

LSE

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The Law School Faculty and Staff

Welcome to the 2022 edition of *Ratio*! Our aim is that through the five thematic sections of this issue, *Ratio* will sketch who we are today, what we offer and achieve, and ways in which our readership might continue to engage with the LSE Law School. We invite all our readers to reprise their connection with this remarkable community of interest.

Each year, the *Ratio* editorial team seeks out a loose organising theme around which we can build the issue. Sometimes, as last year with the advent of Covid, the theme pushes itself forward. This year, with a post-diluvian sensibility, we initially plumed for the theme of ‘regeneration’. As events unfolded in Eastern Europe, however, our sense of optimism and rebirth petered. We recalibrated, and now offer ‘reflection’ alongside our future-gazing.

This reflection is intended to project just some of the many innovative and exciting things that are currently happening across the LSE Law School. The issue opens with a scoping interview with the Dean of the newly rebranded Law School, Professor David Kershaw, and a review of the series of events put on in the School that have demonstrated our capacity to lead and encapsulate the public debate, and to focus attention on the disparate, myriad legal uncertainties thrown up by the wretched events in Ukraine.

Under the themes of ‘world-leading research’, ‘transformative teaching and learning’, ‘impact’, ‘community’ and ‘environment’, the five sections of the issue unfurl the diverse dimensions of the LSE Law School experience. They serve to evidence the diverse array of inspiring endeavours and accomplishment being pursued by our students, faculty, professional support staff and alums. The issue closes with an introduction to LSE’s Shaping the World Campaign that invites philanthropic and volunteering support for the School’s core missions.

The theme of reflection goes further, however. As the new Dean of Law, David Kershaw, points up in the interview that opens this issue, this moment when we become the LSE Law School offers a point in time when we can both acknowledge our successes and congratulate ourselves for our achievements, but also to reflect on what we might do better and what opportunities we might grasp for the future. We would be grateful for your insights!

The production of this issue has been a team effort. Many thanks are owed to each of the contributors who have given selflessly of their time; to the production editor Alexandra Klegg, and her predecessor Molly Rhead, who have worked tirelessly to bring the issue together and connecting and enhancing the textual narrative through its visual presentation, and to the *Ratio* editorial team – Cressida Auckland, Federico Picinali, Jan Zgliniski and Mona Paulsen – whose ideas have been sparkling and their delivery adroit.

Andrew Scott.

Interview with Professor David Kershaw Dean of LSE Law School

In late 2021, Professor David Kershaw took on the role of Dean of the newly rebranded LSE Law School. In this piece, Cressida Auckland uncovers more on David's perceptions drawing on his early days in the role, his hopes for the Law School as Dean, and a little detail on his background in practice and the academy.

David, you have just taken on the role of Dean so based on your first six months, what is your 'hot-take' on the LSE Law School?

Well, I'm not sure it's a "hot take"! but my take is that it's a total privilege to be the Dean of this truly great, world-class Law School, and to have such brilliant colleagues, who are both leading legal researchers in their fields and who also have such energy and enthusiasm to make impactful contributions to the legal issues of our time. At the end of last term, for example, at the start of the conflict in Ukraine we put on five public events in three weeks addressing the multifaceted implications of the conflict (lse.ac.uk/law/news/2022/ukraine-law-podcasts?from_serp=1).

This term, which is normally quieter as it's the exam term, we have conferences on *The Future of Competition Law and Regulation*, *The Future of Financial Market Infrastructure*, and *Venture Capital and Private Equity*. It's exceptional. And what has been particularly wonderful this last term has been to hold many of our events in person or hybrid. Our Zoom world has transformed so much of what we do, but it cannot replace the energy and insight generated by in-person conversation.

I'm also very proud that we do all of this while fostering a fantastic, open and collegiate community. Some of this was reflected in our recognition again as one of the world's top ten law schools (lse.ac.uk/law/news/2022/top-ten-world-ranking). Of course, achieving these things is made a little easier by the environment in which we operate: our proximity to the legal, political and cultural heart of London, and being embedded in the world's leading social science research university. 'To know the causes of things' is not just a motto at LSE, it is an institutional calling. It really is.



EDITORIAL



David Kershaw

EDITORIAL

Have there been any recent developments in the Law School that you have been particularly pleased to see?

I think a significant shift in the trajectory of the LSE Law – which is not my achievement, but the achievement of our first Dean, Professor Niamh Moloney – is that we are now the LSE Law School rather than the Law Department of LSE. People ask me why it matters, or what difference it makes to be a Law School? Well, it is true that in terms of the substance of what we do – the research that we produce, the events that we hold, and the teaching we deliver – at least in the short term it does not make a tremendous difference. But it makes a difference in terms of how we see ourselves, and in how we project ourselves. We are a leading global Law School, but we haven't always carried the degree of weight that is appropriate for our standing in the Academy. Being a Law School rather than an academic department allows us to have that stronger sense of our identity, to position ourselves as a bigger and more autonomous unit, hence contributing to the distinctiveness of how we are externally perceived while remaining a part of LSE. We plan to build on that shift.

So, what are your goals as Dean of the Law School?

I want to use this moment of becoming a Law School as a platform for interrogating everything that we already do, and asking the question, what can we do better? So, for example, we are looking at our programmes and asking: are they the best programmes for a 21st century law degree, and are they structured in a way that provides the best legal education for our undergraduates and our postgraduates? I think our offering is fantastic, but it could also be better. Another project, which becoming a Law School gives us an opportunity to focus on – is the shared exploration of our purpose and our values. We are an ambitious global Law School that respects the diversity of political and methodological views. We remain embedded in a world-renowned social science institution and conceive of our mission, role, and function as falling within that social science context. We are constantly improving our internal culture and sense of belonging so that everyone feels supported and both colleagues and students can enjoy and contribute to this unique environment. At the end of the day, the Law School is, after all, also about its people and their personal qualities, and the exchanges between them.

Finally, we have recently launched our first fundraising project, to raise money to create an LSE law clinic. Most leading American Law Schools have a range of clinics, but only a few English ones do. I see a clinic as an essential part of modern legal education, which will enable our students to deepen their understanding of the law by providing real life context for the laws which they study in the classroom. But I also have two other reasons for wanting to set up a law clinic. The first is that we live in a world where the rule of law is being continually placed under pressure. I want our students to leave LSE with a real understanding of the

centrality of law to democratic society, and of their role as guardians of the rule of law. The opportunity to be involved in real cases with real people will, I hope, help to embed the idea that they are gatekeepers of the rule of law, which they will then carry with them whatever they may go on to do, and wherever in the world they end up. For a Law School embedded in the heart of legal London, I also think we need to give something back to our community. If we can provide legal advice or support to those who struggle to afford it, that is a brilliant thing to do! Of course, setting up a clinic requires a significant amount of money, so this is a longer project that is likely to take several years. But I really hope that by the end of my tenure we will have, or be very close to having, an LSE Law Clinic!

David, I'd also like to hear a bit more about your own background. You joined LSE in 2006, having previously practised law. Could you tell me a bit more about your path to LSE law?

I qualified as a solicitor at Herbert Smith in 1995, before going to Harvard Law School to do my SJD. While I was there, I met my wife. She is Viennese, so initially we moved back to Vienna, where I finished my doctorate while working part time at a law firm there. I always knew I wanted to be an academic, but the question was when? My wife wanted to move back to the States so we moved to New York, where we both worked at law firms. We did that for a few years before making a decision about where we wanted to live and start a family, and we decided to come back to the UK. A year later, I got my first academic job at my alma mater, Warwick University, that took a chance on this guy who only had one publication! Three years later I joined LSE, where I have been ever since.

Could you tell me a bit about your research?

I am a corporate lawyer, and a takeover lawyer. In the past six years, I have produced two monographs. One of these is on takeover regulation in the UK, the other on the foundations of Anglo-American Corporate Law. The latter explores the pathways that fiduciary law has taken since the 18th century in the US and the UK. Interestingly they start in much of the same place before taking very different pathways. The book is about *why* they took those different pathways, and how this connects to modern, particularly US, accounts of the production of corporate law. Ultimately the book is a critique of modern economic-focussed accounts of the production of corporate law. It shows that many of the legal ideas that we think of as being the result of corporate law responding to economic need, were actually embedded in corporate law and its legal precursors from as far back as the 18th and 19th centuries.

More recently though, in the context of Brexit and *Miller II*, I have found myself getting involved in public law and constitutional history. I found myself unconvinced about the accounts of the nature of the prerogative offered by public



lawyers. In response I developed radical historical argument about the nature of prerogative power as delegated statutory power. You get to a stage in your career where you crave breaking out of your comfort zone and doing something new, and this was a great opportunity to do that. But after one more public law article that I am currently working on, I suspect this brief academic adventure is over. Although it has been so much fun, when outside of your comfort zone there is always a creeping anxiety that you are going to miss something important, and, of course, you are always constantly playing catch up.

How do you think your previous practice affects your research?

It certainly provides important context of law in action and business. But most of all, I think it gave me confidence. What I loved about working in an American law firm, was how confident the lawyers were to give their views on

everything, and the sense of democracy of opinion there. I think this has given me a lot of confidence when engaging in areas which I am not familiar with.

Very many thanks, David, it's been great to learn a little more about you, and with colleagues and the wider LSE community we can look forward to building this new vision for the LSE Law School together.

**Dr Cressida Auckland,
Assistant Professor of Law**

On the 24th February 2022, the world awoke to the news that after years of growing tensions, Russia had invaded Ukraine. The aims, according to Russian president Vladimir Putin, were to 'protect' the people of the Donbas region of Ukraine, and to 'demilitarise' and 'denazify' the country. Few could have anticipated the momentous resistance of the Ukrainian people, led by comedian-turned-war hero Volodymyr Zelensky. This defiant opposition transformed the invasion into protracted war, with profound and far-reaching consequences for both Ukraine and the world at large. As the world struggled to understand the biggest military attack of a sovereign state in Europe since World War Two, countries imposed the harshest economic sanctions ever seen on Russia and on its citizens. Condemnation of the military action in the UN General Assembly was rife. In this piece, Dr Cressida Auckland explores some of the ways in which the LSE Law School has engaged with issues raised by the war, and explored its implications for our international order, economy, legal profession, and the long-term functioning of the European Union.

Invasion of Ukraine

Setting the Scene: The International Law Context

Much of the commentary on Ukraine has centered around the idea that both Russia's initial invasion, and its subsequent actions in the war, have constituted a breach of international law. This has led a number of members of the Law School to examine the role of international law in disputes such as this, and its utility in addressing so-called breaches.

Professor Susan Marks has explored the claim often put forward by politicians and pundits, that in invading Ukraine, Russia has challenged or threatened the 'rules-based international order' (blogs.lse.ac.uk/politicsandpolicy/what-does-international-law-have-to-do-with-the-war-in-ukraine/). Implicit in this is the idea that the current order is an order of peace, with the UN Charter operating as a kind of constitution for the world to save succeeding generations from the scourge of war. As she explained, however, this 'liberal peace' has always coincided with much war, loss of life and destruction, calling into question whether violence is really a departure from



international order or a structural feature of it. Strikingly, she also pointed out that while international law has been broken here (since the justifications for the invasion are unconvincing), it is notable that Putin did not brush aside international law, but instead framed his arguments in recognisable international law terms, invoking concepts and norms common to international law. This leads one to question whether international law in fact plays an enabling role in global affairs?

In a recent blog post, **Dr Devika Hovell** also interrogated the role and limits of the United Nations in conflicts such as Ukraine (ejiltalk.org/council-at-war-russia-ukraine-and-the-un-security-council/). Since the permanent members of the UN Security Council (Russia, China, the United States, the United Kingdom and France) each have the capacity to veto any proposed action by the Council, and given that there is no obligation on them to abstain from casting their veto where they are themselves implicated in particular action, the Council is deadlocked. A balance of power must therefore

be found elsewhere to condemn actions of aggression, with the General Assembly being the obvious candidate. By invoking the Uniting for Peace resolution, the Assembly can recommend a range of measures, including collective sanctions, non-recognition and even the establishment of a tribunal to prosecute those responsible for the crime of aggression. While the structure of the Security Council thus necessarily limits its capacity for action, the United Nations nonetheless provides an important forum for all states – aggressors and victims included – to debate such events and hopefully negotiate a path to peace. And if the aggressors do not take that path, Dr Hovell explains that “it is up to UN member states collectively to develop measures for condemnation and retribution.”

These different perspectives were brought together in a panel discussion, chaired by **Professor Gerry Simpson**, which explored a number of different aspects of the invasion and how it interacts with international law. The event included **Professor Susan Marks** and **Dr Devika Hovell** talking on

themes above, as well as **Dr Mona Paulsen** (see further, below) on economic sanctions, **Dr Stephen Humphreys** offering personal reflections on the invasion, and **Dr Yusra Suedi** who discussed the proceedings raised by Ukraine before the International Court of Justice under the Genocide Convention. Dr Suedi explained that the Court very rarely establishes that genocide has occurred as the threshold for doing so is very high and extensive evidence is usually required. Despite this, she argued that the Court is clearly taking the current situation very seriously, as has been evident in the rapid turnaround of proceedings and the President's urgent communications with Russia (something that happens only very rarely). As a result, she remained optimistic that international law may in future provide some remedies in this conflict.

Concluding the event, **Professor Gerry Simpson** explored the use of the language of international law, and the problems that arise when countries resort to international law as a form of propaganda. To invoke international law, he suggests, has the appeal of claiming a 'lawyerly precision, combined with a moral seriousness' which lifts the speaker out of the political world into the realm of pure law. Yet mired in a 'de-historicized language', we risk forgetting any role that we might have played in the erosion of the very norms we now seek to sanctify, whether through Tony Blair's interventionism, NATO's decision to bomb Kosovo, the invasion and bombing of Iraq, or threats made in the Cuban missile crisis. As Professor Simpson explained, Putin's invasion is not some 'bolt-from-the blue use of force', never before witnessed; murderous assaults from the air are not a uniquely Russian way of war. Nor is Putin's 'nuclear sabre-rattling a departure from civilised norms.' While the situation in Ukraine is diabolical, Professor Simpson claimed that the Western response is now posing an existential threat to the planet, and resort to the language of international law is part of the problem.

The Nature and Effectiveness of Economic Sanctions

While the economic sanctions imposed on Russia have been subject to continued change, there can be little doubt that they represent the harshest penalties ever imposed on a G20 country. The consequences remain uncertain: for the global and domestic economy, the rule of law, and for prosecution of the war itself. On 10th March, **Professor David Kershaw** chaired a discussion exploring some of the possible consequences of the sanctions regime with a broad ranging panel, encompassing both lawyers in practice and the academy.

Anna Bradshaw, a Partner at Peters & Peters Solicitors LLP who advises on both compliance with sanctions and contentious aspects of them, commenced proceedings with an explanation of the landscape of sanctions prior to the invasion of Ukraine. Dr Bradshaw explained that, until recently, targeted sanctions consisted predominantly of freezing the assets of specific individuals or entities, some trade sanctions tied to specific trade types, and occasionally some immigration sanctions. This range was expanded following the annexation of Crimea by Russia in 2014 to include some capital market restrictions on state-owned companies in key sectors, but other than some restrictions on dealing in debt and equities, such companies remained free to deal.

Dr Bradshaw highlighted that the approach taken in the wake of the invasion of Ukraine is therefore different in a number of respects from what has gone before. One key difference is the lack of policy coordination between the UK, US and EU, both in terms of the timing and content of sanctions. This has made compliance with sanctions complex. Another was the much more in-depth focus on the financial sector, seen for example, in the decision to cut banks off from SWIFT. Dr Bradshaw also raised a word of caution, however, about the rule of law implications of this swift adoption of far reaching sanctions. She cautioned of the risk that a failure to adhere to important procedural requirements of the law might undermine the effectiveness of sanctions in the long term, especially if this allows targets to avoid compliance on account of the perceived failure to comply with legal standards. Thus, greater attention needs to be given to the rule of law implications of this sanctions regime.

Building on this, **Elena Chachko** (Harvard Law School) noted three questions that these measures raise. The first was what will be the 'endgame' of the sanctions? If Russia does not retreat from Ukraine, will these sanctions be sustainable in the long term for the G20 economy? The second question was what might be the unintended consequences of sanctions that have expanded radically from the targeted and balanced approach initially imposed by architects of the scheme, compounded too by private actors going much further than the sanctions regime? Finally, she noted the immeasurable suffering that ordinary Russians will face as a result of sanctions, asking where the balance lies between legitimate policy considerations and harm to the civilian population.

Similar concerns were picked up by **Lee Jones** (Professor of International Politics, Queen Mary University) who considered some of the political ramifications of the sanctions. Clearly in his view, the sanctions have already had a very serious effect on the Russian economy (evident in the falling rouble, the collapse of Russian equities and the downgrading of Russia's external debt rating), and were likely to have a profound effect on the Russian people in the long term. That did not mean that the sanctions were 'working', however, since – at least at the time of writing – there was no evidence that they prompted Putin's demands to lessen or his approval rating to fall. There was no reason to believe that they would enable some political concession to be extracted. More generally, he observed that – if sanctions did bite very deeply and even cause the regime to change course or collapse – the consequences were unclear, both for the human rights of the Russian people or – given the country's nuclear arsenal – for world security.

Finally, **Jon Danielsson** (Director of the LSE Systemic Risk Centre) considered the systemic implications of the sanctions regime for the UK's economy. He noted that the financial markets were already considering the risk to Germany's economy to be greater on account of the sanctions than it had been due to Covid 19, and there was a risk that such fear might result in market participants withdrawing from the market. This creates a 'feedback loop' between financial fear and poor economic consequences, he explained, which will likely be exacerbated as the sanctions continue. While the British government does have tools to reduce the effect of this feedback loop (for example, adding liquidity through printing money or borrowing to spend), with inflation already at 8 per cent in the UK the Bank of England and government may have already exhausted its options. The long-term consequences of the sanctions regime on the UK economy could therefore be potentially disastrous. As Professor Kershaw concluded, while the swift actions of governments in imposing sanctions might be a cause for celebration, the long-term possible consequences of those actions – for the rule of law, and for the UK economy – must now be considered.

Elsewhere, **Dr Mona Paulsen** has considered the implications of the sanctions for the future of international trade law. In a recent blog post, she argued that governments' justifications for the trade sanctions have made one thing clear: that trade and security are no longer strange bedfellows ([opiniojuris.org/2022/03/10/characterizing-war-in-a-trade-context/](https://www.opiniojuris.org/2022/03/10/characterizing-war-in-a-trade-context/)).

She explained how the World Trade Organization can no longer avoid questions regarding the legal characterization of international peace and security, and reflected on how this will impact the discipline of international trade going forward.

What does the war mean for the legal profession?

The conflict in the Ukraine and resulting sanctions have brought into sharp relief a series of ethical questions around how lawyers determine whether they should accept a client mandate, and then how they advise and act responsibly for their clients. MPs and the media have been quick to criticise lawyers, both for taking on now-sanctioned clients in the first place, and for their conduct when representing them. In particular, there has been criticism of the roles played by lawyers in silencing the critics of their clients, and in challenging sanctions and seeking ways to evade their full force. While professional leaders have defended the actions of law firms as necessary to uphold the rule of law, many law firms are withdrawing from Russia and have refused to continue to act for their Russian clients.

These issues were explored in a panel discussion chaired by **Professor David Kershaw**. Opening the discussion, **Iain Miller** (a Partner at Kingsley Napley) commented on how attitudes to which clients a firm took on were changing, with a growing view being that the clients a firm has, reflects upon its own reputation. This has been seen previously in misgivings over firms having tobacco, gambling or oil companies as clients, but the response to Russian actions has generated an extreme extension of such concern. This is likely to create difficulties for firms in the future as they are forced to predict and preempt possible future reputational harm when deciding which clients to take on. Yet responses to such concerns ultimately might limit the access to justice available to certain clients, an outcome that has broader implications for the rule of law.

Such concerns were not shared by **Professor Richard Moorhead** (Professor of Law and Professional Ethics, University of Exeter). He raised doubt as to whether such clients really would lack access to justice in practice. His view was that while ethical concern was likely to affect *who* represents 'unpopular' clients, it was unlikely to result in specific individuals or companies having *no one* to represent them. Smaller, niche firms may come to replace larger firms



in the provision of legal services. Moreover, while law firms ought to be able to choose to represent whomever they choose, influenced by their own values, other people ought also to be allowed to criticise law firms for those choices should they regard them as morally dubious.

The discussion also explored recent criticism that lawyers were going too far in pursuit of their client's interests.

Professor Moorhouse offered many examples of this,

such as the use of threats of defamation proceedings to silence criticism. **Iain Miller** again observed changing attitudes in this regard, seeing much greater emphasis in recent years on the importance of lawyers 'serving the public interest', and not merely their client's interests or the administration of justice. This was seen specifically in the response of the Solicitors Regulation Authority (SRA) to the use of non-disclosure agreements to silence victims of sexual misconduct, and was a growing issue generally as

evidenced by the greater focus afforded it in the SRA's latest litigation guidance. This, observed **Trevor Clark** (lecturer at the School of Law, University of Leeds and former Linklaters partner), belies a deeper debate evident in the legal ethics literature, between those who regard lawyers as neutral and unaccountable, free to pursue their client's interests providing they act within the law and their professional codes of conduct; and those who consider lawyers to be moral agents who must act with integrity in order to uphold the reputation and legitimacy of the profession and wider legal system.

How will Ukraine affect the European Union?

The war in Ukraine has had profound effects on the European Union in a range of ways. In a recent blog post, **Dr Floris de Witte** explores some of these, arguing that the uncharacteristically swift and ambitious response of the EU may foreshadow more fundamental and long-term changes to the EU's self-understanding, and to its institutional and political structures (blogs.lse.ac.uk/europpblog/2022/03/14/russias-invasion-of-ukraine-signals-new-beginnings-and-new-conflicts-for-the-european-union/).

Hamstrung by the requirement of unanimity and the widely divergent interests of member states, the EU has traditionally been reluctant to engage in external affairs. Yet in its decisive response to the invasion of Ukraine, the EU transformed itself into a geopolitical actor, willing to protect the strategic interests of its member states. In doing so, it potentially unearthed a new (and long-searched for) *raison d'être*, with its agenda already to some extent visible through the ambitious policy initiatives of the European Commission (including the energy transition programme – 'RePower EU' – and the post-Covid 19 economic recovery package, 'Next Generation EU'). Indeed, such initiatives demonstrate a further shift in the nature of the EU, signalling the increased importance of money (as opposed to law) as means of enforcing EU objectives. This, Dr de Witte claims, 'will inevitably impact on the EU's self-understanding and our understanding of the role of law in the process of integration.'

The birth of the EU as a geopolitical actor, however, is not without challenges. It forces the EU to engage with controversial issues it has long avoided. One such question concerns the militarisation of the EU and the extent of the

mutual obligations owed between member states. Another relates to the energy transition, as attempts to wean Member States off external energy supplies will doubtless come at the cost of their climate ambitions, at least in the short to medium term. The third question, de Witte explained, is more existential: what is the identity that the EU is seeking strategically to protect? The answer to this question is not only subject to difference of opinion, but it has been a steady source of tension in domestic politics throughout the EU. There is a risk, therefore, that the EU's geopolitical turn could inflame existing tensions within European societies.

Some of these ideas were picked up in a panel discussion, chaired by **Professor Veerle Heyvaert** and also featuring **Dr Giulia Gentile** and **Dr Jan Zglinksi**. In this panel, Dr Zglinksi explored how the conflict might influence the dynamics of the EU in the future, noting, in particular, the profound policy shift already seen in Germany in respect of military spending and the suspension of the Nord Stream 2 pipeline. As the largest and most economically powerful state, such policy decisions (in particular the increased militarisation) might well have broader implications for EU policy-making in the future.

