

Socio-Legal NEWSLETTER No 68 SLSA

THE NEWSLETTER OF THE SOCIO-LEGAL STUDIES ASSOCIATION

WINTER 2012

PHIL THOMAS AWARDED 2012 SLSA PRIZE

The SLSA has announced that Professor Philip (Phil) Aneurin Thomas has been awarded the 2012 Prize for Contributions to the Socio-legal Community. There can be few people who deserve this honour more than Phil, who occupies a pivotal place in the history of UK socio-legal studies. Starting from a position in the 1960s in which he believed that UK legal education was not fit for purpose, much of what socio-legal academics now regard as obvious and apparent owes itself in part to Phil. That is not to say that there is not a considerable amount more to do, but what we can be sure of is that Phil, with his academic entrepreneurial antenna intact, will be at the forefront.

Most current members will know him as the editor of the *Journal of Law and Society* (JLS), a journal which he, together with some of his colleagues at Cardiff, founded in 1974. Phil was also a founding member of the SLSA itself and, for many years, a member of its Executive Committee. The relationship between the JLS and SLSA remains strong as a result. In the 1990s, Phil persuaded Dartmouth to publish a series of monographs and edited collections as a socio-legal series, and himself edited, in 1999, *Socio-Legal Studies*. His introduction to that collection is what I think about as 'pure Phil'; jovial as always but with a cutting-edge mission to nail the significance and problematics inherent in the socio-legal label. It should be compulsory reading for all.

I could run through Phil's many publications or his career posts and his many achievements but they are not why I nominated him for the prize because Phil's contribution transcends all that; many of us (including me) owe our entire careers to him. When it was not fashionable, he acted as our mentor; at a time when early career scholars and doctoral students were largely left to sink or swim, he was there to help (a role which he continues to play through the JLS, funding bursaries at the SLSA conference, setting up and presenting at the postgraduate conference, and through general encouragement). For me personally, when nobody would publish my work or look at my book proposal in the early 1990s, he took me on and offered valuable advice right down to how to write.

There are many other 'pure Phil' nuggets which I and others will, no doubt, share with you when the prize is awarded at the 2013 York conference.

Dave Cowan

International liaison officer

I would like to introduce myself as your new international liaison officer. This is a new position on the SLSA Executive Committee. We have established the position to allow the association to improve its service to our international members and to encourage further growth in membership from outside the UK. Over the coming weeks and months I will be consulting with our existing international members to help establish what my priorities should be. I will also be co-ordinating with the organisers of our 2013 conference at York to help ensure an excellent experience for our international attendees. In the meantime if you have ideas or contacts you would like to share do please get in touch. You can contact me at [e kevin.j.brown@ncl.ac.uk](mailto:kevin.j.brown@ncl.ac.uk) or +44 191 222 7611.

Kevin Brown

SLSA YORK 2013

Call for papers

The call for papers for SLSA 2013 is now available at: www.york.ac.uk/law/news/conferences/#tab-2. See details of streams and themes inside on page 4. This year we are running an online submission for abstracts. This should be nice and easy but detailed instructions are available on the website.

Plus . . .

In addition to our usual themes and streams we have a number of exciting events and activities. Lady Hale, our plenary lecturer, will be speaking to the question: 'Should judges be socio-legal scholars?' A book-reading group will take place and the chosen book is the Man Booker prize-nominated *The Garden of Evening Mists* by Tan Twan Eng. We will also be running a postgraduate poster competition. The conference dinner will take place at the National Railway Museum amongst the engines.

For bookings, go to www.york.ac.uk/law/news/conferences/#tab-3 and follow the links. The early-bird offer is available until **28 January 2013** so do make sure that you book soon to get the best price. Please email queries to [e slsa2013@york.ac.uk](mailto:slsa2013@york.ac.uk).

Caroline Hunter

Retired membership

At its September meeting, the SLSA Executive Committee decided to offer an additional category of membership to those who have formally retired from their academic posts. Retired members can make a one-off payment of £65 to continue their membership of the SLSA including entitlement to reduced rates for SLSA events. We hope that this will be a welcome addition to our membership categories and allow retired members to stay involved with the socio-legal community; something that would clearly be of benefit to the SLSA. Appropriate forms will be placed on the website in due course. In the meantime, please feel free to contact the membership secretary, Julie McCandless [e membershipslsa@gmail.com](mailto:membershipslsa@gmail.com) if you would like to arrange for retired membership.

SLSA annual seminar competition 2013

The SLSA is delighted to announce the relaunch of its seminar competition. The fund is £2500, all of which can be awarded to a single proposal or divided between two or more applicants. The money can be used to support the delivery of an individual seminar or short conference, or a series of events. There are no restrictions on subject matter, provided that applicants can show relevance to the socio-legal community. Applicants must be SLSA members. Applications will not be considered where the amount of support required is less than £500, or where the event is targeted at staff or students of a single institution. The fund has so far supported six successful events.

If you are considering an application, please ensure that your proposal accords with the published guidance, downloadable from the SLSA website: www.slsa.ac.uk. If you have any queries, contact Mark O'Brien, [e mark.o'brien@uwe.ac.uk](mailto:mark.o'brien@uwe.ac.uk). Closing date: **14 December 2012**.

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Meetings

The next Executive Committee meeting will be on **17 January 2013** in London.

SLSA members are invited to propose items for inclusion on the agenda of future meetings; email SLSA secretary, Amanda Perry-Kessaris, e a.perry-kessaris@soas.ac.uk. Minutes and papers from past meetings are available at w www.slsa.ac.uk/content/view/105/269/.

Social media

You can follow the SLSA on Twitter @SLSA_UK and on Facebook
w www.facebook.com/groups/55986957593/.

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www.slsa.ac.uk

The SLSA website contains comprehensive information about the SLSA and its activities and is also the home of the SLSA Membership Directory. The news webpages are updated almost daily with socio-legal news, events, publications, vacancies etc. To request the inclusion of a news item and for queries about the content of the website, contact Marie Selwood e marieselwood@btinternet.com.

Disclaimer

The opinions expressed in articles in the *Socio-Legal Newsletter* are those of the authors and not necessarily those of the SLSA.

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Newsletter sponsorship

The *Socio-Legal Newsletter* is sponsored by a consortium of law schools interested in promoting socio-legal studies in the UK.

If you think that your institution would like to become involved in this initiative, please contact SLSA chair Rosemary Hunter e r.c.hunter@kent.ac.uk.

Newsletter sponsors 2010–2013 are: Birkbeck; Cardiff Law School; Centre for Socio-Legal Studies, Oxford; University of Exeter; University of Kent; University of Liverpool; London School of Economics; University of Nottingham; Queen's University Belfast; University of Warwick; and University of Westminster.



Department
of Law



The University of
Nottingham

UNIVERSITY OF WESTMINSTER



SLSA annual conference: future hosts

The SLSA executive is seeking expressions of interest from universities wishing to host our annual conferences in 2015 and 2016. The conference usually takes place during the Easter break each year. The criteria we consider are:

- a strong local team of organisers, supported by their head of department;
- a venue capable of catering for approximately 300 delegates;
- overnight accommodation for about 200 people;
- a range of types of accommodation close to the conference venue, including low-cost accommodation suitable for postgraduate students;
- an accessible location;
- 15–16 good quality seminar rooms within walking distance of each other;
- a lecture theatre for plenary sessions and the annual general meeting;
- a computer lab capable of functioning as an internet cafe;
- a cloakroom for storing luggage;
- reliable Wifi in the building;
- a central area suitable for registration, publishers' stands, coffee/tea and lunches;
- adequate administrative and finance support;
- ability to provide a conference website (ideally with direct editorial control);
- capacity to promote the conference through local and wider networks.

In recent years local teams have often been supported by a university conference office or department. The SLSA Executive Committee will also provide assistance in liaising with publishers and organising sponsorship deals. Expressions of interest should be sent to Rosemary Hunter by **10 January 2013** for discussion at the SLSA's Executive Committee meeting on **17 January 2012** e r.c.hunter@kent.ac.uk.

Selectivity in the REF

Several learned societies have expressed concerns about a strategy by at least some higher education institutions to limit their REF entries to those meeting a higher threshold than the 2* minimum for each output. There are concerns about the exclusionary effects of these strategies, the groups of staff most likely to be affected, and the potential career impacts. The SLSA Executive wishes to know whether this is a matter of particular concern to SLSA members. We are keen to hear from members in response to the following questions:

- Have you or any colleagues been told that you/they will not be entered in the REF because your/their work does not meet a specified threshold or GPA?
- Is this a university-wide policy, or does it apply only to particular units of assessment (in which case, which one/s)?
- Are there any groups of staff particularly affected by such a policy (eg early career researchers; those who have a reduction in the number of entries due to maternity leave, disability etc; those who undertake particular kinds of research)?
- What, if any, are the stated or apparent career implications of being excluded from the REF (eg effect on probation, promotion, funding . . . or is there a credible commitment that nothing will follow)?
- Are there any other issues concerning selection for REF entry that you wish to raise?

All responses will be treated in confidence and reporting will ensure that no individuals are identified or identifiable.

Please send responses by email to Vanessa Munro e vanessa.munro@nottingham.ac.uk by **31 December 2012**.

