



**British Institute of
International and
Comparative Law**

Engaging with national and global issues

Annual impact report 2016/17



1617

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“BIICL offers a unique opportunity to work alongside renowned academics and legal practitioners, while dealing with the most exciting and topical debates in a wide range of legal areas.”
Alsarif Satti, Research Assistant, 2016 intake

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Foreword

The past year has been a time of considerable change in the world, bringing in its train challenges both to international law and to the rule of law more generally. In such times, it is more important than ever that BIICL, as a wholly independent institute for applied research, should be able to demonstrate its impact. This Annual Impact Report provides clear evidence that this is happening both nationally and internationally.

BIICL undertakes research, publications, training and events around the world. Indeed, over 140 countries have been included in our work this year. This Report highlights a selection of these activities within a few key themes: promoting international peace and security; engaging with business; proposing legal reform; clarifying access to justice; and building legal capacity and understanding.

There is an additional cross-cutting theme this year: the decision by the UK to withdraw from the European Union. 'Brexit' will have wide ramifications in many and varied areas. BIICL brings a unique approach to this in terms of its international, comparative and rule of law expertise. We have already provided accessible and penetrating analysis on a range of the issues, as well as engaging and innovative events and training. This work will continue.

Across the activities in this Report – which are just a selection from many others – there is evidence of BIICL's engagement in global and national issues. These include our innovative work in collective redress, cultural heritage and business and human rights; our responses to contemporary issues in international investment law, competition law and judicial independence; and our on-going strengths in education, public international law and the rule of law. The latter has been accomplished by the Bingham Centre for the Rule of Law, which has built a very positive national and global profile in its work.

As an independent applied research institute, we rely heavily on funding from a range of organisations and individuals. We thank all of those who have supported our activities over the past year, and hope that they will find their support to have been worthwhile, and that others will similarly be inspired to help us continue our work.

Sir Frank Berman, Chair of the Board of Trustees
Professor Robert McCorquodale, BIICL Director

BIICL around the world





Our work has covered 142 countries

All EU countries, plus:

Afghanistan

Albania

Algeria

Andorra

Angola

Argentina

Australia

Bahamas

Bahrain

Barbados

Bosnia and Herzegovina

Brazil

Bulgaria

Cambodia

Cameroon

Canada

Cape Verde

Central African Republic

Chile

China

Colombia

Cook Islands

Costa Rica

Cuba

Democratic Republic of Congo

Dominica

Dominican Republic

Ecuador

Egypt

El Salvador

Equatorial Guinea

Eritrea

Fiji

Gambia

Greenland

Georgia

Grenada

Guatemala

Guinea-Bissau

Guyana

Haiti

Holy See (Vatican)

Honduras

Hong Kong

Iceland

India

Indonesia

Iran

Iraq

Israel

Jamaica

Japan

Jordan

Kazakhstan

Kenya

Kiribati

Korea

Kosovo

Kuwait

Libya

Madagascar

Malaysia

Maldives

Marshall Islands

Mauritania

Mauritius

Mexico

Micronesia

Monaco

Morocco

Mozambique

Myanmar

Namibia

New Zealand

Nigeria

Niue

North Korea

Norway

Oman

Pakistan

Palau

Panama

Papua New Guinea

Peru

Qatar

Russia

Saint Lucia

Sao Tome & Principe

Saudi Arabia

Senegal

Serbia and Montenegro

Seychelles

Singapore

Solomon Islands

Somalia

South Africa

Sri Lanka

Switzerland

Tanzania

Thailand

Timor-Leste (East Timor)

Tonga

Trinidad and Tobago

Tunisia

Turkey

Turks & Caicos Islands

Tuvalu

Ukraine

United Arab Emirates

Uruguay

USA

Venezuela

Vietnam

Yemen

Promoting international peace and security

In times of conflict and crisis around the world, international law provides an essential framework for building peace and security. This year, we extended our work on the protection of cultural heritage, provided training and briefings on international migration issues, and engaged in discussions to clarify the use of drones in armed conflict. A new Bingham Centre project will recommend a framework for opening up closed judgments once they are no longer a danger to national or international security.



**Promoting international peace
and security**

“It is through your hard work and dedication, alongside that of your fellow researchers, that such a consolidated and authoritative report has come to fruition.”
Yo Osumi, Political Minister, Embassy of Japan on the Undelimited Maritime Areas project

Protection of Cultural Heritage

Over the last few years, deliberate attacks against cultural heritage have regularly made frontline news. Some rebel groups appear to have adopted a policy of intentionally damaging or destroying cultural sites and objects. In addition, cultural heritage has often suffered from collateral damage as a result of conflicts. Given its value for the identity of communities and for humanity as a whole, it is particularly important to understand the rules protecting cultural property in armed conflict, especially because this heritage is often impossible to replace.

