Transnational Law Summer Institute 2016

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
TLSSI 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, 21st – 30th June 2016. Uniquely in 2016, on Friday 1st and Saturday 2nd of July, 2016, the Transnational Law Institute will host an international conference honouring the 60th 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.

TLSSI 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.
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


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


Saturday 25 June: Panels on Scholarly Networking and Activism. Law & Legal Activism Lecture by Sukti Dhital and Jayshree Satpute. Guided Tour of Tate Modern


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, Parisha
Clark, Paul
Clark, Phil
Cooper, Davina
Corcioli-Filho, Roberto Luiz
Cornell, Drucilla
Cowen, 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, Vidyaa
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, SNelken, 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, Chandrab
Sullivan, John
Teitel, Ruti	
Tietje, Christian
Türk, Alex
Twining, William
White, Lucie
Wintemute, Robert
Zumbansen, Peer
Sornarajah, MS
Spicer, Elizabeth
Sriram, Chandrab
Sullivan, John
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