

# RESEARCH ROUND UP

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SCHOOL OF LAW

*This newsletter celebrates some of the research activity taking place in the School of Law, Northumbria University, focussing on published outputs and conference papers. This fourth issue captures outputs from start of July to end of October 2016*

## Publications

### Lee McConnell

Book: *Extracting Accountability from Non-State Actors in International Law*, Routledge, 2016

Abstract: This book responds to the persistent challenges stemming from non-State actors linked to extractive industries. In light of the intersecting roles of multinational enterprises and non-State armed groups in this context, these actors are adopted as the primary analytical vehicles. The operations of these entities highlight the practical flaws of existing accountability regimes and permit an exploration of the theoretical challenges that preclude their direct legal regulation at the international level. Drawing insights from discursive democracy, compliance theories and the Pure Theory of Law, the book establishes a conceptual foundation for the creation of binding international obligations addressing non-State actors. Responding to the recent calls for a binding business and human rights treaty at the UN Human Rights Council, and the growing influence of armed non-State actors, the book makes a timely contribution to debates surrounding the direction of future developments in the field of international human rights law.

### Ray Arthur

Article: 'Giving effect to young people's right to participate effectively in criminal proceedings' (2016) 28(3) *Child and Family Law Quarterly* 223-238

Abstract: Article 6 of the European Convention on Human Rights, guarantees the right to a fair trial, including the right of all defendants to participate effectively in their trial. Although psychiatrists and psychologists frequently report that defendants in the summary courts, particularly in the youth court, are 'unfit to plead', this concept has no formal application in the youth court. This article will examine what options and opportunities are available to young people who are not capable of effectively participating in their own criminal proceedings as a result of their youth and immaturity inhibiting their understanding and participation in the trial proceedings. The article will consider the extent to which these arbitrary and problematic options and opportunities infringe the young person's fundamental right to a fair trial. This analysis is particularly timely following the recent decision in *R(P) v Derby Youth Court* ([2015] EWHC 573 (Admin)) which restricted the circumstances in which a youth with significant participation difficulties can have fitness to plead issues considered by the court.

## **Peter Breakey**

Case comment: 'Whistleblowing protection'  
(2016) Vol 166, No. 7715 *New Law Journal* 23/9/2016, Page 10.

Abstract: This comment assesses the EAT decision in *McTigue v University Hospital Bristol NHS Foundation Trust* on whether a nurse employed by an agency which provided services to a hospital trust, who alleged that her removal from working with sexual assault victims was a detriment due to a protected disclosure, was the trust's "worker" under the Employment Rights Act 1996 s.43K(1) (a).

## **Tony Ward**

Book Chapter: 'Civil Society Perspectives on Corruption and Human Rights: the case of Papua New Guinea'  
In Leanne Webber, Elaine Fishwick and Marinella Marmo (eds) *The Routledge International Handbook of Criminology and Human Rights*, Routledge, 2016, pp. 169-79

Abstract: Using Papua New Guinea as a case study, this chapter considers some of the ambiguities surrounding the definition of corruption, its relation to human rights, and the role of civil society in combatting it. Although flagrantly corrupt activities are rife in PNG, NGOs appear to be less concerned with clear instances of bribe-taking or misappropriation of funds than with collusion between government agencies and corporations against the interests of indigenous peoples and the environment.

## **Helen Rutherford and Leslie Rutherford**

Article: 'Anatomy of a Trojan Horse - enabling development exposed'  
(2016) 11 *Journal of Planning and Environment Law* 1074-1080

Abstract: The article follows the saga of continuing efforts by Barratt Plc and private developers "the Sprys", to gain planning permission for an enabling development, ostensibly to secure the future of "at risk" Hamsterley Hall in County Durham. The first appeal decision, relating to this site, to consider an enabling development proposal under the National Planning Policy Framework ("NPPF") was examined in the JPL in 2010 and now a second appeal on a revised Hamsterley Hall proposal has taken place and is analysed in the article.

## **Tony Ward**

Article: 'Expert Evidence, "Naked Statistics" and Standards of Proof'  
(2016) 7(3) *Eur. J. Risk Reg.* 580-7

Abstract: In the context of the UK Supreme Court decision in *Sienkiewicz v Greif* (2011), this article discusses the question whether so-called "naked statistical evidence" can satisfy the civil standard of proof in English law, the "balance of probabilities". It argues that what is required to satisfy the standard is a judicial belief that causation is more likely than not, rather than a categorical belief that causation occurred. Whether such a belief is justified depends on the weight of the evidence as well as the degree of probability it purports to establish, but there is no reason of principle why epidemiological evidence alone should not satisfy this standard.

## **Elisabeth Griffiths**

Article: 'The 'reasonable accommodation' of religion: Is this a better way of advancing equality in cases of religious discrimination?'  
(2016)16 *International Journal of Discrimination and the Law* 161-176

Abstract: Freedom of religion and the manifestation of religious belief can clash with working life in a number of ways, including time away from work for religious observance, conflicts over religious clothing and jewellery in an employer's dress code or a request for a variation of duties based on a particular religious belief. Guidance issued by the Equality and Human Rights Commission (2013) following *Eweida and others v. UK* [2013] 57 EHRR 8 seems to suggest that employers in Great Britain should consider the 'reasonable accommodation' of religion in the workplace and, in particular, how an individual chooses to manifest that religious belief. Subsequently, there has been much debate about whether this is a better way of dealing with religious discrimination cases than the current complex legal framework of direct and indirect discrimination in the Equality Act 2010. Section 20 of the Equality Act 2010 already allows for reasonable adjustments to be made to working practices and the physical working environment for disabled employees. Should this duty be expanded to include religion and what would be the consequences and impact of such an accommodation or adjustment on the employment relationship?

## **Alastair Rieu-Clarke and Zeray Yidhego**

Article: "An Exploration of Fairness in International Law through the Blue Nile and GERD".  
(2016) 41(4) *Water International* 20, Special Issue on The Grand Ethiopian Renaissance Dam: Legal, Political and Scientific Challenges edited by Yidhego, Rieu-Clarke & Cascão.

Abstract: The principle of fairness operates alongside lofty principles of international law, such as equity and justice. However, these concepts often face criticism for being too vague to shed any meaningful light on the practical interpretation and implementation of international law within specific fields. By analysing the cooperation between Egypt, Ethiopia and Sudan on the Blue Nile, this paper seeks to address such criticism. It suggests that the concept of fairness does have value as a framework for analysing both commitment and compliance in international law; and that exploring specific contexts, such as legal developments related to the Blue Nile, helps give it further meaning.