As part of our programme of work on cultural heritage, Dorset Senior Research Fellow, Kristin Hausler, gave an online training session in September 2016 for over 100 participants on the protection of cultural heritage in armed conflict for the International Association of Professionals in Humanitarian Assistance and Protection (PHAP). An interview is also available on the PHAP website, as well as related articles in *Lawyer Issue* and *Global Legal Post*.

In October 2016, BIICL hosted a meeting for its EU Heritage Plus-funded project on The Right to Cultural Heritage, with our project partners from the University of Fine Arts, Poznan and

the University of Trieste, followed by a public seminar on Enforcing the Right to Cultural Heritage.

See: www.biicl.org/culturalheritagelaw

[Kristin Hausler and Richard Mackenzie-Gray Scott](#)

International Migration Law in China

Early in 2017, BIICL was part of a team which provided training for Chinese government officials on International Migration Law, hosted by the International Organisation for Migration and the International Labour Organisation under the EU-China Dialogue on Migration and Mobility Support Project. Sessions covered a range of topics including domestic implementation of international migration law, human trafficking, migrant smuggling and the protection of migrant children.

The training provided an opportunity for the diverse authorities represented to learn more about international migration-related standards, instruments and frameworks, as well as exchanging details of good practices and migration management strategies, with the aim of improving overall Chinese migration governance.

See: www.biicl.org/training

[Jean-Pierre Gauci](#)

Strengthening international law of the sea

Around the world many maritime boundaries are hotly disputed, leading to tensions and generating uncertainty for States and others with a stake in maritime resources. The 1982 UN Convention on the Law of the Sea (UNCLOS) regulates the drawing of maritime boundaries (delimitation), and provides a framework for managing the overlapping claims of States with adjacent or opposite coastlines, and for accommodating the rights and interests of third-party States.

In 2016, BIICL concluded its research project to help clarify the obligation of States under UNCLOS to refrain from activities that could jeopardise or hamper the reaching of maritime boundary agreements. Funded by the Government of Japan, the project report identified and analysed the historical and contemporary practice of States to determine the content and consequences of this obligation of self-restraint. Key questions considered included the obligation's temporal and geographic scope, and the categories of activities that are prohibited and permitted within undelimited areas.

In parallel, BIICL published a book on *Law of the Sea: UNCLOS as a Living Treaty*, edited by Jill Barrett and Richard Barnes. This book provides original thinking on a broad range of issues relating to maritime delimitation,



**In 2016, we achieved
84 media mentions
and appearances**

exploiting the outer continental shelf, emerging international energy issues at sea, the relationship between climate change and the law of the sea, protecting human security and the marine environment, China's approach to UNCLOS, and the settlement of disputes for States and the European Union.

See www.biicl.org/undelimited-maritime-area and www.biicl.org/law-of-the-sea---unclos-as-a-living-treaty

Jill Barrett and Naomi Burke with David H. Anderson, Robin Churchill, Kentaro Nishimoto, Makoto Seta, Callum Musto and Richard Barnes

Regulating the use of armed drones

Controversies surrounding the use of armed drones and their implication for the right to life formed the riveting topic for the International and Comparative Law Quarterly (ICLQ) Annual Lecture in March 2017. Professor Dapo Akande from the University of Oxford and Dr Lawrence Hill-Cawthorne from the University of Reading presented their ICLQ article on 'The International Law Framework Regulating the Use of Armed Drones' (co-authored with Professor Christof Heyns and Dr Thompson Chengeta). The authors argued that for a particular drone strike to be lawful, States must take an holistic approach to ensure that it satisfies the

legal requirements under all three applicable international law regimes (*jus ad bellum* – the law governing the inter-state use of force; international humanitarian law; and international human rights law). The event was sponsored by Cambridge University Press which publishes the ICLQ.

See: www.biicl.org/event/1230

Anna Riddell-Roberts and
Robert McCorquodale

Opening up Closed Judgments: Balancing Secrecy, Security and Accountability

Courts hearing civil cases can deliver 'closed' judgments on the grounds that national security is at risk if the material is available openly. There are currently no provisions for later disclosure once the risk has passed. In January 2017, the Bingham Centre for the Rule of Law received funding from the Joseph Rowntree Charitable Trust to devise a system to review such judgments and, if national security no longer requires it be closed, for judgments to be opened.

The primary outcome will be the production of a practical model for opening up closed judgments in the UK, with provisions and processes that curb the dangers of closed judgments and enhance as far as possible fidelity to open justice and the rule of law. It will

**"Excellent presentation on
an important topic. Thank
you to both hosts and
presenters."
Participant feedback from
PHAP cultural heritage
training session**

be in a form suitable for parliamentary consideration. A secondary outcome will be the development of an international evidence base and a model suitable for adaptation in the EU and other jurisdictions, reflecting and addressing the globalised nature of security threats and accountability challenges. The project will report at the end of 2017.

