



## CONFERENCE PROGRAMME

### Thursday, 10<sup>th</sup> July 2014

12:00: Registration

12:30 - 13:30: Lunch

### Session One

Thursday, 10<sup>th</sup> July 2014, 13:30 – 15:00

#### 1A. EDUCATION

Room: Northampton Suite, Room B

Chair: Julian Webb

Presenters:

- ❖ **Kim Economides**  
“Tools for Strengthening the Foundations of Legal Professionalism”
- ❖ **Freda Grealy**  
“Inculcating Professional Identity and Teaching Ethics to Trainee Solicitors in Ireland”
- ❖ **Michael Holdsworth**  
“Virtues and Values in the Professions: Empirical Evidence to Inform the Future of Legal Ethics Education”

#### 1B. EDUCATION

Room: Northampton Suite, Room C

Chair: Philip Genty

Presenters:

- ❖ **Tuomas Tiittala**  
“Moral Education in the Study of International Law: A Virtue Approach”
- ❖ **Laura Bugatti**  
“Legal Education in Europe: Where do We Go?”
- ❖ **Carole Silver and Louis Rocconi**  
“Law Schools' Obligation to Teach Business and Financial Concepts and Quantitative Analysis: Taking Aim at Preparing Competent Lawyers”



## **1C. PHILOSOPHY**

Room: A109                      Chair: Phil Drake

Presenters:

- ❖ **Rob Atkinson**  
“Military Officers as Neo-Classical Professionals: Guardians of the Republic, Not Merely Servants of the Regime”
- ❖ **Graham Ferris and Nick Johnson**  
“Lawyers in Public Discourse: the Ethics of the Lobby, Response to Consultations, Public Education, Political Action and the Talk Show”
- ❖ **Matthew Windsor**  
“Government Legal Advisers and the Impact of Institutional Structure on Independence”

## **1D. REGULATION**

Room: Northampton Suite, Room A                      Chair: Francesca Bartlett

Presenters:

- ❖ **Marina Nehme**  
“Sanctions Available to the Solicitors Regulations Authority: Do they Achieve their Objectives?”
- ❖ **Stephen G. A. Pitel and Sara L. Seck**  
“The Role of Lawyers under the UN Guiding Principles on Business and Human Rights”
- ❖ **Christian Wolf**  
“Can and Should the In-House Counsel be Treated as Advocate?”

## **1E. REGULATION**

Room: A107/108                      Chair: Richard Devlin

Presenters:

- ❖ **Judith McMorro**  
“Alternative Business Structure Law Firms: Emerging Models”
- ❖ **John S. Dzienkowski**  
“Regulating Alternative Legal Structures Directed Towards Serving Corporate Clients”
- ❖ **Tahlia Gordon and Steve Mark**  
“Alternative Business Structures (ABS) - Regulation - Non-Lawyer Ownership - Access to Justice - United Kingdom and Australia - Case Studies”



## **1F. CULTURE**

Panel: The Effect of Technology on the Regulation of Lawyers in the United States

Room: A130

Panellists:

- ❖ **Benjamin Barton:**  
“The American Lawyer’s Monopoly-What Goes and What Stays in a Changing Marketplace”
- ❖ **John O. McGinnis and Russell Pearce:**  
“The Coming Disruption of Law: Machine Intelligence and Lawyers’ Diminishing Monopoly Power”
- ❖ **Dana Remus**  
“The Dangers of Deregulation”

## **1G. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: B307B/C

Chair: Leslie Levin

Presenters:

- ❖ **Genevieve Grant and Christine Parker**  
“Warning: Stressful compensation claims may be bad for your health! Reflecting on lawyers’ responsibility for claimant stress and health”
- ❖ **Chantal Morton**  
“Judicial Attitudes to the Ethics of Writing Judgments”
- ❖ **Matthias Kilian**  
“Young Lawyers In Germany: Entry into the Profession and Career Paths of lawyers admitted to the Bar from 2004 to 2010”

15:00 – 15:30: Coffee/Tea



## **Session Two**

Thursday, 10<sup>th</sup> July 2014, 15:30 – 17:00

### **2A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Selene Mize

Presenters:

- ❖ **Daisy Hurst Floyd**  
“Professional Responsibility and Practical Wisdom: Rethinking Legal Ethics to Reform Legal Education”
- ❖ **Phil Drake and Stuart Toddington**  
“The Depths of dialogue: Ethics, Interests and the Behavioural Economics of ‘Collaborative’ Lawyering”
- ❖ **Eleanor Curran**  
“Moral Philosophy and Moral Reasoning - A Suitable Basis for Legal Ethics Teaching at the Academic Stage”

### **2B. EDUCATION**

Panel: Using History to Teach Legal Ethics: Lessons from the Holocaust

Room: Northampton Suite, Room C

Panellists:

- ❖ **Lisa G. Lerman**
- ❖ **Toochi Ngwangwa**
- ❖ **Lisa-Marie Rudi**
- ❖ **Thorin Tritter**

### **2C. PHILOSOPHY**

Room: A109

Presenters:

Vacant session



## **2D. REGULATION**

Room: Northampton Suite, Room A

Chair: Susan Fortney

Presenters:

- ❖ **Kathleen Clark**  
“Confidentiality, Conflicts and Federal Pre-Emption in the Dodd-Frank Whistleblower Program”
- ❖ **John S. Dzienkowski and Robert J. Peroni**  
“Tax Practitioner Conflicts of Interest”
- ❖ **Milan Markovic**  
“Subprime Scriveners”

## **2E. REGULATION**

Room: A107/108

Chair: Linda Haller

Presenters:

- ❖ **Judith McMorrow**  
“Lawyer Discipline in China -The Role of Fee Regulation”
- ❖ **Mitt Regan**  
“Confidence Games: Lawyers, Accountants and the Tax Shelter Industry”
- ❖ **Alexander Mak**  
“Legal ethics in the Art world: reflections on and possible solutions to the global challenges of Art Fraud”

## **2F. CULTURE**

Panel: A Rose by any Other Name? Cultural Competence and its Impact on Legal Ethics and Effective Lawyering

Room: A130

Panellists:

- ❖ **Liz Ryan Cole**
- ❖ **Jan L. Jacobowitz**
- ❖ **Keiichi Muraoka**
- ❖ **Richard Zitrin**



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**2G: REGULATION**

Panel: Embedding Ethical Competence

Room: B307B/C

Panellists:

- ❖ **Richard Devlin (Chair)**
- ❖ **Adrian Evans**
- ❖ **Paul Maharg**
- ❖ **Victoria Rees**

**17:00: Welcome Reception**

18:00 Welcome to ILEC VI from Professor Carl Stychin, Dean, City Law School.

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**Friday 11<sup>th</sup> July 2014**

8:30: Registration

**Session Three**

Friday, 11<sup>th</sup> July 2014, 9:00 – 10:30

**3A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Clare Cappa

Presenters:

- ❖ **Warren Binford**  
“When Your Client is Killed”
- ❖ **Sam Erugo**  
“The Role of Clinical Component in Teaching Legal Ethics for All Times”
- ❖ **JoNel Newman, Donald Nicolson and Melissa Swain**  
“Teaching Legal Ethics and Professionalism through Clinical Self-Reflection”

**3B. EDUCATION**

Panel: Are We Making a Difference? Assessing the Effectiveness of Legal Ethics Education

Room: Northampton Suite, Room C

Panellists:

- ❖ **Clark D. Cunningham**
- ❖ **Adrian Evans**
- ❖ **Michael Holdsworth**

**3C. PHILOSOPHY**

Room: A109

Chair: Kim Economides

Presenters:

- ❖ **Anne Ruth Mackor**  
“Against Codes with ‘Core Values’”
- ❖ **Dmitry Bam**  
“The Constitutionality of American Recusal Processes”
- ❖ **Sylvie Delacroix,**  
“From Habits to Imaginative Practice”



### **3D. REGULATION**

Room: Northampton Suite, Room A

Presenters:

- ❖ **Michael Santoro**  
“ABA Model Rule Amendments Adopted on Commission 20/20's Recommendation: A New Standard of Technological Competence for Attorneys?”
- ❖ **Gregory H. Shill**  
“Boilerplate Shock”
- ❖ **Bruce Green and Ellen Yaroshefsky**  
“Regulation of U.S. Prosecutors in the Information Age”

### **3E. REGULATION**

Room: A107/108

Chair: Jim Varro

Presenters:

- ❖ **James Moliterno**  
“Is There Hope for the Self-Regulation of the American Legal Profession?”
- ❖ **David Fennelly**  
“Reconciling Regulation and Independence: The Recent Experience in Ireland”
- ❖ **Dr. Elgiusz Krzeński**  
“Self-Regulation of the Legal Profession by National Bars - Will it Shortly be just a Memory?”

### **3F. CULTURE**

Panel: Diversity and Inclusion in the Legal Profession: A Question of Business or Ethics?

Room: A130

Panellists:

- ❖ **Alex B. Long**
- ❖ **Hilary Sommerlad**
- ❖ **Sandra S. Yamate**
- ❖ **Louise Ashley**





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**3G: EDUCATION**

Panel: Ethics Theory in the Basic Required Legal Profession Course: What Should be Included? From What Perspectives?

Room: B307B/C

Panellists:

- ❖ **Reid Mortensen**
- ❖ **Russell Pearce**
- ❖ **Stephen Pepper**
- ❖ **Mitt Regan**
- ❖ **Brad Wendel**

10:30 – 11:00: Coffee/Tea



## **Session Four**

Friday, 11<sup>th</sup> July 2014, 11:00 – 12:30

### **4A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Leslie Levin

Presenters:

- ❖ **Lawrence K. Hellman**  
“Contemporary Challenges in Teaching Legal Ethics: A Sin-American Comparison”
- ❖ **Julija Kirsiene**  
“The Role of Legal Ethics in Legal Education of Post-Soviet Countries: Lithuanian Case from Comparative Perspective”
- ❖ **Gayane Davidyan and Philip Genty**  
“The Role of Legal Ethics Education in Improving Legal Profession: A Comparison of Russia and the U.S.”

### **4B. EDUCATION**

Panel: Responding to the Ethics and Values Recommendations of the Legal Education and Training Review: What and Why?

Room: Northampton Suite, Room C

Panellists:

- ❖ **Keren Bright**
- ❖ **Nigel Duncan (Chair)**
- ❖ **Graham Ferris**
- ❖ **Robert Herian**
- ❖ **Ann Thanaraj**
- ❖ **Lisa Webley**

### **4C. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: A109

Chair: Carole Silver

Presenters:

- ❖ **Amy Salyzyn**  
“The Ethics of Demand Letters”
- ❖ **Elizabeth Tippett**  
“A Content Analysis of Attorney Advertisements Relating to Pharmaceuticals”
- ❖ **Lynn Mather**  
“Litigation Ethics”



#### **4D. REGULATION**

Panel: Change from within rather than the Imposition of Change from without

Room: Northampton Suite, Room A

Panellists:

- ❖ **John Law**
- ❖ **Malcolm Mercer**
- ❖ **Darrel Pink**
- ❖ **Federica Wilson**

#### **4E. REGULATION**

Room: A107/108

Chair: Linda Haller

Presenters:

- ❖ **Jawahar Lal Kaul**  
“Regulation of Indian Legal Profession; Past and the Present Scenario”
- ❖ **Emmanuel Akhigbe**  
“The Legal Profession in Nigeria: Is it Under Regulated or Over-Regulated?”
- ❖ **Maxim Tomoszek**  
“Judicial Enforcement of Professional Ethics - Czech Experience after Five Years”

#### **4F. PHILOSOPHY**

Room: A130

Chair: Richard Devlin

Presenters:

- ❖ **Russell Pearce (Chair)**
- ❖ **Isabelle R. Gunning**  
“Lawyers of All Faiths: Constructing Professional Identity and Finding Common Ground”
- ❖ **Dr. Azizah al-Hibri**  
“Faith, Values and Lawyering in the 21st Century: Failure of the Compartmentalization Approach”
- ❖ **Rakesh K. Anand,**  
“On the Legitimacy of the Religious Lawyering Movement”



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#### **4G. REGULATION**

Room: B307B/C

Chair: Christine Parker

Presenters:

- ❖ **Reid Mortensen**  
“Conflicting Duties, Conflicting Interests, Conflicting Values”
- ❖ **Brent Cotter**  
“The impending revolution in legal education in Canada: implications for legal ethics”
- ❖ **Gordon Turriff QC**  
“Why We Need Independent Lawyers”

12:30 – 13:30: Lunch

**12.45: Announcement by the President of the Association, Professor Deborah Rhode**



## **Session Five**

Friday, 11<sup>th</sup> July 2014, 13:30 – 15:00

### **5A. EDUCATION**

Room: Northampton Suite, Room B                      Chair: Graham Ferris

Presenters:

- ❖ **Wendy Larcombe**  
“Student Mental Health and the Ethics of Legal Education”
- ❖ **Selene Mize**  
“Flipping the Legal Ethics Classroom”
- ❖ **Francisco Esparraga**  
“Legal Ethics Education in Australia and the Challenges for New Law Graduates”

### **5B. EDUCATION**

Panel: Responding to the Ethics and Values Recommendations of the Legal Education and Training Review: How?

Room: Northampton Suite, Room C

Panellists:

- ❖ **Elizabeth Curran**
- ❖ **Nigel Duncan (Chair)**
- ❖ **Neil Gold**
- ❖ **Paul Maharg**
- ❖ **Shamini Ragavan**

### **5C. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: A109                      Chair: Maxine Evers

Presenters:

- ❖ **James Moliterno**  
“Why Lawyers Do the Ethical Things They Do?”
- ❖ **Katie Murray**  
“The Professional Ethics of Christian Lawyers”
- ❖ **Caroline Hart**  
“Unexpected Findings: The all-Pervasive Importance of Ethics in the Lives of Rural Lawyers”



## **5D. REGULATION**

Room: Northampton Suite, Room A

Chair: Jim Varro

Presenters:

- ❖ **Stephen G. A. Pitel**  
“Judicial Fundraising in Canada”
- ❖ **Philip G. Schrag**  
“The Unethical Ethics Rule: Nine Ways to Fix Model Rule of Professional Conduct 1.8(e)”
- ❖ **Helena Whalen-Bridge**  
“Mandatory Pro Bono: Alive and Well in Asia?”

## **5E. REGULATION**

Room: A107/108

Chair: Kath Hall

Presenters:

- ❖ **Carole Silver, Jae-Hyup Lee and Jeeyoon Park**  
“Globalisation and South Korea’s Market for Legal Services: Regulatory Blockages and Collateral Circulation”
- ❖ **Austin Pullé**  
“Multi-Jurisdictional Practice in Singapore and Corrupt Transactions: Ethical Challenges”
- ❖ **Michael C. Ogwezzy**  
“Unethical Conduct that Sabotages the Legal Profession in Nigeria”

## **5F. PHILOSOPHY**

Panel: Lawyers and the Rule of Law

Room: A130

Panellists:

- ❖ **Greg Cooper**
- ❖ **Tim Dare**
- ❖ **Kate Kruse**
- ❖ **David Luban**
- ❖ **Dana Remus**
- ❖ **Brad Wendel**



## **5G. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: B307B/C

Chair: Hilary Sommerlad

Presenters:

- ❖ **Tomáš Friedel and Michal Urban**  
“What Czech Judges Cannot Do: Practice of Judicial Disciplinary Authorities in the Czech Republic”
- ❖ **Michal Ofer Tsoni**  
“The Degree of Intervention of the Courts in Decisions made by the Bar Association's Disciplinary Courts”
- ❖ **Philip Bryden and Jula Hughes**  
“Empirical and Comparative Approaches to Judicial Disqualification: The Case for Limited-Scope Statutory Frameworks”

15:00 – 15:30: Coffee/Tea



## **Session Six**

Friday, 11<sup>th</sup> July 2014, 15:30 – 17:00

### **6A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Maxim Tomoszek

Presenters:

- ❖ **Ann Thanaraj**  
“Using Virtual Clinics to Develop and Experience Professional Responsibility and Clinical Legal Skills”
- ❖ **Christian Wolf**  
“The "Soldan Moot Court" A New Moot Court to Teach and Promote Legal Ethics in Germany”
- ❖ **Freddy Mnyongani**  
“Can Virtue be Taught? Reflections on Teaching Legal Ethics in South Africa”

### **6B. EDUCATION**

Panel: Legal Ethics, Pro Bono, Access to Justice and Professional Responsibility Curriculum Development in South-East Asia

Room: Northampton Suite, Room C

Panellists:

- ❖ **Annette Bain**
- ❖ **Clair Donse**
- ❖ **Phuong Nguyen**

### **6C. CULTURE**

Room: A109

Chair: Susan Carle

Presenters:

- ❖ **John G. Browning**  
“Why Can't We Be 'Friends'? Judicial Ethics in the Digital Age”
- ❖ **Lucy Jewel**  
“The Indie Lawyer of the Future? How Internet Culture, Technology and Modified Ethics Rules Might Produce a New ,Sustainable Form of Lawyering”
- ❖ **David A Wright**  
“An Independent Tribunal Within a Self-Governing Law Society: Ontario's New Law Society Tribunal”





## **6D. REGULATION**

Room: Northampton Suite, Room A

Chair: Francesca Bartlett

Presenters:

- ❖ **Anthony Davis**  
“Enterprise Risk Management – The Expanding Role of Law Firm General Counsel”
- ❖ **Susan Fortney**  
“Proof and Possibilities: An Empirical Examination of Management-Based Regulation”
- ❖ **Ellyn S. Rosen**  
“We Have a Lot to Learn From Each Other”

## **6E. REGULATION**

Room: A107/108

Chair: James Moliterno

Presenters:

- ❖ **Christopher Whelan**  
“Called to the Bar in 2014: Moral Hazard or Professional Morality?”
- ❖ **Bobette Wolski**  
“A Critique of Proposals for New Rules of conduct for Legal Representatives in Mediation - Arguments for Maintaining the Status Quo”
- ❖ **Julian Webb**  
“Regulating Education and training in a Liberalised Legal Services Market: The Experience of England and Wales”

## **6F. REGULATION**

Panel: The Regulation of Legal Profession: A Comparative Perspective on the Direction of Change

Room: A130

Panellists:

- ❖ **Andy Boon**
- ❖ **Linda Haller**
- ❖ **Seline Mize**
- ❖ **Deborah Rhode**
- ❖ **Noel Semple**



**6G. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: B307B/C

Chair: Carole Silver

Presenters:

- ❖ **Sundeeep Aulakh, Joan Loughrey and Jacki Ford**  
“The Role of the Compliance Officer for Legal Practice in ABS Entities”
- ❖ **Leslie C. Levin**  
“The Character and Fitness Inquiry Reconsidered”

**19.00 Reception and Conference Dinner at Inner Temple**

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**Saturday, 12<sup>th</sup> July 2014**

8:30: Registration

**Session Seven**

Saturday, 12<sup>th</sup> July 2014, 9:00 – 10:30

**7A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Ann Thanaraj

Presenters:

- ❖ **Trevor C. W. Farrow**  
“Access to Justice, Professional Consciousness and Legal Education”
- ❖ **Justin Hansford**  
“Lippman's Law: Instilling Public Service Values through a 50 Hour Pro Bono Requirement for Bar Admission”
- ❖ **Juan Beca**  
“Why do we Teach Legal Ethics?”

**7B. EDUCATION**

Title: The Bar and Training in Ethics

Room: Northampton Suite, Room C

Panellists:

**Chair: Mr. Justice Green, Chairman, Advocacy Training Council**

- ❖ **Martin Griffiths QC**
- ❖ **Simon O’Toole:** “ Ethics training for new practitioners”
- ❖ **Sarah Clarke**
- ❖ **Her Honour Judge Lynch QC:** “Recent developments in handling of vulnerable witnesses”  
( including video examples )



## **7C. CULTURE**

Room: A109

Chair: Maxine Evers

Presenters:

- ❖ **Marnie Prasad and Mary-Rose Russell**  
“Professional and Ethical Challenges for Criminal Lawyers in the Changing Environment of Legal Representation: A New Zealand Perspective”
- ❖ **Anne Ruth Mackor**  
“Autonomous Judges and Reliable Fact Finding in Criminal Law”
- ❖ **John Flood**  
“Are machines ethical?”

## **7D. PHILOSOPHY**

Room: Northampton Suite, Room A

Chair: Philip Genty

Presenters:

- ❖ **Anthony V. Alfieri**  
“Paternalistic Interventions in Civil Rights and Poverty Law: A Case Study of Environmental Justice”
- ❖ **Emanuel Tucsá**  
“Knowledge and Fidelity: Considering the Relationship between the Lawyer's Role in Making Knowledge about Law Available and the Lawyer's Duty of Fidelity to Law”
- ❖ **Helen McGowan**  
“Phronesis and the Navigation of Conflicting Interests in Small-Scale Country Legal Practice”

## **7E. REGULATION**

Room: A107/108

Chair: Camille Cameron

Presenters:

- ❖ **Carol A. Needham**  
“Exercising Independent Professional Judgment in a High-Volume Legal Practice”
- ❖ **Paula Baron and Lillian Corbin**  
“Robust Communications or Incivility - Where do We Draw the Line?”
- ❖ **Francesca Bartlett and Robyn Carroll**  
“Ordering Lawyers to Apologise for their Misconduct: What's the Benefit?”



## **7F. REGULATION**

Panel: A Model Law on Legal Ethics and Professional Responsibility for Countries of the Middle East and North Africa (MENA)

Room: A130

Panellists:

- ❖ **Mohamed Mattar**
- ❖ **Mohammad Mahdi Meghdadi**
- ❖ **Hossein Mirmohammadsadeghi**
- ❖ **Saif Al-Rawahi**

## **7G. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: B307B/C

Chair: Judith McMorrow

Presenters:

- ❖ **Jennifer A. Leitch**  
“Looking for Quality: Legal Ethics, Empirical Research and Access to Justice”
- ❖ **Anna Lund and Andrew Pillar**  
“How British Columbia Lawyers Define Pro Bono, Low Bono and Voluntary Work”
- ❖ **Noel Semple**  
“Accessible Professionalism”

10:30 – 11:00: Coffee/Tea



## **Session Eight**

Saturday, 12<sup>th</sup> July 2014, 11:00 – 12:30

### **8A. EDUCATION**

Room: Northampton Suite, Room B                      Chair: Nigel Duncan

Presenters:

- ❖ **Yan Cui**  
“Cultivating Professional Identity in Legal Ethics Class: Suggested Pedagogical Techniques for China law schools”
  
- ❖ **Elizabeth Curran, Aneka Ferguson and Vivien Holmes**  
“Developing Students' Capacity to Cope with Ethical Dilemmas in Legal Practice Through Teaching 'Giving Voice to Values' Techniques”

### **8B. EDUCATION**

Panel: Legal Ethics beyond Common Law Countries: Session 1

Room: Northampton Suite, Room C

Panellists:

- ❖ **Fahad Al-Zumai**, Kuwait University, Kuwait
- ❖ **Catherine Klein**, The Catholic University of America, Washington, D.C.
- ❖ **Kamila Mateeva**, American University of Central Asia, Bishkek, Kyrgyz Republic
- ❖ **Ernest Ojukwu**, Network of University Legal Aid Institutions, Nigeria
- ❖ **Lidija Šimunović**, University of J.J.Strossmayer, Osijek, Croatia
- ❖ **Ulrich Stege**, International University College of Turin, Italy
- ❖ **Leah Wortham**, The Catholic University of America, Washington, D.C., USA

### **8C. CULTURE**

Room: A109                      Chair: Bruce Green

Presenters:

- ❖ **Alex B. Long**  
“Reasonable Accommodation as Professional Responsibility”
- ❖ **Susan D. Carle**  
“Lawyers, Non-Lawyers and Legal Reform: A Case Study”
- ❖ **Milan Markovic**  
“Disruption Rhetoric and the Market for Legal Services”



## **8D. PHILOSOPHY**

Room: Northampton Suite, Room A

Chair: Paul Maharg

Presenters:

- ❖ **Allan C. Hutchinson**  
“Legal Ethics in an Adversarial Age: The Case for the Warrior Lawyer”
- ❖ **Helen Kruise**  
“Travelgate yesterday, waterboarding tomorrow? Government legal advisors and the duty of loyalty in South Africa”
- ❖ **Jane Campbell Moriarty**  
“Losing Faith: The Ministers of Justice and the Prosecutorial Mind-set”

## **8E. REGULATION**

Room: A107/108

Chair: Noel Semple

Presenters:

- ❖ **Camille Cameron**  
“Procedural Rules as Rules of Ethics and Professional Conduct”
- ❖ **Andy Boon**  
“Why’d You Do the Things You Do?: An Analysis of Cases Before the Solicitors Disciplinary Tribunal”
- ❖ **Bobette Wolski**  
“The Limitations of Codes of Professional Conduct - Accommodating Diversity in Practice at Law School”

## **8F. REGULATION**

Panel: Regulating Judges I

Room: A130

Panellists:

- ❖ **Gabrielle Appleby**
- ❖ **Ray Worthy Campbell**
- ❖ **Richard Devlin**
- ❖ **Suzanne Le Mire**
- ❖ **Helena Whalen-Bridge**



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## **8G. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: B307B/C

Chair: Neil Watt

Presenters:

- ❖ **Daniel Alge**  
"Regional Variations in Barristers' Ethics"
- ❖ **Scott Cummings**  
"Lawyers in the Movement for Green Ports"

12:30 – 13:30: Lunch

**12.45: Lunchtime Meeting: Legal Ethics Editorial Committee (Northampton Suite Committee Room)**





## **Session Nine**

Saturday, 12<sup>th</sup> July 2014, 13:30 – 15:00

### **9A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Genevieve Grant

Presenters:

❖ **Katerina Lewinbuk**

“There is no App for That: The Need for Legal Educators and Practitioners to Comply with Ethical Standards in the Digital Era”

❖ **Gaye Lansdell**

“What do we Want? What do we Need? Do we even Need it at All? Monash University Law Students' Perspectives on their Preferences for Ethical Legal Education”

### **9B. EDUCATION**

Panel: Legal Ethics Education beyond Common Law Countries: Session 2

Room: Northampton Suite, Room C

Panellists:

- ❖ **Leah Wortham**, The Catholic University of America, Washington, D.C., USA (Chair)
- ❖ **Jose García-Añón**, University of Valencia, Spain
- ❖ **Juan Beca**, Catholic University of Temuco, Chile
- ❖ **Sverre Blandhol**, Faculty of Law, University of Oslo, Norway
- ❖ **Nattakan Chompathong**, Chiang Mai, Thailand
- ❖ **Magdalena Klauze**, University of Łodz, Poland
- ❖ **Yasutomo Morigiwa**, Nagoya University, Japan
- ❖ **Maxim Tomoszek**, Palacký University, Olomouc, Czech Republic



## **9C. CULTURE**

Room: A109                      Chair: Andy Boon

Presenters:

- ❖ **Kath Hall**  
“Working for the Few or Agents of Change? The Role of Global Lawyers in the Development of Transnational Law”
- ❖ **Richard Wu and Grace Leung**  
“A Comparative Study of Law Students' Perceptions of Their Values in Hong Kong, China and Taiwan: Some Interim Findings”
- ❖ **David Hillard and Fiona Mcleay**  
“A Comparative Perspective on Building a Pro Bono Culture: Australia and England”

## **9D. PHILOSOPHY**

Room: Northampton Suite, Room A                      Chair: Reid Mortensen

Presenters:

- ❖ **Joshua P. Davis**  
“Legal Ethics and Legal Dualism”
- ❖ **Robert Eli Rosen**  
“Holmesian Legal Ethics: The Autocrat of Legal Culture”
- ❖ **Nicholas Kang-Riou**  
“Paul Ricoeur and the Right to Autonomy at the End of Life”

## **9E. REGULATION**

Room: A107/108                      Chair: Helen McGowan

Presenters:

- ❖ **Maxine Evers**  
“The Profession for Sole Practitioners: An Easy Mark for the Regulator?”
- ❖ **Alberto Bernabe**  
“Confusing the Roles of Lawyers and Guardians: A Threat to the System of Juvenile Justice”
- ❖ **Deborah Rhode**  
“Rethinking the role of Non-Lawyers: Restructuring Legal Education and Legal Practice”



## **9F. REGULATION**

Panel: Regulating Judges II

Room: A130

Panellists:

- ❖ **Dubravka Askamovitch**
- ❖ **Tim Dare**
- ❖ **Richard Devlin**
- ❖ **Adam Dodek**
- ❖ **Limor Zer-Gutman**

## **9G. REGULATION**

Room: B307B/C

Chair: Joan Loughrey

Presenters:

- ❖ **Anthony J. Sebok**  
“Thinking Like a Lawyer vs. Thinking Like a Banker: Litigation Finance and Professional Independence”
- ❖ **David Dana**  
“The Ethics and Regulation of Litigation Financing for Law Firms and Lawyers in the United States”
- ❖ **Neil Watt**  
“The Path to Hell and Good Intentions: Blackstone, Brougham and the journey from lawyers' ethics to legal ethics”

15:00 – 15:30: Coffee/Tea



## **Session Ten**

Saturday, 12<sup>th</sup> July 2014, 15:30 – 17:00

### **10A. EDUCATION**

Room: Northampton Suite, Room B

Chair: Ann Thanaraj

Presenters:

- ❖ **Tereza Krupova**  
“Legal Ethics as Part of Legal Literacy?”
- ❖ **Danielle T. Gauer**  
“A Review of the Importance of Ethics in Legal Education”
- ❖ **Amari Omaka, Rose Nwali, Faiza Haswary, Omar Maniar, Nirmal Upreti and Manju Gautam**  
“Code of Conduct and Ethical Challenges of Law Students Assisting Prisoners in Nigeria, Pakistan and Nepal”

### **10B. EMPIRICAL APPROACHES TO LEGAL ETHICS**

Room: Northampton Suite, Room C

Chair: Kim Economides

Presenters:

- ❖ **Enrica Rigo**  
“Judging Histories: An Empirical Study of Judicial Decisions Regarding Migrants in Italy”
- ❖ **Pier Luc Dupont**  
“Substantive Equality and Legal Intervention in Ethnocultural Conflicts: A Four-Step Model of Deliberation”
- ❖ **M. Levent Ozgonul**  
“The Concept of Medical Error in Turkey”

### **10C. CULTURE**

Room: A109

Chair: Russell Pearce

Presenters:

- ❖ **Justin Hansford**  
“Professional Identity in Motion: Nelson Mandela, Barack Obama and the Ethics of Transformation”
- ❖ **Jennifer A. Kreder**  
“*Portrait of Wally* and U.S. Museums Shift to the Offensive”
- ❖ **Sahar Maranlou**  
“Forgotten Ethics in Iranian Legal Education”



### **10D. PHILOSOPHY**

Room: Northampton Suite, Room A

Chair: Nigel Duncan

Presenters:

- ❖ **Igor Milinkovic**  
“Where are the Borders of the Acceptable Lawyer's Paternalism? A Client's Informed Consent in Bosnia and Herzegovina”
- ❖ **Paweł Skuczyński**  
“Lawyers' Paternalism and the Republican Tradition: Case of Polish Legal Culture”
- ❖ **Gülriiz Uygur**  
“The Profession of the Judge: Seeing Injustice”

### **10E. REGULATION**

Room: A107/108

Chair: Helen McGowan

Presenters:

- ❖ **Alvin Chen Yi Jing**  
“Envisioning an Integrated Bar in Singapore - The Who, What, Why and How of Regulation”
- ❖ **Hares Akhtarzadah**  
“Challenges of Providing Legal Aid Services in Afghanistan”
- ❖ **Matthias Kilian**  
“Lawyers: A Profession Turning into Accredited Legal Specialists? An Evaluation of the German Specialist Accreditation scheme”

### **10F. REGULATION**

Panel: A Roundtable Discussion on the Lawyers' Monopoly and Client/Consumer Protection

Room: A130

Panellists:

- ❖ **Ben Barton**
- ❖ **James Cooper**
- ❖ **Chris Kenny**
- ❖ **Renee Newman Knake**
- ❖ **Bruce Kobayashi**
- ❖ **Melissa Mortazavi**
- ❖ **Cassandra Burke Robertson**



**10G. REGULATION**

Panel: Legal Process Outsourcing and Alternative Legal Service Providers: The Ethical Implications, Today and Tomorrow

Room: B307B/C

Panellists:

- ❖ **Carole Silver (Chair)**
- ❖ **Patrick Hanlon**
- ❖ **Alison Hook**
- ❖ **Ellyn Rosen**
- ❖ **Mark Ross**

**17:00 – Conference Closes**

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## **CONFERENCE ABSTRACTS**

**Author:** Emmanuel Akhigbe

**Affiliation:** Faculty of Law, Ambrose Alli University, Ekpoma, Nigeria

**Title:** The legal profession in Nigeria: Is it under regulated or over regulated?

This paper examines the legal profession in Nigeria and the machinery put in place to regulate it taking into consideration the barrage of complaints by members of the public alleging especially unethical conduct.

