



Centre for Socio-Legal Studies

2013-2014 report



The Centre for Socio-Legal Studies is the leading UK institute for the study of law in societies. It is known world-wide for its innovative research and publications. More than a dozen researchers combine expertise to conduct empirical and theoretical studies of law in various social contexts, thus enriching our understanding of the nature, place, and role of law in societies worldwide.

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CSLS research and admin staff, students, associate fellows and visiting academics.
Photo: Blue Frame Photography

Director's Introduction

The Centre for Socio-Legal Studies (CSLS) is a multidisciplinary research institute, associated with the Faculty of Law at the University of Oxford. The Centre was founded in 1972 to foster socio-legal studies as an emerging discipline at a time when the systematic study of law in its social context did not exist in the UK. Pioneering and shaping the exploration of law in all its complexity as a multifaceted social phenomenon, the Centre was the platform from which the study of law as a social science discipline took off and spread across the country.

Since its early days the Centre has gone from strength to strength, adjusting flexibly to the changing economic environment, yet always remaining at the cutting edge of the field. Throughout, the goals have remained the same: to develop the highest quality research; to generate imaginative ways of thinking about law; to build bridges between theoretical and empirical enquiries; and to reach out from the comfort zone of the western social order to inquire into the multiplicity of forms and meanings that law has acquired in different countries and historical periods.

Today the Oxford Centre comprises a strong team of researchers with diverse academic backgrounds, including law, anthropology, sociology, political science, economics, and psychology. Their multi-disciplinary expertise generates a unique intellectual environment in which every aspect of society that can be defined as legal is questioned and the interplay between the legal and non-legal is explored using methodologies drawn from across the social science disciplines. Their expertise is complemented by associate research fellows and distinguished academic visitors, who often engage in joint research with the Centre's staff and contribute to its extensive programme of academic activities. The supportive environment of the Centre has enabled successive



generations of young scholars to plant their feet on solid intellectual ground, and to develop the competence and confidence to launch careers in the academic world.

The pride of the Centre is the community of around 30 graduate students who come to us from around the world to develop projects under the supervision of Centre staff. They bring exciting ideas to a great variety of socio-legal issues, and their commitment and energy contribute substantially to the success of the Centre.

We at the Centre believe that it is not sufficient just to accumulate knowledge for its own sake. Our research programmes on Civil Justice and on Media Law are designed for outreach and impact, and so is our close association with the Foundation for Law, Justice and Society. Ongoing research is routinely communicated to policy makers and practitioners outside academia, and in return we benefit from their real-world expertise.

As the current Director of the Centre, it is an honour for me to be able to state that the Centre has been throughout its history and now – ‘the place to be’ for scholars from all over the world who wish to better their understanding of law in society and to develop exciting new strands of socio-legal research.

Dr Marina Kurkchiyan
Director, CSLS

Research

An evolving group of scholars at the Centre is currently concerned with the social foundations of constitutions, economic and environmental regulation, historical legalism, access to justice, developments in media law, local interpretations of law, legal cultures, and the ongoing integration of the European Union. This takes them to the heart of many contemporary social and political issues, including legal development and innovation, the globalisation of trade, the numerous problems arising in the media, conflicts over human rights, transitional justice, and migration.

Research at the Centre is distinctly cross-cultural. Law is approached as a culturally specific mode of social organisation, taking different forms within and across different types of society. Centre researchers examine laws in countries as diverse as Russia, China, India, Indonesia, Malaysia, the Philippines, Somalia, Kenya, and Ethiopia. In addition to the cross-cultural elements a number of collaborative projects are explicitly comparative. Uncovering differences as well as similarities in how law and legal ideas are displayed in a variety of social settings generates an understanding of the contextualised aspects of law, as well as engaging in empirically informed discussions about its recurrent qualities. Historical analysis adds another perspective to the range of CSLS projects, such as an account of the evolution of the socio-legal tradition in Russia, an interpretation of early legal texts in Tibet, or a study of the growth of company law in Southeast Asia.

Research at the Centre is organised around four distinct themes: exploration of the nature of law and legalistic thinking; governance and regulation; civil justice and courts; and media law and freedom of speech.

*A confirmation of Magna Carta,
made by Henry III, 6 November 1217.*

EXPLORATION OF THE NATURE OF LAW AND LEGALISTIC THINKING

Researchers from the Centre working on this theme include the following:

Denis Galligan

*Professor of Socio-Legal Studies, Director of the CSLS,
1993–2008*

Denis's research takes two related lines of enquiry. One is to clarify the nature of social explanation of law drawing on and developing the classic Weberian interpretive approach to social understanding. The aim is to examine the relationship between legal theory and social explanation of law, and to show how empirical evidence is relevant to concept-formation and generalization. The other line of research is the social foundations of constitutions. Moving beyond doctrinal analysis of constitutional texts, and beyond constitutional theory which tends towards normative ideals, Denis examines the role that constitutions play in the social, economic, and political order; the historical formation and development of key constitutional concepts; the place of the people within western constitutions, emphasizing the meanings and understandings that people attribute to constitutional issues, and the notion of constitutional success and failure.

Marina Kurkchiyan

Senior Research Fellow, Director of the CSLS since October 2014

Marina's research interest is in the comparative study of legal cultures. She examines how people in various historical and cultural contexts construct the meaning of law and how they use it in everyday life. Her research on legal culture in England, Poland, Bulgaria, and Ukraine has been conducted by means of ethnographic observations of cases in civil courts, focus group discussions with lay people, and in-depth interviews with legal professionals. At present the focus of her research is Russia. Exploring the interplay of the institutions of law with everyday practices and legal consciousness within distinct periods of Russian history, her task is to grasp the continuities as well as the interruptions that would deepen our understanding of the Russian socio-legal tradition and ground her ongoing study of contemporary Russian legal culture.