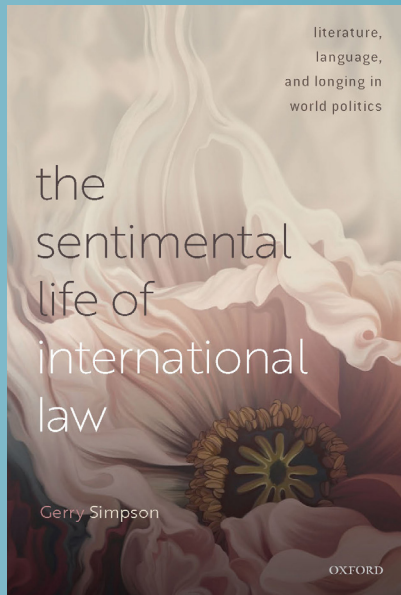
Dr Zglinksi also cast light on the historically somewhat tense relationship between the EU and its Eastern European members (Poland, the Baltic States, Slovakia and Hungary), tension exacerbated in recent years by disagreements over refugee allocations, Covid relief funds and other matters. Given this, it was notable that the leaders of Eastern States proved instrumental in both the development and coordination of the EU's policy response to Ukraine, perhaps paving the way for such countries to be more proactively engaged in EU policy in the future. Despite the clear benefits of more positive engagement, this would not be without its challenges given that at least some such countries continue to be led by authoritarian leaders, and face continued problems of corruption and the curtailing of democratic institutions. The EU may then have to chart a difficult course, seeking to maintain positive relationships with political leaders, while not diluting its commitment to the rule of law and the end of corruption. How this momentous event will affect the nature of the EU going forward, thus remains to be seen.

Links to the articles referenced in this piece, and to podcasts of the panel discussions, can be found on the LSE Law News webpage.

Whether focused on the legal accommodation of ingenious financial innovations or mind-bending technological advance, on sustainability, on social and cultural change and exchange, or on the fundamental, constitutional norms of the nation-state or international community, the research undertaken in the LSE Law School addresses matters of the most profound social and political importance. The range of work undertaken is broad and eclectic. The constant leitmotif is that of world-leading excellence. Pursued through diverse research methods, published in monographs, reports, PhD theses and the esteemed peer-review journals, and communicated through in-house and international presentation, our research is a signal and proud product of LSE Law.

The pages that follow offer only a glimpse of the world-leading research – both reflective and future-gazing – that has been undertaken in the Law School in recent times. Gerry Simpson introduces and discusses his recent work on the ‘sentimental life’ of international law, a paean to our age-old longing for a decent international society and the ways of seeing, being, and speaking that might help us achieve that aim. PhD researcher Mikołaj Szafrński interrogates the role that might be played by international law in shifting cultural attitudes to electronic waste, suggesting that new legal vocabularies might switch the economy from a focus on extractivism towards circularity. Mike Wilkinson diagnoses the ‘authoritarian liberalism’ of the EU, and reflects on the emancipatory potential of an active citizenry and social movements. Visiting researcher, Louise Damkjær Ibsen, reflects on her time in the LSE Law School and considers whether the regulatory framework for payment services in the EU adequately accommodates financial innovation. Finally, PhD researcher Alexandra Sinclair highlights how machine learning algorithms are used increasingly in sensitive areas of state decision-making, and ponders whether traditional principles of administrative law are suited to the review of this new modality of state action.

Research



'To say that international law is not powerful is a bit like saying the French language isn't powerful in France, simply because it's "only" a language. And I think international law, while the parallel is not exact, works in the same way as a default language for describing and redescribing the world.'



Gerry Simpson

The Sentimental Life of International Law: a conversation with Gerry Simpson

In his latest book, *The Sentimental Life of International Law* (OUP 2022), Professor Gerry Simpson offers a thesis on our age-old longing for a decent international society and the ways of seeing, being, and speaking that might help us achieve that aim. He sat down with Dr Mona Paulsen to reflect on the work; below is an abridged version of the discussion.

Mona Paulsen (MP): Why write a book on the sentimental life of international law?

Gerry Simpson (GS): I suppose because I had a sense that the current 'lives of international law' were not always entirely compelling, though I have drawn on them a lot and, you might say, my trajectory as a scholar has been a trip through many different theoretical enterprises in the discipline. I began as a kind of law/politics person, trained in McDougal-Lasswell New Haven school thinking. After that I fell under the spell of J.C. Smith in Vancouver and his neurotic foundations of social order. Then I got into rules and institution-building (including a period working for various governments) and became a sort of quasi-positivist before returning to the politics and "politicslessness" of international legal argument, in Ann Arbor and at Harvard where a lot of attention was paid to the movement of doctrines across different areas of international law and the question of indeterminacy and the politics of international legal struggle. But I always felt like something was missing.

Though we had had a turn towards language, we hadn't always taken seriously this language as a literary vernacular. Certainly, we had a grammar of international law. But I wondered if it might be worthwhile to treat international legal language as a literary enterprise. And the reason I think that's so important is because international law is not a legal order, as we know it. It's not as if there's a police force or courts with compulsory jurisdiction. There is no Hobbesian sovereign sitting behind it. In many ways, *all* it is is a language. And its power lies in its idiomatic qualities, its ability to project ideas persuasively and make worlds with that language. We live by our wits. Given that, and I think a lot of international lawyers will accept this view, I wanted to apply some rather old-fashioned literary techniques to international law. .

MP: In thinking about international law and your plea (to borrow your words) for alternative visions of international law as a language or culture, can I ask: where do we go wrong? Do we – lawyers and society – misread international law?

GS: I think what's wrong in popular discourse about international law is that there is an expectation about international law because it's called *international law*. It seems to promise global ordering of a kind that people really do yearn for. But then there's a realization that no such order is either possible or attractive. So that is followed by a kind of disappointment.

Some of this has to do with the obsession with enforceability. I wanted to steer clear of that old question and assert, instead, that international law was a very powerful language for describing and redescribing the world. It was its own sovereign if you like. A *lingua franca* spoken by diplomats, by politicians. Vladimir Putin and Boris Johnson are both currently speaking (or mangling) the language of international law. All this stuff about territorial integrity, self-determination, humanitarian intervention.

To say that international law is not powerful is a bit like saying the French language isn't powerful in France, simply because it's 'only' a language. And I think international law, while the parallel is not exact, works in the same way as a default language for describing and redescribing the world.

I want to emphasize the kind of "describe and redescribe" aspect of that story. It's a powerful tool for describing the world, and that's what might be called its apologetic dimension. It describes the world from the perspective of a mainstream view of global politics.

But we can redescribe it as well. This book is part of sort of 30-year project to redescribe. I'm not the only one involved in this project, of course. But I'm trying to redescribe international law in a very particular literary, maybe even idiosyncratic, way. I want people to read this book and think, oh, that's unusual. I never really thought of things in that way. Not to convince them that my way of thinking about international law is necessarily correct, but just to sort of push them out of some comfort zones.

MP: Can you elaborate on your creative process in the book; your approach to experimentation?

GS: It's a bit of a mysterious process in some ways. I think I wanted to write an essayistic book. A lot of international law speaks to itself or to its sub-disciplines. I decided to – "decided" is putting too strongly – I began to write towards various audiences outside the field: my daughters, my friends, people in the humanities more generally, the waiting staff at 'The Delauney'. That already led to a different way of approaching the field. Then the title presented itself. I was asked to give a lecture for the *London Review of International Law* here at LSE when I was still in Melbourne and I came up with the title and thought to myself, well what would that be?

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It turned out to be lots of different things. It allowed me to think of international law from a slightly conventional law-and-literature perspective; as international law featured in novels, for example. But, also how you would apply literary techniques (bathos, irony) to international law. For example, why do war crimes trials always disappoint us? And what does it mean to be disappointed? Is it something about the relationship between the sublime promise of absolute justice, and the sometimes absurd or anti-climactic experience of these trials?

I had come across moments in international law that were broadly comic, almost slapstick. One of the Japanese defendants in Tokyo hitting Tojo over the head, a kind of metaphorical enactment of his eventual decapitation after the trial. I also noticed that there was quite a lot of laughter at international law conferences. I thought, what is this? What sort of surplus energy is being expended here? What's being said, what's not being said? I decided, following the (mirthless) work of Freud and Bergson, to start exploring what it might mean to think about comedy and the repression of comedy in a discipline that is dedicated to forms of solemnity and seriousness.

I gave a paper once on gardening and international law because I'd been very struck by something that was said at the Nuremberg War Crimes trials by Rebecca West. And I ended with an anecdote about a small child outside the Nuremberg court in a little makeshift greenhouse growing cyclamens, and somebody in the audience put his hand up and said, you know, it's a very sentimental view of international law. Initially, I felt quite defensive but then I thought, "embrace it".

MP: Let me conclude by reflecting on the time that we're having this conversation, as it's been two weeks since Russia invaded Ukraine. We're in the middle of this war. Could you situate your reflections on the book in this context, and the Russian invasion in historical context? Does the war break our familiar routines with understanding international law?

GS: I think a lot hangs on that question. There appear to me to be at least two perspectives beginning to circulate around this war. The dominant view is that this is a sort of 9/11 moment. That it is a Versailles moment or a Congress of Vienna moment or Napoleonic Wars moment, a huge disruption to the international system, a threat to break apart a "global rules-based order" that we must defend. So, a kind of tipping point.

Now crises, as the Agambens and the Schmitts have told us are often moments when dominant interests are in an exploitive, fetishistic mode. They get the changes they've been looking for. They remove certain narratives from the frame. A militarized European Union, for example, a way of making the West more muscular, more nervous. So, when international lawyers describe this as a turning point, they're participating in a politics of turning points, a politics of crisis.

The other view is that this is continuous with previous periods of international legalism. I think it's a more Left international law perspective to say, wait a minute, what's new about this? And what's so great about the global rules-based order in the first place? (Susan Marks blogged on this for LSE British Politics and Policy, 11 March 2022.) There's a lot of violence in the world, a lot of premature death caused by all sorts of different forms of violence: structural, kinetic, slow, fast. And not just that, but that there have been frequent interventions since 1945: the Dominican Republic, Guatemala, Hungary, Czechoslovakia, Iraq, Kosovo; it's endless. To overstate the disruptive element is to occlude or sideline this history.

We need to at least situate the Russian invasion of Ukraine, to think about it historically, to notice that it is part of a great power tradition in which, for example, the United States threatened to use nuclear weapons in every single decade of the Cold War (in Korea, Vietnam) and in contemporary settings (Iraq). We treat Putin as some radically wicked person who has emerged from a horizon of pure evil, with no history behind him, no context around him. Hence the repeated descriptions of him as a 'war criminal' (no trial necessary at this stage apparently) and the decision to apply devastating sanctions to a whole country (we will learn about their terrible consequences at a later date). In 1920, Keynes condemned the policy of reducing Germany to servitude and depriving a whole generation of happiness. In a striking phrase, he said: '...in the unwinding fates of nations, justice is not so simple.' I have a chapter on friendship in the book. And there, I talk about the intimacy between friendship and enmity, and the way in which international law, in one of its modes, thought of the enemy as future friend and organized relations around this idea. If the Russians could speak to us directly maybe they would say, Zarathustra-like 'At least be my enemy!'. Or as Montaigne put it: 'Love him so as if you were one day to hate him; and hate him so as you were one day to love him.'

International law and global waste governance: the making and discarding of smartphones

Faced with the ubiquity – and the planned obsolescence – of mobile phones, in this piece PhD researcher Mikołaj Szafrński interrogates the role that might be played by international law in shifting cultural attitudes to electronic waste, finding that the core problem is not merely one of environmentally safe management but more profoundly an issue of international economic governance, and of legal vocabulary.

Smartphones occupy an unparalleled position in the lives of billions today. They are a tool for connecting people, but not only in the sense of communication. Through failing batteries, lack of support for new operating systems, and performance slowdowns, they connect us with the material experience of planned obsolescence and discarding. Can international law change the culture of disposability of smart devices?

In conventional accounts, the concerns with smartphones and waste is limited to concerns with the mounting volume of electronic waste. Law is conceived as a force for problem-solving: it can prescribe standards for environmentally safe management of waste, or even make unauthorized trade in waste illegal. Yet when the regulatory apparatus is attuned to perfecting waste management, it seems that the world can continue generating waste in perpetuity. But should putting recycling stickers on smartphones be lauded as international law's heyday? What if, rather than talking about managing electronic discards, international lawyers talked about how the global economy has grown to be designed around disposability? What if, rather than focusing on what needs to be done with products discarded by consumers, we could also analyse what privileges are available to tech hardware giants to design products that are disposable?

Waste to me is not just a topic. I do not believe that I am studying an object of regulation, or an intellectual concept neglected by international lawyers. Waste is a trope of lived experience and a worldly phenomenon. Statistics showing how many megatons of waste are being generated every year around the world may express that the problem is a global one, but they do not tell us how it is distributed

and experienced. Wary of this trap, I try to look at how international law relates to wasting in a multifarious and situation-sensitive way.

Smartphones are multi-jurisdictional amalgamates: they combine components, minerals, manufacturing and design labour from several different continents. As users of smartphones, we are therefore connected to several different spatial contexts from which our devices originate, and in which they end up. In each of these contexts – ranging from extraction of lithium in the Chilean Atacama desert to informal processing sites of discarded phones in Accra, Ghana – waste, in a material form, cuts through the everyday life of people. Even when law intervenes to institute a shield to protect people from 'adverse consequences of the exposure', it does not explicitly reflect why it needs to mobilise these regulatory responses in the first place. In other words, international law scholarship is at an unease to address the broader question of why global networks of production must rely on waste of human potential of those currently exposed to waste.

In my investigation, I am trying to match these contextual illustrations to three main discursive tenets of international law and global waste governance. First, I look at regulatory vocabularies that contain the promise of control of waste generation. Second, I turn to imaginaries of trade and development, under which commodified waste appears as an avenue for creation of wealth. Third, I review the debate about restructuring management of waste and resources along the lines of circular economy, focusing on eco-design standards and right to repair. Mapped like this, the

*Mikołaj Szafrński*

problem of international law and global governance of waste transpires as a problem of international economic governance, rather than as a concern with environmentally safe management. My redescription of the legal vocabularies is tailored to finding whether international law can make smartphones really smart – can it deliver a future which would see the economy not reliant on extractivism, a future in which products would be long-lasting, and a future in which people would have agency over not just use, but crucially production of their smartphone?

A white, male Eastern European researcher cannot alone unmask how many capillaries of power have come to be occupied by the idea of disposability. If the problem is a truly global one, it will not be resolved with the application of expertise coming from scholars from a UK-based institution such as LSE. My project does not materially help the Atacameños struggling with access to water, or the Ghanaians who continue burning e-waste to gain means of subsistence. At best, my research is an epistemic counterpoint to debates led by western scholars who construe the problem in a limited way.

Mike Wilkinson: 'Authoritarian Liberalism and the Transformation of Modern Europe'

Dr Jan Zgliniski sat down with Prof. Mike Wilkinson to discuss his latest book, *Authoritarian Liberalism and the Transformation of Modern Europe* (OUP 2021). Below is an abridged version of the discussion.

Jan Zgliniski (JZ): Can you tell us a little about the genesis of the book – what inspired you to write it?

Mike Wilkinson (MW): The book was inspired by the euro crisis and a close attention to the way it was unfolding across Europe, and especially in Greece. I had originally intended to write a 'political-constitutional' analysis, but that didn't seem to get to the core of what was going on. Austerity was coming to be imposed on the periphery and in an increasingly authoritarian manner. Of course it's true that this was in some sense consensual, there wasn't a violent imposition, but one that operated in a more subtle way, in the 'grey area' between coercion and consent. That makes it a more interesting and complex phenomenon, and one that required quite detailed analysis.

JZ: You draw on the idea of 'authoritarian liberalism', which was developed by Herman Heller in Weimar Germany. How does it apply to post-war Europe?

MW: Good question! So the term was coined by Heller, but he never had a chance to develop it. In fact, he arrived at it late on, just before the Nazi seizure of power, and shortly before his premature death in Madrid in 1933. In post-war Europe, it operates in a softer fashion, in a similar manner to that recounted by Jan-Werner Müller in *Contesting Democracy*. But whereas Müller appears to legitimise the concept of 'constrained democracy', I wanted to question and critique it. I see constrained democracy as something of an oxymoron (perhaps the way some people think of authoritarian liberalism!). Democracy, by its very nature, is about the extension of power to ordinary people; that's what it means at root and that's what it means in historical context. What transpires after the Second World War is a series of institutional and ideological checks on democratic power. I say partly ideological because the checks are

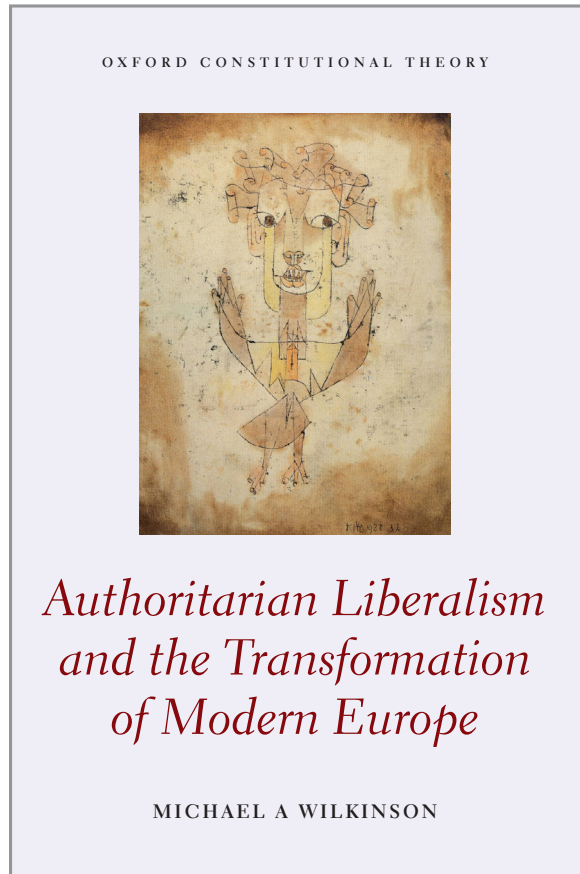
justified by a series of myths about the interwar era: around hyperinflation, the tyranny of the majority, legislative positivism and so on, which I try to debunk in the book.

JZ: The book emphasises and revolves around the need for democratic government. What is your understanding of democracy? And how does it relate to phenomena like populism?

MW: Democracy is best understood as a *phenomenon*. I believe that the theorists who have got closest to it are those who present it as a concrete struggle for power, evolving across historical time. This takes different forms in different eras: working class struggle, feminist movements, anti-colonialism, and many more. Fundamentally, it is about equality. And this means more than formal equality or 'equality before the law'. It means, at the very least, political equality, which in turn requires a space in which we appear to one another as equals, with the capacity to act in concert with others, as Arendt would put it. This takes us to the more complex question of its materiality. How does democracy relate to the material reproduction of society, to conflicts between labour and capital, to the possibility of human emancipation? Populists (although I am wary of the term) don't offer answers to these questions, but often are quite successful in tapping into discontent with the status quo.

JZ: You chose a striking image for the cover: Paul Klee's 'Angelus Novus'. In what way does it capture the book's message?

MW: The cover was very deliberate. As I explain in a recent 'Rejoinder to Critics', to be published in the inaugural issue of *European Law Open*, the picture is associated with Walter Benjamin's *Theses on the Philosophy of History* (Benjamin had acquired the painting and it inspired his own work).



Two things stand out. First, the historical conjuncture in which Benjamin was writing is the setting for the book's crucial opening part. Benjamin seemed to understand earlier than most the threat posed by fascism to the fabric of German society. But what really struck me about Benjamin's philosophy was his rejection of a certain view of progress; of the sense, predominant on the liberal-left, whether 'Whig' or 'vulgar Marxist', that history was an inevitable trajectory of evolutionary progression, one that could be mechanically worked through. As the Brazilian Marxist thinker Michael Löwy brilliantly recounts, for Benjamin the most radical thing to do may be to stop the moving train.

JZ: In the opening lines of your book, you call for a 'radical constitutional reimagining'. What could a reimagined EU look like?

MW: This is a more perfect segue than I could possibly have hoped for! I've reached the point of thinking that reform of the EU in a democratic direction is well-nigh impossible. It is also important to note that the EU is not some externally imposed monolith; it is part and

parcel of the ruling apparatus of the member states. So to re-imagine the EU really requires domestic political change. By this I mean something more fundamental than a change of government. There was a moment a couple of decades ago when there was a clear majority of social democratic heads of government but with no modification of the EU's overall neoliberal trajectory. I mean a change of political culture, a constitutional change, which will only happen through political action. That will mean a pretty radical shift that will only come about through popular movements, and probably a dismantling of much of the EU machinery of power.

JZ: Will the UK, now that it has left the EU, be able to avoid or correct the pitfalls that you describe in the book?

MW: Probably not! Leaving the EU is necessary but far from sufficient for radical constitutional change. Authoritarian liberalism will be avoided only by an active citizenry and by political and social movements that are capable of changing the balance of power in society.

JZ: Many thanks for taking the time.

Financial Innovation and the EU Market for Payment Services

With Financial Technologies (FinTech) continuing to develop, visiting PhD researcher Louise Damkjær Ibsen explains her work which evaluates the regulatory framework for payment services in the EU and assesses whether it adequately accommodates continued financial innovation, and also reflects on her time in the LSE Law School.

People increasingly use payment services on a near-daily basis. Whether at the grocery store or at a café, when paying with a credit card or a phone app, these transactions all use a payment service. In reality, anything but paying with cash is using a payment service. The legal framework regulating payment services thus has a great impact on everyday consumers, ensuring consumer protection and creating fair competition among payment service providers. Prior to the implementation of the PSD2 the market for Payment Services was severely impacted by an uneven balance in market power, where a few large providers controlled the market. These circumstances produced negative outcomes for both consumer protection and the facilitation of financial innovation. To me, this clearly called for an examination of the PSD2's ability to promote its desired regulatory goals.

My interest in financial regulation was first piqued during my studies at the University of Southern Denmark, where I completed both my LLB and LLM. I have always been drawn to finance and economic theory so the opportunity to undertake a PhD project focusing on financial regulation was an obvious path for me. With the profile of Fintech increasing, focusing on how financial regulation accommodates financial innovation seemed a topical and relevant subject for a PhD project. Alongside the PhD, I have also been working on other projects such as a collaboration on enforcement in financial law and an article on crypto-assets for the Nordic Journal of Company Law.

Investigating PSD2's suitability to address existing regulatory challenges has required me to consider law and economics by applying the theory of 'market failure' to the EU Payment Services Market. This allows me to identify the regulatory

challenges which the Directive should address to improve the circumstances on the market. How the Directive contributes to solving these challenges is identified through a legal analysis of its content, placing special attention on the goals of the Directive (competition, consumer protection, and innovation) and the applied regulatory strategies. By combining the market failures, the goals pursued, and the regulatory strategies applied, it is possible to evaluate whether the Directive addresses the regulatory challenges, and if the regulatory framework is suitable to accommodate developments in financial innovation. Finally, the project also highlights new challenges arising from the regulatory intervention in the cases where the PSD2's applied measurements have not been suitable for their purpose.

As part of my PhD programme at the University of Southern Denmark I had a research stay at the LSE Law School in Michaelmas term 2021. The Law School was the ideal place for me to improve my research skills because of the culture of research excellence and the ability to engage in cutting-edge interdisciplinary research. During my stay I benefitted from exceptional guidance and feedback from my temporary supervisor at the LSE Law School, Dr Eva Micheler. I also enjoyed the collegiate academic atmosphere at the Law School where I felt intellectually challenged by the plurality of accomplished researchers. The group of PhD students at the Law School also deserves a special mention as they made me feel welcome and integrated in their group.



Louise Damkjær Ibsen

Automated Decision-Making by the State

In this piece, PhD researcher Alexandra Sinclair addresses the digital transformation of government, and highlights how machine learning algorithms are used increasingly in sensitive areas to inform decisions on matters of fundamental importance to often vulnerable citizens. She explains how her research is seeking to respond to challenges arising from the transposition of traditional administrative law principles, based on the assumption of ‘human’ decision-making, into this new environment. She also reflects on the wider opportunities afforded her, and the contribution she has been able to make, while a PhD researcher in the LSE Law School.

