



UK network on

MINORITY GROUPS  
& HUMAN RIGHTS

## Contents

### Aims and Interests of the Network

### Associates

### Recent and Forthcoming Events

### Recent and Forthcoming Publications

### Developments in the Field

### Further Links

### Aims and Interests of the Network

The UK Network on Minority Groups and Human Rights was established in 2009 by scholars primarily based in the UK. The Network aims to organise conferences and roundtables on topical issues surrounding minority rights. The interests of members are diverse and the network welcomes the addition of new members.

One of the aims of the Network is to maintain a regular newsletter, updating colleagues on publications and events relating to minority groups and human rights, as well as disseminating the work of the network across the UK and internationally.

## Associates

**Dr Gaetano Pentassuglia, General Editor**

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**Reader in International Law and Human Rights, Director, Human, Rights and International Law, Director, LLM programme, University of Liverpool;** Former Fernand Braudel Senior Fellow and Visiting Professor, Department of Law, European University Institute, Florence, Italy; Visiting Professor, University of Toronto Faculty of Law (2009)

### Interests

International human/minority rights law; minority/indigenous protection, especially practical and conceptual perspectives on international and comparative jurisprudence within global and regional human rights systems; interplay between minority protection and general international (human rights) law.

**Dr Tawhida Ahmed, Editor**

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**Lecturer, School of Law, University of Reading**

### Interests

Minority rights in European and international law, especially in EU law;

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**Mauro Barelli**

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**Lecturer, City Law School**

Currently completing his PhD at Cardiff University on the accommodation of indigenous peoples' rights in international law

### Interests

Indigenous peoples' rights, public international law, human rights

**Fiona Batt**

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**PhD Candidate University of Bristol**

### Interests

Indigenous Peoples' Rights in International Law;  
Indigenous Peoples Cultural Heritage;  
Indigenous Peoples' Traditional Knowledge and Intellectual Property Rights;  
Pastoralists' Rights; Dartmoor Commoners Rights

**Dr Derya Bayir**

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### Interests

International Minority Rights, ECHR,  
Minority Rights in Turkey, Ottoman  
pluralism

**Gjylbehare Bella Murati**  
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PhD candidate, Public law Department,  
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**Interests**

International public law, Minority rights  
and human rights in International law, state  
building and protection of minority rights  
in Balkans, good governance, international  
territorial administrations, multiculturalism.

**Stephanie Berry**  
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PhD Candidate, Brunel University

**Interests**

'New' Minorities, Religious Minorities,  
Muslims in Europe, Intersectionalities

**Dr Elizabeth Craig**  
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Lecturer, Sussex Law School, University  
of Sussex

**Interests**

Development and application of European  
minority rights law; language rights;  
compliance issues; employment  
monitoring; liberal culturalism,

constitutionalism and difference; the  
Northern Ireland Bill of Rights process

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**Interests**

National Minorities, post-imperial  
minorities, migrants and minorities.

**Dr Gulara Guliyeva**  
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**Interests**

Minority rights; European Human Rights  
Law; Fundamental Rights in the European  
Union; Anti-Discrimination Law

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**Interests**

Religious minorities, minority children

**Dr. Corinne Lennox**  
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Lecturer in Human Rights, Institute of  
Commonwealth Studies, School of  
Advanced Study, University of London

**Interests**

Minority protection civil society actors;  
Transnational social mobilisation by  
minority and indigenous groups; Norm  
evolution in minority and indigenous  
rights; International minority and  
indigenous protection and monitoring  
mechanisms; Afro-descendants in Latin  
America; Dalits and caste-based  
discrimination; minority and indigenous  
rights in Asia and Africa

**Dr Marco Odello**  
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University

**Interests**

Indigenous rights in international and  
comparative law

**Dr. Alexander Osipov**  
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Senior Research Associate  
European Centre for Minority Issues  
(Flensburg, Germany)

**Interests**

Non-discrimination and minority  
protection; autonomy; symbolic vs  
instrumental policies

**Shayna Plaut**  
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**PhD student, University of British Columbia, Vancouver, Canada**

**Interests**

Transnational peoples and activism; media self representation; journalism education; right to culture and cultural practice as a form of advocacy, human rights education. Romani media and activism; transnational people's activism in other areas including the Saami people and Networks/INGOs working with and for transnational people.

