

The University of Manchester Law School

PGR Conference

**Thursday 16th May 2024 – The University of
Manchester (South Campus)**

Williamson Building 4.08

Contents:

- 1. Conference Schedule**
- 2. Presented Abstracts**

PROGRAMME

Registration and Refreshments 9.00 – 9.15

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WELCOME

9.15 – 9.30	Dr Vincenzo Bavoso (PGR Director, Law School)
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KEYNOTE LECTURE (PLENARY)

9.30 – 10.00	Professor Javier Garcia Oliva (HoS, Law School)
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	Chair: Dr Luke Graham

Coffee/Tea/Refreshments 10.00 – 10.15

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Session I – Chair Dr Fiona Brimblecombe

10.15	Aditi Singh “To What Extent Does Technology Transfer Facilitated by RTAs Contribute to Public Health?”
10.30	Abir Al Mahdouri “Ambiguity and Uncertainty Surrounding Public Policy and Confidentiality in the Context of Arbitration Intellectual Property Disputes”
10.45	Shirin Khawjah “Can Algorithms be Sued? The Future of AI Liability in EU”
11.00	Questions and Answers

Session II – Chair Dr Ashley Hannay

11.15	Dilara Tunc “Relational Contract: Where Practice Meets Theory as a Legal Concept”
11.30	Rahaf Al Shneikat “Personal Insolvency in England and Wales: Debt Relief in a Neoliberal Marketplace”
11.45	Chuxi Zhang “Space and State Integration”
12.00	Questions and Answers

LUNCH BUFFET

12.15 – 13.15

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Session III – Chair Dr Vincenzo Bavoso

13.15	Tahzeem Ahmed “Medical Device Regulation in the European Union (EU): Serving the Public or Industry Interest?”
13.30	Kate Stoker “Bosman After Brexit: An opportunity for homegrown talent or for further discriminatory obstacles in professional football in England and Wales?”
13.45	Bonehur Minzoto “Corporate Purpose in Corporate Groups”
14.00	Questions and Answers

Session IV – Chair TBC

14.15	Fan Zeng “The Justification of Trade Mark Protection in China after the Opening Up: A Case Study on Dilution Law”
14.30	Yang Xu “Evaluation of the registrability of the non-traditional trademarks in China”
14.45	Xiaonen Ren “Data Regulation in International Trade Treaties through the Lens of Intellectual Property”
15.00	Questions and Answers

Coffee/Tea/Refreshments 15.15 – 15.30

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CLOSING TRAINING SESSION (PLENARY)

15.30 – 16.15 Williamson 4.08	Dr Vincenzo Bavoso (Senior Lecturer in Commercial Law, PGR Director of Law School) <i>“Research Excellence – Publishing in Peer-Reviewed Journals”</i> <i>“Careers options after a PhD in Law”</i>
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AFTERNOON SESSION (PLENARY)

16.15 – 17.00 Williamson 4.08	Dr Nicolette Butler (Senior Lecturer in Law, University of Manchester, Law School) “From academia to policy-making and back”
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From 18.00 the party will move to KRO Bar for some food and drinks.

Presented Abstracts**Aditi Singh****To What Extent Does Technology Transfer Facilitated by RTAs Contribute to Public Health?**

Trade is the way by which countries are connected and interdependent on each other. To facilitate faster trade countries started forming the bilateral, multilateral and plurilateral trade agreements which allows reduced tariffs and liberalise trade. These agreements promote faster development through the means of exchanging goods and services. However, trade interacts with other areas too like public health, which has been claimed to have a negative relationship with trade. When it comes to public health, there are a several factors that can impact public health, like water, air, food, infectious diseases and environmental health hazards. That is why, trade is considered a good way to protect public health as it allows the transfer of technology which promotes growth, and it further allows the transfer of technological advancements from one country to another which can also contribute towards better public health. Technology transfer is the “the movement of know-how, technical knowledge, or technology from one organisational setting to another”. Technology transfer helps in the transfer of medicines and other technological equipment that can help in improving public health. However, free trade is a hinderance and it gives rise to several barriers to the transfer of technology, like intellectual property rights are one of the major hinderances towards the promotion of the transfer of technology, as it increases the prices thereby reducing accessibility of medicines. Exploring these challenges will allow to answer that up to what extent technology transfer can help in creating a good healthcare infrastructure and provide other ways (by transferring healthcare technologies, low-cost pharmaceutical products and skilled labour for more development) to improve the public health, and what role regional trade agreements can play in promoting the same.

