RESEARCH ROUND UP

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This newsletter celebrates some of the research activity taking place in the School of Law, Northumbria University, focussing on published outputs, conference papers and other outward facing research related activities. This issue captures outputs from the start of February 2018 to end of June 2018.

Publications

Tony Storey and Alexandra Pimor
Text book: *Unlocking EU law*, 5th Edition (2018), Routledge.
Summary: European Law is a core element of every law degree in England and Wales. Unlocking EU Law will ensure you grasp the main concepts with ease, providing you with an essential foundation for further study or practice. The fifth edition is fully up-to-date with the latest developments, including:

- a new chapter on state liability;
- all major new cases;
- discussion of the possible impacts of Brexit.

Helen Rutherford and Clare Sandford-Couch
Article: 'From the 'Death of a Female Unknown' to the Life of Margaret Dockerty: Rediscovering a Nineteenth Century Victim of Crime'
In (2018) 8(1) *Law, Crime and History* Special issue: 'Lives, Trials and Executions: Perspectives on Crime c.1700-c.1900'
Abstract: On 1 January 1863, a woman was brutally raped and beaten to death in Newcastle upon Tyne. Her murderer was to be tried, convicted, and finally executed for murder. However, he is not the subject of this piece. Historically, the study of the criminal law has focused too heavily on the perpetrators of crimes. This article attempts to establish the victim, Margaret Dockerty, as an individual and to offer some social, cultural, economic and historical context for, and background to, her life.

Victoria Roper
Article: 'The Corporate Manslaughter and Corporate Homicide Act 2007 – A Ten Year Review' (2018) 82 (1) *Journal of Criminal Law* 48-75
Abstract: This year will mark the 10th anniversary of the commencement of the Corporate Manslaughter and Corporate Homicide Act 2007. The Act was significant in that it introduced a specific offence for corporate killing in the UK for the first time. Such reform was generally welcomed,yet many academics and practitioners were critical of what they perceived to be the Act's unnecessary complexity and questioned how effective it would be. The Grenfell Tower fire has recently stimulated renewed debate about corporate manslaughter and the ability of the law to hold organisations and individuals to account. To engage meaningfully in this discourse, it is imperative to review the Act's performance in practice over the last 10 years. The author offers an original contribution to knowledge in this area through (i) fresh analysis of whether the criticism 10 years ago has proved to be well founded; (ii) scrutiny of the extent to which the Act has been successful in meeting its

stated aims; (iii) critique of the judicial precepts in this area; and (iv) new insights into the future of corporate manslaughter including how the Act could be more efficacious.

Sue Farran

Book Chapter: 'Intellectual Property consequences of commercial relations with small states' in Lein, Salem and Butler (eds) *Integration and International Dispute Resolution in Small States* (Springer 2018) 141-163

Abstract: Developing countries are dependent to a greater or lesser extent on financial support from external sources, and consequently autonomy in determining the frameworks to support commercial relations with external partners is severely constrained. The agenda is driven largely by developed economies using laws with which they are most familiar and which consequently become integrated into trade agreements. For those countries which are persuaded to sign up to the World Trade Organisation (WTO) – and this includes several Pacific island states (PICs), this means incurring obligations to comply with TRIPS and TRIPS Plus agreement. Even for those countries outside the WTO, regional trading agreements with developed economies such as Australia and New Zealand (PACER and PACER-Plus), or the European Union through inclusion in the Asia, Caribbean, Pacific group (EU-ACP Agreements) may include intellectual property obligations either expressly or obliquely – the so-called 'spaghetti bowl' of overlapping and intersecting free-trade agreement. Historically, the purpose of intellectual property laws introduced into the legal systems of small states was to protect the commercial interests of colonisers, not the interests of indigenous people. They were rarely used, poorly understood and expensive to implement. Post-independence many of these laws remain. Others have been modified and in recent years some attempts, albeit with limited success, have been made to bring within the same intellectual property umbrella indigenous perceptions of intellectual property, traditional knowledge and expressions of traditional culture. Among the underpinning difficulties are the failure of regional initiatives, tensions between different stakeholders, conflicting agendas at ministerial and local levels, fundamental misunderstandings about rights to intellectual property and lack of resources to implement or enforce legislative provisions. In attempting to both protect and preserve indigenous intellectual property and foster creative industries, promote tourism and utilise natural resources – including a wealth of bio-diversity, for commercial advantage, small states face a number of dilemmas. This chapter looks at recent developments in Pacific island small states triggered by commercial relations and draws attention to some of the challenges that arise when the law tries to encompass very different value systems within national frameworks informed by international imperatives.

Gary Edmond, Ann Plenderleith Ferguson and **Tony Ward**

Article: 'Assessing Concurrent Expert Evidence' in (2018) 37(3) *Civil Justice Quarterly* 344-366

Abstract: This article examines what is known about concurrent evidence ("hot-tubbing") in UK jurisdictions, in light of the Civil Justice Council's ("CJC") review, in particular what can be gleaned from published judgments in cases where it has been used. The evidence for the effectiveness of such procedures is largely anecdotal and impressionistic, and much of it relates to specialist courts and tribunals where factfinders have some degree of expertise in the expert witnesses' field. While not disputing that concurrent evidence can work well when skilfully employed, we question whether a wider extension of judge-led concurrent evidence to generalist civil courts is merited on the existing evidence.

Tony Ward and Ann Ferguson also gave a presentation on the subject matter of the article at the new Business and Property Court forum which was held at Northumbria University,

11 June. The event was attended by various members of the local legal community – judges/solicitors/barristers/academics and experts.

Rebecca Mitchell and **Michael Stockdale**
Article: 'Legal professional privilege in corporate criminal investigations: Challenges and solutions in the modern age.' (2018) *The Journal of Criminal Law* 1-17
Abstract: This article considers two areas that arise in the context of corporate criminal investigations relating to claims of legal professional privilege: the extent to which litigation privilege may attach to communications made in the context of such investigations and the difficulty of identifying the client for the purposes of legal advice privilege. These issues are of particular significance where a company is or may be the subject of an investigation by specialist prosecuting authorities, such as the Serious Fraud Office. We identify the policy considerations justifying litigation privilege and whether they continue to explain the current ambit of the privilege. With particular reference to the extent to which the privilege is capable of attaching to communications made for the purpose of working towards a potential settlement, we consider how the constraints upon its ambit operate in the context of corporate criminal investigations. In relation to legal advice privilege, we demonstrate that it is possible to give a coherent explanation of the jurisprudence in this area which, while accepting that decisions are fact-specific, should enable corporations and the courts to identify the client within the corporation with a greater degree of confidence.

Debbie Rook
Article: 'For the Love of Darcie: Recognising the Human-Companion Animal Relationship' in Housing Law and Policy' (2018) *Liverpool Law Review*, 1-18
Abstract: This paper identifies the law's failure to recognise and protect the human-companion animal relationship in the housing arena. The nature of the human-companion animal relationship has striking similarities to human-human relationships in the socially supportive aspects of the relationship such as attachment, nurturance and reliable alliance. This contributes to the social life and sense of well-being of the owner. There is also evidence that the human-companion animal relationship can have physical health benefits such as lowering the risk of death by cardiovascular disease. It is clear that society benefits from the human-companion animal relationship, which many owners perceive as akin to family, in the form of healthier, less isolated people with better social networks. Yet in the key area of housing, the law does nothing to protect or even recognise this relationship. In consequence, every year thousands of tenants in both the public and private sector are faced with 'no pet' covenants in their leases and grapple with difficulties such as reduced housing options, higher rents or the traumatic decision to give up their companion animal for rehoming or euthanasia. This is especially prevalent amongst vulnerable people, like the elderly and mentally ill, who are more likely to need to move into supported accommodation. This article examines housing law in countries, such as France and Canada, that prohibit 'no pet' covenants in residential leases and provides arguments for the effective formulation and implementation of such law in the UK.

Debbie also delivered a paper based on this article at the Society of Companion Animal Studies 'Pets and Housing' conference in March 2018 at the Animal Welfare College, Cambridgeshire.

Sue Farran
Article: 'Regulating the environment for a blue-green economy in plural legal states: a view from the Pacific' (2018) *Journal of Legal Pluralism and Unofficial Law* (published online DOI: 10.1080/07329113.2018.1466094)

Abstract:The environments of small island states are particularly vulnerable to environmental degradation and risk, whether natural or man-made. As a result of international initiatives and growing awareness of the need to address environmental concerns, such states are being encouraged to enact legislation to protect the environment and promote sustainable futures. In the Pacific region this future is increasingly linked to the 'blue-green' economy: development that builds on the terrestrial and marine resources of Pacific island states. At the same time, internationally, there is an emerging acknowledgment of the value of traditional, indigenous and localised management of these resources. In the Pacific customary law is just one source of law in plural legal systems. The challenge then is how to develop environmental law which capitalises on the strength of plural approaches, promotes a 'blue-green economy' and meets the international and regional expectations of commitment to environmental protection

While a regional model law has not yet been proposed this article undertakes a doctrinal examination of existing legislation across the region in order to identify different legislative provisions which might be used to develop a holistic, normatively plural approach to future efforts to provide a legal framework for translating blue-green policy into law.

Rafael Emmanuel Macatangay and **Alistair Rieu-Clarke**
Article: 'The role of valuation and bargaining in optimizing transboundary watercourse treaty regimes' (2018) 18(3) *International Environmental Agreements: Politics, Law and Economics* 409-428
Abstract: In the face of water scarcity, growing water demands, population increase, ecosystem degradation, or climate change, transboundary watercourse states inevitably have to make difficult decisions on how finite quantities of water are distributed. Such waters, and their associated ecosystem services, offer multiple benefits. Valuation and bargaining can play a key role in the sharing of these ecosystems services and their associated benefits across sovereign borders. Ecosystem services in transboundary watercourses essentially constitute a portfolio of assets. While challenging, their commodification, which creates property rights, supports trading. Such trading offers a means by which to resolve conflicts over competing uses and allows states to optimise their 'portfolios'. However, despite this potential, adoption of appropriate treaty frameworks that might facilitate a market-based approach to the discovery and allocation of water-related ecosystem services at the transboundary level remains both a challenge and a topic worthy of further study. Drawing upon concepts in law and economics, this paper therefore seeks to advance the study of how treaty frameworks might be developed in a way that supports such a market-based approach to ecosystem services and transboundary waters.

Steve Wilson, Helen Rutherford, Tony Storey and **Natalie Wortley**
Text book: *English Legal System*, 3rd Edition (2018), Oxford University Press
Summary: How does the English legal system work? Answering these questions and more, English Legal System provides students with the fundamental knowledge they need to approach the subject with confidence. Concise, straightforward, and easy-to-understand, the book offers clear and accessible explanations of all the essential topics. With real-life applications and examples, and a 'talking point' feature at the start of each chapter, once students have grasped concepts they can go on to understand the law in its working context.

