



**British Institute of
International and
Comparative Law**

A world in transition Impact Report 2020/21



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Foreword

It is a privilege to introduce BIICL's Impact Report for 2020/21, which showcases the fantastic work that the dedicated staff at the Institute have been undertaking both in the UK and internationally.

This report covers the Institute's work during the second half of 2020 and the entirety of 2021, and has therefore all been taking place against the backdrop of the continued challenges of the COVID-19 pandemic. Despite this, the impact of its work has been tremendous and continues to address the most pressing global issues from a legal perspective in an increasingly uncertain world.

Lord Phillips of Worth Matravers retired as BIICL President in September 2021 at the end of his term of office and I am incredibly grateful to him for everything he has done for the Institute, not only as President but as one of the Institute's longest standing members having first joined BIICL at the start of his legal career.

I am delighted to welcome Lord Neuberger of Abbotsbury as BIICL's new President and I am very appreciative of his leadership of the 60+ Appeal in particular.

The BIICL Board of Trustees also saw some significant changes in 2021. A number of long-serving Trustees retired from the Board at the end of their terms of office and I would like to extend my warm appreciation and thanks to each of them for their service.

Following an open call for new Trustees we were overwhelmed with applications from people expressing interest in joining the Board – a testament to the incredibly high regard in which the Institute's work is held by our many supporters around the world. It was a pleasure to meet many of these applicants during a very thorough selection process, and ultimately to welcome twelve new Trustees to the Board in December 2021.

I would also like to thank all members of BIICL staff for their continued resilience, commitment and energy in very challenging circumstances during this period.

We are extremely grateful to everyone who has generously donated to the BIICL 60+ Appeal and who has supported the Institute throughout the challenges of the COVID-19 pandemic. Nonetheless, the global challenges to international law and democratic values continue to grow at a rapid pace. It will only be with the support of benefactors old and new that we will be able to continue to deliver the independent, cutting edge work required to uphold these values in the tumultuous world we face today. I hope that, in reading this report, you will also be inspired to join in making a contribution to our work.

Keith Ruddock

Chair of the BIICL Board of Trustees



**69 books, articles, reports
and blogs**



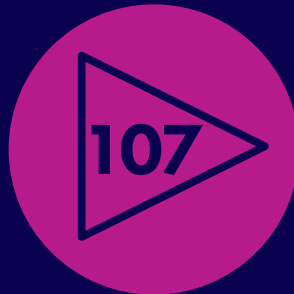
5,000 Twitter mentions



619 members



**550 short course
participants**



107 published recordings



80 events



**724 completed the BIICL
MOOC in 2021**



4,600 event attendees



**600k downloads from the
ICLQ**

Introduction from the Director

Dear Friends,

I am delighted to share with you the Institute's Annual Report, which focuses on just some of the projects, events, and initiatives that we spearheaded during 2020/21.

I would like to express my gratitude to the Institute's staff for their instant engagement with the challenges posed by the pandemic and constant support of each other.

I also want to thank the many supporters of the Institute for their philanthropy, intellectual commitment, advice and enthusiasm for new projects and ideas. Amongst our friends I count the ICLQ readers as well as our new diverse online audiences.

The Institute's innovation, quality and impact was judged 15th (of 6,500) "Best Independent Think Tanks" by the University of Pennsylvania's Think Tanks and Civic Societies Program's Global Go To Think Tank Index Report (2020). For an Institute born of its independence, global in its outlook and authoritative in its nature and reputation, this is a welcome recognition.

We look forward to continuing to make a significant contribution to the law in the UK and internationally, fulfilling the need for independent, informed and committed, legal research and by acting as a vibrant hub for debate, ideas and collaborations.

**With all good wishes,
Professor Spyros Maniatis**

Centre for International Law

International law, with its set of rules established through treaty or custom, is the key to stable international relations, collective security and sustainable development. When international law is not respected, growing insecurity and inequalities, as well as attacks on the rule of law, become the norm. Following decades of efforts to expand the reach and content of international law through multilateralism, international law is now challenged by global power shifts and rising nationalism.



BIICL's Centre for International Law (CIL) responds to some of the most pressing regional and global challenges by conducting independent research and bringing to the fore the role of international law in addressing the current needs of society. Areas of focus for CIL include climate change, investment and trade, migration and trafficking, human rights, the law of the sea and cultural heritage. In its work, the CIL also considers the important role that non-state actors, such as businesses and civil society, may play in the development and upholding of international law.

Cultural Heritage

Cultural Heritage is an important area of focus for the Centre for International Law, building on a range of work which addresses its protection from threats, including armed conflicts, climate change and development. The programme recognises cultural heritage as an important

component of cultural identity, which can promote international peace and security, as well as strengthen international relations and support climate resilience. This year the cultural heritage team added two new members, Dr Elke Selter and Dr Berenika Drazewska.