Abir Al Mahdouri

Ambiguity and Uncertainty Surrounding Public Policy and Confidentiality in the Context of Arbitration Intellectual Property Disputes

This thesis conducts a thorough examination of the interplay between public policy and the enforcement of arbitral awards, with a special emphasis on intellectual property (IP) rights disputes. Recognizing and enforcing arbitral awards are integral to the essence of arbitration because an award's efficacy depends on its enforceability. Failure to do so can erode confidence in arbitration as an effective dispute resolution mechanism. While public policy is often cited as a common ground for challenging the enforcement of arbitral awards, this thesis goes beyond theoretical assumptions. Rather than relying solely on theoretical assumptions, this thesis employs empirical observations and statistical analysis to assess the actual impact of public policy on arbitral award enforcement. This assessment encompasses both general arbitration cases and those specific to intellectual property disputes. The findings of the study indicate that public policy is interpreted in a restrictive manner, and there is a strong public policy in favor of enforcing arbitral awards.

Furthermore, this thesis highlights a significant challenge related to confidentiality in international arbitration. The thesis argues that differing approaches to confidentiality across jurisdictions create inconsistency and unpredictability, which is especially problematic in IP disputes where confidentiality often plays a central role. To address this issue, the thesis proposes a 'hybrid balancing approach.' This approach calls to weigh the parties' interests in confidentiality the public interest in transparency when deciding whether to disclose confidential information. Adopting this approach would enhance the predictability of arbitration and improve its efficiency.

Another significant aspect of this thesis is the scrutiny of the tension between confidentiality and transparency in international arbitration, a critical issue in IP disputes. The thesis proposes a 'hybrid balancing approach,' thoughtfully considering the parties' interests in confidentiality and the public interest in transparency when deciding whether to disclose confidential information. This approach seeks to resolve the inconsistencies in jurisdictional approaches to confidentiality, thus improving the predictability and effectiveness of arbitration proceedings.

Ultimately, this thesis not only offers valuable insights into the challenges posed by public policy in the enforcement of arbitral awards but also proposes a strategic solution to address the tension between confidentiality and transparency in international arbitration. Its findings and recommendations carry profound implications for policymakers, arbitrators, and legal practitioners in the field of international arbitration, particularly within the context of IP.

Can Algorithms be Sued? The Future of AI Liability in EU

Artificial intelligence (AI) is transforming various aspects of society, demonstrating capabilities that often exceed human performance in decision-making and task execution. This transformation extends across diverse sectors, including medicine, human resources, justice, and transportation. While AI's potential benefits are undeniable, the technology presents significant risks. AI systems can perpetuate biases, produce discriminatory outcomes, and cause direct physical harm, as evidenced by accidents involving autonomous vehicles. The question of liability for such AI-induced damages poses a formidable challenge, exposing the shortcomings of conventional legal frameworks.

Traditional tort law doctrines, such as negligence and product liability, were developed primarily with human actors and tangible products in mind. AI systems defy easy categorization. Their autonomous nature and often inexplicable decision-making processes ("black box" problem) hinder the application of negligence principles. Similarly, treating AI systems as mere products overlooks their unique abilities and the complexity of pinpointing fault among numerous stakeholders potentially involved in their development and deployment (e.g., programmers, component manufacturers, data providers, users).

