomas@cardiff.ac.uk) *JLS* Editor, Cardiff Law School, Cardiff University, Cardiff CF10 3AX [e thomaspa@cardiff.ac.uk](mailto:thomaspa@cardiff.ac.uk) **Phil Thomas**

New Centre for Law and the Humanities at Birkbeck

The new centre builds on the Law School's research strengths in the area of law and the humanities including: law and aesthetics; law and literature; law and psychoanalysis; critical legal theory; legal history; law and film; and law and space. The centre will facilitate and promote research in law and the humanities within the school and college through the organisation of seminars, workshops, conferences and visits by distinguished scholars. The activities of the Centre for Law and the Humanities are overseen by its directors Professor Patrick Hanafin and Professor Peter Fitzpatrick and a small steering committee. The Advisory Board includes members of faculty from other disciplines at Birkbeck as well as internationally renowned scholars in the field of law and the humanities. A full programme of events for 2010–11 will be available shortly. For further details, please contact Professor Patrick Hanafin [e p.hanafin@bbk.ac.uk](mailto:p.hanafin@bbk.ac.uk). **Patrick Hanafin**

Equality and diversity at QMU: PEDEC

Queen Mary, University of London, has been awarded a two-year AHRC network grant for a project on Promoting Equality and Diversity through Economic Crisis (PEDEC). The Network is a joint initiative between Kate Malleson and Lizzie Barmes in the School of Law, Al James in the Geography Department and Geraldine Healy and Hazel Conley in the Centre for Research in Equality and Diversity. The aim of the network is to advance understanding of the effects of the economic downturn on equality and diversity policies across places, sectors and social groups; and of the possibilities for resisting negative outcomes and effecting positive change. The network will be organising four seminars covering different aspects of the issues raised for equality and diversity by the current economic crisis. For more information contact k.malleson@qmul.ac.uk. **Kate Malleson**

Journal of things we like lots

Jotwell is a new online law journal devoted to bringing to readers' attention scholarship that they might have overlooked. The mission statement begins: 'The Journal of Things We Like (Lots) – *Jotwell* – invites you to join us in filling a telling gap in legal scholarship by creating a space where legal academics will go to identify, celebrate, and discuss the best new legal scholarship.' The site is divided up by subject area with each subject having one or two section editors who manage content and are committed to writing at least one commentary per year. Subjects currently covered by *Jotwell* are administrative law, constitutional law, corporate law, criminal law, cyber law, intellectual property, legal profession and tax law. All essays published on the site will be open to comments from readers. <http://jotwell.com>

Data protection and the open society

May 2010 saw the launch of a new three-year data protection and the open society (DPOS) project at the Centre for Socio-Legal Studies, Oxford. It is led by Dr David Erdos and funded by the Leverhulme Trust as an early career research award. This project will explore the origins and functioning of privacy/data protection (DP) law and practices from an open society perspective. It will focus on examining, and hopefully partially resolving, the tensions between DP and other important societal values including freedom of information and expression. The three-year time frame will allow for a really deep analysis, lead to a better framework for accounting for the various values at stake, and feed into the revision of the European Data Protection Directive currently underway.

There will be a launch seminar on 19 October 2010. For details, contact david.erdos@csls.ox.ac.uk or visit www.csls.ox.ac.uk/dataprotection. **David Erdos**

The Irish Association of Law Teachers

The Irish Association of Law Teachers (IALT) is a distinctive organisation in Ireland in a number of respects. First, since its inception in 1979, it has been an all-island organisation bringing together legal academics and teachers of law from both sides of the border. Second, it is committed to furthering excellence in legal education and research through conferences, research projects and acting as a collective voice for law teachers.

The association launched its new brand, logo and website at its 30th anniversary seminar held in Trinity College Dublin on 26 February 2010. The three speakers, Professor Blanaid Clarke (UCD), Professor Brice Dickson (QUB) and Professor Paul McCutcheon (UL) gave fascinating and thought-provoking papers on the change in the nature of legal scholarship in the last 30 years, and gave some interesting, if chilling, thoughts on the role of legal scholarship in the university in the next 30 years. The council also launched prizes which reflect the dual activities of the association – law teaching and legal scholarship – details of which are available on the website.

The council will continue the tradition of holding an annual conference this year. It will take place in Limerick on the weekend of 26 November. Details and a call for papers will be circulated in due course. The first winner of the IALT book prize will also be announced at the conference.

Details of the IALT, its council and its activities are all available on its new website www.ialt.ie. We can be contacted at info@ialt.ie, or contact the president directly at jennifer.schwepe@ul.ie. We hope to see you at a forthcoming IALT event!

Jennifer Schwepe, President, IALT 2009-10

MSc/LLM criminology and criminal justice

Advanced studies in criminology and criminal justice can be pursued as either MSc or LLM at University College Dublin. To earn the degree students are required to complete 60 credits of coursework as well as a dissertation. Applications for admission to these stimulating and demanding programmes, involving intensive learning in small groups, are invited from anyone with an excellent degree in sociology, law, politics, psychology, history or another subject relevant to criminology. Further information on application procedures and admission requirements is available from lawpostgraduate@ucd.ie.

Law Commission 11th programme

Anyone can propose any area of the law in need of reform for the Law Commission to consider for its 11th programme of law reform. Projects are likely to focus on issues that: are systemic; are caused by laws or policies that are complex or hard to understand; have widespread discriminatory impact or cause disproportionate costs; or arise from laws or policies that are inconsistent with modern standards. In view of the current economic situation, projects that support the drive to reduce waste and inefficiency are of particular interest. The consultation closes on **15 October 2010**. Visit the Law Commission website for full details. www.lawcom.org.uk/questionnaire/

Bee biosecurity

Dr Opi Outhwaite received research funding for the project 'Legal frameworks for honey bee biosecurity and conservation'. In light of declining honey bee populations, the introduction in 2009 of DEFRA's Healthy Bee plan and the broader issues of protection of pollinator services, this project will analyse the extent to which legal and regulatory provisions in the UK enable objectives for halting honey bee loss to be achieved.

The project includes an empirical component focusing on the experience of beekeepers and bee inspectors. Enquiries to o.m.outhwaite@greenwich.ac.uk. *Opi Outhwaite*

FLJS lecture: Politicising Law, Judicializing Politics

The Foundation for Law, Justice and Society annual lecture in law and society was held at Magdalen College on Thursday 20 May 2010, in collaboration with the Centre for Socio-Legal Studies (CSLS), Oxford.