A new Leverhulme Trust-funded research project has been initiated which will offer a longer-term view on restitution through an analysis of past experiences. Research into the role of multilateral development banks in the protection of intangible cultural heritage has been carried out, supported by the Dorset Foundation. Kristin Hausler has also contributed comments to the International Criminal Court Office of the Prosecutors' Draft Policy on Cultural Heritage, along with other heritage experts, and she has conducted legislative reviews of draft laws on heritage protection in the Kurdistan Region of Iraq.

The team has contributed to knowledge-sharing and capacity-building through

participation in international conferences and training modules. An academic course, based on AHRC-funded research conducted at BIICL on cultural heritage in European law and policy, was offered in a top-tier US University. BIICL also convened the first cultural heritage short course and continued to be at the forefront of debates on the topic, for example with a major conference co-organised with WilmerHale and the Institute for Small & Micro-States which focussed on small states and cultural heritage matters.

As this work demonstrates, the manner in which we address issues around heritage can either promote or demote peace and security, as well as international relations.

[Read more](#)

Kristin Hausler, Elke Selter, Berenika Drazewska

Determinants of Anti-Trafficking

The project seeks to map, to sequence, and to critically evaluate the determinants – understood as the factors that shape and influence actions – of anti-trafficking efforts. While some determinants (e.g. international pressure, international law, corruption) have already received careful attention in academic literature and research, this project adds considerably to the body of knowledge, moving beyond a focus on particular regions and determinants. By doing so, it aims to provide a toolbox of determinants that can be operationalised, implemented, or deployed by key stakeholders to improve anti-trafficking efforts by national governments globally.

Determinants are complex, context-specific, non-linear and multidimensional. The mapping and analysis of determinants was carried out through a series of inter-related activities: desk research, expert interviews, a global survey, and a series of fourteen case studies. More than 350 resources have been reviewed, 57 expert interviews and one expert focus group have been completed, and the global survey has thus far received more than 150 responses. 14 case studies have been commissioned and are being analysed as part of the project with the results of the research expected in 2022.

Dissemination and knowledge exchange is a core component of the project and key to its impact potential. We hope that the project will inform understandings of anti-trafficking efforts, identifying key pressure points that can be used to promote improved responses to trafficking around the globe.

[Read more](#)

Jean-Pierre Gauci, Victoria Wyndham, Idel Hanley, Noemi Magugliani, Iris Anastasiadou

The Non-Punishment Principle in Trafficking In Persons

BIICL is working with the International Bar Association on a research project on the application of the non-punishment principle in law and practice across different jurisdictions. At its most basic statement, the non-punishment principle stipulates that the involvement of trafficked persons in unlawful activities as a direct consequence of their trafficking experience should not be criminalised and punished.

The project's goal is to provide concrete recommendations towards improving the legislative provision and practical implementation of the non-punishment principle. The project will also develop a pilot multi-disciplinary program to build the capacity of lawyers and law enforcement personnel on the principle of non-punishment and ancillary matters.

A legal analysis of international, regional and domestic law is being conducted to examine how the non-punishment principle has been defined, introduced, and given effect across legal systems. The analysis is adopting a gender, age and diversity lens in determining the way gender dynamics identified in the trafficking context are reflected in the application of the non-punishment principle. The project will include a series of stakeholder interviews (with academics, policy makers, practitioners, prosecutors and judges) and a survey of IBA members across the globe and other anti-trafficking stakeholders about their understanding of the principle and its application in their particular context. A series of six case studies are being undertaken,



exploring contexts in which there is an evolving experience of the application of the non-punishment principle. Beyond the research, the project is developing resources to raise awareness of the principle and to develop tailor-made training courses for legal professionals and others on the principle.

[Read more](#)

Jean-Pierre Gauci, Noemi Magugliani

Climate Change and the Law

Climate change is one of today's most pressing global concerns and was in the spotlight in 2021 as the UK hosted COP26 in Glasgow. Climate Change litigation is increasingly recognised as a key tool in pushing governments and corporates towards urgent climate action and is a central feature of BIICL's environmental and climate change law programme, alongside the connections between climate change and various areas of international law.

In March 2021, BIICL (supported by Landmark Chambers) hosted a webinar series on sea level rise. The series approached climate-induced rising sea level as a global problem and the possible implications arising from it from the lens of international law and

climate justice. In particular, the four webinars looked at the work of the International Law Commission (ILC) on the issue, the possibility of a role for the International Court of Justice, the connection with displacement and migration, and climate change litigation.