The search for solutions to AI-related liability involves ongoing debates and legislative proposals. Various approaches have been suggested, including adapting existing negligence or product liability standards, extending the concept of agency to encompass the relationship between AI developers and their creations, and introducing strict liability for operators of high-risk AI systems. Mandatory insurance schemes are also proposed as a way to ensure compensation for victims without the need to pinpoint specific fault.

The legal landscape surrounding AI liability is rapidly evolving. Examples from jurisdictions around the world demonstrate that plaintiffs are already invoking a mix of existing legal theories in attempts to redress AI-induced harm. A key focus for lawmakers will be striking a delicate balance between the need to compensate injured parties, incentivize the creation of robust and safe AI systems, and encourage innovation in a field with enormous potential for positive societal impact. The answers may lie in approaches that consider the inherent risk of different AI applications, impose auditing and transparency requirements, or create sector-specific liability regimes. As case law develops, we will see a gradual clarification of who bears responsibility when AI systems cause harm.

Dilara Tunc

Relational Contract: Where Practice Meets Theory as a Legal Concept

In 1987, Spiegel stated in his article that; "legal education is a division of things into the theoretical and the practical: the main tent and the sideshow." (Spiegel 1987, 577). Although the statements were made in 1987, over three decades ago, what was stated remains true to this day. In *Yam Seng Pte Ltd v International Trade Corporation Ltd [2013] EWHC 111 (QB)* Leggatt J's statement underlines that there is indeed a certain type of contract called 'relational', which the standpoint of the academic scholars finally came to light, there is still not an implementation of the academic scholars' point of view to the modern contract law or whether the scholars' foundation is helpful to understand relational contracts and even further, define and create an exhaustive characteristic of the contractual obligations under the relational aspect. The findings of the academic scholars are not acknowledged enough to demonstrate how to establish a gateway between theory and practice to this day. No one benefits from the findings of the academic scholars to incorporate into the new developments which the case law as well as the contract law could benefit tremendously. There is certainly a gap between modern contract law and legal framework, and academic scholars' standpoint and ultimately their identification of the relational contract. In other words, the academic scholars' contribution to legal studies has a clear division of theoretical and practical approaches that lack significant cooperativeness with each other. The recent case law shows the bridge between practical and theoretical approaches and ultimately results in a misunderstanding or vacancy on how to administer the findings into the practical application or whether the findings could be significant to change the legal concept. To this day, the findings on relational contracts have not made a significant change in case law and have not found their way to the literature as it should have been. The paper will try to answer the following; the meaning of relational contract; whether it is meaningful and applicable in the context of modern contract law; the types of contracts that could be classified as relational and to what extent relational contract addresses modern legal challenges in contract law.

Rahaf Al Shneikat

Personal Insolvency in England and Wales: Debt Relief in a Neoliberal Marketplace

The laws of personal insolvency in England and Wales are a model of debt relief procedures. These laws have been emulated in several jurisdictions looking to establish a legal platform for consumer debt relief. More importantly, the experience of the UK in handling household over-indebtedness spans almost four decades during which the country faced several financial crises. These laws were formed in the backdrop of an over-indebtedness crisis in the 1990s and passed the test of the Financial Crisis of 2007-2008. As such, the practices of alleviating the distress of debtors in England and Wales are celebrated for their efficacy in balancing the interest of discharge in an approach of ‘can pay, should pay’.

However, this legal system reflects ideals of entrepreneurship and productivity originating from a business setting. Personal insolvency in England and Wales was established in consideration of a business failure and was later adapted to a reality of systemic household indebtedness. Put differently, the consideration of individual debt did not have a role in the formation of the law, as wage earners were excluded from bankruptcy procedures until the late 20th century. Hence, there is a disparity between the interests and needs personal insolvency laws consider and those of consumer debtors.