For the purpose of this paper the legal profession will be divided into two groups namely the legal practitioners and the judicial officers respectively. The reason for this is not far-fetched because though both groups belong to the same profession they are regulated by different bodies. This paper will seek to examine the statutes establishing the legal profession in Nigeria that is the Legal Practitioners Act and its provisions with particular emphasis on how it regulates the legal profession. Also, other statutes that relate to the legal profession will be considered. In conclusion, the paper will look at the problems of regulating the legal profession in Nigeria and proffer solutions to ensure that the legal profession in Nigeria is properly regulated for the benefit of all.

**Author:** Hares Akhtarzadah

**Affiliation:** Head of Legal Aid Department, Herat Province, Afghanistan

**Title:** Challenges of Providing Legal Aid Services in Afghanistan

Article 31 of Afghanistan new constitution provides that the accused shall have the

Right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law. In criminal cases, the state shall appoint a defence attorney for the indigent. However, advocacy is new to the Afghan legal system. This study looks at some challenges the Legal Aid Department faces trying to provide services to the indigent. Most lawyers in Afghanistan are young and fresh graduates from Law or Sharia faculties. Unlike Afghan prosecutors and Afghan judges, who have a long tradition, Afghan defence attorneys are new on the legal scene and lack professionalism.

Over the past years, our International allies in Afghanistan have focused mostly on Non-Government Organizations and providing them with funds to offer legal aid services to the Afghan people. Rather than continuing down this path, this study proposes that our International allies start supporting the government's efforts to fund the Legal Aid Department. Improved funding and

facilities will help Legal Aid to help the Afghan people with access to the justice. There is also a need for professional trainings for Afghan lawyers on different aspects of their job.

**Author:** Anthony V. Alfieri

**Affiliation:** University of Miami School of Law, USA

**Title:** Paternalistic Interventions in Civil rights and Poverty Law -- A Case Study of Environmental Justice

This paper considers the challenges of community representation for pro bono lawyers, and their public interest cohorts, and the attendant moral/ethical issues of lawyer paternalistic intervention. Community representation in civil rights and poverty law cases routinely implicates troubling moral/ethical decisions even when the interests of lawyers and lay activists converge within legal-political advocacy campaigns, particularly in environmental justice controversies. The formation, scope, and means of pro bono representation in local environmental justice cases confront pro bono lawyers with a bundle of hard choices. The paper examines three such choices: first, the choice of counselling a client to reject a settlement offer for individual monetary relief in order to negotiate a community-wide benefits agreement calling for the comprehensive assessment and clean-up of contaminated soil and groundwater; second, the choice of discontinuing or terminating the representation of a client because she opts for an individual monetary settlement prior to the negotiation of a community benefits agreement; and third, the choice of publicly disclosing a client's independent monetary settlement (i.e., a party-to-party settlement negotiated without the lawyer's knowledge) even though such a revelation might result in the public ostracism or shunning of the client. Well-hewn by civil rights and poverty law practitioners, those paternalistic interventions are neither new nor surprising. Nonetheless, they invite an extensive body of cautionary commentary from the fields of legal ethics and professional regulation questioning the propriety of a lawyer's paternalistic use of coercive settlement counselling tactics, termination of representation threats, and censorious public disclosures. This paper will assess the propriety of such lawyer interventions and seek to salvage their tactical use in environmental justice campaigns.

**Author:** Danielle Alge

**Affiliation:** University of Huddersfield, UK

**Title:** Regional Variations in Barristers' Ethics

The (albeit limited) literature on late guilty pleas and plea bargaining in England and Wales has identified the possibility that there are regional

variations in defence barristers' ethics with respect to advising clients on plea. It has been suggested that solicitors perceive barristers in London to be more adversarial and more ethical than those working in the regions. This is supported by the fact that the rate of late guilty pleas has historically been significantly lower in London than elsewhere. This study reviews the existing evidence and provides an analysis of relevant secondary data (in particular the statistics on plea and charging decisions). It also surveys barristers and solicitors regarding local differences in plea advice, and perceptions of ethical standards more generally. It is argued that each Circuit of the Bar operates in a way which is analogous to a large organisation, with its own working practices, and that as a result, there are significant regional variations in accepted ethical practices.

**Author:** Rakesh Anand

**Affiliation:** Syracuse University, USA

**Title:** On the Legitimacy of the Religious Lawyering Movement

This paper considers the "first question" of the religious lawyering movement, namely whether it is possible to be religious and practice law. More specifically, this paper considers the position of the leading scholars in the movement, all of whom tell us that one can be religious and practice law. This paper offers an admittedly sensitive conclusion: that such a life is in fact not possible, at least with respect to one understanding of lawyering in the United States (and perhaps with respect to others, both within the United States and, more broadly, modern Western society).

**Author:** Rob Atkinson

**Affiliation:** Florida State University College of Law

**Title:** Military Officers as Neo-Classical Professionals: Guardians of the Republic, Not Merely Servants of the Regime

This paper offers a neo-classical answer to the central question of civilian/ military relations, the question Plato's *Republic* poses in its classical form: How to have a military strong enough to protect civilian society without risking the military's dominating civilian society? Since Plato's time, both sides of that basic balance, the civilian and the military, have become vastly more complex. Military command requires skills far beyond the ken of his ordinary citizens, or ours; the principal political unit of our society, the nation-state, is far larger than his *polis*. This paper argues that the way to meet the classical challenge in its modern form is to organize the military officer corps as a functionalist profession.

For military officers, as for other proper professionals, that would require two kinds of knowledge, deep expertise in their specific field

and broad education in shared social values, and two kinds of virtue, supreme care in applying their occupation-specific skills and absolute commitment to advancing human excellence. In the case of modern military officers, the functional need for adequate defense of civilian society requires a civilian society that encourages the values of Plato's *Republic*: Resolution of public issues by rational discourse, deference across a wide range of matters to credentialed experts, insistence that those experts serve public rather than private purposes, openness of all necessary social occupations to anyone of merit, and commitment to nurturing every form of human excellence not only in every individual citizen, but also in every human being. Only such a society can sustain an adequate modern military, because a modern military draws on the broadest and deepest possible human resources; the officers of a modern military would have no reason to subvert such as society, because its values are essentially those of their profession. Indeed, a professionalized modern military and a neo-classically republican society would share the view that both are safest in a world where their common values, truly cosmopolitan values, are most widely shared.

**Authors:** Sandeep Aulakh, Joan Loughrey and Jacki Ford

**Affiliation:** University of Leeds, UK

**Title:** The Role of the Compliance Officer for Legal Practice in ABS entities

The Legal Services Act 2007 required ABS entities to appoint a lawyer to be responsible for taking reasonable steps to ensure compliance with regulatory requirements by a firm, its managers, employees or owners and to report regulatory breaches to the SRA. This requirement was subsequently extended to all law firms. Leveraging regulated entities' internal resources to promote compliance with external regulatory goals is an established feature of new governance/meta-regulation techniques, but its use in the context of legal services raises interesting and novel questions. In particular, to what extent, if at all, is the approach of Compliance Officers for Legal Practice (COLPs) to their role influenced by the fact that they are lawyers subject to professional discipline? By the type of firm they practice in? By their approach to outcomes focused regulation? By their attitude to the regulator? Do they differ in approach from compliance officers in other contexts? If so, what broader hypotheses might be constructed from an ethical and regulatory perspective about the changing legal services market, and for regulatory strategies more generally? This paper examines these issues by reviewing the literature on compliance officers and on lawyers' attitudes to law and compliance, and through qualitative interviews with COLPs in



thirteen ABS entities. The ABS entities included both traditional law firms and new entrants which permits some comparison with the role of COLPs in both new and traditional firms.

**Author:** Dmitry Bam

**Affiliation:** University of Maine School of Law, USA

**Title:** The Constitutionality of American Recusal Procedure

For centuries, recusal procedure in the United States has largely resembled the recusal procedure in England before American independence: in most American courtrooms, the judge hearing the case decides whether recusal is required under the applicable substantive recusal rules. If the judge determines that she can act impartially, or that her impartiality could not reasonably be questioned, the judge may remain on the case.

That self-recusal procedure stands in stark contrast to the judiciary's rhetoric about the importance of judicial impartiality, as well as the appearance of impartiality, under the Constitution's Due Process Clause. Impartiality is the touchstone of the Rules of Judicial Conduct, and is the sine qua non of judicial decision-making. The right to a fair trial in front of a fair, impartial tribunal is at the core of our justice system, and is perhaps the most important right protected by the Due Process Clause. Can a procedure that allows a judge to decide questions of his own impartiality be consistent with due process? Can the self-recusal procedure foster an appearance of impartiality, to the extent that such appearances are a component of due process?

We now have overwhelming evidence that judges, like all other people, are subject to specific biases that disable them from impartially assessing their own conduct and determining their own impartiality. In light of this evidence, if we are to take the commitment to due process seriously it is time to reconsider the well-established self-recusal procedure practiced in our courts since the founding.

**Authors:** Paula Baron and Lillian Corbin

**Affiliation:** La Trobe University Law School Melbourne, Victoria and University of New England Law School Armidale, NSW, Australia

**Title:** Robust Communications or Incivility - Where do we draw the Line?

Civility has long been considered as a core value of lawyering. For some time, concern has been expressed in the literature about the loss of civility in the legal profession, and regulators and professional associations have sought to foster civility and to discourage, and in some cases, penalise, incivility. In particular, instances of incivility or discourteousness are increasingly linked to questions of misconduct. However, the

notion of 'civility' is itself, often contentious, and the line between 'robust' communication and incivility is unclear.

Does civility matter? If so, when will lawyer advocacy on behalf of the client, or their strongly worded criticisms of an opponent's actions, become the subject of claims of unethical behaviour?

Arguing that civility is important, this paper will analyse relevant case law from Australia, UK, US, Canada and NZ, in order to better understand contemporary conceptions of civility and to draw out principles currently being used to gauge the distinction between appropriate communications and unethical behaviour.

**Authors:** Francesca Bartlett and Robyn Carroll

**Affiliation:** The University of Queensland and University of Western Australia, Australia

**Title:** Ordering Lawyers to Apologise for their Misconduct: What's the Benefit?

An apology is an uncommon legal remedy. Apologies are often agreed upon as a term of settlement in defamation cases where reputational interests are at stake. Apologies are available as a remedy under anti-discrimination legislation for a combination of compensatory, vindictory and educative purposes. Judicial views of the value of an ordered apology are deeply divided with some courts dismissing them as having no value. Opinions are similarly divided amongst practitioners, academics and other commentators. Against this background, this paper examines laws recently enacted in Australia, New Zealand and the UK in which legal profession regulators are empowered to order a lawyer to apologise. This paper will set out what is currently known about how, when and why regulators are likely to use apology orders in regulating lawyer conduct.

In the UK, the Legal Ombudsman's power in consumer disputes is expressly remedial. We consider whether apologies ordered here, given that they are coerced and often 'not accepted' by complainants, achieve their legislative purpose. In New Zealand and Australia, a regulator may make an apology order in the context of formal discipline with no regard to compensation or exercise a summary power to resolve a consumer matter. From 2014, in parts of Australia, legal organisations may also be ordered to apologise. We raise questions as to how regulators should approach exercising these new powers and for whose benefit.

**Author:** Benjamin Barton

**Affiliation:** University of Tennessee, USA

**Title:** The American Lawyer's Monopoly-What Goes and What Stays in a Changing Marketplace?

We live in a time of unprecedented changes for American lawyers, probably the greatest changes since the Great Depression. That period saw the

creation of the lawyer's monopoly through a series of regulatory modifications. Will we see the same following the Great Recession? Formally, no. This Article predicts that formal lawyer regulation in 2023 will look remarkably similar to lawyer regulation in 2013. This is because lawyer regulators will not want to rock the boat in the profession or in law schools during a time of roil. Informally, yes! We are already seeing a combination of computerization, outsourcing, and nonlawyer practice radically reshape the market for law from one that centers on individualized, hourly work done for clients to a market of much cheaper, commoditized legal products. This trend will accelerate over time. The upshot? Formal lawyer regulation will continue on with little change, but will cover an ever-shrinking proportion of the market for legal services.

**Author:** Juan Beca

**Affiliation:** Catholic University of Temuco, Chile

**Title:** Why do we teach Legal Ethics?

Asking why we teach legal ethics is important both for civil and common law countries, regardless if the course is mandatory or not.

The paper deals with the understanding of ethics, deontology and professional ethics, along with stages of moral development, in order to state the importance of teaching values at a university level. In addition, the paper will show how teachers are models for students, and the responsibility this fact implies.

As lawyers deal with choices, law students should be prepared and skilled to do so. In order to prepare them we should go beyond a mere teaching, but have them to truly learn how to do it. We discuss the best way to do so, whether in a specific course or transversally across the curriculum.

We compare the interviews results to students in two law schools. In one case, interviews were done where professional ethics is a mandatory course; and the other, where it is not, but ethics is addressed in different courses.

We conclude that teaching ethics gives the student not only technical knowledge but also helps to develop professional values; also that a specific course does not add more conceptual knowledge, but it does enhance responsibility; and that a transversal approach, along with the specific course, is the best way to include ethical teaching/learning in the curriculum.

**Author:** Alberto Bernabe

**Affiliation:** The John Marshall Law School, Chicago, Illinois, USA

**Title:** Confusing the Roles of Lawyers and Guardians: a Threat to the System of Juvenile Justice

Many recent reports assessing the juvenile justice systems throughout the United States conclude that

juvenile justice is characterized by a profound misunderstanding about the function of attorneys in delinquency proceedings. Many judges and attorneys confuse the role of counsel in delinquency proceedings and the role of a guardian ad litem. They believe the role of the attorney representing a minor is to operate as a guardian ad litem rather than as an advocate. This misunderstanding is supposedly based on a concern to protect the rights of juveniles, but actually operates to threaten them. What is worse, as a result, many attorneys end up violating their ethical duties or providing ineffective assistance of counsel. In my presentation I will argue that attempting to serve as an attorney and a guardian at the same time should be considered an impermissible conflict of interest because it actually eliminates the effectiveness of the attorney's role as an advocate, destroys the necessary trust upon which the attorney-client relationship must be based, jeopardizes the confidentiality of the information provided to the attorney and essentially leaves minors without legal representation. I will explain the concerns raised by the current prevalent practice and discuss possible approaches and solutions to the problem including a recent ground-breaking decision by a state supreme court which should serve as an example for other jurisdictions to follow.

**Author:** Warren Binford

**Affiliation:** Willamette University College of Law, Salem, Oregon, USA

**Title:** When Your Client Is Killed

This paper focuses on the real-life experience of our client's murder by her husband while being represented by law school students in our Child and Family Advocacy Clinic. The murder of the client ("Anna") not only had a significant impact on all of us mentally and emotionally. It led us into an ethics minefield that could destroy our students' careers before they had even begun. We could not afford a misstep.

Was Anna still our client? If not, who was? If there was no one to direct us, could we substitute our judgment for Anna's? How and when would we conclude our representation? What would we do about the domestic relations matter? What about the murder prosecution? Should we, could we assist with the prosecution? Should we consider filing a civil suit? Immigration issues were implicated during Anna's divorce and the Department of Homeland Security asked us to work with them to make policy changes to protect other young women like Anna. Should we? Anna's highly-publicized death could serve as a reminder to the community of the plight of abused women. Could we participate in efforts to raise awareness about these victims by discussing Anna's plight publicly? Had we in some way

contributed to our client's death we wondered both silently and aloud? What could we tell the client's family? Could we attend her memorial service? Could I (the supervising professor) talk about the case at an international legal ethics conference in London....?

**Author:** Andy Boon

**Affiliation:** City Law School, City University London, UK

**Title:** Why'd You Do the Things You Do?: An Analysis of Cases Before the Solicitors Disciplinary Tribunal

This paper explores the work of the Solicitors Disciplinary Tribunal by detailed examination of the 189 hearings conducted in 2008. The research process identified a number of variables available in the tribunal reports. These include, for example, the age, sex and practice experience of respondents, the type of offences with which they were charged, the types of firm they came from and the outcomes of the cases. Analysis of these data was complemented by a more qualitative examination of the cases. The work suggests risk factors associated with legal practice and considers the effectiveness of traditional disciplinary processes in dealing with them. It also provides a benchmark for considering the evolution of the disciplinary system following the Legal Services Act 2007.

**Author:** John G. Browning

**Affiliation:** Southern Methodist University Dedman School of Law

**Title:** Why Can't we be 'Friends'? Judicial Ethics in the Digital Age

The paradigm shift in communications represented by social networking platforms has impacted legal systems and the legal profession internationally, affecting everything from the gathering and presentation of evidence to our ethical responsibilities to dealing with jurors who are digitally enabled. One area in which the legal profession is still struggling to reconcile ethical duties with technological change is in the arena of judicial ethics. While the judiciaries in the UK and France have both experienced the challenges of dealing with judges who are active on social media, this subject has been of particular concern in the United States. This paper/panel will examine the judicial ethics opinions and cases throughout the American legal landscape confronting such issues as being Facebook "friends" with a judge; ex parte communications in the digital age; social media connections, however attenuated, being used as grounds for recusal/disqualification of judges; and the ethical dangers posed by judges' use/misuse of social media. Approximately 11 states have addressed judicial involvement on social media, as has an American Bar Association judicial ethics opinion. However, no uniform approach has

emerged, in large part due to varying understandings of what "friendship" on Facebook really means. This paper/panel will also analyze some of the more egregious examples of judicial misconduct in the digital age, from texting prosecutors during trial to offer advice to reaching out on Facebook to communicate ex parte with counsel and even litigants. The paper will discuss that while social networking platforms can be a valuable resource for the judiciary (in areas ranging from facilitating political campaigning to promoting accessibility and public trust in the administration of justice), many ethical pitfalls remain.

**Authors:** Philip Bryden and Jula Hughes

**Affiliation:** University of Alberta and University of New Brunswick Faculty of Law, Canada

**Title:** Empirical and Comparative Approaches to Judicial Disqualification – The Case for Limited-Scope Statutory Frameworks

The jurisprudence of judicial disqualification in common law jurisdictions remains divided over the appropriate articulation of the legal test for recusal (Bryden, 2003). Even where the test is settled, judges experience significant difficulties in applying the reasonable apprehension of bias test in a consistent manner. (Bryden & Hughes, 2011). Based on our empirical research with Canadian provincial court judges, the proposed paper identifies some of the causes of divergence in judicial approaches to recusal and suggests that in addition to improving the articulation of the test (Hughes & Bryden, 2013), the law of judicial disqualification could benefit from some statutory delineation of situations that do and, importantly, that do not require recusal. For this proposal, we draw on the experience in jurisdictions with statutory regimes for judicial disqualification including Germany and the United States.

**Author:** Laura Bugatti

**Affiliation:** University of Brescia School of Law, Italy

**Title:** Legal Education in Europe: Where do we go?

The legal profession is significantly evolving in response to the EU's approach, focusing on two main goals: to guarantee lawyers with the real opportunity of supplying their services within the European context; to introduce the competition rules even in the professional area. No one would doubt that intellectual professions have experienced a deep transformation whereas competition rules originally addressing the market have begun to penetrate in this different area. As regards the qualitative entry restrictions, they take the form of minimum periods of education (and related educational standards), periods of professional experience and professional examinations. It can be

inferred that the EU's Member States have reached a high level of harmonization in the legal education (i.e. Advocacy Master in Spain - Law Schools in UK – CLE around Europe); this policy provides an important contribution to ensure that only practitioners with appropriate qualifications and competence can supply their legal service into the Internal Market. Despite that, it cannot be affirmed that the European integration process is almost completed: Member States in which the legal profession is traditionally widely regulated by national governments and professional bars (i.e. Italy) still try to strictly self-regulate the training path in order to obtain access to the Bar (i.e. *Abogados vs. Italian Bar Association*). In this context my intervention would focus: a) on the analysis of the relationship between the new European common trend and the different national legal approaches; and b) on the social role that can be envisaged for the 'new European' lawyer.

**Author:** Camille Cameron

**Affiliation:** University of Windsor, Ontario, Canada

**Title:** Procedural Rules as Rules of Ethics and Professional Conduct

There is a trend in common law civil procedure to incorporate new rules that are explicitly aimed at setting standards of conduct. Some of these new rules are directed at parties, some at lawyers, and some at non-parties who play a significant role in the conduct and management of disputes, for example, commercial litigation funders, insurers and expert witnesses. This is a shift in the focus and the content of procedural rules. Those rules were historically confined in their scope to the technical progress of a dispute to trial or settlement. They generally left the setting of explicit standards of conduct to the relevant professional rules and to the expectations created by notions (admittedly contested) associated with the obligations imposed on lawyers as officers of the court. This paper will examine this shift in the content and focus of modern procedural rules, and the reasons for it. Issues addressed will include the kinds of standards of conduct now found in procedural rules, how they are different or add to the other traditional sources of rules of ethics and professional conduct, how they are being monitored and enforced, the limitations in existing rules of professional conduct that have led to these new rules, and whether there is yet any evidence that they have resulted in improved conduct (however defined).

**Author:** Susan D. Carle

**Affiliation:** American University Washington College of Law, USA

**Title:** Lawyers, Non-Lawyers and Legal Reform: A Case Study

This paper further develops themes presented in my new book *Defining the Struggle: National Organizing for Racial Justice, 1880-1915* (Oxford University Press, 2013). The book explores the intersections between civil rights organizing, test case litigation and other legal and law-related strategies to challenge racially discriminatory laws, and non-elite lawyers' conceptions of their professional identity and mission, all in the specific context of United States legal history in the late nineteenth and early twentieth century. The proposed paper has less to do with the particular U.S. historical context and more to do with sociological and comparative questions about how gender, social status as a racially subordinated outsider, and class status may affect legal profession identity and strategic choices about social change activism and legal reform. Using my prior research as a case study, I argue that the variables of gender, race, and class may affect access to levers of power and thus shape social change techniques. Indeed, strategies may not even appear to be directed at "law reform," but may instead circumvent public institutions altogether to focus institution-building in the private realm. These projects may be related to long-term goals of legal reform even though they are carried out by non-lawyers. Scrutinizing lines drawn between legal and "non-legal" reform campaigns, and between lawyer and non-lawyer activists, can reveal new insights into relationships between law, lawyers, and legal reform.

**Author:** Kathleen Clark

**Affiliation:** Washington University in St. Louis, USA

**Title:** Confidentiality, Conflicts & Federal Preemption in the Dodd-Frank Whistleblower Program

This paper examines the interplay of state and federal authorities in regulating the disclosure options available to securities lawyers. At first glance, this might seem like an often-told tale of the Securities and Exchange Commission (S.E.C.)'s 2003 regulation of lawyers under Sarbanes-Oxley, which provided federal authority for corporate lawyers to disclose securities fraud even where state professional rules would prohibit such disclosure. That regulation resulted in loud protests from the organized bar, but it does not seem to have resulted in significant disclosures to the S.E.C.

This paper, on the other hand, examines a different S.E.C. regulation: one that did not stir grave protests by the organized bar but may actually do much more to undermine confidentiality and inspire disclosures. In this 2011 regulation, the S.E.C. created a system of significant financial incentives for whistleblowers who disclose information about securities fraud. The regulation

specifies which types of otherwise confidential information can qualify for these financial incentives, building on the confidentiality exception found in the earlier Sarbanes Oxley regulation. While the S.E.C. seems to have taken careful account of the law of confidentiality and privilege, its regulation does not address state conflict of interest standards, which may prevent lawyers from participating in these financial incentives.

**Author:** Brent Cotter

**Affiliation:** University of Saskatchewan, Canada

**Title:** The Impending Revolution in Legal Education in Canada: Implications for Legal Ethics  
The paper and presentation I am proposing for the Legal Ethics and Legal Education stream of ILEC is an examination of recent, pending and potential changes, of foundational significance to the existing model of legal education in Canada and its implications for legal ethics as taught and as practiced in Canada. Beginning in 2010 the Legal Profession in Canada asserted itself into the subject of Legal Education in a substantial and substantive way, with particular emphasis on the teaching and learning of Legal Ethics. More recently, the Law Society of Upper Canada has begun to endorse models of legal education leading to admission to the legal profession that could profoundly change the nature of legal education in Ontario and the rest of Canada. These changes are occurring rapidly, affecting the continuum of legal education in Canada and appear to be pursued without adequate or any implications for the ways in which legal ethics will be learned or lived by lawyers who may be part of this 'new' regime of education and training for the practice of law in Canada. The paper will examine these recent developments and will provide a critical analysis of the implications for the future of Legal Ethics in Canada.

**Author:** Yan Cui

**Affiliation:** Shandong University, Weihai Campus, PRC

**Title:** Cultivating Professional Identity in Legal Ethics Class: Suggested Pedagogical Techniques for China law schools

Professional identity was the third apprenticeship in the Carnegie Model of legal education, following knowledge and practice apprenticeship. The Carnegie Report criticized legal education as not being intentional about the formation of professional identity among its students. Professional identity is not paid great attention in China. This paper explores professional identity as the main task of legal education in China. It discusses techniques instructors can use in teach professional identity formation from the visual angle of law students. Bloom's taxonomy of education objectives suggests the use of key cases

with common ethical dilemmas, visual aids, class discussion, simulation or role-playing, moot courts, clinics or experiential methods are suggested to utilize. The main aim of using these tools is to help students place themselves in a legal context reflecting the professional role of lawyers.

