List of Panels Proposed for the 7th Global Meeting on Law & Society "Rage, Reckoning, & Remedy" in association with the Commission on Legal Pluralism, Lisbon July 13-16, 2022

We are gearing up to have quite a few legal pluralism panels at the upcoming Law and Society Conference in Lisbon. If you are interested in presenting a paper in one of the legal pluralism panels listed below:

Panel 1 – Indigenous rights being transformed
Panel 2 – Adaptive legal pluralism in post-colonial states
Panel 3 – Legal pluralism as a means to promote international development projects
Panel 4 – Legal pluralism in war-torn societies
Panel 5 – Complexity and legal pluralism: an important future relationship?
Panel 6 – Managing legal pluralism: processes, driving forces and effects
Panel 7 – Law and nature: the recognition of rights of nature revisited
Panel 8 – Decolonizing the normative power of technology and materiality in postcolonial plural legal settings
Panel 9 – The role of women in traditional and minority governance structures in South Africa and elsewhere

Please send the conference committee (j.m.ubink@law.leidenuniv.nl), **before 30 October 2021**
- a short abstract of your paper (N.B. max 2000 <u>characters</u>, not words)
- indicate the panel you'd like to join (see the full list of panel abstracts below).
- Please note that some panels are online while others are on site in Lisbon. Panels <u>cannot</u> be held in a hybrid form, with some presenters in Lisbon and others online.

Please note that the process this year consists of three steps:

- Step 1: You send in an abstract before 30 October, which will be sorted into panels by the conference committee of the Commission on Legal Pluralism in consultation with the panel organizers.
- Step 2: You will hear back from us at the latest by 4 November.
- Step 3: Both panel organizers and all paper presenters then need to <u>register themselves</u> at the LSA conference (at https://lsa-annualmeeting.secure-platform.com/a/organizations/main/home) and pay their registration fees. Panel organizers should select 'submit a session' (and sessions have a max of 850 characters!); paper presenters should select 'submit an abstract' (max 2000 characters). Registrations have a hard deadline of 10 November. Each person should select CRN 48 – Legal pluralism at the bottom of the submission page. The Commission cannot help you with registration, nor do we have any say in financial matters for this conference.

If you are interested in presenting a legal pluralism-related paper that does not fit any of these panels:

No problem, just submit your paper proposal to the LSA (at https://lsa-annualmeeting.secure-platform.com/a/organizations/main/home) and select CRN 48 – Legal pluralism at the bottom of the submission page. All these paper proposals will still come to us, as we are also the organizers of this CRN (Collaborative Research Network). This will allow us to group them into panels at that stage. Deadline is 10 November, don't miss it!

Janine Ubink, President of the Commission on Legal Pluralism

Panel 1

INDIGENOUS RIGHTS BEING TRANSFORMED

Brad Morse, Thompson Rivers University, Canada, bmorse@tru.ca, deeinthekitchen@hotmail.com

ABSTRACT

Indigenous peoples in many nations have been pressing for fundamental change in the recognition of their laws and their jurisdiction to use, protect and govern their traditional territories. Domestic courts, as well as international courts, have played a major role in redefining the rights and political status of Indigenous peoples. The General Assembly's passage of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September 2007 has significantly accelerated the pace of decolonization efforts in many jurisdictions. Similarly, both the Inter-American Commission and the Inter-American Court on Human Rights have influenced significant changes in many Latin American nations. Likewise, other UN treaty bodies have had some impact upon national attitudes on continuing negative impacts of colonization and reform efforts. Many nations' courts have triggered legal changes in the rights of Indigenous peoples, their governments and the status of Indigenous laws today. This panel will explore what has been influencing dramatic changes to occur recently and how that is affecting the revival of traditional Indigenous laws, as well as the creation of new mechanisms to deal with current realities.