This special issue of *Water International* builds upon a Special Session that was held at the International Water Resources Association World Water Congress in Edinburgh, May 2016.

Alastair (with Zeray Yidhego, University of Aberdeen and Ana Cascao, Stockholm International Water Institute) also wrote the Editorial entitled 'Has the Grand Ethiopian Renaissance Dam (GERD) changed the dynamics within the Nile Basin?'.

## **Tom MacManus and Tony Ward**

Article: 'Utopia in the Midst of Dystopia? The Peace Community of San José de Apartadó'  
(2016) *Justice Power and Resistance*, Foundation Volume 217-234

Abstract: The Peace Community of San José de Apartadó is a self-governing community of peasant farmers in Urabá, one of the regions of Colombia where violence by the state, leftist guerrillas and right-wing paramilitaries has been most intense. It is based on a rejection of all violence and on autonomy from, and neutrality between, the state, paramilitaries and guerrillas. Drawing on interviews with community members by the first author, this paper considers how far the Peace Community has succeeded in establishing a radical alternative to the state legal and

penal systems in pursuit of what could be called a 'real utopia' (in keeping with the theme of this special issue).

### **Ray Arthur**

Article: 'Exploring childhood, criminal responsibility and the evolving capacities of the child' (2016) 67(3) *Northern Ireland Legal Quarterly* 269-282

Abstract: In England and Wales the age of criminal responsibility is set at 10 years. The current law therefore assumes all children are sufficiently mature at the age of 10 to accept criminal responsibility for their behaviour. This means that normative criteria, such as the physiological and psychological development of the individual child, are not being used to identify the divide between childhood and adulthood. Instead the low age of criminal responsibility misrepresents the evidence we have regarding young people who offend and their evolving capacities. This approach to young people in conflict with the law effectively constructs such children as non-children who do not deserve to remain children. Consequently the rights of the offender as a child, in particular marginalised and socially excluded children, become invisible and ignored. This article will argue that children have a right to respect for their evolving capacities and that respecting this right would re-direct the criminal justice system towards a normative framework better equipped to accommodate the realities of childhood; one which contains a clear foregrounding of the child's experiences and the reality of their daily lives and in which the child's experience of vulnerability and powerlessness is embedded throughout.

### **Tony Ward**

Book chapter: 'Commentary: Between Kant and Al-Shabaab'  
In Richard Barnes and Vassilis Tzevelekos (eds) *Beyond Responsibility to Protect: Generating Change in International Law* Antwerp, Intersentia 2013, 71-80.

Abstract: Responding to two other contributions to the same volume, this chapter criticises arguments for a 'responsibility to democratise', as well as an argument put forward by a Kenyan Islamist scholar (interviewed by the author) for the right of movements like the Somali group Al-Shabaab to reject democratic governance. It interprets Kant as rejecting any right of states to impose democratic or republican governments on other states except in limited circumstances, and argues that this remains a sound position.

### **Michael Stockdale and Adam Jackson**

Article: 'Expert Evidence in Criminal Proceedings: Current challenges and opportunities' (2016) 80(5) *The Journal of Criminal Law* 344-363

Abstract: In its 2011 report "Expert Evidence in Criminal Proceedings in England and Wales" (Law Com No.325), the Law Commission recommended that the admissibility of expert evidence in criminal proceedings should be governed by a new statutory regime comprising a new statutory reliability test in combination with codification and refinement of existing common law principles relating to "assistance", "expertise" and "impartiality". The Government declined to enact the Law Commission's draft Bill due to a lack of certainty as to whether the additional costs incurred would be offset by savings. Instead the Government invited the Criminal Procedure Rule Committee (CrimPRC) to consider amendments to the Criminal Procedure Rules (CrimPR) to introduce, as far as possible, the spirit of the Law Commission's recommendations. The consequent amendments to CrimPR Part 33 (now CrimPR Part 19) in combination with the making of the new Practice Direction CrimPD 33A (now CrimPD 19A) by the Lord Chief Justice, resulted in what he described in his 2014 Criminal Bar Association Kalisher Lecture as "a novel way of implementing an excellent Report". This paper considers the possible evolution of the common law in light of these

amendments, the challenges associated with adopting such a novel approach to reform and the potential opportunities for the improvement of expert evidence in criminal proceedings that the changes were intended to create.

### **Tim Wilson**

Article: 'Criminal Justice and Global Public Goods: The Prüm Forensic Biometric Cooperation Model'

(2016) 80(5) *The Journal of Criminal Law* 303-306.

Abstract: This article places sharing forensic biometric data for international criminal justice cooperation purposes within the domain of global public goods. Such cooperation is a rational response to globalization, but faces several obstacles. These range from socio-cultural and political concerns about national legal and criminal justice autonomy to the potential impact of market fundamentalism on scientific standardization and cooperation mechanism delivery. The significance of such inhibitors will vary as societal and personal perceptions of stability change. These issues are examined by analysing the progress achieved with the EU Prüm forensic biometric data exchange model. Shocks to European stability, such as the increased scale of terrorist crimes and the UK EU referendum result will inevitably test the resilience of Prüm. Combining insights from global public goods and criminal law scholarship, however, may help to identify how reactions to such shocks, including questions about future UK participation in Prüm, might be managed.

### **Sue Farran and Rhona Smith**

Article: 'When is a child not a child and other questions - a Commonwealth wide overview'

(2016) 105(4) *The Round Table: The Commonwealth Journal of International Affairs* 363-375  
Special Issue on Youth and the Commonwealth, edited by Sue Farran and Rhona Smith

Abstract: Although international human rights instruments assume a universalism of application and the United Nations Convention on the Rights of the Child is one of the most ratified instruments in the world and therefore most likely to have global if not universal application, in fact understandings of childhood and definitions of 'child' or 'children' are very variable not just in different social and cultural contexts but in laws as well. This creates a number of challenges for formulating cross-boundary policies and programmes, because on the one hand these differences cannot be ignored, but on the other hand they should not be seen as insurmountable barriers to the advocacy and promotion of children's rights. This paper presents an overview of difference and similarity in the Commonwealth and considers some of the challenges that these may present in formulating strategies for international organisations such as the Commonwealth.

