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**Stirling Law School’s Bulletin 2/2020**

This bimonthly bulletin is for sharing Stirling Law School’s achievements in research, teaching, and engagement. In these difficult times, it’s crucial to celebrate, strengthen our sense of community, and create opportunities for cross-Faculty and cross-University collaborations. We hope you’ll enjoy this wee snippet of Stirling Law School’s recent successes.

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# **Highlight of this issue**

**Stirling Law School is the 18th best law school in the UK (+8) and 4th in Scotland** *(The Guardian Best UK Universities 2021 Table).*Although ‘spend per student’ and ‘student-to-staff ratio’ could be improved, Stirling Law School performed excellently against all the other criteria e.g. 7th in the UK and2nd in Scotland for feedback-related student satisfaction and 15th in the UK/3rd in Scotland for course-related satisfaction**.**

See the ranking [here](https://www.theguardian.com/education/ng-interactive/2020/sep/05/best-uk-universities-for-law-league-table).

# **Impact and engagement**

* Having served on the **Scottish Law Commission**’s *Advisory Group on Aspects of Family Law*, Professor Elaine E Sutherland submitted a written response to the Commission’s [***Aspects of Family Law Discussion Paper on Cohabitation***](https://www.scotlawcom.gov.uk/files/1115/8270/8061/Aspects_of_Family_Law_-_Discussion_Paper_on_Cohabitation_DP_No_170.pdf)(Edinburgh: Scottish Law Commission, 2020)
* Assoc Prof Katie Boyle was on the **Scottish Government** Incorporation Working Advisory Group for the [**UNCRC Incorporation (Scotland) Bill**](https://www.gov.scot/news/un-convention-on-the-rights-of-the-child/)which has been introduced to the Scottish Parliament in 2020. With this bill, Scotland is set to become the first country in the UK to directly incorporate the **UN Convention on the Rights of the Child** into domestic law
* Assoc Prof Boyle was appointed to the Academic Advisory Panel advising the **National Task Force on Human Rights Leadership** in Scotland.
* On 17th September, Assoc Prof Boyle has given evidence to the **Northern Ireland Assembly** Ad Hoc Bill of Rights Committee on a **Bill of Rights for Northern Ireland**.
* On 25 August, Dr Annalisa Savaresi gave evidence to the **Scottish Parliament**  Environment, Climate Change and Land Reform Committee  on the [**UK Withdrawal from the European Union (Continuity) (Scotland) Bill**](https://www.scottishparliament.tv/channel/virtual-meeting-6)
* On 3 July,  Dr Savaresi took part in the exchange of views on [“**The effects of climate change on human rights and the role of environmental defenders**](https://emeeting.europarl.europa.eu/emeeting/committee/agenda/202007/DROI?meeting=DROI-2020-0703_1&session=07-03-08-00)” with the **European Parliament**’s Human Rights, and Civil Liberties, Justice and Home Affairs Committees
* On 7 September, Assoc Prof Guido Noto La Diega and other members of the Scottish Privacy Forum were consulted by **Scottish Government** officials about the ethical and privacy impact of contact tracing app [**Protect Scotland**](https://protect.scot/)

# **Publications**

* Professor Elaine E Sutherland published an article, ‘**The Enigma of Article 5 of the United Nations Convention on the Rights of the Child: Central or Peripheral?**’ (2020) 28(3) *International Journal of Children’s Rights* 447-470.

The United Nations Convention on the Rights of the Child sets the gold standard for the rights of children and young people, placing the obligation on States parties to ensure their realisation. Since most children live in families, recognising their rights has implications for other family members, particularly their parents. Article 5 creates a framework for balancing the rights and obligations of the parties – the child, the parents and the state – in this triangular relationship, requiring States parties to respect the right of parents to direct and guide the child in the exercise of Convention rights. Yet other Convention provisions address the parties’ roles, calling into question the need for Article 5. This article sets the scene for those that follow in this issue, exploring what the drafters of the Convention were seeking to achieve in Article 5 and highlighting issues that proved controversial, before focussing on the work of the United Nations Committee on the Rights of the Child to drill down into its content and address its place in the Convention.

