

**Institution: University of Cambridge**

**Unit of Assessment: 20 Law**

**a. Context**

The Unit of Assessment is composed of two distinct academic organisations, the Institute of Criminology and the Faculty of Law. The *Institute of Criminology* is interdisciplinary, including among its members experts in sociology and psychology and it undertakes empirical research on the criminal justice system, as well as developing penal theory. It studies the operation of criminal justice institutions – such as prisons, the police, the probation service and courts – and needs their active cooperation to undertake its research. These bodies are therefore active interlocutors in research design, in the conduct of research and in assessing the results of the research. The social importance of the criminal justice system makes links with policy-makers (especially judges and the Home Office) and the media significant. The Institute has six research centres each of which has a focus on specific professional and policy-making bodies. The Centre for Penal Theory and Penal Ethics relates to sentencing policy (e.g. hosting the Sentencing Council academic seminar in July 2011). The Centre for Prisons Research relates particularly to the National Offender Management Service (see **Prisons Research** case study); the Jerry Lee Centre for Experimental Criminology relates in particular to the Policing College and the development of evidence-based policing; the PADS+ Research Centre, focused on the Peterborough Adolescent and Young Adult Development Study, relates to community policing bodies (**PADS+** case study); the Centre for Community, Gender and Social Justice relates to the probation service; and the Violence Research Centre relates to national crime prevention authorities (**Evidence-Based Violence and Bullying Prevention** case study) and to international prevention-of-violence schemes.

The *Faculty of Law* undertakes a variety of research designed to be of immediate interest to users in legal professions, policy-making bodies and NGOs. Very longstanding links exist with international courts and tribunals (on which several Whewell Professors of International Law have served) and with national judiciaries, especially within the Commonwealth. The Faculty of Law supports individual researchers in the conduct and dissemination of research in a range of ways, including through eleven specific research centres or groups. The Lauterpacht Centre for International Law (LCIL) relates to international courts and practitioners (see **State Responsibility** case study). The Centre for European Legal Studies (CELS) relates to national and European courts and policy-makers (**Social Dumping** case study). The Centre for Corporate and Commercial Law (3CL), the Centre for Intellectual Property and Information Law (CIPIL), the Centre for Private Law and the Centre for Business Research (CBR, joint with the Judge Business School) specifically relate to private sector legal practitioners, as well as to public policy-makers (**Empirical research on labour law** case study). The Centre for Public Law (CPL) relates both to practitioners and public officials (see **Equality Legislation in the UK** case study). The Centre for Tax Law relates to tax authorities as well as to practitioners (**International and Corporate Taxation in Developing Countries** case study). The Cambridge Forum for Legal and Political Philosophy (CFLPP), the Socio-Legal Group, and the Centre for English Legal History provide a more general context for academic reflection. In addition, the Faculty encourages individuals to undertake work outside these areas which may also lead to practical impact (see **Bad Character Evidence** case study).

The Faculty maintains regular contacts with members of the profession and invites them to participate in its research discussions. In particular, it engages with serving judges from home and abroad (recent examples include Lewis J, Arden, Elias and Beatson LJJ, Lords Mance, Mustill and Reed, Lady Hale, Justice Paul Finn, Justice Dyson Haydon) as well as leading practitioners who maintain regular links with the University. The Centres also provide structured opportunities for links with end users of research. In particular, the academic programmes of Centres provide a vehicle for engagement with research-users that goes beyond mere dissemination.

## b. Approach to impact

### **Policy in developing relationships with key users and evidence of implementation**

The UoA has longstanding policies designed to ensure the impact of its research. These involve conducting research which addresses the concerns of contemporary users of the law, providing research evidence to public bodies, contributing to public debate, engaging in discussions with users of the law both in closed sessions and in the media, and influencing judicial decisions. Public lectures, seminars and workshops held in Cambridge provide opportunities for encounters to take place between academics and practitioners, which can lead on to opportunities for impact. For example, in 2012-3, Bell co-convoked a research group on developments of legal principles in European administrative laws with French academics and Conseil d'Etat judges. This involved judges from the UK Supreme Court, the English and Welsh Court of Appeal, the Conseil d'Etat and Cour de cassation, the Bundesverfassungsgerichtshof, the Corte costituzionale, the Court of Justice of the European Union and the European Court of Human Rights and academics from France, Germany, Italy, Norway and the UK.