The lecture was given by the renowned constitutional scholar Professor Ran Hirschl, of Toronto University, who advocated a realist approach to the current trend towards constitutional supremacy. Professor Hirschl, whose work has been described as 'pathbreaking, compelling, and iconoclastic', argued that, whilst recent decades have seen a huge increase in the political importance of constitutional courts worldwide, this trend should not necessarily be perceived as a reflection of progressive social or political change, or the result of societies' or politicians' celebration of human rights. Rather, a realist analysis would indicate that constitutionalism of this kind is 'politics by other means' and a mechanism for governments to strengthen their grip on power. It is no coincidence that they empower constitutional courts particularly at times when this power is threatened, staffing the courts with government-friendly judges as part of a deliberate political strategy. In a wide-ranging lecture, Professor Hirschl addressed an array of real-world examples of the political construction of judicial review and examined how strategic reliance on constitutional courts may help governments mediate hotly contested political issues.

The lecture was followed the next day by a workshop in which a roundtable of constitutional and legal experts conducted a comparative analysis of the constitutional development of five countries to assess how the social and political conditions of the time impact on constitution-making.

The workshop opened with an analysis of the extraordinary level of political compliance shown by the constitutional court of Japan, having struck down only eight statutes since its creation in 1947, despite having a docket as large as the US Supreme Court. Dr David Erdos from the CSLS then provided an account of the reform to the New Zealand Constitution as a response to the breakdown of the social welfare state, introducing the idea of aversive constitutionalism to describe constitutional reform brought in specifically to prevent a particular course of events from recurring. Nigeria provided another interesting case study of a state grappling with not only the imposition of a Westminster system, but also the consequent politicisation of the military, and the twin curse of oil wealth and deep ethnic division, which served to severely undermine the strength of the constitution.

Professor David Robertson from the University of Oxford, in his presentation on the French constitution, endeavoured to redress the prevailing thesis that constitutional reform occurs in response to 'big bang' moments of political and democratic change, stressing that constitutional law more often works incrementally, through rather mundane decisions. Finally, the case of Portugal was examined as an exemplar of a constitution, promulgated in 1976 which enshrines socio-economic rights to an almost unprecedented degree, as a result of the prevailing political, religious and societal factors operating at the time.

The papers from the workshop are expected to form part of a forthcoming book on the social and political foundations of constitutions, further details of which will be made available over the coming months.

An audio podcast of Professor Hirschl's lecture is available at www.fljs.org/Hirschl. *Phil Dines*

Pre-nuptial agreements

Anne Barlow (law) and Janet Smithson (Psychology), University of Exeter, have been awarded £104,693 by the Nuffield Foundation for an inter-disciplinary project looking at public attitudes to pre-nuptial agreements and their implications for family law in England and Wales. *Anne Barlow*

ALL CHANGE AT THE ESRC

2010 is a year of change at the ESRC and SLSA members will no doubt want to keep abreast of developments on this front. Anne Barlow, University of Exeter, provides a brief overview.

Not only is Ian Diamond (ESRC chief executive and deputy chair since 2003) leaving to take up a senior position at Aberdeen University, but the council's internal structures and processes are also undergoing reform. These changes have introduced a peer review college, significantly increasing the number of reviewers, and have put in place a different system of panels feeding into new committee structures for grant assessment. The ESRC indicates that these changes aim to increase the efficiency of the grant refereeing and assessment process, maximise impact and align its decision-making structure and achievement of impact with the social science challenges set out in its recent Strategic Plan.¹ The new structures will be put in place this summer to coincide with the transfer of the administration of ESRC grants to the RCUK service centre. The ESRC's online newsletter, *eNews*, will set out the changes as they take place.

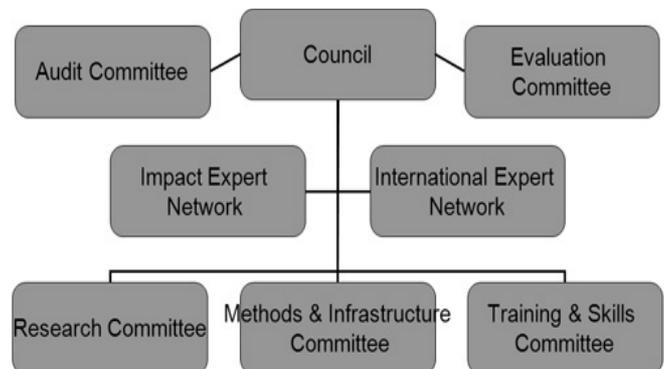
The new committee structure

From 1 April 2010, the ESRC's current four boards and four committees are being restructured, in order, it states, 'to offer a more integrated approach to our research and training portfolios and embed impact and international activity in all areas of our work'. This should also, says the ESRC, enable it to deal more effectively with responsive mode applications. The new structure (right) includes three policy committees (the Research Committee, the Methods and Infrastructure Committee and the Training and Skills Committee), two virtual networks (impact and international), an Evaluation Committee and an Audit Committee.² The three policy committees will work together to deliver the Strategic Plan and will have a clear emphasis on delivering both scientific and economic impacts.

Grants assessment and processing

For most of us, it will be structures which support assessment of responsive mode research grant applications where change will be noticed first. In the new structure, funding decisions will be taken by a Grants Delivery Group, supported by three standing panels of expert assessors. This system replaces the Research Grants Board and divides the subject areas between the three standing panels of expert assessors who support the group and who will meet as panels three times a year. The role of the panels also extends to assessing applications through the ESRC fast-track schemes, such as small grants, post-doctoral fellowships and some knowledge transfer schemes. In addition, there is a pool of assessors, 'the assessor college' (different to the peer review college mentioned below), who will 'provide a source of expertise to refresh and supplement panel membership where required'. Socio-legal studies is placed in Panel B and will have one representative on the panel (see right).

More information on the Grant Delivery Group and the panels is promised. The ultimate aim is increased efficiency and the new structure, according to the ESRC website, 'will amalgamate and streamline the multiple open schemes across research grants, training and skills, knowledge transfer and methods and infrastructure. Combining the administration of these schemes will allow assessors to make more informed



BRINGING HUMAN RIGHTS DEFENDERS TO YORK

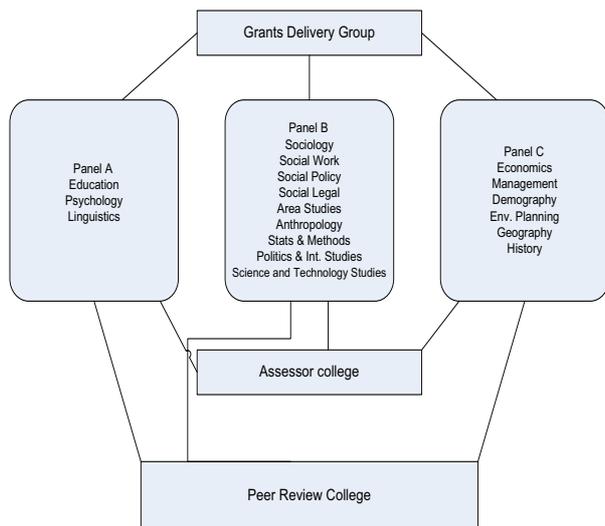
The Centre for Applied Human Rights, University of York, is promoting socio-legal research into human rights practice through an innovative mix of scholarship and teaching that draws heavily on human rights defenders. Lena Barrett and Lars Waldorf explain how.