**Sarah Sargent**  
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**Lecturer in Law, University of Buckingham**

**Interests**

Indigenous rights in international law, indigenous children's rights, American Indian legal issues in the United States, and transnational legal theory

**Dr Prakash Shah**  
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**Senior Lecturer, Department of Law, Queen Mary, University of London**

**Interests**

Religion and law, ethnic minorities and diasporas in law, immigration, refugee and

nationality law, and comparative law with special reference to South Asians.

**Dr Jeroen Temperman**  
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**Assistant Professor of Public International Law, Erasmus University Rotterdam**  
Editor-in-Chief *Religion & Human Rights Journal*

**Interests**

Freedom of religion or belief, freedom of expression & extreme speech (particularly religious Freedom of religion or belief, freedom of expression & extreme speech (particularly religion or belief)

**Enzamaria Tramonontana**  
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**Liverpool Law School, PhD Candidate**

**Interests**

Human rights; indigenous peoples' rights

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**Reader in Law, Deputy Head (Programmes), Brunel Law School, Brunel University**

**Interests**

Indigenous Rights; Minority rights in

European and international law; multiculturalism

**Recent and Forthcoming Events**

Liverpool Law School, Seminar Programme:  
<http://pcwww.liv.ac.uk/law/hrilu/HRILU.pdf>

ECMI Workshop on Non-territorial Autonomy; Flensburg, Germany; 24-25 June 2011

Adjusting to Europe: national institutions and policies in the post-Soviet successor states; conference organised by the ECMI and Vytautas Magnus University; 29-30 August, 2011; Vytautas Magnus University, Kaunas, Lithuania

Diversity Policies and Politics in Central and Eastern Europe: Legacies of the Past, Present State and Future Trends. A Section of the First International Congress of Belarusian Studies (Social Sciences), Kaunas, Lithuania, 23-25 September 2011

International Law Association (ILA) British Branch, Spring Conference 2011, 27 and 28 April 2011. The theme was "States, peoples and minorities: whether the nation in international law?".

The 4th ESIL Research Forum "International Law and Power Politics: Great Powers, Peripheries and Claims to Spheres of Influence in the International Normative Order" was held in Tallinn, Estonia, on 27-28 May 2011. Further information, see the conference website: <http://www.esil2011.ut.ee>

Call for Reviews and Review Essays  
The International Journal on Group and Minority Rights welcomes submissions for reviews and review essays on books pertaining to minority and group issues in international human rights law and policy, e.g. religion, gender, indigenous peoples, national minorities, for publication in forthcoming volumes. If you would like to submit a proposal for a book review or review essay please contact Mauro Barelli at [mauro.barelli.1@city.ac.uk](mailto:mauro.barelli.1@city.ac.uk) or the Reviews Editor Dr. Pentassuglia at [g.pentassuglia@liverpool.ac.uk](mailto:g.pentassuglia@liverpool.ac.uk).

T Ahmed, Rapporteur on Minority Rights, 5th Warsaw Seminar on Human Rights 29 September-1 October, 2011, organized by the Ministry of Foreign Affairs of Poland in cooperation with the National School of Public Administration and the EU Fundamental Rights Agency

T Ahmed, 'Lautsi and its Implications for Minority Rights', presented at 'Lautsi v

Italy—Whose Law? Which Religion? A Roundtable Discussion', the first seminar of the 'Post-Lisbon Integration: The Quest for a New European Identity' Project, University of Helsinki, 19 September 2011

G Guliyeva, 'The EU and the Protection of Minorities', 5th Warsaw Seminar on Human Rights 29 September-1 October, 2011, organized by the Ministry of Foreign Affairs of Poland in cooperation with the National School of Public Administration and the EU Fundamental Rights Agency

Plaut S, Lead organizer for "Language, Culture and Politics: Identities in Transition" University of British Columbia, April 2011

Sargent S, Socio-Legal Studies Association Annual Conference, Spring 2011, Stream Convenor on Indigenous and Minority Rights

Shah P, Organiser of workshop on Legal Practice and Accommodation in Multicultural Europe (with Prof. Marie-Claire Foblets, Catholic University Leuven) at the International Institute for the Sociology of Law (IISL), Onati, Basque Country, Spain: <http://www.iisj.es>, funded by the British Academy, the IMISCOE Network and the IISL.

