2015

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Annual International Conference on Interdisciplinary Legal Studies

Conference Abstracts

AICILS 2015 (Oxford)
2-4 March 2015
University of Oxford, St Anne's College, Oxford

AICILS Oxford

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University of Oxford, St Anne's College
56 Woodstock Rd, Oxford OX2 6HS
United Kingdom

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Format for citing papers
Author surname, initial(s). (2014). Title of paper. In Proceedings of the Annual International Conference on Law, Economics and Politics, (pp. xx-xx). London, September 1st – 3rd, 2014.

These proceedings have been published by the FLE Learning Ltd trading as FLE Learning.
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KEYNOTE SPEECH

The Authority of Court Decisions in China: An Empirical Survey

Prof. Qiao Liu[1]

The current state of Chinese court decisions is unclear. Whilst China followed the civilian tradition in jurisdictions such as former USSR, Taiwan and Germany in constructing its modern legal system, and hence did not recognise court decisions as a formal binding source of law, at least some of these decisions are gaining influence through the adoption by the Supreme People's Court (SPC, the highest court in China) of a new Guiding Cases system and, more generally, due to the enhanced visibility given to a greater number of decisions of courts at different levels in recent years. This paper proceeds from a previous study on the making of contract law by Chinese courts and sets out a study plan for ascertaining the extent to which Chinese courts/judges are guided or influenced by prior court decisions on the basis of empirical data to be collected from interviews and surveys with Chinese judges. It will explore the possible difficulties in collecting and analysing such data, suggest solutions for them and identify options for conducting the empirical study. It will also draw comparatively the doctrine of precedent in common law countries to address the following enquiries:

• first, whether, despite the current legal status and presentational style of Chinese court decisions, they are starting to develop a line of ratio (partly as a consequence of an increased level of interaction with scholarly works), from which new principles of law can be distilled;

• second, in which ways a prior court decision may, if at all, influence a lower court in deciding a similar point of law and what is the way ahead for the Guiding Cases system to evolve into a more consistent and more stable system of precedents that suits the Chinese soil.

DAY ONE SESSION ONE
Session chaired by **Mrs. Jodi Gardner**
Presentation Group: Law
Conference Room - Seminar Room 8 (Syndicate Room)

Shareholder Primacy and Interests of the Company: How Economic Thought can be Transferred to Law

Dr. Paulius Miliauskas[2]

Economic reasoning in company law has become so intrinsic that it is getting harder to distinguish between legal and economical approaches to company law. Furthermore, in the scholarship of company law it has become traditional to combine comparative method and economic analysis of law. Some US scholars even imply that economics of corporate law is a synonym to corporate law jurisprudence itself. In this context, contractual theory of corporation currently dominates economic analysis of corporate law. This theory explains the contractual origin of corporation and enabling nature of corporate law norms. In addition, it incorporates economic agency theory and explains the

[1] Prof. Qiao Liu, Associate Professor, University of Queensland.
[2] Dr. Paulius Miliauskas, Lecturer, Vilnius University.

superiority of shareholders' interests in corporate law, i.e. why company law norms (or „the standard contract") provide or should provide rules, which primarily ensure interests of the shareholders. According to some authors, adoption of shareholder primacy model is increasingly taken for granted in, inter alia, transition economies. However, economic thought is not always clearly reflected in normative legal norms. A good example from corporate law field is the position of shareholders. In most continental European jurisdictions shareholders are viewed as members of particular company and managers have no direct legal obligations towards shareholders because managers have fiduciary duties to the company. Economic theorists, on the other hand, claim that shareholders should be considered as principals and managers as their agents. Thus, managers seem to have fiduciary duties directly to the shareholders. Such dichotomy in thought creates ambiguities and it is difficult to determine the line where economic arguments end and where legal position starts.

In the light of the foregoing, this article: (i) reviews the main arguments of contractual and agency theories of the corporation which support the shareholder primacy principle, (ii) discusses how this principle can be reflected in positive company law, and (iii) reviews to what extent shareholder primacy principle is reflected by legal concept of interests of the company.

The article concludes that legal concept of interests of the company is one of the main indicators of economic shareholder primacy approach. The concept can be used to link economic and legal thought in order to enrich interdisciplinary research in the field of company law.

Penal Populism: A Critical Examination

Prof. Makoto Usami[3]

Penal populism is conventionally construed as the pursuit of hardline penal policies to win votes rather than to reduce crime or promote criminal justice. Instances of this phenomenon have been observed and discussed in cases of many Western societies including Great Britain, the United States, Canada, Australia, and New Zealand. However, there are few empirical studies, much less normative studies, on such tendencies in non-Western legal systems. To fill this gap in the literature, this paper describes and examines penal populism in a broad sense, which has occurred in Japan since the beginning of the 2000s. The Japanese case is unique in that criminal policies have been made tougher to meet demands of victims' movements and the public opinion more generally, whereas politicians have not put forward hardline policies in election campaigns. This case is also paradoxical because crime rate reduced before legislative punishments and judicial decisions became harsher than before.

To begin with, I provide a brief review of the literature on the subject in the English-speaking world and identify its shortcomings. Next, I propose a distinction between narrow and broad conceptions of penal populism to grasp the Japanese case as well as some other cases. The narrow conception entails politicians' intentions to win votes, while the broad conception does not. Then, different aspects of populist punitiveness in contemporary Japan are described, and their political and cultural backgrounds are explained in depth. Moreover, I critically examine this phenomenon in the perspective of justice. I note that the ideal of justice includes two dimensions: comparative proportion and correlative proportion. It is then argued that penal populism—narrow or broad—violates these

[3] Prof. Makoto Usami, Professor of Philosophy and Public Policy, Kyoto University.

dimensions of justice. This paper concludes by pointing out that it is essential to pay attention to non-Western legal systems in order to develop the comparative study of penal populism.

The artificial real accession in the Romanian New Civil Code. Special hypothesis regarding execution of works exceeding the border with violation of another's right of property – A comparative approach

Ms. Adelina Vrancianu[4]

The problem of artificial real accession will be analyzed in this study both in terms of old and current Civil Code provisions and in terms of comparative law, European legal and Canadian systems. The current Civil Code from 2009 has brought new changes about the application and solutions regarding artificial real accession. The hypothesis in which a person is making works with his own materials on the real estate belonging to another person is developed and analyzed in detail from national and international point of view.

The scope of this analysis is to point out what are the changes issued from case-law and which ones are new, inspired from other law systems. The study has reserved a special place for the situation of execution of works with own materials exceeding the border with violation of another's right of property, where the variety of solutions brings into discussion the case of expropriation for private interest.

The new Civil Code is greatly influenced by the Civil Code from Quebec in comparison with the old code of French influence. The civil reform was needed and has brought into attention new solutions inspired from the Canadian system which have mitigated the permanent conflict between the constructor and the immovable owner. For example, now, the accession is applied not only with new constructions, but also for reparations or extensions of the immovable in accordance with a new regime for the necessary and the pleasure expenses.

The nature of the accession right and the moment of acquiring property is themes treated in the study.

In conclusion, the new Civil Code solves controversial issues and regulates new aspects, that remain to be confirmed by the future case-law.

Apology and the Corporation

Dr. Michael Siebecker[5]

Apology and the Corporation represents a multidisciplinary empirical research project that investigates the connection between corporate financial performance and instances of public apology following some corporate calamity. The empirical research helps to examine more precisely the role that apology might play in corporate law and business practices.

[4] Ms. Adelina Vrancianu, PhD, University of Bucharest.

[5] Dr. Michael Siebecker, Professor of Law, University of Denver College of Law.

The project on corporate apology entails three primary objectives: (1) determine empirically the connection between financial performance and instances of public apology following some corporate calamity; (2) investigate the nexus between the practice of apology and the fiduciary obligations of trust that corporate managers owe to stockholders and other constituencies; (3) ascertain from a sociological and organizational theory perspective the role that apology could play in business strategy. I hypothesize that public apology will correlate positively with corporate financial performance; apology will constitute an important philosophical component of trust that underpins corporate fiduciary duties; and that apology could provide an effective business strategy from an organizational theory perspective.