SLSA postgraduate conference 2013

Next year's postgraduate conference is being jointly organised by the universities of Keele and Leicester and will be held at the University of Leicester on **9–10 January 2013**.

The event is aimed at those starting out in their careers who may need guidance on issues such as: completing their postgraduate research; getting published; finding their first job; and establishing links with like-minded scholars. As always, accommodation and meals are provided free of charge but attendees must cover their travel expenses. The event is open to members and non-members alike to encourage postgraduates unsure of their interest in socio-legal studies to test the water.

The closing date for registration is **9 December 2012**. A refundable deposit of £45 is required (this will not be cashed unless you cancel after **16 December 2012** or do not turn up to the conference). Please visit the SLSA website for further details. w www.slsa.ac.uk/content/view/169/144.

New postgraduate representative

The SLSA is delighted to announce the appointment of Charlotte Bendall as the new postgraduate representative on the Executive Committee.

Charlotte is studying for a PhD in law at the University of Birmingham. Student members are invited to contact her if they wish to raise any issues affecting them with the Executive e clb212@bham.ac.uk.

people . . .

The Academy of Social Sciences has conferred the award of academician on SLSA chair **PROFESSOR ROSEMARY HUNTER**, University of Kent, and former SLSA vice chair **PROFESSOR ANTHONY BRADNEY**, Keele University.

PRABHA KOTISWARAN has moved from SOAS to the School of Law, KCL.

SLSA student member **CAMILLA BARKER** has received a Fulbright Postgraduate Student Award to enable her to study for an LLM in international human rights law at Harvard Law School

The Society of Legal Scholars' new president is **HECTOR MACQUEEN**, professor of private law at the University of Edinburgh and a Scottish Law Commissioner. w www.legalscholars.ac.uk/

SLSA membership benefits

New partnership with Ashgate

SLSA members now receive 20 per cent discount on all Ashgate books purchased via the Ashgate website. See discount code on the partnership page w www.slsa.ac.uk/content/view/301/114. **NB** you must be logged in.

The SLSA is happy to explore relationships with other publishers who would be prepared to offer discounts to our members. Please contact Andre Naidoo e anaidoo@dmu.ac.uk.

Other benefits of SLSA membership are:

- three 16-page newsletters per year
- personal profile in the SLSA online directory
- discounted SLSA conference fees
- weekly e-bulletin
- eligibility for grants, competitions and prizes
- members' priority in newsletter publications pages
- discounted student membership (with first year free)
- free annual postgraduate conference
- student bursaries for SLSA annual conference
- discounts on subscriptions to a selection of law journals
- . . . and much more.

Visit w www.slsa.ac.uk.

SLSA YORK, 26–28 MARCH 2013: CALL FOR PAPERS

The call for papers for is now open. Abstracts are invited for the streams and themes listed below. Details of the calls within each stream and theme are available on the conference website. If you have any questions as to whether your paper is suitable, contact the relevant organiser. Abstracts should be submitted via the abstract submission website at: www.york.ac.uk/law/news/conferences/#tab-2 by **14 January 2013**.

Themes and convenors

Colonial legalities

Carol Jones e c.jones2@wlv.ac.uk

Europe: crisis, what crisis? Contested political and legal visions

Nicholas Dorn e dorn@law.eur.nl

Families and work

Nicole Busby e nicole.busby@strathclyde.ac.uk

Grace James e c.g.james@reading.ac.uk

Human rights defenders and the law

Alice Nah e alice.nah@york.ac.uk

Narratives of cultural possession/dispossession in constitutional discourses

Cristina Golomo e cristina.golomo@gmail.com

Lucia Rubinelli e l.l.rubinelli@lse.ac.uk

The use of information in regulatory and enforcement contexts

Richard Hyde e richard.hyde@northumbria.ac.uk

Ashley Savage e ashley.savage@northumbria.ac.uk

Streams and convenors

Administrative justice

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Trevor Buck e tbuck@dmu.ac.uk

Art, culture and heritage

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Charlotte Woodhead e c.c.woodhead@warwick.ac.uk

Banking and finance law

Clare Chambers e clare.chambers@uwe.ac.uk

Challenging ownership: meanings space and identity

Penny English e penny.english@anglia.ac.uk

Sarah Blandy e s.blandy@leeds.ac.uk

Criminal law and criminal justice

Vanessa Bettinson e vbettinson@dmu.ac.uk

Ben Livings e ben.livings@sunderland.ac.uk

EU law

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Kathryn Wright e kathryn.wright@york.ac.uk

Family and children law and policy

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Liz Trinder e e.j.trinder@exeter.ac.uk

Gender, sexuality and law

Chris Ashford e chris.ashford@sunderland.ac.uk

Indigenous rights and minority rights

Sarah Sargent e sarah.sargent@buckingham.ac.uk

Information technology law and cyberspace

Mark O'Brien e mark.o'brien@uwe.ac.uk

Intellectual property

Jasem Tarawneh e jasem.tarawneh@manchester.ac.uk

Labour law

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Law and literature

Julia Shaw e jshaw@dmu.ac.uk

Lawyers and legal professions

Andy Boon e andy.boon.1@city.ac.uk

John Flood e j.a.flood@westminster.ac.uk

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Fiona Cownie e f.cownie@law.keele.ac.uk

Medical law and ethics

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Mental health and mental capacity law

Nell Munro e nell.munro@nottingham.ac.uk

Peter Bartlett e peter.bartlett@nottingham.ac.uk

Race, religion and human rights

Fernne Brennan e joash@essex.ac.uk

Renewable energy and sustainable development

Jona Razzaque e jona.razzaque@uwe.ac.uk

Research methodologies and methods

Antonia Layard e a.layard@bham.ac.uk

Jonathon Sims e jonathan.sims@bl.uk

Simon Halliday e simon.halliday@york.ac.uk

Sentencing and punishment

Gavin Dingwall e gdingwall@dmu.ac.uk

Karen Harrison e karen.harrison@hull.ac.uk

Sports law

Ben Livings e ben.livings@sunderland.ac.uk

Systems theory thinking, law and society

Thomas Webb e t.webb@lancaster.ac.uk

Book-reading group

Daniel Monk's book group will take place on **26 March 2013**. The book is *The Garden of Evening Mists* by Tan Twan Eng (2012 Myrmidon Books). If you would like to read the book and take part in the discussion, please email e d.monk@bbk.ac.uk.

Postgraduate poster competition

This year for the first time there is a poster competition for postgraduates. We are particularly keen for students in the ESRC doctoral training centres to use this opportunity to get together and find out about each other's work. Posters are an established feature of conferences in other disciplines and are becoming increasingly common at legal events. Guidance on putting together a poster is available on the conference website. To present a poster, please submit a title and a brief written abstract of your research, as you would for a paper, to Kathryn Wright at e kathryn.wright@york.ac.uk by **14 January 2013**. You do not need to submit a provisional image of your poster at this stage.

Journal of Law and Society (Winter 2012)

Using the wrong policy tools: education, charity and public benefit – Alison Dunn

Expert evidence, judicial reasoning and the Family Courts Information Pilot – Tony Ward

Marginalised mothers, reproductive autonomy and 'repeat losses to care' – Pam Cox

Tort law culture: image and reality – Richard Lewis & Annette Morris

Making monsters: the polygraph, the plethysmograph and other practices for the performance of abnormal sexuality – Andrew Balmer & Ralph Sandland

EXPLORING THE LEGAL IN SOCIO-LEGAL STUDIES

On 21 September 2012, 60 delegates gathered at the LSE to enjoy a stimulating day attempting to locate the 'legal' in socio-legal studies. Andreas Philippopoulos-Mihalopoulos, professor of law and theory at the University of Westminster and one of the invited speakers, gives an overview of the day.

The SLSA one-day conference 'Exploring the legal in socio-legal studies' organised by David Cowan, followed 2010's also very successful one-day conference on 'Exploring the socio- in socio-legal studies'.* Both conferences focused on what socio-legal scholars have pioneered, namely the contextualisation of the law in its social emergence and development. The socio-legal project is inherently interdisciplinary and has by now forged its own liminal 'discipline'. This liminal space of socio-legal thinking manages to accommodate a variety of perspectives, from a more dogmatic understanding of the law to a critical theoretical one. The commonality of all these perspectives is, to put it simply, the intrinsic connection of the law to its social environment. For this reason, this conference's emphasis on the 'legal' seemed potentially problematic to me, since it could be seen as an invitation for marginalising the bustling social for a more abstract and ultimately sterile approach to what the legal commands. So when David asked me to take the concluding plenary in which I would present my own research as well as draw from the conference papers of the day, I accepted gingerly, not knowing what to expect.

Nothing, however, could have prepared me for the cascade of inspiration that followed. The day was a cornucopia of radical, cutting-edge theoretical and applied research on the 'legal', defined in what I perceived to be a new and daring way. I was extremely fortunate to attend a selection of excellent papers (there were three parallel streams, so some brutal choices had to be made), such as those delivered by Caroline Hunter on actor

network theory and solar panels, Brenna Bhandar on property in a post-colonial space, Emilie Cloâtre on counterfeit drugs, Will Mbioh on blood products and HIV, Dwijen Rangnekar on locality and geographical indications, amongst others.