## Recent and Forthcoming Publications

Ahmed, T and Buchan, R Special issue of the International Community Law Review on Minority Rights (forthcoming, Autumn 2011)

Ahmed, T 'The EU, Counter-Terrorism & the Protection of Muslims as European Minorities' in ICLR (forthcoming, Autumn 2011)

SE Berry, 'Bringing Muslim Minorities with the International Convention on the Elimination of All Forms of Racial Discrimination - Square Peg in a Round Hole?' (2011) 11(3) HRLR 423-450

Chapman, C., 'Leveraging the rights of minorities and indigenous peoples for transitional justice', in A. Paige (ed.) *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, Cambridge, Cambridge University Press, 2010.

Lennox, C "Civil Society Actors and the International Protection Regime for Minorities: Festschrift in Honour of Alan Phillips" *International Journal on Minority and Group Rights*, Volume 18, Number 2, 2011. contributions include:

Bíró, Anna-Mária and Corinne Lennox Introductory Study: Civil Society Actors and the International Protection Regime for Minorities, pp. 135-160

Schweizer, Natalie, The Power of Words? NGO Engagement in the Working Group on Minorities, pp. 161-184  
Chapman, Chris; Ramsay, Kathryn Two Campaigns to Strengthen United Nations Mechanisms on Minority Rights, pp. 185-199

Altenhoener, Charlotte; Palermo, Francesco, Civil Society Contributions to the Work of the OSCE High Commissioner on National Minorities, pp. 201-218

Ruzza, Carlo, The International Protection Regime for Minorities, the Aftermath of the 2008 Financial Crisis and the EU: New Challenges for Non-State Actors, pp. 219-234

Sobotka, Eva, Influence of Civil Society Actors on Formulation of Roma Issues within the EU Framework, pp. 235-256

Lennox, Corinne; Minott, Carlos, Inclusion of Afro-Descendants in Ethnic Data Collection: Towards Visibility, pp. 257-275

Lennox, C. "Minority Women and the Millennium Development Goals", *State of*

*the World's Minorities 2011*, London: Minority Rights Group International, 2011.  
MRG International, Minority rights: Solutions to the Cyprus conflict March 2011

MRG International, Southern Sudan: The Role of Minority Rights in Building a New Nation  
June 2011

MRG International, Seeking justice and an end to neglect: Iran's minorities today  
February 2011

MRG International, Facts and figures: minorities and the MDGs February 2011

Shayna Plaut "Expelling the Victim by Demanding Voice: The counterframing of Transnational Romani Activism, published by Evrodijalog (Vol 14) in Macedonian  
[http://evrodijalog.eu/pdf/ED14/EVRODIJALOG-Br14\\_01-Shayna-Plaut.pdf](http://evrodijalog.eu/pdf/ED14/EVRODIJALOG-Br14_01-Shayna-Plaut.pdf).

Pentassuglia G, 'Towards a Jurisprudential Articulation of Indigenous Land Rights', 1 *European Journal of International Law* (2011), pp1-38

Pentassuglia G, 'The Strasbourg Court and Minority Groups: Shooting in the Dark or a New Interpretive Ethos?', 3/2011 *Europa*

*Ethnica - Zeitschrift für Minderheitenfragen*, forthcoming (December 2011)

Shah P, 'When South Asians marry trans-jurisdictionally: Some reflections on immigration cases by an 'expert''. In: Livia Holden (ed.): *Cultural expertise and litigation: Patterns, conflicts, narratives*. London: Routledge (forthcoming).

Shah P, 'A reflection on the *Shari'a* debate in Britain'. In: *Studia z Prawa Wyznaniowego* (Studies of Ecclesiastical Law) (forthcoming).

Shah P, 'Comparatively Indian: Living with legal plurality'. In: *Zeitschrift für vergleichende Rechtswissenschaft* (Journal for Comparative Law) (forthcoming)

Shah P, 'Ethnic and religious diversity in Britain: Where are we going?' In: Geraldine Healy, Gill Kirton and Mike Noon (eds.): *Equality, inequalities and diversity: From global to local*. Basingstoke: Palgrave, 2010 (forthcoming).

