CRITICAL LEGAL CONFERENCE 2019
LIST OF ABSTRACTS

GENERAL STREAM

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Alienation: criticising liberal legalism? Human rights? Or both?

For classic liberals such as John Locke, law was necessary for the securing of individual liberty. In his Second Treatise of Government Locke famously claimed: 'The end of Law is… [to] preserve and enlarge Freedom.' Developed from this is the ideological attachment of law to liberalism, the idea that individuals need to be protected from the state. Again, Locke claims: 'For Liberty is to be free from restraint and violence…which cannot be, where there is no Law.' In Carl Schmitt's particular criticism of liberalism in the Concept of the Political, for example, Schmitt argues that liberals of all countries have in the most different ways coalesced with non-liberal elements and ideas. A classic example could be the hypocrisy of John Locke in condoning slavery, being a shareholder in a slave trading company, the Royal African Company. Locke even went further: he drafted the Constitutions of Carolina, 1666, to accommodate slaves as property, since this advanced the economic system of the day.

The UK has been the victim of several terror attacks in recent years, most notably at an Ariana Grande concert in Manchester in 2017, killing 22 people. Suspects that are arrested will claim their human rights to liberty and fair trial, for example. But in the so called 'War on Terror', many, particularly those in the media, such as the Daily Mail, see human rights as merely obstructions to countering terrorism: 'Sorry, human rights DO shield terrorists', being just one headline. Reviewing the readers' comments for this report, one finds: 'As usual, HIS 'human rights' are considered to be MORE IMPORTANT than the lives of his potential victims'; and 'blow his human rights, what about ours?' The apparent rights of the terror suspect trumping the rights of the victim is a common theme.

However, according to the Global Terrorism Index 2017, significant factors causing terrorism, particularly in Europe, are socio-economic ones: inequality and youth unemployment. Moreover, in Changes in Modus Operandi of Islamic State Revisited, for Europol, the vast majority of terrorist attackers in Europe have been young men with a criminal past who were not strict Muslims and only recently converted to Islam.

In Europe there is an emphasis on liberal 'freedoms from' the state reflecting the traditional Lockeian fear that, whilst the state provides security, it is also a threat to it. But, paradoxically, is the failure to secure greater human rights in the region – the rights to education, work and a decent standard of living, for example – to blame for greater marginalisation, alienation and inequality, and therefore an upsurge in terror attacks? So whilst we may legitimately attack liberal legalism, should human rights suffer the same fate? Through a combination of critical legal studies and communitarianism, a shift away from established liberal rights in this more insecure world, post 9/11, to others with much less reliance on individualism will be conceptualised. The model for such a conception of rights are the 'collective' Articles of the African Charter on Human and Peoples' Rights (my italics).

Scott Veitch

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Solidarity: Perversions and Promises

There is a sense in which “inequality” has superseded “class” as the means for evaluating contemporary capitalist societies. Not for everyone, though. Warren Buffett, billionaire investor, said in an interview in 2006: “There’s class warfare, all right, but it’s my class, the rich class, that’s making war, and we’re winning.” In 2011, after the financial crash, he updated his insight, declaring victory: “Actually, there’s been class warfare going on for the last 20 years, and my class has won.”
In her book Political Solidarity (2008), Sally Scholz identifies three basic forms of solidarity: social, civic, and political, the latter entailing positive duties of cooperation, social activism, and social criticism. But how do these stand or fail against the victories of "Buffett's class" and its economic solidarity? How, if at all, is solidarity imagined and delivered in or through legal institutions? This presentation returns to these enduring questions.

Rafał Mańko

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Overcoming judicial alienation: towards a new discourse of legitimation of judicial decisions

The traditional narrative providing legitimacy to court decisions was based on a reductionist vision of legal interpretation, whereby law was neatly separated from politics, and judges were supposed to ‘deduce’ their decisions from the law by using allegedly objective and reliable methods of legal reasoning. However, with the linguistic turn and the postmodern critique of theories of interpretation, as well as a serious dilution of the law vs. politics divide, this narrative no longer holds, creating a challenge to judicial legitimacy. The fall of the traditional narrative has been taken up by populist critics who have tended to undermine the legitimacy – in particular of constitutional and supreme courts – by claiming that the highest judges are engaged in doing politics and, as a result, their decisions can be subject to review and resistance from politicians, who are allegedly equally (or even better) empowered to interpret the Constitution and statutory law. This populist critique poses a danger to the very essence of democracy and the rule of law and must be countered by a sound alternative to both the traditional narrative and the critique itself. To this end, the paper proposes a functionalist model of judicial legitimacy – 'democratic decisionism' – which is based on four premises: a truly democratic legitimacy of judge as office holders; a truly democratic and participatory arrangement of judicial proceedings; and thirdly, a truly democratic legitimation of judicial decisions by referring them to such criteria as social justice and ethics of the other. Such criteria, if actually implemented, could help to overcome the alienation of the judiciary from society and contribute the defence of independent courts from the actual threat posed by authoritarian populism.

Giovanni Pizza

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Animality and mutation. Alienation in Antonio Gramsci's works

The concept of alienation cannot be detached from the Marxian analysis of labor in the capitalist mode of production. The term does not enter the original lexicon of the *Quaderni del carcere* by Antonio Gramsci (1891-1937), the greatest European Marxist scholar in the twentieth century. Nevertheless, I believe that Gramsci evaluates the relevance of alienation on a wider plane. Precisely for this reason working on alienation in Gramsci may allow us to move towards more open interpretations of the concept. The paper is based on the study of the complete work of Gramsci, but will pay particular attention to his analysis of the *catena di montaggio*, the"assembly line", contained in *Quaderno 22* of 1934 entitled *Americanism and Fordism*. I will try to show how Gramsci is stressing on the bodily scale at stake in the Marxian theme of alienation, in a political path for awareness and liberation processes. I will deal with the Gramscian reflection on the *animalità*, the "animal dimension" of workers, as an ability to act against the expropriation of it, not only in the perspective of "resistance", but also in the fabrication of new forms of human coexistence. At the horizon of such body reflexivity a political sense stands out. The "transformation" of the person, in Gramsci, even when defined as a "mutation", never takes on naturalistic tones: in the beginning it is properly a process of "metamorphosis" that can be subjected to critical monitoring from anthropology. For this reason the transformation is consciously activated by the political struggle, from the side of a hegemony to be made, because it is not yet such.

Aravinda Kosaraju

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Law's Uses and Abuses of Alienation: A case of Sexually Exploited Children

Sexual exploitation of children is a paradigm case of alienation as both a condition and a process. Estrangement is a common experience among sexually exploited children. More often than not, they are isolated; their self-esteem and their sense of belonging is undermined by the exploiters who groom children to engage in sexual activities. What is more concerning than the condition of alienation that exploited children experience, is the process of alienation that occurs through law's power to name the experience of abuse as a crime and through law's method in processing these criminal cases through the justice system. This paper draws upon Christie's idea of 'conflict as property' to explore how 'alienation' of children's experiences of sexual exploitation become the tool for administering justice (1977). While alienation in a class society is based on the expropriation of and exploitation of labour force, the alienation in modern criminal justice system occurs through appropriation of the conflict in crime by the state. This paper highlights that the objectification of the child's experience is the foundation for the production of

legal power. It argues that the process of alienation, i.e. alienation through criminalising some acts as crime and through converting some experiences/truths (here I equate truth with experience) as legitimate matters of law to be adjudicated while excluding others, becomes the tool through which the law creates the space for its own operation. Law depends on the child's subjective experience for its power to be produced and orchestrated. And yet those children do not have any control over the process of adjudication, their ability to define and shape the criminal trial is merely absent. They are forced to adopt to the predetermined definitions both of themselves as victims and their experience of criminal victimisation. Children engage in the production of the legal discourse, but their powerlessness is apparent in their estrangement from the very discourse that they have produced. The methods of law and the principles of its operation set the limits to what can and cannot be said during a criminal trial, thus disallowing children from expressing themselves, narrating their experiences of abuse on their own terms. They are alienated from their capacity to communicate as the child's speech is induced and produced to suit the modalities of communication predetermined by the legal system and in this process, children fail to identify their experience in the criminal cases constructed by/for them. Consequently, the law disables children from employing the legal discourse for their own individual use and alienates them from their experience, from the discourse they have produced and from the institutions that proclaim to operate in their interest. This paper builds from Jaeggi's notion of 'alienation as relation of relationlessness'(2014). Drawing attention to the power of law and its dependence on the alienating experiences of children, this article calls for a fundamental reconstruction of the role of the victim in criminal justice.

Marco|Goldoni

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Presentation and discussion of the Research Handbook on Critical Legal Theory, Edward Elgar, 2019

This panel will consist of a presentation and discussion of some of the chapters contained in the forthcoming Research Handbook on Critical Legal.
The panel is organised by Emilios Christodoulidis and Marco Goldoni, who are also the editors of the Handbook.
The discussion will be organised in two parts. In the first one, the editors will illustrate the relevance of the Handbook for contemporary critical studies and will highlight its contributions to general and specific topics, with a particular emphasis on the European history of critical legal theory, the materialist conception of critical thinking, the so-called 'turns' of critical thinking.
In the second part, some of the authors of the Handbook will introduce and discuss their chapters. An external commentator will be invited to present observations on these chapters. Finally, the debate will be open to the audience.

Thomas Kemp

KENT LAW SCHOOL

Countering Alienation? Witnessing and the politics of amplification in the context of detainee activism

This paper reflects on the barriers to the organisation and expression of dissent faced by people incarcerated in detention centres in the UK and the role of representation and witnessing in the anti-

detention movement. Predominant strategies of pro-migrant activism involve the production of counter-representations that render migrants as vulnerable, relatable, contributors to (neo-) liberal states or policy making discussions. They attempt to make the othered appear less alien to societies premised upon racial othering. This paper investigates whether witnessing projects that communicate the testimony and writing of those detained in immigration centres are always structured by a logic of incorporation and relatability. Mindful of certain dangers inherent within testimony – such as its investment in authenticity, immediacy, intelligibility, and individualism – the paper asks how and to what extent is testimony a useful component of an abolitionist politics of anti-detention activism. Moreover, it asks whether there are other modes and functions of witnessing being fostered within anti-detention groups that respond to the conditions of detainee protest. The paper draws upon participation-observation and interviews with activists involved in a project called Detained Voices that worked to support the Hunger for Freedom Protests in Yarl's Wood in 2018 as well as other actions by people detained over the previous 3 years.

Mauro Balestrieri

University of Turin

Meaning Lost: The Collapse of Language in Western Legal Tradition

Abstract

In a famous passage of his 1919 essay *The Uncanny*, in an attempt to elucidate the meaning of the German word "*Das Unheimliche*", Sigmund Freud concluded that any effort would have been in the end vain for the simple reason that «we ourselves speak a language that is foreign». With this paradoxical statement, Freud disclosed the radical alterity which exists between human beings and language. Even if usually we think about linguistic expressions as the cultural device which represents *par excellence* the real condition of human life, language could prove to be something elusive and mysterious. Our legal tradition has always grounded its cultural and political existence upon language: since the times of the German historical school, language, law and society were considered strictly intertwined. Anyway, with the coming of postmodernism and globalization, as well as of complex political frameworks, this simplistic narrative has been progressively thrown into crisis. Following authors like Saussure, Benveniste, Foucault and Appadurai, as well as the precious insights provided by the Legal Realist Movement, this paper aims to investigate the conflicting connection which nowadays takes place in legal and economic discourses. If it is true that traditionally law and language appear so strictly intertwined, every deconstruction of legal words casts its dark shadows upon our material and concrete existence: the erosion of legal language necessarily leads to a certain loss of fundamental rights, that is, of justice. In the age of "surmodernity" – as the French anthropologist Marc Augè called it – language becomes then a testing ground for verifying the evolution of contemporary sovereignty.

Keywords: Language, Law, Sovereignty, Legal Realism, Cultural Studies.

Vito De Lucia

Dissolution from Munus. Dispute on Poverty and the Birth of Modernity

In this paper I explore the geenalogy of the concep of immunitas, which philosopher Roberto Esposito has proposed as the core element of modernity and mdoern thought. Immunitas speaks of the disarticulation of the original communitarian bond, of the alienation of the subject from its other(s). Esposito traces the constitutive origins of the immuntary paradigm to Hobbes and Locke, respectivly in relation to the sovereign and proprietary dimensions. In this paper I trace the genealogy of the immunitary paradigm to a preceding historical juncture. The latter shows a preliminary yet crucial tension towards the immunitary tension towards the dissolution of the communitarian bond and and of its burdens on the subject. This further tracing, which aids to the cocneptual, ratehr than merely chronologivcla gnealogy of immunitas, leads to S. Francis and to the dispute on poverty subsequent his death. The dispute lacerated the philosophical and juridical fabric of the the middle ages and enabled the weaving of key categories of modernity such as those of the subject and of dominium (in its dobule articualtion of sovereigfnty and private property). At the same, the disputes - this is the central thesis of thois paper – offered an early, yet full ariculation of the immunitary paradigm

Marisa Almeida Araújo, Augusto Meirei
Luisada University

Erradicating Sharia Law, A Sign Of Cultural Genocide?

ABSTRACT:

The year of 2018 ended with the Bundesgerichtshof, BGH stating that the new law forbidding child marriage could be unconstitutional. This position is seen, by many, as a gateway to legitimize child marriage based on the Sharia Law. Severe criticism towards the position of the German Court is being felt including, Winfried Bausback, legislator from Bavaria that cooperated in the legislative draft.

But, if there is negative criticism there is also who states that the decision, and the possible parallel legal system that it could cause, is a sign of globalization and respect for cultural diversity.

Already on 2019 it made the world news that children of parents detained in China's internment camps are being separated on a large scale and "indoctrinated". China's authorities are being accused of "cultural genocide".

We are not comparing the two cases, either considering the causes, consequences and assumptions and justifications, although they are clear patterns of our globalized words and the migratory movements, many of them in war, or other crisis, context.

The globalized world, in a broader perspective of cross-border cultural and social discourses, has associated an immense flow of cultures, traditions and religions that are, now, spatially disseminated. Issues related to, namely, integration, security and, on another hand cultural heritage abroad, in a new country are, in some cases, conflicted interests mainly to children to whom it has a great impact that, in any case, have the true right to maintain their heritage however are the most permeable to integrate and adapt to a new one, the true citizens of the world and the "right to have rights" associated to citizenship, the new one they (can) aim to build their future.

This issue gains a new dimension in the Human Rights field. The learning and knowledge of cultural differences increases tolerance and respect for others in an ethical context, accepted as differences.

Cultural differences are an integral part of a global patchwork and must be respected, but such differences cannot justify unacceptable practices. But, what is "unacceptable"? How can we draw a line? It is true that the balance between rights and cultural flexibility is not an easy task, mainly assuming that cultural heritage

is a true human right integrate in personal identity, especially when we talk about children (and also women), a vulnerable group that will miss, again, an opportunity to realize their full potential in short, human dignity can be at stake.

If cultural identity is part of our heritage, the one we choose – if we are able to – for the future and for ourselves, is part of our autonomy and we are recognized as authors of our own history and the, new, legacy we leave for our children. The children (and women) of the 2030 Agenda (SDG5) era and the commitment of leaving no one behind.

Human Dignity as a placeholder, a (tendential) universal principle and a "lighthouse" in the critical approach the Human Rights discussion that the subject imposes in this matter framed by, sometimes antagonist, universalism and cultural relativism.

Key Words: Human Rights; Cultural Genocide; Alienation; Universalism and Cultural Relativism; Sustainable Development Goals; Sharia Law.

Stephen Connelly

A Different Standard: the Mozambique Loans Scandal and the Growing Role of Bank-to-State Loans

Abstract: This article draws on empirical evidence and the author's work with NGOs and the UK Labour Party to highlight the growing use of bilateral loans from banks to states to increase sovereign indebtedness. Starting from an analysis of the Mozambique loan scandal, the archaic status of current English law is considered as well as the latest legal proposals in the UK and beyond.

Keywords: international economic law; Mozambique; human rights; sovereign debt;

Shahd Hammouri

Structural Alienation of Humanitarian Considerations: The Business as Usual Complex in War

Multi-National Corporations can be involved in war either directly or indirectly; directly by virtue of the military nature of their operations as in the case of the arms industry, and indirectly by contributing to and benefitting from the war effort as in the case of the extractive industry's exploitation of contested resources in war areas. The nature and effects of this involvement have been altered by changing global dynamics with the growing privatization of military operations, the growing complexities of global value chains and the rise of new technologies. Meanwhile, the corporate actor retains a vague role in the laws of war, where, the paper argues, war economics an absent consideration.

In this context, if we take on the perspective of law as a system of signs, signs which are formed and interpreted in diverging logics in the different regimes of international law as understood in the discourse of fragmentation, then the absence of economic considerations in the sphere of the laws of war means that: to address corporate involvement in war, practitioners and scholars have to revert to the language of economic law where the inherent logic is oriented towards the facilitation of trade and the protection of the investor rather than humanitarian considerations.

Taking on these discourses, the paper examines the semiotic aspects of the dark sides of fragmentation arguing that such alienation of humanitarian considerations sustains a deeply seated 'business as usual complex' in war. In conjunction, the paper also questions whether efforts to address corporate involvement

in war using the language of business and human rights offers a remedy as opposed to a discursive path to the subject?

Luiz Valle Junior

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Disappointment, mourning, futurity: psychoanalytic musings on the contemporary university

Lacanian psychoanalysis has fully articulated the indistinguishable nature of desire itself, the very substance of the subject, and its inevitable disappointment. There appears to be, however, an interesting turning point today: it may not be disappointment per se that we (and my generation particularly) are experiencing, but a kind of pre-emptive mourning of alternative futures, as Mark Fisher's capitalist realism articulates. In this article, I attempt to problematise my own trajectory - from a middle-class existence in Brazilian university, to a fully-funded position in an important critical legal research school in the colonial metropolis of London - in order to scrutinise the psychic and political dynamics that both constitute and impinge on our collective sense of the future. I argue that Lacan's notion of the University Discourse - Lacan's diagnosis of neoliberalism avant la lettre - offers an interesting avenue to question this sense of mourning the future. I claim that the totalisation of knowledge, and the consequent effacement of truth as a relevant philosophical and experiential concept, requires that we give up the notion of the subject in favour of constituting society in the guise of the market's differential attribution of value. In so doing, we preclude the very notion of change that subtends politics, which itself requires what Rancière would call a "part of the no-part", a collectivity that cannot be represented from within the reigning police order.

MIGRATION: ALIENS AND THE NEED TO RE-IMAGINE THE NATION

Roila Mavrouli

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The French legal framework of illegal entry and the legal categorisation of migrants as Aliens : the alienation of the notion of migrant within the current legal framework

If we take the example of French law, we can attest a classification of numerous categories of migrants eligible to a legal stay. If the migrants do not fit to one of these categories as specified in the Ceseda (Code of Entry and Residence of Aliens and the Right of Asylum), they are considered to commit an illegal entry as specified in article L-621-2(1) of the Ceseda. The fact that only enumerated legal categories of migrants are eligible to a legal stay interrogates the neutrality and artificiality of legal concepts in French and European legislation regarding the categorization process. It goes without saying that legal categories are based on practical considerations or values or even both, that confirm a technical method used by public power with

specific purposes. Are these purposes based on the exclusion of migrants? By this meaning, categorization of legal concepts - as a basic element of legal methodology - is not deprived of subjectivity because it produces several symbolic, sociological and legal effects that need to be revealed. In this case, migrant is seen as a true Alien and alienation becomes a framework able to capture the political and legal reality of the hosting country, namely France.
By examining the French Code of Entry and Residence of Aliens and the Right of Asylum (Ceseda) we can see that the remodelation of legal categories of migrants operates in a political scheme of control of the migration flow. The hetero-definition of the categories of migrants by the national realities and the construction of the categories by international and European law is accompanied by a rather high ambiguity with regard to the construction of the legal category. Concerning the first element of hetero-definition of the legal categories of migrants, migrants are not considered to be citizens, they cannot be a part of the edification of the normative categories, they cannot contribute to the definition of norms that concern them; they are more Aliens and less subjects of law. In this case, there is a shift between the reality of these people that constitute the categories of migrants and the actual legal norms that define and regulate this migration reality. However, is this alienation inherent in the legal categorisation of migrant essential for any legal construction relevant to forced migration and borders ? Or, is it possible to envisage a new vision of the Nation-State ?

Olivia Maury

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Student-migrant-workers: From alienated labour to resisting subjects?