Packed with questions, features, and written in an engaging style, this book takes students on a journey, inviting them to read, understand, see the law in practice, and then think for themselves. Going beyond description to invite students to reflect and question,

'thinking point' and 'critical debate' features present opportunities for students to develop their own views and consider how effective the law is at achieving its aims.

Ana Speed
Article: 'Making the Case for International Family Law in the Law School Curriculum' in (2018) 2 *International Family Law Journal* 120-130
Abstract: Over the last few decades, there has been a significant increase in the number of cases being dealt with in the family courts in England and Wales which have an international element . Domestic family law and practice has adapted to cater for the growth in international family law (IFL) as indicated by the introduction of Forced Marriage Protection Orders , Female Genital Mutilation Protection Orders and the Modern Slavery Act 2015. Practice directions relating to child abduction and polygamy have also been introduced into the Family Procedure Rules 2010. Campaigns such as 'Register our Marriage' and 'Stop the Traffik' highlight that laws regarding IFL do not exist in a vacuum but are demanded by the clients whose lives these issues effect. Likewise, such clients demand lawyers (and a family justice system) which are culturally competent and have expertise in this field. The growth in IFL has arguably been driven in part by its close links to gender injustice and human rights, which sits within an international framework of ending violence against women and girls. IFL is no longer the preserve of wealthy clients seeking advice about the most beneficial forum in which to commence divorce proceedings. IFL now effects all levels of society in a very real and personal way . Subsequently it has become part of everyday family practice in England and Wales. This article will draw on the work of Stark and Reynolds and recent case law in this area to argue that IFL has become a legal subject in its own right which is deserving of being incorporated into our law school curriculum in a 'robust and responsible' manner . This is necessary to properly prepare future lawyers for the realities of family practice in England and Wales.

Rebecca Mitchell
Article: 'Legal advice privilege in the taxation context: disconnected ethical regimes for lawyers and tax advisers in the United States and New Zealand.' (2018) 24(1) *New Zealand Journal of Taxation Law and Policy* 63-82
Abstract: Legal professional privilege requires confidential communications between lawyer and client to remain confidential unless the privilege is waived by or on behalf of the client. Where communications are privileged, the client may legally refuse to disclose documents containing those communications and may refuse to answer questions regarding them and the lawyer is obliged to refuse to disclose such documents or answer such questions. The rationale for legal professional privilege is that it encourages candour between client and lawyer. This candour allows a lawyer to give the most accurate and relevant advice which promotes the wider public interest of compliance with relevant laws and regulations and the administration of justice.

This article critically examines these various themes and their potential impact on ethical behaviour through comparative analysis of the differing approaches and regulatory regimes in the United States and New Zealand. Both are common law jurisdictions where legal professional privilege rules have evolved from English common law principles and where a form of privilege for non-lawyer tax advisers has been created. Comparative analysis between lawyers and non-lawyer tax advisors within each jurisdiction and between jurisdictions reveals disconnections in the ethical landscape and an area where reform could improve standards of behaviour. A new approach demonstrating improved clarity and coherence is proposed.

Frances Hamilton
Article: 'Same-Sex Marriage, Consensus, Certainty and the European Court of Human Rights' (2018) 1 *EHRLR* 33-45
Abstract: There remains no right to same-sex marriage before the European Court of Human Rights (the Court). Yet it seems likely that at some stage the Court will recognise same-sex marriage. Recent dicta stresses the movement towards legal recognition across Member States. It is only a lack of consensus, leading to a wide Margin of Appreciation, which prevents the Court recognising same-sex marriage. This article proposes that if the Court continues with this approach, they should at least outline in future judgments how many domestic legislatures need to legislate in favour of same-sex marriage, before they will determine that a consensus will exist. This is due to the constitutional, manifold legal and symbolic implications of marriage. It is essential for a same-sex couple to know when their marriage will be legally recognised. If done in a consistent manner, this would increase the legitimacy of the Court and has the major advantages of transparency, certainty and predictability.

Ray Arthur
Article: 'Consensual Teenage Sexting and Youth Criminal Records' (2018) 5 *Criminal Law Review* 381-387.
Abstract: Currently the law in England and Wales means that young people who engage in consensual teenage sexting are at risk of being charged with child pornography and indecency offences. Even where no formal action is taken, any investigation of such behaviour will be recorded on the young person's criminal record where it may be disclosed in a way which impacts upon the young person's future access to education, employment, travel, insurance and housing. This article argues that the criminal justice response to consensual teenage sexting which categorises young people who engage in sexting as producers and distributors of their own child pornography needs to be redrawn in a way which provides a more individualised approach to how adolescents who are exploring their sexuality are treated by the criminal justice system. Using criminal laws which were designed to protect children from sexual exploitation and victimization are an inappropriately stigmatising way of responding to consensual sexual experimentation which punish youth sexual agency, marginalise the voice of young people and may limit the young person's future life choices.

Gita Gill
Book Chapter: 'Access to Environmental Justice in India: Innovation and Change', in Jerzy Jendrośka and Magdalena Bar (eds) *Procedural Environmental Rights: Principle X in Theory and Practice*, (Intersentia 2018) 219-228
Abstract: Access to justice is a pillar of democratic governance. It promotes just and equitable outcomes thereby supporting the rule of law. The importance of judicial institutions [courts and specialist tribunals to adjudicate environmental disputes] is widely acknowledged in international instruments. Principle 10 of the Rio Declaration, 1992, strengthens access rights by stating 'effective access to judicial and administrative proceedings, including redress and remedy, shall be provided by states in environmental matters'. In this context, India's commitment to secure environmental justice assumes significant practical importance. This chapter traces and evaluates the role of the Indian judiciary (Supreme Court of India and the National Green Tribunal) in contributing and promoting access to environmental justice. The chapter presents and analyses participatory parity in Indian environmental discourse evolved from the concept of broad and liberal litigant 'standing' in environmental matters facilitated by Supreme Court of India through Public Interest Litigation (PIL) and 'aggrieved party' by the National Green Tribunal

(NGT). It reviews appropriate case illustrations in providing victims of environmental degradation with a way to access justice in a
participatory manner.

Sue Farran

Book Chapter: 'Learning from Chagos: lessons for Pitcairn?' In Stephen Allen and Chris Monaghan (eds) *Fifty Year's of the British Indian Ocean Territory* (ed) (Springer Small States Series, 2018) 293-317

Abstract: While not an exact 'mirror reflection' Chagos and Pitcairn share a number of similarities. Both are small isolated collections of islands over which UK exercises sovereignty; they are prime areas for marine protection areas, in the case of BIOT this is established, in the case of Pitcairn proposed; the motivations behind these MPAs are not those of the islanders, who, in the case of Chagossians have been removed but might return, while in the case of Pitcairn the islanders remain but in reducing and ageing numbers, but reflect wider agendas informed by international and bi-lateral treaties, the lobbying of influential public charities and NGOs, and appeals to 'world habitat', the 'global commons' and the 'responsibilities of mankind'. The legal governance of Pitcairn has been considered as a possible model for a re-inhabited Chagos, while the implementation and regulation of the BIOT MPA provides a model for that proposed for Pitcairn.

Drawing on the experience of BIOT this paper considers the legal similarities and differences between these two island groups and speculates on future legal frameworks that might be utilised for Pitcairn and, drawing on the Chagos experience, the consequences of these should the British government carry out its proposal to establish a Marine Protected Area around these Pacific Islands.

Tina McKee, Rachel Anne Nir, **Jill Alexander**, **Elisabeth Griffiths** and Tamara Hervey

Article: 'The Fairness Project: Doing what we can, where we are' (2018) 5 (1) *Journal of International and Comparative Law,* 1-36

Abstract: The legal profession, in common with other professions, does not represent the diverse society it serves. In England and Wales, it is significantly more difficult to become a lawyer if you are not white, male, middle class, privately and Oxbridge educated: this is also true for other protected characteristics, such as disability, sexual orientation and age. The students we teach are fundamentally and structurally disadvantaged. This article reports on the aims and objectives of The Fairness Project, and the consequent design of its learning materials. Structural inequalities are all pervasive and long-standing. No one project, no one generation, will secure equality, more diversity and fairness in the legal profession. But that is not a reason to do nothing. As educators and as human beings, who ourselves are relatively advantaged, we have a moral and pedagogical imperative to do what we can, where we are. That is what The Fairness Project is all about.

Frances Hamilton

Article: 'The Expanding Concept of EU Citizenship Free Movement Rights and the Potential Positive Impact this has for same sex couples relocating Across Borders' (2018) *Fam Law* 693-696

Abstract: On 11 January 2018, Advocate General Melchior Wathelet stated in his Advocate General's Opinion in the case of *Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Others*(Case C-673/16) ('*Coman*') that non-EU citizen same-sex spouses should be granted the right of permanent residence if their EU citizen same-sex spouse relocated to a different state in the EU. This would be the case even if the couple relocated to a jurisdiction, which does not allow their own citizens to enter into same-sex marriages, or registered partnerships.

The case concerned Mr Coman, a Romanian national, who married his US partner Mr Hamilton in Brussels in 2010. In 2012 they decided to move to Mr Coman's home state of Romania. However, the plan was thwarted. Romania does not allow same-sex marriage on a domestic basis and therefore also refused to recognise a foreign same-sex marriage. Mr Hamilton, not being an EU national himself, was consequently refused a right of permanent residence in Romania. Advocate General Melchior Wathelet ruled against the Romanian authorities and stated that, as a matter of EU law, whilst EU Member States can determine whether to introduce same-sex marriage/ civil partnership on a domestic level they must recognise the free movement of EU citizens and their families and therefore grant permanent residence rights to non-EU spouses of same-sex marriages conducted abroad. If the Advocate General's Opinion is agreed by the European Court of Justice (ECJ) this would greatly enhance rights for non-EU citizenship spouses. As such, this is another example of expanding citizenship rights granted to family members of EU citizens. After Brexit, UK citizens would not be able to benefit from EU free movement rights, amongst the ever expanding number of rights granted to EU citizens and their family members.

Tony Ward and Shahrzad Fouladvand

Article: 'Human Trafficking, Victims' Rights and Fair Trials' (2018) 82(2) J. Crim. L. 138-155.

