



Course Code & Title	LISS352 Introduction to Law & Society				
Convenor(s)	Laura Knöpfel and Laura Mai, Dickson Poon School of Law				
Institution	King's College London	Department		LISS DTP	
Academic Year	2020-21	Term		Autumn	
Number of sessions	5	Research Platform	Social Theory & Epistemology	Length of Session(s)	2hrs per seminar
Day, Date		Start : End		Room Location	
Monday 2 November 2020 Monday 9 November 2020 Monday 16 November 2020 Monday 23 November 2020 Monday 30 November 2020		14:00 – 16:00		Online via MS Teams	
Enrolment Links:	Available to book on Skillsforge from 25 th September. (Click to log in and register)				
	Questions? Visit our Training FAQ here: https://liss-dtp.ac.uk/our-training-programme/				

Course description:

This course will familiarise students with law’s constitutive role for society. We will look at law from the ‘outside’ as a particular way of knowing, organising and governing society. This part of the course will especially be relevant to students who want to complement their doctrinal approach to researching legal phenomena with alternative, social sciences based approaches to law. Going beyond this external perspective on law, students will be introduced to the internal workings of the legal system. The objective is to ‘demystify’ the law, and make it relevant and accessible for social science researchers. Throughout each individual session, we will discuss the connections and divergences between the external and internal perspectives on law from different theoretical and empirical vantage points.

The course will allow students to become sensitive to identifying where law plays a role in their research projects. This will require students to be prepared to discuss and reflect on their own research projects, including research questions and methodological approaches. Developing a deeper understanding of the workings of law is useful to provide conceptual clarity and specificity about social norms and concepts (e.g. ‘What is a ‘right’? What is ‘discrimination’? ‘What is ‘gender’?) Further, the course will introduce students with tools to critically engage with legal structures and praxis, i.e. rather than treating aspects of law as a given, the socio-legal perspective allows to uncover the constantly evolving, context-specific and normatively charged nature of law.

Please note: Focusing on socio-legal theory and concepts, this course will not cover socio-legal methodology or methods. For training on methodological and methodical aspects, students are encouraged to attend relevant LISS courses, in particular LISS004 Introduction to Qualitative Research and LISS005 Introduction to Quantitative Research.



*The seminars on this course are designed to be **interactive and participatory**. To enable discussions, students are expected to have their video (if possible) and audio switched on during seminars, to be prepared to discuss their own research projects and have engaged with the preparatory readings listed for each session in the course outline below.*

Course outline:

Session 1: Introduction – Mapping the field of ‘law and society’

The first session will introduce students to the field of ‘law and society’. We will discuss the relevance of law and legal research for social science research projects and *vice versa*. Students will learn to ‘put on’ the glasses of law in order to identify how legal norms and rules might influence their object(s) of study. The aim is to allow students to become aware how the law pervades every aspect of society and why law needs to be ‘thought with’ the study of societal phenomena. We will discuss how the law can be studied from the vantage point of social sciences including sociology, anthropology, political science, cultural studies and economics. From these ‘external’ perspectives the focus lies on the law understood as a social phenomenon, how the law operates in society and how society pervades law, and less on particular legal doctrines and principles.

The preparatory readings introduce the field of law and society from three perspectives: (i) disciplinary, by identifying boundaries and aims of law and society research; (ii) substantially, by illustrating what insights law and society research can produce; and (iii) methodologically, by reflecting on the methodological approaches and methods that law and society scholarship uses.

In this first session, students will be given the opportunity to briefly present their own research to the seminar group (approx. 3 minutes per presentation) and to begin to identify how legal phenomena might be relevant to their research aims, questions and methodologies; or how they could use social science methodological framework to shed light on the societal workings of the law.

Preparatory readings:

- Feeley, ‘Three Voices of Socio-Legal Studies’ (2001) *Israel Law Review*
- Silbey and Sarat, ‘Critical Traditions in Law and Society Research’ (1987) *Law & Society Research*
- Valverde, ‘Everyday Law on the Street: City Governance in an Age of Diversity’ (University of Chicago Press 2012), read Chapter 2 on ‘The Law of the Street Corner’, pp 24-47

Questions for consideration:

- In your own research, where and how do you encounter law and legal discourse, and legal phenomena in general?
- How could assess the relevance of these phenomena to your research questions?
- How might you use social science methodology and methods to research legal phenomena? How might you use legal methodology to explore a social phenomenon?
- Are there possibilities to understand the legal institutions, concepts and/or practice as social facts in the context of your research?

