

Socio-Legal NEWSLETTER No 63 SLSA

THE NEWSLETTER OF THE SOCIO-LEGAL STUDIES ASSOCIATION

SPRING 2011

CHANGES TO SLSA EXECUTIVE COMMITTEE

The SLSA chair, Sally Wheeler, and vice chair, Dave Cowan, will be standing down from their posts at the AGM on **13 April 2011**. Both Sally and Dave have devoted considerable time, passion and energy over the years on behalf of the SLSA and their contributions will be sorely missed. The SLSA Executive Committee would like to thank them on behalf of the membership and wish them well for their future undertakings.

Thanks are due to four other members of the Executive Committee who are also leaving at the AGM. Rosemary Auchmuty, Nicole Busby, Caroline Hunter and Helen Stalford have all freely given of their time and considerable talents to advance the work of the SLSA in recent years.

Elections

Elections for the chair and other vacancies on the Executive Committee will take place at the AGM. Arrangements for nominations will be announced via the SLSA Jiscmail mailing list. If you have any queries about the elections or about the role of committee members, please contact SLSA secretary Amanda Perry-Kessaris. e a perry-kessaris@soas.ac.uk

Note: the SLSA AGM will take place on Wednesday **13 April 2011** during our conference at the University of Sussex.

SLSA PRIZE SHORTLISTS

Congratulations to all shortlisted authors. Winners will be announced before the annual conference where they will take part in author-meets-reader sessions.

SLSA-Hart Socio-Legal Book Prize

- David Garland (2010) *Peculiar Institution: America's death penalty in an age of abolition*, Oxford University Press;
- Rosie Harding (2010) *Regulating Sexuality: Legal consciousness in lesbian and gay lives*, Routledge;
- Morag McDermont (2010) *Governing Independence and Expertise: The business of housing associations*, Hart.

Socio-Legal Article Prize

- Emily Grabham, 'Governing permanence: trans subjects, time, and the Gender Recognition Act' (2010) *Social and Legal Studies* 19:107-26;
- Antonia Layard, 'Shopping in the public realm: a law of place' (2010) *Journal of Law and Society* 37:412-41;
- Jean-Louis Van Gelder, 'Tales of deviance and control: on space, rules, and law in squatter settlements' (2010) *Law and Society Review* 44: 239-68.

SLSA CELEBRATES ITS 21ST BIRTHDAY IN BRIGHTON

This year's SLSA annual conference is being hosted in Brighton by the University of Sussex: **12-14 April 2011**.

The successful 'themes and streams' format introduced last year is being repeated. This year's six themes are:

- auditors, advocates and experts: monitoring, negotiating and (re)creating rights;
- challenging ownership: meanings, space, time and identity
- criminalising commerce?;
- modalities of law, violence and state practice in South Asia
- socio-legal approaches to international economic law: text, subtext, context;
- systems, complexity and autopoiesis: critical perspectives and applications.

There are also 24 subject streams and two plenary sessions. This year's main plenary, given by Edwin Cameron, Justice of the Constitutional Court of South Africa, will take place on Wednesday **13 April 2011** at 2pm.

Special plenary session – Socio-legal studies: past present and future

As the 21st birthday of the SLSA approaches, we have invited a number of keynote speakers to reflect on the history of law and society scholarship in the UK, the directions it has taken since the SLSA was first established, and the new directions it might take in the years to come. Following on from the recent SLSA one-day conference on what constitutes the 'socio' in socio-legal studies (see page 3), the session will explore the changing boundaries of socio-legal studies, and its interface with the humanities and with empirical, doctrinal and critical scholarship. It will also consider shifts in thinking about institutional support for socio-legal studies and where the future might lead in this regard. This special plenary session will be held at 4.30pm on Tuesday **12 April 2011**, immediately prior to the drinks reception and prizes ceremony.

Contacts

The conference programme is now available on the website: **w** www.sussex.ac.uk/law/newsandevents/slsa-conference. Send queries to the organisers at **e** slsaconference@sussex.ac.uk.

The newsletter needs your contributions

News and feature articles are always needed for the newsletter, plus information about books, journals and events. The next deadline is **23 May 2011**. Contact the editor Marie Selwood **e** marieselwood@btinternet.com or **t** 01227 770189.

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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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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.

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SLSA POSTGRADUATE CONFERENCE 2011

The latest SLSA postgraduate conference took place in January at the London School of Economics. Fifty student delegates attended the daytime sessions and social evening. Socio-legal academics joining organiser Linda Mulcahy to offer guidance and advice were Tony Bradney, Dave Cowan, Fiona Cownie, Julie McCandless and Sally Wheeler. Recent SLSA recruit Francis Moor from the University of Salford was there.

As a new member of the SLSA, I was not sure what to expect when I registered to attend this year's SLSA postgraduate conference. I had heard about the conference through the *Socio-Legal Newsletter* and, as a law student in a non-law institution, I relished the opportunity to engage with other researchers and academics involved in socio-legal research. My initial impressions of the venue were very positive and the warm welcome and efficiency of conference organiser, Linda Mulcahy, soon put me at ease.

I had been aware that the conference was heavily oversubscribed and, after the initial sessions, it was easy to see why. The content of presentations was interesting and accessible and the delivery was skilled, allowing for interaction throughout. The programme was impressive, especially for early career academics, and consolidated the most significant aspects of our potential research and career paths.

Sessions included: information pertaining to career planning; guidance on presenting at conferences and getting published; managing the supervisor relationship; and surviving the viva. Although I have been fortunate to receive university training in some of these topics, it was very interesting to have it presented in a way immediately relevant to socio-legal researchers and I couldn't help wishing that I had attended this conference in my first year of studies.

All of the presentations were delivered by academics who were passionate about their own research interests, knowledgeable about the scope of socio-legal academia, and interested in us as researchers and colleagues. This left me with an overall impression of a conference full of humour, encouragement and information, which was especially reassuring in a time of increasing competition for posts and extra pressure on university resources.

As someone who finds the word 'networking' loathsome, I was relieved that the coffee breaks proved to be a pleasant and informal way of meeting fellow attendees and I was staggered by the breadth of research interests that were being discussed. It was very refreshing to be amongst people who are investigating 'real-life' aspects of law and the passion and enthusiasm behind the diverse research objectives was evident. Another opportunity to share research interests (and flatbread) arose at the evening meal, a wonderful Turkish banquet at a local restaurant, which was provided as part of the conference.

I thoroughly enjoyed every aspect of this conference and I wish that more conferences could be this relaxed, yet informative and efficient. I'm already looking forward to reconnecting with some of my colleagues at the SLSA Conference in April – see you in Brighton!

socio-legal people . . .

PROFESSOR MICHAEL GUNN has been appointed vice chancellor of the University of Staffordshire. He took up his post in January 2011. **CHRIS ASHFORD** has been promoted to reader in law and society at the University of Sunderland.

EXPLORING THE 'SOCIO' OF SOCIO-LEGAL STUDIES

Dermot Feenan, academic coordinator, reports on this ground-breaking SLSA one-day conference, held at the Institute of Advanced Legal Studies on 3 November 2010. The conference aimed to provide an opportunity to explore the meanings and implications of the 'socio' aspect of socio-legal studies and to lay out potential for future study.

Sixty-five delegates registered for the London conference, hosted by the SLSA, with the support of the Institute of Advanced Legal Studies.

Guest speaker, Professor Susan Silbey, of Massachusetts Institute of Technology, delivering the keynote presentation, examined the 'socio' of socio-legal studies by discussing relational interdependence, transparency and consensus in socio-legal studies.

An invited panel of academics addressed the conference theme respectively from their distinct disciplinary backgrounds. Professor John Clarke, professor of social policy, Open University, discussed the contested nature of the social. Professor Nicola Lacey, senior research fellow, All Souls, Oxford, examined the 'socio' with particular reference to her work on gender relations, illuminated through reference to history, law and literature. Professor Sally Munt, professor of cultural studies, University of Sussex, introduced the concept of the 'queer social'.

Seven papers were also presented; selected from a call for papers that generated submission of 28 abstracts worldwide. Presenters were: Professor Panu Minkinen (Leicester); Professor David Nelken (Macerata); Professor Alan Norrie (Warwick); Professor Reza Banakar (Westminster); Dr Julia Shaw (De Montfort); Professor Hilary Sommerlad (Leicester) and Drs Jacqueline Vel and Adriaan Bedner (Leiden).

Papers ranged widely from highly theoretical discussions, through more general discursive conceptual approaches, to those reflecting on the 'socio' with reference to the challenges and insights thrown up through empirical study or praxis.

Almost all papers from the conference, plus several commissioned papers, are under consideration for publication in book form as *Exploring the Socio: Socio-legal studies*.

For further details contact Dermot Feenan dermotfeenan@yahoo.com.

SLSA membership fees

SLSA membership fees will increase for the first time in 10 years on **1 July 2011**. The new rates will be £40 for full members and £20 for postgraduates and students. Those who are no longer students are reminded that they need to upgrade their membership. If you have any queries about membership, please contact Julie McCandless j.m.mccandless@lse.ac.uk.

SLSA membership benefits

- three 16–20pp newsletters per year
- discounted SLSA conference fees
- weekly e-bulletin
- personal profile in the online directory
- eligibility for grants, competitions and prizes
- members' priority in newsletter publications pages
- discounted student membership
- . . . and much more.