The UK state is in the midst of what it describes as a ‘digital transformation of government’. Automated systems scan biometric information at the border, whilst welfare recipients receive monthly payments via the Universal Credit automated system. As part of this technological overhaul of government services, automated systems that operate using predictive and machine learning algorithms (‘MLAs’) are being used by government agencies and public authorities in their front-line decision-making. Predictive algorithms assist at least 14 police forces across the country on questions such as whether an offender should be allocated to a certain rehabilitation program. They help determine which applications for government services are flagged as potentially fraudulent, and which children in local Boroughs are deemed at risk of harm. A civil society organisation recently discovered that the Home Office is using an automated system to assist in determining which marriages are likely to be ‘shams’ and should therefore be subject to investigation.

There are a number of factors driving this technological revolution. Governments, mirroring the private sector, are keen to make use of the data they hold on their citizens to assist with predictions that have long proved difficult. The goal of MLAs is not to mirror human decision-making, rather it is to make more ‘accurate’ decisions than humans can. Automation can help ease the decision-making burden on frontline departments and enable them to make decisions quickly, cheaply and efficiently in a post-austerity period when the state is trying to do more with less.

Critics worry that government decisions made using MLAs – operating as a ‘black box’ – will leave the public vulnerable to opaque decision-making and government subject to little accountability, and that racial and other forms of societal bias risk being embedded. At present, there are no standards in the UK to dictate how automated decision-making can meet administrative law requirements. In the meantime, decisions made solely or in part by automated systems will undoubtedly make their way to the courts. My research asks how public law doctrines, predicated on the idea of human decision-makers, can respond and adapt so they can be applied effectively to such decisions made by automated systems.

I first became interested in the relationship between technology and law while undertaking my Masters studies at Columbia Law School in New York. As part of a post-graduation internship, I worked for the Knight First Amendment Institute where the first case I was involved in was against Donald Trump for blocking his followers on Twitter. The case brought to the fore interesting questions about what it means to apply traditional legal doctrines to the online sphere, in that case the First Amendment doctrine that government officials cannot exclude individuals from a public forum.

Subsequently, I moved to the UK where I began work as a research fellow at the Public Law Project (‘PLP’). My work focused on the role of delegated legislation in the UK’s constitutional system. Working at PLP motivated me to undertake a PhD, because it showed me the ways in which research can make a difference. For example, my work at

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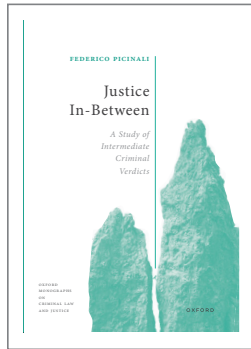
Alexandra Sinclair

PLP was used in the conversation around reforms to the Human Rights Act. I contributed to research that showed that concerns of judicial overreach are inflated, and that between 2014 and 2020 only four statutory instruments had been quashed or disapplied by the courts on the grounds of Human Rights Act non-compatibility.

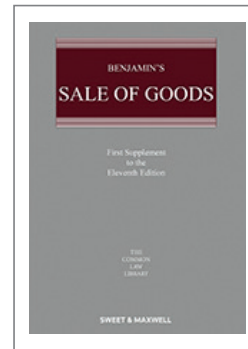
Choosing to pursue my PhD at LSE was a 'no-brainer'. I am supervised by two of the UK's leading thinkers in administrative and data protection law, and am surrounded by many other professors in the law faculty, at the Centre for Risk and Regulation and at LSE Human Rights who are working on issues of algorithmic regulation and its associated risks.

I also teach on the LL210 Law and IT course. In that class, we discuss everything from the government's new Online Harms Bill to the challenges NFTs might pose for copyright law. I love teaching a subject in which my students can engage in class discussion so fully on the basis of their day to day experience of its subject matter. By the age of 19 one may not have much experience with contracts or sale and purchase agreements, but will have definitely seen a copyright infringing video or been exposed to disinformation online. Additionally, I coached the LSE Jessup team this year. The problem focused on the taking down of 'botnets' and the censoring of online speech, and it was fun to help our students think through these problems in a 'real life' scenario and to watch them grow as advocates.

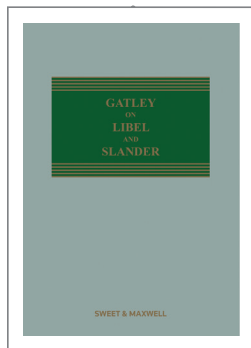
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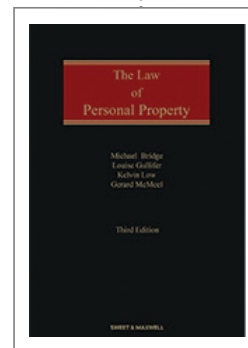
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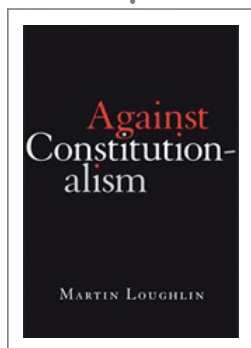
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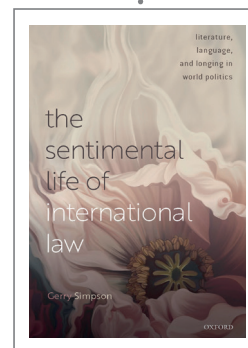
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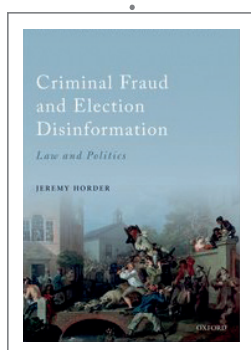
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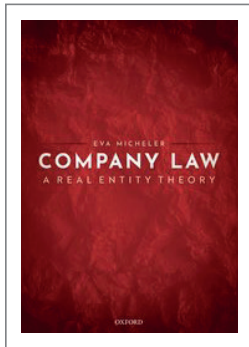


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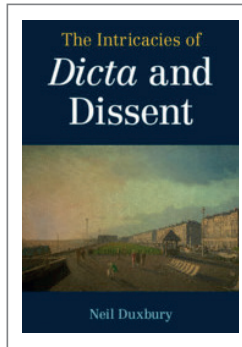


Horder, Jeremy (2022)
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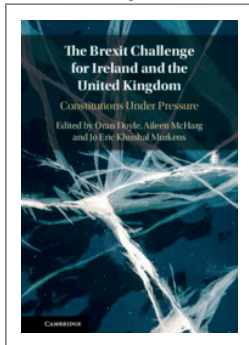
New Books (continued)



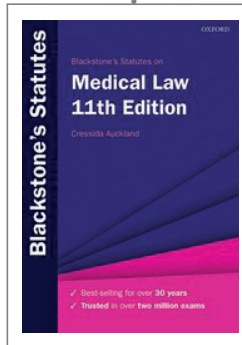
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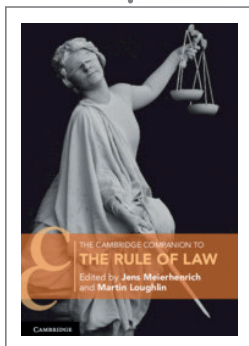
Duxbury, Neil (2021)
The intricacies of dicta and dissent.
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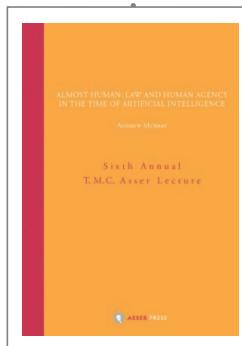
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LSE Law School students awarded their PhD in the academic session 2021/22:

lse.ac.uk/law/study/phd/completions

Alex Damianos

'Ratifying the Anthropocene: A study of the Anthropocene Working Group's ongoing effort to formalize the Anthropocene as a geologic unit of the Geologic Time Scale'

Supervisors: Dr Stephen Humphreys and Professor Alain Pottage

Jonathan Fisher

'Mandatory self-reporting of criminal conduct by a company: corporate rights and engaging the privilege against self-incrimination'

Supervisors: Professor Jeremy Horder and Professor David Kershaw

Joanne Sonin

'The evolution of the shareholder: legal change, deflection, and constancy'

Supervisors: Professor David Kershaw and Mr Edmund Schuster

Ilan Gafni

'Rethinking the Negligence Liability of Public Authorities in English Law'

Supervisors: Professor Thomas Poole and Professor Emmanuel Voyiakis

Irene Claeys

'The construction of a Regulatory Risk Device: an Examination of the Historical Emergence and Performative Effects of the Basel Committee on Banking Supervision's Market Risk Framework'

Supervisors: Professor Andrew Lang and Dr Stephen Humphreys

Benjamin Goh

The Literary Unconscious: Rereading Authorship and Copyright with Kant's 'On the Wrongfulness of Reprinting' (1785)

Supervisors: Professor Alain Pottage and Dr Stephen Humphreys



Transformative teaching/learning



A prime *raison d'être* of the LSE Law School is to deliver transformative teaching for our community of students. We offer an array of taught programmes: the undergraduate LLB Honours degree, the taught postgraduate courses in law (LLM), the innovative, flexible and intellectually engaging Executive LLM programme oriented towards working professionals, and a growing range of specialist in-person and online short courses and executive education. The aim of each of these programmes is to make the expertise of our world-leading academics available to our students, and to help equip them with the knowledge they will need to take the next steps in their professional development.

In these pages, members of the LSE Law School community offer insight on their experiences of transformative teaching and learning at LSE. Martin Husovec and this year's student team discuss the illumination achieved through involvement in the 'ECHR Intervention Clinic'. Andrew Scott reflects on the drive to promote inclusive education and to diversify the curriculum. Michelle Hughes discusses her remarkable career as a lawyer and military intelligence officer working on the rule of law, security, and governance in fragile states, reflects on her time as an Executive LLM and now PhD student, and explains how she brings her practical insight to her teaching contributions on multiple LLM courses. Lucy Wright then introduces the Executive LLM programme, of which she has long been the beating heart.



'Of Mirrors and Windows': inclusive education in the LSE Law School

In this piece, Dr Andrew Scott picks up the topical controversy over diversification of the university curriculum, noting the commitment to inclusive education in the broader LSE 2030 Strategy, and asking how far LSE Law has yet grappled with the need to assess whether implicit biases persist in the delivery of law courses. With a significant review of the undergraduate curriculum now pending in light of the relaxation of external professional requirements, he heralds the research to be undertaken in the near-term by Dr Sonya Onwu and suggests that diversification become one focus for the wider curriculum review.

In the pages, and perhaps among the readers, of certain British newspapers the idea of 'decolonising the curriculum' has become a denigrated trope. It is a motif on one side of an incipient 'culture war' in which some decry each reported instance of the removal of a Shakespeare, an Austen, or a Locke from university syllabuses, while their opponents strive – sometimes physically – to tear down cultural shibboleths deemed outmoded and wrongful. The debate at LSE has been somewhat more muted. In contrast to some other institutions in London and the 'Golden Triangle', we haven't seen the student protests, nor suffered the rhetorical slings and arrows of reactionary commentators. Yet, deeper consideration of whether and how to diversify the Law School curriculum, of which decolonising is one facet, is almost certainly overdue.

The idea that education – like literature – need be at once a mirror in which one can see and understand oneself, and a window on both 'the other' and the shared context of social norms, biological and physical reality is hardly a revolutionary idea. The argument in favour of diversification is, in essence, that much of our canon fails fully to reflect the plurality of modern societies and tacitly omits any rounded consideration of the historical genesis of modern conditions. Yet, it is a misconception to see this as a drive to eliminate, reject and replace. It is a plea to include competing ideas and interpretations, and to

identify and scrutinise implicit biases so that we may more fully understand 'the causes of things'. It is about finding ways to add to the curriculum where this can help achieve a fuller picture.

Perhaps one reason why LSE has not become a focus of the debate on diversification is due to the concept's reflection in and underpinning of the 'inclusive education' dimension to the 'LSE 2030 Strategy'. This comprises an institution-wide programme to promote the development of inclusive pedagogy and to ensure that all students are taught in ways they all benefit and learn from. Specifically on diversification, the promise is to explore how to expand the curriculum to be inclusive and intersectional, and to include the work of authors from all parts of the world. As regards decolonising, the aim is as yet more limited: to seek to understand and make space for informed and detailed discussion on what the concept means within and across disciplines. Such commitments marry with the related drive to develop and sustain a more diverse workforce.

These are fine words and important aspirations. In the final assessment, however, their impact will lie at the 'operational' level: in course design, thematic inclusion, and classroom teaching. When we drill down into pedagogic practice in the LSE Law School, we see perhaps a patchwork of critical rigour intermixed with latency. A number of individual courses deploy feminist and other sociological perspectives



*Aileen McColgan – a British barrister and academic
Gill Phillips – Director of Editorial Legal Services Guardian News and Media*

on their subjects of study in illuminating ways, while the critical perspective encapsulated in the aphorism that ‘the law courts of England are open to all men, like the doors of the Ritz Hotel’ no doubt infuses many course outlines (of course, it took an Irish judge – first – to see that). Moreover, valorisation of diversity also occurs in the extra-curricular dimension of the LSE Law community: for instance, this year will see the Law School host the fifth iteration of the LSE-Featherstone Sexual Orientation and Gender Identity Moot. This national competition and networking event serves to focus attention on aspects of the law – both here, and internationally – that disadvantage marginalised groups.

Yet, specifically on recognising matters of race, ethnicity, and the dominance of ‘Western’ ideas, the position is

somewhat nascent. And – as yet, quietly – students notice this (info.lse.ac.uk/staff/education/Assets/Documents/Inclusive-Education-Action-Plan-2019/BAME-Student-Experiences-at-LSE.pdf). Last year, undergraduate student Jagna Olejniczak undertook a study as part of the ‘LSE Change Makers’ programme to investigate whether there is a need to decolonise and diversify the curriculum; whether LSE Law perpetuates a narrow, excessively West-oriented mindset, and whether any potential change would undermine the accuracy of teaching (info.lse.ac.uk/current-students/part-of-lse/assets/documents/Change-makers/research-archive/2020-21/26a-Decolonialising-Diversifying-Law-Summary.pdf?from_serp=1). The study acknowledged that the freedom to innovate was somewhat limited by the inherent need to consider the relevant law in each area

and by the strictures imposed on the academic curriculum by the expectations of legal professional bodies. The methodology pursued in the study involved three elements: an assessment of the diversity of authors included in reading lists on the seven compulsory subjects, a survey of students, and interviews with a selection of LSE Law staff.

Ms Olejniczak's report recognised and emphasised the limitations of her study, but it offered an array of useful insights nevertheless. She found that very high proportions of 'key' and 'further' material on the reading lists analysed were authored by presumptively white scholars (87.7 per cent; 93.1 per cent), by scholars located in European or North Americans universities (86.4 per cent; 93.1 per cent), and by presumptively male scholars (78.6 per cent; 71.1 per cent). Arguably, this reflects only the demographics of the academy – as Dr Abenaa Owusu-Bempah pointed out, for instance, she may be – she believes – the only Black female law professor working in her field in the UK – but it suggests at least that broader reflection on the need to diversify course content might be worthwhile. Certainly, the reading lists are not reflective of the demographics of the LSE Law student body, a factor that risks creating a perception of 'outsiders and insiders' and signalling that only the ideas of some people have value. Ms Olejniczak's study also evidenced that a significant proportion of students perceive that some subjects promote an excessively homogenous worldview.

Yet, there are instances of professors taking a broader perspective on questions of race and 'colonial' thinking. In the Law of Evidence undergraduate course, for example, Dr Federico Picinali and Dr Owusu-Bempah introduce the fundamental concepts of 'relevance' and of 'probative value' at the beginning of the course, before revisiting them through the year precisely to challenge the assumption that such concepts are neutral with respect to factors

such as gender and race. From the outset and throughout the course, then, they invite their students to question the appropriateness of the general presumption of neutrality based on a supposed 'common-sense knowledge that is shared by all', and to interrogate whether the law of evidence is actually inclusive, egalitarian, and non-oppressive in its operation on the ground. Dr Owusu-Bempah noted that this does require attention to both the content and the logistics of the course. For example, the readings offered to students must sometimes be drawn from less 'traditional', often more contemporaneous sources such as blogs and news articles in order to complement material drawn from the more august, scholarly platforms. Based on attention to the underpinning premise of the diversification agenda, this is manifestly good practice and can only serve to offer students a more full appreciation of the operation of the law.

Freed now from the constraints of having to deliver 'qualifying' law degrees, LSE Law School is soon to undertake a wide-ranging review of the character and structure of its undergraduate curriculum. In this context, it is significant that Dr Sonya Onwu was recently recognised with a Fellowship by the LSE Eden Centre (which aims to foster teaching and learning excellence in the social sciences) in order to undertake research in LSE Law. This research will gather and evaluate current work on decolonising in the discipline of law generally, and consider ways in which such work can inform the delivery of inclusive education in the Law School. This work can support the Law School in leading the way in the development of truly diverse and decolonial legal research and law teaching. Unless we ask the right questions, whether in our research, our course design or our teaching, we will elicit only partial answers. We look into the glass, but see only darkly.



‘The point, however, is to change it’: the ECHR Intervention Clinic

In late-March 2022, a group of LSE LLM students submitted a third-party intervention to the European Court of Human Rights in the case of *Sanchez v France*. The intervention was the product of their work in the ECtHR Intervention Clinic supervised in the Law School by Dr Martin Husovec. Dr Andrew Scott sat down with Martin and the students – Tatjana Grote, Yara Mazhar, Harold Minarro-Escalona, Cham Mikhaeil, Pragya Sinha-Kumar and Sanjana Sreenath – to discuss their work, experiences, and the goals of the Clinic more broadly.

Andrew Scott (AS): So, before I ask about the clinic that you have all been part of, let us hear about the case on which you recently intervened. Why was it important? Why this case?

Yara Mazhar (YM): *Sanchez v France* was a case in which a candidate in parliamentary elections in the city of Nîmes, France had been convicted of incitement to hatred against a group of people or an individual on the grounds of their membership of a specific religion. He had failed to take prompt action during his election campaign to delete comments posted by others on the wall of his public Facebook account. These comments were clearly unlawful under French law: they associated the Muslim community with crime and insecurity in the city, equating them with “drug dealers and prostitutes”, describing them as “scum”, and holding them responsible for “throwing stones at white people’s cars”. Such words were recognised as being likely, on account of both their meaning and scope, to arouse strong feelings of rejection or hostility towards persons of Muslim faith, or to those who were perceived as such.

So, this case highlighted the complex, multi-layered spaces that we often see in the social media domain. The social media company (Facebook) provided the general platform on which Sanchez could act as a ‘speech facilitator’ – someone who created a particular forum where other third parties could communicate. This is pretty representative of the digital ecosystem, generally.

Pragya Sinha-Kumar (PS-K): The case was an opportunity for the Court to rule on the outer limits of intermediary liability laws imposed by Article 10 ECHR. It was a unique opportunity to consider the interplay between a range of different actors that together define the digital ecosystem. The leading case in the area – *Delfi v Estonia* – doesn’t

adequately distinguish between the differing roles being played by different people who co-create the social media ecosystem, invite third parties to contribute with their comments, but who may have compromised levels of control over the online speech environment that they generate.

AS: What is the current state of the Court’s jurisprudence in this area and how did you argue that the case should be decided?

PS-K: The court has tended to construct these cases as involving a triangle of participants: the platform – the authors of the harmful comments – the victims of those comments. In our submission we highlighted the fact that the ‘platform’ apex of this triangle is often comprised not of a singular entity, but rather of two or more separate actors with different incentives, economic resources and technological capabilities. If it is the platform that spreads the content widely, then perhaps we need to recognise that the harm to society arises from the action of the authors combined: the inaction of the proximate facilitator, but also the active involvement of the general facilitator. We warned that if the Court were to fail to make provision for this dynamic, then it would risk a strong chilling effect on freedom of expression, and would create unintended consequences in the political realm. And that the responsibility for mitigating harmful effects of online speech should be shared by all speech facilitators and authors that are involved, and distributed in accordance with their respective actions, capabilities, and incentives.

Ultimately, we argued that owners of pages on social media platforms should not be expected to remove someone else’s unlawful comments before they are notified about them. The only exception being where owners of pages incited unlawful comments in the first place.

TRANSFORMATIVE TEACHING/LEARNING



Martin Husovec and the students: Tatjana Grote, Yara Mazhar, Cham Mikhaeil, Pragma Sinha-Kumar and Sanjana Sreenath

TRANSFORMATIVE TEACHING/LEARNING

AS: That is truly fascinating, and it's great that you have developed such an in-depth appreciation of not only the way in which such platforms operate, and the relevant law, but are also thinking about moral and practical agency in these contexts. Can you tell me a bit more about the Clinic process then: how did things work in practice?

Cham Mikhaeil (CM): The Clinic involved numerous weeks of planning, research, discussion and drafting. It was a team effort and each step had to be carefully coordinated. For example, we would call almost every week and signpost our progress through numerous Google Docs on a shared Drive folder. We also acquainted ourselves with precedent from numerous jurisdictions, ECtHR case-law, and works of academics and think-tanks. The Clinic brought together students from different legal backgrounds, allowing for many types of arguments to be debated back and forth. Additionally, Dr Husovec's understanding in the field is unmatched and his guidance illuminated the shortcomings of many ideas found in the field today.

Sanjana Sreenath (SS): Yes, it was great to interact and work closely with Dr Husovec and a group of five other students from different specialisms, who all brought different views and perspectives to the table. Dr Husovec's insightful feedback on our drafts would always drive us in the right direction. It encouraged me to learn about an increasingly important field of law, with a fun group of people, and creatively apply these learnings to an actual case!

Dr Husovec also arranged a workshop for us with one of the leading experts on intermediary liability, Professor Daphne Keller (director of the Program on Platform Regulation at Stanford's Cyber Policy Centre, and formerly the Director of Intermediary Liability at CIS). She offered us feedback on our draft, and allowed us to pick her brain on the effects the digital intermediary liability has, both within the digital ecosystem and outside it.

Tatjana Grote (TG): Drafting an amicus curiae submission allowed us to practice a different type of writing: as logically rigorous as in academia, but more focused and tailored to a specific audience, which was both challenging and interesting. In addition, working in a team of incredibly smart people with similar interests was truly inspiring and a lot of fun. Although we only got to work together for a relatively short period of time, we built a real team spirit which certainly helped with (and in fact was reinforced by) the at times tight deadlines we were facing.

AS: It sounds as though you each found the process, as much as the outcome, very rewarding...

SS: Yes, it bridged the gap between academic learning and practical application of the law. Participating in the Clinic allowed us to expand our knowledge and made us contemplate arguments that are not just academically sound, but also appeal to and convince a court of law. It is also extremely satisfying to see one's work have the potential to contribute to the development of jurisprudence.

Harold Minarro-Escalona (HME): Yes, it was an immense opportunity to put into practice part of the knowledge developed during the Masters year, and to go even beyond that point by looking into the influence and impact of technology and the advancement of the digital era over human rights in Europe. I believe this can spread and become an example for other regional and domestic courts, so it was hugely important to try to get the best possible outcome when approaching these issues that require a balancing between freedom of expression, responsibilities and the actual possibilities for States to guarantee this right in the digital space. For anybody interested in international law and human rights practice, this is the main project to look into at LSE Law.

CM: I agree. Working on this intervention has been highly relevant and extremely rewarding. Given that *Sanchez v France* is the first case of its kind, its effects may trickle down to everyday situations, and so we had to consider the potency of our proposals in each step of the process and think of whether we truly want the Court to ascribe duties to social media users. Overall, this was one of the most exciting experiences on my LLM and it is something I will cherish for years to come.

TG: One of the highlights of my LLM also.

AS: So, you had to think clearly about not only the inherent logic of the law, but also what would be the real-world ramifications of arguments that you were pushing. Martin, are these among the benefits that you see of running the Clinic for the Masters cohort, putting academic insights into practical effect, and forcing students to think about the practical impact of their arguments?

Martin Husovec (MH): I am immensely happy that students enjoyed the experience. Their enthusiasm and dedication are key ingredients to any successful clinic. To me, the Clinic represents a possibility to use academic wisdom and personal creativity to change things around us. It gives students a taste of what they are capable of doing with their newly gained skills. My hope is that after the clinic, they will not only be better lawyers, but also gain more confidence in themselves and their abilities. I am convinced that every student is ready to contribute to change, we just need to offer them the right challenge to work on.



