2016

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3rd Academic International Conference on Interdisciplinary Legal Studies

Conference Abstracts e-Handbook

Conference Date: 1-3 March 2016
Conference Venue: University of Oxford, Green Templeton College, Oxford, United Kingdom

AICILS Oxford

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1st – 3rd March 2016

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Format for citing papers
Author surname, initial(s). (2015). Title of paper. In Proceedings of the Annual International Conference on Law, Economics and Politics, (pp. xx-xx). London, September 1st – 3rd, 2015.

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1-N25-2473

LEGAL AND ECONOMIC FACTORS OF MONEY LAUNDERING IN EUROPEAN BANKING SECTOR

Dr. Patrycja Chodnicka - Jaworska[1]

The purpose of the paper was to introduce economic and legal factors of the money laundering phenomenon in the European countries. It was compiled from an analysis of existing research on the topics addressed. Economic and legal determinants likely to influence the number of transactions suspected for money laundering were presented. The practice of reporting suspicious transactions of money laundering in the banking sector is dependent on factors such as: variables connected with transactions, the policy restrictiveness against money laundering, the risks of money laundering and the level of economic development. In the paper, data for 47 -countries were analysed. Received findings for all analysed countries were compared with the emerging markets in a further 12 countries in terms of legal factors. For better understanding of the analysed problem panel data estimation methods were used.

2-N45-2763

COLONIAL REPARATIONS, COLLECTIVE REDRESS AND THE COLONIAL LEGAL SERVICE IN THE POST-WAR BRITISH EMPIRE

Dr. Helen O'Shea[2]

In June 2013, Foreign Secretary William Hague announced that Britain was to pay out £19.9million in costs and compensation to more than 5,000 elderly Kenyans who suffered torture and abuse during the Mau Mau uprising in the 1950s. While he claimed that the payment was being made as a 'full and final settlement', he stressed that the government continued to deny liability for the actions of the colonial administration. Contrary to Hague's assertion, it is anticipated that the recent success of compensation claims for Kenyan Mau Mau veterans may pave the way for further claims by suspected insurgents and collaborators during counter-insurgency campaigns in Malaya, Cyprus, Aden, Indonesia, Oman and Northern Ireland between the late 1940s and 1970s. Furthermore, with emergency law proving salient in a post-9/11, post-Arab spring world order and its corollary of inscribing emergency measures into normalcy regimes, the philosophical, ethical, legal and practical issues of emergency law are receiving increased attention.

Despite these developments, the legal contexts of the British counter-insurgency machinery have yet to be systematically explored in colonial and post-colonial judicial systems. However, with the historic high court ruling in London in April 2012, resulting in the 'Hanslope disclosure' of over 20,000 previously concealed colonial records dealing with emergency and extraordinary legal measures in 36 colonies, it is anticipated that this material will deepen our understanding of the impacts these judicial measures had.

This paper will explore the nature of that complex involvement and the extent to which twentieth century British courts were neutral arbiters of justice or active participants in the various emergency campaigns in Palestine, Malaya and Kenya with the aim of shedding light on the complex historical relationship between British courts and the conduct of counterinsurgency campaigns and the role of local populations themselves in shaping these laws and their effects. The paper concludes by questioning the extent to which the actions of the British colonial legal service feed into the legal arguments for reparations from different national perspectives and the relationship between colonial emergency law and its legacy today.

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3-N14-2724

THE ROLE OF THE EUROPEAN COMPANY IN THE FIELD OF CROSS-BORDER REORGANIZATIONS

Mr. Alberto Quintas Seara[3]

The establishment of the European Economic Community after the entry into force of the Treaty of Rome highlighted the need for the companies of different Member States to adapt their size and structure in order to improve their competitiveness and productivity not only within the internal market but also in the international arena, where American and Japanese companies emerged as strong competitors due to the increasingly level of economic globalization.

However, the development of business concentration/cooperation processes (i.e. mergers) was hindered by obstacles of different kind, especially in the field of company law and tax law.

Therefore, it soon became clear that Community institutions had to take action, adopting the appropriate legislative measures to remove such obstacles.

In the eighties, due to the significant increase in cross-border mergers and the growing attention to this problem at Community level, the Commission came up with two proposals of different nature but aimed at achieving the same objective from complementary perspectives, namely: the Draft Directive concerning cross-border mergers of public limited companies (COM (84) 727 final), and the Proposal for a Regulation on the Statute for a European Company (COM (89) 268 final). These proposals, which eventually became in the Directive 2005/56/EC and the Regulation (EC) nº 2157/2001 respectively, shall be regarded as a turning point in the field of European company law that would deepen the degree of economic integration of the Community, facilitating not only mergers between companies from different Member States but also other corporate reorganizations such as transfers of seat, insofar as they contributed to eliminate the barriers stemming from domestic laws, to reduce the costs associated with these operations, and to attain a greater level of legal certainty. These measures, were complemented from the perspective of tax law with the adoption of the Directive 90/434/EEC (now Directive 2009/133/EC on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States).

Focusing on the European Company (Societas Europaea), high expectations were placed on this entity not only by institutions but even by national companies operating at community level, insofar as it was supposed to contribute in a decisive manner to the elimination of legal obstacles negatively affecting the cross-border activity of companies (including SMEs) in the following fields: a) intra-EU mergers; b) transfer of the registered office; or c) establishment of subsidiaries in a Member State other than the Member State of the parent company. Moreover, the European Company could be regarded as an instrument to simplify/unify the structure of groups of companies, improving the management of these groups of companies; or to attract the necessary capital resources (public or private investors) to carry out cross-border projects.

Nevertheless, and despite the above mentioned advantages linked to this type of company, fifteen years after the adoption of the Regulation (EC) nº 2157/2001 the figures show that its impact has been quite limited within the internal market. Therefore, the aim of this paper is, on the one hand, to highlight the defining elements of the European Company, its legal framework, and its potential benefits; and, on the other hand, to provide some thoughts about the reasons behind the low number of European Companies existing in the EU and their asymmetrical distribution across the different Member States.

4-N44-2357

LEGAL, ETHICAL AND POLITICAL IMPLICATIONS OF US DRONE WARFARE

Ms. Sana Mir[4]

“Everything changed after 9/11” is not a catchphrase anymore, but has become a national security doctrine of states globally. The US use of armed drones against states with which US is not at war with is controversial legally, ethically and politically. Unfortunately to date we do not know precisely which law governs US targeted killing campaign. US justifies its targeted

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killings with reference to both law of war and law of self-defence this mixing and blurring of legal paradigms makes it extremely difficult to assess the legality of war. No wonder, 14 years after 9/11 we are still going around in circles unable to find satisfactory answers to the most basic questions-Is US operating during the time of war or peace? Does geography matters at all? Who is the enemy? All these questions remain a mystery because secrecy surrounding this war prevents any objective assessment of legality and legitimacy of the war. In early September Pakistan used its own armed drones against militants in FATA region. Pakistan is notorious for human rights abuses and has a history of oppressing citizens particularly in FATA. Pakistan using armed drones against its own citizens sets a dangerous precedent and may encourage other states to develop their own drones in order to suppress their citizens. Recently UK also followed the US model and targeted two British militants in Syria who were fighting alongside ISIS. The power to target militants anywhere in the world without oversight or safeguards is a dangerous policy. Proliferation of drone technology and its frequent use in conflict zones show that they are here to stay. Time has come that UN realise its duty and ensure that states using drone weapons give clear legal justification and secrecy surrounding the war must be ended.