Temperman J, "Recognition/Registration Policies towards Religious Minorities: A Comparative Legal Analysis and a Human Rights-Based Analysis", in: *Minority Politics within the Europe of Regions* (Sapientia University, 2011).

Xanthaki A, 'Collective Rights: The Case of Indigenous Women' in S Allen and A Xanthaki (eds.), Reflections on the UN Declaration on the Rights of Indigenous Peoples (Hart, 2011)

Ahmed T, Review of K Topidi, EU Law, Minorities and Enlargement (Intersentia, 2010) in (2011) 36 European Law Review 603-605

Ahmed T, Review of A. Verstichel, B. De Witte, P. Lemmens and A. Alen (eds.), The Framework Convention for the Protection of National Minorities: a Useful Pan-European Instrument?, Intersentia, Antwerp, 2008, in International Journal on Minority and Group Rights (2011) 18 277-280

## Recent Developments

### A PLEA FOR FEEDBACK ON INDIGENOUS RIGHTS

Dear all,

Greetings! I am the secretary of the UN's Expert Mechanism on the Rights of Indigenous Peoples (the Expert Mechanism) working in the Indigenous Peoples and Minorities Section of the UN's Office of the High Commissioner for Human Rights.

I am writing to you all about an idea - floated a number of times by some academics and academic institutions - to establish an informal group called

"Academic Friends of the UN's Expert Mechanism on the Rights of Indigenous Peoples", comprised of academic institutions, individual academics and any relevant related institutes or research bodies.

As you are no doubt aware, the Expert Mechanism has the mandate to provide thematic expertise to the Human Rights Council mainly in the form of studies and research-based advice. As such, it provides expert policy and legal advice to the Council on indigenous peoples' rights, including interpretations of the Declaration on the Rights of Indigenous Peoples. The first two studies were focused on education and participation in decision making respectively. Information about the Expert Mechanism is available here: <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>.

Given that the Expert Mechanism's work is largely research focused, there is a good deal of potential synergy with its work and that of the academic community engaged in indigenous peoples' rights.

From the Expert Mechanism's perspective, it would welcome the opportunity to:

- seek academic input into its studies; and work together with academic institutions to hold expert workshops and/or seminars related to the Expert Mechanism's studies.

The Expert Mechanism would also seek to involve its academic friends in its work by notifying them of its research activities, seeking submissions from them and inviting them to relevant workshops

associated with the studies of the Expert Mechanism. Through such a group, academic thought could have a direct impact on the development of international policy in relation to the rights of indigenous peoples.

As someone who has been identified as an academic with a special interest in indigenous peoples' issues at the international legal and policy level, we would like your feedback on the idea of a group of "Academic Friends of the Expert Mechanism on the Rights of Indigenous Peoples" and, specifically:

1. whether you or the academic institution/s you are associated with would be interested in joining a group called "Academic Friends of the UN's Expert Mechanism on the Rights of Indigenous Peoples"
2. how you could see the Expert Mechanism and your institution working together in the future
3. whether you are aware of any other academics or academic institutions that might be interested in joining the "Friends"

We intend to collate your feedback in the coming weeks and, on the basis of those responses, consider whether we should pursue further the establishment of the group.

With warm regards, and nga mihi nui,

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**European Court of Human Rights: Case of  
Ahmet Arslan and Others v Turkey  
(Application No. 41135/98)  
Stephanie Berry, Brunel University**

The case of *Ahmet Arslan and Others v Turkey* concerned the arrest and prosecution of Ahmet Arslan and 126 members of the *Aczimendi tankai* religious group for wearing religiously prescribed clothing in public (on roads and outside a mosque) and subsequently in court.

The applicants complained that their right to manifest their religion through the wearing of religiously prescribed clothes had been violated, under article 9 of the European Convention on Human Rights. The Turkish government claimed that the restriction on the right of the applicants to manifest their religion was justified, as the religious group was seeking to replace the democratic regime with Sharia law. Consequently, Turkey argued that the interference was necessary to uphold secular principles and democracy, and to prevent provocation, proselytism and propaganda and therefore, 'for the protection of the rights and freedoms of others' and 'in the interests of public

safety'.