To accomplish these objectives, the study will measure the connection between financial performance and instances of apology using the stock prices of public companies listed in the S&P 500 Index following some corporate calamity (e.g., environmental disaster, major data breach, etc.) that occurred over the past twenty years. Using "event study" regression analyses to identify corporate calamities that produced a statistically significant drop in stock price and then determine whether subsequent instances of public apology produced statistically significant stock price gains, it will be possible to determine whether corporate apology has a positive effect on stock price compared across industry sectors and across an array of different types of calamities. Based on that empirical evidence, the study will investigate from a jurisprudential perspective how apology relates to the basic fiduciary duties of trust that corporate managers owe to stockholders and other constituencies. Moreover, from an organizational theory perspective, it will be possible to assess whether public corporate apologies represent effective means for repairing and sustaining business relationships.

The project represents an undertaking of substantial scholarly significance. Although apology has been studied in a variety of social and business contexts, an interdisciplinary empirical examination of the connection between stock performance and corporate apology has not yet been undertaken and remains original in design. Moreover, the connection between apology and corporate financial performance relates to ongoing investigations regarding the viability of the $32 trillion market for corporate social responsibility ("CSR"). To the extent a positive correlation exists between corporate apology and financial performance, some degree of trust might exist between corporations and investors to sustain the market for CSR. To the contrary, if no significant correlation between apology and financial performance exists, investors may already fail to trust corporate communications on matters relating to social responsibility. Thus, the project on corporate apology should provide significant clues regarding the basic viability of the $32 trillion market for CSR. In the end, the project will contribute significantly to our understanding of corporate behavior, investing strategies, the importance of corporate transparency, and the rules that should guide corporate disclosures going forward.

DAY ONE SESSION TWO
Session chaired by **Prof. Qiao Liu**
Presentation Group: Law
Conference Room - Seminar Room 8 (Syndicate Room)

Accountability as a Normative Foundation for Global Administrative Law

Prof. Yukio Okitsu[6]

As is readily observable from a global perspective, there are many supranational regulatory bodies and regimes, both public and private, and their decisions can affect individuals in the same way as those by national administrative agencies. It has been argued that such bodies and regimes should be, and are, regulated by legal rules and principles including accountability, transparency, and public participation, referred to collectively by some scholars as 'global administrative law' (GAL). In accord with the idea that such law exists and applies to global administrative actions, this author seeks to explain why and how such rules and principles apply in a global administrative space in which it is difficult to conceptualize the traditional underpinnings of an administrative regime, such as separation of powers, judicial review, and centralized governmental powers that are delegated and restrained by a democratic legislature.

In order to approach this question, the proposed presentation will focus on the concept of accountability as a central issue in global administrative law because most GAL scholars observe that one of the primary purposes of global administrative law is to promote and ensure the accountability of global administrative bodies. This presentation will examine and define accountability from the perspective of administrative law and will discuss how this concept can serve as the normative foundation for the existence of administrative law in a supranational context.

Although the term is commonly used without a clear definition throughout legal and political literature in the English-speaking world, the concept of accountability can be defined as a relationship between two people or entities in which one party has the obligation to explain and justify its actions to the other. When applied to an administration, it can be classified into two categories: political (democratic) accountability that requires the legislature and the government to be accountable to the public or the people to ensure their legitimacy, and legal accountability that requires governmental and administrative actions to be evaluated according to the law.

However, it is unclear in a global context to which people(s) and to what law(s) global administrative bodies should be accountable due to the lack of a global public and a unified global legal order. In considering this issue, this author supports neither global constitutionalism based on global democracy, because it is too unrealistic or at least premature for the moment, nor state-centrism that reduces the international society to a conglomerate of sovereign states because of the difficulty in explaining the existing global administrative space. Instead, this presentation will propose a third alternative: autonomous pluralism. This requires that each administrative body enjoy autonomy within its functional or territorial jurisdiction and be accountable to its constituency and its internal

[6] Prof. Yukio Okitsu, Associate Professor / Global Research Fellow, Kobe University / New York University.

law. Its internal autonomy, nevertheless, can be denied and other external authorities (such as states, the international society, or competing global administrative bodies ('peers')) are entitled to intervene when its actions exceed the limits of internal autonomy, e.g., endangering fundamental human rights

Securing registration of rural land rights through a uniform land title system for economic developments in South Africa

Mr. Maphuti Tuba[7]

The Constitution of South Africa, with its mandate to address the injustices of the past and to improve the life of every citizen, makes provisions for a legally secured tenure for persons or communities whose tenure is legally insecure as a result of past discriminatory laws. The Constitution further requires the drafting of legislation to address these injustices. On the twentieth anniversary of South African democracy, it is still a contentious question whether these objectives of addressing rural land tenure rights and their importance to economic development has been achieved. One of the obstacles to achieve these objectives arise from the dual systems of land rights in South Africa: one based on the Western landholding originating from the Dutch and the British, and the other based on customary law. These competing property interests have, to a certain level, been responsible for failure to advance a formal land registration with regard to rural land parcels. The question is whether it is possible to find a middle ground in terms of which both elements of these systems can be applied to construct a proper land registration system for rural land parcels. This paper analyses the land registration systems in South Africa and their effectiveness for economic developments of rural land owners through proper registration. The aim of the paper is to determine whether the elements of both Western and customary landholding systems may be applied to provide a uniform land registration of rural land parcels for economic development of rural land owners.

Gain-based damages for breach of contract: A South African perspective

Mr. Kwena Albert Seanego[8]

The aim of this paper is to look at contractual remedies in case of breach of contract and the problem posed when a breach is opportunistic. This normally happens when the contract breaker's aim is to make profits out of his/her act of breach, not that he or she cannot perform in terms of the agreement. At times, the plaintiff may not suffer financial loss due to breach of contract, but suffer non patrimonial loss as a result. The innocent party, in this kind of breach of contract, cannot claim damages, for only financial loss can be claimed in a contractual agreement. In terms of contractual damages, this position has a potential of leaving the plaintiff with no remedy should he not suffer patrimonial loss while allowing the contract breaker to keep the gains made due to his or breach. This position is certainly not ideal as it leaves a perception that law of contract allows or encourages breach of contractual obligations in order to make profit as a result. Should the position outlined above be allowed to persist, performance interests, which is one of the interests, protected by courts should there be breach, will be inadequately protected. In respond to this problem, a disgorgement remedy has since been

[7] Mr. Maphuti Tuba, Senior Lecturer, University of South Africa.

[8] Mr. Kwena Albert Seanego, Lecturer, University of South Africa.

recognised in English law and other jurisdictions in the world to deal with this problem and now the question is should South African courts follow their English counterparts in solving this problem or will the remedy be unfit in a South African context?

From the Legal Perspective of Emergency Management and Temporary Protection Status and Turkey's Legislation and Practices In Syrian Crisis

Mr. Serdar Tüney[9]

Immigration is a social phenomenon brought about by the human's inherent capability to move and being in a constant search for meeting his/her own needs. Immigration leads to social, economic and political changes across not only the countries where people migrate to and from but also those they pass through outside the target country. Hence, immigration is to be given paramount importance in governments' strategic priorities and policies, and social orders of societies.

In today's world, war and domestic disturbance are major factors stimulating the migration. Given the restricted resources of countries, governments have been trying to develop various policies and come up with practical solutions to handle with the massive migration. The temporary protected status is hence one of the systems designed with this purpose in mind.

Temporary Protection Status is a temporary immigration status given to the eligible foreigners who are under pressure to leave their native country, cannot return home due to a certain crisis in the home country, enter a different non-native country to find an immediate and temporary protection, and about whom cannot be taken any legal actions to grant them an international protection status as individuals.

Temporary Protection Status is applied when there is a massive immigration to the country closest to the home country because of the instinct to live in a neighboring country. It is a practical and supplementary solution which governments carry out in emergency management by not sending the foreigners entering the country in groups back to their native country within the scope of universal regulations and human rights without spending time on taking legal actions to identify individual status.

Due to the domestic disturbance in Syrian Arab Republic continuing since March 2011, approximately 2 million people have entered Turkey up to the present. With the increase in the abusing of human rights in Syrian Arab Republic since 2012, Turkey has followed an open-door policy toward Syrian refugees on the ground of the long history, cross-cultural bonds and neighborhood rights between two countries. Turkey has been quite generous in providing the Syrians with humanitarian assistance in both temporary sheltering centers and provinces within and outside the borders of it.