See: www.biicl.org/bingham-centre/projects/closedjudgments

Lawrence McNamara



Refugee Law and Policy

The UK has obligations towards refugees and other displaced persons that emanate both from EU and international refugee and human rights law. Brexit will have an impact on some of the systems in which the UK participates, but the UK will continue to be bound by its international obligations.

In one of our series of Brexit FAQ briefings, we discuss how Brexit will affect: the responsibilities of the UK towards asylum seekers and refugees; relocation and resettlement; migrant smuggling and human trafficking.

See: www.biicl.org/faqs

Jean-Pierre Gauci





Engaging with business

From State aid and corporate taxation to the publication of a major new report on business and human rights, we continued to strengthen our focus on engaging with business. We launched a new Business Network to support companies in dealing with global rule of law challenges, extended our work on Collective Redress and analysed the impact of Brexit on competition law and the implications for consumers and businesses.

We are very pleased to be able to bring the experience Nestlé has gained through its well-established global presence to collaborate with the Business Network in its important contribution to the promotion and enhancement of human rights and the rule of law.”
Ricardo Cortes-Monroy,
Chief Legal Officer of Nestlé

Business Network

The Business Network was launched in January 2017 to act as a bridge between the Bingham Centre, BIICL and the global business community, identifying and addressing rule of law challenges faced by companies. Supported by ten founding members (BP, BT, Diageo, HSBC, Nestlé, Rio Tinto, Rolls-Royce, Shell, Unilever and Vodafone), and chaired by Graham Vinter, former General Counsel of BG, the Business Network will support projects on topics including: tensions between international and national human rights standards; and rule of law capacity building for legal teams and senior management.

We are working with the current members and our Development Board to encourage other companies around the world to join the Business Network. There will also be opportunities for law firms and other interested parties to support individual Business Network projects.

See: binghamcentre.biicl.org/business-network

[Sarah Taylor](#)

State aid and corporate taxation

European Commission decisions on advance pricing agreements put State aid control in the limelight and rendered compliance with State aid law an important variable in the tax planning of multinational groups. The Competition Law Forum (CLF) at BIICL produced applied research on the relevant legal questions that arose from the Commission's interventions, including the Apple case. The Director of the CLF, Liza Lovdahl-Gormsen, was a speaker at prominent events around the world on these issues. Her article on State Aid and Transfer pricing was cited in a White Paper by the US Department of the Treasury.

See: www.biicl.org/clf

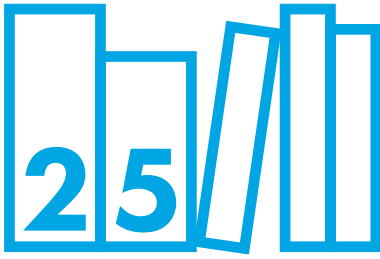
[Liza Lovdahl-Gormsen](#)

Exploring business and human rights due diligence

Companies which fail to check for infringements on human rights in their business and their suppliers are putting themselves at legal and reputational risk, according to a report by BIICL and Norton Rose Fulbright, which also funded the research, published in autumn 2016. *Exploring Human Rights Due Diligence* received widespread media coverage, including in the *Wall Street Journal*, *CNBC* and the *South China Morning Post*. For the project, BIICL surveyed or interviewed over 150 companies in various sectors globally to ascertain how they implement human rights due diligence in line with the UN Guiding Principles on Human Rights. The results showed that companies which use a dedicated human rights due diligence process are significantly more likely to identify actual or potential adverse human rights impacts, both within their own operations and those of third parties in their value chain. The study also identified core components that form part of human rights due diligence regardless of sector.

See: www.biicl.org/duediligence

[Robert McCorquodale and Lise Smit](#)



**In 2016, we published
25 research reports
and books**

“The EU’s respect for rule of law is a founding principle and rightly esteemed around the world. Companies investing in Europe do so on the certainty and stability it provides while member states and their citizens have the right to expect the primacy of their laws to be respected where they have not been specifically devolved to the EU.”
Dr Liza Lovdahl Gormsen,
Daily Telegraph, 28 August 2016

Collective Redress

BIICL continued to build on its established programme of work on collective redress during the year. Our dedicated website (www.collectiveredress.org) was supported by DLA Piper, Freshfields, Herbert Smith Freehills and the Open University. We also secured funding for two new projects in this area during the year: comparative law research for a German development agency (GIZ – Deutsche Gesellschaft für Internationale Zusammenarbeit) looking at damages claims across six EU Member States; and a larger project for the European Commission (in partnership with Civic Consulting and Risk and Policy Analysts Ltd) to evaluate the state of collective redress in the European Union and whether the relevant Commission Recommendation (2013/396/EU) has improved the efficiency and effectiveness of regimes in each of the Member States.