5-N41-2456

THE EXECUTIVE PRESIDENT, THE 19TH AMENDMENT AND THE FUTURE OF CONSTITUTIONAL DEMOCRACY IN SRI LANKA

Ms. Ayesha Wijayalath[5]

Strengthening democratic governance was a decisive factor in President Sirisena's victory in January 2015 as he pledged in his election manifesto to curb the powers of the Executive Presidency.

This paper analyses the rationale of the Executive president system, how executive presidents exercised their powers and how constitutional amendments defined the scope of the powers of the president with special reference to the process and content of the 19th Amendment.

The principal argument advanced in this paper is that constitutional governance of Sri Lanka has faced a strong imbalance of powers; an executive power that overrides the powers of the legislative and the judiciary. Hence, the need for constitutional reforms that ensures democratic governance.

The 19th Amendment does not necessarily ensure a total abolition of executive presidency, yet it dismantles, or at the minimum, dilutes the powers of the current executive presidency. It can, thereby, be regarded as a significant step towards achieving a more balanced system of governance.

6-N25A-2472

EUROPEAN CREDIT RATINGS' REGULATIONS

Dr. Patrycja Chodnicka - Jaworska[6]

Bank regulation has made increasing use of external credit ratings in recent years. Most of the European regulators, according to the Basel Committee on Banking Supervision proposal for more prominent role for credit ratings, implemented in the national legal provisions the obligation to using them to assess the credit risk. This study contains background information about credit ratings' regulations in European Union, suggested proposals and alternative model of management of credit rating agencies. For better understanding problem it is prepared literature review. Careful analysis of the reforms currently being discussed suggests that, by themselves, credit ratings will have insufficient impact if the current issuer-pay model is maintained. As a result, there are presented the main directions of European Union regulations connected with reducing the role of credit rating agencies and assigned risk notes by them. The previous researches put attention on the reducing or maintaining the "investor – pay" model. In the article is presented the author's credit risk management model by using credit rating agencies, which is a compilation of the "issuer – pay" and "investor – pay" models. There are also presented methods of increasing the competition in the credit rating agencies' market, as a way to reduce the negative impact of oligopoly, which primarily propped up three firms: Moody's, S&P, and Fitch. The proposals of changes in current legal proviosions are prepared for European Union and member countires (France, Germany, Italy, Netherlands, Spain, Switzerland, United Kingdom and Poland) and than compared with trends in United States regulations. The paper has been classified into five

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sections: (1) analysis of current credit rating regulations in European Union, (2) summaries of the results of earlier researches, (3) presentation of suggested trends in credit rating provisions, (4) propositions of risk assessment models safe for investors, and (5) conclusions.

7-N34-2752

CRIMINAL PROFILING OF PSYCHOPATHS: THE INDIAN SCENARIO

Dr. Priya Sepaha[7]

Criminal profiling is used as an investigative aid in judging any criminal through systematic observational process by analysing the crime scene, the victim, the forensic evidence, and the known facts of the crime. World wide it is being increasingly used to assess the criminality and causation of crime.

Causation of crime plays a very important role to gauge any criminal. Among all the theories of crime, psychodynamic approach plays a significant role in analysing any criminal. This approach was first applied in 'Jack the Ripper' case in 1888 to understand the nature of crime and criminal. Since then it has found acceptability in many countries. However it is not prevalent in India.

Unawareness about the categories of mental illness leads to confusion about its classification. Criminal profiling helps to understand the exact category of mental illness. This study aims to explore the relevance of criminal profiling in case of mentally ill criminals particularly with respect to Psychopaths by reviewing the 10 case studies of psychopaths.

On the basis of comparative study and analysis of modes operandi of these cases an attempt has been made to explain the need of criminal profiling in the cases related to psychopaths, especially in India. By identifying the most common psychological and crime-related factors, the study, attempts to use criminal profiling process to classify the types of mental illness particularly psychopaths.

Psychopathy is one of the most dangerous mental diseases. Unfortunately there is little awareness about it in India. Psychopaths are generally associated with sexual criminals rather than mental criminals. Many cases reported in India give a clear indication of psychopathy but those were misinterpreted by the legal system, for instance, Nithari Case, Cyanide Mohan Case, Devendra sharma case, Auto Shankar Case etc. Psychopaths always commit brutal crime because they enjoy pain. Whenever any heinous crime is committed mostly the criminal is considered to be a monster. Although it should be first examined whether the criminal is mentally ill and subsequently the type of mental illness from which the person is suffering. Criminal profiling uses this technique in order to accurately identify the disease. Psychopaths are very clever and generally successful in deceiving the police and other investigative agencies. Detail study and investigation is needed to examine psychopaths. Sexual crime and crime committed by mentally ill are generally confused because of similar pattern. Criminal profiling is a tool which is helpful in identifying the pattern of a criminal and accordingly the nature of disease of the criminal.

In UK and USA criminal profiling is used for identification of mentally ill criminals particularly psychopaths. Special Laws pertaining to psychopathy have also been enacted. There is an urgent need in India also to give prominence to the use of criminal profiling in the investigation of case related to mentally ill criminals particularly psychopaths.

8-N39-2491

CRITICAL ANALYSIS OF 'LAW OF ADULTERY' IN INDIA

Dr. Ravinder Kumar[8]

Adultery means voluntary sexual intercourse by a married person with another married or unmarried individual. Thus adultery is the indulgence in voluntary sexual intercourse of a married person with someone other than his /her spouse. However, legal definition varies from place to place and statute to statute.

Adultery is considered as an invasion on the right of the husband over his wife. It is an offence against the sanctity of the matrimonial home and an act which is committed by a man. It is an anti –social and illegal act.

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Almost every religion on the earth condemns it and treats it as an unpardonable sin. Even though, it is not reflected in the penal laws of countries. Nevertheless, all the legal system invariably does recognise it as a ground for seeking divorce from the errant spouse.

In India the offence of adultery is punishable under section 497 of Indian Penal Code (IPC), 1860. Section 497 of IPC perceives a consensual sexual intercourse between a man, married or unmarried, and a married woman without the consent or connivance of her husband as an offence of adultery. This provision makes only men having sexual intercourse with the wife of other men without the consent of their husbands punishable and women can't be punished even as abettors. A sexual action between a married or unmarried man and an unmarried woman or a divorcee / widow, therefore, doesn't come within the ambit of adultery.

However, the law on adultery in India has been subject to controversy with regard to some fundamental issues. It is argued that the Indian law relating to adultery is premised on the outdated notion of 'Marriage' and only based on the husband's right to fidelity of his 'wife' but also treats 'wife' merely as a chattel of her husband. Such a gender discriminatory and proprietary –oriented law of adultery', is contrary to the spirit of the equality of status guaranteed under the Constitution of India.

Therefore, it is proposed to examine the present law on adultery in the light of above stated controversy regarding concept of equality and other constitutional norms in India.

9-N8-2497

USING TORTS LAW TO RESPOND TO GLOBAL TERRORISM -MORALITY OF BENEVOLENCE STATUES THE ANSWER?