*Involvement of users in the conduct of research:* Used proactively, relationships with users of research are often an integral part of the life-cycle of research in this UoA. Rather than conceiving the production of research outputs and their dissemination in linear fashion, in this UoA there is often a symbiotic relationship between academic research and legal policy or doctrinal legal development. In many areas, research has been funded by end-users of the research, such as the Home Office. Such research projects are designed in consultation with users, and users are involved at appropriate stages of the project. For example, the case studies relating to the work of Liebling (**Prisons Research**) and Harris (**International and Corporate Taxation in Developing Countries**) demonstrate the way in which research outputs are developed through interaction with end-users who provide the opportunities for the research and are engaged in order to find practical uses of the research.

*Conducting research-based commissions:* The standing of our researchers is such that some have been commissioned to use their expertise in producing reports for public bodies. In particular, this is shown in the case studies **Equality Legislation in the UK**, leading to the Equalities Act 2010, and **State Responsibility**, influencing the implementation by international tribunals of the ILC Articles on this topic. Eisner was commissioned by the Swiss Government to develop a review of knowledge about evidence-based prevention of youth violence, and to make national recommendations on a more effective violence prevention policy (**Evidence-Based Violence and Bullying Prevention** case study). Harris has been commissioned by the IMF to draft tax laws for a number of developing countries (**International and Corporate Taxation in Developing Countries** case study). Deakin was commissioned by the ILO in 2010 to produce a methodology for evaluating labour law reform initiatives in emerging markets (**Empirical research on labour law, economic growth, and development** case study). Further illustrations include Crawford's role as one of two academic international lawyers charged by HM Government to produce an opinion on the international law implications of Scottish independence: *Scotland analysis: Devolution and the implications of Scottish independence* (February 2013, Cm 8554). Bartels was charged in 2011 by the heads of state of the Southern African Development Community (SADC) countries to produce a report on the status of the decisions of the SADC tribunal. In the light of this report, the heads of state suspended the tribunal: see Erika de Wet, 'The Rise and Fall of the Tribunal of the Southern African Development Community' (2013) *ICSID Review* 1. Nouwen was appointed in 2011 as a senior legal adviser to the African Union High-level Implementation Panel for Sudan on account of her previous research on Sudan. The AUHIP brought the parties together and secured the conclusion of agreements on citizenship. Bently and other Cambridge colleagues were commissioned by HM Treasury and DBERR (now BIS) to produce a report, *Models of Public Sector Information Provision via Trading Funds* (2008). The Report influenced *The Guardian's* Free Our Data campaign during 2008-9. Commissioned research is not confined to public bodies. Gelsthorpe and Padfield conducted research on *Deaths in Prison* (2012) for the Howard League for Penal Reform.

*Providing research evidence to users and membership of public bodies:* The purpose of our engagement with practitioners and policy-makers is not only to improve the quality of research, but also to make a practical difference in the way in which the law operates. A number of publications in which UoA members are involved are produced for a practitioner audience, including Snell's Equity (32<sup>nd</sup> edn 2010, Fox & O'Sullivan), Ruoff and Roper, *Registered Conveyancing* (2012, Fox), *Chitty on Contracts* (Virgo), Gower & Davies, *Company Law* (9<sup>th</sup> edn 2012, Worthington), *Archbold Criminal News* (Virgo & Spencer), and *Justice of the Peace* (Munday).

Researchers contribute to consultations on law reform on an individual basis and, in addition, Centres draw on the research expertise of the Faculty to respond to consultations by policy-makers or to assist inquiries. An example of Centre-coordinated research is CPL's contribution to the Commission on a Bill of Rights in 2012 (see *A UK Bill of Rights? The Choice Before US*, para. 5.40). Giving advice is illustrated by both Barnard and Waibel providing advice to the BIS review of EU competences in 2013. Barnard has also advised the TUC and the EU Commission on the implications of ECJ decisions in *Viking* and *Laval* (**Social Dumping** case study). A number of individuals within the Faculty have appeared before parliamentary committees. For example, Fentiman was invited to give evidence to the House of Lords EU Select Committee concerning the European Commission's Green Paper on Reform of the Brussels I Regulation (June 2009) about the allocation of jurisdiction in international litigation. Fentiman's evidence formed the basis of many of the Committee's published recommendations. They were substantially adopted by the UK government as its negotiating position. The final form of the recast Regulation (Brussels 1 Recast, OJ 20 December 2012, L 351/1 (recital 22, article 31) was consistent with the UK position.

Some UoA members advise or are members of public bodies. For example, Ferran was the specialist adviser to the Sub-committee on economic and financial affairs of the House of Lords EU Select Committee for its inquiry into banking union (2012). Sherman was appointed to the Board of the new College of Policing in 2013 on the strength of his research into and advocacy of evidence-based policing.