In July 2021, BIICL and global law firm Hausfeld partnered to host 'Our Future in the Balance: The Role of Courts and Tribunals in Meeting the Climate Crisis' a landmark two-day international virtual summit exploring the role of courts and tribunals in global climate governance with a focus on the separation of powers. The summit resulted in a BIICL-drafted 'Declaration on Climate Change, Rule of Law and the Courts' which was presented at a side event to COP 26 featuring a keynote address by Mary Robinson and climate activist Vanessa Nakate.



Also in July, BIICL co-convened with The Sant'Anna School of Advanced Studies (Pisa) and the Center for Climate Change Studies and Sustainable Actions (Pisa/Pavia) to

organise an international workshop on the role of science in climate change litigation. The workshop was an opportunity for legal and scientific experts to discuss inter-related issues, and to critically assess the role that science has played and can further play in climate change litigation.

A research and capacity building project with the European Bank for Reconstruction and Development (EBRD) is assessing the international instruments and domestic developments in climate change litigation to develop materials and recommendations for judicial training programmes in the EBRD's countries of operation. The project has focussed on case studies of Kazakhstan, Poland and Bulgaria.

[Read more](#)

Jean-Pierre Gauci, Ivano Alogna, Alina Holzhausen, Constantinos Yiallourides, Christine Bakker

Environmental Regulations Being Introduced in Trade Rules

Attempts to link environmental issues and trade policies are increasing. A few prominent examples include Carbon Border Adjustment legislation proposals made in the EU and the US and global Fisheries Subsidies negotiation to curb harmful subsidies to the sustainable management of marine resources. These attempts are being understood, in a way, as consequences of rising awareness in the international community of the global environmental challenges. On the other hand, however, there are concerns that these measures will end up increasing non-tariff barriers and compliance costs.

Despite these concerns, attempts to combine environmental and trade policies within the framework of trade rules are expected to expand further. Under this premise, each country, especially export-oriented economies, needs to better understand the newly introduced trade environmental regulations and minimize the impact on their domestic industry. This project has reviewed the main contents of the environmental trade norms under development; the EU commission's Carbon Border Adjustment Mechanism (CBAM) proposal, Comprehensive and Progressive Agreement for Trans-Pacific

Partnership (CPTPP), Environment Chapter and WTO Fisheries Subsidies negotiations.

The research will provide analysis of norms, obligations and the implementation method under development. Further, the analysis aims to derive implications that can be reflected in Korea from the UK's policy responses related to the fisheries subsidies regulations and carbon border adjustment; as the UK, the first non-founding member of the CPTPP, has launched accession negotiations and also, based on impact assessment, various policy options are being discussed in the UK on how to reduce trade costs in preparation for the EU's introduction of CBAM.

This research project is being funded by the government of South Korea and will report later in 2022.

Munhee Jung

Rescuing Intellectual Property Rights in Pandemic Emergencies from the "Tragedy of Anticommons"

An Interdisciplinary Study on Medical Research and Development: Rescuing Intellectual Property Rights in Pandemic Emergencies from the "Tragedy of Anticommons" is a three-year project (2022-2024) which is examining how aspects of private law, commercial law, and intellectual property law might be reformed to better enable a rapid policy response in the face of an emerging pandemic.

Expertise from legal game theory, such as anticommons structures, will be used as an innovative legal research methodology to identify how the rights to control the use of patents, trademarks, and copyrights might inhibit or prevent the rapid development of medical and pharmaceutical solutions. The project will explore alternative modalities and designs of intellectual property law that might be more responsive to emergency events and prevent the emergence of anticommons problems.

The project involves legal scholars from the University of Aberdeen, BIICL, Kobe University, Hokkaido University, Nihon University, and Tokai University and is funded by UK Research



and Innovation (UKRI) and The Japanese Society for the Promotion of Science (JSPS).

[Read more](#)

Constantinos Yiallourides, Duncan Fairgrieve, Spyros Maniatis

Human Rights Responsibilities of Multi-National Enterprises Working in the Tourism and Hospitality Sector in Cuba

The tourism and hospitality sector is a key economic pillar in the Cuban system, and one where foreign multinational corporations operate in partnership with State-owned companies to provide services. As in many geographical contexts, the Cuban tourism and hospitality sector has been associated with risks of labour exploitation, discrimination and other human rights concerns. This project has analysed the obligations of multinational corporations operating in Cuba to provide a better understanding of potential strategies to advance the protection of human rights.

The work was based on the international legal framework, including International Labour Organization (ILO) Conventions, human rights treaties, the UN Guiding Principles on Business and Human Rights, and The Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational

Enterprises, as well as on recent regional developments and domestic legislation. The project explored particularities of the Cuban context and drew on consultation with experts and stakeholders to develop recommendations for States and businesses to comply better with their obligations.

The work acknowledges challenges that companies face in the Cuban context, and looked at promising practices in other countries that could be adapted and applied in Cuba. It has analysed Cuba's duty to protect the human rights of those workers and of the human rights duties of States where those multinational companies have their headquarters. Recommendations to companies, to Cuba and other States and to civil society organisations have been produced and are being used for advocacy purposes.

