



Cultural Expertise in Europe:

Indicators of Impact

Christ Church, Oxford

27-28 March 2019

Convenor: Livia Holden

Team: Anna Tsalapatani, Uyanga Amarsaikhan, Lena Rose

This research is funded by the European Research Council.



What is Cultural Expertise?

Cultural expertise has been defined by Livia Holden as ‘special knowledge that enables socio-legal scholars, experts in non-European laws and cultures, or, more generally speaking, cultural mediators - the so-called cultural brokers - to locate and describe relevant facts in light of the particular background of the claimants and litigants and for the use of the court’.¹ This definition constitutes an emergent concept in anthropology to indicate the use of cultural knowledge for solving social problems. This topic however is not completely straightforward: talking about cultural expertise is a daunting task because culture is a concept that allows for a very diverse range of contents. Opinions are divided on whether culture should or should not play a role in dispute resolution and, on a broader level, on whether culture might be an obstacle to human rights. Preoccupations are also formulated concerning cultural arguments that may condone unacceptable practices and crimes.

What is the purpose of EURO-EXPERT?

At EURO-EXPERT we are working toward the reformulation of the definition of cultural expertise for integrating the use of cultural arguments in connection with rights, more broadly considered as including all kinds of minorities, indigenous people, and cultural heritage with or without the appointment of cultural experts and in a great variety of cases ranging from criminal law to civil law, and including also business and administrative law, land rights, banking law and many other fields and sub-fields of law. We want to assess the use and the impact of cultural expertise from an analytical perspective that does not take sides a priori.

EURO-EXPERT seeks to understand the use and impact of cultural expertise in 15 European Countries: Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Poland, Portugal, Spain, Sweden and the UK. The data collected by this project will be used to: 1) understand and map the differences in cultural expertise; 2) create a toolkit for measuring the impact of cultural expertise; 3) establish an open access database for cultural expertise; 4) design a teaching and learning materials on cultural expertise; and 5) formulate policy-making guidelines which include tested solutions for a sustainable inclusiveness in Europe.

¹ Livia Holden, *Cultural Expertise and Litigation: Patterns, Conflicts, Narratives* (Taylor & Francis, 2011).

Where can I learn more about cultural expertise?

As you would have realised from the above, we are still working towards a deeper understanding of the diversity of use and impact of cultural expertise. There are however several resources available for those who would like to know more. These include:

- Holden, L. ed. 2011 *Cultural Expertise and Litigation*, Routledge
- Holden, L. 2019, *Beyond Expert Witnessing and toward an integrated Definition of Cultural Anthropology*, Emerald.
- Holden, L. 2019, *Cultural Expertise and Socio-Legal Studies*, special issue in *Studies of Law, Politics, and Society*, vol. 78, Emerald.

You may also wish to visit our Twitter @CulturalExperts and project website, which contains useful information including the details of our upcoming events: <https://www.law.ox.ac.uk/research-and-subject-groups/cultural-expertise-europe-what-useful>

Indicators of Impact

The term indicator has a whole range of meanings from ‘something that indicates or points to a fact [...] to an elaborate combination of data merged into a single rank or score’.² While indicators as we know them today have emerged largely from economic contexts, they have also been applied to social phenomena, such as to the evaluation of human rights. Scholars have pointed to the proliferation of indicators in recent years, and debate has raged as to their usefulness.³

As is the case with all indicators, in establishing possible indicators of impact for cultural expertise, one must pay considerable attention to what factors should be included in the evaluation and how they will be measured.⁴ In doing so, we also need to be careful that we are not enforcing approaches from one area or sector onto the question as a whole, and realise that disagreement may exist regarding the specific goals of this endeavour. What our research has made very clear to us is the diversity of the forms of cultural expertise and their use, whether these be extensive expert reports for the courts, or Country of Origin Information, or consultancies for the Prosecution and other, therefore care must be taken in evaluating their helpfulness and competitiveness in their respective contexts.

Workshop Aims

The aims of this workshop are to establish some of the key impact indicators for cultural expertise through a collaborative approach between academics and members of the legal profession with experience in cultural expertise. The reason for establishing indicators of impact is to provide accessible instruments to the legal profession for assessing the opportunity to appoint a cultural expert or to use a form of cultural expertise during legal proceedings. This workshop will raise many questions including, but not limited to the following:

²J.-M. Bello Villarino and R. Vijayarasa, “The Indicator Fad: How Quantifiable Measurement Can Work Hand-in-Hand with Human Rights - A Response to Sally Engle Merry’s *The Seductions of Quantification*,” *New York University Journal of International Law and Politics* 50, no. 3 (2018): 992.