Mr. Kwesi Keli-Delataa[9]

International terrorism presents an almost existential threat to the world. This risk is amplified by a real possibility of weapons of mass destruction passing into the hands of terrorists especially in nation states where established political authorities have weakened to the advantage of organized terrorist groups. While this represents a frightening reality, world governments continue to struggle in order to keep pace with the constantly evolving terrorist threat.

The seriousness of the threat has forced western governments in particular to re-align their security priorities. The security priority of both the Department of Justice in the United States of America and the Federal Bureau of Investigations (FBI) is to prevent terrorism. This is also the number one priority for state and local enforcement agencies and justifies the expenditure of enormous amount of resources on not just providing solution to terrorist crimes but preventing them.

But the phenomenon has also led to a raft of counter-terrorism legislations across the world. These legislations have sought mainly to widen criminal liability for inchoate terror plots and to enhance already existing prosecutorial powers of law enforcement agencies. These statutes have greatly enhanced the substantial retributive quality of the legal response to terror but fail to address the needs of surviving victims.

This paper explores the possibility of a civil law response to terrorism with a tort law statutory scheme that imposes liability on civilians who fail to report terrorist threats while they are in a position to do so. The imposition of duty of care and liability for non-feasance and with it, a compensation scheme for victims, may be unpopular and unsupportable by prevailing common law conceptions of negligence but does present hope for a change to accommodate an unusual response to an unusual global threat

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10-11-N30-2711

THE IMPACT OF ADAT INHERITANCE LAW PLURALISM ON MEN AND WOMEN'S STATUS FROM INDONESIAN LAW PERSPECTIVE

Dr. Sonny Dewi Judiasih[10] Prof. Dr. Efa Laela Fakhriah S,H., M.H (Professor)

Inheritance is a way of transitioning right of ownership from a deceased person to another person relates to them either by blood, marriage, and so on. The character of Indonesian inheritance law is pluralistic seeing that it was arranged from several law systems which historically had grown and developed in the country. In general, inheritance law systems applied in Indonesia come from adat laws, islamic law, and common law which embodied in the Indonesian Civil Code. This has caused differences in applying inheritance law for each individual. Concisely, inheritance law in Indonesia is not unified and not yet to become a standardized rule applied throughout Indonesia.

Adat inheritance law represents a unique and original complexion of law which reflects the way of thinking and traditional spirit of Indonesian people based on the collective and cooperative culture. Family-oriented, togetherness, mutual cooperation, deliberation in sharing the inheritance are the natures of adat inheritance law. The adat inheritance law shows a very Indonesian-like in its way of thinking which constitutes principles derives from Indonesian communal and concrete Indonesian intellectuality. The formation of adat inheritance law were much influenced from the three kinship law systems. Thus, the adat inheritance law is closely related to the kinship characters which originates from the local law society.

There are three systems of adat inheritance law in Indonesia, which are: patriarchal in Batak, Manado, and Ambon region; matriarchal in West Sumatera; and bilateral in Java region. In patriarchal system, only sons deserves to be the heirs while daughters can not. On the other hand, in matriarchal system, sons could not be the heirs if the deceased leave a daughter. The inheritance will be bestowed to the daughter. In parental system, however, both daughters and sons could be the heirs. The systems applied are often caused problems seeing its impact on the differences of the heir's status in the patriarchal and matriarchal community.

There are already many court breakthroughs in settling the dispute of patriarchal and matriarchal systems. With this, court decisions are expected to reform the status of heirs in the patriarchal and matriarchal community to be the same as the parental or bilateral system which is an equal position for both sons and daughters.

12-N36-2712

THE COMPARISON STUDY OF STRICT LIABILITY PRINCIPLES IMPLEMENTATION FOR THE PRODUCT LIABILITY WITHIN INDONESIAN CONSUMER PROTECTION LAW BETWEEN INDONESIA AND UNITED STATES LAW.

Ms. Deviana Yuanitasari[11]

In Indonesia, Consumer Protection Law is based on the principles that apply both for consumer as well as the producer. These principles include utility function, equity, harmony, safety, security and legal certainty. Establishment of Law Consumer Protection against the backdrop of globalization and free trade supported by advances in technology and informatics. On the other hand the progress and consumer awareness is still low resulting in an imbalance between consumers and producers.

This research is a Normative Legal Research and Analytical Descriptive nature. In this case, is a Normative Legal Research for the study of law In Concreto, the research to find the law for a case in concreto an attempt to discover whether the appropriate law to apply in cocreto to solve a particular case and saw the law is found . This study will depict on how opportunities will exist if the substance of Indonesian consumer protection law system changed from fault based liability into strict liability on its application for the product liability. Secondly, the study also will go further on the comparison between the application of product liability within practical terms as well as the application of consumer protection law system between Indonesia and United States.

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Our study finds that even there is a big opportunities for the change of fault based liability into strict liability, but the obstacles are found prominent. The fact that strict liability has been adopted in the Indonesian bill of consumer protection law does not make the application easier. We can see many law practices still using "reversal burden of proof" method in which contradictory with strict liability principles. Furthermore, this finding suggest that even tough Indonesian has been started to adopt strict liability principles within its bill of consumer protection law, but it has a slightly interpretation bias within its law practice especially in law enforcement system. This can be inferred with the facts that "reversal burden of proof" is still used in many law practices. This is different if we compared to what has been existed in United States. America has been fully using strict liability principles within their consumer protection law system. As a matter of fact, United States has been used strict liability with the extension of intentional torts, in which give more favor to consumer. The existence of "intentional torts" is giving back the subjective element in the system of legal accountability, in which the accountability process involved two important elements: objective element (e.g.: product defect) and also subjective element (e.g.: entrepreneurs and industries).

Keywords: Consumer Protection Act (UUPK), Product Liability, Strict Liability, Consumer Protection Law, Law Comparison Indonesian and United States of America

13-N31-2713

CONSUMER DISPUTE SETTLEMENT THROUGH CONSUMER DISPUTE SETTLEMENT BODIES (BPSK) IN RELATION TO TRADE TRANSACTIONS IN INDONESIA

Dr. Susilowati Suparto Dajaan[12] Prof. Dr. Efa Laela Fakhriah S,H., M.H

Consumer protection law is closely related to the trade and industrial globalization of a country's economic activities. Following this, consumer protection needs to gain more spotlights seeing that foreign investment has become a part of Indonesian economic development which vis à vis relates to the world's economic situation. With Indonesian business situation grows by leaps and bounds, there are a lot of new businessmen in various market segments. Foreign investors have started to catch a glimpse on Indonesia. Business segments which before the reformation era was undeveloped has now become a new gold mine. In consequence, problems started to emanate from businessmen and consumer disputes.

Generally, consumer disputes could be settled through court adjudication or alternative settlements based on the parties' own accord, including settlement through BPSK. With the last option, the parties have to choose one of the settlement ways applied in BPSK which are conciliation, mediation, and arbitration. If conciliation were chosen and still could not resolve the dispute, the dispute could not be settled the other way around (through mediation or arbitration). If conciliation or mediation were chosen, thus the settlements are fully in the parties' hands with regards to the form and number of compensation paid to the party who suffered the losses. BPSK only acts as facilitator obligated to give advice and reassert the rules contained in the Consumer Protection Act. If the parties agree to settle the dispute through arbitration in BPSK, hence, the form and number of settlement compensation would be fully handed to the BPSK.