See: www.collectiveredress.org

[Eva Lein and Duncan Fairgrieve](#)

Engaging with private equity investors on human rights

BIICL and the UN Principles for Responsible Investment (PRI) hosted a joint workshop for private equity investors on their human rights impacts. The UN Guiding Principles on Business and Human Rights expect all business enterprises to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts. The private equity business model often allows for considerable control over operations, offering a unique position to leverage the implementation of human rights due diligence. This influence may also translate into a duty of care and legal liability. The workshop explored how private equity relationships can be best managed to comply with their human rights responsibilities.

See: www.biicl.org/duediligence

[Robert McCorquodale, Lise Smit and Anton Didenko](#)



Brexit, business and competition law

Brexit will leave a large gap in the area of civil justice and judicial cooperation since EU Regulations covering this area will no longer apply. To address some of the concerns, BIICL researchers published a range of briefings offering an overview of the issues. Those relating to business included *Brexit and UK Competition Law*, which gives an overview of the impact of Brexit on various aspects of competition law, including what this means for consumers and businesses. Another briefing on *Litigation Post-Brexit* presented an outline of the main issues relating to cross-border litigation, with a particular focus on civil and commercial matters.

See: www.biicl.org/faqs

[Liza Lovdahl-Gormsen and Eva Lein](#)





Proposing legal reform

BIICL provides an expert resource for the UK Parliament and others to draw upon through various channels. In 2016/17, we continued to support the All Party Parliamentary Group on the Rule of Law, provided specialist advice to a major UK Parliament Committee's Inquiry on Business and Human Rights and participated in the European Commission's review of product liability law. The legal consequences of Brexit saw us involved in many events, discussions and evidence sessions. As part of our Brexit programme, we published two briefings on the consequences of the Article 50 decision to withdraw from the EU for the four nations of the UK.

“Lord Judge speaks up for the role of parliament at the end of a fascinating @BinghamCentre seminar on #Article50.”
Joshua Rozenberg on Twitter

The Rule of Law and Parliament

The Bingham Centre continues to provide secretariat support for the UK All-Party Parliamentary Group (APPG) on the Rule of Law, a cross party forum for MPs and peers to discuss rule of law issues. In autumn 2016, the APPG held an event on the rule of law challenges posed by Brexit and also convened a discussion of the High Court’s Decision in the *Miller* case, which was organised jointly with the UK Constitutional Law Association. Other meetings examined how the devolution settlement in Scotland, Wales and Northern Ireland may be affected by Brexit, and proposals to repeal the Human Rights Act. In spring 2017, the APPG met to discuss the future of UK-EU cooperation on criminal justice and national security in light of the Court of Justice of the EU’s decision in *Watson*.

Joint meetings with the APPGs on Anti-Corruption, Human Rights and the United Nations have included topics such as Challenges to Rule of Law in Iran and the UK’s submission to the UN universal periodic review on human rights.

The APPG and BIICL are grateful for the continued support of The Legal Education Foundation which enables the Bingham Centre to provide the secretariat for the group.

See: www.biicl.org/bingham-centre/appg-rule-of-law

[Swee Leng Harris](#)

Working to improve product liability law

Our Product Liability Forum (PLF) enables the practical application of policy and developments in product liability and safety law to be considered by leading lawyers, academics, public and regulatory bodies, senior business managers, consumer representatives and other specialist practitioners. Its role is to analyse and improve the conduct of policy and practice in the spheres of Product Liability, Product Safety and Mass Tort claims, where consumers are injured on a large scale by defective products.

The status of the Product Liability Forum as a leader in this area was recognised during 2016/17 by the European Commission, which requested our participation in the fourth review of the Product Liability Directive.

See: www.biicl.org/plf

[Duncan Fairgrieve](#)

The future for UK trade

Liza Lovdahl-Gormsen participated as a panel speaker at the UK Legal Future event at the House of Commons in March 2017. She explored the need for transitional arrangements for the period between the UK’s withdrawal from the EU and the eventual conclusion of the trade negotiations and thereafter. Her briefing paper; focusing on the arrangements for citizens residing in the UK and outside the UK in another EU country, was sent to all MPs and Peers.

See: www.biicl.org/clf/researchpapers

[Liza Lovdahl-Gormsen](#)



**In 2016, we gave
95 presentations on
our work**

“Professor McCorquodale’s work was exactly the work I was referring to. It is a superb survey of the provision of access to remedy in this area and is cited in the revised action plan.”
Rob Linham OBE, Acting Deputy Director, Human Rights and Devolution Policy, Ministry of Justice – oral evidence to Parliamentary Committee

Rule of Law and the Article 50 Judgment

In *R (Miller and Anor) v Secretary of State for Exiting the European Union* [2017] UKSC 5, a majority of the Supreme Court decided that an Act of Parliament was needed to grant the UK Government the competence to issue a notice under Article 50(2) of the Treaty on European Union.