Visit www.slsa.ac.uk.

SLSA GRANTS 2010–11

This year the research grant committee awarded four grants totalling £5267.65. Here, we announce the new awards and publish project reports by three researchers from the previous round.

The full list of awards for 2010–2011 is:

- Daniel Monk, Birkbeck, London, £717.90 – Writing wills/dealing with intestacy: gay and lesbian perspectives;
- Lisa Dickson, University of Kent, £1279.80 – The NHS and s 29 of the Data Protection Act 1998;
- Antonia Layard, University of Cardiff and Matthew Humphries, Kingston University, £1726 – From the new deal to localism: local law in practice;
- Anthea Hucklesby, University of Leeds, £1543.95 – Pre-charge police bail: an investigation of its use and its effectiveness in the police investigation process.

‘An unreliable process’: welfare rights advisers’ experiences of Employment and Support Allowance

Jackie Gulland, University of Stirling, £1,140

Background

This research concerned the introduction of Employment and Support Allowance (ESA), the new benefit for people unable to work because of ill health. One of the key principals of ESA is that most recipients are expected to prepare themselves for work, with sanctions for failing to undertake ‘work-related activities’ without good cause. However, it has become clear that the main concern with ESA is not this conditionality but the very large numbers of people failing to qualify for the benefit at all: around two-thirds of those who complete a claim are found ‘fit for work’. It had always been a policy intention that fewer people would qualify for ESA than for its predecessor, Incapacity Benefit, but there have been increasingly critical reports from third-sector organisations claiming that the processes for decision-making in ESA are unjust. Given these reactions, the focus of the research was on welfare rights advisers’ experiences of ESA. Advisers have frontline experience of the difficulties encountered by benefits claimants as well as knowledge of appeals processes. The main findings relate to the different kinds of evidence used in decision-making processes and the role of advice workers in supporting claims.

Methodology

The research involved qualitative interviews with 18 advice workers from 14 organisations during June and July 2010. Organisations were identified using a snowballing technique to cover a range of types of agency, including those that specialised in advising particular client groups and those with expertise in appeals work. Information was also gathered from reports from national campaigning organisations and from policy documents. Interviews with advisers proved to be a useful way of gaining an overview of the issues, while providing in-depth information on the everyday experiences of claimants and the role of advisers in the process. Additional material and support for many of the findings was provided by the *Independent Review of the Work Capability Assessment*, published in December 2010 (Harrington 2010). The small grant paid for travel and telephone expenses and for interviews to be transcribed. It will also pay for further dissemination of the findings amongst third-sector and policy organisations.

Findings

The main findings concerned the process of assessment and decision-making in ESA claims. Advisers were critical of the

principles behind ESA and the various ways in which the rules had been tightened to reduce the number of successful claims. However, the biggest concern lay with the medical assessments used to assess all claims. Advisers believed that the medical assessments are perfunctory, inadequate and fail to take into consideration the claimant’s own account of their problems or any supporting evidence provided by GPs or other professionals. This concern about medical assessments was linked to the role of ‘evidence’ in decision-making. There was an almost unanimous view that decisions on whether or not to award ESA were made on the basis of the medical report alone, with little regard for other evidence. This is backed up by the Harrington review which found that in 98 per cent of cases, decision-makers follow the advice of the medical assessors (Harrington 2010). Advice workers’ concern about the inadequacy of the medical reports meant they believed that too many wrong decisions are being made. These views, on the role of medical assessments and evidence used in decision-making, raise important questions about administrative justice. For further discussion of this aspect of the research, see Gulland (2011).

Another focus of the research concerned the role of advisers. They were involved during the whole claims process: being consulted about initial claims; helping with filling in forms; advising about decision letters and options available to those refused the benefit; drafting appeals; collecting additional evidence; and representing at tribunal hearings. At every stage, advisers emphasised claimants’ confusion and stress as to what was happening to them and their own role in helping to ease this. This ranged from explaining more clearly to claimants what their position was, as many were very confused, to highly technical advice relating to getting medical evidence through the legal aid system and representing at tribunal hearings.

Advisers were concerned about the impact on claimants throughout the process. The problems included severe financial difficulties and the negative effects on claimants’ health because of the stress that the process creates, even for ‘successful’ claims. When ESA was introduced it applied only to new claims. However, from October 2010, all Incapacity Benefit claimants are being ‘migrated’ to ESA. Advisers expressed considerable concern over the effects of this migration on benefit claimants and on workload for the Department for Work and Pensions, the administration of appeals and for their own organisations. While this research revealed little about the effect of increased conditionality in ESA, this issue may well resurface once larger numbers of claimants are subject to the new rules.

Outputs and dissemination

A preliminary report was sent to all participants in the research and this will be followed up by a final report which will go to a wider range of organisations. The research has resulted so far in one journal article (Gulland 2011) and a conference paper at the SLSA conference in April 2011, “‘Quoting the law’ and ‘knowing what’s relevant’: welfare rights advisers’ use of knowledge in the advice relationship’.

Future research

The research was intended as a scoping study which would be used to develop further funding applications. The findings suggest many areas for research relating to the process of decision-making in benefits claims, the role of advisers and the effects of these processes on claimants and their families. Proposals for further funding applications are under consideration with colleagues.

References

- Gulland, J (2011) ‘Ticking boxes – decision making in Employment and Support Allowance’, *Journal of Social Security Law* (forthcoming)
- Harrington, M (2010) *An Independent Review of the Work Capability Assessment*, London, The Stationery Office

Individual trial reports – what do they tell us about juries?

Níamh Howlin, Queen's University Belfast, £638.80

My SLSA grant funded a research trip to London to access materials in the British Library and Senate House Library. I found more material than expected and ultimately spent two weeks in London in July 2010. I also visited the library at the Institute of Advanced Legal Studies.

My research area is legal history; specifically, the nature and development of juries in nineteenth-century Ireland. Each of the libraries mentioned holds a number of individual reports of criminal and civil trials from nineteenth-century Ireland, many of which are unavailable in Irish libraries. These reports vary in length and tend to provide a level of detail not usually found in collections of law reports, listing, for example, jurors' names, religious or political affiliation, social status, as well as various jury procedures, such as the calling-over and swearing-in of jurors and the operation of jury challenges.

These reports are extremely useful for shedding light on the manner in which both civil and criminal jury trials were conducted and identifying common problems and key figures in jury reform. This trip was essentially speculative; I wanted to see what these reports could tell me about the Irish jury system.

I used Microsoft Access to compile a database of the reports consulted, allowing me to sort them by name, type, date, location, court, etc. I also input such information as: length of report; length of trial; length of the jury's deliberations; whether jurors' names, addresses or other details were given; number and nature of any jury challenges; whether jurors asked questions during the trial; whether they were obliged to remain locked up overnight, and so on. It is hoped to build on this database over time to develop a more coherent picture of the

nineteenth-century Irish jury system. This will be done by visiting libraries and archives around Ireland and the UK, as well as accessing the increasing number of trial reports available electronically and online.

At this stage there are some tentative observations that can be made about the data. For example, in 88 per cent of reports studied, jurors' names were stated in the report, and in 19 per cent occupations were stated. This provides greater insight into the composition of juries than can be gleaned from a mere reading of the legislatively prescribed juror qualifications. Furthermore, of the Dublin cases where jurors' names were given, there are a number of instances of the same men serving repeatedly. Another interesting aspect relates to jury challenges. Specifics about the number of jurors challenged or ordered to stand aside should help to establish whether the frequent claims of 'jury packing' in nineteenth-century Ireland were in fact exaggerated, as is sometimes suggested.

One of the most interesting things to emerge is the frequency with which Irish jurors participated in the trial (whether civil or criminal). They directly questioned witnesses, advised counsel how to conduct the case, asked the judge to recall witnesses, and generally made their presence felt. Previous scholarship has suggested that English jurors moved away from this sort of active participation by the mid-eighteenth century. By analysing these cases and building upon this database, I hope to establish whether or not the same could be said for Irish jurors. It would appear at this stage that juror participation – particularly the direct questioning of witnesses – continued to be widely accepted in Irish courts for another century at least.

I plan to present a paper based on this research at the British Legal History Conference in July 2011. I am grateful to the SLSA for funding the research trip to London.

Public attitudes to the death penalty in England and Wales c. 1930–65

Lizzie Seal, University of Durham, £1383.40

Purpose of the award

The grant funded six exploratory visits to London (two each to the National Archives, the British Library and the British Library Newspaper Library) for a project that aims to qualitatively research public views on the death penalty in the mid-twentieth-century. These visits were necessary to identify which sources were available and which were suitable. The National Archives houses the Home Office files of capital prisoners, which contain letters from members of the public sent to Home Secretaries regarding the cases. These were envisaged as the main source for the project, but there were also plans to consult contemporary newspapers and access recordings of oral history interviews from the British Library Sound Archive.

Use of the funding

Funding for the larger project was secured from a British Academy grant. The main period of data collection took place during March to August 2010. The SLSA grant funded preliminary visits to the National Archives to identify which cases from the period of study would be selected for in-depth analysis. This involved calling up every available file concerning capital prisoners from the period. There were two reasons for this: to identify which cases attracted a substantial number of letters from the public; and to gain an overview of the application of the death penalty during this period. Notes were made on the main details of each case (including gender, age and ethnicity of murderer and victim, place of murder, whether there was a reprieve or execution). From these cases, 25 have been selected for in-depth analysis, with consideration given to

gaining a range from across the time period. Cases were chosen according to the number of responses generated, in the form of letters from the public. They include some of the most well-known cases from the era, such as William Joyce, Derek Bentley, John Christie and Ruth Ellis, and others that are less familiar.