Abstract: Cases of human trafficking are known to be difficult to prosecute. In this article we identify several issues in the law of evidence that may contribute to these difficulties. We argue for the victims' rights as an important factor in evidential decisions, coupled with an insistence that such rights cannot trump the defendant's right to a fair trial. Restrictions on evidence of a witness's bad character or sexual history should not be interpreted in such a way as to prevent the defence from introducing evidence, or asking questions, that are of substantial probative value, even if they are potentially distressing to witnesses; but such evidence and questioning should be limited to what is necessary for a fair trial. The protection of victims and witnesses may also justify a relatively flexible approach to the admission of hearsay evidence, which avoids prejudging the truth of a witness's evidence in order to establish that s/he is in fear.

Antonopoulos, G.A., Hall, A., Large, J. and **Shen, A.** 2018.

Book: *Fake Goods, Real Money: The counterfeiting business and its financial management,* 2018, Bristol: Policy Press.

Abstract: The trade in counterfeit goods is growing and is increasingly linked to transnational organised crime, but little is known about the financial mechanisms that lie behind this trade. This book is the first account of the financial management of the counterfeiting business. Written by experts in a wide range of fields, it examines the financial and business structures in relation to the illicit trade in counterfeit products. Based on interviews with active criminal entrepreneurs in the UK and abroad, and other data, the authors explore ‘organised crime’ and mutating criminal markets, the physical and financial flows relating to counterfeit products around the globe, especially between UK and China, digital technologies and their implications, and cultural values and practices. The book argues that ‘although we must have an eye on counterfeiters abroad, we should not ignore “home-made” criminal entrepreneurs who are motivated to, capable of, and active in taking the initiative to place orders for counterfeit products wherever they are available’.

R.J., & **Chris Newman**(eds)
Book: *Frontiers of Space Risk: Natural Cosmic Hazards & Societal Challenges* (CRC Press, 2018, ISBN 9781138726383)
Summary: This book brings together diverse new perspectives on current and emerging themes in space risk, covering both the threats to Earth-based activities arising from space events (natural and man-made), and those inherent in space activity itself. Drawing on the latest research, the opening chapters explore the dangers from asteroids and comets; the impact of space weather on critical technological infrastructure on the ground and in space; and the more uncertain threats posed by rare hazards further afield in the Milky Way.

Contributors from a wide range of disciplines explore the nature of these risks and the appropriate engineering, financial, legal, and policy solutions to mitigate them. The coverage also includes an overview of the space insurance market; engineering and policy perspectives on space debris and the sustainability of the space environment. The discussion then examines the emerging threats from terrorist activity in space, a recognition that space is a domain of war, and the challenges to international cooperation in space governance from the nascent asteroid mining industry.

Besides editing Chris also has a chapter in the book:
Cheney, T., & **Newman, C.J**.
Book Chapter: 'Managing the Resource Revolution: Space Law in the New Space Age" in Wilman R.J., & Newman C.J. (eds), *Frontiers of Space Risk: Natural Cosmic Hazards & Societal Challenges* (CRC Press, 2018) 245-271
Abstract: The 21st Century has seen a significant expansion in the commercial space sector. Many of these companies have focused on extracting and exploiting mineral deposits that may be found on celestial bodies. A number of US based companies have promulgated ambitious plans to build the infrastructure to enable the mining of asteroids for precious resources in order to use and sell them on Earth. Motivated not by a desire to explore, but by the promise of vast mineral and energy resources, these companies represent a new paradigm in space exploration. But with promise of a revolution in access to resources also brings with it a number of risks and issues relating to liability.

This chapter examines the current legal and policy position on the exploitation of extra-terrestrial minerals. The discussion will begin by highlighting the legal issues in respect of regulating space mining and how the risks are associated with this area are currently managed. The discussion will then assess competing suggestions for reform of this area and evaluate these solutions, both in terms of the legal issues in respect of ownership and the broader policy issues of managing potential future risks to humanity from space mining.

Victoria Roper
Article: 'Blogs as a Teaching Tool and Method of Public Legal Education: A Case Study' (2018) 2(1) *International Journal of Public Legal Education* 46-70
Abstract: Social media, and blogs specifically, can potentially have a dual raison d'etre: enriching a law student's educational experience whilst simultaneously educating the general public. Through a case study analysis of a blog project employed in a clinical legal education module at Northumbria University, the opportunities, challenges and limitations of using blogs in this way will be explored from both a pedagogical and public legal education perspective.

Tim Wilson

Book Chapter: 'The implementation and practical application of the European Investigation Order in the United Kingdom: an academic perspective' (English text only*)* in (Ángeles Gutiérrez Zarza ed.) *Los avances del espacio de Libertad, Seguridad y Justicia de la UE en 2017, II Anuario ReDPE* (Wolters Kluwer, 2018)

Abstract: The EIO directive is an important measure for improving EU criminal justice cooperation. Its introduction marks a rapid intensification of the change within the EU legal order from a MLA to a MLR evidence gathering regime. This has been generally welcomed in the UK, but could amplify two risks within the English criminal justice system: inadequate protection for defence rights, and significant and potentially complex extra work when its resilience is already threatened by fiscal austerity. Both risks are resource related (especially inadequate legal aid funding), but the EIO's impact will be magnified in some cases by potential complexities stemming from differences between member state legal systems. Also this change is taking place at a time when there are already substantial concerns about evidence gathering and analysis, and the protection of defence rights (particularly disclosure) in English proceedings. These challenges (not restricted perhaps to the UK) and the politico-legal consequences of any problems in EIO implementation suggest that thought might be given to whether limits could or should be imposed on the number of EIOs that can be executed. There are multilateral and unilateral precedents for rationing in the implementation of earlier EU criminal justice cooperation measures, but achieving this for the EIO directive would be much more difficult.

Guido Noto La Diega

Article:'Against the dehumanisation of decision-making. Algorithmic decisions at the crossroads of intellectual property, data protection, and freedom of information' (2018) 9(1) JIPITEC *Journal of Intellectual Property, Information Technology and Electronic Commerce Law* 1

Abstract: Nowadays algorithms can decide if one can get a loan, is allowed to cross a border, or must go to prison. Artificial intelligence techniques (natural language processing and machine learning in the first place) enable private and public decision-makers to analyse big data in order to build profiles, which are used to make decisions in an automated way. This work presents ten arguments against algorithmic decision-making. These revolve around the concepts of ubiquitous discretionary interpretation, holistic intuition, algorithmic bias, the three black boxes, psychology of conformity, power of sanctions, civilising force of hypocrisy, pluralism, empathy, and technocracy. The lack of transparency of the algorithmic decision-making process does not stem merely from the characteristics of the relevant techniques used, which can make it impossible to access the rationale of the decision. It depends also on the abuse of and overlap between intellectual property rights (the "legal black box"). In the US, nearly half a million patented inventions concern algorithms; more than 67% of the algorithm-related patents were issued over the last ten years and the trend is increasing. To counter the increased monopolisation of algorithms by means of intellectual property rights (with trade secrets leading the way), this paper presents three legal routes that enable citizens to 'open' the algorithms. First, copyright and patent exceptions, as well as trade secrets are discussed. Second, the GDPR is critically assessed. In principle, data controllers are not allowed to use algorithms to take decisions that have legal effects on the data subject's life or similarly significantly affect them. However, when they are allowed to do so, the data subject still has the right to obtain human intervention, to express their point of view, as well as to contest the decision. Additionally, the data controller shall provide meaningful information about the logic involved in the algorithmic decision. Third, this paper critically analyses the first known case of a court using the access right under the freedom of information regime to grant an injunction to release the source code of the computer

program that implements an algorithm. Only an integrated approach – which takes into account intellectual property, data protection, and freedom of information – may provide the citizen affected by an algorithmic decision of an effective remedy as required by the Charter of Fundamental Rights of the EU and the European Convention on Human Rights.

As a consequence of this article Guido was interviewed by the Tech Law journal *Diritto Mercato Tecnologia*. See: Eduardo Meligrana, 'Guido Noto La Diega: "Possono gli algoritmi sostituire gli esseri umani?". L'analisi dell'esperto' (*Diritto Mercato Tecnologia*, 1 June 2018) <www.dimt.it/index.php/it/notizie/16903-guido-noto-la-diega-possono-gli-algoritmi-sostituire-gli-esseri-umani> (*Guido Noto La Diega: Can algorithms replace human beings? An expert's analysis*)

Chris Newman and M Williamson
Article: 'Space Sustainability: Reframing the Debate'
In (2018) *Space Policy* (doi: https://doi.org/10.1016/j.spacepol.2018.03.001)
Abstract: The 21st Century has seen a significant increase in space activity, driven by private sector entities using space for commercial enterprises. This increased use of space is not without cost to the delicate space environment. The threat posed by human-made debris in Low Earth Orbit (LEO) is now widely recognised as presenting a danger to current levels of space activity and a more sustainable approach is sought by private and public sector actors. This article will evaluate sustainability in LEO and whether the consensus regarding orbital debris is matched by legislative or governmental action. More broadly, however, it will be contended that notions of space sustainability have largely been restricted to LEO. This article will seek to move the sustainability debate beyond LEO, by highlighting the potential risks to delicate space environments that arise from human activity in both exploring and settling other celestial bodies. The article will attempt to reframe the discussion on sustainability, advocating legal and policy solutions that need to guide future space activity to ensure that humanity avoids replicating the problems now found in LEO.

Victoria Roper and **Ray Arthur**
Article: 'Criminal Liability for Child Deaths in Custody and the Corporate Manslaughter and Corporate Homicide Act 2007 Child and (2018) 30(2) *Family Law Quarterly* 121-144.
Abstract: It is a scandal that in the 21st century child offenders, some of society's most vulnerable and disadvantaged individuals, still die in the care of the State. Deteriorating and potentially lethal conditions in youth custodial institutions throw into sharp relief the ineffectiveness of the Corporate Manslaughter and Corporate Homicide Act 2007 to operate as a deterrent against unsafe custody practices. Despite applying to adult and child deaths in custody, the Act has never been invoked to prosecute such a fatality. The applicability of corporate manslaughter to child deaths in custody has been almost completely neglected by legal scholars. This article addresses such dereliction of academic scrutiny by analysing how the corporate manslaughter offence might interact with the labyrinthine youth custody system. The conclusion is that the complexity of the system, combined with the technicalities of the Act, would lead to obfuscation at every step of the prosecution process. The death in custody provisions in the Act need to be amended if they are to provide any meaningful protection for vulnerable children in custody. At present the UK is not complying with its duty under Article 2 of the European Convention on Human Rights to secure the right to life by putting in place effective criminal law provisions to deter the commission of offences against the person in custodial institutions. There must be systemic change in the attitudes, policies and accepted

practices which generate the routine and systematic degradation of the rights of children in custody in the UK.