The Centre for Applied Human Rights is host to a new *Journal of Human Rights Practice* (published by OUP) that, according to its editors Paul Gready and Brian Phillips, looks 'beyond the analysis of texts and purely philosophical debates to a focus on implementation – or, in other words, human rights in the "real" world'. To that end, the journal features policy and practice notes from a diverse range of human rights defenders – from the executive director of Human Rights Watch to a member of Sri Lanka's University Teachers for Human Rights.

The centre also brings at-risk human rights defenders to York through a protective fellowship scheme funded largely by the Sigrid Rausing Trust and the Open Society Institute. Defenders play a crucial role in advancing human rights around the world. As a result, they have increasingly been targeted for abuse: in numerous countries, they have been persecuted, killed, detained without trial, tortured or harassed in other ways, their reports have been censored and their organisations shut down. In an effort to protect human rights defenders, the UN General

Assembly issued a resolution in 1998 affirming that: 'Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.' Two years later, the UN created a monitoring mechanism in the form of the UN Secretary General's Special Representative on Human Rights Defenders. Still, despite these positive developments, the situation for defenders has only worsened. Indeed, three of the centre's recent fellows fled their countries (Colombia and Kenya) to escape credible death threats.

Since spring 2008, the centre has welcomed 12 defenders from Afghanistan, Colombia, the Democratic Republic of Congo, Indonesia, Iraq, Kenya, Nepal, Palestine, Sierra Leone, Uganda and Zimbabwe. The defenders, who come for up to six months, undertake a range of activities. First, they expand on their human rights advocacy from a safe space: one Ugandan gay activist lobbied European Union officials on his country's proposed anti-homosexuality law, while another provided information to the International Criminal Court in its ongoing investigations. Second, they acquire new skills and take time to reflect on human rights practice – both of which enable them to return to their activism re-energised. Finally, they actively participate in the MA programme (and, starting in October 2010, the LLM programme), giving both the lecturers and students a chance to learn more about conducting human rights research in repressive and risky environments. www.york.ac.uk/inst/cahr/



decisions on funding across our schemes while reducing the workload for individuals and providing a more efficient and consistent decision-making process.¹

Peer review college

Last but not least, a peer review college has been introduced to referee grant proposals and to support the new committee structure and grants assessment process. Nominations were sought from the research community and a wide range of users and stakeholders, including some international representation. Its members have been selected and the college itself will be in place by summer 2010. Members will be asked to sign up to review a set number of proposals per year and the intention is that this 'will provide a more effective means for reviewing research applications by improving the overall response rate of reviewers and thus reducing processing times for proposals'.

The college will have some 2000 members from academic and non-academic backgrounds who can be called on to referee most grants and awards, although fast-track grants are now specifically excluded from the remit. In addition to using members of the new college, the council will, of course, continue to draw upon the wider academic and user communities to act as referees on research proposals.

Conclusion

From the point of view of the socio-legal community, on one level these changes may appear purely administrative. We have retained one socio-legal representative on the Grants Assessment Panel replacing the one representative on the Research Grants Board. We have a number of socio-legal reviewers among the peer review college membership and other reviewers can in any event be called upon to referee grant proposals. However, small grants, post-doctoral fellowships and some knowledge transfer schemes will be dealt with by selected panel members rather than the panel or board, but this should speed up the decision-making process. In addition, the inclusion of a wider range of third-sector reviewers and panel members is a real attempt at embedding impact within the review process, although academic excellence is still the key determinant for successful applications. One significant change that has come through the restructuring is the fact that, whereas the Research Grants Board made decisions which were final, the decisions of the panel will in future have to be approved by the Grants Delivery Group. How significant this proves to be will have to be judged over time. It may well depend on how the new government views the role of the research councils and their funding. As we all know, we are entering uncharted territory.

1 www.esrcsocietytoday.ac.uk/ESRCInfoCentre/strategicplan/.

2 Diagrams reproduced with the permission of the ESRC.

JURIS DIVERSITAS

Juris Diversitas is an international legal community founded in 2007. Dr Seán Patrick Donlan, University of Limerick, summarises its origins and aims.

Juris Diversitas has two related primary aims: (i) the study of legal and normative mixtures and movements and (ii) the encouragement of interdisciplinary dialogue between jurists and others (especially anthropologists, geographers, historians, philosophers, sociologists etc). While our teaching and research interests are quite diverse, many of our original members were comparative lawyers. A number were involved in the activities of the World Society of Mixed Jurisdiction Jurists, an organisation largely dedicated to 'classical mixed jurisdictions' that combine continental private law and Anglo-American public and criminal law. Since our foundation, we have added additional scholars from both the law and beyond.

Beginning last year, Juris Diversitas began a more aggressive research programme. The group co-organised, with the Swiss Institute of Comparative law, a symposium in September 2009 on the theme of hybrid legal systems. The primary focus was on legal mixtures that fit neither the standard legal 'families' of comparative law nor the 'classical mixed jurisdictions'. These included Comoros, Cyprus, Malta and Nepal. Legal hybridity in the European past and present, between customary and state law, in the World Trade Organization, and in Louisiana were all discussed. A collection of the articles developed out of the symposium will be published by the institute later this year.

A second symposium on Mediterranean legal hybridity, was held in June 2010 in Malta, co-organised with the Law Faculty and Mediterranean Institute of the University of Malta. Its theme was the hybridity, both legal and normative, in the region. A continuing project on the same theme will be launched which will, insofar as is appropriate and practical, adopt an inter- and multidisciplinary approach. In particular, it will draw on and go beyond earlier analysis of (i) 'mixed legal systems', where diverse state laws emerge from different legal traditions, and (ii) 'legal' or normative pluralism. Our hope is that the project might serve as a model for similar studies in other parts of the world. Papers presented at the symposium will be published.

In addition to proposed conferences in 2011, we have created a blog, a public site dedicated to our aims. It alerts members and others to related events, materials, and associations and includes a register for those interested in potential collaborative research and exchange. We have also created an advisory board of well-known and well-respected scholars working at the boundaries of legal and social sciences: Patrick Glenn, Marco Guadagni, Roderick Macdonald, Werner Menski, Esin Öricü, Vernon Valentine Palmer, Rodolfo Sacco, Boaventura de Sousa Santos, William Twining and Jacques Vanderlinden. Our executive committee includes: Seán Patrick Donlan, Ignazio Castellucci and Olivier Moréteau. For further information, contact sean.donlan@ul.ie or see the blog <http://jurisdiversitas.blogspot.com>.