Fernanda Pirie

Associate Professor in Socio-Legal Studies, Director of the CSLS, 2008–2014

An anthropologist specialising in Tibetan societies, Fernanda has used her research into legal practices and legal codes to develop new approaches to the anthropology of law. These build on themes and debates developed in the Legalism research seminars, which she convenes with colleagues in anthropology and history. This project brings together anthropologists, historians, lawyers, classicists, orientalist, and others to explore the creation of texts and development of law beyond or before the rise of the state. Insights developed in this project form the basis for Fernanda's continuing research into Tibetan legal history, and the intellectual and practical relationship between law and religion in one of the world's longest-lasting theocracies. Her work extends to related issues, such as comparison in socio-legal studies and the relationship between empirical studies and legal theory.

GOVERNANCE AND REGULATION

Researchers from the Centre working on this theme include the following:

Christina Cook

Research Officer on the MaRIUS project

Christina joined the Centre in the summer of 2014 to work with Dr Bettina Lange on the issues related to managing the risks, impacts and uncertainties of drought and water scarcity. She researches the environmental governance framework for drought and water scarcity in the UK. As a member of the MaRIUS team, she is involved in examining three case studies: drought planning, the establishing of a sustainable abstraction programme, and the process of granting drought orders and drought permits. Christina's other research interests include water security and the intersection of land and water governance.

Chris Decker

Research Fellow in Law and Economics

Chris is an economist whose core research interests include regulation, law and economics, institutional economics and competition law. His current

research is focused on issues such as: alternatives to traditional regulation; the regulation of payment systems; and the approach to regulating new products and services in regulated sectors, including energy, transport, communications and financial services. In addition, he is the lead economist in the CSLS MaRIUS team where he is examining the potential economic impacts of water scarcity. This involves modelling the potential direct and indirect economic impacts of future supply shortages under a range of different climatic scenarios. He is also exploring how the economic regulatory framework addresses the issue of water scarcity; including the interaction between economic and environmental regulations.

Bettina Lange

Associate Professor in Law and Regulation, Leader of the MaRIUS Project team at CSLS

Bettina is the team leader at CSLS of the large collaborative project MaRIUS, funded by the UK Natural Environment Research Council. She

explores the way in which the law contributes to the governance and regulation of periodically scarce water resources, including the production of drought, from both a contemporary and a historical perspective. She analyses how the knowledge practices of environmental science and economics respectively inform the mobilisation of key regulatory tools for dealing with drought, and she then investigates change and continuity in the legal regulation of droughts in the UK as it has evolved through time. Bettina is also working on the development of an eco-socio-legal lens that explores how nature and society become linked as the key drivers of environmental law 'in action'.

Petra Mahy

Research Fellow in Law and Society in South East Asia

Petra's research interests are concerned with the comparative historical evolution of company law and labour law in Southeast Asia, particularly in Indonesia, Malaysia and the Philippines. This research is employing both qualitative and quantitative methodologies for charting legal change. Petra is also working on a project aimed at comparatively analysing informal forms of work regulation and their interactions with formal labour laws in the restaurant sector in Indonesia and Australia. This research is using in-depth interviews with workers and business owners to discover how labour is regulated in practice, and using critical analysis to examine the outcomes that regulation produces in terms of workers' social security. In addition, Petra works on a collaborative CSLS project on consumer protection in emerging economies.



Photo: Petra Mahy

Doreen McBarnet

Professor of Socio-Legal Studies

The regulation of business and its circumvention by business managers and their legal advisors have been abiding themes in Doreen McBarnet's research, along with work on the development of law and corporate responsibility. Her studies have taken these issues into the area of business and human rights. She is a founder member of the Europe-wide BHRight initiative which was established in March 2014 by a number of researchers and lecturers in various law faculties and business schools to enhance teaching and research on this area of human rights, and particularly to develop cross-disciplinary initiatives. She has also continued to work on topics such as tax avoidance, a research theme which was pioneered at the Centre and is now recognised as a matter of significant social, economic and ethical concern.



Petra's research investigates informal labour relations in Indonesian restaurants. Fruit stall and nearby eateries, West Java, Indonesia. Photo: Petra Mahy

CIVIL JUSTICE AND COURTS

Researchers from the Centre working on this theme include the following:

Naomi Creutzfeldt

ESRC Research Fellow

Naomi is working on her project ‘trusting the middleman: impact and legitimacy of ombudsmen’, and she is part of the European Civil Justice Systems team that is led by Chris Hodges. Naomi is examining the institution of an ombudsman as an informal dispute resolution mechanism addressing questions of access to justice and consumer protection. Concurrently she has been working on two exploratory projects that look at consumers’ use of the Internet to achieve their goals. One of these concerns citizens’ online activism (the use of the internet and social media to complain) in collaboration with Chris Gill of Queen Margaret University Edinburgh; the other concerns consumer protection in emerging economies (a collaboration with Petra Mahy, Nicole Stremmlau and Iginio Gagliardone, all colleagues at CSLS).

Christopher Hodges

Professor of Justice Systems & Head of the Swiss Re/ CMS Programme on Civil Justice Systems

Christopher’s principal research is focused on a large project examining law and corporate behaviour with the intention of integrating regulation, enforcement, compliance and established norms of ethical behaviour into a coherent overall framework. This work covers systems and practice in many sectors, including financial services, aviation, healthcare, telecoms, energy, pharmaceuticals, consumer products, workplace health and safety, and environmental law. In his role as head of the Civil Justice Systems Programme he works closely with Naomi Creutzfeldt on issues related to ADR, with Sonia Macleod on a comparative project on personal injury compensation schemes, and with Rebecca Money-Kyrle on mechanisms and safeguards in class action procedures within EU jurisdictions. He continues his position as adviser to EU governments and regulators on consumer ADR and ombudsmen.