Additional useful readings:

- Banakar and Travers (eds), *Law and Social Theory* (2nd edn, Hart Publishing 2013)
- Garavito (eds), *Law and Society in Latin America: A new map* (Routledge 2016)



- De Sousa Santos, 'Law: A Map of Misreading: Toward a Postmodern Conception of Law' (1987) *Journal of Law & Society*
- Friedman, 'The Law and Society Movement' (1986) *Stanford Law Review*
- Friedman, 'Coming of Age: Law and Society enters an exclusive club' (2005) *Annual Review of Law and Social Sciences*
- Travers, *Understanding Law and Society* (Routledge 2010)
- Mather, 'Law and Society' in Robert E Goodin (ed), *The Oxford Handbook of Political Science* (Oxford University Press 2011)
- McCrudden, 'Legal Research and the Social Sciences' (2006) *Law Quarterly Review*
- Silbey and Ewick, 'The common place of law: Stories from everyday life' (The University of Chicago Press 1998)
- Bourdieu, 'The Force of Law: Toward a Sociology of the Juridical Field' (1987) *The Hastings Law Journal*

Session 2: Legal communication and materiality

In the second session, we will move beyond the external perspective on law and discuss the internal workings of the legal system. The aim is to introduce students to the ways in which lawyers and judges, the main actors of the legal system, think and communicate about law. What does law mean to them, how do these legal protagonists understand and how do they shape the law? How does the conception of law of these protagonists differ from how a social scientist might approach the law? These questions hone in on the internal communications of the legal system and the technical aspects of the communicative circuits of the legal system.

The preparatory readings for this seminar combine three perspectives: (i) Luhmann's perspective focuses on the internal communications of the law, understood as an 'operationally closed' system; (ii) Rile's perspective focuses on the 'technical aspects' of the communicative circuits of the legal system; and (iii) Latour's perspectives focuses on the material aspects of legal practice.

At the centre of this seminar stands the tension between approaching the law as a closed or idiosyncratic system which functions according to its own rules, in a certain independence from other social systems; or whether it cannot and should not be separated from other societal domains because it permeates society at large.

Preparatory readings:

- Zumbansen, 'Niklas Luhmann, Law as a Social System' (2006) *Social and Legal Studies*
- Nobles and Schiff, 'Introduction' to Niklas Luhmann 'Law as a Social System' (Oxford University Press 2004), 1-52.
- Riles, 'A New Agenda for the Cultural Study of Law: Legal Technicalities' (2005) *Buffalo Law Review*, specifically pp 973-89
- Latour, 'The Making of Law: An ethnography of the Conseil d'Etat' (Polity Press 2010), read Chapter 2 'How to make a file ripe for use' or Chapter 4 'The passage of law'

Questions for consideration:



- How would you describe the theoretical approaches presented in the preparatory readings? Having engaged with the preparatory readings, how would you define legal communication and legal materiality?
- In your opinion, is there something particular to legal communication and legal materiality or are these aspects inherent to any system or practice?
- Does it make sense to conceptualise law as a 'closed' system? What are the arguments for and against this argument?

Additional useful readings:

- Luhmann, 'Law as a Social System' (Oxford University Press 2004)
- Luhmann, 'Operational Closure and Structural Coupling: The Differentiation of the Legal System' (1991) *Cardozo Law Review*
- Michalkis, 'Law as an Autopoietic System' (1995) *Acta Sociologica*
- Cunningham, 'Lawyer as Translator, Representation as Text: Towards an Ethnography of Legal Discourse' *Cornell Law Review*
- Sheffer and Kozin, 'How courts know. Comparing English Crown Court, U.S. American State Court, and German District Court' (2009) *Space & Culture*
- Matthews, 'Narrative, Space and Atmosphere: A Nomospheric Inquiry into Hong Kong's Pro-democracy "Umbrella Movement"'
- Barrera and Latorre 'Ethnography, Bureaucracy and Legal Knowledge in Latin American State Institutions: Law's Material and Technical Dimensions' in Sieder, Ansolabehere and Alfonso (eds), *Routledge Handbook of Law and Society in Latin America* (Routledge 2019)
- Vismann, 'Files: Law and Media Technology' (Stanford University Press 2008)
- Pottage, *Law machines: Scale models, forensic materiality and the making of modern patent law* (2011) *Social Studies of Science*

Session 3: Law, conflict and activism

The third session approaches the law as a constant struggle, and a provisional result, of conflicts within society. We will explore how law is used to reconcile different interests. We will ask what understanding law in this way might mean for societal conflicts. Looking at relevant case law, we take the black lives matter movement and women's rights advocacy as case studies. You will have the opportunity to discuss your reading of the cases included in the preparatory readings in small break-out groups and present your perspective to the whole seminar group. The aim of this session is to become sensitive to how we can grasp, understand and account for power within law. We will discuss how and whether the concerns of societal protests have influenced the law, and address the interplay between the law as a tool to assert the interests of the powerful and the law as a hopeful means of emancipation which allows for the continuous re-negotiation of conflicting interests.