This paper first explains what temporary protection status means, then discusses the legislative amendments carried out by Turkey, which has 4 years of experience with regard to the application of temporary protection status, within the scope of the regulation in which the international temporary protection status is defined, and finally offers some practical implementations. It is hoped that this

[9] Mr. Serdar Tüney, Legal Specialist, Prime Ministry Disaster and Emergency Management Presidency.

study will contribute to the currently carried out international immigration and asylum regulations and policies by offering new insights.

On Transferable, Fallible and the Individual in Postmodern Legal Conceptualism

Mrs. Adela Teodorescu Calotă[10]

It appears that contemporary legal conceptualism is entangled in a 'mile of string'; no sooner a strand is found, researched and thus disentangled from the twine that makes up legal conceptualism, than the remaining others interlace ever so tightly until vagueness and approximation knot together with confusion and fallibility.

Metamorphosis is no stranger to law; legal concepts, structures, systems bear the imprint of continual changes in worldwide economic, political, social and cultural trends. Yet, postmodernity opens a chapter of unparalleled challenges to law's applaudable adaptability. Firstly, virtually everything now is a click away of being instantly and comfortably transferred and accessed, law included. It can, nevertheless, be argued that a timely, unrestricted gateway to a multiplicity of legal concepts – and their plurivocal terminological representatives – via legal information retrieval systems augments the intricacy of issues related to multilingualism and the translation, -fer, and -'plantation' of legal concepts pertaining to different legal systems. Secondly, the increase in the number of circulated 'legal borrowings' or 'legal transplants' as consequence of the fulminant expansion of global legal infra(supra)structures forces national legal systems to process huge amounts of legal information at an accelerated pace. It is a race against time at the end of which nation states successfully ingest all transferable legal items without, however, properly digesting them. Thirdly, the media – acting as a convenient interface between the watcher and the watched – manipulates daily quantities of legal information. In the light of this and following in the footsteps of postmodern precursors, it can be argued that in the process of being media-transferred, legal concepts bounce meaninglessly – or meaningfully altered – from one untrained eye to another to a point of no return, i.e. a sort of Kirkegaardian 'de-realization' of contemporary legal conceptualism. All three aforementioned topics of discussion, which in turn will be further analysed in the conference paper, have long set the agenda of postmodern jurisprudence. The novelty, in this case, consists of linkages that can be inferred from the way in which (a) changes in legal conceptualism affect behavioural patterns of individuals and (b) the individuals' propensity for an erroneous understanding of legal concepts may, in turn, exacerbate fallibility in law. Thus, it can be argued that availability of law on the Internet induces a certain state of indolence, as users – may they be legally trained, or not – tend to take content for granted without feeling urged to query about the appropriateness or correctness of legal translations. And, that transplanting legal concepts under time pressure leads to the superficiality of the adopters as far as their ability to delve into the depth of issues regarding the nature of legal borrowings, their original functions and roles, as well as their viability in the host legal system is concerned. And that, much as Duchamp's 'unruly' children, the media weave their own web of legal intricacies, catching the watchers' eyes, while feeding onto their sense of disorientation, lack of experience and insatiable thirst for sensational.

[10] Mrs. Adela Teodorescu Calotă, Doctoral Student, University of Craiova.

DAY ONE SESSION THREE
Session chaired by **Mr. Mohammed Thanvir Ahmed Chowdhury**
Presentation Group: Law
Conference Room - Seminar Room 8 (Syndicate Room)

Legal Framework of Medical Tourism in Malaysia.

Dr. Fatima Lawal[11]

Medical tourism is becoming a popular option for tourists seeking medical attention across the world. It involves predominantly biomedical procedures, ethical issues combined with travel and tourism. Medical tourism is fast growing multibillion-dollar industry around the world and it is an economic activity that entails trade in services and it's a combination of two of the largest world industries: medicine and tourism. The term has been employed by the travel agencies and the media to describe the rapidly growing practice of travelling across international borders to obtain medical care. Malaysia is one of the countries that are promoting medical tourism aggressively. The key concerns facing the industry include: absence of government initiative, lack of a coordinated effort to promote the industry, absence of a clear cut legal framework, medico-legal and ethical issues and lack of uniform pricing policies and standards across hospitals. This paper therefore examines the legal framework for medical tourism in Malaysia and also looks at the prospects and challenges facing the industry and made some recommendations for creating an enabling environment for this sector to flourish.

KEY WORDS: Medical Tourism, Legal Framework, Environment, Industry and Government Initiatives

Responsible Borrowing and Lending

Mrs. Jodi Gardner[12]

The regulation of high-cost credit (referred to frequently as 'payday loans') has received unprecedented media, academic and government attention recently. The focus has however been almost exclusively on the actions of the lending institutions, which have frequently been labeled as exploitative, predatory and unconscionable. There is a strong legal regime currently in place to limit the lending activities of firms in an attempt to curb their perceived irresponsible behaviour. In the United Kingdom, credit providers are required to abide by the Financial Conduct Authority's 'Irresponsible Lending Guidelines', which set out the steps businesses must take in order to be considered 'responsible' in their lending activities. Despite these legal requirements, there is significant evidence of continued irresponsible behaviour – for example, the UK's largest payday lender, Wonga, was recently found to have breached its obligations and has ordered the firm refund outstanding loans to hundreds of thousands of borrowers, at a cost of over £330 million.

The legal and social obligations on lenders have been subject to significant analysis recently, largely due to this evidence of irresponsible practices. The focus on responsible lending, as opposed to responsible borrowing, in the consumer credit industry provides an interesting contrast to the welfare system, which is strongly focused on responsibility of the individual as opposed to the system as a

[11] Dr. Fatima Lawal, Principal Lecturer, Twintech International University.
[12] Mrs. Jodi Gardner, Associate Member, CHASM, University of Birmingham.

whole. This paper will look at high-cost credit from the other side of this equation, analysing the concept of responsible borrowing. Whilst there is a legal obligation on firms to lend responsibly, should there also be countervailing obligations, legal or otherwise, on individuals to ensure that they are borrowing in a responsible and appropriate manner? It is clear from the consumer protection legislation that borrowers of high-cost credit have significant rights, but should they also have responsibilities? These could include only applying for credit for necessary expenses and in conditions where they will be able to repay, ensuring that they understand the terms and conditions of the credit obtained and providing lenders will complete and accurate information about their borrowing history and ability to repay. If responsible borrowing is something our system wants to emphasise, we must then also consider how the law, and social policy in general, can engage with these issues. For example, what reforms can be instigated to encourage more responsible and appropriate borrowing activities?

Our paper will analyse the findings from qualitative empirical research with borrowers obtained from an AHRC research grant on responsible lending and borrowing, combined with the available legal, social policy and economic geography literature, to consider these central but often largely ignored issues. It is important to stress that our empirical borrower data has seen little evidence of irresponsible borrowing or inappropriate customer behaviour; regardless, these questions are important to the broader issues about the free market, paternalistic nature of the state and role of the law in society, and are therefore highly deserving of further consideration.

Violation of Freedom of Expression: The Case of Internet Restriction

Ms. Mohaddeseh Moheimani[13]

Nowadays internet plays an important role in our everyday life. People use this widespread technology in different ways such as entertainment, trade, advertisement, communication, medical surgeries, spreading news, political conference, scientific research and so on.

Regulating internet and access to it is a new issue that attracts jurist attention. The regulations consist of different fields such as: who can use internet? How to use internet? To what extend people should have freedom in internet?

If people want to use the internet, they should have access to it and freedom to use it. In some countries accession to internet is limited because of various reasons; some of the limitations are justifiable and some of them are not.

Freedom of expression and freedom of information are two fundamental rights that have been enshrined in different human rights conventions. However, there are states that limit these rights for variety of reasons. Limitations can be in different forms but in the modern world “Internet filtering” is one of the most important ones.

In international law, freedom of expression is mentioned in the UN and Regional Declarations and Conventions such as article 19 of the Universal Declaration of Human Rights, article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 10 of the European Convention on

[13] Ms. Mohaddeseh Moheimani, Practicing Lawyer, Central Bar Association of Iran.