Therefore, this presentation takes a look at the treatment of individual debts and their over-indebtedness in England and Wales. This presentation aims to illustrate how this system fails to provide relief for those debtors plagued by debt. Debt Discharge is entitled to entrepreneurial debts while individuals are left to seek relief in the form of an individual voluntary arrangement. As such, this presentation departs from orthodox approaches to personal insolvency focusing on the inconsistencies of this system in a political economy of private debt.

Chuxi Zhang

Space and State Integration

This study explores China's state integration issues by analysing China's spatial reproduction. It asks why issues of consolidating the ruling authority of the ruler and balancing social interests are not always solved institutionally in China. Specifically, both China's ancient imperial power and the current Chinese Communist regime would rather sacrifice society's freedom and creativity in pursuit of big government. Based on this question, this study explores how to observe the issue of state integration in the Chinese context and the mechanisms of state integration. This study believes that "space" provides a new perspective for understanding this issue.

Tahzeem Ahmed

Medical Device Regulation in the European Union (EU): Serving the Public or Industry Interest?

This study lies within the field of law and economics within the context of EU law-making. Theories including public interest theory and private interest/capture theory will be evaluated and used to examine the extent to which they can explain the content of Regulation (EU) 2017/745 ('MDR') on medical devices. The research questions for the project are; What is the public interest in medical device regulation?, What evidence exists that industry/private interests were able to affect the content of the final Regulation?, What evidence is there of political or institutional influence in affecting the content of the final Regulation and is the Regulation of medical devices in the EU an example of capture? The main hypothesis of the research is are the Medical Device Regulation a product of regulatory capture. A qualitative approach will be adopted for this research in which semi structured interviews will be conducted as well as secondary research. In this presentation an in depth understanding of the methodology and the results will be discussed.

Kate Stoker

**Bosman After Brexit: An opportunity for homegrown talent
or for further discriminatory obstacles in professional football in England and Wales?**

Research Objective/Questions

The objective of the research is to investigate the impact of Brexit on migration trends in football in England and Wales, and also any possible effects on internal movement. The research aims to understand the impact, if any, of the Government Body Endorsement (GBE) on players from the European Union and on the opportunities of homegrown players. Participants are being questioned about their experience of the new migration rules, including the GBE, their understanding of the several updates in the rules since January 2021, whether or not the new rules are more restrictive or less restrictive in practice for homegrown players, elite players, EU players and Non - EU players, and whether or not the current system is satisfactory or whether reform is needed.

Methodology

Participants have been approached from several areas of industry, mainly via LinkedIn, including sports lawyers (EU, non - EU and UK), football agents (EU, non - EU and UK), football scouts (EU, non - EU and UK), the Premier League, UEFA, European Club Association, SPFA and PFA. The research will take the form of a mixed methods approach. Initially, participants are asked to fill out a questionnaire that then asks if they are interested in a 1-1 interview, which is being conducted as a semi - structured interview, based on the experience of the participant. Some participants prefer to have a 1-1 interview rather than fill out the questionnaire.

Bonehur Minzoto

Corporate Purpose in Corporate Groups

This research project interrogates the bounds of corporate groups' accountability. It investigates the extent to which a broader corporate purpose challenges a legal system's scope of responsibility of the entire corporate group for the parent company and its directors.

The findings suggest an emerging enterprise principle approach to the issue of group regulation. The research demonstrates how regulators apprehend corporate groups as single economic units in order to impose sustainability obligations and liability on the entire group. The findings essentially challenge established orthodoxies on French and English group regulation and our understanding of the relationship between corporate groups and the law. They also show the urgency and establish the scope for extending this enterprise approach to group regulation to parent company directors.

