MAX-PLANCK-GESELLSCHAFT

Max Planck Institute for Social Anthropology

Report 2017–2019

Department ‘Law & Anthropology’

Max Planck Fellow Group ‘Environmental Rights in Cultural Context’

Emmy Noether Research Group ‘The Bureaucratization of Islam’

Imprint

Max Planck Institute for Social Anthropology Report 2017–2019

Department ‘Law & Anthropology’
edited by Marie-Claire Foblets

Max Planck Fellow Group ‘Environmental Rights in Cultural Context’
Dirk Hanschel

Emmy Noether Research Group ‘The Bureaucratization of Islam and its Socio-Legal Dimensions in Southeast Asia’
Dominik M. Müller

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Dominik M. Müller

Halle/Saale

2020

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Because questions concerning the equivalence of academic titles that are conferred by institutions of higher learning in different countries have still not been resolved completely, all academic titles have been omitted from this report.

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** For information, please refer to IMPRS REMEP Report in Report Department 'Integration and Conflict'

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* Completed their service at the Department during the 2017–2019 reporting period.

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Foreword[1]

A report such as this is governed by a set of rules specific to the genre. The aim is not to produce a scientific document as such; instead, it places a research programme in its wider context, informs the readers about the main activities conducted during the reporting period, and elucidates the links among them.

This report does not go into great detail about each activity mentioned, but presents the main lines and offers an overview of the scientific output of the individual members of the Department and of the scholars who have received support from us and to whom the report makes reference. It should be noted that several of the publications mentioned throughout the text are not represented in the list of publications at the end of this volume. That is because their publication dates do not fall within the 2017–2019 reporting period. Nevertheless, since the calendar of academic publications necessarily lags behind the research activities of which they are the output, we consider these publications to be the products of research carried out in the reporting period. They are therefore referred to in the running text or in footnotes. Publications that are referred to in the text and which do appear in the list of publications are cited using the standard author-date in-text citation form.

I hope this document accomplishes what one can expect from such a report, and in particular that it will engage the curiosity of its reader and convince him or her of the interest and importance of the work undertaken by the members of the Department or by researchers who have visited it during the reporting period.

This report will have reached its mark if it is able to demonstrate persuasively that law and anthropology, two distinct disciplines, stand to benefit from joining forces to achieve an in-depth understanding of some of the burning issues that we face today, in all their complexity.

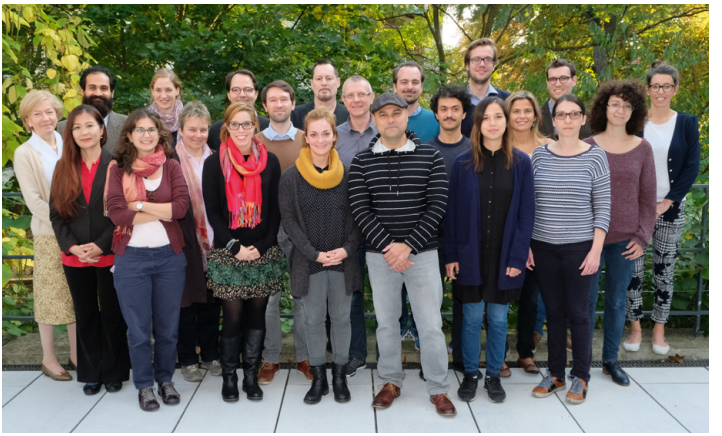
All the members of the Department, including myself, are truly grateful for the generous financial and infrastructural support of the Max Planck Society and the encouragement of the Presidency, which allow us to invest in and further develop such an interdisciplinary understanding. It is a unique opportunity that has no equivalent anywhere in Europe.

Marie-Claire Foblets
Halle a/d Saale, July 2020

[1] I would like to express my deepest gratitude here to Brian Donahoe, the Department’s Senior Scientific Editor, for his invaluable efforts throughout the process of preparing this report. A word of thanks also goes to Sajjad Safaei for offering his highly appreciated support, in particular to the editing of Part III of this report; to Larissa Vetters for her steadfast support and most precious suggestions; to Kateřina Marenčáková and Beatrix Krause, the Department’s secretaries; and not least to Kristin Magnucki and Ralph Orlowski of the Institute’s Research Coordination team for helping us bring this report to completion.

Introduction

This is the third report on the activities of the Law & Anthropology Department at the Max Planck Institute for Social Anthropology in Halle (Germany). The report covers the 2017–2019 period, offering an overview of the work carried out during these three years, a period that involved a significant *expansion* of the Department, both in terms of the number of researchers and of the activities supported.



Most of the members of the Department in the fall of 2017.

To ensure a clear understanding of what this expansion involved, a brief preliminary word of explanation may be in order. Central to the Department's research programme is the study of normative frameworks (formal / informal; state / non-state; faith-based / non-faith based, etc.) and practices that can be explained by means of these frameworks and that are relevant to apprehending the role of law with regard to issues that relate to the increased interconnectedness of cultures and societies today.

In its approach, the Department's research programme seeks to give equal weight to an anthropologically informed understanding of the diversity of normative orders (often within a single context) and to a more positivistic legal approach to this diversity. The latter approach reflects the views of various legal practitioners (judges, lawyers, legal service providers, etc.) who, in their daily practice, encounter the phenomenon of "internormativity" – situations where different normative logics come into contact (and often conflict) with one another – and the resulting need for state legal systems to accommodate this diversity.

To combine an analysis of the relevant legal sources with an analysis of ethnographic (or biographical) data that can help provide context and an empirical foundation is an intrinsically interdisciplinary endeavour and presents the researcher with a challenging balancing exercise. It requires that he or she not focus exclusively on anthropological analyses of law and legal practices nor on an understanding of

anthropology from a strictly legal perspective. Rather, it is an exercise in “desegregating” the various approaches as far as possible in order to engage in a true dialogue between the conceptual frameworks and methodological tools of these disciplines and to investigate the extent to which this type of reflection, combining as it does different forms of knowledge, can open up new perspectives for the study of the issues at stake. Such an exercise, which draws in equal parts on anthropological and legal theory, on the one hand, and on the craft of ethnography and applied legal practice on the other hand, is an extremely ambitious enterprise and can be very demanding. The Law & Anthropology Department seeks to provide the appropriate setting for nourishing such an endeavour and providing the necessary academic meeting ground for anthropologists and legal scholars.

This report follows the previous activity report (reporting period 2014–2016). It gives a brief outline of some of the main results of the Department’s efforts to bring jurists and anthropologists together to reflect on topics of shared interest within the fields covered by the Department’s research programme, and to assess what is to be gained from transcending the limits of (formal) law and employing an anthropological lens. A majority of the researchers who were working in the Department during the reporting period are trained in law and elect to engage with anthropology; most of the others are trained in social and cultural anthropology, and some are trained in both disciplines. Through their work, the Department seeks to contribute to a critical enquiry into issues that are becoming ever more important, such as the changing loci of normative authority; processes that erode the state’s influence; contrasts between state law, which is generally territorial, and non-territorial communities (religious, ethnic, linguistic, etc.); new sources of tension between states and non-state actors; and transnational (re)configurations of identity and accompanying practices. The above-mentioned issues often trigger debates about inclusion and exclusion, about how to accommodate and create space for divergent allegiances and senses of belonging in an increasingly global context.

The report is divided into three main parts. Part I begins with a brief outline of the three overarching thematic priorities that underlie most of the activities conducted by the Department thus far. Given that these priorities were already explained in detail in the 2014–2016 report, I will limit myself here to providing a succinct sketch, by way of reminder. In Part I I also list a number of activities that reflect, more concretely, the several ways the Department has been supporting and realizing the “cross-pollination” of law and anthropology. I distinguish here between activities that are directly linked to the research activities of Department members and various other forms of investment in the dialogue between the two disciplines that are not strictly limited to topics covered by researchers in the Department. In the first category, I mention three conferences that were convened by the Department in the reporting period and which can serve as three distinct but complementary illustrations of the way the Department, in the planning of its activities, draws on three overarching priorities. Each of these conferences has resulted in a publication, currently under

preparation. The second category includes the forthcoming *Oxford Handbook of Law & Anthropology*, the Department's Dissertation Writing-up Programme, which has yielded very encouraging results, the Anneliese Maier Award (from the Alexander von Humboldt Foundation) given to Annelise Riles (Cornell / Northwestern), the Department's *Law & Anthropology* book series with Routledge, the Department's support of applications for third-party funded research grants and fellowships, collaboration with the European Judicial Training Network and, of course, the numerous teaching activities undertaken by members of the Department during the reporting period that are detailed in the Addendum.

Part II turns the spotlight on several collective research projects into which the Department has invested a great deal of energy. They comprise three distinct types of projects. *First*, projects that are the initiative of the Department and for which it takes full responsibility (*Law, Religion, and Anthropology*; *Conflict Regulation in Germany's Plural Society*; the *Cultural and Religious Diversity Database* project (hereafter CUREDI); *second*, projects that involve external partners who also make a financial commitment to the project (*Wissenschaftsinitiative Migration, Integration and Exclusion* (hereafter WiMi); the *European Judicial Training Network Programme* (hereafter EJTN); and *third*, projects whose topics are closely related to the research programme of the Department but which are funded from outside the Department (*The Bureaucratization of Islam*, led by Dominik Müller; *Environmental Rights in Cultural Context*, directed by Dirk Hanschel; *Vulnerabilities under the Global Protection Regime* (hereafter VULNER), headed by Luc Leboeuf; *AIming Toward the Future: Policing, Governance, and Artificial Intelligence*, Maria Sapignoli, PI; *The Ethics of Exchange: The Regulation of Organ Donation and Transplantation*, with Farrah Raza; and, most recently, *Affective Societies: Dynamics of Social Coexistence in Mobile Worlds*, Larissa Vetters, co-PI). Such partnerships make it possible to situate the research supported by the Department within a broader context and to intensify the exchange of knowledge with other disciplines and institutions that share an interest in certain topics and/or problems, without necessarily approaching them from the same (anthropological) angle.

Part III provides the reader with brief descriptions of the work of each of the researchers who were attached to the Department during the reporting period, and of the way they draw on both law *and* anthropology for their scholarly achievements and endeavours. They enjoy a great deal of freedom in the direction they take in their work: some projects are more applied in nature, others more conceptual or theoretical, but all projects are expected to draw – in part or in full – on first-hand empirical data, preferably collected using an ethnographic approach. A growing number of them are (also) trained in law and bring the two disciplines into dialogue in a way that has hitherto remained largely underdeveloped.

The report concludes with Part IV, a brief overview of the Dissertation Writing-up Fellows and other Visiting Fellows whose longer-term stays have been supported by the Department.

I

The Research Programme of the Department

I. The Research Programme of the Department

An abiding effort on our part, one that is reflected throughout this report and that I already mentioned in the 2014–2016 report, is to achieve a balance between a focused research programme that gives priority to the development of a particular area of expertise and a broader orientation that links the Department with other topics and areas of the discipline variously known as legal anthropology or the anthropology of law. This balance is a deliberate choice on our part. There are two reasons for this wish to link the Department with other topics. First, doing so ensures a degree of diversification in the Department's activities, not only in terms of the topics studied, but also in conceptual and theoretical terms. Second, such openness is in line with the logic of supporting a sub-discipline of anthropology that struggles with extremely challenging conditions: the resources available to researchers are often quite limited and the competition for prestigious scientific grants fierce. Our experience over the past few years has shown that the various initiatives undertaken, whether in the form of short research stays, writing-up stipends, or support to teaching opportunities, to name but a few, have enabled the Department to take part in different ways in shaping the field's further development. I see this as especially important for a scientific research institute generously supported by public funds and unparalleled in Europe.

In the first Part, I draw on this differentiation between a focused and a more open orientation in order to distinguish between, on the one hand, activities that are directly linked to the work undertaken by Department members and, on the other hand, various other initiatives that enable the Department to support the interaction between law and anthropology in concrete ways that go beyond its own specific areas of research. Examples of the first category are the three thematic conferences that were convened by the Department during the reporting period. The second category includes the forthcoming *Oxford Handbook of Law & Anthropology*; the Department's *Law & Anthropology* series with Routledge; our collaboration with the European Judicial Training Network; the Anneliese Maier Award given to Annelise Riles (Cornell / Northwestern); the Department's Dissertation Writing-up Fellowship Programme; the support provided to applications for third-party-funded research grants and fellowships; and, of course, the various teaching activities undertaken by members of the Department during the reporting period (detailed in the Addendum).

Three overarching research priorities

Before presenting these various activities, a very brief outline of the three overarching thematic priorities that underlie most of the activities hitherto conducted by the Department is in order: *first*, the role of human rights in various settings; *second*, the interconnectedness of religion and state law(s); and *third*, the interaction between anthropological research and legal practice. Given that these priorities were already explained in detail in the 2014–2016 report, I will limit myself here to providing a succinct recapitulation.

The *first* overarching thematic priority is the role of **human rights** in various settings. During the reporting period, human rights and the examination of their implementation have continued to occupy a central place in the Department’s activities through the work of its members and their publications, as well as through the various forms of collaboration in which they engage.

This should, of course, come as no surprise. Over the past thirty years or so, human rights have exerted a growing influence on traditional international law, to such an extent that state policies – whether they apply to individuals or groups – as well as the activities of NGOs, multinational corporations, and other non-state actors are increasingly viewed through this lens. I quote here from our 2014–2016 report:

> *Today, individual human rights are enshrined in law in most countries. The mainstream legal literature on human rights makes the case that (individual) human rights ought to benefit all. In reality, however, such an approach is misleading. Ethnographic studies explain in detail the obstacles that may arise in the course of advancing this particular concept of human rights. These obstacles are numerous. One such obstacle is the fact that the notion of individual human rights, as protected by most existing international human rights treaties (with a few notable exceptions), is derived from specific historical circumstances that did not affect all human societies. As a result, their supposed universality is highly questionable. Anthropology shows that reality as lived by individuals and the groups they form cannot simply be reduced to an issue of whether international human rights law is violated or not. Instead, through ethnographic observation, anthropologists explore the degree to which the acceptance of pluralism within international human rights law can serve as a way to deal with diversity within and among societies.*

Researchers in the Department are encouraged to pay close attention to the actors' representations and practices in the context of the situations they study. In this way, researchers contribute to the development of an ethnographically grounded understanding of the manifold ways in which human rights standards are being taken up, translated, resisted, and transformed, and the implications of engagement with human rights not only for the individuals and groups involved, but also for society at large. Detailed ethnographic work may help unravel the intricate dynamics at play between the generalizing normative orientation of international human rights law and the values and identities of people in local contexts.

Every study conducted by members of the Department, without exception, sooner or later comes up against questions involving human rights and their (more or less contested) application in contexts that are often difficult and sometimes violent (see, e.g., Katrin Seidel). Every researcher, furthermore, has to engage with the complex reality of the setting to explain why the main legal mechanisms for the effective protection of the above-mentioned freedoms and rights do not produce the expected effect(s). During the reporting period, researchers in the Department have paid close attention to a number of human rights-related issues: the protection of family and privacy (Alice Margaria, Federica Sona, Imen Gallala-Arndt, Vishal Vora, Luisa Schneider), the protection of freedom of religion and belief (Katayoun Alidadi, Beate Anam, Hatem Elliesie, Markus Klank, Mariana Monteiro de Matos, Eugenia Relaño Pastor, Abdelghafar Salim, Bertram Turner), education (Rodrigo Cespedes), land rights (Maria Sapignoli), property rights (Bert Turner), fair trial (Kalindi Kokal, Annette Mehlhorn), freedom of association (Markus Klank), political self-determination (Maria Sapignoli, Katrin Seidel), asylum and international migration (Sophie Andreetta, Katia Bianchini, Luc Leboeuf, Bertram Turner, Larissa Vetters, Zeynep Yanasmayan), free movement of persons (Rika Dauth), and language rights and minority protection (Jonathan Bernaerts).

In May 2018, Marie-Claire Foblets and Luc Leboeuf organized the conference Humanitarian Visas and the External Dimensions of EU Migration and Asylum Policy, in collaboration with the Faculty of Law, Economics and Business of Martin Luther University Halle-Wittenberg. Participants engaged in intense discussions about the need to balance efficient border control and human rights considerations in the European Union’s migration and asylum policy. (Photo and poster: Max Planck Institute for Social Anthropology, 2018)

The *second* thematic priority is the **interconnectedness of religion and state law(s)**. The topic resonates with the recent resurgence of interest in religious phenomena among anthropologists and other social scientists more generally. The strong contrast between rapidly expanding secularization, especially in Europe, Canada, and Australia, and the importance that other countries and communities continue to attach – sometimes ostentatiously – to their beliefs and/or religious traditions, has in recent years given rise to intense public debates and tensions. In some cases, these affect the society’s internal cohesion. Religion or belief may indeed constitute a key source of identity for its adherents, rendering debates about the protection of freedom of religion and belief all the more delicate and complex. In “Western” legal thinking, religion and/or belief are usually approached from the perspective of individual freedom of thought, guaranteed as a fundamental human right. Ethnographic studies show, however, that this approach does not necessarily resonate with people’s own perceptions of the situation. A focus on individual freedom when it comes to religion and belief inevitably presumes a set of predefined terms and expresses a particular view of a person’s belief, while at the same time neglecting the (potential) significance of alternative identities and traditions. Baseline ethnographic studies can help document this significance and, by so doing, have a role to play when it comes to acknowledging the need for appropriate legal frameworks

that would be more in tune with this new reality. The interconnectedness of religion and state law(s) will remain one of the three overarching thematic priorities of the Department's research programme.

Research undertaken by several members of the Department – Hatem Elliesie, Dominik Müller, Katayoun Alidadi, Markus Klank, Beate Anam, Abdelghafar Salim, Imen Gallala-Arndt (associate), Martin Ramstedt (associate), Federica Sona, Vishal Vora and myself – challenge reified notions of religion and belief, showing how multifarious conceptions of faith coexist more or less easily, and that it is necessary to study in detail the way they constitute normative, binding frameworks for their members. Some frameworks are based on autonomy, choice, and reason, while others are grounded in a more collective and relational approach to religion and belief. With the work done by the Emmy Noether research group, led by Dominik Müller, on aspects of the bureaucratization of Islam, starting with ethnographic research in Southeast Asia and planning eventually to include Europe, and more recently, Hatem Elliesie's *habilitation* project on Islamic ethics in Europe, the Department continues to make the interrelatedness of law and religion a high priority among the topics studied. A more detailed presentation of these projects is set out in Part II.

The *third* research priority of the Department has been, from the outset, the **interaction between anthropological research and legal practice**. During the reporting period, the Department engaged with this topic in three ways: first, in June 2017 I convened a conference that offered anthropologists and legal practitioners (lawyers, magistrates, legislators, civil servants, etc.) a platform to discuss, drawing on real life examples, how to reach creative solutions to (legal) problems that arise out of the encounter between often seemingly irreconcilable normativities. Second, the Department set up a long-term collaboration with the European Judicial Training Network,[1] a Europe-wide platform where legal practitioners and judges can address, among many other issues, questions concerning cultural diversity and its accommodation in law. Third, the Department, on my initiative, launched the Cultural and Religious Diversity (CUREDI) database project. I will return to each of these three initiatives in Part II of this report.

[1] The European Judicial Training Network is the principal platform and promoter for the training and exchange of knowledge of the European judiciary. It represents the interests of more than 160,000 judges, prosecutors, and judicial trainers throughout Europe (for more information, see www.ejtn.eu). I wish to thank Mr Wojciech Postulski, the then Secretary-General of the EJTN, for giving us the opportunity to present the research programme of the Department to the General Assembly of the EJTN at its meeting in The Hague in June 2015. This meeting in The Hague was the true beginning of our collaboration with the EJTN.

As mentioned in the introduction, a distinctive feature of the Department’s research programme is the commitment to bringing together legal scholars and social and cultural anthropologists on one team and exploring the different ways in which the two disciplines, each with its own perception of topics of shared interest, can join forces to provide a richer, more sophisticated analysis of the issues under study. With the intensification of communication and exchanges among and across communities and cultures worldwide, the prospect of making ethnographic data available to those who apply the law in concrete cases is becoming an everyday reality. Ethnographic baseline studies can improve the understanding of sometimes highly complex processes of adaptation (by individuals and/or communities) to new living conditions, or may offer insights that cannot be gained in any other way. Minority protection issues, environmental deterioration, forcible relocation of entire populations, the need for cultural expertise in court, the proliferation of alternative dispute resolution mechanisms – these are just a few illustrations of concrete cases where anthropologists and lawyers can no doubt benefit from intensified collaboration. There is no unanimity, however, and certainly not among anthropologists, when it comes to the question of applying anthropological knowledge. Their reservations are both methodological and ethical in nature, and publications on these issues are numerous. Yet the needs are there, and it is precisely for that reason that the Department aims to offer a prominent forum for critical reflection and discussion of both the role of anthropologists who do consultancy work and the constraints lawyers have to take into account when drawing on insights gained from anthropology. The emergent situation in which consultancy work by anthropologists is conducted today requires a sharpening of the understanding of specific professional matters – theoretical, ethical, and material – that accompany some forms of consultancy work. Such matters are of major interest for the purposes of the Department’s research programme, given the problems they raise for every anthropologist who engages in legal issues as well as for lawyers facing the need to draw on anthropological knowledge. The Department places strong emphasis on rigorous professionalism in the provision and use of anthropological expertise.

Three thematic conferences

During the reporting period the Department convened three conferences that are directly linked to the work undertaken by several of its members.

(Re)designing Justice for Plural Societies: Opportunities and Pitfalls of Accommodative Law and Practices

Convenors:
Marie-Claire Foblets, Katayoun Alidadi and Dominik Müller

The June 2017 conference *(Re)designing Justice for Plural Societies* brought together scholars – in both law and anthropology – and practitioners. Each of them had been involved, in one way or another, in devising creative, innovative and, to a certain extent, sustainable solutions via accommodative laws or practices. The conference quite consciously focused on successful experiments of accommodating linguistic, cultural, and religious diversity. By so doing, the event both complemented and advanced the work done in the previous two conferences convened by the Department.[2] Participants were invited to draw on their own first-hand experiences to share insights into how they have sought to engage with positive examples / best practices of accommodating diversity and of sustainability, and to share comparative insights, connections, or disjunctions among the case studies examined. The illustrations were drawn from a variety of countries and covered a broad palette of topics such as untitled housing in Latin America, environmental protection in New Zealand, language minorities in Europe, private international law, religion under secular state law, requests for exemptions on religious grounds, and claims for recognition of collective rights.

The collective volume that will come out of this conference seeks to address a gap in the literature by shedding light on the way in which anthropological insights may be incorporated into the judicial process and legal practice more generally.[3] The objective is to produce a richly documented reflection on the inclusion (or exclusion)

[2] *Religious and Cultural Diversity in Four National Contexts* (2015) and *Anthropological Expertise in Legal Practice* (2016).

[3] K Alidadi, M-C Foblets, and D Müller, *(Re)designing Justice for Plural Societies: Accommodative Practices Put to the Test* (Routledge, *Law & Anthropology* series 2021).

of ethnography in the legal realm, based on the experience of using ethnographic consultancy in legal cases. Throughout the chapters, the reader will learn about specific experiences, whether legislative, judicial, or other, where *innovative and sustainable* (and perhaps *transferable) solutions* have been found to current or long-standing issues of diversity, often *within* the framework of the state legal order or at least not separate from it. By “sustainable”, I mean solutions that are not only sufficiently stable to permit long-lasting pacification of tensions between the majority society and religious / cultural / ethnic minorities (e.g., via compensation, representation in decision making, reasonable accommodation, and/or specific exemptions, etc.), but that also have at least the potential to influence future decisions and to have an impact on legal processes (via precedents, new legislation, etc.). The underlying idea is that such experiences make it possible to assess what role anthropologists (and other social scientists) can play in the search for such solutions. A methodological aim of the volume is to point to opportunities for interdisciplinary approaches to studying these experiences. As many of the contributors work at the intersection of law and anthropology, a second aim of the chapters is to explore the role that both law(yers) and anthropology/ists can play in the search for sustainable solutions to societal problems.

Conveners and participants of the conference (Re)designing Justice for Plural Societies, June 2017. (Photos and poster: Max Planck Institute for Social Anthropology, 2017)

Law, Islam and Anthropology

Convenors:
Hatem Elliesie,
Marie-Claire Foblets,
and Irene Schneider
(Goettingen)

The conference *Law, Islam and Anthropology*, held on 9–10 November 2018 and jointly convened by the Department, the German Association for Arabic and Islamic Law (Gesellschaft für Arabisches und Islamisches Recht, GAIR) and the Dutch Association for the Study of Islamic and Middle Eastern Law (Vereniging tot bestudering van het recht van de Islam en het Midden-Oosten, RIMO), brought together the disciplines of law, anthropology, and Islamic studies, with all of their multiple entanglements. Conference papers drew on field observation as well as on methods and theories that provide insights into norms that are often given Islamic justification. The discussions ranged from the traditional domain of family-related regulations and commercial transactions to the perception of ethical norms in daily life, addressing among other things the role of social actors and the distinctions they make when interpreting and applying Islamic texts and tradition.

The diverse points of view represented at the conference reflected the manifold perspectives that the disciplines of law, anthropology, and Islamic studies, when taken together, offer to the study of Islam. More particularly, the contributions shed light on the way in which Islam continues to serve as a normative framework in daily life and contribute to a more accurate understanding of the situations where this is the case. By analogy with the expression "living law" introduced by Eugen Ehrlich,[4] one could speak of "living Islam". An edited volume on the basis of the conference proceedings is in the works, with Marie-Claire Foblets, Hatem Elliesie, and Irene Schneider (Georg August University, Göttingen) as co-editors. It will be submitted to Routledge for inclusion in the Department's *Law & Anthropology* series (see below).

[4] E Ehrlich, *Fundamental Principles of the Sociology of Law* (Walter L. Moll trans.,) ([1936] 2001) Transaction Publishers.

The conference Law, Islam and Anthropology brought together a large group of researchers affiliated with the academic networks of MPI, GAIR, and RIMO. (Photo and poster: Max Planck Institute for Social Anthropology, 2018)

Recourse to Biomedical Technologies and the Challenges of Religious and Cultural Diversity: Lawyers and Anthropologists from Europe and the Middle East Exchange Views

Convenors: Federica Sona, Marie-Claire Foblets,
and Shai Lavi (Van Leer Institute, Jerusalem)

This conference was initially scheduled for fall 2019. Due to unforeseen circumstances, it had to be postponed to 2020, but the programme remains unchanged.

The inspiration for this conference comes from the research undertaken by several members of our Department (Federica Sona, Stefano Osella, Jeanise Dalli, Alice Margaria, and, more recently, Farrah Raza) that touches upon the uses of biomedical technologies and the challenges posed by religious and cultural diversity. In their various studies, they all address the use of new technologies from both a legal and an anthropological perspective, with an emphasis on issues that arise in the context of plural societies, focusing on the Middle East and Europe.

The growing use of advanced biomedical technologies has already yielded a rich body of literature on the normative challenges concerning these technologies. These challenges, however, are deeply rooted in a way of thinking about the use of science, medicine, and technology that is not necessarily universally accepted. The standards developed to regulate the use of biomedical technologies were ultimately derived from principles such as individual autonomy and informed consent. Yet the globali-

zation of different cutting-edge biomedical technologies and the diversification of ethnic / cultural / religious identities and groups give rise to a set of urgent questions regarding the context in which such biomedical technologies are embedded. The globalization of biomedical practices has been rapid and intensive, as reproductive technologies, genomics, organ transplantations, biobanks, and other biomedical technologies spread worldwide. Admittedly, globalization has changed societies, rendering most of them more diversified and multicultural. Yet, an underlying assumption that is especially prevalent among scientists, policymakers, and bioethicists suggests that, irrespective of place and culture, biomedical technologies are used for similar ends and raise similar legal, bioethical, and moral concerns, even if regulation may vary significantly and biomedical cultures may pursue different trajectories for the use of technologies.

The aim of the conference is to gather scholars and practitioners from around the Middle East, Europe, and the US, who will discuss their work on biomedical technologies from a comparative perspective. Specifically, we are interested in the role of institutions such as the family, religion, state, and the economy as significant factors in shaping such practices.

Due to the most unusual circumstances linked to the COVID-19 pandemic, the conference will be held in the format of a series of video-meetings (fall 2020), where the pre-circulated papers will be discussed. Prof. Marcia Inhorn, from the Department of Anthropology at Yale University, will deliver the keynote lecture.

The publication that will come out of this series will be submitted for consideration in our *Law & Anthropology* series with Routledge (see below). It will focus on the following questions: Are concepts such as individual autonomy and informed consent equally relevant in Europe and in the Middle East? If not, what alternative social and normative considerations govern biomedical technologies in different countries? What challenges do plural societies face in implementing a universal mode of bioethical regulation of biomedical technologies? How does the body become the site where cultural diversity is expressed in the context of biomedical technologies? What are the roles of sacredness, traditionalism, and secularism in shaping of local biomedical cultures? What are the key social institutions that are involved in practising advanced biomedical technologies in the Middle East? What are the interconnections between the social foundations of bioethics and its normative grounds? How is the political interwoven into the practice of biomedical technologies in the Middle East? What influences do the processes taking place in the Middle East today exert on biomedical practices, and what role, if any, do medical technologies play these processes?

Additional initiatives strengthening the law & anthropology dialogue

As mentioned above, in this part of the report I differentiate between, on the one hand, activities that are directly linked to the work undertaken by Department members and, on the other hand, various other initiatives that are aimed at strengthening, each in its own way, the dialogue between law and anthropology. The Department has embarked on several initiatives that are meant to enlarge the boundaries of the field of law and anthropology, particularly by means of collaboration between legal scholars, including legal practitioners, and anthropologists. A number of these are listed below, with a few words of clarification for each. These activities give the Department a more diversified profile and scholarly output. Several of these initiatives will reappear in various other places in this report.

Oxford Handbook of Law & Anthropology

This project has its genesis in a meeting of the Consultative Committee (CoCo) of the Department. During discussions at the 2014 meeting of the CoCo, it was suggested that the Department could make a signal contribution to the discipline by publishing a reference work that would build on this interdisciplinary vision. It would bring together a diverse spectrum of contributors, each of whom is a recognized expert in his or her discipline, and provide them with a space for new and creative thinking and writing about how law and anthropology can relate to each other both theoretically and practically, and in so doing, help reshape the field. The volume that will come out of this initiative (publication expected in 2021[5]) will be the result of over three years of drafting, editing, and conference discussions (Berlin, 30 November–2 December 2018) that involved a wide range of colleagues/contributors and reviewers. The conference convened in Berlin was a great success, bringing together a large and diverse cross-section of scholars working at the intersections of law and anthropology, most of whom had also agreed to be contributors to the

Participants of the Oxford Handbook of Law & Anthropology conference at the Harnack House in Berlin. (Photo: R. Cornils, 2018)

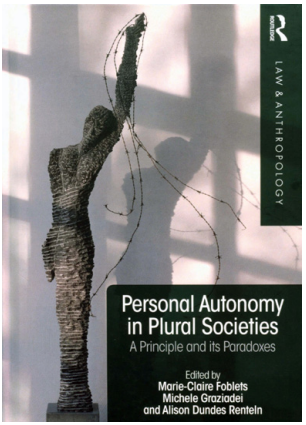
[5] The editors are Marie-Claire Foblets and Maria Sapignoli of the Department and Mark Goodale and Olaf Zenker, members of its international Consultative Committee.

volume. The three-day meeting offered authors the opportunity to take a critical look at one another's work, across disciplines. In sum, the conference served as a sort of peer review of the contributions and fostered a very productive cross-fertilization of views and approaches between law and anthropology.

The publication of the *Oxford Handbook of Law & Anthropology* is now in preparation, and will comprise some 50 chapters with no fewer than 65 authors – both anthropologists and lawyers. The point of this volume is *not* to give a general overview of the development of the sub-discipline known as legal anthropology (this has been done before); rather, it is to produce an unequalled volume of essays on law and anthropology, each of which provides a survey of the current state of scholarly debate and an original argument about the future direction of research in this dynamic and interdisciplinary field. To further strengthen the interdisciplinary nature of the endeavour, authors have been encouraged to work in tandem: lawyers with anthropologists. Several contributions thus count two authors, active in the field of one or both of the disciplines. As far as possible, the search for authors was also guided by the quest for the right balance between highly qualified scholars from the global South as well as the global North, from linguistically different backgrounds, i.e., not exclusively from the English-speaking world, and of course, between scholars in law and in social and cultural anthropology. Close collaboration between law and anthropology also applies to the review process, with lawyers reading the contributions by anthropologists and vice versa.

In the 2020–2022 report, once the volume is published, I will return in greater detail to this initiative and hope to be able to report on its reception as well.

Law & Anthropology *series (Routledge)*



With a view to the long-term planning of its academic publications, the Department launched a book series bearing the name of the Department (*Law & Anthropology*), initially with Ashgate and now, since the purchase of Ashgate by Routledge, with Routledge.[6] The series is to include monographs as well as edited volumes resulting from workshops and conferences sponsored by the Department. The aim is to create a high-profile, sustainable flagship series that will help establish a recognizable identity for the research unit. The expectation is that, as the Department further develops a distinct identity, the series will attract submissions from prominent scholars from outside the Department. Our ambition

[6] The series is managed by Brian Donahoe, the Department's Senior Scientific Editor.

is that the series will also attract the attention of practitioners, including anthropologists who serve as expert witnesses in court cases and as consultants in various other legal proceedings (refugee hearings, immigration proceedings, etc.), as well as legal practitioners who are working on related issues and who see the series as a valuable source of information that resonates with their own work and, should they wish to publish, as a prestigious forum for the dissemination of own their research findings and experiences. All volumes in the series will emphasise empirical data. After the publication of the first three volumes,[7] several other volumes are now well on the way, indicating that the series has much potential.[8]

Collaboration with the European Judicial Training Network

As mentioned in our previous report (pp. 17–18), collaborative engagement with judicial actors began in 2013 with a survey conducted under the aegis of the European Network of the Councils of the Judiciary (hereafter: ENCJ). Some 100 judges from 14 European countries responded and provided information on their experience(s) with adjudicating multicultural conflicts. In January 2015, the ENCJ convened a meeting, "Cultural Diversity and the Judiciary in Europe", which brought together 35 judges, lawyers, and legal scholars from eleven European countries to discuss the survey results. One of the themes emerging from these discussions, namely, the need for targeted training on issues of cultural, religious, and social diversity, was subsequently taken up by the European Judicial Training Network (hereafter: EJTN). At their request, the Department developed a one-and-a-half-day training module (under the coordination of Larissa Vetters) in which teams of trainers, consisting of a legal expert, an anthropologist, and a facilitator, guide a group of 40–45 judges from different European member states through the discussion of a sample case in areas such as family law, asylum law, criminal law, or labour law. This module was offered for the first time in November 2018 in Wiesbaden and is now offered as part of the EJTN's training programme on an annual basis. In November 2019, the training session was held in Utrecht and received an overwhelmingly positive evaluation by the participating judges. The 2020 training is scheduled to take place in Vienna,

[7] M-C Foblets, M Graziadei and A. Dundes Renteln (eds), *Personal Autonomy in Plural Societies: A Principle and its Paradoxes* (Routledge 2018); K Kokal, *State Law, Dispute Processing, and Legal Pluralism: Unspoken Dialogues from Rural India* (Routledge 2020); K Seidel and H Elliesie (eds), *Normative Spaces and Legal Dynamics in Africa* (Routledge 2020).

[8] Volumes that have been contracted and are in process include: M-C Foblets, G Woodman, and A Bradney (eds), *The Trials and Triumphs of Teaching Legal Anthropology: Testimonies from around Europe*; K Alidadi, M-C Foblets, and D Müller, *(Re)designing Justice for Plural Societies: Accommodative Practices Put to the Test*; M-C Foblets, M Sapignoli, and B Donahoe (eds), *Anthropological Expertise and Legal Practice in Conversation*. Anticipated volumes include V Vora, *The Islamic Marriage Conundrum: The Legal Consequences of the* Nikah *in England and Wales*, as well as edited volumes emerging from the conferences mentioned above, namely, *Law, Islam and Anthropology* and *Biomedical Technologies and the Challenges of Religious and Cultural Diversity*.

and all necessary steps are being undertaken to offer the training in a virtual format if a face-to-face meeting will not be possible due to COVID-19.

During each training, a small number of judges, often highly engaged in judicial training programmes or diversity policies in their home jurisdictions, expressed an interest in a more in-depth exchange, further study materials, or the expertise of MPI researchers on particular issues or questions. While we had sought to address the need for more in-depth study materials with a comprehensive workshop documentation package distributed to all participants following the training session, over time two follow-up initiatives were developed: the idea of a study visit by judges to our institute and the idea of publishing a comparative casebook with judgments addressing cultural and religious diversity in the European context. Both initiatives have met with strong support from the EJTN.

In 2019, the EJTN funded a one-week study visit by five judges who were nominated by the member states' ministries of justice and underwent a rigorous selection process to ensure that their interests and profiles fit with the topic designated for this year's study visit: "Family Law and Cultural / Religious Diversity in Contemporary Europe" (visit programme under the coordination of Alice Margaria). Due to the COVID-19 pandemic, the study visit had to be rescheduled to December 2020, and we are looking forward to hosting the first cohort of judges. We hope that the study visit will provide a forum for in-depth exchange and collaboration between members of the Department (legal scholars as well as anthropologists) and legal practitioners.

In a similar vein, the planned casebook is intended to bridge the communities of practice and knowledge of anthropologists, legal scholars, and legal practitioners. Following the format of the training, the casebook will contain a selection of judgments from different European Union member states that involve issues of cultural and religious diversity. Each judgment will be accompanied by commentary from one legal scholar or practitioner and one anthropologist with expertise on the topic. They will be supplemented by an introduction and a glossary. While the casebook is intended primarily for a readership of legal practitioners and will be distributed through the EJTN, commentators are also encouraged to speak to a wider academic audience in the hope that the casebook will foster further debate in the growing field of research on the role of judiciaries in the governance of multicultural societies in Europe.

Members of the Department at the senior, postdoctoral, and doctoral levels have been involved in all three endeavours, whether by contributing to the setting up of working groups on a particular case or field of law for one of the training sessions, drawing on their knowledge of current jurisprudence, providing insights from their ongoing fieldwork as anthropological experts in a training, developing the programme for the study visit, or choosing topics and proposing judgments for the casebook. Researchers have found this engagement to be both productive in terms of generating new insights for their individual research projects and enriching as a professional experience beyond a strictly academic environment.

Final group picture of participants and trainers of the EJTN judicial training Cultural Diversity in the Courtroom: Judges in Europe Facing New Challenges, held in November 2019 in Utrecht. (Photo: EJTN, 2019)

To date, no fewer than 15 Department members and associated researchers have been involved in the collaboration with the EJTN, whether to organize the visit week (Alice Margaria), develop the casebook project (Larissa Vetters, Jonathan Bernaerts), or participate in the EJTN’s annual training programmes (Federica Sona, Larissa Vetters, and Vishal Vora as conveners in 2018 and 2019; Imad Alsoos, Eugenia Relaño Pastor, Clara Rigoni, Friederike Stahlmann, and Adela Taleb as trainers in the 2018 EJTN programme in Wiesbaden; and Sophie Andreetta, Faris Nasrallah, Maria Nikolova, Eugenia Relaño Pastor, Clara Rigoni, and Abdelghafar Salim as trainers in the 2019 programme in Utrecht).

Anneliese Maier Research Award to Annelise Riles (Cornell/Northwestern)

Another example of how we expand beyond the confines of the Department’s focused research programme to enlarge the dialogue between law and anthropology is our successful nomination of Annelise Riles for the 2018 Anneliese Maier Research Award. The award, granted by the Alexander von Humboldt Foundation, recognizes outstanding scholars in the humanities and social sciences and is designed to “promote the internationalisation of the humanities and social sciences in Germany”.[9] It comes with a grant of € 250,000 for a period of five years to finance research collaboration with colleagues and collaboration partners at German universities and research institutions.

[9] See https://www.humboldt-foundation.de/web/press-release-2018-04.html (accessed 10 August 2020).

Annelise Riles is Professor of Law at Northwestern University in the US, and is currently also executive director of the Buffett Institute for Global Studies and associate provost for Global Affairs. She is an internationally renowned and esteemed scholar and uniquely positioned as a true thought leader in the fields of both anthropology and legal studies. Her work demonstrates, both conceptually and in its applications, how anthropology can contribute to legal studies and vice versa. Her work spans a wide range of areas, including human rights, the problem of how to manage and accommodate cultural differences, and the regulation of global financial markets. In anthropology, her work is particularly well known for its methodological contributions as well as for the study of institutions and expertise. In legal studies, her work is respected for its innovations in comparative law and in conflict of laws, as well as in financial regulation and international law.

One major theme of Riles's work in the field of human rights is the problem of culture and cultural difference. Anthropological approaches to the "culture" concept and how it influences behaviour have not yet fully penetrated the study of legal and political institutions. Riles's work in this area has been cited in several important court cases in both the United States and Canada. She also studies how the concept of culture is used within international institutions as an ethnographic subject in its own right.[10]

Riles has also pioneered the study of legal expert testimony, with its own distinct sociological, cultural, epistemological and aesthetic practices and commitments. This work brings together methods from the social study of science, anthropology, and legal studies. Its most elaborate example is her book *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Chicago 2011), which is based on more than ten years of field research among lawyers in both government and private practice who are involved in the regulation of the financial markets, primarily in Japan.

Annelise Riles's impressive body of work and the clear overlaps with the research being conducted in our Department motivated our decision to nominate her for the prestigious Anneliese Maier Research Award. She brings great academic benefits to the Department, offering her support to the development of an innovative approach to the field of anthropology of law not only in Germany, but also in Europe more broadly speaking. With insights drawn particularly from her expertise in the field of human rights protection and financial law, her development of new methodological approaches to law and anthropology will no doubt inspire a new generation of researchers on this side of the Atlantic, including young scholars currently doing ethnographic research on international institutions, the relationship between business and human rights, and the study of activist networks.

The collaboration between Professor Riles and the Department contributes to the internationalization of the subject area in Germany by developing and applying

[10] See, e.g., A Riles, "Anthropology, Human Rights, and Legal Knowledge: Culture in the Iron Cage" (2006) 108 (1) *American Anthropologist* 52–65.

ethnographic methods that are critical to the integrity of the democratic process and to situations of pluralism-in-peril. Our collaboration to date has included the following events: Maria Sapignoli, in her capacity as a member of the Department, was offered a visiting fellowship at Cornell University before Riles moved to Northwestern University. Riles and I convened a planning meeting in Berlin in 2018, at which time she gave a public lecture. Riles visited the Department once again in 2019 to meet with junior scholars and develop plans for collaboration.

Annelise Riles speaking on “The Sociality of the Platform” and the experiment of Meridian 180 during a visit to the Institute in December 2018. (Photo: Max Planck Institute for Social Anthropology, 2018)

In late 2018, Riles participated in the *Oxford Handbook of Law & Anthropology* conference (see above) and is contributing an essay to the volume, co-authored with Prof. Ralf Michaels (Max Planck Institute for Comparative and International Private Law, Hamburg). Plans for the upcoming months include collaboration between the Department and Riles’s Meridian 180 Europe project,[11] as well as a project addressing the divide between experts and other citizens regarding regulation and governance. These projects fit closely with what was originally proposed to the von Humboldt foundation and address the unique contribution of social anthropology to law and governance at an unprecedented moment in history, with worldwide mobility and intensification of contacts among groups and societies.

Dissertation Writing-up Fellowships and Visiting Fellows Programme

After some very successful and productive experiments with hosting visiting scholars for extended stays (up to one year), in 2017 the Department of Law & Anthropology formally instituted a Dissertation Writing-Up Fellowship programme. The idea came out of a meeting of the Consultative Committee, which identified the later stages of the dissertation writing-up period, often when funding has run out, as one of the most precarious and uncertain moments in a young scholar’s life, and suggested that such

[11] See https://meridian.northwestern.edu/

a fellowship programme would be an excellent way to support these early-career scholars and give back to the discipline. The programme has since become a true jewel in the Department's crown. Since the beginning of 2017, we have hosted eight Dissertation Writing-Up Fellows for periods ranging from four to eight months (see Part IV of this report for specifics). Illustrations of the success of this programme abound: our very first Writing-Up Fellow, Dr Ian Kalman (who was with us even before the fellowship had been instituted as such), is now a Founding Faculty Member of the Fulbright University Vietnam in Ho Chi Minh City; Dr Petra Burai received the Hungarian Academy of Sciences' *Pro Dissertatione Iuridica Excellentissima Award* for her doctoral dissertation, *Facing and Overcoming the Limitations of Anti-corruption Legislation*; Dr Elizabeth Steyn has been appointed the Cassels Brock Fellow in Mining and Finance Law at Western University in Ontario, Canada; Dr Catherine Larouche has recently accepted a tenure-track assistant professorship in Anthropology at Laval University, Canada, and Dr Salman Hussain was awarded the University of California–Berkeley S.S. Pirzada Dissertation Prize on Pakistan Studies for his dissertation, *Together without Consensus: Class, Emotions and the Politics of the Rule of Law in the Lawyers' Movement in Pakistan*.

Writing-up Fellows bring with them energy, enthusiasm, new ideas, and a breath of fresh air; they inspire our PhD candidates, being just one step ahead, and show them, Yes! It can be done! And they have all, without exception, benefited greatly from the experience and moved on very quickly to take up excellent positions that are sure to be stepping stones to successful and productive professional careers.

Dissertation Writing-up Fellow Chris Upton and visiting scholar Jean Leclair in June 2019.

In addition to the Writing-Up Fellowship programme, the Department continues to nurture the vibrant and dynamic Visiting Fellows Programme from which the Writing-up Fellowship Programme sprang. In the 2017–2019 reporting period, we hosted no fewer than 15 long-term guests, in most cases, for periods of more than two months (see Part IV).

All of these scholars – whether Writing-up Fellows or Visiting Fellows, actively engage in the intellectual life of the Department and the Institute, taking advantage of opportunities to share their ideas and to constructively engage with the work of the researchers at the Institute. All of them present their research in a departmental seminar or in some other forum, and many have used their time at the Institute to develop working papers for publication in the Institute’s Working Papers Series. In fact, 11 of the last 16 Working Papers were penned by people affiliated with our Department, many of them by Writing-up Fellows and Visiting Fellows, and there are several more in the pipeline.[12]

Not only do we *not* limit our invitations to guests and Writing-up Fellows to our regional and thematic interests, we actively seek out those who are working on different topics in different regions of the world, yet that still fall within the scope of our discipline. For example, just looking at our Writing-up Fellows for the 2017–2019 period, regions as diverse as Taiwan, India, Pakistan, and Libya are represented, to name but a few. Needless to say, these guest programmes allow us to broaden our horizons without losing sight of the Department’s more targeted focus. It is one way that we can reach out to the wider academic community, build valuable networks and connections, and share some of the benefits that we are so blessed with as members of the Max Planck family.

Support to early career training of members of the L&A Department

One very valuable and prescient suggestion made by the two previous Advisory Board reviews is to focus on the early career training of our own members with a view to helping them diversify their profiles. In a sense, this can be seen as the mirror image of the Consultative Committee’s suggestion regarding Writing-up Fellowships, but with a focus on our own researchers. The Department has taken this advice to heart and invested a great deal of energy and resources in a number of directions, including support of applications for third-party funding, actively seeking out opportunities for Department members to gain teaching experience and acquire

[12] M Canfield, From Colonialism to Collaboration: Disputing Biofuels in the Age of the Anthropocene (WP 201, 2020); A Salim and L Stenske, Negotiating Ḥalāl Consumption: The Interplay of Legitimacy, Trust, and Religious Authority (WP 200, 2020); H Elliesie, with M-C Foblets, M Sadyrbek, and Mahmoud Jaraba (WP 199, 2019); T Ledvinka (WP 197, 2019); C Larouche (WP 195, 2019); F-A van Lier (WP 192, 2018); F Raza (WP 191, 2018); M-C Foblets, L Leboeuf, and Z Yanasmayan (WP 190, 2018); L Vetters, with J Eggers and L Hahn (WP 188, 2017); D Müller (WP 187, 2017); S Schwab (WP 186, 2017).

other career-specific skills, and offering them the chance to spend a period of time as visiting researchers at other institutions.

The Department has sought to enable all of its members to gain teaching experience whenever this can help develop their professional skills. Whenever an invitation to offer a course or lecture comes to the Department, I look carefully at who might be in the best position to take this up. To date, I have received very positive replies from every institution that has asked us to provide teaching (the universities of Lucerne, Augsburg, Hamburg, Frankfurt, and the Free University Berlin, to name a few). The various teaching activities undertaken by members of the Department during the reporting period are detailed in the Addendum.

Another way the Department helps its members develop their profiles is to prepare them to apply for external funding. During the reporting period, we supported three such successful applications (these are briefly mentioned under the collective projects discussed in Part II below): Luc Leboeuf's application for a Horizon 2020 round, Maria Sapignoli for a Max Planck Research Group, and Farrah Raza in the Minerva Fast-Track Programme. The support offered by the Department includes a thorough review of the proposal, a careful language editing of the proposal (if necessary), and mock presentations and interviews to prepare the candidates.

In addition, where external training is offered in, for example, presentation, leadership, and teaching skills, we encourage Department members to participate and support them financially.

Lastly, where opportunities present themselves for researchers to spend a period of time at another research institution in Germany or abroad, the Institute allows them to do so and then return to complete their contract with us. This opportunity has proven extremely rewarding, offering young scholars a chance to discover other approaches and research methods without losing their appointment at the Institute.