Agnieszka Kubal

British Academy Postdoctoral Research Fellow

Agnieszka is pursuing a project which examines the interplay between a legal framework and migrants as agents responding to a new socio-legal environment. The topic inspires a deeper reflection about the consequences of state produced labels such as ‘legal’, ‘illegal’, ‘civil’ and ‘criminal’ in migration law and the access of migrants to justice more generally. She studies the case of Russia, the second largest destination for migrants globally, aiming at developing an approach to studying the global socio-legal dimensions of migrations that moves beyond the European and American experiences. Comparing the outcomes of her ethnographic study in Russia with data from western countries, Agnieszka questions whether what happens to migrants and refugees in Russia is as much a contrast with the experience of immigrants in Europe and America as many observers tend to assume.

Sonia Macleod

Research Officer in Civil Justice Systems

Sonia is completing a major comparative project on personal injury compensation schemes (jointly authored with Naomi Creutzfeldt, Chris Hodges and others), which can be viewed as the ADR equivalent for personal injuries. The project has analysed a variety of no-fault compensation schemes, and details the socio-legal factors which drive their creation and subsequent success or failure. In a different project Sonia is exploring over 40 case studies on major medicines and medical device injuries in Europe, to determine whether the safety signal came from litigation, medical professionals, or the pharmacovigilance system. Sonia is also working on case studies on the PiP silicone breast implant and metal-on-metal hip implants. These studies examine how to amend the regulatory systems for medical devices and pharmaceuticals to improve patient safety.

Rebecca Money-Kyrle

Research Officer in Civil Justice Systems

Rebecca is conducting comparative research on collective access to justice and redress. Her current research project ‘Collective action: a comparative study’ focusses on EU measures for public and

*Radio Pamoja in Nairobi.
Photo: Iginio Gagliardone*



private collective enforcement of rights arising under European law, in comparison to national laws and procedures across all the member states. Rebecca's research takes into account the constitutional, public interest and regulatory dimensions of effective enforcement of private rights in mass harm scenarios, for example considering the socio-economic and

cultural implications of collective enforcement of environmental, employment and discrimination, and consumer and competition law rights. More broadly, Rebecca's research examines evolving trends in access to justice, and how different jurisdictions across the world provide for access to justice for mass harm, cross border claims.

MEDIA LAW AND FREEDOM OF SPEECH

Researchers from the Centre working on this theme include the following:

Rogier Creemers

Research Fellow in Chinese Law and Society

Rogier's research primarily investigates the law and policy of China's Internet. He seeks to analyse how the Chinese government's approach to the Internet reflects broader socio-economic and political goals, and how the potential of technology influences government action. As part of this project, Rogier edits *China Copyright and Media*, a unique database of translated Chinese-language legal and policy

documents. In addition Rogier has an interest in Chinese jurisprudence and legal theory, particularly its relationship with state ideology.

Iginio Gagliardone

Research Fellow in New Media and Human Rights

Iginio's research focuses on the complex relationship between new media, political change, and human rights. It relates to the emerging trend towards distinctive models of the information society. His past and current research projects have explored this relationship from different perspectives: from assessing the role of new media in peace-building and state-building in East Africa, to examining the increasing role of emerging powers, especially China, in shaping the development of information societies

*Satellite television and Chinese refrigerators dominate cafes in small rural towns in Ethiopia.
Photo: Matti Pohjonen*



in Africa. His most recent research projects explore the nature and significance of hate speech online, with a particular emphasis on the tradeoff between freedom of expression and human dignity, and also on how social networking platforms are responding or failing to respond to the challenges presented by hate speech.

Tamara Spitzer Hobeika

PCMLP Research Officer and Mooting Coordinator

As a member of the Media Law team, Tamara coordinates and ensures the smooth running of our Moot Courts, an initiative that takes her to countries such as India and China and helps to bring participants from other countries to Oxford. Working closely with Nicole Stremlau and Iginio Gagliardone, Tamara is also involved in research on the nature and significance of hate speech.

Nicole Stremlau

Senior Research Fellow/Head of PCMLP

The focus of Nicole's research is on media policy and new technologies in conflict, with special interest on Eastern Africa. In Somalia she is examining



Iginio Gagliardone with MSt Student Michael Kebede

innovation in the absence of formal state regulations, including the rapid growth of mobile money and the impact of radio call-in programmes on government accountability. In a separate, EU-funded collaborative project on Media, Conflict and Democratization in Egypt, Serbia, South Africa and Kenya, Nicole is leading the Oxford team that is responsible for research in Kenya, specifically around issues of the International Criminal Court, violence around elections and the marginalisation of Kenya's Somali community. As Head of PCMLP, Nicole fosters the Price Media Law Moot Court Programme, the Annenberg-Oxford Summer Institute and various collaborative projects with our university partners in China, India and the US.

Governance of water scarcity and drought in the UK

Bettina Lange

The governance framework to deal with water scarcity and drought contains a clear commitment to evidence-based legal decision-making. However, we know little about whether and how key decision-makers actually make use of environmental science and economic knowledge, for example in order to decide how to write their drought plan or how to apply for a drought order. In this context the puzzle that I am interested to explore is the tension between the idea of the law as a powerful, interventionist tool for regulating the abstraction and use of water, and the idea of the law as a set of regulatory principles dependent on the conclusions of scientific reasoning.

This puzzle prompts me to explore the hybrid nature of state law. On the one hand it is powerful by virtue of being capable of steering those whose behaviour is subject to legal rights and duties and often backed by sanctions, but on the other hand it is powerless unless informed and rendered legitimate by relevant scientific expertise. Hence, exploring the question of how environmental science and economic reasoning inform legal decision-making in relation to the governance of water scarcity and drought informs a range of socio-legal debates that are not just topical but wider, fascinating and even fundamental. First, the fact-value distinction, which has been central to understanding and criticising legal decision-making for environmental regulation. It has been argued that facts are assembled in specific ways and can contain implicit value judgements.