All these papers, at least to my mind, were characterised by a new, radical understanding of the legal that went beyond its habitual contextualisation. What I witnessed was a socio-legal body that was taken over by a newly understood legal materiality. There was matter everywhere, in the form of spaces, bodies, corporeal products, objects, files, the stuff of which texts and history and future are made: a wave of materiality flooded the 'legal' of the title, proving that the legal is even more inextricably linked to the social. Or even further: that the legal is through and through material, and the entry point of this discovery is the socio-legal body.

This was crowned superbly by the other plenary sessions, which (also) dealt with a legal materiality that is spatially located (Annelise Riles' atmosphere of post-nuclear Japan which urges us to a return to the materiality of technique), theologically approached (Chris Tomlins's soteriology of the Turner Rebellion that pointed to the sufferings of the body in the face of the normativity of destiny), and visually controversial (Linda Mulcahy's analysis of St George's Hall bas-reliefs of Justitia in Liverpool that still offer a productive conflict with the usual expectations of what justice is). Accommodating, therefore, all this surge of new ideas into my concluding plenary was both a tall order and a tangible pleasure: what has come out of this immensely successful and inspiring one-day conference was a new legal materiality, one of distributive agency, spatial inscription and plurality of forms. This understanding of materiality brings with it a strong sense of responsibility and an ethical duty for legal theorists and practitioners to understand legal matter in radically grounded ways. Perhaps this is what the 'legal' has always meant.

* A selection of papers from our 2010 one-day conference will be published by Palgrave Macmillan in 2013 entitled *Exploring the Socio' of Socio-Legal Studies* edited by Dermot Feenan.



SOCIO-LEGAL STUDIES ASSOCIATION • CONFERENCE 2014

The Department of Law at Robert Gordon University are delighted to announce that we will be hosting the Socio-Legal Studies Association Conference in 2014. Based in Aberdeen, the Department is situated in a purpose-built campus on the banks of the River Dee with modern facilities throughout.

The conference organisers are Sarah Christie (s.christie@rgu.ac.uk) and Margaret Downie (m.downie@rgu.ac.uk) and the conference will run from Wednesday 9th to Friday 11th April 2014.

We look forward to welcoming you!



OPEN ACCESS: WHAT FUTURE FOR ACADEMIC PUBLISHING?

A revolution is about to take place in academic publishing that will have long-term implications for researchers, authors, publishers and universities. Here we bring together a range of views to open out the debate about open access.

Introduction

The dying days of the last academic year saw the publication of the report of the Working Group on Expanding Access to Published Research Findings, *Accessibility, Sustainability, Excellence: How to expand access to research publications* (the Finch Report). Chaired by former Keele vice-chancellor and REF Panel C Chair Dame Janet Finch, the Working Group's terms of reference required it to 'examine how most effectively to expand access to the quality-assured published outputs of research; and to propose a programme of action to that end'. The perceived problem seems to have been the limited access to peer-reviewed scientific research available to non-academic users of research who are not in a position to subscribe to a plethora of scientific journals, hence restricting opportunities for innovation, commercialisation and general exploitation of publicly funded research findings. Although the Working Group was intended to 'focus on scholarly publications in the form of journal articles, conference proceedings and monographs', in line with the apparent focus on STEM subjects (science, technology, engineering and mathematics), the report and recommendations in fact focus almost exclusively on journal publications. The membership of the Working Group consisted of representatives of research libraries (the British Library and Research Libraries UK); learned societies (one science, one social science); three major publishers (all with scientific titles, two with some arts/humanities/social science titles as well); university managers; research funding bodies (Higher Education Funding Council for England and Wales (HEFCE), Research Councils UK (RCUK), the Wellcome Trust); one research scientist; and an observer from the Department of Business, Innovation and Skills. Interestingly, the Working Group did not include any non-academic research users; nor, as Robert Dingwall has pointed out, did it specifically include representation of the thousands of academic authors whose publishing futures will be affected by its proposals (see Dingwall, 'Open access or legalized piracy?', www.socialsciencespace.com/2012/07/open-access-or-legalized-piracy/).

The Finch Report's chief recommendation is that publicly funded academic research should become freely available rather than be hidden behind journal subscription paywalls. The Working Group's preferred model for achieving this is 'gold open access' (OA). This involves journals being funded by means of an 'article processing charge' (APC) levied on each article accepted for publication, rather than by means of subscriptions. In other words, the cost of journal publishing would be shifted from readers to authors. Since the readers and authors concerned are currently the same people – ie academics in higher education institutions (HEIs) – the shift would in theory mean redirection of the current funds paid out of library budgets for journal subscriptions, to pay APCs on behalf of academic authors instead. On the basis of the charges made by existing OA scientific journals, the Working Group estimated that the average APC for a single article would be £1000–£2000. The report also canvassed the possibility of 'green OA', which involves research outputs being made available in institutional

repositories (as many institutions are already doing), either published there alone, or as a pre-print of a journal article, or as the final version of a journal article after an embargo period. The problem with green OA, however, is that work is either non-refereed, or not immediately available, which is why the Working Group did not favour this option.

Following the report's publication, the government very quickly endorsed and adopted its recommendations, without any opportunity for public debate. So too did RCUK and HEFCE. RCUK announced that as from 1 April 2013, the results of all research funded by one of the RCUK funding councils (ESRC, AHRC etc) must be published in OA format – either gold or green. In the case of green OA, a maximum embargo period of 12 months will be allowed for arts, humanities and social science (AHSS) research (or six months for STEM research). It further announced that rather than grant applicants including a budget line for APCs in future funding applications, RCUK would make block grants to universities to fund APCs, in accordance with each university's share of RCUK funding. It has announced a total of £37 million for the next two years, which it estimates will cover APC costs for around 50 per cent of grant-funded research papers. The European Research Council (ERC) has made a similar announcement concerning OA publication requirements to take effect from 2014, although in the case of the ERC it appears that it will be necessary to apply for funds to cover APCs as part of each grant application.

Finally, HEFCE has announced that it is considering a requirement that all future entries to the REF or its successors must have been published in an OA format. It is planning to consult on this proposal and opening of the consultation is awaited.

These developments have generated a considerable amount of activity – conferences planned on the implementation of the Finch recommendations; learned societies contemplating the potential impact on their journals and journal income; bloggers critiquing the proposals; research managers developing institutional policies on the payment of APCs. Yet a great deal remains unclear, and it seems that the majority of academics remain oblivious to the issue. We therefore considered it useful and timely to bring the Finch Report and its potential implications to the attention of SLSA members, and to generate a discussion about the pros, cons and practicalities of the proposed reforms. We are very grateful to Stephen Bailey, John Bell, Richard Hart and Sol Picciotto for responding to our invitation to contribute to this discussion. We would also refer members to the open access blog posts by SLSA member Robert Dingwall on Social Science Space: www.socialsciencespace.com/author/rwjdingwall/.

We are happy to continue the conversation in future newsletters and/or on the SLSA website if anyone wishes to respond or add to these contributions. There is clearly much more that can, and will, be said.

Rosemary Hunter

Open access: some dangers

The desirability of maximising public access to learning derived from publicly funded research seems self-evident. Indeed, that was assumed in the terms of reference of the Finch Report, which were for the Working Group to provide a means through which the relevant parties 'can examine how most effectively to expand access to the quality-assured outputs of research'. The proposals in the Finch Report set out a way in which this should be done, and have been embraced, with unusual alacrity, by government, HEFCE and RCUK. A major focus in the report is on the institutional relationships among government bodies, funders, universities, publishers and learned societies. The possible effects on the work and careers of individual researchers receive less detailed attention.

There are a number of concerns. There is space here to mention only a few. First, there is a risk that policy in this area will be driven by the models most suitable for the STEM subjects where, on the one hand, significant grant-funding is essential for serious research and, on the other, the largest profits are to be made by global publishing entities. Researchers in the arts, humanities and social sciences need to be assertive where these models are not appropriate for them.

Secondly, there are many uncertainties as to how the Finch package will operate in practice. The instant acceptance of the package by government is presumably based on an assumption that the perceived benefits will outweigh the disadvantages. However, the many uncertainties make it impossible for any proper calculation of the balance of advantage to be made at this stage. The following are some examples. It is unclear how the Finch package will interact with future REF arrangements, including how it might affect the behaviour of REF panels and sub-panels. HEFCE is due to consult in this area. It is also unclear how the package will affect the attitudes and behaviour of research managers within HEIs. It is a fact that those in charge of research policy within universities are much more likely to come from a STEM than an AHSS background. Many no doubt seek to develop broad understanding of all the different disciplines represented in their institutions, but their task is not at all straightforward.

Some of the dangers here are recognised in the Finch Report:

Universities will need to consider carefully, and to consult with their staff about, the policies and procedures surrounding publication funds. For researchers will be nervous about the implication of giving university and departmental managers a greater say in where and how researchers publish their work. (para 9. 17)

You bet. Aspects of the new arrangements are to begin to take effect in 2013. Institutional research managers have had from July 2012 to begin to develop formal policies on which to consult. The Finch Report lists (at para 9.17) eight difficult issues that will have to be addressed. The chances that there will be enough time for meaningful consultation (within those HEIs that take consultation seriously) are low.