A scoping visit was made to the British Library to access oral history interviews from the Sound Archive – relevant interviews had been identified from the catalogue. However, upon listening to them, it became clear that these were only occasionally about memories of executions and capital cases, and tended instead to relate people's views at the time of the interview on whether the death penalty should be reinstated. This means that they are not useful sources for the aims of this project on mid-twentieth-century views, although perhaps could form the basis of a future article on the meanings of the death penalty in life-history interviews. A visit was also made to the British Library Newspaper Library, although it became clear that to identify and analyse all the news stories on the 25 cases, in addition to the letters in the Home Office files, would exceed the resources of the project. The files typically contain news clippings from a variety of papers and the electronic archives of *The Times*, *The Guardian*, *Daily Mirror* and *Daily Express* have been accessed for the selected cases.

Current progress

I am currently analysing the data from the National Archives in the form of letters and news stories. A research assistant is compiling a database of the letters. I have presented a paper on indicative findings from the project at the Second British Crime Historians' Symposium, Sheffield University, 2–3 September 2010, and I am at present working on an article on public reactions to the case of Ruth Ellis for a special issue of the *Howard Journal* on 'Histories of prisons and punishment: representations and realities'.

WHAT IS SPORTS LAW?

Has sports law come of age? Jack Anderson thinks so.

Introduction

Next year, the Olympic and Paralympic Games arrive in London. Already the economic, social and sporting legacy of the Games for London, which is being underwritten by £9.3bn of public-sector funding, has proved contentious. In terms of academic review, a useful web-based resource on the games' legacy was launched in April 2010 by the social science collections and research team at the British Library,¹ which uses the games as a platform to introduce and augment the wide range of research materials held at the library on the social aspects of sport so that 'future generations will have all the necessary resources to analyse the Games of 2012 and their outcomes'.

One of the specialised subject areas on the site is law. In that section, Professor Guy Osborn (University of Westminster) and Dr Mark James (Salford Law School) analyse the provisions of the London Olympic Games and Paralympics Act 2006, which is the legislative framework around which the hosting of the games is supported. In their analysis, Osborn and James observe that, although the 2006 Act addresses issues such as planning and transport, ticket sales and trade, and the use of the Olympic symbol,² it is also important to contextualise the Act within the extant and diverse sports law literature that now informs our view of events such as the Olympics and international sport more generally.

The themes identified in the wider literature by Osborn and James include discrimination and human rights; sports law and the human body; violence; doping control; disputes and arbitration; and the institutions and instruments of international sports law and governance themselves. They also note, quite rightly, that the enhanced involvement of the law with, and in, sport has been 'compounded by the increasing commercialisation of sport, even in the traditionally amateur arena of the Olympics'.

In this light, this short piece argues that the 2012 games might also leave a legal legacy in that post-2012 we might at last see sports law escape from under the slightly patronising label of an applied area of law, to one that asserts itself as a discrete branch of law worthy of dedicated doctrinal and socio-legal analysis. The remainder of this piece examines the debate on the practical and theoretical expression of the term sports law.³

Sports law: a definition and a theory

The process by which an area of the law evolves to the point that it is viewed as a distinct part of the general law is one that is very much dependent on the vagaries of history, socio-economic developments and political preferences. There is no law equivalent of the International Olympic Committee (IOC)

whereby an area of law might, as individual sports do at the IOC, lobby for official recognition or even associated status. If there were such a sanctioning body for law, it would seem reasonable to suggest that a submission for recognition would have to be predicated on evidence that the area in question was an intellectually rigorous and theoretically coherent legal discipline. Without this, the topic would have to remain at the margins as an esoteric area of law providing the occasional snapshot of other more substantive areas of the law.

Even leading sports law jurists such as Simon Gardiner suggest that sports law is still at a nascent, immature stage in its development and thus its approval as an autonomous corpus of law would likely be withheld, for now.⁴ Gardiner and his co-author's views – and the debate on the recognition of sports law as a stand-alone topic more generally – contain two further points of interest. The first is that the argument regarding the preference for (an applied use of) the term 'sport and the law' over the (more unified) concept of 'sports law' is in some ways a distraction and that a rationale that assists in predicting the substance of the law's influence on matters 'beyond the touchline', rather than the form by which that influence is described, is of much greater importance for the future good governance of sport. It is of interest here that it is exactly that debate – the depth to which the law should be permitted, if at all, to influence 'specifically' sporting matters – that is occurring at present at an EU level.⁵

Second, and as Beloff has acknowledged, the mere labelling of this topic as 'sports law' does little to address the fact that sports law remains 'a field which has yet to be subject to thorough treatment from a theoretical perspective'.⁶ This brief article does not attempt to address the 'under-theorisation' of sports law except to state that it might still be somewhat premature to establish a model of theoretical coherency and certainty for this emerging branch of the law, in the sense that it might be better to permit the subject to develop a little of its own accord, as others have done. Company law, for instance, took a number of decades to emerge before any meaningful functional theory of corporatisation was attempted and even then predicating the legal rights and duties surrounding the legal personality of a company on its relationship with key stakeholders was seen of more practical importance than attempting to explain the development of corporate law through a single unifying theoretical analysis.

In this regard it is also of interest to note the recent attempt by Stevens to identify a rights-based approach as the core 'reductionist' feature underpinning the disparate and sometimes haphazard causes of action that comprise the law of torts.⁷ In criticism of that approach, Murphy highlights a point that has analogy to the debate on the (under) theorisation of sports law:

... sight must not be lost of the fact that the virtues of such reductionist theories seem never to be unaccompanied by a number of salient problems that sooner or later call into question the overall value of the theory as a whole. Accordingly, it seems wise to approach [reductionist approaches to law] with the aphoristic advice of Alfred North Whitehead in mind: that we should both 'seek simplicity, and distrust it'.⁸

Reductionist theories notwithstanding, there is no doubt that the intertwining of principles of law and practices of sport are increasing in frequency and deepening in sophistication. Leading examples in 2010 include the sagas involving the sale of Liverpool FC; the contract negotiations between Wayne Rooney and Manchester United; the so-called 'spot fixing' allegations in cricket; and the gender verification testing controversy surrounding Caster Semenya, the South African world 800-metres champion.

Drawing from these examples and others, it can be argued that at this point in its development the term sports law can be

Social & Legal Studies 20(1)

Justice, dignity, torture, headscarves: can Durkheim's sociology clarify legal values? – Roger Cotterrell

Democratic potential of public participation – Peter Vincent-Jones, Caroline Mullen and David Hughes

The commodification of compensation? Personal injuries claims in an age of consumption – Jonathan Ilan

On silence, sexuality and skeletons: reconceptualising narrative in asylum hearings – Toni Johnson

Interpreting multi-agency partnerships: ideology, discourse and domestic violence – Tony Manzi and Peter Harvie

Judges and their work – Nigel G Fielding

used to describe inter alia the collective applications of (a) traditional areas of law, such as contract, tort, criminal, administrative and EU law, to the general circumstances of, and various stakeholders within, modern sport; (b) the particular impact that a range of statutory provisions might have on sport; for example, legislation governing discriminatory and unsafe practices in a workplace or monopolistic or fraudulent behaviour in an industry; (c) issues of public and social policy otherwise influencing the legislature and the courts, from the allocation of resources to the allocation of risk; and (d) *lex sportiva*, where that term is taken to portray the co-existence of the various internal administrative regulations and dispute-resolving mechanisms of sport with domestic, supra-national and international law.⁹

Conclusion

In summary, my argument is – and it may be a relatively conservative approach to take – that a, purely, sports law discourse will not be established until such time as the courts or the legislature adjust (rather than simply apply) accepted legal principles because what is at issue is sporting in nature. Nevertheless, the *indications* are that sports law is moving rapidly in that direction. Three signals are noteworthy.

First, sports law is, similar to emerging disciplines (such as cyberspace law), an engaging (and enjoyable!) means of teaching the geographical limitations of traditional law and the necessarily global jurisdiction within which ‘law’ must now operate. So, for example, Casini has noted that the nature of global administrative law can be explained through the relationship between powerful non-state private regulatory actors in sport operating with their own sophisticated arbitral regimes of dispute resolution and national public law.¹⁰ Similarly, topics as diverse as the threshold of consent to assault and the personalised nature of contracts of employment can be explained innovatively with reference to sport. It follows that an appreciation of the ‘specificity’ of sports law might be based on whether one considers unusual applications of existing legal doctrine and public policy to be sufficient *in of themselves* to serve as the foundation for the recognition of a discrete branch of law.

The second signal relates to the fact that sports law is moving beyond the genealogy of ‘soft law’ to the point that it is ‘hardening’ around the premise that it addresses the legal treatment of a distinct set of relations. The analogy here is with family law and a point made succinctly by Elhauge:

[In family law] ordinary rules of contracts, torts, and property are often varied in ways that subordinate them to understandings of what best advances the interests of familial relations. And although one could try to separately address each of these areas, there does seem to be some value added by thinking through how common issues regarding the family affect each of the legal doctrines that bear on familial relations.¹¹

Elhauge applies his ‘value added’ approach to the coherency of ‘health law’, but it is an approach that also lends itself to a straightforward definition of sports law – sports law addresses a unique set of relations among persons and undertakings involved in the playing and organisation of sport.