**Author:** Scott Cummings

**Affiliation:** UCLA, USA

**Title:** Lawyers in the Movement for Green Ports

This Article analyzes the role of lawyers in the campaign to raise work and environmental standards at the ports of Los Angeles and Long Beach. This campaign emerged as a fight over air quality, but developed as a struggle over the conditions of short-haul truckers, whose precarious economic status as independent contractors contributed to poorly maintained trucks viewed as a key cause of air pollution. It rested on an innovative legal hook: the port, as a publicly owned and operated entity, had the power to define the terms of entry for trucking companies through private contract. The campaign therefore hinged on how those contracts treated truckers and what types of environmental standards they set. To advance the campaign, lawyers worked with and represented a coalition of labor, environmental, and community groups to craft local regulation—and ultimately to defend it against legal attack. The campaign is used to examine two dimensions of lawyers' ethics. First, it asks how lawyers understand and operational their ethical duties in the context of policy making, where their job is to mobilize legal arguments to support legislative reform. Second, it explores how lawyers manage conflicts of interest in representing coalitions of independent organizations with multiple leaders and various interests

**Author:** Eleanor Curran

**Affiliation:** Kent Law School, University of Kent, UK

**Title:** Moral Philosophy and Moral Reasoning – A Suitable Basis for Legal Ethics Teaching at the Academic Stage

In this paper I will argue that an introduction to moral philosophy and moral reasoning provides an appropriate starting point for teaching legal ethics on the LLB. Introducing students to the classical ways in which morality has been understood and debated enables them to acquire a language and a way of reasoning that can then inform discussions of the issues and debates within legal ethics.

There has been and continues to be a strong resistance amongst (UK) legal academics to teaching legal ethics at the academic stage which often comes from a fear that they will be asked to teach the ethics 'codes' of the profession and/or inculcate particular values. Both of these are perceived as being inappropriate within the context of a university education. Putting the emphasis on

moral reasoning enables legal ethics to be taught in a way that allows for academic debate about the necessity (or not) for legal ethics (i.e. discussion of foundations) and about how legal ethics should be taught/regulated/conceived etc. This approach, I argue, has the advantage of allaying fears amongst legal academics about the merits of teaching legal ethics and at the same time provides an excellent way of introducing students to the subject of legal ethics.

**Author:** David Dana

**Affiliation:** North-western University School of Law, Chicago, USA

**Title:** The Ethics and Regulation Of Litigation Financing For Law Firms and Lawyers In The United States

This paper addresses third-party provision of funds to plaintiff's attorneys to cover litigation expenses in return for a repayment of principal plus a return on principal ("Third-Party Lawyer Funding"). A large number of state ethics commissions have opined that Model Rule of Professional Responsibility 5.4 and its State counterparts prohibit Third Party Lawyer Funding as a form of fee-splitting. I argue that 5.4 should be read to allow Third-Party Lawyer Funding.

The main rationale of commissions and others that have disapproved Third-Party Lawyer Funding is that the non-lawyer sharing the fee will be tempted to interfere with the lawyer's independent decision-making. This concern about control and interference is misplaced. First, it is reasonable to presume that funders select lawyers to fund based on an assessment that the lawyers are skilled. Second, a funder can contractually commit not to interfere with the lawyers' independent professional judgment. Third, third-party lawyer funding allows lawyers to expend the resources they think are likely to produce the best results for their clients and hence increases independent professional judgment. Fourth, such funding can help ameliorate the potential conflicts of interest that commentators have long identified as a concern with contingency fee arrangements.

**Authors:** Gayane Davidyan and Philip Genty

**Affiliation:** Moscow State University, Russian Federation and Columbia Law School, USA

**Title:** The Role of Legal Ethics Education in Improving the Legal Profession: A Comparison of Russia and the U.S.

Drawing on our individual teaching experiences and recent collaborations in New York and Moscow, we will compare legal ethics education in the United States and the Russian Federation. Each of us teaches a course of our own design on legal ethics and the profession in our respective law schools. In addition, we have worked together in Moscow on an innovative weeklong ethics

conference for law students. We have also collaborated on ethics sessions in New York, when Professor Davidyan has brought groups of students for study tours.

We will first discuss the structure of legal ethics education in each of our countries. We will then describe pedagogical and practical aspects of our courses:

- Content: issues covered and reasons for these choices; comparison of the ways the issues are defined and arise in practice in each society
- Credits, number of students, frequency of class sessions
- How courses fit into the curriculum (e.g. compulsory/elective; relationship, if any, with other courses offered)
- Teaching methodologies

We will then examine our respective goals and priorities for students, e.g. substantive knowledge of ethical codes; awareness of ethical challenges they will face as lawyers and strategies for addressing these; critical perspective on the legal profession.

Finally, we will discuss what we see as the most important ethical issues in our respective societies and examine the extent to which legal ethics education can address these issues and improve the legal profession.

**Presenter:** Anthony Davis

**Affiliation:** Hinshaw Culberson LLP, New York

**Title:** Enterprise Risk Management – The Expanding Role of Law Firm General Counsel

Like other businesses, law firms are beginning to recognize that they must assess and address all the risks that potentially threaten their ability to prosper – or to exist. Understanding and managing the expanded, existential challenges is often referred to as Enterprise Risk Management. As regulators in England and Australia focus on the business and financial viability of law firms, risk management is therefore no longer just about reducing malpractice claims and avoiding fee disputes. General Counsel must wrestle with issues as diverse as technology and data security, the effect of changing pricing models on the viability of the firm's business, determining the appropriate business structure and complying with multiple (and sometimes conflicting) regulatory regimes across different jurisdictions. How will law firm General Counsel deal with this growing list of increasingly thorny and complex challenges? Looking ahead, what will the future Office of General Counsel look like and how will it be staffed? Or will the entire risk assessment and compliance functions be handled by others, leaving

law firm General Counsel a much more circumscribed role?

**Author:** Joshua P. Davis

**Affiliation:** University of San Francisco School of Law, USA

**Title:** Legal Ethics and Legal Dualism

How lawyers (and others) should go about interpreting legally imposed ethical constraints on attorney conduct—what I will call legal ethics—depends in part on jurisprudence. In particular, should legal ethics be interpreted in a positivist manner or a non-positivist manner? According to one (widely accepted) view, positivist interpretation of legal ethics would ultimately require inquiry only into social facts, not into morality, and exclusive legal positivist interpretation would leave no room for inquiry into morality at all. This Article suggests reasons to adopt what one might be called a form of legal dualism—that a non-positivist (or natural law) account of the nature of law is appropriate when law serves a source of moral guidance to the interpreter and a positivist account is appropriate when the law does not play that role. The Article then explores a potential implication of legal dualism for legal ethics: morality should inform interpretation of the constraints imposed by legal ethics on an interpreter and morality should not inform interpretation when an interpreter seeks merely to describe ethical rules or to predict how they will be interpreted. The Article tests this thesis against Bradley Wendel’s excellent recent book, “Lawyers and Fidelity to Law.” It argues that while his analysis is insightful in many ways, it does not successfully reconcile a positivist approach to the nature of the law with the moral obligation of lawyers to abide by the law.

**Author:** Sylvie Delacroix

**Affiliation:** University College London, UK

**Title:** From Habits to Imaginative Practice

Today’s growing interest in using empirical approaches to understand human morality raises both normative and methodological challenges. Behavioral psychologists highlight the environmental factors shaping our ethical sensitivity. Social neuroscientists peek at brain images in a bid to functionally decompose the processes leading to moral judgment. Overall, the story that emerges isn’t revolutionary: intuitions and automated responses play a huge part in shaping our moral judgments. What is novel is our insistence on scientifically proving their incidence on moral judgments. This scientific impulse brings a methodological hazard in its stead. For those in thrall to a “bald” naturalism, it is tempting to reduce morality to what science can tell us about it. And while it might tell us riveting tales (helped by mesmerizing pictures of our brains), there are

things it can’t capture. Understanding what conditions our own capacity to stand at odds with the usual and trigger moral change is one such thing. A concrete application of this methodological critique is to look at novel ways of training lawyers (with the help of 3D avatars) to develop the resources necessary to overcome the pernicious effects of habit (and expertise) in preserving an ethical sensitivity capable of moral change.

**Authors:** Phil Drake and Stuart Toddington

**Affiliation:** University of Huddersfield, UK

**Title:** The Depths of Dialogue: Ethics, Interests and the Behavioural Economics of ‘Collaborative’ Lawyering

In response to LETR and the reduction of legal aid funding, we face a changing landscape which will radically reshape the way law is practised and how we think about legal education. In particular, we will have to adapt and refashion our ideas about the lawyer-client relationship towards a more collaborative, mediated or ‘dialogical’ process. Clients will be greater involved in the problem-solving process, and the role of the lawyer will be to guide the client to determine their own options and to make their own decisions.

In urging educators and the profession to take seriously the concept of *dialogical* lawyering, and building on our previous research into the aspiration to ethical autonomy, we seek to bring light to normative and psychological obstacles the clients may face in decision making, together with strategies from the area of behavioural economics.

**Author:** Pier Luc Dupont

**Affiliation:** Universitat de València, Italy

**Title:** Substantive Equality and Legal Intervention in Ethno-Cultural Conflicts: a Four-Step Model of Deliberation

In multicultural democracies, many of the most difficult ethical dilemmas that arise in the formulation and application of the law have to do with its mediating role in conflicts about new, unfamiliar ethnic practices (Solanes, 2013). Faced with the competing demands of majority and minority groups, as well as with diverging interpretations of the fundamental rights at stake, lawmakers and judges often lack clear criteria on which to base their decision to prohibit, tolerate or accommodate migrants’ ways of dressing, eating, praying, working, creating or socialising. Based on Sandra Fredman’s conception of substantive equality and the sociology of immigrant integration, this paper outlines a four-step model of deliberation that would allow a more systematic analysis of morally relevant issues across a wide range of ethnocultural conflicts. In particular, it highlights the importance of examining the impact of ethnic practices on four key dimensions of

integration: the protection of fundamental rights, educational and labour market opportunities, personalised intergroup contacts and the positive representation of ethnicity in the public sphere.

**Author:** John S. Dzienkowski

**Affiliation:** University of Texas at Austin, USA

**Title:** Regulating Alternative Legal Structures Directed Towards Serving Corporate Clients

In the last decade, new law firms and non-law firms have developed to challenge the large elite law firms that serve corporate clients. Some of these entities offer full services while others provide unbundled services. Recent accounts have shown that these alternative legal structures continue to grow as they offer corporate clients the efficient delivery of high quality legal services. This paper will compare the development of these “new” legal entities in different legal systems and examine the challenges that exist in regulating such services. The traditional rules for regulating the practice of law do not adequately account for the differences in how clients are served through these new entities.

**Author:** John S. Dzienkowski and Robert J. Peroni

**Affiliation:** University of Texas at Austin, USA

**Title:** Tax Practitioners Conflicts of Interest

The U.S. Treasury Department regulates the practice of lawyers and other professionals who represent clients before the Internal Revenue Service (IRS) in Treasury Circular 230. Before amendments made in 2002, Circular 230 contained a one-line prohibition against an attorney or other tax professional representing conflicting interests before the IRS, unless all directly interested parties consented after full disclosure. The 2002 amendments brought the conflicts of interest provision in line with ABA Model Rule 1.7 (amended by Ethics 2000 in February 2002). And, the IRS Office of Professional Responsibility has taken the position that it has the power to sanction lawyers who represent clients with an impermissible conflict of interest. This paper argues that it is a serious mistake for Circular 230 to empower the IRS, a collection agency, to regulate conflicts that lawyers may have with their clients as part of the regulation of federal tax professionals. Tax practice needs its own standard for conflicts of interest, which reflects the IRS’s appropriate governmental interests in regulating conflicts of interest in tax practice before it. The conflicts of interest rules in the legal profession, by contrast, were developed in the context of judicial disqualification and bar disciplinary action. Such rules vary from court to court and whether applied in the context of litigation or discipline. The paper argues that the IRS should have retained its old standard and developed interpretive notes as to the types of conflicts that arise in tax practice. The tie

to the rules of disqualification and bar discipline opens the door for many adverse consequences.

**Author:** Kim Economides

**Affiliation:** Flinders University, Adelaide, Australia

**Title:** Tools for Strengthening the Foundations of Legal Professionalism

This paper asks what practical steps might be taken to strengthen the ethical and moral foundations of those who practise law. My approach is not confined to any specific jurisdiction but rather seeks to identify global resources that could support ethical awareness of those entering legal practice, as well as those who are mid-career. I focus on three key areas: (1) the role of ‘justice’ in current legal education; (2) the role of ‘oaths/declarations’ at the point of entry to (or exit from) law school, and upon entry to the legal professions; and (3) the role of ‘ethics’ in Mandatory Continuing Legal Development (MCPD) or re-accreditation/re-validation. At each stage I make proposals designed to produce more ethically robust legal professionals and conclude by asking whether the IAOLE should take a more positive lead in championing, not just efforts “to enhance the study, teaching, and awareness of ethical issues in law schools, legal practice and continuing legal education programs”, but also meaningful commitment to the underlying, and often unarticulated, ethical and legal values that support professionalism within the legal field.

**Author:** Sam Erugo

**Affiliation:** Abia State University, Uturu, Nigeria

**Title:** The Role of Clinical Component in Teaching Legal Ethics for All Times

For law to serve its function in society the legal practitioners must be well-trained to practice. Consequently, appropriate legal education is a *sine qua non*. Today, more than ever before, attention is paid to the content as well as context of such legal education to groom world-class lawyers for a dynamic world. Appropriate legal education must be such as to inculcate apt ethical values complementing relevant legal knowledge and skills of a competent lawyer. Considering the very important and powerful position that lawyers occupy, the ethics of the profession have become very important and critical to all. This paper appreciates knowledge and skill-base dimensions of legal education as necessary for the proficiency of a lawyer. But those are not enough. Thus, the discussion will be focusing on the role that the clinical component of clinical legal education could play in teaching legal ethics for all times for new lawyers. From a Nigerian perspective and an historical context, the paper will highlight legal ethics education from the traditional approach still found in some Universities to present clinical



pedagogy embracing clinical legal education and the clinics. The experience is from a pilot law clinic that works with pre-trial detainees. The assessment of legal ethics imbibed by students is a validation that through individual reflections on their works or interactions with, and on behalf of clinic's clients, the students readily identify issues of professional ethics and values. Finally, the paper will seek to share other experience and explore best practices.

**Author:** Francisco Esparraga

**Affiliation:** UNDA School of Law, Sydney, Australia

**Title:** Legal Ethics Education in Australia and the Challenges for New Law Graduates

A review of curricula in Australian University Law Schools has revealed that most Universities tend to take a relatively narrow view of ethics which sees it as limited to the rules of "professional practice" in the law.

The School of Law at the University of Notre Dame Australia, Sydney, has committed to producing not only fine legal practitioners but "well rounded people" and has assumed a broader mandate regarding the ethical education of its students.

Most institutions tend to focus on legal ethics as "*the law of lawyering rather than recognising the connection between the personal and the professional which genuine professional integrity and responsibility entail*".

Since the legal community tends to view ethics as a matter of practitioners' "professional obligation" to respect the codified rules of professional practice, it explicitly adopts a prescriptive view of ethics, one which equates to a morality of duty and obligation.

This raises the challenging question of how legal ethics *ought* to be taught and what students ought to be taught about the relationship between the law and ethics. This is particularly important because law schools have the power to shape the future direction of legal practice in the way they educate future practitioners.

**Author:** Maxine Evers

**Affiliation:** University of Technology, Sydney, Australia

**Title:** The Profession for Sole Practitioners: An Easy Mark for the Regulator?

The 2012 report, *A Time of Change: Solicitors' Firms in England and Wales* identified the solicitors' profession as a 'turbulent environment', resulting in 'challenges and disruption to traditional forms of practice'. Last year, the US report on *The State of the Legal Market* described the environment for lawyers as 'difficult and challenging', requiring 'new and creative' delivery of legal services.

A calling to join the 'noble profession' is less mesmerising than it was 50 years ago. Challenges

for legal practices, including increased regulation, have impacted across the profession and caused lawyers to rethink, change and redo the way they practise law, including Incorporated Legal Practices, Multi-Disciplinary Practices and International Mergers. One form of practice appears to have maintained its traditional structure, that of the sole practitioner.

Their number constitutes varying percentages across global jurisdictions from approximately 25% of lawyers in New Zealand to over 60% of lawyers in Australia. Overall, sole practitioners constitute a significant percentage of the lawyer population, however, they are underrepresented in research and overrepresented in complaints and disciplinary proceedings. One proposal to reduce the number of complaints against sole practitioners is to do so by further regulation. This paper considers the potential impact of further regulation on sole practitioners, in the context of their future sustainability within the legal profession.

**Author:** Trevor C. W. Farrow

**Affiliation:** Osgoode Hall Law School, Canada

**Title:** Access to Justice, Professional Consciousness and Legal Education

The access to justice policy landscape has recently changed – in a dramatic way – in Canada. Two 2013 access to justice policy reports – from the Action Committee on Access to Justice in Civil and Family Matters and the Canadian Bar Association - exemplify this new policy-based landscape. Specific aspects of this changed landscape include a newly formed national collaborative approach to access to justice policy reform, as well as an increased attentiveness to public legal use and legal consciousness as shifting paradigms for new approaches to the delivery of legal services. Legal services are being challenged to address these shifting paradigms. Legal education, and its role in the development of a more meaningful access to justice professional consciousness, is being identified as an important part of how these challenges may be met.

This paper will: (1) discuss this new access to justice terrain; (2) explore the parameters of a new access to justice professional consciousness – designed to reflect the importance of a newly developing public legal consciousness; and (3) examine the role for legal education in the context of these shifting roles and challenges.

It is hoped that this paper will be of interest to policy makers, practitioners, educators and researchers.

**Author:** David Fennelly

**Affiliation:** Trinity College, Dublin, Republic of Ireland

**Title:** Reconciling Regulation and Independence: The Recent Experience in Ireland

As the conference theme suggests, the decline in self-regulation is one of the significant developments calling into question the traditional role of legal professions in society. While the Irish legal profession has been traditionally characterised by a very high level of self-regulation and enjoyed a very strong tradition of independence, recent legislative reform – which resulted from the EU-IMF Bailout – has brought about a radical overhaul in the regulation of the profession and called into question the independence of the profession in an unprecedented way. The Legal Services Regulation Bill 2011, as initially introduced to Parliament, envisaged a high level of Government control over regulation of the legal profession. This provoked controversy, not only within the Irish legal profession but also internationally.

Notwithstanding Ireland's strong tradition of independence of the legal profession, the 2011 Bill drew unfavourable comparisons with jurisdictions which place little value in this principle. While amendments to the draft legislation have now been proposed to dispel concerns, it remains to be seen whether the legislation (which is likely to be enacted between now and July), and the regulatory model which it adopts, contain sufficient safeguards for independence of the profession. More broadly, the Bill – which was adopted against the backdrop of an international programme of financial support – raises challenging questions about the process of regulatory reform and the place of independence, and core ethical values underpinning the profession, within this process.

**Authors:** Graham Ferris and Nick Johnson

**Affiliation:** Nottingham Trent University, UK

**Title:** Lawyers in Public Discourse: the Ethics of the Lobby, Response to Consultations, Public Education, Political Action and the Talk Show  
Although the ethics of communications made by lawyers in adversarial representation are thoroughly dealt with by professional codes of ethics and the literature on professional ethics the ethics of communications in public discourse are less well served. Public discourse includes both communications directed to the general public or a section of the public and communications directed at public decision makers at local, national, or international levels. The communications of interest are those that are made by lawyers as lawyers: not those made in a personal capacity without explicit or implicit reference to professional status. Lawyers may address the general public or public decision makers in pursuit of:

- The personal values of the lawyer. The cause lawyer typifies this stance.
- The values of the group the lawyer represents (e.g. personal injury

defendants, criminal defendants, or employers). These views may either be personally endorsed or not.

- The interests of a client or client group. This is the lawyer as lobbyist.

The paper asks how these interventions should be viewed ethically.

We consider this question in the light of theoretical works of: Jurgen Habermas; Sissela Bok; Seligman, Weller, Puett, & Simon (*Ritual and its Consequences*).

We also consider whether any existing principles of practice governing the solicitors profession are applicable (see: 1, 2 & 6 specifically).

**Author:** John Flood

**Affiliation:** University of Westminster, UK

**Title:** Are Machines Ethical?

There have been a number of articles recently about machine-based activities in the legal sphere--document assembly, e-discovery and case analysis. This follows from things like Google's driverless car, which by 2012 had achieved 300,000 accident-free miles, the use of High Frequency Trading in stock trading, and machine-controlled laser surgery for eye correction. This is a growing trend, possibly exponential.

Whether or not we are approaching the point of singularity, huge resources are being put into the mechanisation of law. In part it is because machines, robots, algorithms can do repetitive tasks more efficiently than humans, and also because machines tend to be cheaper than humans. From a Marxist perspective it makes sense to move to machines from labour. The returns to capital are much greater.

To approach my question, ethics are concerned with proper behaviour that accords with standards and principles that a profession abides by. They are also concerned with things that go wrong: mistakes, malfeasance, mischief.

Paul Virilio articulated the essential paradox of technology--that to invent something is to invent its negative. Invent ships and you invent shipwrecks, invent railways and you create derailment, and create the car and you invent the pile-up. Every advance in technology and machines creates its negative form. It is never a matter of if but only when.

Given that automation is rising, given that computer-based legal services are increasing, how are we going to program machines for errors? Ultimately who will be responsible for those errors?

**Presenter:** Susan Fortney

**Affiliation:** Hofstra University, New York

**Title:** Proof and Possibilities: An Empirical Examination of Management-Based Regulation

Twenty years ago Professor Ted Schneyer emphasized the role that “ethical infrastructure” plays in influencing lawyer conduct. Legislators in the state of New South Wales (NSW) in Australia took the pioneering step of including an “ethical infrastructure” requirement in the statute allowing lawyers to incorporate their law practices. The legislation requires that incorporated law practice (ILP) appoint a director to be generally responsible for the management of legal services provided by the ILP. Second, the statute provides that the director must ensure that “appropriate management systems” (AMS) are implemented and maintained to enable the provision of legal services in accordance with obligations imposed by law.

To guide firms with complying with the statutory requirements, the Legal Services Commissioner for NSW worked with various stakeholders to develop an “education toward compliance” approach in which the ILP must complete a self-assessment process (SAP). Because this approach focuses on prevention and mitigation, Professor Schneyer describes the NSW program as a prototype for “proactive, studying and implementing proactive management-based regulation of lawyers.”

Early research revealed a significant reduction in the number of complaints involving firms that completed the SAP. To explore the reasons for the reduction in complaints, as well as other effects of the SAP, I conducted a mixed method empirical study. I will discuss survey findings and recommendations for improving the SAP. The thrust of the recommendations is to build on the positive track record of “education toward compliance” approach to regulation.

**Author:** Tomáš Friedel and Michal Urban

**Affiliation:** Charles University, Prague, Czech Republic

**Title:** What Czech Judges Cannot Do – Practice of Judicial Disciplinary Authorities in the Czech Republic

The discussion about disciplinary responsibility of judges is (at least in the Czech Republic) dominantly connected with hypothetical issues – especially with the fundamental question whether at all and how to regulate judges’ behaviour. When it comes to real cases, the debate becomes remarkably superficial. That is mainly caused by two interconnected reasons. Firstly, the topic of professional responsibility draws too scarce attention from both legal practitioners and academicians. Secondly, when the disciplinary

responsibility of judges is discussed, the debate is too much shaped by journalists and their view of the issue, which concentrate mostly on publicly attractive failures of individual judges. Naturally, this kind of a debate brings us nowhere closer to understanding if (or how often) and under what circumstance three thousands of Czech judges follow norms of their professional ethics. The aim of the paper is an attempt to provide a more revealing view of the matter.

The session will be divided into two parts. At first, we will briefly describe the Czech judicial disciplinary system. The second part will be devoted to presentation of results of our own research regarding the analysis of judgements issued by the Czech Supreme Administrative Court on judges’ professional discipline. Based on the collection of court’s decisions, we managed to gather all decisions passed by in the last seven years. As we believe, research outcomes will serve as a basis of (re-)discussion questions of who are our judges, how ethically they behave and whether we approve or disapprove with their professional behaviour.

**Author:** Danielle T. Gauer

**Affiliation:** Koskie Minsky LLP, Canada

**Title:** A Review of the Importance of Ethics in Legal Education

As a recent law school graduate and now Articling Associate at a prestigious law firm in Toronto, Canada, I am realizing more and more the importance of not only acknowledging the rules that govern lawyers in their dealings with clients, the court and each other, but also the necessity of legal ethics in legal education. As a new requirement to be called to the Ontario Bar in Canada, and similarly in other provinces, candidates now able to undertake an alternative form of training, for example through a responsibility course which would consist of understanding legal ethics. The particular areas include civility, the fiduciary nature of the lawyer’s relationship with the client, conflicts of interest, confidentiality and disclosure, professionalism and the public interest in serving the administration of justice. This paper would discuss the importance of incorporating legal ethics in legal education before entering into the practice of law. In particular, I will address the difficulties lawyers face in acting ethically in their professional and personal daily interactions and the possible avenues that should be considered when faced with such dilemmas. I will provide insight through my own experiences in law school and my initiation into the legal profession.

**Authors:** Tahlia Gordon and Steve Mark  
**Affiliation:** Creative Consequences Pty Ltd, Australia  
**Title:** Regulation of Alternative Business Structures in the United Kingdom and Australia  
Debate about external ownership or investment in law firms is longstanding but has been particularly virulent since 2001 and 2007 when Australia and the United Kingdom enacted legislation permitting Alternative Business Structures (ABS). Critics have argued that external investment in law firms erode the core values of legal practice; does not enhance profit and operational efficiency and more importantly does not improve or increase access to justice. To date there has been no scholarship supporting these allegations but for two articles suggesting that there is a direct theoretical link between non-ownership of law firms and access to justice. This paper builds on that previous work and demonstrates that the link between access to justice and non-lawyer ownership is not only strong in theory but also in practice. The paper analyses the activities of law firms in Australia and the United Kingdom who have had access to additional funds through external ownership and suggests that such funds have enabled these firms to considerably grow their practice and thereby provide greater access to justice for consumers.

**Authors:** Genevieve Grant and Christine Parker  
**Affiliation:** Monash University, Australia  
**Title:** Warning: Stressful Compensation Claims May be Bad for Your Health! Reflecting on Lawyers' Responsibility for Claimant Stress and Health  
This paper reflects on the ethical implications of findings from a longitudinal study of the claims experiences and health outcomes of personal injury compensation claimants in Australia. Injury patients admitted to major trauma centres in three Australian states were recruited in hospital and followed up over the subsequent six years. At the six-year mark, those who had made a transport accident or workers' compensation claim were interviewed about their claiming experiences.

The study provides evidence that stressful experiences of claims processes are associated with worse claimant health. But what is lawyers' responsibility in this? Is it possible for lawyers in this practice context to see and understand the way claimants experience the system in their personal life and health, and to take responsibility for improving their experience? The paper considers the application of various ethical approaches to lawyering and socio-legal literature on personal injury lawyering. It speculates on the extent to which lawyers contribute to claimant stress in the experience and the degree to which they can help address this serious problem.

**Author:** Freda Greal  
**Affiliation:** Law Society of Ireland, Ireland  
**Title:** Inculcating Professional Identity and Teaching Ethics to Trainee Solicitors in Ireland  
The notion of transformation, and what you become as a result of your law school or vocational training experience, has exercised the minds of many legal educationalists over time. The apprenticeship model of solicitor training in Ireland is split between time spent in the training firm and time spent in professional training at the Law Society of Ireland. Learning in law is a process of shaping identity and becoming part of a community, and professional socialisation is a key aspect of this professional development (Sommerlad 2007, Cardoba & Gulati 2000, Wenger & Lave, 1991). This presentation outlines an empirical research study conducted with trainee solicitors who are coming to an end of their traineeship period in Ireland. The methodology employed is an experimental intervention in the form of an eight week course entitled 'Certificate in Legal Ethics and Lawyering Skills'. The course takes a multidisciplinary and experiential learning approach, exposing trainees to other disciplines such as sociology, philosophy and psychology with a view to encouraging and supporting them to reflect on internalising their 'role' as lawyers and their future career in law. A key part of moral professional identity formation is an ability to engage in ethical moral reasoning and this requires more than learning the professional conduct rules and narrow courses on legal ethics. Therefore, this research draws on the moral psychology and the theories of James Rest and the 'Defining Issues Test' and the work of Muriel Bebeau arising from the 'Four Component Model' to frame the teaching of legal ethics and professional values for trainees.