In all of these ways, as well as in allowing individual researchers substantial autonomy, freedom, and flexibility in terms of their research topics and activities (see Part III of this report) and opening up opportunities for them to join collective projects under the aegis of the Department (see Part II of this report), the Department continues to contribute to the advancement of law & anthropology as a profoundly interdisciplinary endeavour by investing in and nurturing the professional development of the next generation of scholars.

II

Research Groups

Part II sheds light on the collective research projects in which the Department has been involved during the reporting period. For the sake of clarity, I distinguish three distinct types of projects, based on the nature of the Department's involvement. *First*, the projects that are the initiative of the Department and for which it bears final academic (and financial) responsibility: 1) *Sharia in European Settings: The Connection between Muslim Life Practices and Islamic Normativity*; 2) *Conflict Regulation in Germany's Plural Society*; and 3) *Cultural and Religious Diversity under State Law across the European Union*; *second*, the projects that involve external partners who are also contributing to the project. There are two projects of this kind that will be mentioned in this report: *Wissenschaftsinitiative Migration, Integration and Exclusion* (hereafter WiMi) and the previously mentioned collaboration with the European Judicial Training Network (hereafter EJTN); and *third*, the projects that are funded largely by research money from outside the Department: the Emmy Noether project *Bureaucratization of Islam* led by Dominik Müller, and the research group *Environmental Rights in Cultural Context*, led by Dirk Hanschel (Max Planck Fellow).

During the reporting period, the Department also actively supported three applications for major research grants, all of which were successful, which is of course very encouraging. Given that each of the three projects started only at the very end of 2019, they are mentioned here only briefly. A more detailed presentation of their activities and research programme will be provided in the 2020–2022 report. They are: *Vulnerabilities under the Global Protection Regime* (hereafter VULNER) with Luc Leboeuf as principal investigator (with a grant of € 3 million under the Horizon 2020 programme of the European Research Council); AI*ming Toward the Future: Policing, Governance, and Artificial Intelligence*, to be directed by Maria Sapignoli (Max Planck Independent Research Groups, call 2018); *The Ethics of Exchange: The Regulation of Organ Donation and Transplantation*, with Farrah Raza as Research Group Leader (Max Planck Minerva Fast Track Programme, call 2019). Most recently, a subproject funded by the German Research Foundation within the collaborative research cluster (*Sonderforschungsbereich*) 1171 *Affective Societies* has been launched. Jointly headed by Larissa Vetters and Olaf Zenker (Martin Luther University Halle-Wittenberg), the project "Sentiments of Bureaucracies: Affective Dynamics in the Digital Transformation of Germany's Immigration Management" (2019–2023) will explore whether and how bureaucratic sentiments (understood as evaluative emotional repertoires and regimes of meaning) change with the introduction of digital technologies into the administrative processes of deciding on asylum status and residence permits.

These collaborative initiatives and the various activities undertaken in conjunction with external partners considerably enhance the Department's scientific research programme – they allow for an expansion of the thematic range of the research being done and augment the interdisciplinary methodology that is at the heart of our work.

Collective projects set up and financed entirely by the Department

Sharia in European Settings:
The Connection between Muslim Life Practices and Islamic Normativity

One of the three projects for which the Department carries the full financial cost is the project *Sharia in European Settings: The Connection between Muslim Life Practices and Islamic Normativity*. It is directly related to one of the three overarching thematic priorities of the Department’s research programme mentioned above, namely, the **interconnectedness of religion and state law(s)**.

Ever since the launch of the Department’s activities, Department members have been working on this topic: Katayoun Alidadi, Hatem Elliesie, Imen Gallala-Arndt, Markus Klank, Dominik Müller, Martin Ramstedt (associate), and, more recently, Beate Anam and Abdelghafar Salim, Their research challenges reified notions of religion and belief, showing how multifarious conceptions of faith coexist more or less easily and that it is necessary to study in detail the way they constitute normative, binding frameworks for their members. Some frameworks are based on personal autonomy, choice, and reason, while others are grounded in a more collective approach to religion and belief. Towards the end of Part II, Dominik Müller presents the main findings of the work done by the Emmy Noether research group he leads on aspects of the bureaucratization of Islam. With the Emmy Noether research group and the project group *Sharia in European Settings*, the Department continues to give high priority to the interrelatedness of law and religion.

Sharia in European Settings comprises three closely connected individual projects: Hatem Elliesie’s *Habilitation* project and the PhD projects of Beate Anam and Abdelghafar Salim (detailed below). The overall project focuses on, among other topics, intra-Muslim debates on certain aspects of sharia in Europe, such as gender jihad, the issue of unregistered marriages, eco-Islam and its interdependencies with the *ḥalal* market in Islamic industry, and blockchain- and crowdfunding-based models of Islamic finance. Employing anthropological methods, they inquire into everyday life practices of Muslims with a view to understanding the extent to which these practices are defined and legitimized by religion and can technically be regarded as sharia-compliant.[1] A distinctive characteristic of the approach adopted by the three researchers is that it examines current developments among Muslims and in Muslim normativity *outside* of the prevailing debates on Islamism, fundamental-

[1] Sharia as a normative matrix has a functional character: it provides a framework for evaluating perceptible aspects of human conduct. The matrix defines a scale of qualifications of behaviour: obligatory (*wāǧib*), forbidden (*ḥarām*), not forbidden (*ḥalāl*), indifferent (*mubāḥ*), allowed (*ǧāʾiz*), recommended (*mandūb*, *mustaḥabb*), and reprehensible or disapproved (*makrūh*). Most of those religious aspects of an individual’s life in society are private and non-justiciable, and are therefore considered to be moral values in the aforementioned sense. It is those individual moral values derived from the ethical element of Islamic normativity that are the focal point of this research.

ism, and the war on terror. It is based on ethnographic fieldwork and challenges the thesis that Muslim life is linked mainly to migration to the "geo-cultural space" of Europe and which views Muslims as a homogeneous group. From this perspective, Islam atrophies into a placeholder for a wide range of phenomena, attitudes, and developments, while religious and religiously motivated conduct in daily life and knowledge production among Muslims are systematically neglected. By pursuing a bottom-up anthropological approach to Islamic legal scholarship, Hatem Elliesie, and with him Beate Anam and Abdelghafar Salim, seek to understand how individual actors comprehend their own Islamic self-perception.

What follows is a more detailed presentation of the work of Hatem Elliesie and of the two individual doctoral projects that are connected with the topic and for which he takes responsibility.

Habilitation *project of Hatem Elliesie*

Hatem Elliesie intends to obtain his *Habilitation* from Georg August University in Göttingen. His research project, "Everyday Life Pragmatics and Islamic Normativity of Muslims in Higher Education", focuses on Germany and deals with Islam and state-regulated religious education. The incorporation of Islamic religious instruction into the public school curriculum and the possibility to study Islamic theology as part of the training for a teaching qualification are rather new developments in Germany. Since quite a bit of (descriptive) research has been done on elementary schools, his focus is on the *Gymnasium* (the university preparatory secondary school in Germany). To date, only a few *Länder* (states) in Germany – Baden-Württemberg, Bavaria, North Rhine-Westphalia and, just recently, Rhineland-Palatinate – have added Islamic religious instruction to their curricula, and it has been implemented by a limited number of *Gymnasium*s. In preparation for his research, Elliesie conducted intensive data evaluation and expert interviews. The next step will be interviews at institutes for Islamic theology. The aim is to compare the knowledge transfer as conceived within the framework of the state-supported educational system with various other forms of inter- and intra-generational religious knowledge production. The methodology draws on primary-source data collected by means of a classic, bottom-up anthropological approach from teenagers and young adults. The empirical data will be critically assessed, with the aim of determining if, and if so to what extent, these data relate to discourses of classical normative thinking in Islamic scholarship.

Beate Anam

Within the frame of the overarching *Sharia in European Settings* project, Anam's research project, "Alltagspragmatische Lebenswelten und islamische Normativität im Kontext des gender *ǧihād*" (Daily Practical Life and Islamic Normativity with Regard to the "Gender Jihad"), addresses the negotiation processes of Muslim women

(specifically Sunni women) who seek to live according to their religious convictions, taking the conditions of daily practical life in Germany into account as they do so. Important criteria for the selection of research participants are that they identify themselves as Muslims and that they went through the German school system.

The research is guided by the following questions:

1) How do the respective women negotiate and balance their daily practical life and traditional understanding of religious norms against the background of the obligatory and optional categories of sharia (see note 1 above)?
2) What factors influence, drive, and shape their decisions for or against a certain conduct or norm?
3) To which extent does this target group consider their daily profane practice as ethical and legitimate in the terms of their own religion-based arguments?
4) To what extent does the contemporary discourse on gender jihad have an impact on the negotiation processes of the respective women?

The research is divided into two phases of intensive theoretical research (phases 1 and 3), two phases of extensive empirical research (phases 2 and 4), and one concluding phase (phase 5). In phases 1 and 3, the research topic is approached from the point of view of Islamic studies, taking into account the findings from other disciplines as well (including legal studies, socialization research, and anthropology). Phases 2 and 4 have a clear practical focus, as they involve fieldwork in two of the 16 German federal states (*Bundesländer*, sg. *Bundesland*), one of which is a Western *Bundesland* (phase 2) and the other an Eastern *Bundesland* (phase 4). Thus, Anam’s research is framed by a broad interdisciplinary approach that is further enriched by a comparative view “from within” concerning the daily practices of the respective women in two different parts of the country.

This approach has allowed Anam to gain in-depth insights into current discourses within the Muslim community, into classical and contemporary views of Muslim and non-Muslim scholars regarding the degree to which the practices of Muslims in a non-Muslim setting conform to religious norms, and into the findings of other scientific studies. Just as importantly, through her fieldwork she has been able to experience first-hand the practical life of many Muslim women as they negotiate the demands of everyday profane life with religious guidelines and norms.

Abdelghafar Salim

Abdelghafar Salim’s research project, “Lebensweltliche Alltagspragmatik von Muslimen und islamische Normativität im Kontext aktueller Migrantenmilieus” (Daily Practical Life and Islamic Normativity in the Context of Muslim Migrants’ Milieus), takes an anthropological approach to the ongoing dynamics between Islamic nor-

mativity (as reflected in Islamic legal theory) and the religious practices of Muslim refugees who have arrived in Germany since 2015.

At the centre of the conceptual outline lies the question of the extent to which their everyday practices are defined and legitimized by religion and regarded as sharia-compliant. In this context, Salim's research does not take religion as the exclusive frame of reference for the daily practice of Muslims; it is, rather, open to the possibility that other references could be of primary interest for Muslims. Geographically, his empirical study focuses on the former East Germany, where the implications of the divergent contexts of urban and rural areas are examined.

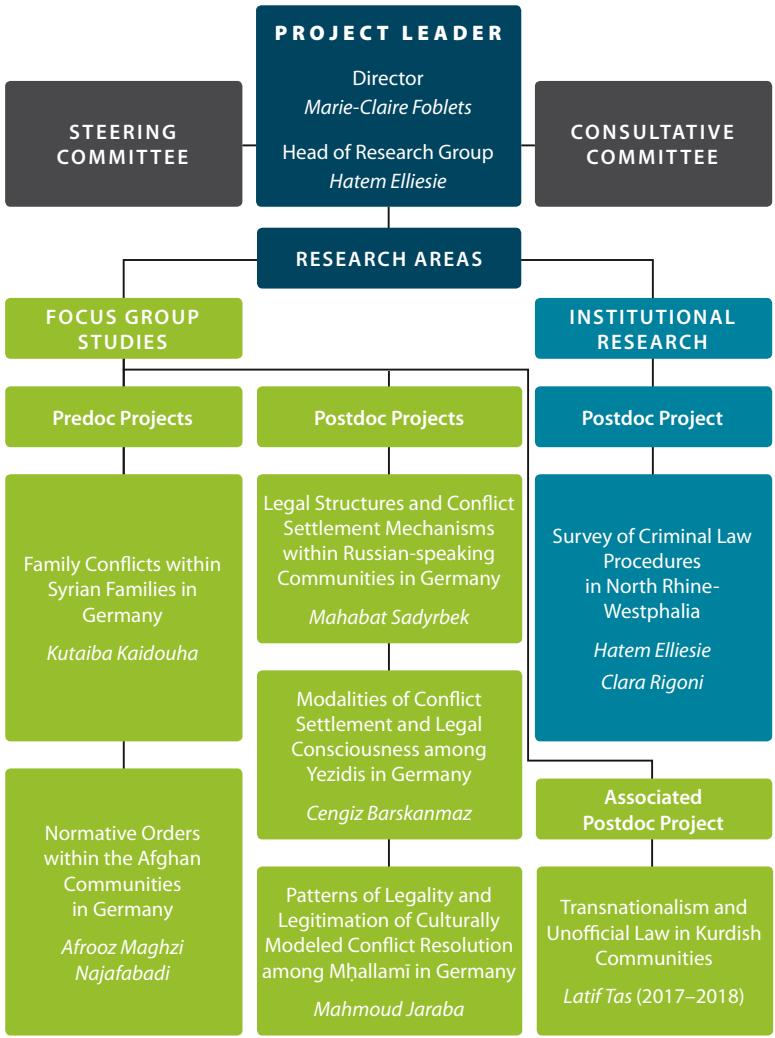
In particular, Salim will look at Muslim practices on two levels: a) an individual level through the lens of the concept of *ḥalal* reflected in Muslims' religious conduct; b) an institutional level through the *ḥalal* market sectors in urban and rural Muslim milieus. Using anthropological methods, his research aims to deliver novel insights to a largely unexplored area of Islamic studies. His research will also touch upon the socio-political discourses on Muslims in Germany that underlie and constitute categories and epistemological assumptions about Muslims and influence academic knowledge production. As such, Salim intends to critically engage with dominant categories and epistemologies.

The three projects share a common aim: to offer an in-depth, empirically based study of the development of Islamic law in the contemporary German context. The objective is to provide a fact-based analysis that stays away from the highly charged and emotional debates we have seen in recent years in many European countries about the growing influence of Islamic culture and sharia (the religious and legal system of norms in Islam). All three researchers are particularly interested in the question of how Muslims in Germany experience their situation, in which a variety of regulations, systems of order, and sources of law and legal frameworks coexist. These questions will be of increasing relevance in the years to come, and not only in Germany. Yet very little work has been done on how Muslims live and experience sharia in daily life.

With this project, the Department hopes to promote a clearly anthropological approach in Islamic studies while maintaining the discipline's academic tradition in Germany. Among several other initiatives, the Department's research group *Sharia in European Settings* joined forces with the Emmy Noether Group *The Bureaucratization of Islam and its Socio-Legal Dimensions in Southeast Asia* (see below), and in early 2019 organized reading group sessions on the works of the British anthropologist Talal Asad and debates dealing with theoretical and methodological views of an anthropology of Islam. The initiative brought together not only members of the two research groups, but also included visiting scholars, postdoctoral and doctoral researchers, and Dissertation Writing-up Fellows with similar research interests.

Conflict Regulation in Germany’s Plural Society

The second collective project to be mentioned in the category of projects that are supported entirely by the Department’s resources is the project on community justice in Germany. This project came to the Department by way of a request from Judge Klaus-Dieter Schromek of the *Oberlandesgericht* (Higher Regional Court) of Bremen (in autumn 2015) and subsequently (early 2016), through him, from the *Deutsche*



Organization Chart of the Research Project Conflict Regulation in Germany’s Plural Society

Richterakademie (German Academy of Judges). The project concerns the issue of what is referred to as "alternative" justice or, in German, *Paralleljustiz* ("parallel justice"). The phenomenon is not new, and anthropologists have long been interested in the various ways in which individuals or groups in society seek to resolve their conflicts. These methods are studied under the general rubric of "alternative dispute resolution" (ADR), whose mechanisms offer an alternative framework to the state's judicial apparatus. In Europe today, certain forms of alternative justice that do not fall under the control of the state's judicial authorities are perceived as a significant risk to the protections offered to every legal subject in domestic positive law. This is particularly true of mechanisms developed within communities of non-European origin that have arrived on the continent via successive migratory flows since the post-war period. In Germany a number of studies have addressed this perceived risk, but the knowledge of the field, and especially of the empirical reality, is lacking. The judiciary of the State of Bremen approached the Department asking for in-depth, independent academic research. After several exploratory talks with actors and stakeholders, the Department developed a research project (see Report 2014–2016, pp. 31–32 and 107–108) to start in 2017.

The objective of the research project is to document and analyse the largely unknown judicial or quasi-judicial daily practices of members of various minority groups living in Germany. Through intensive fieldwork, the researchers seek to improve the understanding of the negotiation and dispute-resolution processes used in the context of each group they study, and to explore why these groups do not take recourse to state justice and its institutions.

The scientific coordination of the project lies with the Department (Hatem Elliesie and myself), in close cooperation with the Max Planck Institute for Foreign and International Criminal Law (Ulrich Sieber, Hans-Joerg Albrecht, Silvia Tellenbach, and, more recently, Tatjana Hoernle). Thanks to Hatem Elliesie's unfailing support, the project has attracted the interest of judicial authorities in several other *Länder*, including North Rhine-Westphalia and Berlin-Brandenburg.

The project consists of two major research areas: fieldwork among communities and study of the way the judicial authorities in Germany deal with concrete cases. The group studying the communities consists of three postdoctoral researchers who started in 2017 (Mahabat Sadyrbek, Cengiz Barskanmaz, and Mahmoud Jaraba) and two doctoral students (Afrooz Maghzi and Kutaiba Kaidouha). Each spent one year in the field, doing ethnographic research in carefully selected migrant communities. One postdoctoral researcher (Clara Rigoni) has access to the archives of the judicial authorities of the *Länder*, where she is thus able to study how the judiciary in Germany responds, in specific cases, to the phenomenon of community justice (all of the individual projects are detailed below). This is unprecedented, in-depth qualitative research, the findings of which are expected to be available late fall 2020.

The project’s trajectory comprises nine successive phases:

Phase 1: development and coordination of the research design (2016);
Phase 2: theoretical and methodological research framework (until June 2017);
Phase 3: exploratory preparation of the field research (June–Sept 2017);
Phase 4: conceptual coordination with cooperation partners (Nov 2017–March 2018);
Phase 5: final preparation for second fieldwork period;
Phase 6: second fieldwork period (Aug–Oct 2018)
Phase 7: assessment of Phase 6;
Phase 8: major fieldwork period (March–Dec 2019);
Phase 9: analysis of fieldwork data; transversal comparative analysis (Jan–Sept 2020)

The guiding question of this research project is to find out, to the extent possible, how the communities under scrutiny settle their disputes, whether they have set up their own bodies to negotiate, mediate, or even adjudicate cases of conflict among members of the community, and if so, how these bodies proceed in concrete cases. In so doing, the research project seeks to engage in, inform, and enrich the ongoing public debate on *Paralleljustiz* in Germany. By bringing the data of the five ethnographies into one comparative analysis, we hope to be able to offer new insights into the reasons why some minority communities in particular do not take recourse to state justice and how exactly they provide their own dispute resolution mechanisms. A critique often levelled at these mechanisms is that they clash with the principles of fair trial and the rule of law. Our research takes a neutral position in this regard, since the first aim is to accurately document the reality on the ground and understand the underlying motivations.

The research group developed its own analytical framework (Project Phase 2).[2] In the process, it called into question the use of the term “parallel justice” (*Paralleljustiz*) in Germany. The term “parallel justice” was first introduced by journalists and was subsequently adopted into the language used by legal practitioners in reference to religious communities (*religiöse Paralleljustiz*). However, the term is problematic in the sense that it expresses the underlying presumption that these communities are *per se* conflict ridden. Even the term *Justiz* (“justice”), as used in the ongoing debates about these issues in Germany, is misleading. It implies that the communities under scrutiny have established quasi-judicial structures similar to and potentially in competition with the state’s judiciary. In their writings, the

[2] See H Elliesie, co-authored with M-C Foblets, M Sadyrbek, and M Jaraba, *Konfliktregulierung in Deutschlands pluraler Gesellschaft: “Paralleljustiz”?* MPI Halle Working Paper no. 199 (MPI for Social Anthropology 2019); H Elliesie, *Parallele Rechtsstrukturen: gerichtliche und außergerichtliche Konfliktregulierung in einer sich wandelnden Gesellschaft* (2018) 11 *Rotary Magazin* 52–55.

researchers at the Department who are involved in this project thus avoid using the value-laden term *Paralleljustiz* (and its English translation) except when referring explicitly to the concept as it features in the debates in Germany.

Instead, the project draws on the more comprehensive concept of "law in society", which takes into consideration both the social anthropological approach to normativities, broadly defined, and the rule- and precedent-based approach commonly adopted in jurisprudence and legal studies. It takes its inspiration from the concept of "semi-autonomous social fields" as developed by the American anthropologist Sally Falk Moore,[3] which refers to the existence of fairly autonomous, self-regulating, self-enforcing, and self-propelling social fields operating within the larger legal, political, economic, and social environment of a society. The researchers use the concept to examine how social fields, in the specific context of German society today, interact with one another (Project Phases 6 and 8). A careful comparative examination of the empirical data (Project Phase 9) collected through fieldwork in five different communities (see below) will serve as the basis for new perspectives in the vigorous public debate on *Paralleljustiz.* In order to avoid the risk of confusion with this contested concept, the project uses the term *Konfliktregulierung* ("conflict regulation"), which reflects a more nuanced way of understanding the existence and functioning of various forms of social ordering in the context of the current legal framework of the Federal Republic of Germany.

To date, several institutional partners have been involved in the project: the Max Planck Institute for the Study of Crime, Security and Law (formerly Max Planck Institute for Foreign and International Criminal Law), the universities of Halle-Wittenberg, Erlangen-Nürnberg, and Münster, the justice ministries in Berlin, Bremen, and North Rhine-Westphalia, as well as the German Judicial Academy in Trier and Wustrau. During the reporting period, Hatem Elliesie and myself collaborated closely with the Max Planck Institute for Foreign and International Criminal Law, especially in Project Phases 4 and 7, by jointly organizing the project's opening workshop on 29–30 November 2017 in Freiburg, Germany, and the project's mid-term conference on 25–26 October 2018 at the Harnack Haus of the Max Planck Society in Berlin. In addition, our conceptual framework and the first findings were discussed in a workshop I jointly carried out with the Erlangen Center for Law and Islam in Europe at the Friedrich Alexander University Erlangen-Nürnberg (EZIRE) on 26 February 2018, before the exploratory fieldwork began in August 2018 (Project Phase 6) and on 21 November 2017 at the Center for Interdisciplinary Regional Studies of Martin Luther University Halle-Wittenberg. During the winter semester 2017/2018, Hatem Elliesie, together with Henning Rosenau, Professor of Criminal Law at the University of Halle-Wittenberg, designed and taught an interdisciplinary course titled *Religiöse Paralleljustiz* ("Religious Parallel Justice").

[3] SF Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study" (1973) 7 (4) *Law & Society Review* 719–746.

Members and guests of the project group Conflict Regulation in Germany’s Plural Society during a workshop at the Senate Administration of Justice of the State of Berlin in July 2018. From left to right: Mahmoud Jaraba, Cengiz Barskanmaz, Judge Peter Scholz (President of the Amtsgericht Charlottenburg), Mahabat Sadyrbek, Marie-Claire Foblets, Hatem Elliesie, and Judge Saltanat Khorrami (Justice Ministry, North Rhine-Westphalia).

In addition, throughout the term of the project, the research group has been offering a full-day session in the annual one-week training courses *Recht ohne Gesetz, Justiz ohne Richter – die Welt der Schattenjustiz* (Right without Law, Justice without Judges: The World of Shadow Justice) offered by the German Judicial Academy in Wustrau and Trier. We were invited to take part with a view to raising science-based awareness and exchanging observations with judges, prosecutors, and other legal practitioners who have been increasingly dealing with the phenomenon. This commitment has already had an impact on policies of the ministries of justice in the *Länder* of North Rhine-Westphalia, Berlin, and Bremen. The Senator of Justice of Bremen introduced the project outline to the senators and ministers of all the other *Länder* at the Justice Ministers’ Conference in Eisenach on 7 June 2018, while high-ranking representatives of the Ministry of Justice of North Rhine-Westphalia have clearly adopted the outline and terminology of the project in their public talks and press conferences. This encouraging development is undoubtedly to be seen in connection with the workshops Hatem Elliesie organized over the past few months in collaboration with the judicial administrations of the *Länder* of North Rhine-Westphalia on 9 February 2019 and of Berlin on 10 July 2018.

***Conflict Regulation in Germany’s Plural Society*: individual postdoctoral projects**

Cengiz Barskanmaz

Cengiz Barskanmaz joined the Law & Anthropology Department in May 2017 as a postdoctoral research fellow in the research project *Conflict Regulation in Germany’s Plural Society*. Barskanmaz’s individual project, “Modalities of Conflict Regulation and Legal Consciousness in the Yezidi Communities in Germany”, focuses on the Yezidi, an endogamous, mostly Kurmānǧī-speaking minority group that lived primarily in communities located in present-day Iraq, Turkey, and Syria, and also

had significant numbers in Armenia and Georgia. However, events since the end of the twentieth century have resulted in considerable demographic shifts in these areas as well as mass emigration. A significant number of Yezidis, predominantly from Turkey and, more recently, Iraq, emigrated to Germany and now live in the western states of North Rhine-Westphalia and Lower Saxony. Most are located in Hannover, Bielefeld, Celle, Bremen, Bad Oeynhausen, Pforzheim, and Oldenburg. The majority of Yezidis remaining in the Middle East today live in Iraq, primarily in the Nīnawā and Dahūk governorates.

In his postdoctoral project, Barskanmaz takes recourse to the extended case method to develop in-depth studies of carefully preselected cases of conflict within the Yezidi community, exploring in particular the normative framing in which these cases are negotiated. The methodology combines participant observation with in-depth, semi-structured interviews in an attempt to gain insights into the underlying cultural codes of actors and respondents. He uses the theoretical and conceptual frameworks of "legal consciousness" and "legal knowledge", both of which refer to the sense of justice, legal and normative values, religious and ethical principles, and models of interpreting the laws that underlie social cohesion and processes of group building in the diaspora. With the genocidal attacks by the Islamic State on Yezidis in Northern Iraq in 2014 and the traumas stemming from that experience still very present in the minds of Yezidis, Barskanmaz is careful to deal in a sensitive manner with this aspect of the life of the community.

The guiding questions of his research include: Are there specific conflict regulation modalities within the Yezidi communities, and, if so, how are they structured? Are these conflict regulation processes informal or formalized, and if the latter, then how and to what extent? What are the guiding principles of these processes, and who are the actors involved? What roles do family context and religious belief play in the process of regulating interpersonal conflicts and in the Yezidis' interaction with the German society, state institutions, and the official legal system?

Barskanmaz has conducted field research in 11 German cities: Celle, Oldenburg, Bielefeld, Hannover, Hamburg, Bremen, Berlin, Cologne, Stadthagen, Lehrte, and Villingen-Schwenningen. He also spent two weeks in the Autonomous Region of Kurdistan in northern Iraq, which enabled him to get a better understanding of the transnational character of Yezidi disputes and their resolution mechanisms.

Time and circumstances permitting, Barskanmaz intends to expand his findings in the upcoming years, further exploring fundamental questions of the (in)compatibility of dispute regulation mechanisms of ethno-religious communities with (European) state law, and the extent to which there are discrepancies between the normative and the descriptive understandings of the concepts of rule of law and the state's monopoly on violence. Freedom of association, freedom of religion and belief, and the principle of separation of church and state will also play an important role in this undertaking, as Barskanmaz addresses the constitutional framing of alterna-

tive dispute resolution practices in ethno-religious minority communities in Germany as a form of exercising fundamental rights.

In addition to his work with the *Conflict Regulation* project, in the 2017–2019 reporting period Barskanmaz also managed to finalize work on his monograph, *Recht und Rassismus: das menschenrechtliche Verbot der Diskriminierung aufgrund der Rasse* (Law and Racism: Human Rights as Protection against Racial Discrimination), which was published by Springer in 2019.

Mahmoud Jaraba

Mahmoud Jaraba’s individual research project, “The Internal Dynamics of Family Relationships on Extrajudicial Conflict Regulation among the Kūsāwīya (Mḥallamīya) in Germany”, is an extension of his earlier survey on *Paralleljustiz* (“parallel justice”), conducted by the Erlangen Centre for Islam and Law in Europe (EZIRE) at the Friedrich Alexander University Erlangen-Nürnberg.

Kūsāwīya are considered to be a predominantly Arab-speaking minority group with a multi-ethnic identity who lived primarily in communities that were located in present-day Turkey. After their immigration from southeast Turkey to Lebanon from the 1920s to the 1960s, they were for the most part not officially recognized and were severely marginalized by both the Lebanese authorities and Lebanese society in general. When the Lebanese civil war broke out in 1975, many Kūsāwīya immigrated to Western Europe. In Germany, they settled mainly in four regions: Berlin, Bremen, North Rhine-Westphalia, and Lower Saxony. Since Lebanon refused to recognize them as citizens, they were usually granted temporary suspension of deportation status in Germany (*Duldung*) or some other form of temporary residence permit. That made it difficult for many of them to access the German labour market. In addition, the right to education and professional qualification was subject to a number of conditions. Accordingly, members of subsequent generations, born and raised in Germany, generally did not meet the minimum requirements to access the employment market. Thus, living on the dole became a way of life for many, while some formed “organized criminal groups”. The Kūsāwīya have, therefore, been subjected to a high level of government and media scrutiny, as they are often accused of establishing organized criminal groups, practising different forms of “self-justice”, and building a “parallel legal system” (*Paralleljustiz*) within their extended family structure.

Jaraba adopts a holistic approach based on "thick" ethnographic description to study this phenomenon, addressing the following questions: How and under what conditions have customary dispute settlement mechanisms been reinstated, revitalized, or reconstructed among the Kūsāwīya in Germany? Why and how do the Kūsāwīya tend to resolve or manage their conflicts internally, outside of state control or supervision? How do the roles of family elders go beyond disputes to produce new social and normative orders that aim to uphold the family tradition and socio-economic "relationships"? Jaraba's analysis reveals that law and conflict regulation are interlinked in people's minds, memories, and practices. In addition, he addresses the multi-layered structure of socio-culturally bound patterns of customary conflict settlement mechanisms and internal family processes of social ordering and control, aiming to explore the rationale and motivation lying behind conflict regulation mechanisms among the Kūsāwīya in Germany.

Jaraba spent 12 months in the field in the states of North Rhine-Westphalia and Berlin. He engaged in participant observation to gather a variety of ethnographic data and discover patterns of behaviour within the wider social order of power relations through which people aim to construct coherent rules and norms in a minority that is still very much influenced by its history and socio-cultural context. As participant observation alone is not enough to fully understand the internal dynamics of the Kūsāwīya and the logic underpinning their handling of internal conflicts, Jaraba also conducted interviews with family elders and experts from civil society, engaged in informal conversations, and analysed court documents. This combination of methods allowed him to collect rich ethnographic data on the local normative order of the Kūsāwīya, which is entangled in their history, clusters of values, guiding principles, symbols, rites, traditional folk wisdom, legends, and, finally, ways of thinking. Knowledge of these diverse patterns of legitimation has enabled Jaraba to draw conclusions regarding the potential for conflict between the Kūsāwīya's various conflict regulation mechanisms and official state law.

The research findings will constitute a major component of Jaraba's planned follow-up *Habilitation* project. He also contributes to the public debate in Germany on the so-called *Paralleljustiz*, which ignores the significant diversity that exists within the immigrant communities in terms of actors, practices, knowledge, opinions, power, and status. Furthermore, Jaraba intends to expand his work to examine the possibilities of cooperation between state institutions and some leaders of the Kūsāwīya who might be willing to work as *kulturellen Brückenbauer* (literally, "cultural bridge builders") under the supervision of German authorities.

Finally, in addition to his intensive work within the realm of the *Conflict Regulation* group project, Jaraba is planning to continue his empirically based research on the practice of *khulʿ* (a woman-initiated divorce among Muslims) in Germany.

Mahabat Sadyrbek

Mahabat Sadyrbek’s project, “Legal Structures and Conflict Settlement Mechanisms within Russian-speaking Communities in Germany”, focuses predominantly on the Chechen community in Germany. Chechens are an ethnic group of the Nakh peoples originating in the North Caucasus region of Eastern Europe, located between the Black and Caspian seas. They refer to themselves as Nokhchiy. Many Chechens left the Caucasus due to the first and second Chechen wars, especially as part of the wave of emigration to the West after 2000, and settled in the European Union, mainly in Germany, Austria, Poland, France, and Belgium.

Public demonstrations are a means of raising awareness for the cause of Chechen independence in Europe, but such campaigns (here a march for peace from Brussels to Geneva in June 2020) also constitute an important element of a shared identity of living in exile in Europe. (Photo: M. Sadyrbek, 2020)

In her study, Sadyrbek explores the living conditions and adaptation strategies of the Chechens based around Berlin and Brandenburg. In Chechnya there is a rather unique combination of Russian state law, sharia, and customary law (*adat*). Being settled in Germany, Chechens have to deal with another source of law, German law, which is complex and foreign to them. As a minority group, Chechens are trying to build a community of their own in which they can maintain their language, culture, and traditions. Religious authorities and traditional leaders, recognized as heads of the community, often autonomously engage in activities that directly or indirectly address crime, prevent social disorder, and promote public safety. Furthermore, in serving important social roles, most notably as interlocutors between families and communities, they try to maintain the established Chechen legal culture and communal conflict regulation processes.

Sadyrbek pays special attention to these processes and the conflicts that give rise to them, which constitute an interesting constellation of various formal, informal, and traditional approaches, as well as different sources of law being deployed side by side. The Council of Chechen Elders, which many people know as a traditional institution from the homeland, particularly attracted her attention during her fieldwork phase in 2019. Its members take on different roles – as mediators, negotiators,

and peacemakers. It seems that this specific institution aims to maintain both unity among Chechens and the patriarchal social order, which is mostly based on men's rather rigid interpretations of religious and customary norms. Furthermore, actors are apparently motivated by their individual agendas, interests, and beliefs, as well as their "own" interpretations of law and perceptions of justice. In the course of her fieldwork, Sadyrbek was also able to observe the changing power and increasing social status of women. It became clear that many women use and support state law as a legal tool that formally acknowledges gender equality, in contrast to customary law (*adat*) and sharia.

A. Dokudajew, a member of the Council of Elders of Chechens in Europe, performs his duty as spokesperson and mediator in the Chechen community during an interview with the researcher. (Photo: M. Sadyrbek, 2020)

Women sewing in a women's self-help group. This is also a space in which conflicts and legal mechanisms are informally discussed. (Photo: M. Sadyrbek, 2020)

Within the reporting period, Sadyrbek also published her second monograph, *Legal Pluralism in Central Asia: Local Jurisdiction and Customary Practices* (Routledge 2018), which examines customary legal practices in Kyrgyzstan and relates them to wider developments in Central Asia and beyond. Sadyrbek applies the theoretical and methodological framework of her monograph to her individual project within the *Conflict Regulation* project group. In fact, she has been actively involved in the development of the conceptual design of the overall group project, as is evidenced by the 2019 Max Planck Working Paper she published jointly with Hatem Elliese, Marie-Claire Foblets, and Mahmoud Jaraba, *Konflikregulierung in Deutschlands pluraler Gesellschaft: "Paralleljustiz"? – Konzeptionellller Rahmen eines Forschungsprojekts* (Conflict Regulation in Germany's Plural Society: "Parallel Justice"? Conceptual Framework of a Research Project).

Clara Rigoni

Clara Rigoni was with the Law & Anthropology Department from February to December 2019 as a postdoctoral research fellow in the research project *Conflict Regulation in Germany's Plural Society*. Prior to coming to the Department, she had been a PhD candidate at the Max Planck Institute of Foreign and International Crimi-

nal Law in Freiburg under the auspices of the International Max Planck Research School on Retaliation, Mediation and Punishment (see IMPRS REMEP report).[4]

Within the research project, Rigoni is – together with Hatem Elliesie – responsible for the institutional research area (see organization chart). Both were conducting research within the formal state justice system (including law enforcement agencies) in North Rhine-Westphalia on informal dispute resolution mechanisms and out-of-court conflict settlements – the so-called *Paralleljustiz* (“parallel justice”) discussed above. Their research set out to answer the question: How do actors within the formal justice system deal with the phenomenon of informal dispute resolution and what they refer to as *Paralleljustiz*? To do so, qualitative methods were used to collect and analyse data. In particular, the research relied on surveys, analyses of prosecutors’ dossiers, expert interviews, focus-group interviews with judges, prosecutors, and law enforcement agencies, and roundtable discussions among experts. The data gathered have been analysed according to the Qualitative Content Analysis method and with the help of the software MAXQDA. The preliminary results (which are currently being evaluated) aim, on the one hand, to get an overview of the different forms of informal dispute resolution mechanisms that judicial actors encounter in their daily practice and, on the other hand, to propose effective and culturally sensitive policy measures that could potentially reduce the risks both for the administration of justice and for potential victims who might feel that their rights are compromised by these informal dispute resolution mechanisms.

Conflict Regulation in Germany’s Plural Society: individual PhD projects

Kutaiba Kaidouha

Within the *Conflict Regulation* project group, Kutaiba Kaidouha’s PhD project explores the extrajudicial dispute resolution mechanisms used to deal with conflicts arising within and among Syrian families in Germany who fled their country over the course of the Syrian civil war. The recent arrival of a large number of Syrian families in Germany has resulted in social, cultural, legal, and economic challenges both for the Syrian families and for the German society. Syrian families, in general, have very strong familial ties that are structured around rather patriarchal power dynamics, which are challenged when families arrive in Germany. Regarding socio-economic challenges, for example, in Syria female employment is minimal and mostly limited to certain urban areas. Consequently, Syrian women tend to be financially dependent on their husbands and therefore are more likely to suffer from economic insecurity if they find themselves in divorce proceedings or other circumstances that threaten to break up their immediate family structures. The

[4] As noted above, The Max Planck Institute for Foreign and International Criminal Law in Freiburg is now the Max Planck Institute for the Study of Crime, Security and Law.

financial insecurity is somewhat alleviated in Germany due to the existence of social welfare programmes, but divorce can still leave Syrian women in a very precarious situation, as they may find themselves both unprepared to enter the workforce in Germany and without a social support network. Thus, the project investigates the legal, economic, social, and educational changes and challenges that Syrian families in Germany are facing today.

The primary empirical data include ethnographic descriptions of various informal or traditional conflict resolution processes. Syrian community structures and their normative bases – religious ideas and values, family leaders, family ties, social values, and customs – play an important role in conflict regulation processes. Kaidouha has lived for several months with Syrian immigrants to engage in participatory observation and conduct interviews (semi-structured, narrative, open and deep) with actors involved in family conflicts and their regulatory processes. This research promises to generate ample information about the nature of this specific community and the challenges and conflicts faced by its members in their new (German) environment.

Afrooz Maghzi

Afrooz Maghzi joined the Law & Anthropology Department in January 2019 as a PhD candidate in the research group *Conflict Regulation in Germany's Plural Society* and as a member of the International Max Planck Research School "Retaliation, Mediation and Punishment" (see IMPRS REMEP report). Prior to coming to the Department, she had conducted the initial phase of her research at the Max Planck Institute of Foreign and International Criminal Law in Freiburg under the auspices of the International Max Planck Research School for Comparative Criminal Law **(**July 2017–January 2019).[5]

In her PhD project, Maghzi analyses out-of-court dispute resolution processes in minority communities and considers how the state can adequately address and perhaps regulate their application. The first step in her research was to develop an analytical typology of out-of-court dispute settlements in minority communities, and the legislative approach to them in the UK and Germany. These countries have been chosen because both have histories of contentious and intense academic and public debate on the application of out-of-court dispute settlement in minority communities.

Maghzi then applies this analytical model to an empirical investigation of modes and mechanisms of dispute resolution among the Afghan diaspora in Germany. In this part of her research, priority is given to empirical data collection through qualitative (semi-structured, narrative, open) interviews with experts from academia, mediators, and other participants in dispute settlements in the Afghan community, as well as participant observation of conflict resolution procedures, including informal follow-up discussions with relevant actors. Maghzi's choice of the Afghan community,

[5] See note 4.

which comprises a number of different ethnic groups, is based on the fact that in recent years it has been one of the fastest growing migrant communities in Germany. Moreover, there is evidence of distinctive religious and customary normative orders within the community that could come into conflict with German law.

While the use of informal justice mechanisms to settle disputes has been a central topic of interest in socio-legal studies and anthropology for a long time, the focus, especially in German academia, has predominantly been on non-Western, small-scale societies. Despite the increasing concern with out-of-court settlements of conflicts in minority communities in Germany, thus far little research has been conducted on this phenomenon, especially when compared to other Western countries with a long history of migration, such as Canada and the UK.

Cultural and Religious Diversity under State Law across the European Union

The third major project to be mentioned in this part of the report is Cultural and Religious Diversity under State Law across the European Union (hereafter CUREDI). This is an ambitious and unprecedented database project. I initially launched the idea of such a project in the negotiations with the Max Planck Society prior to the establishment of the Department, and it took more than three years to set the project in motion. CUREDI is intended as a repository of data – legal materials in combination with anthropological expertise and literature – that have to do with cultural and religious diversity and that show whether and how diversity is recognized within the domestic legal orders of EU Member States. CUREDI works with a network of scientific research teams with demonstrated interest and expertise in the topics covered in the project. Once the repository is sufficiently developed, the database will be made publicly accessible (in English) online.

The CUREDI project is unparalleled in Europe in its effort to identify, document, and offer in-depth analyses of legal reasoning on the manifold issues related to the growing social diversity throughout the EU. The legal cases and other materials entered into the database are a valuable resource for studies that seek to show if and how domestic legal orders are gradually adapting to the reality of increasing cultural and religious diversity and to the demands for recognition that come with it. The repository focuses on the arguments used in court rulings, bills, laws, administrative decisions, etc., to justify granting or rejecting a claim for recognition of a tradition, a concept, a practice, a belief, etc. Of particular relevance to the aims of the repository are the references, if any, made in a decision to the empirical evidence and/or available anthropological literature or expert testimony to arrive at a conclusion.

As I indicated in our previous Report (2014–2016), prior research conducted by the Department, including a 2014 survey conducted among judges throughout Europe,[6]

[6] See L. Vetters & M.-C. Foblets, "Culture all Around? Contextualizing Anthropological Expertise in European Courtrooms" (2016) 12 (3) *International Journal of Law in Context* 272–292.

as well as collaborative initiatives with the European Network of Councils for the Judiciary (ENCJ) and the European Judicial Training Network (EJTN), have highlighted the need for a comprehensive platform that offers as much reliable information as possible, obtained via rigorous and ongoing data collection across the European Union, on how increasing cultural and religious diversity is addressed under state law. Today, European societies are host to increasing numbers of distinct socio-cultural communities. As a result, national, regional, and local decision makers, including the judiciary, regularly face the question of how to address institutions, traditions, concepts, practices, beliefs, and sensibilities that are not (yet) familiar to them. The challenge consists in finding the right balance between the different interests at play: on the one hand, the need to respect binding state law and, on the other hand, the accommodation of claims made by members of minorities to have their cultural and legal sensibilities reflected in state law. This search for the right balance is more than an intellectual or academic challenge. Ever more frequently, it is also of great practical significance for a wide range of social actors and stakeholders, both within and beyond legal proceedings.

In recent years, there has indeed been exponential growth across Europe in the number of claims brought before the courts at the initiative of individuals from cultural or religious minorities seeking recognition of their identity in several areas of life. The most sensitive of these usually relate to expressions of minority identity in the public domain. Cases involving religious symbols, religious education in public schools, the organization of public cemeteries and burials, religious dietary requirements in prisons and schools, ritual slaughter, etc., regularly come to the fore and give rise to heated debates that are often fuelled by existing tensions between different ideological and political positions. To date, we have collected more than 300 decisions from ten EU Member States.[7] In the long run, the repository will expand with a view to covering the entirety of the EU.

The CUREDI project aims to offer a research tool that functions in three distinct but complementary ways. First, it is set up to allow for comparative analyses; second, it strives to document each case in a way that, to the extent possible, sheds light on the broader context (law in context); and third, it facilitates interdisciplinary collaboration.

1) Comparative analysis: in addressing issues of religious and cultural diversity, the jurisdictions covered by the CUREDI database share a set of standards for the appraisal of individual situations, such as respect for the rule of law, the principle of the separation of powers, and respect for individual human rights. At the same time, state responses vary greatly when treating cultural and religious diversity, as do legal and academic approaches. Differences among the jurisdictions in their understanding of and approaches to cultural and religious claims, their reasons and ramifications, deserve to be carefully assessed and, as far as possible, explained. By

[7] United Kingdom, Italy, Spain, Denmark, Netherlands, Germany, Belgium, Ireland, Austria, and Sweden.

The CUREDI network – consisting of members of the Department, national cooperation partners, and experts – met regularly in Halle during the reporting period to discuss the development of the web-based platform and underlying methodological issues, as well as to review case entries.

comparing EU Member States' responses to issues involving cultural and religious diversity, one can learn about and sometimes also better understand one's own domestic legal system.

Comparison can reveal the extent to which current legal frameworks and dispositions maintain or (re)produce inequalities as an effect of, for example, a historically rooted way of thinking about cultural and religious minorities that tends to problematize diversity and that persists in the way a legal provision is phrased. To a greater or lesser degree, the legal evaluation of the specific differences and cultural or religious features that raise questions of legal recognition is unavoidably also linked to a judge's or legal practitioner's personal convictions. In reproducing *verbatim* the wording used in a ruling, CUREDI makes more transparent this dimension of the decision-making process. In the long run, this is meant to allow for comparisons among jurisdictions and countries and to help identify those decisions where the rights and interests have been balanced in an accessible and clearly elaborated way, grounded in fine and sophisticated arguments that take account of the specific context of the case, and which therefore deserve to be highlighted. Making such reasoning more visible may allow for cautious borrowings from one jurisdiction to another or from one legal domain to another.

2) Law in context: Analyses of legal reasoning in cases involving culture and/or religion often bring to light highly contested issues of ethics, morals, and values that inevitably influence courts' decisions, whether implicitly or explicitly. Some laws are formulated in an open-ended way or drafted at a high level of generality; it is then up to the court or administrative body in charge of handling a given case to proceed to an interpretation. The evidence gathered by CUREDI suggests that very similar legal provisions can often lead to strikingly divergent approaches taken by different courts, as was the case, for example, with the rulings on the full-face veil handed down by the Spanish and the French Supreme Courts. Likewise, when courts engage in balancing culture or religion with other interests, their decisions are often met with sharp criticism from those who disagree and sometimes even go so far as to call into question the legitimacy of the judicial decision-making process: the court may be criticized for having engaged in a "political" balancing of rights and interests.

The systematic documentation of a large number of such cases, as is the aim of the CUREDI project, is indispensable if one is to assess the impact of the broader context and, to the extent possible, to identify the unstated assumptions underlying a legal reasoning. To understand why religious and/or cultural factors are taken into account in some cases more than in others, one needs to look at the broader context: Who brought the case to the court? Was strategic litigation at play and, if so, what is the agenda behind the strategy? Did the court call upon an expert witness and, if so, to what extent was the court influenced by the expert opinion? How knowledgeable were the parties about the spectrum of arguments available to support their claim? What was the role of precedent? In documenting cases of religious symbols, cultural

defence, unregistered marriage, co-spouses (polygamy), etc., CUREDI strives to the largest extent possible to reconstruct the particularities of the broader context that can help explain the legal reasoning in an actual case.

3) Interdisciplinary collaboration: A third distinctive feature of the CUREDI project is that it seeks interdisciplinary collaboration in a number of ways. First, it provides cross-referencing whenever that may prove useful and possible. CUREDI adds hyperlinks to individual cases, legislation, and material already available online.[8] The second form of collaboration is more ambitious: CUREDI strives to incorporate input from different disciplines, in particular from social and cultural anthropology, by citing expertise and/or including references to available literature, on the topics addressed. CUREDI focuses on how the meaning of the terms “culture” and “religion” are redefined, on a case-by-case basis, in and through their relationship to law. This relationship is at times subject to fairly radical reappraisal in the context of highly sensitive and much debated societal and institutional conflicts of interest. CUREDI explores the way different jurisdictions face similar or comparable conflicts, but refrains from prioritizing any specific conception of culture or religion over another.[9] The analyses will draw on existing literature in anthropology, religious studies, area studies, etc., whenever clarification is necessary that can offer more in-depth knowledge on specific topics.

In the long run, I see three ways for the CUREDI database project to impact, directly or indirectly, the legal approach to diversity across Europe. *First,* CUREDI provides a hitherto unparalleled analysis of the increasing demands that cultural and religious diversity makes on governments, legislators, and the judiciary in contemporary European societies and the various ways these demands are handled: scholars, judges, legal practitioners, policymakers, and lay citizens regularly face the challenge of how to accommodate increasingly diverse cultures in Europe today, and what the appropriate tools are for doing so. CUREDI offers descriptive and comparative analyses of the extent to which culture and religion impacts legislation, public policies, and the decisions of national courts in areas such as family law, property law, employment law, administrative law, public law, and immigration law. As an online platform, it contributes to research and comparative studies, and fosters better understanding of different “models” for resolving conflicts between law and culture and for managing or governing diversity.

[8] Including the Global Citizenship Observatory (previously EUDO Citizenship) https://globalcit.eu; EUREL (Sociological and legal data on religions in Europe and beyond), http://www.eurel.info/?lang=en; Strasbourg Consortium for the Freedom of Conscience and Religion at the European Court of Human Rights (https://www.strasbourgconsortium.org/); and EURO-EXPERT (database on cultural expertise) https://culturalexpertise.net/cultexp/.