### **Adam Jackson and Kevin Kerrigan**

Book Chapter: 'The Challenges and Benefits of Integrating Criminal Law, Litigation and Evidence'. In Chris Gedhill and Ben Livings (eds) *The Teaching of Criminal Law: The pedagogical imperatives (Legal Pedagogy)*, Routledge, 2016, 116-126

Abstract: This chapter outlines the development of the Criminal law, Litigation and Evidence (CLE) module at Northumbria University, an ambitious attempt to integrate three related but distinct areas of law and procedure. The rationale for this module lay in a desire to provide students with a more holistic view of the criminal process so as to develop understanding of how the substantive legal rules operate in the wider context of the criminal justice system. The module was integrated in a structural sense by addressing Legal Practice Course (LPC) outcomes in addition to the Qualifying Law Degree foundation subject of criminal law and delivered by way of realistic scenarios out of

which issues relating to the three elements of the module emerged. Workshops were designed to address each element in an integrated manner so that doctrinal and procedural understanding was developed simultaneously. The level of integration within the module gave rise to clear challenges for students, particularly given its position as a first year module and this chapter discusses the evolution and operation of the module, the costs and benefits of the integrated approach and lessons learned.

### **Nicola Wake and Alan Reed**

Article: 'Re-conceptualising the contours of the self-defence in the context of vulnerable offenders: a response to the New Zealand Law Commission'  
In (2016) 3(2) *Journal of International and Comparative Law* 195-247

Abstract: This article contends that there are compelling reasons for reconceptualising the contours of self-defence, and for the introduction of a bespoke partial defence complemented by jury directions and the admissibility of social framework evidence to assist vulnerable offenders who kill their abusers in a desperate attempt to protect themselves. The New Zealand Law Commission in 2016 recently recommended, inter alia, that self-defence be re-categorised and broadened to allow victims of family violence who kill to potentially claim a defence in the absence of an imminent threat of harm, standardised on an "all or nothing" perspective. In truth, a far wider contextualisation needs to apply, beyond the limited and constrained terms of reference before the Commission. The contours of self-defence applicability ought to extend to extra-familial vulnerable offenders, encompassing individuals subjected to human trafficking and/ or modern slavery, those trapped by ostensible gang membership, and those experiencing third-party abuse who respond with lethal force. It is our assertion, after a comparative review of the theoretical and doctrinal precepts of a number of alternative legal systems, that the full and partial defence schema should be more nuanced. Extant laws fail to appropriately recognise the need for a de novo partial defence template and reflective individuated culpability thresholds.

### **Sue Farran**

Article: 'At the Edges and on the Margins: Hearing the Voices of Young People in South Pacific Island Countries'  
(2016) 105(4) *The Round Table: The Commonwealth Journal of International Affairs* 401-414  
Special Issue on Youth and the Commonwealth, edited by Sue Farran and Rhona Smith

Abstract: 'Youth' are frequently referred to under the mantra of inclusivity in any aid-funded project, development initiative or government-donor initiative in the Pacific region. Indeed, 'youth' ranks alongside 'women/gender' as a catch term for communicating diversity compliance. But how are 'youth' framed and who speaks for this group of people who are not yet adults or are only just adults in law, and yet are beyond the voiceless or barely articulate stage of childhood? This question may be particularly pertinent in cultures such as those found in the Pacific, where the right to speak out is traditionally not afforded to those on the edge of adulthood, and where 'youth' for the purposes of inclusive dialogue frequently means people over the age of 20. Although they may seem isolated, the Pacific islands are linked to global, regional and national movements to give young people more voice, to recognise the valuable contributions they can make and to ensure that they are participants in determining their own futures.

### **Dominic O'Brien (PhD) and Rhona Smith**

Article: 'Realising the Right to Health for Young People in South Africa—Some Reflections'  
(2016) 105(4) *The Round Table: The Commonwealth Journal of International Affairs* 389-399  
Special Issue on Youth and the Commonwealth, edited by Sue Farran and Rhona Smith

Abstract: The right to health is enshrined in the South African Constitution as well as a range of international and regional human rights treaties which South Africa accepts. Yet empirical data reveals some of the challenges faced by South African youth—childhood diseases, HIV/AIDS and such like. There are evidently challenges realising the right to health in practice. Nevertheless, South African courts have led the international field in recognising the justiciability of economic and social rights such as the right to health. Having reviewed the applicable laws and jurisprudence, the paper will conclude that a more holistic human rights-based approach offers perhaps the best way forward.

**Sophie Carr, Emma Piasecki, Gill Tully and Tim Wilson**

Article: 'Opening the Scientific Expert's Black Box: 'Critical Trust' as a Reformatory Principle in Criminal Evidence'

(2016) 80(5) *The Journal of Criminal Law* 2016, 80 (5) 364-386

Abstract: The work of forensic scientists, by providing specialist assistance beyond the normal experience or knowledge of the factfinders, can be elusive to the law's traditional probative safeguards. These safeguards, in any case, only apply to the small proportion of such evidence actually tested in court. The specialist nature of the scientific work and the knowledge and understanding needed by users with a non-scientific background makes trust in forensic science problematic if conceptualised in binary terms. A systematic review of the development of the quality controls for the production and use of expert scientific evidence demonstrates that critical trust, as an organising principle, does offer a continuum (ranging from scepticism to acceptance) for assessing the reliability and use of forensic science evidence. Despite progressive reform in forensic science significant risks remain. These risks are both (i) scientific, including the fragmentation of scientific interpretation and the assurance that all providers and/or processes can meet the necessary standards, and (ii) professional, ranging from the timely provision of information to the ability of counsel to critically test the evidence in a manner intelligible to the factfinders.

**Natalie Wortley**

Article: 'Finding a willing supervisor for an unfit defendant'

(2016) 80(5) *J Crim L* 283

Abstract: Following a finding in the Crown Court that a criminal defendant is unfit to plead, a 'trial of the facts' will take place. If the jury finds the defendant did the relevant act (or made the omission) charged against him, the judge must make a Hospital Order, a Supervision Order, or an Absolute Discharge (s.5 Criminal Procedure (Insanity) Act 1964 (as amended)). This case note explores the rules surrounding the making of Supervision Orders and discusses the difficulties that courts sometimes face in identifying a "willing supervisor", as required by the legislation (sch.1A, para. 2(2) of the 1964 Act).