One possible scenario for the future is that gold OA publication will come to be treated as a new 'gold standard'. Only a few journals will be able to live by APCs alone and these will come to be seen (not least by institutional research managers) as the 'gold standard journals' (GSJs). (How different disciplines will be represented among the GSJs is impossible to predict.) At present, among most researchers in AHSS subjects, proposals for formal journal rankings within disciplines are widely, albeit not universally, resisted on many grounds, including that they provide but a crude indicator of the quality of individual publications and tend to undervalue more specialised work. (Comparative ranking of journals across different disciplines would be absurd.) At the same time, it has to be recognised that government has for years been looking for easy ways to assess the quality of research that avoid the expensive and time-consuming element of any assessors actually reading it. The emergence of GSJs will help government achieve this objective.

How will this affect behaviour within HEIs? HEIs will have limited publication funds. Articles prepared by academics will be vetted by research managers to see whether an APC should be paid. In so far as this is done at the level of the discipline, it will increase the opportunities for disputes between immediate colleagues; in so far as this is done more centrally, it will reduce the chance that decisions are based on the merits of the particular publication as distinct from crude measures of journal status or even the status of the discipline in the eyes of institutional research managers. Life for early career researchers will be made more difficult. A further possibility is that research plans will be vetted to ensure that researchers are only permitted to devote

time to research likely to generate an output that will attract an APC. The reduction in the autonomy of researchers raises issues at the core of proper concerns for academic freedom.

None of this will necessarily happen, but it cannot just be assumed that it will not.

Stephen Bailey is professor of public law, University of Nottingham, and vice president of the Society of Legal Scholars [Please note that these are the author's personal views.]

Opinion

Open electronic access is a boon for the researcher. You are able to find articles and books without travelling to distant libraries or needing to buy that specific article from a journal for which your own library does not have a subscription. Major digitisation projects already underway across Europe and North America will transform the possibilities for research.

The Finch Report makes a thoughtful and carefully considered contribution to the question of how we move to realising that world of OA. Its key recommendations were adopted by the UK government, RCUK and HEFCE in July 2012. Essentially, the UK will move to a system of gold OA under which journal articles arising from publicly funded research will be made available electronically after a short period in which the publisher can reap some financial benefit. Readers will no longer need to subscribe to journals, but authors (or rather their institutions) will have to pay APCs instead. I think the financial model won't work as planned.

Research is now only partly 'publicly funded' in law. Few researchers write as a result of a research grant. For instance, the AHRC lists 13 awards to law in 2011 amounting to nearly £900,000. HEFCE for 2012-2013 provides £18.7 million in basic research funding (quality-related), but only to 47 institutions and nine of these get less than £30,000 each. Most staff time (including sabbaticals) is paid by student fees. The emphasis on OA for publicly funded research will drive the wedge between 'academic' research and student (teaching) works and those for a professional audience, neither of which will be OA. At a time when we are paying attention to 'impact' – the translation of research ideas for a wider public, particularly the professions, but also students – this would be regrettable.

In practice, I think cost will force leading research law schools to adopt 'platinum', rather than gold OA. Basically, platinum involves an institution setting up its own research website and its own peer-review system and then posting all its research on it. A rough estimate would put the cost of such a system at £60,000 a year. So platinum would cost Cambridge only the equivalent of one APC at £850 (the current *Cambridge Law Journal* fee) per academic per year. The transition envisaged by Finch will encourage the move to platinum, not gold. Libraries will still need to subscribe to foreign and professional journals so they won't stop paying subscriptions to free up lots of money to pay APCs. Heads of law schools, however, will soon have to pay APCs to UK journals. Given that budgets will be tight for the near future in any case, the attractiveness of platinum to institutions with an established research reputation is great. The London School of Economics already has a working paper series which we bookmark as a source of good research, so why can't others do the same? Established institutions and people wouldn't need to publish in journals. But that will make it harder for others to get their research recognised.

The idea of OA is good, but the lack of thought about the transition risks creating a mess in which leading law schools pull their researchers out of law journals and 'academic' publishing becomes even more isolated from the professions.

John Bell, professor of law, University of Cambridge

Open access: a publisher's perspective

The Finch Report, responding to the 'academic spring', caught publishers by surprise and may have serious consequences. It should not have surprised us; the music and film industries gave us early warning signals. Many of us also thought the science publishers would eventually be held to account. But smaller publishers with strong ties to the academy thought we might avoid collateral damage on the day of reckoning, and also believed (wrongly) that as a world-leading knowledge-based industry and exporter we would be given more government support.

On the one hand, OA is a good thing; the public has the right to read publicly funded research, especially if that research might save lives. The price of science journals is indefensible; what surprises me is that it has taken so long for researchers to say 'enough is enough' (and didn't competition authorities ever notice that the publishers had no competitors and could charge what they liked?). On the other, to tackle profiteering among the few, we now risk losing hundreds of small social science journals. OA is being used to tackle the harm done by decades of underfunding of university libraries. But OA does not mean publication for free; someone pays. OA means that publishers of leading journals will continue to reap the harvest of OA funding, while smaller niche journals will survive only if their editors become publishers and donate their time to typesetting, proofreading and online marketing. And while thinking about downsides, you might also ask yourself if everything you write is publicly funded? Or is it mostly written in evenings and at weekends?

In 2013 publishers will for the first time offer 'hybrid' OA, enabling publication in the traditional manner, while at the same time providing an OA route for those who pay APCs. These will range (my guess) from £300 to £2000 per article (Oxford University Press is saying £1700, Cambridge University Press £850 for social science journals). I suspect the largest, most prestigious journals will adapt, and adapt well. Socio-legal scholars may fare better than others; a proportion of their research is externally grant-funded, and in future there may be an element to cover OA publication. £2000 would ensure publication of at least one article, possibly two, in UK journals.

How the hundreds of smaller journals are affected appears to depend on two connected factors: where the funding for APCs comes from, and the speed with which the switch to OA occurs. There appears to be no fresh funding on offer from government to cover OA costs; the best bet seems to be that library funds will be diverted to pay APCs. By cancelling all current journal subscriptions wealthier faculties may be able to fund one or two articles per faculty member per year. Those with a smaller library budget will have to make do with less. At worst, libraries will be left offering access only to journals whose content is completely OA. No foreign periodicals, no journals from other disciplines. Publishers are hoping to lose no more than 10 per cent of their subscribers in 2013.

What of the future? My predictions are as follows. A small premier division of no more than 10 'general' law journals will dominate, supported by the top universities requiring their staff to submit exclusively to these journals. A second division of subject-specific journals will slowly decline on a diet of scraps of OA funding and falling subscriptions. Dozens more niche journals will not survive subscription cancellations and will not attract sufficient OA funds. The current diversity of journal provision will suffer as a result.

Richard Hart, Hart Publishing Ltd

Towards the decommodification of scholarship

As a strong supporter of OA for academic publication, I welcome the Finch Report as an overdue initiative, which I believe and hope will make this goal achievable in the near future. If so, this would be an important step towards the

decommodification of scholarship, a prospect opened up by the transition to digital technologies. This does not mean the end of books or journals for those who still prefer them in physical form, but it does mean that access to academic writing would not depend on having to buy them.

As is well known, the costs of production and circulation of scholarly works are to a very large extent borne from public funds. (I think they can still be described as public, despite the introduction of individualised allocation of some of the funding via student loans and fees.) Educational institutions employ the staff who organise, support and carry out research and scholarship, and who write, peer-review and edit the books and articles which result. The same institutions, and their staff and students, buy the books and journals. Yet the interposition of a commercialised system of publishing, based on the selling of published works, creates severe restrictions on access to those publications and inequalities in such access.

Finch proposes a switch in the circuits of funding and payment which could sustain and even revitalise academic publishing, while enabling open and much more equal access. Instead of paying to acquire or subscribe to publications, institutions would use their funds to pay processing charges for their production. Channelling the funding for such payments via grants to institutions, as proposed by Finch, instead of in grants to researchers by the research funding bodies, makes the change much more practical and feasible.

Of course, there are many details which may prove devilish, and one should not underestimate the difficulties which may result from the combination of individual and commercial competitiveness with bureaucratic decision-making. Yet the principle is so evidently correct that it must command wide approval and support. Hopefully, commercial publishing can still share academic ideals, while academia can accept the realities of economic constraints, to construct a publishing model which combines the two. Gold OA funded by processing fees offers a much better basis for harmony between academic authors, who have chafed at the restrictions to circulation of their work imposed by subscription firewalls, and publishers, who have been nervous about shifting to electronic publishing for fear that it would undermine their commodity-sale business model.

Some measures for adoption in the transition period envisaged by the Finch Report might help ensure that it is not too prolonged, and leads to those desirable outcomes. First, I suggest that processing fees should be set a little above average cost, to enable discounts or exemptions to be offered to those who do not have access to funds to pay such fees. It is heartening that some commercial publishers who already operate 'hybrid' publishing models (OA for specific articles if the author pays a processing fee) are willing to offer such discounts or exemptions. This includes, for example, Sage, the publishers of *Social & Legal Studies*, of which I am an editor. Secondly, it would greatly speed up the transition from the hybrid to the full gold OA model if commercial publishers offered a discount on subscriptions to any institution which pays a processing fee. Thirdly, it is to be hoped that as processing fees replace subscriptions and other access charges, commercial publishers will release their back catalogues as well as current publications for OA.

Clearly, this change will have far-reaching effects on publishing, but they should be generally for the better. Journals should be able to adapt quite easily. Monographs might even receive a shot in the arm as publishers are relieved of their paranoid worries about 'piracy'. Above all, scholarship will be greatly facilitated as all researchers will have easy and equal access to all published work.