**Authors:** Bruce Green and Ellen Yaroshefsky  
**Affiliation:** Fordham University and Cardozo University, New York, USA  
**Title:** Regulation of U.S. Prosecutors in the Information Age  
The U.S. Supreme Court has recognized that, as lawyers, prosecutors are subject to disciplinary regulation by the bars and state judiciaries. Nonetheless, U.S. prosecutors' offices have maintained that they should be principally responsible for regulating their prosecutors' professional conduct. Prosecutors have been largely successful in resisting efforts to expand lawyer codes to regulate their conduct more stringently and in discouraging disciplinary authorities from pursuing prosecutorial misconduct more aggressively.  
This paper will argue that, because of the proliferation of information in the internet era, disciplinary authorities are becoming less deferential in small ways that may portend bigger

changes. Among the reasons are, first, that prosecutors' misconduct now tends to be more visible and widely publicized and, indeed, is increasingly likely to be attributable to misuse of public media. Second, examples of misconduct that would once have been considered individual and aberrational – e.g., prosecutors' suppression of evidence – are now being aggregated by defense lawyers and public critics and put into a pattern. Third, the regulatory inadequacy of both prosecutors' offices and disciplinary agencies is becoming more demonstrable, as prosecutors whose wrongdoing is exposed in the course of criminal cases are seen to escape punishment. Fourth, the cost of prosecutorial misconduct has also become more evident as the media publicizes stories of exonerated defendants whose wrongful convictions have been traced to prosecutorial wrongdoing. All of this has led to increased pressure on disciplinary authorities to regulate prosecutors more seriously and emboldened these authorities to do so, and there is potential for them to play a more expansive regulatory role in the future.

**Author:** Isabelle R. Gunning

**Affiliation:** Southwestern Law School, USA

**Title:** Lawyers of All Faiths: Constructing Professional Identity and Finding Common Ground  
The Religious Lawyering Movement has established an important framework by which scholars and lawyers of faith can argue the value that religion or spiritual beliefs can play in the profession. Still, the scholarship has not focused on the unifying themes that drive lawyers of different faiths. This paper delves into various religions to explore the commonalities that bind lawyers of faith regardless of their religious roots or spiritual belief systems. Further, through an empirical study, this paper offers some preliminary observations that govern the actions of lawyers of faith again no matter their spiritual roots. Findings demonstrate that lawyers of all faiths are motivated to be ethical and responsible professionals.

**Author:** Kath Hall

**Affiliation:** Australian National University, Australia

**Title:** Working for the Few or Agents of Change? The Role of Global Lawyers in the Development of Transnational Law

The structure of law and the role of lawyers at the global level are currently undergoing rapid change. Transnational and global activity has created opportunities for mega-law firms to develop global operations that span continents, engage thousands of lawyers and generate billions of dollars in revenue. Much of the work being done by these firms involves the development of transnational commercial law. As the nation state's role in the

regulation of commercial activity within the global economy declines, transnational law is developing to fill the void. Much of this law exists in non-traditional forms such as codes, guidelines, standards, rules and precedents. Lawyers participate in the construction of these instruments, which in turn influence the creation of national laws. This *looping of legal ideas* between transnational instruments and national laws is creating a complex and increasingly complementary legal regime governing global commerce.

This paper examines the increasingly important role global lawyers play in the development of these regimes. It outlines the ways lawyers create, refine and modify existing legal rules at the transnational level so as to both solve their clients needs and to serve the firms' own interests. It then highlights some of the benefits and the problems with this process, and argues that more attention needs to be paid to the role of global lawyers in this context.

**Author:** Justin Hansford

**Affiliation:** Saint Louis University, USA

**Title:** Lippman's Law: Instilling Public Service Values through a 50 Hour Pro Bono Requirement for Bar Admission

The New York Bar recently became the first jurisdiction in the United States to mandate that all bar applicants complete 50 hours of pro bono service before becoming eligible to practice law. Other states have begun to follow suit, and the movement to require mandatory pro bono for bar applicants seems likely to continue to spread across the country. More and more, states may adopt this requirement as a way to help the profession bridge the gap in access to justice, provide more practical skills training, and instill in aspiring lawyers a more public service oriented sense of professional responsibility.

In light of this new requirement, a number of questions arise. Is it justifiable to seek to instill a more public service oriented ideal of legal professionalism in the hearts and minds of soon to be admitted members of the bar, or should the practice of law be understood primarily as a business? What should count as pro bono for the purposes of this requirement? This paper argues that this new requirement should promote pro bono in the areas of economic justice, racial justice, and voting rights, as part of a justifiable effort to promote an understanding of the practice of law as a higher calling and a commitment to equal justice under law.

**Author:** Justin Hansford

**Affiliation:** Saint Louis University, USA

**Title:** Professional Identity in Motion: Nelson Mandela, Barack Obama and the Ethics of Transformation

Before becoming the 44<sup>th</sup> President of the United States, Barack Obama spent three years as a law student, one summer as an intern at a traditional law firm, and four years as a civil rights attorney. In these legal roles, he migrated from traditional zealous representation to lawyering designed to extend the benefits of the civil rights movement to a new generation of underprivileged citizens of color by working to expand the quality of their political participation. Many supporters expected President Obama to take a more aggressive approach to advocating for similarly progressive policies, particularly on issues of civil rights, when he assumed office. However, many of the President's most progressive supporters have been disappointed by the administration's approach on these issues. It appears that President Obama's ideals of professionalism have transitioned from hired gun, to cause lawyer, to lawyer-statesman, where today he promotes a broader view of the public good that eschews partisan advocacy and embraces statesmanship. Is this a betrayal of his supporters, a betrayal of himself, or growth?

This paper sets out to contextualize this problem by comparing President Obama's transition to that of an even more storied lawyer who interned at a traditional law firm, practiced cause lawyering, and later assumed high political office and eschewed highly partisan advocacy and embraced statesmanship—Nelson Mandela. By interrogating the dynamics of transition in the ethical norms of these lawyers turned leaders, this paper will demonstrate both the fluidity and the profound consequences of ideals of legal professionalism.

**Author:** Caroline Hart

**Affiliation:** University of Southern Queensland, Australia

**Title:** Unexpected Findings: The all-Pervasive Importance of Ethics in the Lives of Rural Lawyers  
This paper considers the unexpected findings on ethical matters as a result of research into rural legal practice in Australia. Paradoxically, that research was primarily concerned with business management.

The research relies on interviews with over 30 principal lawyers in rural Australian law firms relating to their business management practices. However, what was revealed throughout the interviews was the importance of ethics in all its manifestations. When presented with the opportunity to discuss, in a confidential setting, life as a lawyer, participants themselves chose to guide the interviews into ethical territory, expressing concerns over topics such as: the unethical

behaviour of their partners and colleagues (often resulting in partnership disputes); the stress and burden of regulatory compliance; and the lack of confidence and ability in providing adequate legal supervision to junior employees.

This paper looks at the importance of empirical inquiry into the reality of ethics as it is experienced by rural lawyers. It sheds light on how (and if) ethics connects with and relates to rural lawyers. The gaps, misconceptions and issues surrounding ethical compliance are more fully and frankly examined. The research provides an important insight into the future possibility of considering better means of securing ethical compliance in rural legal practice.

**Author:** Lawrence K. Hellman

**Affiliation:** Oklahoma City University, USA

**Title:** Contemporary Challenges in Teaching Legal Ethics: A Sin-American Comparison

Law schools in the United States operate under accreditation standards established and administered by the American Bar Association, acting under the authority of the United States Department of Education. In 1975, the standards for the approval of law schools were amended to mandate that each law school must require every student to receive education in "the history, goals, values, rules and responsibilities of the legal profession and its members." Since then, there has been a proliferation of courses, professors, teaching materials, and scholarship devoted to teaching legal ethics. Still, in 2014, there is considerable dissatisfaction with the effectiveness of legal education for professional responsibility in the United States. Meanwhile, over the past three decades, the number of law schools in the People's Republic of China has grown quite rapidly – to nearly 1,000. Yet, Chinese law schools have only recently begun to grapple with the challenges of developing effective instruction in professional responsibility. As has been the case in American law schools, this task is proving to be difficult. How similar are the challenges facing Chinese legal ethics professors to those that continue to confront American legal ethics professors? If the challenges are common, are there common solutions? To the extent that the challenges in the two countries differ, are there nevertheless useful insights that legal educators in each country can gain from the experience of those in the other? This paper will explore these three questions.

**Author:** Azizah al-Hibri

**Affiliation:** University of Richmond, USA

**Title:** Faith, Values and Lawyering in the 21st Century: Failure of the Compartmentalization Approach

Traditional theories of lawyering were based on the mechanistic model of the Industrial Revolution which reduced “things in the world” to their component parts and then dealt with each part separately. This was the approach in engineering, industrial assembly lines, corporate organization, universities, medicine and other important areas in our society, including lawyering. Similarly, it was understood that the “faith” component of a person could be separated from the rest of one’s being. It could be set aside during the business week in the “objective” world of secularism, to be embraced later on weekends. In fact, the secular view of the world often appeared like a donut from which the divine was simply removed from the center of public discourse without any adverse or deep rooted effects.

In the Age of informatics, the new model is that of networking, interrelationships and indivisible organic wholes. We now understand better that a human being cannot be sliced into a business week component and a weekend component, especially when it comes to ethics. To claim otherwise, is to distort reality in the interest of suppressing that person’s fullness of belief and values. Given our First Amendment rights, this state of affairs appears oppressive and in need of being genuinely addressed. In his presentation, Rakesh Anand articulates precisely these concerns which render the person of faith an “outsider” participating in a “parallel world” that ignores her core values. A major hurdle in conjoining the two worlds is the very central concept in lawyering, namely Justice. Are lawyers committed to Justice or to “winning” on behalf of their client at any price? Depending on the answer, we have two possible “worlds” that differ substantially in core values. To require a person to live in both worlds is to create a schizophrenic society.

In Islam, for example, the core value on which all our worldly affairs should be based is that of *‘Adalah* (Justice and Fairness). This core value is expected to inform all aspects of our life, including our dealings with each other and with animals and nature, our views on racial and other differences, and also our understanding of economic justice, criminal justice, and the role of the lawyer in helping society achieve a state of *‘Adalah*. Yet the “parallel world” of law that faces young Muslim lawyers challenges these values.

For this reason, generations of promising young men and women of all faiths abandoned their plum legal positions on Wall Street and in major law firms because they could not satisfy their yearning to pursue their own ideals of Justice, rooted in their

faith and not in the secular bazaar of daily activities. The “parallelness” of these two “worlds” became obvious to them a bit too late.

The challenge staring us in the face becomes this: How do we save our current legal system from the antiquated mechanistic model of the Industrial Revolution and drag it into the Twenty First Century and the Age of Informatics. This is the age of human connectedness through internet communication. It is the age that repeatedly reveals reality as constituted of complex networks and organic wholes. It is the age of global cooperation, not domination. We now need to make it the age of social justice and truly shared values. That can only be done by rejecting “parallel worlds” and making a place for all of us in an equally shared world where secularism does not have a special advantage.

**Authors:** David A. Hillard and Fiona Mcleay

**Affiliation:** Clayton Utz, Australia and Justice Connect, Australia

**Title:** A Comparative Perspective on Building a Pro Bono Culture: Australia and England

The debate about the relationship between government’s obligation to provide access to justice, and the legal profession’s responsibility to do the same has become particularly important over the last decade, as governments across the common law world have made significant reductions in funding for legal assistance. Does the modern profession pay more than lip-service to a tradition of pro bono work which provides access to justice to people who would otherwise go without? Can it do more, without letting government off the hook for properly- funded legal assistance to the poor?

This paper will analyse the reality of pro bono work in the face of economic pressures on law firms and the globalisation of legal practice, comparing the English and Australian experiences. It argues that the fundamental ethical obligation to do pro bono work remains critically important for lawyers today, alongside a growing level of unmet legal need for marginalised and disadvantaged people. It will highlight the significant strides taken in Australia over the past two decades, to build a collaborative law firm pro bono culture which is an active participant in the provision of legal assistance to the poor. This will provide useful lessons for other jurisdictions including in England, which are facing severe cuts to funding and the need to reconceive the relationship between the private profession and the provision of pro bono legal services to the poor.

**Author:** Michael Holdsworth

**Affiliation:** University of Birmingham, UK

**Title:** Virtues and Values in the Professions: Empirical Evidence to Inform the Future of Legal Ethics Education

New organizational entities for providing legal services, new qualifying routes into the profession, greater emphasis on competition and on non-traditional recruitment are illustrative of a wave of change in what might now be better described as the legal services sector than the legal profession. While these changes have implications for the knowledge and skills required of those working in the sector, this paper considers whether new regulations, new working environments and a changing workforce have consequences for the ethics of legal practice and its practitioners. We examine these problems through three research questions, which ask: (1) which virtues and values are particularly valued in the legal profession; (2) how do these virtues and values shape professional practice and (3) what are the implications for ethics education? Using data from an on-line survey of about 800 respondents at three career stages (1<sup>st</sup> year undergraduates, completing LPC/BPTC trainees and established practitioners) and over 80 interviews, which include legal educators, regulators and members of representative bodies, we examine views on key professional values and responses to a set of ethical dilemmas. The paper provides preliminary results from this study and considers their implications for the ‘wave of change’ in the sector and what might be the consequences for initial and continuing legal education and training.

**Author:** Daisy Hurst Floyd

**Affiliation:** Mercer University, USA

**Title:** Professional Responsibility and Practical Wisdom: Rethinking Legal Ethics to Reform Legal Education

The author draws upon two anniversaries to argue that the challenges facing legal education today demand new roles for legal ethics faculty, curriculum, and pedagogy. 2013-14 marks twenty years since the publication of Anthony Kronman’s influential book, *The Lost Lawyer*. It also marks forty years since the American Bar Association first required legal ethics instruction in law schools, giving rise to the modern academic field of professional responsibility in the United States. This paper examines the impact of these two events and makes the case that they should be reassessed in light of developments in legal education and professional practice that have occurred in the intervening years. While agreeing with Kronman that legal education should inculcate the virtue of practical wisdom, the author disagrees with him in several fundamental ways, including his call to return to a dominant reliance on Socratic pedagogy. She argues instead for using new understandings of law practice, legal education, and ethical formation to reinvigorate our understanding of practical wisdom. As reconceived, practical wisdom can become an integrating principle for reforming legal

education. It also provides a basis for rethinking the field of professional responsibility so that those working in the field can effect needed reform through their scholarly, pedagogical, and institutional activities.

**Author:** Allan C. Hutchinson

**Affiliation:** Osgoode Hall Law School, Canada

**Title:** Legal Ethics in an Adversarial Age: The Case for the Warrior Lawyer

There have been a number of recent and exciting interventions in the continuing debate over what it means to be ‘an ethical lawyer’. These range from the conceptual to the empirical and from the descriptive to the prescriptive. While there is much to be gained from all these contributions, there is a marked tendency throughout to hide or overlook some of the more fundamental assumptions on which particular initiatives and proposals are founded. In particular, scholars blow hot and cold on the existence, role, and importance of the adversarial system in crafting the professional duties and ethical obligations of lawyers. While some seem to ignore these issues, others place too much reliance upon them. In this paper, I intend to make a more overt and dynamic connection between lawyers’ professional ethics and the legal system’s adversarial ethics. In so doing, I will recommend a more compelling image of ethical lawyers within the constraints and opportunities of adversarial ethics. The connecting trope of the paper will be the shift in professional image from ‘hired-gun’ to ‘warrior’ and all that this entails. Throughout the paper, there will be an emphasis on how it is not so much that lawyers must be adversaries that is the central problematic, but more how lawyers can be adversaries and still meet a high standard of ethical behaviour.

**Author:** Lucy Jewel

**Affiliation:** University of Tennessee, USA

**Title:** The Indie Lawyer of the Future? How Internet Culture, Technology and Modified Ethics Rules Might Produce a New, Sustainable Form of Lawyering

In this paper, I explore how Internet culture and technology have the potential to open up innovative pathways for individual lawyers representing individual clients in a cooperative (rather than competitive) setting. Seeking to capture demand from long tail markets, helping to build a new “sharing” economy, or utilizing new technology to create progressive alternatives to litigation represent new possibilities for sole practitioners and lawyers practicing in small sized firms – “indie” lawyers. Despite the move toward the mass commodification of many law products, the indie lawyer of the future is still a craft-oriented lawyer, producing bespoke legal products, and is still



directly connected (even if separated by geography) in a fiduciary relationship with his or her client.

This paper looks to cultural forces that are driving new sustainable ways of doing business. For instance, the concept of the sharing economy has generated alternative approaches to legal concepts such as property (i.e., the commons) and work (i.e., co-ops). Into this mix, there is a need for lawyers who can navigate these new forms and tap into new markets for legal services.

In order to foster this potentially transformative style of lawyering, this article argues for changes in U.S. legal ethics rules, allowing multi-jurisdictional and multi-disciplinary legal businesses and permitting lawyers to directly solicit clients.

**Author:** Nicholas Kang-Riou

**Affiliation:** University of Salford

**Title:** Paul Ricoeur and the Right to Autonomy at the End of Life

This paper explores how the writings of the French philosopher Paul Ricoeur can inform a novel approach to issues of autonomy and legal capacity in particular at the end of life. In this particular context, there are many crucial issues as to when and how an individual can still participate in decision making. However, it is impossible to discuss these issues without taking into account the close relatives, carers etc... who are essential to provide an individual with meaningful decision making when the body and/or mind become less able.

This discussion will be seen in the light of his key concepts of 'remaining alive until' as discussed in his posthumous book *Living up to death (Rester vivant jusqu'à la mort, 2007)* and the analysis developed around issues of recognition (*Parcours de la reconnaissance, 2004*).

Ricoeur's concepts will then be used to evaluate the current approach of international human rights law concerning decision making at the end of life, in particular in the 2006 Convention on the Rights of Persons with Disabilities and the 2013 Council of Europe Draft Recommendation of the Committee of Ministers to member States on the promotion of the human rights of older persons.

**Author:** Jawahar Lal Kaul

**Affiliation:** Vikram University, Ujjain, India

**Title:** Regulation of Indian Legal Profession; Past and the Present Scenario

Legal Profession in India has a long historic origin. Legal Profession in India came as collateral of British rule in India. In the initial phase of its development and progress, it did not have any reckoning as a Profession. However, with the Indian independence and the introduction of a legal system based on a written constitution and rule of law, the clamour for an organized legal profession in India took shape.

*The Advocates Act, 1961* was passed as a Central legislation to work towards regulating the legal profession in India. It was a hall mark relating to the regulation of legal profession in India, as by that time the number of courts had increased as had the number of law graduates, aspiring to be lawyers. More or less, it was based on the English model. Initially the law graduation was a two year course; however, it was later on increased to three year duration. With the tremendous increase in the number of lawyers and with the increase in legal representations before courts, tribunals and other administrative bodies, the need and the requirement of regulating the legal profession in India became self-evident.

The aim of this paper is to look at the various ways; in which the Indian Advocates Act regulates the legal profession in India. This paper would look at the various ways, in which Supreme Court of India has also tried to regulate the legal profession, so that the Independence of Judiciary is maintained. However, there is a need to take a fresh relook at whether the legal profession is serving the cause of justice, and the handicaps in availability of legal services in India at the present juncture, which this paper also wishes to go into.

**Author:** Matthias Kilian

**Affiliation:** University of Cologne, Germany

**Title:** Young Lawyers in Germany: Entry into the Profession and Career Paths of Lawyers Admitted to the Bar from 2004 to 2010

The debate about the relationship between government's obligation to provide access to justice, and the legal profession's responsibility to do the same has become particularly important over the last decade, as governments across the common law world have made significant reductions in funding for legal assistance. Does the modern profession pay more than lip-service to a tradition of pro bono work which provides access to justice to people who would otherwise go without? Can it do more, without letting government off the hook for properly-funded legal assistance to the poor?

This paper will analyse the reality of pro bono work in the face of economic pressures on law firms and the globalisation of legal practice, comparing the English and Australian experiences. It argues that the fundamental ethical obligation to do pro bono work remains critically important for lawyers today, alongside a growing level of unmet legal need for marginalised and disadvantaged people. It will highlight the significant strides taken in Australia over the past two decades, to build a collaborative law firm pro bono culture which is an active participant in the provision of legal assistance to the poor. This will provide useful lessons for other jurisdictions including in England, which are facing severe cuts to funding and the need to reconceive the relationship between

the private profession and the provision of pro bono legal services to the poor.

**Author:** Matthias Kilian

**Affiliation:** University of Cologne, Germany

**Title:** Lawyers: A Profession Turning into Accredited Legal Specialists? An Evaluation of the German Specialist Accreditation Scheme

When asked, two thirds of all German lawyers say that they are specialist lawyers. Specialization of service providers has been one of the most notable changes on the legal services market in the past decades. To react to this change, the German lawmaker introduced a system of specialist accreditation for lawyers on a limited scale in 1986 and rolled out a comprehensive scheme between 1997 and 2006. Today, lawyers can be awarded a specialist accreditation in 21 different areas of law and almost 50.000 accreditations have been awarded by the 27 regional bars. Two thirds of all young lawyers admitted to the Bar since 2004 have already earned a specialist accreditation or plan to do so in the near future. The paper reports on the findings of two quantitative studies with more than 5.000 German lawyers carried out by the author, half of them accredited specialists and half of them non-accredited specialists or general practitioners.

**Author:** Julija Kirsienė

**Affiliation:** Vytautas Magnus University, Lithuania

**Title:** The Role of Legal Ethics in Legal Education of Post-Soviet Countries: Lithuanian Case from Comparative Perspective

Because of Soviet legacy, lawyer ethics remains largely neglected at all levels of legal education in post-soviet countries. This is different from other countries where this course is compulsory for future lawyers. Partially because of this continuing record of neglect, post-soviet countries' population do not trust lawyers.

In global educational and other academic literature, much is being discussed about the methods of teaching ethics, and the place of ethical subjects in study programmes and assessment. Internalization of personal and professional morals is highly related to emotional and social intelligence. Also, human happiness and spiritual health are based on its values. Therefore, obtaining social-ethical attitudes and perspectives helps future lawyers to gain more trust in their professional identity and the correctness of their professional work.

Presentation will discuss whether regulation and practice of ethical training of future and already practicing lawyers in post-soviet countries are adequate and will suggest methods of internalizing morals as a part of the process of preparing new lawyers and lifelong education of practicing lawyers.

**Author:** Jennifer A. Kreder

**Affiliation:** Northern Kentucky University, USA

**Title:** *Portrait of Wally* and U.S. Museums Shift to the Offensive

Nazi-era art has plagued the art market, reaching a pinnacle in the aftermath of the 1998/1999 seizure of Egon Schiele's *Portrait of Wally* on loan from the Leopold Foundation in Vienna to the Museum of Modern Art in New York. Eventually, given the rise in claims, U.S. museums shifted to the offensive to file lawsuits against claimants on statute of limitations grounds. In my view, this contravenes the 1998 Washington Principles signed by forty-four nations committing to reach "just and fair" solutions in Nazi-era art disputes. The core of the Principles is that claims should be resolved on the historical merits, not simply be barred by applicable statutes of limitation.

The Principles mirror guidelines issued by the Association of Art Museum Directors and American Alliance of Museums. The issuance of the industry guidelines and congressional testimony of museum leaders led Congress not to regulate the industry after *Wally*. Now, U.S. museums have asserted technical statute of limitations defence to defeat claims, rather than allowing a neutral court or arbiter to evaluate historical evidence. New research, much never publicized, into previously classified archives gives an indication of how many of these artworks were purchased by American elites at auctions in Berlin and Switzerland and brought into the United States duty free. Despite some squeamishness expressed in old cables unearthed in recent years about turning art into armaments, the art often has been accepted by museums, resulting in a full-price tax deduction for the donor at expense to the American taxpayer.

**Author:** Tereza Krupova

**Affiliation:** Charles University, Prague, Czech Republic

**Title:** Legal Ethics as Part of Legal Literacy?

Teaching law to non-lawyers has been growing over the last years. All agree that having some basic legal knowledge is an immanent part of being educated. The question I would like to raise is what should non-lawyers know about ethics in lawyers work. As a teacher who teaches high-school students as well as university students I am always surprised to see and hear their opinion about lawyers and their behaviour. Sometimes I also use my own experiences as a lawyer to show students the real legal world and they seem to be shocked (especially cases of defending criminals).

In my opinion non-lawyers should be taught not only fundamental legal rules and methods of using norms in their everyday lives. The stress should be put also on what the legal profession is all about. As well as on why some lawyers behave in way

which “ordinary” people would describe as unethical.

My paper is based on research using questionnaires among non-lawyers. I focused on non-lawyers’ attitudes to lawyers and their ethics. The basic analysis of lawyers’ ethics presented in media is also part of the paper.

As lawyers we are responsible for the way the society perceives us. Therefore we should be able to describe non-lawyers that the point of our work is ethical although it is not always clear to everyone.

**Author:** Helen Kruse

**Affiliation:** Rhodes University, South Africa

**Title:** Travelgate Yesterday, Waterboarding Tomorrow? Government Legal Advisors and the Duty of Loyalty in South Africa

This paper considers the integrity of the role of state legal advisors, and how it is sometimes difficult for these advisors to separate their professional ethical obligations from the political objectives of the administration they serve – especially in South Africa.

In order to illustrate this, I consider the advice given by parliamentary legal advisors to two Parliamentary Committees on certain issues relating to the ‘Travelgate’ saga in South Africa during 2008/9. I approach this legal advice in much the same way as David Luban approached the so-called ‘torture memos’ of 2008, furnished by the US state legal advisors. While comparing the misuse of parliamentary travel vouchers and the use of torture techniques may not be clear from the outset, it is the legal advice pertaining to each situation that is relevant for this paper. Through this comparison, I attempt to show the ethical distortion that results when lawyers bring the neutral partisanship morality of courtroom advocates into the legal advisory role. Specifically, I focus on the legal gymnastics found in the ‘Travelgate’ opinion which, inter alia, advised Parliament to abandon all claims against its implicated members.

In considering the matter after the fact, I conclude with some thoughts on how to ensure the integrity of the role of state legal advisors in future settings.

**Author:** Elgiesz Krześniak

**Affiliation:** Squire Sanders, Warsaw, Poland

**Title:** Self-Regulation of the Legal Profession by National Bars - Will it shortly be just a Memory?

I would split the challenges the Polish Bar faced and still partially faces into local and global. The key local challenges are:

1. Economic transformation from the 1990s
2. Emergence of private businesses
3. Entry of foreign investors into Poland
4. Change in the tax system and introduction of VAT

5. Geographic shift

6. Poland’s accession to the EU related to the systemic change in the law

Both the legislature and the Polish Bar have coped relatively well with all these challenges - the emergence of new forms of practising the profession, training lawyers on EU law, admission of foreign law firms (this was still not clear in the mid-1990s, while today, some countries are introducing restrictions - such as Brazil), the appearance of a new profession - tax advisor.

However, the Polish Bar has not coped as well with the global challenges:

1. Deregulation of the legal profession (liberalization - reduction in services provided exclusively by licensed lawyers),
2. Convergence of the legal profession and other professions (multidisciplinary practice organisations)
3. Treatment of law as a normal business, not necessarily a vocation
4. Technology & “Tesco law”
5. Outside investments in law firms (Australian case)

The Polish Bar treats such challenges as a necessary evil rather than an opportunity for development. It responds after the fact, not before. Continuing this strategy in the longer term can end in political decisions depriving the Polish Bar of its powers and actually changing the model of practising the profession. Local national bars have experience in responding to emerging challenges and should use this experience to respond to challenges of a global nature.

If we do not change ourselves, others will do it for us.

**Author:** Gaye Lansdell

**Affiliation:** Monash University, Melbourne, Australia

**Title:** What do we want? What do we need? Do we even need it at All? Monash University Law Students’ Perspectives on their Preferences for Ethical Legal Education

The paper proposes to report on the interim results of a study currently being conducted at Monash University in Melbourne, Australia involving various cohorts of undergraduate and postgraduate students enrolled in ethics units such as Lawyers, Ethics and Society and Lawyer’s Responsibilities as to their views on what is required for an ‘ethical legal education’ in this era of globalisation and technological advances. The paper also reflects on some of the key impediments identified which impact on the capacity of instructors to imbibe the concept of ethical lawyering into the student psyche of some of the relevant cohorts. Issues include: student resistance to ethical education and the effect that prior inadequate courses can have on the overall perception of the usefulness of ethical

instruction at the university level. In addition, traditional ethics courses contextualise solicitors primarily as concerned with providing legal services within the private law firm. However, with increasing numbers of law graduates in Victoria and an expansion of employment opportunities into the corporate sphere as in-house counsel, the question arises as whether the time has come for university ethics courses to better prepare students to work in other areas of legal practice (including government and community legal centres) recognising that the private law firm may not be the employment pathway of choice for many students. The author believes this analysis is timely and ripe for further debate in an international context given the current reviews being undertaken into the content of legal education courses generally in Australia, the United Kingdom and North America.

**Author:** Wendy Larcombe

**Affiliation:** University of Melbourne, Australia

**Title:** Student Mental Health and the Ethics of Legal Education

Mental health is known to affect student achievement and graduate outcomes at all educational levels. And law students are known to experience high levels of psychological distress during their time in law school. For example, empirical research investigating the mental health and wellbeing of law students in Australia consistently finds that at least one in four students report very high levels of depressive, anxiety or stress symptoms. These levels of distress impair a person's daily functioning as well as learning and academic experience. High levels of psychological distress are also posited to negatively impact law students' ethical and professional development.