The third signal as to the robustness of sports law is an altogether more practical one. A number of leading practitioners in the area argue that the debate on the discreteness of sports law is of academic concern only. Their approach is premised on the fact that, irrespective of whether the legal principles applied to problems of a sporting nature are now sufficiently homogeneous to warrant identifying them as a separate branch of law, these problems are arising with greater frequency and complexity, thus clients (sports participants, clubs and associations) are demanding tailored legal advice. At its narrowest therefore, a practitioner can argue that there is no

such thing as sports law, merely the business of sport and the manner in which the legal profession services that industry. There is some merit in this analysis, nevertheless, the inherent logic of offering quality legal advice pertaining to sports-related problems (and also, presumably, the capacity to produce quality academic commentary) implies a specialised knowledge of the relationship between sport and the law with respect not only to the narrow commercial realities of elite modern sport but also to its long-standing, self-regulatory structures and its broader societal role as a popular, recreational activity.

In simple terms, it is difficult to deny the fact the sports law ‘has arrived’ in light of the reality that it is being taught in law schools, written about by academics, practised by dedicated units in law firms and litigated in the courts.

And finally, whatever your view is on sports law, we’d like to hear it; beginning with the sports law stream at SLSA 2011!

Jack Anderson, senior lecturer in law, Queen’s University, Belfast
Notes

- 1 See www.bl.uk/sportandsociety.
- 2 See further M James and G Osborn, ‘Consuming the Olympics: the fan, the rights holder and the law’ available at www.bl.uk/sportandsociety/exploresocsci/parlaw/law/articles/consuming.pdf.
- 3 What follows is based on J Anderson (2010) *Modern Sports Law*, Hart, Oxford, pp. 20–7. See further p 12 below.
- 4 S Gardiner et al, *Sports Law*, 3rd edn (2006) Cavendish, London, pp 39–40 and 88–93.
- 5 See eg R Parrish and S Miettinen, *The Sporting Exception in European Union Law* (2008) TMC Asser, The Hague.
- 6 M Beloff et al, *Sports Law* (1999) Hart, Oxford, p. 15.
- 7 R Stevens, *Torts and Rights* (2007) Oxford University Press, Oxford.
- 8 J Murphy, ‘Rights reductionism and tort law’ (2008) *QJLS* 28:393, p 407.
- 9 For an excellent example of all four criteria see D McArdle, ‘Swallows and amazons, or the sporting exception to the Gender Recognition Act’ (2008) *SLS* 17(1): 39.
- 10 See L Casini, *The Making of a Lex Sportiva*, IILJ Working Paper 2010/5, Global Administrative Law Series, NYU Law School.
- 11 E Elhauge, ‘Can health law become a coherent field of law?’ (2006) *Wake Forest Law Review* 41: 365, p 369.

Journal of Law and Society (special issue 2011)

The Challenge of Transnational Private Regulation: Conceptual and constitutional debates

Colin Scott, Fabrizio Cafaggi and Linda Senden (eds)

The conceptual and constitutional challenge of transnational private regulation – Colin Scott, Fabrizio Cafaggi and Linda Senden

The new foundations of transnational private regulation – Fabrizio Cafaggi

Neither ‘public’ nor ‘private’, ‘national’ nor ‘international’: transnational corporate governance from a legal pluralist perspective – Peer Zumbansen

Paradoxes of regulating corporate capitalism: property rights and hyper-regulation – Sol Picciotto

The crystallization of regulatory norms – Donal Casey and Colin Scott

Privatising sovereign performance: regulation in the ‘gap’ between security and rights? – Fiona de Londras

Competition law and transnational private regulatory regimes: marking the cartel boundary – Imelda Maher

The meta-regulation of transnational private regulation – Anne Meuwese and Jacco Bomhoff

Public accountability of transnational private regulation: chimera or reality? – Linda Senden and Deirdre Curtin

Legal life histories at the LSE

Legal biographies and autobiographies are a rich and important source of information about the legal system, the evolution of case law and statute and legal cultures more generally. Yet, despite a growing interest over the last 50 years in the information such studies contain, they have been much neglected. The Legal Biography Project, convened by the LSE Law Department, seeks to remedy this omission by providing a focus for biographical research in law. The aim of the project is to build a rich foundation for scholarship on life stories and histories of the legal profession. Drawing on published works, official records, personal letters, oral histories, artwork and film, we aim to facilitate discussion about ideas of lawyering, judgecraft, judicial and legal identity, diversity and the changes which have occurred to these notions over time.

Initiatives to date have been arranged around a series of public events which include interviews with senior members of the judiciary, a tour of judicial portraits at Lincoln's Inn and academic papers which focus amongst other things on 'secret histories' of the legal profession. In addition, the project aims to raise funds with which to acquire a set of relevant British legal biographical materials to be supplemented by books and other archival material about judges, barristers, solicitors, scholars, government officials and advisors. A full list of the project's current holdings, as well as details of how to gain access to the collection, can be found on its website. Readers may be interested to learn that we have recently acquired papers from the collections of Claude Mullins and Cyril Glasser. Our immediate goal is also to build up research capacity in the area. The project directors are currently working in partnership with the British Library's Life History team in launching a joint research project. Aware that most work on legal biography is written from the perspective of elites, this project will look at the life histories of key players in the legal system who have received little attention, such as court clerks.

The project is managed by Professor Linda Mulcahy and Dr Kristen Rundle of the LSE Law Department, with the support of an advisory board of external experts led by Sir Ross Cranston FBA. If you feel you have something to contribute to the project or would just like to be involved, please contact Linda [e l.mulcahy@lse.ac.uk](mailto:l.mulcahy@lse.ac.uk) or Kristen [e k.a.rundle@lse.ac.uk](mailto:k.a.rundle@lse.ac.uk). For details of the project and this year's programme visit: [w www.lse.ac.uk/collections/law/projects/legalbiog/lbp.htm](http://www.lse.ac.uk/collections/law/projects/legalbiog/lbp.htm).

Linda Mulcahy

International Journal of the Legal Profession: call for papers

The *International Journal of the Legal Profession* invites manuscripts for a planned symposium issue on 'Government legal practice and government lawyers'. The editors are particularly interested in papers dealing with lawyers occupying career positions in government service dealing with matters other than criminal prosecution or criminal defence. Also welcome are studies dealing with a wide range of issues including (but not limited to) the nature of the lawyers' work, their career patterns, the ethical issues they confront, and/or how they balance professional norms in a political environment. Questions about the suitability of manuscripts can be directed either to the general editor, Professor Avrom Sherr ([e avrom.sherr@sas.ac.uk](mailto:avrom.sherr@sas.ac.uk)) or the symposium editor, Professor Herbert Kritzer ([e kritzer@umn.edu](mailto:kritzer@umn.edu)). Submissions should be sent electronically (with identifying information removed) to Professor Sherr. All manuscripts will be subject to the journal's normal peer review process. The deadline for submission to ensure consideration for the symposium is **15 September 2011**. It is anticipated that the symposium will be published in the second issue of 2012.

Bert Kritzer

Housing and planning research

Antonia Layard, Cardiff University, has been awarded a grant as principal investigator on 'Creative participation in housing and planning' with Dr Tom Wakeford and Dr Jane Milling by the AHRC under its Connected Communities: Creative Economy programme. This project seeks to investigate, write up and disseminate new research on how three mixed-income communities participate creatively in housing and planning processes. It will identify whether, particularly in light of the emphasis on the 'Big Society' and land use localism, resident participation in housing and planning decision-making can be strengthened through creativity and innovation and, if so, whether more innovative and creative participatory practices could be used to transform housing and planning law and policy in the UK. [e layarda@cardiff.ac.uk](mailto:layarda@cardiff.ac.uk) *Antonia Layard*

New research prize: the Howard League research medal

Through the introduction of its new research medal, the Howard League for Penal Reform is seeking to celebrate the work of academics and researchers whose work offers genuine new insights into the penal system. The Howard League is committed to supporting new thinking and radical researchers who want to make an impact and change penal policy and practice through high quality research. The medal will celebrate research that has succeeded in having or can demonstrate that it has the potential to have an impact on non-academic audiences.

The winner of the medal will receive a prize of £1000. In addition the recipient will be asked to present an aspect of their research at an event in central London on **14 June 2011**. The deadline for submission of entries is **4 April 2011**. [w www.howardleague.org/medal/](http://www.howardleague.org/medal/) *Anita Dockley*

Consultation on pre-nuptial agreements

The Law Commission has announced a consultation on pre-nuptial agreements. As the law currently stands, the courts decide if agreements are enforceable. But should married couples or those in civil partnerships be able to make a firm agreement about what happens to property if the relationship breaks down? The consultation is seeking views on potential options for reforming the law of pre-nuptial, post-nuptial and separation agreements – contracts made by couples before or during their marriage or civil partnership intended to govern their financial arrangements if the relationship ends. The recent judgment of the Supreme Court in *Radmacher v Granatino* went further than ever before in recognising the significance of so-called 'pre-nups'. The full consultation paper is available at [w www.lawcom.gov.uk/marital_property.htm](http://www.lawcom.gov.uk/marital_property.htm). The closing date is **11 April 2011**.