**Guido Noto La Diega** and I. Walden

Article: 'Contracting for the 'Internet of Things': Looking into the Nest'

(2016) II *European Journal of Law & Technology* 1-38

Abstract: The world of the 'Internet of Things' ('IoT') is just one manifestation of recent developments in information and communication technologies ('ICTs'), closely tied to others, including 'cloud computing' and 'big data'. For our purposes, the 'Thing' in the IoT is any physical entity capable of connectivity that directly interfaces the physical world, such as embedded devices, sensors and actuators. To examine IoT contracts, this paper adopts the approach to focus

on a case study, examining the complexity of IoT through the lens of a specific product. The case study is the Nest connected thermostat, part of the Nest Labs business, which was purchased by Google in February 2014 for \$3.2bn. We focus on the 'legals' of Nest (contractual documents, licences, etc.) to provide a case study of IoT complexity. After touching on some general contract law issues in relation to the IoT supply chain, we examine the rights and obligations represented in these legals and discuss the extent to which, collectively, they present a coherent and comprehensible private law framework. We then consider the extent to which certain statutory regimes may treat IoT contracts in terms of addressing two characteristic contractual concerns: liability attribution and unfair terms. Our main conclusion is that the world of IoT demonstrates a need to consider recasting the concept of product to reflect the frequent inextricable mixture of hardware, software, data and service.

### **Alan Reed and Emma Smith**

Chapter: 'Caveat Amator: Transmission Of HIV And The Parameters Of Consent And Bad Character Evidence'

In Alan Reed and Michael Bohlander with Nicola Wake and Emma Smith (eds), *'Consent: Domestic and Comparative Perspectives'*, Taylor Francis, 2016, 120-146

Abstract: in this chapter the authors focus on whether so-called 'inducing-causes' can destroy the reality of consent in terms of transmission of HIV. A new dynamic is identified herein beyond the mechanistic fraud in the factum/inducement binary divide for consent vitiation related to non-fatal and sexual crimes. The culpability-onus nexus is blurred within extant law vis a vis criminalisation of transmission of HIV: the onus of disclosure applied to a defendant for rape does not apply to the threshold of non-fatal offence liability. Deception is transmogrified to operate as an inducing cause for one type of liability but not another without regard for the dangerousness/blameworthiness of the individual actor. The debate extends to consideration of bad character evidence, and defendant propensity, within the purview of the Criminal Justice Act 2003 reforms. Recent case law demonstrates that evidence of past behaviours can be utilised extensively as proof that the actor proceeded to sexual activity, irrespective of consent, and further, that multiple counts within one indictment can ultimately prove mutually supportive, where similar/extraordinary behaviours exist. A new framework is adduced to act as a cathartic panacea to current ills attached to criminalisation of HIV transmission, and problems attached to the intersection with fraud vitiating consent. A new template is needed to avoid the palpable inconsistencies that apply to consent as a defence or otherwise to non-fatal offence liability and sexual crimes, and outwith the illogical disclosure/overt deception stratified boundaries that now apply.

### **Gita Gill with Sidharth Luthra**

Article: 'The Social Justice Bench of the Supreme Court of India: A New Development' (2016) *Public Law* 392-401

Abstract: Delivering social justice is part of India's constitutional mandate in order to address historic and current injustices, inequities and discrimination against the weaker sections of society particularly the scheduled castes, tribes and 'backward' classes. The Preamble and the Directive Principles [DPs] of State Policy of the Constitution of India reflect the centrality of social justice. On 12th December 2014 the Supreme Court of India established its Social Justice Bench (SJB). The Supreme Court is no stranger to the terms 'social justice' and 'human rights'. In the 1980's the Supreme Court created a unique procedure entitled Public Interest Litigation, (PIL) to promote, in the widest manner, access to the courts. Paradoxically, the very success of PIL constitutes a reason for the creation of the SJB. This article traces the genesis, establishment and functioning of this novel bench.



## **Guido Noto La Diega**

Article: 'Uber law and awareness by design. An empirical study on online platforms and dehumanised negotiations'  
(2016) II *Revue européenne de droit de la consommation / European journal of consumer law*, 383-413.

Abstract: This article sheds light on the main consumer law aspects of the sharing economy through an empirical analysis of online platforms. Given the recent European consultation with the purpose of understanding (whether, or, more likely) how to regulate platforms, it is critical that consumer law considerations will be part of future regulations. For instance, it is hardly acceptable that the consumer acts in the belief that the contractual party (thus the potentially liable party) is the platform, but in reality the former disclaims any responsibility and claims to be a mere intermediary, which only seldom actually is. After a critical analysis of the Italian legislative proposal on platforms and collaborative economy, the article moves on to illustrate the use case of Uber, the \$60 billion ride-hailing platform, which is acting at the margin of existing laws, thus giving rise to protests and debate around the world. After an assessment of the Italian ruling preventing Uber to provide the UberPop service in Italy, the use case is the perfect tool to show the main reasons for concern of consumers is the lack of awareness of their rights and obligations. This article deals with two factors of the said lack: the contractual quagmire and the corporate labyrinth.

## **Sue Farran**

Book chapter: 'Access to knowledge and the promotion of innovation: challenges for Pacific island states'  
In Elmién (WJ) du Plessis and Caroline B Ncube (eds) *Indigenous knowledge and Intellectual Property*, Juta, Cape Town, 2016, 7-28

Abstract: This title flows from several panels at the Commission on Legal Pluralism Jubilee Conference, entitled Living Realities of Legal Pluralism that was organised in conjunction with the Centre for Legal and Applied Research (CLEAR), the Research Chair in Customary Law and the Chair for Comparative Law in Africa, of the University of Cape Town. The panels highlighted controversial aspects of the legal protection of indigenous knowledge with which the contributors to this volume have critically engaged. This engagement is informed by recent legislative and policy developments in several countries in the global South, including South Africa.

This particular chapter reflects on the particular pluralities found in Pacific island countries and explores the issues presented by plural legal and cultural systems in establishing appropriate regulatory environments for diverse forms of intellectual property. In particular, it considers the challenges presented by plural and often incompatible definitions or understandings of such property, the plural and often diverging, rather than intersecting, legal frameworks that operate to regulate this 'property' and the attempts being made to produce legal regimes which encompass and accommodate all these pluralities. It concludes by considering whether the limits of the law are such that a plurality of solutions is also required.

## Conferences Papers

**Elisabeth Griffiths** with input from Dr Steven Vaughan (Birmingham Law School, University of Birmingham)

'Only Relatively Equal? Differences and hierarchies in the Equality Act 2010 – diversity in the legal profession'

At a LERN workshop event 16th September 2016: How do we research and teach equality and diversity in legal education settings? Co-hosted by LERN and Sheffield Law School  
Friday 16 September 2016, Sheffield.

Abstract: The aim of the Equality Act 2010 ('the Act') is principally equal treatment. The Act brings all 'protected characteristics' together into one piece of legislation, all separate 'silos' but in theory equal before the law, no one more important than the other. However, in recent years as the number of protected characteristics has increased, tensions have emerged within the case law. Some protected characteristics may have an impact on one's ability to do a particular job at particular times, such as disability, and are subject to special rules. Others, such as sexual orientation, sex, race and religion, should have no impact and ought therefore to be ignored by an employer. As demonstrated by religious discrimination cases and disability discrimination cases, the Act can lead to tensions and a possible 'emerging hierarchy'.