* Professor Sutherland published a chapter, ‘**Unmarried cohabitation’** in John Eekelaar and Rob George (eds), *Routledge Handbook of Family Law and Policy*, 2nd ed (Cambridge: Routledge, 2020).

This volume provides a global perspective on the challenges facing family law and policy round the world. Professor Sutherland’s chapter offers critical, comparative analysis of approaches taken, in a range of legal systems, to unmarried cohabitation.

* Professor Sutherland, ‘**Nikah-only marriage: a Scottish remedy?**’ (2020) 65(3) *Journal of the Law Society of Scotland* *online*: <https://www.lawscot.org.uk/members/journal/issues/vol-65-issue-03/nikah-only-marriage-a-scottish-remedy/>

In *Attorney General v Akhter* [2020] EWCA Civ 122, the Court of Appeal concluded that a Nikah-only marriage – a Muslim marriage ceremony unaccompanied by a civil ceremony – created a ‘non-marriage’, rather than one which was void. As a result, a woman who participated in a religiously-significant marriage ceremony, then lived with her partner as his wife for some 18 years and had four children with him, was left without redress under English law. This article examines the remedies that might be available, under Scots law, in similar circumstances.

* Dr Hong-Lin Yu completed a global survey report on "**The duty of confidentiality in international commercial arbitration on the global scale**" for the Chinese Arbitration Association (the CAA) on 27 July 2020.

This report was commissioned by the CAA and the Arbitration Law Amendment Commission. In the report, Dr Yu surveyed  198 jurisdictions and over 290 arbitration institutions on the scope of the duty. The report has identified the the geographic landscape  / trend of the duty of confidentiality in different regions and globally. The data also highlighted a significant gap between arbitration practice and national regulations in this area of law. The analysis further stressed how the duty can be affected by the applicable laws and the choice of the place of arbitration. The report will be submitted as the key supporting evidence to the public consultations, the Ministry of Justice and the Parliamentary Committees for the proposed introduction of the duty of confidentiality.

* On 2 September, the Scottish Parliament Information Centre (SPICe) published a briefing co-authored by Dr Annalisa Savaresi (Stirling Law School) and Dr Filippo Fontanelli (Edinburgh Law School) on ‘[**Trade Agreements and Their Potential Impact on Environmental Protection**](https://digitalpublications.parliament.scot/ResearchBriefings/Report/2020/9/4/Trade-Agreements-and-their-Potential-Impact-on-Environmental-Protection-1)’

This briefing first provides a theoretical discussion of the interaction between trade agreements and measures to protect the environment. It then provides an analysis of Scotland's position in the context of emerging UK post-Brexit trade agreements, taking into account the devolved context.

* New **Amnesty International** study “[Climate Change, Justice and Human Rights](https://www.amnesty.nl/content/uploads/2020/08/Verkenningen2020-climate-change.pdf?x32554)” edited by David Ismangil, Karen van der Schaaf & Lars van Troost features “**The use of human rights arguments in climate change litigation and its limitations**” by Dr Savaresi

This is a study on the opportunities, threats and difficulties at the nexus of human rights and climate change. Dr Savaresi discusses the accelerating trend of using human rights in strategic climate litigation. Human rights are turned to as “a gap-filler to provide remedies where other areas of the law do not”

* Bernd Justin Jütte, Rossana Ducato, Giulia Priora, Chiara Angiolini, Alexandra Giannopoulou, Guido Noto La Diega, Leo Pascault, and Giulia Schneider, ‘[**Remote teaching in the Post-Pandemic University: A Study of Copyright and Data Protection of Online Services**](https://postpandemicuniversity.net/2020/09/10/remote-teaching-in-the-post-pandemic-university-a-study-of-copyright-and-data-protection-terms-of-online-services/)’ (*The Post-Pandemic University*, 10 September 2020)

The rapid spread of the SARS-CoV-2 virus in the early days of March 2020 shut down universities in most European countries. Teaching shifted online, and currently most universities in Europe are planning to deliver at least part of their teaching in the coming academic year online, or in blended form. What initially began as Emergency Remote Teaching (ERT), will turn into a new reality for the mid- or even long-term. This blog post was discussed at the Post Pandemic conference organised by the University of Cambridge, Faculty of Education.
**Bids**

* Professor Elaine E Sutherland is part of an international team awarded a grant of 12 million NOK (c. £1 million) by the Research Council of Norway for a project, “[***Legitimacy Challenges – An analysis of mistrust in core institutions and the normative fundament of the welfare state***](https://www.discretion.uib.no/projects/legitimacy-challenges/)”, which is scheduled to begin later this year and run until 2024.