Fan Zeng

The Justification of Trade Mark Protection in China after the Opening Up: A Case Study on Dilution Law

This chapter uses the evolution of dilution law in China as a case study to delve into the impact of legal theories from developed Western countries on Chinese legislation and legal practice. Chapters 2 and 3 of this thesis provide a comprehensive analysis of the reasons for trade mark protection. Modern trade mark rights are unquestionably based on property rights. Both the idea of welfare maximisation from classical economics and Locke's labour theory provide strong theoretical backing for trade marks as property rights. Also, the property right status of trade marks is the foundation of the justification of dilution theory. It is evident that China is affected by the EU Trade Mark Directive at the legislative level. On the other hand, both the theoretical framework and the practical application are more influenced by the American dilution theory. Nevertheless, the flaws with these theories remain even when applied to a different scenario. And it must not be lost sight of the fact that China's political decisions have had a significant impact on the adoption of these legal theories. Starting with its own national interests, China has launched the opening-up policy, joined the WTO, and adopted international treaties like the Paris Convention and the TRIPS Agreement. The Chinese legislature now has a tendency to extend the protection scope of trade marks and adopt dilution law in the Chinese legal system due to the same reason. This is not only another example of trade mark propertisation, but also a reflection of the superpower game. This chapter uses these two theories as a springboard to investigate the rationale behind China's trade mark law's property rights protection for trade marks, reveals that there are internal and external factors that are propelling the development of dilution law in China, and eventually offers insights into the future developments of dilution law in China.

Yang Xu

Evaluation of the registrability of the non-traditional trademarks in China

With the expanded international product transactions and the advanced technology development, increasing types of non-traditional trademarks appear in the market. China, as a member of WTO, recognised the protection rules of open-ended definition of non-traditional trademarks under WIPO treaties and regulated non-traditional trademark registration with different approaches. In most jurisdictions, such as the UK, a registered non-traditional trademark should satisfy the non-functionality criteria and have distinctiveness. The assessment of these two aspects aims to ensure the function of a trademark to act as the badge of origin of products. Meanwhile, the assessment of functionality exclusion criteria ensures that the aim of trademark law is to promote free competition and consumer welfare, which can have a clear line from the aim of copyright law and patent law. Although the legislations and guidelines of trademark distinctiveness and functionality exclusion have been regulated in China Trademark Law and by China National Intellectual Property Administration, the criteria of trademark distinctiveness and functionality exclusion assessment differ from the interpretation of trademark distinctiveness in practice. The assessment of the distinctiveness of non-traditional trademark seems to intertwine with the functionality exclusion doctrine in practice, and only three-dimensional trademark is subject to functionality exclusion regulations. The non-traditional trademark registration criteria in China are accordingly different from those in many other jurisdictions. This presentation will discuss the distinctive provisions and functional exclusion criteria for non-traditional trademarks in related cases in China. This presentation aims to analyse whether this approach will benefit achieving the aim of trademark law or might blur the balanced interests of related non-traditional trademark participants.

Xiaonen Ren

Data Regulation in International Trade Treaties through the Lens of Intellectual Property

Following the high demand for cross-border data trades, concerns about it vary in different areas. From a legal perspective, cross-border data trade is an intersection issue between intellectual property (IP) rights laws related to theoretical debates and international trade laws under practical arguments. From an IP rights laws perspective, there is no uniform legal definition of data and whether data can be treated as property cannot be decided. Specifically, the definition and categories of property are vague, and there are different perspectives on the relationship between data and property. From an international trade perspective, the level of protection and regulation of data in international trade treaties is uncertain. Although countries mostly use international trade treaties to regulate, their positions vary when they sign treaties. This situation also causes varying levels of data regulation. Some literature submits suggestions for cross-border data regulation in international trade, but few people focus on the property theory in IP.

This research will analyse to what extent IP theories can impact the regulatory framework within international trade treaties for cross-border data flows. It will start with theoretical work including not only analysing the theory of property in IP to identify the relationship between data and property but also the introduction of traditional international trade theories. The study will also explore the current data regulatory status in international trade treaties and examine the reasons for different attitudes toward data regulation. Finally, the research will analyse how IP theoretical underpinnings can inform the data regulatory framework within international trade treaties.