This paper seeks to explore the equal treatment principle and the protection offered by the Act and suggests that a developing hierarchy is inevitable given the way the law is framed. The intention of this research is in part to explore these hierarchies but also to consider how these tensions can lead to perceptions of in-equality within protected groups which can impact on the way individuals access work and are subsequently supported in employment. The aim, in the first instance, is to explore these ideas using data gleaned from an analysis of law firm employee networks to explore issues of diversity within the legal profession.

### **Tony Ward**

'Victims' Rights and Criminal Justice',  
At Victims and Ethics: A Symposium, University of Hull, 4 July 2016.

Abstract: Victims' rights are viewed with some suspicion in evidence law scholarship because they appear to undermine the presumption of innocence. A victim has no right against a defendant unless or until he is convicted following a fair trial. But precisely because her chances of seeing her rights vindicated depend upon the achievement of legal proof the victim has at least two moral rights vis-à-vis the state: that its officials make reasonable efforts to investigate and (where appropriate) prosecute the offence; and that proceedings are conducted in a way that, while fair to the defendant, also gives the prosecution a fair opportunity to succeed. The paper explores the implications of this view in three areas of the law of evidence.

### **Gita Gill**

'Reviewing the institutional architecture and substantive jurisprudence of the NGT' Panel Discussion, Invited Speaker

At the Centre for the Study of Law and Governance Roundtable on the National Green Tribunal, Jawahar Lal Nehru University, Delhi, 23 August 2016

Abstract: The aim of this paper was to assess the working practice and effectiveness of the National Green Tribunal [NGT] of India. The NGT officially described as a 'specialised body equipped with necessary expertise to handle environmental disputes involving multi-disciplinary issues' is a forum offering greater plurality for environmental justice. The role of experts and their expertise within the NGT acting as decision makers regarding environmental disputes is 'central', not 'marginal', to the NGT's normative structure. This paper aimed to demonstrate that the

engagement of NGT's scientific experts in the decision making process as 'epistemic communities' contributes to the NGT's case decisions through an interdisciplinary approach- an approach focusing on reaching the best available solution rather than being limited to pre-determined traditional legal remedies.

### **Neil Harrison**

Working Paper and Conference Presentation 'Innovation v sustainability/ social value in procurement- is there a conflict?'

At the Public Procurement Research Students Conference, Nottingham University, September 2016

Abstract: My working paper was a summary of my proposed research on the purposes, objectives and drivers of public procurement at EU, UK national and UK contracting authority level, including an examination of the legal position in these areas. In particular, an examination of the objectives of innovation and sustainability/social value in procurement and whether there is a conflict between these objectives. I also set out the next steps in my research.

### **Clare Sandford-Couch and Helen Rutherford**

'The West Walls Murder: "horrors ... perhaps unexampled in the annals of modern crime"'

At the British Crime Historians Symposium 5, University of Edinburgh, 7-9th October 2016

Abstract: The last public execution in Newcastle upon Tyne took place in Newcastle Gaol at 8am on Saturday 14th March 1863. George Vass had been convicted of the murder of Margaret Docherty. Examining the case in its legal historical context, our paper explores what the language used in the contemporary reporting of the conduct of the legal professionals in the Vass case reveals about the role of emotions in the practice of law in the nineteenth century, and compares the extent to which this accorded with general social and cultural attitudes to the crime as revealed in contemporary newspaper accounts.

Legal scholars have only recently shown an interest in exploring the intersections between law and emotion. Some scholarship is focused on identifying emotion in legal processes and actors. The discourse of emotions in the trial process raises questions such as: when legal systems record decisions, do they record emotions? And, what role does emotion play in the reporting of the trial? Our paper aims to contribute to this developing interdisciplinary area by exploring the presence and absence of emotions in the accounts of the Vass trial, and what part - if any - these played in the judicial process. In particular, our paper will analyse the contemporary accounts of the case to explore what the language used reveals of the emotional responses of the dramatis personae of the judicial process and of Vass himself.

### **Tony Ward**

'Subaltern Cosmopolitanism, Legal Pluralism and State Crime in the Global South'

At the European Group for the Study of Deviance and Social Control, Braga, Portugal, 2 Sept 2016.

Abstract: Some studies of state crime take international law as a starting point; others (including my various collaborations with Penny Green) prefer to base their definitions of crime on a 'view from below' articulated by civil society organizations seeking to expose state criminality. However, as Green, other colleagues and I discovered in a recent research project on resistance to state crime in six countries (Burma, Colombia, Kenya, Papua New Guinea, Tunisia and Turkey), civil society organizations themselves make constant reference to legal concepts, sometimes interpreting them in creative ways quite different from their interpretations by courts. This paper explores some examples of civil society's use of law in the global South, drawing on Boaventura de

Sousa Santos's discussion in *Toward a New Legal Common Sense* (2002) of the concepts of legal pluralism and subaltern cosmopolitanism.

### **Mark Brewer**

'Fashion Law and the Crimes the Law Perpetrates: Why the Law should take a more discerning look at Fashion Law'

At the SLS Annual Conference, Oxford, 7 September 2016

Abstract: While other disciplines have scrutinised the fashion industry, legal scholarship has overwhelmingly focused on intellectual property as the primary area for which the law is relevant to the fashion industry, largely ignoring the business practices, the corporate landscape, and cultural phenomena that has a wide-ranging impact on society. Yet, the fashion industry is intertwined with the law and ethics in a number of areas which legal scholarship has only superficially addressed. This paper will explore legislative efforts to promote responsibility and sustainability in the fashion industry.

By examining the financial reporting of publicly-traded fashion companies, the paper will engage in an empirical study of the commitments such companies make in their disclosure documents and the actual impact they have on their stakeholders. The data set will include corporate governance and corporate social responsibility (or sustainability) statements of the fashion/apparel companies listed on the London Stock Exchange and the New York Stock Exchange. Through examining these corporate commitments versus the record of the companies, the paper will examine the way "soft" law and national laws work to protect various stakeholders (including employees, host communities of manufacturers, and others) in the supply chain of the fashion industry.