The question then is how does the fact-value distinction play out in practice when it comes to legal decision-making in relation to water scarcity and drought? Second, there is a rich socio-legal literature arguing that law has its own ways of reflecting the social world. That argument can be extended to ways of reflecting the natural world. This raises questions about whether environmental-scientific and economic thinking about water scarcity and drought are distinct from law's conceptualization of water scarcity and drought, and ultimately what the relationship between scientific and legal reasoning is.

The research is a socio-legal contribution to MaRIUS, a large interdisciplinary research program funded by the UK Natural Environment Research Council. The programme examines the management of the risks, impacts and uncertainties of water scarcity and drought in the UK.

Dry saltmarsh pan with cracking after drought Bridgewater Bay NNR Severn Estuary Somerset, England, August 2009
Photo: © David Woodfall / naturepl.com

Legalism: History and Anthropology of Law

Fernanda Pirie

How are we to approach forms of law that appear beyond the great legal traditions of the world? Historians and classicists debate the nature of Roman and the Islamic law, but how should we understand the coutumes and fueros of mediaeval Europe, the 'urf (treatises on custom) in the Middle East, or the codes made by villagers and tribes on the periphery of states from Iceland to Central Asia, Nepal, and China? My own fieldwork in tribal Tibet, for example, yielded a written code that seemed to bear no relation to either historic Tibetan or modern Chinese law. Lawyers often regard such material as peripheral to their concerns, but questions about the nature of law, links between law and justice, and the significance of rules produce subtly different answers if we consider these cases, from those suggested by the familiar legal examples on which lawyers normally base their theories.

The Oxford Legalism project brings together historians, anthropologists, classicists, and others, to discuss and capture parallels between distant examples. It is apparent that law is not a universal social form: anthropologists working on Amazonia, for example, describe many contexts in which the concept has no resonance. Yet not to describe as 'law' the forms and practices of people from regions as far removed as Europe, North Africa, the Middle East, and India, would defy common sense. The comparative study of disparate cases suggests a widespread association between ideas of justice, generalizable rules, and claims that the latter, as custom or mythic inheritance, stand apart from society. Other dynamics, often assumed to be fundamental to law, turn out to be contingent: many legal codes produced in the margins or absence of centralised authority—including my Tibetan code—have no certain impact on the ground, defying all notions of legal functionalism. The significance of law and legalistic forms goes far beyond the issues of social control and conflict resolution. Cases discussed in the project from tribal Yemen and early

*Mediator in the Amdo region of eastern Tibet.
Photo: Fernanda Pirie*



medieval Europe indicate that some laws may be more significant as means of social self-definition and statements of collective morality, than as a practical means of governing or maintaining order. Historic village communities and medieval guilds, as well as those who promote human rights and international law in the modern world, appeal to laws and legal symbolism as much for what they represent as for their regulatory qualities.

Puzzling over provisions for oaths and ordeals in old Tibetan legal documents, I found medieval English historians could offer analogies and suggest interpretations based on far more extensive European material. Lightly documented Tibetan practices thereby became less mysterious, while modern assumptions about means of proof and distinctions between fact and law are placed more firmly in their social and cultural contexts.

Investigating migrants' experiences of law in Russia

Agnieszka Kubal

The Civic Assistance Committee is one of Moscow's NGOs. It is the sole partner of the United Nations High Commissioner for Refugees (UNHCR) in Russia, responsible for UN work with refugees and migrant workers in the whole of that country. I chose it as one of my field sites for research because it holds regular pro bono legal aid clinics for migrants and refugees. Since 1991 it has been the first point of contact for people who seek asylum in Russia only to find that if they are to succeed they must navigate their way through the status determination procedures operated by the Federal Migration Service, or FMS. The FMS is the Russian government department responsible for the routine task of issuing visas and work permits. It is also responsible for the less routine task of dealing with refugee and asylum claims.

My fieldwork in Russia, supported by a British Academy post-doctoral fellowship, looked into the experience that migrants, refugees and legal professionals have had of how Russian immigration law works in practice. Russia is the second largest destination for migrants globally (after the USA), so I selected it to help me to develop a global socio-legal approach to migration analysis that could draw upon an information source beyond the much better documented experiences of migrants in European and North American countries. My project focused on the consequences in the everyday lives of migrants of the labels that the state uses about them officially, such as 'legal', 'illegal', 'civil' and 'criminal'.

In Moscow I received a very warm welcome at the Civic Assistance Committee. For several

months the CAC lawyers entrusted me with a space in the open-plan office where they see their clients, enabling me to observe the interactions between the lawyers, their clients, the interpreters, the UNHCR, and the FMS. I supplemented my daily observations in the office by a series of in-depth interviews with representatives of each group. In due course I was able to compile a substantial set of material about (1) the theory of the migration law in Russia and how it works in practice, (2) the role that each of the institutions that I have mentioned plays in mediating the access to justice that migrants have in Russia, and (3) the expectations, outcomes and consequences of a series of legal cases about migration and refugee issues, together with the experiences of everyone involved in them.

I returned from Moscow excited and enriched by my research, hauling luggage several kilograms heavier than on the outward journey because it contained all my handwritten notes and data. In the months since I have been sorting and analysing the information and reflecting on what the migrants said about the effects of the labels that the Russian legislators use for their administrative categories.

The first results I have presented at two conferences in Moscow and St Petersburg, and a chapter entitled "The border at the door – a socio-legal analysis of the internalisation of the border in Russia's immigration law and practice" has been published in a volume *Migration Bridges in Eurasia* edited by Sergey Riazantcev from Russian Academy of Sciences (2014).