AS: Can you tell us a bit more regarding the logistics of running the Clinic? For instance, how do you select the cases on which the students focus, and how can you be sure that chosen cases will fit the ‘timeframe’ that students on a one-year programme have to work within? Also, is the Court always receptive to interventions from a student group of this nature?

MH: I think the Clinic works best if it follows the passion of the person who organises it. I am deeply interested in digital civil liberties, so I try to select cases from this area. Previously, I used to rely on a bot – a tiny computer program – to inform me about new relevant cases. But these days, the bot needs some updating, so I search manually on the ECtHR’s website. Once I have the list of newly communicated cases in my area, I then assess the issues and themes that are raised in each instance to choose cases that are of real significance both in terms of the legal questions that they raise and the practical ramifications. My goal is that the cases deal with a problem that has a real impact on the lives of people across Europe and perhaps beyond. Given other obligations, I also try to time the Clinics for the periods when I am more available.

Once suitable cases are identified, we usually have around two or three months to submit our intervention. The earlier we find the case, the more time we have. If the case was communicated more than two months ago, it is usually too late to use it for the clinic. Procedurally, we have to apply for permission to intervene. The Court grants us the leave to intervene only very late. So, we are basically working on the intervention hoping that the Court will give us a green light. I have already intervened in eight different cases over the years and always received the leave to intervene.

As already noted by students, we usually meet several times to discuss the brief, and its strategy and even invite external experts to comment on it. This all happens in the timespan of two months. The students work jointly and independently

a lot. My role is only to brainstorm about the strategy, give it a broader context, help them to refine the arguments, and polish the analysis. The opinion of the group about the direction of the intervention tends to emerge organically from the discussions we have. The final intervention then is submitted on behalf of an NGO with whom we collaborate. In my area, this is the European Information Society Institute (eisionline.org/index.php/sk/). This set-up gives the school flexibility. It usually takes the Court one or two years to deliver its judgement.

AS: So, what are your plans for the Clinic going forward? I note that this opportunity can be afforded only to a relatively small group, and I imagine that there is high demand from students.

MH: I would very much like to see the opportunities afforded by the Clinic offered to more students in our LLM cohort. But there are limits to my own capacity in this regard. I am currently setting out a template guide for other colleagues who may be interested in bringing their own areas of interest into the Clinic. By expanding the range of subject matter that we encompass, we should be able to broaden the opportunity for our students. If colleagues are interested, I would be happy to share the templates and exchange tips.

I think the Clinic offers several real rewards for academics as well. Just as for the students, it can be enormously insightful, even invigorating, to have to think through the impact of one’s own ideas and solutions. It can maybe remind us of the challenges and responsibility that judges, whose work we often criticise, face on the daily basis.

AS: I agree, and I think in terms of expansion of this type of work and provision of opportunity within the Law School, the wheels are very definitely already in motion. You have blazed a trail! Many thanks, Martin, and everyone for the time you’ve given us.

The full brief prepared by the student group is available at husovec.eu/wp-content/uploads/2022/03/Final-web.pdf

The ‘Beating Heart’ of the Executive LLM programme: Lucy Wright

Lucy Wright has been the Service Delivery Manager for the Executive LLM programme in the LSE Law School since its inception in 2013. In this piece, she explains the structure of the programme, noting the differences compared to a traditional Masters degree format, highlights the benefits of the programme for working professionals, and tells us a little bit about her own background.

Could you give me some background on your role in the Law School?

My role is Service Delivery Manager for the Executive LLM programme. I take lead responsibility for ensuring delivery of this programme to students and academic staff. The role was created following the department’s proposal for a new Masters programme, designed for working professionals. The original idea and proposal were developed by Professor David Kershaw. David became the first programme Director and following my appointment we worked together to get the programme up and running.

How is the ELLM different to a “regular” LLM course?

The main difference between the ELLM and the regular LLM is the way it is taught and assessed. Each ELLM module is taught intensively over 5 consecutive days, and the summative assessment is either a ‘take-home’ exam, completed over a weekend some weeks later, or alternatively an assessed essay. This offers flexibility to individuals in full-time employment, who are not in a position to take a year-long break from work, to study for an LLM. Applicants to the ELLM need to have at least 3 years post-degree work experience by the time they commence the programme.

ELLM students also have options as to when they begin the programme, with different starting points through the year (April, September or December). Moreover, they have some flexibility as to how long they take to complete the programme – most take between 3-4 years to obtain their degree. This means that they only need to attend campus for 2 weeks per year. In addition, the programme offers alternative exit points for students who have completed several modules, but do not think it will be possible to complete the whole degree. An LSE

Diploma in Legal Studies is available on the completion of six modules and a Certificate of Legal Studies on the completion of four modules.

One other difference is with fee payment. ELLM students pay per module as they go along – so its effectively a “pay-as-you-go” option, meaning they do not need to pay for the whole degree in one lump.

The ELLM has a very strong alumni community, what do they do?

The ELLM Alumni Association was formed a few years ago by a small group of our graduates who were keen on maintaining their connection with LSE and the Law School. The aim was to provide a forum for career opportunities, continuing education, and social events. Every so often, the Association arranges talks and seminars for current students, alumni, and the public to join, as well as offering a Mentorship Programme to current ELLM students.

Is there anything else apart from the structure of the ELLM, or the strong alumni network, that you feel sets it apart?

I think the diverse and experienced student body makes the networking aspect of the programme very beneficial. Students (and teachers!) learn from their peers as each of them brings a wealth of experience and knowledge to the classroom. Moreover, since the students have been working – and so typically out of university – for a few years, you can really see that they come back to the academic environment with a great deal of enthusiasm and excitement.

You have a big ELLM anniversary coming up next year, what does it signify, and will there be any celebrations?



Lucy Wright

December 2023 will mark the 10th anniversary of the start of the programme. I cannot believe it is almost 10 years since our first students joined us! We usually have a dinner for students and alumni each December, but we have had to cancel that for the past couple of years because of the lockdowns. That gives us a couple of reasons to push the boat out in 2023!

What do you think is the future of the ELLM?

I believe the ELLM will continue to go from strength to strength and the student body will grow in the coming years. We are continuing to add new and innovative courses to the list of offerings as more staff get on board and new academics join the department. There is currently no other institution in the UK offering a programme like ours and our students seem really to appreciate it.

What do you think you bring to the ELLM and the Law School on a personal level?

I certainly believe my role is important for the smooth running of the ELLM. I'm the one member of the school who works exclusively on the programme to ensure that, whatever else might be going on in the school, the ELLM remains on track. This involves things like monitoring each student's progress throughout the programme, including recording all of their module choices, assessment mode and marks, fee payments, specialism choice, classification and so on. A lot of work goes on in the background to keep the wheels in motion!

On a personal level, I try to be as patient and accommodating as I can and help our students with various requests or problems they encounter along the way. I realise that our students are extremely busy people and can sometimes need a little extra assistance or guidance.

What do you enjoy about your work and why?

The Law School is a great place to work: I started here in 2003, first as a temp, then on the LLM programme, before taking up my ELLM role. I enjoy the greater responsibility and challenges posed by managing a programme. I also like meeting and welcoming the new students onto the programme and hearing about their experience and careers. We have some fascinating students and Alumni, and it makes me happy when they tell me they have enjoyed their time here at LSE. I also enjoy being able to help the students when asked, even if in a small way, along their ELLM journey!

Could you tell me a little bit about your background? For example – Where are you from? What do you like to do in your free time?

I was born and brought up in East London – so a true cockney! I live in Limehouse, very close to the river and enjoy going for walks along the Thames over to Canary Wharf, Greenwich, Tower Bridge, etc. I love nature, so relish being in the garden or a nearby park when the weather is good. I like to visit family, and especially enjoy playing with my little nieces and nephews.

Judicialization of Conflict and the Art of War: must the Strongman always win?

Sometimes research inspiration and a vocation for teaching is borne of things we have seen, read or heard from others; sometimes they are forged through extensive personal experience and a drive to prepare the next generation. In this conversation with Dr Andrew Scott, PhD Researcher Michelle Hughes reflects on the depth of knowledge and insights gleaned from her career as a lawyer, educator and intelligence officer in the U.S. military and U.S. Department of Defense working on the rule of law, security, and governance in post-conflict countries, fragile states, and states in transition. She discusses how this background has both shaped her research agenda and is infusing her teaching across a range of postgraduate courses at LSE.

Andrew Scott (AS): We first met when you signed up for a course on free speech and media law on the Executive LLM programme some years ago. From the outset, it was clear that that course would be very well-served by your readiness to draw on your practical experiences in addressing many of the themes we covered. Because it informs what we'll discuss regarding your doctoral research and teaching at the LSE Law School, can you give us some brief background on your professional experiences prior to coming to LSE?

Michelle Hughes (MH): Well, after college I was commissioned as a Military Intelligence Officer in the U.S. Army, and for a while during the Cold War I commanded an intelligence unit in West Germany, monitoring Soviet activities in the former Czechoslovakia. From there I worked on counterinsurgency in Central America. Before leaving active service in 1992 to become a lawyer, I led the U.S. Counternarcotics Intelligence Support Team in Bogotá, Colombia – incidentally, during the operations covered in seasons 1 and 2 of the Netflix series, *Narcos*. Following 9/11, as a military reservist, I was recalled to active duty in support of 'Operation Enduring Freedom'. I served as the Chief of Intelligence Production for the U.S. European Command where I was responsible for the strategic design and implementation of U.S. military intelligence production within the European Theater of Operations.

After I left my post-9/11 military service I returned to the practice of law, but this time, instead of doing complex litigation, which had been my specialty, I began working on governance and rule of law development overseas. All told, I have field experience in 21 countries, including more than a dozen active conflicts and a succession of deployments to Afghanistan. There, my role was to advise Senior Military Commanders on how to connect security force development to governance and justice. From a year, I was the Senior Rule of Law Advisor to the NATO Police Training Mission in Afghanistan, and was subsequently Special Adviser for Rule of Law to the Commander of all NATO Special Operations forces. More recently, I've been taking on specific projects in partnership with leading international organizations, governmental and non-governmental organizations, and universities. My most recent field work was in Turkey (working on Syria), Ethiopia, and Iraq.

AS: So, how does this background inform the research questions you are pursuing in your PhD studies?

MH: In general terms, my research stems from a belief that as Western Liberal Democracies, we need to be smarter about how we represent our values, and how we protect and advance rights in war. We have a tendency to express our interventions in terms of rights, and the public may not see it,



but for a variety of reasons, some altruistic and many political, rights-based agendas tend to be incorporated into war strategies as 'part of the mission' alongside more traditional military objectives. These activities and objectives require resources in terms of manpower, funding, and political capital, but there's very little empirical evidence as to whether they have sustainable, positive impact. Anecdotally, one can make a fairly credible argument that they divert from the primary mission which is to win the war or resolve the conflict. I want to build an empirical case as to why some rights do matter in the midst of conflict and extreme instability, and how tangible investment put into developing and supporting them can have a very real impact on the strategic outcomes of military interventions. My working hypothesis is that some aspects of rights agendas are entirely appropriate, but correspondingly that others should be off the table.

AS: How are you trying to build this empirical case?

MH: Well, first, I'm trying to construct a theoretical base. Then, I am using a range of case studies that both illustrate and support my theories, and to quantify the resources required to make them work. The first is focused on the recognition of

fundamental liberties in the reform of detention operations. There is an untold story of tangible improvement at the operational level in both Iraq and Afghanistan that followed the Abu Ghraib debacle in the early stages of the Iraq War, and was conflated with the controversies surrounding Guantanamo Bay. Another study centres on the value of privileging gender equality objectives while rebuilding institutions of the state. A third focuses on cultural heritage protection, and one that is near and dear to my heart as a former military officer, is focused on the moral injuries and harms wrought by human rights violations on good order and discipline in Western military forces.

I have one case study that I know will interest you personally: it concerns freedom of speech, freedom of the press, and the imperative of transparency in the prosecution of war and its aftermath. Freedom of the press, and a willingness of emergent structures of the state to promote and protect it can serve a fundamental purpose in the legitimisation of a nascent regime. In my observation, this supports so many other wartime objectives, but of course establishing such structures and commitment to them comes at a substantial cost.



Michelle Hughes

AS: I've heard your research described as 'unusual', 'unique' and 'ground-breaking', from that snapshot that would certainly seem to be the case! Can you tell us how your professional experience informs your teaching at LSE, as well as your research?

MH: Sure. Well, I contribute to a range of courses at the Masters level, leading particular themes that chime with my knowledge and experience where I hope that that practical insight can aid the students' comprehension. In the 'Terrorism and the Rule of Law' course, for example, I lectured and then led seminars that were designed to position the students in the roles of key advocates and decision-makers following 9/11. I also taught a segment on democratisation as part of the 'Use of Force' international law course, and in 'Cultural Heritage Law' I teach on certain aspects of cultural heritage protection as it relates to conflict, and its aftermath. Next year, I will also be leading classes in the free speech and media law classes on the protection of journalists and reporting from conflict zones, and on promoting and inculcating press freedom in the reconstruction of societies. My goal is always to challenge assumptions about what is possible for implementation and engender an informed empathy for constituencies and decision-makers on all sides of the political spectrum. I like to say in my classes that when we're talking about the restoration of rule of law, and advancement of rights, the process of how consensus-building, stabilisation and reconstruction occurs is usually more important than any near-term outcome. When I began to work in conflict zones, all those years ago in the late 1980s, I wish someone had ingrained that in me. I would have been much more effective

in places like Panama, Colombia, and elsewhere. At this stage in my career, if I can help prepare this next, incredibly talented and motivated generation to contribute to creating a more secure, sustainable world where human rights can continue to be valued and advanced, all this work will have been worthwhile.

AS: That all sounds incredibly interesting, and I confess to coveting a seat in many of your classes! Would you have any plans to offer a full course of your own in future? I know that you've taught a course as an adjunct professor at Loyola University Chicago School of Law.

MH: In the immediate short term, the answer is 'no', as I'm focused on progressing my PhD research and developing the contributions I make to other professors' courses. But, I'm not really in the same position as many other PhD researchers: I'm not at the beginning of my career, and I don't see myself pursuing a 'traditional' academic pathway from here on. I'm more attracted by the option of something like the Professor-in-Practice role at a university that is genuinely committed to understanding the causes of things, like LSE. It may sound cliché, but I mean it. If I can straddle the interface between practice and the academy, while making good on what for me is a vocation in delivering up the benefit of my experiences for the next generation of lawyers, policy makers and educators, I will have brought my career full-circle. In that context, for sure, developing my own course for the postgraduate programme in future has a real appeal.

AS: Well, hopefully we will be able to take advantage of that plan for the future. Many thanks for your time today!





Dean's List LLB and LLM Prizes

The Law School Dean's List was introduced in 2021/22 to recognise outstanding performance in individual law courses. Students obtain a place on the Dean's List for the year by achieving a mark of 73 or over.

Dean's List 2021/22

Muna Abdi 2021/22 Dean's List for Introduction to the Legal System

Lolade Aluko 2021/22 Dean's List for Global Commodities Law

Ryan Au 2021/22 Dean's List for a 15,000 word dissertation

Chelsea Auma 2021/22 Dean's List for Outlines of Modern Criminology

Benjamin Barker-Goldie 2021/22 Dean's List for European Legal History

Athmaja Bijo 2021/22 Dean's List for Property I

Nur Binti Nor Azham Hakim 2021/22 Dean's List for Introduction to the Legal System

Cheuk Chan 2021/22 Dean's List for European Legal History

Shannon Sen Yon Chau 2021/22 Dean's List for European Legal History

Antonio Da Roza 2021/22 Dean's List for Property I

Will De Vries 2021/22 Dean's List for a 15,000 word dissertation

Teodora Dimitrova 2021/22 Dean's List for Global Commodities Law

Bethany Ellis 2021/22 Dean's List for Introduction to the Legal System

Wei Gan 2021/22 Dean's List for Information Technology and the Law

Oliver Geddes 2021/22 Dean's List for Property I

Emily Griffiths 2021/22 Dean's List for International Protection of Human Rights

Sophia Hassel 2021/22 Dean's List for Information Technology and the Law

Oh Hitomi 2021/22 Dean's List for Property I

Nicole Ho 2021/22 Dean's List for Global Commodities Law

Yuta Inada 2021/22 Dean's List for Property I

Ananya Jain 2021/22 Dean's List for Public International Law

Ananya Jain 2021/22 Dean's List for Jurisprudence

Tereza Jakoubkova 2021/22 Dean's List for Information Technology and the Law

Julia Jaworska 2021/22 Dean's List for Media Law

Sachin Jhangiani 2021/22 Dean's List for International Protection of Human Rights

Anna Kokla 2021/22 Dean's List for International Protection of Human Rights

Michael Ladomatos 2021/22 Dean's List for Law of Business Associations

Nikola Lalic 2021/22 Dean's List for Law and Institutions of the European Union

Kwong Lam 2021/22 Dean's List for Public Law

Suet Lok 2021/22 Dean's List for Public Law

Rachel Lye 2021/22 Dean's List for Property I

Julius Ma 2021/22 Dean's List for Jurisprudence

Maha Maqsood 2021/22 Dean's List for Property II

Jan Mlynarczyk 2021/22 Dean's List for Public International Law

Charlotte Morrison 2021/22 Dean's List for Media Law

Charlotte Morrison 2021/22 Dean's List for a 15,000 word dissertation

Hanna Nicholas 2021/22 Dean's List for Outlines of Modern Criminology

Benjamin Oh 2021/22 Dean's List for The Law of Corporate Insolvency

Wangshu Pan 2021/22 Dean's List for Intellectual Property Law

Thomas Perry 2021/22 Dean's List for Tax and Tax Avoidance

Nhan Pham-Thanh 2021/22 Dean's List for Media Law

Maria Reinstein 2021/22 Dean's List for International Protection of Human Rights

Ioana Roibu 2021/22 Dean's List for Administrative Law

Charlotte Rushton 2021/22 Dean's List for Property I

Shaunak Samant 2021/22 Dean's List for Property I

Elisa Sangrar 2021/22 Dean's List for Property I

Kayan Sayeed 2021/22 Dean's List for Commercial Contracts

Kayan Sayeed 2021/22 Dean's List for Public International Law

Alexander Smith 2021/22 Dean's List for Intellectual Property Law

Kayleigh Su E 2021/22 Dean's List for Intellectual Property Law

Emma Tacon 2021/22 Dean's List for Media Law

Jason Tucknott 2021/22 Dean's List for Administrative Law

Jackie Veeger 2021/22 Dean's List for Media Law

Peer Versen 2021/22 Dean's List for Tax and Tax Avoidance

Grace Wang Shi Jia 2021/22 Dean's List for Property I

Toby Weiniger 2021/22 Dean's List for Employment Law

Amy Whitaker 2021/22 Dean's List for Global Commodities Law

Allison Wu 2021/22 Dean's List for Competition Law

Allison Wu 2021/22 Dean's List for a 15,000 word dissertation

Chihiro Yamasaki 2021/22 Dean's List for Civil Liberties and Human Rights

Zihan Zhang 2021/22 Dean's List for Public Law



Dean's Medals for the LLB 2021/22

Sidney Chin Dean's Medal
for third Best Overall
Performance on the LLB

Ananya Jain Dean's Medal for
Best Overall Performance on
the LLB

Lok Tung Phoebe Lee Dean's
Medal for Excellence Under
Difficult Circumstances

Allison Wu Dean's Medal
for Second Best Overall
Performance on the LLB

Allison Wu Dean's Medal
for Best Undergraduate
Dissertation

LLM 2019/20

Blackstone Chambers Prize

Best performance in
Commercial Law

Maria Sevlievska

Blackstone Chambers Prize

Best performance in Public
International Law

Claudia Tam

Laura Devine Prize

Best performance in
Human Rights

Jake Kriticos

Lauterpacht / Higgins Prize

Best performance in Public
International Law

Rebecca Hacker

Lawyers Alumni Prize

LLM – Best overall mark

Daniel Henderson

Louis-Frederick Cote Prize

Best LLM dissertation in
Tax Dispute Resolution and
Related Issues

Polyvios Nikolaou

Otto Kahn Freund Prize

Best performance in Labour,
Family, Conflict of Laws,
Comparative, European Law

Hoa Vuong

Oxford University Press

Best dissertation

Joint winners:

Magdalene Neumeyer,

Cuneyd Erbay

Pump Court Tax Chambers Prize

Best performance in Taxation

Polyvios Nikolaou

Stanley De Smith Prize

Best performance in
Public Law

Nils Weinberg

Valentin Ribet Prize

Best performance in
Corporate Crime

Daniel Donoghue

Wolf Theiss Prize

Best performance in
Corporate and Securities Law

Magdalene Neumeyer

Impact



While the home of the LSE Law School – the New Academic Building between Kingsway and Lincoln’s Inn Fields – boasts a pristine limestone façade in the ‘Beaux arts’ style, it is no ‘ivory tower’. Outstanding contributions to scholarship and transformative teaching are certainly our core business, but members of the LSE Law School community also strive to achieve a broader social impact.

Such impact can take a variety of forms. In the pages that follow, we chart some impressive and eclectic recent instances. Federico Picinali charts the influence of the evidence-based concerns held by Professor Jill Peay regarding the fairness of criminal proceedings when a defendant is suffering from a diagnosable mental disorder. Relatedly, PhD researcher Stephanie Classmann notes her own contribution to the ‘political turn’ in criminal law theory and the sometimes-challenging positions that it can prompt in public debates. Undergraduate student Sabrina Daniel introduces her truly remarkable efforts to establish a mentoring programme to guide young people who – like her – have grown up in the care system towards the opportunities afforded by higher education. Finally, Andrew Scott reflects on several years’ engagement in policy debates on the reshaping of defamation law across a range of common law jurisdictions.



Improving justice by establishing a new test of ‘fitness to plead’ in criminal courts

This piece highlights long-standing, evidence-based concerns held by Professor Jill Peay regarding the fairness of criminal proceedings in circumstances where a defendant may be suffering from a diagnosable mental disorder, and problems with the extant rules on ‘fitness to plead’. It notes the influence of Professor Peay’s interdisciplinary research, conducted together with colleagues, on the positions taken by the Law Commission and the emerging position of the UK government.

Our law and our moral sensibility demand that the criminal trial be fair. The fairness of a trial presupposes that the defendant has the mental fitness to participate effectively in it. As Professor Jill Peay reminds us in one of her articles, subjecting an unfit defendant to trial involves two risks: ‘First, [there is the risk] of wrongful convictions, in that an accused may not have committed the offence, and yet he or she cannot properly defend him or herself. And second, [there is the risk] of undermining confidence in the law: if the law is seen to impose its full rigour on those who cannot fairly participate in their own trials ... public support for the law will be jeopardised’ (J. Peay, ‘Fitness to Plead and Core Competencies: Problems and Possibilities’ (2012) LSE Law, Society and Economy Working Papers 2/2012, at 2).

Levels of diagnosable mental disorder are worryingly high in the prison population, not only in England and Wales, but also internationally. This casts doubt on the fairness of many a conviction and, especially, on the adequacy of current procedures for assessing a defendant’s fitness to plead. The current test of fitness to plead is based on the leading 19th-century case *R v Pritchard* (1836). The test considers a defendant’s ability to comprehend trial proceedings so as to put forward a proper defence, and is applied by a judge after the defendant has been assessed by clinicians. Government, legal practitioners, civil liberties advocates and academics have all expressed concern about whether this test is appropriate for contemporary trials. The main worries are that the test focuses too much on cognitive ability, at the expense of decision-making capacity, and that the threshold that needs to be surpassed to be found unfit under the test is unreasonably high. The Law Commission has also noted that the test is potentially incompatible with the right to a fair trial, provided by Article 6 of the European Convention on Human Rights.

In response to these concerns, the Law Commission initiated a consultation programme to consider reform. Alongside this, in 2009, Professor Jill Peay, Dr Nigel Blackwood (Institute of Psychiatry) and Dr Michael Watts (UCL), established a cross-disciplinary project, supported by the Law Commission and a Nuffield Trust grant, in order to develop a psychometrically sound test for assessing an accused person’s ability to plead to an indictment, to understand court proceedings, to follow trial evidence, and to participate effectively in their trial.