The project will be the most comprehensive cross-country study ever undertaken of the organisation and strategies employed by proponents and opponents of children’s rights, child protection and family values; mapping and critical analysis of discourse and of views of citizens and relevant professionals.

* ACCAN (Australian Communications Consumer Action Network), the major Australian consumer communications organisation, funded the project “[***Regulating to Protect Security and Privacy in the Consumer Internet of Things***](http://accan.org.au/grants/current-grants/1781-regulation-of-internet-of-things-devices-to-protect-consumers)” led by Professor David Lindsay of the University of Technology Sidney ($65,091). Assoc Prof Guido Noto La Diega serves on the Expert Advisory Board of the project alongside Professor Wanlei Zhou, Head of School of Computer Science and Director of CyberSecurity and Privacy Centre, University of Technology Sydney; Professor Graham Greenleaf, Faculty of Law, University of NSW; Professor Megan Richardson, Faculty of Law, University of Melbourne.

The Internet of Things (IoT) has the potential to transform the way we live and work. But the growth of consumer IoT devices for the home, such as connected appliances and smart assistants, poses serious threats to consumers’ security and privacy. Research will identify and analyse options and make recommendations for best practice regulation of IoT security and privacy.

# **Employability News**

* Dr Jayne Holliday, Professor Paul Beaumont, and Dr Pontian Okoli (AKA the Private International Law team) are very pleased to announce that the **Private International Law** Course (LAWU9P3) here at Stirling has been given **accreditation by the Faculty of Advocates**.

This means that those who have successfully completed the course will not have to sit the Faculty of Advocates exam in International Private Law should they wish to become an Advocate in Scotland. The Faculty of Advocates have also confirmed accreditation for those who sat the course and passed it in 2019/20.

* Sam Abboud is offering students with **internship or traineeship interviews** a mock interview.

Sam conducted trainee and junior lawyer interviews while in legal practice and conducted such mock interviews as a careers tutor in previous universities. This is being promoted by the Student Law Society and the first interviews taking place in the week of 21 September

* On 11 September, the Stirling Law Society organised the ‘[**Stirling Legal Tech Conference**](https://www.lawstirling.com/online-events)’.

Our students invited solicitors, academics, and industry leaders to speak about legal technology and its importance to students. Guests included Assoc Prof Guido Noto La Diega (Stirling Law School), Rob Marrs (Law Society of Scotland), and Sarah Blair (Thorntons Law LLP).

# **Esteem, network, and citizenship**

* Assoc Prof Guido Noto La Diega, Dr Mo Egan, Dr Greg Singh, Professor Rowan Cruft, Professor Richard Haynes, Professor William Webster, Phindu Lipenga, and Renee Kamau co-founded [**SCOTLIN (Scotland Law and Innovation Network)**](https://twitter.com/LawScottish), a Scotland-focused collaboration and knowledge exchange hub that promotes impactful research, excellence in teaching, and societally beneficial law and policy innovations.

The network is focused on law & innovation broadly construed, with a focus on intellectual property, IT Law, and legal tech, but inclusive of multidisciplinary approaches ranging from media studies to computer science. SCOTLIN brings together the Universities of Stirling, Aberdeen, Glasgow, Edinburgh, St Andrews, Dundee, Strathclyde, Abertay, and Robert Gordon (including established research centres CRISP, SCRIPT, CREATe, and SCILP), as well as the Law Society of Scotland, the Faculty of Advocates, Open Rights Group Scotland, the Scottish Society for Computers and Law, Future of Law Dundee (FOLD), and Juralio. Assoc Prof Noto La Diega (Stirling), Dr Rossana Ducato (Aberdeen), and Professor Martin Kretschmer (Glasgow) are leading the initiative.

