



Programme

2013 UK IVR Annual Conference

Legal Theory and Legal History: A Neglected Dialogue?

Organised by the Legal Theory and History Research Group, School of Law, Queen Mary, University of London and the UK Branch of the International Association of Legal and Social Philosophy (UK IVR)

Friday 12 April 2013

9.30 Registration and Refreshments, ArtsTwo Reception

9.55 Welcome, Arts Two Lecture Theatre (LT)

Professor Valsamis Mitsilegas, Head of Department, School of Law, Queen Mary, University of London
Dr Maks Del Mar, School of Law, Queen Mary, University of London, and Convenor of the UK IVR

10.00 Keynote

Chair: Professor Roger Cotterrell, School of Law, Queen Mary, University of London

Speaker: Professor Quentin Skinner, The Concept of the State in Legal History and Theory

11.00 Refreshment Break

11.30 Open Paper Session I, Arts 2 LT and Breakout Rooms

Group 1.1 The State: Universal and Particular, Arts 2 LT

Chair: Professor Michael Lobban, School of Law, Queen Mary, University of London

Speakers: Pierre Brunet, Eric Millard, and Jean-Louis Halpérin, Can Legal Theoreticians and Historians Agree About a Definition (or Characterisation) of the State?

Speaker: Donal Coffey, Postcards from the Dominions: Legal Theory as Legal History in Australia and Ireland

Speaker: Michal Galeddek, Theories of Modern Administration on the Polish Territories in the First Half of the 19th Century – Polish and Foreign Traditions

Group 1.2 The Methodology of Legal Theory, Arts 2 Room 316

Chair: Dr. Maks Del Mar, Queen Mary and UK IVR

Speaker: Peter Cserne, From Legal History Through Descriptive Sociology to Legal Theory: Weber, Hart and Beyond

Speaker: Kevin Walton, Legal Philosophy and the Social Sciences: Nicola Lacey on the Hart-Fuller Debate

Speaker: Mariano Croce, How History Shapes the Legal Field: The Autonomy of Jurisprudence as a Historical Effect



Group I.3 A Historical Turn in Jurisprudence, Arts 2 Room 320

Chair: Dr Brenna Bhandar, School of Law, Queen Mary, University of London

Speaker: Christopher Tomlins, For a Materialist Jurisprudence

Speaker: Eric Heinze, Ahistoricism as Strategy and Mask

Speaker: Jonathan Gorman, Legal Metahistory

Group I.4 International Law and Legal History, Arts 2 Room 317

Chair: Dr Stephen Allen, School of Law, Queen Mary, University of London

Speaker: Jessie Hohmann: The Past is the Future: The Turn to History and the Critical International Legal Left

Speaker: Surabhi Ranganathan, International Law between Philosophy and Anxiety: Two (Re) Constructions of the Vienna Convention on the Law of Treaties

Group I.5 History and Theory of Crime, Arts 2 Room 217

Chair: Professor Andrew Halpin, Faculty of Law, National University of Singapore

Speaker: Tony Ward, Insanity and Sovereignty: The Austinian Theory of Criminal Liability

Speaker: Kevin Crosby, The Legal Theory and Legal History of the Criminal Trial Juror

Speaker: Arlie Loughnan, Responsibility and Non-Responsibility in Criminal Law

13.00 Lunch Break

14.00 Keynote, ArtsTwo LT

Chair: Professor Zenon Bańkowski, School of Law, University of Edinburgh, and Treasurer of the UK IVR

Speaker: Professor John Bell, Is Comparative Law Necessary for Legal Theory?