[9] Broadly speaking, and in line with the approach adopted by UNESCO, one can define “culture” in general as a way of life that includes the values, premises, practices, frames of meaning, and moral orders in which members of any given community organize their interactions. Rather than adhere to a specific predetermined conceptual analysis of culture and religion, CUREDI limits itself to a functional approach (through topics, thematic keywords, branches of law, countries, etc.).

Second, CUREDI does not propose all-in-one solutions to deal with cultural and religious diversity; rather, it makes available in a systematized way various types of materials that deal with real-life legal disputes involving the themes of religious and cultural diversity and from which researchers, legal practitioners, judges, and policymakers can draw inspiration. CUREDI is distinctive in two ways: it systematizes the data collected from countries across Europe (the database will make it possible both to compare countries and to identify specific trends emerging beyond the limits of domestic legal orders), and it offers analyses that cross the borders of disciplines, involving anthropological expertise and literature in the examination of the cases under scrutiny.

Third, CUREDI seeks to enhance knowledge and know-how that is required for assessing in a nuanced way the impact of religious and cultural diversity on domestic legal systems. As such, CUREDI may help ensure that the impact of diversity on state law is neither over- nor underestimated.

To be able to envisage such a project and ensure its success, it was necessary first to set up the network of contacts, including practitioners (judges, in particular) and national correspondents for each country included in the database. These contact persons are thoroughly familiar with the situation in their country and take responsibility both for the selection of the cases to be analysed and for their analysis.[10] They also commit to providing summaries, at regular intervals, of the pertinent legal developments in their country.

Some additional information regarding the logistics of the project as well as some pending issues might be in order here. The interface language is English, and case summaries are provided in English (for cases that are in a non-mainstream language, the MPI will outsource the translation of the summary). The editing of the texts drafted by members of the Department is in the hands of Sajjad Safaei, who is familiar with both the legal language and the anthropological literature.

This is indubitably a very long-term project, and to constitute a research instrument that is unparalleled in Europe, it has been necessary to proceed step by step. During the reporting period, we held several meetings (in Halle, Berlin, and Brussels) that allowed us to develop the concept in greater detail (and define the searchable fields, filters, and functionalities). In late 2017 I felt we were sufficiently far along in the preparations to hire two full-time researchers, initially for a period of three years, *first* to start experimenting with the methodology developed, namely, by filling in templates (Rodrigo Cespedes launched the systematic collection of data for the topic "education"), and *second*, to formalize the coordination. In November 2017, Eugenia Relaño Pastor took up the position of scientific coordinator, tasked with instructing the contributors and correspondents, reviewing their work, determining the timetable

[10] To date, we have signed 15 cooperation agreements with partners from the Netherlands, Denmark, the UK, Belgium, Germany, Italy, Spain, Sweden, Finland, and Poland.

to be followed, and ensuring that the information they are asked to provide (published cases / laws, the status of cases in progress, and summaries of unpublished cases) are presented in the prescribed format. In December 2019, Jonathan Bernaerts joined the coordination team. Christoph Korb joined in September 2019 to develop a collective information platform that serves as the tool, shared by all partners, for circulating the information among them, exchanging views, and commenting on the analyses of the cases. In the long run, the platform will contain all relevant information for the database. All four are doing a wonderful job helping CUREDI to take shape.

As of January 2020, the Department started holding monthly internal meetings with all researchers who, based on their own research, contribute to the CUREDI project (Katia Bianchini, Rodrigo Cespedes, Jeanise Dalli, Michelle Flynn, Alice Margaria, Mariana Monteiro de Matos, Maria Nikolova, Stefano Osella, Federica Sona, Vishal Vora). These meetings serve as confirmation of the project’s intrinsically collective character (members of the Department comment on each other’s analyses of the cases) and have met with increasing enthusiasm on the part of the team members. Eugenia Relaño Pastor and Jonathan Bernaerts chair the sessions, ensuring that each meeting contributes very concretely to the further development of the project.

In 2019, I applied to the Max Planck Society for additional financial support to enable me to further expand the project, invite more partners to join and, in the course of 2021 or 2022, apply for a major third-party grant. The application met with success, which in my view represents not only significant encouragement, but also provides me with the necessary additional means to hire researchers who are deeply familiar with the situation in countries that are often overlooked or underrepresented in international comparative studies because of the language barriers, but that, given their history and present-day experience with increasing diversity, have a lot to offer to the comparative endeavour CUREDI has embarked on.[11] The additional resources will aid the further expansion of the CUREDI project and make it possible to ensure that the scope of the project truly reflects the diversity of Europe.

As I write, we are about to establish an editorial board composed of renowned scholars who are experts in the issues addressed by the CUREDI project and who will offer their assistance in three ways: by keeping us informed of published cases and the status of cases in progress within their field of expertise; by reviewing the analyses submitted; and by providing advice on the overall development of the project.

All in all, CUREDI is still in its start-up phase, but as we progress, there is every reason to believe that we are well on the way.

[11] For example, Hungary, Romania, the Baltic states, Poland, the Czech Republic, and Portugal, to name a few.

Collective projects with external partners

Two projects fall within the category of collective projects with external partners who also make a financial commitment to the project. The first project to be mentioned here is *The Challenges of Migration, Integration and Exclusion (WiMi)*. The second project is the above-mentioned long-term collaboration with the European Judicial Training Network (EJTN*).* Since I have already mentioned the latter in Part I, I will focus here on the WiMi project.

The Challenges of Migration, Integration and Exclusion (WiMi, March 2017–Feb 2020)

The summer of 2015, when the number of asylum seekers in Europe peaked, has come to be regarded as a landmark period. The images and videos of people struggling to cross the borders by sea and land are now ingrained in the European collective memory. While the European Union has to a large extent failed to develop a joint answer to the "refugee crisis", Germany has shown an unprecedented example of leadership. Temporarily lifting the requirements of the Dublin Regulation, which forms the legal basis of the EU shared asylum system, German Chancellor Angela Merkel decided to open Germany's borders to new arrivals. The political will epitomized in Merkel's *Wir schaffen das* ("We can do this!") announcement was matched with the rise of *Wilkommenskultur* ("culture of welcome") at the societal level, with many solidarity networks and neighbourhood initiatives emerging all over Germany.

In order to keep abreast of the dynamism of that environment, the Max Planck Society called for a cross-institutional, interdisciplinary initiative to study migration. *The Challenges of Migration, Integration and Exclusion* (*WiMi*, from the German *Wissenschaftsinitiative Migration*) emerged out of this effort to bring together into a joint research programme the expertise acquired by its various institutes in the field of migration. WiMi is a three-year research initiative (2017–2020) financed by the Max Planck Society (with matching funds coming from the Institutes involved). I have led this project together with Steven Vertovec and also with the support of Ayelet Shachar (both directors at the Max Planck Institute for the Study of Religious and Ethnic Diversity in Göttingen).

The project involved researchers from six Max Planck Institutes: Max Planck Institute for Comparative Public Law and International Law (Heidelberg); Max Planck Institute for Demographic Research (Rostock); Max Planck Institute for Social Law and Social Policy (Munich); Max Planck Institute for Human Development (Berlin); Max Planck Institute for Social Anthropology (Halle); Max Planck Institute for the Study of Religious and Ethnic Diversity (Göttingen). WiMi brought together migration researchers from a wide variety of disciplines: law, demography, public health, economics, social anthropology, political science, sociology, and history. The coordination was in the hands of Zeynep Yanasmayan (Max Planck Institute

Researchers from several of the MPIs involved in the WiMi initiative met in Halle in February 2018 for an internal workshop.

for Social Anthropology, Halle/Saale), who has been extremely supportive of the initiative throughout its entire trajectory.

The WiMi research initiative was also accompanied by renowned experts in the field who kindly agreed to serve on the Consultative Committee of the research programme. Members of the Consultative Committee who participated in at least one of the meetings organized by the WiMi initiative include: Jürgen Bast (Justus Liebig University Giessen); Claudia Diehl (University of Konstanz); Nina Glick Schiller (University of Manchester / MPI for Social Anthropology); Winfried Kluth (Martin Luther University Halle-Wittenberg); Irena Kogan (Mannheim University); Joanna Pfaff-Czarnecka (University of Bielefeld); Klaus Vogel (SOS Mediterranée); Frans Willekens (Netherlands Interdisciplinary Demographic Institute); and Roger Zetter (Refugee Studies Centre, Oxford University). I present here the broad outlines of the project and the main findings.

WiMi research framework: focus on exclusion

After careful review of the literature and existing projects on migration, the WiMi research initiative set out to investigate a new conceptual angle by focusing on the *exclusion* of migrants. The extensive mapping of the field carried out prior to the kick-off of WiMi revealed that the two topics most often studied in the field were asylum-seeking migration and the integration of migrants. This emphasis, however, left a lacuna: the practices that have effectively precluded migrants from integrating and the coping mechanisms of migrants who are not given an opportunity to integrate were significantly less visible in the literature. In order to comprehend the complexity of such practices and situations, the WiMi research initiative not only opted to concentrate on the exclusion of migrants, but also developed an ambitious

research agenda around the concept of exclusion that will have an impact beyond this case study of Germany.

One of the first steps was to design a conceptual framework that drew on the empirical expertise of WiMi researchers as well as on insights gleaned from the existing literature. The WiMi research initiative developed a multi-dimensional research framework that rests on two main pillars. First, in contrast to most of the existing literature, which deals with exclusion mainly by implication – that is, as the flip-side of integration – the WiMi research initiative conceptualizes exclusion as one pole of a continuum, with inclusion being the other pole. Since migrants are positioned differently in different spheres of life and at different times, their exclusion is often not absolute, but partial and ambiguous. Inclusion and exclusion in areas of society are a matter of degree rather than an either/or situation. A typical example of different degrees of inclusion/exclusion is the situation of irregular migrants, who are legally excluded yet are employed formally or informally and are therefore included in the labour market.

The second pillar of the WiMi conceptual framework was to identify and examine connections and interrelationships between the different areas of society in which migrants may or may not be included. While the literature often focuses on exclusion as a social or legal situation that migrants find themselves in, the WiMi research initiative has sought to shed light on the interconnectedness of and interdependencies between different forms of exclusion. How does legal exclusion impact socio-economic exclusion? How does socio-economic exclusion impact health? These are some of the crucial questions that the WiMi research initiative has engaged with over the three years. In order to best implement the two pillars of the conceptual framework, the WiMi team devised a multi-dimensional approach that analytically divides the exclusion of migrants into six constitutive elements: *actors*, *acts*, *moments*, *representations*, *areas of exclusion*, and *reactions against exclusion*. This multi-dimensional approach suggests that exclusion from legal, social, socio-economic, and similar areas is determined by a variety of state and non-state *actors* (e.g., the EU, federal government, communities) that engage in exclusionary *acts*

In May 2019, WiMI researchers Christian Hunkler (DeZIM-Institute), Tabea Scharrer (MPI for Social Anthropology), Magdalena Suerbaum (MPI for the Study of Religious and Ethnic Diversity), and Zeynep Yanasmayan (MPI for Social Anthropology) organized the workshop Forced Migration, Exclusion and Social Class.

(e.g., laws, administrative practices, routinized behaviours, discursive strategies) at certain *moments*. Such exclusionary acts are produced and reproduced by *representations* of exclusion (e.g., media depictions, public discourse, collective memories) and contested by migrants’ *reactions* against exclusion. A more detailed outline of this framework is explained in the working paper *Exclusion and Migration: By Whom, Where, When, and How?* (Foblets, Leboeuf, and Yanasmayan 2018).

Findings

As I write, we are in the process of drafting the final academic paper that will present the main findings. The project has had three clearly defined overarching objectives: (1) to provide in-depth studies of the various mechanisms that effectively exclude migrants at the different stages of the migration process, with a focus on four main areas, namely, legal status, socio-economic conditions, health, and identification with “emotional communities”; (2) to identify the consequences of exclusion mechanisms both for migrants and for members of the majority societies; and (3) to devise alternative pathways that might help prevent the marginalizing effects of exclusion (especially those that raise concerns about respect for human rights), particularly with a view to policy relevance. One of the main outcomes of the initiative is undoubtedly the overwhelming evidence that “exclusion” is a multi-dimensional reality that is a corollary of “inclusion” as an intended or unintended consequence of various policies and practices.[12]

Another outcome, which attests to the pioneering role of the work done within the framework of the WiMi initiative, was the identification and tracking of reactions to the welcoming of large numbers of migrants in Germany. During the period of the WiMi research initiative (2017–2020), emphasis on exclusion has grown in significance in both scholarly and public discourse. The short-lived excitement generated by the *Wilkommenskultur*, the discursive shift regarding refugees that is often traced back to the assault on women during the New Year’s Eve celebrations in Cologne in 2016, as well as the new restrictive policy measures at various levels of governance (i.e., the European Union, the German government, and the state [*Länder*] governments) are all indicators of the current veer away from the open and liberal approach associated with the *Wir schaffen das!* moment. The WiMi research initiative has scrupulously followed this dynamic situation, and its findings, disseminated not only through the activities of the individual institutes and researchers (as detailed in the final activity report) but also through the collective output of several WiMi partners, identify and analyse this rapidly fluctuating and dynamic climate. The

[12] We are working with the press office of the Max Planck Society to see how best to disseminate these findings, spread over several press releases and with an event that we intend to hold in October or November 2020, where the academic paper will be presented and discussed. In the current circumstances, we do not know yet whether this will be a physical, virtual, or hybrid event.

resulting publications attest to the degree to which the contributions of the WiMi research initiative and its pioneering conceptual framework have advanced not only the scholarship on migration, but the policy orientation (speaking of Germany) as well, and we trust they will continue to bring an innovative, evidence-based voice to the current debates.

The publications of various WiMi researchers are listed in a final activity report,[13] which sets out how the multi-dimensional framework has been put into practice. The main findings that showcase the multifarious nature of migrants' exclusion in all six of its dimensions will be gathered together in the forthcoming WiMi final academic paper (Schader and Hruschka 2020).

Projects with funding from outside the Department

The third category of collective projects to be mentioned in this report are those that were funded entirely or almost entirely by research money from outside the Department: the Emmy Noether project *The Bureaucratization of Islam*, led by Dominik Müller, and the research group *Environmental Rights in Cultural Context*, led by Dirk Hanschel (Max Planck Fellow). These two projects are presented below in the words of their respective leaders. I see them as integral parts of the research programme supported by the Department in the sense that the Department has been involved, from the very beginning, in the thinking about their design and the nature of the collaboration envisaged. For the Department, these collaborations are part of a policy of diversification of the topics to be covered by our activities, but also of the strong desire on my part to welcome outstanding academic projects that, in their own way, contribute to the strengthening of the interaction between anthropology and law. As already mentioned, more recently no fewer than four other interdisciplinary projects with their own financing are being hosted by the Department or the Institute and will work closely with the Department (Luc Leboeuf, Maria Sapignoli, Farrah Raza; Larissa Vetters and Olaf Zenker). Their activities and work will be presented in the Institute's next report (2020–2022).

[13] M-C Foblets, S Vertovec, A Shachar, and Z Yanasmayan, *The Challenges of Migration, Integration and Exclusion: Final Report*, July 2020, 131 p. The document was sent to the Presidency in early August 2020. In this report we underscore the fact that the WiMi research initiative allowed each of the six Max Planck Institutes involved to contribute to the study of the mechanisms of exclusion that have accompanied the complex processes of arrival and settlement of migrants and refugees in Germany since 2015, not only drawing on their own areas of specialization, but also venturing into new interdisciplinary investigations. The structure of the final activity report allows each institute to present its own work and contributions to the WiMi research initiative as well as what it has gained from it. In the report, we also express gratitude for the generous financial support of the Max Planck Society and the encouragement of the Presidency, which provided us with this unique opportunity to develop such interdisciplinary insights.

Dominik Müller, Fauwaz Abdul Aziz, Timea Greta Biro, Rosalia Engchuan, Waseem Naser

The Emmy Noether Group *The Bureaucratization of Islam and its Socio-Legal Dimensions in Southeast Asia*

Group report by Dominik Müller

My Emmy Noether Research Group Project (ENP), *The Bureaucratization of Islam and its Socio-Legal Dimensions in Southeast Asia*, was established within the framework of the Department of Law & Anthropology in October 2016. Three PhD candidates – Fauwaz Abdul Aziz, Timea Greta Biro, and Rosalia Engchuan – joined the project in April 2017. In 2018, a fourth DAAD-funded PhD student, Waseem Naser, joined the group.

The project is premised on the observation that across and beyond Southeast Asia, governments have in various ways empowered institutions to “guide” and regulate discourses on Islam. The motivations of these governments, their approaches, and the national histories and discursive arenas in which the empowerment of state-sponsored Islamic institutions is embedded, differ greatly. This variation notwithstanding, in countries with significant Muslim populations, state actors are making an earnest effort to influence Islamic discourses in their territories, while non-state actors try to influence the way the state should (or should not) govern Islam and Muslimness. This results in mutual attempts to engage with, and influence, each other across the often blurring boundaries between bureaucratic and non-bureaucratic spheres. These relations are at the heart of what the project calls the *bureaucratization* of Islam, viewed anthropologically as a sociocultural phenomenon.

The study of state–Islam–society relations and bureaucratized Islam in and beyond Southeast Asia has long been dominated by political science, legal studies, sociology, and area studies. However, a growing body of anthropological work has also contributed – with empirical and, in some cases, theoretically generative interventions – to this emerging field.[14]

[14] See, e.g., RT Antoun, “Fundamentalism, Bureaucratization, and the State’s Co-Optation of Religion: A Jordanian Case Study” (2006) 38 (3) *International Journal of Middle East Studies* 369-393; MG Peletz, “A Tale of Two Courts: Judicial Transformation and the Rise of a Corporate Islamic Governmentality in Malaysia” (2015) 42 (1) *American Ethnologist* 144–160; P Sloane-White, *Corporate Islam: Sharia and the Modern Workplace* (Cambridge University Press 2017).

Since its establishment, the ENP has become the first relatively large-scale collaborative anthropological project in this field. It covers ethnographic case studies in five Southeast Asian countries (Brunei, Indonesia, Malaysia, Philippines, Singapore) within a shared meta-conceptual framework.

The ENP distinguishes itself not only through its working structure, but also by developing its own conceptual model for understanding the "bureaucratization of Islam". This has already been detailed in the first publications that have emerged from the ENP's earlier work (Müller 2017, 2018a, 2018b; Müller and Steiner 2018). The ENP's development and current status received a positive evaluation in the DFG's *Zwischenevaluation* (2016–2019), and in September 2019 entered its second phase (2019–2021).

In existing scholarship, theoretical insights from the anthropology of bureaucracy on the one hand, and the empirical study of state-Islamic bureaucracies in Southeast Asia on the other, rarely meet. Since the ENP began its work, the state-of-the-art scholarship in the field has also expanded. A case in point is Patricia Sloane-White, now a close ENP partner,[15] who has published a monograph in which she presents her findings from two decades of fieldwork among Malaysian corporate and state-sponsored Islamic elites.[16] In 2018, her work on corporate Islam's implications for gender norms in Malaysian workplaces was published in a special issue I co-edited (Müller and Steiner 2018). Another scholar with path-breaking work on sharia courts and the broader link between Islam and bureaucratization is Michael Peletz, who has also become an ENP collaborator and attended its workshops in Halle and at Harvard University.

Despite these and other new works, the anthropological study of the attempted bureaucratization, state-ification, and standardization of Islam in Southeast Asia remains a small field when compared to other disciplines' much greater interest in, and influential public knowledge production on, state-Islam relations. The limited scholarly interest in the field renders the research conducted by the ENP's PhD researchers all the more significant. For instance, the one-year fieldwork of Fauwaz Abdul Aziz at the headquarters of the National Commission on Muslim Filipinos (NCMF) is, methodologically speaking, the first of its kind in the wider study of state-based Islamic bureaucracies. So is Timea Greta Biro's work on the micro-level realities of Malaysia's state-Islamic transgender "re-education" programmes (for detailed PhD project descriptions, see below).

Outside of anthropology, the "bureaucratization of Islam" is commonly understood in "functional" terms, i.e., *functioning* as a top-down process of trying to control Muslim populations, regulate the articulation and organizational manifestations of Islam, create legitimacy for political orders / actors, and co-opt religious-political

[15] Patricia Sloane-White attended ENP workshops in Halle in 2017 and at Harvard University in 2019, visiting Halle a second time for two weeks in 2019, and becoming a PhD co-supervisor.
[16] Sloane-White (note 14).

opposition. Functional explanations also focus on aspects of organizational expansion, institutional diversification, specialization of offices, and aspects of power, hierarchy, resources, and hegemonies. These are undeniably important aspects. However, the ENP’s conceptual understanding of the “bureaucratization of Islam” is different: it views the bureaucratization of Islam as a transformative sociocultural, political, and symbolic process that transcends its organizational boundaries with far-reaching consequences for (1) the everyday lives of various social actors, (2) the role(s) of Islam in the public sphere, (3) Muslim subject formations (i.e., ways of being Muslim and their normative parameters), and (4) the very meanings of Islam in state and society, from both social and doctrinal perspectives (Müller 2017: 3–5; Müller and Steiner 2018: 11–12). Furthermore, the bureaucratization of Islam has its own characteristic “language”, i.e., the codes, symbols, and procedures of contemporary bureaucracy and the modern nation-state. When Islam is bureaucratized, it is “translated” into this language, resulting in a bureaucratic “rewriting” of Islam (Müller 2017: 3). A change in form inevitably results in a change in meaning. Taking this relationship between form and meaning into consideration, the ENP combines a functional analysis with a hermeneutic one. In doing so, it takes inspiration from Fernanda Pirie’s critique of the increasingly narrow functional thinking dominating the anthropology of law at the expense of earlier hermeneutic concerns.[17] Taking heed of Pirie, the ENP applies both approaches (with an emphasis on the latter) to the study of bureaucratic Islam. Another research focus in the project is the transformative capacities inherent in bureaucratic form, which exerts its own agency and informs the manifestation of social facts, including in the religious field.

The ENP is most interested in the interface and, empirically speaking, in “interface situations”[18] between bureaucracy and society. Often, this interface is relationally and hermeneutically remarkably generative, and opens up spaces where the bureaucratization of Islam (understood as a transformative social, relational, and symbolic phenomenon) unfolds in contingent ways and with unintended consequences. Finally, and also manifesting itself at the interface, the bureaucratization of Islam is characteristically met with dialectically interlinked counter-forces, including calls for a *de-bureaucratization* of Islam, or different ways of *rebureaucratizing* it. And while the bureaucratization of Islam (like any bureaucratization) seeks, by definition, to eradicate ambiguities and grey zones through “state simplification”,[19] the ENP’s findings show that it inevitably causes new ambiguities, unintended consequences, and productive failures, even in regions governed by “strong” (authoritarian) states where it is commonly considered to be more or less “successful”.

[17] F Pirie, *The Anthropology of Law* (Oxford University Press 2013), 30, 71 f.

[18] J Heyman, “Deepening the Anthropology of Bureaucracy” (2012) 85 (4) *Anthropological Quarterly* 1269-1277, 1270.

[19] JC Scott, *Seeing Like a State. How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press 1998), 11.

Another set of questions pertains to the social negotiation of the state's "classificatory power" (Müller 2017:7–10). How do Islamically framed state forms of classification resonate with normative contestations and changes in society? How do such state forms of classification diffuse into society, and how do social actors respond to, participate in, appropriate, circumvent, subvert, resignify, or in other ways engage with them? And how do the consequences of bureaucratic logics such as taxonomical thinking and organizing that penetrate discourses on Islam affect broader negotiations of national-Islamic meaning and notions of (im)proper Muslimness and desirable "good citizenship"? These questions were addressed in a case study published by Müller in 2018 (Müller 2018a).

To address these questions empirically, the ENP's sub-projects involve long-term fieldwork among (1) state-Islamic bureaucracies and (2) non-state actors that are affected by, or interact with, the bureaucracies' attempted exercise of classificatory power.

The PhD projects comprise:

1) Fauwaz Abdul Aziz's ethnography of everyday life at the National Commission on Muslim Filipinos, the Philippines' state-Islamic bureaucracy under the President's Office, with a particular focus on matters related to *halal* ("Islamically permissible") products and services certification.

2) Timea Greta Biro's study of state-Islamic "re-education" programmes for transgender Muslims in Malaysia, which is funded by the *zakat* (Islamic alms) bureaucracy, with a particular focus on transgender Muslims' active engagement with the bureaucracy and how the two sides seek to educate and manipulate each other.

3) Rosalia N. Engchuan's study among communities of grassroots filmmakers in Indonesia who are generating alternative cinematic narratives about the Indonesian nation-state and the meanings of Islam, religiosity, and non-conforming subjectivities. This project is guided by Actor Network Theory (ANT).

4) A fourth, DAAD-funded, PhD candidate, Waseem Naser, examines how ethnic "Indian" Muslims in the self-declared "Islamic State" of Malaysia engage with a bureaucratization of Islam dominated by ethnic Malays.

My own subprojects in Brunei and Singapore explore the societal workings of state-Islamic formalizations of (un-)desirable forms of Islam in two contrasting settings: one is an authoritarian state framed by its government as an "Islamic State" (Brunei), while the other is a multi-religious secular state with a Muslim minority and a highly intrusive state imposition of "inter-religious harmony" (Singapore).

Sub-themes include the banning and social marginalization of traditional supernatural specialists in Brunei and the parallel rise of bureaucratized “Sharia-compliant” healing and exorcism (Müller 2018a). I also explore the micro-level production and propagation of Brunei’s national ideology, *Melayu Islam Beraja* (Malay Islamic Monarchy, MIB), and its creative and transformative appropriations in society. I contrast this with Singapore’s attempted imposition of the *Singapore Muslim Identity* (SMI) scheme (the government’s ten-point definition of desirable Singaporean Muslimness), which bears functional resemblances to the workings of the MIB scheme in Brunei while sharply diverging from the latter at the hermeneutic level. My sub-project also examines supernatural practices related to grave-shrines in both settings, which are treated and regulated in hermeneutically contrasting, yet functionally overlapping, ways (Müller 2017: 24–34). These also relate to competing modalities of social power and changing patterns of decision making that aim to control the future (in this life and the hereafter) while managing uncertainties.

The overall research programme is presently entering a phase in which each researcher will be asked to address in written form a set of shared questions and concepts to enhance coherence and comparability, but without compromising the generally autonomous development of each individual project. This will intensify as the PhD students advance in their writing.

The PhD group started its work in April 2017 with intense reading sessions, held twice per week, to start developing a shared corpus of literature and concepts on the anthropology of bureaucracy and the state, studies of state-Islam relations in Southeast Asia, and writings related to their individual PhD projects. After this formative period, the group held a large workshop in Halle, where each student received one-on-one feedback on their initial project outlines from six selected experts, as well as practical advice for their then imminent orientation field trips of between four and six weeks. After their return to Halle, they began revising their project outlines and made more detailed plans for the next fieldwork stay of 10–11 months. The ENP also hosted a Guest Lecture Series throughout 2017. The speakers not only presented their work, but also held closed-door follow-up discussions with our group to discuss our overall research programme and the individual subprojects and to advise us regarding our future project development.

During the main fieldwork period, the group held two workshops at the project’s partner institutions. One was a week-long group work at the Asian Studies Centre, based at Oxford’s St Antony’s College, while the other was held at the National University of Singapore’s Centre for Asian Legal Studies (CALS). The group work continued after the main fieldwork period. This included a workshop on the Anthropology of Bureaucracy at Leipzig University, organized jointly with Ursula Rao in January 2019. In April of that year, the group had another excursion, this time in the United States. The group convened a workshop with Harvard’s Program on Law and Society in the Muslim World (PLS). The event, *Bureaucratizing Islam and Diversity in Southeast Asia*, was attended by several scholars from the US, Asia, and

Europe. After a week together at Harvard, the group gave a collective presentation at Cornell University, organized by its Southeast Asia Program (SEAP).

Following this trip, the PhD students continued writing and increasingly presented their work at conferences. These activities were supported by the project's visiting fellow Patricia Sloane-White (Anthropology, University of Delaware), who stayed at the MPI for two weeks. Earlier, the group had also hosted its DFG Mercator Fellow, Mirjam Künkler, who advised students on their thesis development and publication strategies. In summer / autumn 2019, the students returned for a final visit to their field sites in Southeast Asia (1–2 months). At the time of writing this report, one student, Waseem Naser, is still in the field while the other three have returned to focus wholly on writing their theses.

During the first 30 months, I had many opportunities for extended discussions of the project, giving more than 40 presentations in 12 countries. I also published the initial project framework, as well as some of my own preliminary empirical results.

The Law & Anthropology Department's exceptional support has been decisive for the ENP's work at multiple levels, ranging from the provision of an exceptional infrastructure (training programmes, regular high-quality guest lectures, seminars and discussions, IT support, research software, access to academic networks, etc.) to the Institute's large pool of researchers who regularly assist the project with their expertise. From the start, the Department closely integrated the group, frequently offered occasions to present its projects, and co-sponsored lectures on topics of shared interest that lie at the intersection of Islam, law, and the state (by, e.g., Kerstin Steiner, Nurul Huda Mohd Razif, Patricia Sloane-White, Iza Hussin). The success of our collaboration is also reflected in the fact that for the first time, my work has been published in a journal centred around the theme of law (*Cambridge Journal of Law and Religion*) and I have been appointed as a fellow at two sociolegal institutions: the University of Singapore's CALS (2017–2020, non-resident) and Harvard's PLS (2019) and its predecessor ILSP: LSC (2018). I have also been consulted by various colleagues from legal studies on matters of anthropological and regional significance. All of this has been made possible due to my position in the Department.

The PhD students also benefited greatly from this exposure and very actively immersed themselves in the Department's activities, debates, and related literature.

In late 2018, I was invited for the first time to interview for a full professorship in Germany. Subsequently, in August 2019 I was offered the position. This was the successful realization of the DFG Emmy Noether Program's primary aim, i.e., the project head's fast-track (no Habilitation required) professorial appointment before the end of the project's duration, and the project's subsequent transfer to the professorship's new hosting institution, in this case, Friedrich Alexander University Erlangen-Nürnberg (FAU). This would not have been possible without the support of the Department of Law & Anthropology. The Director Marie-Claire Foblets and I are already drafting detailed plans to continue our cooperation even after the project's financial and administrative transfer to FAU. All project members will remain active

Department members. In the case of the PhD students, their affiliation with the MPI will last until the finalization of their dissertations (scheduled for winter 2020–2021).

During the reporting period, the US-based Association for Asian Studies (AAS), the world’s leading professional association for Asian Studies scholars, awarded me the John A. Lent Prize 2018 for an AAS conference paper I presented in which I outlined the framework for the ENP. I had received detailed feedback from MPI colleagues on an earlier draft of this paper. In addition, with substantial advice and input from Department members and from the MPI’s Research Coordination team (Bettina Mann and Kristin Magnucki), I successfully applied for a highly competitive, two-year scholarship from the Daimler und Benz Stiftung (2018–2020).

PhD Candidates’ Projects

Fauwaz Abdul Aziz

Fauwaz Abdul Aziz’s PhD project is titled “The Everyday Politics of Governing Muslims and Muslimness in the Philippines: The Bureaucratization of Islam at the National Commission on Muslim Filipinos (NCMF)”. At this national agency responsible for Muslims residing outside the Bangsamoro Autonomous Region in Muslim Mindanao, he examines the politics and processes of the bureaucratization of Islam and Muslim affairs in the context of a country that is perceived to be secular *and* distinctly Catholic at the same time.

From December 2017 to October 2019, Abdul Aziz carried out more than 13 months of ethnographic participant observation at the NCMF. The NCMF provided him with desk space at its Manila headquarters to facilitate his fieldwork there, gave him permission to speak to all its employees and officials, and granted him limited access to its archives. He was able to closely observe the everyday lives of NCMF bureaucrats and participated in the Commission’s promotion, development, and bureaucratization of the *halal* food industry. He was allowed to participate in and document their official as well as unofficial meetings, draft proposals (e.g., budget), prepare PowerPoint presentations, and document the proceedings of one of the two conferences organized by NCMF.

Before and after his fieldwork in the Philippines, Abdul Aziz benefited significantly from the numerous activities and discussions with fellow researchers in the Department. These include the various reading group discussions, lectures, workshops, and conferences on legal and political anthropology, as well as the anthropology of religion and ethnicity.

The ENP also provided him with opportunities to present his work and engage with academics from other prominent universities in Germany (e.g., Leipzig University) and around the world (e.g., the National University of Singapore, University of Oxford, the School of Oriental and African Studies, Cornell University, George Washington University, and Harvard University).

Though he joined ENP from a discipline other than legal anthropology, Abdul Aziz's experience at the Department has piqued his intellectual and personal interest in themes such as legal pluralism, Southeast Asian studies, anthropology, Philippine studies, and Islamic studies.

Not only has his exposure to legal anthropology in the Department been of immense significance for Abdul Aziz's PhD research, it may also inform his future postdoctoral research. A case in point is the NCMF's dealing with Muslims caught in the crosshairs of ethnoreligious profiling, corruption, and the Philippine government's "war" on drugs, violent extremism, and corruption. There is also a dearth of research on how Muslims navigate the country's different legal orders (i.e., secular constitution and laws, "traditional" laws, and the Mindanao-based sharia courts). Also unexplored are the sharia education programme, which prepare would-be practitioners of the Muslim Personal Laws, and *madrasahs* (Islamic primary schools), which have over the past 20 years served as instruments for mainstreaming Muslim youth by integrating them into the Philippine education system and ensuring their employability in the future. Both the sharia education programme and madrasah education fall under the purview of NCMF's Bureau of Muslim Cultural Affairs.

There is a long and well-documented history of efforts by various colonial and postcolonial governments to control and govern Muslims. These efforts – most explicitly expressed in the post-Marcos 1987 Constitution – have been characterized to a great extent by the "secular-yet-Catholic" nature of the Philippine state.

Abdul Aziz's research suggests that the state's efforts to bureaucratize and institutionalize Islam through the NCMF are animated by two opposing dynamics. On the one hand, Muslims are no longer confined to their geographical "homeland" of Muslim Mindanao. Today, they are present in every province of the Philippines. The NCMF is, therefore, a necessary project of cultural citizenship to foster and develop the "Muslim" component of a Filipino identity that has long been associated with being "Christian". On the other hand, NCMF faces numerous challenges to that project of cultural citizenship, which must be addressed if such a project is to succeed. The differences between Muslims and Christians are to be a source of strength and diversity rather than of opposition and persecution.

Timea Greta Biro

Timea Greta Biro's research explores how hegemonic discourses about gender and sexuality developed by state-Islamic actors in Malaysia affect the lives of Muslim trans-women through policies, laws, and "rehabilitation" attempts developed in the name of the "one true Islam". During her 13 months of ethnographic fieldwork (2017–2019) in the states (*negeri*) of Selangor and the Federal Territories (*Wilayah Persekutuan*) of Malaysia, Biro explored various "interface situations" between state-Islamic bureaucracies and NGOs (both government-sponsored and non-state) working with transgender people, especially Muslim trans-women. The research

focused mainly on the so-called “rehabilitation” projects and moral policing carried out by Islamic religious bodies with the aim of bringing transgender people back to the “natural” *(fitrah)* heterosexual state and restoring their “good Muslimness”. This is done partly through religious education funded by state-run Islamic alms (*zakat*). The project’s main strength lies in its ability to show the complex ways trans-women negotiate, circumvent, or resist such “moral conversion” projects. In this wider context of structural exclusion and violence, Muslim trans-women utilize diverse strategies in their quest for self-affirmation and self-identification, at times generating intra-group conflicts. Some use new democratizing spaces to exercise their own agency and claim their rights to publicly recognized social citizenship. Some exclude themselves and reject such programmes while others internalize or play along with the re-education (or “rehabilitation”) policies while trying to influence the official state-Islamic agenda. Biro’s ethnography explores various life stories of trans-women, as well as the everyday workings and policies of the Islamic bureaucracies “assisting” them. In doing so, she addresses broader anthropological issues such as gender and religious identity, politics of the body, self-representation, violence, and nation making.

This project also provides new insights into how actors of the same cultural context (mis)use plural legal systems according to the differences in their values, norms, and understandings of sexual citizenship and related right claims. Malaysia is a secular and democratic constitutional monarchy where the Shafi’i legal school of Sunni Islam is the constitutional religion of the federation. In this dual legal system, Islamic legislation, which was initially limited to family life, has in recent years increasingly crept into the country’s criminal law. In all states of the federation, transgender people can be charged under the sharia Criminal Offences Act for homosexual intercourse and/or “indecent” public behaviour, as well as under civil laws[20] against sodomy or cross-dressing. As a member of the United Nations and the UN Human Rights Council, Malaysia is committed to the promotion and protection of human rights as articulated in the Universal Declaration of Human Rights, a source of tension and intense domestic debate. In this highly controversial context, transgender rights are constantly discussed. On the one hand, there are the proponents of a monolithic and punitive brand of Islamic governance who seek the strengthening of sharia law. On the other hand, there are those social actors who advocate for minority rights and a pluralistic conception of social citizenship and democratic values. Biro’s project pays close attention to these struggles over (un) desirable normativity and their outcomes, which are apparent not only in court cases, but also in relation to the everyday practices of transgender people.

The fruitful working environment at the MPI has greatly developed Biro’s theoretical knowledge, research skills, and academic interests, particularly in the field of

[20] In the Malaysian context, civil law refers to non-sharia legislation.

anthropology. She participated in workshops, conferences, talks, seminars, internal trainings, and informal discussions, meeting inspiring and renowned researchers. Her participation in the Department's activities has contributed immensely to the development of her long-term research agenda as an anthropologist.

Rosalia Namsai Engchuan

Rosalia Engchuan's ethnographic research explores the intermediated relations between various state actors and grassroots film practitioners in a climate of technological innovation, democratization, and increasingly orthodox interpretations of Islam. She examines the cinematic practices of *komunitas film* ("film communities") in contemporary Indonesia. These consist of the making, screening, and discussing of film as a relational socio-technical process of collective agency. With the aid of ethnographic fieldwork, she argues that the cinematic practices of *komunitas film* create spaces both material (the film) and social (the screening space) for other ways of knowing, spaces where intolerant interpretations of Islam are contested, negotiated, and overcome. In doing so they are engaged in practices of world-making and radically reframe being Indonesian – collectively and performatively.

Her fieldwork led her to complicate the commonly held assumption that the bureaucratization of Indonesian Islam is carried out primarily by state bodies affecting filmmaking practices through censorship. Indeed, the state is not the only actor involved in driving the formalization and bureaucratization of Islam. An illustrative case in point is the fate of Garin Nugroho's film *Memories of My Body* (2018), which chronicles the journey of an Indonesian transgender dancer and earned international acclaim after it premiered at the prestigious Locarno Film Festival in Switzerland. However, once state censors had officially approved it for screening in theatres, the workings of religious morality as a censoring actor began. In several provinces, the movie was banned by religious and state bodies on the grounds that it was against Islam and Indonesia. The director received death threats.

Engchuan's dissertation explores how religiously framed normativity (formalized and otherwise) unleashes agentive capacities in the film production process. She conceptualizes and explores censorship as internal to socio-technical networks of film production and as a relationally constituted configuration that is always circumstantial.[21]

Engchuan has participated in a EuroSEAS (European Association for Southeast Asian Studies) PhD masterclass and is part of the EuroSEAS "Listen to Your Eyes" project, which works on the audio-visual dissemination of research via an innovative web platform. Additionally, she participated in a panel on "Indonesian Popular Culture" at The American Academy of Religion (AAR) conference in Denver, which

[21] Engchuan's conceptualization draws on a relational ontology and Simondon's notion of technics.

led to an article on the productive dimensions of religious moral censorship in the context of LGBTQ-related moral panic in contemporary Indonesia. In March 2020, the piece was published in a special issue of the *Journal of the Humanities and Social Sciences of Southeast Asia*. Her commentaries have also appeared in outlets such as Berita, an official publication of the Association for Asian Studies, and *Südostasien,* a German-language online magazine that focuses on Southeast Asia.

Engchuan has presented her research at numerous international conferences such as *The Asian Cinema Studies Society Conference*, *The Transnational Radical Film Conference*, and *The Indonesian Film Scholars Association*. She also received invitations to discuss her work at Cornell, NYU Tisch School of the Arts, and the Arkipel Jakarta International Experimental and Documentary Film Festival Forum. In addition, Engchuan convened two panels in 2019. One was at the *International Convention of Asia Scholars* (ICAS) 2019 in Leiden, jointly convened with Indonesian film scholars on “New Film Histories in Indonesia”. The other was with Leiden University’s Taufiq Hanafi at the *EuroSEAS Conference* 2019 in Berlin on “Censorship of the Arts”.

Rosalia Namsai Engchuan (left) presenting work-in-progress in Indonesia, 2019.

Discussing her work with Indonesian film practitioners and scholars is a priority for Engchuan and part of her decolonial methodology that attempts to have para-site conversations with her interlocutors.[22] She has also partnered with Forum Lenteng and the Berlin-based Savvy Contemporary on a joint project in Indonesia scheduled for 2021 (postponed due COVID-19). This will be a crucial space for her to thoroughly discuss her work with Indonesian film practitioners.[23]

[22] For more information, see: https://arkipel.org/film-community-and-challenges-of-community-activist-in-digital-era/.

[23] See https://savvy-contemporary.com/en/projects/2018/united-screens/.

Waseem Naser

When Naser joined the Law & Anthropology Department in 2018, he intended to investigate the responses of Malaysia's Indian Muslims to the state's conflation of Islam with the Malay ethnicity. Over time, the conceptual focus of his research gradually shifted from subjective identity to legal personhood. His aim is to conceptualize the Malaysian legal jurisdiction as a social field and to view Malaysia's Indian Muslims within this social field through the lens of legal anthropology. The negotiations that Indian Muslims engage in serve as a site for exploring the borders and boundaries of a legal regime that often conflates religion with ethnicity. With personhood as the conceptual terrain of his research, Naser shows that in a nation-state that constitutionally proclaims Islam as the official religion, some Muslims can nevertheless become marginalized because of their ethnicity. While this marginality is a disadvantage to many, it can also be an advantage to some. Through his research, Naser attempts to theorize these responses and situate them within anthropological discourses on personhood and law. In carrying out his predominantly ethnographic study, Naser sheds light on a hitherto unexplored yet significant phenomenon in Malaysian society.




Dirk Hanschel, Abduletif Kedir Idris, Bayar Dashpurev, Maria Angelica Prada Uribe

Max Planck Fellow Group *Environmental Rights in Cultural Context*

Group report by Dirk Hanschel, Max Planck Fellow

The Max Planck Fellowship in its initial phase – steps ahead

The “Environmental Rights in Cultural Context” (ERCC) project commenced in January 2019 with the beginning of my Max Planck Fellowship. The research programme is located at the juncture of legal analysis and environmental anthropology and hence draws intensively on methods developed and employed within the Institute’s Department of Law & Anthropology, most notably ethnographic fieldwork. As such, it relies on close cooperation with scholars in the Department and beyond.

Since the initiation of the project, two doctoral researchers have been employed who are conducting case studies on Ethiopia and Mongolia, respectively, and are currently in the process of determining their precise research topics. Abduletif Kedir Idris is working on a topic under the working title “The Discursive Value of Environmental Rights for Vulnerable Communities in South Omo, Ethiopia”. Bayar Dashpurev is pursuing a project tentatively titled “Reconceptualizing Environmental Rights in Mongolia: The Challenge of Integrating a Custodian-Based Approach and a ‘Right to a Healthy Environment’ Approach in the Rules Governing Mining in the Gobi Region”.

In addition, the Institute is hosting Maria Angelica Prada Uribe, who is a Humboldt Climate Fellow. Her current topic is “Environmental Democracy: The Human Right to Environmental Participation as a Bottom-up Approach to Tackling Climate Change”. Upon completion of her Humboldt fellowship, she will formally commence her doctoral project with me. She intends to examine the role of environmental rights in Colombia, provisionally on the examples of the Páramo de Santurbán, a protected Colombian highland, and the Yaigoje Apaporis National Park in the Colombian Amazon.

All three doctoral candidates plan to enter the field in 2021 after using their first year at the Institute to prepare conceptually and further immerse themselves in this interdisciplinary endeavour. In order to assist in their development, I conducted a workshop at the Institute in the summer of 2019 which launched a larger network

of scholars at the doctoral and postdoctoral levels, all of whom are working on projects related to the topic of environmental rights in the broad sense. Some of these scholars, who conduct research in Ecuador, Mongolia, India, and Senegal, among other places, are based outside Halle, yet remain eager to engage in regular discussions within the group. In fact, in a number of these cases, I am serving as their external PhD supervisor. This loose network, which is supported by a number of post-doctoral researchers at the Institute with expertise in the respective fields, has gradually transformed, in the times of COVID-19, into what we have dubbed the "ERCC digital talks", a weekly forum for discussions on individual projects and matters of overarching concern. Our next planned steps as a group are workshops at the Law and Society Conferences in 2021 and 2022. In administrative terms, the project is furthermore supported by two student assistants, Clara Geilen and Valentin Tanczik (who also join the academic discussions), and by Viktoria Giehler-Zeng who provides invaluable administrative assistance.

Through the many discussions within the smaller and larger ERCC circles, I have been prompted to refine and, in some ways, even to reshape my initial research concept,[24] adding further layers of complexity that result from the intense exposure to concepts from environmental anthropology. While this sometimes poses major challenges to the engrained doctrinal lawyer's approach, it has proven to be a most enriching experience. At the same time, it has shown how challenging it really is to conduct research in the field of law and anthropology that takes both disciplines seriously on their own merits instead of merely looking at one through the perspective of the other. The difficulty particularly lies in the fact that law, while being open to empirical findings, usually looks out for representative or generalizable insights, for the concrete that may inform the abstract. Facts (as cases) are assessed on the basis of the law or (as data) serve to illustrate the functioning of it. Anthropology, conversely, in its ethnographic analysis, uses a magnifying glass to look at the very concrete, and there is a lively debate among anthropologists whether it is even possible to find large issues in small places or not, and whether it is permissible to draw more general conclusions from individual vignettes.

For the purposes of my research, I have decided to deal with this methodological challenge by employing the concepts of *vulnerability* and *fundamentality* which, in the case of environmental rights as potential human rights, help to select cases and to build bridges from the abstract to the concrete. If environmental rights in constitutions claim to be human rights, and the latter result from fundamental experiences of injustice, then situations of high vulnerability will help to identify how fundamental these norms really are and to what extent they offer an added value to human rights catalogues that already include rights to health, food, water, an adequate standard of living, etc.

[24] See my conceptual outline at https://www.eth.mpg.de/ERCC_outline.

Another challenge is how to arrive at innovative results and hence how to advance the scientific status quo in this field. Needless to say, I intend to make my Max Planck Fellowship more than an enriching experience in self-awareness; the idea is to establish, on the one hand, an intense interdisciplinary dialogue, and, on the other hand, to expose a mind trained in law (according to the strong German doctrinal approach) to local experiences of environmental injustice. The results may be intellectually comforting or disturbing, or both at the same time. At any rate, the hope is that this exposure will help to generate serious new insights and break new ground. Some of my thoughts on environmental justice and injustice will appear in a forthcoming chapter in the *Oxford Handbook of Law & Anthropology* (see pp. 17–18).[25]

With this in mind, the ERCC project is designed to identify and understand normative beliefs and behaviours within local communities that are exposed to environmental challenges such as climate change, extractivism, and large-scale infrastructure development and are, thereby, particularly vulnerable. The driving research question is: In addressing experiences of injustice, to what extent do people refer to state law which promotes environmental rights in their various facets, be it a right to a sound or healthy environment for individuals or groups, or rights of nature that put people in the position of trustees? Conversely, to what extent do they refer to completely different environmental norms that have their origins in local cultural traditions and customs?

When included in a constitution, environmental rights entail the claim that these rights are fundamental in the sense that they respond to fundamental experiences of injustice. The question is whether those exposed to such experiences identify with such norms or express their experiences of injustice through entirely different notions. People (whether indigenous or not) in remote areas of the Colombian or Ecuadorian Amazon, the Mongolian steppes, or the Ethiopian wetlands may be conceived of as having a particularly close relationship to –and may even depend on the intactness of – the natural world that surrounds them. This, however, cannot simply be assumed; it remains to be examined for each of the case studies. In order to avoid any unjustified romanticism, this certainly includes the possibility that notions of justice are not even related to environmental protection, but to other fundamental needs such as food, water, electricity, health, education, employment, etc. Alternatively, local claims may be based on environmental rights because an international NGO comes along and offers to support such a claim, even if the real distress is more aptly captured by other norms that are not formally recognized, not justiciable, or do not trigger the same support by external actors. Furthermore, it remains to be seen whether local normative understandings are those of individuals or are shared by most or all members of a local community, and to what extent that

[25] D Hanschel and E Steyn, “Law, Anthropology, and Environmental Justice” in M-C Foblets, M Goodale, M Sapignoli, and O Zenker (eds), *The Oxford Handbook of Law & Anthropology* (Oxford University Press, forthcoming).

can be related back to a wider notion of culture that embraces traditions, ways of life, and ideas that have been preserved over time. The first question in this regard, of course, is what actually makes a local community, that is, what constitutes the place and what the communality. The second question is how much individual ideas relate back to individual interests, which may easily diverge within a community. Legal pluralism hence may not only exist with regard to state and non-state law, but also with regard to the many individual notions of fairness and equity, which may or may not be aggregated to form some common understanding upon which law relies.