The European Court of Human Rights (ECtHR) noted that the applicants were convicted not just for wearing religious attire in court but also outside a mosque. Consequently, the applicants were prosecuted for manifesting their beliefs by wearing religious attire in public. After accepting that the wearing of religious attire constituted a legitimate manifestation of the applicants' beliefs, the ECtHR went on to consider whether the interference with article 9 was justified under the limitation clause, article 9(2).

As it focused on the 'necessity of the interference', the ECtHR did not reach a conclusion as to whether the interference with article 9 was 'prescribed by law'. However, it did hold that the interference pursued the legitimate purpose of maintaining secularism and protecting democracy in Turkey.

In considering whether the interference was 'necessary in a democratic society', the ECtHR considered three instances where interference would be permissible:

- 1) If the applicants were State officials, then the interference would be permissible for the purpose of maintaining trust in the neutrality of the State. However, as the applicants were private individuals, this justification did not apply (*Vogt v. Germany*, September 26, 1995, § 53, Series A no 323, and *Rekvényi v. Hungary* [GC], no 25390/94, § 43, ECHR 1999-III; *Dahlab v. Switzerland* (dec.), no 42393/98, ECHR 2001-V, ).
- 2) The regulation of the wearing of religious symbols in public institutions, such as schools was

also permissible (*Leyla Şahin v. Turkey* [GC], no 44774/98, § 78, ECHR 2005-XI). As the applicants were arrested for wearing religious attire on roads and in public places, this justification also did not apply.

3) The aim of preventing the applicants from proselytising and exerting undue pressure on passers-by on the streets was also considered by the ECtHR (*Kokkinakis v. Greece*, May 25, 1993, § 48, Series A No. 260-A ). However, the applicants had gathered outside a mosque in order to take part in a religious ceremony and there was no evidence to suggest they had attempted to proselytise in this instance.

Consequently, the ECtHR found that it had not been convincingly established that it was necessary to restrict the applicants' freedom of religion and therefore found a violation of article 9 by six votes to one. (The dissenting judge found that the restriction imposed by the Turkish government fell within their margin of appreciation).

This case appears to make significant inroads, in respect of protecting the rights of minorities to manifest their religion through the wearing of religiously prescribed clothing. The ECtHR has consistently held that restrictions on the wearing of religious attire in public institutions and by State officials are permissible, this is the first time that the ECtHR has considered the right of private individuals to manifest their religion by wearing religiously prescribed clothing in public. States have generally been given a wide margin of appreciation in cases involving religious attire,



where the State has argued that interference is necessary to protect secularism and democracy (*Dahlab v. Switzerland* (dec.), no 42393/98, ECHR 2001-V; *Leyla Şahin v. Turkey* [GC], no 44774/98 ECHR 2005-XI, paras. 114-116; *Dogru v France*, Application no. 27058/05 paras. 70-72. See also, *Aktas v. France, Bayrak v. France, Gamaleddyn v. France, Ghazal v. France, Jasvir Singh v. France, Ranjit Singh v. France*, Application nos. 43563/08, 14308/08, 18527/08, 29134/08, 25463/08, 27561/08 [2009] 17 July 2009 ECtHR 1142 ). . Therefore, it could now be hoped that the ECtHR will continue to identify the limits of the margin of appreciation in article 9 cases.

The ECtHR's judgment in this case *prima facie* appears to be relevant to the ban on the wearing of the burka in public in both France and Belgium. However, it is important to bear in mind that ECtHR judgments are only applicable to the particular facts of a given case. While the ECtHR seems to have ruled out France and Belgium using secularism and democracy as a justification for restricting the wearing of religious attire in public, the justification of the need to protect gender equality has not been considered by the Court in this context. 'Gender equality' has been an area where States, again, have been given a wide margin of appreciation by the ECtHR and the Strasbourg institutions have previously expressed concern about the implication of the *hijab* for gender equality (*Cf. Dahlab v. Switzerland* (dec.), no 42393/98, ECHR 2001-V; *Leyla Şahin v. Turkey* [GC], no 44774/98 ECHR 2005-XI, para.