The test devised by the project team entailed a novel approach. A barrister external to the project developed a script for a typical short court case of assault, which was cross-checked for authenticity with senior judges and then filmed with professional actors. The point of view adopted in the script was that of the defendant. The resulting film, accompanied by a structured test devised by the team, was then shown to a demographically representative group of 200 participants including groups representing people who might experience difficulties with trial proceedings, such as individuals with learning disabilities.

As the film progressed, participants were asked a series of questions set out in the test. Their answers were recorded and subjected to statistical analysis. After this first round of empirical validation, amendments were made to the test. A second round was held with a further 160 subjects, leading to a validated test of fitness to plead. For further details see P. Brown et al., ‘Fitness to Plead: Development and Validation of a Standardised Assessment Instrument’ (2018) 13 PLoS ONE: e0194332 (doi.org/10.1371/journal.pone.0194332).

The research has contributed to the Law Commission’s work in this area. In 2014, the Commission published a consultation paper on fitness to plead, in order to solicit the views of

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*Jill Peay*

those with experience of the criminal justice system, ahead of making its final recommendations to government. Following consultation, in 2016 the Commission published its revised proposals in a final report, accompanied by a draft bill, which recognised the work of Professor Peay and her collaborators. The benefits of a fitness to plead psychiatric test were noted in terms of increased time and cost efficiencies. The project's validated test was subsequently trialled in the Magistrates' Court by one of its co-authors, Dr Penny Brown at the Institute of Psychiatry.

The assessment of the wider impacts of this instrument remains under consideration. However, in their latest White Paper on mental health law reform the government have indicated an intention to consider the Law Commission's reforms. These reforms would facilitate a fairer and more efficient trial process that balances the rights of vulnerable defendants, while protecting the interests of complainants and the public from harm. This can only enhance confidence in the criminal justice system.

Criminal Law and the Political

Stephanie Classmann, PhD Candidate

Stubborn, noisy, never-ending—politics is exhausting. And it can be tempting to try and escape the tumult, the constant clash of competing expectations, of interests, identities and ideas, by thinking of law, and of criminal law, in particular, as somehow standing ‘above’ it all; as deriving its authority from a set of norms, basic precepts of right and wrong, that no one can or, rather, ought to (‘reasonably’) reject. We should resist this temptation.

With this precept in mind, in this piece, PhD researcher Stephanie Classmann reflects on her contribution to the ‘political turn’ in criminal law theory and the sometimes challenging political positions that it can prompt in public debates.

‘I firmly believe that law, as a political institution, has to be studied, taught and researched across borders, in both disciplinary and geographical terms.’ I wrote this sentence in October 2017, in Australia, where I was working as a sessional lecturer and research assistant at the University of Sydney Law School. It was the first sentence of a personal statement that, a few months later, would secure me a place on the PhD programme at LSE. I see no reason to change it. If anything, the last four years, two of them tortuously remote, have only deepened my appreciation for scholarly collaboration and exchange, and I cannot think of an institution more committed to this idea than LSE. Encouraged by my wonderful mentors, Niki Lacey and Peter Ramsay, I was able to discuss my thoughts and build relationships with researchers from across the globe—from Toronto to Frankfurt, Santiago to Amsterdam—and various corners of the intellectual map. I taught a remarkable lot of students on the LLB, LLM and Summer School programmes, was trusted to edit work outside my own areas of expertise for the LSE Law Working Paper Series, and founded an interdisciplinary workshop series (the Philosophy, Law and Politics Graduate Forum) with fellow PhD candidates at the universities of Oxford, Cambridge, UCL, KCL, QMUL and Surrey. All of these experiences have made my work better. Not least because they have served as a constant reminder that whenever

people from different backgrounds and with different points of view come together, there will be both synergies and friction, and the mechanism that gets us moving forward, taking decisions and taking responsibility, is *compromise*.

For most legal and political theorists, compromise is a bit of a dirty word. It implies contingency, a lack of principle, the willingness, ruthlessly, to put everything ‘up for grabs’. Much of this perception is due to Rawls and his infamous dismissal of political compromise as a ‘mere’ *modus vivendi*, a morally deficient, inherently instable product of circumstance and bargaining. And indeed, it was roughly around the advent of Rawlsian ‘high’ liberalism that criminal law scholars, too, started to approach their subject—the most intrusive instrument of the modern state—primarily as a matter of moral reasoning. My research seeks to counter this trend, and as such it contributes to what has been dubbed the ‘political turn’ in recent criminal law theory: the turn away from the paternalistic notions of legal moralism (the idea that criminal laws ought to articulate and enforce the demands of interpersonal morality) and towards a more rigorous understanding of criminal justice as a set of institutions operating under public law. Expanding upon the key themes and insights of contemporary political realism, my thesis (entitled: ‘Criminal Law as Political Compromise: A Realist Rebuttal to Liberal Theories of Criminalisation’) makes two original contributions to this evolving literature: (i) it exposes the conceptual continuities that run between openly moralist accounts of criminal law and those of liberal descent, and (ii) it puts forth a real alternative, based not on pre- or supra-

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Stephanie Classmann

political standards of evaluation—another theory of what is ‘good’ or ‘right’ or ‘in everyone’s interest’—but on a genuine account of the conflictual practice of politics. And it shows how, once viewed through this lens, the criminal law, in its entirety, reveals itself not as a vehicle for condemnation, but as one means among many for states to recognise

and respond to difference, disagreement, change, and the continual struggle for representation. Defending this position is not always easy; for instance, it involves going against the mobilisation of criminal laws in the fight against ‘hate’, or the disenfranchisement of convicted felons. But LSE has made it possible and very much worthwhile.

Theatre of the Absurd: fifteen years in the debate on free speech and defamation

As Hollywood actors reprise their parts in the disintegration of a marriage, celebrity ‘WAGs’ play out their animosities before transfixed supplicants, and both a Select Committee and the Ministry of Justice consider the legal devices exploited by Russia-linked oligarchs to avoid public scrutiny, in this piece Dr Andrew Scott reflects on the law of defamation and his contribution over time to the policy debate on reform in England and further afield.

Proceedings in the defamation courts can make for distracting entertainment, but what is the purpose of defamation law and what are the perceived problems in this area? Can they be distilled down to some essence?

For sure, there is a guilty pleasure in observing the inside story on the private lives of public figures, or in witnessing the craven shallowness of those – in some respects – more

fortunate than ourselves. But these recent high-profile cases, hearings and consultations – and others that have gone before – tend to exemplify the concerns that many people raise.

Defamation law – essentially libel – provides a remedy when something false is published about a person that harms their reputation. In England and Wales, the claimant has to show that the publication has happened, that it was defamatory and that it caused serious harm, but – if he or she is to escape liability – the burden is on the defendant-publisher to prove that what was published was true, that it was an honest opinion based on underpinning facts, or that he or she reasonably believed that publication was in the public interest. So in essence, the law provides for a balancing between the individual and social interests in reputations and their accuracy, on one hand, and the right to freedom of speech – often on matters of profound public importance – on the other.

So does the law in this jurisdiction strike that balance incorrectly? Are there other jurisdictions that manage this tension better?

That’s an important question, because when you boil it down it is very difficult to identify any aspect of the law that is clearly skewed in favour of one interest or value over the other; any dimension that obviously biases the law in favour of claimants or defendants.

In the United States, under the First Amendment, it has become extremely difficult for any ‘public figure’ to sue for defamation in the absence of provable malice on the part of the publisher. That’s obviously great from a free speech perspective, but it does mean that people can see their reputations traduced often without any legal come-back, and it means that it can be difficult to know when commentators



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are simply 'making it up'. In the wake of Trump and the activities of his supporters, we can all appreciate the downsides there in terms of public appreciation of the 'truth'.

Here though, because reputation is understood to comprise one aspect of the right to respect for one's private life under Article 8 ECHR, we can't put a finger on the scale in the same way. But that's how it should be: reputation – the aggregate of how other people appreciate or esteem us – is enormously important to us, as well as being potentially very valuable. Shakespeare described a good name as the 'immediate jewel of the soul' and – ironically perhaps – had Iago affirm that:

*Who steals my purse steals trash; 'tis something,
nothing...
But he that filches from me my good name
Robs me of that which not enriches him
And makes me poor indeed.*

More prosaically, Warren Buffett noted that for companies, 'it takes twenty years to build a reputation and five minutes to ruin it'.

Coming back to your earlier question, for me the problems with defamation flow from the fact that we allow the transposition of disputes far too readily from the public sphere into the courtroom. The effect of that in a common law jurisdiction is that the whole issue becomes hidebound in legal processes, focused on often obtuse and technical legal questions, and undergirded with truly exorbitant legal costs.

Costs then – which can run into the millions as we hear has been the case with the 'Wagatha Christie' saga – are the crux of the problem with defamation. This cuts both ways. Very high costs and the absence of legal aid mean that the average person has no opportunity to use the law to redress sometimes catastrophic harms wrought by publications to their reputations. Only the exorbitantly wealthy have the wherewithal to make it to the High Court, even if good sense would sometimes caution against submitting to the exposure that legal action can bring.

On the flipside, it becomes possible for wealthy individuals – paradigmatically, the nefarious corporation intent on corruption, the foreign oligarch of dubious origin, the well-connected, 'national-treasure' paedophile – to threaten to sue any journalist who even begins to investigate their conduct. The law facilitates a 'chilling effect' through the use of strategic litigation, and only the most brave or foolhardy of publishers can contemplate going ahead. The upshot is that the wider public is often left woefully under-informed on what might be matters of profound importance.

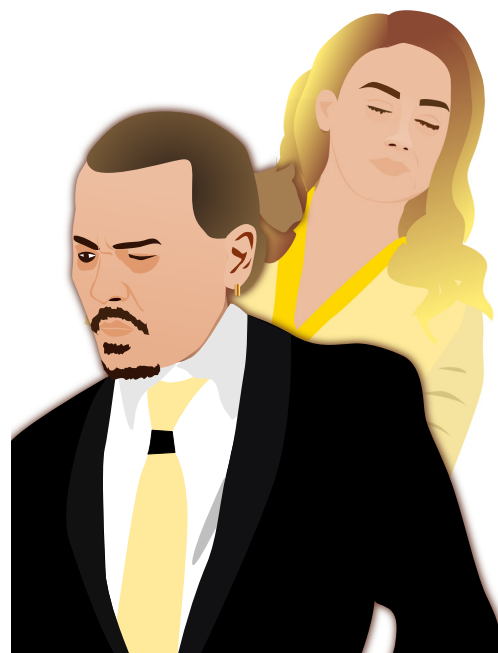
So, if both reputation and free speech are vital, and the substance of the law is essentially sound, is there any alternative way through this quandary?

Well, I think the fact that there has been so much effort in the policy domain over the past decade or more to try to devise solutions is testament to quite how difficult this is. And it has been made more complex still by the advent of online and social media, with the capacity for untraceable and global communication that they bring.

For me, the starting point is that most disputes would be much *more* appropriately managed by securing the flow of more speech into the public domain, especially on matters of real controversy and importance. The law, the 'system', could encourage earlier retraction or correction of inaccurate information while simultaneously vouchsafing against legal risk. This might redress much of the associated misapprehension and also draw the sting of legal-cum-economic threats. Most claimants would be more than happy with that route to vindication. But we don't do that here. In this respect, there is a lot to be learned from continental legal systems where there are more highly developed schemes for correction, retraction and rights of reply, and no comparable avenue to bullying opponents with legal threats.

So what has been your involvement in the policy debates that you mentioned?

Well, my interest in defamation law and its impact on free speech was first piqued when during my PhD research I came across an action brought by Monsanto – a chemicals



and biotechnology corporation which has since been bought by Bayer – against a small, family-owned printing company called Penwells. The printer had been tasked with producing an issue of *The Ecologist magazine* – then edited by the Tory peer Zac Goldsmith – which was focused on the activities of biotech companies in the context of global debates on the introduction of GMOs into food and agriculture. The company didn't sue the billionaire editor, but rather picked on the weakest link in the chain of distribution. This seemed like a quintessential 'SLAPP' action, designed to chill public criticism of corporate conduct. At the time, though, the *Reynolds* privilege – a forerunner to the new statutory public interest defence – had just been developed by the appeal courts, and I concluded that such actions were likely to be more difficult to bring for the future.

That conclusion proved to be complacent, however, and by around 2010 a campaign launched by the NGOs Index on Censorship and English PEN was highlighting many other instances of egregious over-reach, the chilling of socially important speech, through the use of defamation laws. I tended to agree with the diagnosis offered by the campaign, but thought that their proposed solutions would miss the target. Through various platforms – a report, newspaper and academic articles, interviews, public panels, oral and written evidence to select committees – myself and a colleague (Alastair Mullis, now Professor of Law and Executive Dean of the Faculty of Social Sciences at the University of Leeds) sought to reorient the reform project. While those activities had some impact, ultimately, we considered that the culmination of the reform campaign – the Defamation Act 2013 – was unlikely properly to address the core concerns. In a paper in the *Modern Law Review*, we noted that 'the core problem with libel law has been the juridification and over-complication of public sphere disputes, and the attendant cost of embroilment in legal proceedings', but lamented that 'this problem has been barely touched, to the benefit of no-one bar tyrants and lawyers.'

So, was that the culmination of your involvement in the policy debate?

Well, no: it was very much a case of 'in-for-a penny...' Around that time I became an author on a new edition of the leading text in the area of defamation, *Gatley on Libel and Slander*, writing on the main defamation defences, misuse of private information and data protection law. *Gatley* has an enormous status in the defamation domain, regularly being cited as an independent legal authority in the findings of judges in many common law jurisdictions. My work on the text led to a somewhat protracted iteration with a number of High Court and Court of Appeal judges (most prominently, Sir David Eady) – myself in *Gatley*, then in a series of judgments – regarding the defence of honest opinion. Over a few years, interpretation

of the law moved in the direction that I had propounded. Today though, with the benefit of seeing a number of years jurisprudence under the 2013 Act, I've come round – at least in half-measure – to Sir David's way of thinking on this. Making good on my errors in this respect is one focus of my current work in this area.

Aside from that theme though, I was also seconded to the Northern Irish Law Commission to lead its study on whether similar changes to the 2013 Act should be introduced in that jurisdiction. After that body was closed in the period of austerity, independently I was engaged to author a report for the relevant department of the Northern Irish Executive. I also agreed to sit on the advisory boards of Law Commission studies in Scotland and in Ontario, Canada, gave oral evidence to Parliamentary Committees on four more occasions, and also advised the Irish Government on its review of their 2009 legislation. Most recently, I've been engaging again with the UK Ministry of Justice upon its return to the field with a new consultation on reform in the wake of public disquiet at the perceived exploitation of defamation laws in this jurisdiction by persons connected closely with, perhaps facilitated financially by, the Putin regime in Russia.

And what have been the ramifications of your involvement in debates in these other jurisdictions?

It's a mixed picture. I think nowhere yet has a government or legislature been fully willing to innovate in this area and to reimagine how defamation law might be reshaped so as to facilitate free speech while also providing adequate redress for reputational harms. As I said before, I think there is a need radically to reframe how the business of reputation management and the defence of public-interested journalism are conducted and interact. The Scottish Parliament passed legislation in 2021 which I think is enlightened and which includes revisions I'd recommended on the honest opinion defence and the liability of intermediaries, and the Irish Cabinet has considered proposals for reform in that jurisdiction. The Northern Ireland Assembly has considered a Bill, but to be frank my reading is that the vested interests of politicians there will limit the prospect for meaningful change.

I think there is a real prospect, though, that having returned again to this issue, the current British Government – motivated in part by a desire to be seen to act against the Putin regime and also by its newly-professed valorisation of free speech generally – will institute significant protections against the strategic exploitation of the law by wealthy parties. Whether they can do that intelligently, while also respecting the importance of reputation across society, remains to be seen.

Good luck with your future work – and many thanks for your time!

Getting more care-experienced students and care-leavers into higher education



In this piece, LSE Law LLB student Sabrina Daniel reflects on her experiences as a child growing up in the care system relatively ignorant of the opportunities that higher education might offer, her route into law at LSE, and her remarkable decision to establish a mentoring programme that guides other young people in circumstances similar to her own, and to equip them with the knowledge and confidence that higher education can also be for them. If you would like to get involved (whether to provide guidance, to share your work experience, to get or to be a mentor) please visit cesementoring.com

I attended a state high school in Salford, Greater Manchester, during which I had never thought about higher education. Nor had I heard of LSE. Moreover, the fact that I grew up in foster care meant I had not had a stable figure in my life, or anyone who took a real interest in my personal and academic development: everything always came to be temporary.

It was after I achieved the second highest GCSE results in my cohort, and was awarded the Dunn Family scholarship which enabled me to attend a private college, that I was made aware of such opportunities. In particular, it was the holistic support and the one-to-one guidance from my tutors that gave me the knowledge and, most importantly, the

IMPACT

confidence and self-belief to apply to LSE Law. In preparing for my LNAT and in writing my personal statement, I received help from my tutor Mrs. Lockett, who had conveniently studied law. It was at this point that I realised that advice and guidance are invaluable, especially when they are coming from someone who has experience in what you are seeking to achieve.

After receiving my offer from LSE Law and achieving A* A* A in my A Levels, I decided to contribute to a mentorship programme that helps underrepresented black students with their university applications. I have since been with my mentee for over 6 months, guiding her through the application process for law and providing insights into what university life is actually like.

This volunteering experience made me wonder how I could help more students, especially students who, like myself, are from a care-experienced background. We have one of the lowest participation rates into higher education, compared to other social groups. I think this is due to many reasons but, most notably, to a lack of guidance and self-belief, as well as to the cost of university.

I decided to create a mentorship programme directed at care-experienced students, but also at care leavers, that is, those who, like myself, are now adults but have spent time in the care system. The programme is open to those aged between 14 and 24 years old. Its principal aim is to equip mentees with the knowledge and confidence that higher education is also for them. In other words, the goal is to disabuse mentees of any pre-conception about higher education that may prevent them from applying. In essence the programme provides the support from a mentor, who should enhance the personal, professional and academic development of mentees and should represent a contact to whom mentees can direct specific questions they might have. But the programme is also a means to inform students about opportunities such as the Quinlan Scholarship and about events that they may have not known otherwise. In addition to this, I have created newsletters that cover specific topics such as budgeting, life at university and internships. I hope that this mentorship programme will increase the number of care-experienced students in higher education spaces, that it will build meaningful relationships and that it will create a network of role models.

The mentorship programme is going better than I expected when I started it. When I posted about the programme on LinkedIn, I could not have imagined that organisations such as a top-50 UK law firm would reach out and offer paid work experience to my mentees. I am glad that they did, as this has reaffirmed to me that the programme is both necessary and supported. Moreover, since the launch of the programme over 45 applications have been submitted, 23 of them coming from students and care-leavers looking for



Sabrina Daniel

a mentor, and the rest coming from people who offered their mentorship. The latter included my former teachers, friends and strangers that wish to help. All pairings will be made in due course.

Notably, since creating the mentorship programme, I have been motivated to do further research into the care system, educating myself on the system as a whole and looking for more ways in which I can help. I have also decided that if I will enter politics in the future (which is a plan of mine), reforming the care system will be on the top of my agenda.

This July, I will be attending an Awards Ceremony at the House of Lords after being shortlisted as one of the ten finalists for an Outstanding Achievement Award. UpReach, a social mobility organisation, has recognised the mentorship programme in helping low socioeconomic students access higher education and my efforts specifically in wanting to improve social mobility. Alongside this, I have been shortlisted as one of the top 150 black undergraduates in the UK and will be featured in the *Future Leaders Magazine*.

I hope that the mentorship programme will continue to grow in the coming months and years, and I plan to host an in-person event in the summer with the current cohort. Over the medium to long term, I can see myself creating partnerships with companies and external organisations, with the aim to receive their help in getting care-experienced students beyond higher education and into employment.

If you would like to get involved (whether to provide guidance, to share your work experience, to get, or to be, a mentor) please visit cesementoring.com

Updates: Public appointments/ public engagement

Cressida Auckland

Academic Fellow of the Middle Temple

Chaloka Beyani

Member of the United Nations Fact-Finding Mission to Libya since 2020

Member of the Expert Advisory Group to the Secretary General's High-Level Panel on Internal Displacement since 2020

Michael Blackwell

Judge of the First-tier Tribunal.

Christine Chinkin

Appointed as Chair of the International Law Association

Tatiana Flessas

Consultant on the Responsible Art Market Guidelines, Art Law Foundation, Geneva, 2018-present

'Expert' on the Committee of the Research in Cultural Property Interdisciplinary Working Group, University of Göttingen. (2009-present)

Devika Hovell

Advice on questions of unilateral sanctions against oligarchs to Member of European Parliament, 2022

Stephen Humphreys

Consultancy on climate change and human rights, helping set climate strategy for the UK's Equality and Human Rights Commission (2021-22), involving drafting a report and convening a roundtable (held on 9 February 2022).

Commissioner on the International Union for Conservation of Nature (IUCN)'s World Commission on Environmental Law (WCEL) (2019-present).

Martin Husovec

Affiliated Researcher at Stanford University, Center for Internet and Society, (12/2014–Present)

CREATe Fellow at University of Glasgow (2020–Present)

TILEC Extramural Fellow at Tilburg University (07/2020–Present)

External Advisor to the President and judges of the Slovak Constitutional Court (2020–2022)

Emily Jackson

Contributed to amicus brief in respect of US Supreme Court hearing of *Dobbs v Jackson Women's Health Organization*

Nicola Lacey

2022 LSA (Law and Society Association) International Prize

Richard Martin

Shortlisted for Hart SLSA Book Prize for Early Career Academics (2022)

Winner of British Society of Criminology's Brian William Prize for his article 'Righting the Police: How do Officers Make Sense of Human Rights?'

Luke McDonagh

2021 – IPKat Blog – Nominated – Best Copyright Book of the Year for Performing Copyright: Law, Theatre and Authorship (Hart, 2021)

Niamh Moloney

Elected as an Honorary Member of Royal Irish Academy

Andrew Murray

Gave oral evidence to the House of Lords Communications and Digital Committee Inquiry into Digital Regulation, Nov 21

Abenaa Owusu-Bempah

From September 2020 to July 2021, I was on the Advisory Board for the development and publication of a guide for anti-racist lawyers by the Howard League for Penal Reform and Black Legal Protest.

In December 2021, I joined the Criminal Bar Association's academic sub-committee.

Expert witness in Criminal Trials

Philipp Paech

Digital Assets Expert Group, UNIDROIT, Rome, since 2020.

Association Européenne de Droit Bancaire et Financière, Member of the Scientific Committee (since 2019)

Astrid Sanders

Consultant for Institute of Employment Rights (November 2018 onwards)

Edmund Schuster

Consultant for Baker & McKenzie, Vienna

Andrew Scott

Gave oral evidence to the NI Assembly Committee on Defamation Bill, Nov 2021

Chair of the Law, Political Science, Media and Communications Panel, Portuguese FCT Stimulus of Scientific Employment (Individual Support) Competition 2020-2021

Andy Summers

2021- Confederation of British Industry (CBI), Tax Committee

Siva Thambisetty

Advisor to the Pacific Small Island Developing States 2018- (appointed by Office of the Pacific Ocean Commissioner)

Jan Zgliniski

Research Fellow, Institute of European and Comparative Law, University of Oxford, since 2019

National Science Centre Poland, International Expert (2022)



Community

At once both driven and eccentric, eclectic and focused, the people of the LSE Law School community and the deep relationship networks that connect them are its primary asset and achievement. They drive the experience of everyone who becomes part of the School. Much like the heterogeneity of the people of whom it is comprised, the open and non-hierarchical culture of the Law School is both natural and contrived. It is a special place of which to be part; it is intellectual life, fully caffeinated.

In the pages that follow, we offer a glimpse of the LSE Law School community. Annalena Baerbock, currently the German Federal Foreign Minister, reminisces on her time as an LLM student in discussion with current LLM students. Undergraduate student, Ferial Aboushoka, describes how sharing her poetry and prose on *Instagram* led to her becoming an online ‘influencer’, a role she has embraced to provide a beacon of positivity and affirmation.

