

# PluriCourts

Centre for the Study of the Legitimacy  
of the International Judiciary

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The Research Council of Norway

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# Highlights

## -from the first four years

*In March, 2017 PluriCourts has been operating for four years. With an excellent, varied, and driven team, summing up the highlights from the first four years is impossible. The following includes some important highlights.*

### Publications

As of Jan. 31 2017 PluriCourts staff have published 11 books, 7 special issues, 73 articles, and a number of popular science publications.

### Book series CUP

The Co-Directors of PluriCourts edit the book series “Studies of International Courts and Tribunals” with Cambridge University Press. As of Jan. 31, 2017 two books have been published:

- Mads Andenæs and Eirik Bjørge: *A Farewell to Fragmentation* (2015)
- Nobuo Hayashi and Cecilia Bailliet (2017): *The Legitimacy of International Criminal Tribunals*

Five books are in the making, with the next to appear in March, 2017. The agreement with Cambridge has been renewed for five years, with ten new books.

### Projects

Two larger projects have received external funding. Both projects have been completed, contributing greatly to research at PluriCourts.

*MultiRights* was funded by the European Research Council. Co-Director Andreas Føllesdal was the formal Principal Investigator with Co-Director Geir Ulfstein as head of legal research. The aim of the project was to assess the legitimacy of the international human rights judiciary.

*Judicial Dialogues* received funding from the Norwegian Research Council and the European Science Foundation. Co-Director Geir Ulfstein was the Principal Investigator. The project examined the interaction between national courts and the European Court of Human Rights based on the subsidiarity nature of the European Court of Human Rights.

### Events

In 2014 PluriCourts co-organized a workshop with the Council of Europe, welcoming judges and governmental experts to Oslo. The conference focused on “The long-term future of the European Court of Human Rights” and reform processes in light of the 2012 Brighton Declaration. The conference proceedings were published and have been used by the Council of Europe in its reform processes.

In 2015 PluriCourts was the host of the 11th annual conference for the European Society of International Law. The conference welcomed a record-breaking 430 participants from across the world to a three day conference on “The Judicialization of International Law”. A book with selected articles edited by Andreas Føllesdal and Geir Ulfstein is submitted to Oxford University Press.

In 2016 PluriCourts hosted the IUCN Academy of Environmental Law’s 14th



The PluriCourts Team. Photo: Ola Sæther

annual colloquium in Oslo, bringing together judges, scholars, and practitioners in conversation and debates on “The Environment in Court”. Two book projects will be published from the conference by Edgar Elgar and Cambridge University Press edited by Christina Voigt.

### Prizes and Appointments

The paper “Managing Backlash: The Evolving Investment Treaty Arbitrator” won the young scholar prize at ESIL Annual Conference in 2015. The paper was

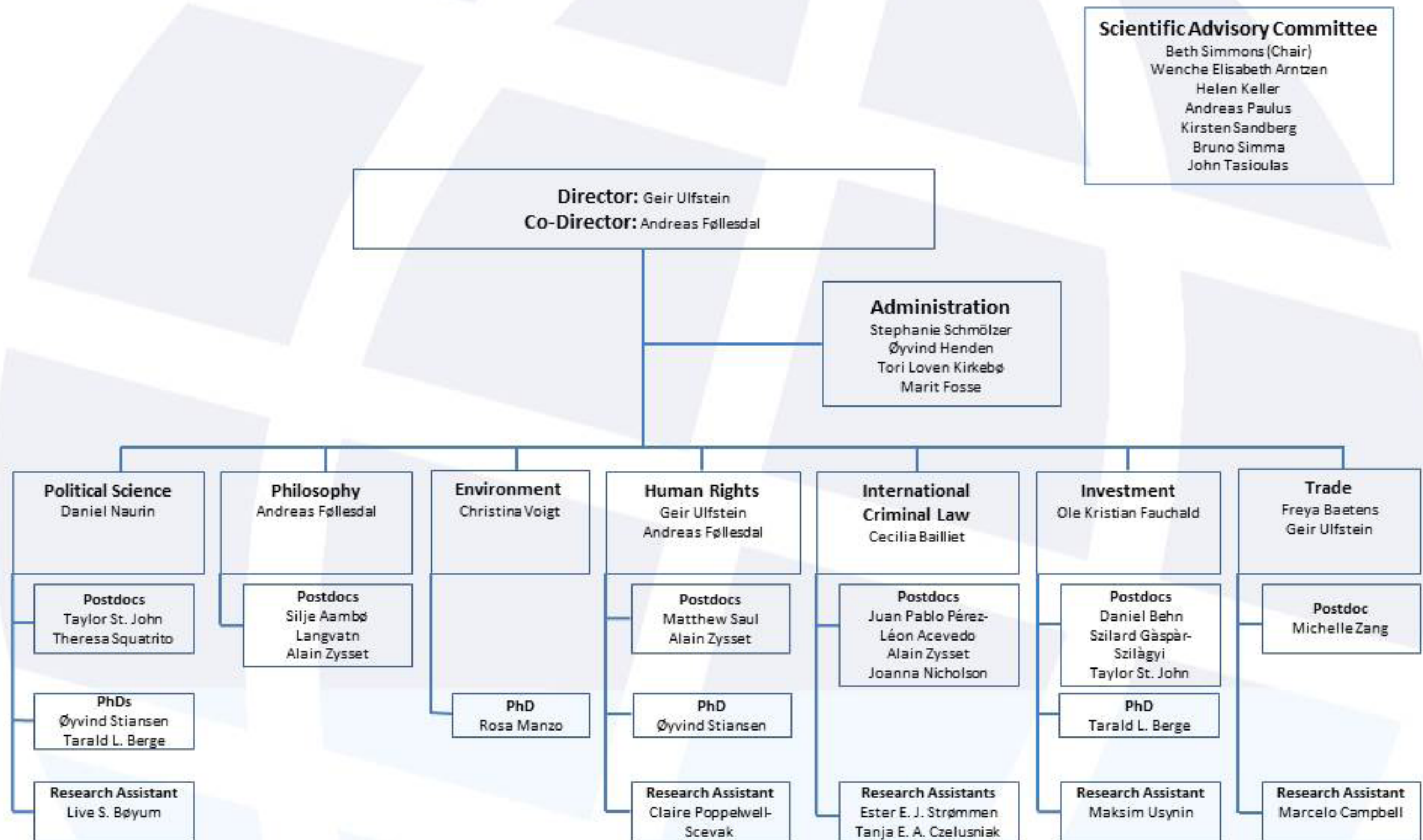
co-authored by Postdoc Malcolm Langford and Postdoc Daniel Behn.

PhD fellow Rosa Manzo was awarded the Tokyo Foundation Scholarship to visit the New Zealand Centre for Environmental Law at the University of Auckland during the fall of 2016.

Professor Christina Voigt was appointed by the Norwegian Government as an arbitrator on the roster for Environmental Disputes at the Permanent Court of Arbitration.



# ORGANIZATIONAL CHART







# PluriCourts board - and the coordinator team

## The Board

PluriCourts is institutionally positioned in the Department for Public and International Law, Faculty of Law, University of Oslo. Consequently, the board of PluriCourts is the board of the Department.

The Department Board consists of the Head of the Department, the Deputy Head of the Department, three representatives from tenured staff, two representatives from scientific temporary staff, two representatives from the administration, and two representatives from the students.

## The Co-Directors

Effectively, PluriCourts is led by the Co-Directors who rotate in the position as formal Director about every second year. At present, Professor Geir Ulfstein is the Director. The two lead PluriCourts in cooperation with the coordinator group.

## The Coordinator Group

The coordinator group meets approximately every month to ensure top-level information flow and to explore new areas of collaboration between research groups.

As of Dec. 31, 2016 the coordinator group consists of the two directors and 5 professors. Each coordinator leads a group of researchers focusing on a specific issue area or discipline (read more about the groups' activities from page 10).

Professor Andreas Føllesdal and Professor Geir Ulfstein coordinate the Human Rights Pillar. Føllesdal also coordinates the Philosophy team, while Ulfstein coordinates the Trade pillar with Professor Freya Baetens. Professor Christina Voigt coordinates the Environmental Pillar, Professor Cecilia Baillet coordinates the Criminal Law pillar, Professor Ole Kristian Fauchald coordinates the Investment Pillar, and Professor Daniel Naurin coordinates the Political Science Pillar.

The coordinators are crucial for ensuring that PluriCourts maintains world leading expertise and implements the research plan within each issue area/discipline, whilst developing strategies for cutting edge research methods and cooperation.

# Scientific Advisory Committee

The Advisory Committee meets each year after the annual conference to assess PluriCourts' activities and output and provide guidance for future research.

The Committee is composed of world-leading researchers in law, political science and philosophy, as well as current and former international judges and national Supreme/Constitutional Court judges.

This variety of backgrounds well reflects the breadth of PluriCourts' research, and allows us to draw on the specific expertise of each individual advisory committee member when modelling new avenues for research.

## Recommendations

During the past years, among other suggestions the scientific advisory committee has urged us, to become more present on social media as well as to reach more out to practitioners within the international judiciary.

This has led to a strong communication strategy and fruitful cooperation with international judges as well as the Norwegian courts administration (Domstolsadministrasjonen).

## Members of the Scientific Advisory Committee

*Beth Simmons*, Professor of International Affairs, Harvard University (Chair)

*Wenche Elisabeth Arntzen*, Judge, Norwegian Supreme Court

*Helen Keller*, Judge, European Court of Human Rights

*Andreas Paulus*, Judge, German Constitutional Court

*Kirsten Sandberg*, Professor of Law, University of Oslo, Member of the United Nations Committee on the Rights of the Child

*Bruno Simma*, Professor of Law, University of Michigan, Former Judge, International Court of Justice

*John Tasioulas*, Professor of Politics, Philosophy & Law, King's College London

## Former members:

*Karen Alter*, Professor of Political Science, Northwestern University

*Hilde Indreberg*, Judge, Norwegian Supreme Court

*Thomas Pogge*, Professor of Philosophy, Yale University



## Research area:

# International criminal law

The International Criminal Law (ICL) researchers at PluriCourts provide knowledge based on theoretical, normative and empirical research that will help face legitimacy challenges that lie ahead. A particular focus is placed on how the rights of the accused within domestic legal systems have been affected by the intervention of an international criminal tribunal (ICT.)

Further, researchers examine the normative legitimacy of ICL. Examining the distinction between domestic and international law crimes through core notions of criminal law theory: harm, jurisdiction, responsibility or authority. It also aims to connect those notions to broader normative notions, such as human rights, justice or international society.

A third line of research consists in the analysis of the reparations regime of the International Criminal Court and other international systems of reparations for victims of serious human rights violations/international crimes.

### The Team

The ICL Team is coordinated by Professor Cecilia Bailliet. Bailliet holds a PhD in Law from the University of Oslo and has been working at the Department of Public and International Law since 2003. During 2016 the pillar welcomed three new post docs to their team in addition to two affiliated researchers.

Former guest researcher Joanna Nicholson started the position as a postdoctoral fellow in April 2016. Nicholson holds a PhD in Law from the University of Oslo.

Alain Zysset came to PluriCourts in September, from the European University Institute in Florence. Zysset has an interdisciplinary background in Law and Philosophy, but holds a PhD in Law from the University of Fribourg.

Also joining PluriCourts in September was Postdoctoral Fellow Juan Pablo Pérez-Léon Acevedo. Pérez-Léon Acevedo holds a PhD in Law from the Abo Akademi University.

Nobuo Hayashi and Kjersti Lohne have been part of the PluriCourts team as researchers in 2016. Hayashi holds a PhD in Law, and Lohne holds a PhD in Criminology. Additionally, postdoctoral fellows Silje Aambø Langvatn (Philosophy) and Theresa Squatrito (Political Science) contribute to the ICL team.

### 2016 at a glance

2016 has been a very productive year for the International Criminal Law Pillar. Bailliet, Hayashi, and Nicholson, edited the anthology “The Legitimacy of International Criminal Tribunals,” published by Cambridge University Press. Several members of the PluriCourts team, including Nicholson,

Langvatn, Squatrito and Lohne, participated in the book, which is a result of the 2014 conference “The legitimacy and Effectiveness of International Criminal Courts.”

One of the main highlights was the conference “Strengthening the Validity of International Criminal Tribunals.” The conference included several prominent scholars and practitioners from all over the world, including Judge Mandiaye Niang, former judge at the ICTY and ICTR.

The purpose of the conference was to explore ways in which the field of international criminal law can improve, and lessons that can be learnt, as ICL enters a more mature phase as a field of law. Papers from the conference will be published in an anthology titled “Strengthening the Validity of ICTs” (Brill) in 2018, and in a Special Edition of the International Criminal Law Review, both edited by Nicholson.

Another highlight from 2016 was researcher Kjersti Lohne’s work on Guantanamo. This summer, she had the opportunity to spend two weeks at the Guantanamo military base, following a military commission hearing. This fieldwork will form the foundation for research on how civil society works with the Guantanamo Bay Military Commissions.

### Highlights from the first four years

The pillar hosts monthly lunch seminars where relevant topics are presented and discussed. Speakers have included; Red Cross (ICRC) Norway, discussing strengthening domestic prosecutions for breaches of international humanitarian law; KRIPOS - the war crimes and crimes against humanity unit of the Norwegian police force; and Sheri Labenski (School

of Oriental and Asian Studies at the University of London), discussing female perpetrators in international law. The lunches attract researchers, students and professionals working on ICL in Oslo.

Researchers in the team send out a weekly newsletter to both academics and non-academics providing updates on news, blog posts and publications within international criminal courts and tribunals.

The team has also posted multiple blog posts, ranging from South Africa withdrawing from the ICC, to whether it is necessary that crimes against humanity be committed against a civilian population.

A major PluriCourts event in 2014 was the conference “The Legitimacy and Effectiveness of International Criminal Courts”, which resulted in the anthology mentioned above, analyzing theories and perspectives, complementarity and regionalism, parties and proceedings, and States and NGOs.

### Projects and publications in the works

Nicholson is currently focusing on her post doc project on the rights of the accused in international criminal law, including a book project on “Fighting and Victimhood in ICL” (Routledge), and several articles.

Pérez-Léon Acevedo’s main line of research is to examine the reparations regime of the International Criminal Court (ICC).

Zysset is currently working on multiple articles, including ‘Right, Crime and Court: First Steps toward a Unitary Account of International Law’.

All post docs plan workshops and research stays abroad.

## Research area:

# Environment

Despite the lack of an international environmental court, the environmental pillar at PluriCourts is very dynamic. From looking at how existing international courts and tribunals address issues concerning the environment to assessing quasi-judicial compliance mechanisms, the pillar investigates how the international judicial system relates to climate change and other environmental challenges.

### The Team

A small, but driven, team takes active part in the international discourse. The environmental pillar is coordinated by Professor Christina Voigt. Voigt defended her PhD at the University of Oslo in 2007, and has been a Professor at the Department of Public and International Law since September 2012.

PhD candidate Rosa Manzo joined the pillar in 2015, after a short period as a research assistant at PluriCourts. Rosa holds an LLM in Public International Law from the University of Oslo.

### 2016 at a glance

2016 was an important year for the environmental pillar at PluriCourts. As a joint effort with the IUCN Academy of Environmental Law, the pillar organized the Academy's Annual Colloquium. The theme of the colloquium was "The Environment in Court".

Under leadership of Voigt, the colloquium successfully brought judges, lawyers, scholars, and practitioners together in the discussion of judicial protection of environmental rights.

In addition to the success of the IUCN AEL Colloquium, Manzo successfully passed her mid-term evaluation, commented by Professor Peter Lawrence (University of Tasmania). Manzo was also accepted as a visiting scholar at the University of Auckland, New Zealand Center for Environmental Law and at Columbia University (US) Law School's visiting scholar program.

To finance the research stays Manzo has been awarded a scholarship from the Ryoichi Sasakawa Young Leaders Fellowship fund. Both stays contribute to Manzo's research on the question of equity in treaty interpretation through international courts.

With regards to publications, the environmental pillar wrote and contributed to 6 articles, 1 special issue, and 2 books in 2016. Amongst those a Special Issue on the Environment and International Investment Law in Journal of World Trade and Investment Law.

### Highlights from the first four years

Although the period from 2013 – 2016 has been a successful research period for the environmental pillar, events in 2016 enhanced the impact of previous work.

In the end of 2015, the Paris Agreement on Climate Change was adopted and less than a year later the agreement has entered into force.

Voigt served as legal counsel to the Norwegian government in the negotiation rounds, where she was particularly responsible for the design of the compliance mechanism.

Throughout Voigt's first years at PluriCourts, a focus for research has been compliance mechanisms in environmental disputes. This served as a foundation for the negotiations, effectively putting PluriCourts research into the Paris Agreement – a major accomplishment and impact of some of the groundbreaking work that goes on here.

Other highlights include the symposium on "The Legitimate Roles of Human Rights Courts in Environmental Adjudication" organized in September 2014. Here, leading scholars and judges came together to discuss issues of legitimacy with adjudicating environmental cases in human rights courts, emphasizing the connection between well-being of humans and environmental harm.