Practically, in order to be final and binding, BPSK judgments need to be requested for a recognition (fiat execution) to local courts. Further, the judgement itself could be appealed to the district court. For the sake of legal certainty and to urge the strong enforcement of settlement previously achieved by the parties through BPSK, there needs a regulation concerning the implementation of BPSK judgment as well as implementation of the settlement achieved before. With such rule, BPSK would no longer needs to ask for a court recognition or even get appealed in the district court. BPSK would have more influences as a consumer dispute settlement bodies who acquires a legally binding power for the sake of legal certainty.

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14-N32-2716

THE IMPACT OF POLITICAL MANIFESTO OF THE LAND LAW TOWARDS THE OWNERSHIP OF LAND BY FOREIGN CITIZENS IN INDONESIA-CASE STUDY IN BALI

Dr. Nia Kurniati[13] Prof. Dr. Efa Laela Fakhriah S,H., M.H

Land plays a strategic role as a foundation to build the construction development in a developing country. For instance, the on going construction in Indonesia, one of which is the residential buildings that built horizontally; or vertically in several levels, namely apartment or commonly known as “rumah susun” in Indonesian regulations.

Construction of housings and apartments in Bali particularly, has been drawing intentions from investors around the world. This is due to the fact that Bali has a magnificent natural sceneries and unique cultures from its local society, fascinating to the eyes of tourists, both foreign and domestic. To construct and own houses or apartments as residential in Balinese island, have been realistically becoming an appealing business opportunity for the investors. The increasing tendency of this fact can be shown through the spreading of house or apartment units’ rental businesses occurring recently.

The political manifesto of the land law in Indonesia, stipulates in the Indonesian Act No. 5 year of 1960 concerning the Basic Agrarian Law (‘UUPA’) ascertained several rights over the land, that can be given towards Indonesian and foreign citizens, in order for them to legally acquired rights to construct buildings in Indonesian lands. Those rights namely, “right of ownership” (hak milik); “right of use of structures” (hak guna bangunan); and “right to use properties” (hak pakai). Nonetheless, it appears that in practice some smuggling activities have been occurring. These smuggling activities are mostly conducted both by Indonesian or foreign citizens by the exchange of cooperation agreement between them, in a form of a “nominee agreement” stipulating provisions of their rights and obligations to illicitly obtain right to construct buildings over Indonesian land.

Impacts of the smuggling activities through a “nominee agreement” can be shown from several precedents in Bali, when a dispute resulting from a non-performance of the agreement by one or more parties occurred. The claims over rights of lands and properties submitted to the court between the Indonesian and foreign citizens as the parties shall be ended in a win - lose verdicts. There was also salvation available outside the court through the Alternative Dispute Resolution mechanism.

Based on the elaboration aforementioned, it can be concluded that in order to support the persistency of properties’ investments involving foreign investors in Indonesia, the Indonesian government has provided the “right to use properties” which has legal certainty; noted and registered in the land registry office, that publish The Certification for the Right to Use Properties used for the guarantee towards the Bank.

15-N22-2722

CHILD RIGHTS AND THE (DIS)ABILITY OF VULNERABILITY? BUILDING THE LEGAL RESILIENCE OF THE LIBERAL SUBJECT

Mrs. Sevda Clark[14]

Liberal legal ideology has consistently denied legal agency to children and people with mental disabilities. In an article, just published, I advance a universal norm of legal capacity to sue for violations of human rights, which includes these two longstanding marginalised groups. Here, I will reconsider liberal legal subjectivity, mobilize disability theory and the theory of vulnerability to reconstruct the legal subject: to demonstrate how these discourses can contribute to and enhance the existing debates over the rights of children as legal subjects. Here, disability and vulnerability – far from being inherently negative, and justifying the limitation of legal agency to children – are instead employed as enabling concepts: as powerful claims for legal capacity to sue/claim redress for human rights violations. The very disabilities and vulnerabilities of children, when shorn of the negative connotations of this respective terminology, form instead the foundations for the reconstruction of the legal subject, whose incapacities are enabling of this broadened legal personality. Disability Theory has dethroned normalcy and the feminist theory of vulnerability has dethroned autonomy and independence. Looking through these windows to see what landscapes emerge.

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16-N38-2335

LEGAL PERSPECTIVE ON BANKING FRAUD IN INDIA AND OTHER COUNTRIES: A COMPARATIVE ANALYSIS

Mr. Zubair Ahmed Khan[15]

The continual presence of frauds in the banks is not a recent observable fact. Frauds in Indian banks only prove that financial flexibility exacerbate trend of shallow markets to cherish excessive speculation and deteriorate growth of the market in such way that recovery seems difficult. Revelations of fraud, evidence of insider trading and a ensuing debacle of investor interest have led to an almost insuppressible decline in Indian banks. Generally, there are three important factors which are considered for the commission of frauds in banks namely (i) direct engagement & involvement of bank's employee or in colluding with others; (ii) failure as a result of non-performance of the bank staff to abide the instructions and terms of employment and (iii) independent factors or connivance between different parties or by someone who is experience in hacking. Frequent abuse of formal banking avenues to illegitimate cash flow of large sums of foreign exchange outside India is arising phenomena.

Basel norms focus on the three regulatory review processes of supervisory, minimum capital andmarket discipline. Credit risks, market risk & operational risks were highly discussed & interpreted in Basel norms so as to clear ambiguity for efficient banking regulation. There has been a rise in banking fraud which shows that non-adherence &violations of a number of basic banking rules, including know-your-customer (KYC) norms, anti-money laundering (AML) rules and the Foreign Exchange Management Act, 1999 (Fema).The paper will highlight shortcomings of the basic principle of KYC norms and related legislation and how it should be implemented effectively in practice. Even RBI 's reports has clarified that According to an RBI report, loss occur due to default in loan transaction is a crucial component for examining financial reporting and prudential structure .Reserve Bank of India has created different fraud monitoring cell for providing assistance toinvestigation to investigating agencies.

A majority of the banks in India endeavor the practice of online & mobile banking services. Most of the transactions are conducted via payment cards,debit and credit cards, and electronicchannels such as ATMs. Risk factor is equally involved due to many external factors. The Financial Fraud (Investigation, Prosecution, Recovery and Restoration of property) Bill, 2001 has been proposed to prohibit, control, investigate financial frauds; recover and restore properties subject to bank frauds, prosecute for causing financial fraud and all related matters. But bill is lapsed long back. The paper will also discuss how it is important to bring drastic change Banking Ombudsman Scheme inspiring fromSwitzerland, Australia.The paper will highlight the importance of United Nation against Corruption and their association with World Bank group can be emulated in Indian's Banking Regulation Act,1949.

17-N40-2339

REGULATING COPYRIGHT VIOLATION IN SOCIAL MEDIA: INDIAN LEGAL RESPONSE

Dr. Gurujit Singh[16]

Information Technology has modified the notion of communication and human behavior. The continuance addition of element of sophistication in the information technology like cloud computing, big data, internet of things etc., makes it more dynamic in terms of performance and social utility. Social media is the more pertinent example of it. Within a short span of time it has emerged as the most important platform of sharing ideas, disseminating information, uploading, downloading, connect to the society. It has no doubt added to the social-political and economic development of society. But on the other hand it has opened Pandora box of new legal and ethical issues. One such legal issue which the paper intends to put forward is the copyright infringement of third party. Social media facilitate the sharing, downloading, uploading of the third party's right on movie, music etc., without their consent. This amounts to copyright infringement. In this case identifying the responsibility and liabilities of the users and social media is an onerous task. It becomes more technical due to the conflicting nature of cyberspace i.e., borderless entity and territorial nature of the copyright laws. The international conventions right from the Trade Related to Intellectual Property Rights (TRIPs) to WIPO Copyright Treaty (WCT) does not respond to such

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situations. In the absence of any solution to the problem in international conventions, the national legislation has to resolve the problem.