*Engagement with users in seminars:* The Centres frequently organise seminars on current problems involving practitioners and academics from Cambridge. These enable shared reflection on how to approach and resolve problems. For example, HMRC official Malcolm Gammie, writing about the Centre for Tax Law seminars, observed that their main benefits include 'top class academics/practitioners as well as speakers from around the world'; 'a limited number of attendees which provides an appropriate setting for debate/discussion'; 'broad spread and high quality of attendees'; and 'interesting and topical subjects that requires people (especially HMRC) to think outside the box away from the usual departmental constraints on debating such topics'. In this way, the seminars provide an opportunity for academics— including members of this UoA – to present research to and connect with the wider tax-law community in a setting that facilitates constructive, two-way engagement. The LCIL hosts an annual, 'Chatham House'-rules, intersessional meeting of select members of the International Law Commission (ILC), including the Special Rapporteur on the topic being focused on, plus stakeholders in the Commission's work, including government legal advisers, legal advisers to intergovernmental and non-governmental organisations, and practitioners. For example, in January 2013, LCIL brought together Sir Michael Wood, the ILC's Special Rapporteur on Formation and Evidence of Customary International Law (and Senior Fellow of LCIL), alongside ILC members Concepción Escobar Hernández and Georg Nolte, and a range of relevant stakeholders, in order to discuss and provide input into what became Sir Michael's First Report on Formation and Evidence of Customary International Law (UN doc.A/CN.4/663, 17 May 2013).

*Contributions to critical public debate on policy:* Individuals and Centres are also proactive in identifying issues on which informed debate is needed and then providing public input based on their research. The **PADS+** case study illustrates the way empirical research can change the terms of public debate. Another recent example is the CELS Working Paper 'Opting Out of EU Criminal Law: What is Actually Involved?' produced by Spencer, Peers (Essex) and Hinarejos. This was the subject of much comment in the media when it was produced in September 2012. Elliott published an article [2013] *European Human Rights Law Review* 137-151 criticising the Bill of Rights

Commission report and this is extensively cited in the House of Lords briefing paper for debate on 20 June. In “Did Corporate Governance ‘Fail’ During the 2008 Stock Market Meltdown? The Case of the S&P 500”, *Business Lawyer* 65: 1-65 (2009), Cheffins argued that, despite the views of commentators, corporate governance in fact functioned tolerably well prior to the 2008 financial crisis, and so the case was not yet made out for fundamental reform of current corporate governance arrangements. This article was cited favourably by Business Roundtable and the US Chamber of Commerce, among others, in a 20 April 2010 letter to the chairman of the US Subcommittee on Capital Markets as part of the debate leading to the enactment of the Dodd-Frank Act of 2010, and in their formal submissions.

*Actions so we can have influence on judicial decisions:* There are numerous examples of judicial decisions drawing on research undertaken in Cambridge. The case study on **Bad Character Evidence** shows how research can influence the interpretation of recent legislation. Other examples include Miles’ work about property on divorce in Scotland (Wasoff, Miles and Mordaunt) which was cited extensively by Lady Hale in *Gow v Grant* [2012] UKSC 29. Sloan’s article in [2013] CFLQ 40 was considered in *Re B (a child)* [2013] UKSC 33 at paras. 103-4 to “give added weight to the importance of emphasising the principle that adoption of a child against her parents’ wishes should only be contemplated as a last resort”. Watterson’s chapter 9 in *Goff and Jones, The Law of Unjust Enrichment*, 8th ed (2011) was substantially adopted by the Supreme Court in its new analysis of mistaken transactions in equity: *Pitt v Holt* [2013] UKSC 26 at [104]-[113].

*Invitations for practitioner Visitorships:* A number of schemes bring practitioners to Cambridge as visitors, which enables mutual exchange and the potential for developing research that will have impact and for leading practitioners to gain insights into the potential usefulness of our research. The one-year Goodhart Visiting Professorship has been held by Auld LJ in 2008-9, Justice Finn of Australia in 2010-11, following Lord Mustill in 2003-4 and Sheriff MacPhail in 2001-2. Throughout the assessment period, the Faculty and the international law firm Herbert Smith Freehills have operated a scheme which draws international academic and judicial visitors to Cambridge for periods of funded research leave; they have committed £37,500 per annum to support research visits to Cambridge by visitors from around the world. These have included leading judges and policy makers, e.g. Justice Dyson Heydon of the High Court of Australia to work on judicial review (2011); Mr David Collins, the Solicitor-General of New Zealand to draft a new Crown Proceedings Act (NZ) (2012); Professor Walter Woon, the former Attorney-General of Singapore to work on reform of Singaporean corporate law (2012). Visitors deliver seminars at the firm’s London and Sydney offices on aspects of their research which impact upon the firm’s legal practice. Seminars during 2012-2013 have included: Professor Wolfgang Ernst (Zurich) on the legal consequences of a break-up of the Eurozone; Professor Walter Woon (Singapore) on the operation of the ASEAN; Professor Chester Brown (Sydney) on global arbitration. The Lauterpacht Centre has a number of regular visitorships. For example, in 2010-11, Dan Saxon, former Senior Prosecuting Counsel at the International Criminal Tribunal for the former Yugoslavia in The Hague, came to the Faculty as Leverhulme Visiting Professor.