In 2015, the environmental pillar cooperated with the investment pillar in organizing an International symposium on "Investment Treaty Arbitration and the Environment". Voigt is coediting a special issue in the Journal of World Investment and Trade (forthcoming 2017).

### Projects and publications in the works

As an outcome of the 2016 IUCN AEL Colloquium in Oslo, Voigt is editing two books. "Courts and the Environment"

will be published by Edward Elgar Publishing, and is co-edited with Professor Louis Kotze (North-West University) and Professor William Piermattei (University of Maryland).

"The Environment in International Courts and Tribunals" will be published by CUP, edited by Voigt alone. The latter has a primary focus on the role of international courts in environmental accountability and will be part of the PluriCourts CUP book-series.

From Jan. 1, 2017, Voigt will go on a two year sabbatical. During these two years Prof. Voigt will maintain the valuable connection to PluriCourts through seminars, book projects, and Skype meetings. Further, a monograph on "Environmental Multilateralism and its Discontents" is planned for 2019.

The pillar continues to cooperate with other research teams at PluriCourts. Within the next two year period, an application will be sent to the European Research Council on environmental disputes.

In the fall of 2017, Manzo is hosting a postgraduate seminar on environment and courts, strengthening the pillars knowledge on the issue.

Voigt continues her work as part of Norway's negotiating team to the Paris Agreement, working on establishing a legal framework for climate change.

A part of this process is implanting substantive rules for what the agreement implies, establishing rules that can be tried in the compliance mechanism, and ultimately the development of international environmental law.



## Research area:

# Human Rights

The legitimacy of the international human rights judiciary is increasingly questioned; for failing to secure compliance with judgments, for interfering unduly with domestic matters, or for not respecting different national traditions. The multidisciplinary human rights team assesses these claims and critically consider reform proposals.

### The Team

The team is coordinated by Professors Andreas Føllesdal, and Geir Ulfstein, who directed the ERC funded project MultiRights on the multi-level human rights judiciary 2011-2016.

The team has included four postdoctoral fellows and one PhD Candidate. Postdoctoral Fellow Amrei Müller (PhD University of Nottingham) joined PluriCourts as part of the Research Project “Judicial Dialogues” in 2013. In connection with MultiRights, postdoctoral fellow Matthew Saul (PhD University of Sheffield) joined the Human Rights team in 2013.

The latest addition to the team is postdoctoral fellow Alain Zysset (PhD University of Fribourg). Zysset has a background from law and Philosophy, and joined PluriCourts from the European University Institute. PhD candidate Øyvind Stiansen joined PluriCourts in 2015. Stiansen holds a master in Peace and Conflict Studies from UiO.

The Human Rights Pillar has also had one PhD candidate, a Postdoctoral Fellow and 12 visiting scholars in the period from 2013-2016. Additionally, Professor Cecilia M. Bailliet, coordinator for Criminal Law, has published extensively within human rights.

### 2016 at a glance

The ERC funded project MultiRights on the multi-level human rights judiciary ended with a concluding conference aiming to assess and compare reform processes of the European Court of Human Rights (ECtHR) and the UN human rights treaty bodies, providing space for mutual learning.

Members of the relevant tribunals were present as participants discussed several topics; how to select judges to ensure independence and high competence; whether and how the bodies should select cases to reduce overload, and whether responsibilities should be reallocated between the national and international level.

Postdoctoral fellow Matthew Saul received funding from the Norwegian Research Council to re-submit an application to the ERC. He looks at how national parliaments interact with the international system of human rights protection, most specifically the ECtHR.

The Human rights team also organized a workshop in Buenos Aires comparing how different regional human rights courts defer to the national authorities whilst protecting and promoting human rights.

In 2016, the team published 11 articles, 1 journal special issue and 3 book chapters.

### Highlights from the first four years

Our research has engaged in the policy discussions to shed light on the benefits

and weaknesses of the international human rights judiciary, its practices and current reform plans. PluriCourts cooperates with the Council of Europe on reform of the ECtHR, as well as with judges of that Court.

In 2014, we hosted a conference with the Steering Committee on Human Rights in the Council of Europe on reforms of the ECtHR. Conference proceedings were published and have since been used by the Steering committee on reforming the court. Ulfstein has also been invited to contribute on treaty body reform on subsequent occasions.

Since 2014 PluriCourts cooperates with the Norwegian Court Administration (Domstolsadministrasjonen) on training judges. We organize an annual seminar, Rolv Ryssdal Seminar, in honor of the former Chief Justice of the ECtHR. A special issue from the 2015 seminar, on treaty body reform, was published in *Lov og Rett* in 2016. PluriCourts also organizes an annual seminar to prepare Norwegian judges visiting the ECtHR.

PluriCourts hosts a seminar series on human rights, where researchers present their work. Presenters have come from a broad range of institutions; from within the University of Oslo, the ministries, and from international academic and non-academic institutions.

Our comparative research among regional international courts has started with workshops comparing the IACtHR and the ECtHR, the somewhat different historical backgrounds of their state parties, and how that has affected their procedures and practices.

Additionally, the book project on “Promoting Peace through International Law” edited by Bailliet and Kjetil Mujezinović Larsen served as a source

of critical reflection in the process of promoting the Declaration on the Right to Peace, recently adopted by the Third Committee of the UN General Assembly.

Bailliet’s research on bias in citation of case law within UNHCR guidelines prompted review of its consultation process for norm development.

### Projects and Publications in the Works

Saul will re-apply for an ERC Starting Grant in February 2018 for his project on parliaments and the ECtHR. Müller’s book on Judicial Dialogues is forthcoming in March, 2017.

Føllesdal, Ulfstein, and Morten Ruud, have edited a book on Human Rights and Norway (“Menneskerettighetene og Norge”) published by Universitetsforlaget in February, 2017. We have an ambition to undertake comparative studies in other European countries.

The team is working on a multidisciplinary project on gender in international and regional judiciaries. PluriCourts and iCourts will co-host a workshop discussing empirical data in March, 2017. This will be followed by a conference in The Hague in 2018, discussing the outcome of the first workshop as well as legal and philosophical questions that must be asked for the way forward. This builds on Bailliet’s dissemination to the Advocacy Group on Women’s Rights and Gender Equality in Norwegian Foreign Policy.

The team will continue its comparative studies of regional human rights courts, and will follow the developments in Africa, and ASEAN.

The team continues its cooperation with the Council of Europe on reform of the ECtHR, and the Norwegian Courts Administration.



## Research area:

# Investment

The main research focus of the investment pillar is investor state dispute settlement (ISDS). A trending legal phenomenon in international adjudication, it touches upon questions of public international law, trade law, environmental law, human rights and others.

The pillar's research is organized as a cross-disciplinary collaboration between international lawyers and political scientists, with both academic and practical backgrounds.

### The Team

The investment pillar is coordinated by Professor Ole Kristian Fauchald. Fauchald defended his PhD in Law at the University of Oslo in 1998, and has been with the Department of Public and International Law since 2002. Fauchald organizes a team of three Postdoctoral Fellows, a PhD Candidate and two affiliated researchers.

Postdoctoral Fellow Daniel Behn joined PluriCourts in 2013. Behn holds a PhD in Law from the University of Dundee. Postdoctoral Fellow Szilárd Gáspár-Szilágyi joined PluriCourts in 2016. Gáspár-Szilágyi defended a PhD in Law at Aarhus University. Taylor St John also joined the team as a Postdoctoral Fellow in 2016. St John holds a PhD in Development Studies and Political Economy from the University of Oxford.

Tarald Laudal Berge has been a PhD

candidate with the team since 2015. Berge holds a master in Political Science from the University of Oslo.

Associate Professor Malcolm Langford has been an integrated part of the investment team since 2014. Professor Emeritus Helge Hveem has contributed to projects of the pillar in 2016. Research assistant Maksim Usynin accepted a PhD position at the University of Copenhagen from 2017.

### 2016 at a glance

The year started with a Research Workshop on empirical studies in investment arbitration in the Centre Universitaire de Norvège à Paris. An outcome of the workshop has been to enhance our initiative to establish comprehensive databases on ISDS and international investment agreements.

Together with the K.G. Jebsen Centre for the Law of the Sea, UiT The Arctic University of Norway the investment team organized a workshop at the Norwegian University Center in Saint Petersburg on potential effects of international adjudication on treaty practice in the Russian and Norwegian context. Two major topics were discussed; the legitimacy of arbitral awards and judicial decisions, and implications for Norwegian and Russian treaty regimes.

In May the pillar organized a workshop on arbitrator behavior in collaboration with visiting professor Catherine Rogers on emerging research and methodological challenges.

Together with the trade pillar, the investment team hosted a two-day conference on the adjudication of international trade and investment disputes. More than 80 scholars from all over the world came to Oslo to

discuss recent trends in economic law: emergence of new mega-regional agreements and cross-fertilization and learning between trade and investment law. A selection of presented articles will be published in an edited book.

Beyond the scientific debates, the pillar hosted one major public event discussing whether investors are too powerful at the Norwegian Science Week (Forskningsdagene) at Litteraturhuset.

The team submitted a project proposal to the Norwegian Research Council, which failed to get funding. The research proposal builds on research cooperation with researchers at the German Development Institute and the Swiss Federal Institute of Technology on coding international investment agreements. This research project is nevertheless moving forward and has been merged with a research project carried out at the World Trade Institute.

In 2016 the investment team published 4 articles, and 2 research papers.

### Highlights from the first four years

In the period 2013 – 2016, the pillar has been gaining international recognition by organizing conferences and publications. Establishing itself on the international arena, the pillar has adopted a distinctive research focus on empirical and cross-disciplinary studies of investment arbitration.

In line with this, the investment team has constructed a unique database on investment treaty disputes and is contributing to one on bilateral investment treaties. A line of publications are emerging based on the database, and the database work has fueled collaboration with scholars from a range of institutions including Penn State, the

World Trade Institute, and the University of Arizona.

Three events are worth particular attention. The first is a book workshop on empirical studies, conducted in August 2015, where prominent scholars in the field came together for a book project on international investment law. The second is a workshop on investment arbitration and the environment carried out in November 2015 which has resulted in a special issue of the Journal of World Investment and Trade. The third is the 2016 trade and investment conference.

In 2015, the Norwegian Ministry of Trade, Industry, and Fisheries released a Model Bilateral Investment Treaty. The investment team was very active in the discussion of the model, and contributed with input on changes, information meetings for civil society, and discussions with representatives from the Ministry.

### Projects and Publications in the Works

There are several ongoing projects within the pillar. Noteworthy, two book projects will be finalized next year: “Empirical perspectives on the legitimacy of international investment tribunals” edited by Behn, Fauchald and Langford, and St. John's monograph “ICSID and the Rise of Investor-State Arbitration”.

Gáspár-Szilágyi, Behn and Langford are editing a book with the working title “Adjudicating Trade and Investment Law: Convergence or Divergence?”, Behn and Usynin are preparing a special issue on “Russian and Nordic responses to international adjudication”.

Behn and Fauchald published a special issue on “Adjudicating Environmental Disputes Through Investment Treaty Arbitration” in the Journal of World Investment and Trade, in February 2017.



Photo: The University of Oslo

## Adjudicating International Trade and Investment Disputes - Between Isolation and Interaction

In 2016 the Trade and Investment Forum organized an international conference on the interplay between trade and investment regimes, with regards to both disputes and design. More than 70 participants joined in the heated discussions on where the systems are moving.

Building on current events and developments, the conference kicked off with discussions on the so-called Mega-Regionals. Mega-Regionals are regional trade agreements between two or more actors, i.e. CETA - Canada EU Trade Agreement, or the TPP - the Trans Pacific Partnership between the USA and countries in/bordering the pacific.

The Mega-Regionals serve as an example of how the two regimes are intertwining in that they include investment protection in trade agreements.

A result of the intertwining of regimes has been a proposal from the EU to create an Investment Court System (ICS). In analyzing the ICS, parallels were drawn to the WTO Appellate system and the role of the WTO Appellate Body. Dis-

cussions then shifted to the impact and motivation behind the EU's proposal for an ICS.

Further, the focus moved to cross-fertilization between the two regimes. Discussions had highlighted convergence, but discussants emphasized caution due to their differing purpose.

An important finding of the conference was that there is an increase in interaction between the two systems in many phases - including drafting and dispute settlement.

At the same time speakers emphasized the need for caution as the two are based on different agreements. Neglecting the difference may lead to wrongful interpretation and decisions as judges may not be aware of particularities within both legal spheres.

Following the conference, Postdoc Daniel Behn, Postdoc Szilard Gàspàr-Szilágyi, and Associate Professor Malcolm Langford will co-edit a book with selected articles presented, published by Cambridge University Press.

## Trade and Investment Forum (TIF)

While international trade and investment law and regimes developed very differently in the post-war period, in recent times we see increasing convergence of the regimes. As a consequence the PluriCourts' trade and investment pillars joined forces and launched the Trade and Investment Forum (TIF), targeting issues of common interest, including trade and investment agreements, and dispute settlement procedures in international trade and investment.

## Research area:

# Trade

The Trade pillar at PluriCourts focuses on dispute settlement within the World Trade Organization, as well as within regional courts and tribunals.

Throughout the last years, there has been a move towards inclusion of investment protection in trade agreements, which has fueled cooperation between the trade and investment teams at PluriCourts. An important benchmark for such cooperation was the Trade and Investment Conference in August 2016.

### The Team

Since 2013, the team has been under the leadership of PluriCourts Co-Director Prof. Geir Ulfstein. Ulfstein defended his PhD in Law at the University of Oslo in 1995. Before Co-Directing PluriCourts, Ulfstein was the Director at the Norwegian Centre for Human Rights, Professor at the University of Tromsø, and judge in the Tromsø City Court and Hålogaland Appeals Court.

Professor Freya Baetens joined the team in December 2016 from a post as Assistant Professor at the University of

Leiden. Baetens holds a PhD in Law from Cambridge University.

There are two postdoctoral fellows in the Trade Pillar; Michelle Q. Zang and Theresa Squatrito. Zang is a legal scholar, with a PhD from Durham Law School, primarily working on WTO Law.

Squatrito holds a PhD in Political Science from the University of Washington and has previously worked as a postdoctoral fellow at the University of Stockholm. Squatrito's primary research focus has been on institutional design and performance.

### 2016 at a glance

In 2016, most of the Trade Pillar's activities have been in cooperation with the Investment Pillar. As such, the team has been an early mover in assessing cross-cutting issues at PluriCourts.

An important element in driving cooperation has been coinciding concerns connected to a new form of trade agreements, where investment protection has become a battleground for civil society – particularly with regard



to dispute settlement. These concerns were major drivers of the Trade and Investment Conference on convergence or divergence mentioned above.

From December 2016, the Trade Pillar was strengthened with the appointment of a new professor in International Economic Law – Freya Baetens. Baetens will provide an important contribution to research on international trade and investment.

Further, through lunches and workshops, the trade pillar strengthened its network and continued cooperation with leading scholars at other universities.

This year, PluriCourts sponsored a group of students from the University of Oslo to participate in the WTO Moot Court Competition. They performed very well, although they unfortunately did not make it to the final round. This was the first time a team from the University participated in the WTO Moot Court.

The trade pillar published 1 journal article in 2016.

#### **Highlights from the first four years**

A striking feature of regional ICs in the area of trade is their under-use or diverted use for purposes other than trade. This can indicate legitimacy deficits by the relevant ICs – but it can also be a result of the political context in which they are situated.

An important project for the trade pillar has been editing a book on “The Legitimacy of International Trade Courts and Tribunals”. The book is edited by Ulfstein, Postdoctoral Fellow Michelle Zang, Robert Howse (New York University) and Hélène Ruiz Fabri (Max Planck Institute Luxembourg).

The book includes chapters on the WTO and trade courts in Europe, America, Africa and Asia, and contains contributions from PluriCourts team members Theresa Squatrito, Ole Kristian Fauchald, and Andreas Føllesdal.

During the first three years of its existence, guest researchers from across the globe have visited PluriCourts. In an extension of their visits, the trade pillar has hosted several workshops and outreach activities.

In September 2015, Tania Voon and Andrew Mitchell, both from the University of Melbourne, contributed to a well-attended event on the Tobacco Industries’ use of Trade and Investment Agreements at Litteraturhuset in Oslo.

#### **Projects and Publications in the Works**

The burgeoning cooperation with the investment pillar will be of importance in the coming years as PluriCourts moves to identify and analyze an increasing number of cross-cutting issues. The appointment of Baetens as professor in international economic law – rather than a solely trade-focused specialist – speaks to this development.

What has become a very fruitful cooperation, the trade and investment forum, will continue to grow, pushing PluriCourts to the forefront on international economic law issues.

Beyond the economic law sphere, researchers will focus on cross-cutting issues, including trade and environment.

Interesting years lie ahead, following the emergence of new criticism of the dispute settlement system in trade, the negotiation of the ‘new generation’ of trade agreements and the resulting cross-cutting debates.

# Philosophy

The philosophers at PluriCourts assess the charges of illegitimacy raised against International Courts, by working out their most plausible interpretations, tracing their premises and implications, and testing these against relevant empirical and normative materials. They furthermore attend to shared terminology, concepts and normative issues addressed by other scholars at PluriCourts.