The impact of the global border regime on migrants' lives has been examined extensively among people categorized as refugees and undocumented migrants. However, the research on the everyday implications of borders and border bureaucracy is scarce in the context of so called highly skilled migration. Based on a data consisting of in-depth interviews (N=33) with migrants holding a one-year student residence permit in Finland, the paper examines the everyday lives of student-migrant-workers, bringing forth how their fragmented and precarious work trajectories unfold with their need to renew their residence permit on a yearly basis.
Important for a successful renewal of the student permit is the progress of studies and sufficient funds, as defined in the Finnish Aliens Act. The paper thus asks what strategies student-migrant-workers invent to secure a legal, albeit precarious, migration status and how these same strategies become a basis for capitalist exploitation. The student-migrant-workers' experiences expose on the one hand the alienation from a linear migration path ingrained in a context of assumed progress of capitalist modernity; from a temporary precarious status towards legal citizenship. On the other hand, the experiences unveil the production of a particular form of alienated labour under contemporary capitalism.
Taken that the development of the capitalist system can only be examined from the perspective of the historical forms of living labour, the paper ultimately aims to grasp the tension between autonomy and power. The paper thus opens a void for tracing the potential of alienation in shaping resisting subjectivities as alienation can be understood to provoke a gaze from the outside – an abstract view of the contemporary system instead of a narrowed view of only particular disparities – thus forming a potential source of transformative power.

Rimpi Borah

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POLITICS OF MIGRATION, IDENTITY AND SUB-NATIONALISM: CASE OF NATIONAL REGISTER OF CITIZENS (NRC) IN ASSAM.

In a multi-lingual and multi-ethnic setting in the northeastern state of Assam in India, in the times when an burgeoning bureaucratic exercise of updating National Register of Citizens is going on, it is important to understand that in reinforcing dominant norms, the legal responses expose how the 'excess' that which does not fall within the dominant norms and boundaries of citizenship is regarded as transgressive and justifiable subject to restrain, persecution, censorship, social stigma, incarceration and even annihilation. Historically speaking, the residents of Assam were dispersed into various identity groups like the Assamese, plain tribal, hill tribal, Hindu Bengali, and Muslim Bengali among others during the contestation on the question of citizenship. The migration of different communities to Assam led to strife between the Assamese and 'bideshi' (or foreigner)/'Ona-Axomiya' (or non-Assamese) over access to resources. The immigrant communities came to be associated with two terms bahiragota (outsider) and bidexhi (foreigner). A line of demarcation was drawn between the 'indigenous' and 'outsiders' and a cry for the protection of 'Assamese identity' began to germinate. Identity formation among the Assamese community did not take place as a result of mere self-discovery, but was propelled by a fear of being overwhelmed by demographic change. When they were threatened on economic and cultural front, the Assamese evoked their identity of language and culture, to feel distinct. Thus, the call for Assam movement became a huge success. This feeling of distinctiveness gave way to the political expression of Jatiyotabadi or 'sub-nationalism' (sense of belongingness to a nation within the nation as an imagined community). No doubt, Assam movement marks a special place in understanding sub-nationalism in the state; it however alienates many tribes, ethnic groups, religion and geographical regions from the purview of the"Assamese" identity. This paper aims to trace the Assam movement's construction of illegality/alienness of people in Assam to understand the conceptualization of citizenship and access to entitlements of citizenship by those who are labelled as "illegal immigrants". The study will also try to understand the multi-faceted dimensions of Assamese sub-nationalism in the present context and what meaning the updating of National Register of Citizens (NRC) holds for various ethnic groups and communities in Assam.

Anna and Hedvig Lundberg, Obenius van Stellingwerff

LINKöPING UNIVERSITY
Professor in Welfare Law and Doctoral Student in Welfare Law

This article articulates how legal processes produce assumptions about social realities which subsequently shape relations of inequality and oppression, and asks how such processes may be explored using a critical legal cartographic (CLC) approach.
Departing from de Sousa Santos' influential article from 1987 about law as a map for mis-reading the article seeks to contribute with a deeper knowledge of how law works when law produces the social reality it needs, and how socio-legal scholars may explore this using critical cartographic methodologies. Whereas he suggests that law "creates the reality that fits its application" (Santos 1987: 288), Santos does not in depth elaborate on the material conditions produced by law. Critical cartography points to the duality of

representation and construction that is innate to cartography, i.e. when portraying reality, maps are also making it.

By changing the perspective, from representations of the social world (which is the focus of Santos) to the actual material conditions shaped through legal decision-making, this article argues that a deeper understanding may be gained of the power (and the risk if power misuse) that is embedded in law.

To illustrate how CLC may contribute to socio-legal studies in the field of migration, this study presents two mapping exercises of a position in migration law: 'undeportable deportees'. These people are caught between removal from the State in which they are physically present, inability to return to their State of nationality or former residence, and refusal by any other State to grant entry (Grant 2007). Whilst being stranded in this situation, in the Swedish context, one has no right to work and no right to economic support (children excepted). Legally speaking, practical impediments may lead to a residency in Sweden, yet, a number of people remain in Sweden after receiving a refusal-of-entry or expulsion order without being granted such a permit. Some of these people are stranded for longer periods of time in a maze of bureaucracy that is virtually impossible to find a way out of.

Applying CLC as a method, the article presents two cartographies trying to manage this position of legal limbo (Dauvergne, 2008; Paoletti, 2010): One state-based "hegemonic" map (in the form of an independent state-enquiry), and one map of an individual case-based study. Whereas the former map serves to illustrate the state's capacity to dominate through a combination of coercion and consent, the latter is a counter-mapping exercise in that it reveals the political violence inherent in the state's mapping. The case-based map also critically problematises the advantages of regulating (i.e. mapping) human mobility. It deconstructs, as well as a reconstructs, the migration law of the state-enquiry. Accordingly, the case-based map is a form of counter-mapping with a dual function; to reveal the consequences of the law in the world and for people's living conditions, and to raise questions about what is desirable, or even possible, to map in a complex field of human migration in the current 'world of mobility'.

Anastasia Tataryn

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Labour, Migration and Law as Ecotechnical

Abstract: Legal categories and political discourses of irregular, precarious labour migration reaffirm dichotomies of legal vs illegal, citizen vs non-citizen, worker vs self-employed, precarious vs secure. Labour and migration analyses and critique, moreover, circulate within closed conditions of possibility, where contingencies (recognition, status, value) remain bound to the nation-state. Yet belonging in a nation-state, in other words reaping the ostensible benefits of citizenship, ignores formal legal categories. Belonging through citizenship, or having labour recognised as valuable, are privileged experiences based on historically, socially and ideologically (economically) constructed frames.

The sense of what is happening in/with labour migration, sense understood via Jean-Luc Nancy as the alterity of the being singular plural, goes unheard where experiences are pre-empted by categories defining belonging. Sense—paying attention to the happening of beings coming together—exposes the fact that at the heart of any 'common' is presence that is always precarious and irregular. But this is not the same as the precarity and irregularity that is experienced as a result of the techne of capital—the cold, calculated seizure of life. Sense happens simultaneously with, but in excess of, the techne; it is eco, home, oikos, the basic unit of sociality. This is what I understand as ecotechnics. The ecotechnics of labour migration law, or

seeing labour, migration and law as ecotechnical, suggests that so long as our thinking of community is concerned with establishing definitions and borders to identify, name and solidify experience and presence, then hope for those whose presence is denied or denigrated is incapacitated. But the task here is not to make law 'differently', it is to expose and resist the totalising presence of law where law is posited and problematised as if it were an absolute authority indistinguishable from the nation-state and market (neoliberalisation). Seen as ecotechnical, law maintains eco where it is recognised for its relationship with sociality, originary and presence, as well as the techne. My work explores what this means for precarious, irregular labour migration: it's form, discourse and experience.

Theodora Morou

NATIONAL AND KAPODISTRIAN UNIVERSITY OF ATHENS

Statelessness. A manifestation of social and political alienation

The issue of statelessness is not new. In 1951 Hannah Arendt – a "stateless refugee" herself before she became an American citizen- referred to the stateless as the "most symptomatic group in contemporary politics". It seems remarkable although how little attention has been allotted to it.

It is noteworthy that in a theoretical level stateless persons are divided in two "groups": de jure and de facto. Stateless persons de jure are persons "who are not recognized as nationals by any state under the operation of its law" either because they were not given any nationality at birth or because during their lifetime they lost their nationality and haven' t attained a new one. Whereas stateless persons de facto are those persons "outside the country of their nationality who are unable or, for valid reasons are unwilling to avail themselves of the protection of that country". Here I use the term "stateless persons" to refer only to the first "group". The scope of this presentation is to illuminate the legal framework of stateless persons along with its practical implementation.

The international response to the issue of statelessness consists of: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The 1954 Convention establishes first of all the abovementioned legal definition of a stateless person. It also provides a minimum set of rights for stateless people. It provides among others: the right to a wage-earning employment, the right to public education, the right to housing. It also encourages the contracting states to facilitate the assimilation and the naturalization of stateless persons. The 1961 Convention aims at the prevention of statelessness and at its gradual elimination. Despite the provisions of these Conventions, it is observed that the number of stateless persons around the world remains high. It is estimated that there are more than 10 million stateless persons worldwide. Furthermore, stateless persons face numerous obstacles in the social and political sphere of the countries that they live. They often do not have access to hospitals, they cannot work legally, they cannot have a social insurance and they cannot receive education. Moreover, they cannot travel easily abroad because there is the possibility that the country that they live, may deny them readmission. Stateless persons, therefore, are marginalized and alienated.

It is assumed that statelessness is not a "stable identity of law" but a shifting classification of exceptions and rejections. The reason why is that the contracting states either have not enacted an effective national legislation or they do not implement it. It is deemed necessary, that the states should give proper attention to the issue of statelessness.

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SCHOOL OF LAW, UNIVERSITY OF EDINBURGH, SAHLGRENSKA ACADEMY MEDICAL SCHOOL, UNIVERSITY OF GOTHENBURG

The Construction of Medicolegal Alienation in Physicians Practising in Liminal Clinics Servicing Undocumented Migrant Patients

Background: Across the globe, undocumented migrants have largely relied on civil society and non-governmental organizations for their health needs. The impact of political governance on ethical aspects of medical care have been raised, however, empirical explorations surrounding physicians' legal consciousness in engaging in medical practise within this context remains lacking. Aiming to contribute to this observed knowledge gap, the present study sought to understand how the intrusion of 'illegality' in physicians work when practicing outside of their societally condoned medical role was experienced, in order to synthesise the structural and institutional conditions under which moral, ethical, and professional dissonance relating to both medical and legal dimensions of care occur.

Method: Constructivist grounded theory was applied to unstructured qualitative interviews conducted between 2011-2014 with 16 physicians working in informal clinics servicing undocumented migrants in Sweden. Following the analysis, further interpretations were made through the lens of preexisting theory, in the effort to identify potentially novel dimensions in the explored context. Fusing the sociology of law and critical legal theory with elements from medical anthropology, an encompassing analytical framework synthesizing the liminal space constructed in the informal clinic was applied; including concepts relating to alienation, anomie, legal consciousness theory, biopolitics of deservedness, and imagined community.

Results: Findings synthesized physicians' experiences of engaging in informal clinics servicing undocumented migrants in three categories: Ambiguity in navigating illegality, due to being aware of existing vulnerabilities surrounding their patients' safety as well as own involvement, whilst simultaneously feeling enriched through patient interactions and engagement in the clinic; Being exposed to accounts of structural violence and social injustice, through patients sharing their plights, extreme circumstances, and interactions with society; Experiencing professional isolation in praxis, occurring when discovering the limits of own competence and feeling severed from the traditional structures of the medical institution. When dissected, reconstructed, and further analyzed through the theoretical framing, the phenomenon of medicolegal alienation was identified.

Conclusion: A novel dimension of legal consciousness theory coined as medicolegal alienation was introduced. Viewed as a process of steps shifting away from legality, when functioning as arbiters of patient rights within the conventional medical institution, the biopolitics of imagined deservedness forces physicians into a position of moral, ethical, and professional dissonance. In struggling to maintain agency, and dictating one's own destiny in practice and engagement, the physician begins to feel restricted by the structurally design mold, resulting in the development of mistrust and resistance, to both the institution and other professionals within its structure. The rigidity of the legal structure dictating moral, ethical, and professional practice in turn leads to anomie, propelling the physician out of the conventional structure, and into the realm of illegality, in the search for moral, ethical, and professional congruence. Ultimately, in servicing undocumented migrant patients in an informal context, the physician becomes alienated both from the medical profession and from the realm of legality. Fueled by underlying structural and institutional conditions, involving both rigid and fluid processes, medicolegal alienation yields multiple implications for patients, medical practise, and society as a whole.

GENDER, RACE AND ALIENATION

Ariadni Polichroniou

NATIONAL AND KAPODISTRIAN UNIVERSITY OF ATHENS

From Alienation to Dispossession: Subjectivity, Otherness and Collective Resistence in the butlerian conceptual framework

This paper aims at the exploration of the radical reformation of the marxist notion of alienation within the butlerian conception of disposession, as analyzed and developed by Judith Butler and Athena Athanasiou in their common oeuvre Dispossession: The Performative in the Political (Polity, 2013). More concretely, this presentation focuses on three differentiated, yet interwoven, thematic axis: a) the potentiality of the detection of relational lines between the robust marxist theoretical heritage of alienation, especially in the form of alienation from one's own specific humanity and alienation from Others, and the butlerian twofold notion of dispossession; b) the thorough analysis of the butlerian term dispossession per se as the aporetic construction of a semantic paradoxicality in which the term signifies both the processes of the subject formation via the subjection of the subject-to-be to the norms of power and cultural intelligibility as well as the subordination to the normatively regulated and unequally allocated socioeconomic violent phenomena of displacement, deportation, exposure to authoritarian regimes and intensified precaritization, biopolitical invasion, accelerated social exclusion etc.; c) The critical comparison and productive synthetic opportunities between the term dispossession and the butlerian reconception of the notions of vulnerability as a constitutional ontological state of the human condition and precarity designated as the politically induced condition of maximized vulnerability and as a mediating site of alliance between heterogenous categories of the unrecognized Others.
The final aspiration of this presentation concentrates on the theoretical attempt to deepen the complex problematic of the quasi-althusserian quasi-lacanian butlerian theory of the construction of the subject, as well as on the articulation of an affirmative thesis concerning the resistance opportunities and collective solidarity actions of the marginalized Others, perceived as dispossessed subjects, via the utilization of dispossession and precarity not merely as methodological theoretical tools but primarily as potential non-identitarian basis for the forging of a radical and multi-prismatic democratic struggle. In the closing arguments of this presentation, the question of the role of the law as a hegemonic narrative empowered with normative recognition responsibilities will be raised embedded in the problematic of the recognizability and intelligibility of the dispossesed within Western modern democracies.

Thomas Ebbs

UNIVERSITY OF SUSSEX, SCHOOL OF LAW, POLITICS AND SOCIOLOGY

The Conduct of Alienation in Feminist Activism

Studies have shown that experiences of participating in feminist activism help secure labour for related social movements. However, feminist theorists often portray experiences of alienation as externally imposed by social conditions and propose they can be alleviated through "doing feminism". This paper

argues that some feminist activist groups use organisational techniques and structures to provoke experiences of alienation amongst their members, linking such tactics to "doing feminism". Through a case study analysis of a second-wave feminist magazine, Spare Rib, and a methodology of governmentality this paper shows that these experiences of alienation are a form of governed conduct. It reveals that experiences of alienation are induced to provide evidence of a knowable feminist truth and the existence of a unitary collective consciousness. By acknowledging the connection of organisational techniques to knowledge production, alienation is argued to be an important tool in making feminist expertise possible, including feminist legal scholarship. By linking these findings to arguments of epistemic injustice, the paper provides important insights into how governmental rationalities of some contemporary feminist groups make use of experiences of alienation to legitimise the use law to the detriment of other socially marginalised groups.

Arianna Porrone

A critical feminist approach on the international right to food - Gender, Race and Alienation

Data from FAOSTAT (2011) show that women comprise over 40% of the agricultural labour force in the developing world. Despite their key role in ensuring food security, 70% of the world's hungry are women and girls.

The right to adequate food, including women's right to adequate food, is institutionalised as a human right by Article 25 of the 1948 Universal Declaration of Human Rights. The same right is enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and further elaborated in the General Comment No. 12 on the Content of the Right to Food and the 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.

In general, the right to food embodies the idea that all people should have a decent standard of living, especially enough to eat and drink, both in peacetime and in war (Ziegler et al., 2011). The right to adequate food entails four normative elements: 1. availability, 2. adequacy, 3. accessibility, and 4. stability of food supply. The full realization of the right to adequate food depends on the achievement of all these four dimensions and on the parallel implementation of the other relevant economic social and cultural rights.

In 2015 the Special Rapporteur on the Right to Food analysed the barriers that hinder the equal implementation of the right to food (UNGA, 2015). He reported that women and girls still face persistent discrimination and experience gender-based and socially-constructed violence.

The Convention on the Elimination of Discrimination Against Women (CEDAW), the UN General Recommendation No. 34 on the rights of rural women (REC34, 2016) and the Convention on the rights of peasants and other people living in rural areas (2018) mark the milestone in challenging current models of international law-making and human rights, recognising rural women as a specific group. Being highly engaged in both the productive and 'care' economies, rural women are among the most marginalised groups in society.

Although significant advances have been made in developing legal protections for women, specifically in the context of the right to food, there remains a number of gaps to the identification of effective narratives and practices able to acknowledge women as social agents and advance women's concerns. First, there's a divide between principle and practice in many contexts around the world (Ziegler et al., 2011). Second, as Chinkin and Charlesworth observe, when women come into focus in international and human rights law they are viewed in a very limited way (2000). Third, instead of challenging current models of domination,

the multileveled structures of power relations and their influence on identity and discrimination, international law flattens women's differences and relegate their concerns to limited normative categories. This presentation aims at: 1) introducing feminist legal critiques of international and human rights law to 2) understand whether the current legal framework on women's rights is an efficient body adequate to answer to rural women's marginality.

Diletta Giunchedi

PHD CANDIDATE AT UNIVERSITY OF BOLOGNA

Maternity, Intention, and Alienation

The contribution aims to analyse the consequences of patriarchal law on female reproductive capacities to highlight the ambivalence of pregnancy and maternity, viewed as an "institution" and the "most fundamental and bewildering of the all contradictions". In this light, maternity seems to be empowering and oppressive; more precisely, the power to bear a child has seen as exclusive capacity to give life and, at the same time, this capacity is the first cause of female's subordination.
In the eyes of English and Italian law, motherhood follows tradition: the mother is the woman who gives birth to the child. The gestational tie exists, regardless of the intention of the woman to be the mother and this is legally represented by the fact that motherhood cannot be declaimed, in England and Wales, where legal motherhood can be dismissed only by courts.
This legal definition of mother is related to a 'natural' concept and a gender-oriented perspective, which is enhanced by the third wave feminism, which identifies the maternity as the fulfilment of personal desire. The Manifest of the third wave indicates a sorority between mothers as the basis of the activism, evaluating the social and political meaning of woman's reproductive capacities, but it discards the disadvantages and subordination rule that this role engenders.
Recent political decisions show us the intention to impose maternity not as a personal choice but as a personal activity under the public domain and control: Alabama and Argentina banned abortion, showing the scheme and the desire to diminishing the control of women on their bodies, leaving them powerless and under "public assault". The normative intention is to disrupt the familiar social structure from the inside: it vehicles woman's behaviour and make them feel guilty of their pregnancy and stranger in their body, which they cannot control: but alto this structure emphasis a traditional family model and imposes a gendered unbalance.
I argue that the conservative female model normatively provokes women's alienation: in an inner perspective, women are deprived of power to manage their reproductive capacities due to the and, in a social context, they are isolated because of the role of first children caretakers. Moreover, the consequence of this conservative definition is to exclude lesbians, committee and surrogate mothers.
I think that it is necessary to rethink the basis of the notion of motherhood, taking in consideration the value of consent, which implies to start a process of deconstructing motherhood: it means to abandon the maternity as natural destiny, to distinguish between maternity, related to a biological link, from motherhood, related on legal status and intention.
Motherhood is not a natural concept, but is socially constructed. I argue that woman intention might be the guideline to disrupt the idea of motherhood as an unmodifiable consequence of a sexual intercourse, to abandon the idea of female natural destiny to become mother. Motherhood should be the result of will mothering, which should involve the intimate sphere of intention and not the social judgment.

Aurelia Yueyi Guo

CITY, UNIVERSITY OF LONDON

Radical mimesis and racism in Place's Gone With The Wind

This paper considers Gone With The Wind, a series of strategic appropriations from the Margaret Mitchell novel made by the conceptual poet and criminal appellate attorney Vanessa Place. Place's Gone With The Wind series included verbatim reproductions of the entire novel, selective reproductions of racist slurs and caricatures from the novel, and a project of tweeting the novel line-by-line from a designated Twitter account. Place's actions were intended as an anti-racist critique of the novel and its ongoing popularity, profitability and protection by American law: Place specifically aimed to trigger a lawsuit for copyright infringement from the typically litigious Mitchell estate.

Place's project was a failure in the sense that no lawsuit eventuated, and in the sense that her work was condemned as racist rather than anti-racist in the spheres in which her work largely circulates: within the poetry community, within academia, and within the art world. This paper reflects on Place's project through the lens of the case for copyright infringement that never materialised, and through the lens of Place's critics.