Format: In person

Panel 2

ADAPTIVE LEGAL PLURALISM IN POST-COLONIAL STATES

Anthony C. Diala, University of the Western Cape, South Africa adiala@uwc.ac.za

ABSTRACT

In post-colonial societies, particularly in sub-Saharan Africa, State laws are essentially adapted versions of the laws imposed by Western Europe through legal transplants. These transplants and their accompanying socio-economic changes radically restructured the political economies of their recipients and became dominant in the co-existence of their legal orders. Today, judicial and legislative policies in many former colonies pay insufficient attention to people's normative adaptations to the socio-economic changes that accompanied legal transplants. Paradoxically, these policies attempt to inculcate obedience to liberal State laws, which sometimes sit uncomfortably with indigenous laws that emerged in processual and arguably patriarchal social settings. These indigenous laws co-exist with individualistic bills of rights, legal positivist rules of evidence, and gender equal laws of marriage, property, and succession. This panel explores this paradox, focussing on the ways in which legal orders imitate each other in post-colonial states, and how African experiences compare with Asia and other parts of the world. Papers for the panel may examine the extent to which legal pluralism is imitative, the influence of globalisation on legal pluralism, patterns of (dis)continuities in indigenous laws, and the significance of adaptive legal pluralism for law and development programming in the Global South

Format: In person

Panel 3

LEGAL PLURALISM AS A MEANS TO PROMOTE INTERNATIONAL DEVELOPMENT PROJECTS

Miguel de Lemos, University of Lisbon, Portugal migueldelemos@fd.ulisboa.pt

ABSTRACT

Over the last 30 years, international development projects, namely those linked to the promotion of the Rule of Law, have realized the importance of traditional systems of justice and conflict resolution. In this sense, more than fighting a pre-existing reality, these projects began to show signs of reforming their approaches towards joint work with traditional realities. The proposed panel aims to debate and answer the following question: can Legal Pluralism be an ally for international development projects in the area of Rule of Law, Justice and Land management systems?

Format: In person

Panel 4

LEGAL PLURALISM IN WAR-TORN SOCIETIES

Markus Weilenmann, Office for Conflict Research in Developing Countries, Zurich-Rueschlikon, Switzerland, www.conflictresearch.ch

ABSTRACT

Many different facets of legal pluralism in developing countries as well as in wealthy democracies have already been well scrutinized, but impact and role of legal pluralism in war torn societies remain surprisingly widely under-researched. While writers on humanitarian law or international law usually apply a state centric approach and remain widely caught within the UN terminology, focus thinkers on legal pluralism and plural governance rather on the limited capacities of the political power centre to penetrate the social relations. This way, already many challenging insights into unintended consequences are captured, especially with regard to the critical role of the political power centre in societies that are falling apart. It is however critical to understand the specific role, legal pluralistic configurations can have in war torn societies where the political and legal landscape may be subject of ongoing fragmentation processes and where former dissolution processes such as gross human rights violations or organised crimes against humanity may underpin the deterioration of any political and legal legitimacy. In such constellations, the analytical concepts of legal pluralism and plural governance allow capturing the growing and multi-layered fragmentation of social relations in society; and as social phenomena, legal pluralism and plural governance may remain nourished by social and political conflicts outside of the immediately visible. Both social phenomena may then comply with their role as historical witnesses, as they institutionally encapsulate cruel experiences of the past and trigger this way new, dangerous and unforeseen dynamics into current power conflicts. As analytical concepts, legal pluralism and plural governance can however be used as door openers for a deeper understanding of the composition of social cohesion, which keeps a society together or may explain their falling apart.

With this panel, I would like to address such questions and focus on how legal pluralism and plural governance in war-torn societies may shape issues of political legitimacy and the strengthening or weakening of political institutions. Welcomed are also papers which address the promulgation of extremely narrow containers of identity in order to cash on experiences of the traumatizing past. A further issue concerns the promotion of human rights by competing actor groups with distinct political goals in highly fragmented and often violent communities.

Format: In person

Panel 5

COMPLEXITY AND LEGAL PLURALISM: AN IMPORTANT FUTURE RELATIONSHIP?