Guido Noto La Diega
Article: 'Some considerations on intelligent online behavioural advertising' (2017) 53 *Revue du droit des technologies de l'information* 66-67
Abstract: The Cambridge Analytica scandal in March 2018 was a useful reminder of how personal data is used for targeting users and of how such targeting has profound societal consequences. Online behavioural advertising refers to advertisements, which are tailored to the tastes and habits of the user who actually views them. It is an intricate phenomenon for a number of reasons, including a twofold regulatory interweave. Firstly, between top-down and self-regulation. Secondly, between the personal data perspective and the competition one. This paper aims to get the knots out in the belief that raising awareness about the issues in online behavioural advertising is pivotal to a fair online environment. The paper is particularly timely in light of new regulations (draft ePrivacy Regulation and General Data Protection Regulation), worrying industry moves (e.g. the Facebook / WhatsApp data synchronisation), and the advent of new technologies. In particular, it will be shown that artificial intelligence presents not only threats to consumers, but also opportunities for bespoke compliance mechanisms. As an appendix, the "Cooperative Charter for an Integrated Approach to Online Behavioural Advertising" is presented in order to facilitate the dialogue between the stakeholders and ensure a balanced regulation of online behavioural advertising.

Conference Papers

Ana Speed and **Kayliegh Richardson**
'Consideration of Whether Participation in the International "16 Days of Activism Against Gender Based Violence" Campaign is an Effective Teaching Tool for Raising Awareness and Understanding of Gender Based Violence'.
At the Directions in Legal Education Conference - Hong Kong, 1-2 June 2018.
Abstract: The international campaign, '16 Days of Activism against Gender Based Violence', seeks to raise awareness and understanding of gender-based violence in a variety of settings. The campaign requires its participants to join in in advancing the right to education and challenging violence, discrimination and inequality and take into account intersections such as gender, race, ethnicity, religion, sexual orientation, socio-economic status and other social identifiers.

Tony Ward
"'What has Defeated Historical Inquiry': Crime and the Inaccessibility of the past in Beryl Bainbridge's *Watson's Apology'*
At "Crime Fiction(s): Victorian and Neo-Victorian Narratives of Crime and Punishment", Edinburgh Napier University, 24 April 2018
Abstract: Bainbridge's novel is based on a real Victorian murder trial and incorporates large parts of a trial transcript. The paper discusses the extent to which it is either a "realist" or a "metafictional" text, and argues that what remains elusive is not the bare historical facts of the murder but the transitory mental states on which Watson's insanity defence depended.

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Anqi Shen
'"Migrant Fraudsters" in Urban China: An empirical study'
At the 16th International Symposium of the World Society of Victimology, Hong Kong, 10-14 June 2018.
Abstract: This paper examined rural migrant offenders who are engaged in fraud in urban China. Relying on data drawn from a larger qualitative study that focuses on internal migration, crime and punishment in China's reform era, it aims to provide an insight into the 'fraud business' – a form of organised crime – involving rural migrants in the Chinese context. It started with an introduction, which discussed the socioeconomic context (urbanisation and rural-to-urban migration) of the project. This was followed by a section that explained the research methods and data. Then, it presented the empirical findings on criminal acting of migrant fraudsters. More specifically, it explored socio-demographic profile of the migrant offenders who were involved in fraud, the means by which fraud was committed by them, and their motivations for engaging in the illicit business. It concluded with an analysis of the impact of multiple inequalities and social exclusion on rural migrant workers. It thus brings the link between internal migration, social inequality and crime. It argued that migrant lawbreakers are offenders, as well as victims of social stratification in neoliberal China. This paper is essentially a Chinese case study concerning dynamics and complexities presented in migration, crime and crime control, which aims to fill in the knowledge gaps in existing literature. Due to the global nature of migration and organised crime, the regional context in which this study took place has a broad international significance in the field of research.

Tony Ward
'Expertise, Trust and Criminal Evidence'
At 'Ways of Knowing: Epistemology and Law' University Westminster, 31 May.
Abstract: There has been a good deal of discussion in the recent philosophical literature of the part that trust plays in the epistemology of testimony. Much of this discussion is inapplicable to formal testimony in a court of law. Nevertheless, certain forms of trust do play a part in deciding whether to accept the testimony of witnesses in general and expert witnesses in particular. When constructively interpreted, English and Scottish law can be seen to include sound principles about when it is justifiable to trust witnesses. Unfortunately, it is likely that the practice of the courts often falls short of those principles.

Claire Bessant
'How parents conceive of the notion of privacy: An exploration of the private and the public, and of individual and family privacy'
At the Law and Society annual meeting, Toronto 6-10 June
Abstract: An ideology of family privacy has long underpinned English and US law. Behind the ideology are two key assumptions. Firstly, the family is unique and deserving of special protections (Article 16(3) UDHR). Secondly, the family is the 'quintessential "private" institution,' synonymous with the private sphere (Fineman 1999). The family institution is, however, ever-changing. Traditional conceptions of the family as a unit with homogenous interests may no longer be appropriate (Beck & Beck-Gernsheim 2007). Indeed, it has been argued that 'a family-based privacy right is out of sync with contemporary sociological reality' and should 'be replaced by a version of privacy that centers on autonomous individuals' (Jones & Peterman 1979). An extensive literature also now exists which critiques the very idea of a separate private family sphere (Schneider 1994; Boyd 1997; Moller-Okin 1989). Given the extent to which family members now post information

online one might also question whether today's family still inhabits a private sphere. To explore these issues, in 2016 and 2017, forty-five UK parents were interviewed and asked whether they considered their family's privacy, took steps to protect privacy, or knew how the law protected privacy. They were asked how and with whom they shared information, and whether they considered their family to be private. This paper reflects upon the interview findings and how they might be used to develop a family privacy ideology for the 21st century.

Victoria Roper
'Solicitors Qualifying Examination and Commercial Law Clinics: Presentation in Response to Solicitors Regulation Authority Address'
At the Commercial Law Clinics' Roundtable, 9 March 2018, Sheffield
Abstract: The SRA's proposed changes to legal education and training offer both opportunities and challenges for legal clinics and law schools. The SRA's proposed changes could be beneficial for legal clinics and might help to further establish clinical legal education as a mainstream part of legal education. Law schools are likely to be considering how their clinical programmes might help students to develop the competencies required to pass SQE 2. Legal clinics, focused on the practical application of the law to real life legal problems and skill development, appear to be natural SQE 2 preparation environments. Additionally, there is the possibility of clinics deciding to sign off on qualifying work experience. If clinics do decide to sign off on qualifying work experience there are a number of practical issues they must consider.

Frances Hamilton
'A Re-Evaluation of the Method of Incrementalist Change to Achieve Same-Sex Marriage - A Comparative Study between the United States and Europe,
At the Law and Society conference, Toronto, Canada, 8 June 2018.
Abstract: It is three years since the Supreme Court decision in Obergefell et al v Hodges, Director, Ohio Department of Health et al which requires all US states to license marriages between same-sex couples. This decision although having the effect of automatically enacting same-sex marriage across the US, was taken by an unelected court and in the absence of a democratic mandate. Many other countries worldwide have yet to enact same-sex marriage. Comparative constitutionalism with methods used in Europe and by the developing jurisprudence of the European Court of Human Rights, will be used to highlight alternative ways of enacting same-sex marriage. In particular comparisons will be drawn with the incrementalist based methods. This is often characterised by an intermediate stage of civil partnership legislation and the use of the legislative rather than the court based approach. The argument in favour of incrementalism is that it allows time for public opinion to develop and change. A re-evaluation is now required as to whether the American way was one to be emulated abroad. This remains important for many other countries worldwide who have yet to enact same-sex marriage.

Tony Ward
'When Circumstances Lie: The Trial of Justine Moritz
Frankenstein conference, Northumbria, 14 June
Abstract: In Mary Shelley's *Frankenstein* (1818) Justine Moritz is tried and executed for the murder of William Frankenstein, but the true culprit is Victor Frankenstein's Creature. The trial reflects concerns over the use of circumstantial evidence, with which Shelley would have been familiar from her father William Godwin's novel *Caleb Williams.* The trial also sheds important light on the chronology of events in the novel. It must occur, for reasons of which Shelley was aware, before the Genevese revolution of 1792. This means that certain scholars have dated the events in the book several years too late. There are strong

indications that William was murdered in May 1789 – significantly, on the brink of the French revolution

Chris Newman
'UK Space Sector: Law & Regulation'
At the Westminster Business Forum 'Priorities for the UK Space Sector'
Abstract: IThis paper provided an analysis of the legislative trends in domestic space law. Particular focus was placed on the recent Space Industry Act 2018, and a critique of some of the key provisions with reference to the stated aims of the U.K. Government were offered and parallels drawn with the legislative provisions in other jurisdiction. The paper concluded that legislation and regulation are often conflated and that the 2018 Act is only a piece of the governance framework and that other measures are needed to make the U.K. Space sector truly competitive.

Sue Farran
'Marine Protected Areas and indigenous rights'
At 'The rights of indigenous peoples in marine areas' conference, The Arctic University of Norway and the E.G. Jebson Centre for the Law of the Sea, Tromso, 7-8 June 2018 (invited participant)
Abstract: There is considerable competition among many of the world's developed nations to enhance their environmental credentials by declaring large swathes of the oceans as marine protected areas. This is not just a case of political brinkmanship but reflects shared global concerns about loss of marine bio-diversity, the perceived need to protect and preserve marine heritage for future generations and a more general shift towards regarding and increasing number of natural resources as 'common' property. The move towards identifying and declaring marine protected areas comes from the international community, regional organisations, national government, and perhaps most significantly from international and national non-government organisations (INGOs and NGOs), which in turn may represent research communities, philanthropists, charities, local, regional and international stakeholders. The extent to which the agendas of these actors reflect democratically determined choices is one area of concern. The other, which is closely linked to this, is the impact of marine protected areas on the lives and livelihoods of indigenous peoples and the extent to which their rights are balanced with those indicated above. The question is significant because most large marine protected areas are declared around islands or groups of islands where populations are small, economies are vulnerable to global fluctuations and the environment faces climate-related challenges. In many cases these islands are financially and constitutionally dependent on developed nations often as overseas territories, or and/or because they are geographically distant off-shore communities.

This paper looks across the world's oceans to map the incursions of marine protected areas on indigenous people whose lives are closely linked to the seas that surround them.