The research is expected to inform legal doctrine and theory in a number of ways. Lessons emanating from the fieldwork will guide the analysis of the aptness of constitutional environmental norms that claim to be fundamental. The aim is to generate deeper insights into whether it is justified to reformulate environmental concerns as (human) rights claims, and what consequences could ensue from that in a very practical sense. Notably, such rights may not always emanate from state law, but could well flow from other sources, such as indigenous local practice. In light of the multitude of already existing guarantees and the apparent challenges regarding their implementation, the onus placed on those arguing in favour of the emergence of new human rights has become quite substantial. One important question in this regard is the extent to which environmental rights constitute a distinct category or, alternatively, can be inferred from other well-established human rights guarantees. Furthermore, the analysis addresses challenges to the universality argument from anthropological perspectives. It also deals with the criticism that claiming environmental rights as human rights might simply be a strategy to elevate needs or interests to a higher level, hence unduly enhancing the chances of asserting them in conflicts of distribution that would otherwise require a give-and-take through negotiation. A related question is to what extent *earth* rights (which may constitute a reflection of spiritual beliefs about the relationship between human beings and their environment) are also environmental rights in the sense of *human* rights or, rather, constitute their own category of fundamental (in the sense of entrenched) rights. Finally, how can environmental rights be operationalized? This depends on their precise content and requires distinctions between individual and collective guarantees as well as between rights holders and claimants. Collective guarantees may be claimed by individuals (either for the individual as part of the community or for the community as a whole) or by collective action. Another possibility is the trusteeship model, which may be able to translate into specific modes of legal standing, allowing for representative action or agency situations.

In sum, the ERCC project is well on track and expecting to produce key outputs within the next one or two reporting periods.

III

Individual Research Profiles

IIIa: Director

Marie-Claire Foblets

Law and migration; family law; cultural and religious diversity; multiculturalism

In the first two parts of this report, I provided a general overview of the Department's vision and its work, focusing on group projects and contributions to the discipline made by the Department in a general sense. This section, Part III, highlights the individual achievements of the researchers in the Department, identifying them in three categories: a) the Director; b) Senior Researchers and Postdoctoral Fellows; and c) PhD Candidates. As such, it is up to me to kick this section off with an overview of my own individual activities in the 2017–2019 reporting period, which I present under three headings: 1) as Director of the Law & Anthropology Department; 2) my own academic research and output; and 3) as Managing Director of the Institute.

As Director of the Law & Anthropology Department

As Director of the Law & Anthropology Department, a large part of my work has been to oversee and continue supporting the Department, particularly its collective projects, the training of young scholars, and the development of instruments and fora to foster dialogue between the disciplines of law and anthropology. The Department's report as a whole reflects the research, teaching, and publications within the Department. In each activity, the dynamic of the encounter of two disciplines is played out, resulting in productive synergies.

To this end, I have striven in the past three years to expand the Department, both in terms of scope of activities and in staff numbers. We appointed a new cohort of doctoral students and of postdoctoral researchers. It is satisfying to know that the Department has met with success in attracting promising scholars as well as third-party-funded projects that have asked us to serve as host institution.

In so doing, I have sought to offer Department members opportunities to be involved in teaching, accompanying doctoral students, inviting and hosting visiting scholars, and engaging in partnerships outside the Department.

During the reporting period, the Department, with the invaluable input and experience of Larissa Vetters, has increasingly focused on the professional training of doctoral candidates. After some initial growing pains, we have now reached cruising altitude and settled into a truly collaborative approach, principally by means of regular departmental meetings (where research is presented and discussed), joint projects (see Part II), and Department-sponsored and organized conferences (see Part I), all of which serve to train young researchers in disseminating and critically reviewing their work.

Academic research and output

As regards my own scientific output, I will emphasize five main projects: 1) report for the International Academy of Comparative Law congress “Law and Migration in Changing World”; 2) report for the International Academy of Comparative Law congress “Family Law and Cultural Diversity”; 3) Royal Flemish Academy of Belgium for Science and the Arts position paper; 4) IMPACT project (Uppsala University); and 5) *Justice Made to Measure* (monograph).

Report of International Academy of Comparative Law congress “Law and Migration in a Changing World”

The International Academy of Comparative Law (IACL/AIDC) carries out its work through its biennial congresses, the themes of which vary from event to event. I served as joint general rapporteur for two such congresses.

The task of the general rapporteurs is, first, to select country reporters on the topic at hand and to draw up a set of guidelines / questions that each country reporter must follow in order to give the congress (and the ensuing volume) a common structure that ensures coherence and comparability. Next, the general rapporteurs coordinate their session at the congress (with those country reporters who are able to attend presenting their findings). Lastly, they edit the country reports that will be published in a collective volume and produce a comparative general report that draws on the national findings and seeks to identify trends, similarities, and differences. This is a major task, but produces very useful comparative insights on highly topical issues.

In 2019, I finalized the volume coming out of the introductory plenary panel at the XIXth IACL congress in Vienna. The volume is co-edited with Jean-Yves Carlier (Professor of Law at the Université Catholique de Louvain), and will be published by Springer.[1] It contains 18 country reports as well as our general report (113 p.), and attests to the clash between the economic considerations that lie behind selective migration law and the humanitarian dimension, rooted in human rights. Most of the reports come from countries of destination (in large part because those are the ones with enough resources to support the work of a country reporter). The volume also shows clearly the risk of overambitious expectations (by migrants as well as destination countries) regarding what the law can achieve when it comes to maintaining the balance between economic and humanitarian considerations. In his preface to the volume, François Crépeau, who from 2011 to 2017 served as UN special rapporteur on the rights of migrants, writes:

[1] M-C Foblets and J-Y Carlier (eds), *Law and Migration in a Changing World: Proceedings of the XIXth International Conference on Comparative Law* (Springer, in press).

> General Reports by the *International Association of Comparative Law* are always an extraordinary compendium of high-level scholarship, trying to sum up in one sweep the essentials of a topic across many jurisdictions, based on the expertise of several dozens of national reports. The General Report […] on "Law and Migration in a Changing World" is no exception. It offers a vast analytical overview of the diversity of the legal avenues used by states to govern migration. It also demonstrates the difficulties of this governance. […] The field of human mobility is in dire need of better, more thoughtful governance, inspired by a long-term vision of the benefits and challenges of migration. In the meantime, migrants see their rights violated on an industrial scale – literally – and are not provided with the tools of empowerment that would allow them to fight back. However, another policy framework is possible: once the nationalist populist wave will have passed, another generation will have to welcome mobility as a long-term investment producing remarkable returns, when well governed.

Report of the IACL/AIDC congress "Family Law and Cultural Diversity"

The second IACL/AIDC congress for which I served as joint general rapporteur (with Nadjma Yassari of the Max Planck Institute for Comparative and International Private Law) was devoted to the topic "Family Law and Cultural Diversity". We proceeded in the same way as for the session on "Law and Migration in a Changing World", drawing up a very detailed questionnaire intended to ensure that the individual national reports captured the nature of diversity in each country under scrutiny. In some countries, cultural diversity dates back centuries and is enshrined in state law, while in others, the policies in place expressly enforce a homogeneous family law (whether on a secular basis or based on a religious law). In yet others, diversity has come from the outside, via migration, or from within, based on the individual right to self-determination that has become increasingly central with the individualization of ways of life and the emphasis on protection against discrimination.

The reports were therefore expected to indicate whether the country in question had adapted its legislation to take account of the new realities that diversity among the population brings about. One of the chief findings in the resulting volume is that legal systems tend to be more lenient and flexible in accommodating diversity from *within* than that which comes from *outside*. For example, in Europe new forms of family life have, under the impetus of human rights and more specifically the principles of equal treatment and non-discrimination, now been accepted in most countries, whereas diversity that comes from the outside – via migration or derived from a colonial past – seems to cause more tension.

One region that was of particular interest regarding family law and cultural diversity is central and Eastern Europe in the postsocialist period. It is clear that there is a rift between two orientations in these countries: one tends to emphasize a return to the state’s historic *national* identity and tries to respond to the perceived threat raised by claims to individual rights, while the other places greater value on the individual freedoms and human rights guaranteed by the EU and the Council of Europe. The volume coming out of the congress is expected to appear with Springer in 2021.[2]

Royal Flemish Academy of Belgium for Science and the Arts position paper

I was asked to serve as the author of a position paper on multicultural issues for the Royal Flemish Academy of Belgium for Science and the Arts. The 40-page document sketches out the general situation in Belgium as regards multiculturalism and the challenges it poses to Belgian society, and draws some conclusions as to how academic research could contribute to long-term thinking about this subject.[3]

After having reviewed the various positions taken by Belgian law to multiculturalism through history, in the paper I show how, in each period, the approach to diversity was driven by the socio-economic conditions of the day. Today, legislation is being implemented with the purpose of balancing the diversity that results from present-day mobility with claims deriving from human rights principles. One of the key questions this balancing exercise raises is whether the principle of non-discrimination is an adequate legal instrument to ensure the participation of all groups, especially the new minorities, in society.

The position paper was written in 2019 and was approved in December 2019 by the Humanities Section of the Royal Flemish Academy of Belgium for Science and the Arts after review by four of its members.[4] The document will appear in the Academy’s *Standpuntenprogramma* series in the course of 2020.

IMPACT project

I had the pleasure of contributing to a ten-year research project, IMPACT (“The Impact of Religion: Challenges for Society, Law and Democracy”), which was based at Uppsala University. The project examined, from a comparative angle, the impact of religion on a region that is, on the one hand, profoundly secularized, but is also, on the other hand, seeing the rise of religious minorities that seek formal recognition.

[2] N Yassari and M-C Foblets (eds), *Multicultural Challenges in Family Law* (Springer, forthcoming).

[3] M-C Foblets, *De multiculturele samenleving en de democratiche rechtsstaat. Hoe vrijwaren we de sociale cohesie?* (Koninklijke Vlaamse Academie van België voor Wetenschappen en Kunsten, Standpuntenprogramma 2019).

[4] Jaak Billiet, Batja Gomes de Mesquita, Joke Goris, and Marc Van Uytfanghe.

I had the opportunity to lead several workshops, help guide doctoral researchers in their projects, and participate in several conferences. This involvement grew out of the RELIGARE project (2010–2013).[5] IMPACT has now reached its conclusion.

In 2019, prompted in part by my work with IMPACT, I received an honorary doctorate from the Faculty of Law of Uppsala University. On the occasion of the award, I delivered a public lecture and led a seminar on the contribution of law to the success of multiculturalism in society and on the need for more interdisciplinary research in this area.

Marie-Claire Foblets (second from right) on the occasion of being awarded an honorary doctorate from the University of Uppsala's Law Faculty on 25 January 2019. At the award ceremony, Foblets gave an address titled "Facilitating Cultural Diversity in Contemporary European Societies: Legal Responses and Their Limits". (Photo: P. Johnson, 2019)

Justice Made to Measure

A long-term project of mine (which was mentioned briefly in the previous report [p. 25]) is a monograph, provisionally titled *Justice Made to Measure*. It comprises a number of analyses, based on detailed study of the case law developed over the past 30 years across Europe, that show whether and to what extent in-depth anthropological analysis can help provide a more nuanced and contextualized understanding of practices related to a person's life cycle that are often controversial in legal terms (male circumcision, child marriage, polygamy, alternative dispute resolution, etc.). The underlying motivation comes from many years of study of issues related to accommodation of religious and cultural diversity under state law in the context

[5] *Religious Diversity and Secular Models in Europe: Innovative Approaches to Law and Policy* (RELIGARE), funded by the European Commission under its 7th Framework Programme.

of contemporary European societies, and the striking absence of anthropological literacy on part of decision makers when it comes to granting – or rejecting – claims for recognition of institutions, practices, traditions, concepts, beliefs, or sensibilities that are not familiar to them. I do not pretend that anthropology has all the answers; rather, my ambition is to show the depth of knowledge accumulated in a discipline that is rarely cited in legal work when it comes to addressing such issues and what is to be gained from taking an interest in that sophisticated knowledge. My inspiration for this project comes from the pioneering work of the late British scholar Sebastian Poulter, *Ethnic Minority Customs, English Law and Human Rights*.[6] My own study is far less exhaustive, being more concerned with the question of what is to be gained from anthropological scholarship in seeking justice in individual cases, hence the title *Justice Made to Measure*. The research that goes into this kind of study draws on two types of sources: legal sources (for the most part case law) and anthropological literature. The background research I have conducted for this study was the inspiration for the CUREDI project presented in Part II of this report. It is my profound conviction that in future lawyers and anthropologists will ever more frequently face questions of accommodation of cultural diversity,[7] and it is my hope that they will benefit from the work we will have done during my period at the MPI Halle.

Other professional activities

In addition to the above, in the 2017–2019 reporting period I co-edited three collective volumes (with several more in the pipeline; see note 8, p. 19) and published nine single-authored book chapters, four co-authored book chapters, and 2 miscellaneous publications. Except for those that are forthcoming, these are all mentioned in the list of publications at the end of this volume, hence there is no need to list them here.

For the sake of brevity, I will also not detail here the numerous professional activities in which I have been engaged during the reporting period (teaching activities, lectures, presentations at workshops and conferences, professional memberships, PhD examinations and committee work), as these are listed in the Appendix.

[6] S Poulter, *Ethnicity, Law, and Human Rights: The English Experience* (Oxford University Press 1999); S Poulter, *English Law and Ethnic Minority Customs* (Butterworth-Heinemann 1986).

[7] I make this argument in a chapter I recently co-authored with Larissa Vetters: M-C Foblets and L Vetters, "The Pluralization of European Societies and the Role of the Judiciary" in LE Rios Vega, I Ruggiu, and Irene Spigno (eds): *Justice and Culture: Theory and Practice Concerning the Use of Culture in the Courtrooms* (Editoriale Scientifica 2020, in press) 77–99.

Managing the Institute

Given that the Managing Director has his/her own report within the framework of the visit of the Scientific Advisory Board, I will keep it short here and limit myself to reporting on one responsibility in particular, namely, assuring the continuity of the Institute in the face of the closure of one of the three departments (Department "Integration and Conflict" with the retirement of Günther Schlee) and the prospect of the closure of the Department "Resilience and Transformation in Eurasia" in mid-2021. For me in my capacity as Managing Director, this period has, therefore, been a crucial one in planning for the future of the Institute. The search for new directors for the two new Departments was launched by Prof. Martin Stratmann, President of the Max Planck Society, in early 2018, and was chaired by Prof. Wolfgang Schön, former Vice-President of the Society. The search was guided by the concern to maintain the balance among the three fields – political, economic, and legal anthropology – as intended at the foundation of the Institute. In accordance with the procedures of the Max Planck Society, I was not a member of the commission entrusted with the search, but my role was to be available whenever the commission deemed my experience and insights useful to help accompany the proceedings.

We can count ourselves very fortunate that the process has resulted in the appointments of Ursula Rao (University of Leipzig) and Biao Xiang (Oxford). Since the moment the appointments were formalized, we have been working jointly on planning the future of the Institute, with the intention of reinforcing complementarity among the three departments. This will certainly be a crucial element as we strive to ensure the Institute's continuing success and leading role as Europe's largest institute of social anthropology.

IIIb: Senior Researchers and Postdoctoral Fellows

Katayoun Alidadi

Religious diversity; reasonable accommodation; equality; labour law; employment

Since August 2017, Katayoun Alidadi has been an Assistant Professor of Legal Studies at Bryant University in Rhode Island, USA. During this time, she remained connected as a Research Fellow and, since summer 2018, as a Research Partner with the Law & Anthropology Department of the Max Planck Institute of Social Anthropology.

Alidadi was a co-convener (with Marie-Claire Foblets and Dominik Müller) of the conference *(Re)designing Justice for Plural Societies: Opportunities and Pitfalls of Accommodative Law and Practices*, held at the Max Planck Institute for Social Anthropology in June 2017 (see pp. 12–13). The coordination and co-editing of the collective volume on the basis of that conference, *(Re)designing Justice for Plural Societies: Accommodative Practices Put to the Test*, to be published in the *Law & Anthropology* series with Routledge, is ongoing. This volume will include some 15 chapters by renowned experts in the fields of multiculturalism, law and religion, jurisprudence, and political theory on the management of religious diversity in, among others countries, Singapore, Switzerland, South Africa, and Spain.

Alidadi’s various publications (see Publications at the end of this volume) explore new areas of knowledge, in particular with regard to discussions of multiculturalism, liberalism, identity politics, and law, and often explore or attempt to find solutions to the challenges of migration, integration, and minority relations in Europe and North America. Her 2017 monograph, *Religion, Equality and Employment in Europe: The Case for Reasonable Accommodation* (Hart), received an honourable mention from the International Academy of Comparative Law for the 2018 Canada Prize, one of the most prestigious awards in the area of comparative law. It has also led to invitations to various events and conferences, including invitations to participate in:

- a hearing with experts organized by Mr Davo Stier (Croatia), member of the Parliamentary Assembly of the Council of Europe (PACE) and member of PACE’s Committee on Legal Affairs and Human Rights, who is preparing a report on “the protection of freedom of religion or belief in the workplace”. This hearing took place in Strasbourg on 1 October 2019 (participation via video conference);

- a workshop at the HLS Human Rights Program on Indirect Discrimination and Religion organized by Prof. Gerald Neuman, J. Sinclair Armstrong Professor of International, Foreign, and Comparative Law and Co-Director of the Human Rights Program at Harvard Law School on 18 April 2020;

- the 6th Conference of ICLARS (International Consortium for Law and Religion Studies), originally scheduled for 7–9 September 2020 in Cordoba (Spain), postponed until 2021 due to the COVID 19 pandemic.

Alidadi has also been involved with the CUREDI database project (see pp. 45–51) since its inception, and has participated in CUREDI conferences in Halle in July 2018 and October 2019 (via Skype) as an expert on case law related to religion in the workplace. She continues to contribute to this long-term project.

Sophie Andreetta
Statehood; public services; migration; welfare; courts; ethnography

Sophie Andreetta joined the Institute in September 2017. Her time at the Department has allowed her to finalize ongoing publication projects, including a book and several articles based on her PhD research. She has also been able to conduct ethnographic fieldwork in Belgian welfare courts, administrations, and legal aid offices. Her time with the Law & Anthropology Department helped her specialize in the anthropology of law as a sub-discipline while allowing her to explore new issues, a new field site, and uncharted literature. While her earlier work focused on family law disputes in West Africa, her research in the Department has been marked by an active engagement with current scholarship on migration, social protection, and state institutions in Europe.

Welfare bureaucracies and irregular migrants

In Belgium, depending on their immigration status, foreigners are entitled to different forms of social assistance, ranging from emergency medical care to financial benefits. In a context where residence permits are constantly updated, re-examined, or withdrawn by the administration, this project explores the ways in which welfare bureaucracies and labour courts deal with irregular(ized) migrants' requests for social assistance.

In large cities, the services of welfare bureaucracies and courts are increasingly sought by individuals with a precarious immigration status. These include undocumented third-country nationals, European citizens with or without a registered residence on Belgian soil, and individuals whose immigration claim is either pending or has been rejected but are still considered impossible to deport for a variety of reasons. This project is based on 12 months of ethnographic fieldwork in labour courts, welfare administrations, and legal aid offices. To analyse how human dignity is performed on a daily basis for those without a regular immigration status, this project examines the following: irregular migrants' dealings with welfare administrations; the daily practices of social workers and their interactions with beneficiaries, lawyers, and

the judiciary; and the way judges decide on social assistance cases. Andreetta delves into the interactions between immigration proceedings, administrative practices related to welfare provision, and labour courts in French-speaking Belgium. Three interconnected dimensions are examined: litigants’ journeys and their understanding of law and expectations from the state; administrative practices; and judicial discretion in welfare courts.

1) Local welfare administration; 2) welfare court; 3) a social worker’s desk. (Photos: S. Andreetta, 2019)

Looking at these different aspects, as well as the practices and strategies of the various actors involved in the construction of a case, contributes to better understand the *judicialization* of politics – the idea that policy questions are increasingly solved through litigation[8] – at the street level or, in this case, the judicialization of social assistance and its social and political effects. In so doing, the project explores how political questions are dealt with by the judiciary and what their consequences are for administrative practices and applicants’ access to public services.

Finally, Andreetta argues for the need to unpack the social and political effects of judicial decisions on the everyday functioning of public administrations and the way (welfare) policies are implemented.

The anthropology of the state and street-level bureaucracies

When it comes to the discretion of street-level bureaucrats, scholars tend to look at either migration enforcement or welfare desks.[9] While “getting papers” is undeniably an irregular migrant’s key concern, immigration desks are not the only public service that migrants – even those with a precarious legal status who are usually assumed to

[8] M Shapiro and AS Sweets, *On Law, Politics, and Judicialization* (Oxford University Press 2002); R Hirschl, “The Judicialization of Mega-Politics and the Rise of Political Courts” (2008) 11 *Annual Review of Political Sciences* 93–118.

[9] T Evans, *Professional Discretion in Welfare Services: Beyond Street-Level Bureaucracy* (Routeledge 2010); T Eule, LM Borrelli, A Lindberg, and A Wyss, *Migrants Before the Law: Contested Migration Control in Europe* (Palgrave Macmillan 2019).

remain "hidden" from the state and its institutions – are confronted with. Andreetta therefore asks how welfare bureaucrats deal with those who are both vulnerable and "unwanted". She examines how social workers strike a balance between professional ethos and instructions from administrative bodies; how they deal with competing loyalties and different interpretations of the law; the importance of emotions to understanding how social reports are written and administrative decisions made; and social workers' relationship to and engagement with "the state".

Contrary to Spire's "immigration bureaucrats",[10] Belgian social workers use their discretion to assist migrants' claims to social assistance. Rather than seeing their role as protectors of the state, they regularly question the Ministry of Social Integration's interpretation of national laws and highlight their ethical and professional commitment to helping those in need. The case of welfare for irregular migrants also shows that street-level bureaucrats are faced with competing interpretations of the law and adapt their practices according to those interpretations: though they comply with administrative guidelines for funding reasons,[11] they nonetheless also encourage applicants to go to court and even write documents that can help migrants in their legal battles. This last point demonstrates that when studying bureaucracies "at work",[12] in addition to analysing civil servants' discretion and interactions with applicants, one should also determine the kinds of documents produced, exchanged, and used within and across public administrations.

Courtroom ethnography and the study of legal professions

While for years sociolegal studies have been exploring how litigants and their lawyers use litigation to produce social or political change, much less attention has been paid to the role of judges and prosecutors in the rendering of judicial decisions and engendering social change in the process. This project focuses on the ways in which judges assess and define human dignity in welfare trials.

By observing hearings, interviewing judges, and examining judicial decisions, Andreetta explored how judges use the law to settle welfare cases, balance efficiency and the likelihood of their decision being appealed and overturned, assess people's needs and truthfulness, and weigh fundamental rights against the limits of national laws. Looking at how case-law exceptions were developed to sometimes grant social assistance to irregular migrants, Andreetta shows that these exceptions were often imagined by legal professionals who see the law as a tool rather than a set of rules that they have to adhere to. These judges also put international norms above

[10] A Spire, *Accueillir ou reconduire. Enquête sur les guichets de l'immigration* (Raisons d'agir 2008).
[11] Local welfare offices mainly depend on state funding, which is only granted if they comply with federal guidelines.
[12] T Bierschenk and J-P Olivier de Sardan (eds.), *States at Work: Dynamics of African Bureaucracies* (Brill 2014).

national ones, while others consider themselves bound by Belgian laws, which to some extent reflects the magistrate’s relationship with the state. The case of social assistance disputes also shows that judicial decisions are not made in a social vacuum. While politics may not directly influence their work, judges still reflect on the political context within which their decisions are written, how they may be perceived, and the legal or political changes that can happen as a consequence. Furthermore, this research shows that while labour courts have failed to bring about any major policy change within welfare administrations,[13] litigation, or the threat thereof, still has a political effect – it changes the way social workers write reports, interact with migrants, and recommend case outcomes on a daily basis.

Irregular migrants, the state, and the law

The last part of this project focused on the legal and administrative journeys of those who wish to benefit from public assistance. Building on interviews and on the shadowing of litigants on their way to welfare courts and administrative bodies, Andreetta analysed how people understand and use their right to social assistance, the obstacles they meet, and the strategies they use to obtain access to medical or financial assistance from the state.

The administrative journeys of irregular migrants show how “illegality” is often a temporary, yet recurring, category that migrants fall in and out of. Their requests for legal status are provisionally granted but are then denied by the Immigration Office after a more thorough review. This decision is then challenged by immigration lawyers, which often results in resetting the migrant’s status to “provisional acceptance pending deeper examination”. In that context, asking for social assistance becomes one of the ways in which migrants with a precarious legal status engage with the Belgian state. For instance, documents such as labour court decisions sometimes form a key part of arguments in support of their pending application for residency. Such strategies, however, are suggested by only a small number of specialized lawyers, and they are operating under precarious working conditions, especially in light of recent legal aid reforms**.**

Law, anthropology, and the Department

This project combines two of the key themes that the Department has been developing for the last couple of years: the study of immigration and integration practices within European societies, on the one hand. and the ethnography of the state and street-level bureaucracies on the other hand.

[13] S Scheingold, T*he Politics of Rights: Lawyers, Public Policy, and Political Change* (Yale University Press 1974); G Rosenberg, *The Hollowed Hope: Can Courts Bring About Social Change?* (University of Chicago Press 1991).

In her research Andreetta looks at the rights of those who fall within the "legal limbos" of immigration proceedings and explores how the Belgian state, through its agents, perceives and fulfils its obligations towards them. It shows how immigration law can become the core of other civil law questions and how legal professionals deal with such an overlap. Focusing on social assistance and the right to human dignity for irregular migrants also helps unpack how welfare courts and local bureaucracies implement, discuss, and balance fundamental rights with economic interests and migration control.

Cengiz Barskanmaz
See profile in Part II: Group Projects, under *Conflict Regulation in Germany's Plural Society* (pp. 37–39)

Katia Bianchini
Refugee law; asylum law; immigration law; migrants at sea; statelessness; human rights; humanitarian visas

Katia Bianchini came to the Law & Anthropology Department as a Research Fellow in September 2018, bringing with her a wealth of expertise in refugee law, immigration law, statelessness, and human rights. Her research fits into the interdisciplinary framework of the Law & Anthropology Department as it uses anthropological methods to gain a better understanding of the complex dynamics and multiple forces that shape and develop refugee and immigration law. In this specific field, anthropology offers methodological tools that enable her to go far beyond black letter law. In her research, the added value of an anthropological approach lies in empirically exploring legal issues and appreciating how law works in practice, thus allowing for a more holistic assessment of the gaps between abstract law and its implementation.

International refugee law

Bianchini's involvement in several of the Department's projects has greatly enhanced her capacity to work in large groups and has further strengthened the empirical and anthropological thrust of her approach to the study of law. A particular case in point is her contribution to the forthcoming *Oxford Handbook of Law & Anthropology* (see pp. 17–18). Her chapter, titled "Legal and Anthropological Approaches to International Refugee Law", surveys the current scholarly debates in the field of international refugee law and argues that an anthropological approach shifts the focus from states, borders, and citizenship to the individual by integrating human interpretations, behaviours, cultural contexts, and personal interactions into the study of law. She argues, moreover, that anthropological methodologies can enrich our

understanding of the implementation of refugee law through an empirical assessment of legal issues. Beyond that, the work suggests areas that could benefit from future academic work at the interface of anthropology and refugee law.

Bianchini also contributed the chapter “Humanitarian Admission to Italy through Humanitarian Visas and Corridors” to the volume *Humanitarian Admission to Europe: The Law Between Promises and Constraints* (edited by Marie-Claire Foblets and Luc Leboeuf; see p. 99). The chapter contributes to the debate on humanitarian admission opportunities in Europe by examining Italian legislation and practice regarding the granting of humanitarian visas. In light of the Italian experience, Bianchini discusses whether and how a common EU framework on humanitarian visas is desirable. She explores arguments for and against such a framework and makes recommendations on the matter. By using a combination of both legal and empirical methods, her work provides insights into how humanitarian visas are issued and function in practice. The findings of this chapter were also presented at a conference organized at the Institute.

Based on empirical data collected through interviews in 2016, Bianchini has also written an article on the link between statelessness and immigration detention in the UK. In this paper, she adopted an access to justice framework to address the specific legal challenges faced by stateless persons in immigration detention. The article will soon by published in the *International Journal of Refugee Law*.

Cultural and Religious Diversity (CUREDI) Database Project

In addition to her core research activities, Bianchini has been working actively towards the development of the CUREDI database (see pp. 45–51), completing templates on UK asylum law cases that involve cultural and diversity issues. She has turned her CUREDI-related research into an article on the judicial treatment of witchcraft persecution in asylum cases which highlights the importance of anthropological expertise to understand unfamiliar cultural and religious practices. From September to December 2019 and then from May 2020 to August 2020, Bianchini was able to further develop her supervision skills by mentoring a research assistant on the topic of trafficking and violence against women in asylum cases in the UK. Together with the research assistant, she plans to contribute to a collective publication related to CUREDI by analysing the treatment of these cases. Her participation in CUREDI has led her to reconsider the limitations of the law in addressing cultural issues such as concepts of “beliefs” and the value of anthropological approaches in the assessment of asylum claims.

Sea migrants

One of Bianchini’s ongoing projects explores the extent to which legal instruments can offer a solution to people forced to flee their countries as a result of wars, conflict,

and persecution. The research aims to identify the legal instruments that accompany migrants in their journey from their country of origin to the destination country, as well as the effectiveness of such instruments through the collection and analysis of legal and empirical data. The research has already resulted in a working paper titled "En Route to Protection", which will soon be published in the Institute's Working Papers Series. The working paper reviews the relevant literature, identifies research gaps, and sets up the path for future research. In particular, the working paper points to the issue of maritime migration as one of the most critical in the field of refugee law. Among the thorny questions addressed are those of jurisdiction and the responsibility to protect, the duties and accountability of state and non-state actors involved in the interception of boat people, search and rescue, assistance to boats in distress, disembarkation of boat people to a safe country, and lack of effective mechanisms for the enforcement of rights. The working paper identifies several knowledge gaps regarding the understanding of legal challenges affecting migrants at sea and how to respond to them.

Based on the working paper's findings, Bianchini is now researching the existing legal framework applicable to sea migrants, its shortcomings, and how it can be shaped to improve protection. Whereas some studies address this issue from an international law perspective, little has been done regarding the national level. Therefore, the ongoing project intends to explore a number of national case studies, starting from that of Italy. Fieldwork will be conducted in countries affected by boat migration and which often experience tensions between them regarding who should be responsible for rescuing and disembarking migrants. The research will adopt an innovate approach by assessing whether the interrelated legal areas (law of the sea, refugee law, criminal law, human rights) at the international, regional and national levels are effective in protecting migrants at sea, and balancing all the interests at stake (i.e., navigation of commercial ships, security interests, immigration control, law and order, health, and safety). The methodology will be grounded on interdisciplinary legal research which allows to examine how State and non-State actors navigate different systems to help sea migrants in distress or to circumvent legal obligations (combining legal and empirical data collection). Bianchini is planning to apply for external funding in order to carry out the empirical research for the project. As applying for third-party funding is becoming an increasingly important aspect of the professional development of early-career researchers, Bianchini expects the Department's wealth of expertise and experience in producing successful grant applications to be immensely beneficial as she applies for funding for this project.

In addition to the aforementioned activities, Bianchini also taught a seminar on international refugee law, which was part of the PhD training programme in the Department of Law & Anthropology. She has also presented her most recent research findings at conferences on refugee law and statelessness, which allowed her to keep abreast of the latest developments in her various fields of interest and expertise.

Rodrigo Cespedes
Religious and cultural diversity; religion and education; religion and free speech; new religious movements (NRM); indigenous rights; comparative law; legal history

Cultural and Religious Diversity (CUREDI) Database Project

Rodrigo Cespedes joined the Law & Anthropology Department as a research fellow in 2017, joining the CUREDI project (see pp. 45–51). His research interests span a broad range of topics related to law and anthropology, such as cultural and religious diversity and indigenous rights from a comparative perspective. In addition, Cespedes has researched and explored numerous areas ranging from legal history to public and international law.

At the MPI, Cespedes’s efforts are mostly focused on the CUREDI database project, commenting on case law related to religion and education, employment law, free speech, and new religious movements. His analyses cover several jurisdictions (ECtHR, ECJ, the UK, Belgium, France, Switzerland, Italy, and Spain). Much of his work is based on his doctoral dissertation, titled *The Right to Education and Religious Discrimination under the European System of Human Rights: The Case Studies of Italy and Spain* (Lancaster University, 2015), an inquiry into the European Court of Human Rights’ judgments and domestic courts’ decisions on the matter of school education and religion.

Scholarship and teaching

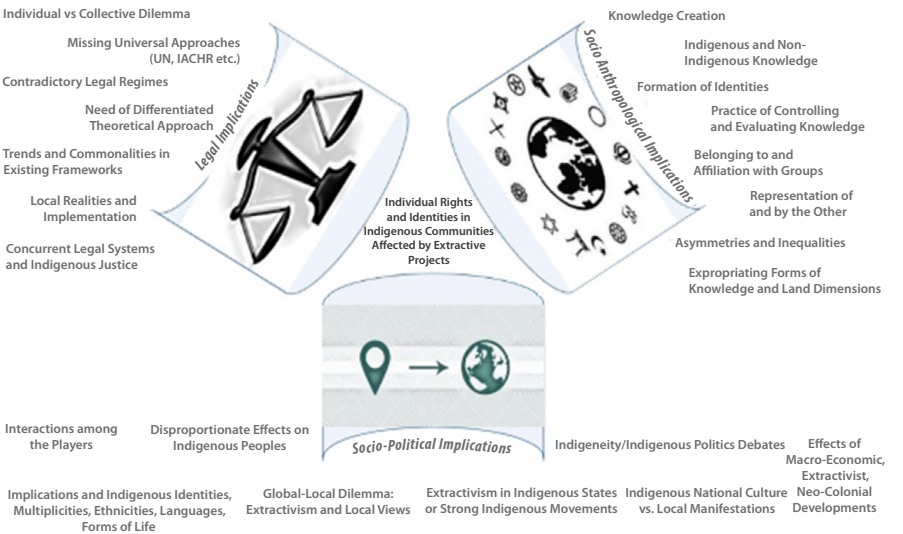
The by-products of Cespedes’s work on CUREDI are several papers presented at universities in Europe and Latin America, including at Oxford University, Gonzaga University, University of Tromsø, Pontifical Catholic University of Rio de Janeiro, Salamanca University, University of Cagliari, University College Roosevelt, and the European University Cyprus. He also publishes his finding in the *Oxford Reports on International Law*. His published case reports touch on topics such as succession of states, privateers and prize law, extraterritorial jurisdiction, the right of angary, religious speech, sacred places and indigenous peoples, drug possession and indigenous people, and sand tax law. He is also editing a special volume on indigenous rights, entitled *Territories in Dispute: Epistemologies, Resistances, Spiritualties and Rights*, to be published in 2020 by CUHSO Journal, Catholic University of Temuco, Chile. At the same time, he has published several articles in the *Revista Latinoamericana de Derecho y Religion*, the *Revista de Derecho Administrativo Economico*, and *University of Toronto Law Journal*.

Cespedes has engaged in teaching activities in Chile and has served on a PhD jury at the Universidad de los Andes in Colombia. He has also participated as a judge in moot court competitions at the law schools of Friedrich–Alexander University Erlangen–Nürnberg and Martin Luther University Halle-Wittenberg.

Jessika Eichler
Indigenous rights; self-determination and participation; extractivism; intangible cultural heritage

Research topics

Jessika Eichler came to the Department of Law & Anthropology as a postdoctoral researcher with third-party funding from the Fritz Thyssen Foundation (2018–2020). During the reporting period, Jessika Eichler worked towards completing her main postdoctoral project with the Thyssen Foundation, but also managed to finalize a small-scale research project with ifa (Institut für Auslandsbeziehungen) in the field of human rights and indigenous peoples' rights (2017–2018). In her work, Eichler draws on several disciplinary research approaches (see figure below).



Indigenous peoples' rights

Eichler's main postdoctoral project engages with the concept of participatory rights and with debates in legal theory, shedding light on some of the most pressing issues faced by indigenous peoples today, namely: 1) how to reconcile collective and individual indigenous rights regimes; and 2) how to ensure that their (right

to) participation, prior consultation, and self-determination is respected. Eichler assesses the categorical divisions between individual and collective indigenous rights regimes that are embedded in the foundations of international human rights law. Both conceptual ambiguities and practical difficulties arising from *vernacularization* call out for deeper reflection. Internal power struggles, vulnerabilities, and intra-group inequalities go unnoticed in this context, leaving persistent forms of neo-colonialism, neo-liberalism, and also some forms of patriarchalism within the communities largely untouched.

By bringing together legal theory and political, sociolegal, and anthropological perspectives, Eichler disentangles indigenous rights frameworks in the particular case of peremptory norms that reflect both individual and collective rights. Far-reaching conclusions are drawn for groups that fall “in between”, that is, various formations of minority groups demanding rights on their terms. As one of the founding constitutive elements of indigenous collective frameworks, indigenous peoples’ right to prior consultation exemplifies what could be described as exerting a cumulative, spill-over, and transcending effect. Debates concerning participation and self-determination, therefore, gain salience in a complex web of players and interests at stake. Eichler seeks to apply empirical insights she has gained from fieldwork in Bolivia, the Andes, and Latin America to shed light on developments in the African and European human rights systems.

Neo-extractivism

In addition to such specific contributions to the field of indigenous peoples’ rights, Eichler also examines indigenous peoples’ rights in the context of neo-extractivism, a process that is expanding in global political and economic contexts, yet its manifold local implications are often not sufficiently appreciated. Eichler’s approach to such implications is intrinsically interdisciplinary, offering an in-depth analysis of extensive discussions on legal norms and their societal implications, adding a law-and-anthropology dimension that positions the concept of indigeneity within current human rights frameworks and thereby disentangling internal dynamics from a global perspective. This global-local nexus of macro-developments and micro-dynamics is further illuminated by means of three transversal themes: (1) individual and collective indigenous rights in concurrent legal systems; (2) the role of different players in negotiation processes in extractive projects; and (3) the impact on knowledge creation, identities, and multiplicities in these processes. While Eichler’s PhD dissertation forms the empirical basis for her work on extractivism, her overall approach is first and foremost comparative, building on case studies from different regions of the world, including Latin America. In this way Eichler ensures the global character of her study while still maintaining a strong local basis informed by fieldwork.

"Cultural Heritage under Pressure"

During the reporting period Eichler also conducted a small-scale research project with ifa (Institut für Auslandsbeziehungen) in the field of human rights and indigenous peoples' rights. This small-scale research was conducted in 2017 and 2018 within the framework of the ifa research programme *Culture and Foreign Policy.* Intangible cultural heritage (ICH) is increasingly subject to social, economic, and political pressures that endanger its existence. Of particular concern are vulnerable populations, including indigenous peoples and minorities that may be considered "under-resourced" in light of postcolonial agendas that prevent (collective) cultural self-determination to flourish. New measures are thus required to ensure ICH will be maintained, protected, and further developed. Regional actors such as the EU play an important role in safeguarding ICH. Eichler's project uncovered new vulnerabilities in cultural heritage regimes by identifying and applying a human rights-based approach. The project, "Cultural Heritage under Pressure: How to Protect Intangible Cultural Heritage?" resulted in an interdisciplinary study on the subject ("Intangible Cultural Heritage under Pressure? Examining Vulnerabilities in ICH Regimes: Minorities, Indigenous Peoples and Refugees", forthcoming), embracing both theoretical and policy-oriented dimensions.

Contributions to the Department's interdisciplinary framework

Eichler views the law as a top-down, applied, or implemented process, while also examining the shaping of law on the ground. The contributions described above articulate well with the interdisciplinary social science approach of the Department, adding a less-represented regional component to the Department's ongoing research, namely Latin America and the Andes. Studying indigenous peoples' rights requires openness to different disciplines and entails paying due regard to diverse legal systems, distinct concepts, and particularities that can be best explored by using approaches from social and cultural anthropology.

Hatem Elliesie
Conflict regulation; Islamic law; Islamic finance; banking practices; FinTech; microfinance

In addition to his leadership role in two departmental projects – *Konfliktregulierung in Deutschlands pluraler Gesellschaft* (Conflict Regulation in Germany's Plural Society; see pp. 33–37) and *Scharia in genuin europäischen Settings: Konnex muslimischer Lebenspraxis zu islamischer Normativität* (Sharia in European

Settings: The Connection between Muslim Life Practices and Islamic Normativity; see pp. 29–32) – in the 2017–2019 reporting period, Hatem Elliesie continued pursuing his own individual research in the fields of anthropology, law, and normativity.

Professional development

While helping to set up the aforementioned departmental projects, Elliesie took over a full-fledged Acting Professorship (*Vertretungsprofessur*) on Islamic Law at the Westfälische Wilhelms University Münster for the summer semester 2017. In Münster he taught a total of six courses spread over two faculties – Law and Philology. Three of these courses, *Islamisches Recht* (Islamic Law), *Scharia und deutsches Recht: Theorien, Terminologien und Rechtspraxis* (Sharia and German Law: Theories, Terminologies, and Legal Practice), and *Religiöse Paralleljustiz* (Religious Parallel Justice), were closely linked to his research projects at the MPI and were subsequently further developed and taught at Martin Luther University Halle–Wittenberg 2017 and 2018 after his return. Back in Halle, upon approval from the Human Sciences Section of the Max Planck Society, Elliesie was the first researcher at the Institute to be officially granted the status of “Group Leader (*Gruppenleiter*, GL) at the Max Planck Institute for Social Anthropology”. In the same year, the University of Leipzig granted him the right to supervise PhD candidates (*Mitbetreuungsrecht*).

Elliesie’s approach to combining fundamental research (*Grundlagenforschung*) with teaching is also reflected in a cooperation agreement he drafted between the University of Leipzig and the Max Planck Institute for Social Anthropology to develop a joint MA study module on *Normativität, Recht und Ethnologie* (Normativity, Law, and Anthropology). After consultation with the Institute’s administration and the legal departments of the Max Planck Society and the University of Leipzig, the draft was approved in 2019. The agreement entails opportunities for research fellows from the Department of Law & Anthropology to teach at the University of Leipzig within a newly designed studies module for advanced undergraduates of law, anthropology, and oriental studies. The module is expected to be implemented in the 2020/2021 academic year.

To better manage his expanding activities and duties, Elliesie undertook advanced training in management, leadership, and teaching in 2018 and 2019. He completed the Professional Management Programme offered through the Center for Science and Research Management; participated in the Max Planck Society’s LeadNet Symposium 2018 and in a number of training seminars organized by the Deutscher Hochschulverband, a German association of university professors and lecturers; and successfully completed a certificate programme on multimedia use in teaching and research at the Centre for Multimedia and Teaching at Martin Luther University Halle–Wittenberg.

Research in practice

The demand for Elliesie's multidisciplinary expertise continues, as is evidenced by his involvement in such diverse activities as courses on intercultural competence in courtrooms for the German Judicial Academy; expert panels organized by the Research and Knowledge Transfer Hub for Rule of Law Promotion (RSF Hub, a joint institution of the German Federal Office and the Free University Berlin); and a session of the Germany Federal Ministry for Economic Co-operation and Development (BMZ) dealing with social protection in Africa. Regarding the latter, Elliesie's presentation has been published (Elliesie 2017), and others are forthcoming.

As a member of the executive boards of the African Law Association (Gesellschaft für afrikanisches Recht, GfaR), the Arabic and Islamic Law Association (Gesellschaft für Arabisches und Islamisches Recht, GAIR), Editor-in-Chief of the *Zeitschrift für Recht & Islam / Journal of Law & Islam* (http://zri.gair.de/index.php/en), and Series Editor of the *Studien zum Horn von Afrika* (https://www.koeppe.de/reihe_studien-zum-horn-von-afrika), Elliesie is able to combine several of the Department's research interests with those of the two associations and his editorships. The latest initiative has been the conference *Law, Islam and Anthropology* (see p. 14), which was held on 9–10 November 2018 under the joint aegis of the Department, GAIR, and the Netherlands-based RIMO (Vereniging tot bestudering van het recht van de Islam en het Midden Oosten). The conference brought together academics and practitioners from the disciplines of law, anthropology, and Islamic studies to collaboratively explore the implications and possible trajectories of combining the three intersecting fields in genuinely interdisciplinary research. The conference proceedings will be published in the Department's *Law & Anthropology* series (Routledge).

Normative Spaces

Within this publication series another of Elliesie's long-standing research projects, in collaboration with MPI colleague Katrin Seidel (see pp. 140–145), came to fruition. The edited volume, *Normative Spaces and Legal Dynamics in Africa* (Routledge 2020), is the result of many years of research conducted in the Department that culminated in a series of international cross-disciplinary exchanges at the Institute. Most significantly, this included a departmental workshop, *Negotiating Normative Spaces: Insights from and into African Judicial Encounters*, as well as the international conference *Normative Spaces in Africa*, jointly organized by the Department, the GfaR, Martin Luther University Halle–Wittenberg, Justus Liebig University Giessen, and the Tanzanian–German Centre for Eastern African Legal Studies at the University of Dar es Salaam School of Law (in cooperation with the University of Bayreuth); and the 2017 Joint Institutes' Colloquium *Space and Place*, which Elliesie co-organized. Elliesie and Seidel's cooperation epitomizes the cross-disciplinary approach of the Department, bringing into dialogue anthropological and legal approaches that are

often considered antagonistic, if not irreconcilable. The *Normative Spaces* volume facilitates programmatic bridge-building between the disciplinary traditions of law and anthropology. It highlights the epistemological and conceptual constraints of each discipline, while also illustrating the benefits of cultivating an openness and willingness to achieving mutual understanding between the disciplines.

Islamic norms

Likewise, Elliesie’s commitment to bridge the perceived imbalance between anthropology and current research and literature in Islamic (legal) studies is mirrored in the volume *Islamische Normen in der Moderne zwischen Text und Kontext* (Islamic Norms in the Modern Era between Text and Context) (Elliesie, Schneider, and Uçar 2019), which is based on a GAIR conference co-organized by Elliesie at the University of Osnabrück in 2017. In 2019 Elliesie organized another forum for exchange between scholars and legal practitioners, a GAIR conference at the University of Göttingen called *Migration und “Heimatrecht”: Herausforderungen muslimisch geprägter Zuwanderung nach Deutschland* (Migration and Home Jurisdiction: Challenges of Muslim-shaped Immigration), which was thematically linked to his Conflict Regulation project (see pp. 33–37). The conference papers will be published in an edited volume.

Islamic finance and banking

Elliesie is applying his skills in fostering collaboration and communication between practice and the academy to the interdisciplinary area of Islamic finance and banking. After working with senior legal practitioners, renowned scholars from various disciplines, ministry officials, and executives of financial institutions, all of whom rely on a wide range of expertise on financial markets in Europe, Southeast Asia, North Africa, and the Middle East, in 2017 he initiated a think tank, the Working Group for Islamic Finance (*Arbeitskreis Islamic Finance*), under the umbrella of the GAIR. Elliesie heads up this think tank, which convenes on an annual basis. He also regularly delivers lectures and leads seminars on Islamic finance and banking, including with his MPI colleague Faris Nasrallah (see pp. 179–180), at academic institutions such as the Berlin School of Business and Innovation. The collaboration

with experts within the framework of the think tank and with Nasrallah, who is the permanent editor of the *Yearbook of Islamic and Middle Eastern Law* (Brill), led to Elliesie's guest editorship of the *Yearbook*'s special issue on Islamic banking and finance.[14] The special issue looks towards future developments in Islamic banking and finance issues, notably in the field of distributed ledger technologies. Elliesie's insights in this field have great potential to contribute to the proposed *Law, Technology and Society Initiative* of Max Planck Law, a network of eleven Max Planck Institutes engaged in advanced legal research (see https://law.mpg.de).

With the Conflict Regulation project set to expire at the end of 2020, Elliesie managed to secure funding to continue the project's important work. In collaboration with the Erlangen Centre for Islam and Law in Europe at the University Erlangen-Nürnberg (EZIRE), the Centre for Technology and Society (CTS) of the Technical University Berlin, and several other research partners in Germany, he received approval for a Federal Ministry of Education and Research (BMBF)-funded project, which he hopes to be able to get up and running in 2020. He also received a request from the Senate Administration for Justice, Consumer Protection, and Anti-Discrimination of Berlin to contribute to the establishment of a certified mediation training programme to be offered in those communities with whom Elliesie actively conducts research.

Mahmoud Jaraba
See profile in Part II, Group Projects, under *Conflict Regulation in Germany's Plural Society* (pp. 39–40)

Luc Leboeuf
Migration law; EU; governance; vulnerability; humanitarian assistance; human rights; border control

External dimensions of EU bordering processes

Luc Leboeuf joined the Institute in September 2017 as a postdoctoral fellow within the framework of the Department's WiMi research initiative, which aims to develop an interdisciplinary analysis of the social, legal, and institutional exclusion of migrants in European societies (see pp. 52–56). His project contributes to this

[14] M Lau and F Nasrallah (eds), H Elliesie (guest ed), *Yearbook of Islamic and Middle Eastern Law, Volume 20 (2018/2019) Special Issue: Islamic Banking and Finance* (Brill/Nijhoff 2020).

initiative by focusing on the “external dimensions”[15] of EU “bordering processes”,[16] which play a major role in excluding certain migrants by precluding their physical presence in EU territory and among European communities.

The overall objective of Leboeuf’s research has been to unveil the institutional practices that lead to the regulatory frameworks that, in turn, govern the external dimensions of EU bordering processes. To fulfil these research goals, he has paid close attention to the practices of high-level bureaucrats who shape the legal and administrative framework regulating how street-level bureaucrats perform everyday bordering practices. Leboeuf’s main concern is *not* the specificities of how border controls are enforced on the ground; rather, he is concerned with how the border is *done* and *negotiated* through the practices of expert civil servants entrusted with concluding international agreements with third countries with the express intention of involving them in the control of migration to Europe.[17]

The research agenda is shaped by two key observations. First, that the cooperation between the EU and third countries to “tackle migration upstream”[18] has been intensifying since the 2015 “European refugee crisis”. With the explicit objective to control the movements of migrants *before* they set foot on European territory, EU bordering processes have increasingly been developing external dimensions that manifest themselves through myriad international agreements of varying legal and administrative nature, such as the “EU-Turkey deal”,[19] which has proven particularly controversial. Second, though these developments have already received empirical examination, such inquiries have focused primarily on border patrol practices and on the experiences of migrants stranded in transit countries.[20] Little has been said about the practices of the public servants developing and negotiating the overall cooperation framework through which the EU’s borders are enforced outside of its territory.