Drawing on Saidiya Hartman's Scenes of Subjection and Christina Sharpe's Monstrous Intimacies, I consider the intersection of law, race and violence in the United States as refracted through Place's Gone With The Wind project and other artworks engaging with the American history of slavery: Fred Wilson's Mining the Museum (1992-1993) exhibition project, Adrian Piper's Vanilla Nightmares (1986) drawing series, and Kara Walker's installation, Gone: An Historical Romance of a Civil War as It Occurred b'tween the Dusky Thighs of One Young Negress and Her Heart (1994).

After Hartman, this paper considers the legal constructs used to regulate chattel slavery during slavery and its immediate aftermath in nineteenth century America, including through property law and criminal law frameworks. Place attempted to criticise both the sentimentality and the legal protections surrounding Margaret Mitchell's Gone With The Wind, using racist material directly taken from the novel in an effort to push past white American denial. Radical mimesis was intended to test the legal protection of Mitchell's material as well as to confront white Americans with their sentimental attachment to historical slavery and segregation.

Place's work also has a gendered dimension. Besides directly confronting the Margaret Mitchell estate as the financial beneficiary of the ongoing popularity of Gone With The Wind and its associated industry, Place indirectly engaged with the historical role of white women in minstrelsy. This is also considered alongside Hartman's emphasis on the 'wedding of cruelty and festivity' in slavery, including legal, social and cultural use of the language of 'seduction' to obscure the sexual subjugation of enslaved women. After Christina Sharpe's reading of Kara Walker and her critics, I consider the absence of a critical analysis of the slave-owners in cultural and artistic depictions of the antebellum South. I argue that Place's radical mimesis of the popularly accepted and legally protected racism of Gone With The Wind, however misjudged aspects of the project proved to be, deserves recognition as a gesture against denial.

Elin Sandegård

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Alienation in female reproduction - a necessity for equality or a decay of humanity?

Medical technology has enabled new ways of giving birth and has transformed the entire process of pregnancy. The development of caesarean sections has in some countries become a relevant alternative to vaginal delivery. Medical technology and medicines have enabled procedures such as abortion, in vito fertilization, surrogate mother arrangements and the possibility to save extremely premature infants with intensive healthcare in incubators. This technology sheds new light into Shulamith Firestone's idea about an external womb. According to Firestone women will not be truly free until they are completely liberated from “the tyranny of reproductive biology”, that is when we use the liberative potential in technology and completely eliminate the reproductive differences between the sexes and thus make the reproductive functions irrelevant.
Is this what we want? Is a total female reproductive alienation a necessity for the women’s liberation and for equality? In order to answer that question, we have to keep several perspectives in mind. What does alienation from the reproductive process mean for women or mankind? Is there something of (human) value that might be lost, and thus worth protecting? And how can we (or how should we) understand rights, body and female reproduction in a time when women's rights, in some places and regarding certain issues, are actually questioned?
In this paper I want to reflect upon different images / legal figures of the woman in the reproduction process, linked to the concept of alienation and also in relation to different ideologies about the pregnant/birthing women.

Elena Ghidoni

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Stereotyping as a mechanism of alienation of the legal subject

Stereotypes and the related process of stereotyping have been recognized as forms of discrimination in international human rights law and have gained attention quite recently in European legal doctrine. In particular, legal scholars devoted attention to concrete examples of stereotyping in norms and judicial reasoning and dwelled on how to identify them and expose their harms in terms of human rights violation and discrimination.
It has been noted that stereotyping involves a generalization that confines the members of certain social groups into homogeneous categories, assigning them specific characteristics and behaviours in a way that is both constitutive of the group itself and regulatory. The categorization obscures the members as individual subjects, maintaining them into subordination, and securing existing power relations. In this sense, stereotypes are both causes and consequences of a process of subordination and they cannot be understood without a focus on power and on the concept of groups.
Accordingly, the categorization embedded in stereotyping can be described as a form of alienation. It produces social and cultural estrangement of the members of a subordinate group, by imposing them a norm they have no power to define and that usually marks them as others in a dichotomical and therefore oppositional way. The dichotomy serves both to construct one standpoint as the dominant and, at the same time, to assign inferiority to the stereotyped one. Besides, in the construction of this dichotomy, the dominant view is hidden under the coverage of neutrality and objectivity, thus becoming unquestioned. As

a result, stereotyped groups are excluded from the public domain, where meanings and values are assigned and power is distributed. Furthermore, the imposition of a norm from outside also produces self-estrangement. Heterodesignation turns individuals into objects, unable to speak, deprived of agency and freedom of choice, since the definition of what they are and what they can be comes from outside and is not available to them, in a process that flows in a top-down and unilateral direction: from the powerful to the powerless.
The deep connection of stereotypes with cultural, religious and social meanings makes them difficult to identify, almost never questioned and frequently taken as logical premises for unequal treatment; therefore, they become rationalized legally.
This paper will explore how stereotyping is connected with the alienation of the legal subject and what are the consequences of this phenomenon in judicial reasoning. It will also try and go beyond current scholarship focused on typified examples, and propose to shift the attention to how this mechanism filters the law and is rationalized in legal discourse and legal reasoning in order to detect a way to uncover and neutralize it.

Mareike Riedel

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The Circumcised Other. Law, Race, and Religion in the Debate on Male Circumcision

The practice of infant male circumcision for non-medical reasons has come increasingly under scrutiny across a number of European societies. Whereas opponents of the practice argue that children's rights and medical ethics are their sole concerns, commentators point out that in societies where circumcision is not the norm legal and political attacks target mainly minorities, most notably Jews and Muslims. Indeed, the majority of official attempts to ban or restrict the practice occurred in societies without a tradition of routine infant male circumcision, where Jews and Muslims constitute the most significant circumcising groups. In contrast to the United States, in Germany and Norway, for example, the practice has remained within the almost exclusive domain of these minority groups, raising questions about the role of religious and racialised difference in the critique of male circumcision. This question, however, has so far received little interest in the legal and bioethical literature concerned with the practice. Despite this literature's growing interest in circumcision's role for the construction of social identities, the role of religious and racialised difference has remained underexplored. Drawing on critical race, feminist and postcolonial approaches to law, in this paper I examine historical and contemporary debates about male circumcision. I discuss the significance of male circumcision as a trope for difference in the European-Christian imagination and then move on to analyse racialising and orientalising images in the contemporary legal and political debate. Discussing examples from Germany and Norway, I show how human rights and children's rights discourse can be enlisted – consciously or unconsciously – for an exclusionary agenda. I conclude by discussing the risk of constituting infant male circumcision as yet another site for the sexual politics that construct 'the West' as the stronghold of liberal freedoms, endangered by a barbaric, cruel, and backward Other.

Elisa Bertilla de Siqueira Silva

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Decrypting Women's Alienation

Whose voice matters in politics? Who needs to be heard? And, more importantly, who is allowed to speak? The answer is hard and simple: men. Although the fifth Sustainable Development Goal of the 2030 Agenda is to achieve gender equality and empower all women and girls and social movements worldwide like #MeToo and Time's Up have gained more visibility in the last years, women still have been alienated, in the sense of being put aside and excluded from public spaces and public life. Especially regarding politics. That is due the false sensation that those changes in scenario, in which, apparently, women have speech space and representability, are permanent. A misguided common sense that equality is close; a dominant thought that has been spread by the already powerful patriarchy.
Nevertheless, authors like Ricardo Sanín Restrepo and Gabriel Méndez-Hincapíe have managed to see through the veil that surrounds the heterogenic mass called people by those who lead and aim to create an unreal sense of belonging and parity. The encryption of power, in their words, is a "primordial prohibition" to the use of language, meaning that there is a pre stablished hierarchy in life of whom is imbued with the capacity to do so.
The system that prohibits and cages women in private spaces is broadly explained by Heleieth Saffioti in The Power of Men, in which the author points that the patriarchy is not solely a dominant power, but also an exploiting one. In her vision, the system is so intricate that women commonly identify as nurturing and submissive.
On a more recent perspective, Judith Butler also pointed out, in Bodies in Alliance and the Politics of the Street that women, as well as other minorities, are but masses on the streets, for people need voice their voice to be heard, and that is denied for them. Speaking only to yourself might give you strength to continue, but doesn't change the status quo.
Thus, the goal of this work is to apply decryption to understand how language has been denied to women through history in order to think mechanisms and actions to resignify women's place in society, enabling their bodies to overcome their conditions as masses, that can be subjected to patriarchy's wishes and laws, to people, who are equal and can speak their own mind.

Elisabetta Bertolino

UNIVERSITY OF PALERMO

Cut in sexual difference: The case of commercial sex

The paper analyses the relation between the cuts in the construction of sexual difference and the objectification and alienation of selves and bodies in commercial sex.
On the one hand, the paper explores the example of law. Law has since its beginning appropriated the discourse of the patriarchal and essentialised sexual difference division, reflecting a cut subjectivity. For instance, law's approach to commercial sex has been historically characterized by objectification and production of otherness. On the other hand, the paper reflects on the alienation, splits and separations of commercial sex where everything is reversed. While sexuality is generally thought as something that cannot be separated from affective relations and implies relationality to the other, in commercial sex those implications disappear. Objectification in commercial sex is seen in fact as a situation in which the cuts that are performed on the subject are also ingrained in the self and body.

While attempting to think resistance against such constructions of otherness and alienation, the paper draws on the perspective of one's voice offered by the Italian philosopher Adriana Cavarero. One's voice reconnects the disjunctions opened up by the essentialised sexual difference subjectivity, providing a threefold method of resistance against objectification and alienation in commercial sex. Firstly, the voice upholds one's unique singularity that suspends the essentialised sexual difference divide, thus freeing sex workers from an understanding of themselves as subcategories of an already declassed feminine subjectivity. Secondly, speaking in one's voice involves connecting to one's body; this provides the tools to speak one's own vulnerability and allows an escape from discursive moralistic positions on the vulnerability of sex workers as victims. Thirdly, one's voice is also connected to an ontology of reciprocity and love that excludes objectification in human interaction in commercial sex.
The paper is based on a chapter of the book by Elisabetta Bertolino, Adriana Cavarero: Resistance and the Voice of Law, Routledge, 2018.

ALIENATION AND FAMILY LAW

Evis Garunja

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Alimony, legal liability as well as social. Albanian case

Albanian legislation establishes the legal framework that guarantees, protects and solves family disputes. According to Constitution, Albanian Family Code protect minors and their best interests, relationship with their parents, the right for good upbringing and education. It is a legal responsibility as a social, economic and emotional one from the parents side towards their children and vice versa.
Separation, divorce, migration, abandonment of minors or elderly peoples are associated with lack and indifference on fulfilling the legal obligations towards the family, especially in case of minors or elderlies.
The article is focused on these cross-breeding responsibilities between generations, parents to their children and children's to elderly parents. Parent's divorce have produced a defaulting and debtor parent towards children just as children who abandon their parents because they live abroad. The relations and problems among them are part of this analyze on legal and social plan.

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A Reconstruction of the Family Relationship in cases of Familiar Sexual Misconduct

The common law in England and Wales struggles to deal with cases of familiar sexual violence— where the victim has a preexisting relationship with the perpetrator. The Crime Survey for England and Wales 2018 found that rapes within a relationship were less likely to be reported to the police than those committed by other perpetrators. When they are reported, victims face insurmountable evidential hurdles in proving their case in criminal or civil court. A further issue exists in 'historic' cases, where victims come forward years later; the evidence is deemed 'stale', the Prosecution Service declines to prosecute, and actions in

tort are barred by the Limitations Act 1980. Literature, jurisprudence and statistics confirms what is common knowledge in the legal community: intimate-partner violence and sexual crimes occurring within the family are inadequately dealt with within the current parameters of the criminal justice system and the civil law (most notably, tort). This leaves victims of sexual violence to live with the harm caused and without any remedies or adequate legal redress.

In highlighting these well-known problems with the current law, this paper supposes an alternative way forward. Drawing on the Supreme Court of Canada's decision in M.(K) v. M.(H) 1992 3 SCR 6 (a decision that many in England would describe as legally radical), it will be argued that cases of familiar sexual violence are better addressed through equity's doctrine of the fiduciary. The aforementioned case concerned egregious acts of incest against a child, and the victim's search for legal recognition of the harm caused years after the fact. In finding that the incest constituted a breach of fiduciary duty, the Court held that fiduciary relationships are determined by their nature and not through pre-defined legal categories; that equity's jurisdiction extended to personal and not merely economic interests; and that equity can read fiduciary obligations into a relationship even in the absence of any express undertaking to that effect. The wider benefit is that use of the fiduciary doctrine allows for a victim centred approach. This alternative framework conceptualises the harm as a breach of the trust that is embodied in the pre-existing relationship between victim and perpetrator. This is not to argue that the existing civil and criminal law frameworks, as realized through the Sexual Offences Act 2003 and the tort of assault and battery, need be replaced. Rather, through equity's supervision, the fiduciary principle can supplement the common law when a strict application thereof leaves victims without legal redress. This approach might also maintain the integrity of victim's subjectivity against a legal process that often works to undermine their subjective interests. As explained by Justice McLachlin (as she then was), the wrong encompassed by a breach of a fiduciary relationship is conceptualised from the perspective of a breach of trust. Equity's intervention could lead to specific remedies that address the harm that victims have suffered. The question then becomes, what do victims need to move forward?

Mario Renna
Università di Roma Tre

Parental Alienation Syndrome between conflicts and the best interest of the child

Two recent sentences of the Italian Court of Cassation highlight the relationship between Parental Alienation Syndrome (PAS) and the custody of the child following a crisis in parental relationship. The parental alienation is generated by a "programming" of the children by a parent - called "alienating parent" - through the use of disparaging expressions, false accusations of neglect, violence or abuse, concerning the other parent, said "alienated parent".

In the pronunciation n. 6919/2016, the Court has stated that in terms of the child custody, if one parent denounces behavior of the other parent in order to change the methods of assignment, the trial court is required to ascertain the truthfulness in fact of the aforesaid behaviors, using the common means of test, including the presumptions, and to adequately motivate, regardless of the abstract judgment on the scientific validity or invalidity of the aforementioned pathology (PAS), taking into account the ability to preserve the continuity of parental relationships with each other parent.

More recently, the Court of Cassation (n. 13274/2019) considered the exclusive custody of the child to the father illegitimate, because founded on the mere fact that the mother adopted a behavior tending to exclude the other parent, contributing to generate in the child the PAS. In general terms, the Court of

Cassation reiterates that the judge's prognostic judgment, in the exclusive moral and material interest of the offspring, must focus on the parents' ability to grow and educate the child in the new situation determined by the disintegration of the union. The decision must be formulated taking into account of the way in which parents have previously performed their duties, of their respective abilities of affective relationships, as well as of the personality of the parent himself. The judgment must be made in respect for the principle of coparenting, to be understood as a common presence of both parents, suitable to guarantee a stable habit of life and strong relationships with both.
The minor's right to parenthood during conflict situations must also be considered in the light of art. 8 ECHR: the recognition of this personal right, first imposes on the States specific positive duties, such as to ensure the effectivnes of the right to respect for family life. The European Court of Human Rights in several cases acknowledged the "existence" of the PAS and the need to guarantee, in the presence of pathological situations, the pursuit of the best interest of the child.
Alienation can be an act of violence, that is, the exercise of a conditioning and a control that affects the growth of the child. However, it seems appropriate to deepen the impact of this phenomenon on family law and on the relationship between parents in times of crisis.
However, it should be noted that the poor scientific credibility of the PAS may prove to be a weapon against those who suffer family violence. In this sense it is possible to read the Italian law proposal "Pillon", where in art. 17 is expected that some measures called "Ordini di protezione contro gli abusi familiari" (art. 342-bis c.c.), as well as ordering restrictions or suspension of parental responsibility, could be adopted "nell'esclusivo interesse del minore, anche quando, pur in assenza di evidenti condotte di uno dei genitori, il figlio minore manifesti comunque rifiuto, alienazione o estraniazione con riguardo a uno di essi". In the name of the principle of coparenting, the law proposal could limit the right to report the
violences suffered, so as to avoid incurring the aforementioned afflictive measures or to be held responsible for generating the PAS

ARTIFICIAL INTELLIGENCE AND ALIENATION

Aitor Jimenez

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Is Google/Alphabet a criminal organisation? (Shall we nationalise it then?)

Since its foundation in 1998 Google (now part of Alphabet) has become a corporate juggernaut of global dimensions. A power by its own right, is present in 8 out of 10 smartphones. It controls more than the 80% of the web searches everywhere (except China and Russia). Alphabet manages at least 15 huge data centres, not to mention a nascent fibre cable infrastructure. It's also a major IA developer (especially in the fields of applied Machine Learning) as well as an active Venture Capitalist. No doubt that Alphabet is a first-class global actor, holder of a power that was uncontested until very recently. Despite of its corporate efforts trying to picture 'Google Political believes' as an example of adamant defence of democratic values, progressive causes (racism, death penalty), technological progress and free market, Alphabet has found itself fighting in numerous legal fronts, accused of violating, precisely, what they claim to defend. Alphabet has crossed the line, entering in the realms of the criminogenic behaviour, fitting into the scholarship definition of Psychopathic Corporation. Why does a corporation that has been repeatedly fined due to its

permanent violations of norms and regulations at every level, still hold the respect of authorities, who often receive its executives as foreign dignitaries? Why are its criminal acts still considered as marginal deviations, instead of being considered as a fundamental part of their Business model? In this paper I will explore a number of legal, economic, social and political arguments characterizing Alphabet as a Psychopathic organisation. Under the frame of restorative justice, I also aim to propose a potential solution to the harm caused by the company: its nationalisation. I will describe some of the most important legal and political challenges (and perhaps its solutions) we may find in a hypothetical nationalisation of Alphabet.

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Online Dispute Resolution (ODR) is a new invention of digital era to solve a legal problem. In Indonesia, ODR is also introduced by the Indonesia Supreme Court through Regulation No. 3 of 2018 concerning e-court. The essence of ODR and e-court is the use of artificial intelligence to identify, to collect, and to analyse data of case law. In the near future, Indonesian government's planning is to create a court verdict with a robot. Herewith, the problem will arise, where is the position of judge to make a court's verdict and how is the justice seeker alienated to be communicated though court's hearing.

With ODR, the notion of ethics and morality is reformed. Deleuze argued that ethics may be interpreted as a new way of creative thinking and living (Deleuze and Guattari, 1994). ODR encourages the interaction between judge, public prosecutor, clerk, lawyer, and justice seekers. In the past, the lawyer, clerk, public prosecutor and justice seeker should stand up to regard judge who attend the court room. With ODR, this ethical tradition can be erased. Dispute settlement can be done without a meeting among the lawyer, clerk, public prosecutor and justice seeker. They may only sit in the front of computer to handle the case.

Ethics and morality makes a dogma and hierarchy, but one may walk away from them (Deleuze, 2006). ODR may provide the change of this dogma and hierarchy. The judge may be reduced his or her legitimacy to create a verdict and change it with an artificial intelligence. However, at the present time, ODR does not use 100 % of artificial intelligence. The man power is still dominated in the system of ODR currently. E-court of Indonesian Supreme Court still use the man power to handle the legal analysis and make a verdict. Artificial intelligence is used to identify an application and complaint. Not only, e-court of Indonesian supreme court which is operated by the man power, but also some ODR such as the domain name dispute settlement at the PANDI (Indonesian Internet Domain Name Registry).

ODR is a new discourse in philosophy of law tradition. Meanwhile, the era of modernity, everything may need transformation and affect to the manipulation of bodies and selves (Douzinas, 2000, p. 213). ODR may create de-ontology of bodies. People do not require to be presented in zhe courtroom. Herewith, people settle their conflict within reality and virtual world (Žizek, 2004). In the past, the classical juridical system was incapable to pursue an effective procedural justice (Deleuze, 1986, p. 91). Hence, the ODR may become one alternative.

Xander Ehlers

UNIVERSITY OF PRETORIA

Aliens on Campus –Biometric Access Control and the Excision of the Public University from the Public Sphere

The University of Pretoria, among other South African Universities, has in recent years adopted a strict access-control system based on biometric scanning technology. I put forward an interpretation of the use of this new system, and the securitisation of campus more broadly, based on the history of popular protest that immediately preceded its implementation in South Africa, and the role of the Public University in public space. It is my contention that the University seeks to excise itself from the public sphere through the creation of a gated community, based on a peculiar self-definition of the Institution, and a corresponding rendering of the other of the Institution – the campus-alien.
I will survey some of the ways in which people can become alien to the university through this process of the redefinition of the Institution and its mandate, which is exemplified in the use of biometric access control to define and secure the university borders. A crucial part of the change is that from a system of institutional public responsibility and duty, to a liberal-autonomous system where the student/staff-member/member of the public either contracts themselves into the increasingly sovereign university-space, or alternatively chooses to become foreign to it.
I claim that the university sheds it duties and limits its social responsibilities (liabilities) by fencing itself off from the public sphere. The adoption of an approach of liberal autonomy (rather than social duty-dignity) to the university space, broader social reality becomes alien, and something to be potentially excluded from its borders. Of course, the converse is that the University moves away from the public space and is foreign to its own place. In this way it puts itself into the remote orbit of outer space – itself a process of alienation.