Professor Jo Braithwaite then introduces the Future of Financial Markets Infrastructure project which provides a unique forum for interdisciplinary discussion of the systemic dimensions of global financial markets, bringing together thought-leaders from academia, legal practice, industry, regulators and central banks. Dr Mona Paulsen reprises the Public International Law reading group discussion on the ground-shaking book authored by two LSE alums – Anthea Roberts and Nicolas Lamp – who themselves joined the online discussion of their award-winning book. Finally, Andrew Scott relays the highlights of this year’s *Convene @ LSE Law* programme, a hub in the Law School community and a platform for events and activities tailor-made to offer learning and enrichment beyond the lecture theatre.

Interview with Germany's Federal Foreign Minister Annalena Baerbock

German Foreign Minister and LSE LLM alum, Annalena Baerbock, sat down with current LLM students Malte Lauck and Sarah Schaible, and Dr Jan Zgliniski, to reflect on her time at LSE, her career choices, and her commitment to European integration.

Jan Zgliniski (JZ): Minister Baerbock, you graduated from LSE with an LLM in 2005. How do you remember your time as a student in London?

Annalena Baerbock (AB): I had the most stimulating time: not only did I make friends for life – my studies at LSE laid the foundation for my career, and to this day I rely on and benefit from what I studied and learned at LSE.

Malte Lauck (ML): What motivated you to pursue an LLM in public international law at LSE? What career would you have envisioned for yourself had you not become a politician?

AB: First of all, it's an excellent academic environment, with many professors who have diverse backgrounds in practical fields. Second, the diverse international student body. Where else would your fellow students in a class on the Charter of the United Nations hail from Russia, China and the US Navy? At the time, I was thinking of working as a human rights lawyer, and I would not have minded staying in London. Things turned out differently, and I took a job at the European Parliament. Luckily, at the time the United Kingdom was still a member of the European Union, which made the trip from London to Brussels easy.

JZ: You joined the Green Party around the time of your master's degree. Can you give us some insight into this early phase of your career: why did you decide to become politically active?

AB: May 1st, 2004, was a pivotal moment for me; it was the day that Poland joined the European Union. It was an unforgettable night on the bridge spanning the Oder river between the towns of Frankfurt and Slubice. There was a huge crowd, Poles and Germans hugging each other. It was one of those rare moments when you feel how political choices can transform people's lives, make friends out of former enemies and help different countries grow together.

Sarah Schaible (SS): Since graduating, you have held various political offices and are, since last December, Germany's Minister for Foreign Affairs. Has anything that you learned during your LLM been useful in exercising these roles?

In these tragic times, the classes I took in public international law and the law of war have become much more relevant to my day-to-day work than I had wished for. Of course, being a politician is not only about knowing all the facts. You need to have a vision, you must enjoy engaging with people, and you have to be able and willing to put yourself in another person's shoes. In that sense, as well, I learned a great deal from LSE's diverse and multi-cultural environment.

ML: Did any courses or professors at LSE leave a particular impact on you?

AB: I vividly remember one class where we discussed the Charter of the United Nations and compared it in different language versions. Even though they appear to be very accurate translations, the meaning of these texts differs slightly from language to language, and it is impossible to tell which reading is "correct". So, one thing I learned is that even in legal texts there can be grey areas where interpretation depends on political context. And to this day I have stayed in touch with some of my former fellow students and teachers, including Susan Breau who was a lecturer then.

JZ: You have had an interest in foreign policy from the start of your political career and are an outspoken advocate for European integration, in a period of growing Euro-criticism and scepticism. What are the main challenges that Europe needs to address in the years to come?



Annalena Baerbock

AB: If the United Kingdom had not been part of the European Union back then, I probably would not have been able to attend LSE, as I could not have afforded the tuition. Making sure the EU continues to make day-to-day life better for its citizens is our most important job. Only then will the EU also deliver on its central historical promise: to ensure that future generations continue to live together in peace on our continent. Russia's aggression against Ukraine has made it terribly clear that we cannot take peace for granted.

JZ: The UK has recently left the European Union after being a Member State for almost five decades. How do you see the future of UK-EU relations?

AB: In the difficult days since Russia's attack on Ukraine, I have been working with my British colleague Liz Truss so closely it sometimes felt as if the UK had never left the European Union. I wish we could maintain this in times of peace as well. And in my heart I do hope, especially for my British friends, that one day we will be united again.

SS: In hindsight, is there anything you wish you had done during your time in London but did not get the chance to?

AB: Regrettably, there are many things I missed out on. As a student you never have the money to enjoy everything this city has to offer. I remember I sometimes told myself I should move back to London only once I get rich. Having said that, I greatly appreciated the fact that entry to many museums in London is free, enabling everyone to see exhibitions and enjoy great shows.

JZ: Any advice for our current students who consider a career in policy making?

AB: Don't let anyone put you off or discourage you. Be yourself and stay true to your goals – particularly when facing obstacles. And especially for women: don't be intimidated by hate and abuse on the internet. I have had such experiences myself. Build a strong network of allies – especially among women – and support each other. It is much easier to withstand attacks if you know you are not alone.

JZ, ML and SS: thank you so much for taking the time to speak with us, and thank you for your guidance.

Social Media – But the Good Kind

LSE Law undergraduate student, Ferial Aboushoka, shares her experiences with social media, describing how becoming an ‘influencer’ has afforded the opportunity to provide a beacon of positivity and affirmation in the broiling sea of online narcissism, misrepresentation and misinformation.

At 18 years-old I launched @FairysForum, an Instagram platform sharing my own original poetry and prose. At 20, I have amassed nearly 400,000 followers, achieving success as the youngest social-media writer reaching this milestone and creating the largest platform of its kind by a founder native to the Middle East. Through countless viral posts, my words have been endorsed and re-shared by international celebrities like Khloé Kardashian (tv and social media personality), Shonda Rhimes (Emmy-winning screenwriter and television producer), Huda Beauty (cosmetics entrepreneur), SZA (musical artist), Addison Rae (actress and social media personality), and Daniel Amen (celebrity psychiatrist). Herein lies the irrefutable power of social media; I managed to build a loyal readership at a young age and gain considerable exposure for my writing, all whilst having the time and location freedom to diligently pursue my LLB studies.

Why I Started

The simple answer is: ‘if you cannot beat them join them’. Despite the stigma associated with social media and ‘influencers’, it remains an integral part of not millions but *billions* of people’s everyday lives, especially the younger demographic. According to a survey from Common Sense Media, children and teenagers spend anywhere between five to seven and half hours a day on social media on average. Its pervasiveness has become an unavoidable reality. From the ages of 13 to 17, I myself was addicted, unable to peel myself away from an Instagram feed that was slowly but surely harming my mental health. For hours a day I would sit and stare at celebrities’ and influencers’ perfectly edited images perpetuating false standards of beauty, success and lifestyle. I decided to detox. I deleted the app and stayed off all other forms of social media for a year, after which I returned with a realisation. What if the ‘problem’ is not with social media per se, but with the content we consume on it? What if what was negatively impacting my mental health was not my mere use of Instagram, but rather the way I was using it, specifically the individuals I chose to follow? What if I filled my feed with valuable content that fueled rather than stifled my personal growth? I decided to take a different route. Instead

of fruitlessly condemning social media and shaming those who addictively engage in it, I began to realise my social responsibility in enhancing this virtual world by consuming and creating content that helps rather than harms. Thus, *Fairy’s Forum* was born.

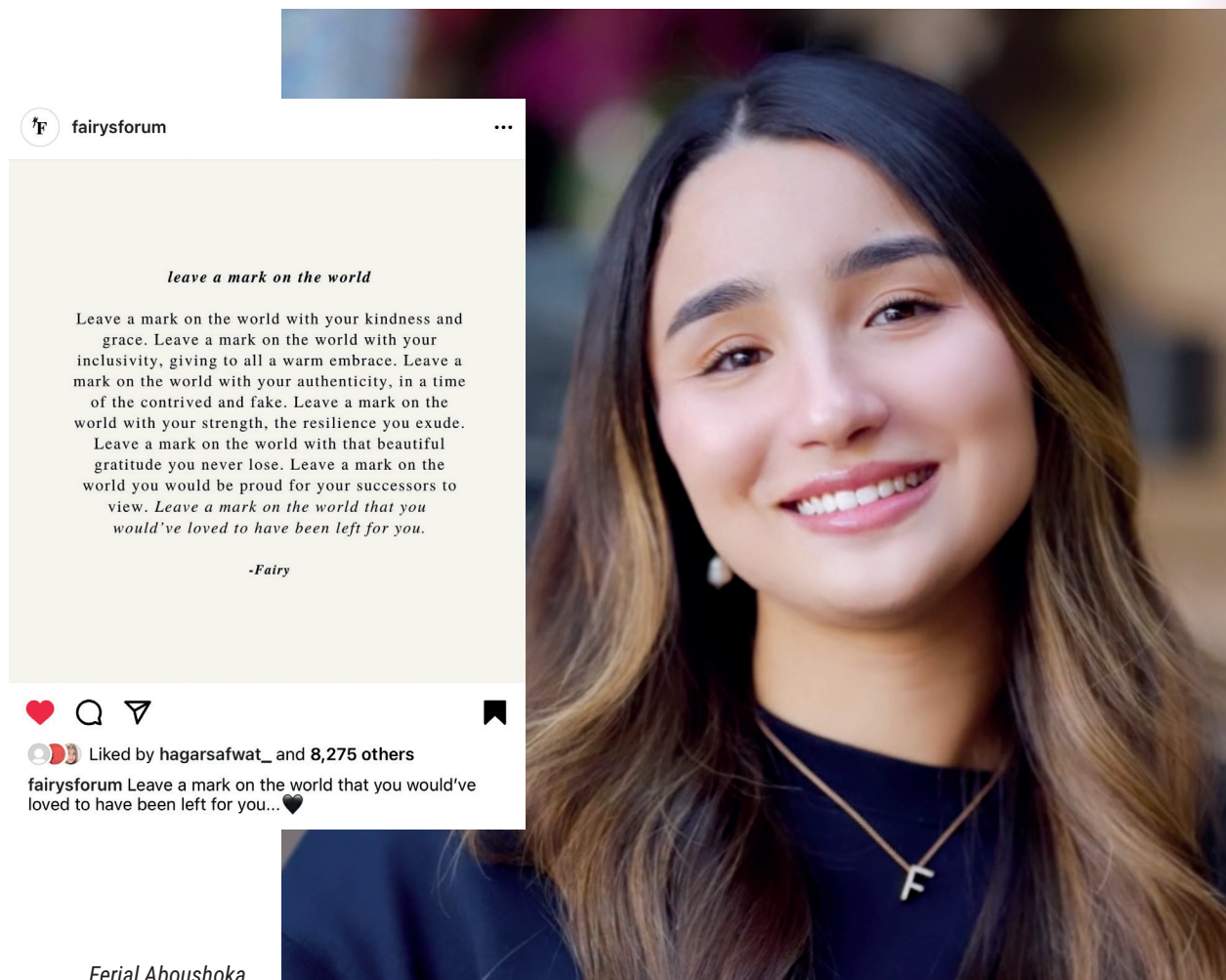
What I Do

The name ‘Fairy’s Forum’ tells a summary of the story. ‘Fairy’ is the nickname I was born with and the platform is intended as a forum for my own original writing in any format I choose. Reflecting this, I run the page entirely independently. I write, design, schedule and strategise. The freedom of making all these decisions alone is exhilarating, however, the sense of responsibility is sometimes overwhelming. Since my followers are also essentially my readers I feel a sense of duty towards them, namely to provide valuable and meaningful content. I also need to be careful not to post anything that might be triggering, insensitive or incendiary. Accordingly, I have used my writing to promote self-love, mental health awareness, women’s empowerment, non-discrimination and equality. To put it simply, I write quotes, poems, prose etc. on issues I feel passionate about, I then utilise a contemporary cognizance of Instagram dynamics to maximise the reach of my words. I have learnt how to fit big ideas into small cogent messages, making them more digestible and accessible to the average user as well as fueling important conversations. For example, I created a series of posts on narcissism and toxic relationships, targeted towards helping people identify patterns of emotional abuse. By harnessing social media’s economies of scale, I aim to make a positive impact in a way that is quick, effective and sincere.

How I Did It

The truth is with social media there is no magic formula for success, however, there are some guidelines which I believe were integral to the growth of my page. First, it is important to *provide value*. Platforms like Instagram are inundated with low-quality content and in 2022 people are tired of seeing it. As a content creator, you cannot expect to build an audience

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Ferial Aboushoka

online if the very content that is meant to attract people to your page is useless, uninspired, and of no substance. Your primary objective should be to create original content that will inform, benefit or entertain people in a way that is ethical and authentic. Secondly, *have a purpose*. With every single post you make, you should have a specific goal in mind. What message are you hoping to convey? What do you want people to take away? What impact are you aiming for? Additionally, you should also have a broader sense of purpose as a content creator. What is it that you are looking to contribute to the online environment and how can you make it better? Being able to answer these questions and create content accordingly will help you build a loyal audience, affiliated with your objectives. Thirdly, *stay consistent*. Social media algorithms by design seem to favour consistent participants and so do real-life users. People want to follow pages that regularly provide content. The reality is that running a social media page is a commitment requiring organisation, planning and continuity. You have to be prepared to create and post quality content every day or at least multiple times a week in order to attract an audience.

What the Future Holds

We live in the age of misinformation. Actively engaging on social media as both user and content creator heightened my awareness of the considerable extent to which falsities have infiltrated the online environment. It is common practice for most social media users to consume, engage with and re-share dubious information without conducting any research. The dissemination of such misleading content is exacerbated by users' sense of anonymity and lack of accountability. Dedicating so much of my time to a virtual world laden with lies, half-truths and deceptively crafted news fuels my desire to continue to learn comprehensively, research diligently and analyse critically. Fortunately, I have been admitted to the Harvard LLM which I intend to undertake right after graduating from LSE this summer. The world of academia provides a much-needed refuge from the chaos of misinformation, allowing me to explore legal perspectives and evaluate them based on the quality of their substantiation. It is my hope that by enriching my education, I can also elevate myself as a writer and content creator on social media.

The Future of Financial Markets Infrastructure Project: a new LSE Law forum for interdisciplinary debate

In this piece, Professor Jo Braithwaite and Dr Andrew Scott discuss the Future of Financial Markets Infrastructure project, established at LSE Law School by Jo and Dr David Murphy in 2020. They discuss how this project has developed strongly, culminating in a summer 2022 ‘in person’ conference. It now provides a unique forum for interdisciplinary discussion of the most pressing issues relating to this systemic part of the global financial markets, bringing together high-level thought-leaders from academia, legal practice, industry, regulators and central banks.

Andrew Scott (AS): Thanks for taking the time to introduce the Future of Financial Markets Infrastructure project. Can you tell us a little about its origins, and its primary aims?

Jo Braithwaite (JB): Dr David Murphy – LSE Law School Visiting Professor in Practice – and I cofounded the project in 2020. Our aim was to set up a forum for debate about the robustness of this critical part of the global financial markets, and to bring together contributors from academia and all areas of practice.

The idea for the project came from our shared research interests, the growing profile of FMI-related issues, and our appreciation of the potential value of an interdisciplinary forum for debate.

David and I have both been researching FMI topics for some time. My interest dates back to the period immediately after the global financial crisis. The type of FMI which I have studied most intensively, central counterparties (CCPs), has long been an important feature of the markets for certain types of contracts, but from 2009 onwards regulators imposed new rules worldwide that required certain types of contracts called derivatives to be ‘cleared’ through a CCP. This mandate sounds technical, but in fact it was a radical shift in policy which pushed the structure and robustness of CCPs much higher up the agenda and transformed parts of the vast derivatives markets. Having long had a research

interest in derivatives, I started to write about the legal design of CCPs in 2011 and have been researching the law and policy of FMI since then.

David is a world-leading expert on derivatives regulation and central clearing, who has enjoyed a distinguished career working on bank and central counterparty policy at national and international levels. He has published widely in these areas, contributing to academic scholarship and to many high-level consultations and international reports. His most recent work is a 2022 monograph published by Oxford University Press on *‘Derivatives regulation: rules and reasoning from Lehman to COVID.’* David was appointed as a Visiting Professor in Practice by the LSE Law School in 2019, so we were very fortunate to be able to draw on his expertise when it came to setting up a new forum of the kind we had in mind.

Having seen the benefits of interdisciplinary perspectives in our own research, David and I agreed that there was an opportunity to build on the research base at LSE Law and create the forum for discussion between experts from a wide range of disciplines that we saw was necessary. Building on my academic contacts and David’s professional network, over the course of 2020 we built up this forum as a place for interdisciplinary discussion around the most pressing questions.

COMMUNITY



Jo Braithwaite

COMMUNITY

AS: Setting up the project in 2020, the timing of this new initiative can't have been too propitious. What impact did the Covid lockdowns have on the project?

JB: Actually, while the initial shift to hosting research events online was a challenge for everyone, it also motivating our setting up a new series of international seminars on these topics. With the rollout of online events, we were able to invite expert speakers and participants from all over the world to take part. It was also good just to be able to get involved in something new during the pandemic.

Right from its launch, there was a fantastic response to this project, as reflected in the eminent speakers who have taken part so far and the global audience who have joined us. Our first seminars were held in the autumn of 2020. The launch event was on the 'resolution and recovery of central counterparties' (led by David and me), followed by a very topical seminar on 'spread trades in the time of COVID' given by Fernando Cerezetti, Chair of the Risk Committee of the European Association of CCP Clearing Houses. In our first year, we were also delighted to host seminars by two distinguished speakers from the United States: Petal Walker, a high-profile lawyer specialising in the area of FMIs and market structure; and Travis D. Nesmith from the Board of Governors of the Federal Reserve, an expert on financial stability.

With input from a newly established Advisory Committee made up of industry experts from the leading trade associations in the sector, we put together another series of seminars for academic year 2021/22. This sought to contextualise contemporary debates around central counterparties and clearing. The first of those seminars was delivered by Professor Sir Ross Cranston of LSE Law School, who adopted a legal historical approach. We then had a highly topical seminar on CCP supervision with Froukelien Wendt, who is an independent member of the CCP Supervisory Committee of ESMA, followed by Dr Alicia Greenwood – CEO of JSE Clear, the CCP from South Africa – who shared insights both from the Global South and from the perspective of a clearing house CEO. Over the last year, we've also discussed cutting-edge topics including the impact of Covid and were lucky enough to host a seminar by Professor Darrell Duffie of Stanford Graduate School of Business on 'the case for broad central clearing of the US Treasury market.'

Given the impact of the pandemic on opportunities for junior colleagues, as part of the project we also organised a roundtable for early career scholars. The roundtable convened online several times over the year, allowing junior researchers from universities around the world (Bonn, Yale, LSE, Cambridge and Oxford) to present their research, and this has been one of the most enjoyable aspects of the project to date.

Two years running, Dr Murphy has also delivered a series of LSE Law Convene Masterclasses for LSE Law students – both in person and online – on the themes of 'Derivatives Clearing Today' and 'Issues in Modern Derivatives Clearing', which were greatly appreciated by the LLM cohort.

Having said all of this about the benefits of online events, however, I'm very pleased to say that we also just recently hosted a major 'in-person' event at LSE: our first summer conference and networking drinks in May 2022. Looking ahead, it will be a question of balancing 'in-person' events with at least some online seminars, as we certainly intend to keep engaging with the global audience that we have built up.

AS: And who else does the project involve? You mentioned an expert advisory committee?

JB: It has been really rewarding to see such strong levels of engagement with this project from the start. For instance, our first online event in 2020 was attended by nearly 100 academics, regulators, practitioners and industry experts from around the world, and we've maintained this reach for all our events so far, which is great.

The project's Advisory Committee was established in 2021 to help to inform the project as it develops. It is made up of industry experts drawn from the major FMI trade associations. Not only have several of the Committee taken part in our events, but it has been very valuable to have their input in the planning process and in raising the profile of the project.

There has been fantastic input from LSE Law colleagues too. Indeed, one of the best aspects of working at LSE Law is the sheer weight of expertise and knowledge that our colleagues bring to this field. I mentioned that we organised Professor Cranston's seminar on his latest book, while Dr Eva Micheler has chaired a seminar in this series and Professor David Kershaw took part in a panel at our recent conference. PhD student Omotola Ariyo, who is working on standard contracts in the OTC derivatives markets, is a regular attendee and took part in our roundtable for early career academics.

Professor Niamh Moloney was Head of the Law Department when the project was founded and was very supportive. Our work also closely relates to research by colleagues Professor Julia Black, Dr Elizabeth Howell, Dr Philipp Paech, Professor Sarah Paterson and Dr Edmund Schuster. This project has greatly benefitted from their participation and support, that of many other LSE Law colleagues, and of our enthusiastic and engaged students of course.

AS: You mentioned that you have recently been able to hold your first major event in person at LSE. Can you tell us a little more about that event? What was its focus, and who were the participants?

JB: The May 2022 summer conference was the first 'in-person' event that we have been able to hold for this project. It is notable that the FMI project has been entirely funded by the LSE Law School so far, and the conference was generously supported by a new 'large events fund' set up by LSE Law School.

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There were two parts to the conference: first, the keynote address on 'the future of clearing' by Klaus Löber, who is the first Chair of the CCP Supervisory Committee of ESMA, and secondly, a panel discussion on 'Categories, Models and Power: The Construction of Knowledge in Financial Regulation.' In that discussion, three distinguished speakers (Pedro Gurrola from the World Federation of Exchanges; Robert Steigerwald of the Federal Reserve Bank of Chicago and LSE Law Dean David Kershaw) discussed the critical study of financial regulation with special reference to Dr Murphy's latest monograph on derivatives regulation.

In fact, the conference was in a hybrid format, meaning that in addition to the regulators, academics, industry participants, practitioners and LSE students who joined us 'in person' in LSE's new Marshall Building, there was also a large audience on Zoom. Fortunately, the tech worked pretty seamlessly, but sadly only the 'in person' attendees could join us for the networking drinks!

AS: So, how far does the work of the project inform research on related themes at the LSE Law School?

JB: There is a great deal of research and research output in these areas at LSE Law, much of which is inspiring ideas aired and developed further in the project. For instance, David has just recently published his 2022 monograph with Oxford University Press, mentioned already, and with Rebecca Lewis of Yale Law School he has contributed a paper on the structure of CCPs to the Lent Term 2022 LSE Law working paper series. Meanwhile, together David and I have recently published work on OTC derivatives client clearing in an OUP book on FMI edited by Professor Binder and Dr Saguato. My own recent book, *The Financial Courts: Adjudicating Disputes in Derivatives Markets* published by CUP in 2021, has also been relevant to our discussions about legal certainty over the course of the project.

So far, then, much of what we have done in the FMI project has been to discuss and raise the profile of research that is already underway and to facilitate an interdisciplinary, international debate about that research, but it is also exciting to be generating ideas for new research projects over the course of discussions about contemporary issues unfolding in this sector.

AS: And what are your plans for the project going forward now? What do you envisage as the next steps?

JB: What's clear is that the FMI sector is potentially exposed to some of the most pressing issues of the day, whether in the form of geo-political, environmental or cyber risks, or through the development of markets and infrastructure for crypto assets, all while long-standing debates around robustness, continuity and legal certainty continue. This makes for complex challenges, which we are keen to explore in our seminar series for 2022/23 and beyond.

New parts of the project are also in development, including the opportunity for our students to find out more about careers in this sector from industry participants and gain first-hand knowledge through internships. We are very grateful for the support of LSE Law Director of Research, Professor Pablo Ibáñez Colomo to date and as we look ahead to developing the project in these ways. Most of all, we are looking forward to the project continuing to provide a forum where people can share their ideas and insights around FMI. If any *Ratio* readers are keen to find out more, I'd encourage them to get in touch with me on email.

AS: It all sounds quite remarkable! Many thanks for your time, and I hope we can check back in with you on this in future!



What is financial market infrastructure?

Financial market infrastructures support the global economy by processing payment, clearing and settlement of transactions. In the UK, FMIs are supervised by the Bank of England, and include payment systems, central securities depositories and central counterparties (CCPs).

Why does it matter?

FMIs perform millions of transactions each day. The value of transactions being processed is vast, while FMIs connect with each other and with banks, financial entities, companies and individuals across the world. As a result, FMIs are systemically important, meaning their robustness is vital to financial stability. The robustness of FMIs is therefore an important regulatory objective, as reflected in global standards such as the 2012 'Principles for Financial Market Infrastructure' published by CPSS-IOSCO.