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Law, morality and disgust: the regulation of 'extreme pornography' in England and Wales – P Johnson

The legal academic of Max Weber's tragic modernity – P Minkinen

Diglossic Rights in the Lebanese Courtroom – VA Khachan

'A tragedy of monumental proportions': indigenous Australians and the common law again – H Douglas and J Corrin

'Dialogue and debate': labour, constitution and a sense of measure: a debate with Alain Supiot

REF DECISIONS

Who knows when the REF will take place (indeed, if it will take place at all)? But a series of decisions have been made by HEFCE¹ on the back of its consultation document which received 534 responses.² Dave Cowan and Jo Shaw pick out some key issues including potential problems for researchers working in teams and the new universities minister's take on the impact agenda.

What HEFCE has come up with will generally not be particularly startling or surprising to members of the SLSA: retaining the maximum individual return of four outputs and the scoring scale from RAE 2008; a quality assessment based on 'rigour, originality and significance'; a watered-down use of citations (indeed, so watered-down that it is up to the panel whether or not it uses them at all); the ongoing debacle over impact statements which will be subject to a detailed consultation 'later in the year reflecting the experience of the pilots as well as points made in the consultation responses'; the reduction in numbers of main and sub-panels; a commitment to interdisciplinarity and equalities. Most of this will, by now, be well-known to members and, one might say, that the REF is taking shape so that it will be along similar lines to RAE 2008 with an impact twist.

Whilst we await the refinement of the impact criteria, and impact is unlikely to go away, there are a few key issues of which SLSA members should be aware and which may affect their submissions.

The first issue is tucked away at footnote 1 to paragraph 16c on page 3 of Annex A, which reads as follows:

Co-authored outputs may not be submitted more than once within the same submission, but may be submitted more than once in separate submissions (either by different institutions, or in separate submissions from one institution).

SLSA members who work in teams which intend to submit to the same unit of assessment, therefore, cannot submit their multi-authored work as outputs against their different names. Yet, if members of those teams intend to submit to different units of assessment, or work at/move to different institutions, then they can do so.

HEFCE's approach is understandable in a roundabout way as it wants to avoid double-counting, so to speak, but this

sledgehammer is likely to have a differential impact on that which HEFCE, the research councils, and most institutions seem to want to promote. There are, of course, many benefits to joint working with colleagues, quite apart from the benefit to individual outputs, extending to creating a productive environment within the particular school/department.

In relation to other matters covered by the consultation outcomes or initial decisions, members may more generally be interested in the decision not to reduce the number of subpanels but, instead, to maintain the likely number at 30 to 40, and a proposal to create a broadbased interdisciplinary unit of assessment in the social sciences, which seems likely to affect subjects which are related to socio-legal studies such as anthropology. Also, in the context of 'broader panels', HEFCE has indicated a willingness to allow multiple submissions, although this is relatively unlikely to affect socio-legal studies scholars. Of greater interest are perhaps the assurances on interdisciplinary research, and the commitment to cross-panel membership to ensure effective assessment of interdisciplinary work.

Finally, in relation to the impact 'agenda', SLSA members may well have already seen the comments by David Willetts, the new universities minister, made in his first post-election speech, in Birmingham, on 20 May 2010 and reprinted here for ease of reference:

It is important that university research has a positive 'impact' on our economy and our society. Impact, after all, is often what motivates academics, whether they're researching medicine to improve patient care or conducting research in the archives that can transform understanding of our country's history.

However, there is a crucial difference between impact and the impact agenda. I have doubts about the impact agenda proposed for the Research Excellence Framework. It is at risk of being over-managed and over-driven. I'm sceptical as to whether it's methodologically robust, and I'm not clear that it commands the respect of academics. That is why I will be discussing this as a matter of urgency with HEFCE's Alan Langlands and representatives of the academic community.

- 1 See Annex A, HEFCE Circular 04/2010 www.hefce.ac.uk/pubs/circlets/2010/cl04_10/.
- 2 HEFCE 2009/38 www.hefce.ac.uk/pubs/hefce/2009/09_38/.

LEGAL ISSUES CENTRE, OTAGO, NEW ZEALAND

Significant research, aimed at enhancing New Zealand's legal system, is to be conducted at the new Legal Issues Centre at the University of Otago. Kim Economides summarises current and future projects.

The aim of the Legal Issues Centre is to identify promising solutions to the problem of access to justice. These will be presented with a view to shaping policy debates that will, either through action, research, procedural innovation or legislative reform, eventually lead to improvements that ensure law genuinely serves citizens.

The first and second empirical stages of the Court User National Surveys project, which examine perceptions and levels of satisfaction with the current system, are complete. Preliminary results are available on the centre's website. Building on the court user surveys, the Civil Justice Design Research Programme is exploring basic principles and objectives that could, or should, govern the civil justice system.

The project has begun by plotting and mapping the costs and delays litigants experience when entering and passing through the present court system as a prelude to developing alternative approaches that may deliver justice more efficiently and effectively to citizens.

The centre has also recently submitted a national report on costs and the funding of litigation in New Zealand as part of an international project based at the Centre for Socio-Legal Studies and Institute of European and Comparative Law at Oxford University.

There are also projects currently running examining: the problem of trial delay; the 'allocation issue' (the problem of determining how, and where, a dispute should best be sent for its resolution); the work of the Disputes Tribunal; tensions and stress in the legal profession as experienced both through regulatory and litigation processes; the implementation of legal services policy and the political and other interests that promote or prevent law reform taking place; access to legal information; conceptions of procedural justice; and the psychological and physical costs of litigation.

Full information about the centre's work is available at www.otago.ac.nz/law/lic.

THE AGE OF RIGHTS

M Isabel Garrido Gómez, Universidad de Alcalá, introduces a major new human rights project involving 12 Spanish universities and 80 researchers.

The Consolider-Ingenio programme of the Spanish Ministry of Science and Innovation provides major funding for research in Spain. For the first time, in the 2008 call, it has granted funding for the investigation of human rights under the auspices of the HURI-AGE project. The project has been developed by a group of researchers in law. It will run for five years and will be led by the Bartolomé de la Casas Institute for Human Rights at the University Carlos III of Madrid. The project coordinator is Professor Gregorio Peces-Barba who will oversee 12 research groups composed of academics with a wealth of experience in the study of human rights.

What is HURI-AGE?

HURI-AGE is an integrated project which aims to expand the frontier of knowledge in the investigation of human rights, optimise the quality and impact of research results and guarantee their effective transmission to the academic training community as well as to the political, business and social fields.

What are its aims?

HURI-AGE will conduct a comprehensive analysis of the role played by human rights in contemporary societies, identifying goals and challenges and suggesting solutions focused on the consolidation and widening of the rule of law. The project intends to solve the gap that exists in human rights between theory and praxis. This is its most ambitious and innovative feature. From theoretical study, HURI-AGE intends to create measures focused on the implementation of public policies, the design of institutions and the intervention of operators related to human rights. It will suggest answers to the great challenges to human rights in the 21st century and suggest methods of socialisation and education to make society aware of their value.