Malvika Unnithan
'More than Numbers: Our response to youth justice'
At the Howard League conference, 'Redesigning Justice' 21-22 March 2018
Abstract: In our world today, we use numbers to quantify, delineate and inform our understanding of things around us. The Youth Justice system in England and Wales is no different, using statistical data, the economy and arbitrary age limits as key numbers to determine policy and measure its effectiveness. However, these numbers only paint some of the picture on various pressing issues in youth justice, raising concerns about the kind of justice the system provides for youth in our society. This paper considers each of these numerical factors outlined to evaluate whether the focus on these numbers restricts the

ability of the system to provide adequate justice to young people. This is done by discussing the effect economic factors have had on the support provided, the use of statistics to reflect issues and the effectiveness of policy measures, and evaluating arbitrary age limits like the Minimum Age of Criminal Responsibility as a measure of a young person's understanding of their legal and moral responsibility. It argues that the Youth Justice System cannot remain hidden behind numbers and needs to change on a deeper level – on a level where youth are not treated or represented as numbers but active participants in the system. Therefore, it is necessary to redesign justice in our current Youth Justice System by placing the voice of the youth at the forefront.

Helen Rutherford
'George Vass: The role of the Newcastle press in the making and un-making of a monster'
At the Literary and Philosophical Society Conference on 6 June, 2018 '1868: A Civilizing Moment? Reflecting upon 150 years since the Abolition of Public Execution'
Abstract: This paper explores the role of the Victorian press in Newcastle constructing - and subsequently deconstructing - a criminal character. In Newcastle upon Tyne in 1863, George Vass was tried, found guilty, and hanged for wilful murder. Contemporary newspaper accounts refer to Vass's lack of emotional response during his trial and sentence. This in turn led many newspaper reports to describe Vass as without feeling, a bad character or a 'monster'. However, by the time of his execution, he had transformed into an 'unfortunate man, whose lot it was to die the death of a dog'. This paper examines the newspaper accounts, and the seeming redemption of Vass, and considers the role of the press in establishing a criminal identity for the contemporary readership.

Helen Rutherford and Clare Sandford-Couch gave an amended version of this paper at 'Frankenstein: A Multidisciplinary Conference', Northumbria University, 14 June 2018.

Andrew Watson
'Compensation, Distress and Damage. The impact of pre GDPR case law in a post GDPR world'
At the Institute of Record Managers Conference on 19th June 2018, hosted by Northumbria University
Abstract: The law relating to data protection has recently undergone a fundamental shift with the introduction of the General Data Protection Regulation across the EU. The GDPR brings significant changes to the enforcement regime and also to liability provisions for data controllers and data processors. A significant element of this change relates to how, when and what can be compensated for when there is a breach of the Regulation. Under the provisions of the Directive on the Protection of Personal Data claims for compensation were relatively limited, infrequent and resulted in underwhelming awards. In the UK such claims could only be brought where pecuniary loss could be established.

This paper examines the changes brought about by the implementation of GDPR to the role in which compensation claims will play in enforcement of data protection rules and the likely deterrent effect they may have. It analyses the impact of pre GDPR case law on the concept of damage in UK law as well as examining the potential for group litigation. Many breaches of data protection law involve large numbers of individuals. This paper looks at the impact of Various Claimants v WM Morrisons, and considers the potential for large scale litigation in the future. It considers how new provisions in the GDPR around breach notification might help to fuel more litigation in this field.

Sue Farran
'Redrawing the taxonomy of property law in the light of contemporary use of urban surfaces'
At the Modern Studies in Property Law conference, University College London, 10-12 April 2018
Abstract: Drawing on the jurisprudential work on Arvind and Sheehan (2015) which interrogates contextualist and interpretivist approaches to the taxonomy of private law and linking this with Gray's definition of property law, this paper looks at contemporary social interactions with urban surfaces to consider whether existing taxonomies of property law are fit for purpose or is some reframing needed? In particular, this paper takes into consideration the social interaction with the built environment reflected in activities such as graffiti, guerrilla gardening, and the leisure pursuit of park runs. These human engagements with physical space have been selected because each activity ranges across a spectrum of acceptable to unacceptable, legal to illegal or outlawed. They are activities with variable temporal impact on urban surfaces, and about which there are divergences of tolerance. They are also examples of uses of urban space that challenge the traditional concepts and principles underpinning the law of property in public places rather than the private space of the home. In particular they provide useful 'law in action' examples of Gray's grounds for challenging excludability and in doing so raise the possibility of developing a new taxonomy of property law.

Lauren Clayton Helm
'Obergefell v Hodges: Lighting the Bluetouch Paper For Harmonisation of the Law on Marriage Validity in the US?'
At the Law and Society Association conference, Toronto 7-10 June 2018
Abstract: Obergefell v Hodges was a landmark case in the US and provided same-sex couples with the ability to marry, and have that marriage recognised across all 50 states, however this paper will explore the wider implications of this US Supreme Court pronouncement. Considering the ease at which people are able to move across US state borders, it is easy to see how with the various rules on marriage validity, and state selected choice of law rules, the validity of a couple's marriage could flicker on and off like a light switch as they move from state to state. This paper will therefore argue that Obergefell and the subsequent legal developments sets a precedent, and that there is unequivocal support for the implementation of federal rules on marriage more generally. With Obergefell as the catalyst, the optimal choice of law rules for the essential validity of marriage will be proposed, to in turn, provide all couples with certainty regarding their marital status across the US.

Russell Hewitson
'The Role of the Under Sheriff in the Execution Process: A Critical Evaluation'.
At '1868 A Civilizing Moment?', Literary & Philosophical Society, Newcastle upon Tyne, 6 June 2018
Abstract: The role of the modern-day Under Sheriff is now largely ceremonial. However, before the abolition of the death penalty the Under Sheriff had a macabre part to his role. It was usually his responsibility to give effect to a sentence of death imposed by a court. Whilst this duty ultimately rested with the High Sheriff, it was invariably always delegated by the High Sheriff to his Under Sheriff. This responsibility dated from the time when all prisoners were held under the custody of the Sheriff. Even though responsibility for the custody of prisoners eventually passed to the government, under section 13 of the Sheriffs Act 1887 the Sheriff retained responsibility for those prisoners sentenced to death. The rationale behind this was that it provided the public with an assurance that the execution

would be carried out and controlled by someone independent of the government and who would have no reason for condoning any irregularity in the process. This paper will critically examine the Under Sheriff's role in the execution process using historical examples and reflect on the writer's own feelings as the Under Sheriff for the City and Bailiwick of Newcastle upon Tyne had he been required to perform such duties.

Tim Wilson

'UK participation in EU Justice and Home Affairs measures'

At the Strategic Hub for Organised Crime Research, Royal United Services Institute (RUSI), Workshop Series 2018: 'Brexit and the future of UK-EU police cooperation', 14 March 2018, RUSI, London.

Abstract: The phrase 'retaking control of UK borders' should not raise expectations that EU international criminal justice cooperation will be less important after Brexit. The UK's final future relationship with the EU member states and institutions is unlikely to be settled for some time. It is clear, however, that the Government, many parliamentarians and academics believe that the UK's continued participation in the EU criminal justice arrangements will be essential for dealing with cross-border crime and to maintain national security. Alternatives such as Interpol and extensive bi-lateral arrangements lack credibility. This partly reflects geography, and economic, scientific and social change since the UK joined the Common Market in the last century. It also reflects the proven ability of the EU to deliver criminal justice infrastructure projects that make possible, for example, the speedy and large scale sharing of data, and the safeguards now in place to ensure due legal process and the protection of fundamental rights. While the Government's ultimate objectives in this respect have been clear since it published the Article 50 letter, ensuring that deep and close cooperation continues poses major legal, financial and political challenges.

Sue Farran

'Is marine protection compatible with the right to economic development in Pacific Island States' Keynote paper

At the New Zealand Studies Association Conference, Aviero University, 27-28 June.

Abstract: The international community is keen to engage all states in the global agenda to protect and preserve marine habitat and ocean eco-systems. Developing the strategic goals of the Convention on Biological Diversity, Aichi Target 11 is for 17% of terrestrial and inland water and 10 percent of coastal and marine areas to be protected by 2020; the UN Sustainable Development Goal 14 is to conserve oceans, seas and marine resources; in 2016 the International Union for the Conservation of Nature advocated for 30% of the world's oceans to be protected, and the Nature Needs Half Movement is advocating 50%. At the same time it is recognised that indigenous peoples have a right to development and a right to determine their own form and pace of development. For Pacific island people that increasingly means developing a blue-green economy in which terrestrial and marine resources are utilised to advance the wealth and health of island people.

Building on research looking at the declaration of Marine Protected Areas around non-sovereign island states and the impact of these on the rights and lives of indigenous people more broadly, this paper looks at the initiatives adopted by Pacific islands to create marine protected areas (MPAs) and locally managed marine areas (LMMAs). In particular, this paper considers the motivation behind the creation of MPAs and LMMAs, the stakeholders involved, the management structures adopted and the benefits and/or disadvantages - not only to the environment but also to the lives of Pacific islanders - flowing from categorising marine resources in this way.

Laura Graham
'Reflections on a rights victory for sex workers'
At the Association of American Geographers Annual Meeting, 10th-14th April, 2018, New Orleans
Abstract: In the case of Bedford v Canada (2013), the Canadian Supreme Court held that sex workers' section 7 Charter right to liberty and security of the person and section 2(b) Charter right to freedom of expression were violated by a number of laws surrounding sex work. This case led to the (stayed) repeal of a number of laws relating to sex work. Within a year of the decision, however, the Canadian Parliament passed the Protection of Communities and Exploited Persons Act 2014 (PCEPA), which criminalised the purchase of sexual services, reflecting an understanding of prostitution as inherently exploitative. The applicants combined first-hand accounts of victimisation and criminalisation with detailed challenges to specific laws based on specific legal rights enshrined in the Charter. Bedford was seen as a victory for the sex workers' rights movement, with Valerie Scott, one of the plaintiffs, thanking the court for recognising sex workers as people. The PCEPA, however, shifted the law towards a more neo-abolitionist approach that increases the risks of harm, exploitation and police interference for sex workers in Canada.
This paper explores the significance and legacy of the Bedford case, to derive lessons for other jurisdictions seeking to challenge laws for violation of rights. This paper particularly explores: whose voices and experiences are valued in rights' litigation; the difficulties of translating reality into rigid rights criteria/language; and the potential backlashes of rights 'victories'. This paper questions, ultimately, are rights challenges worth it?