India being the founding member of the Berne Convention is also party the various copyright conventions. Though India is not party to the WCT, but the Copyright Amendment Act, 2012 has introduced variety of new provisions to address the information technology related copyright issues. Simultaneously the Information Technology Act, 2000 through subsequent amendments has incorporated new rules and regulations relating to Internet Service Providers.

In the above background the current paper attempts to critically analyzed the Indian legal (legislature and judicial) response to deal with the copyright infringement in social media.

18-N42-2350

REGULATING PRIVACY IN CYBERSPACE: ISSUES AND CHALLENGES

Prof. M Afzal Wani[17]

In the most simplified way the privacy can be defined as the "right to be let alone". The contour of the concept of privacy has been defined as per the socio-political and democratic perspective of the State. That itself is one of prominent reasons for non uniformity of the concept of privacy which results into difference in substantial and procedural requirement relating to it. With the development of science & technology in general and information technology in specific, this difference got more highlighted. Right from accessing a website to use of cloud computing or big data, the latest application of software have made it possible the collection, processing and analyzing the privacy related data with or without the consent of the users for their commercial purposes putting individuals at the risk of unknown financial as well as emotional threat/loss. However there have been attempt by various stakeholders to introduce and implement the rules of privacy with aim to regulate the misuse of the technologies, but with little success.

For last some time there have been various encouraging developments in privacy related issues around the world right from the judicial pronouncement by European Court of Justice relating to right to be forgotten and unconstitutionality of safe harbor clause etc. While the developments are an attempt to balance the right of individual against the public interest of information, the stakeholders have doubted the implementation in the background of cross border nature of cyberspace. India is realizing the heat of the privacy issue. Though not specifically defined in the Constitution, the Apex Court has time and again reiterated that it as integral part of right to life.

Keeping above ongoing developments relating to the privacy issue in background, the current paper is a holistic attempt to analyze the emerging development relating to privacy and the challenges it faces in the cyberspace in India.

19-N2-2134

PERSONAL DATA PROTECTION : HOPE AND CHALLENGES IN THE ERA OF GLOBAL ECONOMY LIBERALIZATION (INDONESIA PERSPECTIVE)

Dr. Patricia Audrey Ruslijanto[18]

Globalization and technology has brought such enormous leap in many aspect of human life development. The invention of internet follow with electronic commerce has been regard as one of the precious jewel economy development.

Electronic commerce has brought vast development in the practice of trade and gathers buyer and seller from various areas from countries.

Since electronic commerce may gather various person in one borderless cyberspace area, apart from its practicality it also bring challenge, such as the protection of personal data in cyberspace area.

International instrument has regulates the protection of personal data protection in OECD guidelines 1980, APEC privacy framework, Council of Europe Convention 1981 and European Convention for the Protection of Human Right and Fundamental Freedom. Yet these instruments also influence the establishment of regulation in European Union, United States and Asia, since personal data protection has been regard as one of the type of human right elaboration.

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Related with this issue Indonesia has established Law number 11 Year 2008 on Information and Electronic Transaction. Though this regulation still provide implicit protection on personal data protection. Therefore this paper attempt to analyze the legal certainty aspect in the protection of personal data protection practice in Indonesia and to find a model of personal data protection related with the use of Law number 11 year 2008 on Information and Electronic Transaction.

Based on the research it is find that the protection of personal data protection practice has not meet the requirement of legal certainty since it is often to bring burden for customer related with personal data protection, meanwhile for the model of personal data protection related with the use of Law number 11 year 2008 on Information and Electronic Transaction will need the revision of related law such as law of telecommunication and law of information technology, supported also with the work of online dispute resolution provider to settle the problem between electronic commerce user.

20-21-N17-2478

EXAMINING THE "COPY & PASTE" REGULATION OF BATAM CITY TO COMBAT HUMAN TRAFFICKING IN THE TRANSIT AREA

Dr. Rina Shahrullah[19] Dr. Elza Syarief, Ms. Yayak Dahlia

Examining the "Copy & Paste" Regulation of Batam City to Combat Human Trafficking in the Transit Area

Batam City of Riau Island Province is a transit area for embarkation and debarkation of human trafficking victims in Indonesia. During the last five years, approximately 600 human trafficking cases have occurred in Batam City. The actual numbers of human trafficking cases remain unknown because most victims are reluctant to report their cases to the relevant authorities. To respond to this condition, the Batam City Government issued the Regional Regulation No.5 of 2013 on the Preventing and Handling Human Trafficking Victims ('Batam Human Trafficking Regulation'). This Regulation raises controversies among the stakeholders in Batam City due to the inapplicability of the Regulation to combat human trafficking. The Batam City House of Representative claims that the enactment of the Regulation complied with the statutory procedures. The leading sector for human trafficking argues that the Regulation cannot be implemented because its substances do not reflect the condition and situation of Batam City as a transit area of human trafficking. This research aims to evaluate the applicability of the Batam Human Trafficking Regulation by utilizing the approaches of Effective Legal Theory of Soerjono Soekanto. The theory contains five indicators to examine the effectiveness of a legal instrument, namely "legal substance, legal enforcers, supporting facilities for legal enforcement, society where a legal instrument to be implemented, and society's legal culture. This research adopts a socio-legal research by using depth interviews as the methods of data collection. The research finds that the Batam Human Trafficking Regulation is merely a 'copy and paste' legislation from the West Java Regional Regulation on Human Trafficking. As a result, the substance of Batam Human Trafficking Regulation contains many flaws because of the different condition between Batam City and the West Java Province. The West Java Province is a sending region for women and girls who are trafficked internally and internationally for sexual exploitation and forced labor, while the Batam City is the transit area for human trafficking victims from the West Java Province and other areas in Indonesia. This research argues that the compliance of statutory procedures (normative approaches) claimed by the Batam City House of Representative is not adequate for the applicability of the Batam Human Trafficking Regulation in Batam society. The effectiveness of the Regulation had to be taken as a priority by the Batam House of Representatives in the process of making the Regulation. Hence, this research suggests that the Batam Human Trafficking Regulation should be amended and the process of making the revised provisions should be preceded by a depth research and public tests involving all relevant stakeholders in Batam City.

22-N19-2376

DEEPENING PUBLIC TRUST AND CONFIDENCE IN JUSTICE DELIVERY - THE CASE OF GHANA

Ms. Diana Asonaba Dapaah[20]

The role of the judiciary in democratic rule and even military governments cannot be overemphasised. Usually the only arm of government which survives even military overthrow of government, the judiciary serves as the last hope of citizens when

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all other arms of government suffer a topple one way or the other. As a great check of other arms of government, protector of justice and rule of law among citizens young and old, poor and rich, the rulers and the ruled, the role of the judiciary is unquestionably enormous spanning across issues of human rights and access to justice, law reforms, and sustainable development among others.

