

## Transnational Law Summer Institute 2016



*(image: Paul Klee, Palast im Vorübergehen, 1928. Nationalgalerie, Staatliche Museen zu Berlin, Museum Berggruen / Jens Ziehe)*

## Transnational Lawyering and Judging: Evolving Concepts and Practices

The Dickson Poon School of Law, King's College London  
21 June – 30 June 2016

**Conveners:**  
**Peer Zumbansen & Prabha Kotiswaran**  
**Coordinator:**  
**Helen Bhandari**

# TLSI 2016

## The TRANSNATIONAL LAW SUMMER INSTITUTE (TLSI)

at The Dickson Poon School of Law at King's College London is an interdisciplinary workshop in transnational law and global governance, scholarly publishing and networking, teaching and critical pedagogy. It is hosted by the TRANSNATIONAL LAW INSTITUTE (TLI), which is home to a comprehensive LL.M. degree programme in Transnational Law, to conferences and seminars as well as specialised lectures and training sessions. Following the inaugural TLSI in 2015, TLSI 2016 will bring together more than 60 "TLSI Fellows" in London to interact with each other as well as with world-renowned scholars and practitioners over the course of ten days, 21<sup>st</sup> – 30<sup>th</sup> June 2016. Uniquely in 2016, on Friday 1<sup>st</sup> and Saturday 2<sup>nd</sup> of July, 2016, the Transnational Law Institute will host an international conference honouring the 60<sup>th</sup> Anniversary of Philip C. Jessup's 1956 Storrs Lectures at Yale Law School, published as "*Transnational Law*" (Yale University Press). TLSI Fellows and Faculty are invited to attend and to participate in this conference.

### TLSI 2016'S GENERAL THEME: "JUDGING AND LAWYERING".

Over the course of the Institute we seek to revisit and revive a socio-legal perspective on two of the central functions in the legal universe – "judging" and "lawyering" – in order to **unpack** and **deconstruct** the straightforward narratives of each. Our

hope is for our discussions and analysis to show how, in the case of *judging*, the court is involved in *more than in* "deciding a case". We are interested in investigating the many ways in which the court is in fact engaged in framing a "case" and in selecting, emphasizing and directing issues, interests and facts. If judicial decision-making goes beyond the 'application of a legal rule or principle to a set of concrete facts, we want to illuminate this process, as judging always involves – explicitly or implicitly – the depictions of horizons and consideration of impacts. Meanwhile, when we begin to unpack *lawyering* we start to look beyond the allegedly obvious 'legal' dimensions of the case the lawyer is called to work on, in order to lay bare the different, including 'non-legal' aspects of the multiple emerging cases in this process. Here, the lawyer's role is one of carving out the legal significance as well as the 'relevance' of 'facts' and numerous other crucial aspects of the story that would otherwise go missing. This broader perspective allows for an analysis that looks beyond the "client" and appreciates wider circles of stakeholders and interest-bearers that populate even the most 'ordinary' and 'simple' case.

Taking this closer look at judging and lawyering in close relation to one another, we begin to appreciate the space that opens up between each of them. The lawyer and the judge come to be seen as two poles on either side of *an interpretive, constructive and emancipatory as well as experimental space*. With that in mind, lawyering doesn't end with a court's decision, but prepares and leads up to it, accompanies it and must succeed it. The

lawyer must herself trace the impact, the result ‘on the ground’ of a decision and help the court in seeing the decision’s impact – as well as the lack thereof. Lawyers and judges are crucial, but they are not the only participants in the conversation about a legal principle’s validity, its practical relevance and its limits. *Together with stakeholders, affected communities and civil society, lawyers, activists and coalition-builders occupy a living space of struggle over the function of law and the value of justice.*