#### **Use of institutional support, expertise or resources to support staff impact**

The UoA uses the expertise of Faculty members who have engaged for many years with Parliament, government departments, national and international judges and international organizations to advise staff planning research projects in order to support them in achieving impact. The UoA also maintains close relations with policy-makers and industry-based users of research to secure maximum impact. For example, Costain Ltd and Pinsent Masons were involved in the design of CBR research on inter-firm contracting and ILO officials were involved in the CBR’s research on labour law and poverty alleviation. The UoA also supports its staff by granting special leave to those researchers whose research is designed to produce impact. For example, Nouwen’s work as advisor to the AU High-level Panel was facilitated by the granting of leave at short notice. The UoA funds travel for research projects and the convening of meetings and seminars to support staff impact. University funds were deployed to pay for contributions to public debate such as the CELS Working Paper on ‘Opting out of EU Criminal Law’.

### c. Strategy and plans

The Faculty and the Institute have well-established practices, goals and plans which seek to maximise potential for impact. The UoA's strategy in the coming five years will take an increasingly structured approach to impact. In particular, it will continue to involve appropriate practitioners in the design, conduct and evaluation of research, seek to influence legislators and lawmakers, as well as contributing a critical dimension to public debate. Apart from its academic publications and seminars, it will continue to provide evidence to public and private bodies in order to influence the direction of the law. The UoA will also leverage its convening power so as to engage key users in its research activities through involvement in conferences, seminars and workshops.

The UoA will encourage and support researchers to take advantage of opportunities for achieving impact through, among other things, mentoring younger scholars, facilitating Centres and other events for researchers to present their findings, and, where possible, factoring impact-related activities into overall stints. Advice on the engagement of end users of research is available within the University from Cambridge Public Policy (2013) and the Centre for Science and Policy (2009), from the academic champion appointed by the School in 2013 to advise on best practice in relation to impact related activities in Arts, Humanities and Social Sciences, and from the Public Engagement Team. Some Centres like CBR already draw on their own contacts with journalists, practitioners and others to devise approaches to develop impact. The Faculty more generally intends to strengthen its own media presence, through such contacts and also through blogs and other forms of direct engagement.

The School of Humanities and Social Sciences has secured investment from the Philomathia Foundation to facilitate policy-related social science research that engages directly with public policy, by placing outstanding Post-doctoral Researchers in Faculties and Departments relevant to specific policy challenges, but with a sharp focus on informing debates about fulfilling the aspirations of society, on fairness and analysing the impact of different value systems on policy making. In addition, it will support small grant activity to promote policy-related impact and will also promote symposia to further engagement with key users.

The University has been selected by ESRC as one of three pilot centres for acceleration of research impact, commencing June 2013, and the UoA will take advantage of this as part of its impact strategy. Multi-stranded activity will offer targeted funding (Cambridge Impact Fund) for generating impact from social science research or supporting pilot activity; promoting non-academic secondments for researchers and academic staff; support for researchers and academics to hone approaches to engagement with non-academic stakeholders; training courses to equip academics with appropriate skills (such as developing an impact plan, communicating about research with users of research and non-specialist audiences, using social media effectively in communication with user groups and evaluating impact activities).

### d. Relationship to case studies

The Case Studies chosen exemplify the broad approach to impact set out in section b above. **Prisons Research** demonstrates the way in which research designed in collaboration with end users can then produce outcomes which are of practical value to those end users. **Equality Legislation in the UK, International and Corporate Taxation in Developing Countries** and **State Responsibility** offer examples of commissioned research which has led to legislative change nationally and internationally. **Empirical research on labour law** offers an example of how evidence from independent research has been fed into the deliberations of public bodies and has contributed to shaping what they do. **Social Dumping, Evidence-Based Violence and Bullying Prevention**, and **PADS+** show contributions to public debates on, respectively, EU employment law, violence, and local youth criminality. They have enabled not only decision-makers, but also broader public opinion to be better informed in undertaking debate. **State Responsibility** and **Bad Character Evidence** show that the UoA is successful in its approach to research influencing judicial decisions.