PIL Reading Group: *Six Faces of Globalization: Who Wins, Who Loses, and Why it Matters*

In the 2021/2022 academic year, the LSE Law Public International Law group initiated a Reading Group to enable students to get together and discuss pivotal books that are shaking up the field. One of the highlights of this group involved welcoming back two alumni: Anthea Roberts and Nicolas Lamp. Anthea and Nicolas joined our group virtually to discuss their award-winning book, *Six Faces of Globalization: Who Wins, Who Loses, and Why it Matters* (Harvard UP 2021).

First, Anthea and then Nicolas, very briefly, can you introduce yourselves and outline your connections with LSE Law?

Anthea Roberts: I am Professor at the RegNet School of Regulation and Global Governance, Australian National University, and was previously an Associate Professor at the LSE Law Department from 2008 to 2015.

Nicolas Lamp: I completed my LLM in Public International Law at LSE in 2008, and my PhD in Law in 2013. I'm now Associate Professor at the Faculty of Law at Queen's University in Canada.

In your book you discussed six narratives in the Western discourse on globalization. Can you please present the narratives, in brief? How does the metaphor of the Rubik's Cube serve as a meta-framework for understanding the six main narratives in Western debates?

Narratives about globalization fall into three categories: win-win, win-lose, and lose-lose. The dominant narrative since the end of the Cold War has been a win-win narrative (we call it the 'establishment narrative'), according to which economic interdependence leads to peace and prosperity. That narrative has suffered body blow after body blow in recent years.

After the 2007-2008 financial crisis, left-wing populists (offering the second narrative) started pointing out that the top 1 percent have been able to appropriate most of the gains from globalization for themselves. In 2015, European citizens took to the streets to protest a US-EU trade

agreement that they warned would only benefit corporations and undermine democracy (the 'corporate power narrative'). The Brexit vote and Donald Trump's election to the US presidency in 2016 showed the resonance of a 'right-wing populist narrative' that associates globalization with devastated manufacturing towns, uncontrolled immigration, and a fraying social fabric. A fourth win-lose narrative, which we call the 'geoeconomic narrative', emphasizes the security implications of international economic interdependence. Until a few weeks ago, this narrative was laser-focused on the technological competition between the United States and China; since Russia's attack against Ukraine, the economic confrontation between the West and Russia, in which each side is trying to exploit the economic vulnerabilities of the other to inflict maximum damage, has taken centre stage. In each of these four narratives, you have clear winners (the top 1 percent, corporations, a foreign 'other' (developing country workers, immigrants, or bureaucrats in Brussels), and China/Russia, respectively) and losers (the middle class, citizens, US workers, the West).

For the final narrative, globalization in its current form is a lose-lose proposition. We call it the 'global threats narrative' because it shows how the globalization of Western patterns of production and consumption threatens not only our health and well-being, but our very survival on this planet.

The Rubik's cube is a metaphor for what we do in the first part of the book, namely, to unscramble the different narratives and present them as coherent worldviews. The cube works as a metaphor because it has six sides (and we happened to have six narratives), and we could picture the



Anthea Roberts



Nicolas Lamp

upbeat establishment narrative on the sunny top, the mixed narratives that contain light and shade on the four sides, and the dark global threats narrative at the bottom.

One of the key lessons from the reading group was to consider the *complexity* of these narratives, that is how they intersect, overlap, or how they reflect off one another to reveal different insights. An interesting moment for the students was how, upon presenting some applications of the six narratives, you then explained how the narratives came together. In thinking through this, you both discussed the process of integrative complexity. Can you please elaborate on this concept and on how you use it in the book?

The Rubik's cube worked well as a metaphor for one thing that we were trying to do, which was to differentiate the narratives and show how they relate to one another. But the cube worked less well to illustrate the task that we set ourselves in the second part of the book, which was to ask: how can we integrate the different narratives to get a better understanding of globalization in its full complexity?

One way of getting to an answer is to observe how actors in the real world switch between the narratives to reframe the way a problem is perceived, or how they exploit overlaps between the narrative to build coalitions around particular policies. We illustrate these moves in the book with examples from different policy areas, including trade policy, where there were some interesting overlaps between the Trump administration and left-wing critics of globalization. The hostility towards investor-state dispute settlement is a case in point.

We then go further to show how we can employ the narratives to see complex issues, such as the climate crisis and the COVID-19 pandemic, in all their dimensions. The metaphor we use here is that of a kaleidoscope: each turn of the kaleidoscope reveals a different dimension of the problem. Taking all the perspectives together allows us to identify both

overlaps and disagreements between the different narratives. What underlies these disagreements are often the competing values championed by different narratives. If we are to integrate the narratives, we need to decide how to trade off these different values against each other.

In sum, integrative complexity involves two steps: differentiation and integration. Differentiating the narratives helps us to understand how we have come apart; integrating them can help us come back together.

It seems like the LSE commitment to interdisciplinarity was in full effect! Did you start working together when you were at LSE?

Even though we overlapped at LSE, we did not meet at the time. However, the time that each of us spent at LSE was definitely a formative period that led us to adopt a strongly interdisciplinary approach to law. On the surface, there is very little law in the book – it's an analysis of different narratives about globalization. However, there is nonetheless a strong link to law, in two ways. For one, the narratives evidently inform how we make law and can therefore help us make sense of existing legal rules and of proposals for new legal rules. That is particularly important in fields that are currently in upheaval, such as international trade law.

The second link to law is a more methodological one. Our approach of looking at issues from different angles will be familiar to any lawyer who has to internalize their client's perspective while also anticipating the arguments that will be made by the other side. And the integrative approach that we advocate towards the end of the book draws on the same skills that a judge employs when developing a legal ruling that integrates competing interests and values. Maybe our legal education is one reason why we were naturally drawn to this approach.

Thanks so much.

Convene @LSELaw

A palpable strength of the LSE community is the degree of engagement between its members, students, staff, faculty and visitors. In this piece, Andrew Scott reviews the highs and highs of the year in Convene @LSELaw, the online and in-person programme of research seminars, masterclasses, reading groups, and social and community events that serves as a hub for the LSE Law community.

One of the very positive, unexpected windfalls for the LSE Law School from the chill draft of the Covid-19 lockdowns was the establishment of Convene @LSELaw. This programme of online events was originally intended to replicate those in-person spaces where the LSE Law staff and student community would normally meet, connect share ideas, and be inspired. Some measure of normality gradually returned to the Law School this year, and this was reflected in the fact that while Convene initially proceeded largely online it emerged into our real-world spaces as the year progressed. It is now established as a platform for our community of people – from diverse roles and backgrounds – who share a passion for learning, enquiry, and discussion. These paragraphs offer a glimpse of the programme, and a sense of its range, depth and vitality.

Convene comprises an array of research seminars, masterclasses, community events and reading groups. In response to the invasion of Ukraine, the latter part of the Lent term saw the Law School host a number of seminars focused on the array of different legal themes that those events threw into question (see the overview offered by Cressida Auckland in the introductory section of *Ratio*).

A gamut of other research seminars saw high attendances throughout the year, and gave the student community deeper insight into the research interests of LSE Faculty. Some of these were delivered by LSE colleagues: for example, Luke

McDonagh spoke on intellectual property law and global vaccine equity; Stavros Makris discussed competition policy as a form of responsive law; Michelle Hughes re-imagined rights in the battlespace through an analysis of *Hanan v Germany*, and Jan Zgliniski reflected on the idea of Europe in football. Philipp Paech led an insightful series of talks on regulation and Fintech policy, crypto-assets, and AI. Other seminars saw external speakers hold the floor: for example, Professors Davina Cooper (KCL), Alison Diduck, and Aleisha Ebrahimi (both UCL) joined Nikki Lacey to discuss issues around 'Women, Gender and Law'; Amit Sachdeva spoke on the practice of US tax law; Sakshi Gupta and Michael Salib, both senior lawyers at the Bank of England, reflected on questions around financial stability.

Convene reading groups explored books, films and other topics chosen by LSE Law staff in regular term-time meetings. Across both terms, LSE Fellow Dr Giulia Gentile convened a reading group on fundamental rights in the digital society which considered an array of fascinating and challenging reads, including *Silicon Values* by Jillian C. York, *Algorithms of Oppression* by Dr Safiya Noble, *Atlas of AI* by Kate Crawford, and *Online Courts and the Future of Justice* by Richard Susskind. The Public International Law reading group also considered a wide range of key texts with the authors, including Anthea Roberts and Nicolas Lamp's *Six Faces of Globalization* (see the piece by Mona Paulsen in this issue of *Ratio*) and Greg Shaffer's *Emerging Powers and the World Trading System*. Other one-off events saw groups consider the excellent insight into US working class life offered by *Washington Post* journalist Amy Goldstein in *Janesville: an American Story*, and the collision between private histories and public life embodied in the female district judge who serves as the central character in Helen Dunmore's novel, *Your Blue-Eyed Boy*.

A number of our Visiting Professors-in-Practice offered unparalleled insight to the LSE student community through series of Masterclasses, with Stephanie Maguire reprising her talks on corporate governance and disclosure, Simon Whitney speaking on private equity, venture capital and impact

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investing, Mark Lewis leading sessions on a range of issues in law and technology (for example, on cybersecurity and systems resilience, on cloud computing agreements, and on the regulation of AI and machine learning), and David Murphy delivering masterclasses on aspects of derivatives clearing (see the piece in *Ratio* on the FMI project). Mary Stokes discussed company law in practice through the lens of the Supreme Court case of *BTI v Sequana* with Andrew Thompson QC. Moreover, both David Lammy MP and Baroness Shami Chakrabarti offered thoughts on the law, politics, careers, and civil liberties in the current environment.

Finally, through community events for both undergraduate and postgraduate students we reflect on challenges and experiences of life in LSE Law, and deepen relationships in a relaxed, supportive and informal setting. This year, alongside a range of ostensibly social events and guidance sessions for students on managing their programmes, Community sessions also focused on such themes as whether students should pursue the LPC or SQE routes into the legal profession (with Professor Ruth Mason and Dr Leopoldo Parada (both of the BPP Law School), on critical thinking and how to do it with the “tech philosopher” Tom Chatfield, finding and exercising one’s voice as a writer with author Marina Benjamin, and on acceptance and “fitting-in” with writer, feminist theorist and lecturer Minna Salami.

Many thanks are due to all the friends and colleagues who contributed to Convene @LSELaw through the year, to Siva Thambisetty who co-directed the entire programme as well as organising and convening the Community strand in particular, to Mike Wilkinson and Andrew Scott who each co-directed the programme with Siva for one term, and to Alex Green and Molly Rhead who ensured that the logistics of the programme ran to plan.



Staff Updates

Department Leadership



Professor Veerle Heyvaert

Professor Veerle Heyvaert will be taking up the Associate Dean position, taking over from Professor Andrew Murray who has completed his term.



Professor Andrew Murray

New Starters

Dr Alexander Waghorn, Dr Rachel Leow, and Dr Timothy Liao join us as Assistant Professors.

Joshua Pike, Luminita Olteanu, Ciara Hurley, and Grigorios Bacharis join us as LSE Fellows.

Jonathan Kravet joins as Assessments and Regulations Officer.

Stephanie Booth joins as Exams and Assessment Administrator.

Alexandra Klegg joins as Communications Officer.

Cassidy McCauley joins as Events Officer.

Promotions

Dr Michael Wilkinson has been promoted to full Professor.

Dr Eva Micheler has been promoted to full Professor.

Dr Jo Murkens has been promoted to full Professor.

Dr Paul MacMahon has been promoted to Associate Professor.

Dr Nick Sage has been promoted to Associate Professor.

Fiona Thomas has been promoted to Service Delivery Manager, Undergraduate Programmes.

Leavers

Professor Michael Lobban has been elected to a Senior Research Fellowship at All Souls Oxford.

Dr Stavros Makris will be leaving LSE to take up a lectureship at the University of Glasgow.

Sarah Lee has returned to New Zealand to take up a job at the Auckland University of Technology.

Laurie Ingram has returned to Ireland.

Alexandra Green has taken up a job opportunity in Canada.

Deaths

Professor Bill Cornish (1937 – 2022). His obituary is available at lse.ac.uk/law/news/2022/bill-cornish



The Law School Away Day

Environment





As everyone in the LSE Law community understands, our experiences and opportunities are multiplied by the broader environment in which the Law School sits. Our location – next door to the heart of legal London, a close equidistance between the political and financial centres of the capital, and just across the road and across the river from its cultural heart – affords the LSE Law School a social vibrancy and immediacy that is truly unparalleled, anywhere. Moreover, as a constituent part of the wider LSE, our faculty, staff and students can also draw on the intellectual spirit of one of the world's great seats of higher learning and exploit the outstanding facilities of the campus that has developed between the confluence of Kingsway and Aldwych and Lincoln's Inn Fields.

The pages that follow offer some brief notes on aspects of this broader environment of the LSE Law School. Reyes Castellano and Alexandra Klegg introduce the Shaping the World Campaign and highlight the vitality of the campaign for the Law School. They note how the Campaign aims to advance knowledge and understanding, support potential, and create a more hopeful, equitable and sustainable world through philanthropic giving and volunteering commitment. The intellectual legacy endowed on the Law School is then evoked in a remarkable paean to its historic and continuing strength in the field of labour law offered in a reminiscence by Professor William B. Gould, emeritus professor at Stanford Law School. The broader intellectual environment of LSE is brought into focus with a note on the stellar LSE Public Events programme, while Jan Zgliniski digests one of this year's outstanding Law contributions: Professor Wojciech Sadurski's reflection on Poland's Constitutional Breakdown. Finally, we note the most recent and pending developments in the incredible built environment on the LSE campus: the newly opened Marshall Building and the architectural competition for the 35 Lincoln's Inn Fields building, and the stunning achievement of LSE becoming the first 'carbon neutral' higher education institution in the UK.

An Intellectual Wellspring: the Public Events Programme at LSE

The intellectual environment at the LSE Law School is based upon interaction and engagement. Alongside the array of teaching and events that take place within the Law School and those that are organised by student societies, a mainstay of the range of opportunities open to students at LSE Law is provided by the broader LSE Public Events programme. The programme offers students a metaphoric primordial soup from which to spark and grow their ideas, thinking and questions.

Each year, the Public Events programme puts on around 200 events featuring some of the most influential figures from the social sciences and the broader political, economic and intellectual context. The overwhelming majority of these events are open to the public and are free to attend.

This year, LSE has hosted politicians such as Christine Lagarde, Ed Miliband and Nadia Calviño Santamaría, and Nobel Laureates Richard Thaler, Alvin Roth, Joshua Angrist, Amartya Sen and Abhijit Banerjee, among a host of the world's leading scholars. The Law School contributes a number of events to the wider LSE programme. For instance, in February Professor Wojciech Sadurski considered Poland's constitutional breakdown (a note on this event is included in the following pages of *Ratio*).

The events programme also includes some specific, thematised strands. The LSE Festival, which ran this year in June 2022, focused on the theme of 'how we get to a post-Covid world?' and explored the practical steps we could be taking to shape a better collective future (lse.ac.uk/Events/LSE-Festival/2022). It featured, for example, the award-winning author Elif Shafak who explored the themes of belonging and identity, of love and trauma, and of nature

and renewal through a story of two teenagers in the divided Cyprus of the 1970s. The Festival also saw panel discussions on such themes as 'Russia, America and the future of European security', the 'challenges of wealth inequalities', and 'the future of democracy'.

The longstanding and prestigious Ralph Miliband lecture series this year focused similarly on the theme of 'New Openings', and saw lectures on such themes as 'cannibal capitalism' from Professor Nancy Fraser, 'global tax justice' from Professor Jayati Ghosh, and – in the 150th anniversary of the Paris Commune – 'the Communards' from Professor John Merriman.

Some of these events are live-streamed to increase accessibility to a wider, potentially global, audience. With the permission of speakers, all of them are retained for future reference in an archive of video and podcast recordings that in aggregate comprises a vault of intellectual gold (lse.ac.uk/lse-player).

Stretching beyond the spoken word, LSE Public Events includes the arts – with exhibitions aimed at drawing out linkages between art and the social sciences hosted in the Atrium Gallery, although relegated to online galleries for the short term – and lunchtime and evening concerts regularly showcasing an impressive international spectrum of musicians (lse.ac.uk/Events/arts-and-music/music-at-lse/lunchtime-and-evening-concerts). The Shaw Library Thursday lunchtime concerts in particular offer students and others respite from the pace of the day in the most conducive of surroundings.

Alongside the teaching and research pursued at LSE, the LSE Events Programme and the myriad other events put on around the Aldwych campus provide opportunities to engage with leading thought, thinkers and doers that are unmatched, anywhere. It places the students of LSE Law at the heart of the intellectual life of a major world city. It is a true public good.

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Christine Lagarde, President of the European Central Bank



Public Event



Ed Miliband

Professor Wojciech Sadurski on Poland's Constitutional Breakdown

With Poland having experienced a recent turn towards illiberalism and democratic backsliding, LSE Law invited Wojciech Sadurski – Challis Professor in Jurisprudence at the University of Sydney and Professor at the University of Warsaw's Centre for Europe – to reflect on the constitutional developments in the country as part of the LSE Public Lecture Series. In this piece, Dr Jan Zgliniski reflects on the views expressed by the eminent scholar.

Two years is, at least usually, not much time in the life of a state, and it certainly is not in the life of an academic book. When Wojciech Sadurski published *Poland's Constitutional Breakdown* in 2019, he described the constitutional backsliding that had recently taken place in the country, dissected its root causes, and examined its implications for the way in which we think about phenomena like populism. Kim Scheppele wrote that the book is 'the kind of legal thriller you wish were fiction'. Yet, it is a thriller whose plot keeps unfolding. There has been a flurry of legal and political developments in Poland since the monograph appeared. Against this backdrop, Professor Sadurski offered his reflections on what has changed since it was written, where we are at present, and what Poland's constitutional future might hold.

After winning the Polish presidential and parliamentary elections in 2015, the Law and Justice Party (PiS) swiftly began to dismantle many of the checks and balances that characterise modern liberal democracies. The judiciary was its first target. A variety of reforms was adopted to ensure greater government control over courts at both the top and bottom of the judicial hierarchy. A restructuring of the civil service and restrictions on fundamental rights followed, as did the capture of the public media which were transformed

into a mouthpiece for the ruling party. This was the state of affairs when *Poland's Constitutional Breakdown* was penned.

How have things developed since? Sadurski responded with an old Polish saying: the situation is 'the same, but even more so'. PiS retained power in the 2019 elections which – as he underlines – were free, even if aspects of their fairness can be doubted. Authoritarian populism was consolidated in an institutional and political sense, by entrenching illiberal institutions and further disempowering the opposition. But it was also consolidated in a social psychological sense, by normalising life under the regime. Anti-elitist, anti-immigrant, and anti-modernist rhetoric has remained a hallmark of government policy. And although – in contrast with the Hungarian Fidesz party – PiS does not have a constitutional majority, it has managed to implement significant changes by deploying law in an instrumental way. Legal rules are changed whenever they do not suit the government's purposes, recalcitrant judges are subjected to disciplinary sanctions, and defamation and libel suits are brought against political opponents. Sadurski himself has been a victim of those.

European institutions have tried to defend liberal democracy and the rule of law in Poland. Their efforts have been criticised by many observers as being an instance of 'too little, too late'. Sadurski has a more positive assessment of their impact. He argues that we must have realistic expectations as to what supranational organisations, such as the EU and the Council of Europe, can do about democratic backsliding in its Member States. The EU, in particular, has taken a number of measures to push back against violations of the rule of law, ranging from initiating the Article 7 procedure, to bringing infringement proceedings, to adopting financial sanctions. Their combined sum has reached a critical level which has, in some cases, forced the government to backtrack on reform plans and, in others, made it costlier – both politically and financially – to continue carrying out its policies.



Is there hope that the situation in Poland will turn around for the better? If so, how might change come about? Despite everything, Sadurski remains optimistic. He is cautious about the prospects of a revolution or the intervention of external actors in Poland. In his view, the only way in which meaningful change can happen is through elections. For the time being, Poland still has a relatively well-functioning electoral system. The next general election will take place in 2023. It is then, as well as during the pre-election campaign, that democrats will have to convince citizens to turn up at the ballot box and give them their vote. This will require a strong coalition of democratic forces and a credible programme that is not simply anti-PiS, but proposes a positive political vision that will be attractive to the majority of Poles.

The political changes in Poland mark the end of the 'transition paradigm', a popular way of making sense of the developments in Central Eastern Europe since the 1990s

that encapsulates the belief that there is a simple and linear trajectory from socialist rule to liberal democracy. Sadurski argues that the current events forcefully demonstrate that this vision is and was no more than wishful thinking. Creating a genuine constitutional culture is just as important, or perhaps even more so, as adopting the right constitutional system. In a passage of his book, he cautions that 'no institutional design is immune to attack... when there are not enough people sufficiently committed to defending and respecting institutions'. May this be a warning that resonates beyond Poland's borders.

A recording of Professor Sadurski's LSE Public Lecture is available at [youtube.com/watch?v=5eWf6OVKKIE](https://www.youtube.com/watch?v=5eWf6OVKKIE)

‘Gravity and gravitas’, ‘intimacy and peace’: the Marshall Building opens its doors

Since the 2008 rejuvenation of the home of the LSE Law School – the New Academic Building (NAB), on Lincoln’s Inn Fields – LSE has embarked on a major programme of investment in the built environment that has transformed the Aldwych campus. The Saw Swee Hock Student Centre opened in 2013 (info.lse.ac.uk/staff/divisions/estates-division/lse-estate/development-projects/saw), followed by the Centre Building in 2019 (info.lse.ac.uk/staff/divisions/estates-division/lse-estate/development-projects/centre-buildings-redevelopment): both festooned with architectural awards, critical acclaim and top-level sustainability ratings. The £145m, next-stage Marshall Building, the penultimate dimension to this spectacular architectural revisioning, opened its doors to the LSE community in January 2022.

The Marshall Building sits aside the Law School, together occupying a pivotal position at the south-western corner of Lincoln’s Inn Fields and embedding the LSE presence in this most iconic London garden square.

For those who enjoy their architecture, it offers a veritable smorgasbord. The first hit delivers a brutalist aesthetic, but this dissipates as the appreciation grows of – what the *Observer* described as – ‘the renegade angles and asymmetries... in the more orderly façade’ (theguardian.com/artanddesign/2022/mar/20/the-marshall-building-london-review-brutalist-brilliance). Inside the building, the Dublin-based Grafton Architects have managed to pull the design back ‘from the edge of chaos to a place of remarkable coherence’:

You could call it three-dimensional chess, but it’s more riotous than that. Other games come to mind: snakes and ladders, the ingenious contraptions of Mouse Trap and Twister, the hallucinatory versions of chess and croquet described by Lewis Carroll. Its floorplans and cross-sections are packed with contrasting shapes and actions, with curves wriggling across the structural grids.

The *Guardian* too sees a ‘vortex of thinking’ in a ‘brainy, brawny building’, all ‘heroic concrete gymnastics’ (theguardian.com/artanddesign/2022/jan/31/vortex-of-thinking-lses-brawny-brainy-new-building-curiosity-shop). Yet, it is an unsuspectedly calm and beautiful place.

From the users’ perspective, the building combines multiple purposes. On its upper floors, it houses the Marshall Institute for Philanthropy and Social Entrepreneurship (lse.ac.uk/marshall-institute), and the Departments of Management, Accounting and Finance. The great hall on the ground floor comprises an open student commons, and leads into lecture theatres, teaching spaces, and meeting and social venues distributed across the first floors. The basement offers further functionality for students and staff with a sports centre consisting of multipurpose sports hall, squash courts and a dynamic weights room, alongside a mix of arts rehearsal facilities and music practice rooms. The enhancement on offer to the LSE student experience will be both obvious and long-standing. In the short months since its opening, the building has already become a central forum for the LSE student experience.