Justice usually emanates from the citizens of a country and is exercised for and on behalf of the people by the judiciary. A high standard of an independent, integrity-based and corrupt-free judiciary is essential if the public trust and confidence in justice delivery is to be established and sustained.

Over the years, the fight for the independence of the judiciary has been largely won especially among developing countries, Ghana included. The constitutions of countries ensure the independence of the judiciary in terms of appointment, tenure, finances and removal to insulate judges and magistrates from fear, intimidation, bully and compromise in the performance of their function. Suffice to say, judges and magistrates are key holders of the justice delivery framework. Nonetheless, other stakeholders play equally important roles in the justice delivery to ensure not only a fair and just delivery system, but an efficient one too. These stakeholders include bar associations, judicial staffs, the legislative and executive arms of government (especially the appointing authority, the police and prosecutors) and the public. By the actions and inactions of these stakeholders, the public trust and confidence in justice delivery can suffer or soar high.

For most developing countries including Ghana, the justice delivery system continues to suffer perceptions of corruption within the justice delivery system evident from various perception indexes. Sometimes the perceptions turn out to be a reality. In Ghana, the recent tiger eye expose by the ace investigative journalist, Anas Aremeyaw Anas, has unfortunately unravelled that indeed not only are the identified stakeholders in justice delivery perceived to be corrupt but that some are in reality corrupt jeopardising the justice delivery system and eventually diminishing public trust and confidence in justice delivery in Ghana.

This paper seeks to identify why and how in the face of established legal and institutional frameworks to ensure an efficient and fair justice delivery, the system may still suffer perceptions and reality of corruption. The paper will focus on the roles played by the identified stakeholders in diminishing public trust and confidence in justice delivery. The paper will also identify practical interventions to eradicate corruption challenges to justice delivery. While the challenges identified as well as the recommendations made may apply generally to other countries, specific focus will be on justice delivery in Ghana.

23-N20-2743

THAILAND'S APPROACH IN MANAGING IRREGULAR LABOR MIGRATION SINCE 1980S: AN ANALYSIS OF POLICY-MAKING

Ms. Numtip Smerchuar[21]

Since 1970, Thailand was driven to a stage of industrial development's take-off period. With an acceleration of industrial growth, Thai economy was inevitably to absorb labor force migrating from rural sector to work in urban areas like Bangkok and circumferences. During that period there was quite normal to witness numbers of villagers renounced their cultivating lands and took adventures for their better lives in factories. High demand of unskilled workers from rural areas continued while in 1980 there was a competition from Central East Asia and East Asia countries. Because of a rapid growth of those countries, numbers of workers from Thailand decided to change their destination from domestic areas to Central East and East countries due to the fact that they could earn more in newly growth countries. This caused a problem of domestic labor shortage in country. Moreover, with an introduction of new education law that required all Thai people to get compulsory education, some expected labor force had been dissolved to become students and this created a trouble situation to Thai economy since demand of labor force was unachieved. (Supang Chantavanich and Premjai Vungsiriphaisal,2012: 214) During this circumstance Thailand had no choice but had to invites unskilled labors from neighboring countries.

Due to the fact that international migration plays significance roles in poverty reduction and development, Thailand is one of the destinations for cross-border mobility of people which have been governed by the long history. However, Thai government has launched many measures to deal with migrant people directly and indirectly.

This paper aims to explain the elements of Thai government's approach in dealing with irregular labor migration issues, after the 1980s. Documentary data is a main source of this study at this first stage. Changing of policies causes many opinions

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from stakeholders in this issue and sometimes creates an unfavorable situation. Nonetheless, Nineteenth and Twentieth century ideals of Democracy were always firmly embedded in the conceptual framework of the nation state, the development of modern border control regimes might be viewed as a form of politics and also influence a policy-making on migrant management in Thailand. With a complexity context of migrant population, Anthony Reid (2008: xxvii) also states that twentieth century was the century of nationalism in Asia. Imperial assumptions of cultural and political plurality gave way to nationalist demands for states that reflected an imagined cultural coherence if not uniformity. This was a difficult period for diaspora minorities, whose loyalty and political identity were now in question.

Summarily, an uncertainly of Thai government mechanism in managing irregular labor migration was on a result of economic growth of the country. Policy formulation to solve this problem was based on three dimensions, namely, national security, economic development and human rights. It can be concluded that if Thailand is still persisting its pattern of economic development based upon labor intensive style, an irregular migration remains unsolved.

24-N43-2755

WOMEN'S RIGHTS AND FAMILY LAW AMENDMENT IN IRAN: CORRELATION OF ISLAM, NATIONAL IDENTITY AND THE OTHERNESS OF THE WEST

Mrs. Zahra Milani[22]

This paper reveals how the strong correspondence of "family" issue with the themes of "national belonging" and "Islamic identity" makes changing the family law, in accordance with the clauses of Convention on the Elimination of all Forms of Discrimination against Women's (CEDAW), challenging in Iran. This paper is founded on exploring 61 articles about the matter of Iran joining CEDAW in reformist and conservative publications (2000-2005). Thematic analysis of the addressed articles indicates that the family law has been one of the main battlegrounds between CEDAW opponents and supporters who respectively reflected their ideas in conservative and reformist publications in Iran. The conservative publications underlined the contradictions of Islamic based family law in Iran and CEDAW clauses to warn about what they assume as the aim of CEDAW to replace the Islamic values with the Western ones. Moreover, CEDAW opponents, by picturing the Western family as a fragile unit that is being undervalued in the Western culture, argue that implementing CEDAW's Articles will result in the collapse of family in Iran, similar to what happened in the West. On the other hand, CEDAW supporters clearly do not intend to grant a privilege to CEDAW clauses over the Islamic family law, but they mostly suggest using 'reservation right' in case of Iran joining CEDAW to convince the conservatives of preserving the Islamic spirit of family laws in Iran.

The emerged themes in this paper from the articles of CEDAW opponents and supporters in Iran supports the argument of those literature which claim that in the Middle Eastern societies, the family domain is sanctified through locating family law in religious law. The influence of religion on family law by grounding Islamic precepts in the construction of family regulations and the influence of Muslim clerics in judging family-related issues in Iran has a longer history than the establishment of Islamic government era. But, in the post-revolutionary Iran, family and Islamic based family legislations became more problematic as the prominence of family role in the survival of "Islamic nation" against the Western "other" has been underscored by the Islamic government. The 1979 revolution, which was in opposition with cultural and political adherence of Shah to the West, aimed to turn Iranian society back to some 'indigenous values'. Family is characterized by the Islamic Republic of Iran's constitution as a base on which Islamic nation is founded, and the role of woman in family is privileged in terms of maintaining Islamic identity of the nation. Therefore, this paper clarifies that how the strong correspondence of family law and Islam, which was defined within a cultural discourse, was transformed to a political discourse under the Islamic government. Moreover, by focusing on the perspective of Islamic government on signifying the role of woman in family for preserving the Islamic nation, this paper illuminates that why adapting family laws in Iran with CEDAW clauses, which focuses on women's rights, is objected by conservatives more seriously than the women-related laws in other areas.