DEPARTING STAFF

The beginning of the 2013-14 academic year saw the departure of David Erdos, to a lectureship at the University of Cambridge, after six very productive years as a research fellow at the Centre. Two of our early career researchers also have gone on to secure academic positions during 2013-14. Iris Benöhr was appointed lecturer at Queen Mary's University of London and at PCMLP, Paolo Cavaliere has left for a lectureship at the University of Edinburgh.



Living and working conditions of Central Asian migrants in Moscow. Photo: Agnieszka Kubal

The Centre actively engages with practitioners and policymakers beyond academia. A number of projects and activities are explicitly designed to take knowledge accumulated through research to places where it might be helpful for decision making, including in the government and the private sector.

Denis Galligan is the co-founder, with John Adams, of **The Foundation for Law, Justice and Society**. Now an independent institute associated with the Centre, the Foundation aims to bridge the gap between academia and policymaking. Through its programmes of events, policy briefings, reports, and podcasts it condenses academic ideas into a format that is easily available and can be efficiently used by policymakers.

The Foundation for Law, Justice and Society
Bridging the gap between academia and policymakers

The Swiss Re/CMS Research Programme on Civil Justice Systems, led by Chris Hodges, is in constant touch with EU governments, the European Commission, regulators, ombudsmen, judges, and arbitrators. Members of the programme provide advice and comments on policy ideas, hold annual conferences with ombudsmen, and speak at in-house events, as organised, for example, by the Association of British Healthcare Industries. They are often asked to brief or advise politicians, such as Members of the European Parliament and the two UK Houses of Parliament, either informally or at public hearings.



Research by Bettina Lange, Christina Cook, and Chris Decker on the prevention and management of water scarcity and drought in the UK forms part of a large interdisciplinary project, **MaRIUS**, which aims to place academic research at the centre of policymaking and to advise regulatory bodies on how to respond to environmental problems. Chris Decker is also performing an external economist's review for the Legal Services Board's Costs of Regulation project and is assisting the Financial Conduct Authority on regulatory issues associated with in the establishment of the new Payment Systems Regulator.



The Programme in Comparative Media Law and Policy (PCMLP), led by Nicole Stremlau, works closely with policy makers. Its Price Media Law Moot Court is a forum for dialogue on freedom of expression between academics and lawyers, judges, and civil society members. The PCMLP's research on hate speech online is bringing together policymakers from international organisations and national governments to discuss the regulation of speech around elections. PCMLP researchers have advised on the drafting of media and communications legislation in Somalia. PCMLP is also committed to training policy-makers through the annual Annenberg-Oxford Media Policy Summer Institute.



The 6th International Rounds of the Monroe Price Media Law Moot Court Competition welcomed teams from 26 countries making it the most diverse edition of the competition yet.

After the oralists of both teams deployed their most refined arguments, the eminent judges chaired by Justice Andras Sajó of the European Court of Human Rights, declared the team from India the overall winners of the competition.



Photo: Iginio Gagliardone.

DPhil in Socio-Legal Studies and MSt in Socio-Legal Research

The Centre offers MSt (Masters by research) and DPhil postgraduate degrees. Each year an average of six new students from around the world join us, refreshing a lively community of around 30 students. With the support of the Centre's supervisors the students conduct research on a variety of issues, exploring links between laws and societies. Their research accumulates evidence and understanding from many parts of the world. Recent case studies have included Libya, Uganda, Guatemala, Brazil, China, and Russia, among others. The student-run 'Socio-Legal' and 'Islamic Law and Society' discussion groups help to turn the Centre into a debating forum where ideas are critiqued and analysis sharpened.



DPhil and MSt students at the Centre: Elham Fakhro, Sajjad Khoshroo, Owain Johnstone, Friso Jansen, Felix-Anselm van Lier, Michael Kebede, Mike Leach, Stacy Topouzova, Arthur Choo, Alice Schneider, and Maayan Ravid.

Photo: Blue Frame Photography

Challenging Ockham's Razor: Institutional Competition in Collective Action

Pedro Fortes is a DPhil Candidate at the CSLS, an Associate Professor at FGV Law School, and a Public Prosecutor in Rio de Janeiro, Brazil.

Medieval philosopher William of Ockham developed a problem-solving principle of simplicity, which remains influential: among competing hypotheses, the one with fewest assumptions should be selected. In its popular formulation, Ockham's razor implies that "entities must not be multiplied beyond necessity". In contemporary institutional thinking, this principle is used against proliferation and complexity of institutional bodies in government and civil society. For the sake of simplicity, when one organization already responds to a particular social problem, other organisations should not intervene.

U.S. and E.U. models of collective action seem to rely on Ockham's Razor in terms of numbers of institutions. In the U.S. class action system, courts are powerful institutional actors, solving wrongdoings of business corporations. On the other hand, the European model of collective redress relies on government officials for market regulation and consumer compensation. Regulators are protagonists and courts play only a secondary role. The third model of collective action— Latin American civic-public actions—seems to challenge the simplicity principle of Ockham's Razor. This model is characterized by competition between many institutional actors in a complex scenario.

In Brazil, public prosecutors, public defenders, state assembly attorneys, labour unions, political parties, and NGOs may all bring collective claims to courts. The principle of Ockham's Razor suggests that this long list of plaintiffs is illogical, leading to high costs, contradictory claims, and unnecessary complexity. However, the existence of multiple processes

produces positive effects. Since various organisations may file civic-public action, risk of political or economic capture is low. On the other hand, all actors have their own particular constituencies and respond to particular demands without considering profit.