Journal of Law and Society (Summer 2011)

Articles

- Social solidarity and the power of contract – Kenneth Veitch
- Family law and the division of wealth: complicating the search for principle – Alison Diduck
- Enduring love? Attitudes to family and inheritance law in England and Wales – Gillian Douglas, Hilary Woodward, Alun Humphrey, Lisa Mills and Gareth Morrell
- Images of welfare in law and society: the British welfare state in comparative perspective – Daniel Wincott

Book review

- The Measure of Injury: Race, gender, and tort law* by Joanne Conaghan – Martha Chamallas and Jennifer Wriggins

The law of inheritance at ground level: the weave of diverse rules in the family milieu

The following is a brief account of the doctoral socio-legal research of inheritance among Muslim families in Mauritius recently completed by Neezla Kureembokus, School of Law, University of East London

For Muslims in Mauritius, the institution of inheritance is, in principle, subjected to two types of law in the form of official secular civil law and unofficial religious Islamic law. The most distinctive difference between the two laws is that civil law provides for gender-neutral inheritance entitlements, whereas under Islamic law, a woman is only entitled to half the share of her male counterpart.

This study treated this difference as a variant of inheritance regulation under two types of law. The intricacy and sensitivity that is associated with the rules was not directly 'questioned', but their significance in Muslim women's lives and the wider legal and socio-economic implications in the process of intergenerational transmission of assets in the Mauritian context were engaged from different angles.

I interviewed Muslim women from different socio-economic backgrounds in Mauritius to explore, through their lived experiences, articulated viewpoints and attitudes, how these two legal systems affect inheritance operation in practice, and specifically, how women deal with their inheritance matters in a situation involving different sets of rules. My research examined how the 'written' civil and Islamic rules interact and the factors causing interactions. It delved into the dynamics of the wider social order, the 'unwritten rules' pertaining to family conventions, social norms, social structures and processes (for example, ideologies prescribing or proscribing certain forms of behaviour; and the priority of sons in receiving the family homes according to customs), and how they determine inheritance practices.

This study was not specifically concerned with the civil or Islamic texts prescribing inheritance proportions. Rather, it sought to discover women's 'ideas' of inheritance, the meanings they ascribed to the event of inheriting and the significance of any forms of inheritance they received or wanted to receive (substantial tangible assets such as land/cash/jewellery, and educational expenditures or financial contributions to construction of homes). It analysed the women's perceptions of the laws affecting inheritance, how they engaged with the laws in their dealings, and why they selected, or 'manipulated' particular aspects of the laws and accommodated them in their lives for distinct social, economic or religious reasons, and how they discreetly rejected others.

By probing into the family milieu and into women's interpersonal relationships, this research discovered a highly complex inheritance operation. The complexity arises from the weave of rules of different nature and orientations, the sensitivity associated with inheritance matters and family relationships, the importance of emotional closeness and family dialogues, and considerations relating to morality and rationality. Civil and Islamic laws serve as a frame of reference to inheritance practices and have a tangential position in the wider operation of inheritance.

The predominant law regulating inheritance on the ground is an amalgam of essentially the 'unwritten rules' and certain elements of the formal laws. It is within the family milieu where the diverse rules are in action (the way they are used and 'interpreted' by ordinary people), and it generates its own structure of 'law of inheritance' which I describe as the 'family-woven law'.

Human rights courses

LLM in human rights law and transitional justice

This LLM at the Transitional Justice Institute, Ulster, offers a unique lens on the study of human rights in the contemporary international moment. Using the Northern Ireland political and legal context, the course imbues students with a working knowledge of international norms and principles, while encouraging them to move beyond the local to reflect critically on present international law norms and their application to other situations and contexts. Students are encouraged to develop and transfer knowledge, experience and expertise of the transformative possibilities of human rights law both in respect of societies emerging from violent conflict and in relation to the local and global management of other particular societal problems. www.transitionaljustice.ulster.ac.uk

LLM in international human rights law and practice

The LLM at the Centre for Applied Human Rights and York Law School is distinctive because students work on real human rights issues through a compulsory law clinic (giving them practical skills, hands-on experience and improved job prospects); get the opportunity to work alongside human rights defenders during a two-week field visit to Malaysia; learn from human rights defenders at the centre; and explore international human rights law from a socio-legal perspective. One tuition scholarship is currently available: closing date **30 April 2011**. www.york.ac.uk/inst/cahr/LLM/llm%20index.html

York LLM students promote human rights

The LLM in International Human Rights Law and Practice at the Centre for Applied Human Rights (University of York) is the only postgraduate human rights programme in the UK with a mandatory human rights clinic (see above). As part of that clinic, students were partnered with NGOs in Malaysia and the UK on a series of projects in December 2010. In Malaysia, students developed a legal brief for women's groups to use to obtain standing in proceedings affecting women's rights in Malaysian courts; drafted a guide for policymakers on the international and domestic labour standards governing migrant workers; and, developed a policy framework and standard procedures for local governments interested in combating trafficking. In the UK, students developed human rights campaigning and education materials around York becoming a City of Sanctuary for asylum-seekers and prepared shadow reports to UN treaty bodies on the human rights situation for Kurds in Iraq.

Students also spent two weeks in the field with partner NGOs and they will continue working on their projects by distance through to June 2011.

Lars Waldorf

SLSA Online Directory

Members are reminded that they can update their directory entries as and when the need arises. The directory:

- has an individual entry for all SLSA members;
- is searchable by name;
- is searchable by expertise;
- is searchable by institution;
- is browsable by non-members;
- is accessible from the SLSA website.

To begin updating your profile, visit www.slsa.ac.uk and go to the Members Login menu, on the left.

If you have any problems, contact Marie Selwood marieselwood@btinternet.com or Nick Jackson n.s.r.jackson@kent.ac.uk.

International Whistleblowing Research Network

In June 2009, a two-day international conference on whistleblowing was organised by and held at Middlesex University. As its title suggested – ‘Ten years of public interest disclosure legislation in the UK: what can we learn from experiences at home and abroad?’ – this event was planned to coincide with the 10th anniversary of the UK’s Public Interest Disclosure Act 1998 coming into force in July 1999. It attracted 35 delegates and speakers from 11 different countries and a variety of academic disciplines and professional practices. Most of the papers delivered were subsequently published in *A Global Approach to Public Interest Disclosure: What can we learn from existing whistleblowing legislation and research?* (2010, Edward Elgar, Cheltenham).

At the end of the conference, an international research network was established with the following aims:

- a) to develop, synthesise and offer commentary on research into whistleblowing;
- b) to raise the profile of whistleblowing research and enhance its impact on practice;
- c) to develop international co-operation among established researchers in different disciplines and encourage early career researchers in the field.

Its specific objectives are:

- 1) to strengthen theoretical resources in relevant areas of research and policy, reconsider published findings, and introduce new and alternative conceptual/methodological frameworks;
- 2) to offer a systematic review of research to academics and practitioners working in the field;
- 3) and to formulate new research questions and propose new directions for further study, for example, in countries with a less developed research base in whistleblowing.

The network continues to recruit researchers from around the world. There are currently over 80 members with roughly equal numbers of male and female scholars and practitioners, including several early career researchers.

Currently, the network is co-ordinated by Professor David Lewis at Middlesex University, e d.b.lewis@mdx.ac.uk. Individuals can join the network simply by consenting to their email address being listed for mailing purposes. **David Lewis**

Sociology of Rights Study Group

The British Sociological Association’s Sociology of Rights Study Group is developing fast and new members are very welcome. Membership is free and open to all. For information on how to join (including subscribing to our Jiscmail email list) see: www.britisoc.co.uk/specialisms/socrights.htm.

The group embraces a wide range of rights-based perspectives including: theories of rights, indigenous peoples, women’s rights, social movements, transnational organisations, security and surveillance, conflict and divided societies, migration and environmental rights. In 2010, the group published ‘Sociology and human rights: new engagements’, a special issue of the *International Journal of Human Rights* 14(6) co-edited by the group’s convenors: Michele Lamb (Roehampton University), Patricia Hynes (NSPCC), Damien Short (Institute of Commonwealth Studies, University of London) and Matthew Waites (University of Glasgow). The opening article, co-authored by the editors, provides an introduction to sociological research on human rights. The volume will be published this year as a book by Taylor and Francis: see www.taylorandfrancis.com/books/details/9780415617970/.

Matthew Waites

Post-separation families and shared residence: setting the interdisciplinary research agenda for the future

The aim of this AHRC-funded, international and multidisciplinary network is to develop a coherent, interdisciplinary research agenda for the ethical and legal issues raised by post-separation family life in general, and shared residence in particular. The first meeting of the network was held at the University of Birmingham from 6–7 January 2011. Those attending included established and early career researchers in law, moral philosophy, demography, sociology, social policy, social psychology and public health, and delegates from non-academic stakeholders including a family mediation practitioner and representatives from three of the main UK charities providing information, advice and support to those affected by family separation.