Preparatory readings:

- Galanter, 'Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change' (1974) *Law and Society Review*
- Lemaitre, 'Constitution of barbarism? How to rethink law in 'lawless' spaces' in César Rodríguez-Garavito (eds), *Law and Society in Latin America* (Routledge 2016)



- Saage-Maass, 'Between utopia and affirmation the status quo' (2020) Voelkerrechtsblog, available at: <https://voelkerrechtsblog.org/authors/miriam-saage-maas/>
- Read either *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) or *Roe v. Wade*, 410 U.S. 113 (1973)

Questions for consideration:

- In your reading of the preparatory materials, how is the law used to mediate between conflicting interests? What might impede law from succeeding in this endeavour?
- Looking back at Seminar 2, how might legal communication and legal materiality be understood to play a role in constituting and accounting for the power of law?
- What are the opportunities of using law as a technology to reconcile conflicting societal interests and answering to the demands of activists? What are the risks of using law in this respect?

Additional useful readings:

- Cooper, 'Towards an adventurous institutional politics: The prefigurative 'as if' and the reposing of what's real' (2020) *The Sociological Review*
- Cooper and Herman, 'Doing activism like a state: Progressive municipal government, Israel/Palestine and BDS' (2019) *Environment and Planning C: Politics and Space*
- Olson, 'The Family and the Market: A Study of Ideology and Legal Reform' (1983) *Harvard Law Review*
- Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Harvard University Press 1994)
- Lacey, *Unspeakable Subjects: Feminist Essays in Legal and Social Theory* (Hart Publishing 1998)
- Povinelli, *The Cunning of Recognition: Indigenous Alterities and the Making of the Australian Multiculturalism* (Duke University Press 2002)

Session 4: Law between the human and non-human worlds

The fourth session explores the various ways in which the law defines what it means to be human and how law constantly draws the distinction between the human and the non-human. Legal institutions and performances constantly, to use a term coined by Alain Pottage, 'fabricate' persons and things. However, new technologies and the increasingly visible and destructive effects of planetary change challenge law's traditional categorisations. We will discuss alternative approaches to the law that are more attuned to the needs and the relevance of the deeply intertwined relation between the human and non-human worlds. To do so, we will review instances where courts around the world have granted rights to natural ecosystems, including rivers and national parks in New Zealand, Colombia and Ecuador. We will engage with emerging legal ontologies that seek to shift law's anthropocentric focus to an ecocentric perspective, thus allowing to account for the entangled nature of human existence on the planet.

Preparatory readings:

- O'Donnell and Talbot-Jones, 'Creating Legal Rights for Rivers: Lessons from Australia, New Zealand, and India' (2018) *Ecology & Society*
- Te Awa Tupua (Whanganui River Claims Settlement) Act 2017
For context, see also the following two articles / blog posts:
 - <https://www.wcel.org/blog/i-am-river-and-river-me-legal-personhood-and-emerging-rights-nature>



- <https://www.nationalgeographic.com/culture/2019/04/maori-river-in-new-zealand-is-a-legal-person/>
- Haraway, 'Anthropocene, Capitalocene, Plantationocene, Chthulucene: Making Kin' (2015) Environmental Humanities
- Pottage, 'Introduction: The Fabrication of Persons and Things' in Martha Mundy and Alain Pottage (eds) *Law, Anthropology and the Constitution of the Social: Making Persons and Things* (Cambridge University Press 2009)

Questions for consideration:

- What does it mean to grant legal personality to a river?
- What are the implications for law, its material aspects and its ontological assumptions, if entities that used to be considered legal objects now become legal subjects? How can one deal with these implications?
- By granting legal personhood to things, does the law create or react and respond to a new reality?