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25-N10-2061

FOR DEAR LIFE: VISUAL AND POLITICAL STRATEGIES FOR FREEDOM AND HUMAN RIGHTS OF INCARCERATED WOMEN

Prof. Carol Jacobsen[23]

The history of women's criminalization is a history of state violence and injustice. From minor property and drug offenses to murder, women's crimes are produced by their struggle to survive and processed within a regime that imparts harsh, gendered modes of punishment. Drawing on long-term relationships, activism, filmmaking and public education with women on both sides of the prison fence through my roles as artist, educator, political organizer and Director of the Women's Justice & Clemency Project in Michigan, this presentation offers a view of the ways incarcerated women find strategies of resistance and hope for their freedom and greater social justice. Through their own efforts and through partnerships with feminist artists, scholars, attorneys and activists women prisoners have challenged a prison system named by Amnesty International and Human Rights Watch as among the worst in the nation for human rights violations against women in custody including rapes, four point chaining, solitary confinement, medical abuse and other atrocities. This presentation will include short clips from several of my films narrated by women prisoners, nine of whom have been freed from life sentences through the efforts of the Michigan Women's Justice & Clemency Project.

26-27-N27-P9-1902

THE OPEN AND DISTANCE LEARNING AS AN INSTRUMENT OF PROTECTING THE RIGHT TO ACCESS TO EDUCATION: THE NIGERIAN EXPERIENCE

Prof. Justus Shokefun[24] Mrs. Olufunke Aje-Famuyide

Education is a right. Education is an extraordinary tool of empowerment and it is essential for the promotion and protection of all human rights. Various international treaties, covenants and conventions since 1948 as well as writings of publicists have stressed the importance of the fundamental right to education. The Universal Declaration of Human Rights (UDHR), the International Covenant on Economic and Social Rights (ICESCR), the Covenants on the Rights of the Child (CRC) as well as the African Charter on Human and Peoples' Right (ACHPR) contain provisions which protect the right to education. The International Human Rights Law holds the state primarily responsible for the implementation of the right. Accordingly, it is incumbent on the state parties to ensure the realization of the right to education through policy, administrative and legislative measure. A critical component of the right to education is the right of access to education. Invariably, a denial of the right of access to education is a fundamental violation of the right to education. Lack of access to education is acute in Nigeria and efforts to address the problem have met with limited success. This article therefore seeks to examine the varied ways in which the Open and Distance Learning Education has been used to address the problem of access to the right to education in Nigeria. This article also examines the essentials o Open and Distance Learning (ODL) and in particular, how Nigeria has used the ODL mode of study (through the National Open University of Nigeria) as an instrument of social justice in surmounting the challenges of accessibility to education in Nigeria. The work examines the successes and failures of using the ODL system in protecting the right of access to education. The writers are of the view that the ODL system has played significant role of addressing the right to education and that other policy and legislative measures are still necessary in achieving right of access to education.

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28-N23-2729

INTERNATIONAL LAW AND ENVIRONMENTAL DISPLACEMENT: TOWARDS A NEW HUMAN RIGHTS-BASED PROTECTION PARADIGM

Ms. Isabel Mota Borges[25]

This article explores the increasing concern over the extent to which those suffering from forced (or potential) cross-border displacement as a result of environmental change are protected under international law, in particular human rights law. Formally, they are not entitled to admission or to stay in a third state country. This has been identified as an international "legal protection gap" that displaces people and impacts upon their human rights.

The article seeks to provide adequate answers to two basic questions: whether and to what extent existing international law protects cross-border environmental displacement? and whether and how existing formalized regional complementary protection standards can interpretively solidify and (re)conceptualize protection for cross-border environmental displacement? The discussion outlines that the protection of the human person is not

only an ex post facto obligation of states, but must be increasingly

seen as an ex ante one. The analysis further suggests that the European Union's regionally orientated protection regime can help states to consolidate an evolving protection paradigm of proactive and reactive measures being erected at the international level for environmental cross-border displacement and narrow the identified legal protection gaps. In other words, it helps states to (re)conceptualize protection as a holistic and dynamic enterprise.

29-N15-2709

THE NIGERIAN ARMY VERSES THE ISLAMIC MOVEMENT OF NIGERIA (IMN; SHIITES): IS THIS ANOTHER BOKO HARAM STORY?

Mr. Solomon Timothy Anjide[26]

From 2009 to present date, Nigeria's security and stability has become increasingly worrying both nationally and internationally, particularly due to the existing violent, and rebellious activities of Boko Haram radical Islamist and, the upsurge of the Biafra separatist movement. This paper focuses on the December 12th extrajudicial killing of the members of the Islamic Movement of Nigeria (IMN) by the Nigerian Army which has drawn reactions within Nigeria and the international milieu by religious, and human rights groups, and other countries. The IMN is an Iranian sponsored Shiite movement in Nigeria which in the 70s-90s had several violent confrontations with the Nigerian security forces. Moreover, the IMN is also known for its decades of theological disputes with other Salafist groups within Nigeria. This paper seeks to explain how a mix of history, ideology, Islamic schism, grievances can motivate the IMN to violence as a resistant/revivalist movement. I conclude that the failure of the Nigerian government to resolve the IMN grievances may lead to emergence of another violent movement. And that the extrajudicial killing of the IMN members by the Nigerian Army has further shown the culture of human rights violation of dissident groups by the Nigerian security forces, with particular reference to the killing of the Boko Haram leader which escalated the movement's campaign of violence. From a broader perspective, this paper seeks to contribute to the field of political violence particularly on the most neglected role of governmental agencies in extra-judicial killing and torture of individual(s) which lead to violent extremism within groups.

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30-N16-2065

PUTTING ARCHIVES ON TRIAL: LAWYERS IN SEARCH OF RECORDS

Dr. Samaila Suleiman[27]

The struggle over the production, management and consumption of historical knowledge is not confined to the academy and scholarly texts. They are also embedded in other concrete sites of history such as archives and museums where evidence is created, codified, stored and imbued with "legitimacy" and "authority". Who are the most regular consumers of archival records? My initial idea of archives, as the prerogative and primary sanctuary of historians, was jolted when I ventured into studying archives as a cultural institution and epistemological organization, rather than a simple database of docile and dusty files waiting to be excavated by expert historians. This led to my discovery of an interesting circuit of archival consumption at the National Archives Kaduna (NAK), located in the northern Nigerian city of Kaduna. With the upsurge of conflicts relating to land, chieftaincy and boundary matters, particularly in areas of the so-called Middle Belt region such as Jos and Southern Kaduna, the NAK became a research hotbed for lawyers and ethnic associations. A close examination of the users' register of the archives between 1994 and 2010 reveals that the majority of the users were legal practitioners. Lawyers deploy archives as a legal instrument. They search for corroborative evidence that would support the case of their clients, brushing aside any possible counter-evidence. And since they are usually paid to defend their client, the tendency is to hide contrary evidence from the opponents. Although legal practitioners, like professional historians, are taught to be fair and honest within the canons of legal discipline, in practice they try as much as possible to maximize the chances of their clients in the court of law. This paper examines the linkages between history and the legal profession through an interrogation of the ways in which lawyers use the Kaduna branch of the National Archives of Nigeria.