Day 1: Shared residence and post-separation family life: aimed to explore the context for shared residence and post-separation family life by establishing working definitions of different models, means of measurement and implications for these on how data is collected. The increasing role of shared residence and how effectively it can be justified as a means of establishing post-separation families was discussed by the international audience, which highlighted differences in national and regional understandings and approaches to the issues raised. These included how such arrangements affect traditional notions of what it means to care and provide post-separation and the difficulties inherent within private ordering approaches. The speakers were: Alex Masardo (University of Birmingham), Laurent Toulemon (National Institute for Demographic Studies, Paris), Gillian Douglas (Cardiff University), Lluís Flaquer (University Autònoma of Barcelona), Jan Lyngstad (Statistics Norway) and Natalie Nikolina (Utrecht University).

Day 2: Equitable distribution of parental responsibilities and family privileges: aimed to explore how the care of children ought to be distributed between separated parents, whether and how the obligations of separated and non-separated parents are different, and the identification and potential resolution of conflicting responsibilities. Discussions centred on parental claims to fairness, maternal gate-keeping in cohabiting and separated couples, the concerns raised – both for and against – by the increased use of shared residence orders, and the factors that lead to positive outcomes in shared residence situations. The speakers were Heather Draper (University of Birmingham), Charlie Lewis (University of Lancaster), Sonia Harris-Short (University of Birmingham), Ines Weyland (Family Mediation), Philippa Newis (Gingerbread), Karen Woodall (Centre for Separated Families) and Craig Pickering (Families Need Fathers).

‘Child and family well-being in the context of post-separation families’, the second meeting, will take place in Birmingham from 28–29 June 2011, and will include an exploration of the extent to which the welfare of the child should be the primary consideration in determining post-separation family living arrangements and shared parental care. Confirmed speakers include: Katharina Boele-Woelki (Utrecht University), David Archard (Lancaster University), Edward Kruk (University of British Columbia), Gerard Poussin (Pierre Mendès University, Grenoble), Lynn Chesterman (Grandparents’ Association) and Fiona Green (Children and Family Court Advisory and Support Service).

Network organisers Heather Draper and Alex Masardo welcome new members. Contact: e f.a.masardo@bham.ac.uk or visit the webpage www.haps.bham.ac.uk/primarycare/cbme/AHRCNetwork.shtml. **Alex Masardo**

READ ALL ABOUT IT

Here, we highlight the latest publications from the socio-legal community. Because of space constraints, priority is given to SLSA members. If you would like details of your publication considered for inclusion in a future issue, contact e marieselwood@btinternet.com.

The Changes within Law in a Global Society (2010) M Isabel Garrido Gómez, Thomson-Aranzadi, Cizur Menor 227pp

In this work, the author starts from an interdisciplinary and plural concept of what the term globalisation means. In particular, globalisation presents a reference to a social, economic, cultural and demographic process from which law cannot escape. From this perspective, and starting from the new relationship between the public and private spheres, what stand out are the relevance of deregulation as a reality and the need for the state to continue maintaining its functions, albeit renewed in accordance with the demands of the new scenario in which it operates. But the reality of law demonstrates a number of problems which need to be overcome through a new understanding of globalisation and the implementation of new legal techniques and formulations.

Activation Policies and the Protection of Individual Rights: A critical assessment of the situation in Denmark, Finland and Sweden (2010) Paul Van Aerschot, Ashgate £55 188pp

In Denmark, Finland and Sweden the evolution of administrative law, including social welfare law, has been marked by a shift towards a stronger protection of the recipient's individual rights. The adoption of activation policies targeting recipients of social assistance has highlighted the tensions between decision-making concerning the implementation of these policies and the legislative efforts to promote the realisation of individual rights in the field of social welfare. An examination of the legislation in question and its implementation conditions shows that the realisation of individual rights is subordinated to the pursuit of organisational and other objectives. The findings of the study are used to formulate proposals for the promotion of individual rights based on the Nordic egalitarian model of citizenship. This critical assessment of activation policies should be of broad international appeal. It will be of interest to researchers in social policy, as well as those concerned with protection of rights.

Daviborsch's Cart: Narrating the Holocaust in Australian war crimes trials (2010) David Fraser, University of Nebraska Press \$55 392pp

In the spring of 1942, Nazi forces occupying the Ukraine launched a wave of executions targeting the region's remaining Jewish communities. These mass shootings were open, public and intimate. Although the victims themselves could never testify against their killers, many eyewitnesses could and did identify the perpetrators. Among these communities, three local men from the villages of Serniki, Israylovka and Gnivan were implicated in the crimes: Ivan Polyukhovich, a forester in the German-controlled administration; Heinrich Wagner, a Volksdeutscher liaison officer; and Mikolay Berezowsky, a member of the local police force. More than 50 years later, these three men were arrested and brought to trial in Australia for their alleged war crimes. *Daviborsch's Cart* is more than an account of Holocaust perpetrators who found a safe haven in postwar Australia. It is also the story of the Holocaust in the Ukraine, the War Crimes Act, Nazi policies, and the ways in which future generations translate history into law, archives into proof, and law into justice. Based on a review of previously unexamined historical and legal documents and transcripts, this book offers the first critical examination of Australian attempts to bring alleged Nazi criminals to justice.

An Unfortunate Coincidence: Jews, Jewishness, and English Law (2011) Didi Herman, Oxford University Press £35.95 208pp

This book examines how English judges discuss and depict Jews and Jewishness in the twentieth and twenty-first centuries. It is a study of legal judgments in a range of areas, tracing continuities and discontinuities in representations of Jews and Jewishness over time. The book shows the part played by racial and religious understandings in legal decision-making, addressing the place of a minority with a long history in England and within the English cultural imagination. It considers the complex and often contradictory approaches to Jews and Jewishness within judicial discourse, challenging both assumptions about tolerance and neutrality in English law and any simple narrative of antisemitism. While its focus is on the distinctive character of the English context, the book has resonance for thinking more generally about racial and religious representations in law. A 20 per cent discount is currently available on this book when ordered online.

The Ombudsman Enterprise and Administrative Justice (2011) Trevor Buck, Richard Kirkham and Brian Thompson Ashgate £66.50 294pp

The statutory duty of public service ombudsmen (PSO) is to investigate claims of injustice caused by maladministration in the provision of public services. This book examines the modern role of the ombudsman within the overall emerging system of administrative justice and makes recommendations as to how PSOs should optimise their potential within the wider administrative justice context. Recent developments are discussed and long-standing questions that have yet to be adequately resolved in the ombudsman community are re-evaluated given broader changes in the administrative justice sector. The work balances theory and empirical research conducted in a number of common law countries. Although there has been much debate within the ombudsman community in recent years aimed at developing and improving the practice of ombudsmanry, this work represents a significant advance on current academic understanding of the discipline.

The Idea of Home in Law: Displacement and dispossession (2010) Lorna Fox O'Mahony and James A Sweeney (eds), Ashgate, 248pp £65

This book explores an important set of legal and policy issues surrounding the concepts of home and homelessness, taking a growing area of legal scholarship into the new arena of human rights and international law. The collection considers the ideas concerning home – both in the sense of the dwelling place as a special type of property and territorial claims to homeland – which underpin many contemporary legal problems, by examining a range of contexts where people are displaced or dispossessed from their homes. At a time of concern about security of tenure and the role of law and policy in protecting people vulnerable to forced eviction, this book presents an opportunity to raise questions about the 'rights' and norms associated with housing and home, and to generate new insights for scholarship and for national and international policy debates concerning displacement and dispossession.

Sustainability in European Transport Policy (2010) Matthew Humphreys, Routledge, £70 216pp

This book sets out a critical analysis of the body of law and policy initiatives that constitute the EU's common transport policy. It uses a model of sustainability as the basis for the analysis of the criteria for sustainable development set out under Article 11 of the Treaty on the Functioning of the European Union. However, sustainable development, when taken in the context of transport, is difficult to reconcile with unbridled economic growth and unchecked freedom of movement and the book identifies a contradiction at the heart of European policy which can only become more accentuated as environmental trends become more explicit.

Taking Responsibility, Law and the Changing Family (2010) Craig Lind, Heather Keating and Jo Bridgeman (eds) Ashgate, £65 322pp

This volume considers the impact that changing family norms have had on the responsibilities the law allocates to people in family relationships. Contributions are drawn from a wide variety of jurisdictions in which scholars, lawyers, judges and policymakers have been trying to discern what the appropriate correlation should be between the responsibilities that people undertake in family settings and the law that regulates family responsibilities. Part I looks at the changes that have occurred in adult relationships. Part II reflects on the changing nature of the parental relationship and the third part brings the rights discourse that has dominated jurisprudence for much of the last 50 years into the discussion of family transformation and the responsibilities to which it gives rise. In the final section, the authors reflect on the difficulties of trying to resolve the meaning of responsibility in a world of changing families.

Events: The force of international law (2010) Fleur Johns, Richard Joyce and Sundhya Pahuja (eds) Routledge-Cavendish £75 312pp

The editors present an analysis of international law, centred upon those historical and recent events in which international law has exerted, or acquired, its force. From Spanish colonisation and the Peace of Westphalia, through the release of Nelson Mandela and the Rwandan genocide, and to recent international trade negotiations and the 'torture memos', each chapter in this book focuses on a specific international legal event. Short and accessible, these chapters consider what forces are put into play when international law is invoked, as it is so frequently today, by lawyers, laypeople, or leaders. At the same time, they also reflect on what is entailed in naming these 'events' of international law and how international law grapples with their disruptive potential.