Human Rights, article 22 of the Cairo Declaration of Human Rights in Islam and Universal Islamic Declaration of Human Rights.

The proposed research ventures to study the legal aspects of "Internet Filtering". The questions of research are: "How Government Violate International law and Human Rights Principles in the area of Internet? Is internet filtering a national issue or it can have international aspects?

Despite rich literature on the issue of human rights and freedoms, there is a scant number of researches on the above mentioned subject. Because of the important and inevitable role of media and internet in our everyday life, spreading information and promoting transparency, it is vital to know more about the role of governments in limiting people awareness and freedoms.

DAY ONE SESSION FOUR
Session chaired by **Dr. Yassine Bourouais**
Presentation Group: Law and Governance
Conference Room - Seminar Room 8 (Syndicate Room)

Global Governance and Africa's Development

Ms. Hatun KORKMAZ[14]

Global governance is a movement towards political, social and economic integration of transnational actors aimed at negotiating responses to problems that affect more than one state or region. It tends to involve institutionalisation. The term "global governance" may also be used to name the process of designating laws, rules, or regulations intended for a global scale. Global governance is an important positive factor developing or underdeveloped countries in the development.

As the British prime minister declared in 2001 , African poverty and underdevelopment has been known as "a scar on the conscinence of the world" for many years. Since the mid-1990s, this continent has defied the old negative stereotypes of poverty and failure by achieving steady economic growth, deepening democracy, improving governance, and decreasing poverty. African countries have made substantial progress over the past two decades, characterised by higher growth and modest improvements in social and human development. It has also experienced an improvement in governance, with the majority of countries embarking on democratic changes, forging ahead towards egalitarian representation, including along gender dimensions, and regular universal elections. The continent may pursue to better position itself to take advantage of global governance and establish a stronger base for long-term development.

This paper explores the effects of global governance in the development of Africa in the 21st Century. The paper has identified the current global governance structure and aspects of globalization which have major implications for African economic, social and human development.

[14] Ms. Hatun KORKMAZ, Lecturer, Erciyes University.

Human Rights in Islam: A Critical Analysis in Light of International Human Rights Law

Mr. Ahmed Balto[15]

There is no precise definition of human rights in Islam for two main reasons. First, most human rights discussions in Islam refer to the religious texts - the Holy Quran and Sunnah - without providing a comprehensive meaning for them. Islamic jurists tend to interpret the meaning of rights mentioned in the Holy texts literally, without properly interrogating them or adjusting them to the context of the modern world. Second, if the Islamic jurist does not derive human rights directly from Islamic texts, then he/she may borrow certain Western conceptions and redefine them according to Sharia law. For example, article 24 of the Cairo Declaration of Human Rights in Islam states that "all the rights and freedoms stipulated in this declaration are subject to the Islamic Sharia" but fails to offer a definition of Islamic Sharia. This complicates matters further when one attempts to understand the meaning of human rights in Islam.

This paper explores the definition of rights in Islamic law and argues that it generally places more emphasis on obligations rather than rights. However, the paper asserts the effectiveness of addressing human rights in this way – through imposing duties – and argues that this method does not in fact conflict with the Western language of rights, for two main reasons. First, the proposition of placing obligations on individuals for the sake of society, although not effective in the West, does exist there, a point that will be discussed in detail. Second, the language of duties can significantly enhance the language of rights, as long as the ultimate aim is shared by both methods. This shared aim refers to the basic principles of morality such as freedom, equality and autonomy. The paper argues that the languages of rights and duties are just "tools" required to reach a bigger goal, which is applying the basic law of morality that preserves a minimum standard, one that enables humans to live together in peace and harmony.

Ultimately, the paper clarifies the literal meaning of rights mentioned in the Holy Quran in the language of duties, and attempts to discuss the proposition that even if rights are not explicitly recognized in Islam, the fact of imposing duties implicitly protects the rights of others. The paper concludes that almost all rights have corresponding duties in respect to individuals and they may be seen as two readings of the same reality; as Joel Feinberg confirms, "it is unquestionably true that when one party owes something to another, the latter has a right to what he is owed." To put it differently, in the case of inheritance, we can say that "x" has the right to inherit or "y" has an obligation to give "x" his share of the inheritance. Any conflict, therefore, between Islamic and Western approaches to human rights, is resolved if the same outcome is reached – in this case, that "x" receives his inheritance.

[15] Mr. Ahmed Balto, PhD Student, Trinity College Dublin.

Analysis of comparative English media reports that related to the aftermath of the Fukushima Daiichi nuclear power plant disaster.

Dr. Makoto Sakai[16]

The research undertook a comparative analysis of media reports that related to the aftermath of the Fukushima Daiichi nuclear power plant disaster. The paper also researched advanced countries' media reports on the nuclear power technology field, and especially those from the United States, the United Kingdom, Germany, and France and so on. It focuses on researching these countries' news contexts and changes to their nuclear policies, and compared the public opinions on nuclear power policy reflected in each country's media. According to Ulrich Beck, in a society steeped in risks and uncertainty, the existing political system becomes the malfunction, and technology is tinged with political characteristics. Consequently, a new type of democracy that controls risks and uncertainty through academic means is needed. This paper uses the framework of sociology and media studies to clarify the different contexts for nuclear power policy, which Japanese media has not reported well, in the above-mentioned countries, and contribute to the enhancement of self-information-governance educational materials about nuclear power technology. Currently, international media companies publish news in the newspapers and on their websites in English. They post large amounts of content every day, and update it frequently. This paper gathered news texts on the aftermath of the Fukushima Daiichi nuclear power plant disaster from newspapers and websites. For example reports of France and Germany were more realistic among other European countries. It can be said that the response towards nuclear safety of these two governments showed "Contrasted route" to which Japan should refer in the future. The research then categorised these reports into four groups to analyze what the media in the above four counties have reported about Fukushima: 'same context' (typical context), 'a different context from other countries' media', 'a changing context from before', and 'proposals for the decommissioning and reconstruction process in Japan'. After analying the literature, the paper concludes that this nuclear accident in Fukushima is unquestionably "a man-made disaster" occurred by having neglected the improvement of the problem that was bound by the one like "law of the nuclear power village" such as "the nuclear power plant is safe and information disclosure is unnecessary" and pointed out from the outside and the effort of information disclosure. In the near future, what is necessary for Japan is not only to promote the technology around the nuclear reactor but also to introduce "the technology that the civilian observes nuclear power village" composed of the bureaucracy, the academy and the company that have to do with nuclear power generation.

[16] Dr. Makoto Sakai, Associate Professor, Bunkyo University.

How protected are children under the Southern African Development Community (SADC) regional instruments? An audit of the SADC instruments relevant to the protection of the rights of children affected by HIV/AIDS

Dr. Rofiah Sarumi[17]

The Southern African Development Community (SADC) as a regional organisation has an obligation to protect all the people of Southern Africa. They also have the duty to extend this protection to children affected by HIV/AIDS.

SADC's mandate to combat HIV/AIDS has resulted in its adoption of HIV/AIDS-related binding and non-binding instruments and engaging in a number of HIV/AIDS-related programmes. The SADC Treaty, which is the only binding SADC instrument, makes combating HIV/AIDS and other communicable diseases one of its objectives. There are a number of other non-binding, but HIV/AIDS-specific instruments which include the SADC Model Law, which employs a rights-based approach to protect people living with HIV/AIDS (PLWHA) by focusing more on the rights of vulnerable and marginalised groups and suggests ways by which different countries can mainstream the rights of PLWHA into their domestic legislation. The Maseru Declaration on the Fight against HIV/AIDS in the SADC region deals with how states can fight the HIV/AIDS epidemic and suggests strategies for mitigating the impact of the epidemic on PLWHA; and the HIV/AIDS Framework and Programme of Action suggests how states can intensify their measures and actions in order to fight the spread of HIV/AIDS and to address the HIV/AIDS epidemic.

This article looks at the extent of the protection offered by these instruments to the rights of children affected by HIV/AIDS in the region. It particularly examines the SADC Model Law as it contains the most extensive guidance on how legal framework should respond to HIV/AIDS and it single-handedly deals with the wider array of HIV/AIDS-related issues than any other single instrument in Africa.