In that context, there have been a range of developments in Australia to encourage legal educators and law schools to create educational environments that support students' mental health and wellbeing. These include the adoption in 2013 of 'Good Practice Guidelines for Law Schools' by the Council of Australian Law Deans and the inclusion of a 'Self-management' standard in the 2010 Threshold Learning Outcomes for Law. This paper analyses support for the idea that law schools and legal educators have ethical responsibilities for law students' mental wellbeing, as well as voiced resistance to that idea.

**Author:** Jennifer A. Leitch

**Affiliation:** Osgoode Hall Law School, Canada

**Title:** Looking for Quality: Legal Ethics, Empirical Research and Access to Justice

Access to Justice remains one of the most contested issues on the law-and-society agenda. There has been continuing conceptual debate over its meaning, its objectives, and its success. Of late,

attention has turned to efforts to measure the impact and efficacy of different initiatives aimed at improving individuals' access to justice. However, the turn to more empirical-based research has raised some difficult challenges for researchers and lawyers in regard to legal ethics and access to justice. For example, the use of randomized studies in which legal outcomes are analyzed through the withholding or restriction of legal services to otherwise deserving clients in need raises unique ethical challenges for the clients and the lawyers who are asked to participate in these studies. Moreover, the examination of 'legal outcomes' as a means and standard for evaluating the efficacy of access to justice initiatives raises important questions about the appropriateness of this form of measurement and the professional integrity of participating lawyers. Related to this discussion is the concern that the results of this type of research will drive the development of particular kinds of legal services that may bring about questionable results: this will influence the type of advice provided as well as the role that lawyers play notwithstanding the needs of clients.

In this paper, I intend to canvass some of these issues and connect them to broader debates within access to justice and professional responsibility more generally. The ambition of the paper is to test both the boundaries of empirical research and legal ethics and professional responsibility within the context of access to justice.

**Author:** Leslie C. Levin

**Affiliation:** University of Connecticut

**Title:** The Character and Fitness Inquiry Reconsidered

Lawyers who engage in misconduct can do substantial harm. In an effort to screen out those who are "unfit" to be lawyers, U.S. bar examining authorities collect detailed personal information from bar applicants. The stated rationale for this "character and fitness" inquiry is that this information can be used to identify who will subsequently become a problematic lawyer.

Despite the history of discrimination associated with the character and fitness inquiry and the highly personal nature of the information requested, there has been only one systematic empirical study that attempts to test this assumption. That study suggests that the character inquiry is not well-suited to determine which bar applicants are likely to become problematic lawyers. This paper describes that study and other research that attempts to predict future wrongdoing in the professions. It also identifies future research that is needed and proposes alternatives to the current U.S. character and fitness inquiry.

**Author:** Katerina Lewinbuk

**Affiliation:** South Texas College of Law, USA

**Title:** There is no App for That: The Need for Legal Educators and Practitioners to Comply with Ethical Standards in the Digital Era

This Article addresses the tremendous impact that new advances in technology, leading to globalization and outsourcing, among others changes, had made on the legal profession as a whole and it also shows how these developments and changes are on-going and cannot be ignored. Delegated by the American Bar Association (“ABA”), Ethics 20/20 Commission put forth a substantial effort and took the time to educate and guide lawyers about potential ethical issues of which they need to be aware and prepared to face in light of these new challenges in the digital age and, to that end, it proposed specific revisions to the Model Rules of Professional Conduct and applicable Comments. It also provided specific examples and solutions on how an attorney can be proactive and equip one’s self and her law practice to continue zealously representing and protecting clients, as well as one’s self from exposure and liability. The Article specifically outlines and explains these recently proposed and accepted revisions and it focuses on the implications these changes have and will continue to have on practicing lawyers and law students explaining that one can no longer safely practice law the “old way.” In fact, the article argues that students and practitioners have no choice but to get “on board” with the new legal environment and regulation.

**Author:** Alex B. Long

**Affiliation:** University of Tennessee, USA

**Title:** Reasonable Accommodation as Professional Responsibility

The American legal profession has been slow to remove the barriers that exclude individuals with disabilities. As a result, people with disabilities remain underrepresented in the practice of law. While the Americans with Disabilities Act prohibits employment discrimination and requires employers to provide reasonable accommodations for employees with disabilities, there remain significant barriers to employment for lawyers with disabilities. This Article argues that the legal profession should view the legal requirements of reasonable accommodation and equal employment opportunities for lawyers with disabilities as fundamental components of professional responsibility and professionalism.

**Authors:** Anna Lund and Andrew Pillar

**Affiliation:** University of British Columbia, Canada

**Title:** How British Columbia Lawyers Define Pro Bono, Low Bono and Voluntary Work

Lawyers in Canada are encouraged to provide pro bono legal services, but no consensus exists about how much pro bono work lawyers should provide or what types of work qualify as pro bono. This research project examines this second source of uncertainty. Using in-depth qualitative interviews with a number of lawyers in the Canadian province of British Columbia, Pilliar and Lund are exploring how lawyers define the term “pro bono” with respect to different billing arrangements, types of services, clients, and sources of work. The Law Society of British Columbia requires practicing lawyers to report on the amount of pro bono work they have provided each year, and the results of this research project provide a useful tool for interpreting these statistics as it illuminates what types of work different lawyers are including in their reports. More broadly, the research project offers a window into how practicing lawyers think about pro bono work in the larger context of concerns about limited access to justice, high rates of professional dissatisfaction and attrition, generational conflicts amongst members of the bar, and changing views about the proper role of legal education.

**Author:** Anne Ruth Mackor

**Affiliation:** University of Groningen, Netherlands

**Title:** Against Codes with ‘Core Values’

In recent years Dutch codes of conduct for judges, prosecutors and advocates have been (re)formulated. The common denominator of these new codes is a change of focus from rules and principles to core values. In my presentation I discuss three questions.

First I offer an answer to the question how we can explain the change of focus from rules and principles to core values. Next I investigate the functions that ‘core values codes’ are presumed to fulfill and I discuss the question whether they can actually fulfill these functions. Finally, I discuss possible drawbacks of ‘core values codes’. In particular, or so I will argue, these codes pose a threat to the rule of law.

**Author:** Anne Ruth Mackor

**Affiliation:** University of Groningen, Netherlands

**Title:** Autonomous Judges and Reliable Fact Finding in Criminal Law

Judges are autonomous professionals ‘par excellence’. They are autonomous in the Kantian sense that they are reasonable moral subjects who can submit themselves to standards and who can account for their behaviour. Within the boundaries of law judges are autonomous when they interpret rules and qualify facts in the process of making decisions in individual cases. Moreover, judges are, again pre-eminently, professionals who can and should account for their behaviour, viz by offering reasons for their decisions.

However, it is remarkable, to say the least, that criminal judges have the greatest liberties when it comes to deciding on matters about which they are the least capable, viz the *reliability* of evidence. I deliberately use the term “liberty” instead of “autonomy” because we can even wonder whether criminal judges are able to operate as reasonable subjects, whether they can offer sound reasons for their decisions, given the fact that analysing and assessing the reliability of evidence is not part and parcel of their professional training.

The ethical questions are: should judges act upon their own conviction (as article 338 of the Dutch Code of Criminal Procedure tells them to)? Should they make up their own ‘reliability rules’? Or should they rely on the advices of experts and conform themselves to the scientific theories and the guidelines for reliable evidence that experts commit themselves to?

**Author:** Alexander Mak

**Affiliation:** University of Hong Kong, China

**Title:** Legal ethics in the Art world: reflections on and possible solutions to the global challenges of Art Fraud

Art fraud is a broad term that generally refers to the sale of fake art work. However, it can also refer to the inherent problems within the auction industry such as Action Rings, Bidders, Seller and Auctioneer Collusion, Bid Rigging, “Elegant Bribery” and Non-Payment. It is a world-wide phenomenon which has attracted attention from different jurisdictions. The main reasons contributing to the prevalence of art fraud have been that the art market is largely unregulated, there has been a lack of legal and ethical standards and, more importantly, there have been a lack of education on such standards. The speaker will first discuss the challenges posed to different jurisdictions, including a discussion of the art market in the Mainland China (PRC) as “PRC has surpassed the United States of America as the world’s biggest art and auction market”, according to a recent report by the New York Times.

The speaker will address the problems within the auction industry and issues involving forged expert opinion. There have been instances of forged expert opinions in Europe, such as the cases of Amedeo Modigliani and Christian Gregori Parisot. Existing legal regimes e.g. auction law will be evaluated. The speaker will also recommend reforms such as the legislative reforms in the auction law, the introduction of *Droit de suite* in the copyright law, government initiatives and self-regulations and promoting education on the legal and ethical standards.

**Author:** Sahar Maranlou

**Affiliation:** Brunel University, UK

**Title:** Forgotten Ethics in Iranian Legal Education

This paper is in relation to intersections across conference themes; mainly culture, society, ethics and legal Education. The presentation therefore weaves together these themes to understand their essentialist foundations to development of social justice values and the culture of human rights within Iranian society. The presentation starts with a short overview of legal education in Iran. It underlines that law schools do teach about justice and ethics poorly or not at all. Although there is a growing numbers of law schools and law students yet legal education has stayed unchanged; same course design, same delivery of instruction, and same assessment of student learning for the past years. The presentation then attempts to underline the compelling need to change legal education in the Islamic Republic by looking at contemporary Iran. It outlines some of the main challenges and discusses limitations and opportunities by religion, culture and political power in this regard.

**Author:** Milan Markovic

**Affiliation:** Texas A&M University, USA

**Title:** Subprime Scriveners

Although mortgage-backed securities (“MBS”) and other financial products that nearly brought about the collapse of the global financial system could not have been issued without the involvement of attorneys, the legal profession’s role in the financial crisis has received relatively little scrutiny.

This Article focuses on lawyers’ preparation of MBS offering documents that misrepresented the lending practices of mortgage loan originators. While attorneys may not have known that most MBS would become toxic, they lacked incentives to inquire into the shoddy lending of prominent originators such as Washington Mutual Bank (WaMu) when they and their clients were reaping significant profits from MBS offerings. Ethical rules and Securities and Exchange Commission (“SEC”) regulations also discourage attorneys from investigating claims in offering documents.

The subprime era illustrates that attorneys are not reliable gatekeepers of the financial markets because they are increasingly unlikely to evaluate the legality of the transactions they facilitate. The Article concludes by proposing that the SEC impose heightened investigative duties on attorneys who work on public offerings of securities.

**Author:** Milan Markovic

**Affiliation:** Texas A&M University, USA

**Title:** Disruption Rhetoric and the Market for Legal Services

A number of scholars have contended that the legal services market is undergoing unprecedented change. Relying on Harvard Business School Professor Clayton Christensen’s theory of disruptive innovation, they have suggested that lawyers and law firms cannot compete with

technology-savvy new entrants that are able to deliver legal services more cheaply and efficiently. The recent worldwide recession, it is claimed, only expedited this process.

This Article accepts that the legal services market is evolving and that technology will play an important role in this market's future. However, proponents of disruptive innovation in the law often do not use the term in the sense intended by Christensen and are able to marshal only weak evidence that the legal services market is being disrupted. The legal disruptionists also overestimate the degree to which legal services can be automated or outsourced while downplaying ethical considerations that help to justify restrictions on the delivery of legal services by non-lawyers.

**Author:** Lynn Mather

**Affiliation:** SUNY Buffalo Law School, USA

**Title:** Litigation Ethics

Analysis of a survey data from American lawyers across areas of practice reveals a difference in perceptions of "ethical conduct" according to whether or not lawyers are engaged in litigation. Those who rarely litigate but instead do, for example, transactional or advisory work, are much more likely to report that lawyers in their field are highly ethical in their conduct, whereas those who do litigation report lower scores for ethical conduct. This pattern is consistent across all lawyers (close to 6,000 in the sample), all corporate lawyers, and for lawyers in specialties such as intellectual property or securities. This paper will present the results, explore possible explanations, and consider the implications of them.

**Authors:** John O. McGinnis and Russell Pearce

**Affiliation:** Northwestern University and Fordham Law School, USA

**Title:** The Coming Disruption of Law: Machine Intelligence and Lawyers' Diminishing Monopoly Power

The relentless growth of computer power in hardware, software, and data collection capacity means that superstars and specialists in fast changing areas of the law will prosper — and litigators and counselors will continue to profit — but the future of the journeyman lawyer is insecure. These developments may create unprecedented competitive pressures in many areas of lawyering and bar regulation will be unable to stop such competition. The legal ethics rules permit, and indeed where necessary for lawyers to provide competent representation, require lawyers to employ machine intelligence. Even though unauthorized practice of law statutes on their face prohibit nonlawyers' use of machine intelligence to provide legal services to consumers, these laws have failed, and are likely to continue to fail, to

limit the delivery of legal services through machine intelligence. In the long run, the role of machine intelligence in providing legal services will speed the erosion of lawyers' monopoly on delivering legal services and will advantage consumers and society by making legal services more transparent and affordable.

**Author:** Helen McGowan

**Affiliation:** The Australian National University, Australia

**Title:** Phronesis and the Navigation of Conflicting Interests in Small-Scale Country Legal Practice

This paper shares the Fullerian framework used to understand the ethical world of Australian country lawyers. As part of her PhD research Helen is exploring how country lawyers recognise and resolve conflicts of interest. In a time of regulatory change, legal practices are adopting management systems to address perceived risks to ethical practice. Perhaps an unintended consequence of this development is a retreat from the exercise of nuanced professional judgment. Paradoxically, the Australian regulatory approach is moving away from prescriptive rules towards ethical principles. This change suggests the need for effective ethical judgment beyond compliance with positivist rules. A philosophical understanding of legal ethics reveals the underlying influences on a lawyer's ethical judgment. This paper uses Fuller's concept of the 'purposive professional' tasked with bringing the purpose of the law into being, in order to understand country lawyers' ethics. Fuller's purposive lawyer contrasts with a positivist, rule based approach to ethics. The purposive lawyer reflects 'phronesis' or the centrality of practice wisdom in legal ethics. Informed by the research data, these philosophical concepts of purposive professionals and phronesis assist to describe and analyse influences on country lawyers' ethics.

**Author:** Judith McMorrow

**Affiliation:** Boston College of Law, USA

**Title:** Alternative Business Structure Law Firms: Emerging Models

In 2012, the UK Solicitor's Regulatory Authority (SRA) began authorizing Alternative Business Structure (ABS) law firms, which allows non-lawyer partners and investors. Over 200 ABS firms have now been authorized by the SRA, providing an increasing number of creative financing and business models. This paper will explore both the early trends in ABS firms and offer several case studies. The ABS firms will be examined with an eye toward the impact new models might have on lawyer performance, both in terms of independent judgment and efficient provision of quality legal services. [NOTE: If other presenters are exploring ABS firms, I can tailor this to a single theme or model.]

**Author:** Judith McMorro

**Affiliation:** Boston College of Law, USA

**Title:** Lawyer Discipline in China -The Role of Fee Regulation

Fee regulation is a common aspect of lawyer regulation around the world. Zhejiang Province in China is one of the few provinces that publish lawyer discipline cases. The most common basis of discipline in Zhejiang is fee issues. This paper will explore the emerging data, offer some preliminary thoughts on the role that fee regulation appears to play in lawyer discipline in China. Fee issues can be driven by client protection concerns, firm concerns (preventing lawyers from billing outside the formal firm billing), licensing concerns (if firm licenses are based on their total billings, government may have an incentive to assure that all billing occurs through the firm), desire to control corruption, or may be a proxy for other issues.

**Author:** Igor Milinkovic

**Affiliation:** University of Banjaluka, Bosnia-Herzegovina

**Title:** Where are the Borders of the Acceptable Lawyer's Paternalism? A Client's Informed Consent in Bosnia and Herzegovina

The principle of the patient's informed consent, which requires a patient's fully-informed consent prior to the medical treatment, is closely connected with the value of human dignity. To deny a patient the possibility of making rational and appropriate choices about his health means to deprive him of his personal autonomy (i.e. his basic dignity). Similar could be said for the lawyer-client relations. The protection of the client's autonomy requires that he has the last word on the objectives and course of representation. However, as the providers of legal help lawyers are often confronted with unrealistic, subjective and even dangerous clients' expectations. Is it morally acceptable for a lawyer to avoid client's wishes, even if these wishes may seriously undermine client's chances for a successful result? In the first part of the paper, the ethical importance of the client's informed consent doctrine will be explained (the preconditions of the client's autonomous decision making will be explored as well). Then, the different forms of paternalism will be analysed in the context of the lawyer-client relations. Finally, the valid legal regulations in Bosnia and Herzegovina (its component units: Republic Srpska and the Federation Bosnia and Herzegovina) will be analysed, as well as some questions related to their implementation.

**Author:** Selene Mize

**Affiliation:** University of Otago, Dunedin, New Zealand

**Title:** Flipping the Legal Ethics Classroom

For part of my 2013 Legal Ethics course, I moved all expository content outside class, giving students traditional cases and course materials to read, and I also provided substantive handouts, and video clips to watch. This process, known in education literature as "flipping", is considered to have advantages for learning, and it freed up class time for more innovative activities. In one class, for example, a teaching fellow and I played clients who showed up at a lawyer's office asking to be represented jointly. The class had to interview us and then advise us whether joint representation would be consistent with the professional rules of conduct.

Flipping has a number of potential advantages for legal ethics instruction. It forces students to be more active in class, potentially resulting in deeper learning, and it directs student focus onto application of ethical principles in practical situations, thus potentially having greater influence on students' later professional careers.

In this session, I will briefly cover the theory behind flipping and its advantages, and discuss my experience and lessons learned, and how I will modify my approach in 2014. I will show some short animated clips illustrating legal principles that I made for students to watch outside of class, and discuss activities for in class and outside class. Plenty of time will be reserved for group discussion.

**Author:** Freddy Mnyongani

**Affiliation:** University of South Africa, South Africa

**Title:** Can Virtue be Taught? Reflections on Teaching Legal Ethics in South Africa

Whether virtue can be taught or not, is an old philosophical problem which has over the centuries occupied the minds of philosophers. For instance, in the dialogue between Meno and Socrates, Meno asks, "[i]s virtue something that can be taught? Or does it come by practice? Or is it neither teaching nor practice that gives it to a man (*sic*) but natural aptitude or something else?" This question, asked centuries ago, should continue to behave us as we teach ethics. In South Africa, it has become a practice for most professions to demand that the new members entering the profession should do a compulsory course in ethics, and the legal profession is no exception. This paper seeks to wrestle with Meno's question and then proceed to the challenges of teaching legal ethics in South Africa today.



**Author:** James Moliterno

**Affiliation:** Washington & Lee University, USA

**Title:** Is There Hope for the Self-Regulation of the American Legal Profession?

My recent book, *The American legal Profession in Crisis: Responses and Resistance to Change* (Oxford 2013) examines the reaction of the American legal profession to self-diagnosed crisis. During eight sometimes-interconnected periods since the early 20<sup>th</sup> Century, the American legal profession has declared that it was in crisis. Its repeated response to crisis was to resist change and attempt to remain the same, against all odds and against the flow of surrounding changes in culture, economics, technology, and globalization. Of course, each time the American legal profession has lost in its effort to remain the same. In this paper and presentation, I will discuss what must change in the legal profession's change-game if it is to survive in something resembling its present form.

**Author:** James Moliterno

**Affiliation:** Washington & Lee University, USA

**Title:** Why Lawyers Do the Ethical Things They Do?

Since the early 1990s, when David Wilkins published his influential paper *Who Should Govern Lawyers* in the *Harvard Law Review*, legal ethics scholars and teachers have paid attention to the range of processes and devices that govern lawyer behaviour. In this paper, I will report on the results of a study currently underway that seeks to provide empirical evidence to answer the question posed in this proposal's title. Do lawyers train staff in confidentiality preservation because they fear bar discipline? Because they fear malpractice liability? Because they must comply with malpractice liability carrier demands? Because they honour client confidences for their own value and wish to protect them? Because the market forces them to do so? Because it is the right thing to do? The same, or similar, sets of questions may be asked about establishing conflict check procedures, devising their marketing to stay within norms, charging reasonable fees, and other professional ethics-related actions by lawyers. To gather data on these issues, I am conducting a survey of the bars of Florida and Virginia and will present on the findings.

**Author:** Jane Campbell Moriarty

**Affiliation:** Duquesne University, USA

**Title:** Losing Faith: The Ministers of Justice and the Prosecutorial Mind-set

US prosecutors have an obligation both to prosecute crimes and to act as ministers of justice. While these dual roles are often complementary, at times they are in contraposition. For example, prosecutors have proposed legal arguments that

suggest conflict between their dual roles, urging courts to:

- approve the admission of unreliable scientific evidence in court;
- approve the execution of juveniles and the mentally ill;
- uphold requirements that defendants waive important rights prior to plea-negotiation discussions;
- uphold the legality of humiliating personal searches with very low levels of proof; and
- dismiss defendants' claims despite ample proof of innocence.

This paper focuses on (1) how the prosecutorial mindset may affect one's conception of justice; and (2) why it might be impossible for prosecutors to both litigate and examine their positions critically—something asked of no other advocate. The article hypothesizes that exposure to a constant stream of criminal wrongdoing may create an incremental callousness resulting in a binary world view of "them" and "us." Such a view may spur prosecutors to argue for positions that seem unjust to many but appropriate to prosecutors.

Additionally, much scholarship suggests numerous reasons why the dual role is problematic: cognitive bias, loyalty, workplace incentives, power imbalances, the nature of litigation, the likelihood of success in court, and the honest belief that defendants are guilty.

This article explores these two interrelated concepts and considers ways to address the concerns raised, also discussing whether legal systems outside of the US might provide helpful insights.

**Author:** Reid Mortensen

**Affiliation:** University of Southern Queensland, Australia

**Title:** Conflicting Duties, Conflicting Interests, Conflicting Values

The paper explores the extent to which lawyer conduct rules that prohibit representation of multiple clients (whose interests potentially conflict) can be eased without compromising the rule of law. The focus is on the rules relating to concurrent conflicts between the interests of different clients (past, present or potential), although the scholarship on consecutive conflicts will help the analysis.

In recent times, a professional consensus in Australia of the importance of the conflict rules has been fragmenting and weakening. Large law firms, community legal centres, Legal Aid Offices, and regional and rural lawyers have either lobbied or expressed a need for a revision of the conflict rules. The instability in the legal profession's views about the conflict rules has even had its effect in the ambiguous expression of the conflict rules now found in the *Australian Solicitors Conduct Rules*.

In light of the professional fragmentation of support for the conflict rules, the paper will consider the competing range of interests and values that are in play in the shape of the conflict rules – access to law, lawyer remuneration, partisanship, client choice, client profile (‘the sophisticated client’) – and the extent to which they can be reconciled with the rule of law.

**Author:** Chantal Morton

**Affiliation:** Melbourne University, Australia

**Title:** Judicial Attitudes to the Ethics of Writing Judgments

In Australia, the importance of plain writing in legislation is well documented and seen as a fundamental aspect of access to justice. However, the discussion around the importance of plain (or clear) writing rarely turns to judges and judgment writing in the common law legal systems and, when it does, we rarely hear the voices of judges themselves. This research project will listen to judges in Australia in order to identify what they imagine to be their professional and ethical responsibilities in writing judgments. The project reaches beyond the issues related to clear writing to ask whether there are additional ethical responsibilities – for example: are there limits to how pleadings/facts are incorporated into a judgment? How should incompetence of counsel be addressed in the reasons? Is it appropriate for judges to use a judgment as an opportunity to explore their literary ambitions? Should judges refrain from using humour/sarcasm? This paper will present the preliminary results of the conversations with the judges and identify the key themes identified through the research.

**Author:** Katie Murray

**Affiliation:** University of Southern Queensland, Australia

**Title:** The Professional Ethics of Christian Lawyers  
There is a growing body of normative literature about the ethical deliberation of lawyers, including how the personal values of lawyers should or should not influence their ethical decision making in legal practice. A significant amount of this literature (both scholarly and popular) has been written from a Christian perspective, dealing with how lawyers of the Christian faith ought to reconcile their personal values with their professional role. Linked to this is a growing body of empirical research about lawyers’ ethical deliberations in practice.

This presentation will explore some of the key themes from the body of normative literature, and will then consider the responses of a group of Christian lawyers about how they negotiate between the ethical worlds of faith and legal practice, and their views about some of the key themes from the normative literature. These

responses have been obtained as a part of ongoing Doctoral research which aims to examine and assess how the personal values of lawyers of the Christian faith affect their ethical decision making in legal practice.

**Author:** Carol A. Needham

**Affiliation:** Saint Louis University, USA

**Title:** Exercising Independent Professional Judgment in a High-Volume Legal Practice

This paper addresses key normative questions related to the practice of law: In these days of digitized information, in which some lawyers’ only contact with their clients is through a narrow interface in which the lawyer is penalized for taking more than fifteen minutes to review a file, how do lawyers exercise independent professional judgment? When performing commoditized legal work, how do legal services providers ameliorate the systemic pressures for faster service and reductive outcome measures? Cautionary tales are emerging from evidence developed in connection with both criminal cases and civil litigation which reveal significant shortfalls in current structures in which services are delivered. Lawyers representing a number of creditors seeking judicial foreclosure in North American jurisdictions, for example, have submitted patently baseless documentation to courts, including robo-signed, forged and surrogate-signed affidavits. This paper assesses the role of regulation in ensuring that lawyers are able to resist client pressures in order to exercise their professional judgment. It also discusses ways to prepare law students to better handle these practice settings by incorporating a specific set of experiences into legal education, particularly in skills-developing courses and experiential learning opportunities.

**Author:** Marina Nehme

**Affiliation:** University of New South Wales, Australia

**Title:** Sanctions Available to the Solicitors Regulation Authority: Do they Achieve their Objectives?

Sanctions are the cornerstone of any regulatory system. They can act as a catalyst to ensure that laws are complied with because they enable law enforcers to promote desired behaviour and punish undesirable acts. The threat of a sanction may be an incentive towards improved outcomes and compliance with the rules. As such, the Solicitors Regulation Authority (SRA) has been provided with sanctions that may allow it to:

- stop conduct that presents a risk to the public;
- deter people from breaching the core principles and regulatory requirements;
- promote compliance; and

- remove solicitors who represent a serious risk to the public.

However, the available sanctions may fall short from achieving these aims. Accordingly, this paper reviews the sanctions available to the SRA and puts forward a proposal on how such a system may be enhanced. This will be achieved through a comparison between the sanctions available to the SRA and the sanctions available in other jurisdictions aimed toward promoting compliance with ethical requirements in the legal profession.

**Authors:** JoNel Newman, Melissa Swain and Donald Nicholson

**Affiliation:** University of Miami, US and University of Strathclyde, UK

**Title:** Teaching Legal Ethics and Professionalism through Clinical Self-Reflection

For some time now, ethical and professional educators have drawn on philosophy, psychology and educational theory to argue that one of, if not *the* most, effective means of teaching legal ethics is through immersion in and reflection on, ethical dilemmas arising out of real-life legal experiences in live-client law clinics. Unfortunately, empirical evidence supporting this theoretical position has thus far been elusive.

This panel will provide evidence of the alleged “clinic effect” drawn from the narratives of student journals and self-reflection memoranda that demonstrate longitudinally their progress towards identifying and resolving ethical issues and their development of professional values. The journal evidence comes from two very similar legal clinics: the University of Strathclyde Law School in Scotland and the University of Miami Law School in the United States. Both are designed to maximise the provision of direct legal representation to impoverished clients and hence have high case loads. Both also emphasise the learning of professional and ethical values and judgment through guided self-reflection in which students identify and reflect in writing on the moral, ethical and professional issues they have faced during their clinical experiences. At the same time, differences in the length of clinical experience between the two law clinics and the age of the students involved allow for an examination of whether these factors affect the impact of ethical development.

**Author:** Michael C. Ogwezzy

**Affiliation:** Lead City University, Ibadan, Nigeria

**Title:** Unethical Conduct that Sabotages the Legal Profession in Nigeria

The legal profession in Nigeria has survived for over five decades with varying experiences in the maintenance of etiquette among its members. Like other countries of the world, Nigerian Lawyers are guided by set of rules of professional conduct for which they are bound to respect. In recent times,

lawyers in Nigeria have been accused, arraigned and disciplined for unethical behaviours that are incompatible with the noble profession. Lawyers have been involved in converting client’s money and property in their possession for personal use; trust properties professionally entrusted to lawyers have been converted or co-mingled with theirs, and used as same in clear breach of the Rules of Professional Ethics. There have been cases where the interest of clients has been compromised by lawyers for monetary reward by disclosing to the opposing parties confidential information given by their clients without their express permission or implied consent. Other decadents in the profession range from lawyers instigating litigants, visiting clients in their homes and official work places to accept briefs and discuss legal transaction even when the client is not indisposed or prevented due some special circumstances. These issues are now assuming a worrisome dimension in the legal profession in Nigeria and will be discussed in the course of this conference. Furthermore recommendations will be proffered as a means of reversing this ugly trend to save the noble profession from losing its cherished values before other professions and member of the society.

