



## Law and legalities in everyday working life: towards a co-constitutive theory

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Wednesday 13<sup>th</sup> November

15:30 – 17:00 in AMBS Room 9.041

Tea, coffee and biscuits at 15:15 in AMBS 9.040



### Abstract

Legal proliferation or ‘juridification’ has been viewed as one of the hallmarks of late modernity. Among Weber, Poulantzas, Habermas, and Luhmann we find variations of the thesis that state law has become an increasingly central feature of advanced democracies (Hunt, 1993: 12). In the sphere of employment relations, Heery (2010) describes juridification as *the* key trend in recent decades. Contemporary policy discourses have decried the growing ‘litigiousness’ of society. The threat of litigation is seen to stifle employment growth and managerial prerogative (e.g. DTI, 2001; BiS 2011a, 2011b). Yet, conceptual clarity and rigorous evidence of ‘juridification’ is lacking. While there are many scholars of work and employment who study elements of labour law and regulation, and labour lawyers who draw from empirical work, there is a considerable gap in theorising what might be described as the sociology of labour law (see Frazer, 2009), or even economic sociology of labour law (Dukes, 2019). Genn et al (2006) have commented that the field of empirical legal research more generally is a wide-open space in need of development, where originality is practically guaranteed.

In this seminar, Eleanor will review socio-legal research into employment and work, a small but growing field of study. In particular, she will explore how laypeople, i.e. the non-professional subjects of law are shaped by and in turn shape law through: (1) legal participation, i.e. engaging with institutions of law via litigation or legal enactment; (2) legal mobilisation, involving the wider inspirational and radiating effects of legal concepts, rights and discourses; and (3) legal consciousness, involving participation in the process of constructing legalities, ideological processes which involve the constitution of society through law and vice versa (Ewick and Silbey, 1998). Building on this mapping, Eleanor will draw widely from her previous research into: the emergence of disputes and grievance formulation at workplace level; experiences of employment tribunals and civil courts, and paths towards them; rights activism, legal hegemony and counter-hegemonic practices; and her most recent work examining the role of HR professionals in constructing legalities, their ideological practices and the tensions they face, acting as ‘business partners’ while simultaneously ‘championing better working lives’ (CIPD, 2019).

Dr Eleanor Kirk is a research associate at the University of Glasgow School of Law. In recent years she has been working to conceptualise how labour law operates in society, attempting to go beyond the more obvious ways in which workers and employers engage in formal legal proceedings, towards the more expansive ways in which ideas of justice and injustice are formulated, and underpin action, or indeed inaction.