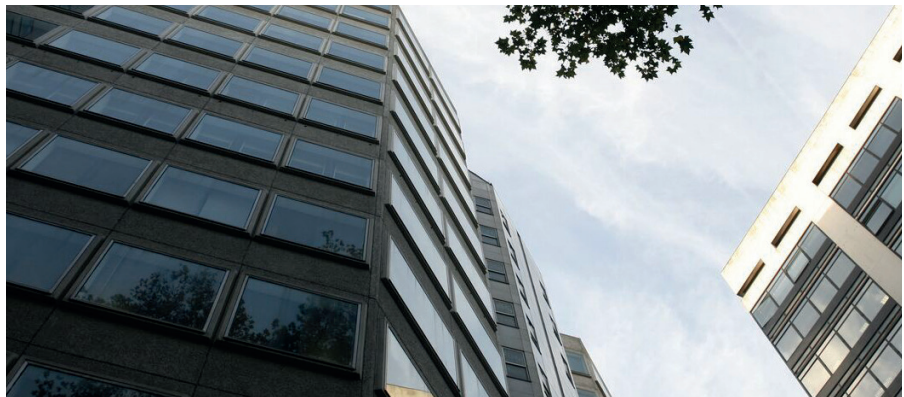
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The final stage in the transformation of the built environment at LSE will see the development of a further new building at 35 Lincoln's Inn Fields, the site of the original home from 1422 of the lawyers of Lincoln's Inn. This new building will house the Firoz Lalji Africa Institute, Executive Education, the Departments of Mathematics, Statistics and Methodology, the Data Science Institute and state-of-the-art conference facilities. A design competition has been opened in collaboration with the Royal Institute of British Architects, and six entrants have been shortlisted. The conceptualisations are spectacular. Ultimately, whichever practice wins through, the building will deliver the final stage in a programme of architectural reimagining of LSE that has bestowed it with a city-based campus unparalleled across Europe.

More immediately, the decampment of the Management and Finance departments from the NAB to the Marshall Building will also afford a more direct benefit to the LSE Law School community. The summer of 2022 will see the refitting of the NAB, and the expansion of the Law School into the vacated floors, providing space for enhanced student and faculty facilities, common and meeting rooms. An opportunity to reconnect and to deepen the networks of relationships that so often have had to be generated in virtual space in the recent Covid-affected months and years.

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University Challenge: LSE first to achieve carbon neutrality

In November 2021, the BSI – the global certification organisation – independently verified that LSE achieved ‘carbon neutrality’ for the 2020-21 academic year. It is the first UK university to have achieved this goal.

Achieving carbon neutrality entails that LSE has reduced its carbon footprint to a level at which the various mitigations that it pursues match the extent of carbon emissions the School still produces. It is an important staging post *en route* to achieving net-zero carbon status, which LSE aims to reach in respect of its direct emissions by 2030.

Included in the assessment of the LSE’s carbon output are those direct emissions that result from the use of gas and other fossil fuels in the heating and operation of the LSE estate, and indirect emissions produced by electricity suppliers. LSE also includes and measures some indirect emissions associated with School activities and supply chains, such as those related to water use, waste generated and business travel. The measurement does not yet include other indirect factors such as emissions generated in the production and transport of goods and services used in LSE activities generally, or through commuter and other travel undertaken by staff and students. Capturing data in these respects can be difficult, but LSE is seeking to use such influence as it enjoys over suppliers to promote net-zero goals in these more indirect contexts.

The reduction of measured emissions has been pursued through multi-million-pound investments in a range of energy efficiency measures for campus and residence buildings, including the installation of LED lights, the fitting of solar panels, the retrofitting of buildings, the insulation of piping, and the upgrading of boilers and chillers. Since 2009, LSE has also procured 100 per cent of its electricity requirement from renewable sources such as solar and

wind. The result is that direct emissions have reduced by 44 per cent since 2005, notwithstanding the substantial increase in campus size and student numbers witnessed in that time period.

The mitigation of the residual carbon footprint due to measurable LSE activities has been achieved through a partnership with the Compensate Foundation (compensate.com/sustainability), a not-for-profit which supports high-quality carbon reduction projects. The Foundation’s approach is built on four pillars: scientific evaluation, built-in overcompensation to mitigate risks, the protection of biodiversity and social justice, and the adoption of a risk-managing portfolio approach.

The continuing steps necessary to achieve the LSE’s net-zero goals are encapsulated in the School’s broader *Sustainability Strategic Plan* (lse.ac.uk/2030/sustainability-strategic-plan), which was launched in October 2021. The plan was agreed after having been the focus of sustained engagement with LSE staff and students (of whom 95 per cent considered that the School’s approach to environmental sustainability was important to them, while 93 per cent accepted the need for changes in university life to support sustainability). The plan includes embedding sustainability in the LSE curriculum, promoting sustainability research, tailoring investments towards social responsibility, and engaging with outside organisations to promote environmental sustainability.

Carbon neutrality and net-zero goals can easily be criticised as political tokens, or as gambits in the game of ‘business as usual’. Fundamentally, however, LSE is walking the walk; it is taking the action that the overwhelming majority of members of the School community want to see happen, and doing so in a manner that will ripple out across its sphere of influence for years into our shared – and hopefully sustainable – futures.

LSE Labour Law in Retrospect: an interview with Professor William B. Gould

In the 1960s, LSE was a central node in the developing field of comparative labour law. It was at that time that the preeminent scholar of US labor law, William B. Gould, spent some time in the Department of Law before going on to a storied career in academia and industrial relations. We talked with Professor Gould, inviting him to reflect on the experience and influence of his time at LSE.

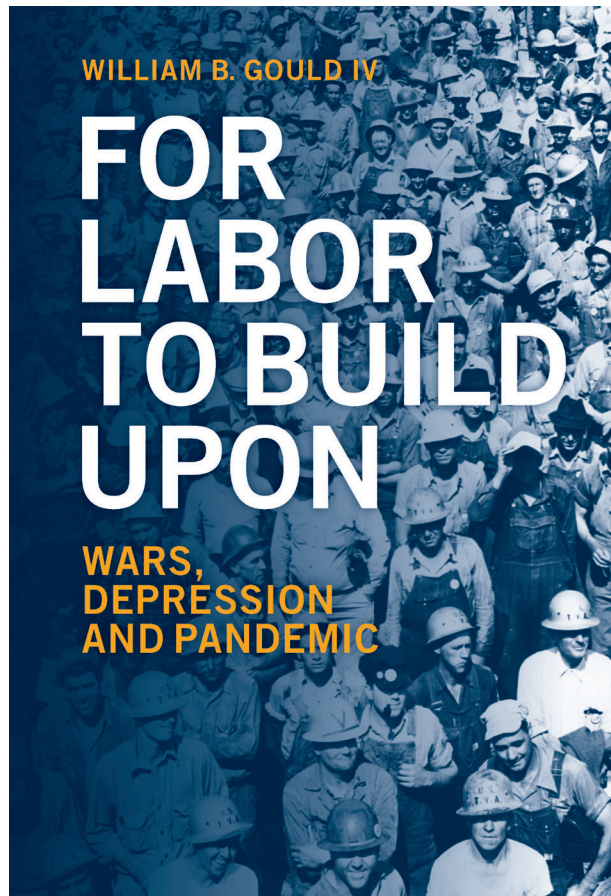
In the early-mid 1960s, the LSE Law Department was home to such pre-eminent labour law professors as Sir Otto Kahn Freund and Lord Wedderburn. Was it their presence that drew you to LSE as a young labour lawyer, or how else did you find yourself in London?

The presence of Professor Kahn Freund was a principal attraction (Wedderburn was not yet at LSE – he would arrive three or four years afterwards – I came to know him later in the 60s during some of my visits to London). I was aware of Kahn Freund's pre-eminence as a comparative labor lawyer and both his name and the School were something of which I became aware through a British friend when I was studying at Cornell Law School, Inge Hyman (née Neufeld) of Manchester University. Initially, based upon discussions with Mrs. Hyman and my own readings, I knew of LSE through the writings of Harold Laski and others. I don't think that I began the Holmes-Laski Letters until my return to America in 1963. Mrs. Hyman's recommendation was so strong and lasting that it stayed with me even though I was hired into my ideal job subsequent to graduation from Cornell Law School as Assistant General Counsel for the United Auto Workers in Detroit. I gave up that job to come to LSE.

What was the focus of your research at that time, and how did your time at LSE and in England generally inform the canonical work that you went on to do subsequently?

The focus of my general research was threefold: (1) comparative labor law with Professor Kahn Freund; (2) comparisons between the American and British labor-management and labor law systems, and (3) the relationship between unions and politics. Much of this informed the work which I did subsequently. Illustrative of the first theme would be my book, *Japan's Reshaping of American Labor Law* (MIT, 1984) and other articles. Illustrative of the second theme would be 'Taft-Hartley Comes to Great Britain: Observations on the Industrial Relations Act of 1971', 81 Yale L. Rev. 1421 (1972), and a paper which I gave at Chatham House in London when I was Chairman of the National Relations Labor Board (reproduced in *Labored Relations: Law, Politics, and the NLRB – A Memoir* (2000)). Aspects of both these themes have woven their way into the many editions of *A Primer on American Labor Law* (MIT and Cambridge, 1st edition 1982, 6th edition 2019). My writings about the third of the above themes did not take form until 'Organized Labor, the Supreme Court, and Harris v Quinn: Déjà Vu All Over Again?', 2014 Sup. Ct. Rev. 133 (2015) and 'How Five Young Men Channeled Nine Old Men: Janus and the High Court's Anti-Labor Policymaking', 53 U.S.F.L. Rev. 209, (2019).

Aside from my classes with Kahn Freund, Phelps Brown, Burt Roberts, I attended political science classes, and lectures. Through my UAW friends like Victor Reuther, I was able to meet such political leaders as Dennis Healey, Deputy Leader George Brown, CAR Crossland, author of *The Future of Socialism, The Conservative Enemy*, as well as RHS Crossman and Minister of Labor Ray Gunter. When I first went to TUC Headquarters in London in the fall of 1962, I was greeted by George Woodcock. Within a week of my



arrival, I attended the Labor Party Conference in Brighton where Hugh Gaitskell gave his “One Thousand Years of History” speech. My one Conservative Party leader meeting was with Sir Keith Joseph, who was a member of the Macmillan cabinet.

What similarities and differences would you identify when comparing approaches to labour law in the UK and US? How do you think your career might have been different had you stayed in the UK? Was that an option at the time?

The principal differences lie in union structure, dispute resolution, and the role of law. Kahn Freund frequently said to me “You Americans have too much law”. History brought the unions to Britain before law – at least law which protected the unions. The opposite was true in the United States, as Kahn Freund would often say.

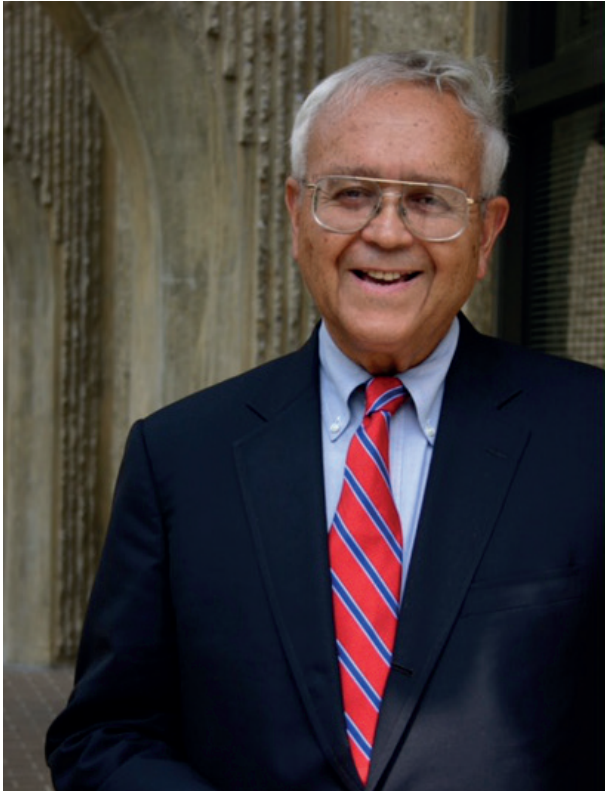
The question of whether my career in Britain would have been different than what it turned out to be is quite difficult to speculate about. Surely it would have been very different. I was not yet an academic – but I think that I applied for

and received some interest from Lancaster University. I was offered a position with the International Labor Organization in Geneva, Switzerland but not in a department which was to my liking.

That year in London made me aware of how fundamentally American I am. This often brings me back to the George Bernard Shaw reference to two nations separated by a common language.

As the author of 11 books and more than sixty law review articles, how does your fascinating new book – *For Labor to Build Upon: Wars, Depression and Pandemic* – fit with your previous work? What was your motivation in undertaking that study, and can you give us a precis of the book and its findings?

In some respects, I see this book as the summing up of where I have been and how my thinking has changed. My motivation was rooted in the fact that organized labor has had such difficulty over the years and that the explanations for its decline had not been properly analyzed and discussed. The closest that I had come to this was my 1993 book *Agenda for Reform* (MIT, 1993). I have been increasingly concerned with what I regard as facile explanations for labor’s decline, and the fact that aside from a book by Leo Wolman in the 1930s, very little attention has been given to the role of cataclysmic changes like war, depression, and now pandemic, in assessing trade union growth and decline. I have become increasingly impatient with the writing in this country which seems to and does assume that law can appreciably alter developments in this arena. Law, though symbiotic in its relationship to union growth and decline, is subordinate. That is my message. And I think it is a message which might resonate well today with my LSE tutor, Otto Kahn Freund.



William B. Gould

Is there particular work – both of your own, and that of your 1960s colleagues at LSE – that you think has been particularly impactful in the law and practice of your field? Is there any research that you wish had been, or might now be, more influential?

Kahn Freund's writing, particularly on comparative labor law, has impacted me considerably. My one area of regret is that I did not follow through on and complete fully some empirical work on dispute resolution in the 70s.

If you compare and contrast British and American approaches to teaching and learning and the intellectual environment, how would you describe it?

At the time I came to LSE as a young student there was a sharp difference between teaching and learning there and the intellectual environment in law school in the United States. Indeed, the major consideration in leaving Detroit (though I enjoyed it immensely) and coming to London lay in the fact that I thought that law school had destroyed my ability to write well and to think clearly about the relationship between law and the real world outside of decided case law. I needed to be reinvigorated intellectually and my year in London provided that.

Today it is quite different. I think that our students here at Stanford Law School have an exposure to a rich diversity of courses, teaching methods, and different teachers that I never had as a student.

Given your long-standing connections to the LSE Law School, we are enormously happy to have your contribution to *Ratio*. Why do you find it important to stay connected as an alumnus?

I think that most of my answers provided above make it obvious. I count that period as a formative and creative period due to voracious reading, attendance at lectures throughout London and Britain and Europe. Moreover, I met my wife during that year in London (she was teaching remedial courses at LSE – she had already obtained a Master's at LSE and a Bachelor's Degree at Manchester) and as the result of that, I now have three children and four grandchildren. The year at LSE made all of this possible.

William B. Gould IV is Charles A. Beardsley Professor of Law, Emeritus, at Stanford Law School. Former Chairman of the National Labor Relations Board (NLRB, 1994–98) and Former Chairman of the California Agricultural Labor Relations Board (2014–2017). Professor Gould has received five honorary doctorates for his significant contributions to the fields of labor law and industrial relations. Graduate study London School of Economics 1962–63.



Join our Shaping the World Campaign

Curious minds have been shaping the world for more than 125 years at LSE. Our founding mission – to understand the causes of things for the betterment of society – is more crucial today than at any point in our history.

We want to shape the world at a time of extraordinary change and challenges, through our core business of teaching and research, to provide solutions, learning and public engagement that is impactful and life changing.

LSE's 2030 vision sets out our ambitious plan to become the world's leading social science university with the greatest global impact. Through our Shaping the World Campaign, we invite you to be part of the journey, as we commit to raising £350 million in philanthropic income and to securing 100,000 hours of volunteer contributions in support of this endeavour.

Our Campaign will enable LSE to invest in the ideas and initiatives that will create positive global change through the social sciences. We will advance knowledge and understanding, support potential, and shape a more hopeful, equitable and sustainable world.

Shaping transformative learning

Together, we will provide support for talented students from all backgrounds.

The generosity of our alumni, friends and partners enabled 13 talented students to join the Law School at the beginning of the 2021/22 academic year, enabling them to access a life changing education. Philanthropic support is also providing immediate economic aid to students who have fallen into short-term, unforeseen financial difficulties and need additional help to continue with their studies. Last year alone, the demand increased by 70 per cent. This year, with the spiralling cost of living, we are expecting even greater numbers of students to seek help.

With your support, we will continue to invest in the greatest minds who will go on to serve society and change the world. We will ensure that our talented students are able to take up their LSE offer, continue their studies and complete their degree regardless of their financial background. And we will equip all of our students with the knowledge, skills and experimental learning they need to become the leaders of tomorrow and make a positive impact on the world.



'Opening the LSE acceptance letter remains one of the happiest memories of my life, but nothing compares to the day that I found out that I had received a full scholarship from the New Futures Fund.'

I am forever grateful to LSE's donors for investing in my and other scholar's future, for believing in people like myself, who are capable, determined and ambitious, but lack the financial means to access a university education. Their generosity has inspired me to think about how can I help others right now, how to give back to our community when I do eventually become a lawyer, and never forget where I come from.'

Chelsea Auma (LLB 2022), New Futures Fund scholar

Shaping ideas for impact

Together, we will back the world-leading research that shapes real-world policy and inspires the next generation.

The LSE Law School has an international reputation for the quality of its teaching and ground-breaking research. Our faculty undertake research in a diverse range of subject areas, including criminal justice, environmental law and human rights. Their findings have influenced major legal and policy proposals in the UK and beyond, underpinning legislation that is already shaping a fairer world.

With your support, we will invest in a broad disciplinary base and vibrant research environment. We will increase the capacity of academics and researchers, with targeted support and career guidance. We will empower innovative thinking and champion diversity of voice, increasing funding for PhDs and Post-Docs programmes. We will build on our reputational strengths to grow our influence and lead the debate on critical legal issues.



'We are delighted that LSE's Shaping the World Campaign is generating such momentum as it is so crucial to enabling us to build on and enhance our contribution to changing the legal world. The Campaign creates an unrivalled opportunity to connect with alumni and donors, to tell them about the Law School, our plans and achievements, and to explore with them the different ways in which they can support our research strategy and enhance its real-world impact.'

David Kershaw, Dean of the LSE Law School



Shaping our community

Together, we will bring people together to learn and debate, in London and digitally all over the world.

We are developing our campus and online infrastructure to deliver an education for the digital age and promote new opportunities for global debate. The Marshall Building, our latest landmark building, is already transforming campus life, and the Firoz Lalji Global Hub, which will be located in the next new building on campus at 35 Lincoln's Inn Fields, will create a flagship physical and virtual space for curious minds to come together to debate, discuss and learn.

With your support, we will continue to invest in capital development to build a world-class campus in the heart of London. We will expand our online services to provide live-stream events, access to research and a digital networking space. We will create new opportunities for everyone in the community to connect with one another, and the School, all life long, including volunteering programmes that enable members of our alumni community to support existing students and recent graduates.

Join us

We want to involve you – the curious minds of our alumni, friends and partners – in the ideas and initiatives that create global change and make an impact in the world. And there are so many ways for you to be a part of our Campaign – from joining in our programme of major events to volunteering your time, expertise and voice, to becoming a philanthropic partner. We need your curious mind. Join us.

Find out more at shapingtheworld.lse.ac.uk/join-in



'Last year, the generosity of our alumni and friends supported a number of essential projects on campus and student community building activities, including a residential weekend for 70 LLM students in Bath and an LLB and LLM Games Night. The Shaping the World Campaign will help us deliver an enhanced programme of social, professional and networking initiatives to ensure our students enjoy a truly transformative LSE experience and realise their full potential.'

Matt Rowley, Department Manager (Strategy and Resources)



To support the LSE Law School's people and research, scan the QR code to donate today. Your support will ensure, together, we continue to invest in the greatest minds who will go on to serve society and change the world for good.

LSE Law School Events Calendar

We have a diverse and vibrant events programme. Convene events provide our students opportunities for learning and enrichment beyond the lecture theatre, our Research events focus on exchange of cutting-edge ideas, and we warmly welcome everyone with an interest in law to our Public Events.

CONVENE

Criminal Fraud or Electoral disinformation

The Mandela Brief: Sir Sydney Kentridge KC, advocate of the century, and the Trials of Apartheid

The future of human rights in the UK

Abolishing paper share certificates in the UK – should we or should we not?

In conversation with Bjarne Tellmann: The General Counsel as Legal CEO – providing legal services in a time of digital transformation

Regulating assisted dying

Masterclass: Sustainable Financial Regulation

Free speech on campus: Who needs the Higher Education (Freedom of Speech) Bill?

Confronting climate change: the laws we have and the laws we need

PUBLIC LECTURES

The Origins of Intellectual Property Law as an Academic Subject: Exploring the Legacy of Bill Cornish at LSE

What is the Future of the US Supreme Court?

The Past, Present, and Future of Global Governance

Imagine a future without legal sex: the politics and perils of feminist law reform

SEMINARS

Criminal proof: Fixed or Flexible?

A normative argument for the separation of law and morality

Relational Justice: A Theory of Private Law

Law as a conversation among equals

Debating Direct Clearing Models

Appointment and Removal of Ministers of the Crown

Judicial Review of Foreign Policy



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ENVIRONMENT



Into the Future of Competition Law and Regulation, Organised by Pablo Ibáñez Colomo (Professor, LSE Law School) and Thorsten Käseberg (Visiting Professor, LSE Law School and Head of Competition Policy, German Ministry for Economic Affairs and Climate Action)



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6 – 8 WEEK ONLINE COURSES FOR WORKING PROFESSIONALS

LSE Law School is one of the world's top law schools with an international reputation for the quality of its teaching and legal research and is one of the LSE's largest and most pre-eminent departments with over 60 scholars. It enjoys a uniquely diverse academic community with staff, students and alumni from all over the world. They all bring an unparalleled international and interdisciplinary outlook in teaching and researching law.

Data: Law, Policy and Regulation online certificate course from LSE explores the role of law in the digital space by contextualising legal principles and concepts related to data and technology regulation. Developed by leading academics from LSE's Law School, the content draws on the strengths of the school's innovative research and academic excellence to immerse you in pressing legal debates in data protection and algorithmic regulation. By the end of this online course, you will have gained the skills to think critically about the relationship between technology, policy, and the law, and a better understanding of the issues of digital data ownership and exploitation.

getsmarter.com/products/lse-law-gdpr-and-data-protection-online-certificate-course

The Regulation Strategy online certificate course from LSE is designed to provide both regulators and those in regulated industries with a firm grounding in the key features and processes of regulatory strategy, and offers the tools to help you think critically about how

regulation should be designed and evaluated. You will learn to identify risks affecting regulatory compliance and understand how to perform risk management. Using cross-sectoral and cross-national examples, this course allows participants from a range of backgrounds to gain highly transferable skills and remain up to date in an increasingly dynamic field.

getsmarter.com/products/lse-regulation-strategy-online-certificate-course

The Law and Economics of Mergers and Acquisitions online certificate course, will provide you with a toolkit for navigating the structures and legal issues of corporate transactions. Designed by experts from the LSE Law School, the course gives you the knowledge, insight, and confidence to play an active role in managing deals. You will examine the different types of corporate transactions, including hedge fund attacks, private mergers and acquisitions (M&A) deals, and hostile takeovers. Drawing on case studies and modern finance and economic contract theory, which has significant practical relevance, you will become equipped to approach corporate transactions holistically. You will also examine the jurisdictional discrepancies across the UK, US, and EU member states, and learn to navigate the drafting and negotiating requirements.

getsmarter.com/products/lse-the-law-and-economics-of-mergers-and-acquisitions-online-certificate-course

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The **Climate Change: Economics and Governance** course begins with an intensive introduction to climate change as a scientific and particularly as a social-scientific issue, intended to bring students up to speed with the key concepts. The scientific evidence on climate change will be outlined and well-known controversies will be covered. Then the key concepts of climate-change economics and governance will be introduced, such as market failure, pricing carbon, and the tragedy of the commons.

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