Antonio Iannì

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Legal and Political Economic Theory of Smart Contracts: Between Emancipation and (Digital) «Alienation»

It is possible to identify both systemic (in terms of general theory) and specific (in terms of theory and politics of contractual law) reasons for studying the implications of smart contracts, and their founding substratum that is the blockchain technology.
In 1982, an iconoclastic American mathematician called David Chaum published a short paper entitled ‘Blind signatures for untraceable payments’. In those few pages, Chaum introduced a blind signature scheme as the foundation for a renewed anonymous payment system: «The ultimate structure of the new electronic payments system may have a substantial impact on personal privacy», he wrote. To protect the privacy right of individuals, the validator should not read the document involved (e.g. a sales contract) during the process of validation; for this reason, the document has to be hidden in a special folder and the validator, without breaking the recipient, will simply sign it on the outside. At the same time, however, the document would be simultaneously signed too (in particular, thanks to a digital signature technique).

The short description of this “first chapter” of the blockchain’s appearance shows how the matrix of the new paradigm has its deepest roots, on the one hand, in the privacy safeguards and, on the other hand, in the market interests (notably the ‘trusting relationship’).
The second historical step coincides with the publication of Nick Szabo’s paper ‘Contracts with Bearer’ (1997). Szabo suggested a blind transfer system for the circulation of all «references to a particular instance or set of instances of an object […], other kinds of standardized rights». The same year he also published ‘The God Protocols’ in which he argued – almost by applying the Adam Smith ‘invisible hand’ theorem – about the necessity for a mutual protocol: «Imagine the ideal protocol. All the parties would send their inputs to God […] Alas, in the our temporal world we deal with humans rather than deities. Network security theorists have recently solved this problem. They have developed protocols which create virtual machines between two or more parties» (1997b).
It is not a coincidence that the following year, in his article ‘B-Money’, the cypherpunk Wei Dai supported the implementation of a virtual money protocol for the exchanges among members of an on-line community. Along with this first strategy, Dai invested also in the adoption of an innovative and cooperative e-contract regime.
The IT architecture suggested by Dai can be considered as a (blockchain-oriented) prototype of smart contract, which is mainly a software able to translate contractual clauses into lines of computer code and whenever a term of the contract occurs it is able to recognize and autonomously respond to it; similarly, the software realises and react against any breach.
On a closer analysis, the two models (Szabo’s and Dai’s) share the same contradictions. In fact, both proposals refuse to be guided by the institutional legal framework, preferring a decentralized and voluntary approach that, however, is itself nothing more than a social-normative context.

Dominik Świątkowski

UNIVERSITY OF WARSAW (POLAND)

The development of artificial intelligence in music from the perspective of the author. A chance for development or a threat of alienation? (stream: Artificial intelligence and alienation)

Recently, one of the key legal problems is the issue of artificial intelligence (AI), more and more often used in various fields that affect more and more spheres of social life. In the course of this paper, attention will be focused on musical issues, because the problem of AI in this field has already been a reality and generates legal effects. In addition, this problem is extremely complex, because AI can be used both in the process of creating of a musical piece and its performance and production. It shows that almost no process associated with the musical sphere is free of AI. The occurrence of algorithms capable of composing musical works on one hand is a significant threat to the future of composers, but on the other, it is a huge challenge for both authors and lawyers. Therefore, the aim of the paper is to consider the influence of AI on the independence of authors and on the development of artistic work. Deepening the issue, the question whether AI has the chance to eliminate the human's creative element and cause his alienation will be questioned.
On one hand, it should be noted that in the case of a well-programmed algorithm, a human is unable to distinguish which work was composed by AI and which one by a human being. It creates a danger that the author may be eliminated from the creation process, since almost every element of the musical work will be programmable. Nevertheless, the compositions still require a human input in relation to the theory of

music, orchestration or music production. In addition, AI does not have the ability to program „a touch" that is elusive and extremely important in the art. What's more, AI is not adapted to live performances. While playing on the stage, one often has to take into account the room acoustics, sound system, audience energy, visual tips divided by musicians, etc. At this moment, AI can not solve such situations, which confirms that nothing can replace the valuable musician in this area. Thus, AI has already been changing the process of creating music and will certainly be even more important in the nearest future.
During the speech, the ownership of copyrights for computer-generated tracks will also be subjected to analysis. Each program has a slightly different function. For example, IBM Watson Beat, using the introduced audio samples, only helps the author, AIVA Technology composes the songs by itself, while Amper Music becomes not only a composer, but also a performer and a producer. The issue of copyright seems to be crucial, because it depends on AI whether a human will be eliminated from the proces of creation. However, it should be emphasized that even if AI composes everything, every single note, at the end of the creative process there must be a human who properly selects the score and gives it meaning through performance. At the end, the answer to the question posed in the title of the speech will be answered.

Bernard Keenan

BIRKBECK

Alienation, cognitive labour, and the autopoiesis of media

According to Bifo, the alienation of our times is not the silence imposed by the din of industrial production, but "a cognitive space overloaded with nervous incentives to act". Rather than the "becoming thing" of the alienated labourer described by young Marx; the submission of the person to the thing. The soul was disconnected from work, but this alienation formed the basis for a radical organic communist movement estranged from capital's interests, a communism that has nothing to do with state parties and bureaucracies but arose organically in that space and time that workers collectively shared in away from industrial production processes, where people could be "aware and free, cohesive and erotic". (p115)
Today, Bifo contends, we not alienated so much as we are de-realized: unable to relate to the animated bodies of one another, subsumed into digitally deterritorialized cognitive labour, pathogenically divided between labouring cognitive functions applied in the virtual plane and an evaporating material sociality, in which we engage as isolated entities encoded according to the impositions of digital networks. (p108-9, Soul at Work). The critical driver in this shift was the digitization of work and the subsequent sensitisation of the human organism to the codes and dispositions of the network, permanently interfaced via mobile devices. The result is no longer alienation, in which an abject soul exists outside of labour, but rather panic, anxiety, depression, and other psychosocial symptoms arising from the constant pressure to produce oneself as a successful agent in a competitive atomised economy.

How does this subject emerge? Drawing on Guattari's work on aesthetics and flow, Bifo takes up the concept of "refrain", a temporal pattern developed in the psychic system of individuals in order to impose some order on the increasingly chaotic flow of the "psychospheric pollution" in the lived environment. We can posit the refrain as the psychic side of a coupling that subjectivises the cognitive worker in relation to, on the social side of, the "user/worker" of a digital interface. For Bifo, we now live with increasingly contradictory refrains that drive psychic disorders and at the same time, generate ever-new market-based

solutions. The political task is to use therapeutic processes (which are always aesthetic) to transform the co-ordinates of desire into other directions.
My aim in this paper is not so much to develop this line of thinking as to ask what sort of juridical subject remains if we are indeed subjects of the conditions of media technology, via the mass media analysis provided by Luhmann's systems theory.

Fiore Fontanarosa

UNIVERSITà DEGLI STUDI DEL MOLISE

Artificial intelligence and copyright's alienation: towards a depersonalization of intellectual property rights

Artificial intelligence systems are no longer mere science fiction, but an obvious reality. The growing development of the artificial intelligence sector, particularly in recent years, has led to the emergence of various legal problems. This paper aims to analyze, in particular, two questions. First of all, one wonders whether the current EU legal framework enacted in the field of intellectual property, protects the intellectual works created by artificial intelligence. The second question concerns the identification of the copyright owner concerning the original works produced by intelligent machines. In attempting to answer the two questions just posed, this research will move from the study of the legislation on the protection of intellectual property, both in the main member States of the European Union and in the EU, in order to identify whether, in such legal systems, there is a normative that allows to include also the intelligent systems among the "subjects" worthy of copyright. The analysis will be completed by the study of the main theories developed by the doctrine aimed at identifying the author of the works generated by artificial agents. The innovation of computer technology based on such systems allows us to affirm that they are not mere objects, whose functioning is influenced by others, since they act as real "entities" although, from a strictly legal point of view, national laws have not yet recognized these systems as legal entities. Indeed, the law, up until now, has been essentially uninterested in the question of the attribution of intellectual property rights to the works generated by artificial intelligence, since the problems in question have not arisen in a clear and large-scale manner. However, recent developments in this sector have clearly shown how human beings are no longer the only "authors" of creative works: just think that very often novels, poems, film scripts are written using artificial intelligence systems, while "robot journalists" increasingly write journalistic articles and computers compose music. The situation just described briefly raises questions about the suitability of current legal frameworks in regulating issues related to the development of artificial intelligence, especially the one concerning the protection of intellectual property concerning intellectual works created directly by artificial agents.

David Hoare
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The actuality of Feuerbach, Marx and Lukàcs, towards a marxist critique of artificial intelligence.

Our proposal deals with the first acception of alienation included in the call for presentations, as the Hegelian-marxist concept. The goal of this presentation would be first to participate to a refreshment of the

definition of alienation, second to extend this definition to cybernetics as a matrix of rationalism, and lastly to extend that critique to the socio-historical realisation of cybernetics : artificial intelligence itself. This would lead to an extensive description and critique of the alienation potential in Artificial Intelligence, in domains legal, political, aesthetical.
Whenupon borrowing the concept of alienation from Feuerbach, marxist followers usually say, following Marx himself, that he brought it back to the ground; giving alienation a more substantial, material meaning through the investigation of concrete economical conditions of existence. Nevertheless, most failed to envision that such an operation could in time be reversed by ideology : and that what was taken from the religious skies down to economy, could lead to that economy launching "an assault" on the same religious skies.
Gyorgy Lukàcs, in his magnum opus History and class counsciousness has elaborated an extensive critique of rationalism, which allows the modern reader to understand the dialectical pendant of such an operation. Nothing less than the growing ambition of an economy-lead rationality to reverse the first moment of concretisation of alienation, - from religion to economy - to a realisation that leads to the opposite : turning the mercantile-rationalist worldview into a concrete religion itself.
This religion would not be purely metaphysical, but, as capitalism itself, techno-scientifical, and, according to the author, found its way through Cybernetics, under the writing and engineering studies of Norbert Wiener, in 1947. Cybernetics is nothing but the theoretical current that first theorised and made possible, Artifical Intelligence.
The thesis of our presentation will be the following : artificial intelligence is the concretisation of the rationalist worldview through cybernetics, merging in itself the numerous aspects of alienation present in religion, economy, and even legality.
Coding, as the writing of computer mecanics, can be analysed as a metaphor of legality, but could also very concretely influence it throughout the years, notably through the automatisation of legal processes themselves, as French Philosopher Eric Sadin indicates in Intelligence Artificelle : l'enjeu du siècle. It seems therefore urgent to understand the limits and underline the dispossession of decision and choicemaking that is underlying in Artificial Intelligence itself.

Alexander I. Stingl

Vicarious prenatal control technologies and their legal forms as alienation – Remaking the surrogate womb in transnational law, technological embodiment, and neocolonial surveillance.

For many families and hopeful parents in the Global North, surrogacy is the only way avenue to have a child. Reasons for making this choice are manifold, and often enough, for no less complicated and abundant reasons, surrogate mothers sought live abroad and in the Global South especially. This bring with it two complications that structure the interactions between the “commissioning parents” and the “surrogate mothers”: On the one hand, legal rules between different countries as well as inter- and transnational agreements are complicated; secondly, it is often not easily if at all possible to be locally close during the course of pregnancy for both parties, even though “commissioning parents” have clear interests to be present during as well as a desire to be part of the pregnancy. Of course, today, technologies do allow commissioning parents to communicate with and be part of the life of the surrogate mother at their discretion. However, technological advance already allows significant interventions even into another person’s body – e.g. through wearables or microchips that track movements and behaviors, measure

significant body processes, and can even administer substances. Such technological advances change significantly how both "(vicarious) surrogacy" and "commissioning parenthood" are imaginable, structured, and actually experienced: In this way, qua technology and legal practices, surrogate mothers in general, and in the Global South more particularly become subject to a unique kind of alienation. In this paper, I will sketch this scenario and future possibilities, with a particular attention paid to the issue of the intersubjective constitution of legal space and the critical perspective on neocolonial relations which surrogate motherhood can also fall into as *alienation*. Based on empirically verified cases of ethical dilemmas, wherein commissioning parents' interests dictate an abortion, e.g. in case of expected complications, disability, illness, etc, and a surrogate mother refuses, near future technological developments would make it possible to lay power over this choice fully into the hands of the commissioning parents. The transnational legal implications of this are not yet clear, nor are the real life social ramifications for surrogate mothers. What is clear is that we already can see that social imaginaries and embodied subjectivities of surrogate motherhood are changing and become further subject to alienation by means of technology and legal practice.

Keywords:
colonial matrix of power, intersubjectivity, phenomenology of law, quantified self, surrogate motherhood, surveillance technology, transnational law

Jacek Gwoździewicz

Alienation vs Artificial Intelligence and post-scarcity world

As for this abstract, i would like at first establish some general thoughts or views regarding understanding of the term "alienation" (in my case of labour), to nextly contrast it with the aspect of artificial intelligence and post-scarcity world. I would like to acknowledge that to get familiar with the concept of alienation in Marxist philosophy, my source of knowledge was an article by Professor's Sean Sayers of University of Kent called "Alienation as a Critical Concept".

Due to historical consequences of many tries of implementing the thoughts of Marx in some countries in post-WW2 world (in particular: USSR, Eastern Europe, etc.,), nowadays his thoughts are viewed in a negative perspective. In his time, the thoughts he shared were spreading as revolutionary, but the implementation of communism in aforementioned countries ended on just (as he named it) 'crude' communism which involved abolition of private property and its conversion into communal or state property. This is contrasted with what he regarded as "genuine communism" which required a much deeper and fuller transformation in order to create the conditions for the `true appropriation of the human essence', however he viewed crude communism as a necessary first stage in order to get there1. "As Marx made clear getting to next stage would involve not only the legal and political changes achieved in the first stage, but the much wider and deeper human and social transformation required for alienation to be decisively overcome. " Ultimately this deeper and wider human and social never came through the crude communism stage.

ALIEN NATIONS: AUTHORITARIAN CONSTITUTIONALISM

Attila|Nagy

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Sovereignty and its alienated understanding of constitutions

The aim of this work will be to research the term of sovereignty and its actual applicable definition which just became so alienated from its previous versions. As the term was introduced and used differently in various historic moments we will try to understand its present and most recent understanding. Sovereignty contestations are present on every continent but still we will focus our research on the European continent and in particular on states in and outside of EU. To a certain level we plan to cover in our work the different understanding of sovereignty in the European Union and outside of it, particularly focusing on the Western Balkan countries as an example. After the dissolution of Yugoslavia and up to today sovereignty issues have had a very important role in the everyday life of almost all ex-Yugoslav states. After the well-known self-determination claim by the Kosovo Albanians and its division of the UN member states we are now facing new challenges. In Macedonia FYROM peoples referendum on the change of the country name has failed whereas it was the only way to proceed to EU and NATO membership. Additionally to this problem we have in the same Balkan area Serbia which is refusing to recognize Kosovo at the cost of then not being able to join the EU. On the other side EU insists on the enforcement of sovereignty rights of the Kosovo state whereas it has been detached from a regular UN member country Serbia. Also EU insists on the enforcement of the sovereignty of Macedonia (FYROM) whereas it is divided between Macedonians and Albanians not giving Albanians any element of sovereignty which could lead to self-determination or independence. Also Albanian claims were never strictly pointing to a Kosovo state but towards joining Albania what is today completely out of debate in the EU. By gaining another country Albanians have thus blocked the chance to have a bigger country on the Balkans for an un-definite time period. The game of sovereignty has also been played in the EU by various states and entities. After the very famous BrExit referendum EU has stepped into deep waters of negotiations with the UK government where both sides try to win back their sovereignty, they want their rights back with no obligations in return. If such a practice continues EU will become a Union of disagreements and the leek of sovereignty towards its member states. Our comparative research and its goal will be to see how EU defines itself and most importantly the sovereignty of nations in and outside of EU.

Hayley Gibson

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Consumed but not Used: Citizenship and the Accursed Share

The language of ‘alienation’ permeates much of the political and academic commentary that has sought, over the past three years, to grapple with electoral trends that have become as ubiquitous as they are alarming. In December 2017, for example, a blog entry for the London School of Economics, seeking to explain these trends, began with the claim that “[p]eople who lack social status tend to be politically

alienated and to gravitate towards right-wing populist parties". This alienation, so the story goes, is responsible for a large scale turning away from the promise of liberal democracy; an alienation that designates various intersections of race and gender, but always in connection with socio-economic disparity, those who 'lack', who have nothing left but their rights. Indeed, there has a small but significant body of commentary in the wake of the Brexit vote that has sought to affirm, in order to scrutinise, that section of the electorate who, it was said, had simply 'wasted' their votes, due not necessarily to any particular belief system, nor to any particular aversion to Europe; but simply as the animal cry of disenfranchised frustration: a protest against an amorphous 'elite' that no longer represented the citizen.
It is not the purpose of this paper to expand upon that commentary. Rather, I wish to take these arguments and commentaries as the starting point from which to revisit the disparity between citizenship and the human encountered in Burke and later in Arendt, for whom the rights of the human is parasitical on the political belonging of the citizen, and for whom the human without citizenship has nothing left but their humanity. In Ranciére's Who is the Subject of the Rights of Man? we find a most enriching critique that subverts Arendt's insight, as Ranciére re-imagines politics as a continuous aesthetic play, a making visible of the 'part of no part'. To this lineage I will suggest that we ought to add another, in light of the contention that political alienation entails a sort of useless-use of the rights bestowed by citizenship, one that is exercised by those ostensibly within the sphere of political belonging. For it appears that such 'alienated' political subjects may exercise, but never truly use, their political rights – which become extraneous, invoking a Bataillian sense of luxury and waste. That the rights of the alienated have been 'wasted' presumes, however, the possibility of political participation endowed with proper use. But what is this use?
I therefore wish to explore the possibility of adding another, Bataillian, subversion of Arendt's thesis – not, as in Ranciére, concerning where politics occurs; but concerning the very idea (also encountered in Agamben) that the human, its bare life, is the (only) remnant object that stands (always) opposed to a useful state of political belonging.

Maciej|Krogel

EUROPEAN UNIVERSITY INSTITUTE IN FLORENCE

The people and the managers. On the reforms of independent institutions in Hungary and in Poland

Both in the scholarship and in the political rhetoric of various actors, the revolutionary constitutional reforms of independent institutions in Hungary and in Poland are contrasted with the 'managerial' models of constitutionalism. The former are claimed to reflect the ambitions of representation of the popular will, to have the goal of emancipation of the people while getting rid of the purely technical, the rule-of-law-centred constitutionalisation.
On the contrary, supranational European constitutional developments and reactions to the domestic reforms are described as opting for formalism and individualism and, as a result, for further social and political alienation of independent institutions.
The aim of my paper is to show that the two modes of constitutional development are rather similar at the significant level. The vision of a reform embedded in recent domestic changes has much in common with managerial and individualistic approach to constitutional development. Reforming independent institutions is thought as a matter of technical, single-handed and separated changes.
The paper will suggest the possible migrations and inspirations between the domestic and the supranational constitutional levels, that caused these similarities.
As a result, neither current domestic revolutions bring the independent institutions back to the people, nor the supranational institutions can be effective in safeguarding the rule of law.

THE DECONSTRUCTION OF SOVEREIGNTY

Yannis Flytzanis

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From a critique of sovereignty to the potential of a community beyond the state: Bringing Marx and Arendt together

In this paper I will try to draw the broad lines of a theory of political alienation based on critical remarks about domination and state power by two different thinkers from distinct periods: the young Karl Marx of the 1840's, a fervent supporter that period of radical democracy, and Hannah Arendt of 1950's, a republican critique of totalitarianism. Both of them have in common an anti-individualistic view of shared autonomy, reciprocity and non-domination and they can give us some valuable insights for a critical theory of today.

Firstly, my argument will focus to the loss of the emancipatory dynamics of modern societies and the rise of a law-positing violence which annihilates popular sovereignty. For Marx's theoretical elaborations from 1843 to 1844, it's the emergence of modern state's coercive power with its centralization forces, which strips civil bourgeois society from its strength. Marx therefore attacks Hegel's political theory which legalizes in a paradigmatic way the need of a transcendent power which constellates domination spreading orders vertically from a political center to the periphery of social life. The modern notion of political system obscures social consciousness presenting the state as an almighty and devastating power external to the human needs and desires and it obfuscates the reality that the political is a mere moment of the whole social being. On the other side, H. Arendt having experienced the totalitarianisms of 20th century will explore the relations of domination, which, behind the façade of the state, implicate the conformism of a "common evil" resulting to an heteronomous law.