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[15] In the relevant literature, the “external dimensions” of EU migration policies refer to the cooperation mechanisms seeking to involve third countries in the control of migration to Europe; see M Maes, M-C Foblets and P De Brucyker, *External Dimensions of European Migration and Asylum Law and Policy / Dimensions externes du droit et de la politique d’immigration et d’asile de l’UE* (Bruylant 2012).

[16] In the relevant literature, “bordering processes” refer to the border as an ever-evolving social dynamic as opposed to a fixed legal and geographic outcome; see V Kolossov and J Scott, “Selected Conceptual Issues in Border Studies” (2013) 1 *Belgeo*.

[17] For an anthropological account of *doing* the border, see B Kasparek and S Hesse, “Under Control: or Border (as) Conflict: Reflections on the European Border Regime” (2017) 5 *Social Inclusion* 3, 58-62.

[18] European Agenda on Migration, COM (2015) 214 final.

[19] The “EU-Turkey deal” provides for Turkey’s readmission of asylum seekers who reached the Greek islands irregularly from Turkish territory in exchange for the commitment from EU member states to resettle one refugee for each asylum seeker sent back to Turkey (the “1:1 scheme”), as well as visa waivers for Turkish citizens, development aid, and a promise to further discussions on Turkey’s EU accession bid.

[20] See, among others, R Andersson, “Hunter and Prey: Patrolling Clandestine Migration in the Euro-African Borderlands” (2014) 87 *Anthropological Quarterly* 1, 119-149; J Brachet, “Policing the Desert: The IOM in Libya Beyond War and Peace” (2015) 48 *Antipode* 2, 272-292.

The scant scholarly attention given to this aspect of the EU's migration policies has inspired Leboeuf to focus on the work of the high-level EU bureaucrats by relying on legal data, policy documents, and other empirical data collected through semi-structured interviews with expert civil servants among EU institutions and the competent administrations of one EU member state, Belgium.[21]

The research began with collecting legal data on how law regulates the external dimensions of EU bordering processes. Leboeuf identified the constitutional dynamics that prevent these processes from being fully governed by the rule of law. When such processes fall outside the purview of the rule of law, Leboeuf observed, they are further relegated to technocratic "regimes of invisibility"[22] that characterize state action on the international scene, raising additional issues about transparency and democratic accountability. He then proceeded to study these "regimes of invisibility" through interviews with expert civil servants.

Leboeuf's empirical and legal analysis points to how the making of EU border policies no longer rests with the Justice and Home Affairs (JHA), but with the Common Foreign and Security Policy (CFSP), which is subject to different institutional and power dynamics. It shows how the move leads to the involvement not only of new policy tools but also of high-level bureaucrats with different backgrounds and *habitus*. A greater informalization and invisibilization of bordering practices and their inherently exclusionary effects are emerging as a result, calling into question the ability of the law to govern such practices, while also holding the promise of new forms of multilateral migration governance, as illustrated by the adoption of innovative policy tools such as the 2018 Global Compacts.

The preliminary findings of the research were published in a special issue of the *Revue trimestrielle de droit européen.*[23] A more developed version was presented at a conference organized by the University of Konstanz in June 2019.[24] These initial outputs focused on the shortcomings of the EU constitutional framework, as well as the legal, social, and political dynamics that have thus far prevented courts from addressing these shortcomings.

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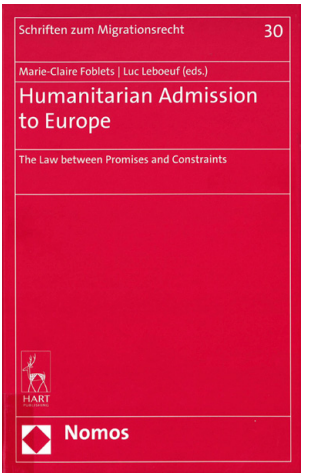
[21] The decision to opt for Belgium, Leboeuf's home country, was grounded in two factors. The first was his unique access to a vast network of professionals, bureaucrats, and administrators there. The decision is also rooted in the fact that the institutional dynamics within Belgian institutions vary from those in the EU. The Belgian Foreign Affairs ministry leads the development of the external dimensions of bordering processes, whereas at the EU level it is the EU Commission Directorate General of Home Affairs which is entrusted with that mission (and not the diplomats from the European External Action Service).

[22] See M Abèles, "Heart of Darkness: An Exploration of the WTO" in R Niezen and M Sapignoli (eds), *Palaces of Hope: The Anthropology of Global Organizations* (Cambridge University Press 2017) 31–54

[23] L Leboeuf, "La Cour de justice face aux dimensions externes de la politique commune de l'asile et de l'immigration : un défaut de constitutionnalisation?" (2019) 55 *Revue trimestrielle de droit européen* 1, 55–66.

[24] "The Court of Justice Facing the Uncertainties of the EU Constitutional Framework on the External Dimensions of EU Migration and Asylum Policy" in the conference *Constitutional Foundations of EU Migration Law*, organized at the University of Konstanz in June 2019.

To further explore these themes, Leboeuf and Marie-Claire Foblets organized, in partnership with Winfried Kluth and Dirk Hanschel from the Law Faculty at Martin Luther University Halle-Wittenberg, a workshop at the Max Planck Institute for Social Anthropology, where legal scholars and anthropologists could reflect together on the limitations of the legal framework for governing the external dimensions of EU migration policies (see p. 9). In light of current developments in European courts, the event examined the litigation strategies developed for seeking humanitarian admission to Europe, as well as the reasons why these attempts have failed thus far. The proceedings of the workshop have been published by Nomos/Hart.[25]



Horizon 2020: VULNER

One of the highlights of Leboeuf’s time at the Department has been his successful submission of a Horizon 2020 funding application. The project, *Vulnerabilities Under the Global Protection Regime: How Does the Law Assess, Address, Shape and Produce the Vulnerabilities of Protection Seekers?* (VULNER), was awarded funding totalling €3,030,932.50. It was launched in February 2020 and will run for three years. Leboeuf has been charged with leading the project, which is being carried out jointly by the Department of Law & Anthropology, the University of Louvain (UCL), Martin Luther University Halle-Wittenberg, Ca’ Foscari University in Venice, the Norwegian Institute for Social Research, the Centre for Lebanese Studies, as well as a Canadian research team, which is led by Delphine Nakache from the University of Ottawa and includes McGill University and York University. The participation of the Canadian partners is secured through matching funding of $198,609.55 from the Canadian Research Council (SSHRC).

The VULNER project starts with the finding that “vulnerability” is increasingly used as a conceptual tool to guide the design and implementation of the global protection regime.[26] However, “vulnerability” lacks a sharp conceptualization. Its concrete meanings, practical consequences, and legal implications are yet to be thoroughly understood. VULNER aims to address these uncertainties from a critical

[25] M C Foblets and L Leboeuf (eds), *Humanitarian Admission to Europe: The Law between Promises and Constraints* (Nomos/Hart 2020).

[26] This is evidenced by the 2016 New York Declaration for Refugees and Migrants and the subsequent adoption of the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees.

and comparative perspective, with a focus on forced migration. It will provide a comprehensive analysis of how the "protection regimes" of select countries address the vulnerabilities of "protection seekers".[27] To achieve this objective, the analysis adopts two different yet complementary perspectives. First, by combining legal and empirical data and analyses, it will systematically document and study how protection seekers' "vulnerabilities" are addressed by the relevant norms and in the practices of the decision makers. Second, "vulnerabilities" as experiences lived by the protection seekers, as well as their resilience strategies and how they are continuously shaped by interactions with the legal frameworks, will be documented and analysed using data collected during ethnographic fieldwork. Ultimately, the very notion of "vulnerability" will be questioned and assessed from a critical perspective. An alternative concept that better reflects the concrete experiences of protection seekers (e.g., "precarity") may be suggested. More information on the project can be found at https://www.vulner.eu/.

VULNER is the next step in Leboeuf's long-term research goal, i.e., using empirical – particularly anthropological – insights to deepen and complement the doctrinal analysis of migration law with the objective of revealing the gap, and depicting the interactions, between "law in the books" and "law in action".

Additional research activities

In addition to his research activities, Leboeuf continues to uphold his other commitments as a scholar of migration law. While a visiting professor at the University of Antwerp, he taught EU and international migration law in 2017 and 2018. Furthermore, he contributed to the ReDIAL research project, led by the European University Institute in Florence. ReDIAL focuses on the implementation of EU return policy and the way it is reviewed by domestic courts in dialogue with the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR). This culminated in a presentation as well as a contribution to a collective volume that has been published with Hart.[28] Leboeuf continued to publish the yearly analysis of the CJEU case law in the field of migration together with Professor Jean-Yves Carlier from the University of Louvain (UCL), where he obtained his PhD.[29]

[27] The selected countries are Belgium, Germany, Italy, Norway, Canada, Lebanon, Uganda, and South Africa.

[28] "The Prohibition of Collective Expulsion: A Forgotten Protection?" in the ReDIAL Conference organized at the University of Masaryk in September 2018; L Leboeuf and J-Y Carlier, "The Prohibition of Collective Expulsion as an Individualisation Requirement" in M Moraru, G Cornelisse, and P De Bruycker (eds), *Law and Judicial Dialogue on the Return of Irregular Migrants from the European Union* (Hart 2020).

[29] J-Y Carlier and L Leboeuf, "Droit européen des migrations" (2019) 257 *Journal de Droit Européen* 3, 95–110; J-Y Carlier and L Leboeuf, "Droit européen des migrations" (2018) 247 *Journal de Droit Européen* 26, 95–110.

He also continued to participate in the annual symposium of Belgian migration law scholars and wrote papers on pressing legal topics.[30] Finally, in 2018, he presented a paper at the conference of the Odysseus academic network, which brings together migration law scholars from all EU member states.[31]

Felix-Anselm van Lier
Constitutional reform; technology; qualitative analysis; law and technology

Digital technology in constitution-making processes

Felix-Anselm van Lier joined the department as a post-doctoral research fellow in January 2019. His project focuses on tech-enabled participation in constitutional reform. The project builds on his previous research on constitution making in Libya, in which he used a qualitative research framework to explore how different actors strategically used law and the procedures of the transitional framework to meet a variety of political, social, moral, and economic needs. The outcomes of this research will be published in a forthcoming book, tentatively titled *Constitution Making for State Building? The Libyan Experience*. In his new project, Lier broadens the scope of his research by looking at the use of technology in constitutional reform from a comparative perspective, while maintaining an empirical, qualitative research methodology.

Democracies in the digital age are experiencing growing political polarization and a decline in social trust and popular support for traditional political institutions.[32] Constitutions, and the processes that lead to their adoption or reform, may play a particularly pivotal role in mending political rifts, redefining the relationship between citizens and state institutions, and reinvigorating a sense of identity. In the last 10 years, policy makers have increasingly sought to harness the democratic and deliberative potential of digital participatory tools to foster large-scale citizen participation in constitutional reform.[33] Constitution-making processes in Iceland and Chile have been widely celebrated as trailblazers for the beginning of an era of “crowdsourced constitutions” and, more ambitiously, as heralds of an “open democracy”.[34]

[30] L Leboeuf and A Pirlot, “Taxation as a Means of Migration Control: The case of Hungary” (2019) 47 *Intertax* 3, 291–297; L Leboeuf, “Le règlement Dublin, une *lex specialis* qui prévaut sur la directive retour” (2018) 197 *Revue du Droit des Étrangers*, 132–138.
[31] “The Prohibition of Collective Expulsion as an Individualisation Requirement” in the Odysseus Conference organized at the Free University of Brussels (ULB) in February 2018.
[32] RS Foa and Y Mounk, “The Democratic Disconnect” (2016) 27 (3) *Journal of Democracy* 5–17, 6.
[33] See e.g. S Suteu, “Constitutional Conventions in the Digital Era: Lessons from Iceland and Ireland” (2014) 38 (2) *Boston College International and Comparative Law Review* 251–276.
[34] H Landemore, “Deliberative Democracy as Open, Not (Just) Representative Democracy” (2017) 146 (3) *Daedalus* 51–63.

While enthusiasm around the use of digital technology in constitution making is growing, research in the field has remained largely normative in its outlook. As yet there are no interdisciplinary and empirical accounts of the specific challenges that digital constitutional lawmaking may pose. Lier's project seeks to close this gap in current scholarship by applying a qualitative-empirical approach to the analysis of digital participation tools. It does so by observing the work of practitioners, including politicians, policy makers, lawyers, and activists, as well as social scientists and data scientists who develop digital democracy tools. The goal is to understand how digital tools function, how they are developed, and how they have been integrated in constitutional process designs. This knowledge will offer a better understanding of both the opportunities and limits of digital tools in constitution-making design and provide the foundation for a deeper scrutiny of the theoretical issues that may be at stake when such tools are applied in the context of constitutional reform.

Lier's project is divided into three phases: (1) a mapping and problem-definition phase to understand how and to what extent digital tools have been used in constitutional reform to date; (2) an in-depth fieldwork phase to understand how digital tools are developed, used, and understood by various actors; and (3) a final analysis phase to understand the broader implications of digital tools on constitution-making practice and theory.

Since starting at the MPI, Lier has worked on the first phase of the project (January – December 2019). At the heart of this phase is the identification of case studies from which a wider typology of the use of technology for constitutional reform is built. The typology provides the first systematic overview of the technologies that have been used, at which stages of the constitution-making process they have been used, and to what degree.

To this end, Lier has undertaken fieldwork in Iceland (October 2018) and Chile (June – July 2019), where he conducted interviews with key policy makers, lawyers, activists, and data analysts who were involved in the respective constitution-making processes. He also conducted preliminary interviews with policy makers from Ireland, Mexico City, Catalonia, Romania, the UK, Scotland, and Estonia. The analysis

Street protests in Santiago de Chile against structural inequalities in education in Chile, a precursor to the uprisings that hit Chile in October 2019 that led to the opening of a new constitution-making process.
(Photo: F. A. v. Lier)

includes non-constitutional cases of tech-enabled lawmaking processes, such as participatory platforms (e.g. Decide Madrid), as they entail important insights into citizen participation via digital tools.

The comparative analysis of different cases of tech-enabled constitutional reform confirmed the growing appetite for the use of digital tools in such processes. It has shown that there is a great variety of digital tools, that they are applied at various stages of constitutional reform, fulfil different purposes, and have varying impacts on constitutional negotiations. The analysis has also led to the identification of three broad and interrelated “problem areas” that most tech-enabled processes have in common, which form the basis for further investigation in the subsequent phases of the research project: (1) online deliberative public engagement in constitution making; (2) offline deliberation and technology; (3) process design: the relationship between crowds and traditional institutions.

(1) Online deliberative public engagement in constitution making

In earlier times, constitutional deliberation was only possible to a very limited extent due to logistical challenges. Now, however, digital democracy tools allow policy makers to involve an unprecedented number of citizens in constitutional deliberations. Arguably, this may foster much more extensive forms of collective opinion and will formation, increase constitutional awareness among the citizenry, and create a broad sense of popular ownership in the constitution. However, online deliberation has thus far proved to be less meaningful than hoped for.

For example, efforts to involve the public in legislative processes via social media platforms often lead to unhelpful and chaotic comments.[35] Other research has shown that users tend to share their ideas only in groups that agree with their own views, indicating that online deliberation may promote motivated reasoning and reinforce pre-existing attitudes rather than create a process of rational and collective will-formation.[36] Digital participation initiatives in constitution making and beyond also show that only a very narrow, self-selected segment of the population takes part in such processes, leading to unequal participation and making the process less inclusive and prone to biased results.[37]

These early findings will guide further research on how purpose-built online deliberation platforms are designed in order to be meaningful for constitutional debate, while flagging potential limitations of using online deliberation for constitutional reform.

[35] BS Noveck, “Crowdlaw: Collective Intelligence and Lawmaking” (2018) 40 (2) *Analyse & Kritik* 359–380, 372.

[36] J Hartz-Karp and B Sullivan, “The Unfulfilled Promise of Online Deliberation” (2014) 10 (1) *Journal of Public Deliberation* 1–5.

[37] K Oddsdóttir, “Iceland: The Birth of the World’s First Crowd-Sourced Constitution?” (2014) 4 (3) *Cambridge International Law Journal* 1207–1220, 1217.

(2) Offline deliberation and technology

As of now, online deliberations have not reached the quality of small-scale, face-to face offline deliberations, which have been shown to produce more meaningful debates and to have a more balanced demographic representation. But even in offline deliberative processes, which are limited in reach, technology may play a role in widening their scope. If an offline deliberative forum is small (e.g. a constituent assembly), technology can be used to foster broader public input to frame the debates (as was done in Mexico City, Iceland, and Ireland). If the offline deliberative process is of a broader scope (as it was in Chile), the large and complex sets of data they produce need to be translated into digestible chunks of information.

Digital tools for the analysis of large-scale complex data appear to offer solutions for the tension between the inclusiveness and the depth of a constitutional debate. Lier's preliminary comparative analysis emphasizes that policy makers tend to underestimate the challenge of integrating broad-scale online participatory processes into small-scale constitutional deliberations, and of analysing and systematizing large amounts of unstructured data in the context of constitution making.

Further, legislators and the larger public often fail to comprehend how the results of data analysis are produced, and therefore cannot identify its limitations and potential biases. The systematization of data, especially if automatized (e.g. via machine learning), carries the risk of further displacing the capacity for judgment and moving responsibility from judicial and political decision makers to the experts in quantification. This causes a potential lack of transparency and accountability, which may lead to allegations of bias on the side of data analysts, as happened in Chile, and harm the legitimacy of a digital participation process.

These findings will inform another strand of this project, which will focus on a qualitative analysis of data collection, systematization, and analysis. What are the opportunities and pitfalls of different forms of data collection? What kinds of data are collected and how? Who performs the data entry, and under what conditions? How do data scientists process data? How do constitution drafters use and make sense of the data? Is the participatory process and the analysis of the data transparent for drafters and the larger public?

(3) Process design: the relationship between crowds and traditional institutions

An overarching challenge of all tech-enabled constitution-making processes is how to create effective collaboration between crowds and traditional representative institutions. For example, both the Chilean and the Icelandic constitutional drafts failed to be ratified due to the resistance of elected representative institutions and the subsequent loss of momentum for constitutional change. Similarly, both Finland's

Open Ministry CrowdLaw[38] experiment and the Estonian Citizens Assembly gathered a wide range of proposals for constitutional reform, which their respective parliaments refused to formally consider. These examples suggest that there is still a lack of holistic thinking about how different digital tools can be meaningfully integrated into the different steps of a constitutional reform process and how to secure buy-in from traditional political elites and institutions.

These early findings will inform a systematic analysis of process design, which will explore ways in which analogue institutions and digital processes may be combined to work together more effectively and where there are limits. The three "problem areas" identified above shape Lier's ongoing in-depth fieldwork phase (January 2020 – December 2020). He is currently spending 12 months at the Alan Turing Institute in London (partly funded by a Re:constitution Fellowship offered by the *Mercator Foundation*), where he observes the work of data scientists who develop digital public participation tools. While in the UK, he is also conducting interviews with members of policy and government institutions to better understand how decision-makers imagine implementing such tools.

Lier has presented preliminary results of his fieldwork at various conferences, including at the 2019 International Society of Public Law (ICON-S) Conference in Santiago, Chile, at a conference organized by the Alan Turing Institute in February 2020, and at the TICTeC Conference in March 2020. He has also published preliminary outcomes of his work in opinion pieces on the Chilean constitution-making process and the use of digital tools in parliament published with OpenDemocracy.[39] A journal publication titled "Citizen participation and machine learning for a better democracy",[40] currently under review with the ACM Journal *Digital Government: Research and Practice,* captures the initial results of his collaboration with data scientists at the Alan Turing Institute.

The final phase of his research project will build on these preliminary outcomes and provide a deeper analysis and theorization of the fieldwork's outcomes. This analysis aims to address the broader legal, political, ethical, and technical challenges attached to the use of technology in constitution making and discuss their broader impact on political agency and practice. Lier's analysis also will also produce policy-relevant insights, which reflects the Law & Anthropology Department's ambition to address the question of how legal practitioners and anthropologists can draw concretely on their expertise to reach creative solutions to current sociolegal problems.

[38] CrowdLaw refers to the use of technology to foster more open and participatory lawmaking.

[39] F van Lier, "Towards Virtual Parliaments?" (*openDemocracy*, April 2020) <https://www.opendemocracy.net/en/can-europe-make-it/towards-virtual-parliaments/> accessed 27 July 2020.

[40] M Arana Catania, F-A van Lier, R Procter, N Tkachenko, Y He, A Zubiaga, M Liakata "Citizen Participation and Machine Learning for a Better Democracy" [2020] *Digital Government: Research and Practice* [under review].

Alice Margaria
Human rights; family law; fatherhood; parenthood; cultural diversity; European Court of Human Rights; litigation studies; gender studies

Alice Margaria joined the Department in October 2017 as postdoctoral researcher. A year after commencing her research activities at the Department, Margaria went on parental leave until mid-November 2019. Before to joining the MPI, she was exposed to the field of law and anthropology during her time as a guest researcher at the Department in early 2016.

Research topics and methods

The presence of diverse cultures and religions is among the greatest forces behind the increasingly plural nature of European families and family relationships. Given the variety of legal attitudes at the national level, the ECHR system has also been called on to engage with the recognition of cultural and religious specificity in the family domain. Individuals belonging to religions and cultures perceived as clashing with dominant ways of thinking have approached the European Court of Human Rights (ECtHR) – and even the European Commission – with a variety of claims, e.g., the refusal to recognize the validity of a Roma marriage[41] or a purely religious marriage[42] for purposes of granting a survivor's pension; the freedom to adopt a child already cared for under *kafalah*[43] and to raise one's child in accordance with one's religious and cultural beliefs.[44]

The main objective of Margaria's research is to understand how the ECtHR, widely depicted as a success story for individual human rights protection, has thus far responded to the concerns raised by these individuals and their families. Margaria intends to reconstruct the Court's reaction by embarking on a two-part analysis. The first, which employs what could be called a "judgment-centred" approach, is concerned with the origins and content of the jurisprudence produced thus far by the Strasbourg organs to address complaints lodged by culturally and religiously diverse families. To be more specific, this first way to investigate the Court's response consists in identifying the definition of kinship emerging from the

[41] *Muñoz Díaz v Spain* App no 49151/07 (ECHR, 8 December 2009).
[42] *Şerife Yiğit v Turkey* [GC] App no 3976/05 (ECHR, 2 November 2010).
[43] *Harroudj v France* App no 43631/09 (ECHR, 4 October 2012); *Chbihi Loudoudi and Others v Belgium* App no 52265/10 (ECHR, 16 December 2014).
[44] See, for instance, *Palau-Martinez v France* App no 64927/01 (ECHR, 16 December 2003); *Vojnity v Hungary* App no 29617/07 (ECHR, 12 February 2013); *Wetjen and Others v Germany* App nos 68125/14 and 72204/14 (ECHR, 22 March 2018); *Tlapak and Others v Germany* App no 11308/16 and 11344/16 (ECHR, 22 March 2018); *Kilic v Austria* App no 27700/15, communicated to the Government in May 2017 (pending).

jurisprudence, gauging the plurality of this definition, and finally reflecting on the norms and practices of different cultures and religions.

The second part of the analysis is "applicant-centred" and includes a (more) "introspective" analysis: it is internally oriented and characterized by the examination of the thoughts and feelings of the applicants in the aftermath of litigation. Here, the Court's approach to culturally and religiously diverse families is investigated primarily from the perspective of the applicants and with the specific purpose of investigating how an application submitted to the Court impacts the applicants' lives. Though existing scholarship has already gone beyond the strictly legal effects of the Strasbourg jurisprudence, e.g., by looking at its "social" outcomes, it has only rarely concerned itself with the impact of judgments on the applicants themselves. This, despite the judicious observation that "it is, first and foremost, the experience of individual applicants that is the foundation of Strasbourg litigation".[45] In light of these considerations, Margaria's empirical study "gives a voice" to the applicants, paying particular attention to basic yet generally overlooked questions: What have been the consequences of litigation for their everyday lives?[46] Has litigation had any impact on the well-being of the applicants?

As a result, Margaria's research differs from the general trend in international legal studies. Her methodology combines two of the main methods generally used to conduct qualitative research, i.e., analysis of documents, in particular, court judgments; and in-depth interviews targeting a wide range of protagonists, including the applicants, their legal representatives, civil society actors and, of course, judges and other Court officials involved in litigation. The underlying premise here is that although we may not be able to obtain a full and unadulterated picture, combining doctrinal methods with sociolegal and empirical methods – as this research does – helps produce a more nuanced and complex image of the ECtHR jurisprudence, thereby enhancing the analysis of this institution.

Instead of aiming at an exhaustive coverage of the Strasbourg case law on religious and cultural diversity in the family domain, Margaria's research focuses on a limited number of "information-rich cases"[47] that can bring to light issues of crucial importance for understanding the Court's approach to culturally and religiously diverse families. Each case is dealt with as a "piece of anthropological mini-fieldwork":[48] a conversation between various voices, some of them often unheard. In addition to

[45] P Johnson, *Going to Strasbourg: An Oral History of Sexual Orientation Discrimination and the European Convention on Human Rights* (Oxford University Press 2016), 175.

[46] M Sapignoli, *Hunting Justice: Displacement, Law and Activism in the Kalahari* (Cambridge University Press 2018), 251.

[47] MQ Patton, "Purposeful Sampling" in Alan Bryman (ed.), *Ethnography* (SAGE Publications, Cambridge 2001), vol. II, 106.

[48] M-B Dembour, *When Humans Become Migrant: Study of the European Court of Human Rights with an Inter-American Counterpoint* (Oxford University Press 2015), 22.

addressing feasibility concerns, "purposeful sampling" reflects the rationale behind this research, i.e., to undertake an in-depth study by directly engaging with the individuals involved in a small number of carefully selected cases rather than collecting standardized data from a large and statistically representative sample.

Interdisciplinary framework

Margaria's research and the interdisciplinary framework of the Law & Anthropology Department's research programme share three points of synergy:

(1) Research themes: Current times are marked by a significant proliferation of identities and affiliations transforming societies into new types of plural entities. Legal pluralism and the accommodation of diversity – in particular religious and cultural diversity – have triggered lively debates, especially in Europe. As outlined above, Margaria's project deals with one specific dimension of this phenomenon, namely, the presence of various family forms – due to differences in lifestyle, cultural and religious identity, and organization of family ties – and the need for the law to address this plurality and the expectations of the individuals to whom it applies. In addition to addressing contemporary issues in legal anthropology, such as the challenges of justice in contemporary plural society, her research topic is aligned with one of the main and long-standing foci of the Department: how different normative orders and value systems coexist at various levels of decision making.

(2) Visions of the law: The study of the law undertaken by conventional legal theorists tends to stay within well-defined boundaries. It approaches the "law-as-text" through a rigorous doctrinal analysis grounded in sources that derive their authority and legitimacy from the nation-state. Drawing from anthropological perspectives, Margaria's research is premised on a different vision of what constitutes a legal domain, which acknowledges the interdependence of law and society and, as such, goes far beyond rule-based formulations. Law is therefore understood as an "entrenched social institution",[49] a "social phenomenon that cannot be reduced to legal codes"[50] or to formal legal institutions. As a consequence, "litigation" is explored as a multi-party and multidimensional process in which the underlying dynamics and forces can only be understood by actively engaging with the protagonists. The above conceptual framework closely mirrors the vision of the law underlying the Department's research outlook as well as its interdisciplinary nature.

[49] S Frerichs, "Studying Law, Economy and Society: A Short History of Socio-Legal Thinking" (2012) *Helsinki Legal Studies Research Paper* No 19, 9; see <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2022891> accessed 24 May 2019.

[50] B Dupret, M Lynch and T Berard, "Introduction" in B Dupret, M Lynch and T Berard (eds), *Law at Work: Studies in Legal Ethnomethods* (Oxford University Press 2015), 3.

(3) Methods: The conceptual approach to “law” outlined in the above paragraph has immediate and fundamental repercussions for research on the legal domain. In line with the overall research outlook in the Department, Margaria’s work, too, relies on the use of sociolegal methods, not necessarily as an alternative but rather as a supplement to doctrinal methods. In other words, they both stress the added value of studying the law by going beyond legal texts to situate law in real life or, more specifically, in the social contexts in which legal texts are created, used, abused, disregarded, destroyed, etc.[51]

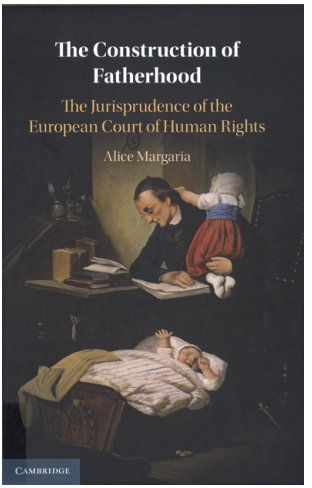
Research activities, expertise, and long-term professional goals

Before joining the Department as a guest researcher in 2016, Margaria’s primary research focus had been on a different, albeit connected, topic, and her research had employed sociolegal rather than empirical methods.[52] But exposure to the research methods emphasized in the Department would ultimately have a profound impact on the development of her methodological approach. While this represents a rather recent shift, Margaria has nevertheless been able to build and strengthen new expertise in a relatively short time thanks to a number of research activities at the MPI. For instance, the Department has supported her in attending, and presenting her work at, several international conferences and workshops. These experiences have further familiarized her with a new field of research, allowing her to meet and engage with scholars from diverse fields, to work towards future academic collaborations, and to disseminate her research findings on fatherhood in the jurisprudence of the ECtHR. As a result of her participation in a January 2018 workshop in Leicester (*Neglected Methodologies in International Law*), she was asked to contribute a paper, “Going Beyond Judgments: Exploring the Jurisprudence of the European Court of Human Rights”, to the edited volume *Pluralising International Legal Scholarship: The Promise and Perils of Non-Doctrinal Research Methods* (Rossana Deplano, ed., Elgar 2019). This is a testament to how conference participation is conducive not just to improving expertise, but also to strengthening one’s academic profile.

While developing her current project, Margaria also completed her book *The Construction of Fatherhood: The Jurisprudence of the European Court of Human Rights,* which was published by Cambridge University Press in November 2019. The process of finalizing the book also contributed to Margaria’s current research in the Department, as it allowed her to further develop her work on the ECtHR’s responses to “diversity” in the family domain and to explore other important questions

[51] A Perry-Kessaris, “What Does It Mean to Take a Socio-Legal Approach to International Economic Law?’ in A Perry-Kessaris (ed), *Socio-Legal Approaches to International Economic Law: Text, Context, Subtext* (Routledge 2013), 6.

[52] In particular, she had been interested in understanding the “construction” of fatherhood endorsed by the ECtHR: does it reflect present fatherhood realities or does it rather reproduce the paradigm of “conventional fatherhood”?



such as: Is diversity in the family context dealt with differently by the Court depending on the type of diversity? For instance, is the ECtHR's approach to "home-grown" family diversity (i.e., assisted reproduction and homosexual families) different from the one adopted towards cultural and religious diversity? Is there a "stratified" right to family life in the ECtHR context?

Departmental meetings are another effective tool for Margaria's scholarly development. They have offered her the chance to discuss her own findings and key readings in the field of law and anthropology as well as to have fruitful exchanges on methodological issues with colleagues. She has also been exposed to inspiring academic presentations by both colleagues and guests on a great variety of topics. Apart from giving rise to sophisticated debates, these presentations have opened up new fields to her and broadened her scholarly horizons.

Mariana Monteiro de Matos
Cultural diversity; religious diversity; international law; social anthropology; Portugal; indigenous peoples

Poliversity *in Portugal*

In November 2018, shortly after being awarded her PhD, Mariana Monteiro de Matos joined the Law & Anthropology Department as a postdoctoral fellow. Since then, she has been involved in a diverse range of academic endeavours. Cultural and religious *polyversity* is the cross-cutting topic of her research,[53] which deals with different fields of study and world regions, from South America to Europe and beyond. Monteiro de Matos has been researching, teaching, lecturing, and publishing – in English, German, Portuguese, and Spanish – on interdisciplinary topics including the rights of indigenous peoples in the Inter-American and European human rights systems, the nuclear-weapon-free zone in the Caribbean, and religious minorities in

[53] Monteiro de Matos has been using the term *polyversity* in her research instead of "diversity". Etymologically, the word diversity is related to the ideas of oddness and wickedness, whereas polyversity has a more neutral meaning that relates to the different types of identities, affiliations, and allegiances existing in a given society.

Greece, Portugal, Spain, and Switzerland. Her first monograph is Volume 10 in Brill/Martinus Nijhoff’s Intercultural Human Rights Series.[54] Monteiro de Matos has been appointed as case law reporter for the *Springer Global Encyclopedia of Territorial Rights* and the *Oxford Reports for International Law*. She is also a member of the German Society of International Law (Deutsche Gesellschaft für Internationales Recht) and the European Association of Social Anthropologists (EASA).

In her main postdoctoral project, Monteiro de Matos explores the evolving challenges faced by the Portuguese legal system in handling the multiple aspects of polyversity. Specifically, she addresses the questions of how Portugal deals *de facto* with religious and cultural diversity in the case of vulnerable groups on a legal basis, and to what extent the country’s approach to religious and cultural diversity may be related to the approaches of other European countries. Immigration, citizenship, belonging, and the transnationalization of religions are central to Monteiro de Matos’s postdoctoral project. To answer her research inquiries, Monteiro de Matos combines doctrinal and comparative legal research with empirical field research. The empirical component of her work consists of participant observation and in-depth interviews with legal practitioners and members of vulnerable groups.

One of the byproducts of Monteiro de Matos’s research is the comprehensive country report on Portugal that she prepared for the MPI database of European laws relating to cultural and religious diversity (CUREDI) (see pp. 45–51). Furthermore, in 2019, she carried out exploratory multi-sited fieldwork in the cities of Lisbon, Porto, Coimbra, and Braga in Portugal. During her time there, Monteiro de Matos established a partnership with NOVA University Lisbon to gain institutional support for her upcoming long-term fieldwork in Lisbon.

Cultural and Religious Diversity (CUREDI) Database Project

In parallel with her postdoctoral project, Monteiro de Matos has been actively supporting the development of CUREDI. Her contribution to the database through case law analysis has covered a range of different issues, e.g., indigenous land rights in Finland and Sweden, religious education in Austria, and the application of Islamic law in Greece. Monteiro de Matos has been assisting the CUREDI Coordination Team with the creation of the conceptual and administrative tools required to set up the database such as the virtual website and the glossary. On the basis of her work for the CUREDI database, she presented at the 16th EASA conference in 2020 and the 6th Conference of the Network of Iberoamerican Anthropologists.

[54] M Monteiro de Matos, *Indigenous Land Rights in the Inter-American System: Substantive and Procedural Law* (Brill/Martinus Nijhoff 2020).

Teaching

While working as a postdoctoral fellow, Monteiro de Matos has also engaged in teaching activities. For instance, she was a guest lecturer at Berlin's Technical University as part of the lecture series (*Ringvorlesung*) on development policy, which was sponsored by a number of bodies such as the Berlin Senate and the United Nations Association of Germany. The lecture was titled "From Indian to Indigenous: Defining and Recognizing Indigenous Peoples in International Law and Practice". Shortly after, Monteiro de Matos was invited by Professor Brigitte Fahrenhorst to publish her lecture in an edited volume on indigenous peoples, land, and nature. This book is an ongoing project with Peter Lang publishers. In addition, in the winter semester of the 2019–2020 academic year, Monteiro de Matos developed and taught the "Law & Anthropology" module as part of the LL.M. Programme in Legal Theory at Goethe University Frankfurt am Main.

Finally, Monteiro de Matos has been enhancing her research skills through her exposure to different academic activities and settings. At the Department, she has been giving informal advice to PhD students, participating and presenting at departmental meetings, collaborating with other colleagues, and supporting the process of selecting PhD students. Monteiro de Matos has also been engaging with the Max Planck Society through her participation in the workshops and seminars for young scholars. In 2019, she held presentations at various international conferences, some of which culminated in publications for reputable scholarly blogs such as *Völkerrechtsblog* and *Jean Monnet Chair on Sustainable Development.*

Stefano Osella
LGBTI+ rights; trans people's rights; intersex people's rights

Introduction

Stefano Osella joined the Department as a postdoctoral researcher on 1 June 2019. In the space of a relatively short time, he has been able to develop his skills and work on several sociolegal projects related to the recognition and construction of identity. In particular, he has been focusing on gender and sexuality in law. All his projects relate to his broader research interest in how law defines and, to a certain extent, enforces identities.

Current research

The primary purpose of Osella's scientific investigations is to understand how and why law defines and categorizes individuals according to their gender. He aims to develop a theory of how law shapes identities for the broader purpose of governance

and to understand how the many complexities of the human identity are translated into law. At the same time, Osella tries to understand how law acts as an element that influences and often renders uniform these human experiences. While this project has vast applications, Osella’s main focus is on gender and sexuality. This decision is mostly due to his doctoral studies. His dissertation is a study of comparative public law and queer legal theory. It discusses how gender identity and the sexual characteristics of intersex people find protection, through fundamental and human rights law, in three European jurisdictions (Italy, France, and England and Wales).

Osella’s main project is the transformation of his doctoral thesis into a monograph. He is currently in the process of writing a book proposal to submit to an international publisher. In terms of content, this research investigates how the right to gender recognition (i.e., the fundamental right of a person to legally determine their own gender) has achieved constitutional or human rights protection in a number of European, American, and Asian jurisdictions. It discusses why and how gender categories are established and have been preserved in law. Of prime concern is how gender categories and their rationales develop in light of the affirmation of the right to gender recognition. Also significant are the broader sociolegal transformations in family law and gender relations. To achieve the stated research objectives, Osella investigates how an individual’s autonomy to determine their own identity in law has collided with pre-existing social structures – in particular the heterosexual family – which rely on stable and binary gender categories. Moreover, he analyses how changes in community culture and the evolution of the family (and sexual mores) enable the expansion of individual autonomy and the diversification of identities.

With his second parallel project, Osella aims to understand why and how Italian law sustains the system of gender categories by defining discrete gender identities. This project is an effort to theorize, through the lens of feminist and queer theory, Italian jurisprudence on the right of trans people to have their gender identity legally recognized (e.g., in civil registries, birth certificates, and identification documents). Osella will show how, through the disciplining force of law, certain understandings of gender are imposed on individuals and enforced. The anticipated deliverable is an article to be submitted to an international public law journal.

Osella’s third parallel project investigates how intersex identity is defined by advocacy work carried out for the recognition of the right to identity. He aims to understand how such identity recognition impacts intersex people and their activism and demands in Germany. The German Constitutional Court has granted people with intersex sexual characteristics the right to be recognized as a non-binary legal gender.[55] In other words, their right to be registered as third-gender, i.e., as neither male nor female, is recognized. This decision is arguably a breakthrough for the rights of an often-neglected minority. Nonetheless, it also gives rise to new complexities that Osella’s research unearths. He explores the more complex aspects of this

[55] BVerfG (Federal Constitutional Court), 1 BvR 2019/16, Oct. 10, 2017.

celebrated constitutional decision, asking not only how the decision was perceived by intersex activists, but also how it may have transformed intersex rights advocacy. Osella intends to write an article on the basis of this research, to be submitted to an international law and society review.

Interdisciplinary framework

In his research, Osella combines conceptual and empirical investigations. Traditional legal analyses remain a central component of his work: to discover the law and write about it following a doctrinal methodology, very common among lawyers in continental Europe. Additionally, throughout his education, he has continuously developed his knowledge of critical studies such as feminist and queer theories, which have helped him develop the framework for his empirical research. At the Department, he has extended the scope of his research to include sociolegal studies. His objective is to bring to the fore the lived experiences of people who are not, so to speak, intelligible to the legal system, wherein categories of people are too neat and uniform. Talking to and engaging with these people, appreciating the more human aspect of their struggle, is now a central goal of Osella's research. In so doing, he delves into how gender-diverse people formulate their demands for recognition and redistribution, as well as their strategies and actions. He observes how they prepare to engage with the legal system. He explores their perspective as users of those rights, with the aim of understanding the many legal and social effects of the law on the lives of gender minorities.

In light of this approach, his research is well suited for sociolegal studies, a defining feature of the Department's empirical work on a broad array of topics such as cultural diversity, human rights, and public law. Furthermore, Osella's focus on gender and sexual diversity is an added value to the Department's existing expertise and work on the broad theme of diversity.

Career impact

The Department's intellectual diversity was a key motivation for Osella to come to Halle. The possibility to work with legal anthropologists and experienced sociolegal scholars within a single Department has strengthened the methodological depth of his research. He is hopeful that his time at the Department will also be conducive to the development of his teaching portfolio. These aspects, coupled with the unique working conditions and infrastructure in Halle, have been highly advantageous for his career development.

On a container ship in Hamburg. (Photo: L. Piart)

Luisa Piart
The politics and laws of justice; global markets; workers’ rights; international organizations; maritime infrastructures

Luisa Piart joined the Law & Anthropology Department as a postdoctoral researcher in February 2019. She holds a joint position here and at the Institute for Social and Cultural Anthropology of Martin Luther University Halle-Wittenberg. Piart’s scientific interests are situated at the intersection of legal and economic anthropology: industrial labour relations and workers’ rights, the study of international organizations, global markets, and infrastructures.

ILO Maritime Labour Convention, 2006

In the reporting period, she focused mostly on developing her new research project “Labour Governance in the Shipping Industry: An Anthropological Study of the ILO Maritime Labour Convention, 2006”. The project, which is intended to culminate in a *Habilitation*, examines the enforcement of the Maritime Labour Convention (MLC), a 2006 convention of the International Labour Organization (ILO) that entered into force in 2013. By comparing the implementation of the convention in Hamburg and Panama, Piart seeks to contribute to a better understanding of the shifting relations of law, market regulations, and labour relations on the oceans. Three main themes emerged during her empirical research in London and Hamburg in 2019.

Wages, pensions, unemployment benefits, health policy: throughout the twentieth century, collective bargaining agreements, labour standards, and their legal regulation in democratic industrialized nations followed a tripartite structure whereby representatives of governments, corporations, and workers’ unions sat at the same table and negotiated with one another. This tripartite principle has underpinned the organization and decision-making processes of the International Labour Organiza-

tion (ILO) since its foundation in 1919. Both before and after becoming part of the United Nations in 1946, the ILO established fundamental labour standards enacted in more than 190 conventions governing workers' rights. The ILO still plays a major role in providing legal guidance and technical assistance to many countries. Yet, in the latter part of the twentieth century, the ILO – like other specialized UN agencies – increasingly came under scrutiny as a global organization ill-adapted to present-day circumstances.[56] Indeed, the work of the ILO was predicated on strong states, well-organized trade unions, and national business communities. During the late twentieth century, production went global and state regulations gave way to corporate social responsibility and codes of conduct that corporations adopted on a voluntary basis. This approach, however, lacks an enforcement mechanism and fails to secure workers' rights. Altogether, these changes are said to undermine the tripartite model of the ILO.[57]

The 2006 Maritime Labour Convention is one of the 190 ILO conventions. It establishes minimum working and living standards for all seafarers working on ocean-going commercial ships. It seeks to ensure decent work for seafarers as well as fair competition among shipowners and governments. While violations of seafarers' rights are still frequent, the MLC has been widely ratified and enthusiastically celebrated by seafarers' representatives and labour scholars alike. With her appointment at the Institute, Piart embarked upon an innovative anthropological venture that explores the MLC's enforcement regime, which is backed by important inspection and certification procedures (discussed below). Through multi-sited ethnographic fieldwork in London, Hamburg, and Panama, Piart aims to research the emergence of monitoring tools and the development of new legal procedures upholding the MLC and seeking to uphold seafarers' rights.

The ILO's centenary in 2019 provided a momentous opportunity for Piart to start her project. She attended two of the most important scientific conferences celebrating this event. The first was *Social Justice and Decent Work: The ILO in Action in the Last Century*, held in Paris (27–29 June). The second was *Continuing the Struggle: The International Labour Organization (ILO) Centenary and the Future of Global Worker Rights*, which took place in Washington, D.C. (21–22 November), where the first International Labour Conference was held in 1919. These two events involved academics, legal practitioners, policymakers, and union leaders. In Washington, D.C., Piart presented her empirical work and ways of integrating her research into legal practice. The conference will result in a volume to be co-edited with conference participants and published in 2021.

[56] R Niezen and M Sapignoli (eds), *Palaces of Hope: The Anthropology of Global Organizations* (Cambridge University Press 2017).

[57] See RP Appelbaum and N Lichtenstein (eds), *Achieving Workers' Rights in the Global Economy* (ILR Press-Cornell University Press 2016); R Prentice and G De Neve (eds), *Unmaking the Global Sweatshop: Health and Safety of Global Garment Workers* (University of Pennsylvania Press 2017).

These two events provided her with direct insights into the inner workings, decision-making processes, and heated debates at the ILO. This also helped situate the importance of maritime labour (and the originality of the MLC) within the century-long history of the ILO, while allowing for reflections on how best to integrate the ILO and its lawmaking mechanism into her current project. The scope of the MLC is much more limited than other ILO conventions. According to the latest estimates, there are 1.6 million seafarers. This constitutes less than one percent of the global workforce. Yet because seafarers on board ocean-going vessels circulate between and beyond national jurisdictions, maritime labour has been “of special concern” throughout the history of the ILO. Furthermore, the MLC is praised by the ILO as a “way forward” for achieving workers’ rights.[58]

Maritime labour relations and labour inspections

During her empirical research, Piart was also concerned with maritime labour relations and labour inspections. While strong national trade unions for seafarers (at least in the UK and US) were taken for granted until the mid-1960s, the situation changed with the spread of open registries (also known as “flags of convenience” in the shipping industry) and the relocation of maritime employment in the 1970s.[59] In the wake of these changes, the main international body representing seafarers launched a trade union campaign against flags of convenience: during the 1990s, the London-based International Transport Workers’ Federation (ITF) organized a new network of labour inspectors for seafarers, initiating an unprecedented form of global unionism. The ITF was extremely active in the MLC negotiations, which began in 2001. Piart has gained access to the organization, conducting fieldwork on the

On deck during a labour inspection in Hamburg. (Photo: L. Piart, 2020)

[58] “[W]ay forward” is the expression that the former Director-General of the International Labour Conference Juan Somavia used after the vote to adopt the Convention in 2006 (see M McConnell, D Devlin, and C Doumbia-Henry, *The Maritime Labour Convention, 2006: A Legal Primer to an Emerging International Regime* (Martinus Nijhoff Publishers 2011) 17.

[59] L Fink, *Sweatshops at Sea: Merchant Seamen in the World’s First Globalized Industry, from 1812 to the Present* (University of North Carolina Press 2011).

work of the ITF at their London headquarters in February, March, and June of 2019. Indeed, ITF inspectors are at the core of her fieldwork in Hamburg and Panama. Her ethnographic study of the everyday work of ITF inspectors within and across legal and normative orders will allow for a novel understanding of transnational labour politics.

The MLC transformed maritime state labour inspections in many respects. Under the MLC, flag state authorities are responsible for ensuring that the MLC requirements are implemented on board ships flying its flag. The spread of flags of convenience, however, has weakened foreign-flag state jurisdictions over ships. To compensate for this, port state jurisdiction emerged in the 1980s. Since the MLC entered into force, port state inspectors have been responsible for enforcing maritime labour law on board, carrying out inspections on board and checking compliance with the MLC. Since 2013, regardless of the flag flown by the ship, when it calls at a port in a country that has ratified the MLC, it can be detained by port state authorities if it does not comply with the labour standards of the convention. This is said to give "teeth" to the MLC by creating a level playing field for flag states. Ultimately, these changes also undermine the significance of flag states in determining which law applies to individual employment contracts on board. Furthermore, the MLC is the only ILO convention that entitles private institutions to conduct state labour inspections. Recognized organizations such as Lloyd's and Bureau Veritas are officially entitled to inspect and certify labour conditions on board on behalf of flag states. In late 2019, Piart conducted ethnographic fieldwork with different state and nonstate inspectors during their visits on board ships in Hamburg and gained insights into the fascinating standardized certification procedures they follow. Her preliminary findings show how these labour inspections are guided by important indicators used as quantitative tools for assessing labour rights.

Digital tools

Finally, material collected during her fieldwork in London and Hamburg in 2019 highlights the importance of digital tools for the governance of labour in the shipping industry. There are currently about 70,000 commercial ships sailing the oceans. They range from container ships to Ro-Ro vessels, oil tankers, and general cargo ships. Each represents a complex "island of law" on water. The MLC is part of a maze of maritime regulations that ships and seafarers have to abide by. In their everyday work, modern seafarers are incredibly busy with an endless paperwork involving certificates, documents of compliance, and record books meant to ensure adherence to different international and regional standards. Seafarers on board the same vessel hail from different countries. Digital tools provide technical solutions to manage the legal complexity and to cope with the bureaucratic paperwork on board. Piart noted the use of different software to keep track of the work and rest hours of seafarers according to the 2006 MLC. The calculation of work and sleep hours on board dif-

fers slightly according to national legislations. Such digital software facilitates the implementation of differing legal obligations. Labour inspectors implementing the convention contribute to the standardization and measurement of maritime labour in unprecedented ways. Piart aims to develop a critical understanding of the consequences of these developments for seafarers.