Experts consulted emphasized that multinational corporations in the tourism sector are increasingly becoming more aware of their human rights responsibilities, and that the recommendations in this report will contribute to shaping initiatives that will advance this in the Cuban context. The specificity of the Cuban context and the way foreign companies function makes the research particularly interesting.

[Read more](#)

Rosana Garcianda, Jean-Pierre Gauci

In a world characterized by complexity and interdependence, it is important to understand similarities and contrasts between jurisdictions. Comparative methods are essential to gaining a profound understanding of the legal systems around the world and to advance their development. Perspectives and experiences of different jurisdictions enrich the legal debate and help in identifying areas prone for harmonisation and convergence of laws.



Photo by Clever Visuals on Unsplash

BIICL's Centre for Comparative Law covers a broad range of areas, from civil to commercial law, conflict of laws and dispute resolution. The Centre co-operates with various universities, distinguished scholars and research institutions in the UK and around the world.

Regulatory Options for Mandatory Human Rights and Environmental Due Diligence

In 2017, the UK Joint Committee on Human Rights released a report on business and human rights which proposed the introduction of a 'failure to prevent' mechanism for corporate human rights abuses. The Committee suggested that such a mechanism could be "modelled along the same lines as section 7 of the Bribery Act". BIICL, with support from international law firms Hogan Lovells and Quinn Emanuel, conducted a

study into the feasibility and options of a 'failure to prevent' mechanism.

The legal model proposed in the 2020 BIICL report on a UK 'failure to prevent' mechanism for corporate human rights harms is now being used as the basis for the UK legislative campaign. A civil society call, launched in 2021, is being supported by 36 leading businesses and investors, including Microsoft, Tesco, Primark and Nestlé, who are calling for such a law to be introduced in the UK. The call, which was featured in the Guardian and other media outlets, coincided with a legal opinion by Timothy Otty QC and Naina Patel of Blackstone Chambers. This opinion analyses and refers to the BIICL report with reference to the 2020 independent review which Alison Levitt QC undertook of labour practices in the boohoo supply chain. The legal opinion copies the BIICL model as an annex and concludes that "boohoo could



have been found liable for breaches of the Guiding Principles under mandatory human rights due diligence/UK 'failure to prevent' legislation in the form of the BIICL Model Legal Provision, had such legislation been in place during the relevant period of time."

[Read more](#)

Lise Smit, Irene Pietropaoli

BIICL's Work on the Effects of the Pandemic on Commercial Contracts

At the beginning of the COVID-19 crisis, BIICL held a meeting of senior judges and academics at which the implications of the pandemic for contracts were discussed. The thinking of the group was drawn together in three separate concept notes culminating in a set of guidelines for business. During 2021 work continued in this area and the guidelines for the resolution of disputes following the pandemic have now been translated into seven languages making them widely accessible. The guidelines set out practical ways in which corporates might be encouraged to adopt a more conciliatory approach to COVID-19 related contractual disputes without prejudicing or altering parties' legal rights.

[Read more](#)

Eva Lein, Sara Migliorini, Spyros Maniatis with Sir William Blair QC, Malik Dahlan, Keith Ruddock, Helen Dodds, Guy Pendell and Adam Johnson QC

Ukraine – An Online Court for Small Claims

The COVID-19 pandemic has impacted the functioning of courts worldwide. Even before the pandemic, Ukrainian courts were overburdened by caseload demands and lengthy and complicated legal proceedings. Small and medium-sized enterprises (SMEs) often face difficulties in enforcing or defending their rights and regard time, cost and information constraints as barriers to accessing justice. This combination can create

an obstacle to economic growth and a threat to the public's trust in the justice system.

BIICL has worked with the European Bank for Reconstruction and Development (EBRD) and other international and Ukrainian partners undertaking a project to develop a concept and roadmap for online courts for small claims in Ukraine.

The work involves identifying key prerequisites for implementing a system that eases access to justice for SMEs. The activities include a comparative study analysing six jurisdictions that have implemented online dispute resolution; a review of the existing court procedure in Ukraine; a series of interviews with experts, legal practitioners and business; collaborative work with lawyers, economists and representatives from the tech industry; and a final report with a critical analysis of the legal, technical and budgetary frameworks for online resolution of small claims disputes.

The project aims to offer an opportunity for SMEs and citizens to resolve small claims disputes online. The new solution is intended to increase access to speedy, efficient and affordable justice, reduce the administrative and financial burden upon court administration and judiciary and, in doing so, meet the needs of small businesses and citizens to resolve their disputes and achieve payment, without legal representation, if preferred. This combination will reduce the number of claims resolved before formal court proceedings are issued while helping to close the access to justice gap in the country.