**Authors:** Amari Omaka, Rose Nwali, Faiza Haswary, Omar Maniar, Nirmal Upreti and Manju Gautam

**Affiliation:** Ebonyi State University, Ebonyi State Government, Nigeria, Hamdard School of Law, Pakistan, Nepal Law Campus and Kathmandu School of Law, Nepal

**Title:** Code of Conduct and Ethical Challenges of Law Students Assisting Prisoners in Nigeria, Pakistan and Nepal

Due to the challenge of prison congestion and criminal justice rot in Nigeria, Pakistan and Nepal, and the failure of relevant agencies to surmount it, Law Clinics in these countries have joined the crusade of prison sensitisation and decongestion. As part of the functional legal education objective of the Faculty of Law Ebonyi State University (EBSU) and Hamdard School of Law, their law clinics have significantly geared its operations to prisons/criminal justice administration. The relevance of the knowledge of ethics in prison to law students and other prison visitors cannot be overemphasized. Prior to accessing the prisons for legal aid (in Nigeria) or for street law (in Pakistan) and in Nepal, certain ethical rules and codes of conduct must be imbibed by the students. Ethics in prison exposes one to the “dos’ and ‘don’ts in the prisons. Hence, visitors to prison for interview or allied prison works should take notice of global prison best practices and ethics guiding prisons. In most prisons such codes are observed and circulated, while in some they are mere codeless moral ethical principles to be respected. The paper

generally aims at identifying the particular ethical challenges that arise for students conducting real life prison access to justice programme in the case of Nigeria, and conducting Street Law or legal awareness sessions with prison populations, with a particular focus on working with juvenile detainees and the peculiarities of working within a corrupt criminal justice system in Pakistan and possibly in Nepal.

**Author:** M. Levent Ozgonul

**Affiliation:** Akdeniz University, Turkey

**Title:** The Concept of Medical Error in Turkey

**Background:** There are extensive studies on the concepts of “medical errors”, “malpractice” and “complications”. It must be underlined that discussions on these concepts are relatively new in Turkey. **Aim:** This research had two purposes. First is to reveal how Turkish physicians and lawyers define basic concepts such as medical error, malpractice and complications. Second purpose is to investigate all aspects of medical errors in Turkey and to discuss the outcomes in terms of medical law and ethics. **Methods:** Both quantitative and qualitative data were gathered on these purposes. In quantitative part, a 13 question survey was delivered to the study group (230 lawyers and 205 physicians) to reveal how they define some basic concepts mentioned above. In qualitative part, face to face interviews were performed with 15 experts of the field who had previously studied on the subject.

**Results:** Malpractice and medical error are not properly defined in our study group. Prober definitions are more frequent among experts.

In both qualitative and quantitative parts, the participants believe that the frequency of medical errors are high; the errors generally occurs due to inadequacy of the medical system; physicians generally do not confess the errors to the patients; the legal process is still not well defined for malpractice claims; there is need for improvements in working conditions in healthcare services in order to prevent the medical malpractice cases.

**Conclusion:** Physicians and lawyers should get training to better understand some basic concepts. Improvements in health system and law are needed to implement principles of the issue.

**Author:** Stephen G. A. Pitel

**Affiliation:** Western University, Ontario, Canada

**Title:** Judicial Fundraising in Canada

The extent to which judges should be involved in fundraising for civic and charitable causes is an important issue of judicial ethics. The default rule adopted by judicial councils in Canada precludes judges from fundraising subject to only minor exceptions. Yet anecdotal evidence indicates that Canadian judges fundraise in breach of this rule. This raises the question of whether there should be

a change to the rule so as to allow judges greater scope for fundraising activities. The aim of this paper is to review the ethical rules for judicial fundraising and evaluate whether they require modifications for the modern Canadian judiciary. As comparative law the paper will look at the law in the United States, the United Kingdom and Australia.

**Authors:** Stephen G. A. Pitel and Sara L. Seck

**Affiliation:** Western University, Ontario, Canada

**Title:** The Role of Lawyers under the UN Guiding Principles on Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights are a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. For the purpose of lawyers’ ethical obligations, the Guiding Principles are not laws in the same sense as statutes or jurisprudence. But this is far from saying that they are purely aspirational and can simply be ignored. The Guiding Principles are understood to require all businesses, regardless of size, to respect all human rights. The aim of this research project is to explain and analyze the nature of the Guiding Principles and assess their impact on Canadian lawyers. Questions to be considered include (i) whether it would be professional negligence not to take appropriate account of the Guiding Principles in advising clients and (ii) whether it would be an ethical breach to advise a client to breach the Guiding Principles or to assist a client in such a violation.

**Authors:** Marnie Prasad and Mary-Rose Russell

**Affiliation:** Auckland University of Technology, New Zealand

**Title:** Professional and Ethical Challenges for Criminal Lawyers in the Changing Environment of Legal Representation: A New Zealand Perspective

Just as the courts depend on lawyers in the administration of justice, the public also depends on them to provide access to justice. Given the monopolistic position of the legal profession, this social role is fundamental. In the words of one judge, what marks out a profession is “the subordination of personal aims and ambitions to the services of a particular discipline and the promotion of its function in the community”.

Access to justice may be threatened by fiscally-driven regulatory change, and the ideal of professionalism strained. Stakeholders in New Zealand’s criminal justice system have been confronted in recent times with significant restructuring in the delivery of legal services, as successive governments have faced the conflicting aims of balancing budgets and maintaining the protection of citizens’ rights.

This paper discusses the changing environment of legal representation and access to criminal justice

in New Zealand, especially for those who are confronted with socio-economic barriers to legal services. It considers the professional and ethical challenges criminal lawyers face in the shifting criminal justice landscape and raises questions about the cost of criminal legal services, legally-aided representation, professionalism and the ideal of public service, and the place of pro bono work.

**Author:** Austin Pullé

**Affiliation:** Singapore Management University, Singapore

**Title:** Multi-Jurisdictional Practice in Singapore and Corrupt Transactions: Ethical Challenges

Foreign and local lawyers in Singapore must be alert to involvement in corrupt transactions in other Asian countries. Indices regularly rank Singapore as one of the least corrupt countries in the world but award failing grades to most Asian countries. Transactions with these countries is a fact of life. Every two weeks there is a case opened against a company somewhere in the world for international corruption in the Asia Pacific region. A lawyer would probably encounter a corrupt commercial transaction in the course of her work as a cross-border lawyer in Singapore. A lawyer engaged in such cross-border transactions exposes herself and her client to a range of professional and criminal sanctions. The Singapore Legal Profession Act requires a court to disbar any lawyer who engages in conduct considered "grossly improper". Singapore's law broadly criminalize overseas bribery and its abetment. When representing American, British or Singaporean clients, the lawyers would have to consider the extensive sweep of these statutes with the Singapore and British statutes not excepting "grease payments" from liability. The UK statute imposes liability for the conduct of "associated persons". Moreover, the professional codes applicable to American and British lawyers contain provisions that require lawyers not to assist in illegal transactions. The presentation will cover some of the legal and ethical issues that confront a Singapore based lawyer advising on Asian cross-border transactions.

**Author:** Mitt Regan

**Affiliation:** Georgetown University, USA

**Title:** Confidence Games: Lawyers, Accountants and the Tax Shelter Industry

For most of the twentieth century, there was a general consensus within the elite tax bar in the United States that advice to clients should be tempered by concern for the integrity of the larger tax system. By the end of the century, the involvement of tax lawyers from elite law and accounting firms in the largest wave of abusive tax shelters in U.S. history revealed that this consensus had eroded. Fierce competition among law firms, and between law firms and accounting firms,

placed pressure on informal professional norms and prompted more aggressive efforts to reduce the tax obligations of clients.

The regulatory response to these events has been the criminal prosecution of more than two dozen lawyers and the enactment of more stringent rules that purport to limit tax advisor discretion. Providing tax advice, however, ineluctably requires the exercise of considerable judgment that eludes precise formulation. Furthermore, much of the sense of ethical obligation among members of the tax bar historically has been dependent on the adoption of a certain disposition towards tax practice, rather than simply the desire to avoid sanctions. Relying solely on informal professional norms no longer is realistic under the conditions of modern tax practice. A regulatory system based principally on deterrence, however, may risk undermining the conditions that allow tax lawyers to cultivate a sense of ethical judgment. This paper examines the extent to which it is feasible to rely on a balance of both instrumental and aspirational approaches in regulating tax lawyers.

**Author:** Dana Remus

**Affiliation:** University of North Carolina, USA

**Title:** The Dangers of Deregulation

Proposals for partial or complete deregulation of the legal profession tend to proceed by reference to one hemisphere of the profession or the other. For example, proposals to permit limited licensed practitioners to perform basic legal tasks are offered and discussed in the context of low income individuals who lack access to legal services. Proponents contend that lay practitioners will offer these individuals services that are of equal or better quality than those of a lawyer at a much lower price. Proposals to relax conflicts of interest rules, in contrast, are offered and discussed in the context of corporate representation. Proponents contend that the repeat-player clients of the corporate hemisphere are sophisticated enough to determine for themselves the level of risk they want to tolerate with respect to conflicts. I argue that we cannot understand and evaluate any proposal for relaxation of the profession's ethics rules without considering its impact, direct or indirect, on both of the profession's hemispheres. This broader analysis shows that proposals for deregulation may exaggerate and further entrench the existing wealth and power disparities between the clients of the two hemispheres.

**Author:** Deborah Rhode

**Affiliation:** Yale University, USA

**Title:** Rethinking the role of Non-Lawyers: Restructuring Legal Education and Legal Practice

This paper explores the barriers to reforming the American legal profession and argues for a greater role for non-lawyers in the delivery of legal

services—a reform difficult to achieve under the current framework. From a regulatory standpoint, the American bar is in some sense a victim of its own success. In no country has the legal profession been more influential and more effective in protecting its right to regulatory independence. Yet that success, and the structural forces that ensure it, have also shielded the profession from the accountability and innovation that would best serve public interests. Those interests call for a greater role for non-lawyers in delivering routine legal services and in financing law firms. The paper explores the need for licensing such non-lawyer providers and for a more flexible structure of legal education with one and two year, as well as three year degrees, to train these paraprofessionals.

**Author:** Enrica Rigo

**Affiliation:** University of Rome, Italy

**Title:** Judging Histories: An Empirical Study of Judicial Decisions Regarding Migrants in Italy

This paper is based on preliminary findings from a six-month period of the systematic monitoring of activities and decisions of the Justice of the Peace (JP) in migration matters in Italy. The research regards a range of critical issues, from the regulation and organization of duties to the consistency of JPs' judgments with the European legal framework and the Constitutional limits as defined by national higher jurisdictions.

JPs were introduced into the Italian judicial system in 1991 as non-professional judges strongly rooted at a local level. Since 2004 they have been designated the competent authority in judicial procedures regarding the expulsion and detention of migrants. The paper questions whether and to what extent a specific conception of justice emerges from JPs' activities and decisions when the rights "of others" are at stake.

**Author:** Robert Eli Rosen

**Affiliation:** University of Miami, USA

**Title:** Holmesian Legal Ethics: The Autocrat of Legal Culture

This paper examines the relationship between legal positivism and legal culture. It is distinctive in that it accords vitality to the client's legal culture. It takes as given the primacy to the client of their own legal culture and the primacy to the lawyer of legal positivism. The lawyer, but not the client, I argue, is enjoined to look at law as "a bad man (or woman)." The lawyer is independent from the client. And, the client is also independent from the lawyer and the law's view of itself. The client is under no obligation to reject their own legal culture. Oliver Wendell Holmes' legal positivism, then, is advice for the lawyer. The development of the law is "experience," which includes client legal cultures confronting the bad man's culture.

**Author:** Amy Salyzyn

**Affiliation:** Yale Law School, USA

**Title:** The Ethics of Demand Letters

Lawyers regularly send demand letters as a precursor to commencing civil proceedings. In many cases, a demand letter will lead to the early resolution of a dispute and the avoidance of protracted, expensive litigation. As such, demand letters can be helpful tools that facilitate the effective administration of justice. Demand letters can also, however, be used in an abusive manner. In recent years, a certain sub-set of demand letters—civil recovery letters sent from retailers to suspected shoplifters or their parents—have come under significant public criticism. These letters are the focus of a research project that I am conducting with support of the 2013-14 OBA Foundation Chief Justice of Ontario Fellowship in Legal Ethics and Professionalism (Fellowship in Studies). This project involves an empirical study of the use of civil recovery letters in Ontario; an exploration of the arguments for and against greater regulation; and specific policy recommendations.

**Author:** Michael Santoro

**Affiliation:** Rutgers Business School, USA

**Title:** ABA Model Rule Amendments Adopted on Commission 20/20's Recommendation: A New Standard of Technological Competence for Attorneys?

In August 2009, then ABA president Carolyn B. Lamm created Commission on Ethics 20/20, a three-year study of how globalization and technology are transforming practice of law and how regulation of lawyers should be updated in light of those developments. The Commission's Recommendations were adopted by the ABA Board of Delegates in August 2012 and January 2013. One of the most far-reaching and possibly unintended consequence of the reforms to the Model Code of Professional Responsibility was the extension of the meaning of lawyer competence.

Among other relevant changes, Comment 6 to Rule 1.1 was amended to state that: "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject." (Emphasis added)

While the presumed narrow intent of this and other related changes to the Model Rules was to require lawyers to maintain technical competence in confidentiality issues arising from storing electronic client data on the cloud or with third party storage providers, the report accompanying the proposed changes adopted by the Board of Delegates was not so clear that the need to be technically competent was limited to

confidentiality and storage issues. This paper examines the other potential components of an emerging standard of technical competence—in factual and legal research, time management, docket management and other matters.

**Author:** Philip G. Schrag

**Affiliation:** Georgetown University, USA

**Title:** The Unethical Ethics Rule: Ways to Fix Model Rule of Professional Conduct 1.8(e)

Professors Jack Sahl and James Moliterno have previously decried Model Rule 1.8(e), which bars lawyers from making loans or gifts for necessities such as basic housing expenses to their clients—even indigent clients—in connection with their representation of those clients. The rule is a cruel restriction on access to justice. Its origins in the doctrines of champerty and maintenance have been rejected in other contexts such as the rules permitting lawyer advertising. Rationales based on purported conflicts of interest are inconsistent with our tolerance of contingent fees. Justifications based on avoiding competition among lawyers are both outdated and inapplicable to pro bono cases. And if the real purpose of the rule is to give lawyers an excuse for rejecting requests for help from their clients, it is obviously self-serving.

But the rule remains. The authors of the Model Rules retained most of the prohibition as stated in the Model Code. Neither the Ethics 2000 Commission nor the Ethics 20/20 Commission have sought to do away with them. The Sahl and Moliterno critiques called for the rule's repeal, to no avail.

In view of this persistence, the American Bar Association and the state courts should consider modifications to Rule 1.8(e) if they are unwilling to repeal it outright. A small number of states have indeed adopted variations that are less draconian than the Model Rule. My paper will suggest several stopping points short of repeal that would allow lawyers to be charitable toward their clients if they so desire.

**Author:** Anthony J. Sebok

**Affiliation:** Cardozo Law School, New York, USA

**Title:** Thinking like a Lawyer vs. Thinking like a Banker: Litigation Finance and Professional Independence

One major criticism of third party investment in litigation is that it weakens the ability of legal professionals to protect their clients from the influence of non-lawyers providing funds for litigation.

This paper examines this assumption and recommends that it be balanced against clients' other needs and interests. The paper first describes the special treatment the law provides certain third parties with a financial interest in the outcome of

litigation, i.e., lawyers who have a contingent fee and liability insurers.

The paper then asks why investors motivated by "purely" financial interests are more likely to harm the interests of parties in litigation than lawyers and insurers.

At the crux of the paper is an effort to take seriously not only the diverse financial interests of third parties with a stake in the litigation, but also to ask whether a non-lawyer can provide advice that might improve the client's outcome over the outcomes the client might achieve if advised by only her lawyer.

This involves examining the nature of reasoning rooted in a duty of loyalty and its relative value to different kinds of clients in different kinds of litigation. The paper will conclude by recommending that unless strong countervailing reasons can be identified, certain clients should be permitted to "trade" the protections currently provided to them by the prohibition of champerty and the Model Rule's protection of professional independence for the advantages inherent in third party funding combined with third party influence.

**Author:** Noel Semple

**Affiliation:** University of Toronto, Canada

**Title:** Accessible Professionalism

How, and to what extent, do lawyers in private practice create access to justice for individuals confronting personal plight? What impediments do those working in fields such as family law and personal injury law encounter in their efforts to provide services to people of modest means? Is there anything that the legal profession and its regulators can do to increase the accessibility of this segment of the bar? To respond to these queries, the author is embarking upon a program of mixed-method empirical research with Ontario lawyers. The research goals include advancing knowledge of legal professionalism in action and creating new insights about how private practice legal professionals can enhance access to justice.

I plan to begin this empirical research project in 2014. At the International Legal Ethics Conference, I will first contextualize this initiative by identifying the main themes and questions in the literature. Two bodies of literature are particularly germane. First is the access to justice scholarship, especially work which scrutinizes financial and non-financial impediments to expert legal service provision. Second is empirical sociological study of North American lawyers from the individual client "hemisphere." I also hope to introduce and obtain feedback on my research queries. These explore various financial and non-financial characteristics of personal plight law practice which are germane to accessibility.

**Author:** Gregory H. Shill

**Affiliation:** University of Denver, USA

**Title:** Boilerplate Shock

This Article examines a species of commercial boilerplate—standardized governing law clauses in European sovereign bonds—and finds them to be written in a way that creates significant unexpected risks, not only for the future of the sovereign lending market and the euro, but for securities transactions and the global economy more broadly, as well as the legal profession.

The risk that a distressed European nation such as Greece might leave the Eurozone and spark economic calamity is well known. If a country abandoned the euro and reintroduced its own currency, this Article argues—contrary to the consensus—that any effort to redenominate its debt into its new, devalued currency would likely fail under the sources of law most likely to apply to the dispute. This default would make a wider breakup of the Eurozone more likely, which observers fear could cause a global economic meltdown.

Beyond any immediate economic concerns, however, the boilerplate terms that govern these debts reveal a perilous gap in legal and ethical controls that the law currently has no mechanism to manage, or even a vocabulary to describe: the potential for lawyer drafted, standard contract terms, when adopted industry-wide, to inflict severe and unexpected harm on the broader economy. The Article terms this externality risk “boilerplate shock.” To reduce this risk in the Eurozone context, this Article proposes a new rule of contract interpretation that would overcome precedents hostile to redenomination. But the broader danger it reveals—the potential for private-sector lawyers to increase the risk of a systemic failure—is in urgent need of further study. Until now, the narrative of excessive risk-taking by financial institutions has cast lawyers in a merely supporting role. This Article suggests that legal strategies, including the risk of boilerplate shock, belong in the same class of primary dangers as business strategies, and that securities lawyers have an ethical duty to help mitigate the risk that legal strategies will result in economic catastrophe. The Article introduces this concept and urges further study. Its preliminary ethics recommendation calls for a robust, voluntary commitment by the relatively small bar that is involved in issuing systemically significant securities rather than changes to mandatory professional or legal rules.

**Authors:** Carole Silver and Louis Rocconi

**Affiliation:** Northwestern University, Chicago, USA, and Indiana University, USA

**Title:** Law Schools' Obligation to Teach Business and Financial Concepts and Quantitative Analysis: Taking Aim at Preparing Competent Lawyers

In order to adequately represent business clients, lawyers must have the means to understand business, including, in many cases, the financial concepts that frame business decisions and explain their results. At the same time, lawyers representing many kinds of clients, and who work in a variety of substantive areas of practice, must use numerical information to support their arguments and present their cases. Law schools, however, have not developed expertise in teaching these subjects to law students, and this has been one focus of criticism of legal education in the last several years.

Several schools have developed programs to respond to these deficits, and more are sure to follow. But before celebrating the response and solution, it is crucial to have a means of assessing progress so that we can learn whether these new initiatives actually are contributing to better preparing new graduates to work in contexts in which business and financial concepts and quantitative analyses are important. In this paper, we describe the results of one effort to establish a baseline understanding about law students' learning related to business and financial concepts and quantitative analyses. The results suggest that law schools have a substantial amount of work to do in order to satisfy the obligation of preparing students to effectively use quantitative information and business and financial concepts.

**Author:** Ellyn S. Rosen

**Affiliation:** ABA Center for Professional Responsibility, Chicago, Illinois

**Title:** We Have a Lot to Learn From Each Other

Wherever global commerce is robust, lawyers and law firms follow. In the current global legal practice landscape, the implementation of new regulatory regimes affecting law firm structure and nonlawyer participation, as well as rules and regulations designed to facilitate ethical infrastructures through enhanced risk management practices affect more than lawyers and law firms. No longer can front line regulators of the profession afford to remain insulated within the boundaries of their country or state. As cross-border legal practice continues to grow and these new approaches to regulation spread, the need for the regulators of the profession to communicate, cooperate and collaborate must follow. Not only does international lawyer regulatory communication enhance the chance that positive regulatory change in one country may beget positive change elsewhere, but international regulatory cooperation will help ensure lawyer and law firm accountability to the benefit of clients and the public.

This presentation will focus on current developments in international regulatory cooperation and communication, including the two



International Conferences of Legal Regulators (the first in 2012 in London, followed by the second in 2013 in San Francisco), U.S. Conference of Chief Justices' Resolutions, the newly adopted ABA Guidelines for International Information Exchange and other initiatives. In addition, the presenter will discuss how international regulatory cooperation can help ensure reciprocal disciplinary enforcement when necessary to protect clients and the public, and how the ABA National Lawyer Regulatory Data Bank can facilitate increased international regulatory information exchange and where appropriate, enforcement.

**Authors:** Carole Silver, Jae-Hyup Lee and Jeeyoon Park

**Affiliation:** Northwestern University, USA, Seoul National University, South Korea/Columbia University, USA

**Title:** Globalisation and South Korea's Market for Legal Services: Regulatory Blockages and Collateral Circulation

Lawyer admission rules typically are considered in light of their intended effect on legal education. But these rules also can have a profound impact on the career paths of would-be lawyers. Korea offers a rich case study of this phenomenon, illustrating the potential for regulatory blockages that effectively pushed aspiring lawyers out of the country to pursue their legal studies. Global law firms offered a return path for these individuals, who became licensed as lawyers outside of Korea and primarily in the United States. In this paper, we analyze the educational credentials and demographic information on lawyers working in five elite and globally-focused law firms in Korea to understand the effect of Korea's earlier lawyer admission regime on career paths of the lawyers in its elite law firms.

**Author:** Paweł Skuczyński

**Affiliation:** Warsaw University, Poland

**Title:** Lawyers' Paternalism and the Republican Tradition: Case of Polish Legal Culture

The discussion about the Republican tradition and the ideal of lawyers-statesman is most advanced in the United States. However, this model of legal profession is one of the most important features of Polish legal culture and constitutional identity. The paper aims at explaining the philosophical problems of the Republican tradition on example of Polish legal profession according to their history and evolution of Polish political and constitutional basic ideas. The argument is that the strongly manifested element of this identity is lawyers paternalism. That means lawyers act to protect the interest and of their clients often without an alignment or even against their clients will. This attitude toward the lawyer-client relationship is deeply rooted in Polish legal culture, especially in

interconnection of two discourses. First is the egalitarian one which establishes the task of lawyers as to provide to everyone equal legal aid and to protect everyone's rights and liberties. Second is the elitist one that tend to justify the claim that effective legal aid and the protection of right and liberties is possible only through some special abilities and skills of lawyers which not everyone could possess.

**Author:** Ann Thanaraj

**Affiliation:** University of Cumbria, Carlisle, UK

**Title:** Using Virtual Clinics to Develop and Experience Professional Responsibility and Clinical Legal Skills

Globalisation in the legal profession has increased demands for cross-border legal services involving several national and international legal systems. This demand places intercultural communication as a vital skill for lawyers, especially to recognize and appreciate culture in a way that minimizes conflict, promote understanding and to establish a relationship of trust and confidence. The need for competency in intercultural communication sets out a challenge for academics. We need to consider opportunities that will provide students with appropriate tools to resolve intercultural communication barriers by identifying cultural assumptions and understanding their effects on communication and, consequently, finding new practical approaches to overcome such assumptions. Using the Cumbria Lawyer Skills simulation, we investigated whether virtual simulations are effective in developing intercultural communication competencies. Having synthesised the literature and the findings of this study, a set of guidelines has been drafted for students to reflect upon prior to commencing future intercultural negotiations.

**Author:** Elizabeth Tippet

**Affiliation:** University of Oregon, USA

**Title:** A Content Analysis of Attorney Advertisements Relating to Pharmaceuticals

This study examines attorney-sponsored TV ads that solicit plaintiffs for lawsuits against pharmaceutical companies. The ads typically warn viewers of a drug, describe its serious or fatal side effects, and advise viewers to call the listed attorney. While these ads serve a valuable informational purpose, they may also adversely impact viewers' medical decisions to the extent viewers subsequently discontinue the drug featured in the ad without consulting a physician.

The study consists of a content analysis of a 6-month sample of advertising broadcast in Boston, Massachusetts and Atlanta, Georgia. Preliminary results indicate that a significant number of ads originate from firms with no state presence and some fail to identify the advertiser entirely. Most

advertisements also fail to advise patients to consult a doctor. Several also misleadingly appear to be public service announcements, through the use of phrases such as "important medical announcement" or "warning."

The study analyses whether the ads qualify as "false and misleading" under state ethics laws. It also examines how state bars might better regulate false and misleading attorney advertising by looking to how the Food and Drug Administration and the Federal Trade Commission have defined those terms.

**Author:** Tuomas Tiittala

**Affiliation:** University of Helsinki, Finland

**Title:** Moral Education in the Study of International Law: A Virtue Approach

This paper explores moral education, legal ethics and the study of international law. After considering alternative ways of carrying out moral education in the study of international law, the author advocates for a virtue approach. Previous scholarship supporting virtue ethics in legal practice and education inspires the discussion on becoming an international lawyer, or more specifically a global governor. Students of international law become powerful actors in global governance: As attorneys, judges, leaders and experts working in and for international organisations and transnational corporations lawyers make decisions or participate in decision-making which affect the lives of billions of people. Bureaucracy of international institutions may make individual moral responsibility hard to define, but this may be achieved by reviewing occupants' moral performance in professional roles. The author examines the prospects of character education in university-based legal education today from a Finnish perspective. Adding to moral challenges posed by bureaucracy, a critic may ask 'Whose definition of lawyerly virtues should we teach?' and 'Should we accept the existing institutions of global governance as an environment for which we prepare law students?' The author argues that, while the justification for the existence of international institutions remains debated, we fare better having ethical professionals working in and for them. The paper also looks into clinical training as a way to develop practical wisdom in international legal studies. In many jurisdictions, clinical training has played only a small part in international legal education.

**Author:** Maxim Tomoszek

**Affiliation:** Palacký University, Olomouc, Czech Republic

**Title:** Judicial Enforcement of Professional Ethics - Czech Experience after Five Years

In the Czech Republic, a new model of enforcement of rules of professional conduct of

judges, prosecutors and debt enforcers was introduced in 2008. Special judicial senates were created within the Supreme Administrative Court to decide these types of cases, consisting of various legal professions including academics. The first term of these senates was recently concluded, which gives an excellent opportunity to assess, how efficient was the adopted model so far.

The proposed presentation will have several aims:

1. to present the main features of the model adopted in the Czech Republic to international audience and to discuss its advantages and disadvantages,
2. to analyze the functioning of this model and the decisions of the senates in order to assess the impact of the model on the constitutional system and professions, observation of ethical rules, to find basic doctrines established during the analyzed period and compare the existing and previous model,
3. to discuss the outcomes of the research with the international audience in order to identify significant features of the Czech model in comparative perspective,
4. in conclusion, I would like to identify the weaknesses of the adopted model and potential problems that might arise in future and the main benefits of adopting the model, with a special emphasis on the judicial mechanism of the enforcement of ethical rules.

**Author:** Michal Ofer Tsfofi

**Affiliation:** Netanya Academic College, Israel

**Title:** The Degree of Intervention of the Courts in Decisions made by the Bar Association's Disciplinary Courts

In Israel, all lawyers must be members of the, one and only, Bar Association. Only members of the Bar are permitted to provide legal services.

The Bar has very wide rights of self-management, which are greater than those found in western countries. It is in charge of setting the rules of ethics (with the approval of the Minister of Justice) and it manages and operates the entire system of disciplinary procedures: starting with the decision whether or not to press charges against a lawyer; it is the prosecutor at the trial; the judge and the appellate body.

Until 2008, all disciplinary procedures were conducted behind closed doors. In 2008 there was a regulatory change and the Bar was required to conduct disciplinary trials with open doors, to publish the trial decisions, including revealing the name of the accused.

Because the Bar is also the professional association of lawyers, there is concern that incorrect and unwarranted considerations exist in the disciplinary system.

After trial and appeal in the Bar system, the possibility exists to appeal to the State Court.

In light of all the above, it is very important to examine if the State Courts do act as an effective review mechanism.

Up to now, this question was based on assumptions, and not facts.

This study provides an empirical measurement that can support and enrich debate on this very important question. An analysis of the investigated data and results is also presented. It emphasizes the contribution of the empirical research to the discussion.