The aim of the 2016 Summer Institute is to both broaden and relativize existing perceptions of the roles, functions and institutional frameworks of each by studying judging and lawyering from this socio-legal perspective in a transnational context. Drawing on a rich literature and practice of comparative and transnational jurisprudence and lawyering, we seek to elaborate on connections between “similarly situated” struggles over rights, rules and principles, over competing and alternative modes of “access to justice”, “equality” and “fair trial”. *While the lines between lawyering and advocacy begin to blur, the walls of the court house become relative and the space in and around the ‘court’ begins to offer different possibilities, forms and manifestations of “judicial” proceedings.* Lawyers take on “a case” and find themselves getting engaged in community development, interest mobilisation, campaigning and even law reform. *Judging sways between ‘clearing’ a court’s (always overflowing) docket, handing down a ‘landmark’ decision and ‘doing the right thing’, while the petty, the every-day and ordinary as well as the Sisyphusian task of deciding a case*

*correctly goes on endlessly.* While in some parts of the world, judges concern themselves with balancing rights, judges in others curtail, shape or create rights. In other parts still, judges are at the far end of societally-based conflict resolution processes, where “rights” are not at the centre.

By probing into what judges and lawyers do, we want to invite a deeper investigation into the *context* in which this activity occurs. We understand this context to be layered and complex, and we seek to investigate it as being constituted by assertions of historical timelines, governed by triumphant but also defeated paradigms, constructed in narratives told from different perspectives, including gendered, right, left, North, South, progressive or conservative. It is in that vein, that – in week 2 of TLSI – we will have sessions on the field and methodologies of an “Economic Sociology of Law” and “Transitional Justice”.

## A UNIQUE SPACE OF COLLABORATIVE THINKING, LEARNING & INTERACTING

Along with the TLSI Fellows, who are comprised of advanced PhD candidates as well as early career teachers in law, sociology, philosophy, anthropology and geography, we will welcome to London in 2016 selected judges, lawyers, activists and scholars from around the world for a series of seminars and lectures, workshops and conversations around judging and lawyering. Interspersed with substantive

work on these large themes, TLSI will feature workshops on writing, publishing and teaching as well as on scholarly collaboration and networking. In addition, TLSI will feature a number of keynote lectures as well as two comprehensive study sessions dedicated to a particular landmark scholarly work. In 2016, the two “**Anatomy of a Book**” sessions will feature **Albie Sachs’** “*The Strange*

*Alchemy of Law and Life*” (2009) and **Yves Dezalay and Bryant Garth’s** “*Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order*” (1996).

Peer Zumbansen & Prabha Kotiswaran  
Faculty Conveners, TLSI 2016  
London, Summer 2016

## Programme Overview

- Tuesday 21 June:** Start of TLSI 2016: Opening Keynote by Saskia Sassen
- Wednesday 22 June:** Anatomy of a Book (Garth & Dezalay, *Dealing in Virtue*). Keynotes by Bryant Garth and Yves Dezalay and by Hauke Brunkhorst
- Thursday 23 June:** Panels on Teaching. Legal Education Keynote by Luis Eslava
- Friday 24 June:** Panels on Publishing, Networking. Keynote by Fleur Johns
- Saturday 25 June:** Panels on Scholarly Networking and Activism. Law & Legal Activism Lecture by Sukti Dhital and Jayshree Satpute. Guided Tour of Tate Modern
- Monday 27 June:** Anatomy of a Book (Albie Sachs, *Strange Alchemy of Life and Law*). Keynote by Albie Sachs
- Tuesday 28 June:** Theme and Methodology Day 1: Economic Sociology of Law. Keynote by MS Sornarajah. Writing Workshop I.