Laura Graham
'Walking the Scarlet Line: The implications of engaging in public science on the uptake of sex industry research in the policy realm'
At the Law and Society Association Annual Meeting, 7th-10th June 2018, Toronto
Abstract: There is an embedded conflict between policy, public, and academic science that may threaten the potential of sex industry related research to shape policy. If asked to lay the evidentiary foundation necessary for law reform, a researcher's public science activities -undertaken as commitment to ethical production of knowledge about the sex industry - can function to create a sufficient basis for an allegation of bias against the researcher, thereby reducing the value of the evidence and potentially dismissing the academic as an expert witnesses. This salon session explores whether it is possible (or desirable) to maintain sufficient objectivity to ensure that research findings and policy implications can be translated into law and policy reform while attending to public intellectualism and public discourse on such politicized issues.

Elizabeth Tiarks
'Restorative Justice: How I learned to stop worrying and love inconsistency'
At the Howard League for Penal Reform conference at Oxford University 21st - 22nd March 2018.
Abstract: Restorative Justice is often criticised as leading to inconsistent outcomes, where lay participants are afforded a significant amount of decision-making power concerning what should happen to an offender. This has led to a tendency to favour forms of Restorative Justice which are limited in how much power they truly devolve to lay participants and which have a stronger focus on achieving particular outcomes, which often involves significant input from criminal justice professionals. This tends to be with ideals such as proportionality and consistency of outcome in mind. Such forms of Restorative Justice have their strengths, but do not allow for the true empowerment of lay participants.

The paper sought to demonstrate why consistency of outcomes should not be of prime importance and will discuss flaws in arguments for consistency in sentencing. For example, arguing that as consistency becomes more the focus, it also becomes increasingly likely that the scope for decision-making will not be flexible enough to allow for the peculiarities of particular cases to be taken into account, and this makes it more difficult for justice to be done.

The aim was to show that consistency of outcome should not be prioritised above the empowerment of lay participants in Restorative Justice conferences. Empowerment offers many benefits, such as increased satisfaction in the process and an increase in penal legitimacy, which more outcome-focused restorative models, that do not fully take into account the views and wishes of lay participants, are less likely to achieve.

Gita Gill

'Environmental Rights and Justice in India'

At the 12th Annual Conference PIEL UK, City University London, 6 April, 2018 (invited speaker)

Abstract: India's green jurisprudence is an outcome of a proactive Supreme Court. The judiciary has expanded the constitutional meaning of 'right to life' to include environmental protection. The limited effectiveness of both the executive and administrators has promoted the judiciary into a *de facto* role as caretaker of the environment. The creation and usage of public interest litigation allows the rules of *locus standi* to be used by those claiming either 'representative standing' or 'citizen standing'. However, public interest litigation is not a 'magic bullet. Court clogging and major delays have undermined the common man's confidence in the legal process. Consequently, innovative judicial developments have been implemented to address these challenges. This has enhanced the role and responsibilities of the judiciary to undertake deeper deliberation on matters of constitutional rights and societal concerns including environmental protection. Illustrative examples include the establishment of the National Green Tribunal (NGT) and Social Justice Bench (SJB).

The NGT bench, a specialized environmental court, is comprised of scientific experts and qualified lawyer-judges. The result is scientifically based judgements that have been applied as policy statements with wide societal implications. In both the institutions, emphasis is placed on investigative and collaborative processes rather than the traditional adversarial practice. This paper is supported by site interviews in the SJB and the NGT coupled with reported cases.

Guido Nota La Diega

'Patenting the Internet of Things'

At PatCon8 – The Annual Patent Conference, San Diego, 2 March 2018

Abstract: This work addresses the main patent law issues related to the Internet of Things (IoT), i.e. computer-implemented inventions and standard essential patents (SEP) on fair, reasonable, and non-discriminatory terms (FRAND). In most jurisdictions, computer programs are protected, usually by patents and/or copyright and the trends seems to be towards making it easier for applicants to be granted a patent on a computer-implemented invention. In some instances, this has been done by introducing guidelines clarifying how to patent this kind of inventions. Other times, this tendency to favour computer-implemented inventions has expressed itself in a shift from the exclusion of computer programs from patentability to a limited exclusion of only computer programs per se. This paper considered various contemporary developments in Europe and beyond.

Tim Wilson
'The possible Brexit paradox: more extensive and sincere criminal justice cooperation?'
At at the Stockholm Criminology Symposium, 12 June 2018
Abstract: Transformative global changes - the increase in cross border movements, algorithmically enhanced data sharing and the securitisation of criminal justice - ensure that international justice cooperation is far more important than could have been anticipated when the UK joined what was then the Common Market in 1970. The EU has responded effectively to these changes, both in enabling the exchange of large volumes of personal data (e.g. Prüm biometrics) and, for more difficult and costly activities, with increasingly efficient and timely criminal justice casework measures (e.g. the European Arrest Warrant and European Investigation Order).

The generally Eurosceptic rhetoric of the May Government should not be mistaken for confusion on its part about the need for such cooperation to continue. It has been unable or unwilling to provide detailed proposals for the post-Brexit relationship, but there are strong legal and criminological arguments for ending the UK's ability (following the loss of its Lisbon Treaty opt-out rights) to cherry-pick its participation in measures intended to protect fundamental rights and promote rehabilitation. Paradoxically Brexit might result in greater UK integration in EU criminal justice cooperation and more 'sincere' (to use a term found in Art 4.3 TEU) cooperation with the overall aims in this domain of EU member institutions and states.

Gemma Davies and **Adam Jackson**
'Can the UK have her cake and eat it? Unpicking the Brexit fallacy in the area of criminal justice cooperation'
At the Stockholm Criminology Symposium 2018, 12th – 14th June, at the Stockholm City Conference Centre (Norra Latin).
Abstract: As the EU has expanded over the last few decades and the right to free movement of persons and goods has impacted more substantially (particularly after the introduction of the Schengen borderless area) the need for stronger cooperation between Member States has grown. The justification for increasing cooperation in criminal justice matters was, in part, founded on the acceptance that freedom of movement could serve illegitimate as well as legitimate ends. It was the British suggestion at the Tampere Council, which led to mutual recognition becoming the central principle of criminal justice cooperation. Built on a foundation of mutual trust we now have a raft of cooperation mechanisms (which include the European Arrest Warrant and the European Investigation Order) that the UK still wants to participate in after Brexit.

No other non-EU country has ever attempted to participate so fully in the area of criminal justice cooperation. The EU will have to carefully consider the justifications for allowing the UK access to any or all of these mechanisms if it is to maintain legitimacy in its legal order. Stumbling blocks to cooperation include the adequacy of data protection provisions and the obligation of the EU to protect its citizens by providing for effective defence rights. Such concerns have already been voiced in the recent Irish Supreme Court case of Minister for Justice and Equality-v-O'Connor. However, this paper suggests that the UK's relationship with Ireland provides a cogent basis upon which to justify greater access to cooperation mechanisms than any other non-EU country has previously been able to enjoy. In doing so the paper will explore the need to maintain the Common Travel Area as a vital underpinning of the Good Friday Agreement and the only example of a borderless area between an EU and non-EU country outside of Schengen.

Chrisje Brants
'Policing the dark web: intelligence v. evidence'
At the Stockholm Criminology Symposium, 12 June 2018

Abstract: Policing the dark web implies intelligence gathering, but to what end? If the objective is prosecution, then such intelligence poses a problem. Irrespective of jurisdiction, police will be reluctant to share intelligence - let alone use it as evidence - for three reasons: 1) any intelligence used as evidence must be able to be subjected to testing in court, in the United Kingdom through cross examination at trial, in civil law countries through inclusion in the dossier 2) this would involve giving away police methods and could endanger future operations, and 3) it may lead to revealing the identity of (vulnerable) sources. In this, policing the dark web does not differ from normal police (undercover) operations: any prosecution arising from intelligence gathered online would be subject (under national rules) to the same constraints as investigations off-line. Whereas in the UK, this could lead to police deciding that no prosecution should go ahead in order to protect intelligence, in the Netherlands, the situation is slightly different. If intelligence gathered on the dark web is used to 'steer' subsequent investigations, the issue is not whether it could be used as evidence but whether the way in which it was gathered renders the whole operation and subsequent prosecution illegal. Intelligence may also be used as evidence, but as the Dutch Supreme Court has established, this requires that the rights of the defence be duly respected. In that regard there is legislation which would allow it to be tested while safeguarding e.g. the identity of police informants; it is also possible to use information from the security services. Intelligence officers or the 'runners' of police informants, may be called as witnesses and would testify in disguise and using a number rather than their name.

Adam Jackson
'Policing Darkweb marketplaces: covert policing, surveillance and investigatory powers'
At the Stockholm Criminology Symposium, 12 June 2018
Abstract: The private, secure and usually untraceable nature of Darkweb Marketplaces makes them an attractive forum for criminal activity. Policing criminal activity on the Darkweb often requires a covert policing strategy involving inter alia the interception of communications and acquisition of data, often across jurisdictional boundaries. In England and Wales covert surveillance and the interception and acquisition of communications data is currently governed by the Regulation of Investigatory Powers Act 2000 supported by the Code of Practice on Covert Surveillance and Property Interference.
The Investigatory Powers Act 2016 has recently been passed by the UK Parliament but has not yet been brought in to force. The UK government consulted on potential amendments to the 2016 Act between 30th November 2017 and the 18th January 2018 and the outcome of that consultation is currently being awaited. The 2016 Act deals with the extent to which investigatory powers can be used to interfere with and to some extent curtail privacy rights and will potentially increase the scope of police powers in this area. This paper will critically consider covert policing and the regulation of investigatory powers in the context of cyber-crime with specific reference to the Darkweb and Darkweb Marketplaces. It will attempt to identify the likely effect of the Investigatory Powers Act 2016 (should it become law in its present form) and will consider the compatibility of the approach taken in England and Wales with EU level regulatory powers and data protection principles.

Gemma Davies
'Policing Darkweb marketplaces: a comparative analysis of the legal frameworks'
At the Stockholm Criminology Symposium, 12 June 2018
Abstract: Undercover operations on the Darkweb operate within Darkweb markets provide a primarily anonymous platform for trading in illicit goods and services and are a manifestation of the increasingly complex nature of transnational organised crime. Darkweb markets rarely exist solely within one national jurisdiction and their physical

location is often uncertain creating significant resourcing and technical demands for investigators. Effective policing of the Darkweb requires international cooperation. For example the FBI, the US Drug Enforcement Administration, the Dutch police and Europol worked together to take out AlphaBay and Hansa in July 2017. Although such operations demonstrate the collective power of the global law enforcement community, undercover operations on the Darkweb are at times controversial. In 2017 Australian police took over one of the Darkweb's largest child abuse sites for almost a year, posing as its founder in an undercover operation. Posting abuse material would be impossible for undercover police in the United States, but Australian police were permitted to engage in activities normally considered illegal in order to combat specific crimes and therefore took over the role of investigating the site despite having nothing to do with the original operation. This paper will consider the legal frameworks undercover police investigations on the Darkweb operate within from a comparative perspective and seeks to consider the extent to which divergence in these frameworks can assist or hinder law enforcement agencies. The concept of 'jurisdiction shopping' as a legitimate policing tool will be explored and its ethical and legal implications considered.