115; *Dogru v France*, Application no. 27058/05 para. 64. See also, *Aktas v. France, Bayrak v. France, Gamaleddyn v. France, Ghazal v. France, Jasvir Singh v. France, Ranjit Singh v. France*, Application nos. 43563/08, 14308/08, 18527/08, 29134/08, 25463/08, 27561/08 [2009] 17 July 2009 ECtHR 1142 ). Therefore, while *Ahmet Arslan and others v. Turkey* has for the first time recognised the right of a religious minority to wear religiously prescribed clothing in public (*Cf. C Evans, Freedom of Religion under the European Convention on Human Rights* (OUP, Oxford 2001) 125 ), it is unlikely that the ECtHR will take a similarly narrow view of the States' margin of appreciation in relation to the French and Belgian bans on burkas in public.

### Introduction of 'Cultural Expertise' in English

#### Courts, Report of a Workshop

#### Dr Prakash Shah, Department of Law, Queen Mary, University of London

Eighteen anthropologists and sociologists, legal academics and legal practitioners came together in a one-day workshop on the Introduction of 'Cultural Expertise' in English Courts held on 28 April 2011 at the Institute of Advanced Legal Studies (IALS). The workshop was co-organised by Dr. Roger Ballard, Prof. Werner Menski and Dr. Prakash Shah and was supported by the EU FP7 project RELIGARE, the IALS, the Centre for Ethnic Minority Studies (CEMS) at the School of Oriental and African Studies (SOAS), and the

Centre for Applied South Asian Studies (CASAS). The spur for the workshop was the discussion in early 2011 on the Pluri-Legal e-mail group (on JISC mail) about the Mbulawa case that was tried in Leicester Crown Court in late 2010-early 2011. The trial led to a young woman of Zimbabwean origin being convicted of malicious wounding under the Offences Against the Person Act 1861. Evidence indicated that, through an act of 'witchcraft', she had been 'instructed' by her grandmother and paternal aunt while in a trance to kill her mother. The trial proceedings had also involved expert evidence submitted by two anthropologists one of whom attended the workshop. The workshop was intended to address a number of questions about the role of anthropologists and other 'cultural' experts in court proceedings in the UK as follows:

- In what kinds of cases have 'experts' found themselves instructed, or have solicitors considered instructing experts?
- What kinds of issues did those instructions invite their recipient to address?
- How far did those instructions make sense to the recipients from a specialist anthropological and/or legal point of view?
- What challenges did solicitors encounter in instructing 'experts' in this field?
- How far did it prove possible to renegotiate those instructions?

On what materials were experts expected to rely in preparing their reports?

What are our experiences of issues of admissibility being raised a) by instructing counsel? b) by counsel for the other side? c) by the judge?

How can the character of the evidence which it is appropriate to set before the court in these circumstances best be defined?

Just what are the limits within which reports in this field must remain if they are to remain admissible?

From a legal perspective, just where are the sticking points when it comes to the introduction of evidence of this kind?

How frequently did we find ourselves giving evidence in person during the course of the proceedings, and what was our experience of doing so?

The workshop was addressed by two main lectures, by Prof. Werner Menski of SOAS and Dr. Roger Ballard of CASAS. Both have been instructed as cultural experts many times in British courts and tribunals. Prof. Menski focused on the plural

structure of law by presenting a four cornered kite model that incorporates state law, international law, the religious, ethical and moral, as well as the socio-cultural dimensions of law. While this model is being tested continuously, it represents a novel way of exploring the complex make-up of law and can potentially also act as a way of testing the legitimacy of legal decision-making in different contexts, whether by legislatures, judges, individuals or experts providing opinions in courts. Dr. Ballard focused on the consequences of transnational diasporic populations, and the associated 'transgressive consequences of globalization from below', which are among the contemporary factors disturbing modern notions of jurisdictional certainty within nation-states. This means that experts are faced with working within a contested field as they navigate between the demands and procedures of official courts while attempting to represent an emic perspective to explain what has occurred before cases end up in the courts. They are most often made sense of by explaining the dynamics of kinship and family in minority contexts and, contrary to what is often assumed, rarely involve simply 'religious' issues. The cases about which experts are asked to provide opinions tend to arise in situations of conflict between the often individualistically grounded expectations of the dominant cultural and legal order, and the networks of trust and reciprocity based on kinship and family within minority contexts, although evidently they also arise among contending parties belonging to minority ethnic communities when they evoke different bases to ground their claims.