Helen Dodds, Maria Tymofienko and Isadora Werneck

Bingham Centre for the Rule of Law

The Bingham Centre was founded by BIICL in 2010 to take forward the vision of Lord Bingham, a former President of the Institute. It was an inspiring vision then, with the Rule of Law coming under increasing strain. Today, it has become an urgent vision, as the institutions on which the Rule of Law depends to give it life are becoming more systematically undermined, requiring renewed effort to reach wider audiences about the meaning and fundamental importance of the Rule of Law.



Rule of Law Monitoring of Legislation Project

This project scrutinises proposed UK legislation from a rule of law perspective to ensure that rule of law concerns are properly addressed. The methodology is to influence parliamentarians – those who have the greatest role in passing legislation – in a number of different ways, and the project team has been invited to give oral evidence to two different parliamentary committees.

Reports on legislation contain independent analysis of proposed legislation and are sent directly to parliamentarians, with reports on 13 different pieces of legislation published so far. These reports have been cited multiple times in parliamentary debates on legislation, and many parliamentary speeches have adopted the team's analysis of problems and suggested solutions.

The project team also engage behind the scenes directly with parliamentarians in order to respond to requests for assistance, and by providing amendments which can be tabled in Parliament to legislation.

Public engagement is important with blog posts on the project's work shared across multiple different platforms.

The team's engagement was instrumental in achieving amendments to the Overseas Operations Act 2021, the UK Internal Market Act 2020 and (pending) amendments to the Environment Bill.

[Read more](#)

Ronan Cormacain, Murray Hunt

Lord Carlile: “I am grateful to the highly respected Bingham Centre, which has made thoughtful and well-argued criticisms, with which I agree”
House of Lords, 20 January 2021

All Party Parliamentary Group (APPG) on the Rule of Law

The Bingham Centre provides the Secretariat for the All Party Parliamentary Group (APPG). It serves as a forum for Members of Parliament, Peers and Parliamentary Staff to consider topical rule of law issues arising from political events and legislation under scrutiny in Parliament. Sir Bob Neill MP and Lord Anderson of Ipswich QC are the Chair and Lords’ Co-Chair of the APPG.

In February 2021 the APPG returned after a hiatus following the 2019 general election and the COVID-19 pandemic. The APPG held five meetings briefing Parliamentarians on rule of law. The inaugural meeting considered rule of law issues raised by the Overseas Operations Bill. The meeting took place at a crucial time when amendments to the Bill were discussed that ultimately ended up being passed. The Group next considered the scrutiny and oversight arrangements for the UK’s future relationship with the EU and controversial new powers for police to restrict protests contained in the Police, Crime, Sentencing and Courts Bill. Working with partners, the APPG held a briefing on access to justice and court processes proposed in the Environment Bill; and finally in November 2021 the Government’s proposals for addressing the legacy of conflict in Northern Ireland, addressed by the Minister for Justice in the Northern Ireland Executive and the former Lord Chief Justice for Northern Ireland.

At APPG meetings expert speakers from judicial, military, diplomatic, political and legal backgrounds have given their insight on rule of law issues raised by legislative and political proposals. MPs and Peers from across the political spectrum and all parties have found these briefings useful when considering legislation in Parliament.

[Read more](#)

Andrew Hodge

Coronavirus – Rule of Law Monitoring of UK Legislation

The COVID-19 pandemic resulted in significant volumes of coronavirus legislation being passed through Parliament at rapid speed with limited opportunities for scrutiny.

This legislation imposed unprecedented restrictions on people’s everyday lives and criminalised previously ordinary behaviour – such as leaving home and meeting friends. The Government has often had to act quickly to respond to a developing public health crisis, yet the speed at which coronavirus legislation was made raised rule of law questions around parliamentary scrutiny, and made it more difficult for law makers to identify rule of law problems with the legislation itself.

BIICL reviewed all major pieces of coronavirus legislation to identify rule of law concerns, and assessed how far Government messaging on coronavirus legislation complied with the rule of law. Evidence was submitted to parliamentary committees and Government consultations, and a number of reports have been published to assist Parliament in advance of debates on coronavirus legislation.

These reports have been cited in debates in both Houses of Parliament and have helped shape parliamentary discussions on, for example, hotel quarantine regulations, mandatory face coverings and parliamentary scrutiny of coronavirus legislation. This work directly led to securing Government undertakings on the Coronavirus Act 2020.

The Public Administration and Constitutional Affairs Committee has twice cited evidence given by the Bingham Centre, and also adopted our position on vaccine certificates as a recommendation to the Government. The BIICL team also gave evidence to the Procedures Committee following publication of a collaborative one-year report on the marginalisation of Parliament during the pandemic.