**Author:** Emanuel Tucsa

**Affiliation:** Osgoode Hall Law School, Canada

**Title:** Knowledge and Fidelity: Considering the Relationship between the Lawyer's Role in Making Knowledge about Law Available and the Lawyer's Duty of Fidelity to Law

Lawyers have a special role in the creation, dissemination and usage of knowledge about law. This role is apt for exploration in an undertaking of what the philosopher Karen Jones describes as "[A] commitment to understanding the role of social relations and institutions in the production of knowledge". The lawyer, as an actor within a legal system (whether s/he is engaged in advising, litigation, political advocacy, etc.), has the role of making knowledge about law available to citizens (especially clients), so as to make law and the legal system operative for, and accessible to, those same citizens.

I want to call attention to the ethical importance of the lawyer's role in making knowledge about law available. Specifically, there is a need to consider the topic of fidelity to law (which deals with the question of whether, and to what extent, there is a moral obligation to obey the law) in light of the lawyer's role in making knowledge about law available. The lawyer's role in relation to knowledge about law and the legal system is a factor that shapes the ethical propriety of his/her show of fidelity to, or withdrawal of fidelity from, a legal system. Considering the relationship between the lawyer's role in making knowledge about law available and his/her lawyerly duty of fidelity to law provides insights into at least two prominent ideas that are discussed in the debate around fidelity to law: (1) the way in which the duty of fidelity relates to both mundane and extraordinary legal, political and moral contexts, and (2) the notion (emphasized by Bradley Wendel) of respect for law.

**Author:** Gordon Turriff

**Affiliation:** Stikeman Elliot, Canada

**Title:** Why We Need Independent Lawyers

The chair of the English bar is reported to have said recently that she accepts the profession could not

go back to self-regulation because self-regulation is "not attractive to the public."

Certainly, in many places around the world, regulation of lawyers by lawyers is unattractive to the *state*. But I don't think the *public* is well enough informed to decide for itself whether self-regulation is attractive or not. I don't think people in the community understand what's at stake for lawyer independence when a state regulates lawyers, even indirectly. Until the public has been sufficiently educated about the issues, I don't think true public sentiment about lawyer independence and self-regulation can be accurately reported.

Accordingly, at ILECVI, I will introduce and explain (by way of light annotation) a plain language pamphlet I am writing about lawyer independence and self-regulation. The aim of the pamphlet is to show people in the community how lawyer independence and self-regulation are linked, how lawyer independence affects peoples' lives, and what life might be without it.

The unannotated version of the pamphlet, to be called "Why We Need Independent Lawyers," is intended for distribution, in Canada at least, to high school children, college and university students, community associations, religious organisations, advocacy groups, business clubs, chambers of commerce, the media, political parties and legislators.

**Author:** Gülriz Uygur

**Affiliation:** Ankara University, Turkey

**Title:** The Profession of the Judge: Seeing Injustice  
In this paper I will claim that we can give an ethical account of the meaning of the profession of the judge as seeing injustice. In order to argue for that, I will first explain the relationship of ethics with the subject matter of the very job the judge. Then, I will consider the meaning of the profession of the judge in terms of the concept of "seeing." We can approach this through Simone Weil according to whom "seeing" means "seeing injustice." As injustice is related with the human being, we also need to define "seeing" in terms of the human being. We must be careful not to confuse "seeing" and "looking" for they do not amount to the same thing. "To see" a human being is to pay attention to and being concerned of her or him. Accordingly, a judge is required to pay attention to the specifics of the case at hand. Turning to Weil and Murdoch, we can determine what "attention" amounts to. For Weil, it is a method for understanding things that we encounter. According to her, attention means "to look at a particular case until the light suddenly dawns." This requires some specific qualities on the part of the judge, that is to say, virtues such as open-mindedness and phronesis as well as vigilance to spot the obstacles that would hinder us from seeing injustices.

**Author:** Neil Watt

**Affiliation:**

**Title:** The Path to Hell and Good Intentions: Blackstone, Brougham and the Journey from Lawyers' Ethics to Legal Ethics

Thomas Shaffer has fiercely declared that 'legal ethics' is not ethics at all as it appeals "not to conscience but to sanction".

Whether or not Aristotle would have difficulty recognising legal ethics as *ethics*, there has certainly been a shift over the last two centuries on how lawyers perceive their role and their understanding of the place of ethics and morality in their professional decision-making.

Using mostly primary sources of the period this paper traces the early roots of modern legal ethics from the Eighteenth and Nineteenth Centuries to the first conduct codes in the early Twentieth Century. It argues that the lawyers' understanding of ethical obligations changed over this period until, with the introduction of conduct codes, the understanding of ethics itself changed.

The influence of natural law, virtue and Roman traditions on Blackstone and his peers and Brougham's game-changing clarion call to abandon morality in the cause of client advocacy provide the starting point.

Despite the changes, traces of the earlier virtues remain in modern rules and professional standards. The place of character, of justice, of fidelity, honesty and civility can all be traced to that earlier age and present a challenge from the past to the ethics of today.

**Author:** Julian Webb

**Affiliation:** University of Warwick, UK

**Title:** Regulating Education and training in a Liberalised Legal Services Market: The Experience of England and Wales

The Legal Services Act 2007 (LSA) has been central to the paradigmatic shift in the regulation and delivery of legal services that is occurring in England and Wales. The LSA was passed in the wake of a series of critical reviews of existing professional structures which highlighted the extent to which developments in the Anglo-Welsh legal services market had been restricted by regulatory complexity, limited competition and a relative lack of service innovation. The LSA sought to address these weaknesses by liberalizing the market, creating a functional separation of regulatory and representative functions, and introducing a degree of regulatory oversight of the legal services market by a new body called the Legal Services Board (LSB). The LSB in turn has actively pursued the liberalization agenda by steering the new professional regulators towards regulatory strategies grounded in methods of risk-based and outcomes-focused regulation.

These changes have been accompanied by a growing *strategic* focus on education and training as a regulatory tool in its own right. In May 2011, the larger frontline regulators (the Solicitors Regulation Authority, Bar Standards Board and ILEX Professional Standards) launched the first, research, phase of their Legal Education and Training Review (LETR). LETR phase 1 reported in June 2013. This paper seeks to place LETR in its historical and current social policy context. It considers the recommendations of the phase 1 *Setting Standards* report, together with the responses thereto of the main frontline regulators as an attempt to respond to the social complexity of legal services education and training reform. It further argues that the reform proposals can be best understood as part of an emergent political and moral economy discourse consistent with the rise of the 'post-regulatory competition state'.

**Author:** Helena Whalen-Bridge

**Affiliation:** National University of Singapore, Singapore

**Title:** Mandatory Pro Bono: Alive and Well in Asia?

Mandatory pro bono has a questionable reputation and a poor success rate in North America. The idea of mandatory pro bono though never quite goes away, in part because it seems to offer a direct route to access to justice. In Asia, where even the term pro bono is not necessarily used, the concept of mandatory pro bono has somewhat improbably taken hold. This paper uses Singapore as an example of the development of mandatory pro bono in Asia, and explores the current Singapore scheme of mandatory student pro bono as well as a proposed regime of mandatory lawyer pro bono. The paper also examines the understanding of pro bono, in the U.S., the U.K. and Asia, and argues that pro bono must be reconceived in order to be a useful concept in examining access to justice in Asia.

**Author:** Christopher Whelan

**Affiliation:** University of Oxford, UK

**Title:** Called to the Bar in 2014: Moral Hazard or Professional Morality?

There have been radical changes in the regulation of barristers and of sets of chambers in recent years. The paper will speculate on the effects of these changes on the barristers' profession in general, and on the 'ethic' of individual barristers in particular. How might the reforms affect the ways in which barristers (and chambers) define and prioritise their commitments? What effect might they have in re-shaping barristers' professional ideology (including ethics)? Will they change the way in which barristers reconcile their often conflicting private and public obligations?

The empirical focus of the paper will be on the new Code of Conduct for barristers, which has amended traditional professional norms as well as opened up alternative business models for the practice of law by barristers. The Code - and the regulatory changes - and their effects more generally - provide an ideal empirical environment in which to examine the symbiotic relationship between 'public', 'private' and 'self-' regulation in order to better understand the evolving nature of 'professional' regulation in a competitive market economy.

**Author:** Matthew Windsor

**Affiliation:** University of Cambridge, UK

**Title:** Government Legal Advisers and the Impact of Institutional Structure on Independence

This paper interrogates the extent to which institutional context influences the interpretive posture and exercise of independent professional judgement by government legal advisers.

The ability of legal advisers to speak law to power, predicated on detachment from their client's projects and attainment of a "view from nowhere", is constrained by the realities of executive branch departmental structure. Institutional structure has a significant bearing on whether advisers operate in an organisational culture of independence or one of complicity, where they find themselves committed to a predetermined policy agenda. In-house legal advice is frequently coupled with risk analysis, necessitating a shift from advising on what the law is to whether a course of action is arguably supported. Due to the diffusion of advice and ultimate decision-making in bureaucratic settings, legal advisers are able to fall back on a causal excuse, where a subsequent act by an elected official controls whether the advice has any effect. The decisional division of labour in bureaucracy carries the risk of the cabining of moral attention, where no actor sees themselves as responsible for overall policy outcomes. Yet the proliferation of strategies to disclose confidential government information, including leaks, whistleblowing and freedom of information litigation, reveals that transparency, legality and accountability are closely entwined concepts in the minds of many. The paper concludes by considering the extent to which the concept of neutrality, that mainstay of the "standard conception" in philosophical legal ethics, must be modified to reflect the structural incentives that affect the effective transmission and reception of in-house government legal advice.

**Author:** Christian Wolf

**Affiliation:** University of Leibniz, Hannover, Germany

**Title:** Can and Should the In-House Counsel be Treated as Advocate?

The role and function of the in-house counsel is controversially discussed in Germany and Europe. In May 2014, The German Federal Bar will discuss in its General Assembly a new proposal for the regulation of in-house counsels. At the moment the in-house counsel – even admitted to the bar - is not treated as an independent lawyer but in his role as employee. In three landmark decisions the European Court of Justice has taken a similar position denying the in-house counsel the "attorney's privileges".

Especially, two aspects are controversial. (1) Is the in-house counsel's legal advice sufficient to avoid the responsibility for executive organs? The obligation to act lawfully includes the duty obtain an independent legal advice. In Germany, it is unclear whether the in-house counsel is independent in this sense.

(2) Does the in-house counsel have the attorney's privilege? If public prosecutors investigate in a company, can the legal department's documents be searched and seized? It again depends on whether the in-house counsel is independent.

In the paper I will ask whether in-house counsels are independent lawyers who only give advice independently or better be understood.

Further, I will analyze if the compliance officers have taken over the role as the independent legal conscience of the company. Does the regulation of the compliance department in the financial industry in the EU and Germany set a minimum standard for in-house counsels to be understood as independent lawyers?

I hereby propose to examine the role of the in-house counsel regarding:

1. the international debate and the rulings of the European Court of Justice
2. the national debate in Germany, especially concerning the ISON decision of the BGH and the new the proposal for the regulation of in house counsel of the German Federal Bar
3. The role of the in-house counsel in a company.
4. Independency as a key problem for in-house counsels.
5. The regulation for compliance officers as a blueprint for an independent in-house counsel.

**Author:** Christian Wolf

**Affiliation:** University of Leibniz, Hanover, Germany

**Title:** The "Soldan Moot Court" A New Moot Court to Teach and Promote Legal Ethics in Germany

Although legal professions around the world are operating in a period of rapid economic, social and technological change, legal education in the field of Attorney Regulations is close to being carelessly

neglected in Germany. However, the German Federal Bar (BRAK), German Bar Association (DAV), Association of German Faculties of Law<sup>3</sup> and the Soldan Foundation established an educational program called Hans Soldan Moot in 2013, administered by the Institute for Procedural Law and Attorney Regulations, Hanover.

The Soldan Moot serves as an example for new trends in legal ethics education at German Law Schools. The Soldan Moot is one nearly unique of a kind, only comparable to the National Professional Responsibility Moot Court Competition and the Legal Ethics and Professionalism Moot Court Competition. The paper shall describe the idea behind the Soldan Moot, the benefits of participating in such a competition for universities, students and practitioners and shall also outline the educational benefit of holding such a competition, using the Willem C. Vis Moot competition as a successful example.

**Author:** Bobette Wolski

**Affiliation:** Bond University, Queensland, Australia

**Title:** A Critique of Proposals for New Rules of conduct for Legal Representatives in Mediation - Arguments for Maintaining the Status Quo

Currently, lawyers who represent parties in mediation are governed by the legal profession's general rules of professional conduct which make no specific provision for mediation. A number of commentators maintain that these rules are inappropriate for, and incompatible with, mediation. They claim that mediation is based on objectives and values that are fundamentally different from those of litigation. They also claim that legal representatives undertake new roles in mediation and that these roles require new professional conduct rules. These commentators have called for the promulgation of rules requiring higher standards of disclosure, good faith participation, fair dealing and use of non-adversarial interest-based negotiation.

This paper challenges the proposition that the legal profession needs new rules for mediation practice. The paper is in two parts. First, it critiques some of the proposals for new rules. It is argued that the rationale given for these proposals is flawed and that it is neither practical nor desirable to insist on full candour, 'good faith' participation, non-adversarial behaviour and interest-based negotiation in mediation. Second, it examines and evaluates current rule systems governing lawyers in Australia, the United Kingdom and the United States as they apply to a range of ethical issues that confront legal representatives in mediation. It is argued that these rule systems are consistent with and appropriate for mediation. They allow lawyers to exercise discretion in relation to matters such as candour, good faith and cooperation, while

encouraging adherence to the core values of the legal profession.

**Author:** Bobette Wolski

**Affiliation:** Bond University, Queensland, Australia

**Title:** The Limitations of Codes of Professional Conduct - Accommodating Diversity in Practice at Law School

Many commentators regard the 'one code fits all' approach to regulation of the legal profession as unsatisfactory especially in light of the fact that legal practitioners are increasingly engaged in diverse practice settings some of which are non-adversarial in nature. This paper identifies and evaluates alternative ways of regulating the legal profession so as to accommodate diversity in practice. It discusses the possibility of promulgating:

1. multiple specialised codes for different areas of law (family law, criminal law, bankruptcy law and so on)
2. multiple specialised codes for different processes (such as litigation, mediation, unassisted negotiation);
3. 'middle-level' codes, somewhere in between general codes and a totally discretionary approach to legal ethics. Middle level codes might be based on a number of factors such as subject matter, process, task, lawyer position (e.g. sole practitioner versus large firm) and client position (e.g. individual versus corporate client);
4. a contract model in which lawyers and clients can contractually choose the ethical obligations under which they want to operate.

Given the lack of consensus on this issue and the fact that all of these models of regulation are inherently limited, the author concludes that the best and most likely possibility is the continued regulation of the profession through one general uniform code of conduct. If this is indeed the case, then the challenge of modifying adversarial traits – assuming modification is necessary, and of educating for diversity in practice, might fall to law schools. The paper offers some suggestions for meeting this challenge.

**Author:** David A. Wright

**Affiliation:** Osgoode Hall Law School, Canada

**Title:** An Independent Tribunal within a Self-Governing Law Society: Ontario's New Law Society Tribunal

In 2013, at the request of the Law Society of Upper Canada, the Legislature of Ontario, Canada passed the *Modernizing Regulation of the Legal Profession Act* which establishes the Law Society Tribunal.

This marks a significant change in the approach to hearing and deciding discipline, licensing and other regulatory matters involving lawyers and paralegals. Previously, benchers (governors) directed all aspects of the quasi-judicial hearing process and most adjudicators were benchers.

The approach to reform is based on the model of other administrative tribunals in Ontario, with some modifications in light of self-governance. The Law Society Tribunal is led by a non-bencher Chair and elected bencher Vice-Chairs appointed by the governors. Adjudicators include elected benchers and other lawyer, paralegal and lay members with adjudicative experience. The implementation of the model includes initiatives such as performance evaluation of adjudicators (including benchers), approaches to promoting consistency and increased professional development that have formed a key part of enhancing administrative justice in other boards and tribunals.

The paper and presentation will discuss the new model, the reasons for it, and its challenges. I will comment on the work done during the first months of the new Tribunal and the next steps in enhancing the quality, fairness and independence of quasi-judicial decision-making about regulation of lawyers and paralegals in Ontario.

**Authors:** Richard Wu and Grace Leung

**Affiliation:** University of Hong Kong and Chinese University of Hong Kong, China

**Title:** A Comparative Study of Law Students' Perceptions of Their Values in Hong Kong, China and Taiwan: Some Interim Findings

This research undertakes a comparative study of the values of law students in China, Hong Kong and Taiwan. This project attempts to answer four research questions. *Firstly*, what values are empirically important in determining the behaviors and ethical decision-making of law students in Hong Kong, Mainland China and Taiwan? *Secondly*, whether there is a common core of values shared by law students in these three Chinese places? *Thirdly*, whether there are differences in value orientations of law students in these three areas? Finally, whether there is a gender difference in the value hierarchies of law students in the Greater China Region? This paper will present some of the interim findings of our research project.

This project is significant as it represents the first empirical legal research project undertaken in the Greater China Region on the values of law students and lawyers. It will make original contribution to the academic discourse on value system of lawyers and law students. It will also contribute to the teaching of legal ethics and professionalism as well as the reform of law school curriculum in this fast developing area of the world.

**Author:** Alvin Chen Yi Jing

**Affiliation:** RHTLaw Taylor Wessing LLP, Singapore

**Title:** Envisioning an Integrated Bar in Singapore - The Who, What, Why and How of Regulation

In late January 2014, the Ministry of Law accepted the recommendations of a high-level committee tasked to review the regulatory framework of the Singapore legal services sector. These recommendations aim to rationalize and redistribute the existing regulatory functions in the Singapore legal profession. Under the proposed regulatory framework, both Singapore-qualified lawyers and foreign lawyers in Singapore will have to abide by a single set of professional conduct rules and be subject to the same disciplinary process. All law practice entities in Singapore will also be licensed and regulated by a new entity regulator, the Legal Services Regulatory Authority, which will be overseen by the Ministry of Law. In addition, non-lawyers will be permitted to co-own a Legal Disciplinary Practice.

While these significant developments track similar changes that have already occurred in jurisdictions such as the United Kingdom and Australia, they raise several important issues in the regulation of the legal profession. This paper examines: (a) whether self-regulation is a meaningful concept in an increasingly consumer-oriented and complex legal landscape; (b) whether a uniform ethical regime can effectively integrate a diverse community of domestic and foreign lawyers; and (c) why and how significant shifts in the regulatory structure should be carefully calibrated in a traditional bar.

## **PANEL ABSTRACTS**

### **Culture**

**C1:** The Effect of Technology on the Regulation of Lawyers in the United States

**Panellists:**

Benjamin Barton, University of Tennessee College of Law, USA

John O. McGinnis, Northwestern University Law School, USA

Russell Pearce, Fordham Law School, USA

Dana Remus, University of North Carolina, USA

**Abstract:**

Computerization and other technological innovations are rapidly changing the market for legal services in the United States (and around the world). This Panel addresses what effect these changes will and should have on the regulation of lawyers. The Panel includes speakers who predict and advocate for a relatively free market approach to regulating legal services and an opposing viewpoint that technology driven deregulation might prove harmful to consumers and exacerbate already existing imbalances between haves and have nots.

**C2:** A Rose by any Other Name? Cultural Competence and its Impact on Legal Ethics and Effective Lawyering

**Panellists:**

Liz Ryan Cole, Vermont Law School, USA

Jan L. Jacobowitz, University Of Miami School of Law, USA

Keiichi Muraoka, Hitotsubashi University Tokyo, Japan

Richard Zitrin, University of California, USA

**Abstract:**

Culture is the “software of the mind.”—Geert Hofstede

This panel of international lawyers will explore not only the value of, but also the growing necessity for the legal profession to embrace cultural competence. The panel will discuss the myriad sub-cultures to which we each belong as well as the interrelationship of cultural difference and the still-developing world of the Internet and social media, which itself has spawned its own distinct culture.

The presentation will illustrate how an understanding of an individual’s cultural background improves empathic insight and assists in effective communication. A lawyer who has insight into the cultural aspects of the person being addressed – whether client, opposing counsel, colleague, or judge – is undoubtedly more effective.

The panel will also examine the double-edged effect of the Internet and social media on cultural differences. On one hand, social media provides a

universal communication platform for all participants, while on the other hand, social media is itself affected by different cultural communication styles. Appreciating these differences in this context is increasingly important. Moreover, when communications occur at the dizzying pace social media allows, opportunities for instantaneous error and ethical mishap multiply.

In this world, being culturally tone-deaf has become increasingly problematic. Therefore, the panel will suggest that a competent, ethical, and effective lawyer must now be culturally competent, learning about cultural differences and applying them in professional settings by adapting their communications accordingly.

The panel will be an interactive presentation, sharing examples and exercises to engage the audience in an animated discussion of the value of educating law students and lawyers to achieve cultural competence.

**C3:** Diversity and Inclusion in the Legal Profession: A Question of Business or Ethics?

**Panellists:**

Alex Long, University of Tennessee, USA

Hilary Sommerlad, University of Birmingham, UK

Sandra Yamate, Institute for Inclusion in the Legal Profession

Louise Ashley, University of Kent, UK

**Abstract:**

Rationality, impartiality and equity have historically been intertwined with the idea of professionalism, leading to the presumption that access to professions should be open to all who can achieve the necessary qualifications and competence. For the legal profession, this presumption is reinforced by the centrality of ideas of justice and equality before the law, and the claims to be governed by a special ethicality. However, the high status traditionally enjoyed by legal professions in the majority of jurisdictions has been intimately related to their exclusion of lower status groups, and while the sweeping socio-economic changes of the last thirty years have obliged the profession to diversify, there is overwhelming evidence that ‘non-normative’ lawyers continue to be excluded or, if admitted, are almost uniformly restricted to lower professional strata. This is despite such initiatives as the establishment of access to justice committees and the embrace by most firms of diversity management practices. Evidently the ongoing processes of globalization are likely to make these issues increasingly pertinent.

The focus of this panel is the disjuncture between persistent closure practices and the profession’s ethical claims. We therefore welcome abstracts either specifically concerned with the question of



diversity, inclusion and professional ethics and responsibility, or which generally discuss the current barriers to inclusion faced by non-normative groups, how equality of opportunity and diversity might be promoted, and conflicts between the business case for diversity and diversity as a matter of equity.

### **Education**

**E1:** Using History to Teach Legal Ethics: Lessons from the Holocaust

**Panellists:**

Lisa G. Lerman, The Catholic University of America, USA

Thorin Tritter, Columbia University, USA

Lisa-Marie Rudi, UC Berkeley, USA

Toochi Ngwangwa, Columbia University, USA

**Abstract:**

During the summer of 2013, I was a faculty member on a two-week study trip sponsored by Fellowships at Auschwitz for the Study of Legal Ethics (FASPE), a project of the Museum of Jewish Heritage in New York. I, another law professor and two historians, led a group of law students on a trip through Germany and Poland to examine the role of lawyers and judges in the Third Reich and to consider the lessons from that period for the study of contemporary legal ethics. One stop was at Wannsee, outside Berlin, where a group of senior Nazi officials, most of whom were lawyers, decided to exterminate the 11 million Jews remaining in Europe. We visited museums in Berlin and Nuremberg, and spent two days at Auschwitz-Birkenau. We did readings and held discussions that focused alternately on problems that confronted lawyers and judges in the Third Reich and other problems that confront contemporary lawyers. The whole undertaking was intense and fascinating.

The panel, which will include FASPE faculty and law fellows, will describe the FASPE experience and share a sample of the issues that we explored. For example, we may ask the participants to consider the choices that confronted a Nazi lawyer who was tasked to craft a legal definition of who is a Jew. This presentation would be a starting point for a discussion about the use of historical events to teach legal ethics. We will explore how profoundly historical perspective can affect students' thinking about their professional roles.

**E2:** Are We Making a Difference? Assessing the Effectiveness of Legal Ethics Education

**Panellists:**

Clark D. Cunningham, Georgia State University College of Law, USA

Adrian Evans, Monash University, Australia

Michael Holdsworth, University of Birmingham, UK

**Abstract:**

This interactive session will begin by breaking into small groups to discuss learning objectives for teaching legal ethics (especially beyond knowing the content of conduct rules) and then report back to the entire group. Clark Cunningham, who is also Vice-Chair of the International Bar Association Academic & Professional Development Committee, will then (a) discuss worldwide trends by professional and regulatory bodies including the IBA both to require the teaching of legal ethics and to encourage the identification of measurable outcomes and (b) survey approaches by other professions (notably medicine and dentistry) to measure effectiveness of ethics education. Adrian Evans, author of "Assessing Lawyers Ethics," will report on extensive research in Australia using a variety of testing mechanisms. Michael Holdsworth will describe a very large data set research project by the Jubilee Centre now underway in England to gather information about attitudes toward character and values among initial entrants to legal education, students at the completion of their professional training, and established solicitors who have been in practice for five years using survey questions, moral dilemmas, and in-depth interviews. Substantial time will be allocated for discussion of practical ways to assess effectiveness of legal education in the variety of settings represented among the session participants and to explore potential research collaboration.

**E3:** Ethics Theory in the Basic Required Legal Profession Course: What Should be Included? From What Perspectives?

**Panellists:**

Reid Mortensen, University of Southern Queensland, Australia

Russell Pearce, Fordham Law School, USA

Stephen Pepper, University of Denver College of Law

Mitt Regan, Georgetown University, USA

Bradley Wendel, Cornell University

**E4:** Responding to the Ethics and Values Recommendations of the Legal Education and Training Review: What and Why?

**Panellists:**

Nigel Duncan, City University London, UK

Keren Bright, Open University, UK

Graham Ferris, Nottingham Law School, UK

Robert Herian, Open University, UK

Ann Thanaraj, Cumbria University, UK

Lisa Webley, Westminster University, UK

**Abstract:**

This panel session will address recommendations 6 and 7 of the LETR which provide that legal education should include learning outcomes in respect of professional ethics and that the undergraduate stage should include reference (as

appropriate to the individual practitioner's role) to an understanding of the relationship between morality and law, the values underpinning the legal system, and the role of lawyers in relation to those values.

It will consider what we should do in order to help students develop as ethical adults, addressing our educational aims and methods and proposing a theoretical basis. This will require consideration of how dilemmas with no obviously correct answers may help moral development and address the issues of pluralism in developing ethical character. One presentation, in the context of an open access law degree with a very diverse student body will address its particular concern to offer a proving ground where students are afforded an opportunity to develop, what Luce Irigaray has called, the ability, "to recognize the otherness of the other".

One context is the debate as to the purpose of legal education and its role as both liberal education and preparation for professional activity. This will be addressed by an examination of the approaches in different jurisdictions including US, Australia and India.

**E5:** Responding to the Ethics and Values Recommendations of the Legal Education and Training Review: How?

**Panellists:**

Nigel Duncan, City University London, UK  
Elizabeth Curran, Australia National University, Australia  
Neil Gold, University of Windsor, UK  
Paul Maharg, Australian National University, Australia  
Shamini Ragavan, Newcastle University, UK

**Abstract:**

This panel will build on the work of the first Panel by addressing a group of questions concerning our approach to the manner of our students' learning.

We will explore the value of experiential approaches to ethics education and the value of introducing degrees of realism. This links with the debate about ethical implementation as exemplified by the Giving Voice to Values curriculum. We will consider the role of tutors' own values, the extent to which they should be made explicit and the impact this might have on curriculum design and student learning. We will also consider the relationship between our learning and our assessment approaches, considering the extent to which requirements of professional regulators might impact on the quality of our preparation of students for the realities of practice.

The session will include a comparative element, drawing on the sophisticated debate in Australian law schools around the place of ethics and values in legal education. Recognising the similarities between the debates in England and Wales and Australian jurisdictions, we will outline the

differences, both practical and theoretical and reveal the value of cross-jurisdictional comparison of ethics and values practices and theory in legal education.

**E6:** Legal Ethics, Pro Bono, Access to Justice and Professional Responsibility Curriculum Development in South-East Asia

**Panellists:**

Annette Bain, Herbert Smith Freehills, Sydney Australia  
Claire Donse, DLA Piper, Sydney, Australia  
Phuong Nguyen, BABSEA CLE, Hanoi, Vietnam

**Abstract:**

This session will focus on tertiary education in the areas of legal ethics, pro bono, access to justice and professional responsibility in a number of countries in development and transition in the Southeast Asia region including Cambodia, Laos, Myanmar, Thailand and Vietnam.

The session will start by providing background on the legal education system in a number of countries in the Southeast Asia region, including Cambodia, Laos, Myanmar, Thailand and Vietnam. It will then discuss the rationale for introducing legal ethics courses into university curriculum and the anticipated outcomes, including fostering a culture of professional ethics in future generations of lawyers and promoting a legal culture that values the important role that lawyers play in providing pro bono services to enhance access to justice. By strengthening the culture of ethics and professional responsibility, the project aims to enhance the professional reputation and pride of young lawyers; and by promoting access to justice the project endeavours to contribute to the further development of fair societies which respect and uphold the rule of law.