Four case studies were presented during the workshop, shedding light on the range of issues that can potentially arise within the courts – from family matters and the best interests of children, to complex criminal trials involving charges relating to violence or murder. This range of cases, on the one hand, reveals that minority cultural issues crop up in virtually all legal fields and, on the other hand, shows that legal practitioners can potentially request expert evidence in all such fields with their varying procedures, rules of evidence, and expectations on each party to the legal proceedings. From the evidence of the case studies presented, and other examples introduced during the general discussion, it is evident that providing an expert report may or may not result in an issue being resolved satisfactorily. Sometimes a settlement may be sought between the parties in a civil or family dispute once the expert has provided their view. At other times, an expert may wait to be called to provide evidence in person without actually doing so, perhaps because of the tactics pursued by one side or the other. This could have the result that vital information from a particular angle is missed by the court increasing the chances of a miscarriage of justice.

There was much discussion about the ways in which legal representatives and experts interacted. According to experts, the types of instructions from legal representatives could vary a lot in terms of their detail, precision and relevance to the family background or cultural context of a case. Among legal professionals, it is solicitors who most often have to frame instructions to experts.

While some may be aware of the culturally specific nature of the context their clients are faced with, most appear to possess little knowledge of this, thus establishing a difficult basis for instruction and future interaction. Further, those instructing the experts may not be the person under trial or a litigant, but instructions may also come from an official authority such as the prosecution or the children's guardian. This increases the complexity of the potential dynamics that come into play for experts. Still it was considered important to engage with the lawyers or authorities who are instructing experts so as to arrive at some sort of understanding about the approach that would be most worthwhile in enabling the court to be appraised of the relevant aspects of the case when viewed from a culturally informed perspective. This may not always be possible and experts' reports can also be suppressed if considered against the tactics that lawyers plan to adopt before the court.

Often very limited documentation about a case is provided to an expert. This means the expert may have to 'second guess' other dimensions that pertain to a case or must demand further documentation which sheds further light on an investigation or background factors. This flow of information may occasionally be blocked to an expert either because of rules of confidentiality or because of tactical reasons. However, there was a consensus that it is advisable to ask for as much detail about a case as possible.

One participant noted that culturally relevant evidence is most often demanded in official legal

contexts but not as frequently in other official settings such as social work, even though one might have expected the reverse to be the case. This phenomenon may have to do with prevailing legal aid structures. Once legal aid is reduced, as it is bound to be under current proposals, it may impact upon how far expert evidence will be adduced in future. As things stand, experts expressed that they found it worthwhile to be involved in legal proceedings in some way as that represents a way of their being able to apply their skills and knowledge to a practically useful end, and there was a consensus that experts can help the process of justice be pushed further along by providing valuable informational input without which decision makers would often be in the dark about important aspects of a case. It was recognized that there is always a tension in wanting justice to be done while being only one part of a complex legal machine which demands that one restrict oneself to a narrow set of instructions, to the confines of the rules of evidence, and to a role ascribed by the court procedures.

It was emphasized that, while cultural experts can assist in casting relevant light on certain facts of a case, they could not usurp the role of the court and become final arbiters of fact. There was some discussion however about how much of the expert's role was to establish facts or to provide a certain light on how existing facts could be interpreted when set against the cultural context in which they took place. Certainly, when experts got involved in cases they could enable the various

actors within the court process to see the facts in ways that they did not previously appreciate, and that could have a crucial role in reshaping a case. It was recognized that stepping over the boundaries which were being set for the expert's role, however hazy those boundaries may be, could result in a report being deemed inadmissible. It may yet be the case that some types of culturally specific information, for example the use of witchcraft, may be inherently difficult to communicate to a court given the boundaries of what is and is not considered acceptable with a particular cultural setting including that of the court.