#### **The Team**

PluriCourts Co-Director Professor Andreas Føllesdal is the coordinator for the philosophers at PluriCourts. Føllesdal holds a PhD in Philosophy from Harvard University and has been a Professor at the University of Oslo since 1999.

There are currently two Postdoctoral Fellows in the team. Silje Aambø Langvatn has been at PluriCourts since 2013. Langvatn defended her PhD in Political Philosophy at the University of Bergen. In 2016, Alain Zysset joined the team. Zysset holds a PhD in Law from the University of Fribourg.

Professor Reidar Maliks from the Philosophy Department of the University of Oslo has been in residence on a part time basis during 2016.

Postdoctoral Fellow Claudio Corradetti left PluriCourts in June 2016 to take up a position as an Associate Professor at Tor Vergata University in Rome, Italy.

#### **2016 at a glance**

The pillar organized a workshop on Republican Perspectives on Human Rights in May, in cooperation with Universitat

Pompeu Fabra in Barcelona. This was the second collaborative workshop in Barcelona.

Postdoctoral Fellow Silje Aambø Langvatn organized two publication oriented workshops in 2016. The first was co-organized with Professor Cathrine Holst (ARENA) and gathered contributors in Rome in May to discuss expertise in court and public administration. Holst and Langvatn are now working towards a special issue on “Accountability in Court and Public Administration”.

In July, Langvatn co-organized the workshop “Courts and Public Reason in Global Public Law” in Berlin with Professor Mattias Kumm (NYU/WZB Berlin) and Professor Wojciech Sadurski (University of Sydney). Langvatn has submitted a book proposal for an edited book with the title “Public Reason and Courts.” The book will have reworked versions of papers presented at the workshop in addition to contributions from Jeremy Waldron, David Enoch and Gerald F. Gaus. The book proposal is currently under review with Cambridge University Press.

Langvatn was a visiting researcher at Yale Law School from August 2016 to January 2017. Taking an active part in the academic discussions, Langvatn audited Professor Gideon Yaffe’s class in philosophy of law, and participated in the Legal Theory workshop and the Faculty workshop at the Law school, and the Political Theory workshop at the Political Science department. She also did research in the Rawls archives at Harvard University.

The team published 3 book chapters, 10 journal articles, and 2 journal special issues in 2016.

#### Highlights from the first four years

Given the rather small team of Philosophers currently at PluriCourts, the researchers have sought to assemble a large international network through conference participation and publication oriented workshops, some in collaboration with other clusters of legal theorists at Universitat Pompeu Fabra.

Three somewhat overlapping topics concern the relevance of Kant, cosmopolitanism, and public reason for the legitimacy of international courts. Several of the central premises of global constitutionalism elaborate claims that were originally developed by Kant. These include the understanding of rights as not just instrumentally valuable in their own, but central in individuals' claim for independence. Another aspect is the intrinsic connection between the domestic and international legal orders.

Further, contemporary discussions of Machiavelli argue that he, and the realist tradition that follows him, would be less skeptical to states' support for international law than one has assumed.

With regards to how to understand the legitimacy claims concerning international courts, Raz' service conception of authority has been a stimulating topic for discussions.

In addition, an overarching distinction between a moral and a political conception with applications to the normative theory of human rights law and international criminal law is being analyzed to provide a basis for further research with the goal of building up a more encompassing theory of international

law/courts. This builds on Zysset's recent monograph *The ECHR and Human Rights Theory: Reconciling the Moral and the Political Conceptions*, and Føllesdal's forthcoming article "Theories of Human Rights: Institutional or Orthodox - why it matters

Føllesdal and Langvatn have also been instrumental in developing the PluriCourts Core Curriculum.

#### Projects and Publications in the Works

In 2016 team has initiated a joint seminar with the Norwegian Centre for Human Rights, directed by Langvatn, to increase input on ongoing work. The seminar focuses on international political and legal theory with presentations by scholars from the two centers, meeting several times a semester.

Building on the discussion of Kant, the team organizes a workshop in May, 2017, on Alec Stone Sweet's manuscript on Kant and the European Court of Human Rights.

Alain Zysset has started plans to develop an annual PhD course on topics in political and legal theory pertaining to the legitimacy of international courts. The course would have two objectives: an annual meeting for the community of scholars working international legal and political theory; and an annual event for doctoral students to present and receive feedback from those scholars.

In addition, a workshop on the philosophy of international crimes is planned for July 2017 with both international criminal law theorists and political theorists working on the legitimacy of international courts. The objective is to invite a younger generation of professors, postdocs and doctoral students to discuss this issue.

# Political Science

The political scientists at PluriCourts make for a cross-cutting team that works within and across the substantive fields of the Centre.

The team contributes to the interdisciplinary work at PluriCourts by adding theoretical, methodological and empirical perspectives to the study of the functioning, effects and legitimacy of international courts and tribunals.

#### The team

In 2016 the Political Science team was strengthened with a new Professor in Political Science, Daniel Naurin from the University of Gothenburg. Naurin defended his PhD in Political Science from the University of Gothenburg in 2004. Naurin coordinates two postdoctoral fellows and two PhD candidates.

Postdoctoral fellow Theresa Squatrito has been at PluriCourts since 2013. Squatrito holds a PhD from the University of Washington, and has worked across the thematic pillars throughout her time here. Taylor St John joined PluriCourts as a Postdoctoral Fellow from the London School of Economics in 2016. St John holds a PhD in Development Studies from the University of Oxford, and works with the investment pillar.

The two PhD Candidates in political science both spend 50 percent of their time at PluriCourts and 50 percent at the Department of Political Science. Øyvind Stiansen holds a master in Peace and Conflict Studies from the University of Oslo, and Tarald L. Berge holds a master

in Political Science from the University of Oslo. Stiansen primarily works on human rights, and Berge primarily works on investment. In the spring of 2017 Stiansen is a visiting fellow at Georgetown University, Washington DC.

#### 2016 at a glance

During 2016, the political science pillar has grown in scope, hosted workshops, constructed a new database and published new, important research in leading international journals such as *International Organization* and *Comparative Political Studies*.

Over the course of the year, the political science pillar has hosted several workshops. In November, Naurin coordinated a workshop with the University of Gothenburg where political scientists working on judicial politics at the two institutions met to discuss, get in-depth comments on work-in-progress, and make sure that the researches were familiar with each other's work.

St. John arranged a workshop in December where she presented and received feedback on her upcoming book, which will be published by Oxford University Press in November 2017. The book offers the first social scientific explanation for the rise of investor-state arbitration – one of the most controversial areas of international law.

The political science pillar has also created a new, detailed and comprehensive database on the cases of the Inter American Court of Human Rights (IACtHR), which



will contribute with sought-for empirical data on this court.

The database was mainly created to measure judicial behaviour in the IACtHR and states' degree of compliance with the Court's rulings – but it also includes information on the judgment's case history, procedures before the Court, alleged violations by the Inter American Commission of Human Rights, victim data, preliminary objections filed by the respondent state, and amicus curiae briefs.

The database will be a unique resource for future research on the IACtHR; a court where there has been little empirical data available - until now. Indeed, Naurin and Stiansen have already presented a working paper on how judicial dissent in the IACtHR affects states' compliance with the Court's rulings.

The team published 5 articles and 1 book chapter in 2016.

#### Highlights from the first four years

In the period 2013-2016, the political science pillar has put several projects – all of which are related to the main research topics of PluriCourts – on the agenda.

At the outset of the four-year period, Malene Wind worked on a project where she analysed how international court decisions affect the jurisprudence of the supreme courts in Denmark, Norway and Sweden. The research led to a book proposal accepted for publishing in the PluriCourts book series by Cambridge University Press.

A unique database on sexual and reproductive rights has been constructed in cooperation with the University of Bergen. This database is the baseline in two ongoing projects at PluriCourts. The initial project was Siri Gloppen and Malcolm Langford's upcoming book "Sexual and

Reproductive Rights Lawfare". The book aims to analyse the role of international human rights courts and treaty bodies as sites of struggles over sexual and reproductive rights.

Postdoctoral fellow Squatrito has established a tool for rating the independence of international courts. Identifying structures and key barriers to justice, Squatrito has produced important insights to overcome them.

#### Projects and Publications in the Works

There are several ongoing research projects. As a part of these projects, the political science team will host a number of workshops in the coming year.

In March, 2017, Naurin is organizing a workshop on gender on the international bench in cooperation with the Philosophy team at PluriCourts and researchers at iCourts. Papers will be presented based on both the sexual and reproductive rights data (Naurin and Langford) and the PluriCourts Investment Treaty Arbitration Database (PITAD) (St John, Behn and Langford).

The edited volume on the "Performance of International Courts" (Squatrito, Follesdal, Ulfstein, and Young) has been submitted for review at Cambridge University Press. The book is part of the PluriCourts Book Series "Studies of International Courts."

Naurin will also work on a project (financed by the Swedish Research Council) on the appointments of judges to the Court of Justice of the EU, and is planning a monograph on the judicial politics of the CJEU together with Olof Larsson at the University of Gothenburg.

The Political Science team is in the process of appointing two new postdoctoral fellows, and has exciting years ahead of it.

# Research at PluriCourts

## - in a nutshell

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*PluriCourts is a multi-disciplinary research center. It has a clear ambition to drive excellent research on the legitimacy of international courts in an integrated, collaborative manner*

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#### Combining Disciplines

Researchers at PluriCourts fall within three core disciplines: Law, Political Science, and Philosophy, chosen to assess the normative, legal, and social legitimacy of international courts. Research has hitherto defined and explored legitimacy challenges for international courts within five key issue areas: Criminal Law, Environmental Law, Human Rights, Investment, and Trade.

Through normative, legal, and empirical analysis, our understanding of the legitimacy of international courts focusses on issues such as; appointment and independence of judges, transparency, subsidiarity, performance, and the relationship with national courts.

#### Developing Terminology and Common Curriculum

To ensure a common understanding of legitimacy of international courts, efforts have been made to create a common curriculum for researchers at PluriCourts – and elsewhere – who research international courts and legitimacy.

The 'core' curriculum is available online, with explanatory notes and discussion questions. This common curriculum is meant to guide and inform terminology and legitimacy debates.

#### Creating unique insight

Legal scholars at PluriCourts have identified how courts converse, judicial dialogues, to understand how international courts relate to other institutions through legal reference, and provided depth analysis of specific terms and procedures.

Political philosophers have disentangled the various charges of illegitimacy made against ICs, identified the norms which seem to be at stake, subjected those norms and standards to critical assessment, and identified their legal and empirical implications. Scholarship also brings to bear discussions of Public Reason and the work of John Rawls.

Other strands contribute to assess ICs from the perspectives of global constitutionalism and discussions of how the courts fit in the evolving international governance system.

Comparative analyses of legitimacy discussions for other objects render philosophers important contributors to understand and assess the claims of ICs to exercise legitimate authority.

Political Scientists have addressed subjects such as the performance of international courts, institutional design, and democracy. An additional focus has been to construct databases to quantitatively assess how courts operate.

## Spotlight on:

# Human Rights

PluriCourts' human rights research has to a large degree focused on issues connected to the externally funded projects: MultiRights and Judicial Dialogues. Both projects study the legitimacy of multi-level human rights courts and tribunals, at the national, regional, and international level.

With regards to legitimacy issues in the European Court of Human Rights, we have found that the problems are no longer primarily directed to the Court, but rather other parts of the system; particularly implementation through the Committee of Ministers and member states.

Linked to implementation challenges are determination of remedies based on differentiated local systems – i.e. should different requirements be applied for states with weak democracy and rule of law?

In many ways this boils down to questions of subsidiarity and margin of appreciation. One of our main findings so far concerns the distribution of power in this complex system, which is often described with terms such as subsidiarity – the notion that authority should be allocated at the more local level unless considerations of effectiveness or other reasons warrant more centralized powers.

Instead of upholding a state-centric version of subsidiarity, we hold that subsidiarity should go 'all the way down' to person-centric subsidiarity. We should ask how well international courts promote the interests not of states, but of individual human beings.

One implication is the Margin of appreciation 'doctrine' of the ECtHR may be kept even though it may put human rights protection at risk. However, it should be developed in certain directions rather than others. In particular, states should only enjoy such a margin if they can show evidence of a good faith proportionality test in the particular case.

Its application to the European Union in the event that the EU becomes subject to the ECtHR remains dubitable. This subsidiarity-version also supports a version of the margin that may be suitable also for the Inter-American Court of Human Rights, contrary to warning.

Subsidiarity has two important strands relevant for the international judiciary. Firstly, international courts and treaty bodies should be state constraining, as a safety net, to review and alleviate human rights violations, as 'fire alarms' to warn and trigger early intervention especially if tyranny threatens.

Secondly, the international human rights judiciary should also be state enabling. These judiciaries should be authorized to assist the domestic authorities – not in doing what the domestic authorities want, but to assist the state in respecting and promoting the human rights of their citizens – not least by strengthening the domestic democratic decision making processes.

Another finding in line with the finding on the judiciary is how courts and tribunals around the world enter into a dialogue with one another. One of our postdoctoral fellows, Amrei Müller, is to publish a book on this topic, looking further into whether some courts rely on certain states more than others, why that happens and what possible ramifications it can have on judgments.

## Spotlight on:

# Investment

In a crowded legal research field, our strategy has been to emphasize contributions in the intersection between law and political science. Our database on case law includes more than 800 cases and codes for more than 100 variables.

It has enabled us to critically assess claims concerning the legitimacy of investment treaty arbitration, establish our own hypotheses, and start work on reform proposals. Our findings highlight the importance of grounding legitimacy analysis and proposals for reform within an empirical foundation.

### Findings

1) Tribunals have become increasingly sensitive to environmental policy considerations, but challenges remain regarding their ability to embrace the dilemmas and compromises that national authorities face.

2) There appears to be a structural bias against less developed respondent states in ISDS. The reason seems to be due to pro-developed state deference among tribunals.

3) Significant decreases in investor win rates after signals by states that the status quo was not sustainable. We have also found that there has been a significant decline in the number of cases that have been rejected on jurisdictional grounds in recent years, countering the trend of lower win-rates for investors. The reduced dismissals on jurisdiction seem to be due to efforts by tribunals and secretariats to prevent unfounded investor claims.

4) Due to the close relationship between ISDS and trade, we have sought to determine the extent to which there are justified concerns regarding ISDS and trade tribunals. Our studies of renewable energy projects indicate that potential conflict between the trade and investment regimes is possible, but that the context of the different disputes means less overlap than could be conceptually theorized.

5) Arbitration raises some specific legitimacy concerns related to its ad hoc nature. We have mapped the universe of actors in the ISDS and evaluated the extent to which they form a tight social network with central power brokers and influential insiders.

There are some reasons for concern due to a number of highly influential and very visible actors that have several roles and are highly influential. However, we also note that the practice is not widespread across the entire regime.

6) We have found little evidence of a chilling effect of ISDS on domestic policy. However, the topic is difficult to investigate due to complex causal relationships and access to empirical evidence.

7) As states are the ones that design ISDS and the substantive rules, we have sought to study how legitimacy concerns have affected state practice. We have developed a theoretical framework for assessing states' responses when ISDS challenges their interests based on a distinction between states' tactics as designers of ISDS and as litigants.

States essentially use weak tactics as designers and increasingly use strong tactics as litigants. We have also found that while some states have tended to weaken investor protection, most states have not sought such changes or sought to expand investor protections.



# Research collaboration

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*Each year, new research collaborations take shape within PluriCourts. Cutting across both disciplines and thematic focus.*

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The research topic requires bringing together great researchers across disciplines and across particular international courts. An important task is thus to facilitate and nourish research cooperation across disciplines and thematic fields.

Since 2013 researchers have collaborated on 3 books, 3 book chapters, 3 special issues, and 7 journal articles, in addition to joint empirical projects.

## **Combined effort – strengthened research**

In many cases, understanding the breadth of the issue at hand demands an interdisciplinary approach. To illustrate: the recently published book on “The Legitimacy of International Criminal Tribunals”, editors Cecilia Bailliet, Nobuo Hayashi, and Joanna Nicholson include contributions from multiple disciplines, including law, philosophy, political science, criminology, and anthropology.

It thereby links the theoretical framework to the norms and objectives, before assessing contextual factors such as regionalism and parties.

Similarly, in the forthcoming book on Sexual and Reproductive Rights Lawfare, edited by Siri Gloppen and Malcolm Langford, practitioners, legal scholars, and political scientists look at how courts deal with sexual and reproductive rights issues.

Lawyers meticulously analyze international courts’ evolving jurisprudence on sexual and reproductive rights, and the legal effects of the international decisions. Their contributions are complemented by political scientists, who use qualitative and quantitative methods to unveil some of the dynamics underlying the international decision-making process.

The project shows that ICs do not operate in a void: They are firmly placed within a political context, and surrounded by actors with often conflicting agendas and mobilization strategies.

## **Methodological Collaboration**

PluriCourts’ creation of databases of international case law has helped trigger a new wave of legal empirical research at the Faculty of Law in Oslo, to produce rigorous studies and a new understanding of how judges, arbitrators, legal representatives, and secretariats interact.