# **Events attended**

* Professor Elaine E Sutherland presented a paper, ‘**Getting married in Scotland during the COVID-19 pandemic**’ at the International Society of Family Law Extraordinary World Online Conference on *Family and Crisis: Going Through Pandemics*, 26-28 August 2020.

In Scotland, marriage is available to both different sex and same sex couples, with couples being able to choose between a civil ceremony or a religious or belief ceremony. Regardless of the kind of ceremony selected, all couples must comply with certain formalities in order to obtain authorisation for the marriage to go ahead. On 23 March 2020, the country went into ‘lockdown’ and it was no longer possible to obtain authorisation in the usual way.

The right to marry is guaranteed by numerous human rights instruments and the European Convention on Human Rights, Article 12, is of particular relevance, in Scotland, in this respect. This paper examines how existing powers under Scots law were used – and legislation was passed – in order to comply with the Article 12 obligation in the face of the pandemic.

* On 17 September, Dr Annalisa Savaresi joined an online panel discussion organised by the British Institute of International and Comparative Law (BIICL) on “[**The (intended) impact of climate change litigation on corporate due diligence**](%E2%80%A2%09https%3A/www.biicl.org/events/11391/hrdd-forum-webinar-series-episode-2-the-intended-impact-of-climate-change-litigation-on-corporate-due-diligence)”
* Assoc Prof Guido Noto La Diega attended the 111th Annual Conference of the Society of Legal Scholars, University of Exeter, 1-4 September 2020 as Chair of the plenary session on ‘COVID-19, law, and scholarship’ as well as presenter of two papers: ‘[**The Internet of Things at the intersection of data protection and trade secrets**. Non-conventional paths to counter data appropriation and empower consumers](https://www.youtube.com/watch?v=l-iwQTK0a5w)’ (with Cristiana Sappa, IESEG) and ‘[**The Internet of Personalised Things**. IoT-Powered Consumer Manipulation as an Unfair Commercial Practice](https://www.youtube.com/watch?v=HC7bX5UeMic)’

# **Events organised**

* Stirling Law School partnered with the Common Good Foundation to host the ‘[**3rd Human Rights and Mass Atrocity Seminar**](https://portal.stir.ac.uk/news-events-announ/view-new-event-ann.jsp?t=EVENT&iid=11356)’ (17-18
September 2020).

The seminar took place virtually and was chaired by Dr Damian Etone (Co-Director of the MSc Programme in Human Rights and
Diplomacy) and Regina Paulose (Executive Director of the Common Good Foundation). The seminar covered a variety of topics related to current human rights issues and mass atrocities from around the world including: (1) Addressing Environmental Harm in Conflicts within Africa: Scope for International Criminal Law?; (2) “Listen In” Panel Discussion: (Race in Scotland); (3) Corporate Responsibilities and Minority Rights Workshop; (4) The Treatment of Asylum Seekers in the Criminal Justice System; (5) Cybercrimes and international law; (6) Dark Tourism; (7) Crimes against the Yazidi; (8) Critical Reflections on TWAIL

* There’s still time to book your virtual seat to attend the guest lecture ‘***Feminism and copyright’*** by Professor Ann Bartow (Director of the Franklin Pierce Center for Intellectual Property, University of New Hampshire) on Wednesday 30 September at 1pm. Email guido.noto.la.diega@stir.ac.uk to book.

# **New and returning staff**

Stirling Law School is thrilled to **welcome (back) Arletta Gorecka** (Public Law), **Dr Sarah Carrick** (Contract Law), **Dr Domenico Carolei** (Delict), **Sarah Booth** (Business Law II), **Etisang Abraham** and **Dr Brian K T Ho** (Law in the 21st Century) 🎉 🎉 🎉

# **Get in touch**

If you would like to contribute or suggest anything for future bulletins, please get in touch with Guido Noto La Diega <gn12@stir.ac.uk>.