In the second part of the argument, the notion of alienation refers to the immanence of a rising community beyond the state which serves us as a standard in order to criticize not only today's political system but also the very idea of sovereignty. In the Marxist theory, a free community of social solidarity will absorb the political function and it will drive the state to its dissolution making sovereignty redundant. According Marx's own words "an association" will be risen, "which will exclude classes and their antagonism, and there will be no more political power properly so-called". On the other side, Arendt will envision "polis" as an intersubjective body beyond the notion of sovereignty making possible the existence of politics without domination. It will be a communal sphere of citizens reconstructing the political in its true essence: a plural entity of communication in conditions of freedom. Moreover, according to Arendt, "the essence of politics is freedom".

In the end, I will explore the potentiality of the above elaborations of a community beyond sovereignty, facing the modern changes of the social sphere. During the 19th century and the first half of 2oth, social unrest and revolutions were the norm and gave the impression that the form of democracy and the function of political were an open game. Therefore, an emancipatory theory could become an organic part.

Stuart Murray

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Two Irreconcilable Claims to Medico-Legal Sovereignty

This paper juxtaposes two Canadian legal cases concerning biomedically "preventable" deaths – the first concerning the sovereign claims of "anti-vaxxers," and the second concerning Indigenous claims to medical sovereignty over life. In April 2016, David and Collet Stephan were found guilty in the death of their 18-month-old son who died from bacterial meningitis while being treated "naturopathically." As U.S. anti-vaxxer groups surrounded the courthouse in Canada, the jury found the Stephans guilty, in the language of the Criminal Code, of "failing to provide necessaries of life." Significantly, the provisioning of biomedical and pharmacological care is here implicit as a parent's legal duty, advancing the terms in and by which life and its "necessaries" are linked through the framework of criminalization, where biomedicine and law act in concert to morally regulate what life and its possible preservation might mean. The second case concerns Makayla Sault, an 11-year-old Indigenous girl whose death followed her refusal of chemotherapy treatment. Her oncologists brought her case to the local Children's Aid Society, which deemed that she was legally "capable" of consenting to refuse treatment. She was treated with traditional Indigenous therapies until her death. Her parents were not charged.

This paper proceeds through a discussion on Indigenous claims to self-determination in the context of the Canadian state, which is at odds in reconciling its history of racism and genocide with its legal sovereignty. I explore the cultural racism at work — biopolitical, medical, and legal — in adjudicating Indigenous claims, and suggest that if we accept cultural difference (as opposed to biological or genetic identity) as the basis for Indigenous claims, then little will prevent anti-vaxxers from making similar claims on these grounds – which they are in fact doing in their own "sovereign" claims over life. In the contemporary context of Indigenous self-determination, Glen Coulthard has reworked Frantz Fanon's critique of G.W.F. Hegel's struggle for mutual recognition, writing: "instead of ushering in an era of peaceful coexistence grounded on the ideal of reciprocity or mutual recognition, the politics of recognition in its contemporary liberal form promises to reproduce the very configurations of colonialist, racist, patriarchal state power that Indigenous peoples' demands for recognition have historically sought to transcend." This paper argues that "sovereignty" is one instance and instantiation of liberal forms of recognition, and that "sovereignty" may therefore unwittingly reproduce, and indeed, reduplicate, alienating colonial structures when invoked by Indigenous peoples in their struggle for self-determination. In particular, I argue that "sovereignty" is a rhetorical form of colonialism and territorialization implicit in the very "demands for recognition" — in speech and in act — by and for both Indigenous peoples and, more problematically perhaps, anti-vaxxers. These claims cannot be reconciled by any straightforward appeal to legal sovereignty, and yet they leave us with the haunting question of how we might recognize and adjudicate cultural difference without resorting to the implicit sovereignty of biomedicine or genetic identity.

Nicola Abate

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DÉMOCRATIE OU BARBARIE. THE DELIBERATIVE POLITICS AS THE DECONSTRUCTION OF THE SYSTEM'S ALIENATION

The theme of alienation, dislocated from the productive sphere to the communicative one, is fundamental in Habermas' thought.

The differentiation between labour-economy (system/purposive-rationality) and interaction-communicative action (lifeworld/communicative-rationality) is the consequence of a two-level concept of society. This perspective allows Habermas a) to correct Marxist-Weberian thought, identifying in capitalism and in bureaucracy an evolutionarily advantageous level of integration and b) teorize a necessary alienation-mediatization (the limited independence of that elements from the lifeworld) and a patological alienation-colonization (when the lifeworld has already been driven back into the niches of a systemically self-sufficient society and been henpecked by it). The uncoupling system-lifeworld appears in indissoluble tension between democracy and capitalism, where these principles of integration fight for the primacy: the primacy of the capitalism, the systematically integrated domains of action shall be satisfied even at the cost of technicizing the lifeworld, whereas the primacy of democracy implies that the system integration shall find its edges in the integrity of the lifeworld.

Habermas' aim is to deconstruct the Sovereignty through the discourse theory of Law and Democracy which allows to exclude that the power of administrative-economic complex to "become independent" from the communicative-democratic power (the barbarity of a socialization without and over the minds of citizens).

The communicative expression of the principle of popular sovereignty ("all political power derives from the communicative power of citizens") builts the democratic procedure as a way to guarantee a rational treatment of political questions because of the institutionalization of connected forms of communication that ensure that all relevant questions are discursively processed on the basis of the best available arguments.

The democratic principle states that only those statutes may claim legitimacy that can meet with the consent of all citizens in a discursive process of legislation that has been legally constituted: the performative meaning of the communicative practice of self-determination of free citizens establishes the essence of democracy, where the law is necessary for the stabilization of behavioral expectations and for the legal exercise of political power.

The legitimation through the legality of the lawmaking procedure associates/differentiate the discursive right of Habermas and the legal positivism of Hart-Kelsen: if for these last ones the validity of law is attributed to the correct process of enactment, for Habermas, it is only the addiction of the procedural-discursive conditions for the democratic genesis of legal statutes which assures the legitimacy of enacted law.

Traditional sovereignty, attributed to an individual/collettictive body, is the communicative/political alienation-colonization, the objectification of citizens, their dehumanization/exclusion which identifies them as the shadow of the enlightenment technocracy when the economic-bureaucratic system "become indipendent", an alien object which exists severally and menacingly in relation to the deliberative politics (the institutionalized will-formation in parliamentary bodies interconnected with an informal political public sphere of citizens).

The discursive popular sovereignty, built as the "subjectless" circulation of reasonably structured deliberations-decisions and the deliberative politics, claims that there "cannot be a sovereign in the constitutional state", realizing the radical-democratic project, reformulating a "pouvoir sans le roi" and cutting "la tête du roi".

Nico Buitendag

KYOTO UNIVERSITY

A Big History of the State and Law: 'This is not a place of honour'

What if you stepped through the threshold of Kafka's "Before the Law" only to find yourself soon lost in a giant, complex labyrinth? Try as you might, and no matter the allies you gather along the way, the centre – and the promise of an encounter with the violence that resides there – keeps alluding you. Instead you keep wandering in strange loops and dead-end boundaries marked "law", "politics" or "the state."
When navigating alienation one possible entry-point is the one offered by Spencer-Brown, that is, insisting on always starting with a difference. The earliest states started thus, introducing difference through segmentation; they emerged from the enslavement of peoples in order to extract the surplus of their labour. This was achieved through another alienation, namely the monopoly on violence. I argue that today's functionally differentiated leviathans and their law can fuel their autopoiesis through extracting surplus conflict from its subjects as its raw material.
Functional differentiation has promoted alienation through institutionalising bounded states that at the same time consist of so many strategic relations that even pinpointing 'the state' is impossible; it insisted on the divisibility of society into individuals who can be monitored ever-effectively, in order to remind them of how they are failing at life or simply not good enough; their smallest differences are amplified over different systems through criteria for inclusion and exclusion. Society is rapidly becoming segmented again into the haves and have-nots. And when individuals or even multitudes attempt to challenge the collectively binding decisions of the state, they find that the law has alienated them from even this ability.
This comes to a head in the environmental crisis. This crisis is itself the culmination of a 12 000-year agro-ecological programme of the state, the alien-nation that introduced the difference between society and nature. Drawing from systems theory, anthropology and conceptual history, I ask whether environmental law regimes are, despite the best intentions of those involved, not complicit in furthering this alienation. Further, is international law (the ius gentium, by definition the law of the alien, and of alien-nations) even capable of addressing this crisis?

Angus McDonald

ASSOCIATE PROFESSOR EMERITUS, STAFFORDSHIRE UNIVERSITY, UK

Since kings break faith upon commodity.....

The Bastard, personification of illegitimacy in Shakespeare's King John, complains, in "Mad world, mad kings, mad composition!", of "commodity, the bias of the world"; his complaint however: "And why rail I on commodity? But for that he has not wooed me yet", makes it clear that what angers him most is his own insignificance – "whiles I am a beggar I will rail, And say there is no sin but to be rich, And being rich, my virtue then shall be, To say there is no vice but beggary." He resolves to leave behind poverty and pursue wealth, in a faithless world where even kings do not keep their word and honour. By commodity he means something like policy, but we may read the word in a more critical-theoretical sense, as the central concept of the marxist critique of capitalism, and still make sense of the Bastard's claim that commodity destroys the legitimacy and sovereignty of kings. "Since kings break faith upon commodity, Gain, be my lord, for I will worship thee." concludes the Bastard, resolving to follow what we might read as the course of the capitalist – Gain.

In focusing on alienation, the organisers of this year's CLC have put the spotlight on a theoretical tradition in which alienation, reification and the fetishism of commodity assume centrality, a tradition running from Hobbes ("I Authorize and give up my Right of Governing my selfe, to this Man, or to this Assembly of men .. and Authorise all his Actions"), whose social contract requires first the alienation of the sovereignty of the self, to Hegel ("this activity and process whereby the substance becomes actual is the alienation of the personality") for whom alienation "is the work of self-consciousness, but it is also an alien reality .. in which it does not recognise itself". With Hegelian inspiration, Marx, in Capital discusses "a definite social relation between men, that assumes, in their eyes, the fantastic form of a relation between things". This is the fetishism of commodities, a reification following upon an alienation, as Lukacs discusses, the ultimate stage of which is arrived at when Debord, detourning the opening sentence of Capital , describes how "the whole life of those societies in which modern conditions of production prevail presents itself as an immense accumulation of spectacles." (Cf Marx: "the wealth of those societies in which the capitalist mode of production prevails, presents itself as an 'immense accumulation of commodities' ").

This critical tradition, somewhat marginalized by the post-structuralist turn in critical legal theory, returns our attention to questions of alienation, and from there to reification, commodity fetishism and the critique of spectacle. The Bastard's understanding of how commodity destroys sovereignty will be our guide to the landscape of alienated subjectivity, in which, while so well described by the theorists of structure and post-structure, the latter nonetheless occluded the alienation at its foundation. This tradition returns our attention to that dynamic.

Guadalupe Sátiro

UNIVERSITY OF BRASíLIA (UNB)

The deconstruction of food sovereignty for the construction of food autonomy: from the narrative of rights to a narrative of capabilities.

The concept of food sovereignty is marked by a narrative centred in the role of the Nation-State in securing the right of people to decide what to produce and how to produce it. There are two major pillars of food sovereignty as a language of rights: the right to food and the right to land, besides the right of each nation to define their own agricultural and food policies. La Via Campesina launched the concept of Food Sovereignty in 1996 in reaction to the term of Food Security. Patel (2009) points out that the definition of food security avoided discussing the social control of the food system. He reinforces that food is a basic

human right and this right can only be realized in a system where food sovereignty is guaranteed. Assuming the narrative centred on food sovereignty as a claim to have rights, this paper undertakes an analysis of the deconstruction of sovereignty from the perspective of Derrida (1973). Deconstruction for Derrida (1973) does not mean destruction, but disassembly, decomposition. Hence, the point here is to deconstruct a layer of sovereignty that has been little explored and studied: the notion of autonomy. This deconstructive approach applied to the narrative of food sovereignty does not mean a refutation of the concept advocated by Via Campesina, which has been already integrated in the Declaration of Nyéléni in 2007, which attests Food Sovereignty as a banner of joint struggle for justice. The main focus here is unveil what Derrida already points out in The Beast & the Sovereign, that a strong concept of autonomy or ipseity, derived from the latin meaning 'himself', is a key component of the concept of sovereignty. The sovereign, in the broadest sense of the term, is who has the right and the strength to be and to be recognised as itself (Derrida 2009: 66). He concludes that the concept of sovereignty always implies the possibility of a certain 'positionality', namely the 'autoposition of who posits or posits itself as ipse, the (self-)same, oneself (Derrida 2009: 67). The fact is, facing the idea of food autonomy in a bottom-up perspective of social practices in the agri-food system, it is important to situate this human rights debate in a more pragmatic and operative way, thinking in the daily life, not relegating to the State a sort of "heroic role" of securing rights. Also thinking in terms of expansion of human capacities from the exercise of autonomy. This is to say that better than advocate for an expansion of social norms, from here, is more fruitful understood sovereignty in terms of expansion of human capabilities (Sen,1999) in a concrete social relation based on institutionalized practices (López, 2018; Nash, 2012).

Erdem Erturk

CYPRUS INTERNATIONAL UNIVERSITY

Deconstructing sovereignty within the context of recognition of states under international law

The prevalence of the declarative theory of recognition of states under international law is established in the wake of central questions that are left unanswered by the proponents of the constitutive theory: how many states have to recognise an entity for the latter to be accorded statehood? Can a single state's recognition of an entity arbitrarily render the latter a state, hence, a subject of international law? In the absence of an international central body, who decides on the question of qualitative or quantitative adequacy of recognition?

To avoid such questions, declarative theorists argue that states come into being the moment entities acquire elements of statehood, and, ipso facto, are instantly accorded international rights and obligations. States, however, do not exist on their own; their interactions with other states determine the very being of each state. Declarative theorists' strictly individualistic description of coming-into-being fails to account for the possibility of such determinative/constitutive interactions. In light of such failure, contemporary theorists of international law adopt an ambivalent approach to the question of recognition. This is an ambivalence that reflects the difficulty of arguing for a constitutive role for recognition on the one hand, and the persistent need to register the constitutive/determinative role of relations within the international community on the other.

In this paper, I argue that the central cause of such ambivalence can be traced back to an underlying notion of sovereignty that traps the issue of recognition within a restrictive economy. This argument is premised upon a deconstructive approach to the notion of sovereignty that exposes the atomistic conception of

statehood, the conception that a state is a self-relating entity in its absolute independence. I argue that such perception permeates both theories of recognition restricting each camp's scope to an economy that constantly reproduces the problematic notion absolute sovereignty of statehood as the sole form of international subject.
By situating the deconstruction of sovereignty within the context of recognition of states, the paper aims to challenge the restrictive economy of equating the idea of international subject to the aforementioned problematic notion of statehood. I argue that by understanding the limiting repercussions of the notion of sovereignty, one can begin to dissociate recognition from the reproduction of a certain type of international subject and insist on a notion of being that is always in flux — a form of being that is continuously determined by its relations to others and is, thus, capable of accommodating alternative forms of sovereignties.

Paolo Parlanti
Università La Sapienza Roma

The Representation of the People in the Paradox of Politics

Many political thinkers have met relevant difficulties in the attempt of justifying the legitimacy of sovereign power, especially because of its dependency on the consensus of the people, which in turn cannot exist without the previous institution of that very power. Such a problem is known in recent theoretical contributions with the name of "paradox of politics" and it constitutes a conceptual representation of the necessary violence that follows from the impossible achievement of popular agreement by political actors.
The aim of the present exposition is to propose a rhetorical analysis of the paradox, namely as it has been formulated by Jean-Jacques Rousseau and Paul Ricoeur, and to set up its structure as a trope constituted by two opposite clauses: the first one predicates the dependency of the *legitimacy* of sovereign power on popular consensus, while the second one affirms the dependency of the *existence* of the people on the normative agency of a sovereign. By confronting such statements it is possible to infer that their relationship of reciprocal implication is not symmetrical: indeed the former clause presents the people as necessary condition of the authorization of State power, which however is recalled in the latter as condition for the institution of citizenship *without* the connotation of that very legitimacy. In this way the notion of people is deduced from an undetermined concept of unifying power, which is thus conceived independently of the one that is said to be sanctioned by popular consensus in the opposite clause. In other words, by virtue of such an ambiguity the whole argumentation appears to be casted in a conceptual frame that presupposes an already effective sovereign power, thus inadvertently assuming rather than questioning its validity.
As a consequence of the asymmetrical structure of the paradox of politics the representation of the people results to be visualized through a double relationship with the sovereign: indeed, on the one hand it assumes its same conceptual features, thus being conjured as an unitary subject, while on the other hand it relates to it differentially, namely as a passive, consenting spectator of its power. By virtue of its derivative status the people is finally alienated from the decision-making process, especially because its political agency is limited to the binary alternative of approving or disapproving a decision which has been already elaborated from another subject, namely the State.

ALIENATION AS A COUNTER HEGEMONIC DISCOURSE

Alexandra Vougia

ARCHITECTURAL ASSOCIATION - SCHOOL OF ARCHITECTURE

A Project of Awareness: Alienation, De-alienatio, and Estrangement

The paper will look at the Marxian conception of alienation and its adoption by the sphere of art in order to transform it to a strategy of confronting and subverting that very same conditions of socio-political alienation. Aesthetic alienation or estrangement – as it later became known – was an artistic device of deliberately making form and language appear strange in pursuance of unsettling the cognitive perception of any work of art. Theories of estrangement began to be formulated, implicitly or explicitly, in the beginnings of the 20th century with the practices of what we came to term as "historical avant-garde".
However, the current paper will focus on the work of Bertolt Brecht and his conception of Verfremdungseffekt; a term that managed to delineate clearly the distinction between (social) alienation and (aesthetic) estrangement – the latter perceived as a fundamentally political, counter-hegemonic artistic device. Brecht theorised extensively the function of estrangement and transformed it into a central ideological artistic project by fusing it with the Marxist concept of "ideology critique". This project was directed towards uncovering the "untruths" of bourgeois theatre, and thus laying bare its overall ideology, by making the audience aware of the historically specific character of the existing social relations. The subversive function of Verfremdungseffekt resided in this precise project of awareness: as long as these relations were historical constructs, they could be reconstructed at any time.
This paper will present Brehct's formulation of the device through his work for the Epic Theatre and his writings. On the one hand, the Epic Theatre employed a series of devices which came together in the delivery of an effect of estrangement; elements of stage design, costumes, music, lighting and primarily acting techniques were all revised and systematised as instruments of estrangement. The counter-hegemonic dimension of the project, however, lied on the historical way that Brecht constructed his theatre practice; a historical way of thinking that understood "man as a function of the environment and the environment as a function of man", and therefore staged all events as "remarkable, particular and demanding inquiry", that is, as historically unique and important. Every epic performance comprised a reconstruction of social reality based on a renewed inquiry: nothing was considered habitual, universal and eternal. On the other hand, the paper will also take a look at Brecht's writings which provide a complementary understanding to his practice. Brecht's extensive writing constructed an unfinished genealogy of historical moments of estrangements; instances from various art forms (painting, writing, theatre, et al.) were extrapolated to formulate an incomplete index of estrangements as acts of counter-hegemonic subversion.
It is through the analysis of the Brechtian Verfremdungseffekt that the paper wants to examine the counter-hegemonic power of aesthetic alienation. It is the latter that may remind us that in the possibility of reconstructing the habitual we might uncover a potential space for resistance, not through any idealist or a nostalgic conception of the past, but through building a subversive awareness by paying attention and revealing.

Ari Hirvonen

FACULTY OF LAW, UNIVERSITY OF HELSINKI, FINLANS

Refugee struggles. Alienation and Resistance

Refugees, asylum seekers and migrants are objectified and excluded. Alienation and inequalities are the destiny of refugees not only in the nationalist autocracies but also in the liberal democracies. European governments, Alain Badiou says, with their successive anti-immigrant laws attacking freedom and equality of migrants have delivered migrants as a fodder for a disoriented and fearful electorate. For Slavoj Žižek, the European liberal democrats reject the open racism of right wing populists but simultaneously profess that they understand the concerns of ordinary people and enact a more, so called, rational anti-immigration policy. Refugee policy, administrative and legal practices, and more and more legislation are dominated by the security principle. An asylum seeker is considered a potential threat and risk. The tendency of crimmigration takes over refugee conventions, migration laws, and rule of law.

Even though human rights are universal and applicable to all subjects under the jurisdiction of a state, refugees, especially undocumented migrants, are unable to participate in the universality of human rights. Undocumented migrants cannot claim their rights from administrative and judicial institutions because of the risk of deportation. They are, as Hannah Arendt says, out of legality altogether. Or, more properly, as Giorgio Agamben claims, an undocumented migrant is a homo sacer, who is not simply set outside the law but rather abandoned by it.