15.15 Open Paper Session 2, Arts 2 LT and Breakout Rooms

Group 2.1 The History of Concepts, Arts 2 Room 316

Chair: Dr Maks Del Mar, Queen Mary and UK IVR

Speaker: Hubert Schnueriger, The Nature of Rights and the Relevance of Historical Research: A Critical Glance at Some Theses

Speaker: Sean Patrick Donlan, First Things First: Of Philosophy and Folk Concepts

Speaker: Mario Ricciardi, Two Concepts of Status

Group 2.2 Legal Theory, Legal History and the Common Law, Arts 2 Room 320

Chair: Professor Michael Lobban, Queen Mary

Speaker: Anna Taitlin, The Legal History Debate on 'Absolute Ownership' at Common Law and the Changed Notion of Ownership in Legal Theory: Form Bartolus' Ownership as Right to Hohfeld's Legal Relations

Speaker: Joshua Tate, Competing Institutions and Dispute Settlement in Medieval England

Speaker: Burkhard Schafer, Taking Problem Solving Seriously: What Can Theory of Science Teach Us About the Historiography of the Common Law



Group 2.3 Particular Cultural Contexts for Collaboration between Legal Theory and Legal History, Arts 2 Room 317

Chair: Professor Zenon Bańkowski, University of Edinburgh and UK IVR

Speaker: Ernest Caldwell, 'New' Perspectives on Socio-Legal Change: Contributions from Early Chinese Legal History

Speaker: Rafal Manko, Legal Transfers and Legal Survivals: Theoretical Implications on the Continuity of the Socialist Legal Tradition in Poland

Speaker: Tatiana Borisova, Jane Henderson and Boris Mamlyuk, What was 'Soviet' in Soviet Legal Theory?

Group 2.4 Law, Pathology and Politics, Arts 2 Room 217

Chair: Professor Andrew Halpin, University of Singapore

Speaker: Herlinde Pauer-Studer, The Role of Morality in Nazi Conceptions of Law

Speaker: Nicholas Gervassis, History of a Patient: Statute Drafting and the Subconscious of Law in Action

Speaker: Mary Vogel, Law and the Subject of Power: Courts and Discretion in Post-Revolutionary America, 1820-1850

Group 2.5: The Relevance of History for Legal Theory, Arts 2 LT

Chair: Ms Catharine MacMillan, School of Law, Queen Mary, University of London

Speaker: Kaius Tuori, Schmitt and the Sovereignty of Dictators

Speaker: Joseph David, Risks and Odds in Integrating Legal Theory and Legal History

Speakers: TT Arvind and Lindsay Stirton, Strategy, Doctrine and the Emergence of Legal Theories

16.45 Refreshment Break

17.15 Keynote, Arts Two LT

Chair: Ms Catharine MacMillan, Queen Mary

Speaker: Professor Joshua Getzler, Law and Self-Interest

18.15 UK IVR Annual General Meeting, ArtsTwo LT

18.45 Drinks Reception, ArtsTwo Reception

19.30 Conference Dinner, Senior Common Room, Queens Building (prepaid guests only)



Saturday 13 April 2013

9.30 Registration and Refreshments, ArtsTwo Reception

10.00 Plenary Session, ArtsTwo Lecture Theatre

Chair: Professor Richard Nobles, School of Law, Queen Mary, University of London

Speaker: Dr Eric Descheemaeker, Legal Rationality as Legal History, with commentary by Professor William Lucy

Speaker: Dr Ian Williams, The Role of Rules: Legal Maxims in Early-Modern Common Law Principle and Practice, with commentary by Dr Thomas Poole

11.30 Refreshment Break

12.00 PhD Paper Session 3, Arts 2 LT and Breakout Rooms

Group 3.1 History of Legal Ideas, Arts 2 LT

Chair: Professor Zenon Bańkowski, University of Edinburgh and UK IVR

Speaker: C.J. (Niels) de Bruijn, The Argument from Authority in Late Medieval and Early-Modern Legal Thought

Speaker: Henrique Carvalho, Liberty and Insecurity in the Criminal Law: A Genealogy of Responsibility

Speaker: Tobias Schaffner, Hugo Grotius' Use of History in his *De Jure Belli ac Pacis* (1625)