Most of the instruments discussed in this article acknowledge the need to protect children affected by HIV/AIDS despite the fact that most of them are not made specifically for the protection of children affected by HIV/AIDS. Children are also regarded as members of a vulnerable group and in most of the instruments; the protection available to the members of the vulnerable groups is available to children.

The article submits that there is a need for more specific child-focused guidance at the SADC level, as the instruments, including the Model Law, does not deal with a number of complex issues such as guardianship, protecting the child's property rights and the sexual and reproductive rights of children to protect themselves against HIV infection.

[17] Dr. Rofiah Sarumi, Postdoctoral Fellow, University of KwaZulu Natal.

DAY TWO SESSION ONE
Session chaired by **Mr. Maphuti Tuba**
Presentation Group: Interdisciplinary Studies and Intellectual Property
Conference Room - Seminar Room 8 (Syndicate Room)

When a Trade Mark Use is Not a Trade Mark Use? A 3D Perspective

Dr. Jamil Ammar[18]

A trade mark infringement claim is based on use in the course of trade. In Arsenal Football Club Plc v Reed, Advocate General Colomer pointed out that it would not infringe BMW's trade mark for an individual to put in on a key ring. So in principle, it would appear that, unlike use for commercial purposes, the use of a 3D trade marked object for personal use might not fall within the boundaries of infringement. According to Bradshaw and Bowyer, even the use of a 3D branded item for commercial purposes might not necessarily infringe the trade mark, if the user can prove that the 3D object was not used in 'the trade mark sense'. But what if a user modified a Computer Aided Design (CAD) file to produce trade marked handbags and then reposted the file online for free which empowered others to print 3D counterfeit handbags? Would such an act be considered as a use in the course of trade or a use in a trade mark sense? Would the use of the trade mark in connection with the CAD file be considered a trade mark use per se? Would the answer be different where the logo and item files were separated in the CAD file? What if a trade marked object on CAD file was printed at home for personal use? Would this infringe the mark considering that the number of infringers could reach hundreds of thousands and with some stretch of imagination millions? Drawing on UK and EU trade marks laws and their application to 3D printing, this paper will examine whether key trade mark principles can accommodate the specificities of 3D printing or whether we need to rethink our existing rules in this area. To this end, this paper will question the extent of which the use of a CAD file could infringe a trade mark and, if so, in what context. Highlighting a few challenges for the rights holders the paper stresses the need to rethink the concept of a trade mark use in this rapidly changing field. It is concluded that the current legal system is capable of tackling many trade mark-3D concerns. In this regard, the quality function of a trade mark is likely to gain considerable legal and practical importance within the parameter of 3D printing world. Key words: 3D printing, CAD file, trade mark use, intellectual property

A Critical Examination of the Patent Licensing and its Effects on Patent Property Rights in Nigeria

Mr. Oladiran Ayodele[19]

It is pertinent for developing nations like Nigeria to focus on the functionality of national systems of innovations and technology and to develop a robust, measureable, sustainable and beneficial Intellectual Property Protection. This paper critically examines the patentability of invention in Nigeria. The paper also examines voluntary licensing to be negotiated by the parties at reasonable commercial terms and conditions within a reasonable time; failure of which an application can be made to court

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[19] Mr. Oladiran Ayodele, Lecturer I, Osun State University.

for compulsory licensing of patents. The paper further discusses compulsory licensing of patents in Nigeria vis a vis a comparative discourse on patent licensing in other jurisdictions. The patents laws of two fast growing economies e.g. India and China are examined with a view to drawing a relationship between these selected countries and Nigeria as a result of its experience in Colonialism while under Britain. The influence of Treaties/Conventions especially the Trade-Related Intellectual Property Rights on the Nigerian Patent system cannot be overemphasized. It has taken steps towards the recognition of the fact that inventions are not territorial. The paper discusses the effects of Trade-Related Intellectual Property Rights on patent globally and Nigeria in particular. The World Intellectual Property Organization has recently made efforts to harmonize the material patent law in the entire world. This paper shall discuss the contributions of WIPO and other Treaties/Conventions towards the development of patent and patent licensing in Nigeria. The paper examines the justification for and against compulsory licensing provisions. It shall, through its in-depth analysis of the Patents and Designs Act of Nigeria and its relationship with compulsory licensing identify the obvious gaps and makes far reaching recommendations for necessary reforms of the existing Nigerian laws to ensure that it conforms to international best practices as encapsulated in Treaties and Conventions.

Key words - Invention, patentability, compulsory licence, treaties/conventions.

Compulsory License and Access to Medicine in India: A Critical Analysis

Mr. Sakthivel Mani[20]

With the expansion of product patent regime to the pharmaceutical products due to the TRIPS obligation, many developing countries and the Least Developed Countries (LDCs) have been confronting a crucial social problem i.e., access to medicine at an affordable price. Though India being a developing country has not been witnessing such crucial problems with few exceptions due to its strong generic drug industry. However, those few exceptions are the real disturbing factors because most of the cases are life saving drugs and/or cancer drugs which have been patented. So as to overcome from the public health crisis, compulsory license has been used to reduce the price substantially, which has even been upheld by the Apex Court for such invocation. As a result, this type of medicine is made available at an affordable price for at least 50% of the total population.

If it is the result of compulsory licensing, it is very pertinent to raise a question that whether compulsory licensing will alone take care of the health care crisis in India. This research question will be discussed with the help of available literatures. In this paper, health care issues in brief will be addressed in the first part with a special focus on access to medicine. In the second part, nexus between the patent and access to medicine will be discussed from the post TRIPS scenario. In the next part, how far the Indian compulsory licensing system addresses the issues of access to medicine. These research issues would be addressed by critically analyzing the relevant provisions of Indian Patents Act along with the relevant cases. Appropriate and relevant suggestions which are inevitable would also be provided based on the above discussions.

[20] Mr. Sakthivel Mani, Assistant Professor, University School of Law and Legal Studies.

The Challenges of Self Actualization Process at Higher Education: A Study in the Public Universities of Bangladesh

Mr. Mohammed Thanvir Ahmed Chowdhury[21]

For the economic growth and overall national development the first and foremost pre-requisite is education. However, it is recognized that ensuring primary education for all is only a necessary but not sufficient condition. It needs to be complemented by higher education. But the domination of power and politics is a common phenomenon at most of the public universities in Bangladesh. Very often different types of political and non political movements arise from both students and teachers community which are not publicly manifested. But most of the cases emerge from hidden intention of many beneficiary groups which go against the university rules and to some extent violate the "University Ordinance Act". Due to political unrest, sometime universities remains closed and academic year become lengthy. What a man can be, he must be. This need we may call self-actualisation. It refers to the aspiration for self-fulfillment to become actualised in what he is potential. To determine perceptions of self-actualising behavior as a purpose of higher education, students, teachers, and administrators should essentially agree that higher education should develop self-actualising behaviors. These three groups are equally important and inter connected for a university to develop. But unfortunately we find an opposite picture in most of the public universities of Bangladesh in recent years. Why meritorious students are being involved in different anti academic activities in which they are not supposed to be? This question suggests a sense of responsibility and expresses the problem of autonomy and solitude. These problems demand attention to identify the issues and implications for self actualisation in higher education. Henceforth, it is very important to find out the challenges of self actualisation process in higher education and reveal out the unexpressed true problems of public universities in Bangladesh.

Key Words: Self Actualization, Higher Education, Public University

History of Infant Adoption in Modern Japan: The Patriarchal Nature of Japanese Society

Dr. Kashimi Yoshida[22]

From the pre-modern era, Japanese society has had laws and a custom of adoption of both children and adults, and adoption has been a popular focus of legal and anthropological studies in Japan. Regarding modernization of the Japanese adoption system, previous researchers have indicated that, over time, the system has passed through three main purposes: 1) maintenance of "ie" (Japanese traditional family); 2) interests of adoptive parents; and 3) well being of children in need of care.

The Special Adoption Law was established in 1987 as part of child welfare policy. However, recently the number of adoptions under the Special Adoption Law has totaled only about 300 annually, while almost 90% of infants and children in need of care, more than 30,000, live in infant homes or other

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institutions. Previous researches has not revealed the background of this apparent failure to increase special adoptions.