Activities in 2019 and future prospects

In early 2019, Piart was a visiting fellow in the Department of Anthropology at the London School of Economics, during which time she laid the groundwork for her current project with the support of her host, Professor Laura Bear. Likewise, participating in the four-week Summer Academy of the International Tribunal for the Law of the Sea in Hamburg in July 2019 was an incredible opportunity to gain insights into maritime law and law of the sea, as well as laying the foundation for her fieldwork in the port of Hamburg from September onwards. She also participated in the inaugural conference of Max Planck Law at the Harnack Haus in Berlin in October. In addition, by teaching at the university and actively taking part in the scientific activities of the Law & Anthropology Department and the Institute of Cultural and Social Anthropology of Martin Luther University Halle-Wittenberg, Piart has been strengthening the cooperation between the two institutions, especially with Professor Olaf Zenker, who focuses on politics, law, and justice. In 2020, the COVID-19 pandemic upended the world of work and disrupted international shipping. Overnight, seafarers became “essential workers” in the battle against the pandemic. For Piart, 2020 will be devoted to following up on these issues, pursuing fieldwork in Panama and Hamburg whenever possible, and publishing the results of her ongoing research project and her dissertation, which she defended in 2018.

Eugenia Relaño Pastor
Religious diversity; immigration; integration of minorities; freedom of religion; human rights law; human dignity

Eugenia Relaño Pastor’s academic research and professional career have been guided by several themes and concerns: legal recognition of religious diversity, immigration, the integration of minorities from a multicultural perspective, the theory of freedom of religion, the scrutiny of international and national case laws on religious freedom. Additionally, as a legal expert on processing claims on migration and equal treatment in the Spanish National Human Rights Institution, she has developed empirical knowledge on the practical implementation of human rights law – particularly immigration law, its impact on individuals in daily life, and the limits, flaws, and grey zones of state law in practice. Relaño Pastor’s interests and professional expertise have found an intellectually stimulating home in the Department of Law &

Anthropology, which focuses on similar intellectual concerns: (1) accommodation of diversity in contemporary societies; (2) the integration of anthropological research into legal practice; and (3) awareness of human rights in different settings.

During her first stay at the Department as a senior researcher from January to April 2017, Pastor conducted research on three topics: religious diversity, integration of minorities, and migration. She began helping the Department take the initial steps for setting up a database of case law and legislation related to cultural and religious diversity in the European Union. This involved surveying similar databases on case law and the state-of-the-art academic work on topics related to cultural and religious diversity (reasonable accommodation, discrimination, religious freedom, minorities, etc), as well as analysing policies, legislation, and academic projects on the relevant issues in European member states. This enabled her to help draft the preliminary materials for what would become known as the CUREDI (Cultural and Religious Diversity) Database Project (see pp. 45–51).

During this period, Pastor also completed two chapters for two handbooks published by the European Centre for Minorities Issues. The first, titled "Rethinking the Notion of 'integration': Building the Conditions for Cohesive and Multicultural Societies" (Relaño Pastor 2017a), deals with the integration of minorities in public life from the theoretical perspective of multiculturalism and its applicability to Eastern European contexts. The second chapter, "Roma Integration Policies in Spain" (Relaño Pastor 2017b), analyses the legislation and state policies in Spain towards Roma integration and was published in a handbook on prevention and discrimination.

Relaño Pastor's first stay at the Department coincided with the Court of Justice of the European Union's (CJEU) first two judgments (*Achbita* and *Bougnaoui*) on religion as a ground for discrimination. Shortly after the verdict, she penned an opinion piece titled "Mujer y musulmana, doble discriminación" ("Woman and Muslim, a Double Discrimination"), which appeared in *El Pais*, Spain's most widely circulated daily (Relaño Pastor 2017c).

Cultural and Religious Diversity (CUREDI) Database Project

In November 2017, Relaño Pastor was brought in to serve as the Scientific Coordinator of the CUREDI project. She was charged with laying the groundwork for developing the project's core documents: a glossary, guidelines, a code of conduct, and cooperation agreements with individual experts and universities. These documents, along with case law templates and national and thematic reports, were written under the supervision of the Director and regularly discussed with Rodrigo Cespedes and, in subsequent stages, with Department members who would later join the CUREDI project. Relaño Pastor was responsible for reviewing specific case law templates and reports submitted by CUREDI's contributors, to train new CUREDI members, and, in cooperation with the IT, to transform the project content into a functional Collective Internal Platform (CIP). She co-organized four CUREDI workshops and

meetings (see pp. 45–51). Together with Rodrigo Cespedes, she presented the aims and content of the CUREDI project at the *Justice and Culture Conference: Legal Techniques and Arguments for Dealing with Multicultural Conflicts*, organized by the Osservatorio Internazionale dei Diritti Umani and the University of Cagliari in Cagliari, Italy (11–12 May 2018). In September 2018 Pastor delivered a presentation titled “Cultural and Religious Diversity (CUREDI) Database in Europe” at the Fifth ICLARS Conference: *Living Together in Diversity: Strategies from Law and Religion*, in Rio de Janeiro, Brazil (12–14 September 2018).

Relaño Pastor has also helped identify relevant materials regarding cultural and religious diversity in Spain, with a particular focus on case law related to religious diversity in the workplace, and has written a preliminary report on cultural and religious diversity in Spain for inclusion in the CUREDI database.

Scientific outcomes in the recognition of religious diversity

The 2015 conference *Cultural and Religious Diversity in Four National Contexts*, organized by the Department of Law & Anthropology, led to the publication of *Public Commissions on Ethnic, Cultural and Religious Diversity: National Narratives, Multiple Identities and Minorities*, a volume co-edited by Katayoun Alidadi and Marie-Claire Foblets (Alidadi and Foblets 2018). Relaño Pastor contributed to the book with the chapter “The European Court of Human Rights: Fundamental Assumptions That Have a Chilling Effect on the Protection of Religious Diversity” (Relaño Pastor 2018a).

Relaño Pastor has also addressed the question of how labour laws and regulations that may appear unbiased can in practice lead to hidden discrimination against minorities on religious grounds. Her work “Religious Discrimination in the Workplace: *Achbita* and *Bougnaoui*” (Relaño Pastor 2019a) appeared in *EU Anti-discrimination Law beyond Gender*. Another piece on this topic, titled “When Religious Discrimination is Not Related to Religion or Belief” (Relaño Pastor 2019b), was published in *International Labor Rights Case Law.*

Religious freedom and Islamophobia

During the reporting period, Pastor also published a commentary on the overall implementation of religious freedom in Spain through the analysis of two *Annual Religious Freedom* reports (2015 and 2016) issued by the country’s Ministry of Justice.

She also focused on the spike in Islamophobia throughout Europe since 2015.[60] A case in point is her article on Islamophobic prejudices present in the legal reasoning

[60] Data from European agencies such as the ENAR (European Network Against Racism) and the FRA (Fundamental Rights Agency) suggest that Islamophobia has been directed especially towards Muslim women.

of Europe's two supranational courts (the EU Court of Justice and the European Court of Human Rights), which was published in the *Journal of the Sociology and Theory of Religion* (Relaño Pastor 2018b). In a second article, which appeared in *Revista de Estudios Internacionales Mediterraneos*, the concept and the manifestations of "Islamophobia", along with the legal responses to this phenomenon, were examined (Relaño Pastor 2018c).

As an expert on religious freedom, Relaño Pastor participated in the seminar *Freedom of Religion: Recent ECtHR and CJEU Case Law*, which was organized by the Academy of European Law (ERA) in Strasbourg, France, 18–19 October 2018. She was also invited to speak at an international roundtable, *The Mission of Religion in the Modern World: On the Way to Collaboration*, held in Moscow on 17 December 2018. On 13–14 May 2019, Relaño Pastor presented her work on "Religious Freedom in the Workplace" at a seminar on *Interreligious Dialogue* in Madrid.

Judicial training on religious and cultural diversity in courts

Drawing on her experience as a judicial trainer on migration issues for the Spanish Judiciary Council, Relaño Pastor, along with other members of the Department, collaborated with the European Judicial Training Network (EJTN) on two judicial training workshops that focused on the adjudication of cultural and religious diversity in judicial institutions throughout Europe (see pp. 19–21). She participated as a labour law trainer in the preparatory meeting for the judicial training "Cultural and Religious Diversity in the Courtroom: Judges in Europe Facing New Challenges", at the WissenschaftsForum Berlin, 11 June 2018. In the first workshop, organized by the Hessian Ministry of Justice in Wiesbaden, 12–13 November 2018, Relaño Pastor was the facilitator of the labour law working group. For the second workshop in Utrecht, 5–7 November 2019, she prepared working papers and materials for the labour law working group.

Relaño Pastor was also invited as a speaker and trainer by the Academy of European Law (ERA) to the *Applying EU Anti-Discrimination Law* seminar held 9–10 May 2019 in Scandicci, Florence. The event was held for EU judges, prosecutors, and other members of the judiciary with the aim of providing an overview of the two European Directives prohibiting discrimination on the grounds of religion/belief in employment and occupation.

Human dignity and diversity

The 70th Anniversary of the Universal Declaration of Human Rights in December 2018 triggered a global conversation about preserving and protecting human dignity for everyone everywhere. A global network of scholars engaged in a series of conferences held throughout 2018 that explored the notion of human dignity and its relation to freedom of religion or belief. Relaño Pastor took part as a speaker in the

conference *Human Dignity for Everyone Everywhere: Founding Figures, Foundations, and the Uses of Human Dignity*, which was co-sponsored by the International Center for Law and Religion Studies (Brigham Young University) and the *Oxford Journal of Law and Religion*. At the event, which was held at Oxford University from 3–4 August 2018, Relaño Pastor was a panelist in the session called “Implementing and Realizing Human Rights”, where she analysed how the idea of human dignity for everyone everywhere helps with human rights implementation.

In January 2019, she presented her paper “Human Dignity in the European Convention of Human Rights” at the international conference *Religious Voices, Human Dignity and the Making of Modern Human Rights*, held at the Pontificia Università Antonianum in Rome. Additionally, Oxford University invited Pastor to its July 2019 conference on *Human Dignity from Judges’ Perspectives,* where she presented a work-in-progress chapter, “Human Dignity in the European Court of Human Rights”.

Relaño Pastor also attended The Law and Society Association’s annual meeting, which was devoted to the theme of dignity (Washington, D.C, 30 May–2 June 2019). There, she presented a paper in the panel “How Judicial Decisions Are Made: Appointments, Professional Ethos and Discretion Among Judges, Magistrates, and Prosecutors”, which was organized along with her fellow MPI researcher Sophie Andreetta and Susanne Verheul from Oxford University. Relaño Pastor’s contribution to the panel, “When Human Dignity Becomes a Limitation to Personal Autonomy in the European Court of Human Rights (ECtHR)”, focused specifically on the misuses of the concept of human dignity by ECtHR judges.

Also in line with the Department’s priority to interlink anthropology and law in practice, Relaño Pastor served as a discussant at the Department’s conference dedicated to the *Oxford Handbook of Law & Anthropology* (see pp. 17–18).

Teaching

In the reporting period, Relaño Pastor was also engaged in a number of teaching activities. In July 2019, she lectured at Oxford’s Christ Church College on the general justifications for freedom of religion and belief, and on why religion deserves protection. She was also a visiting professor at the University of Almeria’s Law Faculty, where she taught a course titled “Introduction to Human Rights” from February to May 2019. Finally, in June 2017 and June 2019, Pastor taught an online master’s course, “Church and State Relations in Canada”, to students at The Pontifical Athenaeum Regina Apostolorum in Rome.

Forthcoming publications

While at the Department, Relaño Pastor was able to finalize two more contributions in the field of law and anthropology, which are yet to be published. The texts were accepted for publication during the reporting period. One is titled “EU Initiatives

on a European Humanitarian Visa", which will appear in the volume *Humanitarian Admission to Europe*.[61] The other is titled "Human Dignity in the European Court of Human Rights" and will be part of Dymtro Vovk's edited book *Human Dignity from Judges' Perspectives*, which is to be published by Oxford University Press.

Miscellanea

Relaño Pastor has also been involved in reviewing the applications of postdoctoral researchers submitted to the Research Foundation Flanders (FWO). She has also been a peer reviewer of an article submitted for publication in the fourth issue of the *Deusto Journal of Human Rights* (2019). She was awarded the 2018 Spanish Religious Freedom Award by the Madrid-based Foundation for a Better Life, Culture and Society.

Clara Rigoni
See profile in Part II, *Group Projects, under Conflict Regulation in Germany's Plural Society* (pp. 42–43)

Mahabat Sadyrbek
See profile in Part II, Group Projects, under *Conflict Regulation in Germany's Plural Society* (pp. 41–42)

Maria Sapignoli
Indigenous peoples; human rights; displacement; United Nations; Botswana; Artificial Intelligence

Maria Sapignoli was with the Department from January 2013 to June 2019. During the reporting period, she finalized several interrelated research projects that had been initiated during her time as a postdoctoral researcher at the Department. Significantly, she also started to explore an entirely new research project.

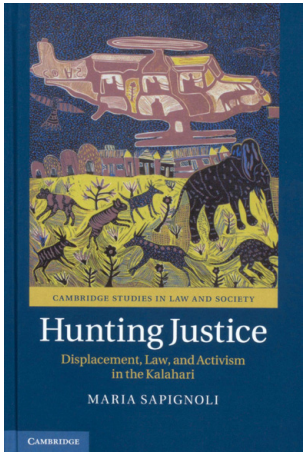
The finalized projects include: 1) "Global and Local Impacts of the Discourse on Indigeneity: The Transnational San Social Movement and the Peoples of the Central Kalahari Game Reserve"; 2) "The Anthropology of Global Institutions".

To finalize these projects in 2017, Sapignoli conducted research at the annual sessions of the UN Permanent Forum on Indigenous Issues in New York and at the UN Expert Mechanism on Indigenous Peoples' Rights in Geneva.

[61] M C Foblets and L Leboeuf (eds), *Humanitarian Admission to Europe: The Law between Promises and Constraints* (Nomos/Hart 2020).

Hunting justice in the Central Kalaharia

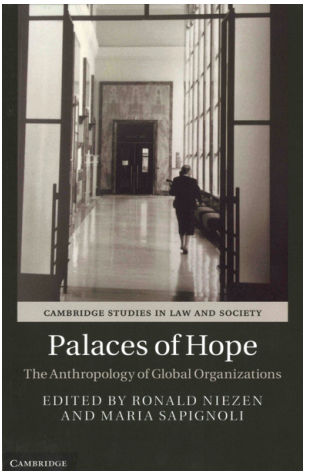
The first project, “Global and Local Impacts of the Discourse on Indigeneity”, uses ethnographic analysis to document the pursuit of justice by displaced peoples in southern Africa in the context of environmental conservation. It examines how they are affected by, and in turn shape, legal institutions such as state courts and human rights NGOs. This research culminated in several peer-reviewed articles, book chapters, a major monograph titled *Hunting Justice: Development, Law and Activism in the Central Kalahari* (Cambridge 2018), and *La Questione Indigena in Africa,* a co-edited volume that looks comparatively at “being indigenous” in the African context (UNICOPLI 2017).



Hunting Justice, which received positive endorsements and reviews, presents a long-term study of the activist campaign that contested the Botswana government’s much-publicized removal of the San and Bakgalagadi people from the Central Kalahari Game Reserve. The multiple points of observation and analysis are drawn from empirical research in a wide range of contexts such as rural Botswana, the nation’s High Court, and the headquarters of various UN agencies. The research focuses on rights claimants as well as officials from NGOs, states, and the UN as they acted on the grievances of those who had been displaced. In offering a comprehensive discussion of the San peoples and their claims-making through formal institutions, this book maintains a consistent focus on the increased recourse to law and the everyday experiences of those asserting their rights in response to state encroachments and the opportunities inherent in new indigenous advocacy networks.

La Questione Indigena in Africa addresses the implications of using indigeneity as a legal and economic category in the African context, where this identity category is heavily contested by both states and scholars. The range of cases (nine essays) presented in the volume adds to the complexity and understanding of the effects that international law has (or does not have) in regional and national contexts. This collection also considers how indigeneity is translated, redefined, and embodied among diverse groups locally, nationally, and internationally.

The anthropology of global institutions



The second project, "The Anthropology of Global Institutions", moves beyond Sapignoli's Africa-based research. It focuses on the institutional reality of human rights. It applies anthropological methods to the study of UN experts and officials working on indigenous peoples' rights. Some of the findings have already been published in *Palaces of Hope: The Anthropology of Global Organizations* (Cambridge 2017), a volume Sapignoli co-edited with Ronald Niezen. The central methodological premise of this book is that anthropology has in recent years taken on global organizations as a legitimate subject of research. It offers, in a single volume, a range of works by researchers who have entered the social worlds of the UN, its satellite agencies, and other multilateral institutions. The body of literature assembled in this book (12 essays) offers new perspectives on topics of timeless interest: bureaucracy, international law, advocacy, and, ultimately, justice. The knowledge acquired through the book's ethnographic methods offers a perspective on global organizations that may also influence the ways these organizations are understood by UN experts, legal scholars, political scientists, and policy makers.

Sapignoli's other ongoing collaborative projects addressed the nexus between law and anthropology. A case in point is an international conference she co-organized in October 2018. The event addressed many important contemporary issues concerning the relationship between anthropology and law, and inspired her co-authored chapter in the *Oxford Handbook of Law & Anthropology* (of which Sapignoli is also a co-editor, see pp. 17–18).[62] Another project close to completion is a volume she is co-editing with Marie-Claire Foblets and Brian Donahoe. Titled *Anthropological Expertise in Legal Practice* (Routledge), the book collects a number of cases in which lawyers and anthropologists have collaborated inside and outside the courtroom when dealing with the rights of indigenous peoples and asylum seekers. Along with Robert Hitchcock, Sapignoli is also finalizing *People, Parks, and Power: The Ethics of Conservation-Related Resettlement* (Springer), a monograph on issues of environmental conservation, ethics, and resettlement.

[62] M Sapignoli and R Niezen, "Global Legal Institutions" in M-C Foblets, M Goodale, M Sapignoli, and O Zenker (eds) The Oxford Handbook of Law & Anthropology (Oxford University Press, forthcoming).

Artificial intelligence in policing and governance

These two main projects equipped Sapignoli with the expertise and networks required for laying the groundwork for a new project. With the support and encouragement of the Director Marie-Claire Foblets, she began in fall 2017 to explore a new ethnographic research adventure that deals with the legal and social challenges, as well as the opportunities, presented by the use of new technologies in governance. This project, an anthropological inquiry into algorithmic technologies in human rights practice, builds on Sapignoli’s earlier work on activism, her ethnography of institutions, and her expertise in researching the relationship between science and technology studies (STS), human rights practices, and the anthropology of global governance. This work engages critically and collaboratively with the challenges and opportunities of using information and communications technology and big data, but primarily from a hitherto underexplored human rights perspective.

For this project, Sapignoli carried out exploratory fieldwork in New York City, Geneva, and Cape Town. During her time in New York, she interviewed several representatives from large US tech companies and the newly established New York City Automated Decision Systems Task Force. In Geneva, she attended UN meetings related to business and human rights. There, she interviewed UN representatives involved with digital technologies, as well as tech industry representatives dealing with global governance initiatives. Finally, her exploratory research in Cape Town, also known as “Silicon Cape”, looked at the city’s pioneering significance in the southern African region when it comes to the use and development of new technologies for governance. In furthering this project, Sapignoli also attended and presented at several conferences and meetings related to artificial intelligence (AI) and human rights in the US, Hong Kong, and Europe.

The preliminary findings of this research have resulted in a number of papers that Sapignoli is currently finalizing. One of them, co-written with Ronald Niezen, is on the anthropology of global organizations. In this piece, which is to appear in the *Oxford Handbook of Law & Anthropology* (see pp. 17–18), she deals specifically with the digitalization of bureaucracy and the use of AI. She is also working on three other papers that she plans to submit to international journals. One piece, titled “The Environmental Life of New Technologies”, looks at the use of drones and machine learning technologies in the policing of environmental crime and in community-based activism in southern Africa. The second paper, “The Social Life of Machine Learning in Global Governance”, analyses the AI revolution in human rights and global governance, particularly the UN’s use of automated decision-making in human rights governance and the role of tech companies in informing UN policies and laws. Finally, a third paper considers the importance of an ethnographic approach for studying the social impact of new technologies, as well as the very tech companies and experts involved in the creation of such technologies. This paper is titled “AI and the Importance of Ethnography”.

The data Sapignoli collected for this new research, as well as the networks she established by attending tech workshops and conferences, enabled her to develop a proposal for a group research programme that she calls *AIming Toward the Future: Policing, Governance, and Artificial Intelligence*. It was submitted to and approved by the Max Planck Society for the Max Planck Research Groups Leaders programme. Leaders are appointed for five years by the President of the Max Planck Society and enjoy an independent status within the Institute. During this five-year project period, Sapignoli will be affiliated with the MPI in Halle.

In January 2020, Sapignoli began to select a group of researchers to work on the project *AIming Toward the Future,* which officially started in April 2020. Machine-learning systems and digital technologies are already having important and immediate consequences for a wide range of issues relevant for governance and justice, including where and when law enforcement will direct policing efforts and how they will be held accountable; what decisions a judge will most likely make; and who populates prisons and for how long, to mention a few. In all of these contexts, decisions are made by algorithmic assemblages, raising questions and concerns about the fairness, accountability, and transparency of the decision-making process. Data often reproduce structural discrimination and inequalities, and algorithmic coding is often informed by the designers' cultures, perceptions, and limitations. The effectiveness of predictive automated decision-making systems depends on the accuracy and representativity of the data used to train them. This means that effectiveness is in large part determined by the technicians' understanding of the data. Questions of algorithmic accountability are ultimately questions of justice.

The project aims to map and interpret the impacts of digital technologies on criminal justice, particularly law enforcement, and governance. It will investigate how these technologies are being developed and applied in light of intensifying policing crises and the increasing involvement of the private sector in governance and criminal justice initiatives. Within an ethnographic and comparative framework, it will have two interconnected research foci. First, it looks at how machine-learning technologies are employed by law enforcement officials on the ground. Second, it will investigate the conceptualization and creation of these technologies. It will apply an ethnographic approach to the values, visions of justice, and conceptions of crime among the experts who design, categorize, and code digital technologies. It will do so by focusing mainly on the use of AI technology by law enforcement in the cities in Italy and South Africa. While focusing on "predictive policing", the project will analyse the development of such technologies through an ethnography of tech companies.

Sapignoli's main goal is to shed light on how one of the most significant technological, legal, and institutional developments of our time is shaping decision-making and, ultimately, justice itself. To deepen our understanding of this development, a long-term ethnographic approach and a team composed of interdisciplinary researchers will be employed.

During the reporting period, Sapignoli was also able to contribute to the successful nomination of Prof. Annelise Riles for the Humboldt Anneleise Meier award (2018), which is valued at € 250,000. Professor Riles will use the award to collaborate with researchers from the Department of Law & Anthropology.

At the beginning of 2019, Sapignoli had a two-month fellowship at the Università Statale di Milano, where she taught a PhD course titled “Human Rights, Lawfare, and the Juridification of Politics”. From January to June 2018, she was scholar-in-residence at New York University’s Center for Human Rights and Global Justice.

Luisa T. Schneider

Unhoused persons; homelessness; right to privacy; intimacy; legal personhood; Germany

Luisa Schneider joined the Law & Anthropology Department in 2019 as a postdoctoral research fellow with a research project that examines privacy and intimacy among unhoused persons in Germany (that is, persons without independent housing). Her foundational study, with its interdisciplinary research design combining law and policy analysis with participant observation, generates new insights into the effects of legal policies that make the basic rights to privacy and intimacy and their protection conditioned on having independent housing. She focuses on the growing number of people who, for various reasons, cannot meet these conditions. Empirical evidence shows that people who must do without shelter are particularly vulnerable, but in-depth studies that document this phenomenon in its full complexity and would allow for a critical assessment of this vulnerability, in particular when it comes to privacy and intimacy, are sorely lacking. The project probes into the dynamics at play between the state’s commitment to basic human rights and vulnerable groups who fall under the state’s jurisdiction but are deprived of the full benefits of its protection.

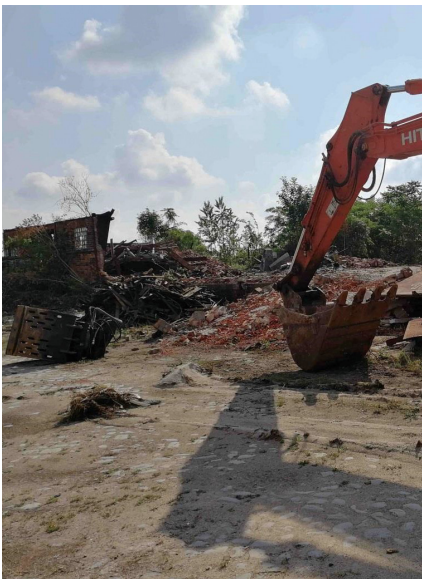
Privacy, intimacy, and the unhoused

One of the core concepts upon which contemporary Western societies rest is the spatial, social, and legal separation between outside the home and inside the home. Privacy and intimacy, which are basic rights in international human rights law and in German domestic law, illustrate this.[63] Privacy includes the non-public sphere, domesticity, family and personal life. Intimacy includes, among other things, one’s

[63] United Nations Declaration of Human Rights (UDHR) 1948, Article 12; General Personality Right (APR), Federal Court of Justice in 1954 derived from Art. 2 para. 1 Grundgesetz (Free Development of Personality) and Art. 1 para. 1 Grundgesetz (Protection of Human Dignity).

inner, emotional, and sexual life. However, these rights take for granted that we live under circumstances in which the private sphere is separated from the public sphere by the walls of one's home. The legal protection of these rights is unwittingly tied to independent shelter, as laws related to domestic violence, the practical limitations of restraining orders, and violence prevention in the public sphere make clear. Independent shelter is thus intimately linked to safety, belonging, and wellbeing. Indeed, living privacy and intimacy without shelter is largely criminalized, as custody laws that prevent parents without housing from having custody of children and laws forbidding sexual intimacy, exposing or washing oneself, and even sleeping in public forcefully show. Independent housing thus plays a fundamental role not only in obtaining decent living standards, but in securing one's most fundamental needs in life. Without it, neither a personal life, relationships, nor family life seem to be possible. This raises the pressing question of what happens when one has no home of one's own, no walls to create the conditions that allow intimacy to be lived?

Tilo's home in February 2019, Leipzig, Germany. (Photo: L. Schneider)



Tilo's home in June 2019, Leipzig, Germany. (Photo: L. Schneider)

Social and policy relevance

This is the situation millions of people across Europe find themselves in. In Germany, where Schneider’s study is located, the numbers of unhoused persons has doubled over the past five years. The situation is expected to deteriorate due to increasing poverty, rising rents, and newcomers who intensify competition for the insufficient supply of social and affordable housing. Additional factors include the changing dynamics of labour – particularly, fixed-term contracts and people working in low-paid jobs. Family events such as divorce, separation, the death of a partner, or eviction by household members play a prominent role. These issues compound, leaving a growing number of people vulnerable and dependent on support to find and maintain shelter.

Like many countries, Germany sees a social issue and operates according to a “staircase” model. Accompanied by various service providers, the unhoused move individually through different stages of temporary and usually shared accommodation, receiving social support along the way. The end-goal is an apartment of their own. This approach often fails, as the demands that are put upon them within this “staircase” model are too high to be met. Additionally, those legally defined as unable to live independently (due to age or health), those who are serving sentences, and often refugees and migrants are housed in institutions, specialized homes, camps, and shelters.

Legally speaking, all of these people remain unhoused. Indeed, the European Typology of Homelessness and Housing Exclusion distinguishes between “rough sleepers” (i.e., those who are without any form of shelter), people who sleep in shelters and temporary accommodations for the unhoused, and persons who are either institutionalized or live in impermanent, transitional, or insecure residences. All of these people get caught in a double bind: impermanence of housing circumstances and permanence of reliance on state support. Legally, they remain unhoused and, as their lives are ever more closely policed and the makeshift spaces within which they are expected to live are often, of necessity, shared, the question of how privacy and intimacy can be lived remains unanswered for all of them. Additionally, through the resulting continuums of care, institutions (through their representatives) become permanent figures and primary caretakers in unhoused persons’ lives. This has wide-ranging implications for notions of family, responsibility, social connections, and care.

Research questions

In this study Schneider examines first how and to what extent legal policies that connect privacy and intimacy to independent housing affect unhoused persons. Second, she delineates how states and organizations understand their role vis-à-vis unhoused persons by analysing their policies and practices and their effects on unhoused

persons. Third, she focuses on the experiences of unhoused persons themselves and asks:

1. How do unhoused people live privacy and intimacy? How do they practice relationships and family life? What do home, safety, and belonging mean to them?

2. How do unhoused persons perceive their legal agency and how do they interact with the state and with service providers? Do they take steps to realize their rights and to seek the protection of the state? If not, what alternative mechanisms do they develop?

Contribution to scholarship

A wealth of research has been generated on the issue of shelterlessness. However, as Rachel Rayburn and Jay Corzine (2010) point out, "the topic of sex and love is notable by its absence within the research literature on homelessness".[64] Schneider's project is thus an important step towards filling this gap in the literature. While scholars have long pointed to the need for in-depth research with affected persons, such works remain the exception, especially because gathering data on the most personal aspects of people's lives requires building trust with respondents. This is not possible via surveys, questionnaires, or structured interviews. Becoming immersed in people's lives is the only way to understand how law and policy affects them. The research therefore relies heavily on participant observation, which entails living with respondents on their terms and studying their lives by experiencing with them.

Schneider initially spent six months on relationship building and on gaining access, and then conducted six months of full-time fieldwork in Leipzig, during which time she accompanied 27 rough sleepers through their everyday lives. In the course of this fieldwork, she spoke to more than 300 respondents, ranging in age from 14 to 70 years old and including persons from all walks of life: singles, couples, pregnant women, members of various sub-cultures, persons with addiction issues (esp. alcohol, heroin, methamphetamine), beggars, bottle collectors, (petty) criminals, sex workers, and former blue- and white-collar workers. She has studied relationships as they form and fall apart, the constant pursuit of building homes on the streets, finding places to retreat to and in which to be intimate, and the deep entanglement of rough sleepers' lives with police, state agents, and service providers. Moreover, she has managed to negotiate full access to the Sozialamt, municipal offices and agencies, political parties (Linke, Grüne, SPD) and relevant independent organizations (esp. Caritas, Diakonie). She now attends their meetings and expert forums and observes their personnel during service provision. She has also been asked to fill the

[64] RL Rayburn and J Corzine, "Your Shelter or Mine? Romantic Relationships Among the Homeless" (2010) 31 *Deviant Behavior* 756–774.

academic chair at the Fachforum Wohnhilfen and the AG Recht auf Wohnen to offer strategic advice to practitioners and policy makers. All these present opportunities to highlight the policy relevance of her research. Moving forward, she will include the perspectives of service providers, criminal justice personnel, and policy makers whose attention the project caught and who are open to being studied.

Importantly, Schneider was also able to connect to many persons who exited services or never used them and whose trajectories remain hidden from scholars and practitioners. As such, her project sheds light on the many unhoused persons who are not usually seen and who seldom have a voice.

Schneider has a long-standing scholarly interest in the tension between fundamental rights and protections and their practical realization. These tensions are thrown into high relief by the divide between private and public spheres, both spatially and regarding conflicting discourses over which areas of life states should regulate and which are inviolable. This central aspect of Schneider’s work fits neatly within the Department’s primary goal of combining anthropological and legal analysis to query what law is and to examine its role in society.

More specifically, Schneider’s current project addresses two major global debates that are at the core of the Department’s research agenda: the accommodation of diversity under state law and the ways in which minority groups experience state laws and relate to the state. Her research examines legal citizenship at two levels: the top-down creation of legal personhood (through state laws, discursive practices, and interventions); and unhoused persons’ experiences and interactions with these rights and with the state, including those contestations and claims made on the state that constitute “bottom-up” definitions of legal citizenship.

The project’s focus on those who enact law and those who are affected by it renders visible the tension between what laws set out to do, the policies or programmes that exist, and their impact. Through the long-term accompaniment of unhoused people, Schneider not only aims to achieve a deeper understanding of their lived experiences in all their diversity, but to use these unique perspectives to unravel the relationship between state law, customary law, and the law of the streets, and to demonstrate the possibilities and limits of the law and of the state’s promise to protect. Individual experiences serve as a lens to capture instances where law and policy are unable to extend protection to unhoused persons and where they must be updated to ensure protection and respect for basic rights.

While the unhoused serve as the lens through which Schneider uncovers the premises and concepts upon which such rights and protections are based, the project’s relevance extends well beyond the unhoused. Privacy and intimacy are rights theoretically granted to all of us, but if our lives do not conform to the strictures of a very specific framework, as fewer and fewer lives do, the enjoyment of these rights is neither granted nor straightforward. Through her insights and collaborative work with scholars and practitioners, Schneider hopes to be able to offer guidance on policy to ensure protection and respect for these basic rights.

Despite her very busy and demanding fieldwork schedule, Schneider has managed to publish extensively during her time in the Department. Her doctoral thesis (Oxford University 2018, embargoed) combines an analysis of violence prevention laws with grassroots understandings of violence in relationships in Sierra Leone, where she lived in slums in Freetown, with an extended family, and later with a gang, conducting participant observation in the slums, in courts, and inside Pademba Road prison. She moves beyond the classic model of gender complementarity that has dominated academic thinking in the region for decades, fostering new understandings of the anthropology of violence, love, and law. She observed that while new laws aim to prevent violence, they end up criminalizing sex, an effect she has analysed in a number of recent (Schneider 2019 a, b, c, d) and forthcoming[65] publications. These publications contribute to academic debates on the dissonance between human rights and local priorities, on sexual consent, on transactional relationships, on prison experiences, on understanding women's responses to intimate partner violence and on the role of fieldwork in the discipline.

The societal relevance of Schneider's work goes beyond academia; through various outreach activities she engages in policy circles and reaches a broader public audience. She has been interviewed for fair-planet.org, an online specialist publication, and for *Coffee and Cocktails*, a UK-based podcast for researchers. She served as an expert for an article on sexual violence in Sierra Leone that appeared in *New African*, the best-selling pan-African news magazine (2019). She has also presented preliminary research findings at international conferences on houselessness and housing deprivation, and organized a workshop, "Experiences of violence among persons without regular shelter or in supervised housing", during the Gender Studies 2019 Conference *On Violence*. In the coming years, she hopes to lay the foundations for her Habilitation by upscaling her research project and forming an interdisciplinary research group that will combine anthropological and legal analysis to examine how all types of unhoused persons – from rough sleepers to those housed in camps, prisons, shelters, transitional residences, or institutions – in different locations across Europe are able to enjoy privacy and intimacy and live independent lives.

[65] See L Schneider, "Degrees of permeability: confinement, power and resistance in Freetown's central prison" (2020) 38 (1) *Cambridge Journal of Anthropology*; L Schneider, "Sexual violence during research: How the unpredictability of fieldwork and the right to risk collide with academic bureaucracy and expectations" (2020) *Critique of Anthropology*; L Schneider, "Elders and transactional relationships in Sierra Leone: Rethinking synchronic approaches" (2020) *Africa*.

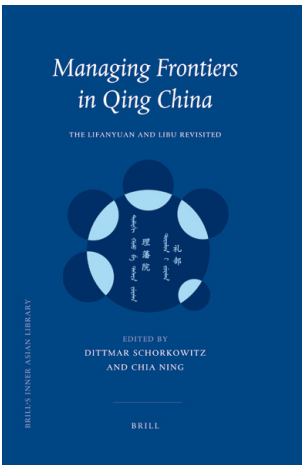
Research Group: Historical Anthropology

Historical Anthropology of Colonialism: Comparative and Fundamental Research (2017–)

Head of Research Group: Dittmar Schorkowitz[66]
Doctoral students: Elisa Kohl-Garrity, Elzyata Kuberlinova
Progress report by Dittmar Schorkowitz

During the period under review, the research group Historical Anthropology engaged intensively with the historical anthropology of colonialism, with a particular focus on comparative and fundamental research. This involved a critical analysis of the limits of comparison and our understanding of various notions of colonialism.

The Lifanyuan



In line with this research interest, I co-edited a volume that was published by Brill in 2017 (Schorkowitz and Chia Ning 2017). It was welcomed in academia as the “first comprehensive study of a key institution of the Qing dynasty – the Lifanyuan”[67] that “offers a striking new set of conceptual lenses for deciphering Qing’s colonial representation(s) of frontier minorities”[68] embedded in “a world historical comparative perspective, revealing a unique practice of early modern empire building”.[69]

While the book’s primary focus is on China’s imperial expansion into Inner Asia (i.e., Mongolia, Xinjiang, and Tibet) during the early period of the Qing empire building, my contribution deals with colonial-imperial practices and integration strategies in Russia and China as reflected in their respective

[66] After having been a member of the Department ‘Resilience and Transformation in Eurasia’ for many years, Dittmar Schorkowitz came to the Department ‘Law and Anthropology’ in 2018 for organizational reasons. His primary research focus remains unchanged, and his work is still financed by the Department ‘Resilience and Transformation in Eurasia’.

[67] N Di Cosmo, “Preface” in Schorkowitz and Chia Ning (2017). For a more detailed account on this volume, see my previous report in *Max Planck Institute for Social Anthropology Report 2014–2016* (Halle/Saale: 2017).

[68] T Previato, “Review of Schorkowitz, Dittmar and Chia, Ning, eds. (2017) *Managing Frontiers in Qing China: The Lifanyuan and Libu Revisited*” (2017) *Ming Qing Studies* 172.

[69] C Déry, “*Managing Frontiers in Qing China: The Lifanyuan and Libu Revisited* ed. by Dittmar Schorkowitz and Chia Ning (review)” (2018) 29 (3) *Journal of World History* 409–413, 409.

nationality policies and institution building.[70] Such studies on nationalities in imperial formations facilitate historical and anthropological inquiries into government strategies of social engineering. They also illuminate various practices such as the homogenizing of cultural diversity, regulation of vertical relations of tax and tribute extraction, and the reshaping of legal systems and co-opting elites. Moreover, such studies point to a cross-epochal cohesion needed by empires, particularly in times of social change, rupture, or revolution.

Imperial formations have fostered lasting strategies for integration. Their skills to manage ethnic diversity have evolved over centuries. They have developed nationality policies and created agencies that guaranteed their survival by inventing traditions, strategies, and institutions geared towards preventing the collapse of power and identity. The Qing-time Lifanyuan and Libu belong to this category of institutions that developed political techniques of patronage with sophisticated codes of reference, behaviour, and closeness, revealing a clear intention to demonstrate and consolidate ritualized forms of respect, ranking, gift exchange, and subordination. Similar agencies can also be found in Tsarist Russia and the early Soviet Union, where they were principally concerned with governing ethnic minorities and developing strategies for the integration of colonial peripheries.

"Internal colonialism"

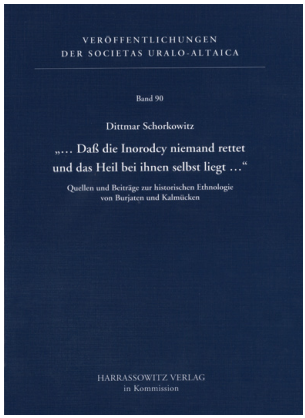
In an attempt to link modern Russian (both Soviet and post-Soviet) and Chinese minority policies with their historical antecedents, I apply Michael Hechter's fruitful analytical model of "internal colonialism" to the imperial history of both empires, which constitute major historical examples of "continental colonialism".[71] Offering a multilayered comparison,[72] this research highlights the diverse evolution of political institutions, particularly the cross-epochal transfer – the *longue durée* – of imperial structures, objectives, and institution building. Such structural similarities and imperial continuities underline the relevance of concepts like *internal colonialism* and *continental colonialism* with regard to interactions between governmental agencies and local populations. The approach was later enlarged, theoretically elaborated, and applied to the *colonial paradigm* more globally.

[70] Schorkowitz 2017.

[71] M Hechter. *Internal Colonialism: The Celtic Fringe in British National Development, 1536–1966* (Routledge & Kegan Paul 1999).

[72] The approach combines a synchronic comparison of two multi-ethnic states and of the congenial Qing ministries Lifanyuan and Libu on the one hand, and a diachronic comparison from empire to nation-state on the other.

The “historical anthropology of colonialism”



Prior to that, I published a long-planned book with Harrassowitz based on continued and intensive archival research in Elista (Kalmykia), Ulan-Ude (Buryatia), Moscow, and St Petersburg. The work empirically complemented the theory-led analysis within the “historical anthropology of colonialism”. The monograph, titled *“... Daß die Inorodcy niemand rettet und das Heil bei ihnen selbst liegt ...”* (Schorkowitz 2018),[73] is an archival study of the Inorodtsy as an ethnicity-based category used to refer to non-Russian minorities in Tsarist and early Soviet Russia.

The book presents a historical inquiry into the “colonial situation” of the Buryats and Kalmyks, the only Mongol-speaking Buddhist peoples living within the confines of the Russian empire since the early seventeenth century. Offering comparative perspectives on their everyday lives, traditions, political struggles, and the course of their integration into – and cooperation with – the “colonial” state, this study is more of a Geertzian “thick description” of the integration phenomenon than a theoretical contribution.[74]

In this way, the means by which the cultural, social, and legal relationships of indigenous peoples are adjusted to Russian norms and civilizational concepts become more visible. This concerns, in particular, the erosion of indigenous self-administration; the nationalization of land ownership; the replacement of traditional legal systems and the liquidation of practised legal pluralism; the transformation of nomads into sedentary peasants and able-bodied Cossacks; the suppression of shamanism and Buddhism and conversions to Orthodox Christianity; and processes of enhanced taxation, co-optation, and Russification through language, writing, and education. These processes were not interrupted by the October revolution of 1917 and resumed under a Soviet format well into the 1930s.

The material presented here was taken from 344 archival files, each of which comprised many more documents from official and often classified correspondences, directives, background and intelligence reports, census records for ministerial usage, local complaints, and minutes from court cases and lawsuits. They reflect everyday living conditions at the periphery and decision making in the metropolis from 1838 to 1935 (indeed with a much greater historical depth), hence making a significant contribution to the historical anthropology of the Buryats and Kalmyks.

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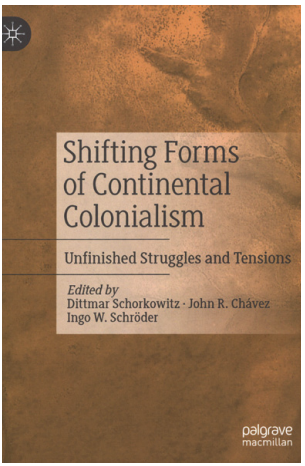
[73] *“... Because Nobody Will Save the Inorodtsy unless They Save Themselves ...”.*

[74] C Geertz, “Thick Description: Toward an Interpretive Theory of Culture” in *The Interpretation of Cultures: Selected Essays* (Basic Books, 1973) 3–30.



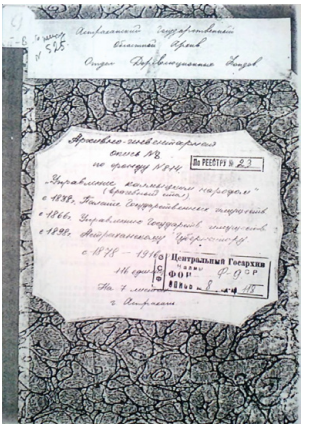
These two approaches – the synchronic-diachronic comparative analysis of colonial-like institutions and the archival research following the interpretative model of "thick description" – paved the way for another publication that was analytical and discursive in format. In *Shifting Forms of Continental Colonialism*, my co-editors – historian John Chavez and anthropologist Ingo Schröder – and I looked at the early modern period to the present to explore various forms of continental colonialism in Asia, Africa, Europe, and the Americas. The book offers an interdisciplinary approach, bringing together historians, anthropologists, and sociologists to contribute to a critical "historical anthropology of colonialism" (Schorkowitz, Chavez, and Schröder 2019).

Recent studies of modern colonialism have almost exclusively focused on the path dependencies of overseas colonialism in the developing and the developed world, establishing in the process a comprehensive body of literature that has helped shape the distinct approaches and patterns in the disciplines involved. Against the background of historical and anthropological engagements with essentially Anglo-Saxon and French entanglements of the "colonizer and the colonized",[75] one is surprised by how little current debates have focused on continental and internal colonialism. Though studies on these themes are scant, they promise "great challenges to theories of comparative colonialism and imperialism".[76]

The paradox is striking since overseas colonies have become a rare phenomenon,[77] whereas continental, internal, neo-, and crypto-colonialism still prevail in many parts of the world despite the Fourth Wave of decolonization triggered by the break-up of the Soviet Union. Though it focuses on the modern era, this volume illustrates that the "colonial paradigm" is a framework of theories and concepts that can be applied globally and historically. The conclusion is that decolonizing is a process far from completion, even after many waves of political and recent economic decolonization, and that colonialism is not a thing of the past, rendering the notion of "postcolonialism" meaningless.

At present, I am again very much engaged with fundamental archival research, which will contribute further to the "historical anthropology of colonialism". While working in Russian archives over the course of many years, I was able to familiarize myself more closely with the large collections of the National Archive of the Kalmyk Republic. The archive is particularly rich in its pre-revolutionary Tsarist

[75] A Memmi, *The Colonizer and the Colonized* (Souvenir Press [1957] 1974).
[76] J Osterhammel, *Colonialism: A Theoretical Overview*. Translated by Shelley L. Frisch. 3rd ed. (Markus Wiener Publishers. [1995] 2010), 118.
[77] The rarity is indicated by the adoption of the UN Resolution 1514 in December 1960.



documentation, which at some point amounted to more than 40,000 files, making this place a “colonial archive” of the Russian Empire.

Yet, most intriguingly, approximately 15–20 per cent of these files were either lost during the 1917 revolution and World War II, or deliberately destroyed during the subsequent deportation of the Kalmyk people to Siberia and Central Asia. We know this from the inventories contained in the old archival record books (as depicted in the illustration) and their corresponding inspection lists (starting in the early 1930s), which still had the titles of all documents, with a special mark next to those that had been lost over time. Unfortunately, these record books also underwent revision and were “updated”, with all previous entries of missing documents erased.

However, thanks to a liberal archival policy in the 1990s, I managed to make copies of all original record books. For my current project, “Representations from Russia’s Colonial Past: The Pre-revolutionary Files of the Kalmyk Archive (1766–1920)”, these old archival record books will be processed in order to describe, inventory, and analyse this particular “colonial archive”. In addition to the editorial work, which is expected to result in approximately 2,000 pages in print, there will also be a comprehensive analytical introduction – including tables and charts – which will offer precise information with quantitative and qualitative meta-analyses of the lost documents. Absolute data and ratios regarding the existing number of files and an inventory of what is missing will be provided for every year as well as for each of the 51 archival fonds. As a result, we will have at least a metadata description of documents that were either destroyed to blot out inconvenient historical truths or subjected to the horrendous Soviet-era maculature campaigns. Moreover, an aspect not to be underestimated is that the scheduled publication will for the first time offer an up-to-date inventory of the pre-revolutionary documentation available in the Kalmyk National Archive today.

Doctoral projects: Elisa Kohl-Garrity and Elzyata Kuberlinova

As before, my studies benefited much from the doctoral research of Elisa Kohl-Garrity and Elzyata Kuberlinova, two ANARCHIE doctoral students in my research group. Kohl-Garrity’s doctoral project, “The Weight of Respect: *Khündlekh Yos* – Frames of Reference, Governmental Agendas and Ethical Formations in Modern Mongolia” (defended in November 2019), looks at how relations of respect have been institutionalized and intentionally formed under different political agendas since the Qing era. It starts out with a frame of reference in discourses on master–disciple,

senior–junior, filial, and ruler–subject relations and approaches the value of respect through entangled histories. The project shows how the value of respect enables violence as much as it refers to ideals of harmony and has been appropriated as a subtle yet powerful governing tool and thereby obtained a quite ambiguous quality.

Taking the case of the Kalmyks, a Western Mongol people in-migrating from Inner Asia in the early seventheenth century, Elzyata Kuberlinova's project, "Religion and Empire: The Kalmyk Sangha in Late Imperial Russia" (to be defended in November 2020), examines the place of religious institutions and actors in the construction of a civil order within which to govern the diverse peoples of the Russian Empire. At the same time, it assesses the impact the incorporation into Russia's administrative and legal systems had on the clergy and religious institutions of foreign confessions, specifically Kalmyk Buddhism, and identifies the mode of engagement between the clergy and the imperial government.

Katrin Seidel

Constitution-making processes; rule of law; international intervention; (global) legal pluralism; cultural translation; mediation; South Sudan; Somalia

Katrin Seidel joined the Department as a postdoctoral researcher in November 2012. Her research lies at the intersection of legal pluralism and forms of heterogeneous statehood and governance in Africa. It is concerned with the relationships between plural normative and judicial orders at different levels of governance. The research project focuses on, among other topics, the negotiation of societal consensus in the two fragmented conflict-prone settings of South Sudan and Somaliland, with the various competing legitimacy claims, different normative logics, and differential embeddedness in power. The study seeks to improve our understanding of the emergence of novel modes of statehood and governance at the interface of local, (inter-)national, and transnational actors.