In my presentation, I will consider whether this double movement of alienation and criminalization can be transformed into resistance. In the hegemonic ideology, the order of things or distribution of the sensible, refugees have no political voice. They are silenced, forced into invisibility and namelessness, excluded from the public space. Neither do humanitarian and institutions and practices give them a voice. Rather, they tend to silence refugees since they are considered as victims in general, as a mass of bodies without qualities.

Refugee struggles resist aforementioned racist and nationalist, but also humanitarian, tendencies. They are counter hegemonic discourses against the prevailing xenophobic refugee policies. As political events or processes these struggles have, as Jacques Rancière says, the capacity for power that is attributed to those who have no particular ability to exercise it. These events of resistance as political processes transform objectification into subjectification as the presupposition of the equality of anyone and everyone is verified.

In my presentation, I will present two case studies of these kind of refugee protests. The first one is the 2017 “Right to Life” demonstration camp in Helsinki, the second the 2019 occupation of Pantheon by the gilets noirs.

Tara Mulqueen

UNIVERSITY OF WARWICK

Incorporation, co-operation and enclosure

This paper considers the history of the co-operative movement in the UK and in particular the legal recognition of co-operatives in the mid-nineteenth century through the lens of enclosure. Reflecting specifically on the use of the body corporate form in the institution of mid-nineteenth century laissez-faire political economy, the paper presents an idea of metaphysical enclosure drawing on Federici, Foucault, Marx, Nancy and others. As a form of enclosure, this paper argues that incorporation served as a form of enclosure that both disciplined and depoliticised co-operation and mutualism as part of the constitution of the modern co-operative. In so doing, it challenges dominant narratives within co-operative, social and solidarity economy about the alterity of organisational forms such as co-operatives while nonetheless supporting the development such forms and practices.

AVITUS AGBOR

NORTH-WEST UNIVERSITY SOUTH AFRICA

GAUGING ALIENATION AS A POLITICAL TOOL AND STRATEGY: FOCUS ON AFRICAN SOCIO-ECONOMIC AND POLITICAL LANDSCAPE

The African continent is endowed with an inestimable amount of natural resources. So too is the diversity that is a key characteristic of the peoples therein, from all angles – tribes, ethnicity; religion; races; gender; sexual orientation; rural and urban dwellers and political affiliations. These cut across various segments of the demographics: rich and poor; old and young, unemployed and employed; etc. unfortunately, the diversity of Africa, which could be harnessed to instigate social cohesion and socio-economic development, has become the most divisive factor that accounts for the protracted and internecine conflicts ravaging the continent and bereaving it of the much needed development that alleviates the parlous plight of the peoples.

In addition, the political culture as practised within many African states, is one of seclusion, polarisation; division; victimisation and exploitation. Put simply, alienation has been elevated to a political tool that is used to pursue a politics of hate and victimisation, in which segments of the people are turned against other segments while the unethical, irresponsible and unresponsive political leaders who pursue such an agenda and tactic for their own benefit.

As such, even though there are regional arrangements on aspects of social cohesion and good governance, the reality is that the practices are very distant therefrom

This presentation explores the use of alienation as a political tool and strategy on the African continent. It seeks to find answers to the questions (i) why do we alienate? – is it a conventional political strategy? (ii) how is it done? (iii) where does alienation take place?

CONSTRUCTING THE OTHER: ALIENATION

Margherita Pieraccini

UNIVERSITY OF BRISTOL LAW SCHOOL

Constructing the other? Marine Protected Areas governance in England

This presentation explores the construction of human/nature relationships through marine protected areas (MPAs), focusing on England. MPAs are a preferred regulatory tool of English conservation law and policy to counteract environmental tragedies by limiting access to common pool resources and protect biodiversity, understood as a “global concern of human kind”. Yet, MPAs are not neutral technical-scientific tools but are political tools used to control and alienate resource users in the name of constructed global environmental values and a faceless future and abstract humanity, not necessarily recognised at the local scale. Histories of dispossession and alienation following the establishment of protected areas have been told by political ecologists for decades, focussing on "fortress conservation" efforts, linked to neo-colonialism. Although fortress conservation is not a feature of MPAs governance in England, it is still possible to trace more subtle operations of dispossession and constructions of identities and ecologies. Indeed, boundary-making for conservation purposes is an exercise of power in multiple ways. The establishment of a protected area is always an act of inclusion and exclusion and therefore always implies a categorisation and subjectification of what is deemed to be considered natural or in agreement with nature. If this is bound to create conflict and simplifications, at the same time, the presentations points to certain institutional spaces, namely the Inshore Fisheries and Conservation Authorities, that create windows of opportunities to provide more relational practices and plural conceptualisations of nature and society.

Rafal Mańko

UNIVERSITY OF AMTERDAM & UNIVERSITY OF WROCŁAW

Alienation of the Polish legal community: historical roots and current consequences

Today’s advances of authoritarian populism in Poland invite to pose the question of the social legitimacy of its onslaught against judicial independence. The pacification of the Constitutional Court, which ocurred in 2015-2016, met not only with scarce social protests, but even with the consent of most of the judges who have been limiting themselves to submitting dissenting opinions, but by participating in the activity of the court side by side with illegitimate judges (elected in places already taken by judges elected by the previous parliament), have vastly contributed to legitimising the new, pacified Constitutional Court. The enquiry aims at uncovering the historical roots of the alienation of the Polish legal community from the Polish society, which is linked to a number of factors. Firstly, due to the existence of serfdom until the end of the 19th century, the vast majority (90%) of Polish society experienced the legal order as a form of purely class oppression. Secondly, due to the abolition of Polish statehood in 1795, the legal systems applicable on Polish-speaking territories of Prussia, Austria and Russia were detached from the local culture. This situation persisted after the creation of the Republic of Poland in 1918, and was overcome fully only in 1946 with the unification of the law in Poland. However, at the same time the third factor intervened, namely the alienation produced by the system of actually existing socialism. The legal community became double-alientated: from the society and from power. The latter was a paradoxical phenomenon, caused by

the fact that the decision-making centre shifted from constitutional organs to more or less formal structures within the ruling party in what was effectively a 'party state'. The transformation of 1989 brought about enormous social injustice and, once again, contributed to the alienation of the legal community from society. Lawyers effectively legitimised the neoliberal order, and the courtts, from the Constitutional Court at the apex to the lowest district courts demonstrated no empathy to the plight of the most disadvantaged classes. Research on the case-law of the Constitutional Court in the period of 1990-2015 clearly demonstrates that the legal elites fully embraced neoliberalism and overlooked the social justice clause present in Article 2 of the Constitution of 1997. This undermined the social legitimacy of the Constitutional Court, and allowed the populists to dismantle it relatively easily.

Puja & Monica Ingber

INDEPENDENT RESEARCHER

Forest Governance and the 'Othering' of Tribal Communities (Indigenous)Epistemes in India

In the 1844 Manuscripts, Karl Marx wrote that "communism…is the complete return of man to himself…the true resolution of the strife between existence and essence." As Simon Skempton argues, Derrida saw this reintegration of man with himself in the abolition of alienation. However, alienation cannot be talked about in the post-colonial context without addressing the question of coloniality of power, the way it interacts with societies and cultures, and the catastrophic camouflage of global policies and capital. This paper introduces alienation within coloniality of power framework by exploring the inter-relationship between alienation, epistemic violence, and dispossession. It's an attempt to think through the struggle for water, land, and forest faced by Tribal (Indigenous) communities in India.

This paper will examine the Indian Forest Act 1927 and subsequently forest governance in India against the global policy framework on climate change including Paris Agreement, REDD+, and Green India Mission. It will be argued that colonial laws such as the Indian Forest Act, 1927 classified forests into administrative categories that changed the understanding of forest as a 'whole' and its relationship with the Tribal communities by dislodging their traditional systems of decentralized forest governance and criminalizing certain uses of forest. In essence, British forest policy monetized forests. The 2018 proposed amendments to the Indian Forest Act 1927 appear to be a catastrophe in the making since they are geared toward the 'militarization' of the forests. This bypasses the rights to the forest and its governance guaranteed to tribal communities in the 5th Schedule of the Constitution and Forest Rights Act 2006. It will enable the corporates to generate profits from forests through REDD+ and afforestation policies, while dispossessing the tribal communities from their land. As such, climate change policies at the international level along with national policies concerning forest governance will turn tribal areas into civil war zones.

Indigenous struggles over forest and land have consequently taken place within the neoliberal colonial context. It will be argued that this amounts to a form of epistemic violence against Tribal communities that results from indigenous epistemology being subsumed within a neoliberal and colonial understanding of the forest. As a consequence, the positionality of tribal communities with respect to the forest must undergo changes to adapt to the neoliberal and colonial language governing the law. In doing so, the indigenous 'self' becomes alienated from itself in the process of navigating through colonial and postcolonial power structures in the very attempt to maintain their relationship with forest i.e., survive. Alienation also serves to construct tribal communities as the 'other' of development, growth, and conservation through not just colonial laws and policies, but also through policies on climate change being pressed by Western neoliberal States. This paper therefore contends that alienation needs to be discussed

in terms of the struggles of the communities against combination of coloniality of power in the postcolonial context and its relationality with the global policies and capital.

Riccardo Baldissone

UNIVERSITY OF WESTMINSTER

Good morning starts in the morning: the notion of alienation as a cornerstone of the logic of identity

The notion of alienation gains political currency especially during the long sixties, as effect of the popularization of the controversial Marxian concept of Entfremdung, a shortening of the more explicit phrase 'alienation of the human nature.' Yet, its Latin source alienatio, which is a calque of the Greek word ἀλλοτρίωσις [allotriōsis], betrays a legacy that far exceeds Hegelian and post-Hegelian debates. The Stoic Zeno possibly first devises allotriōsis as the counterpart of οἰκείωσις [oikeiōsis], a crucial notion that defines the natural self-endearment of each single animal to itself. According to the Stoics, the effect of such natural self-endearment is the impulse of each animal to preserve itself. This impulse is to be restated by Cicero and, later on, by Aquinas, as a universal law of nature: 'any substance whatsoever desires the conservation of its own being according to its nature.' Aquinas probably also coins the Latin word praeservatio, which in the fifteenth century will be rendered with the English word 'preseruacioun.' This word is to be used by Hobbes to define the first right of nature, which is 'the Liberty each man [sic] hath, to use his own power, as he will himselfe, for the preservation of his own Nature.' The postulate of individual self-preservation in his Hobbesian version is not only a generally accepted principle all along modern times, but a current cornerstone of neoliberal ideology, and as such, a major constituent of our infelicitous contemporaneity. More in general, whatever the intentions of its users, the notion of alienation carries the dichotomic split between self and other, or own and alien, which the Stoics inherit from Plato and Aristotle, and which is the veritable cornerstone of the logic of identity. This dichotomy traverses the whole history of European thought and it still cuts across our world with all the power of its rudimentary simplicity. If inasmuch as radical theorists we are to accept the responsibility for the words we use to help ourselves and our fellow humans to maintain and produce other and more decent realities, we may well look at least for a novel lexicon, which would highlight the compenetration rather than the opposition of self and other: and as we no longer need to deliver disgraced terms to the dustbin of history, we may certainly preserve the term 'alienation' within the dismissed vocabularies of domination and control.

Daniel Arboleda

AIX-MARSEILLE UNIVERSITY

The progressiveness of the Inter-American Human Rights System: a trigger for alienation?

Law, as a constitutive part of discourse, has a twofold nature. It can be the reflection of what a society defines as the norm, and it carrier of a new reality that is to be applied ultimately upon society. In this regard, law plays a key role in the construction of identity since it is at the same time the recognition of the features of a reference group, and the carrier of otherness. Hence, law creates identity and otherness simultaneously. Alienation may come hand in hand with the dialectic of both processes and finally result in

anomie. In order to reconcile both aspects, Human Rights Law has emerged as a crossroad between the protection of the majority and the preservation of the other, often named "minority" in legal academia.
This contribution aims to study the avant-garde attempt that comes within the field of International Human Rights Law to change the perspective on otherness. We will particularly focus in the Inter-American System of Human Rights and the evolution of its jurisprudence whose involvement in regards to otherness can be seen, for instance, in the cases related to indigenous peoples (Mayagna Sumo Awas Tingni c. Nicaragua 2001).
In order to do so, we will mobilize, firstly, a theoretical framework that will enable us to understand the ways in which otherness is to be conceived within a legal framework. From the postcolonial stream, we will depart with the studies of Franz Fanon and the junction of colonialism and alienation. Similarly, the process of "othering" will be explored through the analysis carried out by Gayatri Spivak and the subaltern and the social processes entangled in the construction of identity through a feminist approach, namely through the work of Simone de Beauvoir. Conclusively, this study about "the other" will be circumscribed to what Boaventura de Sousa calls "the sociology of the absences".
Secondly, we will further proceed, through a mapping of the jurisprudential construction of the other by the Inter-American Commission and the Inter-American Court of Human Rights, this includes the aforementioned case, but also the most recent novelties related to gender equality and environment.
Our intend is, in the first place, to explore the ways in which an international court can be the place to frame phenomena formerly restricted to national domain. In this way, we aim to understand how the process of othering has come to be modified in the frame of Human Rights. In the second place, we intend to reveal the ways in which the law that comes from upon -namely the law of an international body- is seen in local societies as, to say the least, a nonsense and, thus, engage in a process of alienation that ultimately results in an anomie in the legal sphere.

Maria Giovanna Brancati

UNIVERSITà DEGLI STUDI DI PERUGIA

Criminal Law, sovereignty and migration in Italy: nothing but Criminalization as Alienation

The bulimic use of the penal norm is an overbearing aspect of the contemporary Italian legislation (in truth, not only of the Italian one), so much so that we hear more and more discussion of a penal populism seen as an instrumental use of the penal norm according to the achievement of objectives “populist” politicians. Thus, the concepts of people, popular will, (real or presumed) identity of the people are sublimated in the strenuous defense of national sovereignty, of which criminal law remains the last convenience screen. A very visible operation in the context of the criminalization of the foreigner, both as such (through the construction of norms that expressly sanction the “clandestine” migrant) and as a privileged “type of author” with respect to the fulfillment of certain crimes considered particularly unpleasant by the collective feeling.
Such a legislative process proves to be a harbinger of a twofold problem: on the one hand and from a general theory of crimes perspective, it undermines the penal law, transforming political-criminal meditation into a perennial search for the most desirable profiles of need and urgency and emptying of content the cornerstone of criminal legislation: the principle of legality in its meaning of guarantee is meant as protection of the subsidiaries against the arbitrariness of institutional powers other than the strictly legislative one. On the other hand, this technique also becomes an instrument for constructing otherness

and building up new marginalities. It goes through attributing programmatic identities to specific subjective categories that become the object against which to channel the need (real or presumed) of collective security. We would say that we are faced with an objectification of the "criminal subject" that passes through the devaluation of the guarantee principles of liberal criminal law and dismantles its foundations. What antidote, then? The tools to operate "in the field" are provided us by the constitutional framework: the principle of offensiveness and the principle of guilt, as criteria to select the conduct worthy of criminal reproach and to reasonably delimit the attribution of criminal responsibility; principle of legality to guarantee a framework of certainty in terms of precepts and sanctioning consequences; and, lastly, the rationality of the trial and sanctioning system.
It is not excluded that in this way the criminal law can really become more understandable for the affiliates that it intends to protect, giving them a sense of cohesion that should not pass through the marginalization of the other but without for this being "populist": not the criminal law that sweeps, but the criminal law that takes care of the rights of citizens in a democratic legal order.

Mirthe Jiwa

UNIVERSITY OF AMSTERDAM

The Contractual Subject and its Other

This paper proposes a particular view of how the subject of contract law is constituted. More specifically, it explores the contractual subject from the vantage point of speech and silence – that is, it asks the question of 'who' can be heard and 'what' remains silent. Recast in this register, the main question becomes: Who is the S/subject contract law lends voice? And, conversely, who is the Other rendered mute? The paper's main thesis is that the speaking subject of contract law is neither autonomous nor self-grounding in any 'totalistic' sense. That view is not only descriptively implausible, but also normatively problematic. The contractual subject is surely always already implicated, sustained and given over to a social world that it neither chose nor made. The subject is thereby not contingently, but fundamentally related to others. That is, the other is not merely accidental, but rather constitutive for the contractual subject to emerge. Starkly put, relationality precedes the arrival of the subject.
The paper is structured in the following way. The first part of the paper deals with the question how the contractual subject is brought into being. Who counts as a contractual subject in the eyes of the law? Whose speech is contractually cognisable, and consequently, at least in principle, legally enforceable? After an examination of the constitutive role of the other for the formation of the contractual subject, the paper shifts the focus to an exploration of the Other in its radical alterity, that is, the subject (or, more precisely, the object, or even the abject) which is unintelligible from a contractual point of view. The question is: 'who' or 'what' is excluded from legally sanctioned speech? Whose voices are rendered mute? To illustrate this point, the paper considers three instances of othering in contract law. The first instance regards the institution of legal incapacitation. Here contract law itself already explicitly names that what it excludes. The express exclusion of certain categories of persons denies their speech full legal effect. Second, the paper contemplates the question of legally protected interests. The demarcation of legally protected interests, and, by extension, legally cognisable harms, consigns all other interests and harms to the margin, to the background, to oblivion; in other words, the notion of legally protected interests effectively produces an area of speech that is nonactionable and thus 'unworthy' of legal protection. Finally, and perhaps most elusive is the process of othering that is endemic to the bilateral structure of contract itself. That is, the

Other in the most colloquial, but also most radical sense of the term: the third person(s) excluded from the bilateral contract.

Adimaya Keni

BIRKBECK, UNIVERSITY OF LONDON

Creating the alien-nation: fingerprinting and its colonial legacy

My paper examines the current beliefs, assumptions and attitudes embedded within our legal framework in the UK through one pioneering technique that became foundational to building successful criminal cases: fingerprinting. Fingerprinting revolutionised the way criminality was codified but its unscientific origins embedded colonial attitudes towards race and class into criminal law. By following the evolution of fingerprinting from India, its export to other British colonies and its development through the 20th century, I have explored the legacy of the 18th and 19th century policies that rested upon the 'scientific' theorisation of race. As a starting point, I have analysed the beliefs and attitudes of colonial masters towards their non-European, mostly non-white Empire using fingerprinting as a means of social control. It became central to the British colonial governing model which relied on a culture of surveillance to control a constructed 'other' based on an ex-pat identity produced by early colonialism. Thus, the fingerprinting system across the British Empire started not as a forensic tool but as a template for civil control.

Earlier iterations of criminology and the assumptions of individuality on which the fingerprinting system was based are also critically analysed. Authors from Nordau to Cole have written about the 'heredity' of criminality that was adopted in Europe under the guise of cutting-edge science and how the notion of criminals being genetically defective became mainstream, leading to an assumed prevalence of criminality in certain racial and socio-economic groups. The inheritance of criminal predisposition was used to great effect, not just to embed the racial attitudes that came from the 'them and us' social binaries of Empire, but also as an intellectual underpinning to explain undesirable personality traits and dismiss them as racial.

Although there were early concerns about the practical application of fingerprinting as an indexing system for potential criminals, it was readily exported by Britain to other colonies and I present how this not only brought the model of British colonial identity full circle but allowed for the establishment of institutional attitudes within criminal law today. Therefore, my paper describes how, by studying finger printing as a historic policy choice rather than a forensic tool and unpacking the constructed identity of the colonial 'criminal' class, we will support a fairer understanding of our legal system in the present.

Sonia Qadir

UNIVERSITY OF NEW SOUTH WALES

The Muslim as Fanatic: British Colonial Legality and the Construction of the Other in Contemporary Pakistan

In his book, “Fanaticism: the Uses of an Idea”, the political theorist Alberto Toscano traces the genealogy of the category of the fanatic through Enlightenment philosophy and argues that the term had its origins in association with the “religion of the Other”. Building on Toscano’s work, this paper explores how this category was deployed in British India, both as political narrative and as statutory terminology, to formulate and justify British anxieties around Muslimness in general as well as the criminalization of particular racialized categories of Muslims who were deemed a threat to the British Empire. The paper explores the colonial era legislation that made use of the term, and offers a close reading of the writings of W.H. Hunter, a colonial British officer on the issue. In light of these genealogies, the paper argues that the contemporary legal security regime in Pakistan can neither be understood only as a recent (post 9/11) or purely local phenomenon nor simply a crisis of human rights. Instead the technologies of alienation practiced in contemporary Pakistani security jurisprudence, with their ongoing productive deployment of race and religion, have longer colonial and imperial histories. In addition, this discussion paves the way for locating Pakistan – often a mariginal case-study within critical legal and critical security studies, as a crucial location to theorize the contemporary global entanglement of empire, Islamophobia and legal security regimes.