In order to explain the current situation regarding infant adoption in Japan, this paper aims to provide an alternative historical view of the modernization of Japan's adoption system. The paper examines the impacts of the Child Welfare Act of 1947, the Eugenic Protection Act of 1948, and the Amendment of Civil Code in 1947.

Before World War II, professionally trained midwives supported pregnant women and mothers by sheltering their infants and arranging formal and informal adoptions. However, during the US occupation, the Japanese government regulated midwives' practices and established infant homes under the Child Welfare Act of 1947. Soon after, 1948 Eugenic Protection Act was adopted, allowing doctors to perform abortions within the first seven months of pregnancy.

In 1973, Noboru Kikuta, an obstetrician, began a movement calling for new legislation that would protect women's privacy by limiting public disclosure of childbirth and adoption, a "Birth Exception Law," and thus provide an alternative to late abortions and infanticide. However, in the 1970s, concerned over the declining birthrate and encouraged by religious groups and conservative politicians, the Japanese government moved to amend the Eugenic Protection Act to prohibit abortions for economic reasons. As a side effect of this controversy, Kikuta's adoption movement was seen as being radically pro-life or anti-feminist, which resulted in a loss of support for Kikuta from other obstetricians.

With amendments to the Civil Code and abolishment of the "ie" system after World War II, nuclear families slowly became more common in the 1970s. In addition, to maintain social sanctions on unmarried mothers who relinquished their infants for adoption, jurists did not embrace privacy protection for these mothers. Therefore, the 1987 Special Adoption Law for the well being of children growing up in institutions did not reflect proposals calling for changes to increase women's choices and to save fetuses and infants' lives.

This paper concludes that during the "modernization" of Japan's adoption system the stigma attached to unmarried motherhood has been encouraged, which has resulted in less adoptions and growing public concern regarding issues of morality and ethics. This, in turn, has functioned to strengthen and maintain the patriarchal nature of post-war Japanese society.

DAY TWO SESSION TWO
Session chaired by **Mr. Sakthivel Mani**
Presentation Group: Interdisciplinary Studies
Conference Room - Seminar Room 8 (Syndicate Room)

Health Professionals' Knowledge of Types of Admission to a Psychiatric Hospital

Ms. Emanuele Brito[23]

This is a descriptive research study, using a qualitative approach, conducted in a psychiatric hospital in the state of São Paulo. The aim of the study was to identify the knowledge of health professionals regarding different types of admission to psychiatric hospitals in accordance to Law 10.2016/01. Data was collected through semi-structured interviews with 33 health professionals who participated in the process of patients´ admission at the psychiatric hospital. Data was analysed through content analysis resulting in the following thematic categories: "Voluntary admission and the requirement to have a responsible person during admission"; "Gaps in the knowledge of health professionals regarding involuntary admission"; "Involuntary admission occurring when the family is the one to hospitalize the patient"; "Involuntary Admission as a synonym to Compulsory Admission"; "Is there involuntary admission?", and "The Role of the Public Attorney in Involuntary Admissions". Results showed the lack of knowledge of health professionals about the differences and types of admissions to psychiatric hospitals.

A study of the rise of new energy vehicles in China

Prof. Katsuhiro Sasuga[24]

The primary purpose of this paper is to clarify the characteristics of the sharp growth of the Chinese automobile industry, specifically the segment referred to as the "new energy vehicle". In the last decade, China has emerged as one of the key centres of global economy, changing the structure of the global economy. China is the fastest growing automobile country, becoming the largest producer and market in the world. Revolutionary China is to remake a once backward auto industry into a stage of modern large-scale assembly and local supplier networks. As a result of increasing sophistication and product quality, the Chinese new energy vehicle had emerged as one of the key segment in its market.

The new reality requires a fundamental rethinking of the answers of how such a new energy vehicle has started to gain a market share, though it is debatable. The automobile industry's policies have undoubtedly been the most critical factor to assist the market building effort, and the Chinese governments have issued various supportive measures to attract foreign leading automakers in order to transfer massive amounts of investment and technologies to China. Sharp economic globalization has drastically transformed the production and service activities in the automobile industry in recent decades. However, the central policy alone cannot explain the huge regional variations in the sector.

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[24] Prof. Katsuhiro Sasuga, Professor, Tokai University.

The local governments have been the critical authorities to allocate resources and grant permissions to business sectors. Thus, the automobile industry provides a particularly illustrative case study of the processes of market development in China, as each of China's core projects takes the form of a joint venture (JV) with foreign automakers.

Closer examination at the production and sales levels reveal that, in addition to central governments, local (state, provincial, and city) governments have played an indispensable role in governance and policy changes in order to support their own regions' move to a higher level of industrial development. Individual companies may determine competitive success differently so this paper focuses on the factors that have led to the development of "new energy vehicle" in China.

Social and citizen perception on human rights and security due to Climate Change Policies in México

Prof. Pedro Joaquín Gutiérrez-Yurrita[25]

A synthesis on the perception of the Mexican population on climate change and its impact on their daily lives was made. The scientific literature in JCR, SCI, SCOPUS and LATINDEX was considered, not taking into account the gray literature due to lack of objectivity and rigor in data and information. There is relatively little information regarding how Mexicans perceive climate change and the majority focuses on the economic effects that change drags: losses in agriculture and fisheries, mainly. Although the number of newspaper articles and pages on the Internet informing aspects of climate change, vulnerability and risk have increased considerably since the 90's to the present, people are more uninformed now. The average citizen does not believe what the government says and. Only the educated class of the urban places and economically developed society is concerned about climate change and its impact on their domestic lives, but neither acts. Citizen participation in general is limited by the lack of credibility that the government has, in two aspects, first because they believe the information they receive is biased towards alarmism and second, because they believe that there is no need to act when the government does nothing to benefit them. Indigenous groups think the problems are occasioned to others, not to them; a high percentage of urban population thinks the same: climate change is due to other people, not by me. Only some mestizos cohabiting with indigenous, and some people from the cities consider that they are also causes of climate change, but are not willing to be proactive on the issue because they believe that it is not of much use. There are some differences between males and females concerning climate change impacts in their lives and their perception is quiet different too. In this vein, much credibility goes to the work of NGOs. About 80 per cent of the studies on public perception on climate change in Mexico are conducted, or signed by, foreign research institutes. In Mexico, there are very few studies in this regard conducted by Mexicans working in Mexican institutions.

[25] Prof. Pedro Joaquín Gutiérrez-Yurrita, Professor, National Polytechnic Institute -CIIEMAD (México).

Policies, Propaganda, and Purdah: Forced Inclusion of Women in the Early 1900s In Turkey and Soviet Central Asia

Ms. Jessica Willis[26]

In the last three decades it has become fashionable to talk about female empowerment as an imperative for development. The discourse has often linked female empowerment to women's inclusion in the public space, and the Islamic veil has been criticized as a barrier to that inclusion. Fortunately, academia has a unique opportunity to examine the long history of inclusion initiatives' impact on female empowerment in the short-, mid-, and long-terms. The paper has taken advantage of this opportunity by reviewing two case studies on forced inclusion: Soviet Central Asia and the Republic of Turkey in the 1920s.

The paper first defines inclusion as access to and participation in the public sphere. Based on this, the paper defines forced inclusion as the use of policies and the promulgation of laws designed to attack the traditional social order and force a secluded segment of the population into the public space. Before approaching the case studies, the research hypothesised that forced inclusion policies would actually decrease a woman's inclusion in the public sphere and force her to retreat into the home.

It is how Soviet Central Asia and the early Turkish Republic were similar—that they were contemporaries of each other, had a common religion, and shared a common Turkic heritage—that allowed us the research isolate the variables, the research was most interested in analyzing: goals, methods, and regime type. First, the Soviets in Central Asia wanted to mobilize Uzbek women in order to create another Communist state. Conversely, Ataturk wanted to facilitate the transition from empire to a modern, European-style nation-state by making Turkey 'look' more European. Second, forced inclusion polices in Turkey were mostly driven by laws governing how Turks dressed and spoke, whereas Soviet policies mostly centered on propaganda. Finally, the Soviets were colonizing foreigners in Central Asia while the regime in Turkey was indigenous and led by a highly popular war hero.