The session will then discuss the interactive clinical legal education teaching methodologies being used to develop and teach the curriculum. These methodologies include role plays, themed games, debates and scenarios. The methodology itself is also of significant importance to the project, as interactive learning is still in the early stages of growth in many universities in Southeast Asia, and development of the curriculum using these tools provides an opportunity to expose faculty members and students to an alternative to lecture-based teaching. The methodology also incorporates feedback from the learners to the team, and provides an opportunity for the students to contribute to both the content and the teaching methods through the use of evaluations. The objective of the project is for the curriculum to be introduced and integrated into new/existing courses at BABSEA CLE's partner universities.

The session will conclude with a discussion of the benefits of collaboration between practicing lawyers and academics, between lawyers from

different legal traditions, and between lawyers from the private sector, the public sector and the NGO sector. We will also touch upon the benefits experienced by lawyers participating in the project.

#### **E7: The Bar and Training in Ethics**

##### **Panellists:**

Mr. Justice Green, Advocacy Training Council, UK  
Patricia Lynch, 18 Red Lion Court, UK  
Sarah Clarke, Serjeants Inn Chambers, UK  
Simon O'Toole  
Martin Griffiths

##### **Abstract:**

##### **Theme 1:**

Training in legal ethics by the Inns for new practitioners, focusing on the Inner Temple's new practitioners programme with an emphasis on advocacy and ethics and the Hampel method of advocacy training.

##### **Theme 2:**

Training in legal ethics for the established practitioner, focusing on the ground breaking research and tool kits provided by the Inns and the Advocacy Training Council in all aspects of handling vulnerable witnesses, including screen for vulnerability. The session will focus on the needs of children, victims of sexual crimes, defendants and witnesses with mental illness. DVD training material will be shown and delegates will be provided with a sample toolkit.

#### **E8: Legal Ethics beyond Common Law Countries: Session 1**

##### **Panellists:**

Fahad Al-Zumai, Kuwait University, Kuwait  
Catherine Klein, The Catholic University of America, Washington, D.C., USA  
Kamila Mateeva, American University of Central Asia, Bishkek, Kyrgyz Republic  
Ernest Ojukwu, Network of University Legal Aid Institutions, Nigeria  
Lidija Šimunović, University of J.J.Strossmayer, Osijek, Croatia  
Ulrich Stege, International University College of Turin, Italy  
Leah Wortham, The Catholic University of America, Washington, D.C., USA

##### **Abstract:**

Legal ethics courses focusing in substantial part on the application of professional ethical principles and the law governing lawyers to the work of legal professionals is a regular part, and often required, at three training levels in some common law countries: the law school curricula for the first degree, post-graduate legal training courses, and continuing legal education courses. Legal ethics testing also may be part of the bar admission process. This, however, is much less the case in countries in the civil law and other legal traditions

as well as common law countries in the developing world.

The first of two related sessions on this topic considers whether and why institutionalization of professional ethics teaching in the education of legal professionals is desirable and the status of such teaching in various countries and regions beyond developed countries in the common law tradition. This includes discussion of how and why clinical education often has been the entry point as well as other avenues of introduction that have worked or could be successful in "legal ethics teaching frontiers." The session also will consider questions including the following: (1) How formalization and systematization of a country's legal ethics law, guidance, and enforcement interact with course creation, *e.g.*, does requiring a course promote an elaboration of principles, what if a country has no ethics codes for legal professionals; (2) Whether, aside from teaching some different substance about the regulation system, a civil law or other legal tradition requires any inherently different approaches to teaching legal ethics than those historically used in common law countries that have been most active in IAOLE & the ILEC conferences up to now?

#### **E9: Developing Students' Capacity to Cope with Ethical Dilemmas in Legal Practice through Teaching 'Giving Voice to Values' Techniques**

##### **Panellists:**

Liz Curran, Australian National University, ANU, Australia  
Annelka Ferguson, ANU  
Vivien Holmes, ANU

##### **Abstract:**

Many legal ethics courses develop students' ability to identify and analyse ethical issues and even to determine 'the right thing to do'. However, we know from extensive research in behavioural ethics that well developed ethical reasoning abilities do not necessarily equate to ethical action.

The ANU Legal Workshop has adapted the Giving Voice to Values curriculum developed by Mary Gentile (Babson College, USA) to move students beyond ethical analysis to ethical action in legal practice.

This Paper will:

1. Briefly explore what we can learn from behavioural ethics about ethical decision making and ethical action.
2. Demonstrate how we use the GVV curriculum in a legal practice contexts; and
3. Provide an overview, based on our empirical research of student and staff reactions to the pedagogy employed.

The session will be interactive. Participants will be invited to engage in one of the GVV exercises we

use in the course and debrief/reflect on issues emerging.

**E10: Legal Ethics Education beyond Common Law Countries: Session 2**

**Panellists:**

Leah Wortham, The Catholic University of America, Washington, D.C., USA  
Jose García-Añón, University of Valencia, Spain  
Juan Beca, Catholic University of Temuco, Chile  
Sverre Blandhol, University of Oslo, Norway  
Nattakan Chomphuthong, Bridges Across Borders Southeast Asia Clinical Legal Education Initiative (BABSEA CLE) Chiang Mai, Thailand  
Magdalena Klauze, University of Łódź, Poland  
Yasutomo Morigiwa, Nagoya University, Japan  
Maxim Tomoszek, Palacký University, Olomouc, Czech Republic

**Abstract:**

Legal ethics courses focusing in substantial part on the application of professional ethical principles and the law governing lawyers to the work of legal professionals is a regular part, and often required, at three training levels in some common law countries: the law school curricula for the first degree, post-graduate legal training courses, and continuing legal education courses. Legal ethics testing also may be part of the bar admission process. This, however, is much less the case in countries in the civil law and other legal traditions as well as common law countries in the developing world.

In this second session on this theme panelists will describe seven approaches to teaching legal ethics that panelists already are implementing in countries outside the common law tradition including information on published course books and other materials that have been developed. The session will look differences in focus of these courses as well as variation in the level at which they are taught, *e.g.*, first degree, post-graduate professional training, continuing legal education.

**Philosophy**

**P1: Lawyers and the Rule of Law**

**Panellists:**

Greg Cooper,  
Tim Dare, University of Auckland, NZ.  
Kate Kruse, Hamline University, USA  
David Luban, Georgetown University, USA  
Dana Remus, University of North Carolina, USA  
Bradley Wendel, Cornell University, USA

**Abstract:**

What is the rule of law, and what role, if any, do lawyers play in sustaining it? Can the rule of law meaningfully inform the content and scope of lawyers' ethical obligations? Or does the rule of law merely distract attention from the question that

should animate legal ethics: what ought a lawyer to do, all things considered?

This panel will consider these and related questions. Each panelist will prepare a short paper (5 pages, double spaced). After a short (5-10 minute) presentation by each panelist on his or her paper, the panel will engage in a roundtable discussion amongst the panelists, the chair and the audience.

**Regulation**

**R1: Embedding Ethical Competence**

**Panellists:**

Richard Devlin, Dalhousie, Canada (Chair)  
Paul Maharg, ANU  
Adrian Evans, Monash, Australia  
Victoria Rees, Nova Scotia, Canada

**R2: Change from within rather than the Imposition of Change from without**

**Panellists:**

Darrel Pink, Nova Scotia Barristers Society, Halifax, Nova Scotia, Canada  
John Law, University of Alberta, Edmonton Alberta, Canada  
Malcolm Mercer, McCarthy Tetrault, Toronto, Ontario, Canada  
Federica Wilson, Federation of Law Societies of Canada

**Abstract:**

In sharp distinction to the situation in Australia and the United Kingdom, the regulatory structure of the legal profession in Canada, modelled on self-governance, remains largely the same. Yet, this external view belies significant innovation and change from within, as legal regulators, provincially, and also nationally through an umbrella organization, the Federation of Law Societies, have moved, in furtherance of the public interest, to respond to changes in legal practice and the market for legal services. In this respect the panel will consider such matters as: national lawyer mobility, the development of uniform national standards in relation to admission to practice, good character, ethics, discipline, the content of legal education and provincial initiatives in relation to the regulation of para professionals and law firms. Diversity in these initiatives will also be examined as the challenges facing provincial law societies are not the same. Altogether these initiatives reflect innovation from within rather than resistance to or a denial of the need for change to further the public interest in responsible regulation and accessible, competent and ethical legal services.

**R3:** The Regulation of Legal Profession: A Comparative Perspective on the Direction of Change

**Panellists:**

Andy Boon, City University London, UK  
Linda Haller, University of Melbourne, Australia  
Seline Mize, University of Otago, Dunedin, New Zealand  
Deborah Rhode, Yale University, USA  
Noel Semple, University of Toronto, Canada

**Abstract:**

This panel will consider the possible future for regulation of the legal professions by exploring developments in five common law jurisdictions; Australia, Canada, England and Wales, New Zealand and the USA. Each panellist will briefly address three issues:

The recent history and direction of regulation in their home jurisdiction (institutions and models of regulation)

The impact of regulatory and other change on professionalism (including 'core values')

The future of regulation (the shape and direction of reform)

The plenary part of the session will consider the commonality of the direction of reform and the implications for the regulation of lawyers.

**R4:** A Model Law on Legal Ethics and Professional Responsibility for Countries of the Middle East and North Africa (MENA)

**Panellists:**

Mohamed Mattar, Johns Hopkins University School of Advanced International Studies (SAIS), Washington, DC USA  
Mohammad Mahdi Meghdadi, Mofid University, Qom, Iran  
Hossein Mirmohammadsadeghi, Shahid Beheshti University, Tehran, Iran  
Saif Al-Rawahi, Sultan Qaboos University, Muscat, Oman

**Abstract:**

While the attorney-client relationship is subject to regulation by law that governs practicing the legal profession, there is no comprehensive law on legal ethics and professional responsibility in most countries of the Middle East. The purpose of the proposed panel session is to propose and discuss a *Model Law on Legal Ethics and Professional Responsibility for Countries of the Middle East and North Africa (MENA)*. To draft the model law, an examination of existing rules and regulations will be conducted, followed by an examination of international best practices, and references to model laws in civil law and common law countries. The model law will be used for several purposes: (1) to provide a foundation for teaching legal ethics at law schools throughout the MENA region; (2) to be utilized in law and business clinics throughout the MENA region for training clinical students and

staff; (3) to be integrated in courses taught in the areas of civil procedure and related courses that cover aspects of the attorney-client relationship; (4) to serve as a guide for parliamentarians in the region for drafting laws that regulate the legal profession; and (5) for civil society to advocate for the promulgation of such laws. The law will serve to fill a gap in legal education since hardly any law schools in the MENA region devote the time to teaching legal ethics to their students.

**R5:** Regulating Judges I

**Panellists:**

Richard Devlin, Dalhousie University, Canada  
Ray Worthy Campbell, Peking University School of Transnational Law, Shenzhen, China  
Gabrielle Appleby, University of Adelaide, Australia  
Suzanne Le Mire, University of Adelaide, Australia  
Helena Whalen-Bridge, National University of Singapore, Singapore

**Abstract:**

In the last decade there has been an explosion of comparative analyses of how lawyers are regulated. By contrast, there has been relatively little comparative analysis of another branch of the legal profession: judges. This double panel builds upon a collaborative research project that brings together approximately 20 scholars from around the globe to discuss how judges are regulated (perhaps over-regulated or under-regulated) in a variety of jurisdictions, including North America, Europe, Asia, Africa and the Middle East. The panel will focus on the legal systems of the home jurisdictions of the panel members.

**R6:** Regulating Judges II

**Panellists:**

Adam Dodek, University of Ottawa, Canada  
Tim Dare, University of Auckland, New Zealand  
Richard Devlin, Dalhousie University, Canada  
Dubravka Askamovitch, Faculty of Law, Osijek, Croatia  
Limor Zer-Gutman, College of Management Academic Studies, Israel

**Abstract:**

In the last decade there has been an explosion of comparative analyses of how lawyers are regulated. By contrast, there has been relatively little comparative analysis of another branch of the legal profession: judges. This double panel builds upon a collaborative research project that brings together approximately 20 scholars from around the globe to discuss how judges are regulated (perhaps over-regulated or under-regulated) in a variety of jurisdictions, including North America, Europe, Asia, Africa and the Middle East. The panel will focus on the legal systems of the home jurisdictions of the panel members.

**R7:** A Roundtable Discussion on the Lawyers' Monopoly and Client/Consumer Protection

**Panellists:**

Chris Kenny, Legal Services Board, *A Regulator's Perspective: Lessons on Consumer Protection from the Legal Services Board*

Renee Newman Knake, Michigan State University College of Law, *Free Competition as Free Speech—Understanding the Supreme Court's Use of the First Amendment to Achieve Antitrust Objectives in Lawyer Regulation*

James Cooper and Bruce Kobayashi, George Mason University Law School, *Antitrust Law as Legal Reform*

Melissa Morazati, Brooklyn Law School, *Selling Boardwalk: Lawyer Regulation in a Post-Monopoly World*

Cassandra Burke Robertson, Case Western Law School, *Collaborative Regulation in a Post-Monopoly Profession*

**Abstract:** This roundtable discussion examines the lawyers' monopoly and client/consumer protection from US and UK perspectives. Speakers include scholars and regulators who will discuss ways that consumer protection measures might (or might not) be enhanced in the US and other jurisdictions at a time where the UK has continued to prioritize consumer interests via the implementation of the Legal Services Act of 2007 and beyond. Topics to be covered include the UK Legal Services Board's role in consumer protection, the potential for the US Federal Trade Commission (or a similar body) to become involved in lawyer regulation, the US Supreme Court's use of the First Amendment to accomplish antitrust objectives in advertising cases, regulation of the profession post-monopoly, antitrust law as legal reform, and more.

## STAYING IN LONDON

If you are able to stay in London beyond the conference, or if you have a partner or friend with you, enjoy the fact that London is one of the cultural capitals of the world. Most museums and art galleries are free to enter. London is easy to travel around with the Tube, buses and river services.

The Transport for London website answers your questions:

<http://www.tfl.gov.uk/>

Here are a few of the opportunities available. More on

<http://www.visitlondon.com/>

### THEATRE

London's theatres provide an exceptional variety of drama from radical experimental plays to blockbuster musicals. At the time of writing many venues have not decided on their programmes so you should see their websites. At any rate, you should check out:

**The National Theatre:** <http://www.nationaltheatre.org.uk/>

<b>Olivier Theatre</b>	The largest theatre here, fan-shaped around the stage.
<b>Lyttelton Theatre</b>	Proscenium arch theatre.
<b>Cottesloe Theatre</b>	Studio theatre currently closed while being transformed into:
<b>Dorfman Theatre</b>	Opening in 2014 – date not yet available
<b>The Shed</b>	Temporary space while Cottesloe/Dorfman closed.

### Sources of other theatre information

<http://londontheatre.co.uk/londontheatre/whatson/index.htm>

<http://www.whatsonstage.com/london-theatre/>

<http://www.timeout.com/london/theatre>

## MUSEUMS

Event	Dates	Website
<p><b><u>The British Museum:</u></b></p> <p><b>Ancient Lives, New Discoveries Exhibition (tickets £10)</b></p> <p><b>Germany Divided: Baselitz and his Generation</b></p> <p><b>From the Duerckheim Collection (free)</b></p>	<p>22<sup>nd</sup> May - 30<sup>th</sup> November 2014</p> <p>6<sup>th</sup> February - 31<sup>st</sup> August 2014</p>	<p><a href="https://www.britishmuseum.org/whats_on/exhibitions/ancient_lives.aspx">https://www.britishmuseum.org/whats_on/exhibitions/ancient_lives.aspx</a></p> <p><a href="https://www.britishmuseum.org/whats_on/exhibitions/germany_divided.aspx">https://www.britishmuseum.org/whats_on/exhibitions/germany_divided.aspx</a></p>
<p><b><u>Victoria &amp; Albert Museum:</u></b></p> <p><b>Glamour of Italian Fashion</b></p> <p><b>William Kent: Designing Georgian Britain</b></p> <p><b>Wedding Dresses 1775 - 2014</b></p>	<p>5<sup>th</sup> April - 27<sup>th</sup> July 2014</p> <p>22<sup>nd</sup> March – 13<sup>th</sup> July 2014</p> <p>3<sup>rd</sup> May 2014 – 15<sup>th</sup> March 2015</p>	<p><a href="http://www.vam.ac.uk/whatson/">http://www.vam.ac.uk/whatson/</a></p>
<p><b><u>Natural History Museum:</u></b></p> <p><b>Britain: One Million Years of the Human Story (tickets £9)</b></p> <p><b>Sensational Butterflies (tickets £5.50)</b></p> <p><b>Mammoths: Ice Age Giants</b></p> <p><b>Cocoon (free)</b></p>	<p>13<sup>th</sup> February – 28<sup>th</sup> September 2014</p> <p>3<sup>rd</sup> April – 14<sup>th</sup> September 2014</p> <p>23<sup>rd</sup> May – 7<sup>th</sup> September 2014</p> <p>Ongoing</p>	<p><a href="http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/britain-million-years/index.html">http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/britain-million-years/index.html</a></p> <p><a href="http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/sensational-butterflies/index.html">http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/sensational-butterflies/index.html</a></p> <p><a href="http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/mammoths-coming-soon/index.html">http://www.nhm.ac.uk/visit-us/whats-on/temporary-exhibitions/mammoths-coming-soon/index.html</a></p> <p><a href="http://www.nhm.ac.uk/visit-us/whats-on/events/programs/nhm/cocoon.html?date=14.07.2014">http://www.nhm.ac.uk/visit-us/whats-on/events/programs/nhm/cocoon.html?date=14.07.2014</a></p>
<p><b><u>The Royal Museums Greenwich:</u></b></p> <p><b>Cutty Sark</b></p> <p><b>National Maritime Museum</b></p> <p><b>Queen's House</b></p> <p><b>Royal Observatory Greenwich</b></p> <p><b>Peter Harrison Planetarium</b></p>		<p><a href="http://www.rmg.co.uk/">http://www.rmg.co.uk/</a></p>
<p><b><u>The Science Museum</u></b></p>		<p><a href="http://www.sciencemuseum.org.uk/">http://www.sciencemuseum.org.uk/</a></p>
<p><b><u>The Museum of London</u></b></p>		<p><a href="http://www.museumoflondon.org.uk/london-wall/">http://www.museumoflondon.org.uk/london-wall/</a></p>
<p><b><u>Sir John Soane's Museum</u></b></p> <p><b>(free)</b></p> <p><b>Intriguing museum in Lincoln's Inn Fields</b></p>		<p><a href="http://www.soane.org/">http://www.soane.org/</a></p>



## ART GALLERIES

<p><b><u>The National Gallery:</u></b> <b>Colour</b></p> <p><b>Building the Picture: Architecture in Italian Renaissance Painting</b></p> <p><b>60-minute Guided Tour of the collection also available</b></p>	<p>18<sup>th</sup> June – 7<sup>th</sup> September 2014</p> <p>30<sup>th</sup> April – 21<sup>st</sup> September 2014</p>	<p><a href="http://www.nationalgallery.org.uk/whats-on/exhibitions/colour-exhibition">http://www.nationalgallery.org.uk/whats-on/exhibitions/colour-exhibition</a></p> <p><a href="http://www.nationalgallery.org.uk/whats-on/exhibitions/building-the-picture">http://www.nationalgallery.org.uk/whats-on/exhibitions/building-the-picture</a></p> <p><a href="http://www.nationalgallery.org.uk/whats-on/calendar/guided-tours/48985">http://www.nationalgallery.org.uk/whats-on/calendar/guided-tours/48985</a></p>
<p><b><u>Tate Modern:</u></b> <b>Tate Modern Displays (free)</b></p> <p><b>Henri Matisse: The Cut-Outs (tickets £18)</b></p>	<p>Ongoing</p> <p>17<sup>th</sup> April – 7<sup>th</sup> September 2014</p>	<p><a href="http://www.tate.org.uk/whats-on/tate-modern/display/tate-modern-displays">http://www.tate.org.uk/whats-on/tate-modern/display/tate-modern-displays</a></p> <p><a href="http://www.tate.org.uk/whats-on/tate-modern/exhibition/henri-matisse-cut-outs">http://www.tate.org.uk/whats-on/tate-modern/exhibition/henri-matisse-cut-outs</a></p>
<p><b><u>Tate Britain:</u></b> <b>BP Displays (free)</b></p> <p><b>Kenneth Clark Exhibition</b></p>	<p>Ongoing</p> <p>20<sup>th</sup> May – 10<sup>th</sup> August 2014</p>	<p><a href="http://www.tate.org.uk/whats-on/tate-britain/display/tate-britain-displays">http://www.tate.org.uk/whats-on/tate-britain/display/tate-britain-displays</a></p> <p><a href="http://www.tate.org.uk/whats-on/tate-britain/exhibition/kenneth-clark">http://www.tate.org.uk/whats-on/tate-britain/exhibition/kenneth-clark</a></p>
<p><b><u>Hayward Gallery</u></b></p> <p><b>Future: The Human Factor</b></p>	<p>10<sup>th</sup> June - 31<sup>st</sup> August</p>	<p><a href="http://www.southbankcentre.co.uk/venues/hayward-gallery">http://www.southbankcentre.co.uk/venues/hayward-gallery</a></p>
<p><b><u>Courtauld Gallery</u></b></p>		<p><a href="http://www.courtauld.ac.uk/GALLERY/">http://www.courtauld.ac.uk/GALLERY/</a></p>
<p><b><u>National Portrait Gallery</u></b></p> <p><b><u>Royal Academy of the Arts (Entry £3)</u></b></p> <p><b>Summer Exhibition:</b> Now in its 246th year, the Summer Exhibition remains the world's largest open entry exhibition, showcasing works in all styles and media selected by a panel of experts. (£10)</p>		<p><a href="http://www.npg.org.uk/">http://www.npg.org.uk/</a></p> <p><a href="http://www.royalacademy.org.uk/exhibitions/summer-exhibition-2014/">http://www.royalacademy.org.uk/exhibitions/summer-exhibition-2014/</a></p>
<p><b><u>The Wallace Collection</u></b></p>		<p><a href="http://www.wallacecollection.org/">http://www.wallacecollection.org/</a></p>

These are just the big famous galleries. There are also many places to see art off the beaten track. See, for example:

<http://www.timeout.com/london/art/londons-secret-galleries>.

<http://www.timeout.com/london/art/street-art-galleries-in-london>.

## MUSIC

### CONCERT HALLS

Venue	Website
<b>Royal Albert Hall</b>	<a href="http://www.royalalberthall.com/">http://www.royalalberthall.com/</a>
<b>Royal Festival Hall</b>	<a href="http://www.southbankcentre.co.uk/venues/royal-festival-hall">http://www.southbankcentre.co.uk/venues/royal-festival-hall</a>
<b>The Purcell Room</b>	<a href="http://www.southbankcentre.co.uk/venues/purcell-room">http://www.southbankcentre.co.uk/venues/purcell-room</a>
<b>Queen Elizabeth Hall</b>	<a href="http://www.southbankcentre.co.uk/venues/queen-elizabeth-hall">http://www.southbankcentre.co.uk/venues/queen-elizabeth-hall</a>
<b>Barbican Centre</b>	<a href="http://www.barbican.org.uk/">http://www.barbican.org.uk/</a>
<b>Wigmore Hall</b>	<a href="http://www.wigmore-hall.org.uk/">http://www.wigmore-hall.org.uk/</a>

### CHURCHES WITH A HISTORY OF HOSTING MUSIC

<b>St. John's, Smith Square</b>	<a href="http://www.sjss.org.uk/">http://www.sjss.org.uk/</a>
<b>St. Martin in the Fields</b>	<a href="http://www.stmartin-in-the-fields.org/">http://www.stmartin-in-the-fields.org/</a>
<b>St. James's Piccadilly</b>	<a href="http://www.sjp.org.uk/evening-concerts.html">http://www.sjp.org.uk/evening-concerts.html</a>

### JAZZ VENUES

<b>Ronnie Scott's</b>	<a href="http://www.ronniescotts.co.uk/">http://www.ronniescotts.co.uk/</a>
<b>Vortex Jazz Club</b>	<a href="http://www.vortexjazz.co.uk">www.vortexjazz.co.uk</a>
<b>Pizza Express Jazz Club</b>	<a href="http://www.pizzaexpresslive.co.uk">www.pizzaexpresslive.co.uk</a>
<b>606 Club</b>	<a href="http://www.606club.co.uk">www.606club.co.uk</a>
<b>The Jazz Café</b>	<a href="http://www.jazzcafe.co.uk">www.jazzcafe.co.uk</a>
<b>The Union Chapel</b> Intriguing venue – acoustic and jazz	<a href="http://www.unionchapel.org.uk">www.unionchapel.org.uk</a>

In addition there are hundreds of other venues, presenting all types of music, from the enormous stadium to the back rooms of many pubs. For a guide see Time Out, free magazine and online at: <http://www.timeout.com/london>.

## LEGAL LONDON

**Parliament:** <http://www.parliament.uk/about/living-heritage/building/palace/>

**The Supreme Court:** <http://supremecourt.uk/>

**The Royal Courts of Justice:** <http://www.justice.gov.uk/courts/rcj-rolls-building>

**Gray's Inn:** <http://www.graysinn.org.uk/>

**Inner Temple:** <http://www.innertemple.org.uk/>

**Lincoln's Inn:** <http://www.lincolnsinn.org.uk/>

**Middle Temple:** <http://www.middletemple.org.uk/home/>

## FAMOUS ATTRACTIONS

<b>Westminster Abbey</b> Burial place of kings, queens, soldiers and poets		<a href="http://www.westminster-abbey.org/">http://www.westminster-abbey.org/</a>
<b>Westminster Cathedral</b> London's Roman Catholic cathedral		<a href="http://www.westminstercathedral.org.uk/">http://www.westminstercathedral.org.uk/</a>
<b>St. Paul's Cathedral</b> The cathedral of the City of London		<a href="http://www.stpauls.co.uk">www.stpauls.co.uk</a>
<p style="text-align: center;"><b><u>Historical Royal Palaces:</u></b>  <b>The Tower of London</b>  <b>Hampton Court Palace</b>  <b>Hampton Court Palace Flower Show</b>  <b>(tickets £12)</b>                  The world's largest annual flower show. As well as the stunning floral displays, you can learn about growing your own fruit and vegetables, get tips on gardening in a changing climate, and shop for garden products.</p> <p style="text-align: center;"><b>Banqueting House</b>  <b>Kensington Palace</b>  <b>Kew Palace</b></p>	8 <sup>th</sup> July - 13 <sup>th</sup> July 2014 at Hampton Court Palace KT8 9AU	<a href="http://www.hrp.org.uk/">http://www.hrp.org.uk/</a>  <a href="http://www.rhs.org.uk/Shows-Events/RHS-Hampton-Court-Palace-Flower-Show/2014?utm_medium=cpc&amp;gclid=CPHfidnQy7wCFQjjwgod43UAyw">http://www.rhs.org.uk/Shows-Events/RHS-Hampton-Court-Palace-Flower-Show/2014?utm_medium=cpc&amp;gclid=CPHfidnQy7wCFQjjwgod43UAyw</a>
<b>Madame Tussauds</b>		<a href="http://www.madametussauds.com/London/">http://www.madametussauds.com/London/</a>
<b>The London Dungeon</b>		<a href="http://www.thedungeons.com/london/en/">http://www.thedungeons.com/london/en/</a>
<b>London Sea Life Aquarium</b>		<a href="http://www.visitsealife.com/london/">http://www.visitsealife.com/london/</a>
<b>The EDF Energy London Eye</b>		<a href="http://www.londoneye.com/">http://www.londoneye.com/</a>

The Committee of the International Association of Legal Ethics would like to extend its thanks to the City University London Events team for their excellent work on preparing and running this conference. In particular, our thanks go to Kristie Loutsiou and Mark Perry, and the team of student ambassadors who have ensured its smooth running.

## **Contacts and sources**

The International Association of Legal Ethics website is at:  
<http://www.stanford.edu/group/lawlibrary/cgi-bin/iaole/wordpress/>.

Conference papers may be uploaded to the website of the International Forum on Teaching Legal Ethics and Professionalism, where many of the papers and presentations from previous conferences plus many other resources may also be found freely available:

<http://www.teachinglegalethics.org/>

Conference details will remain available on the conference website at:  
<http://www.city.ac.uk/international-legal-ethics-conference>.

The Conference is supported by the Centre for the Study of Legal Professional Practice, which is based in City Law School:  
<http://www.city.ac.uk/law/courses/research/centre-for-the-study-of-legal-professional-practice>.

If you would like to keep in touch with the Legal Ethics Forum at the Centre for the Study of Legal Professional Practice contact Andy Boon ([Andy.Boon.1@city.ac.uk](mailto:Andy.Boon.1@city.ac.uk)) or Nigel Duncan ([N.J.Duncan@city.ac.uk](mailto:N.J.Duncan@city.ac.uk)) or visit:  
<http://www.city.ac.uk/law/research/centre-for-the-study-of-legal-professional-practice/professional-ethics-forum>