In this way it will be possible greatly to improve knowledge of the reality of human rights. HURI-AGE plans to use this improvement to transform reality and contribute to the full acknowledgement and the effective implementation of rights in a national and international context.

Who is taking part in the project?

The HURI-AGE team is composed of more than 80 researchers at 12 different Spanish universities: the University Carlos III of Madrid, the University of Alcalá; the University of Seville; the University of Valencia; the University of Saragossa; the University of Cantabria; the University of Deusto; the Institute for Human Rights of Catalonia; the University of Cadiz; the University Jaume I of Castellón; the University of Jaén; and the University of Vigo.

Who is supporting the project?

Dealing with current human rights challenges and establishing a programme of action demands efficient communication with the agents involved in implementing human rights. To guarantee this interaction HURI-AGE intends to involve both public and private sector organisations in the research. They will be known as 'spokesman groups' and will be asked to give a critical and external point of view (as agents of civil society) to the project. They will be kept informed about activities and research and will participate in events and publications, such as seminars, proposals and guides. HURI-AGE is also hoping to liaise with groups and researchers from universities abroad in order to guarantee the quality of the results of the project and its internationalisation. They will be regularly updated on progress.

What are the main strands of the project?

The project has identified 12 areas for research which match up with the main interests of national and European political agendas and with civil society concerns about human rights. These research areas are: rights in the ethical, political and legal context; international organisation and justice; democracy, governance and participation; implementation and effectiveness of human rights; multiculturalism; science and technology; humanitarian action; emerging rights; economic, social and cultural rights; development and environment; vulnerable groups; liberty and security.

How will the project work?

The project is structured around four platforms: research; training; reinforcing; and diffusion, dissemination and transfer. These platforms will cover the 12 areas of research described above and will be integrated by several activities. The research platform will develop integrated themes relating to the main contemporary challenges to rights and will carry out research studies and work to strengthen research structures. The training platform will work to transfer results from HURI-AGE into education – postgraduate and the training of professionals linked to human rights. The reinforcing platform intends to operate transversally touching on the actions which integrate the other platforms reinforcing the quality, competitiveness, internationalisation, visibility and impact of the 12 research groups. Finally, the diffusion, dissemination and transfer platform will create a website and will develop a Latin-American portal on human rights, as well as guides, reports and newsletters about HURI-AGE. Its main function will be to communicate information about the project's activities and research results as well as to promote their transfer from research institutions to the wider enterprise society. Such actions not only constitute an independent goal of the project but are effective instruments in the modification of the social and political reality.

For more details, email prensa@tiempodelosderechos.es or visit the HURI-AGE website (in Spanish) www.tiempodelosderechos.es.

Journal of Law and Society (Autumn 2010)

Articles

Coping with *Conway v Rimmer* [1968] AC 910: how civil servants control access to justice – Maureen Spencer and John Spencer

Shopping in the public realm: a law of place – Antonia Layard
The strategic use of demand side diversity pressure in the solicitors' profession – Jo Braithwaite

Regulating law firm ethics management: an empirical assessment of an innovation in regulation of the legal profession in NSW – Christine Parker, Tahlia Gordon and Steve Mark

The reflexive properties of corporate governance codes: the reception of the 'comply or explain' approach in Slovenia – Nina Cankar, Simon Deakin and Marko Simoneti

Book reviews

Administrative Tribunals and Adjudication by Michael Adler – Peter Cane

Dialectic and Difference: Dialectical critical realism and the grounds for justice by Bill Bowring – Alan Norrie

Between Authority and Interpretation: On the theory of law and practical reason by Tom Campbell – Joseph Raz

'A Great And Noble Occupation!': *The history of the Society of Legal Scholars* by William Twining – Fiona Cownie and Raymond Cocks

IAN MACNEIL 1929-2010

*Our builders were with want of genius curst;
The second temple was not like the first.*

Dryden, 'To Mr Congreve', 13-14

The death of Ian Macneil on 16 February 2010 has brought to an end the life of the common law world's greatest theorist of the law of contract since Fuller. Ian was 80, and had had a life of outstandingly rich and wide-ranging personal, professional and public achievement, the many aspects of which are set out in a number of other notices. In this notice I want to concentrate on his influence on the law of contract.

Ian is, of course, universally recognised as the principal author of the relational theory of contract. Post-war contract scholarship of any lasting value has been concerned to address the shortcomings of the classical law of contract. These shortcomings have been exposed, not only or even principally by formal doctrinal critics, but by socio-legal research into empirical contracting after the fashion of Macaulay, and doctrinal criticism informed by that research. But no matter how much evidence of those shortcomings is accumulated, the classical law will not be refuted until there is a satisfactory rival theory of contract to which those dissatisfied with the classical law can move.

Undoubtedly, a welfarist law which emphasises collectivist rather than individualist values, is eager rather than reluctant to evaluate the social justice of the outcomes of exchanges, and encourages rather than discourages legislative and judicial law-making, has actually become the main rival to the classical law. However, despite attempts systematically to state at least parts of it to which British and European, rather than US, commentators have made the leading contributions, welfarism remains an ad hoc rival. Ian called the US form of welfarist contract 'neo-classical' in order to capture this ad hoc quality, which he criticised very effectively indeed.

In 30 or so of the more than 50 books and articles he published between 1960 and 2000, Ian explains many of the most important empirical features of contracting which cannot be explained by, and so must feature as exceptions to, the classical law, and integrates these features into a coherent and comprehensive theory of contracting, the central concept of which is, not the individual or social justice, but the contractual relationship. If we are moving toward a general awareness that even the simplest contract is not a relationship between two parties, but is the result of their relationship mediated by a third party, the state, which gives effect only to socially understood and politically endorsed intentions, then much of the credit for this must go to Ian. To produce an account of the entire law of contract which articulates this awareness, radically reordering the subject in order to do so, as Ian did in his second *Casebook* and in a set of papers of which 'Restatement (second) of contracts and presentation' and 'A primer of contract planning' are the most important, is a great achievement which invites comparison with the 19th-century textbook writers such as Pollock who gave us the classical law.

I have said that Ian's recognition was universal advisedly. Every competent writer on the common law of contract knows enough to at least cite him, and his work has been extensively discussed across the civilian jurisdictions and in disciplines other than the private law of contract, notably in business studies, institutional economics, organisation theory, and public law and administration. But if, as Barnett has acknowledged, contract scholars 'are all "relationists" now', the reader may have detected in what has already been said that I believe the reception of Ian's work has been disappointing, and I know from personal conversation that Ian felt that disappointment. This was shamefully demonstrated in the way that his last major work of scholarship, a magisterial encyclopaedia on arbitration written with Speidel and Stipanowich, fell almost stillborn from the press.