The paper found that forced inclusion did not automatically mean a definite rise in female seclusion; it also depend on the regime type and policy implementation. Policies that stressed propaganda and mandatory education, without proscribing the veil, brought women into the public sphere more effectively than mandatory, law-driven policies. Furthermore, foreign-imposed policies were unlikely to succeed, unless they avoid attacking the traditional social order and focused on gradual internalization.

The research and analysis in this paper was significantly deterred by a lack of information on current Uzbek perceptions of veiling practices and female inclusion as well as Turkish women's responses in the 1920s to dress code reforms. The paper therefore propose conducting future research that will involve a review of Turkish archives and contemporary newspaper publications to find the positions and thoughts of the women in the early twentieth century. The paper also proposes conducting a survey of Uzbek men and women about their thoughts on veiling and female inclusion/seclusion. Such research will take the international community beyond proclaiming the importance of female empowerment by helping shape the understanding of what female inclusion looks like in practice and how it can be achieved to further development goals.

[26] Ms. Jessica Willis, Graduate Student, University of Arizona.

Infrastructure investment impact evaluation: evidence from Central Asia

Mr. Umid Abidhadjaev[27]

Restricting focus on case of new infrastructure connection in context of Central Asia, this paper examines how public infrastructure investment affects economic activity and empirically estimates the direction and magnitude of its impact on regional gross production (RGP) growth rate by employing difference-in-difference approach. The approach, belonging to class of treatment effect assessment, allows comparing the actual state of outcome variable in chosen region to that of alternative outcome which might have taken place in absence of treatment in form of railway connection.

For the context of analysis, the research employs the case of the TBK railway connection in Uzbekistan, Central Asian country gradually rebuilding its own integrated railway connection system after collapse of the Soviet Union in 1991. The setting of causal identification in the study explains the variations in growth rates of economic outcomes of first-order administrative divisions by their status of being exposed to positive effects from newly built railway connection in southern regions of Uzbekistan.

Estimation strategy is based on variations in spectrum of three dimensions, including those of timing, regions and sectors. Depending on assumptions of treatment timing, the analysis considers estimation of anticipation effect, launching effect and postponed effect from infrastructure provision. Genesis of regional setting is examined by estimating direct regional effect, spillover effect across regions and connectivity effects, based on findings of earlier empirical literature. Scope of the study also includes estimation of differential impacts of infrastructure provision on economic sectors, framed by growth rate of industry, services and agriculture value added.

The evidence suggests that railway connection's impact on RGP growth rate of regions in Uzbekistan after the operation of the TBK railway line in 2008 was positive and significant in the setting of connectivity effects and long-term spillover effects. Positive and significant changes in industrial output of the directly affected and neighboring regions mostly took place during design and construction period, in anticipation of the railway connection. Positive impact of railway connection on economic outcomes is observed to be of diminishing nature, decreasing over time since the start of operation of the railway line.

[27] Mr. Umid Abidhadjaev, Ph.D Student, Keio University.

DAY TWO SESSION THREE
Session chaired by **Ms. Agnieszka Ason**
Presentation Group: Law and Interdisciplinary Studies
Conference Room - Seminar Room 8 (Syndicate Room)

The negative attachment : the link to parent for children exposed to domestic violence

Dr. Yassine Bourouais[28]

Violence is a destructive force for inter-subjective relationships; the child exposed to domestic violence is a spectator of a relational disorder, a shocking relationship between two people who influence him both through their behaviors and by their speech. When parents are violent, the child sees his attachment figures fail in their main functions which are to protect him and give him security.

In my doctoral research, we followed in a clinical evaluation work children exposed to domestic violence. The objective is to identify the effects of exposure to violence between parents on the attachment link. The main question is to what extent exposure to domestic violence does affect the quality of the attachment bond?

The negative attachment is a concept invented by the French psychoanalyst Anzieu (1990). He states that the negative attachment develops when the attachment impulse is dissatisfied or an alliance took place between the attachment impulse and self-destructive impulse instead of the instinct of self-preservation.

To verify this point of view, we imagined a consultation a technique essentially based on the game, we called Squiggle-history a game without rules in which the child draws, hear stories and invent a story in turn. This not systematized and not standardized method, of inviting the child to tell a story freely and instantaneously without any thematic orientation, a story by him and with his creative faculty. Specific drawings are required, such as drawing the family. We were inspired this method by the works of Winnicott on the Squiggle.

Kaplan and Main (1986) develop a family drawing analysis in reference to the attachment theory. This method is approved by the work of Pianta, Longmaid, & Ferguson, 1999; Fury, Carlson, & Sroufe, 1997 ; Behrens & Kaplan, 2011; Fihrer & McMahon, 2009; Goldner & Scharf, 2011; Madigan, Ladd, & Goldberg, 2003.

Results and discussion:

The stories told by children reflect the importance of security experience and their ability to build a stable relationship with attachment figures. In children, this security is assessed by representations and thus language. The stories we collected focus on themes of rejection, abandonment, privatization, loss, murder, rescue. The speech is sometimes disorganized and incoherent, content and discourse style is representative of the quality of performances internalized experiences with parents.

[28] Dr. Yassine Bourouais, Assistant Professor, Pierre Mendes France Grenoble II University.

The attachment insecurity is likely in the narrated stories and drawings produced by children exposed to domestic violence, it can be traumatic, and we suppose that children exposed to domestic violence may be traumatized in the post kick. Exposure to domestic violence causes a break to be internalized and cause probable trouble in the child.

The attachment insecurity also affects the identifications of the subject, the identification process seems altered. For us, the negative attachment has its origins in this articulation: traumatic insecurity anxiety identification negative attachment.

Contemporary National Security and Human Rights Issues in the UK, Canada and Asia

Dr. Daniel Alati[29]

This paper combines research undertaken as part of an Oxford University Doctorate in Law (at St. Anne's College) with post-doctoral research undertaken at the City University of Hong Kong. The doctoral research, which was comparative and inter-disciplinary in nature, analysed how Canada and the United Kingdom's counter-terrorism policy-making was influenced by their domestic legal and political structures and cultures, including their: respective legal systems; the relative stability of government and political institutions; mechanisms for parliamentary scrutiny and oversight; local human rights culture; and geopolitical relationships. In doing so, it argued that despite the fact that both Canada and the United Kingdom already had in place extensive provisions to deal with terrorism before 9/11, both countries responded swiftly to those attacks and their legislative responses reflect the histories and legal, political and social cultures of each country.

As such, the doctoral research tested the hypothesis that national security remains a bastion of national sovereignty, despite the force of international legal instruments such as UN Security Council Resolution 1373. It was argued that the evolution of counter-terrorism policies in different jurisdictions is best analyzed and understood as a product of local institutional structures and cultures. Current post-doctoral research has tested this hypothesis in relation to Asia, particularly in regards to China and Hong Kong. This paper will argue that this thesis holds true in relation to the counter-terrorism policies in both Asian and 'Western' countries. In particular, it will analyse contemporary developments in these countries, such as the recent terrorist attacks on the Canadian Parliament, in order to discuss the human rights implications of the legislation that has been (or will be) enacted in the aftermath of these events. In doing so, it engages in analyses that are legal, political, historical and cultural, providing for truly interdisciplinary commentary. As such, it relates well to a number of AICILS conference themes, including: International Terrorism; Human Rights and Civil Liberties; Contemporary Global Security; and Politics of International Law.

[29] Dr. Daniel Alati, Post-Doctoral Fellow, City University of Hong Kong.

Working of Power in Indian Society with Special Reference to Women

Dr. Rajinder Kaur[30]

The concept of power transforms from positivist (top down) to holistic approach (net like). It takes into consideration when domination i.e. power surmounts the rights (basic inherent rights) with reference to Khap Panchayat in India, where target is woman in the name of honor. Criticizing the Hohfled model and superimposing Gandhian ideology, which starts with the cycle of duties culminating with right, the paper discusses who owes the 'responsibility" to take society to its logical end: is it Judiciary (Forward looking with Naz foundation Case and Shah Bano Case but with only power to apply law), or is it Political power (Moving towards another direction from judiciary nullifying the decisions) or it is Citizens who have emerged as initiators of changing their own situation (UNCRPD at international and Amra Padatik at national level).