Over the last four years, different databases have been constructed at PluriCourts as joint efforts between researchers from different disciplines.

The first is part of the Sexual and Reproductive Rights Lawfare projects, and consists of international and national cases on sexual and reproductive rights issues.

The second database is on Investment

# across groups in the Centre

Treaty Arbitration, holding more than 800 investment arbitration cases. Several articles based on the data will be published in 2017. Linked to the Investment Treaty Arbitration project is a database on bilateral investment treaties, with information on specific clauses and design.

## **Thematic Cooperation**

Researchers working on different thematic areas frequently cooperate. The following are concrete examples of events and subsequent publications across disciplines and issue areas.

The trade and investment pillars cooperate through the trade and investment forum. A highlight in the cooperation was the co-hosted conference on trade and investment in August 2016. A selection of papers presented at the conference have will feature in a forthcoming book edited by PluriCourts scholars.

With the addition of a new professor in international economic law, the teams will continue to co-operate exploring similarities and differences.

The investment pillar has also co-operated with the environmental pillar. In November 2015 the pillars co-hosted a seminar on investment arbitration and the adjudication of environmental disputes. As a result of the seminar, a selection of papers were picked for a special issue, published in February 2017.

In September 2014, the human rights and environment pillars hosted a workshop on “The Legitimate Role(s) of

Human Rights Courts on Environmental Disputes”. Following the seminar, papers presented were published as a special issue in the Journal on Human Rights and the Environment in September 2015.

## **From pillar specific to cross-cutting**

As PluriCourts enters its fifth year, cross-cutting issues will become more central on the research agenda. A good example of this is the upcoming project on “Gender on the International Bench”. Under the leadership of Cecilia Bailliet, Andreas Føllesdal and Daniel Naurin, efforts are being made to address several aspects of the severe gender imbalance among international judges.

Part of Naurin’s work builds on the existing dataset on Sexual and reproductive rights, assessing voting patterns on Sexual and Reproductive issues. Føllesdal brings philosophers to the workshop, to assess why, if at all, such imbalance is normatively problematic and how it affects the legitimacy of the ICs.

Simultaneously, Bailliet is working with Prof. Freya Baetens on legal questions on the causes and consequences of exclusion of gender on the international bench and seek to identify best practices.

Together, they bring together leading scholars to two workshops in Oslo in 2017/2018.

From 2017 we initiate several more cross-cutting projects in accordance with the new research plan.

# Researcher training

*An important part of PluriCourts’ work is researcher training, hosting workshops, seminar series for younger scholars, and teaching PhD courses.*

During the first financing period PluriCourts has sustained a focus on supporting our younger scholars. Research teams involve typically one coordinator on a professor level, several postdoctoral fellows, sometimes a PhD candidate and research assistants.

The Faculty of Law has no shortage of PhD candidates. Consequently, in addition to securing PhD students in political science, the priority of the centre has been the selection of excellent postdoctoral fellows, due to the level of experience and contributions they bring.

### Postdoctoral Fellows

Our postdoctoral fellows are selected on the basis of highly competitive international calls, and have included scholars from most continents. We typically offer our Postdoctoral fellows a three year fellowship – three times longer than many research institutes. This allows them and us to focus their energy on the research topics at hand, rather than on the next round of applications.

PluriCourts has detailed plans for integrating postdoctoral fellows into the team. Routines involve detailed start-up meetings, bi-annual career conversations, and continuous follow-up. PluriCourts pays special attention to balancing the interests and needs for coordinated and coherent research within the centre and the individual postdoctoral fellows’ research and broader career plans.

PluriCourts helps postdoctoral fellows

to strategically build up an international network and experience for their further careers. They are encouraged to take a 6 months research stays abroad, partly financed by PluriCourts. All postdoctoral fellows enjoy funds and administrative support to organize at least one publication-oriented workshop during their stay.

The Centre also provides administrative and academic support for applications for external funding, and mock interviews. This has resulted in fully or partly externally funded projects within the framework of the Research Council of Norway’s FRIPRO funds, University of Oslo funding schemes, ERC, and H2020 initiatives.

Although teaching is not part of standard contracts with postdoctoral fellows, PluriCourts has sought to ensure opportunities for those who so desire to contribute to graduate and PhD classes at the Faculties of Law, Social Sciences or Humanities.

### PhD Candidates

Currently, there are three PhD candidates at PluriCourts; two of them split their time between PluriCourts and the Department of Political Science. PhD Candidate Nino Tsereteli defended her PhD in Law in 2015. The thesis was an integral part of the ERC Project Multirights, and focused on the pilot judgments at the European Court of Human Rights.

**Finished thesis:** Nino Tsereteli: “Legitimacy of Pilot Judgments of the European

Court of Human Rights” June 26, 2015

### PhD Teaching

PluriCourts hosted a publication driven seminar in Philosophy in May, 2013. Additionally, PluriCourts contributes to PhD courses across the globe. Every year PluriCourts contributes to the joint Summer School with iCourts, the Danish Centre of Excellence on International Courts. We also cooperate with iCourts on a PhD/Postdoc seminar in February, 2017.

Scholars from PluriCourts annually contribute to the Venice Academy on Human Rights Summer School, and to the Winter School on Human Rights of the German-Southeast Asian Center of Excellence for Public Policy and Good Governance (CPG) in Bangkok.

### Publish and Flourish

PluriCourts regularly organizes workshops under the heading “Publish & Flourish” which address typical challenges suggested by young scholars: Work-life balance, publication strategies, how to get tenured positions, applications for funding, or gender in academia. This innovative series of seminars has attracted attention beyond the faculty and now features participants from the entire University of Oslo.

Throughout PluriCourts’ existence, there has been a focus on application writing, particularly applications to the European Research Council. This has been an integral part of the Publish and Flourish series. In the spring of 2017 there will be an application driven seminar series where academics can get input on future or ongoing applications.

### Concepts and Methods

PluriCourts has an annual workshop aimed to build a common terminology and understanding of core issues across

disciplines, including terms such as “effects”, “effectiveness”, “compliance” and “performance”. These workshops prove to be particularly useful, as they specifically take up questions that are relevant for many team members who share their knowledge about various methodological and thematic approaches to these issues.

### Gender balance

Over the first four years of its existence, PluriCourts has sought an acceptable gender balance among the researchers, within the team of coordinators and in the administrative staff. As seen on page 56, we perform well on balance. PluriCourts pays special attention to the challenges women face in academia; and has organized Publish & Flourish workshops on related issues.

### Career development

The bi-annual career conversations routinely address how to bolster Post-doc fellows’ competitive edge for later employment; carefully tuned to the disciplinary and geographical focus of each fellow. Once on the job market, post-docs have exploited opportunities for mock interviews and job talks, as well as workshops on application writing to the ERC.

#### Career Development

**Amrei Müller** (Law): Scholarship by the Leverhulme Trust, UK (Northern Ireland)

**Claudio Corradetti** (Philosophy) Associate Professor at Tor Vergate University in Rome, Italy

**Nino Tsereteli** (Law) Postdoctoral Fellow at Brno University, Czech Republic

**Shakira Maria Bedoya Sanchez** (Law) Researcher at the Max Planck Institute for Ethnological Research, Germany

**Marjan Asevski** (Law) Research fellow in law at the Open University, UK



# International and national cooperation

*A part of the research strategy of PluriCourts is to attract excellent researchers from across the globe to Oslo.*

## Affiliated researchers

Several researchers are affiliated with PluriCourts, contributing through co-authorship, development of projects or input on research proposals or ongoing research. A full list of affiliated researchers is available on page 55.

PluriCourts researchers also cooperate with researchers not formally affiliated with the centre. As of Dec. 31, 2016, international researchers have contributed to 5 books, 8 book chapters, 6 special issues, and 11 articles.

## Visiting Scholars

Additionally, since 2013 there have been 40 visiting scholars at PluriCourts in different capacities. All visiting scholars become an integral part of the PluriCourts team, and may contribute to publications through co-authorship, by writing book chapters, with articles for special issues, as commentators, or as co-editors.

## Council of Europe

In 2014 PluriCourts co-organized a conference with the Council of Europe. The conference discussed the reform of the European Court of Human Rights, and brought together Judges, lawyers, and scholars. The conference proceedings, with recommendations for work on reforming the court, were published. They have been used by the committee in the Council of Europe working on institutional reform.

## Fulbright-PluriCourts Fellowships

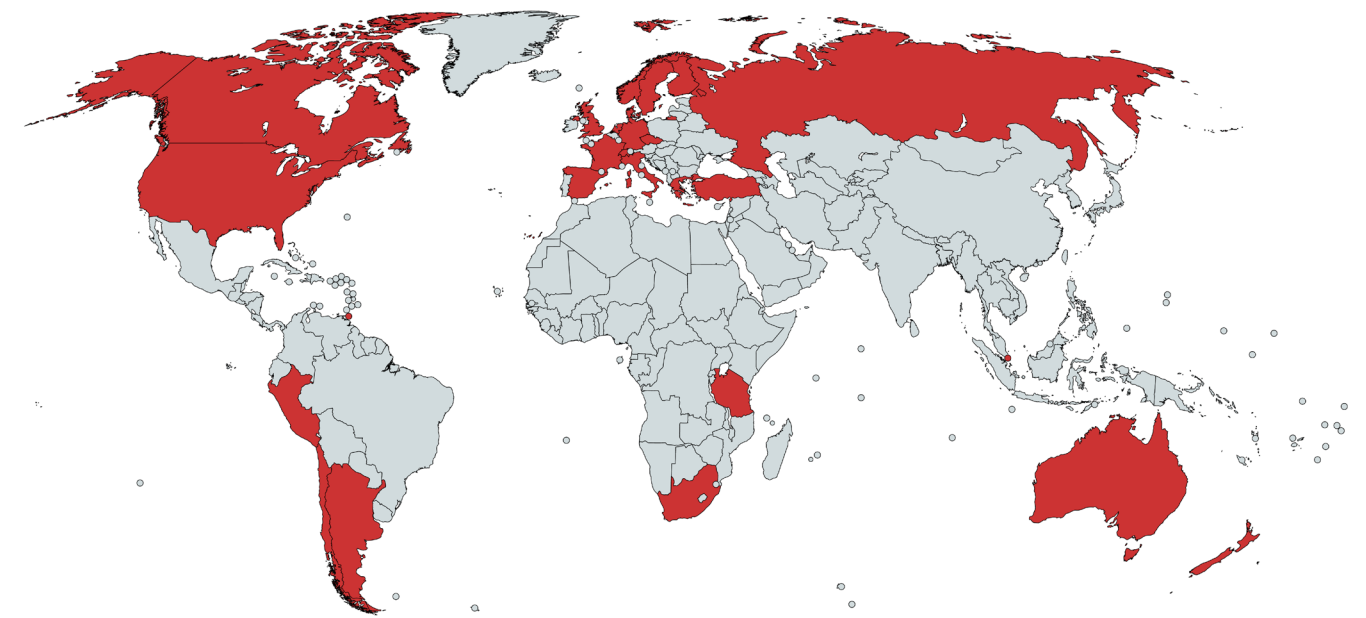
The Fulbright Foundation was established to facilitate the exchange of knowledge and people to and from the United States of America. Several employees at PluriCourts have travelled on Fulbright grants to and from the USA. In 2015 PluriCourts and Fulbright started a cooperation to attract American scholars researching international courts and tribunals to Oslo.

The partnership welcomes outstanding scholars to visit Oslo for shorter period of time, from six - ten months. During their stay at PluriCourts, the Fulbright Fellows are integrated into the team. They are welcome to attend all seminars and research group meeting, and contribute to ongoing research through active feedback, project integration, and an informal working environment.

PluriCourts welcomed its first Fulbright Scholar as part of the cooperation in 2015, Prof. Suzanne Dovi. Dovi was followed by Prof. Catherine Rogers and Prof. George Christie in 2016, and in Jan. 2017 Prof. Ken Gallant will start his visit at PluriCourts. There are many applicants for the scholarships, and spots have been filled for the academic year 2017-2018.

## iCourts

Since PluriCourts establishment in 2013, iCourts, at the University of Copenhagen, has been an important



*Countries we have organized workshops in, performed research in, or have visiting scholars from.*

collaborator. Similar to PluriCourts, iCourts is on a long-term grant from the Danish National Research Foundation as a Centre of Excellence. Scholars from iCourts regularly attend workshops in Oslo, and give valuable insights to ongoing research. iCourts' focus on the origins of international courts and tribunals allowed PluriCourts to focus more on their functions and effects.

In 2014, PluriCourts and iCourts agreed on a common set of events targeted in particular at early career researchers. PluriCourts hosts annual Concepts and Methods workshops to which iCourts staff is invited, and iCourts organizes a joint summer school on topics of common interest. From 2017 an annual postdoc/PhD workshop for fellows from PluriCourts and iCourts was initiated.

## K.G. Jebsen Centre for Law of the Sea

The K.G. Jebsen Centre for Law of the Sea was established in 2013 with a mandate to assess implementation of the UN Convention for the Law of the Sea.

PluriCourts has been in dialogue with K.G. Jebsen Centre before, however, the cooperation was deepened in 2016 when the PluriCourts annual conference was held at the UiT The Arctic University of

Norway. The focus of last year's annual conference was on law of the sea issues. This was an indication of the expansion of PluriCourts' focus areas to include the Law of the Sea. Read more about the annual conference on page 34.

Researchers from the K.G. Jebsen Centre further cooperated with PluriCourts on an open event at Litteraturhuset, and a workshop at the Norwegian University Centre in St Petersburg.

## The Norwegian Court Administration

In 2015 PluriCourts and the Norwegian Courts administration (NCA) initiated collaboration. The NCA is responsible for ensuring that Judges have the capacity to fulfil their tasks. PluriCourts contributes to the development of competence on international law, international courts, and international Jurisprudence. The cooperation is also of great use for PluriCourts as it gives researchers access to and valuable insight on issues facing Norwegian Judges.

An important tool has been the annual Ryssdal Seminar where Judges travel from all over Norway to participate. Additionally, PluriCourts has contributed to a seminar in relation to a study trip to the European Court of Human Rights.



Photo: The University of Oslo

# Annual conference

## – dispute settlement in the law of the sea and beyond

*For the first time, PluriCourts organized its annual conference outside of Oslo. The 2016 conference took place in Tromsø and Sommerøy, May 26-28 and was organized in collaboration with the K. G. Jebsen Centre for the Law of the Sea (JCLOS) at the UiT The Arctic University of Norway.*

As detailed in the chapter on collaboration, this collaboration between PluriCourts and JCLOS will continue. PluriCourts researchers will begin to explore Law of the Sea, as one of many issues, in its next research period.

The focus of the conference was a new and exciting theme for many PluriCourts researchers; the law of the sea and dispute settlement. Speaking to ongoing research at PluriCourts, interesting comparative threads can be drawn to dispute settlement in i.e. investment, trade, and the environment. In total 60 people attended the conference with lively discussions continuing into the midnight sun.

### Honorary Lecture: Prof. Robin Churchill

The Honorary lecture was given by Professor Robin Churchill from the University of Dundee. Churchill discussed compulsory dispute settlement under the United Nations Convention on

the Law of the Sea (UNCLOS).

The lecture featured an overview of the system, and questioned how it has functioned in its 22 year existence. Churchill focused mainly on the judicial means of settlement, but highlighted that most disputes have been solved by negotiation and diplomatic methods. The presentation put forward six key propositions concerning dispute settlement, discussed below.

### Dispute settlement in UNCLOS

The dispute settlement system in UNCLOS has innovative and ambitious elements, but is a relatively traditional system. The more innovative components include the ability for parties to a dispute to select a forum and the ambitious decision to establish the International Tribunal for the Law of the Sea (ITLOS).

Other novel features of the system include; a separate dispute settlement system concerning mining in the Seabed

Disputes Chamber of ITLOS, along with the ability of non-state actors to be parties to conflicts, the possibility for fact finding to be combined with arbitration, and compulsory conciliation.

Despite these novel features UNCLOS is still quite limited in comparison to other contemporary areas of law. The novel features have also not been used very often. Compulsory conciliation was invoked for the first time between Timor Leste and Australia in April 2016 on the issue of their maritime boundary delimitation.

Further, ITLOS can proscribe provisional measures for disputes that are pending. ITLOS has made six provisional measures, and these have often aided the parties in reaching a settlement. Lastly, one very important diplomatic novel feature is the ability for flag states to apply to ITLOS for prompt release of vessels.

Weaker sides of UNCLOS include the lack of non-compliance procedures. UNCLOS suffers from systemic non-compliance in various areas. The dispute settlement system has not yet been used to challenge non-compliance.

Churchill highlighted the possibility of introducing some form of non-compliance procedure in any new Implementation Agreements ensuring the conservation of biodiversity beyond national diversity (the Area). This would have huge environmental meaning. Churchill has been active in this endeavor to introduce this mechanism.

### The dispute settlement system is branded as compulsory, but in reality is not

UNCLOS dispute settlement is engineered to allow plenty of



*This years honorary speaker: Professor Robin Churchill, Univesity of Dundee.  
Photo: Private*

alternatives as parties can agree to means of settlement other than those listed in UNCLOS Part XV on Dispute Settlement. This has been used widely, for example by both Costa Rice and Somalia when referring their boundary delimitation.