Sol Picciotto, emeritus professor, Lancaster University, and member of the editorial board of Social & Legal Studies

The view from the SLSA Executive

The SLSA has an interest in the OA issue both as a learned society and representative of members who are producers and consumers of academic research, university employees, and journal editors, board members and reviewers. Not a lot is known about the post-Finch world, however, in the words of Donald Rumsfeld, there are many 'known unknowns' – and goodness knows how many 'unknown unknowns'. In relation to 'known unknowns', all we can do at this stage is to predict and speculate. Predictions range from the highly positive (Sol Picciotto) to the relatively dire (Richard Hart), and all points in between.

Learned society journals

As a member of the Academy of Social Sciences' Working Group on Open Access, I have gained some insights into the position(s) of learned societies in the social sciences. Those that publish journals are worried about the future. The provision of a journal is a key membership benefit of many societies, which will cease to be so if journals become OA, with consequent potential loss of membership. At the same time, journal subscriptions provide an important source of revenue for learned societies. Loss of both subscription and membership revenues could have serious effects on their activities. APCs will not generate anything like the amount of revenue as subscriptions (particularly the 'big deals' offered by major publishers to university libraries for electronic access to a package of journals), unless they are set prohibitively high. In addition, APCs will need to subsidise important non-refereed content such as book reviews, case notes, policy discussions and so forth. Some societies fear that they will need to move to higher volume publishing in order to maintain revenue, with a consequent potential loss of standards and status. Others are concerned that any such move would have a detrimental effect on their journal impact factors (not an issue in law, but a live one in some social science disciplines).

Although the SLSA does not publish a journal, it does benefit from subscription revenues received by the *Journal of Law and Society*, which (among other things) have supported the SLSA annual conference for many years. SLSA members also benefit from funding available from and activities supported by other journals such as *Modern Law Review*, *Social & Legal Studies*, and *Legal Studies*. Any reduction in revenue for these journals consequent upon a switch to APCs would correspondingly result in a reduction of support for these various activities.

There is an alternative scenario. It is likely that only a relatively small amount of work published in socio/legal journals is produced as a result of RCUK funding (the ESRC funds only around seven socio-legal research projects each year). Thus, only a small number of articles would require a gold OA option, or even in the absence of such an option, the RCUK mandate could be fulfilled via the green OA route. Journals would become hybrids. Publishers would continue with subscription sales, plus some extra revenue from APCs, so would be better off. The learned societies who own them might also be better off as a result. Universities would be in the same position paying for subscriptions, with the small number of APCs funded by the RCUK block grant. Yet, while this might be plausible for law, it may not be so across all disciplines. It would appear, though, that journal publishers would continue to sell subscriptions outside the UK, despite the Finch Report's largely unsupported assumptions that the rest of the world will follow the UK's lead.

Academic authors

Similarly, the impacts of Finch on authors are likely to vary depending on whether a 'minimal' or 'maximal' version of gold OA eventuates, or something in between. One issue is how the RCUK and – perhaps of more significance – any future REF-related mandates will be met. Will gold OA capture the field? Or will green OA and/or other OA models prove more popular? John Bell in his contribution here refers to 'platinum OA', being an advance on green OA in which high status institutions publish

their research in their own peer-reviewed repositories. A different platinum OA model is one in which institutions establish online, peer-reviewed journals, using open source software (such as Open Journal System or Drupal). Run on the basis of free academic labour (as many journals currently are), these journals cost only the server space required to host them and possibly some administrative assistance, hence do not need to charge APCs, and are genuinely OA to both readers and authors.

A second issue is the total amount of funding universities make available to staff to pay APCs. On the 'maximal' version of gold OA, it is likely that staff of wealthier, more research-intensive institutions with larger RCUK grant incomes will be better off than staff of less well-endowed, less research-intensive universities. Indeed, the Finch Report expresses concern that staff in less well-off institutions currently have less access to subscription journals, but fails to notice that under its proposals, the same staff will have less access to publication. The problem will be shifted from the demand to the supply side of the equation. On the 'minimal' version, however, institutions will simply receive and distribute the block funding for RCUK-funded research, some of which will be published via APCs and some via green or platinum OA, and everyone else will carry on as at present.

A third issue is how universities will distribute funding they make available to pay APCs. On the 'minimal' version, this will affect only staff with RCUK grants. On the 'maximal' version, it will affect everyone. Robert Dingwall has noted that university funds for APCs will establish a parallel set of gatekeepers to publications. Not only will publications have to survive peer review, they will also have to satisfy criteria likely to be established by reference to institutional agendas rather than academic freedom. Some questions arising in this context are:

- How many publications will be allowed per academic – only enough to constitute a REF entry? What kind of quality controls will be imposed?
- In which journals will staff be required, encouraged, discouraged or forbidden to publish?
- Which staff are likely to benefit or be disadvantaged? Those with or without external funding for their research? Early career researchers? PhD students?
- What kinds of research are likely to be privileged or disadvantaged? STEM v AHSS? Research that falls within institutional priority areas? Research likely to have 'impact'? Feminist or LGBT research?
- What happens to collaborative research produced by researchers in different UK institutions? Or collaborative work between UK and overseas authors?
- By whom will these decisions be made? Academics or administrators? Centrally or at faculty or departmental level?

Finally, what about the free academic labour referred to above, particularly peer-reviewing articles? It is true that, at present, this labour is expropriated and turned into profits by publishers, but as discussed, some of these profits are returned to the academic community, so reviewers do benefit, at least indirectly. On the 'maximal' version of gold OA, would this continue to be the case? And if not, would reviewers be prepared to continue to give free labour, while also having to pay APCs for the privilege of having their own work published?

There are very many other questions begged by the Finch proposals, for example: will RCUK and HEFCE mandates prevent us from publishing in overseas, non-OA journals? What would happen to overseas authors wishing to publish in UK journals but unable to pay APCs? And what rights to re-use material would attach to articles published in OA formats? Some forms of Creative Commons licences permit derivative and commercial re-use of OA publications but others do not

It will be necessary to monitor developments closely, and we welcome input and feedback from members as we do so.

Rosemary Hunter is chair of the SLSA and an editor of feminists@law, an online, OA journal of feminist legal scholarship

PRIVATISING THE LAW SCHOOL: THIS IS THE DAY (YOUR LIFE WILL SURELY CHANGE?)

Richard Collier argues that a new book by Margaret Thornton offers significant insight into the changes facing UK law schools in the twenty-first century.

In the summer of 2012, at the International Working Group for Comparative Studies of Legal Professions' conference in Bonn, an 'Author meets readers' session on Margaret Thornton's new book *Privatizing the Public University: The case of law* took place. A range of scholars, drawn from different fields of research on the legal profession and legal education, each addressed specific chapters. They considered how the book's themes related to experience within their own jurisdiction. There were undoubtedly differences of emphasis in the analysis of the arguments presented by the author, illustrating the dangers of generalising about the effects of the profound political, economic and cultural changes that have swept through universities over the past two decades. One thing became clear, however. In the picture it presents of how (legal) academic life has changed over this period – and continues to change – *Privatizing*, as one contributor put it, holds up a mirror to many aspects of the everyday life of researching, teaching and studying law in contemporary universities.

This is a book, therefore, of considerable potential significance for all concerned with law schools, legal education and research. It will, perhaps, have a particular resonance for readers of the *Socio-Legal Newsletter* and those of us engaged in, or who otherwise align our work with, socio-legal studies and critical approaches to legal scholarship. Drawing on interviews with 145 legal academics from around 40 law schools in Australia, the UK, New Zealand and Canada, this book is concerned, in Marginson and Considine's words (2000: 7), to provide 'a forecast – and a warning – of where the common pattern' of change in universities is taking law schools. The book builds on and develops themes explored in Thornton's earlier work and derives initially from a study, 'The neoliberal legal academy', funded by the Australian Research Council. There exists, of course, a now extensive literature on the changing nature of higher education, and on law schools, liberal legal education and socio-legal studies. There is, however, something distinctive about this book.

Whilst mapping to themes within other recent socio-legal inflected accounts of law schools (eg Bradney 2003; Cowrie 2004), *Privatizing* takes a rather different approach at the outset in how it is 'located within the interstices of contemporary socio-legal discourses, higher education policy and the political philosophy of neo-liberalism'. In 1997, in an account of socio-legal studies that increasingly seems, in retrospect, to pre-figure what was to come, Hillyard and Sim observed how the relationship between British universities and the wider political economy had at the time 'not appear[ed] to have been studied systematically' (1997: 52). This is no longer the case, and there is now a rich scholarship concerned with what has been variously termed the restructured, corporatised or entrepreneurial university. It is with this literature and these debates – and their implications for law schools – that Thornton's book is concerned.

For the UK socio-legal scholar, *Privatizing* is published in a political context in which the themes it addresses could not be more resonant or timely. This is not simply a matter of the introduction of full fees this autumn, and the debates which preceded this reform (and are ongoing). Nor just the organisational and cultural changes this has brought with it (how many of us have been presented with an image of 2012 as a 'paradigm shift', a 'new landscape' into which we, and our law schools, must either

adapt or wither?). The themes map, rather, to several issues well-established within contemporary debate around what is happening to legal education and research in the UK.