One of Seidel's research assumptions is that a process of constitution making itself, as well as constitutional recognition of legal plurality, offers a way for state actors to enhance their otherwise very limited scope and influence in light of a constellation of heterogeneous statehood and plural actors. These dynamics provide negotiation forums for diverse actors and open up space for the continuous restructuring of power relations. Seidel's major research questions include:

- How, where, and among whom do negotiations of different normative values take place?
- What are the institutional designs for the negotiation spaces in which different, and often conflicting, legal perceptions and normative values interact?
- To what extent are plural normative realities reflected in law?
- How do state actors navigate complex legal pluralities and represent themselves in relation to them?

The emergence of the state in the Republic of South Sudan has been Seidel’s major point of reference for her postdoctoral research. South Sudan is a particularly instructive case not only because the constitution for the emerging state is a work in process, but also because the very understanding of statehood itself is still an open question. The research is predominantly aimed at the intertwined themes of constitutionalism in emerging South Sudan and state-recognized local law and dispute resolution mechanisms.

Constitutionalism in emerging South Sudan

Constitution making needs to be seen as part of internationalized (post-)conflict (re-)construction efforts and has become a crucial normative tool of state formation within the context of broader international rule-of-law frameworks. In South Sudan, both the process of constitution making and the constitutional law already inscribed in the Transitional Constitution of 2011 have become very powerful normative instruments. In order to grasp these complex processes, Seidel has examined not only negotiations conducted by the many South Sudanese actors, but also the overbearing influence of regional and international actors. The general question explored is: How much scope for negotiating South Sudanese statehood do international frameworks leave for the emerging state legal order and authorities?

State-recognized local law and dispute resolution mechanisms

Since the emerging state of South Sudan has to deal with the predominance of local normative orders, another focus of the research has been on *de jure* and *de facto* efforts to integrate so-called customary law, including existing dispute resolution mechanisms, into the South Sudanese constitution and judiciary. This entails analysing the interfaces of local and statutory legal thinking.

Seidel’s work shows that, in addition to the legal tool of constitutionally recognizing local normative orders within the state actors’ broader “unity and diversity” approaches, state actors – supported by international actors – have experimented with various innovative judicial approaches and legal techniques to keep security threats such as violent inter-communal conflicts and homicides under control. They have done so in the hope of improving their positions as relevant actors in the judiciary. One of those approaches has been the establishment of *special courts*. These *ad hoc* judicial tribunals, introduced in various regional states, are characterized by a confluence of local, statutory, and transnational normative ideas negotiated by the chiefs and state judges. These judicial forums allow state actors to shape the institutional arena and to propose dispute resolution mechanisms. This indicates the significance of normative and institutional frameworks in the process of state formation and for gaining internal and external recognition. The empirical data suggest that the actual operation of South Sudan’s legal and judicial systems challenges well-established

legal categories such as the notion of "customary" law and the distinction between criminal and civil law.

Whenever security conditions have permitted, Seidel has investigated these efforts empirically by conducting three periods of fieldwork in the South Sudanese cities of Juba and Rumbek, namely, in March–May 2013, April–June 2015, and April-May 2017. She has also carried out fieldwork in the neighbouring countries of Ethiopia (Addis Ababa) and Kenya (Nairobi).[78]

Seidel's observations indicate that the legitimacy of the state is still being established, especially as the processes of defining spaces of actions and determining who is entitled to participate are still under negotiation. Moreover, constitution making chiefly takes place between national governments and international actors within the normative frames of reference set by international actors. Such process, despite efforts to present them as "local ownership", often undermine real local involvement because participation is shaped by external conditions. "Local ownership" of the process seems rather to be an expression of the end result. During the actual process, "ownership" is curtailed through "shared ownership" and "external supervision". Only rarely are procedures developed to systematically integrate political and sociolegal realities and to analyse the effects of international interventions as well as to examine international actors' own cultural biases, which often lead to oversimplifying social complexities. The rather "state-centred" and often "top-down" approaches and pre-defined processes generally fail to consider other powerful actors – including the fragmented military as well as the traditional and religious authorities – and are not flexible enough to accommodate the emerging nature of the state, where the constellations of political actors are in constant flux during negotiations. This path dependence prevents addressing fundamental questions such as: What mode of rule of law do local actors aspire to? How does one narrow down the gap between claims and reality?

Powerful local actors have already translated the well-intended international rule of law instruments and mechanisms, and have managed to appropriate the idea of "local ownership" to legitimize their actions. Utilizing international frameworks and modules as well as the contested issues already inscribed in South Sudan's Transitional Constitution of 2011 illustrate some of the unintended consequences that can accrue from international tools. For instance, the constitutional doctrine of separation of powers has been translated along local power dynamics and has already become a powerful political weapon for limiting the space for negotiation. So far, the dynamics point to rather "unsuccessful" translations of the territorial nation-state model and of internationally promoted rule of law. Thus, the many unintended consequences undermine the idea of creating a societal consensus guided by the rule of law.

[78] Methods of data collection include participant observation, semi-structured oral interviews, and gathering of legal documents and information disseminated via newspapers and the local media. Methods of analysis include legal interpretation and techniques for comparing legal documents, critical-historical analysis of historical documents, content analysis of oral and written material, and discourse analysis.

Despite efforts to limit the space for political negotiation, excluded civil society actors are pushing for a more inclusive constitution-making process to allow them to take part in the official negotiations and to realize the ideal of a constitution that reflects the will of the people. The study shows that the actual top-down constitution making is contested by civil society actors’ rather bottom-up approaches. Through these tensions, the negotiation space is continuously transformed in specific local settings. The overall research results show that the very process of making a constitution – both in terms of participation and perceived legitimacy – matters a great deal.

Consensus building in South Sudan and Somaliland

Seidel’s study validates the widespread scepticism about how internationalized constitution making in war-torn settings is conducted. In Somaliland, consensus building – e.g., on the structure of government – remained for ten years in the hands of local elites and was thus an exclusive affair. In South Sudan, efforts to arrive at a consensus have thus far been framed and guided by powerful international actors. Their dependence on internationally accepted frameworks and models seems to prevent broader consensus on the modes of statehood and rule of law, while the local interpretations of international models do not seem to fit the intended rule-of-law framework. What “local actors” accept, adopt, and appropriate from international instruments and mechanisms depends very much on whether the “offer” strengthens their position. The South Sudanese case exemplifies how attempts to produce a constitution from pre-defined international concepts and modules are misguided, as the often context-insensitive pre-determined international instruments tend to produce quick, yet unsustainable results. This study indicates that a locally driven and owned process – as in the case of Somaliland – supports the legitimization of a constitution.

The studies show that existing tensions between different perceptions of statehood and rule of law as well as between the idea of “local ownership” and “external intervention” may open the space for renegotiations on different legal perceptions. Negotiations among local and global actors on different ideas of justice may support redefining exclusion and inclusion dynamics, as many local rule-of-law approaches and practices often have very little currency beyond the political elite circles (e.g., exclusion of women or “minority social groups”, as indicated in the Somaliland case).

With regard to the comparative dimension, initial ideas and research findings have been published in a paper titled “Involvement and Impact of External Actors on Constitution Making in South Sudan and Somaliland: A comparative observation”, published in the CGCR’s *Global Cooperation Research Paper Series* (Seidel 2017). That paper has also served as a structural guideline for Seidel’s *Habilitation* thesis and planned monograph, titled *Internationalised Conflict: Constitution Making as Tool for Negotiating Statehood and Rule of Law: South Sudan’s and Somaliland’s Constitutional Genesis in the Context of Plural Legal Order(ing)*, which is the concrete outcome of Seidel’s extended fieldwork in South Sudan and Somalia.

Habilitation project

Indeed, Seidel's *Habilitation* thesis, which she submitted in the spring of 2020 to the Law Faculty at Martin Luther University, is unprecedented in a number of ways. It is not only the first *Habilitation* to be supported by the Department, but it is the first *Habilitation* in the Law Faculty of our local partner university to be so profoundly interdisciplinary. However, after a number of in-depth discussions on the pros and cons of opening up to more interdisciplinary research, the members of the Law Faculty were completely convinced of the value of hosting a *Habilitation* in law that is deeply rooted in anthropology and ethnography. There are few if any other law faculties in Germany that would be open to such a thoroughly interdisciplinary *Habilitation*. This is not only a major achievement on the personal level for Seidel, but also on the institutional level for the Department. It is confirmation that the Department's efforts to bring these two disciplines together on an equal footing are bearing fruit, and the hope is that there will be more such *Habilitation* projects in the future.

Applied work

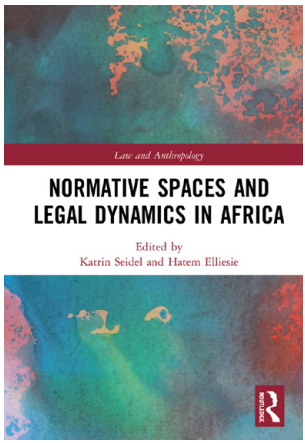
Seidel was a research fellow and the Academic Coordinator for establishing a Joint Network Rule of Law Support (RSF-Hub), a collaboration between Free University Berlin and the German Federal Foreign Office (June 2017–February 2018). That the project could bring together scholars, policy makers, and civil society actors (e.g., at a rule-of-law roundtable) demonstrates the significance of applied legal anthropology for both research and policy. Her hands-on experience as a rule-of-law advisor to the German government has allowed her to actively contribute to continuing knowledge transfer and an ongoing dialogue between research and practice.

In a more general sense, Seidel's research deals with issues of (global) legal pluralism, (inter) cultural translation, negotiations and mediation, and thus addresses a number of the Department's research priorities, including the accommodation of diversity in contemporary societies, the integration of anthropological research and legal practice, and comparison within and across normative orders.

The observations from the Horn of Africa demonstrate that internationalized legal standards such as rule of law and "access to justice" are far from self-evident and unproblematic concepts. Seidel's empirically based research critically questions and deconstructs well-established legal paradigms and underscores the need to rethink conventional approaches and legal categories, to accommodate diversity, peace, and constitution making. In so doing, Seidel's work enriches debates on the role and challenges of applied legal anthropology.

The interdisciplinary environment at the MPI has contributed immensely to the broadening and deepening of her research horizons. The different MPI activities, the constant encouragement and support of Marie-Claire Foblets, as well as the continu-

ous exchange of thoughts with colleagues have created collective thinking spaces and a lively environment for scholarly work. In particular, regular meetings at the Department have made it possible for Seidel to keep abreast of other research projects, to provide support to other researchers and receive support in return, to improve her own research project, and to discuss common concerns. For instance, the workshop she organized, *Normative Spaces in Africa*, as well as her intensive exchanges with MPI colleagues, led to the co-editing of the volume *Normative Spaces and Legal Dynamics in Africa* with Hatem Elliesie (Routledge 2020).



Federica Sona
Islamic and Muslim law; family law; Western Islam(s); European Muslim communities; sharia-compliant sociolegal cultures; UK; Italy

Federica Sona came to the Law & Anthropology Department as a Senior Research Fellow in January 2018 to pursue her long-standing interest in the intricate relations between European and Muslim/Islamic legal cultures. As a highly qualified legal scholar with two PhDs, one in Law and one in Law and Society, she has always maintained an active presence in the legal field, first through her apprenticeship as a labour consultant and as a lawyer, and later by providing legal advice to diplomatic personnel, individuals, lawyers, and judges involved in international family law cases regarding European Muslim family members. For the last fifteen years, she has also served as an expert and advocate, providing legal assistance and advice (predominantly pro-bono and shadow) in proceedings involving Muslim parties and/or Muslim-majority countries’ nationals in Italy and in Great Britain.

Before joining the MPI, Sona was a Postdoctoral Fellow at the Laboratory of Fundamental Rights (LDF), a research centre directed by Vladimiro Zagrebelsky, the former Italian judge at the European Court of Human Rights. Prior to that, she was a visiting researcher in the Law Department at the University of Turin and a Teaching Fellow in the Law Faculty of the School of African and Oriental Studies, University of London.

Her main areas of expertise include official and unofficial Islamic and Muslim laws; national and international family laws; comparison and interactions between transnational, international, and national legal systems (in Western and Muslim-majority countries); Western Islam(s) and European Muslim communities; cultural understanding and customary implementation of religious provisions; and sharia-compliant sociolegal cultures and normative orders.

Sharia compliance in private family life in Europe

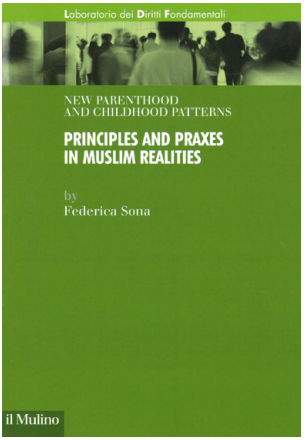
Sona's current research focuses on European Muslim communities interacting with different sociolegal orders, including common law and civil law systems, particularly in the UK and Italy. She pays specific attention to family-related issues encompassing both vertical and horizontal kinship connections such as those based on bonds created by descent or marriage. Topics that she frequently addresses in her research include the following:

(1) private family life (spousehood, parenthood, and childhood) within (transnational) European Muslim communities;

(2) (strategic) implementation of sharia-compliant principles/customs by Muslim family members settled in European countries, and the state's responses;

(3) healthcare professionals' perceptions and Muslim patients' emerging patterns when undergoing (sharia-compliant) medically assisted reproductive technologies and procreative techniques;

(4) (potentially) overlapping matrimonial statuses and manifold forms of permissible or lawful (*ḥalal*) horizontal relationships – namely, conjugal unions (e.g., civil, religious, and customary (re)marriages) and nuptial dissolutions (e.g., [*de facto*] separation, divorce, and annulment) – among couples with at least one Muslim partner who have settled in countries with common law and civil law legal systems, specifically in the UK and Italy, respectively.



Sona recently completed an interdisciplinary study jointly funded by the LDF and the MPI exploring the remedies to involuntary childlessness pursued by Muslim intended parents. Adopting a comparative legal pluralist perspective and relying upon social science research methods, she is now also investigating the sociolegal agency of Muslims who have settled in Europe and the challenges faced by domestic administrative and judicial bodies in coping with foreign, religious, and customary nuptial unions or their dissolutions.

Sona’s current project within the framework of her MPI fellowship focuses on two main areas:

(1) Vertical kinship connections

This strand of Sona’s research aims to unveil the significance of the right to a private family life and the idea of parenthood and childhood, not only in compliance with Islamic and Muslim laws, but also as experienced by European Muslims. More specifically, she explores (sharia-compliant) vertical familial relationships as recommended by Islamic scholars and/or enacted by (prospective) Muslim parents on Italian soil. Light is thus shed on (potentially) partially concealed kinship dynamics leading to newly discovered family constellations. Ethnographic investigations also disclose creative patterns of filiation enacted through old and new sharia-compliant remedies to childlessness, such as medically assisted procreation techniques. Two books have recently been published out of this research (Sona 2019; Sona 2020), and at least two journal articles will follow, as well as an edited volume or special issue in collaboration with Prof. Marie-Claire Foblets and Prof. Shai Lavi on the basis of the *Biomedical Practices* conference mentioned below. Sona has been invited to participate in the Program on Law and Society in the Muslim World at Harvard Law School, where she will further explore the progressive pluralization of kindred frameworks through sharia-compliant reproductive biotechnologies.

(2) Horizontal kinship connections

The first part of this study zooms in on the great diversity of nuptial patterns and the manifold matrimonial paradigms existing at the intersection of state laws and sharia-inspired legal orders in Italy, Northern Ireland, Scotland, England, and Wales. The factors motivating the constant development and undertaking of innovative forms of marriage are thus revealed and disentangled. The second part of this work addresses pathological aspects of horizontal familial relationships. More specifically, Sona investigates variegated Muslim/Islamic options for resolving family disputes and dissolving nuptial ties that may compete or be intertwined with Western state remedies to injustice in the contemporary polycentric sociolegal setting.
The study is designed to shed light upon the ways in which diverse official rules and unofficial schemas of action can be combined as a matter of agency and internormativity. In her research, Sona adopts a pluralistic legal-anthropological approach and follows a comparative method. From a methodological perspective, the study incorporates the insights Sona has gained from the ambitious ethnographic studies she conducted over the past fifteen years, as well as the fresh results of the empirical investigations she is completing in Italy and the UK as part of her MPI project. Sona foresees two book-length manuscripts in English coming out of this project that are conceptualized and designed to be complementary works.

Additional projects

Sona has generously responded to the needs and research agenda of the Department. In addition to training doctoral candidates and commenting on their theses, she also actively participates in two of the Department's high-profile collective projects, the CUREDI database (see pp. 45–51) and the MPI–EJTN joint judicial training programme (see pp. 19–21). Within the framework of CUREDI, Sona has been involved in designing and structuring the overall project from its inception in 2014, and contributes case analyses focusing on two important issues in Italy, cultural diversity in health and Muslim marriages. Regarding the EJTN, Sona has been collaborating as an expert, lecturer, and moderator for the EJTN since 2016, even prior to her appointment at the MPI, and she continues to do so. She is also a convenor and contributor for the MPI–EJTN joint judicial training programme.

Since early 2018 Sona has also been involved in a transboundary network on Muslim family and divorce law, which has been created by Maastricht University (the Netherlands), Uppsala University (Sweden), Zürich University (Switzerland), and the Department of Law & Anthropology of the Max Planck Institute in Halle (Germany). The launch conference of the project has been postponed until Spring 2021. She is also co-organizer (along with Marie-Claire Foblets and Prof. Shai Lavi of Tel Aviv University) of the conference *Biomedical Practices in the Middle East and Europe: The Impact of Religion and Culture*, which was originally scheduled for March 2020 but has been rescheduled for fall 2020 due to Corona restrictions (see p. 15).

Teaching

Finally, Sona has a long history of teaching, having lectured at the University of London, the University of Turin, the University of Oriental Piedmont, the University of Siena, the University of Lucerne, and the Center of Transnational Law Studies (Georgetown University Law Center). Since she has been at the MPI she has worked hard to keep her teaching skills honed: she has served as lecturer and commentator at the Institute's "Law & Anthropology Doctoral Training" workshop; is currently involved as expert, lecturer, and convenor in the European Judicial Training Network as well as in the MPI–EJTN joint training programme; and she represents the Department internationally by delivering lectures at universities throughout the world. Most recently, she has been invited to contribute as a lecturer in medicine, political science, and law programmes at a number of universities, and to contribute to a national training programme for imams.

All of the aforementioned activities strengthen Sona's academic profile as she strives to attain her ultimate goal – a university professorship. In the process, she is raising the visibility of the Institute and contributing to its reputation as a key institution in creating better awareness and recognition of European Islam and an

important resource for legal practitioners and policy makers as they address current social issues.

Bertram Turner
Mobility and migration; human security; (global) legal pluralism; law and STS; law in infrastructural designs; supply chain normativity; Morocco; Canada

Bertram Turner is the Department’s most senior and longest-serving researcher. From the foundation of the Institute in 1999 until 2012, Turner was Senior Researcher in the Project Group “Legal Pluralism”, which laid the groundwork for and preceded the establishment of the Law & Anthropology Department. He then joined the newly established Department once it was set up. Turner has made a point of keeping abreast of developments in the field of anthropology of law, including empirical, foundational, and long-term research within the field, as well as its theoretical developments and future directions. More specifically, during the 2017–2019 reporting period, Turner’s research focused on law’s entanglements with knowledge regimes and science and technology studies (Law & STS), human security, property rights, migration, and issues related to legal pluralism. He also continued to pursue his long-standing research interest in development, resource extraction, and religion. All of these themes run throughout the four long-term project “layers” that structure his research. A summary of Turner’s research is provided below.

Main research themes

Mobility and Migration

Mobility and migration inform a number of legal dynamics, including such large-scale processes as the globalization and transnationalization of law, as well as processes of legal downscaling that manifest themselves in translocal normative discourses. Layers of normativity connect migrants in their receiving countries with people who have remained in the country of origin. Turner’s focus is specifically on communities of Moroccan origin in Europe and Canada as they engage in dialogues on legal and religious topics with their counterparts in Morocco. Fieldwork resumed during the reporting period, with

Argan oil products for sale in a Moroccan gift shop, Montreal, September 2018. (Photo: B. Turner)

Dar al-Maghrib, the Moroccan Cultural Centre, Montreal, October 2018. The centre, run by the Moroccan state, is tasked with the consolidation of cultural ties between Marocains Résidants en Étranger ("Moroccans Living Abroad") and the home country. (Photo: B. Turner)

short stays in Paris in 2017 and 2019 and in Montreal in 2018. These stays have enabled Turner to collect ethnographic data on the legal interactions and translocal legal discourses between the immigrant and home communities. These discourses revolve around the themes of religion and changing notions of property. The collection of ethnographic data has made possible an analysis of the economic initiatives of migrants in the country of origin, including investments in real estate, small enterprises, and signature projects such as the establishment of charitable endowments and the construction of mosques; engagement with development initiatives aimed at introducing international standards of nature conservation, environmental protection, sustainability, human rights, and gender equality to the country of origin; and negotiations regarding the care of and responsibility for remittances, inheritances, and other types of financial resources.

Turner's research also employs the concept of "supply-chain legal pluralism" (described below) to theorize the specific ways in which the mobility of people and goods interacts with flows of normativity. This topic relates to his decades-long research on the argan forest and argan oil processing in Morocco. More specifically, Turner has focused on initiatives taken by Moroccans, together with their relatives who live as migrants in Europe and Canada, to set up an informal supply infrastructure that operates in parallel with the established global argan oil supply chain. The analysis of these data will provide the basis for future research and work on legal pluralism in supply chain infrastructures.

Another particularly interesting aspect of Turner's migration research is the mobility of religious experts who follow migrants and other Moroccans from Morocco to their various places of residence in the Global North. Turner has published a chapter in the collective volume *Multireligious Society* (2017) in which he analyses narratives revolving around just such an encounter between Moroccan migrants in Canada and a religious expert coming from Morocco. He explains why, 10 years after the event, all protagonists have adopted a dramatically changed interpretation of these narratives.

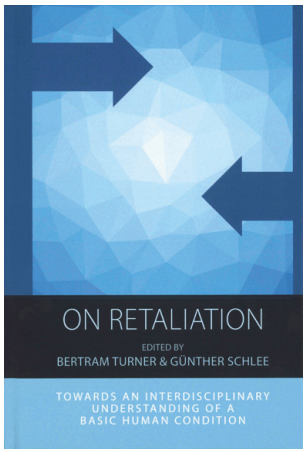
Property

The research presented in this section is linked to the aforementioned themes of mobility and migration, especially as it touches on issues such as inheritance and other forms of property transfer between migrants and their home communities. Recent research has shed light on significant transformations in property relations and in conceptualizations of property more generally. One aspect of this trend that comes out particularly clearly in Turner’s work is the emphasis on Islamic and gendered notions of property and sharing in dialogue with capitalist and neoliberal forms of dispossession. Turner has reported on this research strand on various occasions, e.g., at the international conference *Property and Environment in Developing Countries* in Paris in 2017. His contribution was titled “Supply chains as infrastructures and translation machines: Transformations of property arrangements in the Moroccan argan oil bonanza”.

This aspect of Turner’s work has resulted in publications on the anthropological theorization of property as well as on dispossession caused by the politics of resource extraction. In the context of Moroccan argan oil production, for instance, Turner’s research shows how law and technology contribute to depriving the local population of access rights. A detailed account of Turner’s approach to the anthropological theory of property may be found in his contribution to the handbook *Comparative Property Law* (2017). One of his arguments is that our understanding of the legal regulation of property may be enhanced by an anthropological analysis of “property in context”, which can help determine the stability and sustainability of legal regulation.

Human Security

Turner has also continued to conduct research on human security. In this field, his main publication in the 2017–2019 reporting period was the co-edited volume (with Günther Schlee) *On Retaliation* (Berghahn 2017). He started this project when he was coordinator of the Halle branch of the International Max Planck Research School on Retaliation, Mediation and Punishment (IMPRS-REMEP). The book presents a variety of approaches to “retaliation” in selected disciplines and an overview of the most recent theoretical innovations and research perspectives on the subject.



Turner’s chapters in the aforementioned volume on retaliation contribute to a theoretically nuanced and empirically grounded understanding of the concept of retaliation, ultimately calling for an

integrated approach that helps us understand retaliation vis-a-vis mediation and institutionalized forms of protection. The book was so well received that the publisher decided to publish a paperback version, which came out in 2019. Another chapter on the relational aspects of retaliation will appear in a forthcoming edited collection on the study of conflict.

The activities of the IMPRS-REMEP, which Turner helped found, have almost come to an end. Turner's contribution to the final REMEP report details the scientific progress made over this period of 12 years.

The focus of Turner's research has now shifted towards the role of science and technology in human security politics and its relation to human rights. Of particular interest are technologies of truth-making and the production of evidence in plural legal orders. A publication on the translation of evidentiary practices in plural legal orders and technologies of truth finding in Morocco (2017) has come out of this research.

Global Legal Pluralism

Legal pluralism as a sensitizing concept continues to guide Turner's research. During the reporting period, he co-authored with Keebet von Benda-Beckmann an introduction to the topic, "Anthropological Roots of Global Legal Pluralism", for the *Oxford Handbook of Global Legal Pluralism* (ed. Paul Schiff Berman, 2020). In a legal universe in which global legal pluralism has acquired a distinct normative meaning – as opposed to its use in anthropology as an analytical tool – the challenge to legal anthropology is to develop the concept further and readjust its epistemological significance. The need to factor in the normative power of materiality and science-driven technologies is a key feature of Turner's approach. He co-authored (with Melanie Wiber) the chapter "Law, Science, and Technology" for the *Oxford Handbook of Law & Anthropology* (forthcoming; see pp. 17–18).

As noted earlier, Turner has also continued his research on "supply chain legal pluralism", the aim of which is to suggest an innovative approach to theorizing complex legal entanglements by combining the analytical concept of legal pluralism with STS-inspired theoretical models. To show how multi-layered supply chain normativity interacts with a variety of other-than-legal chain-specific registers, he makes use of the concept of "infrastructure" as it has been specified in STS. He also uses legal pluralism in infrastructural designs as an approach to analyse normativity in informal supply infrastructures. The resulting paper has been submitted as part of a special issue of the journal *Science, Technology, & Human Values* devoted to legal pluralism and STS, which Turner is co-editing with Melanie Wiber.

An additional publication, co-authored with Keebet von Benda-Beckmann on legal pluralism and social theory, was published in the *Journal of Legal Pluralism* (2018). In this historical account of the development of legal pluralism as a scholarly topic, Turner and Benda-Beckmann argue that current understandings of

legal pluralism are inseparable from how theoretical formulations of the state and of globalization develop.

In rethinking and theorizing legal pluralism, Turner also combines ontological multiplicity with theoretical developments regarding legal personhood, extended rights, and the anthropocene in anthropology. Here, he engages with the debate on the role of legal pluralism in decolonization. The resulting paper was debated within the framework of the Law, Organization, Science and Technology (LOST) research network (see https://lost-research-group.org/), of which Turner is an active member, and should be published in the near future as part of a larger LOST writing project.

Law, Science, Technology and Knowledge Regimes

As detailed above, Turner combines an STS approach to technoscience and knowledge regimes with the anthropology of law in two of his principal research topics: property and the setup of supply chains and their specific legal pluralism. He investigates the intertwining and co-production of normative and technological strands in the politics of natural resource extraction in the Moroccan argan forest and the global argan oil market. The legal components that inform the performance of global supply chains, whether organized formally or informally, go beyond the normative entanglements that are addressed in conventional analyses of chain normativity.

Turner’s research interest in the field of law and technology has led to productive scientific exchange on these topics within the LOST research network in a more formalized way, with regular meetings and reading sessions, a common web representation, and project cooperation. This intellectual environment enables Turner to further explore this field from an anthropological and sociolegal perspective and to provides a structure for linking his research up with other relevant organizations and institutions in the field of LawTech.

Multi-Scalar and Multi-Sited Ethnography

Turner’s fields of research as outlined above constitute one axis of his epistemic enterprise. The other axis is more methodologically oriented; it reflects the spatiotemporal and scalar embedding of the research portfolio by combining research carried out in immigrants’ receiving countries with that conducted in their countries of origin, and connects these with field research in places and situations of transnational law production – at the centres of global governance or wherever else such processes take place. Ethnographies of mobility, transnational transactions, supply chains, sites of technoscientific knowledge production, and lawmaking combine the grassroots level (households, village assemblies, cooperatives, woodlands, mosques, etc.) with tree nurseries, scientific laboratories, farmers’ markets, and supermarkets in the Global North and with NGO headquarters, development organizations, governmental agencies, ministries, and multinational enterprises. In addition, emerging forms of

information and communications technology (ICT) open up new spaces of interest that must be incorporated into the research design. The increasing complexity of interconnected and multi-scalar empirical research necessitates new data collection practices. The generation of empirical data remains at the heart of anthropology, particularly in the sub-discipline of legal anthropology. Turner intends to continue contributing to the development of the Department's methodologies, paying particular attention to comparative methods.

Outlook on Future Research

Turner's research activities are devoted to the further advancement of the epistemological achievements gained in the Project Group Legal Pluralism. His future research will take into account the increasing demand for cooperation among the legal sciences in addressing the challenges that technology and scientific knowledge production pose to humans.

Turner's work is embedded in international research cooperation through the LOST Group, the Commission on Legal Pluralism (https://commission-on-legal-pluralism.com/), and various scientific and professional networks. As a member of the editorial board of the *Journal of Legal Pluralism*, he dedicates a substantial amount of time to editorial work. Moreover, during the reporting period he has produced more than 40 reviews for scientific journals, funding organizations, etc. He is responsible for the Department's interactions with the Institute's library, is involved in committee work on Research Data Management in Germany and the European Union, and is the Institute's representative on the advisory board of the Specialised Information Service Social and Cultural Anthropology (FID SKA), a German research platform funded by the German DFG and local institutions.

Larissa Vetters
Immigration law; bureaucratic sentiments; judicial decision-making; collaborative ethnography

Though formally joining the Department as a Senior Researcher only in 2018, Larissa Vetters's relationship to it dates back much further. From 2009 to 2011, she was a member of the former Project Group Legal Pluralism and research coordinator of the project *Local State and Social Security in Rural Hungary, Romania and Serbia* (headed by Tatjana Thelen and Keebet von Benda-Beckmann). In 2014, she worked for a short period in the recently established Department of Law & Anthropology, participating in the analysis of a survey on cultural diversity and judiciary practice in Europe. Although she was subsequently employed at the Law & Society Institute at Humboldt University's Faculty of Law in Berlin, Vetters remained affiliated to the Department and – with its support – acquired external funding from the

Fritz Thyssen Foundation for the collaborative research project *Migration and the Transformation of German Administrative Law*, which was then co-hosted by the Department and the Law & Society Institute in Berlin. Over the past ten years, the nexus between law and anthropology as established at the MPI Halle has therefore been a constant presence and decisive influence on her academic development. Her research activities in the 2017–2019 period exemplify how this nexus has shaped her conceptualizations of law, statehood, and citizenship in the pluralizing societies of contemporary Europe.

Conceptual Starting Point

With training in sociocultural anthropology and administrative science, Vetters combines an interest in empirically grounded investigations of transformations of state and society with a more theoretically oriented exploration of the function(s) of law in the realm of executive state power. Her understanding of law is shaped by her training in the German tradition of administrative sciences, with its legalistic perspective on public administration. It is this interdisciplinary yet distinctively continental perspective that she brings to current anthropological debates about state transformation and pluralizing contemporary societies at the intersection of legal and political anthropology.

Research Projects

Migration and the Transformation of German Administrative Law: An Ethnographic Study of State–Migrant Interactions in Administrative Courts

This research project was started in 2015 and continued into the 2017–2019 reporting period. The research team (Larissa Vetters, Lisa Hahn, Judith Eggers) completed data collection and jointly began with the systematization and archiving of data. Considerable energy and attention were dedicated to developing a joint standard of data management and archiving in line with the requirements of European and German data protection regulations while also taking into account project-specific analytical needs (working with each other’s data, tracing actors through different types of data) and the special demands posed by ethnographic data (e.g., underlying research epistemology and ethics).

The team published an MPI Working Paper in which it documented the development of its research agenda as well as reflections on ongoing fieldwork and the nature of interdisciplinary collaboration (Vetters, Eggers, Hahn 2017). Towards the end of the funding by the Fritz Thyssen Foundation, in the fall of 2017, an international workshop was held in Berlin. This workshop laid the groundwork for the collaborative network of anthropologists, migration researchers, and legal scholars on which we draw in our current work. For example, our approach of looking comparatively at

how empirical migration research is conducted in different sociolegal traditions was taken up in a roundtable (Vetters) and a paper session (Hahn) at the Law & Society Association Meeting in Washington D.C. in the spring of 2019.

Although the original project constellation with all three researchers working at the same institute is no longer in place, we continue to collaborate while also working on our individual publication and/or dissertation projects. Two articles, one by Lisa Hahn and one by Vetters, have been published in peer-reviewed journals (Hahn 2019[79]; Vetters 2019), and Lisa Hahn has taken the leadership in launching the Berlin-based Sociolegal Lab, a self-organized space for graduate students who would like to apply sociolegal methods in their dissertation projects but face theoretical/methodological challenges in doing so. Thus far, two Sociolegal Labs have been held, with teaching/speaking contributions to the programme by Director Marie-Claire Foblets and Vetters, as well as the participation of several Department members.

Collaborative Ethnography, the Judiciary, and the Governing of Multicultural Societies in the European Context

Vetters's previous experience of participant observation at the administrative court of Berlin, taken together with her earlier participation in a survey among European judges on the challenges they face when having to address questions of sociocultural and religious diversity, developed into another set of research and applied activities. As part of the Department's efforts to systematically involve legal practitioners in the research, thinking, and theorizing about concepts of justice and the accommodation of diversity in contemporary pluralistic societies of Europe, Vetters has engaged in two fields of activity under the leadership and in close collaboration with Director Marie-Claire Foblets: a bundle of applied activities in collaboration with European judicial actors and networks (see pp. 19–21), and an ongoing conceptual and methodological reflection on collaborative ethnography and the role of anthropological knowledge in judicial settings. While the second pillar can be seen as constituting basic research – that is, a contribution to questions of fundamental importance to contemporary sociocultural anthropology about the bases of its knowledge production, its relation to its research subjects, its representational strategies, and its role in society at large – it could not be carried out without practical involvement in the first pillar and is therefore closely intertwined with practical, applied judicial training and collaboration activities (for more details see p. 19 of this report, for publications see Vetters and Foblets 2016;[80] Foblets and Vetters 2019[81]).

[79] L Hahn, "Strategische Prozessführung. Ein Beitrag zur Begriffsklärung" (2019) 39 (1) *Zeitschrift für Rechtssoziologie* 5–32.

[80] L Vetters and M-C Foblets, "Culture All Around?: Contextualising Anthropological Expertise in European Courtroom Settings" (2016) 12 (3) *International Journal of Law in Context* 272–292.

[81] M-C Foblets and L Vetters, "The Pluralization of European Societies and the Role of the Judiciary" in LE Ríos Vega, I Ruggiu and I Spigno (eds), *Justice and Culture. Theory and Practice Concerning the*

Sentiments of bureaucracies: affective dynamics in the digital transformation of German immigration management

A third strand of Vetters’s research has emerged partly as the result of observing the ongoing digitalization of migration management in the first research project and partly inspired by a collaboration with the Berlin-based Collaborative Research Centre (CRC) 1171: *Affective Societies – Dynamics of Social Coexistence in Mobile Worlds*. Together with Olaf Zenker (a member of the CRC, a recently appointed professor at Martin Luther University’s Institute for Social Anthropology, and a long-standing member of the Department’s Consultative Committee), Vetters developed a project which speaks to both the CRC’s interest in the role affect and emotion play in social cohesion under conditions of global mobility and the Department’s focus on the role of law in the governance of migration and integration in Europe.

The project, which has only just started and will be funded for four years by the German Research Foundation within the framework of the CRC 1171, will ethnographically trace whether and how bureaucratic sentiments (understood as both evaluative emotional repertoires and regimes of meaning) change when digital technologies are introduced into the administrative process of determining asylum status and deciding on residence permits. To this end, postdoctoral researcher Timm Sureau will work with IT programmers and immigration officials who jointly develop new digital solutions. Sureau will trace affective and emotional engagements with these solutions from their development stage to their application and everyday usages by front-line immigration officers. Complementing his fieldwork, the project leaders will conduct two work packages: Olaf Zenker will focus on discursive representations of the so-called digitalization agenda in German migration management by both public authorities and critics, while Larissa Vetters will conduct ethnographic research on the uses and evaluations of digital solutions from the perspective of judicial control by administrative courts.

The project investigates how these (digitalized) bureaucratic sentiments affect the outcome of asylum and immigration decisions. It raises fundamental questions regarding the emotional and affective dimensions of new modes of governance and their implications for negotiating citizenship rights and the politics of belonging under conditions of globalization. With these questions, the project bridges several research communities: it contributes to the CRC’s overall aim to explore how societal transformations not only produce new affective dynamics, but are also brought about by the institutionalization of affective regimes; through its two project leaders it links the Department with the Institute of Social Anthropology at Martin Luther University, ensuring that students have insights into ongoing research and can become involved as student assistants; within the Department, the project connects particularly well

Use of Culture in the Courtrooms (Napoli: Editoriale Scientifica, forthcoming) 77–100.

with ongoing as well as future research on immigration law (Sureau and colleagues, WiMi (see pp. 52–56), VULNER (see pp. 99–100), CUREDI (see pp. 45–51), and individual projects) and is part of a newly emerging research cluster on law, digital technologies, and artificial intelligence (see entries of Turner, Sapignoli, and Lier in this report), thus creating additional synergies.

Crosscutting Themes

Cutting across these research projects, Vetters has increasingly developed a deeper interest in methods and methodologies of ethnographic legal research as well as the possibilities and limits of an interdisciplinary dialogue between law and anthropology. Becoming part of the Department has provided a unique opportunity to explore these interests more systematically. An important part of her academic growth has been to engage in comparative and reflexive discussions on fieldwork challenges and ethical positionings with colleagues doing similar ethnographic research on other aspects of law, to have conversation partners trained in law who push her to delve more deeply into the technicalities and doctrinal ordering ideas of particular fields of state law, and to experiment with formats that foster such an interdisciplinary dialogue (on an academic as well as an applied level). Within the department, Vetters has taken the lead in building up a body of knowledge (in the form of a syllabus and joint training / discussion sessions) on methods, concepts, and central debates in the field of law and anthropology that can serve as a starting point and orientational framework for new members. Together with Jonas Bens (Free University Berlin), Vetters also edited a special issue on ethnographic sociolegal studies, in the introduction to which they outlined how this field can benefit from a realignment of legal, sociolegal, and legal anthropological research traditions (Bens and Vetters 2018). In another article, Vetters explored an ethnographic approach to German immigration law that takes legal doctrine seriously as an ethnographic object of study in its own right. Tracing how immigration officials situate their everyday practices and interpretations of law within a framework of doctrinal ideas opens up a new avenue of critical engagement with immigration law that goes beyond mere criticism of these practices from a perspective external to the ordering ideas of public/administrative law (Vetters 2019). This approach builds on previous attempts to develop the notion of bridging concepts as a promising technique for interdisciplinary communication and knowledge production between law and anthropology (Vetters, Eggers, Hahn 2017; see also Institute's Report 2014–2016: 111–113).

Vishal Vora

Britishness; Hindu diaspora; identity; India; integration; multiculturalism; legal pluralism; religious diversity; UK

British Hindus

Vishal Vora’s research focuses squarely on the social changes taking place in the diasporic British Hindu community, with a particular interest in documenting the relationship between law, state, and religion. Alarmingly little is known about this diverse group of British citizens, now said to number around 1 million (817,000 according to the most recent UK census in 2011). They mainly reside in urban areas in both the south and north of the country. Educational achievement and high salaries, especially in comparison with other British minority ethnic groups, has no doubt led to a platform of social mobility, as is demonstrated by the incumbent UK government cabinet members Chancellor Rishi Sunak, Home Secretary Priti Patel, and Business Secretary Alok Sharma. Decades of successful integration have led to this point.

Campaign poster for Bhupen Dave, Conservative and Unionist Party Parliamentary Candidate for Leicester East. The UK general election took place on 12 December 2019. Dave lost out to Claudia Webbe of the Labour Party.

The third generation are clearly riding this wave of success, while also vying for ways to express their Hindu identity. They are British and now their children are also British, but are still regularly faced with the question, “Where are you (really) from?” While Britain has allowed some forms of success, there is a clear boundary between those who can and those who cannot join “the club”. It is for this reason that young Brits are keen to uphold their Hindu identity and visibly express it in their daily lives. The previous structures inaugurated by the first- and second-generation pioneers – Hindu clubs and organizations – are no longer fit for purpose. As a result, they are essentially dying off and within a generation will no longer exist. Instead, young British Hindus are establishing highly professionalized online spaces. Online media play a critical role in this, providing a democracy that did not exist previously.

As Vora’s postdoctoral project has progressed, he has engaged with Hindu youth organizations, exploring their political cultures and Hindu or Indic identities. There is a common perception that Hindus are “good immigrants”; the stereotypical por-

trayal is of a compliant and hardworking community that doesn't ask much of the government.

Vora has completed the first phase of fieldwork research, during which he utilized a mixed methodological approach, employing respondent interviews, focus groups, and participant observation. He has successfully established working relationships with several key Hindu diaspora organizations in the UK. These include the two largest umbrella organizations: Hindu Forum of Britain and Hindu Council UK. These two represent the Hindu community at large to government. Furthermore, he continues to work with local, London-based community organizations, such as the Navnat Vanik Association and Vishwa Hindu Parishad. With an increased focus on youth organizations, his association with the National Hindu Students' Forum (NHSF), the largest student network outside India, and also with Vichaar Manthan (where NHSF members progress to), continues to be a rich source of data.

Poster for the inaugural event hosted by the National Hindu Student Forum UK, "The Hindu Experience", Kings College, London, 2019.

Vora's academic trajectory thus far has been characterized by an interdisciplinary approach to his topic of investigation. He has sustained experience combining doctrinal analysis with grassroots fieldwork, starting with his doctoral research on the legal consequences of unregistered marriages among the British Muslim population (see below). He carries this approach into his postdoctoral project in the Law & Anthropology Department, where he continues to assess matters of religious and cultural diversity of yet another important group of British citizens. Such investigations can only be driven and completed via empirical research. This project remains one of the few in Europe currently focusing on the contemporary British Hindu diaspora.

British Muslim marriage

Vora’s doctoral project on the intersection of customary British Muslim marriage and English marriage law is recognized as an important contribution to the discussion. He was cited in July 2020 by the National Secular Society.[82] In the autumn of 2017 he was interviewed for a television documentary commissioned by Channel 4 (a British public service free-to-air network) entitled *The Truth About Muslim Marriages*, which focused on the topic of his doctoral research. His contribution provided a realistic solution to the current issues facing British Muslim women who get married outside the statutory legislation governing marriages. Vora has also been consulted by the recent Law Commission project on marriages. He continues to contribute to this discussion through his publications,[83] and has submitted a book manuscript proposal based on his doctoral project to Routledge’s *Law & Anthropology* series.

EJTN activities

Soon after beginning his postdoctoral research in the Department, Vora joined the Department’s ambitious collaboration with the European Judicial Training Network (EJTN) to host a training event in 2018, entitled “Cultural Diversity in the Courtroom – Judges in Europe Facing New Challenges” (see pp. 19–21). This inaugural event was the first of its kind for the EJTN – such training events tend to focus on one field of law only, but the MPI was able to draw up a training programme that combined four distinct fields of law: asylum, labour, criminal, and family. The event was well received by the network as well as the participants. The same organizational team hosted a highly successful follow-up event in November 2019. The format was refined based on the feedback received, and another field, social and welfare law, was introduced. Vora contributed to the success of both of these events. A 2020 event is planned, although ongoing COVID-19 restrictions may interfere.

Cultural and Religious Diversity (CUREDI) Database Project

Vora also participates in the CUREDI database project (see pp. 45–51). His involvement includes being the lead contributor on the topic of Muslim marriages in England and Wales. Through a careful selection of relevant legal cases, he provides detailed sociolegal analysis on judgments. His legal expertise, based on practice in the English courts, represents a valuable contribution to the project.

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[82] See www.secularism.org.uk/opinion/2020/07/its-time-for-one-marriage-law-for-all.

[83] See V Vora, “The Continuing Muslim Marriage Conundrum: The Law of England and Wales on Religious Marriage and Non-Marriage in the United Kingdom” (2020) 40 (1) *Journal of Muslim Minority Affairs* 1–15; V Vora, “The Case for Moving Away from ‘Non-Marriage’ Declarations” in *Cohabitation and Religious Marriage: Status, Similarities and Solutions* (Bristol University Press: Bristol Shorts Research 2020) 53–67.

Third-party funding

Vora will begin a Nuffield Foundation-funded project in September 2020 entitled "When is a wedding not a marriage? Exploring non-legally binding ceremonies". The project will investigate both religious and non-religious marriage practices to understand who conducts non-legally binding ceremonies, who opts for such ceremonies, and what couples believe their status to be. Vora's role in this project will combine the use of anthropological fieldwork methods (focus groups and interviews) and legal analysis of the British Hindu community. This therefore combines his ongoing post-doctoral research project with his well-established expertise in English marriage law. The outcome is to achieve better-informed policy and contribute to the Law Commission's review of marriage law.

Zeynep Yanasmayan
Migration, citizenship, religious diversity, constitution-making processes, Europe, Turkey

Zeynep Yanasmayan is an interdisciplinary scholar with research and teaching experience at the intersection of political science, sociology, and sociolegal studies. Her research focus ranges from political sociology of migration and governance of religious diversity to practices of citizenship in Europe and Turkey.

Yanasmayan joined the Department of Law & Anthropology as the scientific coordinator of the Max Planck Society-funded WiMi research initiative (see pp. 52–56). In her role as Scientific Coordinator of WiMi, she contributed substantially to the development of the overall initiative's multidimensional conceptual framework for the study of migrants' exclusion (Foblets et al 2018), promoted synergy between the researchers of the participating Max Planck Institutes through regular exchanges, and engaged in research activities (e.g., organization of workshops and panels, etc.).

Two special issues co-edited by Yanasmayan are forthcoming from these collaborations. First is the special issue *Post-2015 Refugees in Germany: "Culture of Welcome", Solidarity, Exclusion?*, which has been accepted for publication in the journal *International Migration*. The special issue aims shine a spotlight on the exclusionary practices of state and non-state actors that hinder refugees' access to territory, rights, and resources, thereby preventing their full participation in society. Relying on new empirical data on refugees, service providers, accommodation centres, municipal agencies, laws, and policy regulations, this special issue offers a comprehensive and interdisciplinary account of the legal, spatial, sociopsychological, and social aspects of exclusion. In its entirety, it shows how the process of accommodating refugees in Germany has been fraught with ambiguities, inconsistencies, and regional / local differences.

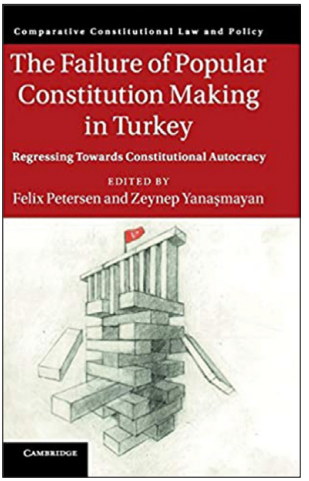
The second special issue, *Social and Spatial Im/mobility in Forced Migration: Social Class and Exclusion* (accepted for publication in the *Journal of Ethnic and Migration Studies*), makes a conceptual intervention into the issue of forced migration, suggesting that it should be studied in its interactions with mobility, social class, and exclusion. Bringing together a variety of disciplinary and geographical angles, the issue aims to initiate a debate on the significance of social class and the state's exclusionary practices for refugees' mobility aspirations (both before and after flight) as well as the transferability or mobility of social class from one spatial context to another.

Inspired by the WiMi research initiative's focus on exclusion, Yanasmayan has been applying this lens much more rigorously to her recent work on migration to and from Turkey. Looking at the Turkish state's relationship with its external citizens, she and her colleague Zeynep Kaşlı underlined the significance of conceptualizing diasporic engagements within the broader transnationalization of citizenship regimes, which needs to be analysed in its institutional, political, and legal dimensions (Yanasmayan and Kaşlı 2019). The Turkish state, under the AKP regime of Recep Tayyip Erdoğan, took considerable steps to include its citizens abroad politically, but this was coupled with a vast curtailment of rights that excluded all dissidents whose political views did not align with the AKP's politics. Similarly, in another contribution, Yanasmayan and Kaşlı have highlighted how the migration regime in Turkey creates a spectrum of exclusion whereby different groups of migrants are subjected to different levels and forms of exclusion on the basis of the existing ethno-religious preferences and foreign policy choices of the Turkish state.[84]

In addition to her WiMi-related research activities, Yanasmayan brought to fruition two book projects during her time at the MPI. She published her first monograph, *The Migration of Highly Educated Turkish Citizens to Europe: From Guestworkers to Global Talent*, which is based on her PhD dissertation (Yanasmayan 2019). In it she examines the experiences of highly educated migrants subjected to two distinct and incompatible public discourses: one that identifies them in terms of nationality and presupposed religious affiliation, and another that focuses on their education and employment status, which suggest that they deserve the best treatment from societies engaged in the global "race for talent". On the basis of empirical research conducted in Amsterdam, Barcelona, and London, Yanasmayan draws on the narratives of highly educated migrants from Turkey to address the question of whether such migrants should be viewed any differently from their predecessors, who moved to Europe as "guestworkers" in the twentieth century. She develops three nexuses – the *mobility/migration nexus*, the *mobility/citizenship nexus*, and the *mobility/dwelling nexus* – to account for the embedded sense of mobility that

[84] Z Kasli and Z Yanasmayan, "Migration Control, Populism and the Spectrum of Exclusion in Turkey" in R Koulish and M Van der Woude (eds.), *Crimmigrant Nations: Resurgent Nationalism and the Closing of Borders* (Fordham University Press 2020) 315–337.

underlies these "new" migrants and offers a holistic picture of their trajectory from "arrival to settlement" and all that lies in between.