Gita Gill
'The Social Justice Bench of the Supreme Court of India: A Judicial Innovation'
At the Centre for Law and Global Justice, Cardiff Law School, Cardiff University, 18 April 2018
Abstract: Social and economic justice is at the heart of the Indian Constitution, which in turn, places a duty on the judiciary to protect the rights of every citizen so that they might live a life of dignity and well-being. Accordingly, the Supreme Court through judicial craftsmanship developed an integrated approach to merge non-enforceable social rights (Directive Principles) with enforceable fundamental rights, Part 3 of the Constitution, particularly the right to life with dignity (Article 21). The Indian judiciary, working within a common-law system, apply a human rights lens to analyse and address social justice issues. The Supreme Court in its endeavour to give voice and protect the interests of the poor and disadvantaged established the SJB. The proceedings before the SJB involve stakeholders in a cooperative and collaborative process allowing adjudication within a social context. A few current cases concerning food security and air pollution are reviewed being illustrative of the SJB at work. My presentation reflects work in progress including fieldwork regarding the newly created Social Justice Bench (SJB) of the Supreme Court of India.

Guido Noto La Diega
'The artificial conscience of lethal autonomous weapons: marketing ruse or reality?'
At the Law and Digital Age Conference, Doha, 19 February 2018
Abstract: There are two interwoven trends in cyber-counterterrorism. On the one hand, countries such as Israel and Russia announce the deployment of lethal autonomous weapons. Such weapons constitute the third revolution in warfare, after gunpowder and nuclear arms. On the other hand, researchers try and embed ethics into the design of these weapons (so-called artificial conscience or 'ethics by design'). The contention of this paper is that artificial conscience is a mere marketing ruse aimed at making the deployment of lethal autonomous weapons and other autonomous robots acceptable in society. Whereas there are strong reasons to object to this trend, some solutions to the pitfalls of ethics by design have been presented. However, they do not seem viable in a military context. In particular, the so-called customised-ethics approach is applicable only to commercial and civil machines. When deciding whether to kill 600 civilians in order to hit

14 al-Qaeda leaders, which set of values should be implemented? This is a compelling argument for banning lethal autonomous weapons altogether.

Guido Noto La Diega
'Rethinking privacy in the Internet of Bodies. An empirical qualitative research on platforms for men who have sex with men'
At the Computers, Privacy, Data Protection Conference, Brussels, 24 January 2018.
Abstract: The 'Internet of Bodies' (IoB) is the latest development of the Internet of Things. It encompasses a variety of phenomena, from implanted smart devices to the informal regulation of body norms in online communities. This chapter presents the results of an empirical qualitative research on dating mobile applications for men who have sex with men ('MSM apps'). The pair IoB-privacy is analysed through two interwoven perspectives: the intermediary liability of the MSM app providers and the responsibility for discriminatory practices against the users' physical appearance (aesthetic discrimination). On the one hand, privacy constitutes the justification of the immunities from intermediary liability (so-called safe harbours). Indeed, it is believed that if online intermediaries were requested to play an active role, e.g. by policing their platforms to prevent their users from carrying out illegal activities, this would infringe the users' privacy. This chapter calls into question this justification. On the other hand, in an age of ubiquitous surveillance, one may think that the body is the only place where the right to be left alone can be effective. This chapter contests this view by showing that the users' bodies are no longer the sanctuary of privacy. Bodies are observed, measured, and sometimes change as a result of the online experience. This research adopted an empirical qualitative multi-layered methodology which included a focus group, structured interviews, an online survey, and the text analysis of the Terms of Service, privacy policies and guidelines of a number of MSM apps.

Elizabeth Tiarks
'The cost of consistency'
At the European Forum for Restorative Justice conference in Tirana, Albania: 13th - 16th June 2018
Abstract: This paper argued that there is currently too much emphasis on proportionality and consistency, to the detriment of Restorative Justice and what it can offer in a criminal justice setting. Proportionality and consistency are widely held to be important principles of sentencing. It is therefore unsurprising that Restorative Justice proponents have become more and more engaged with these issues, as Restorative Justice has grown in popularity in the field of Criminal Justice.

The result has been an increasing focus on proportionality and consistency of outcome, particularly noticeable in relation to Restorative Justice conferencing. The pursuit of consistency and proportionality, however, comes at a cost. As these principles become increasingly prioritised, more restrictions are placed on the decision-making power of lay participants in the process, undermining the extent to which they can regain control of their conflict.

This is problematic, because empowerment of stakeholders is one of the key strengths of Restorative Justice. A further issue is that the principles of consistency and proportionality can be problematic and have been criticised in the wider sentencing and philosophy of punishment literature. These debates are often overlooked in Restorative Justice scholarship.

Rachel Dunn, Victoria Roper and **Vinny Kennedy**, 'Clinical Legal Education as Qualifying Work Experience'
At *LETR 5 Years On Conference*, 25th June 2018, Leeds

Abstract: Recommendation 15 of the LETR report stated that “arrangements for periods of supervised practice should… be reviewed to remove unnecessary restrictions on training environments and organisations and to facilitate additional opportunities for qualification”. Following the spirit of this recommendation, the SRA has confirmed that in future, work experience undertaken outside of a traditional training contract, including in a student law clinic, will count towards the required period of qualifying work experience (QWE).
However, a consideration must be made of the challenges that law schools may face if they choose to engage in QWE; and what practical considerations will they need to bear in mind if they decide to certify that the student has had the opportunity to develop the solicitor competences.

A number of Law staff from Northumbria attended and presented at this event, including Elaine Hall, Caroline Gibby and Emma Piasecki.

Guido Noto La Diega
‘Privacy by Contract-Design and Intermediary Liability of Dating Apps’
At the BILETA18 Conference, University of Aberdeen, 11 April 2018.
Abstract: Dating apps, like many online platforms, are increasingly used for illegal activities ranging from copyright infringement to stalking and harassment. In principle, platforms that act as mere intermediaries are immune from liability under the eCommerce Directive (so-called safe harbours. This regime is usually presented as rooted in the right to privacy and in the freedom of expression as enshrined in the European Convention of Human Rights and the Charter of Fundamental Rights of the EU. Indeed, it is believed that if online intermediaries were requested to play an active role, e.g. by policing their platforms to prevent their users from carrying out illegal activities, this would infringe the users’ privacy and freedom of expression. This paper calls into question this justification. On the one hand, online platforms breach their users’ privacy by monitoring them and by collecting a huge amount of granular data in an opaque way. On the other hand, they purport to invoke the safe harbours in order to disclaim all liability for any illegal activity carried out using the platforms. This research adopted an empirical qualitative multi-layered methodology, including a focus group, structured interviews, an online survey, and the text analysis of the Terms of Service, privacy policies and usage guidelines of a number of dating apps used by men who have sex with men (MSM apps). The interest for these kind of apps has recently reached general relevance, since the data of 27 million users of Grindr, the main MSM app, has been transferred to China, where there are regulations that regard homosexual content as ‘abnormal’ and enable the government to put in place ubiquitous surveillance and censorship. Lastly, in April 2018, Grindr users were outraged to find out that the company was sharing their HIV status data and sexual preferences data with third parties. Since this information was mentioned in the privacy policy, this suggests that traditional privacy transactions do not comply with the EU General Data Protection Regulation; accordingly, a ‘Data Protection by Contract-Design’ solution is presented. Platforms who routinely violate their users’ privacy and freedom of expression cannot claim immunity. To qualify for the safe harbours, they must behave in a privacy-friendly way, and Data Protection by Contract-Design is a stepping-stone towards this goal.

Other

Gita Gill was invited to Aberdeen Law School, University of Aberdeen to present a paper on ‘Courting Environmental Justice: The Adjudicatory Dimensions of the National Green Tribunal’, 28 February 2018.

Abstract: Access to justice rights, a strong procedural dimension, in environmental justice discourse requires fair, open, informed and inclusive state institutional processes. These are the means to redress environmental damage or harm, and enforce legitimate interests to further the rule of law and environmental sustainability. Within this context, the role of judiciary in shaping and facilitating the development of environmental laws, policies and principles is crucial. The judiciary act as an 'agent of development' institutionalizing deliberative and democratic participation and the construction of capabilities of individuals, groups and nature to ensure environmental governance.

India's green judiciary, particularly the National Green Tribunal (NGT), is an example of its transitional move through substantive and procedural creativity in the current socio-ecological crisis. The juristic and scientific interventions through interpretation of environmental constitutionalism alongside participatory and access rights provide responses and offer some redress resulting in an incremental move towards a developing and interpreting environmental law moving, albeit slowly, from an anthropocentric to an eco-centric approach. Centralising scientific experts (an epistemic community) within an adjudicatory setup determines pathways and provide future course of actions for a collective, symbiotic, inter-disciplinary, wise and timely decision-making. It has resulted in ground breaking, new insights about the environmental/ecological discourse. The Indian judiciary is unlikely to be the panacea for all environmental ills but it can provide a lead in terms of transforming environmental adjudication.

Claire Bessant presented a Poster, entitled 'The child's right to privacy: The complex relationship between parental consent and the child's consent'
At Children, Rights and Childhood Expo and Launch Event 2018, Birmingham, 22 June 2018, addressing the issue of consent for the use of images and the GDPR. In particular this poster detailed the findings of a study conducted between October 2016 and November 2017 which explored when parents themselves consider their child is able to provide consent. A wide divergence in approach was evident, from parents who consulted very young children to those who never considered their children's views. In light of the findings of this study it is suggested that parents and schools could do more to ensure that the child's right to privacy is considered and the child's voice is heard.

Victoria Roper sat on the 'Clinic and Qualifying Work Experience: Question and Answer Panel' at the CLEO Workshop – The SQE – Fit for Purpose? Fit for Pro Bono , 28 June 2018, Nottingham

Guido Nota la Diega was invited by the European Commission (DG Communications Networks, Content, Technology) to become a member of the European AI Alliance, a multi-stakeholder forum to discuss the future of artificial intelligence in Europe with the purpose of help informing the Commission in its policy making.