Reasons for differences can range from cost to aversion from ICJ rulings. Certain disputes may also be excluded from settlement. Exceptions include disputes concerning fishery management and research in the Exclusive Economic Zone (EEZ), as well as boundary delimitation, military activities, and Security Council matters.

However, none of the exceptions have been successfully invoked to date.



Interestingly, Churchill highlighted how only a few states, about 20 % of state parties, have chosen to avail themselves of this exclusion option. Exception statements can be changed or withdrawn at any time, revealing a very flexible 'compulsory' system.

**The system is not being used as intended**

The dispute settlement system was designed to deal with potential conflicts created by UNCLOS, to curtail the power of developed states over developing states, and to ensure the integrity of the treaty text.

In the keynote, Churchill argued that the UNCLOS-system has not lived up to these goals. Of the 20 cases referred for judicial process, decisions on the merits of the case have only been handed down in 8. None of the 20 cases have involved any challenges to these more innovative features. States have rather simply challenged other states' interpretations and actions.

**The system has not functioned as expected**

The low number of declarations being made on choice of procedure in dispute settlement, is surprising and hints at the UNCLOS system not fulfilling its intent. This has meant, and will likely continue to mean, that most disputes are referred to Annex VII tribunals.

The lack of declarations excluding certain types of disputes from settlement is also surprising, as it was considered necessary for states to ratify UNCLOS. The lack of cases referred to the ICJ and other forums is also surprising. However, Churchill argued that dispute settlement

systems generally do not function as anticipated, pointing to WTO DSU.

**Dispute settlement in UNCLOS has however, not developed the law of the sea to a large extent**

Churchill further noted that in other forms of international dispute settlement, a shaping of the law is often a byproduct, but this has not been the case with UNCLOS. Very few cases have been handled, and the majority of these have been maritime boundary delimitations. The two advisory opinions given by ITLOS have, however, developed the law; as has the case law concerning settlement of disputes.

**Importance of means outside UNCLOS to settle law of the sea disputes**

Churchill ended on a high note, pointing out that UNCLOS dispute settlement is still quite revolutionary in the way that law of the sea cases have been referred to the ICJ or arbitration even when one of the parties was not a party to UNCLOS. UNCLOS has been applied as customary international law, and non-UNCLOS issues have also been tackled.

UNCLOS dispute settlement has therefore developed and flourished in its own way. The traditional, compulsory-with-exceptions system struggles with compliance, and suffers from having been ratified before many later innovative features, such as non-compliance mechanisms, were brought to life in similar agreements. The system is both a testament of international cooperation in both its positives and negatives, and despite not living up to expectations, is an intricate, functioning system.

“It is not, of course, the primary function of dispute settlement systems to develop the law. Yet such development is a frequent by-product of international dispute settlement.”

*- Prof. Robin Churchill in the Annual Lecture*

# Fulbright scholar

## George C. Christie

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*George C. Christie is James B. Duke Professor Emeritus of Law at Duke University School of Law. Christie visited PluriCourts from September 2016 - March 2017 as a Fulbrights Scholar*

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I am very much enjoying my six-month's residence as a visiting researcher at PluriCourts, at the University of Oslo, on a grant from the U.S.-Norway Fulbright Foundation. It has been an enriching experience both professionally and personally.

My professional goal, in joining PluriCourts' research on the "Legitimate Roles of the Judiciary in the Global Order," stems from my lifelong interest in legal reasoning and the quest for objectivity in judicial decision making. My current project is a comparative study of the attempts to define the limits of judicial discretion and competence in the modern world.

Both on an international and national level, courts are increasingly being asked to decide conflicts between important social goals and a burgeoning number of legally recognized human rights. They are even sometimes asked to rule on the proper allocation of a nation's economic resources.

These difficult tasks are made even more difficult because, in multi-national conventions such as the European Convention on Human Rights as well

as several national constitutions, some legally enforceable human rights are declared to be defeasible when they conflict with a variety of legitimate social goals or the right of others.

In my judgment the most important of these defeasible rights is freedom of expression. My focus is centered on how judges can find the correct balance among those important competing values without opening themselves to the charge that their decisions are ideologically based.

In the United States the problem the courts face in deciding difficult basic questions do not concern so much conflicts between freedom of expression and other social values, but they too must wrestle with ideologically and politically charged cases.

For example, the United States Supreme Court has been asked to determine the reach of the federal government's power to regulate commerce among the states, or what leeway the Second Amendment to the American Constitutions gives the federal and state governments to regulate the possession and use of firearms. Here the question is whether there is some

clearly discoverable meaning to the Constitution that can be used to control the discretion of the judiciary.

Recent five-to-four decisions of the Court have proclaimed that reference to the original intent of the founders is the proper way for courts to interpret the Constitution. It is claimed that this approach provides a more objective measure for deciding constitutional issues than the traditional approach which, in order to provide the necessary continuity and consistency, is prepared to rely on stare decisis and historical government practice even if those decisions and governmental practices might not be what the founders might have expected.

While the problems facing Europe and the United States are different, the challenges are similar. If the courts are to be trusted to resolve these politically and emotionally charged disputes, how can they protect themselves from the charge that their decisions are ideologically or politically influenced?

In my work I examine these problems in detail as well as the methods that have been suggested to meet that criticism. I cannot express how helpful my stay at PluriCourts has been to my work on this project by greatly extending my knowledge of how European scholars have tried to deal with the issues that I am exploring.

PluriCourts has been an extremely welcoming venue in which to conduct my research. Even more than the pleasant physical environment that PluriCourts provides to its visiting researchers, what I have treasured is the comradery with its members.



Professor George Christie visited PluriCourts for seven months. Photo: Duke University

I have particularly enjoyed meeting the post-doctoral researchers and the students studying for PhDs or masters degrees. They are a lively bunch and it has been a pleasant and enriching experience to learn of their background, the nature of their work, and their professional goals.

In short it has been a very satisfying experience for me and also for my wife Deborah who has met many of my PluriCourts colleagues.

Living in Oslo and also having the chance to explore a considerable part of Norway, before and eventually after my residence at PluriCourts, has been an extraordinary opportunity.





Photos: The University of Oslo

# Dissemination

*PluriCourts has been engaging broadly with both the academic community and the public at large, hosting conferences, public seminars and increasing its social media presence.*

## Podcasts and videos

In recent years, PluriCourts has increased the use of podcasting and filming of events. The aim is to make the event accessible for a greater audience, for a greater period of time. To increase visibility, information on recent recordings is emphasized on our home page.

The experience so far has been that it increases the lifespan of important events. For instance, PluriCourts hosted and recorded key events at the ESIL Annual Conference in September 2015. Visitors still frequently view the videos.

Efforts were also made to film or podcast from all major conferences in 2016, including the MultiRights Final Conference, and the IUCN Academy of International Law's Colloquium.

## Interviews with leading judges

An integrated part of the video initiative is the interview series with leading judges. The interview series explores the evolution of international law through conversations. Given the role prominent

legal scholars have in international treaty interpretation, following the Vienna Convention on Treaty Interpretation, the interviews are an important resource – to students, academics, and practitioners.

So far, eight interviews have been conducted, including Judges Helen Keller (ECtHR) and Bruno Simma (ICJ). In 2016, Cecilia Bailliet interviewed Judge Georges Abi-Saab.

The interviews are well visited, both the event itself and the video recordings. They are a unique opportunity to get an insider's insight on the development of international law.

## Public Events

Throughout the first four years of PluriCourts, several public events have taken place. Although most events and workshops are open to everyone interested, the threshold may be high for those less familiar with the subject. To ensure dissemination of key research, as well as weighing in on current issues, several events are targeted at a larger audience.



Examples from the first four years include the investment pillars public event on the Norwegian Model Bilateral Investment Agreement, and the trade and investment event on Tobacco Disputes, investment, and trade.

When the Norwegian Constitution celebrated 200 years of existence in 2014, the human rights team initiated a debate on Human Rights and the Norwegian Constitution, with both politicians and scholars.

In 2016 PluriCourts had several free events. On the occasion of the Paris Agreement on Climate Change, Christina Voigt moderated a panel debate on “Climate Change after the Paris Agreement.”

In September, three events were held at Litteraturhuset on the occasion of the Norwegian Science week “Forskningsdagene”; an event on Investment Agreements by Ole Kristian Fauchald, a debate on the China – Philippines dispute in the South China Sea moderated by Geir Ulfstein, and a film viewing of “My Nazi Legacy” with a debate on the judicial process in Norway following the Second World War hosted by Cecilia Bailliet.

## Social Media

In 2016 PluriCourts has become more active on social media, joining Facebook in September 2016. For all major conferences and many workshops, the

team has been active in dissemination key points, arguments and results.

## Conference Participation

Throughout a year, it is almost impossible to keep track of the travels of PluriCourts’ researchers. From research assistants to Professors, the team is very active in presenting at conferences. Beyond the workshops and conferences organized in Oslo, the team travelled to more than 30 conferences in more than 20 countries in the course of 2016.

## Media Contributions

Researchers at PluriCourts regularly contribute with opinion pieces in Norwegian or international media.

Contributions focus on disseminating information from ongoing research, or commenting on current events that relate to their field of work. In 2016, PluriCourts research was presented online, in print media, on the radio, and on television.

Subjects addressed by researchers include; Strategic litigation in arbitration, the Paris Agreement, Guantanamo Bay Military Tribunals, war crimes in Syria, and the Nuremburg tribunals.

Researchers that are not fluent in Norwegian, get support to translate articles, allowing them to contribute in the Norwegian debate. Additionally, the work of researchers at PluriCourts is regularly featured on Science Nordic and Forskning.no.



## IUCN AEL Annual Colloquium 2016

# The Environment in Court

*Close to 350 judges, lawyers, scholars, and activists participated in the 14<sup>th</sup> annual colloquium of the IUCN Academy of Environmental Law. The colloquium was hosted by PluriCourts from June 20 - 25, and focused on the theme “The Environment in Court”*

PluriCourts was proud to host the annual colloquium of the IUCN's Academy of Environmental Law. In line with our research aims, the colloquium focused on how environmental issues can be, and are handled in national and international courts. Assessing non-judicial mechanisms, special courts, and interlink with other areas of law, the colloquium shed great light on the current system and possible development of environmental adjudication.

Professor Christina Voigt was in charge of the Colloquium, with great support from the administrative staff at PluriCourts and the IUCN AEL Secretariat. It was a dynamic forum, which included academics, judges, lawyers, as well as civil society representatives and civil servants.

As a focus of Voigts research at PluriCourts has been on compliance mechanisms for environmental disputes, and the colloquium served as a great forum to develop and discuss these issues. Lessons learned from domestic court cases in constitutional and special courts, gave valuable insight into how environmental law is protected globally.

With 47 breakout sessions with panel discussions in addition to the plenary sessions, the colloquium was an inspiring arena for all working on environmental law issues. As a relative new field of law, the opportunity to get acquainted with others working on similar issues and strengthen networks was invaluable.

Further, this year's colloquium was the first to bring judges and scholars together in discussions about the development of environmental law. The organizers received great praise from the secretariat and the participants, and was one of the most visited colloquiums in the IUCN AEL history.

An important aspect of the colloquium was to reach out to national actors, including ministries and the municipality. This was very welcomed, and the colloquium was opened by the Norwegian Minister of Climate and the Environment, Vidar Helgesen. Further, several representatives from ministries attended sessions throughout the week.

All participants at the colloquium were also welcomed by the The City Council of Oslo to a reception at the Oslo City Hall.





# Inside Guantanamo's barbed wire

After the attacks on the USA on September 11th, 2001, the mandate of the American military base in Guantanamo Bay changed. From serving as a navy base, it quickly becomes the definition of the war against terror.

Hundreds of people have been sent to Guantanamo to be interrogated and detained under suspicion of participation in the attacks on the USA, or affiliation to Al-Qaeda.

Since 2002, at least 780 people from 40 different countries have been held captive on the American navy base.

As a researcher on international courts and tribunals, Kjersti Lohne wanted to see what is going on in the Military Commissions at Guantanamo Bay.

The Military Commissions at Guantanamo are specially established



Researcher Kjersti Lohne.  
Photo: University of Oslo

Military Tribunals that prosecute those detained at Guantanamo Bay.

But due to the strict regulations at the base, Lohne's trip proved to be challenging.

## No room for researchers

During military commission hearings at Guantanamo, one single plane takes off towards Guantanamo Bay, from a military base in Virginia on the outskirts of Washington DC.

The plane carries all the different participants for the military commissions following 9/11, except the defendants. Selected families of victims from 9/11 are seated in Business Class at the very front of the plane.

With them, the judge, the prosecution and the commission's support staff. Behind them is the defense, and in the very back, next to the toilets, there are seats for representatives from the media and NGOs. However, there is not a seat for researchers.

Consequently, Lohne also wrote an article, as an independent writer, for a Norwegian media house in order to get media accreditation. However, during her stay at Guantanamo she was



Photograph taken by Kjersti Lohne and approved by Joint Task Force Guantanamo's Operational Security

open about her dual role as media and researcher.

## Strict control from the military

Although Lohne had been given access to Guantanamo, she could not walk around freely. Together with the other observers, she was driven everywhere.

"The military were our drivers, but also our controllers," Lohne says

The different groups are also separated. They live in different tents (victims' family members stay in apartments), eat separately, and are driven around the base in different cars. Members of the media are in one car, NGOs in another, and families of the victims of September 11th in a third.

"I was not allowed to ride in the NGO-car," says Lohne whose initial aim was to study how the NGOs at Guantanamo work.

When the trial starts, a curtain is drawn between the observers; representatives from NGOs and media on one side, and families of the victims on the other.

"In a way, the curtain also holds a

symbolic value, marking the separation of perceptions regarding what the trial is about: justice for 9/11, or torture of the defendants while in US custody," says Lohne.

Throughout the duration of the trial Lohne was accompanied by a soldier who could peak over her shoulder to see what she was writing. Another journalist was reprimanded for scribbling in her notebook. Drawing is not allowed.

## Everyday life at Guantanamo

Guantanamo Bay has – among other things - a McDonalds, an outdoor-cinema, and an Irish pub. In warm, Caribbean surroundings, those residing on the base could go to the beach, take a swim, or go snorkeling.

However, despite of this, there is little resemblance to the joys of Caribbean life, and a stay at the base is far from comfortable. The mobile showers were infected with fungus, and one of the issues being litigated in the military commissions during Lohne's stay was concerns about high levels of cancer-causing toxins at Camp Justice.



*Border to Cuba from Guantanamo Bay. Photograph taken by Kjersti Lohne and approved by Joint Task Force Guantanamo's Operational Security*

The above mentioned conditions could quite easily be fixed, but as the base is considered to be at war, the temporary nature is upheld. It is after all a military base.

"You're always a little bit on guard, says Lohne while sharing a memory of waking up from thunder in the middle of the night, and for a swift second thinking it is an explosion."

In many ways, the base operates as if it is at war. "I guess it is supposed to feel this way," says Lohne.

After all, the American government is legitimizing the detention of prisoners and the use of military commissions on the grounds of being in an armed conflict with Al-Qaeda and its associates.

Consequently, the prisoners are to be considered prisoners of war, allowing for a prolonged detention without trial. Because of the interpretation of the conflict, the USA argues that the detainees are to be considered as unprivileged combatants, stripped of the combatant privilege – and protections – under international humanitarian law.

#### **Guantanamo – Space of exception**

"Guantanamo Bay operates as a «space of exception» says Lohne. It is a place that defines itself away from the normality of society and the universality of law, where people are placed outside the limits of the law."

"It is the ultimate alienation, or dehumanization," she continues and explains that a well-known definition of sovereignty is the ability to define the state of exception.

By researching the space of exception, one can say something about the intersections of law and politics, and how this friction shapes the constitution of our society.

As a researcher, Lohne had a very special insight. Fieldwork at Guantanamo Bay, as well as New York and Washington DC, will form the foundation for research on how civil society works with the Guantanamo Bay Military Commissions.

#### **Wants to go back**

Because it is difficult, costly, inconvenient, and uncomfortable to travel, and stay, at Guantanamo, civil society participation is limited. For example, to the extent that NGOs are represented, it's through sending young interns who report back to headquarters in New York or Washington DC.

Despite the difficult access and relatively rough conditions for doing research, Kjersti Lohne wants to go back.

"It is an incredibly fascinating place – a microcosm of how order and the state of exception is negotiated in everyday practices."



*The African Court of Human and People's Rights. Photo: Theresa Squatrito*

# Unequal access to international courts

*People face great differences in their access to international courts. – The courts are facing several challenges to become more independent, open, and accessible to the people*

Imagine that you are bringing a case in your national court, wanting to appeal to the high court. Only, you do not have a national supreme court. Until recently, you have had to travel half way across the world, to your former colonizer, at your own cost.

A regional court has surfaced, but which would you choose; a regional court located in a neighboring country, or a court in your previous colonial master?

The example above is from the Caribbean Court of Justice, one of the three courts researcher Theresa Squatrito visited during field work. The two other courts, The African Court of Human and Peoples' Rights and the East African Court of Justice, are both located in Arusha, Tanzania.