Group 3.2 Crime and Slavery, Arts 2 Room 320

Chair: Professor Andrew Halpin, University of Singapore

Speaker: Tom Goldup, The Treason Trials Act 1696: The Origins of Defence Counsel as a Technique of Control

Speaker: Pedro Jimenez Cantisano, In-between Slavery and Freedom: Legal Fictions with Real Consequences in 19th Century Brazil

Speaker: Rafael Van Damme, At the Crossroads of History of Criminal Law and Philosophy of Religion: the Disruption of Scapegoat Mechanisms

Group 3.3 Particular Theories, Particular Histories, Arts 2 Room 316

Chair: Professor Burkhard Schafer, School of Law, University of Edinburgh, and UK IVR Secretary

Speaker: Zhu Mingzhe, The Laicisation of Natural Law Theory in Belle Époque: How the Political Matters in Legal Scholarship

Speaker: Toon Moonen, Institutional History and Constitutional Theory: A Story of Obsession, Rejection...and Perfection?

Group 3.4 Legal Theory and Legal History: Imagining Possibilities, Arts 2 Room 217

Chair: Dr Maks Del Mar, Queen Mary and UK IVR

Speaker: Panagia Voyatzis, The Unbearable Forgetfulness of Law

Speaker: Paul Tiensuu and Juhana Salojärvi, On the Concept of Fundamental Contradiction: Co-operation Between Legal Theory and Legal History

13.30 Lunch Break



14.30 **Open Paper Session 4, Arts 2 LT and Breakout Rooms**

Group 4.1: The Importance of History for Legal Scholarship, Arts 2 LT

Chair: Ms Catharine MacMillan, Queen Mary

Speaker: Stephen Waddams, Legal History, Legal Theory and Practical Considerations in Legal Reasoning

Speaker: Steve Hedley, Is an Ahistorical Corrective Justice Theory Useful in Explaining Modern Private Law?

Speaker: Scott Styles, The Triumph of the Will

Group 4.2: Legal Theory and the History of Ideas, Arts 2 Room 217

Chair: Dr Maks Del Mar Queen Mary and UK IVR

Speaker: Adolfo Giuliani, Legal History, Legal Theory and the Historical Problem of the *Ius Commune*

Speaker: Matthew Crow, Forms of Life: The Culture of Law as a Culture of Use

Speaker: Richard Collins, Classical Positivism and the Problem of Legal Autonomy in Modern International Law

Group 4.3: Comparing Disciplines: Legal Reasoning, Legal Theory, and Legal History, Arts 2 Room 316

Chair: Professor Michael Lobban, Queen Mary

Speaker: James Hackney, Legal Intellectuals in Conversation: Reflections on the Construction of Contemporary American Legal Theory

Speaker: Jonathan Rose, The Nature and Development of Legal History as an Academic Discipline

Speaker: Larry DiMatteo, Unframing Legal Reasoning

Group 4.4: Historicising Philosophical Problems, Arts 2 Room 320

Chair: Professor Richard Nobles, Queen Mary

Speaker: Roger Cotterrell, The Politics of Jurisprudence Revisited: A Swedish Realist in Historical Context

Speaker: Corrado Roversi, Mimetic Law (vs Natural Law): A Philosophical Problem Turned into a Historical One

Group 4.5: History and Theory of Sources, Arts 2 Room 317

Chair: Professor Burkhard Schafer, University of Edinburgh and UK IVR

Speaker: Karlijn van Blom, The Use of Foreign Sources of Law: A Historical Approach

Speaker: Pierre-Olivier de Broux, Sources of Law, Sources of Power

Speaker: Tom Cornford, Cultural Consensus and the Rule of Recognition in English Law

16.00 **Refreshment Break**

16.30 **Closing Panel**

Chair: Professor Michael Lobban, Queen Mary

Speakers: Professor David Ibbetson and Professor Philip Schofield

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