Fernando Gomez Herrero

University of Birmingham

The Becoming Other of The (International) Law: James Leslie Brierly and Camilo Barcia Trelles

This is about looking into the process of becoming other in relation to law or normativity (or the “repressive culture” in the formula of Lalinde-Abadía). Hence, we want to think about the semantic field of alienation or foreignness, being different, broken or dysfunctional, what is not understood, or even rejected, what is not wanted. “Natural law” may bring some of these options together. In other words, the international-law domain may well have become the timespace of disorientation for “us.” From what perspective do we look at other timespaces proposing peaceful law among nations? This is about the interrogation of the alienation or foreignness of international law. We want to look at the Anglo-Hispanic links circa 1950.
This is about the exploration of legacies of ius gentium cutting across Anglo-Hispanic links in trying moments. Both the English internationalist J.L. Brierly (1881-1955) and the Spanish internationalist Camilo Barcia Trelles (1888-1977) had prominent roles in the XIX World Congress “Pax Romana” (Spain, June-July 1946) set up to honour the legacy of the Spanish Dominican intellectual figure of Francisco de Vitoria (1483-1546) immediately after World War II and the early Franco Regime after the Spanish Civil War. This paper will reconstruct such dual participation (Brierly and Barcia Trelles) against the context of the Congress seeking to establish stability and peace.
Nature: impossible name in our times of post-structuralist postmodernism?
Presumed universalism of law in our times of theoretical postcolonialism? Natural law, still “nonsense on stilts” in the famous formulation? International law of nations in our fractured times of Trump and of Brexit and fragile United Nations? Are we not witnessing efforts towards the resurgence of national sovereignty? How do we historicize past initiatives across England and Spain, on both sides of the ideological divide early in the Cold War (circa 1950)? This paper presentation will have two fundamental sections. The first section will synthesize outstanding features of the aforementioned Congress (http://www.filosofia.org/ave/001/a049.htm) initially considering the materials made available by the Proyecto Filosofía en Español. Peace initiatives are taking place among

Catholic sectors. What do we make of this catholicity? Is it worth rescuing? What were the alternatives then and what about now?

MARX AND THE LAW, HOW LEGAL DISCOURSE FRAMES THE OBJECTIVATION OF THE SUBJECT

Lisa Wintersteiger, CEO Law for Life/Birkbeck School of Law, University of London

Tara Mulqueen, Assistant Professor, University of Warwick

Alienation or access? Public legal education, technology and the democratisation of legal knowledge.

Public access to legal knowledge and legal education in a high speed and hyper-juridified modernity demands a very different kind of knowledge economy than the historically exclusionary one usually associated with law. Technology offers a range of possibilities for this new economy – for instance, internet based legal information for the public can be produced with economies of scale, while de-regulated legal practice promises to keep a-pace with technology offering low cost 'rocket' and 'zoom' lawyers, and the proposals for an Online Court augur e-bay style efficiencies through high volume, low cost dispute resolution. However, these technological innovations—governed at least in part by the demands of neo-liberalism—create new problems and challenges for public legal education, replacing impenetrable juridical structures with equally inaccessible algorithms, and perpetuating exclusion for those unable to access or use new technologies. This paper will consider the unique challenges and opportunities that digitisation and technological innovation more generally present. This involves reimagining educational responses situated within and beyond the law school, in which technology is decoupled from the demands of neo-liberal knowledge economies and can support more transformative forms of education that underpin democratic accountability. The paper considers recent events in UK digital justice reform and through the lens of legal exclusion as well as emerging aspects of digital democracy.

Robert Herian

THE OPEN UNIVERSITY LAW SCHOOL

Alienation of the data subject

Reflecting on the image of 'hundreds of little threads radiating from every man' described by Alexander Solzhenitsyn in his novel Cancer Ward, invites novel perspective and understanding on data and the data subject in the contemporary and evolving data and information age? Personal data can be viewed as that which is sourced, appearing from being, all the while structuring the data subject as multivocal and contingent. Against the backdrop of extractive, alienating, and exploitative potentialities embodied by "big data", fluid notions of "content" and pervasive "datafication", the subset and perhaps countervailing

phenomenon of “personal data” offers contrast within communicative capitalism and implies the possibility of data other than it has come to be defined and used. In turn, the return of being in data prompts a reimagining and re-evaluation of the nature, role and place of the data subject qua legal subject. This paper will explore the contemporary phenomenon of digital labour undertaken by or imposed upon the data subject consciously and unconsciously, and in particular the emergence amid new technological systems and networks of a data theory of labour.

Neil Graffin

LECTURER IN LAW - THE OPEN UNIVERSITY

Alienation and the legal profession

In the Economic and Philosophical Manuscripts of 1844, Marx, inspired by the humanism of Feuerbach, introduces the concept of alienation. According to Marx, under capitalism, people have become alienated from themselves and from others – workers cannot realise their ability to be human. Drawing on a number of empirical studies into wellbeing and trauma within the legal profession, this paper will assess how the capitalist drive for production in law firms can lead to alienation. It will consider how law firms can be situated as part of a wider system which ‘pursue[s] a reckless course whatever the feelings of human beings’ (Harman, 2009), leading to poor levels of wellbeing. This paper will discuss how an inability to control one’s labour within the legal profession, its processes, as well as competition between workers engenders alienation. In addition, workers within the legal profession are increasingly selling their labour for free. However, at the same time, human beings, as Marx suggests, are made of ‘social relations’ and strive to breach alienating divides, seeking connections within the legal workplace and relying on one another for workplace and emotional support.

Riccardo Fornasari

UNIVERSITY OF BOLOGNA AND UNIVERSITY OF PARIS NANTERRE

The transformations of the juridical subject through the lens of political economy

The transformations of national systems of contract law due to the development of the European legal framework have been one of the most contended topics in European law. Scholars debate about the rationality of these processes and strive to identify the main characteristics which have led and lead these transformations. Most of the contributions have focused either on legal principles or on specific norms, assessing the law as an autonomous field. My contribution tries to encompass these narrow approaches, arguing that contract law is entangled with economic and political conceptions of the society: it is, therefore, necessary to analyse these conceptions in order to understand their rationality and the aims pursued.

These transformations of continental legal systems are analysed through the founding notion of juridical subject, which allows to assess the functions of contract law as a tool of societal organization and governance. It is argued that the evolution of a different conception and regulation of the juridical subject derives from a new conception of competition and of the market order, which involves a major

transformation of the function of contract law and of the founding notions of this legal field. The transformations brought forth by a new conception of the market order - which, it is argued, correspond to the transition from classical liberalism to ordoliberalism - and the development of the EU are assessed on the basis of examples taken by French, German and Italian law. Just as the unity of the juridical subject and of the contract stemmed from a specific philosophical and economic approach, the same is true for the present fragmentation, which stems from a new understanding which challenges the foundations and the functions of private law and provides for new roles of individuals in the society.

Emanuele Sigismondi

UNIVERSITY OF BOLOGNA

The Real Abstraction of Law

The concept of 'real abstraction' proposed in the past century by Alfred Sohn-Rethel has recently enjoyed a renaissance in Marxist studies, most notably through the work of Alberto Toscani. In this paper, I argue that the concept offers fertile ground for reinterpreting and radicalizing the so-called commodity-form theory of law, as elaborated for example by Evgenij B. Pašukanis and Isaac D. Balbus. I contend that interpreting law-form as an intrinsic implication of every concrete commodity exchange, or as real abstraction provides insights into how alienation could be theorized in terms pertaining specifically to legal theory. This operation, in turn, allows for an analytical distinction between 'the political', intended as in an acceptation close to Schmitt's as opposed to what I call 'the juridical' based on their relation (interiority/exteriority) to the logic of capital. This is a distinction suitable for further development in State theory. I conclude the paper by hinting at how the concept of 'real abstraction' can bring a contribution to research in the history of law and political thought by proposing a reading of seventeenth-century contractarianism and natural law.

BENJAMIN FLANDER

ASSOCIATE PROFESSOR OF LAW, UNIVERSITY OF MARIBOR, FACULTY OF CRIMINAL JUSTICE, SLOVENIA

Doing wrong, telling truth: Interrogation, coercion, confession

Recent surveys show that the vast majority of contemporary criminal justice systems apply a traditional (accusatory) model of police interrogation of suspects of crime. Despite exceptional developments in forensic science in the last decades, in practice criminal investigation and police hearing are aimed at obtaining confession and incriminating statements from a suspect. In many occasions, the attorney is not present during police hearings and there is no audio-visual recording of the suspect's interrogation. While almost all systems formally abandoned torture and many of them banned psychologically coercive interrogation techniques, in most of them the police continue, legally or illegally, to use psychological techniques of coercion and manipulation such as threat and deceit when questioning suspected offenders. Obviously, these techniques may lead to false confessions and wrong convictions. Referring to the last lecture given in Louvain in 1981 and other Foucault's works, the author of this paper explores the objectification of suspected offenders through the obsession with obtaining their confessions in the

modern criminal process and investigation. He claims, among other, that in a Foucauldian register the confession is an essential element not only of the pre-modern inquisitorial efforts in detaining suspected heretics and torturing them, but also of the working of the modern disciplinary power.

Kerstin Carlson

UNIVERSITY OF SOUTHERN DENMARK

Alienation Under Law in Denmark: Banishment & the Construction of the Non-Western Origin Citizen

This paper considers recent developments in Danish law that alienate citizens in contravention of established liberal norms. In the most extreme cases, this alienation is literal: in 2016, Denmark became the first continental European country to strip convicted terror actors of citizenship (Case 211/2015). This administrative action is made possible by the Danish terror legislation, which articulates the administrative remedy of citizenship revocation in addition to criminal punishment for "acts of terror." In the latest and most extreme of such cases, in November 2018 the Danish Supreme Court revoked the citizenship of a Danish-born dual national by determining that his practice of Islam could be read as a disconnecting him from Denmark (Case 124/2018). The Court thus effectively determined that Muslim identity is distinct and distinguishable from Danish identity, an illiberal position at odds with European human rights frameworks.
Aimed at participating in the "Marx and the Law, how legal discourse frames the objectivation of the subject" conference stream, the paper explores how three distinct legal constructions collide in the current environment, resulting in a particularized alienation by law that runs counter to human rights instruments. The first is supranational law, including UN Resolution 2178 (2014), and the European Union's Framework Decision on terrorism, both of which mandate state action against terrorism while leaving the definition of terrorism vague in ways that invite abuse against groups construed as "other". The second is Denmark's terror legislation, passed in 2002 and 2006, which brings a series of state action under the ambit of the penal code. As Jørn Vestergaard (2013) argues, the special construction of the Danish terror legislation that makes it not simply a penal definition but rather a focal point for other definitions of state action lends itself to aggressive state application and interpretation. This results in expansive definitions of state power which can be felt across the legal landscape, from criminal cases through administrative state actions. The third legal construction the paper considers is the Danish statistical bureau's construction and counting of "non-western origin immigrants." This category is central to a recently proposed "anti-ghetto" legislation, a wide-reaching series of administrative actions that would alter the rights and privileges of citizens identified in this category.
The paper considers each of these legal constructions' impacts on Danish law separately and in relation to each other. It examines how categories develop and whether they move across jurisdictions, tracing the degree to which separate constructions influence each other.

Åsa Ågren

KARLSTAD UNIVERSITY

Alienation, reification, the nature and the law

Like many other countries the Swedish legal systemfor environmental protection is constructed on an anthropocentric view of the nature. The aim of thelaw is mainly to protect the humans. The nature has no intrinsic value and is reduced to an object. The human being is the subject. There is a dichotomy between the human being and the nature. Is this the right way to adopt the nature in the legal system? What happens if we assume there is a dialectic relation between the human being and the nature instead of a dichotomy?

During the last centuries our society has believed that we can control the nature. In spite of the fact that we also dominate ourselves when we dominate the nature. This relation cannot be seen as a dichotomy, more as a dialectic relationship. When we objectify the nature we objectify ourselves, this transformation is also named reification. The nature is a part of us. Both we and the nature change as a result of the domination.

The concept of reification can be derived from George Lukács book History and Class Consciousness. In this book Lukács introduced the concept of reification, a concept that has large similarities with Marx theory of alienation. The concept can be seen as a specific form of alienation. (As a matter of fact some of Marx earliest works where he covers the concept of alienation were not available during the time Lukács wrote his book.)

Later on, Lukács influenced Theodor Adorno and Max Horkheimer. This presentation is focusing on one of Adorno´s and Horkheimer´s most famous works, Dialectic of Enlightenment, and how their dialectical view of nature can be applied to environmental law. Here, I have to stress that the concept of nature Adorno and Horkheimer refers to does not necessarily refers to birds and trees. Adorno and Horkheimer did not write Dialectic of Enlightenment in a time of world threatening environmental degradation. Even if their definition of nature is not connected to climate change and biodiversity loss, their view of reification can be applied to the environmental issues of today. I will claim that a dialectic view on the nature both can improve the effectiveness of environmental law and can give us a new understanding of the implementation of different environmental regulations. My main focus is here on the relation between the economy and the environment, how environmental and economic interests are balanced in environmental law.

Vincenzo Di Mino and Alberto Montaruli

University of Padua

Figures Of The Legal Theory In Marx: Alienation, Subjection, Liberation

The figurations that the legal discourse assumes, in Karl Marx's work, are different and political, being able to observe both the effects of surface and ontological, internal and external to the sphere of the subject. The juridical, in fact, is a specific region endowed with relative autonomy within the mechanisms of economic production and discursive of the whole capitalist apparatuses, allowing to observe in several respects the concept of "productivity" (and the use of the same theme within the theoretical sphere), the devices of subjection internal to the economic sphere and to the machines of value, attributable to the capitalist apparatus and its structures between power and knowledge, and the possibilities of subjective resistance inherent within these same social segments. These three figures are those of alienation,

subjection and liberation, attributable to the different moments of the production of value and subjectivity, and as such products by specific levels of separation between subjectivity and political-juridical institutes (Trennung).
The first step of separation is located at the ontological level of the subject, separating it from itself, through the expropriation made in terms of the legal and political recognition of its capacities of action, as well as in parallel on the working process is separated from his own milieu (or nature) and his own products: the Marxian reading of alienation flips the Hegelian Vulgate into this guise, then becomes reification in the work of Lukacs, especially in 'History and Class Consciousness ', absolute fetishistic transformation of social relationships between men mediated by Commodity-Form, of which the legal form is but one of the effects.
The second step of separation is within the process of delivery of labour force, of its substantiation both in times and in values governed by norms and precise legal scans. The law, at this level, operates at the same level of abstraction of money and commodity, then as process of egalitarian levelling with respect to the process of exchange and movement of capital, which proves to be effective constitutional force able to regulate the social relations in their complexity (starting from the work of Pasukanis, and from the readings made by Negri and Balibar). Money-Form and Law-Form are therefore chains of subjection which operate within the social networks, in the abstract terms of the universal legal statements and in the concrete terms of the economic exchange carried out in the daily interactions, in which the Interpellation (as analysed by Althusser) and the plastic run-up of subjective freedoms contribute to the normative definition of the subject.
The third step questions how the strength of the working class acquires legitimacy through the constituted legal spaces, as Marx himself illustrates both in the juvenile writings on the theft of wood and in the pages dedicated to the Commune uprising: the class struggle, as a specific turning point of the becoming-collective of the antagonistic subjectivity, articulates specific forms of resistance to the social disciplines with specific forms of parrhesia that pass through and beyond the normative and juridical threshold and which, operating by subtraction, illuminate the constant tension between the subject and the social patterns that shape it and from which it always tries to escape to create constantly the conditions of its own freedom.

COLONIAL AND POSTCOLONIAL SPACES AS SYSTEMS OF ALIENATION

Julie Wetterslev

EUROPEAN UNIVERSITY INSTITUTE

The titling of land as indigenous property - a process of alienation?

This paper explores the longstanding and ongoing process of alienation of the Mayangna people from the lands they inhabit, based on historical research and ethnographic fieldwork in one of the 23 indigenous territories in Nicaragua's North Caribbean Region.
While the Mayangna in Awas Tingni secured a title on 73,394 hectares of land as their collective property in 2008, today this territory has been almost completely overtaken by settlers coming from other regions of

Nicaragua. After having entered into the national and international legal systems to struggle for land through the frameworks provided by indigenous peoples' rights and liberal multiculturalism, the Mayangna are now left with a profound sensation of social and cultural estrangement, in a state of powerlessness and with conflicted feelings of having contributed to betray and destroy their own traditional way of life.
The massive arrival of settlers is rapidly transforming both the eco-system and the family-based property system that was in place before the legal cases over the land reached the Courts. The presence of the settlers and the destruction of the forest has seriously hampered the possibilities for the Mayagna in Awas Tingni to hunt and fish as they used to. And while the communal property title was meant to provide security and stability for indigenous communities, conflicts over the land and its resources have in fact intensified on the North Caribbean Coast in the years following the large-scale programs that promoted indigenous land titling.
The human rights organisations and the academics that have studied the situation in Awas Tingni and other coastal communities after the titling of the land have emphasized the lack of protection of indigenous land legislation by relevant state authorities, the lack of coordination between institutions and the lack of financial resources as the main hindrances to ensuring title clearance and preventing indigenous dispossession. While this might all be relevant, another possible explanation for the development is that the titling process has contributed to change the conceptualization of land in the region.
While the communal property title determines that indigenous territories are inalienable, indivisible and communal, it would appear that the idea of land as (private) property and commodity has only gained prominence after titling, as land is increasingly understood in economic and market-oriented terms.

Yustina Trihoni Nalesti Dewi

SOEGIJAPRANATA CATHOLIC UNIVERSITY

The Fall and Rise of Indonesia's Adat Institutions from the Sovereign Community Perspective

Adat (customary) institutions are inseparable aspects of Indonesia's many traditional communities. These communities believe in sacred traditional values and are communal in nature, wherein each member is regarded as an integral part of the larger community with concrete, defined interpersonal connections. The participation of community members and general cohesion is maintained through adat institutions, which adopt adat laws, function as representative organs, and oversee the enforcement of norms. During the Dutch colonial era, adat law was applied to traditional communities, separate to colonial law, to maintain a discriminative, pluralistic structure. After Indonesia's independence, the socio-legal roles of adat institutions were systematically suppressed by Indonesia's central government. Through national legislation, adat courts were gradually dissolved in 1951; and in 1979, all remaining adat institutions were replaced by uniformed governmental organs incapable of accommodating traditional communities' values and needs. This caused extensive and long-lasting damage to the cohesion of traditional communities and the rights of individuals and groups under adat law. The trend was reversed with the Indonesian Reformation in 1998, after which the central government enacted a policy of decentralization and granted widespread regional autonomy. This new policy recognized the existence of adat communities, their traditional values, laws and institutions, and their right for self-governance. However, due to the extended period wherein the adat law system was inoperable, efforts to revitalize the role of adat institutions have not always been effective. This paper examines the fall and rise of adat institutions in Indonesia, the effects of the systemic suppression and the subsequent revival, and the results of adat institutions rebuilding

efforts. Special attention is given to core factors in the revitalization process, in particular the roles of adat courts and the souvereign individual community members.

Flávia do Amaral Vieira

FEDERAL UNIVERSITY OF PARá, BRASIL

HUMAN RIGHTS IN DISPUTE: CORPORATIONS AND LATIN AMERICA

The multiplicity of cross-border economic, cultural, social and political nexuses in the last decades, usually condensed through the term "globalization", has raised the question of how to regulate such regional and global phenomena in a context in which the nation state remained the political unit central. In this sense, the critical analysis of human rights violations in Latin America related to the advance of international investments and transnational corporations, usually from countries of the Global North, reminds us of concepts such as colonialism and imperialism. The cross-border movement of capital has triggered a private appropriation of territorial resources in countries considered as periphery; a considerable part of these resources are almost inevitably becoming private property of transnational corporations. In fact, private power remains poorly theorized and problematized by discipline, precisely when wealth concentration and corporate power have reached unprecedented levels in history.
Considering that the human rights discourse is in dispute, I aim to investigate how the concept of coloniality of power can contribute to the accountability of corporations for human rights violations in Latin America. To this, I propose to analyze the potentialities and limits of international law and human rights, based on the observation of the operational nuances of civil society in its impact on territories impacted by business activities. The central hypothesis is that in the territories affected and affected by human rights violations caused by transnational corporations, the absence of instruments that hold these corporations internationally shows patterns of colonial relations between the global South and developed nations, corporate headquarters. These observations, as well as the ethnography of fieldwork, suggest that we need to uncover the ways people think about the use of human rights in their daily lives.

Shelley Bielefeld

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Colonial Spaces as Systems of Alienation: The Community Development Program and Indigenous Peoples

The Community Development Program (CDP) was introduced to address high levels of unemployment in remote regions of Australia, areas where paid employment options are scarce. It embodies a workfare approach to social security payments, with claimants positioned as owing ‘mutual obligations’ to the state if they receive government income support, drawing on new paternalist rhetoric popularised by scholars such as Lawrence Mead. The government claims that CDP is intended to improve employment outcomes – ‘breaking the cycle of welfare dependency in remote Australia.’ (Department of Prime Minister and Cabinet 2018: 16).

CDP applies predominantly to Indigenous peoples in these locations. In its first formulation, the program required twenty-five hours a week of work or work-like activities to be carried out for five hours a day, five days a week. Breach rates for Indigenous peoples subject to the CDP compliance regime have been very high (Department of Prime Minister and Cabinet 2018: 31), with breaches resulting in a range of escalating penalties that can include suspension of income for a period of weeks and ultimately termination of their social security payments.