Squatrito is researching the growth of international courts following the Cold War.

She has been interested in the courts' jurisdiction, access to the courts for those under its jurisdiction, and so called safe-

guards to independence. These include appointment of judges, the ability and/or duty of judges to recuse themselves in conflicts of interest, and the budgetary control.

#### **Accessing the court**

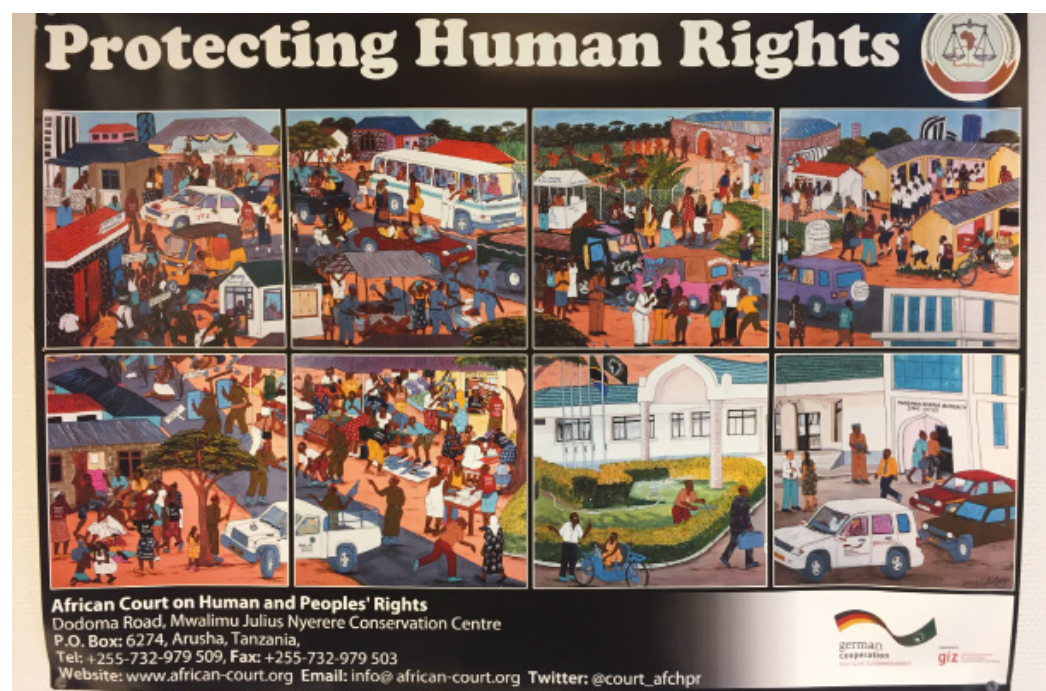
The link between the structural independence and the behavior of judges has been the initial focus for Squatrito. Based on experiences from her fieldwork, the focus is broadening to include barriers of access to justice.

"Having to pay your way across the globe to have your case heard is real for several Caribbean countries. They have to travel to the UK to have their case heard in front of the British Privy Council."

"To do this they also need a lawyer who has passed the British Bar – in other words not a local representative," Squatrito says.

Although this situation is a rarity, it highlights several challenges for access to justice.





*Adversarial poster for the African Court of Human and Peoples' Rights. The poster is used by organizations that want to spread awareness of the court in member countries. The poster is supported by the German Development Fund.*

Squatrito says that the importance of vicinity to the court has become surprisingly clear in the African Court of Human and Peoples' Rights, which until now has had most applicants from Tanzania.

It has also generated a growth of support systems. Networks of lawyers and civil society organizations have been established in Arusha.

### Political Independence

Squatrito has looked into how the courts relate to the political leadership in the states that created them. Based on this, particular structures or rules that can constrain or enhance independence are identified. For instance how judges are selected, and how the court is financed.

"The Caribbean Court is a really interesting court, says Squatrito and continues:

"It is designed to be highly independent."

As a creation driven by local elites, the Caribbean Court has particular elements that secure its independence. Unlike all other international courts, its judges are not selected by member states, but rather they are appointed on merits by an independent commission. The commission consists of regional experts on national and international law.

Squatrito hypothesizes that these structural elements of independence will have an impact on how the judges vote and behave.

Experiences from the African Court of Human and Peoples' Rights indicate that there may be a connection:

"One of the judges on the African Court of Human and Peoples Rights was very active in trying to protect human rights

and writing dissents. Unlike the majority of the judges, this judge did not get reappointed to a second term," says Squatrito.

### Financial security

The combination of political and financial independence may facilitate more independent decisions, allowing judges to consider a case with limited threats of repercussions.

Squatrito argues that it matters how the courts are financed. If the court is reliant on regular support from the member states, they may face a series of challenges.

"Most international courts are underfunded," Squatrito explains, noting that states have a history of not paying their dues in some places.

The most common way of financing international courts is through regular contributions from member states. There are different schemes on how the sum is calculated, but the principle is the same, members pay. If the states do not pay the court has limited sanctions available to secure funding, leaving them vulnerable.

Once again, the Caribbean Court presents an interesting case. Although all member states had to make an initial capital contribution to the Court, it now runs on a trust fund.

The trust fund is managed by an investment team, and holds a steady fortune of 100 million dollars. Thus, it is not reliant on political good will to survive.

On the other hand, the African Court of Human and Peoples Rights' has capacity limitations due to its slim resources and relies on resources from external partners, such as the EU and states such as Germany.



*Postdoctoral Fellow Theresa Squatrito.  
Photo: Ola Sæther*

This poses questions of dependence and predictability.

### Structure matters: different design of international courts

Based on Squatrito's fieldwork it has become apparent that how the courts are designed really matters. And that there are great variations in structure.

The consequence is unequal access to international courts and as such unequal access to justice.

Issues of design and structure are important to consider in discussions on the creation of new international courts, as well as reforms of international courts.

# Societal impact

Over the last four years PluriCourts has been very active in public and academic debates, publishing more than 60 op-eds. Although impact is difficult to measure, some activities have had a noticeable impact.

## Reforming the European Court of Human Rights

The cooperation with the Council of Europe’s Steering Committee on Human Rights has been influential in the reform process of the European Court of Human Rights. In 2014 the Steering Committee and PluriCourts co-organized a conference on the reform process, flying in judges from Strasbourg to Oslo.

The conference also allowed judges of the court to discuss with practitioners and academics. The conference proceedings were published, and have been integrated into the work of the Steering Committee.

PluriCourts researchers are still in contact with the committee and participate in the ongoing discussions on reform; PluriCourts has been invited to organize another workshop with the Steering Committee in 2017, this time in Strasbourg.

## Training Norwegian Judges

Since 2015, PluriCourts has collaborated with the Norwegian Court Administration (Domstolsadministrasjonen) on training sessions for Norwegian Judges.

## Compliance in the Paris Agreement

PluriCourts’ research on compliance mechanisms in the Paris Agreement has been incorporated into the Paris Agreement through the presence of Professor Christina Voigt in the Norwegian Delegation negotiating the agreement.

## The Right to Peace

Professor Cecilia Bailliet and Professor Kjetil Mujezinović Larsen’s book project on *The Right to Peace* was an important resource for the UN Working Group when drafting the declaration on right to peace. Bailliet and Larsen hosted expert consultations on the right to peace in co-operation with the UN Working Group, informing the drafting process of the declaration.

## Contribution to National Policy Development

The investment pillar has contributed to the work on a new Norwegian Model Bilateral Investment Treaty through seminars, meetings, and written input with concrete suggestions for the improvement of the model.

## Legal input on controversial case

PluriCourts was happy to organize a workshop for members of the defense team for Mr. Hawasawi, a Guantanamo detainee, to discuss International Law and Guantanamo. Contributing with input on international law, the PluriCourts team contributed to the defense strategy in one of the most controversial tribunals in the world.

## Brandeis Seminar

PluriCourts is cooperating with the Brandeis Institute to host a high level conference for international judges in 2018.

# New @ PluriCourts

In 2016 the PluriCourts team was expanded with two new Professors and five new Postdoctoral Fellows

## Daniel Naurin

**Pillar** Political Science

**Background** PhD in Political Science

**Hidden talent** Cross-country skiing and fly-fishing

### What is your project about?

I work on several different projects relating to the legitimacy, functions, and effects of international courts, including the CJEU, IACtHR, and issues relating to gender diversity on the international bench.

### What originally attracted you to PluriCourts

I was given the opportunity to do the research I was most interested in, relating to the judicial politics of international courts, in a research environment ideally suited to this theme. (And, yes, the cross-country skiing in the Oslo area is fantastic.)

### What is your best first year memory?

Probably the intense and super-creative internal work-in-progress workshop the political science team had in October. Could also be that one time we counted the number of nationalities around the lunch table at PluriCourts, and easily reached double digits.

## Freya Baetens

**Pillar** Trade (Investment, Law of the Sea)

**Background** PhD in Law

**Hidden talent** Ballroom dancing and Argentinean tango

### What is your project about?

Cross-cutting issues, including (but not limited to) ‘unseen actors’ such as the legitimacy of members of registries and legal officers in international adjudication, state compliance with judicial remedies and state consent to jurisdiction.

### What originally attracted you to PluriCourts

I had attended PluriCourts conference in Oslo twice before applying. Both times I was impressed with the quality of the staff – as well as their friendliness (which in academia does not always go together). I was also very interested in the interdisciplinary approach.

### What is your best first year memory?

I enjoyed the Christmas party (although I got completely lost in the lecture comparing academia to a jazzband – at least that’s what I think it was, as the lecturer spoke Norwegian).



Alain Zysset

Project:	Right, Crime, and Court: Towards a Unitary Account of International Law
Pillar	Criminal Law, Human Rights
Background	Master in Philosophy, Master in History, Master and PhD in Law
Hidden talent	I played ping pong with Roger Federer and lost

What is your project about?	What originally attracted you to PluriCourts	What is your best first year memory?
I aim to develop an account of the normative role of international law that can unify human rights law and international criminal law. It is a common place to assume a close connection between the two fields, but those seem underdeveloped.	Its true commitment to cross disciplinary boundaries between law and philosophy and its collaborative and constructive atmosphere.	What is required to open a bank account in Norway.

Joanna Nicholson

Project:	Protecting the rights of the accused as a means of ensuring legitimacy in international criminal law
Pillar	Criminal Law
Background	Master and PhD in Law
Hidden talent	Pre-children, I used to sing and play guitar in a band

What is your project about?	What originally attracted you to PluriCourts?	What is your best first year memory?
My project explores how the rights of the accused are enshrined in international criminal law; whether they vary across different international criminal courts and what the impact of international criminal law is on the rights of the accused in domestic systems.	The multi-disciplinary nature of Pluricourts was a big attraction for me.	Organizing my first conference (Structuring the Validity of Int’l Criminal Courts - 2016) and being told at the end by several participants that it was one of the best conferences that they had ever attended.

Juan Pablo Perez Leon Acevedo

Project:	The Reparations Regime of the International Criminal Court: Legal Analysis and Legitimacy Standards
Pillar	Criminal Law, Human Rights
Background	LLB, LLM, PhD in Law
Hidden talent	Resilience to (extreme) cold weather

What is your project about?	What originally attracted you to PluriCourts?	What is your best first year memory?
I pursue three lines of research; the reparations regime of the International Criminal Court (ICC) under legal analysis and legitimacy standards, the dialogue between international criminal law and human rights at the international judiciary, and procedures as assess procedures of int’l courts.	Two features of PluriCourts encouraged me to apply: interdisciplinary approaches and research, and the wide array of opportunities that PluriCourts offers.	Planning and already implementing my main research project

Szilard Gaspar-Szilagyi

Project:	Various legitimacy concerns of EU Trade and Investment Agreements
Pillar	Investment and Trade
Background	PhD in Law
Hidden talent	Drawing, used to sing in a choir and dance (not in the choir).

What is your project about?	What originally attracted you to PluriCourts?	What is your best first year memory?
I’m working on several different projects, including an edited book, and several articles. My work is on interpretations of FTIAs, transparency and the role of the European Parliament on investment protection, the investment cours system, and trade agreements overload.	The combination of a well known interdisciplinary centre and more stable working conditions.	I really enjoyed the Besseggen Hike!

Taylor St John

Project: The Influence of Secretariats in International Investment Law

Pillar: Investment

Background: PhD in Int’l Development (Int’l Political Economy)

Hidden talent: Yoga teacher

What is your project about?	What originally attracted you to PluriCourts?	What is your best first year memory?
Finishing a book on the rise of investor-state arbitration and then starting a project on the role of Secretariats and secretaries in international law.	While in the UK, I kept hearing about all the amazing work Daniel Behn, Ole Kristian Fauchald, and the investment pillar at PluriCourts were doing.	The trip to Besseggen was the moment I realized just how special PluriCourts is... I can't imagine that trip with any other group of colleagues!

Visiting scholars  
2013-2015

Each year PluriCourts welcomes visiting scholars. Additionally, some scholars have a formal affiliation to PluriCourts for several years. The visitings scholars for 2016 are listed on page 57.

<b>2013</b> Camila Gianella Malca Daniel Friedrich Behn James Nickel Oran Young Daniell W. Hill Jr Edzia Carvalho Courtenay R. Conrad Jillienne Haglund Jasper Krommendijk Ari Shaw Theresa Squatrito Emily Hencken Ritter Yonatan Lupu Todd Landman	<b>2014</b> Birgit Peters Lynn Dobson Adam Etnson Marlene Wind Andrew Arato Jean Cohen Howard Williams James Nickel David Collins  <b>2015</b> Suzanne Dovi Andrew Mitchell Tania Voon James Nickel Leiry Chavez Gus Van Harten Oran Young
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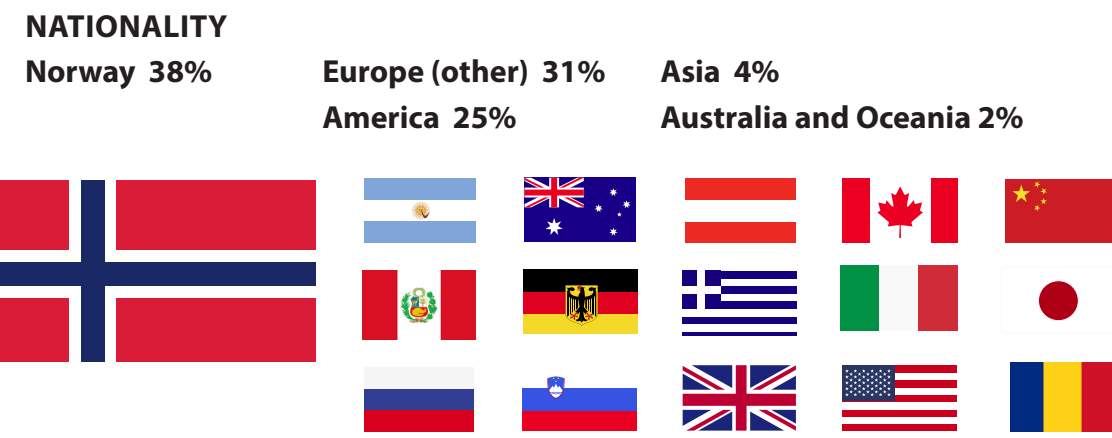
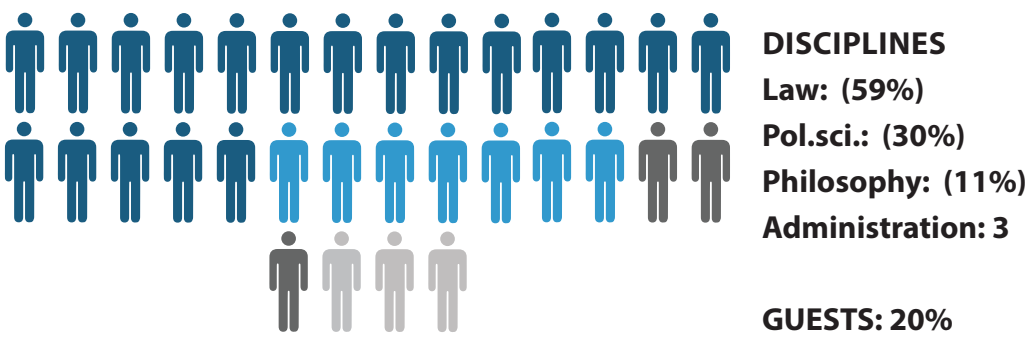
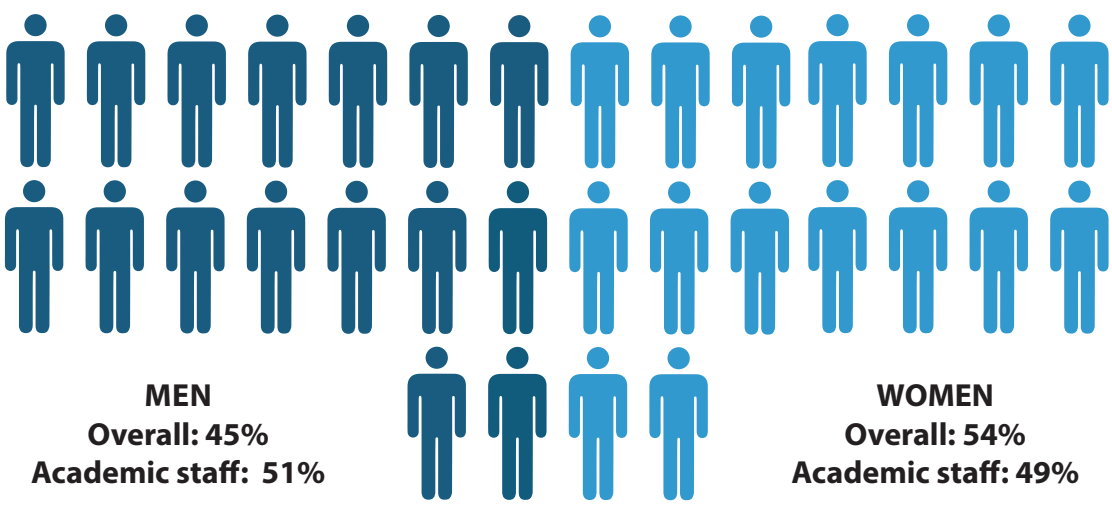
Affiliated researchers  
2013-2015

Affiliated researchers cooperate with PluriCourts on several projects. The list of affiliated researchers below includes those that have a formal affiliation with PluriCourts, on ongoing or finalized research projects.