[Read more](#)

Katie Lines, Roman Cormacain, Murray Hunt



“As the Bingham Centre notes, the Government’s messaging has been misleading, and misleading statements of the law undermine the rule of law by creating confusion about what the law is.”

**Baroness Thornton,
House of Lords,
22 March 2021**

Reconciling Europe with its Citizens through Democracy and the Rule of Law (RECONNECT).

The Bingham Centre plays a multifaceted role in RECONNECT. Along with the University of Leuven, the Centre co-leads the communication, dissemination, and exploitation strategy.

Between October 2020 and December 2021, the RECONNECT project blog published 50 posts from the team which covered topics such as the rule of law implications of modifying retained EU law in the UK, rule of law in EU migration policy, protection for fundamental rights in developing EU counter-terrorism policies and regulation on a general regime of conditionality for the protection of the Union budget and its contested implementation.

The Bingham Centre, together with the University of Leuven, also created a set of educational materials for young people living in the EU. The primary aim of these educational materials is to enable young people and educators to engage in class discussions about the EU and the rights of EU citizens, and about the meaning and importance of core concepts such as the rule of law, democracy and human rights.

[Read more](#)

Lucy Moxham, Julinda Beqiraj, Daniela Nadj, Jan Van Zyl Smit, Oliver Garner

Brexit – The Withdrawal Process

The Bingham Centre has scrutinised the rule of law challenges during and after the conclusion of the EU-UK new relationship. These issues include the ongoing conflict on implementation of the Protocol on Ireland/Northern Ireland, the challenges of the new institutional framework of the Trade and Cooperation Agreement, and domestic concerns over legal certainty relating to “retained EU law”. Legal changes after 40 years of EU membership affect nearly every area of UK law and policy. Enacting such far-reaching constitutional change so quickly has been a stress-test for the safeguards guaranteed by the rule of law.

The Bingham Centre submitted a response with Thomas de la Mare QC to the Ministry of Justice consultation on departures from retained EU case law, and have published reports and blogs on the UK Internal Market Bill clauses that would have dis-applied the implementation of the Northern Ireland Protocol. Written evidence was also submitted to the European Scrutiny Committee on the EU-UK Trade and Cooperation Agreement.

The Ministry of Justice engaged with Bingham Centre proposals in their consultation response. The Internal Market Bill reports were cited in debates in Parliament, including by Shadow Justice Secretary David Lammy QC. The government eventually withdrew the controversial clauses. The European Scrutiny Committee published the submitted evidence on their website in September 2021, ahead of the publication of the Committee’s inquiry report. Our work has enabled government and parliamentarians to make decisions on Brexit legislation with full cognisance of rule of law implications.

[Read more](#)

Oliver Garner

National Implementation of Human Rights: Global Survey of State Implementation Systems and Processes

The Bingham Centre for the Rule of Law, the Universal Rights Group, the University of Bristol, and Freshfields Bruckhaus Deringer, are collaborating on a project to conduct – for the first time – a global survey to understand the systems and processes that States have put in place to implement their international human rights commitments.

There is a significant burden on States to report to all relevant human rights bodies and to follow-up and implement their many decisions and recommendations. Some countries have, therefore, created national mechanisms for reporting, follow-up and implementation to centralise and coordinate these processes, and to translate international norms and recommendations into domestic reality.

Since October 2020, the Bingham Centre and Freshfields have conducted 13 interviews covering nine jurisdictions and the team are now contributing to the overall analysis which covers approximately 40 countries. The aim is to produce an overview of existing systems and processes, and to distil best practice with a view to strengthening national implementation of human rights. The implementation of human rights is a priority rule of law issue. Better national implementation of human rights will improve the lives of individuals and groups around the world, and will support the 2030 Sustainable Development Agenda.

[Read more](#)

Murray Hunt, Lucy Moxham, Marc Limo
Executive Director of the Universal Rights Group, Rachel Murray, Director of the Human Rights Implementation Centre (HRIC) at the University of Bristol

National Security and the Rule of Law

Respect for human rights and the rule of law is critical for sustainable and effective counter-terrorism measures as it increases trust, cooperation, and engagement by groups and

communities, whereas infringement of rights and the rule of law undermines the legitimacy of security policies. BIICL's work in this area examines human rights and rule of law implications of national security and counter-terrorism laws and policies.

By engaging in reviews of legislation and policies and bringing together experts we can provide detailed analysis of legislation and policies. For example, following the London Bridge attacks, Jonathan Hall QC reviewed arrangements for managing terrorist offenders, the Multi-Agency Public Protection Arrangements (MAPPA). We convened a virtual expert roundtable for the Reviewer to examine the human rights and rule of law issues raised by current arrangements, and potential changes to the arrangements.