Yanasmayan also finalized a long-term project on Turkish constitutional politics that she had started before coming to the MPI. Together with her colleague Felix Petersen, she co-edited a book on the ultimately unsuccessful attempt to implement popular constitution making in Turkey from 2011 to 2013, which was an anomaly in the otherwise authoritarian history of Turkish constitutional politics (Petersen and Yanasmayan 2020). The book is based on the analysis of original primary sources, including thousands of pages of proceedings of the constituent assembly party proposals, media reporting of the period, and civil society documents. Long-standing societal divides regarding cultural and religious diversity, which were evident in the negotiations among the political parties, played a significant role in the failure of the process. The book aims to contextualize the process, explain its failure, and envision the change it would have brought had it been successful, ultimately concluding that it was a missed opportunity for democratization before Turkey plunged into full-fledged democratic backsliding.

Last but not least, she co-authored an article in *Law & Social Inquiry* on face veil regulations in Europe that shows how the judicialization of local / national conflicts leads to the standardization of justificatory repertoires (Burchardt, Yanasmayan, and Koenig 2019). This article employs a sociolegal approach that draws on judgments of (high) courts in Belgium and Spain and the European Court of Human Rights, qualitative interviews with activists, NGOs, and lawyers involved in the court cases, and parliamentary debates. The main argument is that the transposition of face veil conflicts from locally embedded political fields to transnationally situated judicial fields has narrowed the range of legitimate arguments made for and against *burqa* bans and produced rather standardized legal templates routinely employed in subsequent disputes. During this process, living together (*vivre ensemble*) has gained particular currency as *the* legal template justifying face veil bans and facilitating the spread of bans across European societies.

IIIc: PhD Candidates

Beate Anam
See profile in Part II, Group Projects, under *Sharia in European Settings* (pp. 30–31)

Jonathan Bernaerts
Language minorities; national minorities; minority rights; language diversity; discretion; street-level bureaucrats; Germany; Belgium

Jonathan Bernaerts’s doctoral research project, “Language Rights, Policies and Practices in Linguistically Diverse Societies”, deals with the interactions between administrative authorities and persons belonging to language minorities, whether legally recognized or not. This topic is contentious in many countries and is particularly relevant in linguistically diverse societies. The research focuses on the Sorbian minority and Turkish speakers in Germany, as well as on French and Turkish speakers in the Dutch language area of Belgium.

This research provides an insider’s perspective – from the point of view of both administrative authorities and persons whose home language differs from the dominant or official language of the area in which they reside – on how the relevant actors deal with linguistic diversity in administrative settings. Its core consists of ethnographic accounts of interactions between “street-level bureaucrats”[85] (Lipsky 1980) and resident non-majoritarian language speakers.

The empirical data show how ideas and legal norms involved in these interactions are negotiated in practice at the local level. Despite obvious differences in the historical and sociolinguistic contexts of Belgium and Germany, Bernaerts has been able to draw some lessons of broader applicability. The empirical approach he used revealed the challenges and limitations of historical legal frameworks in dealing with current linguistic diversity, which extends beyond historical minorities and even beyond some of the so-called “new” minorities.

Beyond this linguistic diversity, Bernaerts’s doctoral research illustrates how specific local elements tend to challenge a language model or ideology designed at the national or regional level. Local authorities and administrations attempt to regulate language use in administrative interactions through local language policies, which are especially apparent in the Dutch language area of Belgium. This aspect has thus far received limited research interest. In Germany, local integration policies arise, albeit often without specific attention to administrative interactions. The German administrations and civil servants that are represented in Bernaerts’s

[85] M Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (Russell Sage Foundation 1980).

research rather tackle the issue through voluntary engagement, personal initiative, or organizational changes that are made without a structural local language policy.

The empirical data further illustrate the personal (e.g., multiple embeddedness that comes about when a person is both a member of a minority and of the administration), linguistic, and legal challenges that the involved actors experience in their interactions. Despite established regulations, this research shows how civil servants have a degree of *de facto* discretion, opening up the possibility of deviating, whether knowingly or unknowingly, from the applicable legal norms. The overarching findings lead Bernaerts to a reconsideration of linguistic minority rights at the international level and the identification of a gap in historical legal frameworks regarding non-majoritarian language speakers.

Bernaerts's research advances the Law & Anthropology Department's research programme in several ways. On the one hand, it examines the accommodation of linguistic diversity in society, with an interest in "old" and "new" minorities as well as non-majoritarian language speakers in general. On the other hand, his research combines methods stemming from doctrinal legal research and from anthropology. It also engages with literature from both disciplines (e.g., minority rights and the anthropology of bureaucracies) in the analysis of the data gathered.

Jonathan Bernaerts successfully defended his PhD dissertation in June 2020 (*summa cum laude*). During his time as a PhD candidate, Bernaerts was able to develop his conceptual view on (linguistic) minority rights and their implementation. In general, Bernaerts says, the interdisciplinary approach enriched his view of law and its recursive relation with practice and enhanced his research profile in the eyes of law faculties, where empirical research is gaining ground.

Bernaerts joined the CUREDI Scientific Coordination Team in December 2019.

Jeanise Dalli

"FGM"; genital interventions; human rights; UK; Malta

Jeansie Dalli joined the Law & Anthropology Department as a PhD candidate in 2018 for one year with the aim of finalizing her doctoral research project, provisionally entitled "Legal and Medical Approaches to (Female) Genital Interventions in the United Kingdom and Malta: Exploring Challenges for Regulation within Culturally Diverse Societies". The starting point of her study was the observation that, despite the global movement against "female genital mutilation" (FGM, a concept used within the legal and medical spheres to describe "harmful" physical interventions generally motivated by sociocultural factors and performed on the external reproductive organs of females for "non-medical" reasons), such practices still persist and are performed even within countries where these interventions are prohibited.

Within the literature on the phenomenon of FGM, some scholars propose new measures to accelerate the abandonment or eradication of the practice. Others argue

for the re-interpretation of the concept of FGM altogether, especially considering that certain so-called “traditional” procedures that are labelled “FGM” are also legally performed for “cosmetic” reasons. Dalli takes a different approach. She identifies and explores standards of measurement used within the legal and medical regulation of FGM for the purpose of determining what is permissible and impermissible according to the law, and what is ethical and unethical according to standard medical and health care ethics. To this effect, she draws comparisons with other genital interventions, namely interventions performed for so-called “cosmetic” and gender-related reasons, as well as genital interventions on men.

Dalli compares the legal and medical approaches within two different contexts: the United Kingdom and one of its former colonies, the island-state of Malta. The study engages a multi-method approach that involves an analysis of legislation, court judgments, administrative decisions, parliamentary debates, and medical policies, supplemented by interviews in Malta with medical and health care professionals and other stakeholders.

Dalli’s research project contributes to two of the Department’s main research agendas: the analysis of how cultural diversity is managed within contemporary societies, and the focus on the concept of “human rights”. Regarding the first agenda, her analysis of medical perceptions and court and administrative cases allows her to assess the extent to which legal and medical normative frameworks are responsive to the requests and expectations of individuals coming from cultures where traditional genital practices on men and/or women are still prevalent. It further provides her with insights into the social implications that legal and medical norms may have vis-à-vis minority groups within culturally diverse societies.

With regard to “human rights”, Dalli’s study explores how this concept is invoked by some to protect people (whether male or female, children or adults) from any form of involuntary genital interventions, and by others to justify the practices and advocate for personal and bodily autonomy. As such, Dalli’s study calls into question the universal application of the Western notion of human rights.

Dalli is also contributing analyses of FGM-related court and administrative cases in the UK to the CUREDI database (see pp. 45–51). Participation in this project has not only honed her legal analysis skills, but has also helped structure the way she deals with her data and inspired her in the writing-up process.

In her time at the Institute, Dalli participated in a number of research activities that greatly contributed to her academic and professional development, including training courses, workshops and seminars at which she presented her work, and a thesis defence training workshop in Berlin organized by the Max Planck Society. These opportunities, and Dalli’s stay at the Law & Anthropology Department in general, have opened up new academic opportunities for her in her home country, most notably opportunities for teaching, supervision, and assessment roles in the Faculty of Law at the University of Malta.

Harika Dauth
Politics of belonging; migration; racialization; citizenship; legal anthropology

Harika Dauth joined the Law & Anthropology Department in 2014 as a member of the first cohort of PhD candidates. Her research on the politics of belonging explores the securitized and neoliberalized management of the European migration, border, and human rights regime, with a particular focus on Roma who move between Eastern Europe and Germany, and the impact this has on the subjects' everyday lives and their embodied experiences of (il)legalized and forced movements. In a nutshell, Dauth seeks to understand the mechanisms, technologies, and experiences of normalized irregularization that build on old mechanisms of inclusion and exclusion.

Dauth conducted one year of fieldwork in Germany, Macedonia, Kosovo, Serbia, and Bulgaria, where she interviewed Roma, migration and asylum counsellors, social workers, teachers, lawyers, asylum judges, and border guards. Her interdisciplinary project is located at the crossroads of political, legal, and ethnographic studies and contributes to legal anthropology, critical migration studies, and recent debates on institutionalized racism.

The results of Dauth's study suggest that although their legal status has a tremendous effect on the everyday lives of people perceived as Roma, social factors and processes of racialization play a much more pervasive role when it comes to whether and how they can access basic infrastructure and fundamental rights. She argues that in the case of people who are perceived as Roma in Europe, the possession of the "right" legal citizenship is outweighed by the "right" social citizenship. Dauth demonstrates this by outlining how actors involved in the migration regime in Germany, including politicians, legal practitioners, and street-level bureaucrats, legally design and maintain the irregular status of Roma asylum seekers and EU migrants, questioning their credibility and trustworthiness and feeding into deeply ingrained racist stereotypes of Roma as the "ever-roaming nomad" and a "parasite".

Dauth furthermore interrogates the emergence of the notion of Roma as "Europe's largest ethnic minority" in need of protection. She argues that this perspective is, not coincidentally, at odds with national securitized immigration policies because both the human rights regime and the migration and border regime do feed, albeit with different technologies, into the same logics of depoliticizing migration and sorting out who deserves help and who does not.

By disclosing mechanisms and dynamics of differential inclusion and exclusion and discussing relevant questions regarding the articulation, implementation, and monitoring of human rights (including minority rights of Roma in Europe), Dauth's research touches on two main topics of the Law & Anthropology research programme. First, she demonstrates that human rights cannot in practice eradicate the specific mechanisms of inclusion and exclusion that Roma face. On the contrary, human rights often serve to solidify and perpetuate the essential *difference* of a people who are perceived as being *in* but not *of* Europe. Second, her research focuses on the tensions

between the governance of migrant mobilities in plural societies and questions of the autonomy of migrating subjects. Her research thus aims to disclose problems and potential solutions in the field of intercultural communication, suggesting a more culturally sensitive approach for political decision makers, legal actors, and street-level bureaucrats in their dealings with Roma migrants.

Dauth’s research activities in the 2017–2019 included fieldwork, writing-up, teaching, and serving as a “cultural expert” in court. Her experience in court helped her to better understand different forms of the “legal gaze” on culture, integration, and multiculturalism. Generally, this period helped her form a clearer picture of how notions of culture, race, gender, class, and nation are constructed and intersect on a theoretical and practical level. It opened up new perspectives on how law shapes social life and, more importantly, how social life informs law and its implementation. This latter aspect became very tangible when Dauth co-directed a theatre piece with young Romani migrants in Leipzig on the topic of early marriage. Although not directly linked to her research activities, this experience was very valuable in that it allowed Dauth to deal with and discuss the complexities and ambiguities of social perspectives on law in a more hands-on, non-academic setting.

Kadir Eryilmaz
Ethno-religious communities; minority rights; religious persecution; legal activism; identity construction

Kadir Eryilmaz joined the MPI’s Law & Anthropology Department in October 2018 with a PhD project titled “Identity Construction Process of Ethno-Religious Communities: The Case of the Suryoye”. During his master’s studies at Ankara University, he developed an interest in the position of ethnic and religious minorities within legal and political fields, and this interest later constituted the initial outline of his PhD project. In his current study, he examines the mobilization efforts of underrepresented groups and their effects on those communities’ identities and senses of ethnic belonging, with specific reference to the Mesopotamian Orthodox Christian community (Suryoye, also known as Syriacs, Arameans, or Assyrians).

Within this context, Eryilmaz investigates how the identity-building processes and strategies of the Suryoye, an indigenous community originally from southeastern Turkey, are related to law. He chose this particular group because, despite their long presence in the region, they were displaced and forced to emigrate due to economic and political tensions. Their dispersal from the region caused numerous ongoing disputes regarding land rights, educational policies, and freedom of religion. Thanks to activism targeting homeland politics, members of the Suryoye diaspora have started developing a transnational political strategy to address the problems in Turkey and engaging with legal institutions and political authorities.

In order to understand how this particular group engages with legal means, Eryilmaz formulated research questions along two broad axes. First, he investigates the effect of the law on the Suryoye, who have been displaced through legal means and who are currently living in diaspora communities, and therefore are affected by the laws of many different nation-states. Second, he questions how the Suryoye employ law in order to overcome their grievances, and how their identity plays a role in their mobilization of law. In order to come to grips with these legal phenomena, he draws on anthropological theory and methodology. Eryilmaz credits the interdisciplinary academic agenda and the training in anthropological methods that he has received in the Law & Anthropology Department with helping him identify methodologies that are most suitable to addressing his research questions.

The scattered Suryoye diaspora enables Eryilmaz to employ multi-sited ethnographic fieldwork, covering both the Suryoye homeland in the Tur Abdin region in south-eastern Turkey and communities in Germany, which hosts one of the largest Suryoye populations. In 2019 Eryilmaz conducted six months of ethnographic fieldwork the Nord-Rhein Westphalia region of Germany, which is a popular destination for Suryoye immigrants.

Kadir Eryilmaz (centre) conducting a focus group meeting with villagers in Midyat, south-eastern Turkey. (Photo: E. Eliyo, 2019)

Prior to that, Eryilmaz embarked on a brief initial fieldwork trip to Mardin in south-eastern Turkey. This allowed him to refine his research questions and restructure his research design. During this exploratory trip, he was able to visit historical and religious sites of significance to the Suryoye community, conduct in-depth interviews and focus group discussions with community members and legal professionals, and engage in participant observation.

For the last stage of his research, Eryilmaz intends to focus more on the Suryoye community's day-to-day encounters with the law, and the social aspects of their mobilization within various social fields. Ultimately, his findings should provide insights into how cultural, ethnic, and religious diversity can be accommodated in Germany and in Europe more generally.

Michelle Flynn
Religious prescripts in law; marriage and divorce; Ireland; UK; US

In her research, Michelle Flynn examines the legal framework and superior court case law in Ireland, the United Kingdom, and the United States concerning religious prescripts contained in ecclesiastical law (the body of laws governing a Christian church), *halakha* (the collective body of Jewish religious laws), and *sharia* (religious law forming part of the Islamic tradition) in personal status matters, with a particular focus on marriage and divorce. Within all three jurisdictions it is apparent that the courts are at the forefront of dealing with highly contentious issues relating to freedom of religion and/or religious diversity, family and private life, multiculturism, and integration. Ireland is the primary focus of this study. Once regarded as a religiously homogeneous country with the vast majority of the population being Roman Catholic, Ireland has experienced a sudden increase in immigration over the previous two decades, leading to increased multiculturalism and its attendant religious diversity, including secularism. As a result, Ireland has undergone significant societal changes. Given the pace of change, Irish courts must often deal with complex matters of family and private life in the absence of an adequate legislative framework. For the purposes of her analysis, Flynn takes the United Kingdom and the United States as comparative jurisdictions, as both are common law jurisdictions yet adopt vastly different approaches to the issue of religious personal laws and prescripts. Her research engages a wide variety of legal fields, including constitutional law, comparative law, public law, international and European law, human rights law, and legal pluralism.

Within the context of the research programme of the Department of Law & Anthropology, Flynn is also involved with the Cultural and Religious Diversity (CUREDI) database project (see pp. 45–51). Flynn’s role within the CUREDI project is to analyse relevant case law from Irish courts and provide in-depth commentary regarding how courts deal with issues of culture and religion. Her research experience and legal expertise based on years of hands-on experience at the national (Ireland) and supranational levels (the European Court of Human Rights and the Court of Justice of the European Union) combine to complement the interdisciplinary research programme of the Department of Law & Anthropology and contribute in a direct way to the CUREDI project.

Engaging in an interdisciplinary approach has enabled Flynn to critically assess the legal response to matters of religious and cultural diversity in a more nuanced manner. The opportunity to connect with fellow academics at the MPI who are at different stages of their academic careers and come from various disciplines is of immense value. Flynn says that the scope provided by the Department to further develop as a researcher has been pivotal in building expertise and creating opportunities to develop professional relationships and to work collaboratively with experts in her field from across Europe.

Kutaiba Kaidouha
See profile in Part II, Group Projects, under *Conflict Regulation in Germany's Plural Society* (pp. 43–44)

Markus Klank
Religious diversity; law & religion; Twelve Tribes; Germany

In his doctoral thesis, *"God Cannot Live Here": The Legal Conflicts Concerning the Twelve Tribes in Germany*, Markus Klank analyses the legal situation of religious minorities in Germany that are perceived to be deviant and labelled in public discourse as "sects" or "cults" (German: *Sekten*). He focuses on three key questions:

(1) How does the German state deal with religious groups whose teachings and practices seem to be incompatible with the dominant values and normative order?

(2) Does the German state handle those groups and their interests according to the principles of neutrality and equality (especially in comparison to established religions)?

(3) What are the resulting impacts and consequences for the concerned religions and for the legal framework?

Klank develops a case study of the Twelve Tribes community in Germany as a springboard to approach these questions. This millenarian Christian group has thus far received little attention from researchers. Members of the Twelve Tribes live together in agricultural communes, model their lives on those of early Christians, and hold property in common. Apart from a struggle with German authorities about home-schooling in 2003, which was settled when the Twelve Tribes got permission to run their own (extraordinary) schools, the group remained more or less under the radar. That all changed in 2013, when German police raided the two German communities and took all 40 children into child protective custody after their religiously based spanking practices became public knowledge. As a result of this development, all Twelve Tribes members left Germany in 2016. Some children have still not been returned to their parents.

Klank follows the Twelve Tribes community, first on its way to integration into the mainstream normative order, and then its abrupt reversal and complete retreat, focusing on processes of accommodation, transformation, and adaptation, as well as exclusion, distinction, and radicalization on the sides of both the religious community and the state. His study deftly combines approaches from three different disciplines – law, anthropology, and religious studies. Starting with an extensive

historical and ethnographic depiction of the Twelve Tribes community, its teachings, and lifestyle, Klank contextualizes the legal conflicts of the Twelve Tribes as part of the German debate on so-called “cults”. In doing so, he draws together concepts of religious accommodation, legal pluralism, and religious non-conformism to analyse the ethnographic data gathered through participant observation, courtroom ethnography, and interviews with believers. He furthermore supplements the empirical findings with analyses of court decisions and other official documents. The study points out how stereotypes about cults still influence executive, judicial, and legislative procedures, and how tensions are further exacerbated by secularization policies and a focus on individual rights, most notably, the high priority given by state institutions to the idea of the “best interests of the child”.

As a scholar of religious studies, Klank appreciates the exceptional opportunity that the interdisciplinary framework of the Law & Anthropology Department has given him to consider ideas and influences from legal studies, anthropology, and beyond for the study of a topic as sensitive as this. For Klank, it was particularly fruitful to discuss elements of his thesis in the context of the Department, most notably in write-up seminars and departmental meetings. He also had the chance to presents his findings in a variety of disciplinary fora, including the annual conference of the German Association for the Study of Religion (DVRW), a lecture series on legal anthropology at the University of Mainz, and an internal Department conference, *Re-designing Justice for Plural Societies* (see pp. 12–13). Klank has now submitted his thesis and expects to defend it in the fall of 2020.

Sirin Knecht
Human rights; institutionalized activism; NGOs; feminism; Lebanon; international aid; translation processes

Sirin Knecht came to the Law & Anthropology Department in 2015, having started her doctoral studies at the Free University in Berlin. Her research focuses on non-governmental organizations in Lebanon, which have flourished since the end of the Lebanese civil war, the Cold War, the global establishment of international law bodies, the growing influence of international agencies such as the United Nations (UN), and the related flow of international aid into the country. Moreover, the Lebanese capital Beirut operates as an international hub for the entire region. International interventions designed as humanitarian and development actions shape Beirut’s economic and public landscape. As a consequence, the already limited public-sector arm of the state is suppressed by international actors and agencies, creating dependencies and power differentials. This aspect of globalization has given rise to the involvement of NGOs in Lebanese public matters and in social change more broadly. The politics of policy translation in this transnational setting is, therefore, unique.

New perspectives and approaches to development focusing on women inform emergent agreements and conventions that seek to hold nation-states that have ratified international legal instruments accountable. There is little implementation of development projects and policy without the involvement of law, yet law itself is a future-oriented ideal, a "desired situation projected into the future".[86] In this regard, law operates as a social change indicator, marking a point of reference while aiming at changing the status quo.

A progressive perspective on empowering women through strengthening women's rights is now on the advocacy agendas of many NGOs, particularly women's NGOs in places such as Lebanon. In her research, Knecht focuses on this broader context through the lens of translation. She explores how women's NGOs use women's rights demands to make visible and tackle social injustice and inequality. Knecht has observed that it is through the brokering of human rights discourse – using its language as well as translating international law on various levels – that women's NGOs negotiate sovereignty and the legitimacy that come with the prerogative powers exercised by political regimes, international aid actors, and religious authorities. Put briefly, her research sheds light on the power that legitimates representation. NGOs represent the unit of analysis for this study since it is through them that politics and law are conveyed.

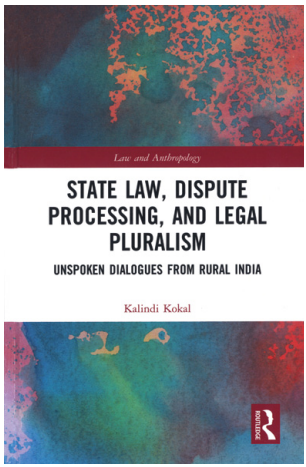
Knecht considers the social practices of law as an opportunity to analyse how particular cultural and social settings overlap and are entangled with each other. Such overlaps are made visible through an analytical combination of law and anthropology, as positive law is grounded in notions of humanity and universal claims about it. These are based on various values and norms, constituting patterns of normativity and morality. This perspective on humanity is negotiated by many actors on a multi-scalar level when it comes to women's rights and empowerment in Lebanon.

Working in the Law & Anthropology Department has taught Knecht how to use ethnographic data to illustrate and analyse legal issues in a sociolegal context. It has opened up new dimensions and approaches to her research – "a new kind of creativity", to use her own words – that she applies to her research. Knecht's research activities during the 2017–2019 reporting period centred on 12 months of fieldwork (including language acquisition), followed by a period of evaluating, processing, and presenting the data gathered at conferences and workshops. She will submit her dissertation, titled *The Vision of Visibility – Politics and Practices of Women's Rights and International Aid in Lebanon*, in fall 2020 and is expected to defend at the beginning of 2021.

[86] Fv Benda-Beckmann, "Scape-goat and Magic Charm: Law in Development Theory and Practice" (1989) 28 *Journal of Legal Pluralism and Unofficial Law* 129–148.

Kalindi Kokal
Human rights; religion; space and place; emotion; dispute processes; legal pluralism; policing; India

Kalindi Kokal completed her doctorate in the Law Faculty at Martin Luther University in 2017 (*summa cum laude*). For the period of her doctoral studies, she was a PhD candidate in the Law & Anthropology Department; currently, she is a research partner of the Department. Her work focuses on the unfolding of law as a social process. Her research has examined themes at the interface of state law’s engagement with human rights, religion, space and place, and emotion to explore how laws are constituted, performed, and understood within different segments of society.



Her monograph, *State Law, Dispute Processing and Legal Pluralism: Unspoken Dialogues from Rural India*, is based on her doctoral dissertation and appears in the Department’s flagship *Law & Anthropology Series* (Routledge 2020, ebook 2019). It is an ethnographic narrative of dispute processing in the context of the engagement of non-state actors with India’s state law and its regulatory systems. Drawing on the theories of legal anthropologist Sally Falk Moore and Masaji Chiba, a scholar of sociology of law, Kokal argues that in the specific contexts of the two Hindu communities she studied, an experience of interconnectedness at the level of the self and the community and an instinct of self-preservation lie at the core of all dispute-processing activities. The book provides insights into how village, *birāderi* (kinship-based) and neighbourhood *pancāyats* (community-based councils that handle dispute processing and other administrative activities), ‘barefoot lawyers’, and religious and supernatural elements operate as non-state actors in dispute processing within these village communities.

Presently Kokal is conducting an ethnographic study of the everyday working of police stations in a metropolitan city in India. She is investigating how state law is framed and translated in spaces of the state in the context of offences involving the body, marriage, and juveniles.

Her doctoral fellowship in the Department of Law & Anthropology and the continued association with the Department have enabled her to work with interdisciplinary scholars whose inputs, Kokal says, have helped her tremendously to “re-envision her research through its engagement with law”.

Afrooz Maghzi
See profile in Part II, Group Projects, under *Conflict Regulation in Germany's Plural Society* (pp. 44–45)

Annette Mehlhorn
Bolivia; plurinational constitutionalism; legal pluralism; radical politics

Annette Mehlhorn was in the first cohort of PhD candidates in the Law & Anthropology Department, having taken up her doctoral studies in 2014. At the core of her research project stand the complex ways in which, in a small legal-aid office in El Alto, Bolivia, a political movement is created *in relation to law*. Her dissertation is based on one and a half years of fieldwork in 2015 and 2016.

Meeting of indigenous legal authorities who form part of the movement born in the legal aid clinic, Teneria (Photo: A. Mehlhorn, 2015)

Mehlhorn describes how a project of radical change has emerged in the margins of, through, and against a state project which itself boasts high ambitions to bring about change. Perhaps most important in her analysis is the relationship between law and the political, which Mehlhorn considers essential to any exploration of the (im)possibilities of fundamental transformation. This relationship proves to be multifaceted and unpredictable, which reinforces the need for empirical data and first-hand experience.

In all their contingency, the experiences she details and engages with in her dissertation project have broader significance for long-standing debates and theoretical enquiries about law and social change. They illustrate not only the constraints imposed by law, but also posit law as an element in a political struggle and as a space to contest and negotiate knowledges, identities, and authority. They include elements that point to a radically different, deeply plural law. In this way, they contribute to a rising concern about "rescuing" the emancipatory potential of law and/or rights, which has been expressed in different streams of literature. However, in her dissertation Mehlhorn is careful not to limit the understanding of the movement's struggle by reducing its ambitions merely to a "new" understanding of law. While in practice

law may well turn out to be a facilitator and a site of struggle and politics, that is not necessarily its fundamental concern or principal role. As we see the language and the use of law spread, it is at the same time undermined, putting its apparent wider acceptance on a rather weak footing under which a different logic is welling up and gaining momentum. This represents a subtle yet significant shift in perspective.

The Department of Law & Anthropology provides a space where the epistemological and methodological challenges of interdisciplinary research take centre stage, and this is reflected in Mehlhorn’s research. In her PhD thesis, the creative tensions arising from disciplinary critique, interdisciplinary encounters, and transdisciplinary visions are not only a subject of the research, but also a critical aspect of both the methodological challenges faced and of the solutions to those challenges.

During her time at the Institute (until August 2018), Mehlhorn was also able to gain important professional experience by participating in conferences and publishing. In 2017 she presented at three conferences, and in 2018 she presented at the Law & Society Conference in Toronto, in a panel organized by a departmental colleague, Jessika Eichler. She also found the opportunity to publish with Rodrigo Cespedes, another MPI colleagues, taking advantage of their experience and enhancing her own professional research profile in the process (see Mehlhorn and Cespedes 2018). Mehlhorn is currently working at Saint Petersburg State University in Russia, where she teaches in the Faculty of Sociology’s MA programme.

Faris Nasrallah

International arbitration; alternative dispute resolution (ADR); international treaty provisions; jurisprudence; investment law

As a solicitor of the Senior Courts of England & Wales and a practising lawyer for leading international law firms in London and Dubai since 2010, Faris Nasrallah has gained invaluable insights into the inner workings of global arbitration practice as both counsel and arbitrator. Initially a visiting scholar in June 2018, Nasrallah joined the Law & Anthropology Department in October 2018 to conduct doctoral research into the relationship between theory and practice in international arbitration. Despite being one of the most widely narrated areas of legal practice, the foundations of international arbitration systems and their utility in national and international contexts remain noticeably understudied. Drawing on his professional experience, Nasrallah engages with the conceptual issues underlying contemporary legal and policy clashes that question the future trajectory of international arbitration practice, particularly during times of increasing economic nationalism.

The vast sociolegal and legal anthropology literature on alternative dispute resolution is often overlooked by legal academics and even more so by legal practitioners. As international arbitration takes its place as the leading global technique for alternative resolution of commercial, trade, and investment disputes, its relationships both

with and within different national legal orders can become increasingly strained unless managed correctly. Arbitration as a "pop-up" transnational legal transplant of sorts can potentially provoke a variety of legal culture clashes with far-reaching consequences, revealing as much about the unstated norms deployed by different actors in the daily practice of arbitration as it does the construction of narratives around the profession.

Combining a detailed area study of a city-state with a focused technical enquiry into costs in international arbitration proceedings, the research includes a scientific analysis of various arbitral awards, national court decisions, international treaty provisions, and national arbitration laws. Nasrallah's research to date has involved gathering information from a broad spectrum of voices both from within and outside of global arbitration practice. In addition to lawyers and other professionals, this crucially includes a proportion of arbitral users, as well as academics and activists. Assessing the factors which determine the applicability of mainstream legal theory to international arbitration, he draws on the growing and increasingly refined bodies of work on legal pluralism. The combination of these theoretical and methodological approaches allows for unique insight into the interactions between the main stakeholders and social actors in international arbitration, forging steps towards a new legal science for arbitration.

Senior members within the Department and across the Max Planck Society have augmented Nasrallah's access to an extensive network of professionals and academics in the UK, France, Belgium, Austria, and the United Arab Emirates, which has expedited and furthered his research objectives. The Department has been the ideal platform to contribute to current conversations on key issues in arbitration practice through participation in conferences and lectures, most recently in Berlin and Washington. The vision and backing of the Department and the Institute more generally have made it possible for Nasrallah to continue developing his technical legal skills, while making a timely scholarly contribution to the world of international arbitration and, more broadly, an understanding of the nature of law that transcends the perceived theory–practice divide.

Maria G. Nikolova
Criminal courts; prosecution service; judicial decision-making; multiculturalism; Bulgaria

Maria Nikolova's doctoral project, entitled "Prosecutors Facing Cultural Diversity in Europe: The Case of Bulgaria", is based on the premise that questions of multiculturalism have always been encountered and resolved in practice by domestic judges and prosecutors in Europe, even long before their regulation by supranational law. Nikolova explores the existing practices and conceptions of multiculturalism at the national level, examining how cases are "constructed" and pursued by the

prosecutors in court by tracing them *backwards*, from the judgment through the trial stage and all the way back to the arrival of the case in the criminal justice system. Nikolova records these local practices through the use of ethnographic methods, and then analyses them through the lens of the legislative framework of the EU.

Nikolova’s fieldwork entails observing the daily work of prosecutors and judges in criminal courts in Bulgaria, during which she gathers ethnographic data about the range of approaches they take to recognize and address relevant instances of cultural diversity. Her field research has thus far allowed her to learn of the significance of the role that the legal principle of *vytreshno ubezhdenie* (literally, “internal conviction”, the duty of the prosecutors and judges to take their decisions only when fully convinced that they are right and just) routinely plays in creating opportunities for accommodating cultural diversity. Another outcome of Nikolova’s fieldwork is the observation that “silent” and “informal” (i.e. spontaneous, without prompting) accommodation of cultural diversity through the justice system occurs more frequently than accommodation based on an explicit request. The preliminary results lead to the conclusion that existing “organic” local methods of providing for diversity can replace – without violating – the applicable international legal instruments.

Being part of the community of scholars at the Department of Law & Anthropology in Halle has given Nikolova access to areas of expertise that are typically not available to practising lawyers. It has also exposed her to a wider range of sources and methodological options from both law and anthropology, which she has mobilized to understand and theorize the functioning of the criminal justice process at a deeper level of perception and productivity. In particular, the ethnographic data she has collected through direct observation of the routine work of prosecutors and judges in Bulgarian courts imbues her findings with an immediacy and dynamism that they would otherwise lack.

Another central aspect of Nikolova’s work in the Department has been her engagement with the CUREDI legal database initiative (see above, pp. 45–51). This has not only helped her keep abreast of the current tendencies and practices in Bulgarian case law relevant to the treatment of cultural diversity, but has also enhanced her fieldwork organization and data processing skills. Most recently, in November 2019, she had the invaluable experience of participating as a member of a team of trainers from the Department at a training event for European judges in Utrecht, sponsored by the European Judicial Training Network programme and designed and carried out by the Department (see pp. 19–21). The opportunity to meet judges from many European jurisdictions and hear of their personal experiences in accommodating cultural diversity provided much-needed comparative insights into the views on the relevance of cultural arguments to the process of adjudication in court settings across the EU.

Frederike Nun
Europeanization processes; minority rights; anti-discrimination law; social and cultural diversity; Romania

Frederike Nun joined the Law & Anthropology Department as a doctoral student in November 2018. In her dissertation project, "Legal Dimensions of Social and Cultural Pluralism in Romania", she examines notions of diversity and pluralism in Romania through the lens of the country's integration and membership in the European Union. Starting from a retrospective view of the country's history and processes of transformation in legal, political, and societal spheres, Nun investigates perceptions of legal regulations in connection to the broader themes of diversity and pluralism and how legal professionals as well as rank-and-file citizens understand social and cultural diversity in present-day Romania. After an exploratory field visit in January 2019, in May 2019 she embarked on her first phase of field research for a period of seven months.

Proceeding from a rather general analysis of social transformation processes, Nun expects to gain a deeper understanding of such issues as how diversity is understood in Romania, how it is regulated by law, and how it is negotiated in courts and in society more broadly. During her fieldwork, she participated in the daily activities of the Romanian equality body, the Consiliul Național pentru Combaterea Discriminării (National Council for Combatting Discrimination, hereafter CNCD). This included reviewing petitions that are submitted to the CNCD, taking part in hearings where these petitions are dealt with, and participating in consultation meetings of the Council's Steering Committee, where decisions on the petitions are negotiated. The CNCD is an important sociolegal nexus and an ideal agency in which to observe how minority and anti-discrimination issues in Romania are dealt with. For Nun, the CNCD serves not only as the most important entry point into her field research, but also as one of the best illustrations of the dynamics of Europeanization processes in the broadest sense, as the Council was established in 2002 as part of the process of integrating Romania into the European Union. As a quasi-judicial body, its current mandate exceeds the requirements established by EU equal treatment directives. It is responsible for monitoring and combating all forms of discrimination and has an administrative-jurisdictional power authorizing it to impose legally binding decisions, including financial sanctions, warnings, and recommendations. The CNCD also implements trainings to raise awareness about and prevent all forms of discrimination. By taking part in the training of magistrates and police in the field of anti-discrimination and diversity, Nun was able to focus on the participants' understanding of these concepts and enquire into how they deal with, apply, and interpret the legal framework. In addition to legal actors who are involved in the mediation and application of the anti-discrimination legislation and minority rights, NGOs and other civil society actors also actively

engage in these negotiation processes and are therefore important research sites for the dissertation project.

Assuming that social and historical developments strongly influence perceptions of diversity and pluralism, Nun reflects on their embeddedness in processes of postsocialist transformation and European integration. Situated at the intersection of anthropology, law, and political studies, Nun’s research aims to contribute to an understanding of diversity and pluralism in Romania, with a particular focus on their legal dimensions.

Sajjad Safaei

Punishment; violence; ISIS; beheadings; human rights; civilizing process; cruel and inhuman treatment

Sajjad Safaei joined the Law & Anthropology Department as a PhD candidate in 2013. His research interests span a broad range of interrelated topics, including the criminal justice system, human rights, “cruel” or “inhumane” punishments, the history of violence, humanitarian ethics, international relations, and Middle East and Islamic Studies.

Safaei’s PhD research question was inspired by the spectacular rise of the so-called Islamic State of Iraq and Syria (ISIS) and the dread and disgust evoked by its televised beheadings. His PhD, titled *What’s Wrong with Beheadings?*, is an interdisciplinary inquiry into how gradations of “civility” and “barbarity” are ascribed to different forms of violence, in particular a form of state-sanctioned violence, i.e., punishment: Why are certain forms of punishment, such as beheadings or floggings, commonly categorized as “barbaric” (or alternatively “savage”, “inhumane”, or “cruel”) while others, such as incarceration, are seen as “civilized” or “more civilized”? Are these characterizations guided by rational, moral, or emotional considerations? And to what extent are they consistent, legitimate, or arbitrary? In seeking to address these questions, Safaei’s dissertation looks at the philosophical, legal, sociological, and historical debates on punishment. He defended his dissertation at Martin Luther University Halle-Wittenberg and was granted his PhD in July 2019.

One of the byproducts of Safaei’s PhD research is his article “Foucault’s Bentham: Fact or Fiction?”*,* which shows that one of the most cited scholarly works in the social sciences, Michel Foucault’s *Discipline and Punish,* contains egregious misrepresentations of the ideas of the eighteenth-century English philosopher Jeremy Bentham, including his much-cited Panopticon contraption. During the reporting period, the article, praised by Professor Noam Chomsky as a “fascinating piece”, has been published by the peer-reviewed *International Journal of Politics, Culture, and Society.*

While working on his PhD, Safaei also engaged in teaching activities. During the autumn semester of the 2017–2018 academic year, he joined the University of Zurich's Department of Social Anthropology and Cultural Studies (ISEK) as a lecturer. There, he taught a course on punishment, which was animated by some of the questions that drove his PhD research.

In addition to his academic engagements, Safaei has also been writing opinion pieces on Middle East geopolitics, which have appeared in magazines and policy-related outlets with a broad audience such as *Al Jazeera*, *The National Interest*, and *Muftah*.

Abdelghafar Salim

See profile in Part II, Group Projects, under *Sharia in European Settings* (pp. 31–32)

IV

Writing-up Fellows and Visiting Fellows

Dissertation Writing-up Fellows

Since the Dissertation Writing-up Programme formally began in 2017, we have had the great good fortune of hosting a number of very promising young scholars and giving them the space, time, resources, and intellectual atmosphere to finish up their dissertations. Indeed, the results have been very impressive. All of these young people brought their energy and enthusiasm to Halle, actively engaged in the intellectual life of the Department and the Institute, and left with (nearly) completed dissertations under their belts and fond memories of their time with us, and are now very active parts of our ever-growing international network of scholars. We are very proud of them and pleased that we have been able to support them at a critical time in their young careers. We look forward to continuing this highly successful programme.

Dissertation Writing-up Fellows (in chronological order)

Catherine Larouche (March–September 2017)
Institution: McGill University

Dissertation: *Spiritual and Material Development: The Politics of Islamic Charitable Work in North India*
PhD conferred: 2018

Award: Nominated by McGill University for the Proquest Distinguished Dissertation Award

Current position: Assistant Professor of Anthropology, Laval University, Canada

"The final writing stages of a PhD are often the hardest…. The six-month doctoral writing-up fellowship I undertook in the Department of Law and Anthropology in 2017 not only gave me the means to complete my doctoral dissertation in a timely manner, but also gave me the opportunity to discover a stimulating new research environment and to benefit from fresh input when it was the most needed. During my stay at the Max Planck … I received important critical feedback that helped me strengthen my dissertation."

—Catherine Larouche

Felix van Lier (May–November 2017)
Institution: Oxford University

Dissertation: *Legal Politics in the Libyan Constitution-Making Process*
PhD conferred: 2019

Current Position: Postdoctoral Research Fellow, Law & Anthropology Department, Max Planck Institute for Social Anthropology

Salman Hussain (September 2017–April 2018)
Institution: City University of New York (CUNY)

Dissertation: *Together without Consensus: Class, Emotions and the Politics of the Rule of Law in the Lawyers’ Movement (2007–09) in Pakistan*
PhD conferred: 2018

Award: UC Berkeley S.S. Pirzada Dissertation Prize on Pakistan

Current position: Lecturer/Research and Teaching Fellowship, Amherst Legal Studies Program, University of Massachusetts

Anna Wyss (October 2017– March 2018)
Institution: University of Bern, Institute for Sociology

Dissertation: *Interrupted Journeys – Disrupted Control. Male Migrants with Precarious Legal Status and the European Migration Regime*
PhD conferred: 2019

Awards: SNIS award for the best PhD thesis in international studies[1]

Current position: Postdoctoral researcher at the Laboratory for the Study of Social Processes at the University of Neuchâtel

[1] See https://snis.ch/awards/interrupted-journeys-disrupted-control-male-migrants-with-precarious-legal-status-and-the-european-migration-regime/

Adela Taleb (September 2018–March 2019)
Institution: Humboldt University Berlin

Dissertation: *Transcending National Boundaries: The Role of the EU and Pan-European Muslim Organizations in the Discursive Field of "European Islam" (working title)*
Defence: expected February 2021

Current position: PhD Candidate, Institute for European Ethnology, Humboldt University Berlin

Aurélien Bouayad (September–December 2018)
Institution: Sciences Po Paris

Dissertation: *Law and the Ecology of Others*
Defence: expected December 2020

Current Position: Teaching Fellow, PhD Candidate, Sciences Po Paris

John Christopher (Chris) Upton (January–June 2019)
Institution: Indiana University

Dissertation: *Culture on Trial: Law, Custom, and Justice in a Taiwan Indigenous Court*
PhD conferred: 2020

Awards: One dissertation chapter that Upton worked on while at the MPI was a finalist for the *Law & Social Inquiry Paper Prize*. He has been invited by the *LSI* Editorial Committee to submit the paper, titled "From Thin to Thick Justice and Beyond: Precarity across the Lawscape of Indigenous Rights in Taiwan", for peer review.

Current Position: Visiting Lecturer, Department of Sociology & Anthropology, University of Richmond

Steffen Fiebrig (January–June 2019)
Institution: Martin Luther University

Dissertation: *Change through Co-operation? – The Global South in UNCTAD and the struggle for a new International Economic Order (1961–1982)*
Defence: expected 2021

Current Position: Associate, Law & Anthropology Department, Max Planck Institute for Social Anthropology

Visiting Fellows Programme

Through our Visiting Fellows Programme, we infuse the Department with fresh ideas by hosting visiting scholars for various lengths of time. Below we list only those who stayed with us for longer periods of time during the 2017–2019 reporting period. In addition to those listed below, many more guests and visiting scholars have spent shorter amounts of time with us, generously sharing their ideas and insights and deriving inspiration from their interaction with our researchers. Some of them have been mentioned in the Group Project descriptions or in individual profiles, and all of them, as well as the concrete contributions they made while with us in terms of lectures, seminars, conference presentations, etc., can be found in the Activities Report.

“Due to Professor Foblets’s warm academic hospitality and approach to guest scholars, I was included in a variety of ongoing academic activities, including the Department’s write-up and research seminars and the “Law After Lunch” seminars. …
I would recommend the experience without any hesitation to any researcher who wishes to visit the Department. The seamless conditions of academic work that prevail and, at least as importantly, the human factor, allowed … new academic bonds to emerge and older ones to grow stronger. I very much look forward to having the opportunity to return to Halle in the not-so-distant future and benefiting again from the intellectual energy that the Institute provides.”

—Kyriaki Topidi

Visiting Fellows
(in chronological order)

- **Kyriaki Topidi**
  University of Lucerne
  (Oct 2016–Jan 2017)
  Current position: Senior Research Associate, European Centre for Minority Issues (ECMI), Flensburg, Germany.

- **Monica Maria Gusmao Costa**
  Federal University
  of Pernambuco, Brazil
  (Nov 2016–March 2017)
  Current position: advocate in human rights cases and in the defense of users of Health Plans and the Single Health System (SUS)

- **Katja Seidel**
  University of Vienna
  (March–June 2017)
  Current position: Senior Postdoctoral Researcher, Maynooth University, Ireland

- **Joseph David**
  Associate Professor of Law,
  Sapir Academic College, Israel
  (May–June 2017)
  Current Position: Visiting Professor, Yale Law School, USA

"Even though my time at the Department was limited, I greatly benefited from the engagement with colleagues interested in similar topics, the use of the library, and the professional guidance of Marie-Claire Foblets. I remain grateful for the enduring inspiration and academic exchanges that I was able to establish during the fellowship, and I look forward to continuing the professional collaboration well into the future."

—Katja Seidel

"The period I spent in Halle was very meaningful to me and to my research. Participating in the workshop was for me more than a learning experience; rather, it was being part of a developing scholarly network and indeed a community of scholarship. ... I thank Marie-Claire Foblets for the collegiality, the friendship and the wonderful opportunity to study and work at the MPI."

—Joseph David

“I believe that my stay at the Max Planck Institute was of essential importance in pairing my legal background with anthropological methodology. In fact, since my time in Halle, social and cultural anthropology have become a fundamental aspect of my work on legal pluralism, comparative law, and the law of Islamic finance.”

—Valentino Cattelan

“During the summer of 2017, I was fortunate to be invited to the Department of Law & Anthropology as a Visiting Postdoctoral Researcher. My visit to Max Planck was a period of great productivity. ... Ultimately, the opportunity to visit the Institute was invaluable to my career. It helped to extend my networks in the field of law and anthropology and provided a productive working environment that supported my future success.”

—Matthew Canfield

- **Rama Srinivasan**
  Brown University, Providence
  (May–August 2017)
  Current position: Marie Skłodowska-Curie Fellow, Ca’ Foscari University of Venice

- **Valentino Cattelan**
  IE Business School, Madrid
  (May–August 2017)
  Current position: Associate Researcher, Saudi-Spanish Centre for Islamic Economics and Finance (SCIEF), IE Business School, Madrid, Spain

- **Matthew Canfield**
  University of New York
  (July–August 2017)
  Current position: Assistant Professor of Law, Politics, and Society, Drake University

- **Nicola (Nicki) Kindersley**
  Pembroke College, Cambridge
  (April–June 2018)
  Current position: Lecturer, Cardiff University

- **Martine Valois**
  University of Montreal
  (May–July 2018)
  Current position: Associate Professor, University of Montreal

- **Jean Leclair**
  University of Montreal
  (May-June 2018)
  Current position: Full Professor, University of Montreal

- **Soraya Bou-Sfia**
  Utrecht University
  (June–August 2018)
  Current position: Junior Assistant Professor, Utrecht University

- **Jean-Michel Landry**
  McGill University, Montreal
  (Feb–June 2019)
  Current position: Assistant Professor, Carleton University

- **Sanna Mustasaari** (CUREDI partner)
  University of Helsinki
  (August–Nov 2019)

- **Hanna Vasilevich** (CUREDI partner)
  International Centre for Ethnic and Linguistic Diversity Studies, Prague
  (Sept–December 2019)

- **Kiryl Kascian** (CUREDI partner)
  International Centre for Ethnic and Linguistic Diversity Studies, Prague
  (Sept–December 2019)

- **Burim Ramaj** (CUREDI partner)
  University of Fribourg
  (Dec 2019–March 2020)

"My stay at the Institute ... was undoubtedly one of the most intellectually stimulating periods of my entire career. ... I met a string of brilliant scholars involved in different fields of study, willing to share generously their time and expertise. ... I did not know how a short visit of five weeks would prove to be so productive and enjoyable. My only hope is that I gave as much as I was given."

—Jean Leclair

Museum exhibit in the Law & Anthropology Department building. Generously donated by a Writing-up Fellow who wishes to remain anonymous. (Photo: M Bloch 2020)

Publications

Books

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Eichler, Jessika. 2019. *Reconciling indigenous peoples' individual and collective rights: participation, prior consultation and self-determination in Latin America*. 1. ed. Indigenous Peoples and the Law. New York: Routledge.

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Location of the Institute

MPI – Max-Planck-Institut für ethnologische Forschung
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06114 Halle (Saale)
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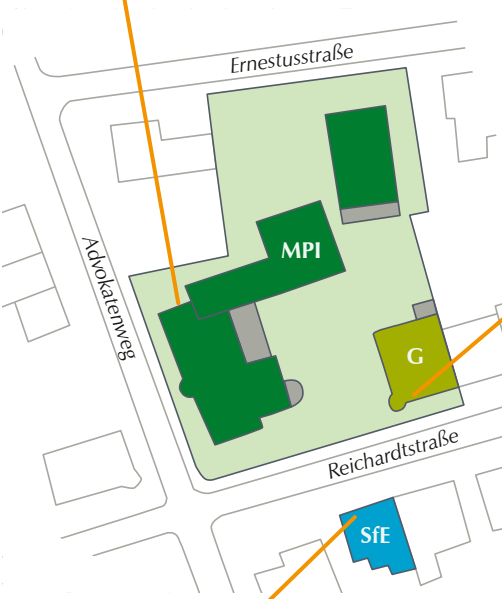

G – Guest House of the
MPI for Social Anthropology
Reichardtstraße 12

SfE – Seminar für Ethnologie
Institute for Social and Cultural Anthropology
Martin Luther University Halle-Wittenberg
Reichardtstraße 11

ZIRS – Zentrum für Interdisziplinäre Regionalstudien
Centre for Interdisciplinary Area Studies
Martin Luther University Halle-Wittenberg
Reichardtstraße 6

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