In this context, the Brazilian Attorney General's Office has developed an active internet platform for online complaints, which are quickly processed. Public defenders benefit from their 80 daily individual complaints, collecting evidence of repeated cases to defend poor consumers. The State Assembly's Consumer Committee circulates a 'citizenship bus' in the suburbs, hearing local consumers who present repeated problems. NGOs gather information about collective wrongdoings from their tens of thousands of affiliated members. Regulatory agencies also maintain channels of communication with users, influencing their decision-making processes. Interestingly, regulators and courts are often engaged in institutional dialogues, competing for institutional space. Sometimes courts defer, refusing to intervene for consumer protection. Sometimes courts prevail, setting standards for the market in the place of regulators.

How does this institutional competition challenge U.S. and E.U. models? European collective redress is criticized for risks of capture and U.S. class actions are considered expensive. The multiplicity of institutional actors in Latin American civic-public action may fail Ockham's Razor heuristic test. Nonetheless, consumers do not fear capture and companies do not fear bankruptcy. The Latin American model of civic-public action challenges the idea of 'less as more', although it is not necessarily more efficient than the U.S. class actions or E.U. collective redress. My research explains its internal logic and the contextual experience of institutional competition in Latin American collective action.

'The hero extends the hand of conciliation'

A married couple, with one child, wished to divorce. On their engagement, the two families had exchanged expensive gifts, and there had been a substantial dowry. Who owed what to whom, how was any transfer of property to be effected, and how would custody of the child be determined?

A home-owner found he had been burgled, and suspected nearby neighbours were responsible. How could this be investigated and, if necessary, the perpetrators punished and amends be made?

A careless car-driver hit a horse-drawn cart carrying several people and knocked it into a ditch. The cart passengers required extensive medical treatment, and the horse had to be destroyed. How could the parties agree appropriate compensation, and ensure payments were made?

These may sound relatively simple problems, easily resolved in a contemporary European state, but how did Kosovar Albanians manage and resolve situations like these in the 1990s when, through a combination of enforced and voluntary exclusion, they did not have recourse to the legal and criminal justice systems of the Serbian state? And in a time of increasing polarisation along ethnic lines in the former Yugoslavia—including wars in Bosnia and Croatia, and the threat that these would spill over into Kosovo—how did the measures put in place within the Kosovar community, in lieu of state legal and criminal justice systems, contribute to the developing sense of a Kosovar nation?

The answer is rooted in a traditional Albanian dispute conciliation process called the 'Conciliation of Blood Feuds'. To build a picture of this in operation, I located and examined in detail the handwritten records of a municipal conciliation council, from which the examples above are drawn, and carried out extensive interviews during fifteen months of fieldwork.

In the early 1990s, a group of Kosovar academics decided to mobilise and adapt this process, to prevent fissures appearing in the 'national' community. This took place within the broader context of an emerging Kosovar Albanian 'parallel state', and it operated at national, regional, municipal, and village levels. The process emphasised conciliation and forgiveness, but, through links with the dominant Kosovar Albanian political party, conciliators were able to impose and enforce fines and corrective actions. Disputes were heard by recognised local authority figures, who either resolved the issue themselves or, if more complex, referred them up to the next 'level' for conciliation. This process consolidated local communities, and forged links between them and the wider Kosovar Albanian population. It was also anticipated, by those who led the work, that it would form the foundation of a future Kosovar state legal system, which they believed would be legitimate, since rooted in ideas of indigenous and historic 'Albanian law'. Given the often clandestine conditions under which they were operating and the prevailing political situation, participants in this socio-legal conciliation process understood their actions as meeting an immediate practical need, but also as part of an heroic struggle for national self-determination.

Eleanor Pritchard
DPhil Candidate

Current DPhil and MSt projects

Perceptions of legality among ordinary citizens in Russia and the United Kingdom in courts of justices of the peace, magistrates' and county courts
Varvara Andrianova

Law and Consumerism: A Study from a Socioeconomic Perspective
Victoria Baltrusch

An Analysis of Child-Witnesses' Testimonies in Transitional Justice Institutions
Elena Butti

Do Courts Matter? The Role of Courts in Economic Regulation
Sebastian Castro Quiroz

Justice, politics and remembrance: A critical, legal and historical study of the Singapore Trials
Wui Ling Cheah

Judicial Accountability in Divided Societies: A Comparative Approach
Rebecca Elvin

Judicial Behaviour in the Gulf Cooperation Council States: Do Constitutions Matter?
Elham Ali Fakhro

Judicial Disagreement Under the South African Constitution
Nicholas Friedman

Mass atrocities in the global justice system: A comparative study of multiple narratives and legal personas
Matilde Gawronski

The Ownership of Archives in Formation
Cristina Golomoz

Constitutions and constitutionalism in transitional justice: The transformative power of constitutions in transitional societies
Caitlin Goss

Expropriation Coverage Across Political Risk Insurance Policies and International Investment Agreements
Rishab Gupta

Theories of rights and their sociopolitical foundations in constitution-making contexts
Binesh Hass

An inquiry into the regulation of medical professionals using a law and society approach
Friso Jansen

An empirical investigation into the impacts of International Law, focusing on the impacts of the Human Trafficking Protocol
Owain Johnstone

Federalism and Shari'ah in Ethiopia and Nigeria: A Comparative Study. Field: legal theory, comparative law
Michael Kebede (MSt)

Civil Compromise on Islamic Law: Case study of Islamic Finance
Sajjad Khoshroo

Asia's Entrepot: An Empirical Study of Maritime Arbitration and Mediation in Hong Kong
David Kwok

Regulatory Reform – Regulatory Evolution in Banking – A Comparative Study of Canada and Indonesia
Michael Leach

Towards a Hybrid Pouvoir Constituant: The Constitution-Making Process in Libya, a Socio-Legal Approach
Felix-Anselm van Lier