The tenor of this discussion is reflected in this newsletter and the Society of Legal Scholars' *The Reporter* as well as at socio-legal workshops and events (including the SLSA annual conference). Thus, in *The Reporter* (2010: 2), in his piece 'Those were the days', Brownsword calls for 'an academic vision for the future . . . The days that once were have long gone; there is no going back; and the only question that matters now is where we in the law schools think we should be going'. Norrie, meanwhile, in 'These are the days' (2011: 1), questions the evoking of a 'sense of change for the worse . . . of a more or less golden earlier period', suggesting there are dangers in looking at the past through rose-coloured glasses; 'these were', he warns, 'not so jolly times'.

Notwithstanding the profile of such discussion among leading legal academics, however, there remains a sense that, in terms of developing critical systemic analysis, law has lagged behind other disciplines in how it has sought to engage with the new modes of university governance and commodification of knowledge that, it is generally accepted within the higher education literature, has been a hallmark of recent decades. *Privatizing* is, in contrast, fundamentally concerned about what happens when, in the title of chapter 2, 'the market comes to law school'.

In chapter 1 Thornton sets the scene for the analysis of law schools to follow by detailing this shifting political economy of higher education. She focuses on the rise of the 'corporate university' and the privatizing imperative in higher education. Whilst mapping to well-established concerns in the wider literature on universities (*pace* Reading, Halsey, Collini and others), her depiction of 'the neo-liberal turn' focuses more on the legacy of Hayek and Friedman (2012: 8). Much of the discussion addresses political and policy developments within Australia. The resonances for the UK, however, are not hard to see in how the restructuring of universities has transformed – in significant and often subtle ways – (legal) academic life and the nature of the university itself. In addressing the far-reaching implications of the 'market metanarrative' (2012: 207), *Privatizing* outlines, for example, social processes that have produced deep-seated qualitative changes in the way universities operate in relation to teaching and research; changes in the practices of academic subjects themselves and in the university's overarching culture, operating and staff development policies, funding systems, reward structures and so forth. Faculties, schools and academics have been charged with redirecting their energies towards the capitalisation and exploitation of learning, readjusting the focus of their work and, increasingly, not least in the UK, looking towards the 'satisfaction' (a highly contested term) of the student as consumer of a discrete (but in fact largely standardised) product.

Thornton notes, in addition, how 'the pressure to embark on income-generating enterprises is not just a matter of law schools appearing to be more disciplined, innovative and business like'. Rather, questioning any notion that we are indeed 'all in this together', the introduction of the market into the legal academy in this way 'compromises the ability of law schools to engage in their core business of teaching and research' potentially leading 'to the collapse of new regional and metropolitan universities whose catchment is working class students' (2012: 56). The next five chapters track three particular aspects of this privatizing process as seen through the eyes of the legal academics interviewed.

First, this is a book about the complex interconnections between universities, globalisation, neoliberalism and the emergence of a new knowledge economy, shifts which have seen a reshaping of ideas about what constitutes acceptable knowledge and a redrawing of the boundaries of disciplines themselves. For law, she argues in chapter 2, this has involved a 'sloughing off of the social', a vocationalising of the legal

curriculum and the increased favouring of instrumental and commercial forms of legal training. Aligned to this, she notes a turn towards the transmission of 'frozen knowledge' (or 'facts as data'), processes summed up in ideas of a 'jettisoning of the critical' and 'dissolution of the social' in law schools. The implications of such a move for socio-legal and critical legal scholars, if one accepts this thesis, are self-evident as law schools, with their mission increasingly aligned to market imperatives (and in some cases simply survival), face up to the 'new world' in which we live. *Privatizing* powerfully and persuasively questions this model of (legal) academic knowledge as a commodity, a resource simply to create wealth and competitive advantage, sharing with other texts (eg Bradney 2003) a defence of a very different model of liberal legal education.

Secondly, the book charts the implications of the changing governance of universities for everyday academic life in law schools (chapter 4). Drawing on themes within the wider higher education literature, Thornton considers, for example, the rise of managerialism, the erosion of academic collegiality and the organisational restructuring of universities marked by the rise of the 'mega-faculty' and the 'law dean as subaltern'. Alongside these developments, an acute individualism has been fostered within universities in the context of a low-trust culture and a managed environment in which, via elaborate processes of audit and paper trails, law schools perpetually guard against 'risk' (the student complaint, the falling table ranking, the relatively poor level of external funding and so on). This 'metricisation' of the academy, Burrows (2012) recently argued, has significant affective consequences, resulting in the emergence of a particular structure of feeling amongst academics.

Growing divisions are charted within the academic community, meanwhile, in the form of a 'new contractualism' marked by heightened insecurity and precarious work. Processes of appointment and promotion are framed by a model of career success that would appear increasingly marked by a 'relentless performativity', the implications of which for work-life balance and well-being are potentially far-reaching. The traditionally 'open-ended' nature of academic work in terms of working hours appears, in such a context, double-edged, not least for early career academics seeking to establish themselves. Thornton pays particular attention in the book to questions of gender (2012: 150) and, drawing on the extensive scholarship on women legal academics, she notes how a reconstruction of the 'good' corporatised academic subject and 'remasculinization' of the academy has run alongside, paradoxically, the embedding of formal equality and diversity agendas.

Thirdly, in a chapter of particular interest to UK socio-legal scholars as we run up to the REF, Thornton considers the changing nature of research in the corporatized university. Located in the context of a new 'research entrepreneurialism' marked by the culture of 'publish or perish', she notes the many contradictions that underscore simultaneous drives towards maximising quality outputs, external funding and, in particular, more applied 'useful' research. The latter theme maps to recent concerns among UK critical and socio-legal scholars about the assessment of impact and reshaping of the funding environment, not least in relation to the redrawing of strategic priorities by the research councils (impact and benefit, as others have observed, are themselves often incommensurable values).

Various counter-arguments and criticisms will (and have) been levelled at the above themes. Some disagree with the political framework underscoring this engagement with 'the neoliberal turn' and commitment to 'a critical approach to legal scholarship – in teaching as well as research' (2012: xiv) that informs the analysis. There are UK legal academics who actively embrace the funding reforms, welcoming attempts to further vocationalise the law curriculum along business-commercial lines. For others, albeit broadly sympathetic to Thornton's critique and defence of critical, socio-legal scholarship, her

reading has understated the possibilities of individual and collective resistance to marketising imperatives; how, for example, notwithstanding 'top down' directions to change, whether via restructured law degrees or new systems of audit, legal academics do not always do what they are told (Bradney 2003); how students do not necessarily think of themselves as customers, their cognitive grids and aspirations such that many will, post-2012, continue to think critically and to think of law in terms of social justice; how academic law, in the UK at least, has kept its distance from legal practice (whatever pressures there may be in this regard); and how future law REF panels may, for example, assess impact with (as Alan Norrie writes) 'some kind of practical and contextual sense' (2011: 2). For others, far from being marginalised, socio-legal study has itself (in a few UK law schools at least) become the 'new orthodoxy' (Cownie 2004).

Each of these counter-arguments are acknowledged to differing degrees within *Privatizing*. Recognition of the often contradictory nature of these processes is a theme throughout. Certainly, in the UK context, critical research-teaching synergies can be seen as part of the student 'package' in the future branding of some law schools within the new market economy. Indeed, as Thornton notes, social liberalism and the ideas of public responsibility for higher education she sees as supplanted by neoliberalism may themselves have been but a 'blip' in a longer story. What ultimately marks her analysis out as distinctive and innovative – and for this reader, as for the author of the 'Foreword', what makes this such 'a very important book' – is the framing of discussion within a broader political and theoretical framework in which these 'pieces of the jigsaw', as it were, come together in the case of law. Thornton's text thus concerns more than heightened interconnection between the objectives, goals and practices of the business and traditionally academic worlds (links which are themselves deep-rooted, as a reading of E P Thompson's 1971 *Warwick University Ltd* attests).

What makes the rise of the corporate university distinctive, Thornton argues, is this explicit redirection, experienced at all levels of the institution, towards an intensified emphasis on the capitalization and exploitation of learning and knowledge practices; developments which, in Slaughter and Leslie's (1997) memorable phrase, have had far-reaching implications for the 'academic capitalists' who work in such a university. *Privatizing* thus raises issues beyond the law school and is a work that, as the book's blurb notes, will be essential reading for anyone interested in the future of higher education or, more generally, the corporatisation of culture. As Norrie commented in 'These are the days' 'the underlying strength of legal education . . . stems from the fact that we are able to do certain things that contribute to the profession while remaining sui generis. Long may that continue: to go the other way would be death to law as an academic subject.' (2011: 2) *Privatizing* serves, as the author intended, as a forecast and warning of the scale of the changes taking place, a work that will help guard against such an outcome (if, indeed, that moment has not yet passed). Whether one looks to the future with a degree of optimism or pessimism, however, one thing appears certain: in these days, our lives as legal academics have surely changed.

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CSLS 40th anniversary

On 22 June 2012 the Centre for Socio-Legal Studies (CSLS) celebrated 40 years of socio-legal studies at the University of Oxford. At a workshop to mark the event, prominent socio-legal scholars, former members, current members, associates, students and collaborators met and mingled to review the work and success of the centre, but also to debate important questions about socio-legal studies, its character as inter- or multidisciplinary, the multi-faceted nature of its scholarship, and its relations with legal theory.