### **Gita Gill**

'Access to Environmental Justice in India: Innovation and Change'

At the 2016 Annual European Environmental Law Forum (EELF) Conference, Wrocław (Poland), 14-16 September 2016

Abstract: A broad understanding of environmental justice involves participation in environmental controversies. Participatory mechanisms can help to meliorate issues of inequality, recognition and the larger question of capabilities and functioning of individuals and communities. 'Parity of participation' comes with the satisfaction of two conditions: 'that institutionalized cultural patterns of interpretation and evaluation express equal respect for all participants and ensure equal opportunity...' and 'the resources to enable participation'. (Schlosberg)

Access to justice, a strong procedural dimension, in environmental justice discourse requires fair, open, informed and inclusive state institutional processes. In this regard, an accessible judicial structure as a means to redress environmental damage or harm and protect and enforce legitimate interests is fundamental in supporting the rule of law and environmental sustainability.

### **Gemma Davies and Adam Jackson**

'Striking a balance between proportionality, fairness and public protection: Reconsidering the disclosure of criminality information (take 2)'

At the Criminal Law Reform Now Conference, 13th – 15th September, 2016, , Sussex University Law School in conjunction with the Law Commission of England and Wales

Abstract: This article provides an analysis of the current systems for the retention and disclosure of "criminality information"[1] in England and Wales and puts forward a case for reform. Consideration is given to recent appellate court jurisprudence on the issue of disclosure requirements for criminality information with a particular focus on the rapidly evolving impact of Article 8 ECHR and the effect of the use of "bright line rules" in this area. An attempt is made to identify the key

weaknesses in the current system and to underline the urgency of the need for reform proposals. The Law Commission is identified as a body ideally placed to fully consider the broad legal, procedural and policy issues surrounding this complex area of law. It is concluded that a Law Commission consultation on this area and any subsequent report would provide Parliament with the necessary evidence base to ensure any reform undertaken was, as a minimum requirement, compliant with Article 8 ECHR.

### **Tracy Kirk (PhD)**

'Could the Gillick Competence test be used more widely in the private law sphere to enhance the civic participation of adolescents?'

At the Contemporary Childhood Conference, Strathclyde University, 2nd-3rd September 2016

Abstract: More than 30 years ago Lord Scarman outlined his paradigm for ascertaining whether an older child has the 'Gillick Competence' required to 'make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision'. Since then, there has been little movement towards actively recognising and respecting an adolescent's increased capacity to make decisions, especially where a parent, or the court, disagrees with their attempt at 'self determination'. Indeed, the case law explicitly referring to 'Gillick Competence' remains largely within the medical sphere; which Fortin states has undermined the 'legal significance of adolescent competence'. In this paper I refer to private, contractual examples to argue that 'Gillick Competence' could be used to expand the legal recognition of the competent adolescent's ability to make life-changing decisions. Ultimately, discussion, which recognises the capacity of young people to play a meaningful role within communities, will enhance the understanding of the social contribution of this group of society. One way to do this is to apply the principles developed in Gillick to a wider field of private law to ensure 'Gillick Competent' adolescents have a legally recognised right to autonomy.

### **Jill Alexander**

'The Employability Imperative in Legal Education'

At the European Network for Clinical Legal Education Conference, Valencia 27th-28th October 2016

Abstract: Clinic offers students a powerful "real world" experience, enabling 'the transfer of expertise from the expert to the novice' in a way that should enhance their employability skills – but how far is that ambition realised? In the light of an ongoing research project involving focus groups comprising current students, alumni, employers as well as Law staff, this presentation considers how clinic is perceived by those groups and whether students are clearly articulating the opportunities and perhaps limitations of clinic when applying for graduate employment. The aim of the research project is to assist students in identifying the relevant skills from clinic that will best prepare them for their future as lawyers.

### **Sue Farran**

'Legislating for customary land tenure: a comparative query'

At the SLS Annual Conference, University of Oxford, September 7, 2016

Abstract: In many legal systems land is governed by a plurality of laws, particularly in those countries encountering colonialism. Post-colonially formal and informal land laws continue to co-exist often in an uneasy relationship with informal or customary laws seen as being relegated to the second division in a hierarchy of laws. In recent years however there have been initiatives to enhance the standing of customary laws and to reassert the value of indigenous ways of resolving

land disputes. In 2014 the Pacific island country of Vanuatu took the step of incorporating customary land management into statute. The purpose was to safeguard and strengthen this form of land tenure against incursions from more formal laws introduced under colonialism, particularly leases. This legislative innovation is not an unqualified success. Indeed, concern about this law prompts the question whether in fact it is possible to legislate for customary land tenure, and what are the consequences of doing so? In order to test the answer to this question, a comparative approach is adopted, looking first at small island states in the Pacific, and then at the rather larger land mass of South Africa, where the 1996 Constitution conferred new formal status on customary law ranking it on par with the common law of South Africa but subject to the constitution and legislation.

### **Tony Ward**

'Improperly Obtained Evidence and the Epistemic Conception of the Trial'  
At the SLS Annual Conference, Oxford, 8 Sept. 2016

Abstract: This paper responds to H.L. Ho's argument that the 'epistemic conception' of the criminal trial should give way to a 'political conception' in which the central purpose of the trial is to hold the executive to account in its bid to enforce the law against the accused. Drawing in Dworkin's discussion of the rule of law, it defends a 'rights conception of the rule of law' in which both accurate fact-finding and the exclusion of some improperly obtained but potentially reliable evidence reflect the duty of the court to vindicate the rights of both defendants and victims.

### **Tracy Kirk (PhD)**

'Could the Named Person Scheme be the catalyst needed to prompt increased discussion of children's rights?'  
At the Contemporary Childhood Conference, Strathclyde University, 2nd-3rd September 2016

Abstract: Laws seeking to protect the vulnerability of children have long been a feature of the Scottish Legal System. The unique Children's Hearing System prides itself on making sure that all children and young people are cared for and protected, while their views are heard, respected and valued. Despite these clear values, the decision by the Scottish Executive to introduce the Named Person Scheme to promote the wellbeing of each and every child and young person has caused much controversy. While much has been written about how such a scheme breaches the rights of parents, less has been said about the beneficial role such a concept can have in promoting the rights of young people in matters directly affecting them. Arguably, the Named Person Scheme simply gives legal significance to roles already fulfilled by head teachers and health visitors, by ensuring the principles of GIRFEC are effectively promoted throughout Scotland. In this paper I refer to how this promotion of children's rights by the Scottish Government, by returning to the founding principles of the Children's Hearing System, should be welcomed and used to engage in discussion about children's rights. Increased recognition of children's rights does not have to mean a reduction in parental rights.