**Wednesday 29 June:** Theme and Methodology Day 2: Transitional Justice.  
Keynote by Ruti Teitel. Writing Workshop II.

**Thursday 30 June:** Writing Workshops III & IV. Conclusion and Party.



# **TLSI Lectures 2016**

**Saskia Sassen**

**Holes in the Tissue of Law**

**Tuesday June 21 15:30-17:00 / Chair: Peer Zumbansen**

**Yves Dezalay & Bryant Garth**

**Reflections on Double Agents' Strategies in *Dealing in Virtue*  
and our Later Research Trajectory**

**Wednesday June 22 11:15-12:15 / Chair: Florian Grisel**

**Hauke Brunkhorst**

**Democracy under siege: Decay of global constitutionalism and structural  
transformation of the public sphere**

**Wednesday June 22 15:15-16:45 / Chair: Simon Archer**

**Luis Eslava**

**Rethinking the Developmental State:**

**Transformative Teaching and Learning in International Law**

**Thursday June 23 16:00-17:00 / Chair: Peer Zumbansen**

**Fleur Johns**

**Automating Judgment, Judging Automation:**

**Human-Nonhuman Alliances in International Law and Policy**

**Friday June 24 16:00-17:00 / Chair: Prabha Kotiswaran**

**Albie Sachs**

**Reason and Passion in the Law:**

**Tock-Tick, the Working of a Judicial Mind**

**Monday June 27 14:00-15:00 / Chair: Heinz Klug**

**MS Sornarajah**

**Is Transnational Law and Instrument of Neoliberalism?:  
The Experience of the International Investment Law**

**Tuesday June 28 11:30-12:30 / Chair: Prabhakar Singh**

**Ruti Teitel**

**Globalising Transitional Justice**

**Wednesday 29 June 11:15-12:15 / Chair: Marisa Fassi**

**All Lectures in the Nash Lecture Theatre (K2.31), Kings building, Strand campus**

# TLSI 2016 Faculty

Adams, Luke  
Alstein, Merel  
Angel-Cabón, Natalia  
Archer, Simon  
Ashiagbor, Diamond  
Atuguba, Raymond  
Catá Backer, Larry  
Ballakrishnen, Swethaa  
Banda, Fareda  
Banerjee, Arpan  
Bedford, Kate  
Bitter, Stephan  
Brunkhorst, Hauke  
Chandran, Parosha  
Clark, Paul  
Clark, Phil  
Cooper, Davina  
Corcioli-Filho, Roberto Luiz  
Cornell, Drucilla  
Cowan, David  
De, Rohit  
Deora, Yashraj  
Dezalay, Sara  
Dezalay, Yves  
Dhital, Sukti  
Di Stefano, Adriana  
Drache, Daniel  
Eslava, Luis  
Fairgrieve, Duncan  
Fassi, Marisa  
Ferraz, Octavio  
Feruglio, Francesca  
Frerichs, Sabine  
Fudge, Judy  
Garth, Bryant  
Gilmore, Stephen  
Goodwin, Morag  
Gross, Aeyal  
Grisel, Florian  
Gupta, Priya  
Hamzić, Vanja  
Harrington, John  
Hart, Richard  
Heller, Kevin  
Hocks, Stephan  
Humphreys, Stephen  
Hunter, Rosemary

Jain, Dipika  
Joerges, Christian  
Johns, Fleur  
Kapila, Kriti  
Katelouzou, Dionysia  
Kleinheisterkamp, Jan  
Klug, Heinz  
Kotiswaran, Prabha  
Kumar, Vidya  
Lee, James  
Lomnicka, Eva  
Lord Judge  
Malcolm, Ian  
Manji, Ambreena  
Mann, Laura  
Mate, Manoj  
McCandless, Julie  
McGaughey, Ewan  
Meeran, Richard  
Motha, Stewart  
Muir Watt, Horatia  
Mumford, Ann  
Muralidhar, S  
Nelken, David  
Newton, Scott  
Oette, Lutz  
O'Rourke, Rebecca  
Ortino, Federico  
Otomo, Yoriko  
Palmer, Nicola  
Perry-Kessaris, Amanda  
Pils, Eva  
Rajah, Jothie  
Ramanathan, Usha  
Ryngaert, Cedric  
Sachs, Albie  
Sandvik, Kristin Bergtora  
Sassen, Saskia  
Satpute, Jayshree  
Schultz, Thomas  
Scotford, Eloise  
Singh, Prabhakar  
Sornarajah, MS  
Spicer, Elizabeth  
Sriram, Chandra  
Stanton-Ife, John  
Sullivan, Gavin

Teitel, Ruti  
Tietje, Christian  
Türk, Alex  
Twining, William  
White, Lucie  
Wintemute, Robert  
Zumbansen, Peer  
Sornarajah, MS  
Spicer, Elizabeth  
Sriram, Chandra  
Stanton-Ife, John  
Sullivan, Gavin  
Teitel, Ruti  
Tietje, Christian  
Türk, Alex  
Twining, William  
White, Lucie  
Wintemute, Robert  
Zumbansen, Peer