André Nollkaemper, Professor of Public International Law, Vice-Dean for Research, Faculty of Law, University of Amsterdam	Martin Scheinin, Professor of International Law and Human Rights, Dean of Graduate Studies, European University Institute
Anne Julie Semb, Professor, Department of Political Science, University of Oslo	Morten Ruud, Special advisor, Ministry of Justice and Public Security
Başak Çalı, Associate Professor and Director for the Center of Global Public Law at Koç University, Turkey	Oran R. Young, Professor and Co-Director, Bren Program on Governance for Sustainable Development, University of California, Santa Barbara
Erik Voeten, Peter F. Krogh Associate Professor of Geopolitics and Global Justice, Director of Graduate Studies, Georgetown University	Reidar Maliks, Associate Professor, Department of Philosophy, Classics, History of Art and Ideas, University of Oslo
Helge Hveem, Professor Emeritus, Department of Political Science, University of Oslo	Steinar Andresen, Research Professor, Fridtjof Nansen Institute
Malcolm Langford, Associate Professor, Department of Public and International Law, University of Oslo	



# PluriCourts in numbers



# The team

**Management**  
Director Geir Ulfstein  
Co-director Andreas Føllesdal  
Administrative manager Stephanie Schmölzer

**Coordinators**  
Bailliet, Cecilia M.  
Baetens, Freya  
Fauchald, Ole Kristian  
Naurin, Daniel  
Voigt, Christina

**Postdoctoral fellows**  
Behn, Daniel F.  
Corradetti, Claudio  
Gàspàr-Szilàgyi, Szilárd  
Langvatn, Silje Aambø  
Müller, Amrei  
Nicholson, Joanna  
Pérez-Léon Acevedo, Juan Pablo  
Saul, Matthew W.  
Squatrìto, Theresa  
St. John, Taylor  
Zang, Michelle Q.  
Zysset, Alain

**PhD candidates**  
Berge, Tarald L.  
Manzo, Rosa  
Stiansen, Øyvind

**Researchers**  
Hayashi, Nobuo  
Létourneau-Tremblay, Laura  
Lohne, Kjersti  
Maliks, Reidar  
Ruud, Morten  
Semb, Anne Julie (professor)

Østerud, Øyvind (professor)

**Research assistants**  
Bøyum, Live Standal  
Poppelwell-Scevak, Claire  
Usynin, Maksim

**Master students**  
Alexandraki, Chrysa  
Campbell, Marcelo  
Czelusniak, Tanja Erika Andersen  
Strømmen, Ester Elisabeth Jørgensen

**Administration**  
Fosse, Marit  
Hovdal, Annette (01.03)  
Karv, Hanna (15.08)  
Kirkebø, Tori Loven  
Nessøe, Aina (01.09)  
Torsvoll, Eirik (15.08)

**Visiting professors**  
Young, Oran

**Guest researchers**  
Alvarez, Jose  
Bjorklund, Andrea  
Christie, George C.  
Cornejo Chavez, Leiry  
Dunoff, Jeffrey  
Gyongyi, Petra  
Lingaas, Carola  
Petrov, Jan  
Rogers, Catherine  
Voeten, Erik

# Publications and presentations 2016

## Book chapters

- Bailliet, Cecilia Marcela. “National Case Law as a Generator of International Refugee Law: Rectifying an Imbalance within UNHCR Guidelines on International Protection” in *International law and... Select proceedings of the European Society of International Law*: Hart Publishing
- de Fine Licht, Jenny, Daniel Naurin. “Transparency” in *Handbook on Theories of Governance*: Edward Elgar Publishing
- Fauchald, Ole Kristian. “Property and Environmental Protection in Investor – State Arbitration” in *Environmental and Property Protection in Europe. A Comparative Overview*: Europa Law Publishing
- Fauchald, Ole Kristian. “Property and Environmental Protection in Norway” in *Environmental and Property Protection in Europe. A Comparative Overview*: Europa Law Publishing
- Føllesdal, Andreas. “Squaring the circle at the battle at Brighton: is the war between protecting human rights or respecting sovereignty over, or has it just begun?” in *Shifting Centres of Gravity in Human Rights protection.*: Routledge
- Føllesdal, Andreas. “Subsidiarity to the Rescue for the European Courts? Resolving tensions between the Margin of Appreciation and Human Rights Protection” in *Join, or Die - Philosophical Foundations of Federalism*: Walter de Gruyter
- Langvatn, Silje. “Rawls’ Political Liberalism Reconstructed” in *Philosophy Beyond Borders: revised and expanded edition*: Zhejiang University Press
- Nickel, James W. “Two models of normative frameworks for human rights during severe emergencies” in *Human Rights in Emergencies*: Cambridge University Press
- Ulfstein, Geir. “The European Court of Human Rights and national courts: a constitutional relationship?” in *Shifting Centres of Gravity in Human Rights protection.*: Routledge
- Voigt, Christina. “Climate Change and Damages” in *Oxford Handbook of International Climate Change Law*: Oxford University Press
- Voigt, Christina. “The potential roles of the ICJ in climate change-related claims” in *Climate Change Law*: Edward Elgar Publishing

- Østerud, Øyvind. “Carl Schmitt and Raoul Salan: Transformations of the Partisan” in *Modernity - Unity in Diversity? Essays in Honour of Helge Høibraaten*: Novus Forlas
- Ulfstein, Geir, Aksenova, Marina. “The Task of Regional and International Courts in Guarding Constitutionalism and Human Rights” in *Judges as Guardians of Constitutionalism and Human Rights*: Edward Elgar Publishing

## Journal Special Issues

- Corradetti, Claudio. “Cosmopolitan Law and the Courts” in *Transnational Legal Theory*, Vol. 7(1).
- Tsereteli, Nino. “The Margin of Appreciation” in *The International Journal of Human Rights*, Vol 20(8).

## Journal articles

- Bailliet, Cecilia Marcela. “A Nordic Approach to Promoting Women’s Rights within International Law: Internal v. External Perspectives”, in *Nordic Journal of International Law*
- Behn, Daniel, Laura Letourneau-Tremblay. “Judging the Misapplication of a State’s Own Environmental Regulations” *Journal of World Investment and Trade*
- Corradetti, Claudio. “Introduction-Symposium-Cosmopolitan Law and the Courts” *Transnational Legal Theory*
- Corradetti, Claudio. “Judicial Cosmopolitan Authority” *Transnational Legal Theory*
- Corradetti, Claudio. “Judicial Cosmopolitan Authority” *Transnational Legal Theory*
- Corradetti, Claudio. “Kant’s Legacy and the Idea of a Transitional Jus Cosmopoliticum” *Ratio Juris*
- Føllesdal, Andreas. “Building democracy at the Bar: the European Court of Human Rights as an agent of transitional cosmopolitanism” *Transnational Legal Theory*
- Føllesdal, Andreas. “Independent yet Accountable: New Challenges for the European Court of Human Rights” *European Constitutional Law Review*
- Føllesdal, Andreas. “Subsidiarity and International Human-Rights Courts: Respecting Self-Governance and Protecting Human Rights — Or Neither?” *Law & Contemporary Problems*
- Føllesdal, Andreas. “Building democracy at the Bar: the European Court of Human Rights as an agent of transitional cosmopolitanism” *Transnational Legal Theory*
- Føllesdal, Andreas. “Implications of contested multilateralism for global constitutionalism” *Global Constitutionalism*
- Føllesdal, Andreas, Nino Tsereteli, “The margin of appreciation in Europe and beyond” *International Journal of Human Rights*
- Gáspár-Szilágyi, Szilárd. “Joined Cases Aranyosi and Căldăraru. Converging Human Rights Standards, Mutual Trust and a New Ground for Postponing a European Arrest Warrant” *European Journal of Crime, Criminal Law and Criminal Justice*
- Gáspár-Szilágyi, Szilárd. “A Standing Investment Court under TTIP from the Perspective of the CJEU” *Journal of World Investment and Trade*



Gáspár-Szilágyi, Szilárd. “The CJEU. An ‘Overzealous’ Architect of the Relationship between the EU Legal Order and the International One” *Revista de Drept Constituțional*

Langford, Malcolm, Daniel Friedrich Behn. “Managing Backlash: The Evolving Investment Treaty Arbitrator?” *European journal of international law*

Nicholson, Joanna. “Is Targeting Naked Child Soldiers A War Crime?” *International Criminal Law Review*

Tallberg, Jonas, Thomas Sommerer, Theresa Squatrito. “Democratic memberships in international organizations: Sources of institutional design” *The Review of International Organizations*

Tallberg, Jonas, Thomas Sommerer, Theresa Squatrito, Magnus Lundgren. “The performance of international organizations: a policy output approach” *Journal of European Public Policy*

Ulfstein, Geir. “Høyesteretts anvendelse av traktatorganers tolkningspraksis” *Lov og rett: Norsk juridisk tidsskrift*

Voigt, Christina. “The Compliance and Implementation Mechanism of the Paris Agreement” *Review of European Community & International Environmental Law*

Voigt, Christina, Felipe Ferreira. “Differentiation in the Paris Agreement” *Climate Law*

Langvatn, Silje. “Should International Courts Use Public Reason?” *Ethics and International Affairs*

Larsson, Olof, Daniel Naurin. “Judicial Independence and Political Uncertainty: How the Risk of

Override Affects the Court of Justice of the EU” *International Organization*

Larsson, Olof, Daniel Naurin, MattiasDerlén, Johan Lindholm. “Speaking Law to Power: The Strategic Use of Precedent of the Court of Justice of the European Union” *Comparative Political Studies*

Müller, Amrei Sophia. “Domestic authorities’ obligations to co-develop the rights of the european convention on human rights” *International Journal of Human Rights*

Pérez León Acevedo, Juan Pablo. “Stopping mass atrocities in Africa and the Pretoria Principles: Triggering military intervention in Darfur (Sudan) and Libya under article 4(h) of the Constitutive Act of the African Union” *African Human Rights Law Journal*

Pérez León Acevedo, Juan Pablo. “Terrorism at Sea as a Manifestation of International Terrorism and Prosecutorial Mechanisms” *Anuário Brasileiro de Direito Internacional [Brazilian Yearbook of International Law]*

Saul, Matthew. “Structuring evaluations of parliamentary processes by the European Court of Human Rights” *International Journal of Human Rights*

Squatrito, Theresa. “Domestic Legislatures and International Human Rights Law: Legislating on religious symbols in Europe” *Journal of Human Rights*

Squatrito, Theresa, Jonathan William Kuyper. “International Courts and Global Democratic Values: Participation, accountability, and justification” *Review of International Studies*

Tsereteli, Nino. “Emerging doctrine of deference of the inter-American court of human rights?” *International Journal of Human Rights*

## PhD thesis (2015)

Tsereteli, Nino. Legal Validity and Legitimacy of the Pilot Judgment Procedure of the European Court of Human Rights. Doktoravhandlinger forsvart ved Det juridiske fakultet, Universitetet i Oslo (83).

## Master thesis

Alexandraki, Chrysa. “Strengthening Accountability in Climate Finance: An Agenda for Change”

Bøyum, Live Standal. “Eit klima for endring? Ein studie av samanhengen mellom postmaterialistiske verdier og klimabekymring i 31 land“

Czelusniak, Tanja Erika Andersen. “Forced marriage as a crime against humanity “

Poppelwell-Scevak, Claire. “The European Court of Human Rights and Same-Sex Marriage. The Consensus Approach“

Strømmen, Ester Jørgensen. “Female Foreign Terrorist Fighters in Daesh: Victims or Perpetrators? Gendered narratives on women and terrorism: Explaining differences in sentencing for female foreign terrorist fighters and implications under international law”

## Blog posts

Behn, Daniel. Spain Wins First PV Solar Arbitration: A Work of Caution in Using this Case to Predict Outcome in the more than Three Dozen Cases to Come. PluriCourts Blog

Follesdal, Andreas. A Life Worth Living - A University Career and More. PluriCourts Blog

Gáspár-Szilágyi, Szilárd. ISDS in EU FTIAs. Yes, No, Maybe? A Domestic Enforcement Perspective. European Law Blog.

Gáspár-Szilágyi, Szilárd. Joined Cases Aranyosi and Căldăraru. Converging Human Rights Standards, Mutual Trust and a New Ground for Postponing a European Arrest Warrant. ACELG BlogActiv.

Gáspár-Szilágyi, Szilárd. International Trade and Investment Disputes. Convergence, divergence, and the way forward? PluriCourts Blog

Hayashi, Nobuo. Conference Report: “Prosecuting Serious International Crimes: Exploring the Intersection between International and Domestic Justice Effors.” PluriCourts Blog

Letourneau-Tremblay, Laura. Expulsion of Refugees from Russia to Syria Would Violate International Obligations. PluriCourts Blog

Letourneau-Tremblay, Laura, Claire Poppelwell-Scevak. Report on “Reforms in UN Treaty Bodies and the European Court of Human Rights”. PluriCourts Blog

Lohne, Kjersti; Houge, Anette Bringedal. Brought Up to Be a War Criminal. PRIO Blogs 2016.

Naurin, Daniel. How Respond to “Rewrite and Resubmit”. PluriCourts Blog

Nicholson, Joanna. Do child soldiers remain civilians? Opinio Juris.

Nicholson, Joanna. Is the requirement that crimes against humanity be committed against a ‘civilian population’ really necessary? Opinio Juris.

Nicholson, Joanna. Reflections on the Strengthening the Validity of International Criminal Law Conference, Parts I and II, IntLawGrrls.

Nicholson, Joanna. The airstrike killing members of the Syrian armed forces was not an international crime. EJIL Talk.

Saul, Matthew William. Parrillo v Italy: Parliamentary Process as Proportionality? PluriCourts Blog

Saul, Matthew William. Response to Başak Çali's ESIL Reflection: The Disciplinary Account of the Authority of International Law. EJIL Talk

Saul, Matthew William. Strasbourg Case Law and Its Recognition of National Parliamentary Processes when Addressing Human Rights Issues. PluriCourts Blog.

Strømme, Ester E.J.; Czelusniak, Tanja Erika Andersen. Skewed media reportings on South Africa and the ICC. PluriCourts Blog.

Voigt, Christina. On the Paris Agreement's imminent entry into force. PluriCourts Blog.