Gita Gill was granted the Global Initiative of Academic Networks (GIAN) in Higher Education Award by the Ministry of Human Resources and Development, Government of India (4th June 2018).
The GIAN program 'taps the talent pool of scientists and entrepreneurs, internationally to encourage their engagement with the institutes of Higher Education in India to augment the country's existing academic resources, accelerate the pace of quality reform, and elevate India's scientific and technological capacity to global excellence. The GIAN aims to garner the best international experience into Indian systems of education, enable interaction of students and faculty with the best academic and industry experts from all

over the world and share their experiences and expertise to motivate people to work on Indian problems.' (http://www.gian.iitkgp.ac.in/)

Gita has also been appointed as an Expert Assessor by the Ministry of Business, Innovation and Employment, Government of New Zealand for the MBIE Endeavour Fund (http://www.mbie.govt.nz/info-services/science-innovation/investment-funding/current-funding/2018-endeavour-round)

Helen Rutherford and Clare Sandford-Couch gave a talk at Jesmond Library on 31st May (with Patrick Low from Sunderland University), as part of their 'Thursday Night Talks' entitled: 'The West Walls Murder - "horrors perhaps unexampled in the annals of modern crime"'.
Abstract: On 27 February 1863 George Vass was convicted of the murder of Margaret Docherty in Newcastle upon Tyne on New Year's Eve. Vass was the last person to be publically executed in Newcastle. The three speakers discuss and explore different facets of the people and the places relating to this crime, and the punishment, in the context of nineteenth century legal history.

Clare Sanford-Couch, **Helen Rutherford** and Patrick Low (Sunderland),organised and hosted a conference of the Literary and Philosophical Society on 6 June, 2018 '1868: A Civilizing Moment? Reflecting upon 150 years since the Abolition of Public Execution'
A number of Northumbria colleagues: **Vinny Kennedy, Neil Harrison, Elaine Hall, Tony Ward, Caroline Gibby** and **Rachel Dunn**, chaired the panels and helped with the smooth running of the day. The conference welcomed 60 delegates from all corners of the country. The key notes were Dr James Gregory, Associate Professor of Modern History at the University pf Plymouth and Dr Lizzie Seal, Reader in Criminology at the University of Sussex. There were 18 papers from a variety of disciplines including law, literature, history, criminology, sociology and art. See https://1868conference.wordpress.com/
The conference was sponsored by The Royal Historical Society, Durham Centre for Nineteenth Century Studies, Northumbria - via the Law and Humanities Research Interest Group, and Sunderland University.

Claire Bessant was awarded some grant funding in March, 2018, by the Blagrave Trust Listening Fund, to the charitable organisation Investing in Children to enable them to conduct a two year project, as part of which Clare will be undertaking contract research for Investing in Children.
Clare was also quoted in relation to her research on sharenting in an article in the Guardian 'The "sharent" trap – should you ever put your children on social media?' https://www.theguardian.com/lifeandstyle/2018/may/24/sharent-trap-should-parents-put-their-children-on-social-media-instagram, and interviewed for TalkRadio on 25 May 2018 in respect of this research.

Gita Gill was invited as an Expert to Geneva on 23-24 February 2018 for the State Consultation Meeting for Human Rights Accountability and Remedy Project II (ARP II). The State Consultation addressed policy objectives and the elements of good State practice, and cross-cutting issues that emerge with regards to the effectiveness of State-based non-judicial mechanisms (specialist environmental courts and tribunals) to provide access to remedy in cases of business-related human rights abuse, including in a cross-border context. (http://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx). Gita was asked to contributed to policy input and more specifically to prepare the opening remarks for Session 1 on improving policy coherence between the work of State-based NJMs and judicial processes.

Chris Newman was interviewed for a piece in the Observer https://www.theguardian.com/science/2018/jun/09/asteroid-mining-space-prospectors-precious-resources-fuelling-future-among-stars and for Politico on GNSS and Galileo https://www.politico.eu/article/brexit-galileo-navigational-satellite-system-britain-eu-satellite-threat-falls-flat-with-brussels/

Tim Wilson gave oral evidence on 21st March 2018 to the House of Lords Select Committee on the European Union, Home Affairs Sub-Committee for its inquiry into *Brexit: Proposed UK-EU Security Treaty.* His evidence can be read or viewed at http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/brexit-the-proposed-ukeu-security-treaty/oral/81352.pdf

Chrisje Brants, Gemma Davies, Adam Jackson and **Tim J Wilson** organised two NCEJS panels at the Stockholm Criminology Symposium, 12 June 2018. Details of papers they gave are above.

A number of staff and PGR students presented papers at the annual Northumbria Business and Law Faculty Doctoral and Research conference held in the faculty on June 27-28.

Anqi Shen
Following publication of *Women Judges in Contemporary China* (Shen, Palgrave, 2017), https:// www.palgrave.com/gb/book/9783319578392, Anqi was invited by Women and Gender in China (wagic.org) to contribute a short article to a series on 'Women, Labour, Workplace and Tech'. Her article entitled 'Working women, maternity leave and early motherhood: A case study of female judges in China' came out on 16 April 2018, see https://www.wagic.org/blank-2/2018/04/16/Working-Women-Maternity-Leave-and-Early-Motherhood-A-Case-Study-of-Female-Judges-in-China?fb_comment_id=1682816305134238_1683549481727587

Mohamed Badar was invited by the UNHCR, to participate in the Second Regional Roundtable on Enhancing Dialogue and Partnership between Academia and UNHCR on Regional Displacement Crises, 14 May, 2018 Amman, Jordan. This Roundtable was co-hosted by UNHCR, the WANA Institute and the Columbia Global Center Amman, and involved the participation of over 40 participants from various think tanks, academic institutions and research centers from across the MENA region. This gathering provided a platform for academia to frame its role in influencing policy, programs and discourse related to displacement in the MENA region in the context of major global processes including the Global Compact on Refugees (GCR) and the Comprehensive Refugee Response Framework (CRRF). Further, this roundtable aimed to help formulate processes for more comprehensive evidence-based responses to regional displacement crises.

Guido Nota La Diega presented a paper on 'Blockchain and copyright' at the University of Milan Doctoral School Law Seminar Series, 6 March 2018, and presented the same paper on 10 May 2018 at the Startup Course organized by the University of Palermo.
Abstract: The more the blockchain becomes widespread, the more lawmakers develop an interest in regulating it. Most existing regulations, policies, and case law take a top-down approach and focus on BitCoin and, therefore, on fraud and anti-money laundering. A more participatory and holistic approach would be more suitable. Indeed, it is important to involve all the stakeholders and keep in mind all the potential socio-legal issues if one wants to ensure that the blockchain unleashes its full potential and benefits all the players

involved. After a brief introduction on general regulatory issues in the blockchain, this chapter will explore the impact of the blockchain on copyright. First, it will be discussed how this technology can make registration easier, more reliable, and compliant with freedom of expression. In particular, registration systems can be used for censorship purposes and can be tampered with. Since the blockchain has no single point of failure, it ensures that registration is not used by governments to censor undesired content. Second, a problem in common law jurisdictions is that moral rights can be waived and, therefore, authors and, more generally, creatives are usually forced to waive their right to paternity (or to be acknowledged as the author) and their right to integrity. The blockchain could be a technological mean to prevent this practice, thus contributing to fixing the structural imbalance of power of the creative industries, music included. Third, copyright management will be analysed and light will be shed on how blockchain can smoothen royalty distribution by decreasing the role of traditional intermediaries, though one can doubt that the middle man will actually be eliminated. There are a number of reasons that suggest that the blockchain will not get rid of intermediaries. These include the fact that traditional intermediaries are substantially investing in the blockchain and the fact that the enforcement of copyright online tends to target the intermediaries rather than the end-users; therefore, lawmakers and courts have a strong interest in keeping the middlemen in the loop. Fourth, copyright transactions can be secured thanks to blockchain-based smart contracts. However, it can be argued that these self-executing protocols are neither 'smart' nor 'contracts' and this has practical legal consequences. The efficient breach doctrine will be presented as evidence that in most jurisdictions the legal systems protect the fundamental right of contracting parties to change their mind and re-allocate the resources in a more efficient way by breaching the contract. The fact that contracting parties using smart contracts (and smart licenses) do not have such flexibility risks to limit the practical impact of this application of the blockchain to very simple and routinary transactions. More generally, it would seem that the blockchain can provide some opportunities to fix some of the problems of the copyright industry. However, society and law are built upon the assumption that individuals can change their mind, and this does not seem to be reflected in the lack of flexibility of this new technology.

Guido Noto La Diega presented a talk entitled 'Is fashion law? Is law fashion?' At the Launch of the 'Fashion Law' course, Milan, 5 March 2018
Abstract: The fashion industry is affected by an imbalance of power that goes beyond the outsourcing of part of the manufacture to developing countries. This imbalance characterises the whole supply chain and hinders freedom of expression, freedom to conduct business and, hence, creativity and innovation. In order to understand fashion, IP lawyers and lawmakers need to take into account that the law is not the main device regulating the relevant relationships. Indeed, fashion is a closed community, a family where complaining is rather frowned upon and where contracts do not reflect the actual relationships between the parties. In order to rebalance power, this article explores the possibility to treat good faith and inequality of bargaining power as unifying principles of contract law. However, in light of the evidence collected during a number of in-depth interviews with fashion stakeholders, it seems clear that social norms are the main source of regulation of relationships and, therefore, intervening at the level of the contracts may not be helpful. Competition law, in turn, may be of more help in rebalancing power; however, cases such as *Coty v Parfümerie Akzente* do not augur well. Moreover, competition law is useful when the relationship is over, but it is in all the stakeholders' interest to keep the relationship alive while fixing its imbalance. This study confirms recent findings that social norms do not only have a positive impact on fields with low IP-equilibrium and it sheds light on the broader consequences of the reliance on social norms and on its relationship to power imbalance. This work makes a twofold recommendation.

First, IP lawyers should engage more with the unfamiliar field of social norms. Second, advocates of a reform of IP aimed at transforming the industry to an IP-intensive one should be mindful that the effort may prove useless, in light of the role of social norms, especially if power is not distributed.

Mohamed Badar was commissioned by the European Commission to act as Senior Expert for the EuroMed Justice Project IV (Feb. 2017 – April 2018) to draft together with international experts a *Handbook on International Cooperation in Criminal Matters in the Southern Partner Countries* 380 pp. The Handbook is designed to be used by central authorities and other competent national judicial authorities, the criminal justice practitioners, including judges and prosecutors who are involved in international legal assistance. The overall objective of project which is funded by the European Commission is to contribute to the development of a Euro-Mediterranean area of effective, efficient and democratic justice system respectful and protective of human rights by the strengthening of the rule of law and continuously progressing towards the alignment to international legal frameworks, principles and standards. This project of regional scope is addressed to the European Neighbourhood South Partner Countries (ENI SPC). The project generated 25.000 euros as research contract.