

SCHOOL OF LAW

POST-GRADUATE RESEARCHERS' PRESENTATIONS

10 February 2016

Venue: Sir Duncan Rice Library, Meeting Room 3

WELCOME TEA: 9.00 – 9.25

All attendees welcomed.

OPENING REMARKS: 9.25 – 9.30

Anne-Michelle Slater, Head of School, Law.

9.30.00 – 10.00

Erasmio Salvatory Nyika (Year 1 PhD Candidate)

Supervisors: **Prof John Paterson** and **Prof Florens Luoga**, University of Dar es Salaam

Permanent Sovereignty over Natural Resources vis-a-vis Stabilization in Production Sharing Agreements

A claim for permanent sovereignty over natural resources (PSNR) has been at centre stage for countries whose desire is to see that the exploitation and production of natural wealth and resources within their territories is freely exercised. PSNR had been asserted due to inequitable agreements between host countries under colonial domination and International Oil Companies. One feature of these agreements is that they contain stabilization clauses, restricting the changes of the terms of the contracts by host countries. The host countries desire to get rid of such contractual commitments and assert their right to PSNR.

This paper seeks to answer the question of whether stabilization clauses can effectively fetter a state's exercise of its PSNR. The argument advanced is that PSNR is not only a settled principle of international customary law, but also a people's human right. Stabilization clauses therefore cannot effectively fetter a state from exercising its sovereign rights. It argues further that the exercise of legislative powers for a bona fide public interest does not attract compensation claims for businesses affected. In this regard, the paper argues that stabilization clauses should be viewed as an economic instrument for the preservation of economic equilibrium of the contract, rather than as a legal mechanism for investment protection.

10.00 – 10.30

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Jo Bac (Year 1 PhD Candidate)

Supervisors: **Dr Abbe EL Brown** and **Dr Christopher Kee**

SI-Human Amalgamation – an Evolutionary Step for Patent Law and Software Intelligence

The subject of this thesis is how software intelligence ('SI') and human beings cooperation may be combined in one manufacturing SI-Human Amalgamation ('SIHA'). This study argues that the formation of a new dependent legal person is necessary to address the new challenges introduced by SI. Software intelligence, where software is one or more computer programs that can create patentable inventions independent of human intervention. In addition, SI has the capacity to infringe patents of others.

At present however, SI is neither a natural nor a legal person. Thus, SI is neither able to hold patent rights nor be liable for acts of infringement. Equally none of the currently existing legal entities is able to meet these challenges. Hence, this thesis argument builds on the core structural characteristic of the business corporation, which is corporate legal personhood. Comparable with the nature of corporate legal personhood, this establishment would have additional two fundamental propositions. First, the creativity and actions derived from SI would be distinct from those performed by human beings involved in the creation of this amalgamation, such as SI's operators or programmers. Second, this structure would constitute an amalgamation based on human beings and SI cooperation (SIHA).

10.30 – 11.00

David Lorimer (LLM by Research Candidate)

Supervisors: **Prof Pete Duff** and **Mr Derek Auchie**

Corroboration – a Numerical View

Numerical risk and probabilistic analysis has taken a prominent role in several legal arenas, including industrial health and safety, public risk. Corroboration is arguably all about numbers; of evidential submissions, of witnesses, of conviction rates for particular crimes.

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Can we usefully adopt a numerical view on corroboration and what are the possibilities for numerical modelling?

This presentation will explore the issue with particular reference to the inquisitorial techniques used to establish a timeline and how that ties into the analysis of the chain of events and its relationship to probabilities of occurrence as well as guilt versus innocence.

11.00 – 11.30

Euan West (Year 1 PhD Candidate)

Supervisors: **Prof Robin Evans Jones** and **Prof John Ford**

The Law of Caution: Rights and Duties in Roman Law and Early Scots Law

In many legal systems, it is common for a secondary debtor, known as a 'surety', to guarantee the obligation of the principal debtor, promising to the creditor that he will discharge the principal's obligation in certain circumstances. It is this legal relationship, known as 'suretyship', which serves as the focus of the present thesis. The aim is to examine the modern Scots law of 'suretyship' (or 'caution', as it is better known in that jurisdiction) and to present a comprehensive statement of the rights and obligations arising therefrom.

To that end, this paper will explore the Roman law of suretyship and the reception of that law into Scotland *via* such institutional writers as Stair, Erskine and Bell. At all times the focus will be on the key rights and duties arising from the suretyship relationship, most notably the creditor's right to payment by the surety and the surety's right to reimbursement or 'relief' following payment. In examining these rights, a distinction will be drawn between the circumstances in which the rights arise and the content of those rights (measure of recovery issues).

END OF PROCEEDINGS