The Cambridge Companion to European Union Private Law (2010) Christian Twigg-Flesner (ed), Cambridge University Press £65hb/£27.99pb 390pp

The emergence of EU private law as an independent legal discipline is one of the most significant developments in European legal scholarship in recent times. In this companion, leading scholars provide a critical introduction to the subject's key areas, while offering original and thought-provoking comment on the field. In addition to several chapters on consumer law topics, the collection has individual chapters on commercial contracts, competition law, non-discrimination law, financial services and travel law. It also discusses the wider issues concerning EU private law, such as its historical evolution, the role of comparative law, language and terminology, as well as the implications of the Common Frame of Reference project. A scene-setting introduction and further reading arranged thematically make this publication suitable for students and scholars when exploring the field.

Contract Law 2nd edn (2010) Hugh Beale, Denis Tallon, Stefan Vogenauer, Jacobien Rutgers and Bénédicte Fauvarque-Cosson, Hart £38.95 1475pp

This second edition of the successful casebook on contract in the *Ius Commune* series has been developed to be used throughout Europe and aimed at those who teach, learn or practise law with a comparative or European perspective. It contains leading cases, legislation and other materials from the legal traditions within Europe, with a focus on English, French and German law as the main representatives of those traditions. The book contains the basic texts and contrasting cases as well as extracts from the various international restatements. Materials are chosen and ordered so as to foster comparative study, and complemented with annotations and comparative overviews prepared by a multinational team.

Modern Sports Law: A textbook for students (2010) Jack Anderson, Hart £25 390pp

The aim of this book is to provide an account of how the law influences the operation, administration and playing of sports. Although it focuses on legal doctrine, it has been written bearing in mind sport's historical, cultural, social and economic context, including the drama and colour of sport's major events and personalities. Although inevitably concerned with elite professional sports, the text is not dominated by them and seeks to cover the widest possible range of sports, professional and amateur. Initially, it addresses practical issues such as the structures of national and international sport and examines the evolution of the body of law known as 'sports law'. Thereafter three main themes are identified: regulatory; participatory; and financial aspects of modern sport. The conclusion summarises modern sport's experience of EU law, pointing the way to the future direction of sports law more generally.

Modern Intellectual Property Law 3rd edn (2010) Catherine Colston and Jonathan Galloway, Routledge £34.99 836pp

Modern Intellectual Property Law combines coverage of each intellectual property right granted for creations of the mind into a thoughtful, unified textbook. Deconstructing the fundamental topics into short, clear sections separated by subheadings throughout, Colston and Galloway's text is designed as a student companion to this intriguing area of the law. This new edition has been completely revised to bring it up to date with the latest debate and changes to the law. All significant recent developments are covered including the continuing controversy over patents for computer-implemented inventions and biotechnological inventions, the House of Lords' developments of patent law, the European Court of Justice jurisprudence relating to trade mark dilution and comparative advertising, as well as the database right, and international efforts to reconcile copyright with peer-to-peer file sharing. This text also discusses the ongoing effort to achieve an appropriate balance between intellectual property and competition law in order to protect market competition while retaining key incentives to drive the process of innovation.

International Child Law 2nd edn (2010) Trevor Buck, Routledge £35.99 376pp

International Child Law examines the international legal framework and issues relating to children at global and regional levels. Analysing both public and private international legal aspects, this cross-disciplinary text promotes an understanding of the ongoing development of child law and the protection of the child. This second edition has been substantially updated and revised and three new chapters have been introduced. Together with new material on sexual exploitation and children's involvement in armed conflict, a new chapter on indigenous children's rights responds to the recent UN Declaration on the Rights of Indigenous Peoples. The UN Convention on the Rights of the Child remains a central topic, and the mechanisms and policy underlying the Hague Conventions on Intercountry Adoption and Parental International Child Abduction are dealt with in two further chapters.

Niklas Luhmann: Law, Justice, Society (2010) Andreas Philippopoulos-Mihalopoulos, Routledge 248pp £80

This book presents the work of Niklas Luhmann in a new light. Luhmann's theory is introduced in terms of society at large and the legal system, and for the first time, his texts are systematically read together with theoretical insights from post-structuralism, deconstruction, phenomenology, radical ethics, feminism and post-ecologism. This book distances Luhmann's theory from its misrepresentations as conservative, rigorously positivist and disconnected from empirical reality and firmly locates it in a sphere of post-ideological jurisprudence.

Who is my genetic parent? Donor anonymity and assisted reproduction: a cross-cultural perspective (2010) Brigitte Feuillet-Liger, Kristina Orfali, Thérèse Callus (eds), Bruylant €50

This book is the fruit of debate and reflection between lawyers, doctors, psychoanalysts and sociologists during the first Workshop of the International Academic Network on Bioethics (IANB). Through a comparative approach, the chapters examine how the question of donor anonymity in reproductive medicine in 16 different countries is dealt with. Despite diversity between legal systems, one thing is certain: the question of abolishing anonymity is one of immediate importance. The answer either unites or divides. But could it be any other way on a subject which goes to the heart of our social perceptions on individual identity, parentage and parenthood? Created in 2007, the IANB aims to promote research through collaboration between academic representatives from different countries and cultures, all specialists in the field of biomedicine.

Values in Global Administrative Law (2011) Gordon Anthony, Jean-Bernard Auby, John Morison and Tom Zwart (eds), Hart £55 478pp

Global administrative law has recently emerged as one of the most important contemporary fields in public law scholarship. Concerned with developing fuller understandings of patterns in global governance, it represents one of the most insightful ways of viewing the multifarious forms of public power that now exist beyond the state. Focusing in particular on the search for accountability and legitimacy, it carries with it testing questions about democracy in post-Westphalian society: the meaning of ideas of 'publicness' and 'public good'; and the global relevance of values that include due process, equality and fundamental rights. These, and other issues, are key to critiquing the form of governance that now envelops the globe. The present collection of essays brings together some of the leading public law scholars working in the field of global administrative law. Based on papers presented at a workshop held at Sciences-Po in Paris, it addresses past and future challenges related to global governance. Each of the contributions picks up on the more general theme of the values that do or should inform global administrative law, and the book in this way aims to provide a novel and thought-provoking commentary on this most engaging area of debate.

Effective Criminal Defence in Europe (2010) Ed Cape, Zaza Namoradze, Roger Smith and Taru Spronken, Intersentia £91.20/€96 656 pp

Initial attempts by the EU to establish minimum procedural rights for suspects and defendants failed in 2007 in the face of opposition by a number of member states that argued that the European Convention on Human Rights (ECHR) rendered EU regulation unnecessary. However, with ratification of the Lisbon Treaty, criminal defence rights are again on the agenda. Based on a three-year research study, the book explores and compares access to effective defence in criminal proceedings across nine European jurisdictions that constitute examples of the three major legal traditions in Europe, inquisitorial, adversarial and post-state socialist: Belgium, England and Wales, Finland, France, Germany, Hungary, Italy, Poland and Turkey. Part I sets out the research methodology and an analysis of the baseline requirements that have an impact on the rights of the accused. Part II consists of a description and critical analysis of access to effective criminal defence in the nine countries in the study. Part III includes a cross-jurisdictional analysis of compliance with the ECHR requirements. It also contains an analysis of how they interrelate, and of whether structures, systems and legal cultures exist to enable individuals to exercise these rights effectively. This volume sets out to contribute to the implementation of the rights of suspects and defendants to a real and effective defence, especially for those who lack the means to pay for legal assistance themselves.

Collective Action and Fundamental Freedoms in Europe: Striking the balance (2010) Edoardo Ales and Tonia Novitz (eds) €65/£61.75 xii+274 pp

Recent cases decided by the European Court of Justice have raised crucial issues regarding the scope for collective action in Europe. In this context, this collection of essays investigates treatment of the right to strike in seven member states of the EU: Belgium, France, Germany, Italy, Spain, the Netherlands and the UK. Each national report examines how legal regulation seeks to address conflicting interests, namely those of employers, workers and the public at large. Each report also outlines the potential impact of EU jurisprudence in that country. Striking the balance between domestic entitlements to take industrial action and the protection of EU fundamental freedoms is far from straightforward. The problem of balance is considered further in three supplementary essays. The first assesses the position of those engaged in or affected by collective action under conflict of law principles stated in Rome II. The second essay provides a comparative analysis of the constitutional status (or otherwise) of collective action. The volume ends with an essay which subjects to scrutiny the assumptions made by the European Court of Justice in the *Viking* and *Laval* judgments, which would seem to be questionable, in light of the national reports presented in this book.

Transcending the Boundaries of Law (2010) Martha Albertson Fineman, Routledge £27.99 432pp

Transcending the Boundaries of Law is a ground-breaking collection that could be central to future developments in feminist and related critical theories about law. In its pages, three generations of feminist legal theorists engage with what have become key feminist themes, including equality, embodiment, identity, intimacy, and law and politics. Almost two decades ago Routledge published the very first anthology in feminist legal theory, *At the Boundaries of Law* (M A Fineman and N Thomadsen (eds) 1991), which marked a conceptual move away from the study of 'women in law' prevalent in the 1970s and 1980s. The scholars in *At the Boundaries* applied feminist methods and theories in examining law and legal institutions, thus expanding upon work in the law and society tradition. This new anthology brings together some of the original contributors to that volume with scholars from subsequent generations of critical gender theorists. It provides a 'retrospective' on the past 25 years of scholarly engagement with issues relating to gender and law, as well as suggesting directions for future inquiry, including the tantalising suggestion that feminist legal theory should move beyond gender as its primary focus to consider the theoretical, political, and social implications of the universally shared and constant vulnerability inherent in the human condition.