No doubt the main reason for this disappointment is a capacity of some to see fit to publish without being possessed of an adequate grounding in their subject which it is unseemly to dwell upon here. Ian's commendable willingness repeatedly to restate his views in an attempt to make them more accessible has merely illustrated the wisdom of Schiller: *mit der Dummheit kämpfen die Götter selbst vergebens*. However, there are two reasons for this disappointment which are of theoretical interest. First, the two most ambitious statements of Ian's thinking, 'The many futures of contract' and *The New Social Contract*, were preoccupied not with his views on contract doctrine, but with his social theory of exchange. This bringing of social theory to the forefront was theoretically principled and brave, but a tactical mistake. The situation was not helped because Ian's social theory of exchange has not flourished. He failed to appreciate how close what he was doing was to the social exchange theory associated particularly with Homans and Blau, interest in which really was drawing to an end just as Ian published 'The many futures'. At a very general level, exchange theory is indisputable, but, given usefully concrete meaning, it reproduces the conceptions of exchange which constitute rational economic action, treating them as if they were universal, and it is ironic that Ian, who fairly can be said to have held much of the work of the Second Chicago School in very low esteem indeed, coupled himself to a theory that has mainly survived only as a precursor of rational choice theory.

Second, and much more important, Ian's relational theory of contract is radically different from the welfarist theory, and that this is the case is very inadequately appreciated. The typical interpretation of Ian's work sets up a category of 'relational contracts' which turn on intentional co-operation between the parties and so pose particular problems for the classical law of contract, which, as the legal institutionalisation of neo-classical economics, conceives of parties as self-interested in the most narrow way. This interpretation is right insofar as it goes, for the relational theory does explain these contracts far better than the classical law, but it is a limited understanding of Ian's achievement. The relational theory exposes the co-operative normative structure common to all contracts, along a spectrum ranging from the most discrete to the most, as Ian came to say, intertwined. (His earlier use of 'relational' to describe a quality of all contracts and also a quality defining a specific set of contracts was an unhappy source of confusion.) The relational theory is not a theory applicable only to intertwined contracts which complements the classical law appropriate to discrete contracts. It is a general theory of contract which provides a superior understanding even of discrete contracts to that provided by the classical law.

In this way, a major achievement of the relational theory is that it gives self-interest a sound role in the law of contract. Whilst more or less all the norms of the law of contract must appear as a plethora of exceptions to narrowly conceived self-interest of the parties envisaged in the classical law, Ian shows these norms to be essential conditions for the continuing general exercise of self-interest, and a contracting party must acknowledge and respect those norms if he or she is to utilise the law of contract in order to participate in market exchange. But, the point is, this socially self-conscious self-interest is at the core of the relational theory. Self-interest takes many forms along the spectrum of contracts, according to the emphasis parties place on relatively discrete or relatively intertwined norms in the course of their relationship, and Ian's main lesson for contract planning is that parties should ensure that the contract gives effect to their specific normative stance, which may require ouster of default rules appropriate to other contracts and the supply of bespoke terms and understandings. But over the entire spectrum of contracts, the identifying features of the classical law that made it so attractive but which it could not sustain – in essence freedom of contract, sanctity of contract, and reward by desert – are realised in adequate forms in the relational theory.

This is in contrast to the welfarist law, in which these features are accepted because it is perforce acknowledged that markets cannot be eliminated, but the entire dynamic is towards exogenous regulation of markets, with the paradoxical result that many of those doing the most innovative work in contract theory are really people out of sympathy with the values of market order. Very fine work has been and is being produced along welfarist lines, but so also is a worrying and unattractive policing and reform of the law of contract in pursuit of exogenously determined criteria of social justice, when the core of contract is the endogenous production of its own criteria of fairness in the intentions of the parties. In some recent law and commentary, the point has actually been reached in which the welfarist law is outright less theoretically coherent and less normatively attractive than the classical law, and this would appear to be its trend.

This inevitably has led to a reaction. In the Commonwealth, this predominantly has taken the form of a retreat into doctrinal and philosophical abstraction and formalism which seems to offer nothing of value for the development of the law of contract. In the US, a considerably more sophisticated and relevant neo-formalism, which the relational theory must accommodate, nevertheless is reasserting aspects of law and economics which gain no more palatability just because the welfarist alternative seems little or no better.

If the relational theory is understood as the theory only of intertwined contracts, it is impossible to distinguish it from welfarism. But Ian's intention was not welfarist. He placed great weight on the aspiration of the classical law, and his criticisms of it are of its failure to realise that aspiration. The relational theory should not be rejected by those who maintain the values of the classical law. It is an attempt adequately to state the conditions for the realisation of those values for the entire spectrum of contracts. But there has been no work done since Ian last wrote which has adequately built upon what he has done to demonstrate this.

It was the genius and the curse of Ian Macneil as a theorist of the law of contract that he saw not merely beyond the classical law of contract but beyond the welfarist law which has come to be its main, arguably inferior but certainly inadequate, rival. There is no more important task facing us now working in the field than continuing our efforts to catch up with him.

I am very pleased and honoured to be able to conclude by taking the opportunity to acknowledge my personal debt to Ian for his kindness towards my own efforts to develop his thinking. It may convey something other notices perhaps have not entirely conveyed about the John Henry Wigmore Professor of Law Emeritus and the Macneil of Barra, 46th Chief of the Clan Macneil, if I tell the reader that this kindness was first shown in an incredibly generous reply to a letter sent to the office, in one of the US's leading law schools, of one the common law world's leading scholars, by a very young lecturer completely unpublished in contract, writing from a polytechnic of which Ian could not possibly have heard. Not every person of Ian's distinction would have written that, or indeed any, reply. This generosity was unflinchingly extended over 25 years.

David Campbell, Lynesack, County Durham, 28 May 2010

socio-legal people . . .

AMANDA PERRY-KESSARIS is leaving Birkbeck this summer to take up a Chair in International Economic Law at SOAS in September. JONATHAN GARTON moved from King's College to the Charity Law Unit at the University of Liverpool on 1 May 2010. SUSANNE KARSTEDT has recently been appointed Professor of Criminology at the Centre for Criminal Justice Studies, University of Leeds e s.karstedt@leeds.ac.uk. PROFESSOR PHIL THOMAS has retired after 40 years at Cardiff University and has been made Emeritus Professor. He is founding editor of the *Journal of Law and Society* and continues in the post of editor. DERMOT FEENAN, University of Ulster, has received a grant from the Society of Legal Scholars to conduct a research project on: 'Women and judicial appointments in Ireland - a pilot survey'.