### **Guido Noto La Diega**

'Hemispatial neglect and data protection, "Personal data in competition, consumer protection and IP law – Towards a holistic approach?"'  
At the Max Planck Institute for Innovation and Competition, Munich, 21 October 2016

Abstract: Data protection scholars and privacy advocates tend to think that the best way to protect personal data is data protection law. They sometimes ignore that when it comes to data, one should take a holistic approach and strike a balance between (at least) data protection, intellectual property, consumer law, and competition. Provocatively, I accuse these lawyers of hemispatial neglect, a neuropsychological condition whereby one is not aware of one side of the environment.

The case study of this is targeted advertising, sometimes called behavioural advertising or direct targeting. Facilitated by the growth of artificial intelligence (e.g. machine learning and predictive analytics), cloud computing, and big data, new tracking and profiling techniques have been developed. They have enabled the rise of behavioural advertising, that is the provision of advertisements, which are tailored to the tastes and habits of the user who actually views them. If intelligent behavioural advertising is effective, data protection laws still apply. Most regulations look at the phenomenon from the data protection perspective, whilst I argue that a holistic approach should be sought. Indeed, intellectual property, competition law, and consumer protection come necessarily into play. My general idea is that one should treat the data as digital assets in the users' IP portfolio, thus leading the users to care more about the way their data are processed, shared, and sold.

## **Mohamed Badar**

'The Self-Declared Islamic State (Da'esh) and *Ius ad Bellum* under Islamic International Law'  
At Brunel University/Brill Nijhoff Publishers international inaugural conference on 'ISIS and Implications for Human Rights and Humanitarian Law' organised by The Asian Yearbook for Human Rights and Humanitarian Law and Brill-Nijhoff Publishers, London, 30 September 2016

Abstract: In terms of international law, the militant group which calls itself the Islamic State (IS) naturally poses questions of illegitimacy in the context of the law of belligerency and international humanitarian law (*ius in bello*). However, the group claims to operate within a distinct and parallel law, i.e. Islamic (international) law and the support it enjoys stems directly from this claim. A focus on public international law alone would thus provide only an external claim to their illegitimacy, one which they and their many supporters would disregard as meaningless, since it could never be above divine commands. In light of this and in light of the fact that in most Muslim majority states, secularism has never obtained the respect it enjoys in the West, it is thus important to ask the questions of the legitimacy of this group, their actions and their political formations from within the norms of Islamic international law. This presentation therefore essentially aims to provide answers to questions already raised by many scholars and international organisations: What are the justifications for waging war on which the group relies? Are these justifications valid under Islamic international law? Who can declare *jihād* and under what conditions? Could their political formation rightfully claim to be a caliphate under *Shari'ah*? Why have the militants been denied the recognition of their chosen name by the vast majority of Muslims worldwide and have rather been branded with the derogatory acronym Da'esh or named 'the modern day Khārijites'? The answers to these questions are crucial because Da'esh recruitment and rallying narrative relies on depicting their struggle as a just and noble *jihād* in line with the tenets of Islam. Arguably, this study would also assist any future prosecution of this group. It would help adjudicators in asserting the legitimacy of their judgments, if they were able to prove that such judgments are compatible with the legal and belief systems recognised by the actors at trial.

## **Guido Noto La Diega**

'IPRexit. Intellectual property after the EU referendum'  
Poster presented at the Society of Legal Scholars Conference 2016, Oxford, 6-9 September 2016

Abstract: The Government is deciding how and when to trigger Article 50 of the Treaty on the Functioning of the European Union. In the meantime, some "remainers" are pointing out the allegedly tragic consequences of Brexit, whereas a more cautious approach would be wise. There is much uncertainty on the future of intellectual property (IP) in the UK after the referendum and one could foresee that there will be more cons than pros. However, some opportunities may as well arise. This poster aims to assess the impact of Brexit on IP by distinguishing between areas that do not need significant intervention, areas where no real intervention will be allowed and areas

where there is need for an update. In the near future, the Government and the Parliament will be likely focused on the negotiations with the European Union and there is the risk that IP issues will be overlooked. Therefore, it will be up to the judiciary to modernise intellectual property and ensure that the UK does not depart radically from the IP systems of the Member States. Thus, by ensuring a substantial, albeit not full, harmonisation of the relevant rules, fragmented IP regimes will not constitute trade barriers and the UK will retain its appeal as a thriving marketplace for investors. In order to do so, some “IP regimes shopping” will be useful, although this will mean a partial departure from the EU rules. A takeaway is that since English judges will not be entitled to preliminary references to the Court of Justice, they will become eventually European judges

## Other

**Tim Wilson** gave an invited presentation on 'The Prüm Forensic Biometric Cooperation Model: An Analysis Relocated from the Domain of Global Public Goods to the Idiom of Co-production?' At an academic conference entitled 'Social Change in a comparative perspective of Europe and Asia' organized by the Institute of Philosophy and Sociology of the Polish Academy of Sciences (IFiS PAN) on 13th-14th October 2016 in Warsaw.

This event was attended by colleagues from a range of disciplines, but mainly sociology, and from Poland, other Central and East European countries, Italy, Finland, South Korea and China (PDR).

Abstract: Having explained the operation of forensic biometric sharing within the EU, the paper then turned to a review of various issues that might affect both the operation of these arrangements, the context in which they are used and the appropriateness of the framework developed to date for analysis of these issues. It considered from a theoretical perspective possible short comings in the analysis in an earlier paper of internalization, inter-state power relationships and socio-cultural identification with nation states. Among the empirical issues considered was the rise of authoritarian populism in both Western Europe and the Visegrád Group (HU, CZ, SK and PL)

**Nicola Wake, Emma Smith and Alan Reed** co-edited Alan Reed and Michael Bohlander with Nicola Wake and Emma Smith (eds), *Consent: Domestic and Comparative Perspectives*, Taylor Francis, 2016

This volume presents a leading contribution to the substantive arena relating to consent in the criminal law. In broad terms, the ambit of legally valid consent in extant law is contestable and opaque, and reveals significant problems in adoption of consistent approaches to doctrinal and theoretical underpinnings of consent. This book seeks to provide a logical template to focus the debate. The overall concept addresses three specific elements within this arena, embracing an overarching synergy between them. This edifice engages in an examination of UK provisions, with specialist contributions on Irish and Scottish law, and in contrasting these provisions against alternative domestic jurisdictions as well as comparative contributions addressing a particularised research grid for consent. The comparative chapters provide a wider background of how other legal systems' treat a variety of specialised issues relating to consent in the context of the criminal law. The debate in relation to consent principles continues for academics, practitioners and within the criminal justice system. Having expert descriptions of the wider issues surrounding the particular discussion and of other legal systems' approaches serves to stimulate and inform that debate.