During 2021, we submitted a response to Sir Duncan Ouseley's Review of Closed Material Proceedings (CMPs) providing recommendations for improving the current practice relating to CMPs and participated in the UN expert Workshop on 'Counterterrorism & Artificial Intelligence: the application of human rights law and novel approaches to regulation and risk management'.

Tufyal Choudhury

The Role of Good Governance and the Rule of Law in Building Public Trust in Data-Driven Responses to Public Health Emergencies

During 2021, the Bingham Centre and BIICL researchers led a major interdisciplinary project The Role of Good Governance and the Rule of Law in Building Public Trust in Data-Driven Responses to Public Health Emergencies, funded by the Arts and Humanities Research Council as part of the COVID-19 Rapid Response programme of UK Research and Innovation.

We collaborated with public health experts at the University of Edinburgh Global Health Academy, data scientists and internet law experts from the Alan Turing Institute, the University of Newcastle and the Ada Lovelace Institute.

Our work resulted in more than 20 working papers, consultation submissions and blogs, addressing issues ranging from international data sharing to the domestic adoption of new technologies and views of UK residents on the trustworthiness of vaccine passports, and the large scale aggregation of health data to inform decisions about shielding, prioritisation of vaccine distribution and longer-term health service improvements.

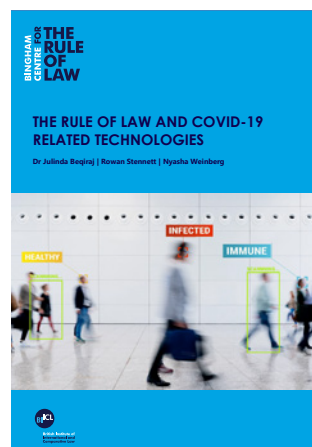
In the international strand of work, BIICL produced research which examined the history of legal responses to public health emergencies, the scope for improving World Health Organization (WHO) systems for identifying and responding to pandemics, and calls for a new 'pandemic treaty'. We also contributed to the legal analysis of domestic data-driven responses such as vaccine passports, contact tracing and venue check-in apps.

A distinctive element of this project was our use of citizen juries. During summer 2021, we worked with the Ada Lovelace Institute, one of the leading UK bodies in the field of public deliberation on technology and AI, to conduct two week-long citizen jury deliberations. Meeting online, two demographically representative groups of 25 UK residents reflected on their experiences of COVID-19 and debated how governments could earn their trust when developing and implementing data-driven responses. Their findings were presented to decision-makers from bodies including the UK Cabinet Office, devolved Governments and NHS-X. The level of Government interest in this work reflects the vital role of public trust in sustaining the high levels of co-operation needed to ensure that lockdowns, tracing programmes and other data-driven responses are effective.

[Read more](#)

Jan van Zyl Smit, Richard Mackenzie-Gray Scott, Jean-Pierre Gauci, Irene Pietropaoli and Constantinos Yiallourides, Keri Grieman, The Alan Turing Institute, Lilian Edwards, Newcastle University, Emma Irving, Leiden University, Claudia Pagliari, University of Edinburgh

Rule of Law, Legitimacy and Effective COVID-19 Control Technologies



Funded by the Institute for Ethics in Artificial Intelligence (IEAI) at the Technical University of Munich (TUM), this project is based on the recognition that technology-based emergency responses grounded on the rule of law have the potential to contribute to the empowerment of societies to respond to crisis situations. The rule of law enables effective pandemic responses by promoting transparency, clarity, participation, engagement and representation, equality, accountability and anti-corruption. In so doing, it facilitates public trust which is a critical element in responding to health crises. The project aims to undertake a systematic overview of challenges posed by specific mobile applications and COVID-19 related technology more broadly and to develop a methodology to assess publicly contentious control technologies against rule of law standards, and human rights obligations.

The research cooperation between BIICL, TUM, and the Centre for Artificial Intelligence and Data Governance (CAIDG) at the Singapore Management University builds upon the extensive experiences of the three institutions advising on regulation and governance with distinctly legal dimensions.

[Read more](#)

Julinda Beqiraj with Munich Center for Technology (TUM), the Centre for Artificial Intelligence and Data Governance (CAIDG) at the Singapore Management University.

Modern Slavery and Human Rights Policy and Evidence Centre

The Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC) was formally launched in 2020 following the investment of public funding to enhance understanding of modern slavery and transform the effectiveness of law and policies designed to address it. With the high quality research it commissions at its heart, it brings together academics, policymakers, businesses, civil society, survivors and the public on a scale not seen before in the UK to collaborate on solving this global challenge.



The Centre commissions research to provide innovative, independent, impartial and authoritative insight and analysis on modern slavery. It aims to drive real policy change and have a transformational impact on the understanding of modern slavery and the responses to it. In addition the Centre brings together academics, policymakers, businesses, civil society and the public and works to build an inclusive network of networks to facilitate new collaborations capable of generating innovative solutions to modern slavery.