## Presentations

Bailliet, Cecilia Marcela. "Rejection of Requests for an Advisory Opinion as an Example of Strategic Prudence by the Inter-American Court of Human Rights- Balancing the Need to Interpret Human Rights in relation to Nurturing Democracy while Respecting Sovereignty". PluriCourts Workshop on Lessons from Judicial Dialogues btw the European, African and Inter-American Court of Human Rights; 2016-12-15

Bailliet, Cecilia Marcela. Due Process for Refugees. Menneskerettighetsuken; 2016-03-10

Bailliet, Cecilia Marcela. How do Wars End? A Perspective from International Law. How do Wars End?; 2016-11-15

Bailliet, Cecilia Marcela. Is the 1951 Convention on the Status of Refugees outdated?. Menneskerettighetsuken; 2016-03-07

Bailliet, Cecilia Marcela. Solidarity Alternatives to Schengen. Studenter mot EUs studentkonferanse; 2016-06-19

Bailliet, Cecilia Marcela. The Alienation of Adjudication. Workshop on the Morality of State Boundaries: Migration Ethics and Territorial Rights; 2016-11-22

Bailliet, Cecilia Marcela. The Lack of Women Judges on International Courts and Tribunals: A Democratic Problem?. IBA ELSA Law Students Conference; 2016-11-12

Fauchald, Ole Kristian; Behn, Daniel Friedrich; Langford, Malcolm. Investment Treaty Arbitration Involving an Environmental Component. The Greening of Investment Treaty Arbitration?. 14th Annual Colloquium of the IUCN AEL; 2016-06-22

Føllesdal, Andreas. Are Concepts of Legitimacy for International Courts Related, and How?. University of Gothenburg; 2016-11-01

Føllesdal, Andreas. Are Concepts of Legitimacy for International Courts Related, and How?. Workshop on "The Rise of International Courts: Normative and Sociological Perspectives"; 2016-05-17

Føllesdal, Andreas. Are Concepts of Legitimacy for International Courts Related, and How?. Shanghai – Harvard conference on justice; 2016-07-01

Føllesdal, Andreas. Are Concepts of Legitimacy for International Courts Related, and How?. Nordic Network for political theory; 2016-11-04

Føllesdal, Andreas. Concepts of Legitimacy for International Courts. Munich Advanced Course in International Law; 2016-08-11

Føllesdal, Andreas. Constitutionalization, not democratization of international law. Workshop on global Constitutionalism; 2016-01-14

Føllesdal, Andreas. Constitutionalization or democratization of ICs?. Center for Deliberative Democracy; 2016-10-19

Føllesdal, Andreas. Democracy, Identity and European Public Spheres. Prague summer school; 2016-07-13

Føllesdal, Andreas. European Consensus – Cairns or Crutches?. Workshop on European Consensus; 2016-06-01

Føllesdal, Andreas. European Identity and EU Responses to the Refugee Crisis. Education for Public Inquiry and International Citizenship (EPIIC); 2016-02-18

Føllesdal, Andreas. Humanistisk forskning for et samfunn i forandring. Humanistiske fag – selvforståelse og samfunnsoppdrag; 2016-11-23

Føllesdal, Andreas. International Courts' Legitimacy – a normative perspective'. iCourts-PluriCourts summer school; 2016-06-22

Føllesdal, Andreas. Lessons from "Lessons from judicial dialogues

between the European, the African and the Inter-American Courts of Human Rights. Buenos Aires Workshop; 2016-12-15

Føllesdal, Andreas. MultiRights – findings. MultiRights Concluding Conference; 2016-03-01

Føllesdal, Andreas. On divestment from oil industry. Panel debate, 'Concerned Students' association; 2016-04-21

Føllesdal, Andreas. On PluriCourts' research on gender on the bench. PluriCourts Annual Workshop; 2016-05-27

Føllesdal, Andreas. On Sovereign Wealth Fund complicity/disinvestment. Australian National University; 2016-10-17

Føllesdal, Andreas. On the separation of powers doctrine and International Courts. Workshop on Republicanism and International Courts; 2016-05-06

Føllesdal, Andreas. 'Regional Human Rights Courts: protecting human rights or respecting state sovereignty - or both? The Margin of Appreciation Doctrine of the European Court of Human Rights as a model. Bangkok Winter School on Human Rights; 2016-10-10

Føllesdal, Andreas. Subsidiarity. ICON Conference Berlin; 2016-06-17

Føllesdal, Andreas. The legitimacy of authorities in the multi-level global basic structure: the case of International Courts. Workshop on the legitimacy of the state; 2016-10-14

Føllesdal, Andreas. The Soul of Europe in the Balance – the conflict between the ECtHR and the CJEU. Workshop on "Europe and Global Justice; 2016-02-20



Føllesdal, Andreas. 7 Habits of Highly Reluctant Nordic States -Explanations and Challenges to Scepticism toward Judicial Review. Still Exceptional? Nordic Countries Constitutional Tradition in the 21st Century; 2016-05-16	Gloppen, Siri; Gloppen, Siri; Ulfstein, Geir; Ivarsflaten, Elisabeth; Ginsburg, Tom; Pape, Robert. International Law, Courts and Democracy in a Time of Extremism. Transatlantic Forum; 2016-10-24	Lohne, Kjersti. PluriRights at Guantánamo: Advocacy, Lawfare and Legitimacy-building in Spaces of Exception. ICL Lunch Seminar; 2016-10-20	Naurin, Daniel; Dederke, Julian. Friends of the Court? Why EU governments file observations before the Court of Justice. ECPR General Conference 2016; 2016-09-08 - 2016-09-10
Gáspár-Szilágyi, Szilárd. A Standing Investment Tribunal: The Commission Trying to Please the ‘Cabbage’ and the ‘Goat’, but what about the Court?. The European Union in the International Society and its Contribution to International Dispute Settlement Systems, Erasmus +, Jean Monnet Conference; 2016-03-17	Houge, Anette Bringedal; Lohne, Kjersti. End impunity! The narrative construction of a panacea for sexual violence in conflict. EuroCrim 2016; 2016-09-20	Lohne, Kjersti. Prisoners’ advocates at Gitmo: the role of NGOs in (de)legitimising punishment in response to cosmopolitan dilemmas. EUROCRIM annual conference; 2016-09-21 - 2016-09-24	Naurin, Daniel; Naurin, Elin; Alexander, Amy. Gender stereotyping and chivalry in international negotiations. A survey experiment in the Council of the European Union. The American Political Science Association (APSA) Annual Conference; 2016-09-01 - 2016-09-04
Gáspár-Szilágyi, Szilárd. Binding Committee Interpretations under the EU’s New FTIAs. PluriCourts Seminar; 2016-09-28	Kirkebø, Tori Loven; Langford, Malcolm. The Commitment Curve: Human Rights and Global Business Regulation. American Society of International Law - Human Rights Interest Group; 2016-03-29	Lohne, Kjersti. Refleksjoner fra Guantánamo: om tvilsomme rettsoppgjør, tortur og andre paradokser i terrorbekjempelsens navn. Faguka på IKRS; 2016-10-26	Naurin, Daniel; Stiansen, Øyvind. Judicial Dissent and Compliance with Inter-American Court of Human Rights Judgments. Lessons from judicial dialogues between the European, the African and the Inter-American Court of Human Rights; 2016-12-14 - 2016-12-15
Gáspár-Szilágyi, Szilárd. Legitimate policy objectives under the EU’s new trade and investment agreements. 2nd Jean Monnet Doctoral Workshop in EU Law; 2016-06-23	Langford, Malcolm; Behn, Daniel Friedrich; Berge, Tarald Laudal. Poor States or Poor Governance? Explaining Outcomes in Investment Treaty Arbitration. Conference on Empirical Legal Studies; 2016-06-21	Lohne, Kjersti; Houge, Anette Bringedal. End Impunity! Reducing Conflict-Related Sexual Violence to a Problem of Law. Nordic Research Seminar on Sexual Violence; 2016-10-14	Nicholson, Joanna. Strengthening the Legitimacy of International Criminal Law through the Principle of Legality. Strengthening the Validity of International Criminal Tribunals conference; 2016-08-28 - 2016-08-30
Gáspár-Szilágyi, Szilárd. The Investment Court System Under TTIP from the Perspective of the CJEU. ACIL Seminars; 2016-04-15	Langvatn, Silje Aambø. International Courts and non-arbitrary discretionary power. Workshop on Republicanism and International Courts; 2016-05-06	Lohne, Kjersti; Houge, Anette Bringedal. The fight against impunity: The construction of a panacea for sexual violence in conflict?. International Studies Association Annual Meeting; 2016-03-16 - 2016-03-19	Nicholson, Joanna. The Prosecution of Crimes of Sexual Violence in International Criminal Law. Ladyfest; 2016-03-07
Gáspár-Szilágyi, Szilárd. Transparency, Investment Protection and the European Parliament. ‘The Role of the European Parliament in the Conclusion and Implementation of International Agreements on International Economic Law Issues; 2016-12-09	Langvatn, Silje Aambø. Judges as moral experts in courts. Workshop on Expertise in Courts and Public Administration; 2016-05-30	Lohne, Kjersti; Sandvik, Kristin Bergtora. Terrorbekjempelse i gråsonen: Fra Guantanamo til væpnede droner. IKRS Alumnitreff; 2016-10-28 - 2016-10-28	Pérez León Acevedo, Juan Pablo. Enhancing the Legitimacy of the International Criminal Court Through Principles and Concepts of Judicial Constraint. Oslo Seminar on Coordinating Principles and Concepts Between International Courts and Tribunals; 2016-12-02
Gloppen, Siri; Gloppen, Siri. Abortion Rights Lawfare: A Conceptual Framwork. Abortion Rights Lawfare in Latin America; 2016-09-26	Langvatn, Silje Aambø. Public reason - an essentially contested term? Opening address. Workshop on Courts and Public Reason in Global Public Law; 2016-07-11	Naurin, Daniel; Boräng, Frida. Lobbying for the people? Measuring substantive representation by interest groups. ECPR General Conference 2016; 2016-09-08 - 2016-09-10	Pérez León Acevedo, Juan Pablo. Informative session on Telders International Law Moot Court Competition. Informative session on
Lohne, Kjersti. Exporting Nordic Penal Culture in International Humanitarian and Criminal Law. Nordic Branding: Moral Superpowers or Strategic Players?; 2016-05-19 - 2016-05-20			

Telders International Law Moot Court Competition; 2016-10-27	Squatrino, Theresa; Lundgren, Magnus; Tallberg, Jonas; Sommerer, Thomas. Policy punctuations in global governance: Evidence from five international organizations, 1980-2015. European Consortium for Political Research General Conference; 2016-09-07 - 2016-09-10	Kirkebø, Tori Loven; Berge, Tarald Laudal. Metodiske synder fra NUPI. Klassekampen 2016 s. 24-24	no 2016-11-06
Saul, Matthew William. How and When can the International Human Rights Judiciary Promote the Human Rights Role of National Parliaments?. ECPR General Conference 2016; 2016-09-07 - 2016-09-10	Strømmen, Ester Elisabeth Jørgensen. Female Foreign terrorist fighters in Daesh: victims or perpetrators Gendered narratives creating differences in sentencing. Nordic Approaches to Foreign Fighters Conference 2016; 2016-11-09/10	Langford, Malcolm. Har vi vedtatt en sexkjøpslov som gjør livet farligere for andre mennesker? Aftenposten 2016	Lohne, Kjersti; Kirkebø, Tori Loven; Frøjd, Elise Koppang. Inside Guantánamo's barbed wire. www.uio.no 2016-10-26
Saul, Matthew William. The ECtHR and National Parliaments. The Rule of Law, The European Court of Human Rights and the UK: A New Court for a New Era?; 2016-04-20 - 2016-04-20	Zang, Michelle Q. Judicial Dialogue of International Trade Courts and Tribunals. Annual conference of Asia Law Institute; 2016-05-15	Langford, Malcolm. Public responses to 'hot button' court decisions. ABC National Radio 2016-06-17	Lohne, Kjersti; Ystehede, Per Jørgen; Fosse, Marit. Global criminal law-making – a Western industry? Science Nordic 2016-07-16
Saul, Matthew William. The UN Treaty Bodies and National Parliaments. 'Interaction between human rights: 50 years of the Covenants'; 2016-09-29 - 2016-09-30	<b>Media contributions</b>	Langvatn, Silje Aambø. Et tverrfaglig problem. Klassekampen 2016-05-28	Strand, Vibeke Blaker; Ikdahl, Ingunn; Syse, Aslak; Bailliet, Cecilia Marcela; Bostad, Inga. Forbigår den beste. Dagens næringsliv 2016
Squatrino, Theresa. Conceptualizing, Measuring and Mapping the Formal Judicial Independence of International Courts. Empowerment of International Organizations; 2016-12-08 - 2016-12-09	Behn, Daniel. "Tvisteløsning opp i røyk". Dagens Næringsliv 2016 - 05 - 30	Langvatn, Silje Aambø; Vigsnes, Eirik. Unge forskere sprenger grenser. Forskningsdagene 2016-09-23	Ulfstein, Geir. Intervju: Assange får støtte fra FN. Dagsnytt atten, NRK 2016-02-05
Squatrino, Theresa. Global Justice and the Resources of International Courts. Resourcing international organizations; 2016-06-23 - 2016-06-24	Frøjd, Elise Koppang; Kirkebø, Tori Loven; Lohne, Kjersti. Inside Guantanamo's barbed wire fence. Science Nordic 2016-11-01	Lohne, Kjersti. Oppgjøret etter 11. september er ikke en rettsstat verdig. Aftenposten 2016	Ulfstein, Geir. Professor: – Kan være brudd på Svalbardtraktaten. NRK 2016-04-14
Squatrino, Theresa. Judging under Constraint: The East African Court of Justice, independence and strategic behavior. International Studies Association Annual Conference; 2016-03-16 - 2016-03-19	Føllesdal, Andreas. Fryktar milde gaver får ein høg pris. Uniforum. 2016-02-18	Lohne, Kjersti; Frøjd, Elise Koppang; Kirkebø, Tori Loven. Innenfor Guantánamos piggtrådgjerder. uio.no 2016-10-26	Ulfstein, Geir. Ti teser om folkeretten. Aftenposten 2016
Squatrino, Theresa. Resourcing Global Justice: The design of resource management of international courts. European Consortium for Political Research General Conference; 2016-09-07 - 2016-09-10	Føllesdal, Andreas. Global Governance. Global Governance Institute, University College London 2016-12-15	Lohne, Kjersti; Frøjd, Elise Koppang; Kirkebø, Tori Loven. Norsk forsker slapp inn på Guantánamo. Forskning.	
	Føllesdal, Andreas. Overdriver både kritikernes innvendinger og EUs fortrefelighet. Aftenposten 2016		
	Føllesdal, Andreas. Varsler sivil ulydighet ved gruveåpning i Finnmark. www.nrk.no/ 2016-12-21		
	Houge, Anette Bringedal; Lohne, Kjersti. Full storm for internasjonal strafferett. Kriminalpolitikk.uio.no 2016		



# Events

## Conferences and workshops

- 14-15.01

Workshop, Global Constitutionalism without Global Democracy, Oslo
- 14-15.01

Workshop, General Principles of Law and Peremptory Norms in International Law, Paris
- 29.02 - 01.03

Conference, Reforms in the UN Treaty Bodies and the European Court of Human Rights: Mutual Lessons, Oslo
- 14.03

Workshop, Norway and Human Rights, Oslo
- 15.04

Workshop, Pushing Boundaries: Potential Effects of International Adjudication on Treaty Practice in the Russian and Norwegian Context, St. Petersburg
- 06-07.05

Workshop, Republican Perspectives on International Courts, Barcelona
- 13-14.05

Workshop, The Content and Evolution of the Rules of Interpretation, Athens
- 23.05

Workshop, Arbitrator Behavior, Oslo
- 26-28.05

Conference, PluriCourts Annual Conference Dispute Settlement in the Law of the Sea and Beyond, Tromsø
- 30-31.05

Workshop, Accountability in Court and Public Administration, Rome
- 20-24.06

Conference, IUCN AEL Annual Colloquium - The Environment in Court, Oslo
- 11-12.07

Workshop, Courts and Public Reason in Global Public Law, Berlin
- 25-26.08

Conference, Adjudicating International Trade and Investment Disputes: Between Interaction and Isolation, Oslo
- 29-30.08

Conference, Strengthening the Validity of Internation Criminal Tribunals, Oslo
- 31.08

Seminar, Investment Protection for Norwegian Companies Abroad, Oslo
- 19.09

Seminar, International Environmental Governance - Where are we and where do we need to go, Oslo
- 31.10

Conference, Ryssdal Seminar, The Judiciary and the Independence of Judges, Oslo
- 01.12

Workshop, Conflict Justice Database, Oslo

- 02.12

Workshop, Coordinating Principles and Concepts Between International Courts and Tribunals, Oslo
- 15-16.12

Lessons from judicial dialogues between the European, the African and the Inter-American Court of Human Rights, Buenos Aires
- 13.12

Workshop, The Rise of Investor-State Arbitration, Oslo

## Mentoring and networking events

- 07.06

Publish and Flourish Seminar: A Life Worth Living -a University Career and More, Oslo
- 05.10

Publish and Flourish Seminar: Applying to the ERC and the Research Council of Norway, Oslo
- 14.11

Book Lauch: A Farewell to Fragmentation. Reassertion and Convergence in International Law, Cambridge

## PhD courses

- 20-24.06

PhD Summer School: “Courts and Contexts”. Joint PluriCourts/ iCourts summer school held in Copenhagen.
- 13.07

“Democracy, Identity and European Public Spheres” at Prague summer school in law at Krkonoše
- 10.10

Bangkok Winter School on Human Rights , German-Southeast Asian Center of Excellence for Public Policy and Good Governance (CPG), Thammasat University, Bangkok
- 4-13.07

Venice Acacemy of Human Rights Summer School. PluriCourts supports the Summer School, and the co-directors and/or coordinators give lectures at the summer school.
- 11.08

Lectures on “Concepts of Legitimacy for International Courts” at Munich Advanced Course in International Law (MACIL)

## Seminar Series

- 14

PluriCourts lunches on topics pertaining to international courts and tribunals
- 9

Human rights seminar specializing on human rights courts and tribunals
- 3

Trade and investment forum seminars
- 11

International criminiial law lunches
- 8

Reading groups on the most relevant publications on international courts and legitimacy in the fields of political science and philosophy

**PluriCourts annual report 2016**

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Edited by: Tori Loven Kirkebø

Contributions by: Elise Koppang Frøjd, Ester E. J. Strømmen, Live S. Bøyum, Marit Fosse, and Stephanie Schmölzer

Layout: Tori Loven Kirkebø and Hanna Karv

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