Following the judgment, and with the Article 50 Bill before Parliament, the Bingham Centre organised a rapid response event in February 2017. Leading experts considered the main constitutional and rule of law dimensions of the Supreme Court’s judgment, and reflected on the path ahead and the consequences of the decision for the UK. Speakers included Lord Pannick QC (counsel for the Lead Claimant, Gina Miller) and Jessica Simor QC (counsel for the Second Claimant, Deir Tozetti Dos Santos). The event was chaired by the Rt Hon. Lord Judge, Former Lord Chief Justice of England and Wales.

Lord Judge later gave the Annual Bingham Lecture in which he discussed concerns about the rule of law and parliamentary sovereignty post-Brexit.

See: www.biicl.org/event/1235

[Lucy Moxham and Lawrence McNamara](#)

Specialist advice to the UK Parliament’s Joint Committee on Human Rights

BIICL Director, Robert McCorquodale, was a specialist adviser to the Joint Committee on Human Rights’ Inquiry into Business and Human Rights in 2016/17. The Inquiry considered evidence from a wide range of bodies, including civil society, corporations, government and others. It reviewed the law and practices in the UK and elsewhere, and concluded that legislation and enforcement needed to be improved to ensure the adequate protection of all human rights affected by business activities. The Committee’s final report proposes more accessible and effective mechanisms to improve access to justice in cases where human rights may have been breached, alongside a duty on all companies to prevent human rights abuses.

See: www.publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/44302.htm

[Robert McCorquodale](#)



Brexit and Devolution Post-Miller

The Brexit referendum result was asymmetrical across the four nations of the UK. The judgment in *Miller* raised questions about the relationship between the nations of the UK, as well as for that between the UK and the EU. As part of our programme reviewing all aspects of Brexit, BIICL commissioned two FAQ briefing papers on this topic. *The Supreme Court Judgment in Miller* details the context and constitutional significance of the case. The second briefing, *Brexit and Devolution Post-Miller*, reviews the constitutional politics of devolution and the strains posed by Brexit on the devolution settlement. It considers how Brexit will have an impact upon the devolution settlement as it stands, and whether that settlement will be able to withstand the pressures and tensions that have arisen.

See: www.biicl.org/faqs

[Justine Stefanelli and Rosie Slowe](#), volunteer researcher (BIICL), with Jason Allen and Darren Harvey (University of Cambridge)





Clarifying access to justice

In 2016/17 we continued to extend our programme of work to ensure that access to justice for all is evaluated by consistent and meaningful indicators. We identified the challenges and international good practices in providing access to justice for children, undertook projects to support an independent and effective judiciary, and highlighted the rights of migrants and refugees through briefings and events.

Clarifying access to justice

“Appointing independent, competent and trusted judges is central to ensuring the rule of law in a democracy. The Cape Town Principles provide welcome guidance on the processes and principles that should inform the work of [judicial appointment] committees. These should in turn contribute to the enhancement of the rule of law and independence of the judiciary across the Commonwealth.”

Justice Kate O’Regan, Director, Bonavero Institute of Human Rights, University of Oxford

Access to justice for children

In the latest of a series of International Bar Association-funded projects on access to justice, the Bingham Centre was commissioned to produce a study on international access to justice for children. The project examined the main challenges in this area, assessed the strategies and solutions employed across jurisdictions and explored the transfer of good practice. Project outputs included a final report based on a targeted survey of experts and stakeholder consultations, as well as accompanying case studies.

The report has attracted considerable attention, featuring in Australian government and public policy publications, and being referenced on several occasions by other international organisations and commentators.

See: www.biicl.org/ingham-centre/accesstojustice-iba2015-children

[Julinda Beqiraj and Lawrence McNamara](#)

Judicial independence and the Cape Town Principles

One of the most sensitive tasks in a constitutional democracy is the selection and appointment of judges. The Cape Town Principles are the outcome of an international research project, funded by the Claude Leon Foundation, which brought together scholars from Canada, Kenya, Malaysia, Nigeria, South Africa and the UK to examine the processes by which judges are appointed in their countries. In contrast with confrontational, political processes or cronyism, the Principles advocate the formation of an independent judicial commission with a broad membership in which judges themselves, and the legal profession, also have a say. Such bodies have become by far the most popular mechanism by which senior judges are appointed in Commonwealth jurisdictions. According to the Bingham Centre research, by 2015, more than 80% of Commonwealth member states had established such bodies. The Cape Town Principles provide guidance on practical approaches and measures to ensure that judicial appointment commissions are truly independent bodies and that they conduct fair and efficient selection processes that enhance public confidence in the judiciary.