Miranda Forsyth, Australian National University, Australia miranda.forsyth@anu.edu.au

ABSTRACT

A growing movement in the social sciences is embracing complexity as a new paradigm for understanding and analysing social systems. Complexity studies how interacting elements in a system create overall patterns, and how these overall patterns in turn cause the interacting elements to change or adapt. As with legal pluralism, complexity is utilised to highlight multiplicity and plurality, inter-relatedness and non-reductionism within social systems. The wide range of scholars working in complexity over the past few decades have developed a range of tools and approaches to navigate through complexity, rather than to be overwhelmed by it. Concepts associated with complexity include notions of contingency, emergence, network effects, multiple perspective taking, cognitive empathy, path dependency and competition amongst actors. The aim of this panel is to explore which of these conceptual approaches may have relevance for, or re-frame, the approaches currently being utilised by those working in the domain of legal pluralism.

If you have an interest in the potential of complexity science for the field of legal pluralism, please get in touch with the panel organizer, Miranda Forsyth (miranda.forsyth@anu.edu.au).

Format: Online

Panel 6

MANAGING LEGAL PLURALISM: PROCESSES, DRIVING FORCES AND EFFECTS

Ghislain Otis, Canada Research on Legal Diversity and Indigenous Peoples, University of Ottawa, Ghislain.Otis@uottawa.ca

ABSTRACT

This panel will offer a comparative analysis of empirical data collected in case studies aimed at understanding the manifestations and management of legal pluralism in various countries and regions (Africa, Canada, Central Europe, South Pacific). The first paper will describe and analyze the processes and techniques through which state and customary or indigenous legal systems manage legal pluralism formally or informally. The second paper will focus on the underlying dynamics and factors that determine the way legal systems manage or fail to manage legal pluralism. The third paper will assess the effects of legal pluralism management processes and dynamics on state and non-state legal systems as well as on individuals.

Three papers of this panel will be based on a book co-authored by the speakers entitled *Applied Legal Pluralism: Processes, Driving Forces and Effects* to be published by Routledge (in English) and Librairie générale de droit et de jurisprudence (*La vie du pluralisme juridique* in French).

Confirmed speakers: Ghislain Otis, Sophie Thériault, Jean Leclair

Other speakers: the convenor invites additional papers addressing similar issues with reference to other case studies (the processes for managing legal pluralism, their determinants and effects). A discussant will be invited to join the panel.

Format: In person

Panel 7

LAW AND NATURE. THE RECOGNITION OF THE RIGHTS OF NATURE REVISITED

Patricia Urteaga-Crovetto, Pontificia Universidad Católica del Perú, purteaga@pucp.edu.pe and Yenny Vega Cardenas, International Observatory on the Rights of Nature

ABSTRACT

Since 2017, a legal trend recognizing rivers as bearers of rights has emerged in several countries, granting water sources with legal and constitutional protection. In New Zealand, the Te Awa Tapua Act (2017) acknowledges the Whanganui River as a living entity and an ancestor. In March 2017, the Uttarakhand Court in India declared the Ganges and Yamuna rivers as "living entities with the status of a legal person". In April 2017 the Colombian Constitutional court recognized the Atrato river as a subject of rights, and since, many rivers, a moorland and the Amazonian region have been recognized as living entities in the country. In Bangladesh, in august 2019 all the rivers have been declared as living entities, and a local community in the United States recognized the Erie lake has followed suit. In 2021, the Regional County Municipality of Minganie and the Innu Council of Ekuanitshit in Canadá granted the Magpie river nine rights. Indeed, the anthropocentric paradigm that has long dominated the regulation of nature is gradually being replaced by an ecological approach that conceives Nature as a subject of rights (Vega & Parra, 2019). The academic exchange has swung between rejecting this legal strategy and upholding it as a unique way to defend nature from devastation, and even as the best way to fight climate change. In this panel, we intend to contribute to the discussion on the rights of Nature from a Legal Pluralist perspective.

Format: In person

Panel 8

DECOLONIZING THE NORMATIVE POWER OF TECHNOLOGY AND MATERIALITY IN POSTCOLONIAL PLURAL LEGAL SETTINGS

Bertram Turner turner@eth.mpg.de, and Keebet von Benda-Beckmann, Max Planck Institute for Social Anthropology, Germany

ABSTRACT

Since early colonial times, technology, materiality and their encoded knowledge regimes have, largely unacknowledged, displayed their normative power within the plural legal configurations created by colonizing states for their colonies. Such processes of normative interference by other-than-legal means continue in the postcolony.