³Kevin E. Davis, Benedict Kingsbury, and Sally Engle Merry, “Indicators as a Technology of Global Governance,” *Law & Society Review* 46, no. 1 (2012): 71–104, <https://doi.org/10.1111/j.1540-5893.2012.00473.x>.

⁴Sally Engle Merry, *The Seductions of Quantification* (Chicago: Chicago University Press, 2016).



- What makes cultural expertise most helpful in decision-making?
- For those who submit expert reports, what is it that makes their services useful?
- Can we understand the impact of cultural expertise using indicators, and if so, what could these indicators possibly be?
- What makes for a successful use of cultural expertise?
- Can indicators help the members of the legal profession and how?

Workshop Format

This workshop will not require participants to provide a formal presentation. Participants will be expected to participate in the plenary and group discussions on the themes suggested by the moderators. The themes for discussion will revolve around the components of impact of cultural expertise: When is cultural expertise a competitive service? How is cultural expertise of assistance? Discussion will be elicited by the moderators who will briefly summarise cases that were submitted by the participants.



Participant Biographies

Håkan Andersson

Håkan Andersson is a Public Prosecutor at the Swedish Prosecution Authority. He holds a Master of Laws from Stockholm University (2008). His professional career has involved being a clerk at the District Court of Gallivare 2011-2013 and a prosecutor since 2013. His areas of professional field experience include criminal investigations, penal court procedures, crimes within the family/close relations and corporate crime. His professional achievements include being a regional contact for IT-related crimes as well as regional designee for forestry crime and animal cruelty/mistreatment.

John R Campbell

John R Campbell is an Emeritus Reader in the Anthropology of Law and Africa at the School of Oriental & African Studies, London. His interest in legal anthropology/law is began by accepting instructions from refugee lawyers to write 'expert reports' to assist Ethiopian and Eritrean asylum seekers. He conducted fieldwork in the UK and in Ethiopia which examined how the Eritrea-Ethiopia border war (1998-2000) displaced and created hundreds of thousands of refugees who sought refuge elsewhere in the world (*Nationalism, Law and Statelessness*, Routledge, 2014) and was followed by an in-depth ethnography of the British asylum system (*Bureaucracy, Law and Dystopia in the UK's Asylum System*, Routledge, 2017). More recently he has undertaken fieldwork in magistrates' courts across London ('Can law achieve happiness? Critical reflections on criminal justice', *Journal of Comparative Law* vol. 13: 2). He is completing a book manuscript looking at the quality of justice in magistrates' courts. He can be reached at: jc58@soas.ac.uk

Anastasia Chalkia

Anastasia Chalkia (PhD) is adjunct professor at the University of West Attica (GR) and teaching staff at the National Center for Public Administration and Local Government (EKDDA). Her publications include a monograph in criminal policy, editing of two criminological volumes and many contributions in scientific journals and books. She has also participated in research projects on a range of sociological and criminological topics in collaboration with Greek and European bodies. She is Head of Asylum Unit at the Greek Asylum Service, and National Trainer certified by the European Asylum Support Office (EASO) in the training module "Inclusion in International Protection". She has also participated as a member of the EASO Working Group on the Asylum Procedures. Currently, she is Deputy Representative of Greece to the European Crime Prevention Network (EUCPN). Along with the above assignments, she served as Deputy Chairman at the Central Council for Crime Prevention of the Ministry of Citizen Protection and as Deputy Civil Society Representative in the Migration Committee of the Ministry of the Interior.

Sandrine Dekens

Sandrine Dekens is a clinical psychologist, psychotherapist and an expert for the International Criminal Court in the Hague. As an expert in vulnerable children and the issues of 'placement, neglect, abandonment, orphanhood and adoption'. As a psychotherapist, she works with people who have complex identities and the attachment to multiple diverse cultural, social, political and professional worlds. This can include adults and children whether they are migrants themselves or born to foreign parents, whether they have mixed backgrounds, were adopted from overseas, are transgender, homosexual, trade unionists, victims of political oppression, social or humanitarian



workers, all of whom are connected to their particular identities and the specificity of their trajectories. Her approach to judicial expertise is integrated with the foundations of ethnopsychiatry and the key principles of geopolitical clinical psychology. She was taught by Françoise Sironi, a national and international expert. Since 2008 she has been on the list of experts for the CPI. Since 2010 she has been working periodically with judges in France and in the DOM-TOM, to investigate the psychology and other issues of foreign cultures.