There was a consensus that some kind of ongoing network of experts would be of help in exchanging information and for mutual support. Often cultural experts are working in isolation from one another and having a sounding board could be a useful support mechanism. It was also felt that future meetings would help in the ongoing multilogue in which this workshop was a first step. An e-mail discussion group could, it was suggested, also be set up to facilitate activities and discussions. It was also suggested that ways should be found to interact with the Judicial Studies Board as that body would have a natural interest in the kind of issues being discussed. A recently published book is one of the first to chart some of the workshop's themes within a wider comparative context, with several of the workshop participants having written chapters for it. Those interested should look out for: Livia Holden (ed.): *Cultural expertise and litigation: Patterns, conflicts, narratives* (London: Routledge, 2011). Clearly this is a critical and

underexplored issue and one that will not go away given the consequences of rapid cultural pluralisation of Western countries.

UN International Year for People of African Descent

**Corinne Lennox , Human Rights Consortium**

The year 2011 has been declared as the UN International Year for People of African Descent by General Assembly Resolution 64/169. This has launched a series of events, spearheaded mostly by the UN Office of the High Commissioner for Human Rights, including a high-level panel discussion in the Human Rights Council in March 2011. In connection with the Year, the UN Committee on the Elimination of Racial Discrimination also has plans to adopt a new General Recommendation on people of African descent at the August 2011 session under the lead of Committee Member Pastor Murillo Martinez. A global civil society summit will take place in La Ceiba, Honduras, 18-21 August 2011, organised by the Afro-descendant NGO ODECO (*La Organización de Desarrollo Etnico Comunitario*) in cooperation with a group of national, regional and international partners. The OAS has also increased its attention to Afro-descendants in line with the UN Year. The Department of International Law has organised a series of high-level events and workshops, which complement the existing Rapporteurship on the Rights of Afro-descendants and against Racial Discrimination and

the ongoing negotiations on a new inter-American convention against racism and racial discrimination.

The Year was originally proposed by Colombia in the UN Third Committee. Afro-descendant NGOs have long called for such a year, recognising the success of the UN International Year of the World's Indigenous People in 1993 and subsequent two UN Decades, which significantly increased the profile of indigenous peoples' issues among UN institutions and agencies.

New UN Independent Expert on minority issues appointed

**Corinne Lennox, Human Rights Consortium**

At the 17th session of the UN Human Rights Council, a new Independent Expert on minority issues was appointed: Dr. Rita Izsak. Dr. Izsak is a Hungarian national and a Roma, who has previously worked for the European Roma Rights Centre, the OSCE mission in Bosnia and Herzegovina, and the UN Office of the High Commissioner for Human Rights. She is currently the Executive Director of the new Tom Lantos Institute in Budapest, which focuses on promoting tolerance and supporting minority issues in Central and Eastern Europe and around the world. Her most recent post has been as Chief of Staff, Ministry of Public Administration and Justice, State Secretariat for Social Inclusion, Hungary. The delegation of Hungary is a leader among states (alongside Austria) in supporting the UN

mechanisms focused on minorities. Dr. Izsak will replace Ms. Gay McDougall who was the first person to hold this mandate since its creation in 2005. Over the course of her tenure, Ms. McDougall conducted 12 country visits, oversaw the establishment and first three sessions of the UN Forum on Minorities and presented a wide range of important studies on minority rights, including focused on poverty and the Millennium Development Goals, conflict prevention, citizenship rights, and policing.

#### Further UK Links

**University of Liverpool  
International Human Rights and Group  
Diversity, Human Rights and International Law  
Unit, Liverpool University**

<http://www.liv.ac.uk/law/ielu/index.htm>

**University of Reading**  
[www.reading.ac.uk/law](http://www.reading.ac.uk/law)

**University of Sussex  
Centre for Responsibilities, Rights and the Law  
at the University of Sussex**  
<http://www.sussex.ac.uk/law/1-4-11>

For further info and future events, please email Elizabeth Craig on [emc22@sussex.ac.uk](mailto:emc22@sussex.ac.uk)

**Websites**

<http://www.liv.ac.uk/law/ielu/index.htm>

**Human Rights Consortium**

<http://www.sas.ac.uk/925.html#c2598>

**Contact us**

Contact us if you are interested in joining the network or for further information:

[ukminoritiesnetwork@reading.ac.uk](mailto:ukminoritiesnetwork@reading.ac.uk)