Additional useful readings:

- Burdon, 'The Rights of Nature: Reconsidered' (2011) Australian Humanities Review
- Braidotti, *The Post-Human* (Polity Press 2013)
- Cloatre, 'Law and ANT (and its Kin): Possibilities, Challenges and Ways Forward' (2018)
- Haraway, *Staying with the Trouble: Making Kin in the Chthulucene* (Duke University Press 2016)
- Latour, *Down to Earth: Politics in the New Climatic Regime* (Polity 2018)
- Stone, 'Should Trees have Standing? - Toward Legal Rights for Natural Objects' (1972) Southern California Law Review
- Gellers, *Rights for Robots: Artificial Intelligence, Animal and Environmental Law* (Routledge 2020)

Session 5: *Legal pluralism*

In the fifth and last session, we will go a virtual 'field trip' to the social media platform Facebook. We will discuss what kind of laws one might discern when scrolling through Facebook feeds and reading the social media conglomerate's Terms and Conditions. We will ask how Facebook's code of conduct, policies and standards intertwine with domestic laws on privacy and hate speech. Furthermore, we will ask what kind of normativities regulate, or might regulate, a transnational corporation such as Facebook. Besides the legal norms, standards and codes of conduct, the reviewing of social media feeds will point to the presence of different social norms that shape the conduct of platform users. Examples encountered during the virtual field trip will function as gateways into the understanding of law as a plural phenomenon composed of private and public, national and international norms.

Preparatory readings:

- Merry, 'Legal Pluralism' (1988) 22(5) *Law & Society Review* 869-896
- Snyder, 'Governing Economic Globalization: Legal Pluralism and European Union Law' (1999) *European Law Journal*
- Teubner, 'Global Bukowina: Legal Pluralism in the World Society' in Gunther Teubner (ed), *Global Law Without A State* (Dartmouth 1997)



Questions for consideration:

- What laws do you expect to encounter during the virtual fieldtrip? What forms might these laws take, and what may be their function?
- How can we identify legal norms? And relatedly, how can legal norms be distinguished from social norms? Is this distinction even a necessary one; and if so, why?
- How does a legal pluralistic lens change the ways we perceive and conceptualise social life? Is legal pluralism a different form of generating knowledge about the orders that constitute and govern social life, or rather, does it fundamentally alter ontological definitions of the law, on one hand, and society, on the other?

Additional useful readings:

- Ehrlich, *Fundamental Principles of the Sociology of Law*
- Falk Moore, 'Legal Pluralism as Omnium Gatherum' (2014) *FIU Law Review*
- Griffiths, 'What is Legal Pluralism' (1986) *Journal of Legal Pluralism & Unofficial Law*
- Nelken, 'Eugen Ehrlich, Living Law, and Plural Legalities' (2006) *Theoretical Inquiries in Law*
- Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) *Sydney Law Review*
- Zumbansen, 'Transnational Legal Pluralism' (2010) *Transnational Legal Theory*
- Griffiths, 'What is Legal Pluralism?' (1986) *Journal of Legal Pluralism*
- Greenhouse, 'Legal Pluralism and Cultural Difference: What Is the Difference?' (1998) *Journal of Legal Pluralism & Unofficial Law*
- Cotterrell, 'Transnational Communities and the Concept of Law' (2008) *Ratio Juris: An International Journal of Jurisprudence and Philosophy of Law*
- Teubner, 'The Two Faces of Janus: Rethinking Legal Pluralism' (1992) *Cardozo Law Review*
- Cover, 'Nomos and Narrative' (1983) *Harvard Law Review*
- Stocks, 'Too Much for Too Few: Problems of Indigenous Land Rights in Latin America' (2005) *Annual Review of Anthropology*
- Roberts, 'After Government? On Representing Law Without the State' (2005) *Modern Law Review*
- Roberts, 'Against Legal Pluralism' (1998) *Journal of Legal Pluralism and Unofficial Law*

Eligibility: You must be a PhD student at either King's College London, Queen Mary University of London, or Imperial College London, using social science methodologies. The course is primarily targeted at social science researchers who want to become familiar with socio-legal epistemology. It will also be beneficial for legal researchers who have thus far taken a doctrinal approach to research and who want to expand their conceptual and theoretical repertoires.

Pre-course preparation: The course will take place through interactive seminars and students are expected to actively participate during online sessions. To allow fruitful discussions students will need to have read the preparatory readings, as indicated in the course outline above, ahead of each seminar. Students are encouraged to use the 'questions for consideration' to guide their preparatory readings.

Number of students: The maximum number of participants for this course is capped at 10 students. Keeping seminar groups small is intended to allow for reflective group discussion during seminars.