The colonies were used as laboratories for experimenting with new technology, its materiality and the associated knowledge regimes. Probing their normative effects was part of this experimental design. Colonial states thus moved material-techno-legal assemblages offshore and tested their normative power in the colonies before applying them at home. Examples are technologies of security such as ID cards and fingerprinting, land registration, infrastructures of transport and of extractive technologies such as plantation economy, irrigation systems and mining, or innovations in healthcare such a new drugs and medical treatments. More recent examples are technical innovations dealing with environmental justice, climate adjustment and disaster risk reduction, and the regulation of migratory flows. Such techno-material transfer continues and inscribes its normativity in a wide range of legal tenets and practices in the postcolonial capitalist order such as the production of evidence, the exercise of claims to material and intellectual property, or regulations related to environmental issues and migration.

In this panel we are interested in the various modes of offshoring experimentation with normative assemblages to the global south, or 'repatriating' such tested assemblages to the global north, both in colonial and in postcolonial settings. We invite contributions that inquire how the more or less strategic or intentional impact normatively shapes people's behavior and legal consciousness, and how this affects power structures.

Given the fact that legal pluralism today is propagated in various fields of legal studies, not as a sensitizing analytical concept but as a normative project, that may provide an appropriate tool to decolonize the global legal order, unpacking these less obvious components of legal pluralism is an essential task. We welcome contributions that discuss these entanglements of materiality, technology and other-than legal-knowledge regimes with the other ordering regimes that together make up the plural legal constellations in the postcolony today, and suggest to inquire in what way they may have an impact on 'normative global legal pluralism' as a decolonizing project.

We are especially interested in questions about interactions within plural legal setting with:

- Extractive technologies, land rights, and land registration
- Technologies of human security, including environmental security
- Local dealing (resilience, integration, translation etc.) with techno-legal and material implementations

Format: In person

Panel 9

THE ROLE OF WOMEN IN TRADITIONAL AND MINORITY GOVERNANCE STRUCTURES IN SOUTHERN AFRICA AND ELSEWHERE

Christa Rautenbach, North-West University, South Africa, Christa.Rautenbach@nwu.ac.za

ABSTRACT

Women globally experience discrimination in various forms in accessing and maintaining leadership and decision-making positions. This phenomenon is even more pronounced in traditional and minority contexts. For example, in Europe, research has shown that minority, migrant, or Roma/Sinti groups are typically excluded from decisions that affect them. At the same time, they need support from governments towards empowerment within governance structures but rarely receive it. The general trend is a reluctance from states to interfere in the management of cultural minorities directly. One example is the insufficient policy and law development within the European Union regarding the awareness of gender dimensions of the Roma, including in leadership structures within their communities.

Although the situation is somewhat different in southern Africa, the gender dimensions are equally problematic. Neither the traditional nor the mainstream governance structures allow women in traditional communities to participate in leadership and decision-making processes. For instance, in South Africa, traditional leadership exists alongside modern, democratic governance structures. The rule of male primogeniture excludes women from succeeding in the position of traditional leaders. Traditional authorities, in most instances, enforce this rule. The ground-breaking South African Constitutional Court case, *Shilubana v Nwamitwa* 2008 (9) BCLR 914 (CC), is an exception. The community asked the Court to endorse the appointment of a traditional female leader in contrast to their custom, but and the Court agreed. However, the application of the case is limited, and females generally do not participate in traditional leadership positions.

Discussions and debates on the position of women in leadership and decision-making structures within their communities are often carried out without consideration of the gender dimension. Discourses generally focus on an understanding of the extent and magnitude of the discrimination that women within such groups face, but rarely on how they could or should be empowered to claim leadership positions, especially from a comparative and multidisciplinary perspective.

How can women help shape societies that are still governed by traditional authority and institutions, and how can they obtain equal participation in leadership positions generally reserved for the senior male members of royal families? These are some of the questions that will be addressed in this panel.

Format: In person