The Principles have been used by the Judicial Appointments Commission of

England and Wales during an engagement with government authorities in Myanmar, and were translated into Burmese for this purpose. They have also been translated into Spanish, Portuguese and Bulgarian.

See: www.biicl.org/ingham-centre/projects/capetownprinciples

[Jan van Zyl Smit with Hugh Corder \(University of Cape Town\) and Jeffrey Jowell](#)

Strengthening the Quality and Efficiency of Justice in Kosovo*

The Bingham Centre is providing support to the European Commission for the Efficiency of Justice (CEPEJ) in its work to assist the Kosovo authorities to improve the quality and efficiency of justice. Within the project, a particular focus is on judicial data collection and management. In December 2016, Julinda Beqiraj took part in a mission in Pristina aimed at collecting data according to the CEPEJ methodology, as well as obtaining additional information on the general functioning of the judicial system and the daily work of courts and prosecution services.

An in-depth analysis of Kosovo’s judicial system will be produced, based on the CEPEJ methodology and indicators.

*All reference to Kosovo, whether the territory, institutions or population, in



**In 2016, we published
28 journal articles and
book chapters**

“The European Commission for the Efficiency of Justice (CEPEJ) has been pleased to contribute to this essential work [by the Bingham Centre] on access to justice for children... [It] is a valuable step towards efficient solutions for improving the quality of the public service of justice delivered to fragile populations, and in particular, children.”
Stéphane Leyenberger, Executive Secretary of the CEPEJ

this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

See: www.biicl.org/bingham-centre/justicekosovo2016

[Julinda Beqiraj](#)

The “Refugee Crisis”: Challenges and Implications for International and EU Law

A BIICL event in November 2016 examined the legal questions arising from the so-called “refugee crisis”, looking at implications for International and European refugee law frameworks and for private vessels engaged in maritime search and rescue. The event highlighted the challenges faced by EU Member States, migrants and refugees in dealing with the growth in numbers of asylum seekers arriving at Europe’s shores. It considered the ways in which responsibilities were shifted onto third States, serious human rights concerns including forcible return of refugees or asylum seekers to a country where they may face persecution (*refoulement*), and other issues at the core of the EU’s values of human rights, rule of law and solidarity.

See: www.biicl.org/event/1220

[Jean-Pierre Gauci](#)

Sentencing criteria in international criminal law

As the International Criminal Tribunals for the Former Yugoslavia and Rwanda and the Special Court for Sierra Leone come to a close, this study is considering to what extent international criminal law has evolved and incorporated the rule-of-law-based consistency, certainty and fairness principles that traditionally characterise criminal justice.

With funding from the British Academy/Leverhulme Trust, the project is analysing whether sentencing criteria in this area are explicit, consistent and appropriate, and suggesting solutions for the effective functioning of international criminal jurisdiction in compliance with criminal justice principles and guarantees based on the rule of law. A final report will be completed in late 2017.

See: www.biicl.org/bingham-centre/sentencingcriteria-icl

[Julinda Beqiraj with Oliver Windridge](#)



EU migrants’ rights

EU citizens have a number of rights, including the right to move and reside freely in any member state. Following the UK’s decision to leave the EU, this briefing outlines many of the main issues relating to EU migrants’ rights in the UK. If the withdrawal agreement does not include any free movement rights or special concessions for EU citizens, those who do not have permanent residence in the UK will be treated the same as non-EU migrants in terms of entry and qualifying for ‘indefinite leave to remain’. This means that they will have to legitimise their presence in the UK by other means, such as through a work permit system or through a familial relationship with a British national.

See: www.biicl.org/faqs

[Justine Stefanelli](#)



Building legal capacity and understanding

This year, BIICL diversified its programme of training courses, including a one day introduction to the Rule of Law and bespoke sessions on human rights due diligence for businesses. Our research helped to shape the curriculum for public servants in Kenya and we produced two seminal volumes on British influences on International Law. To support the next generation of experts, we launched a new Research Assistants' programme providing paid, developmental opportunities to early-career researchers and practitioners.



Building legal capacity and understanding

“[The Bingham Centre’s Nairobi workshop] gave me a lot of insight into the issues facing a country that has had substantial difficulties with democracy and the rule of law over the past few decades and how best to address those difficulties under a new constitution.”