Following much criticism, CDP has since been revamped to allow for the possibility of a reduction in compulsory labour hours to twenty hours per week and some possibility of flexibility as to when these compulsory labour hours are to be undertaken. However, the program remains problematic in a number of ways. This paper explores how the Community Development Program offers social security in a form that alienates people in need, intensifies socio-economic disadvantage, positions First Peoples as supplicants instead of self-determining entities, and reinforces structures of colonial domination. Strong on surveillance and short on rights, CDP delivers ongoing marginalisation from mainstream benefits produced by Australia's economy, whilst fostering a position of permanent pupillage for remote living First Peoples.

Emma Grego, Tina Youan

UNIVERSITY OF MONTPELLIER (FRANCE), Sorbonne Nouvelle (Paris III)

Alienation Act. How Constitutional Power creates alienation

In France and francophone countries, the influence of colonialism has been overlooked in French legal studies. However, it continues to have a tangible impact on the way those countries govern themselves today and who is among the franchised population. Majority of the marginalized are Black communities and these are the experiences we will center in our research.

Many former French colonies have begun to adopt elements of the French constitution into their own, prohibiting the identity and tradition of the country from being legally validated or recognized. In short – a form of self-alienation.

The French constitution, which serves as the exemplar for former French colonies, is the origin of the exclusionary sentiment found in former French colonies constitutions. Within the French constitution and legal system there is rampant identity erasure with regard to race in order to safeguard the French national identity.

As constitutional comparatist scholars, we will take a two-pronged approach to investigate how the French constitution and the constitutions in former French colonies exclude black identities, voices, and histories from the political arena. By using selected legal case studies and analyzing parliamentary debates before constitutional amendments.

We will show, by using contextualization, how the former French colonies constitution erase black identities. For example, the Ivorian identity clause take up the French identity clause and make French as the exclusive constitutional language. Though, Ivory coast has more than 60 languages.

Our works is the first step to examine French law through the lens of race.

Mark Harris

University of British Columbia

Genocide and the Lexicon of Settler-Colonialism

On June 3, 2019 Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls was presented to Canada's Federal, provincial and territorial governments. The Inquiry was commissioned by Prime Minister Trudeau in 2016 to investigate why so many Indigenous women and girls were the victims of violence. The report identified 231 steps or "Calls for Justice" across a broad range of service deliverers, occupations and industries that needed to be addressed by both government and, significantly, all Canadians to address this violence. Most tellingly the Executive Summary of the Inquiry repeatedly called this violence 'genocide'. This term was also used to describe the violence by the chief commissioner of the inquiry, Justice Marion Buller, in an address to the families and survivors of the violence as genocide. The reference to 'genocide' in this context has been a polarising moment for Canadian society with some commentators challenging the correctness of the term. This paper considers the controversy from a broader lens of settler colonial violence, drawing from a comparative analysis with the final report of the Bringing them Home inquiry released in Australia in 1997. This report dealt with the forced removal of Aboriginal children from their families under government policies over nearly a century. This report also used the term 'genocide' to describe the impact of the removal of the children, dubbed the 'stolen generations'. What this paper seeks to explore is not so much the correctness of the term in its international law definitions and usage but rather how the violence of settler-colonialism manifests itself in persistent manifestations that trace back to the enduring original violence of settler displacement and dispossession.

LEGAL AESTHETICS

Thomas Giddens

University of Dundee

The Aesthetics of Legal Pedagogy: Law as Scholarship and the Marketisation of UKHE

The common law can be seen to be associated with scholarly methods of close reading, rational synthesis, conceptualisation, and intellectual judgment. It is a method of resolving disputes towards justice through the application of these methods to specific cases and problems, thereby building up a body of laws and legal texts for future judges to draw on in their own casuistic endeavours. These characteristics can be seen in the relationships between the development of the common law and the renaissance humanism that was ostensibly resisted or rejected by English common lawyers, but that actually can be seen to shape the continuing practice of the common law. In the critical study of law, too, these same methods are at play,

albeit engaging with a wider or different set of materials in order to interrogate the ideological and political problematics of state law and authority. Yet, despite these broad scholarly features of both the practice and study of law, in the context of contemporary UK higher education (UKHE), legal pedagogy can be seen to be denying these literate ideals. Under the auspices of league tables, metrics, assessments, and marketisation, legal education in UKHE can in many senses be seen to rely not upon the actual undertaking of these rich scholarly methods, but instead upon their appearance or semblance. Grades signify learning, but represent nothing of what is learnt or experienced; the HE 'market place' signifies education for all, but represents a reduction in both the quality of and access to legal higher education. In research, too: the REF gives the appearance of legal research, but actually impinges upon its capacity to be meaningfully undertaken. Accordingly, this paper queries the aesthetics of legal pedagogy in UKHE, examining the discrepancies between the appearance of legal scholarship and the structural inhibitions to its actual undertaking.

Chris Lloyd

SCHOOL OF LAW, OXFORD BROOKES UNIVERSITY

Ratio decidendi … the saga continues.

This paper serves as a continuation of the lineage of work begun and presented at the last Critical Legal Conference – The Open University, September 2018 – in which the concept of ratio decidendi was subjected to a deconstructive critical analysis. There, ratio decidendi was examined through the case-study of the infamous Modern Law Review debate of 1957–1959, in which the esteemed common law scholars AL. Goodhart, J.L. Montrose, A.W.B. Simpson, and Julius Stone, despite ferocious debate, could not come to an agreement on what the concept of ratio decidendi is, nor how one would apply it in judicial practice. The paper argued that the methodology of standard legal positivism, more specifically the school of Oxford 'Ordinary Language Philosophy,' prohibited the concept from full elucidation due not only to its limited legal application but also because of the solicitation brought upon the methodology as a result of the critique of metaphysics engendered by deconstruction's happening: 'ce qui arrive.' This proposed paper now seeks to develop this work by unearthing the genealogy of the doomed methodology in question, that of Ordinary Language Philosophy.

The proposed paper seeks to show how the contextual setting of the University of Oxford in post-war Britain, alongside the idiosyncrasies of Herbert Hart within the Faculty of Law at Oxford at that time, led to Ordinary Language Philosophy side-stepping the metaphysical challenges revealed by the concept of ratio decidendi. The paper argues that through a combination of fear of the continental tradition in the aftermath of the Second World War, as well as Hart's own doubts as to his abilities as a philosopher, the methodology of Ordinary Language Philosophy served as a classic 'English' reactionary theory. For Hart, '[t]he flight from metaphysics … offered the seductive prospect of escape from a painful further period of apprenticeship in the arcane craft of traditional philosophy,' and for Oxford more generally, the departure from the continental tradition reflected the view that 'they had won the war, got rid of the evil people, and didn't need to learn anything from the earlier traditions.' (Indeed, Derrida's reception at the University of Cambridge and indeed the view of his work from inside the Faculty of Law at Oxford is exemplary: 'il n'y a pas de hors-texte,' Derrida used to tease. Were that intelligible it would be irrelevant.') The paper concludes by arguing that Hart's legacy is, in truth, the opposite of that which he is usually charged with: this is that Hart did not invigorate the philosophy of law in post-war Britain, but rather he doomed it to

cower away from, and resist engagements with, the most salient questions of metaphysics, upon which law is premised.

Daniel Matthews

University of Hong Kong

Law and Aesthetics in The Anthropocene: From the Rights of Nature to the Aesthesis of Obligations

Abstract

The Anthropocene thesis contends that the earth has entered a new geological epoch, dominated by human action. This article examines the Anthropocene in relation to law and aesthetics, arguing that the concepts of law and the stories of law's origins that we mobilise in this context play a significant role in rendering us sensitive or insensitive to the multifarious challenges that the Anthropocene poses to social life. In arguing against aspects of Earth Jurisprudence scholarship, which has developed a novel understanding of the 'rights of nature', this article argues that it is through an attention to obligations, rather than rights, that a sensitivity to the forces and relations that define the Anthropocene might be fostered. The shift from rights to obligations entails a commensurate movement from aesthetics – where questions of form, integrity and harmony predominate – to aesthesis, the study of the somatic, sensory and affective dimensions of human experience.

AFFECT, ALIENATION AND LAW

David Thomas

Revolt against Alienation: Digging and Time

My story is about a seventeenth century revolt against alienation. 1649 was a year of unimaginable rupture in England; the king had been executed, the bishops, the monarchy and the House of Lords abolished, every social order had been disrupted and cast into doubt by seven years of wars. In that year the Diggers attempted a non-violent revolution (before the modern concept of revolution had been invented). They drew on traditions of rural revolt against enclosure and occupations of land by the alienated and marginalized, and combined

them with a universalizing vision of peace and freedom in which society was fundamentally transformed, with an end to private property and alienation from work. Although their occupation of common land was in defiance of existing laws, they claimed a legal foundation, partly in the circumstances of the time and the remarkable Act of Parliament ending the monarchy ("a most happy way is made for this nation … to return

to its just and ancient right"), partly in the mythology of the common law promoted by Sir Edward Coke and others in the lead-up to the crisis. Another basis was to be found in the theory of the "Norman Yoke", the earliest example of the concept of "race wars" theorized by Foucault in Society Must be Defended; and finally they also proposed their own basis for law, common preservation as against self-preservation.

There was a basic problem faced by the Diggers in putting forward their programme for a fundamentally changed society – their era, their epistème, had hardly any conception of progress; the different chronologies available to the thought of the time did not include one for secular transformation for the better. I shall talk about the ways, legal, historical, and religious, that they solved this conundrum and made their revolution possible.

Dr Illan rua Wall

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Hearts and Minds

The Tunisian revolution was already in its second week, when Ben Ali visited Mohamed Bouaziz's bedside. The visit was an attempt to calm the popular temper that had gradually risen after Bouazizi's self-immolation in late December 2010. The image of his visit was carefully curated. It was staged to resonate, to communicate affectively with those on the streets. In this paper we look more closely at the image, reading it for its sovereign resonance.

Yvette Russell

University of Bristol

Decolonising sexual violence: Erotic transformation as revolutionary politics

In this paper I investigate the theoretical steps necessary to support a revolutionary agenda to end sexual violence. What would erotic transformation look like beyond the reification of 'non-normative' sexuality that currently passes for radical critique in socio-legal studies? That work warns against the policing of the boundaries of sexuality through social movements like #MeToo or sexual violence legislation and case law, arguing that we need to be wary of feminist anti-rape politics which have the effect of marginalising minority sexualities (Gurnham 2016, Halley 2008, Khan 2014, Matthews 2018). One should be able cultivate 'liminal trust' in a sexual encounter which might simultaneously involve 'fear, repulsion, uncertainly… [and] excitement…', argues Matthews (2018), without being burdened by legal constructs of consent or the moralising discourse of #MeToo. While some version of this might be true, the inference that such a gesture is 'emancipatory' in itself is sorely misplaced. As Foucault points out, the mere idea of liberation via sexual freedom is a classic mechanism of the dispositif of sexuality (1988). That one should simply embrace the jouissance of the Other, rather than being repulsed by it is similarly facile (Cornell and Seely 2014). Instead, I argue that if we are truly interested in erotic transformation as a way to both end sexual violence and to think desire and affectivity otherwise, we must engage in this work as a component of thinking

revolutionary change more broadly. I attempt to do this in conversation with Māori feminist scholars, whose thinking on radical ontologies of sexuate being is instructive for how we might centre erotic transformation within revolutionary decolonial and anti-rape politics more generally.

Bal Sokhi-Bulley

UNIVERSITY OF SUSSEX

Complicated Affects: Friendship as Belonging and Betrayal

The importance of 'friendship' as an ethico-political concept has long faded. Identified in ancient Greek philosophy as a necessary part of the theory of human conduct, in thinking how we do good human conduct today we remain distracted by the dominant discourse of rights. This paper argues that we do friendship, not (just) rights. I take inspiration from the poststructural thinkers Foucault and Derrida to 'make trouble', as Haraway urges us to do, in an attempt to radically re-think rights as a relational ethics of friendship. This provides us with a way to enact belonging whilst recognizing the complicated ways in which we betray each other and ourselves. Friendship, then, is more than an affective tie – it is a sequence of response-ability, relationality, right treatment that refocuses the rights debate (situated in a code) onto the possibility of recognizing belonging and betrayal (a mode of being and becoming) in a way that rights are currently not able to do. In the face of 'controversies' around the meaning of citizenship, rights instead perpetuate a culture of abandonment wherein (usually black and brown) citizens become immigrants without rights and belonging becomes a juridical entitlement rather than a relational practice of friendship. By examining in particular the case of Shamima Begum, I show how a concept of relational right is possible that recognises and responds to belonging, and betrayal, in a way that rights cannot, and creates the possibility of a culture of friendship in place of a culture of abandonment.

Emma Patchett

OPEN UNIVERSITY

Away from Dreamland: law, film and immigration detention

This paper will read the Last Resort (Paweł Pawlikowski, 2000) through a critical legal lens, as a means of disentangling the vulnerability of estrangement inherent in the mechanism of punitive immigration control, predicated on a manipulation of the scene of waiting through both film and the law. This paper will simultaneously draw on the concept of alienation read through Derrida's deconstruction of the metaphysics of presence, taking account of the aesthetic possibilities of the legal framework of exclusion in the context of a (Brechtian) Verfremdungseffekt in the cinematic text.

James Martel

SAN FRANCISCO STATE UNIVERSITY

Affect, material rights and the General Strike

In this paper I will argue that in addition to the disembodied Kantian set of rights that attach themselves to legal subjects, there is another set of deeply embodied and affective rights, akin to what José Carlos Mariátegui calls "material rights." Whereas the abstract notion of rights depends entirely on political will, this other set of rights is rooted in life practices and inherently resists being tampered with by archist predations. Material rights are akin to the kinds of affective transformations that Marx argues (and Agnes Heller expands upon) occur when workers join a communist party for selfish reasons only to discover new needs (and, I would add, new rights). I will argue that this other set of rights is inherently anarchist and its political form is the general strike.

Ivanka Antova

QUEEN'S UNIVERSITY BELFAST

Taking back control (of our health): the responsibilized citizen and post-Brexit health governance.

This paper is an early output from the ESRC funded Health Governance After Brexit project exploring notions of legitimacy, accountability and responsibility. The project aims to illuminate the governance gap that Brexit has created for health by comparing data from 'elite' conversations and 'street ethnography' on issues of accountability and responsibility.

Through our 'street ethnography' we have recorded conversations with more than 200 people in several locations in North England and Northern Ireland. The theme of alienation, detachment and confusion about Brexit runs through the stories we have heard. The stories suggest that UK citizens are facing an uneasy future, regardless of how they voted in the Brexit referendum. Whilst there is lingering hope that Brexit will fulfil the promise of curbing immigration and boosting sovereignty, the same cannot be said about health governance.

Established health corridors between the North and South of Ireland are under threat from a hard border, and the privatisation of the NHS in England is not only a perceived threat, but a looming reality post-Brexit. The people we have spoken to care deeply about the NHS, but feel no confidence in politicians protecting it, even if Brexit is something that many of them want. Whilst 'elites' have been vocal about any form of Brexit being harmful for heath and hold traditional actors responsible for health governance, the response on the street has been more complex and nuanced. In particular, heightened awareness of one's individual responsibility for one's own health; or one's responsibility for protecting the NHS by making smarter health choices, or by exposing migrants benefiting from the NHS without contributing, are part of the post-Brexit narratives about health and the NHS.

This paper argues that the narrative on post-Brexit health governance can go beyond an exploration of the new legal and political terrain to incorporate narratives of responsibilisation as an example of resistance to the 'existential anxiety' that Brexit has created. The subject of governance is resisting this uncertainty by opening themselves to responsibilisation that exists both at UK and EU levels. Whilst in the UK the ongoing welfare reform and the calls for a 'health creating society' focused on disease prevention have been some of the tactics of neoliberal governmentality, at EU level the construction of the EU citizen as a 'responsible and economically active' one has paved the way for patterns of exclusion and punishment of perceived irresponsible behaviours, including irresponsible health choices.

Looked through a responsibilisation lens, the 'take back control' Brexit slogan is more than political bravado: it is self-responsibilisation and legitimisation of post-Brexit health governance that focuses on personal contributions, risk management, self-reliance, self-monitoring and control. One less spoken about effect of Brexit might be creation of fertile ground for further neoliberal governmentality and free market approaches to health.
Relying on responsibilisation literature, as well as literature on governmentality and post-Brexit governance, this paper calls for a critical approach to post-Brexit health governance.

Stacy Douglas

LAW, CARLETON UNIVERSITY

Feel-Good Despots & Other Myths

One of the ur-narratives of popular novels, movies, and television shows of the late twenty first century is the overcoming of a local despot. In this stories, a tyrannical authority oppresses and brutalizes a population, giving rise to a law-breaking resistor that thwarts the dictator's schemes and liberates the people. To some, this is the story of natural law triumphing over positive law. To others, it is a timeless story, not merely confined to the twentieth century, of good winning out over evil. But contemporary depictions of this narrative situate the problem of despotism in an aberrant individual or cadre, who's character flaws can be attributed to greed or lust for power. Rarely, do such stories situate the problem of concentrated and corrupt power as stemming from the very telos of liberation that is so vaunted in these tales. This paper suggests that we might need more narratives that link the rise of tyranny with the post-liberation period, thus allowing us to contemplate how the rise of social democracy in post-WWII North America may be the breeding ground for despotism, rather than its antidote.

Jen Neller

BIRKBECK

Affect and Identity in the Passage of Hate Speech Legislation

In 2008, the offence of stirring up hatred on grounds of sexual orientation was added to the offences of stirring up racial and religious hatred within the Public Order Act 1986. Such a measure might be assumed to have a straightforward rationale of protecting those who would be harmed by the stirring up of hatred on grounds of sexual orientation, and therefore to be aimed at reducing the alienation experienced by certain minorities within British society. However, analysis of the parliamentary debates that preceded this amendment of the Public Order Act tell an altogether different story. While it is true that sympathy was expressed for victims of homophobic hatred, this was strongly counterposed by the notion that the new offence would infringe upon the freedom of elderly Christians to express their sincerely held beliefs. Thus, it was argued that a balance must be struck between the zero sum rights of groups whose interests were perceived to be diametrically opposed. The purportedly neutral rights of these groups, however, could not be conceptually separated from the identities to which they were attached, and the affects that were in turn 'stuck' to those identities. In contrast to the middle class, Christian pensioner – the archetypal image

of conservative Britishness – the ostentatious homosexual was presented as the less deserving subject. Repeatedly, the interests of homosexuals were marginalised as 'their' interests, rather than as intersecting and as equally constituent of 'our' interests.
I argue that it was due to a third identity at play in the parliamentary debates – black rap and reggae artists – that the sexual orientation provision was passed. Contrary to the homophobia of white middle England, homophobia expressed in Jamaican patois could be presented as a threat to, rather than a product of, British culture. When the threat of homophobia was identified as stemming from black cultures, with their long association with violence and criminality in British discourse, the victimhood of homosexuals was more credible than when the threat stemmed from elderly white Christians. The narrative therefore shifted from the need to regulate internal disputes to the need to protect British subjects from external threats. The parliamentary justification for the sexual orientation provision can thus be seen as an example of what Jasbir Puar terms 'homonationalism', i.e. the co-optation of a certain white homosexuality and the condemnation of 'foreign' homophobias to bolster the myth of the nation as tolerant, egalitarian and morally superior. These findings suggest that contemporary hate speech legislation in England and Wales is more strongly motivated by a desire to preserve a certain vision of Britishness than to protect victims of hatred or genuinely promote equality and inclusivity.

Moritz Neugebauer

Kent Law School University of Kent

Repeating Pashukanis, situating Riles: towards an immanent critique of modern law

What would it mean for law and the state to be structured like capital? In my paper, I take up Evgeny Pashukanis' challenge of tracking the homology between legal and economic relations in light of recent contributions to critical legal theory. Grounded in the work of internal critics of legal anthropology and socio-legal studies – particularly Annelise Riles and others engaged in the ongoing (re)turn to the technicalities in law, and scholars seeking to displace the dominance of oppositional 'law and' conceptions – I sketch how key elements of legal relations (legal practices, validity, authority and procedure, and ultimately the state) emerge from the dual character of legal precepts, which appear in what I call a contextual and a technical mode. This approach mirrors Marx's thought process in Capital, though in a manner not entertained by Pashukanis. It allows me to propose a theory of fetishism that links aesthetic and affective dimensions of legal form with the logic of legal production and circulation that I am outlining. The question, then, of how to overcome the alienation of human beings from the legal precepts that they themselves generate and sustain, and from themselves qua legal subjects, forms the political horizon of my paper. Against the humanist notion of (re)appropriating what has been lost, it gestures towards the potential of a shift in perspective regarding both the social Subject (in its relation to law) and legal authority (as the Substance of law).
Keywords: legal technicalities; fetishism; ontology