The paper is divided into six parts, with the first dedicated to understanding the concept of Power; from Machiavelli's positivist 'top-down' exposition to Foucault's more holistic work on the topic. The second part highlights the idea of normalization and the subsequent part to explore power in our Indian society, looking at its play upon the women in the patriarchal society. Thereafter, the third part is devoted to the connections between 'Power' and 'Right' (not 'Rights') by using the Gandhian triad of Swaraj-Satyagraha-Civic Responsibility to show the connect. The fourth part of the paper takes into consideration how 'Rights' (note the difference from 'Right') act as an instrument of domination in the society. This claim is furthered by bringing out cases showing the Supreme Courts policy of non-interference with respect to personal laws and Article 13 right of the citizen. The next part of the paper raises the question of 'Responsibility'; the 'responsibility' to move the society in the 'right' direction and not just a 'rights' oriented society. A specific reference is made to the Naz Foundation case in this respect and the possibilities it opens up; however, recognising the fact that the political will has the capability of overturning such decisions the authors' argue that the responsibility has to be placed with Politicians. In the last part of the paper, a case of how 'Power' functions and 'Responsibility' has taken up in face of adversity by the 'citizen' themselves will be discussed. This part takes to the story of the Amra Padatik, a social collective of children of sex workers in Sonagachi, Kolkata.

[30] Dr. Rajinder Kaur, Assistant Professor, Panjab University.

DAY TWO SESSION FOUR
Session chaired by **Prof. Pedro Joaquín Gutiérrez-Yurrita**
Presentation Group: Law and Interdisciplinary Studies
Conference Room - Seminar Room 8 (Syndicate Room)

The Utility of the Use of the Principle of Legitimate Expectation in the Enforcement of Socio-economic Rights in Mineral Resource Development

Prof. Aminu Kabir[31]

Mineral resource development is identified with adverse/ rippling consequences affecting the ecological, social, economic and cultural parameters of its hosts. Development economists and political scientists have made substantial contributions to this discourse with outstanding scores of empirical works on resource curse phenomenon and its deleterious effect on the political economy of resource rich countries and communities. Legal scholars have traditionally made their contributions on legal issues surrounding the discovery, development, regulation, use and protection of mineral resource. Recent legal scholarship focus around the context of human rights, the global trend on sustainable development and the tri-sectoral (government-community-company) partnership covering ownership claims of the central, regional or local communities where mineral extraction occurs, environmental protection rights, the rights of communities, revenue allocation and sharing arrangements, equity participation arrangements, and the development of a legal framework that could provide effective enforcement mechanism and remedies for or to the various mining stakeholders. Very little attention has been given to the latter – the enforcement regime for mineral socioeconomic rights. The overarching theme of this work looks at the viability of the administrative law principle of legitimate expectation as a mechanism for the enforcement of socio-economic rights in mineral resource development. It first examines the thematic issues and positive legal framework that establishes the tripartite relationship between the governments, communities and individuals underpinning mundane socio-economic obligations and responsibilities in mineral resource development and whether the relationship create justiciable rights and obligations. The paper then appraises the options available to potential litigants and the extent to which they have access to judicial forum and remedy. The paper proceeds to examine the normative scope and contours of the principles of legitimate expectation and teases the viability of its invocation in the enforcement of socioeconomic rights and obligations by aggrieved individuals and communities affected by mineral resource development.

Principle of Equality in Feminist Debates and the Women's Convention: A Brief Analysis

Dr. Nik Salida Suhaila Nik Saleh[32]

This paper discusses the jurisdictional background and provide a conceptual analysis of equality in feminist debates and the Convention on the Elimination of All Forms of Discrimination against Women (Women's Convention) in an attempt to explore a wider understanding of equality and its principles. First, the paper draws upon Fletcher's (2002) ideas of equality to argue that the basic premise of the

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argument is founded on the discourses of formal and substantive equality, in that similarity of legal treatment does not necessarily denote equality because, if a woman is in a different position from a man to begin with, treating them with total similarity will simply perpetuate the differences between them. Minow's explanation about women's relationship to the workplace might describe how treating women with total similarity with men will simply perpetuate the differences between them. Hence, it is important to apply equality appropriately to ensure that all human beings are guaranteed equal access to justice. The paper argues that an extended equality model which focuses on the subordinated group is rather significant in this analysis of gender equality. The central focus of this model is on the 'disadvantage', i.e. whether the laws contribute to the subordination of women (disadvantaged group). Under the Women's Convention, rights for women are based on three fundamental principles: non-discrimination, equality and state obligation (Byrnes, 2002; Facio and Morgan, 2009). The paper traces that the Women's Convention spells out the meaning of equality and how it can be achieved through its principal provisions which guarantee women's rights and needs.

Expansion of Private Justice and Protection of Public Interest

Ms. Agnieszka Ason[33]

One of the most significant political choices determining the shape of global justice in the 21st century is the promotion of international commercial arbitration. Once a modest alternative to litigation, arbitration is currently a preferred method of dispute resolution, especially in multi-jurisdictional settings. As a form of private justice, it offers confidentiality, neutrality and flexibility of proceedings. Yet, in some cases, it might threaten public interest. For that reason, decisions rendered by arbitral tribunals are subject to an incidental control exercised by national courts. The standard of review of arbitral awards is subject of a heated debate in scholarly writing. In practice, it is gradually decreasing. This phenomenon, undoubtedly a 'race to the bottom' at international level, has a detrimental effect on the effectiveness of available control mechanisms. Eventually, the court review incapable of identifying infringements is degraded to an illusion. Nonetheless, a low level of judicial scrutiny is considered arbitration-friendly and, as such, it is endorsed in jurisdictions being both established and emerging arbitration venues. With billions of dollars in legal fees at stake, the rivalry for arbitration business is fierce. This paper argues that the idea of attracting international tribunals at the cost of domestic values is short-sighted. It demonstrates that the protection of public interest, reflected in a thorough review of arbitral awards at the enforcement stage, is a prerequisite to the success of international arbitration in the long term.

The UN Guiding Principles and the King Report on Corporate Governance: The need for intersection between two parallels in relation to South Africa's corporate sphere

Ms. Loyiso Makapela[34]

The custom of excluding external stakeholders, such as disadvantaged individuals and communities as well as the environment, from the corporate vision is undoubtedly a thing of the past for many large

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companies and corporations the world over, and South Africa is not an exception.The rise in prominence of concepts such as corporate governance, corporate accountability and corporate social responsibility has had a substantial contribution to this change, in conjunction with a myriad of other mechanisms created either by companies themselves or by stakeholders.

Corporate governance codes have the distinctive quality of being country specific or unique to a particular country, unlike the UN Guiding Principles Framework, which is a regulatory and voluntary instrument that has international application and relevance as one of its defining characteristics and is applicable to both States and corporations. It has enjoyed widespread observance by a range of States and corporations. Corporate governance frameworks mostly only deal with the direction and control of companies.

In the South African context the King Report on Corporate Governance enjoys arguably higher level of observance and adherence than the UN Guiding Principles, which is the case in many countries. Put otherwise, in most scenarios the two instruments co-exist, somewhat separately, in the corporate sphere of most nations, which in itself is unsurprising given the nuanced differences between the two instruments in terms of form, content, aims and operation.

As such, this paper posits the hypothesis that the incorporation of certain aspects and provisions of the UN Guiding Principles into the King Report would only serve to enhance the corporate governance framework in South Africa in that it has the potential to result in increased considerations of key stakeholder-related factors, a result which is of particular importance and necessity given the country's socio-economic conditions.

This hypothesis shall be proven by firstly undertaking an overview of both instruments with special emphasis on aspects relating to sustainability and socio-economic considerations in terms of the King Report with the corresponding aspects as contained in the UN Guiding Principles so as to explore the ways in which features of the latter instrument could enrich and add to the relevant provisions of the former instrument.

Secondly, the importance of the need for the inclusion into the King Report of provisions directed towards the achievement of greater observance for socio-economic factors relating to internal, but especially external, stakeholders shall be argued.

Lastly, it is concluded that in light of the incorporation of the King Code into the listing requirements of the Johannesburg Stock Exchange, it is evident that great strides are being made in the right direction in South Africa's corporate sphere, and, it is hoped, this may be just one of the contributory ways inwhich these strides are made.

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