Steve Bramley CBE, Legal Director, UK Government Legal Department

Administrative justice and good decision-making

Decision-making by public servants affects people’s lives in countless ways every day; from welfare to schools, to health care and business licensing. Thus it is important to ensure that decisions are lawful, reasonable and procedurally fair. The Bingham Centre was invited by the Katiba Institute to assist in developing a guide to administrative law for Kenya’s public servants, with funding support from the Foreign and Commonwealth Office’s Magna Carta Partnerships Fund and Rule of Law Expertise UK (ROLE UK). The team analysed the development of the UK’s civil service guide, *The Judge over your Shoulder*, as background for its development of a similar guide, which is now set to become part of the curriculum for Kenyan public servants.

The Centre’s research was presented at a consultation in Nairobi, which was attended by the Kenyan Attorney-General, representatives of the national ombudsman and Public Service Commission, as well as international experts.

See: www.biicl.org/binham-centre/projects/adminlawkenya

[Jan van Zyl Smit and Lucy Moxham](#)

British influences on international law

To celebrate the 100th anniversary of the Grotius Society (a predecessor of BIICL), we are collaborating with the publisher, Brill/Martinus Nijhoff, on a project examining British influences on public international law. This project comprises a series of three books, two of which were published in 2016.

The first volume, *British Influences on International Law 1915-2015*, considers British influences during a century of unprecedented developments in international law, set against a backdrop of two world wars, complex transboundary issues and increasing globalisation. The second volume, *on The Role of Legal Advisers in International Law*, focuses on the contribution of legal advisers to the development, interpretation and application of international law, with insights from prominent international legal professionals. The third volume, an anthology of original documentary sources of key British contributions to international law, is due for publication later in 2017.

See: www.biicl.org/influences

[Robert McCorquodale, Jean-Pierre Gauci and Jill Barrett](#)

Short courses and bespoke training

During 2016/17, BIICL continued to offer its popular programme of interactive short courses for lawyers and others seeking intensive introductory training on key aspects of international law. As well as our core offering, the two day Public International Law in Practice course, we ran courses in Cross-Border Dispute Resolution and developed a new Introduction to the Rule of Law course. All courses generated positive feedback and high levels of satisfaction from learners.

See: www.biicl.org/training

[Course leaders Robert McCorquodale, Lawrence McNamara, Eva Lein](#)

Exploring rule of law in the classroom

Building on the success of our Key Stage 3 rule of law teaching materials for 13-14 year olds, the Bingham Centre has produced a new resource pack for pupils taking GCSE level qualifications in Citizenship. International law and human rights provides the focus for this set of materials with sections on international organisations, international criminal law, international human rights law and international humanitarian law. These fast-developing areas of law provide great opportunities to explore rule of law issues through classroom activities, topical case studies and

“A great introduction to many aspects of international law with very knowledgeable speakers and an engaging format.”
Public International Law in Practice course participant

expert video material. The materials have received the SmartLaw mark from the Citizenship Foundation and are currently being rolled out to schools.

See: binghamcentre.biiicl.org/schools

[Michael Olatokun and Xiao Hui Eng](#)

Capacity building in business and human rights

Following the publication of the BIICL and Norton Rose Fulbright report, *Exploring Human Rights Due Diligence*, in October 2016, BIICL has participated in many capacity-building and information sessions on this topic.

Working with the Business Ethics team at Norton Rose Fulbright, BIICL co-presented a webinar to the United States Council for International Business and a seminar to the World Bank and International Finance Corporation in Washington DC. We also gave presentations at the Association of British Health Care Industries and the Houston Bar Association. In November 2016 BIICL organised a session at the 5th UN Forum on Business and Human Rights in Geneva on the topic ‘Practical Leverage of Law: Do Corporate Group Structures Preclude Liability for Human Rights Impacts?’, which feedback indicated was one of the best sessions at any Forum.

When asked whether they have human rights training, many companies point to their training on health and safety,

non-discrimination and labour policies. However, as our own research on human rights due diligence has shown, the lack of dedicated human rights training is a significant business risk, so BIICL is now offering dynamic, in-house human rights training for companies, sectors and groups. These courses equip participants with practical knowledge of the spectrum of internationally recognised human rights, what impacts these may have on their companies, and how to reduce and manage associated risks.

See: www.biiicl.org/duediligence and www.biiicl.org/training

[Robert McCorquodale and Lise Smit](#)

BIICL Research Assistants’ programme

In autumn 2016, BIICL launched a new rolling programme of paid Research Assistant roles to provide structured opportunities for those in the early stages of a career in international and comparative law, and the rule of law. Posts are offered on a part-time basis (usually 4 days per week) for a period of 4-5 months, with candidates being recruited twice a year and paid the London Living Wage. Opportunities are available across BIICL’s main research areas including Public International Law, Commercial International Law and the Rule of Law.

BIICL is currently funding 6 posts each year from its own Strategic Initiatives



In 2016, over 4,000 people attended our events and training courses

Fund, but would welcome donations to support and extend this programme.