● ROYAL INSTITUTE OF CHARTERED SURVEYORS - LEGAL RESEARCH SYMPOSIUM: CALL FOR PAPERS

2-3 September 2010: Dauphine University, Paris

The Royal Institution of Chartered Surveyors COBRA 2010 research conference will feature a legal research symposium organised by the Working Commission on Law and Dispute Resolution. Visit www.cobra2010.com/.

● INTERNATIONAL ROUNDTABLE FOR SEMIOTICS OF LAW

3-6 September 2010: Poznan, Poland

Conference theme: Legal Rules, Moral Norms and Democratic Principles. www.springer.com/law/journal/11196.

● POSTGRADUATE AND EARLY CAREERS WORKSHOP

9 September 2010: University College Cork

Speaker: Professor Lois McNay. Theme: Subjects before the law: membership, recognition and the religious dimensions of women's citizenships. Contact Eoin Daly e e.m.daly@student.ucc.ie or Máiréad Enright e maireadenright@gmail.com.

● THINKING CRITICALLY ABOUT ANALYSIS: DEVELOPING ANALYSIS AND CONCEPTUAL INSIGHTS IN SOCIAL RESEARCH

13 September 2010: University of Leeds

One-day event for postgraduate and postdoctoral researchers. For queries relating to the academic content, email Rachael Dobson, e r.dobson00@leeds.ac.uk For queries relating to event administration, email Marie Johns e m.b.johnson@leeds.ac.uk.

● SOCIETY OF LEGAL SCHOLARS CONFERENCE: THE HUMAN RIGHTS ACT 10 YEARS ON

13-16 September 2010: University of Southampton

Speakers include Lord Justice Sedley of the Court of Appeal and Lord Reed of the Court of Session. www.legalscholars.ac.uk.

● RE-ENGINEERING THE CORPORATION: ESRC SEMINAR SERIES

16-17 September 2010: Queen's University Belfast

The first seminars took place in London in March and Newcastle in May. This is the concluding event. See <http://blogs.qub.ac.uk/corpgov/the-seminars/belfast/>.

● FROM SCHOOL EXCLUSION ORDERS TO ANTI-TERROR LAWS

22 October 2010: IALS, London

Organised by SOLON, the Institute of Advanced Legal Studies and the Centre for Contemporary British History. The aim is to initiate a wide-ranging discussion on human rights issues in the context of their management via the law. Themes include: public immunity and secret evidence; the legal process and the war on terror; policy-making, ASBOs, control orders and citizenship or individual rights. www.sas.ac.uk/events/view/7591.

● CONFERENCE ON EMPIRICAL LEGAL STUDIES

5-6 November 2010: Yale Law School, New Haven, Connecticut, USA

Annual conference of the Society for Empirical Legal Studies, an international organisation whose members are interested in empirical and experimental research related to law. There will be a programme to help defray the cost of attending for presenters travelling from schools without budgets to cover conference expenses. Applications will be taken in September 2010. www.law.yale.edu/news/cels.htm

● LEARNING IN LAW ANNUAL CONFERENCE (LILAC11)

28-29 January 2011: University of Warwick.

Further details to be published when available.

www.ukcle.ac.uk/newsevents/lilac/index.html

● CMCL-CENTRE FOR MEDIA AND COMMUNICATIONS LAW - MEDIA, COMMUNICATIONS AND PUBLIC SPEECH: CALL

25-26 November 2010: University of Melbourne Law School

Plenary speakers: Professor Eva Hemmungs Wirtén, Uppsala University, Sweden; Professor Peter K Yu, Drake University Law School, US. Papers are invited from researchers in law, media studies and related fields. Work on interactions of public speech and media and communications law and policy is particularly welcome. Call closes: 1 August 2010. Submissions to e law-cmcl@unimelb.edu.au. Selected papers will be considered for *Media and Arts Law Review*. www.law.unimelb.edu.au/cmcl/

Anomie and Violence: Non-truth and reconciliation in Indonesian peacebuilding (2010) John Braithwaite, Valerie Braithwaite, Michael Cookson and Leah Dunn, ANU E Press, free to download w <http://epress.anu.edu.au> or A\$29.95 hard copy
This is the first volume from the Peacebuilding Compared Project. Indonesia suffered an explosion of violence in the late 1990s and early 2000s. By 2002, it had the worst terrorism problem of any nation. All forms of violence have now fallen dramatically. How was this accomplished? What drove the rise and the fall of violence? Anomie theory is deployed to explain these developments. Valerie Braithwaite's motivational postures theory is used to explain the gaming of the rules and the disengagement from authority that occurred in that era.

Rethinking Rape Law: International and comparative perspectives (2010) Clare McGlynn and Vanessa E Munro (eds), Routledge £85 368pp

This is a comprehensive and critical analysis of contemporary rape laws, across a range of jurisdictions. In a context in which there has been considerable legal reform of sexual offences, the book engages with developments spanning national, regional and international frameworks. It is only when we fully understand the differences between the law of rape in times of war and in times of peace, between common law and continental jurisdictions, between societies in transition and societies long-inured to feminist activism, that we are able to understand and evaluate current practices, with a view to change and a better future for victims of sexual crimes.

Multi-Owned Housing: Law, power and practice (2010) Sarah Blandy, Ann Dupuis and Jennifer Dixon (eds), Ashgate £60 264pp

This international and interdisciplinary edited collection provides the first comparative study of multi-owned residential developments, now established as a common type of housing throughout the world albeit with different legal frameworks. The roles and relationships of power between developers, managing agents and residents are examined using theoretical approaches from sociology, law and planning. The volume's comparative approach enhances its insights into important governance issues, including state regulation and environmental sustainability, which are raised by the sociological and legal implications of owning and managing multi-occupied residential developments.

International Humanitarian Law and the International Red Cross and Red Crescent Movement (2010) Aldo Zammit Borda, Routledge £80 224pp

This book provides a key reference on the role of the Commonwealth and its member states in relation to international humanitarian law (IHL). It provides insights in the implementation of IHL in Commonwealth states and, particularly, the challenges faced by small states. It examines the progressive development of IHL in the Commonwealth and provides an analysis of some of the landmark decisions emerging from the Special Court for Sierra Leone. This book is based on a special issue of *Commonwealth Law Bulletin*.

New Governance and the European Employment Strategy (2010) Samantha Velluti, Routledge £80hb 328pp

In recent years new or experimental approaches to governance in the EU, namely the open method of coordination (OMC), have attracted great interest and controversy. This book examines the European Employment Strategy (EES) and its implementation through the OMC, exploring the promises and limitations of the EES for EU social law and policy and for the safeguarding of social rights. This significant and timely work offers new insights and fresh perspectives into the operation of new governance and its relationship with both European and national law and constitutionalism. It will be of interest to academics, researchers and postgraduate students working in European law and European governance studies in general.