Martine de Maximy

Martine de Maximy is an honorary judge. She worked as a judge of the Children's Court for 22 years and has been the instructing judge and president of the Cour d'Assises in Paris. Since the start of her career she has pushed for the further education of judges (within the teachings of l'Ecole Nationale de la Magistrature), of social workers and psychologists. Educated in ethnopsychology, she initiated the use of cultural intermediation procedures at the children's court in Paris with her colleague Thierry Baranger, the co-author of a book entitled *l'enfant sorcier africain entre ses deux juges*. In her work within criminal jurisdictions, she has arranged for the use of transcultural expertise. She has published multiple articles on intercultural issues in law.

Damiano Fiorato

Damiano Fiorato is a lawyer, the owner of a law firm and a specialist in human rights, family and juvenile law, as well as real estate law. He has been a Council member of the Genova Young Bar Association and has been a legal advisor on numerous boards. He has participated and has been involved as a speaker, teacher and organizer of several legal conferences on the rights of persons and family, as well as conferences in the field of real estate law. He was also an active member in the implementation of the so-called anti-discrimination law.

Carlos Gómez

Carlos Gómez was born in Madrid 1957. He has been a judge since 1982. From 1999 to 2002 he was the director of the Spanish Judicial School and was president of the Court of Appeal of the Balearic Islands since 2004 to 2014. Currently, he is judge in the High Court of Justice of the Balearic Islands. He has been engaged in several works within the framework of the Council of Europe and was appointed Scientific Expert in the drafting of Recommendation CM/Rec(2010)12 on the independence, efficiency and responsibilities of judges.

Aina Khan OBE

Aina Khan OBE is a world-renowned lawyer acting for: A-list names, business owners, ex-pats, executives, international families, Family Offices, all nationalities and faiths. Regularly acts against leading London law firms. Aina was honoured to receive an OBE ('Officer of the Most Excellent Order of the British Empire') from Her Majesty the Queen in the 2018 New Year's Honours List. She has more than 25 years' experience and has been involved in over 5,000 cases. Aina Khan OBE works closely with trusted lawyers in over 40 countries. She prepares Expert Reports on foreign Property, Inheritance, Crime as well as English Family law and is a leading expert in Islamic and Asian issues. She is a frequent guest on TV, radio, other media including a 'Dispatches' documentary on Channel 4 in November 2017 entitled *The Truth about Muslim Marriage* that followed Aina's work for over a year. She is a sought-after speaker at universities and conferences and an author of *Islamic Alternative Dispute Resolution* in LexisNexis' Family Law Service. She has been active in mentoring young lawyers, and in interfaith and community affairs.



Spyros Koulocheris

Spyros Koulocheris is a lawyer from 1989, LLM in History of Law in Athens University. Head of Legal Research of the Greek Council for Refugees focused on preparation of scientific articles, legal texts and researches as well as conferences; interviews with asylum seekers to assess to what extent they fulfil the requirements to be recognized as refugees; re-evaluation of cases examined by members of the Legal Assistance Unit; preparation of legal files before the Council of the State the Court of Appeals and other courts, follow-up of asylum legislation on national and international level; ex-author of the AIDA (Asylum Information Database) report for Greece, missions at border areas in cases of mass influx of asylum seekers; member of the rehabilitation unit for victims of torture under the Prometheus Project. Trainer to judges and lawyers in national seminars and conferences as regards Greek and European legislation on asylum, administrative detention, human trafficking and hate crime, participation to several EU projects, focal point on statelessness, preparation of experiential modules for trainings to judges, policewomen/men, lawyers on hate-crime. He is a member of the 'Dress and the Law' project on process.

Stefanie Lemke

Stefanie Lemke is an international legal practitioner and a socio-legal scholar, focussing on the promotion of human rights and the rule of law, especially legal empowerment and judicial independence, with an emphasis on Europe, Central Asia and Latin America. In addition to her work with the EURO-EXPERT project at the University of Oxford, she is a senior adviser to the Council of Europe's programme office in Ankara, and has been appointed national expert for Germany by the European Commission (DG JUST and DG FISMA). Previously, she litigated high-profile cases before the ICC and UN human rights bodies, and worked on numerous projects with leading research groups, government institutions, international civil society organizations and global law firms in Germany, the Netherlands and the UK. She completed her PhD thesis at London, Cologne and Oxford universities, and is a regular guest lecturer and trainer for students and diplomats. She has published widely, most recently with Cambridge University Press. Her new book on *Human Rights Lawyering and the Promotion of Access to Justice in Europe* will be published this spring.