31-N29-2756

ADOPTION OF U-HEALTH SYSTEM: MODERATING EFFECTS OF USER'S PRIVACY

Prof. Mincheol Kim[28]

Adoption of u-Health System: Moderating Effects of User's Privacy Mincheol Kim Department of Management Information Systems Jeju National University, Jeju City, South Korea mck1292@jejunu.ac.kr The growth of the senior population has led to a sharp increase of patients with chronic disease, which has become a cause of increasing health care expenditures and welfare needs for seniors and accelerating health-care costs, thereby creating neglected people who receive poor health-care services (Park et al., 2005). A system, as a solution for such issues, is considered important for follow-up management and advanced prevention of diseases - u-health (ubiquitous health) based on smartphone app is one of the solutions (Kratzke & Cox, 2012). However, issues on regulations, safety and privacy are needed to consider before adoption of this system (BinDhim & Trevena, 2015). Based on research background, the purpose of this study is to analyze the adoption intention of the u-health system focused on moderating the effect of user's privacy in personal health information. Basically, the approach of this study is to propose the implications using the theory of reasoned action (TRA; Fishbein & Ajzen, 1975) on ubiquitous health (u-health). This research model through TRA consists of three constructs: self-efficacy (cognitive; Bandra, 1993), perceived usefulness (cognitive; Van et al., 2010) and behavioral intention (affective; Bandura, 1993) with the moderating effect of user's privacy on personal health information. Finally, this research model shows significant statistical levels in proposed hypotheses and the applicability of the TRA model focused on the moderating role of user's privacy in personal health information in the u-health system. This study uses the PLS-SEM (Partial Least Squares-Structural Equation Modeling) method by Hair et al. (2012) for verification of the proposed model. As expected result of the analysis, a path from individual experience to personal health and also, a path from self-efficacy to behavioral intention have the highest influence in the research model. That is, self efficacy and perceived benefits show a significantly positive relationship on attitude toward use of the u-health system with the moderating effect of user's privacy when using the u-health system. However, additional research is needed in that this study needs more clear definition of the u-health system based on smartphone.

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32-N37-2471

SMALL BANKS: A TOOL FOR FINANCIAL INCLUSION IN INDIA

Prof. Subhrangshu Sekhar Sarkar[29]

For the last decade, Indian economy has seen a fast rate of growth that has remained largely indefinable in nature because majority of marginalized and deprived section of society could not be benefited from this growth, which can be attributed to the financial exclusion of deprived section. Thus, it can be said that for inclusive growth of country financial inclusion is the prerequisite. Financial inclusion includes banking, insurance, investment and credit facility to each and every section of society. It is the need of time to extend the banking services to un-served sections of the Indian population through expansion of 'small banks' in unbanked and under-banked regions of India and to meet this objective the concept of Small Finance Banks comes up. In line with Union budget 2014-15 presented in the Parliament of India and acknowledging the fact that Small Finance Banks can play an important role in providing credit to micro and small enterprises, agriculture and banking services in unbanked and under-banked regions in the country; the Reserve Bank of India, being the central bank of the county, has decided to licence new "Small Finance Banks" in the private sector. The main objective of Small Finance Banks is to provide banking services to un-served and underserved sections of the Indian population by facilitating credit to small business units, small and marginal farmers, micro and small industries and other unorganised sector units; through high technology-low cost operations. This study is undertaken by reviewing secondary data which are collected exclusively from publications issued by Reserve Bank of India. This paper discusses the concept of Small Finance Banks and legal issues regarding RBI Guidelines for licensing them in Private Sector. First the concept of Small Finance Banks is defined and then the RBI guidelines are discussed thoroughly. This paper also highlights the objectives and eligibility requirements of Small Finance Banks, Scope of activities by a Small Finance Bank, License evaluation process for a Small Finance Bank and Structured approach for launching a Small Finance Bank effectively.

33-N21-2717

USE OF HOLLYWOOD AS A SOFT POWER TOOL IN FOREIGN POLICY STRATEGY OF THE UNITED STATES OF AMERICA

Dr. Emrah Aydemir[30]

Soft power, benefited to protect and sustain national interests, focuses on attraction. Soft power, which directs administration of other countries with the support of public, based on their own desires, and strengthens the position of a country, strengthens the bonds with other country citizens by cultural studies, and enables winning of hearts, can enable the countries to reach outstanding results in foreign policy targets. Increased use and value of soft power in foreign policy is very important for countries to reach concrete results in international relationships. The United States of America attempts to characterize the world according to its own foreign policy with this consciousness. The United States uses its soft power resources as an ability to achieve its desires based on its targets in foreign policy. Mass communication tools used by the United States are a significant method for reaching the target population directly or indirectly and rapidly and effectively. As changes are experienced in modern world politics every day, the United States follows up this process actively and applies its soft power with mass communication tools and focuses on reaching results in foreign policy. Cinema, which is among mass communication tools, is a utilization to reveal suggestions to encourage the target population as a statement of the United States and at the end to create relative change in the target population. In this context Hollywood's international role of America's soft power tool has been a matter of exquisite debate. Hollywood, producing ideology as a psychological means in the foreign policy of the United States ever since, communicates with its target audience non-stop. Hollywood, which globally engages to inject America's image into the minds of people, is an entertainment vehicle facilitating the transmission of social and political messages of the United States. Hollywood tells the culture of Americans, justifies that democratic values are needed in the world, and attempts to put the lifestyles of foreign public in the social and politics fields into a form that is proper to American values. The United States starts to apply opinions and philosophical arguments making up its soft power through Hollywood in foreign policy. In this study, Hollywood will be examined as a soft power tool in the foreign

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policy of the United States based on concrete examples, and its significance in terms of American foreign policy will be evaluated.

34-P15/N13-2606

SUSTAINABLE ECONOMIC AND BUSINESS GROWTH IN AFRICA: THE ROLE OF LEGAL INSTITUTION

Mr. Samuel Olurotimi Egbetokun[31] Prof. Temitayo Akinbobola

During the last two decades, scholars have explored the characteristic features of the language of law, such as overwhelming use of passive voice, nominalization, unnecessary repetition, archaic vocabulary, and unusual syntactic constructions. However, legal linguistics in general and the legislative drafting in particular has largely remained outside the realm of genre-based linguistic analysis in Pakistani context, thereby creating a need for a dedicated analysis of the language of legislation as used by Pakistani law professionals. The present study fulfilled this need by analyzing the Muslim Family Laws Ordinance, 1961 (MFLO), taken as a genre, with the help of Bhatia's multidimensional perspective framework (2004: 163-167), which provides seven tools namely (1) Placing the Given Genre-Text in a Situational Context, (2) Surveying Existing Literature, (3) Refining the Situational / Contextual Analysis, (4) Selecting Corpus, (5) Studying the Institutional Context, (6) Textual Analysis and (7) Specialist Information in Genre Analysis. Bhatia (ibid) suggests that these tools may be used in any number and sequence for conducting genre analysis. Therefore, these tools were discretionally employed for this study keeping in view the scope of the study. This qualitative descriptive analysis explored the move structure and rhetorical strategies used in MFLO, along with possibilities for redrafting its provisions for improved rhetorical appeal. It is hoped that the study would prove to be a milestone for initiating the research in the area of legislative drafting, corpus building, and standardization of legal language as used by Pakistani legislative drafters in particular and legal practitioners in general. The findings of this study would promote research in legal linguistics at all appropriate academic and professional forums and open new vistas for (legal) linguists to explore the ways of legislative drafting in particular and legal drafting in general to improve the rhetorical appeal and understanding of legislative as well as other legal texts and provide a potential for application in other countries with similar contexts.

35-N46-209

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