See: www.biiicl.org/researchassistants



Filling the gap: Brexit and transition

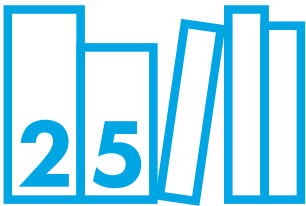
As a leading independent research institute with expertise in international and comparative law, BIICL has a vital role to play in informing Brexit discussions and decisions through its applied research, events and training. Our focus is on providing constructive and solutions-based approaches and examining what needs to be achieved at a detailed, legal level.

Since late 2016, we have undertaken analysis on two core issues for a leading law firm: the requirement (or otherwise) in international law to have transition measures in the context of Brexit; and the judicial fora that would decide on any financial disputes that might arise if there is no agreement on withdrawal at the end of negotiations. The briefing paper on our first piece of research, *Brexit Transitional Arrangements*, is now available on the BIICL website.

See: www.biiicl.org/brexitresearch and www.biiicl.org/brexit

[Robert McCorquodale, Justine Stefanelli, Eva Lein, Jean-Pierre Gauci, Lady-Gené Waskewitz and Arianne Griffith](#)

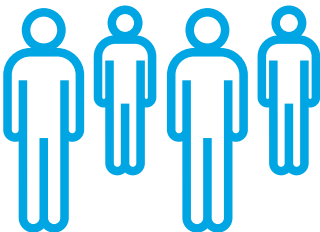
Our work and activities in 2016



25 research reports and books



84 media mentions and appearances



437 members



28 journal articles and book chapters



95 presentations



76 events



Our work covered 142 countries



Over 4,000 event attendees



12 submissions to consultations

Overview for financial year ended 31 December 2016

2016 income



Donations and legacies	20.7%	£482,023
Member services	9.8%	£229,702
Publications and journals	10.8%	£248,747
Conferences and seminars	11.4%	£266,271
Research programmes	38.5%	£896,805
Other	8.8%	£205,100
Total		£2,328,648

2016 expenditure



Support and governance costs	20.7%	£432,128
Raising funds	6.6%	£135,708
Member services	8%	£164,901
Publications and journals	4%	£83,435
Conferences and seminars	11%	£227,715
Research programmes	49.7%	£1,034,072
Total		£2,077,959

Membership and support

Membership

Membership of BIICL is open to all and enables people to participate in a diverse community of practitioners, scholars and many others with an interest in international and comparative law, and the rule of law. Members are kept informed about BIICL's latest research and developments, with many opportunities to engage in debate and discussion through our programme of topical events, seminars and conferences. Our membership includes judges, lawyers and barristers, government officials, regulators, international civil servants, academics, students, and many non-lawyers.

A range of individual and organisation membership packages is available. All members receive a substantial 40% discount on relevant events and BIICL publications, plus access to our renowned journal, the International and Comparative Law Quarterly. We also operate three specialist Forums in Competition Law, Investment Treaty Law and Product Liability (www.biicl.org/forums).

Find out more and sign up at:
www.biicl.org/membership.

How you can help

By supporting our work, donors and funders are helping BIICL to address some of the most pressing global challenges, thus making a positive and lasting difference to our world. Please feel free to contact us to discuss the best way you or your organisation could help.

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- In the UK, gifts of publicly quoted shares are extremely tax-efficient.
- US donors can donate through The International Rule of Law Project Inc. which is a 501(c) 3 public charity (www.irolp.org).
- Donors resident in Belgium, France, Germany, Ireland and the Netherlands can donate through Transnational Giving Europe by emailing tge@cafonline.org.

Contact: Sarah Taylor,
Development Director
Tel: +44 (0)20 7862 5433
Email: s.taylor@biicl.org

BIICL is ...“a unique and non-biased forum addressing important issues.”

Corporate member feedback

BIICL Alumni Network

Launched in 2015, the BIICL Alumni Network comprises over 200 individuals who have been involved with BIICL as staff, interns and volunteers. The network provides a way for former colleagues to re-connect with each other as well as with BIICL. The Network also acts as a route for us to re-engage with alumni, keeping them up to date with our news and events.

In 2016/17 the network organised a summer party for its members and an evening focusing on careers in international law, both of which were very well attended. An Alumni fundraising campaign has been established to support the BIICL Research Assistants' Programme.

For more details, see:
www.biicl.org/alumni.

“BIICL Alumni have benefited greatly through the support/mentorship and research facilities at BIICL and this initiative provides a platform to ‘give back’”
Dr Jackson Maogoto

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Thanks very much to all who continue to support our work, including the following

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Our vision is to continue to be a world-leading independent research body on international and comparative law, and the rule of law, by:

- providing high-quality applied research based on strong conceptual foundations that influences law and policy-making; and
- promoting the application and wider dissemination of our research through publications, events and training.

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