The CSLS was founded by the ESRC (then SSRC) in 1972 with a wide brief to study law in a social context. Over the following 20 years, several major research projects were completed and it became a training ground for young researchers, putting socio-legal studies firmly on the academic map. When that funding ended in 1992, Oxford's Faculty of Law generously decided to continue support and the centre flourished under the leadership of Denis Galligan, professor of socio-legal studies. Fernanda Pirie took over as Director in 2005.

The brief has always been to study law in society, encompassing both empirical and theoretical research on law and its place and role within society. In the early days the centre's researchers analysed law as a tool of government and an instrument for social change, asking whether it did, indeed, achieve these aims. But the remit has broadened to take into account the proliferation and variety of laws within the modern world. Current research topics encompass the regulation of social, environmental and economic life; public law and the administration of justice; constitutions and their social foundations; international law, including the laws of war; and the new areas of privacy and data protection. Meanwhile, the geographical ambit has also expanded: there is work in developing countries, notably Africa and China, and studies of transitional countries, especially in eastern Europe. Research is carried out on the borders of law: the civil justice programme considers alternative models of dispute resolution, and there is a vibrant programme on transitional justice, as well as anthropological studies of marginal laws. There has also been an expansion in the types of society being considered, from nation states, new and old, to historic or 'ethnic' communities, patterns among migrants, and the international arena.

These developments were reviewed by Fernanda Pirie and Timothy Endicott at the beginning of the workshop and

discussed during four panels. In the first, Denis Galligan, William Twining, Nicola Lacey and Marina Kurkchiyan discussed the extent to which socio-legal researchers can or should use and contribute to legal theory. One view held that socio-legal approaches should be unconstrained by the philosophical questions of legal theory, while others maintained that all researchers were theoretically engaged and, indeed, that empirical studies could make a major contribution to philosophical questions about the nature of law.

The second panel, led by Bettina Lange and Patrick Schmidt, and including Caroline Sawyer, Reza Banaker, Maurice Sunkin and Chris Decker, produced a firm consensus about the value of diversity within socio-legal studies and the multidisciplinary approaches promoted by the centre. This was echoed by Rosemary Hunter, who described the exciting research she has recently encountered as chair of the SLSA. In the last panel, chaired by Linda Mulcahy, she was joined by Hugh Beale, who spoke of the value of academic work to the Law Commission, while David Cowan considered the challenges faced by young researchers. The proceedings were rounded off by Roger Cotterrell and David Nelken, who summarised and discussed the importance and future of socio-legal studies.

Many of these debates are not new but, if anything, this confirms the view that socio-legal studies and the centre's researchers are confronting important social and academic issues. Indeed, it is not just that law is important in almost any society in which it is present, and that it is a complex and multi-faceted social form, interesting in its own right. It is also self-reflexive, with its own scholars, theories and philosophies. Considering the work and influence of these legal specialists, as well as the broader social contexts in which law is created and on which it has an influence, is a task that calls for scholars with a range of disciplinary backgrounds. The centre provides an environment in which they can meet, debate, collaborate and support younger colleagues. It has been extremely lucky to attract a range of generous benefactors in recent years, as well as support from commercial interests for programmes in media law and civil justice. These benefactions have enabled the centre to recruit a changing body of excellent researchers, and it is their interests, often innovative, bold and ambitious, that have shaped the field. The aim of the centre, its director and members, is to continue to provide such an environment for the following decades.

Fernanda Pirie, CSLS director

New journals

Paris Legal Publishers will launch a new medical law journal early next year, the *Journal of Medical Law and Ethics*. The journal is now open for submissions including conference presentations, case notes, research projects, short and long articles. Instructions for authors and further information at www.jmle-online.com.

The second issue of new journal *Transnational Environmental Law* has been published and is available free online at journals.cambridge.org/TEL along with the inaugural issue. The second issue is themed around transnational dimensions of climate governance.

Hart publishing has launched two new journals. *Comparative Legal History* edited by Seán Patrick Donlan is the official journal of the European Society for Comparative Legal History and is an international and comparative review of law and history. www.hartjournals.co.uk/clh/index.html. *Restorative Justice*, edited by Ivo Aertsen, seeks to facilitate the development and exchange of the best and most rigorously researched theoretical and practical scholarship within the domain of restorative justice. www.hartjournals.co.uk/tj/index.html

Centre for Conflict, Rights and Justice

In September 2011, the Centre for Conflict, Rights and Justice (CCRJ) was established as one of three research centres within Nottingham Law School at Nottingham Trent University. The aim of the CCRJ is to contribute to public and academic debate and to influence the thinking of law and policy makers through publications, seminars and conferences, while at the same time building and strengthening the vibrant and supportive research culture that exists among the centre's members.

The centre has a diverse wealth of research expertise with work ongoing in the fields of criminal law, criminal justice (both domestic and international), international humanitarian law, human rights, conflict resolution and post-conflict justice (broadly defined).

Under the directorship of Tom Lewis, reader in law at Nottingham Law School, the centre will be officially launched on 19 December 2012 at its first research symposium 'Legal perspectives on the victim' attended by academics, policy makers and practitioners (see the 'Events' section on page 14).

For more information on the launch event and on the work of the CCRJ generally, please visit: www.ntu.ac.uk/nls/research/centre_conflict/index.html.

New Nuffield QM Programme

The Nuffield Foundation, ESRC and HEFCE have launched a quantitative methods (QM) training programme for UK social science undergraduates. The five-year £15.5 million programme will fund a network of up to 15 Quantitative Methods Centres. It hopes to address the shortage of social scientists trained in QM caused by a failure over many years to attract students and academics into this specialist area. This programme aims to bring about institutional change to create a substantial cohort of well-trained undergraduates many of whom will move on to postgraduate work and beyond. The application process is now open and full details including a five-year timetable are available at www.nuffieldfoundation.org/QM. Closing date: **28 February 2013**.

Leading judges ask: are courts representative?

The Foundation for Law, Justice and Society welcomed a panel of leading judges and legal experts to Wolfson College, Oxford, on 19 October 2012 to debate the role of judges in democratic societies and to question to what extent – if any – they should represent the views of the populations they serve.

European Court of Human Rights Judge András Sajó had begun, the previous day, with a lecture in which he argued that, in times of popular disenchantment with political representation such as Europe is currently experiencing, more power is shifted to the judiciary in areas of public policy decision-making. The next day he was joined by other prominent judges in a panel discussion that offered a rare insight into judges' views on judicial accountability and legitimacy. Judge Jed Rakoff, of the US Federal Court, opened by arguing that no judges decide a case consciously based on their ideology, and that 'many federal judges are consciously aware that we are the only people who can speak for the powerless'.

Judge Robert Sharpe, Ontario Court of Appeal, countered this with his thesis that to conceive of the court as a representative body is inconsistent with a judge's role as impartial arbiter. But he concurred with Judge Rakoff that courts have a mandate to protect minorities, arguing that judges strengthen democracy by sitting in judgment on the decisions of the elected representatives.

The next panellist, Justice Ross Cranston, represented not only the Queen's Bench Division of the UK, but also the legislature, having served as an MP prior to his call to the bench. He addressed the issue of diversity and the new appointment system devised by the House of Lords Constitution Committee, which aimed to increase the number of women and ethnic minorities, concluding that a more representative judiciary would increase public confidence in the profession and result in better decisions. This view, shared by Judge Sajó, was qualified somewhat in his closing remarks in which he argued that: 'A court's credibility comes from its judgments rather than the composition of the court.'

Questions were taken before the afternoon session, in which the judges were joined by legal scholars and political scientists, to exchange research findings, theory and firsthand experience to shed further light on the issue. Podcasts from the debate are available to download from www.fljs.org/podcasts.

Phil Dines

Howard League research prizes

The Howard League for Penal Reform invites entries for two prizes that seek to reward work that offers genuine new insights into the penal system: its Research Medal and the John Sunley Prize (awarded for topical and original masters dissertations completed in the academic year 2011–2012). Closing dates **9 and 31 January respectively**. See website www.howardleague.org or contact anita.dockly@howardleague.org.

Legitimacy and Compliance in Criminal Justice (2012) Adam Crawford and Anthea Hucklesby (eds), Routledge, £26.99

This book brings together leading scholars to consider connected themes relating to compliance, legitimacy and trust in criminal justice and social regulation. It presents an interdisciplinary dialogue and debate that combines insights from criminology, psychology and socio-legal studies drawing together conceptual analysis with empirical research findings in relation to policing, anti-social behaviour interventions, community penalties, electronic monitoring, imprisonment and tax avoidance.

Law, Culture and Visual Studies (2013) Anne Wagner and Richard K Sherwin (eds), Springer £359.50 1117pp

These volumes, aimed at a multidisciplinary audience, seek to fill the gap between law, semiotics and visuality providing a comprehensive theoretical and analytical overview of legal visual semiotics and bringing together the cumulative research traditions of these related areas as a prelude to future research.

Public Health in International Investment Law and Arbitration (2012) Valentina Vadi, Routledge £85 224pp

Are states free to adopt measures to protect the public health of citizens and what are the limits to such regulatory powers? This book focuses on the clash between the regulatory autonomy of the state and international investment governance. It contributes to the current understanding of international investment law and arbitration, addressing the fundamental question of whether public health has and/or should have any relevance in contemporary international investment law and policy.