**Ann Ferguson and Tony Ward** gave a presentation at the CECJS symposium on 28 October on the topic of evidence under the CPR, entitled 'The Davie principle and procedural reform'. The presentation looked at some of the current rules on evidence under the CPR, including recent



amendments governing concurrent evidence and further recommendations in that area, and analysed how the rules appear to sit with principles of expert evidence in particular the case of *Davie v Edinburgh Magistrates* 1953 which details the duty of an expert witness, and the elements of transparency, rationality and non-delegation in the giving of such evidence.

**Mark Brewer, Anna Butler, Ann Ferguson and Guido Noto La Diega** participated in a CloTHINK event with members of the Fashion school, comprising of an opening presentation and roundtable discussion on many current issues involving fashion and law including: Intellectual Property; Sustainability and Traceability; and Labour/Health issues on October 19th 2016. It was considered a fruitful event and further collaboration is to follow including a proposed joint conference.

**Alastair Rieu-Clarke** was an invited Speaker at a Workshop on General Principles of Transboundary Water Cooperation, organised by UNESCO, UN Economic Commission for Europe, Mexican Government, International Union for the Conservation of Nature, World Wildlife Fund, Economic Commission for Latin America and the Caribbean, and the Swiss Government in Campeche Mexico, 3-4 October 2016.

This workshop brought together experts from governments across Latin America and Spain, as well as representatives of Non-governmental Organisations to explore the benefits of transboundary water cooperation. Additionally, the workshop examined two UN conventions dealing with transboundary water governance, with a view to assessing whether States across the region might ratify one or both.

**Siobhan McConnell** wrote a booklet entitled *Consumer Law - Update* published by Tolley's Company Secretary's Review (Summer 2016). This covered changes to unfair trading legislation which gave consumers rights against businesses which mislead or act aggressively towards consumers;

- proposed EU Directives which will impact on the sale of digital content and distance selling;
- proposals for new protection for microbusinesses; and
- how the Consumer Rights Act regulates unfair terms.

The booklet is aimed at practitioners, particularly company secretaries of plcs and limited companies and in-house lawyers.

**Michael Devine** edited two articles that appear in the Summer Issue of *International Law News* ("ILN") published by the International Law Section of the American Bar Association

**Alastair Rieu-Clarke** was an Invited speaker at the International Conference on Arab Water Under Occupation, organised by League of Arab States, Arab Ministerial Water Council, Centre for Water Studies and Arab Water Security, and Palestinian Water Authority, Cairo, Egypt, 25-27 October 2016.

The workshop brought together politicians, experts from international UN and non-governmental organisations, and academia to explore several themes related to water management in countries under occupation. Alastair spoke about the role of international and regional water conventions in fostering cooperation over transboundary waters.

**Guido Noto La Diega** provided a translation in Italian of A. Ohly, 'Das Europäische Patent mit einheitlicher Wirkung und das Einheitliche Patentgericht' at *Il brevetto unitario europeo e il Tribunale unificato dei brevetti*, in XXVI. Kongress der Deutsch-Italienischen Juristenvereinigung, Munich, 7–9 October 2016

**Ray Arthur and Nicola Wake** together with Thomas Crofts ( Sydney) guest edited a special issue of the Northern Ireland Law Quarterly which brings together the papers presented at a one day conference co-organised by Ray, Nicola and the Institute of Criminology, University of Sydney in 2015 on the theme of the Age of Criminal Responsibility. Lord Dholakia (OBE, Member of Privy Council, Deputy Lieutenant) has written a preface for the special issue. Contributors to this Special Issue: 'The Age of Criminal Responsibility' (2016) *NILQ* 67(3), are: Thomas Crofts, Ido Weijers, Dawn Watkins, Effie Lai-Chong Law, Joanna Barwick and Elee Kirk, Claire McDiarmid, Jonathan Herring, Angi Shen, Dermot Walsh and Elaine Sutherland.

**Alastair Rieu-Clarke** was an Invited Speaker and Co-organiser of a training event entitled 'From Practitioner to practitioner: training on how to use the two global Water Convention to promote cooperation on the ground' organised by UN Economic Commission for Europe, Geneva, Switzerland, 20-21 October 2016. This workshop brought together experts from across the world that are in a position to influence policy related to transboundary water cooperation in their respective countries and regions.

**Mohamed Badar** presented a paper entitled: 'Islamic Law: Segregation or Integration into the International Legal System', at Nuremberg Principles Academy Roundtable on 'Islam and International Criminal Justice', Nuremberg, Germany, 13-14 October 2016

Abstract: There have been many legitimate condemnations of the western origins and nature of international (criminal) law and its application by international criminal courts and tribunals. The question that remains, in what way can other legal systems be recognized in it, or what can be the contribution of the knowledge on these systems for the international legal community. The main hypothesis of this research is that there is a way of bringing the Islamic legal tradition to the ICC. Not so much in terms of filling lacunae in procedural law as those seem to have been largely dealt with by applying mostly principles from common law and civil law systems, but in terms of symbolic recognition of Islamic law's core principles as has already happened by the International Court of Justice to bring more legitimacy in special conflicts involving Muslim states. The misapplications of Shari'ah have been many and varied, not only by states, but also by non-state actors and Islamist militant groups. Against this background, my contribution aspires to draw a clear picture of the core principles of Islamic law in the relevant aspects and unveil its many similarities with international criminal law principles in an effort to provide international legal practitioners with the understanding needed to better deal with conflicts in Muslim majority states.

**Alastair Rieu-Clarke** was an invited speaker at the Eastern Nile Media Training on the Grand Ethiopian Renaissance Dam, organised by Stockholm International Water Institute, 27-29 July 2016, Addis Ababa, Ethiopia.

This media training workshop brought together media (TV and press) from Ethiopia, Sudan and Egypt, with key stakeholders and decision makers from the Nile region that have been involved in the negotiations pertaining to the Grand Ethiopian Renaissance Dam. Alastair provided an overview of the international and regional legal framework related to the construction of the Dam.

**Natalie Wortley** organised and chaired several sessions on Criminal Justice at the SLS Annual Conference at the University of Oxford, September 6-9, 2016.

**Alastair Rieu-Clarke** was an invited moderator at Roundtable on the UN Water Conventions, held by the World Meteorological Organisation, Geneva, Switzerland, 25 October 2016. This roundtable brought together invited experts and was designed to feed its findings into the Global High-Level Panel on Water and Peace. Professor Rieu-Clarke moderated a lively session

that explored how transboundary water cooperation might be strengthened in the absence of legal arrangements.