The challenges of Bosnian independent civil society and civic identity under the Dayton Constitution
Heather McRobie

The role of privacy rights in the formation, implementation, and enforcement of surveillance regulations in England
Steven McCarty-Snead

The Role of International Law in Establishing Corporate Accountability through Codes of Conduct
Sinisa Milatovic

The fragmented public in the SABC: Implications for policy and regulation
Blessed Ngwenya

Climate Change v. Financial Crisis: Analysing Transnational Inter-Expert Risk Communication in the European Union
Po-Hsiang Ou

Law and Albanian Nation Building
Eleanor Pritchard

Human Rights and Access to Justice in Israel - Particular National Conception in Conflict with Universal Legal Norms
Maayan Ravid (MSt)

Law and Society: Class Actions in Brazil, a Socio-Legal Enquiry
Pedro Rubim Borges Fortes

Violence in Contemporary Guatemala: Order and Insecurity on the Margins of State and City
Katherine Saunders-Hastings

Legal Cultures of Privacy
Alice Schneider

The Law's Empire: The Common Law in the Age of Financialisation
Julian Sempill

The effectiveness of second best solutions: Climate change & the courts
Claire Stockwell

Paper voyages to Delphi: bureaucratic justice and the European Court of Human Rights
Andrew Tickell

Does the Removal of the Law End the "Transition"? The Consequences of the Accession (Immigration and Worker) Regulations 2006 for Bulgarian Migrants in London after January 1st 2014

Stanislava Topouzova
Public policy and regulation; legitimacy and accountability in international organizations; administrative law
Andres Gonzalez Watty

Protecting the Consumer in Transforming China? The Unsteady Development of Chinese Consumer Law
Ling Zhou

DPhil and MSt Theses Completed in 2013-14

Courting Corruption: The Logic of Corruption Prosecutions in a Patronage Democracy
Samuel Clark

To what extent does South African Law provide for Public Participation in Environmental Decision making?
Ingrid Cloete (MPhil)

Accountability Interactions
Frances Foster-Thorpe

British Politics and Post-War Development of Human Rights
Benjamin Jones

The Making of the Underworld Justice System in Imperial China and its Continuing Influence on Chinese Society
David Kwok (MSt)

The International Criminal Court and the Ending of Impunity in Kenya
Lionel Nichols

Law and Language in Kosovo
Eleanor Pritchard

Transparency in the Petroleum Sector: Provisions, Perceptions and Practices
Rayhan Rashid

Personal Status Law Reform in Egypt: Women's Rights NGOs navigating between Islamic Law and International Human Rights Law
Marwa Sharafeldin

Law as one of the Manifestations of Power in Online Social Networking Sites (OSNS): An Analysis of Protection and Violation of Copyright and Privacy Interests in OSNS
Asma Vranaki

Regular seminars hosted by the Centre and its members include:

- **the CSLS weekly seminar series**
- **two CSLS students' discussion groups**
- **the Legalism seminars**
- **Comparative Media and Policy seminars**
- **Lectures and workshops in association with the FLJS.**

The Annenberg–Oxford Media Policy Summer Institute and *The Price Media Law Moot Court* are organised annually by PCMLP. Oxford Consumer ADR conference is organised annually by the Civil Justice Programme.

Events organised by the Centre:

2014

Exploring the Comparative in Socio-Legal Studies
SLSA workshop hosted by the CSLS, organised by Fernanda Pirie, Agnieszka Kubal, and Naomi Creutzfeldt

Inner Asian Law and Society: Religion and Justice
Workshop organised by Erdenchuluu Khohchahar, visiting research fellow

Consumer Dispute Resolution: Implementing the Directive

Third Annual Oxford Consumer ADR Conference organized by the Civil Justice Programme

Legal Architecture: Justice, due process and the place of law, by Linda Mulcahy

Book Colloquium

Graduate Conference on Latin American Law and Policy
Conference organised by Pedro Fortes and others

Firming Up Soft Law: The Impact of Indicators on Transnational Human Rights Legal Orders

Lecture by Professor Sally Engle Merry, Astor Visiting Lecturer

Anthropology of Law, by Fernanda Pirie

Book Colloquium

Reporting China,

Roundtable discussion organised by PCMLP and the Oxford University China Centre

Mastering the Barrel of the Gun: Can the Party Modernise the PLA without Losing Control?

Roundtable discussion organised by PCMLP and the Oxford University China Centre

Open and Networked Opportunities for Scholarly Books: The Knowledge Unlatched Experiment
Lecture by Lucy Montgomery

2013

SAD Cases in the Coroners' Courts: Examining Definitions, Evidence, Rights and Procedures in Sudden Adult Death Inquests

Conference co-organised by Dr Rebecca Money-Kyrle and Dr Sonia Macleod

New Approaches and New Questions in Chinese Law
Conference organised by PCMLP and European China Legal Studies Association

Building effective markets—the role of an integrated legal system

Conference organized by the Civil Justice Programme

Economic Rights and Regulatory Regimes: Is there still a 'right' to water?

Workshop organized by Bettina Lange and Mark Shephard (McGill University)

First Annual Oxford Consumer ADR Conference
Conference organized by Chris Hodges, Iris Benöhr, and Naomi Creutzfeldt

Beyond Public Opinion: Collecting and Interpreting Information in Conflict and Post-Conflict Environments

Workshop organised by Iginio Gagliardone

China's Great Constitutional Debate.

Lecture by Thomas Kellogg

Issues and Developments in Chinese Media Law and Policy

Seminar organised by PCMLP

Exploring the comparative in Socio-Legal Studies, Oxford, 15–16 December 2014

SLSA workshop hosted by the CSLS, organised by Fernanda Pirie, Agnieszka Kubal, and Naomi Creutzfeldt.