From Heritage to Terrorism: Regulating tourism in an age of uncertainty (2010) Brian Simpson and Cheryl Simpson, Routledge £75 196pp

Critical in style, this book examines the law and its role in shaping and defining tourism and the tourist experience. Using a broad range of legal documents and other materials from a variety of disciplines, it surveys how the underlying values of tourism often conflict with a concern for human rights, cultural heritage and sustainable environments. Departing from the view that within this context the law is simply relegated to dealing with the 'hard edges' of the tourist industry and tourist behaviour, the authors explore: the ways that the law shapes the nature of tourism and how it can do this; the need for a more focused role for law in tourism; the law's current and potential role in dealing with the various tensions for tourism in the panic created by the spread of global terrorism. Addressing a range of fundamental issues underlying global conflict and tourism, this topical book is aimed at all those interested in tourism and law.

● **LEGAL THEORY AND SOCIO-LEGAL INNOVATION**

16 March, 1 April and 15 April 2011: *Law and Society Research Centre, University of Ulster*

Spring seminar series: for enquiries contact Eugene McNamee

● e.mcnamee@ulster.ac.uk. All welcome.

● **FEMINIST APPROACHES TO INTERNATIONAL LAW AT 20**

19 March: *School of Law, SOAS, London*

Keynote speaker: Dianne Otto, University of Melbourne and SOAS.

Please see **w** www.soas.ac.uk/law/events for details.

● **BIRKBECK LAW SCHOOL ANNUAL LAW LECTURE**

25 March 2011: *B34 Malet Street, Birkbeck, London*

The title of speaker Achille Mbembe's lecture is: 'Law, democracy and the ethics of mutuality: notes on the South African experiment'. This event marks the establishment of the Law School's Centre for Law and the Humanities. The event is free but booking is necessary in order to ensure a place. If you would like to book a place for the lecture, please visit **w** www2.bbk.ac.uk/law or contact

● e.d.inns@bbk.ac.uk.

● **INTELLECTUAL HISTORIES II: REFLECTIONS ON A JOURNEY THROUGH LAW**

30 March 2011: *School of Law, SOAS, London*

Speaker: Linda Mulcahy, LSE. Please see

w www.soas.ac.uk/law/events for details.

● **ANNUAL PUBLIC LAW LECTURE**

31 March 2011: *Fyvie Hall, University of Westminster*

Professor Jane Hiebert, professor of political studies, Queen's University Canada, will speak on 'Governing under the Human Rights Act: the limitations of wishful thinking'. To book a place contact Danny Nicol ● nicold@wmin.ac.uk.

● **PEACE AND (IN)SECURITY: CANADA'S PROMISE, CANADA'S PROBLEM?**

4-6 April 2011: *University of Birmingham*

British Association for Canadian Studies annual conference.

w http://sites.google.com/site/bacsconference2011/

● **INTERNATIONAL LABOUR PROCESS CONFERENCE**

5-7 April 2011: *University of Leeds*

The primary focus of this International Labour Process conference is work and employment relations in the context of the broader political economy, with an emphasis on employee perspectives and theory-led empirical research. Visit **w** www.ilpc.org.uk for details.

● **PLASC USER GROUP CONFERENCE**

6 April 2011: *Institute of Education*

The conference is free of charge, but places are limited, so please sign up by email: e plug-plasc@bristol.ac.uk. The programme is now available at: **w** www.bristol.ac.uk/compo/events/2011/plug.

● **RESTORATIVE JUSTICE: BUILDING CONSENSUS IN THEORY AND PRACTICE**

7-8 April 2011: *Nottingham*

Organisers: Jonathan Doak ● jonathan.doak@ntu.ac.uk and David O'Mahony ● d.omahony@durham.ac.uk.

w www.ntu.ac.uk/nls/news_events

● **CENTRE FOR CRIMINAL JUSTICE AND HUMAN RIGHTS POST-GRADUATE CONFERENCE**

28 April 2011: *University College Cork*

The theme for this year's event is 'Human rights protection and criminal justice in the age of crisis'. Further enquiries should be directed to the organisers at ● ucclawconf@gmail.com.

● **10TH ANNUAL MICHAEL J HINDELANG LECTURE**

5 May 2011: *University of Albany, SUNY*

Speaker: David Garland. Hosted by the Hindelang Criminal Justice Research Center and the School of Criminal Justice. Contact: Gina Lopez or Andy Davies ● hindelang.lecture@gmail.com.

● **QUEER PERSPECTIVES ON LAW**

13 May 2011: *School of Law, SOAS, London*

With Aeyal Gross, Tel Aviv University/SOAS and Dianne Otto, University of Melbourne/SOAS. See **w** www.soas.ac.uk/law/events.

● **CULTURAL LEGITIMACY AND THE INTERNATIONAL LAW AND POLICY ON CLIMATE CHANGE**

21 June 2011: *Surrey International Law Centre*

The seminar aims to bring together interdisciplinary scholars exploring the interplay between and amongst law, society, culture and climate change, in order to build a more coherent field of research on the cultural legitimacy of climate change law and policy. **w** www.ias.surrey.ac.uk/workshops/silc/cfp.php

● **WHISTLEBLOWING CONFERENCE**

23-24 June 2011: *Middlesex University, London*

Conference organiser and International Whistleblowing Research Network co-ordinator: Professor David Lewis ● d.b.lewis@mdx.ac.uk.

● **W G HART LEGAL WORKSHOP: SOVEREIGNTY IN QUESTION: CALL**

28-30 June 2011: *Institute for Advanced Legal Studies, London*

The call for papers is available on the workshop website at **w** www.sas.ac.uk/events/view/9235. Abstracts should be sent to Belinda Crothers by 21 March 2011 ● belinda.crothers@sas.ac.uk.

● **APPLIED LEGAL STORYTELLING – CHAPTER 3 TRAIL BLAZING ON THE GREAT DIVIDE: CALL**

8-10 July 2011: *University of Denver, Sturm College of Law*

This event fosters innovative collaboration and exciting dialogue about the persuasive use of story across the spectrum of lawyering skills. See **w** www.lwionline.org/. Organiser: Robert McPeake ● r.j.mcpeake@city.ac.uk. **w** www.lwionline.org.

● **THE RELEVANCE OF AFRICAN LEGAL THEORY TO CONTEMPORARY PROBLEMS: CALL**

15-20 August 2011: *Frankfurt, Germany*

The justification for this workshop is simple. Discussions concerning the unprecedented challenges of today have too often proceeded without any consideration of the potential contributions from African legal theoretical or philosophical scholarship. Deadline for abstracts 1 April 2011. For more information and to submit abstracts, contact Dr Oche Onazi ● o.onazi@dundee.ac.uk. **w** www.ivr2011.org

● **EUROPEAN CONSORTIUM FOR POLITICAL RESEARCH GENERAL CONFERENCE**

25-27 August 2011: *University of Iceland in Reykjavik*

For details visit **w** www.ecprnet.eu.

● **SOCIETY OF LEGAL SCHOLARS ANNUAL CONFERENCE**

5-8 September: *University of Cambridge*

The theme of this year's conference is 'Law in politics, politics in law'. For full details, visit **w** www.legalscholars.ac.uk.

● **ROYAL INSTITUTE OF CHARTERED SURVEYORS' LEGAL RESEARCH SYMPOSIUM**

12-13 September 2011: *University of Salford, Manchester*

As in previous years, the symposium will take place as part of the annual interdisciplinary RICS 'COBRA' research conference. Further information about the symposium is available from Paul Chynoweth ● p.chynoweth@salford.ac.uk.

● **HUMAN RIGHTS BEYOND THE LAW: POLITICS, PRACTICES, PERFORMANCES OF PROTEST: CALL**

15-17 September 2011: *Jindal Global Law School, Delhi, India*

Workshop organised by the Collaborative Research Programme on Law, Postcoloniality and Culture. Call closes: 30 March 2011. Please see **w** www.protestworkshop.jgu.edu.in for details.

● **INTERSECTIONS OF LAW AND CULTURE: HUMAN RIGHTS**

23-25 September 2011: *Lugano, Switzerland*

Second international cross-disciplinary conference hosted by the Department of Comparative Literary and Cultural Studies, Franklin College, Switzerland. Deadline for submission: 31 March 2011. **w** www.fc.edu.

● **INTERCULTURAL AWARENESS IN LEGAL LANGUAGE: CALL**

11-13 November 2011: *Fluminense Federal University, Brazil*

The International Roundtable on the Semiotics of Law will focus on the contribution of legal semiotics to the different ways of thinking the 'legal' in a world's cultural diversity. Call closes: 15 May 2011. **w** www.springer.com/law/journal/11196?detailsPage=societies

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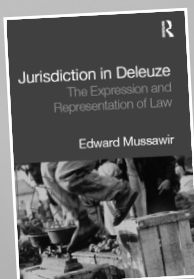


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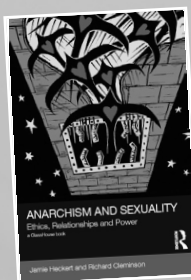


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