Małgorzata Lisowska - Magdziarz

Małgorzata Lisowska - Magdziarz, PhD, is an Associate Professor at Jagiellonian University, Cracow. She is a media scholar and semiologist who conducts research on the research on the media semiotic, participatory uses of media, mediatised culture, media practices, and media education and literacy. She is the author of eight books (*Rebellion for sale: The music industry – advertising – semiotics* (2000); *Media content analysis* (2004); *The analysis of the text in media discourses* (2006); *The Everyday Media* (2008); *The Backseat Passenger* (2010); *Phoenixes, swans, and butterflies: Mass media and the transformation culture* (2012); *Fandom for beginners: Community and knowledge* (2017); *Fandom for beginners: Identity and creativity* (2018)), and about 80 research papers dealing with the topics of media semiotic, media uses, persuasive communication, mediatised consumption practices, and media literacy.



Jackie Loteteka

Jackie Loteteka is a lawyer in Paris and is an active member of the association AVOMARC. She is an expert at the Children's court in France, and an instructor in specialized education on issues relating to culture and justice. She has published multiple articles on various issues relating to culture and law, including *Médiation culturelle et familles*, '*Souffrances familiales et resilience*' (2014) and *Comment l'immigration entame-t-elle la possibilité de tenir une 'place d'adulte'* (2012). She has also given numerous lectures on similar issues to a vast range of audiences including at Ecole Nationale de la Magistrature, Paris, and at UNESCO.

Ticky Monekoso

Ticky Monekoso is a native of Cameroon, is a journalist and researcher with more than 30 years reporting on Human Rights, development issues and related Humanitarian affairs in Africa. This is backed by aspects of her education including her academic studies in International relations and her professional training in mass communications studies and journalism, where she studied the theory of "Information and Evidence".

Since 2002, she has prepared numerous expert reports and presented oral evidence at Court in Immigration and Asylum for Courts/Tribunals in the UK, the USA, the Netherlands, Israel and Japan. These reports cover the personal situation of the asylum claimant and look at how this relates to the social situation in Sub-Sahara African countries of origin, including cultural issues, societal attitudes and local religious practices. Ticky Monekoso has also worked as a Programme support officer (1993-1995) with the Regional Bureau for Africa and the Middle East at the International Organisation for Migration (IOM) Geneva Headquarters - gathering information on human rights and historical research on migrations in Francophone Africa and Maghreb countries.

Jennifer Moore Peterson

Judge Peterson has been working as a judge since January 2014 prior to which she had been a judge in training for more than 12 years, working in different courts, as a Competence Development Specialist at the Judicial Training Academy at the Swedish National Courts Administration, as an Inquiry Secretary at the Government Offices, among other things. Jennifer studied law at Stockholm University in the 1990s. She adjudicates in more than 200 asylum cases every year, and in most of the cases she has used or gained cultural knowledge, either by reading country of origin information or from expert testimonies (on language or religious practice or blood feud testimonies etc.). She also participates in training her colleagues in a course called *Religious and sexual identities in asylum cases*, and has organized education in inter alia so called honour crimes, intercultural communication difficulties, religious aspects on asylum claims and so forth, at her court, since she believes it is essential knowledge for every judge. Judge Peterson has been engaged in educating judges and other practitioners in Macedonia and Ukraine in asylum procedures and the role of the courts in asylum cases (expert missions for EU with TAIEX).

ChorSwang Ngin

Prof. Ngin joined the Cal State Los Angeles faculty in 1993. She has done extensive ethnographic and consulting work in China, Malaysia, Indonesia and Southern California. Her research interests include the relationship between race, ethnicity and culture as they are expressed in Asian and



Asian American issues. Prof. Ngin has received grants from the National Endowment for the Humanities and the Ford Foundation to examine the connections between Asian Studies and Asian American Studies. She is also instrumental in completing a proposal for the B.A. Degree program in Asian and Asian American Studies (AAAS) at CSLA. The proposal is awaiting the approval of the Chancellor's Office.