The Centre's researchers have been examining the possibilities offered by the comparative aspects of empirical studies of law, thereby making a virtue of the richness of detail found in the traditional case studies that have formed the bulk of past research. In order to 'explore the comparative' in socio-legal studies we have initiated an exchange of experiences and ideas about what meaningful comparison might involve and how it can best be approached in such a multidisciplinary field as socio-legal studies. In December 2014 the Centre held an international conference on 'The Comparative in Socio-Legal Studies' in collaboration with the Socio-Legal Studies Association. The event attracted more than 60 members of the socio-legal community from leading universities in Britain and abroad. It

was a unique opportunity to listen to colleagues in the field describing their varying approaches to, and understandings of, 'comparative' research, and a series of inquiries and lively debates followed. The discussions had opened up a new dimension that complemented the previous emphases on the separate examination of 'the legal' and 'the social' in the field initiated by the Socio-Legal Studies Association. The conference was a showcase for the variety of comparative approaches that already exist in tentative form in socio-legal studies, and the methodological focus that we placed on techniques of comparison brought clarity to both the challenges and the further opportunities afforded by the approach.



SLSA conference, December 2014. Naomi Creutzfeldt, Agnieszka Kubal, Fernanda Pirie with keynote speaker David Nelken.



Radcliffe Square
Photo: Oxford University Images / Photovibe

Events organised in association with the FLJS

2014

The New Global Rulers: The Privatization of Regulation in the World Economy, 23 January
Book Colloquium

Can We Save Countries from Economic Crises? Some lessons from IMF and EU experience over three decades, 26 February
Lecture by Max Watson

Democratic Self-Limitation: Reexamining 'the People' in the Theory of Populism, 10 March
Seminar

Gender Quotas for Corporate Boards and Democratic Legitimacy, 17 March
Workshop

(In)formal Economies, Economies of Favour: The End of Transition?, 20 March
Book Colloquium

Social Media and the Culture of Connectivity, 28 April, Lecture by José van Dijck

Social Media in the Modern World: Legal, regulatory and human rights issues, 29 April
Workshop

Trusting the 'middle man': Impact and legitimacy of ombudsmen, 29–30 April
Conference

The Business of Traffic in Humans, 8 May
Workshop

Annual Lecture in Law and Society: 'Reassessing the Civil Law Tradition: the Changing Role of the Judge', 28 May

Could Scotland join the European Union?, 4 June
Panel Debate

2013

Thornhill's 'A Sociology of Constitutions', 7 February
Discussion

New Questions in Regulation, 1 March.
Panel Discussion

Annual Lecture in Law and Society: 'Law and Social Illusion', by Professor Liam B Murphy, 13 June 2013

The Deep Roots of Social Systems Theory: Reconsidering the Contribution of Max Weber, 19 November

Lecture by Professor Alberto Febbrajo

Law and Literature: a Dilettante's Dream?, 26 November.

Inaugural lecture by Professor William Twining, UCL.

Machiavelli's The Prince - 500 Years On, 9 December

Book Colloquium and lecture by Professor Paolo Carta

VISITORS' PROGRAMME

The Visitors' Programme is an important part of CSLS activity. At any one time we are host to a number of guest academics and practitioners who for a specified period are fully engaged in the intellectual and social life of both the Centre and of the University.

They conduct their own research while also participating in our research programmes and bringing new perspectives to seminars and other forums for debate among students and academics. They are able to make full use of the University's research facilities and libraries, in addition to having access to seminars, lectures and other academic gatherings ordinarily closed to the general public. The programme fosters ongoing links between the Centre and numerous institutions around the world, and a number of collaborative projects and publications have been generated as a result.

Our Visiting Programme also gives opportunities to graduate students from other Universities whose interests lie in the field of socio-legal studies. Those admitted are enabled to spend time at the Centre and to benefit from consultations with specialists, to take part in seminars, and to test their ideas by presenting them at meetings of the students' discussion group.



The Old Bodleian Library Photo: Oxford University Image/Photovibe

The following publications were produced by CSLS staff during 2013-14:

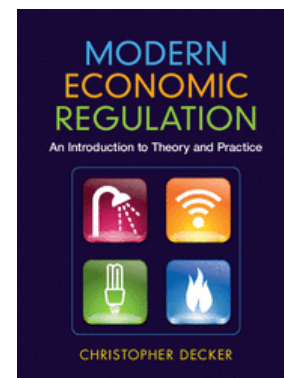
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- Hodges, C. & Stadler, A.** (eds) 2013. *Resolving Mass Disputes: ADR and Settlement of Mass Claims*. Surrey: Edward Elgar.
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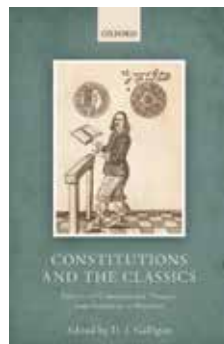
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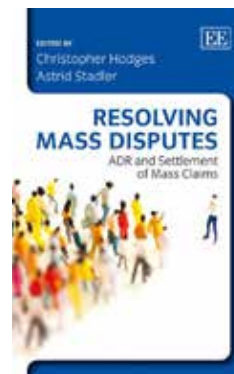
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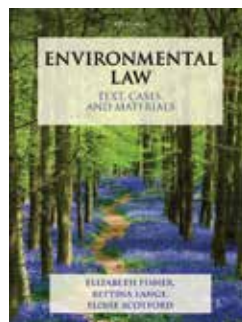
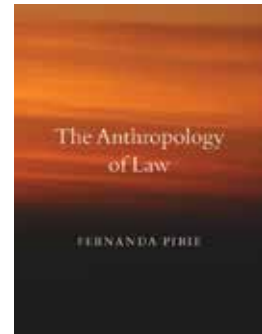
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The Skyline of Oxford, UK
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