Men, Law and Gender: Essays on the 'man' of law (2010) Richard Collier, Talyor & Francis £63.75hb 292pp

This book presents the first published comprehensive overview and critical assessment of the relationship between law and masculinities. It provides a general introduction to the subject whilst engaging with the difficult question of what it means to speak of the masculinity of law in the first place. Building on recent sociological work concerned with the relational nature of gender and personal life, the book argues that social, cultural and economic changes have reshaped ideas about men and masculinities in ways that have significant implications for law. Bringing together voices and disciplines that are rarely considered together, it explores the way ideas about men have been contested and politicised in the legal arena. Including original empirical studies of male lawyers, the legal profession and fathers' rights and law reform, alongside discussions of university law schools and legal academics, and family policy and parenting cultures, it provides a unique insight into the relationship between law, men and masculinities.

A Guide to International Law Careers (2010) Anneke Smit and Christopher Waters, British Institute of International and Comparative Law £25 70pp

This guide explores the options available to law graduates beyond traditional or domestic law career paths. The range of possible careers is vast – from human rights to investment law and from the courtroom or boardroom to the refugee camp – and the guide offers a step-by-step approach to considering whether and how to pursue a career in one of these areas. The essential message is that international law jobs are out there and attainable if approached strategically and with perseverance.

Land Law Directions 2nd edn (2010) Sandra Clarke and Sarah Greer, Oxford University Press £29pb 528pp

The unique use of diagrams, photographs and boxes in the book breaks down this complex subject into manageable sections and is well suited to the visual learner. Content has been carefully tailored to fit to undergraduate modules and offers good coverage of all the topics taught on a first course in land law. The final chapters offer a practical aid to the student – 'completing the puzzle' by linking all the topics together and offering invaluable advice on revision and exam technique. The book is supported by an extensive accompanying website with a wealth of extra material for both students and lecturers.

Governing Independence and Expertise: The business of housing associations (2010) Morag McDermont, Hart £30/€39pb 202pp

This book tells the story of the not-for-profit housing sector in England, focusing on its representative body, the National Housing Federation. The story tells of how the federation and associations influenced their own space of governing through deploying discourses of independence and expertise; how being governed, and governing, become, at times, one and the same.

Journals

The first issue the *Journal of Human Rights and the Environment* is now available. Co-editors in chief are Anna Grear and Karen Morrow. It is a bi-annual journal covering the links and tensions between human rights and environmental issues, regulation and rights. w www.e-elgar.co.uk/jhre

Rebecca Wong, Nottingham Law School, has recently completed a co-edited guest issue with Joseph Savirimuthu, Liverpool Law School, of the *International Journal of Intellectual Property Management* 2008/9 on identity, privacy and new technologies. In two parts, the first consists of contributions from international legal scholars and practitioners on various topics concerning the individual's identity; the second is devoted to analysing the paradox of identity management systems. w www.inderscience.com/browse/index.php?journalID=83

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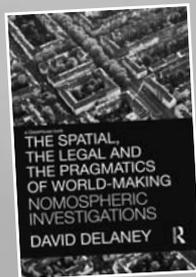
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Honour, Violence, Women and Islam Edited by Mohammad Mazher Idriss and Tahir Abbas

Why are honour killings and honour-related violence so important to understand? What do such crimes represent? And how does honour-related violence relate to Western views and perceptions of Islam? This intriguing book provides a collection of papers examining the concept of honour related violence against Muslim women.

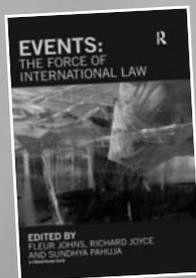
July 2010: 240pp
Hb: 978-0-415-56542-4: ~~£75.00~~ £63.75



The Spatial, the Legal and the Pragmatics of World-Making Nomospheric Investigations David Delaney

Critical legal geography is practised by an increasing number of scholars in various disciplines, but it has not had the benefit of an overarching theoretical framework that might overcome its currently rather ad hoc character. The Spatial, the Legal and the Pragmatics of World-Making remedies this situation. Presenting a balanced convergence of contemporary socio-legal and critical geographic scholarship, David Delaney offers a ground-breaking contribution to the fast growing field of legal geography.

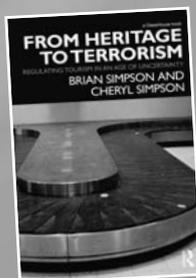
June 2010: 224pp
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Events: The Force of International Law Edited by Fleur Johns, Richard Joyce and Sundhya Pahuja

This book presents an analysis of international law, centred upon those historical and recent events in which international law has exerted, or acquired, its force.

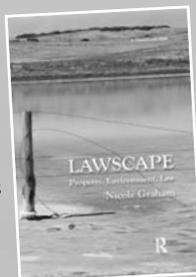
September 2010: 288pp
Hb: 978-0-415-55452-7: ~~£80.00~~ £68.00



From Heritage to Terrorism Regulating Tourism in an Age of Uncertainty Brian Simpson and Cheryl Simpson

From Heritage to Terrorism: Regulating Tourism in an Age of Uncertainty takes a critical approach to the role of the law in shaping and defining tourism and the tourism experience. It utilizes a range of legal documents and materials from across a variety of disciplines to achieve its objectives.

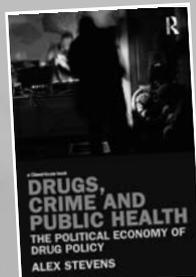
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Hb: 978-0-415-42559-9: ~~£75.00~~ £63.75



Lawscape Property, Environment, Law Nicole Graham

Addressing law's relationship to land and natural resources through its property regime, *Lawscape: Property, Environment, Law* considers the ways in which property law transforms both natural environments and social economies.

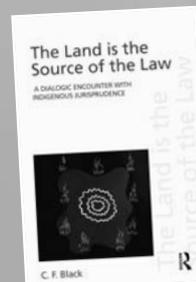
July 2010: 226pp
Hb: 978-0-415-47559-4: ~~£75.00~~ £63.75



Drugs, Crime and Public Health The Political Economy of Drug Policy Alex Stevens

This book provides an accessible but critical discussion of recent policy on illicit drugs. Using a comparative approach - centred on the UK, but with insights and complementary data gathered from the USA and other countries - it argues that problematic drug use can only be understood in the social context in which it takes place.

September 2010: 224pp
Hb: 978-0-415-49104-4: ~~£75.00~~ £63.75



The Land is the Source of the Law A Dialogic Encounter with Indigenous Jurisprudence C.F. Black

The Land is the Source of the Law brings an inter-jurisdictional dimension to the field of indigenous jurisprudence: comparing Indigenous legal regimes in New Zealand, the USA and Australia, it offers a 'dialogic encounter with an Indigenous jurisprudence' in which individuals are characterised by their rights and responsibilities into the Land.

September 2010: 192pp
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