Using this broad-based knowledge about Asia and Asian America, and a specialization on the anthropological understanding of race, culture and ethnicity, she recently consulted on three asylum applications from Southeast Asia. Two of the women won their asylum to remain in the United States; the verdict on a third is pending. In the community, she has been a Board Member of the Orange County Human Relations Council since 1992 and a member of the Orange County Sheriff's Community Coalition since 1998.

Ariel Planeix

Ariel Planeix is an anthropologist, Doctor of the Université de Paris I Panthéon-Sorbonne, specialised in social, political and religious affairs in North Africa, lecturer at the Institute for the Study of Economic and Social Development (IEDS) of Université Paris I Panthéon-Sorbonne, associate researcher at the Laboratory for Development and Societies (Paris 1/IRD) and specialised assistant in violent radicalization to the department in charge of monitoring anti-terrorist public action of the public prosecutor's office of the Paris Court of Appeal.

Charlotte Redler

Charlotte Redler is a lawyer at the court of appeal of Paris since January 2005, where she intervenes in the fields of Immigration Law (residence permits, obligation to leave French territory, the deprivation of liberty of foreigners the State wants to deport, family reunion, visas) and Right of Asylum (National Court of Asylum, Dublin Regulation III). On the basis of these experiences, the Paris Bar offered her in 2018 the opportunity to train other Lawyers and future Lawyers.

Denis Salas

Denis SALAS is a judge and a graduate of the Institute of Political Studies, and is an accredited research director (HDR, Université de Paris I Panthéon-Sorbonne). Having graduated in the sociology of law and in public law, his doctoral thesis (« Du procès pénal », PUF, rééd. « Quadrige » 2011) was completed under the supervision of Mireille Delmas Marty. He is currently the president of the AFHJ (Association française pour l'histoire de la justice), the director of the review *Les Cahiers de la justice* (Dalloz). He has also been a visiting professor at numerous overseas universities (Rio de Janeiro, Ottawa, Tokyo, among others) as well as a consultant for the European Union and the Council of Europe.

Pasquale Serrao d'Aquino

Pasquale Serrao d'Aquino has been a judge in Italy since 1998. After a degree in Law at the University of Naples Federico II, he completed the Specialization in Commercial Law and his Ph.D. at University of Siena in Banking and Financial Markets Law. As a judge he dealt with criminal cases from 1999 to 2005. Then he worked as a civil judge at the Court of first instance until 2013. From 2013 to 2017 he has been judge of the first civil section of the Court of Appeal of Naples. From 2017 he works at the Office Study of the High Council of Judiciary. In hundreds of civil and criminal



cases he has appointed advisers to give technical expertise on medical, psychological, engineering, architectural, environmental, ballistic and many other issues. He teaches International Law at the Suor Orsola Benincasa Neapolitan Faculty of Law and has taught several times at the High School of Judiciary in Florence. He published several scientific articles concerning Banking Law, Civil Law, Commercial Law. Recently he published studies concerning Living Wills, Digital Identity, History of Italian Judiciary and the Racial Laws of Fascism.

Ulrike Schultz

Ulrike Schultz is a lawyer and retired Senior Academic at the FernUniversität Hagen. She was for thirty years head of the didactics unit for the law faculty, is specialised in European law, the sociology of the legal professions, and questions of gender and law. She has taken part in and organised many international socio-legal projects. She is the leading international specialist on questions of women/gender in the legal profession, a leading specialist on equal opportunities in comparative perspective and one of the leading national specialists on gender issues in law in Germany. She has published widely in all these fields.

She has been member of the International socio-legal Group on the Comparative Studies of the Legal Profession since its inception in 1980, has been chair of the group from 2010 to 2014, and has been heading the Women/Gender in the Legal Profession subgroup since 1994. She works as communication trainer for lawyers and the judiciary. She has set up and organised several further education programmes at her university, such as Women and Law, Legal Skills Training, Law Related Education, Virtual International Gender Studies and a Gender Module in the Master of Laws at her university.

Hermine Wiersinga

Hermine Wiersinga worked for years at the Department of Criminal Law, Faculty of Law Leiden University, as an Assistant Professor, before she switched to the practice of working in the criminal court as a judge from 2005. Since 2010, she has been a judge in the criminal court of appeal at the Hague, and since 2015, she has participated in the team of 'specialists' who deal with 'mega' and internat