Women, Crime and Criminology 208pp and ***The Ties That Bind 284pp*** Carol Smart, Routledge Revivals both (2012) £75

Women, Crime and Criminology (first published 1977) presents a feminist critique of classical and contemporary theories of female criminality. *The Ties that Bind* (first published 1984) makes an important and timely contribution to the development of the idea that the law is a major source of women's oppression.

Labour Law 6th edn (2012) Simon Deakin and Gillian S Morris, Hart £37.50 1360pp

Labour law is a dynamic and complex field that can be properly understood only in its international and historical context. This book, increasingly cited as authoritative in the higher appellate courts, provides a comprehensive analysis of current British labour law which explains the role of different legal sources, as well as social and economic policy, in its development.

The Russian Socio-Legal Tradition (2012) Marina Kurkchlyan, Foundation for Law Justice and Society 32pp available free at www.fljs.org/section.aspx?id=2836

This is the report of a workshop that focused on the Russian socio-legal tradition in order to address such questions as: how much continuity, and how much change, can we see in the evolution of legal culture in Russia; what are the dominant historical forces that shaped its legal culture; which Soviet tendencies are gaining strength in contemporary Russia, which are fading away, and which are unaffected?

The Sentencing of Children: Professional work and perspectives (2012) Max Travers, New Academia 256pp US\$26

This book provides a detailed description of how professional groups collaborate in reaching sentencing decisions in children's courts. Based on observation of hearings in the three Australian states of Tasmania, Victoria and New South Wales, it describes the practical considerations in sentencing minor and repeat offenders, and the mitigating factors that influence magistrates.

Sentencing and Punishment: The quest for justice 3rd edn (2012) Susan Easton and Christine Piper, OUP £26.99pb 528pp

This textbook presents an overview of the theory, law and practice of sentencing and punishment from penological, policy and legal perspectives. It provides an accessible account of changing attitudes as to what constitutes 'just' punishment and the methods of punishment in custody and in the community.

● **JOURNAL OF ENVIRONMENTAL LAW 2012 ANNUAL LECTURE**

10 December 2012: *UCL Gustave Tuck Lecture Theatre, London*

Professor Ellen Vos, Faculty of Law, Maastricht University will be speaking on 'Law and science in the EU courtrooms'. The lecture will be followed by a drinks reception starting at 7 pm at the South Cloisters. The lecture is free to attend. For further information please contact e jel-lecture@reading.ac.uk for enquiries and registration.

● **'ALL THE WORLD'S KNOWLEDGE': UNIVERSAL AUTHORS' RIGHTS**

11 December 2012: *British Academy, London*

Speaker: Professor Jane C Ginsburg FBA. Please visit website for full details. w www.britac.ac.uk/events/2012/universal_authors_rights.cfm. Seats allocated on first-come-first-served basis.

● **LOCAL MEMORY, GLOBAL ETHICS, JUSTICE: THE POLITICS OF HISTORICAL DIALOGUE IN CONTEMPORARY SOCIETY**

11–14 December 2012: *Columbia University, New York*

This is the first annual conference of the Alliance for Historical Dialogue and Accountability and is co-hosted by the Guantanamo Public Memory Project. Full details are available at w <http://hrcolumbia.org/ahda>.

● **LEGAL PERSPECTIVES ON THE VICTIM: SYMPOSIUM**

19 December 2012: *Centre for Conflict, Rights and Justice, Nottingham Trent University*

The event will provide a platform for lively and stimulating debate on the complexities of victimhood and of the legal responses to victimisation. It will also serve as a seasonal launch and social event for the new research centre. w www.ntu.ac.uk/nls/research/centre_conflict/news_events/index.html

● **SECOND INTERNATIONAL CONFERENCE OF THE SOUTH ASIAN SOCIETY OF CRIMINOLOGY AND VICTIMOLOGY**

11–13 January 2013: *Kanyakumari, Tamil Nadu, India*

Theme: 'Revisiting interpersonal crimes and victimization'. Please visit website for more details. w www.sascv.org/conf2013/

● **MY WORD IS MY BOND: REGULATING FOR INTEGRITY IN THE CITY**

15 January 2012: *Allen and Overy LLP, London*

A one-day conference organised by the Centre for Business Law and Practice, University of Leeds, and the Centre for Law, Markets and Regulation, University of New South Wales. Please visit website for details of programme, speakers and booking. w www.law.leeds.ac.uk/research/events/regulating-for-integrity.php

● **BUILDING EFFECTIVE MARKETS: THE ROLE OF AN INTEGRATED LEGAL SYSTEM**

29–30 January 2012: *Swiss Re Centre for Global Dialogue, Rüslikon, Switzerland*

Please see website for full details. w http://cgd.swissre.com/events/Building_effective_markets_the_role_of_an_integrated_legal_system.html

● **OPEN ACCESS RESEARCH AND THE FUTURE OF ACADEMIC PUBLISHING**

5 February 2013: *Central London*

Organised by the Westminster Higher Education Forum. Guest speakers: Ron Egginton, Department for Business, Innovation and Skills, and Martin Hall, vice chancellor, University of Salford, and chair, UK Open Access Implementation Group. See website for details. w www.westminsterforumprojects.co.uk/forums/event.php?eid=515

● **CLINICAL LEGAL EDUCATION: FORM AND FUNDING: CALL**

13 February 2013: *South Bank University, London*

A one-day Higher Education Academy-funded conference. Please see website for details. w www.lawteacher.ac.uk/events/?id=27. Call closes: 21 December 2012.

● **EUROPEAN CONSORTIUM FOR POLITICAL RESEARCH: 41ST JOINT SESSIONS OF WORKSHOPS: CALL**

11–16 March 2013: *University of Mainz, Germany*

The call for papers is open for the Legal Mobilisation Workshop: 'Europe in comparative perspective'. w <http://new.ecprnet.eu/Documents/JointSessions/2013MainzPoster.pdf>

● **ANNUAL MEETING OF THE ASSOCIATION FOR THE STUDY OF LAW, CULTURE AND THE HUMANITIES**

22–23 March 2013: *Birkbeck, University of London*

Theme: 'Sculpting the human: law culture and biopolitics'. Please see website for full details. w www.regonline.com/builder/site/Default.aspx?EventID=1112745

● **FORMALITY AND INFORMALITY: FROM DECOUPLING TO ENTANGLEMENT: CALL**

13–14 May 2013: *University of Warsaw, Poland*

Please see website for details of this workshop. w www.pts.org.pl/strona/pl/187/formality-and-informality. Closing date: 15 December 2012.

● **LAW AND SOCIETY ASSOCIATION ANNUAL MEETING: CALL**

30 May–2 June 2013: *Boston Sheraton, Boston, Massachusetts USA*

Theme: 'Power, privilege and the pursuit of justice: legal challenges in precarious times'. The meeting's theme aims to incite debate on the challenges that will define law and society over the next decade. Details available at w www.lawandsociety.org/boston2013.html. Call closes: 4 December 2012.

● **SECOND ANNUAL INTERNATIONAL CONFERENCE ON LAW, REGULATIONS AND PUBLIC POLICY: CALL**

17–18 June 2013: *Singapore*

Please see website for details. w www.law-conference.org/. Closing date: 21 December 2012.

● **LAW ON THE EDGE, VANCOUVER: CALL**

1–4 July 2013: *University of British Columbia, Vancouver, Canada*

This conference is jointly presented by the Canadian Law and Society Association, the Law and Society Association of Australia and New Zealand and is hosted by the University of British Columbia. The call for papers is now open. The organisers also invite proposals for conference themes. Please visit website for full details including keynote and plenary speakers. w www.law.ubc.ca/events/law_on_the_edge/. Closing date: 10 December 2012.



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- A muted voice from the past: the 'silent silencing' of Ruth Ellis – Anette Ballinger
- Internalities and the foundations of corporate governance – Ciarán O'Kelly and Sally Wheeler
- Interracial violence, western racialized masculinities, and the geopolitics of violence against women – Hijin Park
- Exploring the function of criminal law in the policing of foreigners: the decision to prosecute immigration-related offences – Ana Aliverti
- Expanding acts of citizenship: the struggles of Sinpapeles migrants – Iker Barbero
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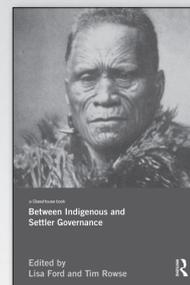
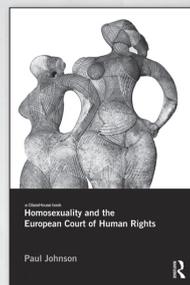
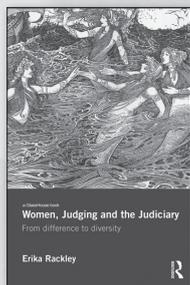
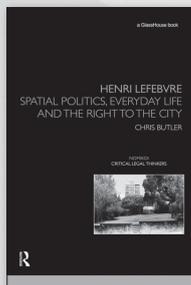
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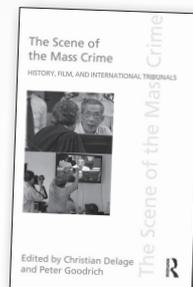
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