Strategic Priorities

In April 2021, the Modern Slavery PEC published its Strategy for 2021-2024, with the focus on impacting the policies against modern slavery and the inclusion of people with lived experience. The strategy followed an extensive consultation with a wide range

of people working in the anti-slavery field, including academics, civil society, policymakers, lawmakers, businesses, frontline activists and – most importantly – those with lived experience of modern slavery.

Guiding principles for research:

Effectiveness: research should address evidence gaps relevant to policy and improve understanding of what works.

Equity: research should address structural inequalities, root causes and wider issues of social justice alongside a more equitable approach to allocation of research funding.

Survivor involvement: research should involve people affected by modern slavery at all stages, from selection, through design, production, to implementation.



The Centres' work is divided into four research areas: preventing modern slavery; understanding survivor needs and enhancing victim support; modern slavery in business supply chains and the effectiveness of legal enforcement measures. It has an additional research area that addresses emerging and cross-cutting issues, such as the impact of the COVID-19 pandemic on modern slavery.

Funded Research

During 2021, the Modern Slavery PEC has funded and supported 24 research projects related to these themes. This includes projects commissioned as part of open calls for research – eleven on the impact of the COVID-19 pandemic and five projects on survivor recovery, as well as smaller agile projects ranging in focus from consumers' role in addressing modern slavery, to modern slavery data for investors and effectiveness

of the UK supply chain measures. Published reports and brief research summaries specifically designed to maximise their impact on policy and practice are available on the PEC's website.

With survivor inclusion one of its guiding principles, the PEC funded five innovative research projects on the theme of long-term outcomes for survivors, exploring different approaches to survivor inclusion and leadership in research. Meaningful inclusion of those with lived experience of modern slavery is a key element of these projects, including working with survivors as peer researchers, inclusions in steering committees, creation of artistic outputs with young people, all ensuring that survivor voice is leading these projects. These projects are due to conclude in 2022.

In September 2021, the Centre launched the open call for research on the links between

modern slavery and wider laws and policies, inviting applications from interested research teams collaborating with at least one UK based third sector organisation and incorporating people with lived experience into the design and methodologies of their project.

It launched four calls for responsive research proposals on experiences of accessing legal advice for people with lived experience of modern slavery, improving the identification of adult survivors in the UK, evaluating the provision of distributed technology to adults with lived experience of modern slavery and establishing visibility and influence over long and complex supply chains.

The Centre has also supported engagement between its funded researchers and policymakers. It has helped to facilitate two roundtables on the impact of the pandemic on forced labour in Malaysian medical glove manufacturers with policymakers from relevant UK Government departments and between the UK and other Governments, including the US and Canada.

The Modern Slavery PEC has published four Policy Briefs to synthesise modern slavery research, including findings from PEC-funded projects. These Policy Briefs make evidence-based recommendations to policymakers and have covered the impact of the pandemic on the UK's ability to identify potential victims, the effectiveness of forced labour import bans, the links between modern slavery and the UK Government's new priorities for international development and the impact of the COVID-19 pandemic on modern slavery globally and in the UK.

Influencing Policy and Practice

The Centre has established strong collaborative relationships with policymakers, including regular engagement with the Home Office Modern Slavery Unit, Foreign Commonwealth and Development Office, the Independent Anti-Slavery Commissioner, the Scottish Government, the Welsh Government and the Office of the Director of Labour Market Enforcement. It has held four roundtables with businesses and a roundtable with the finance sector.

In addition the Centre has launched a podcast series, starting with discussions with researchers on the most effective ways to engage consumers in addressing modern slavery and listening to people with lived experience. The PEC has also produced a number of blogs to help the public learn more about its findings and activities, including an Anti-Slavery Day blog from a person with lived experience of modern slavery for the Thomson Reuters Foundation.

www.modernslaverypec.org

The Modern Slavery Policy and Evidence Centre is a consortium of six academic organisations led by the Bingham Centre for the Rule of Law (part of BIICL) and is funded by the Arts and Humanities Research Council (AHRC) on behalf of UK Research and Innovation (UKRI).

BIICL Forums

Overview

The Institute further enhances its research activities through four specialist Forums: the Competition Law Forum, the Investment Treaty Forum, the Product Liability Forum and the Human Rights Due Diligence Forum. These expert groups draw their membership from leading lawyers with a serious engagement in these areas and comprise senior solicitors, barristers, in-house counsel from business, policy advisers, lobbyists, academics, government officials, regulators and international officials.

The Forums provide an opportunity to exchange opinions, contribute to policy initiatives at an early stage, and promote research in these important areas of law and practice. All have had considerable influence in improving the conduct of policy and practice in their area.

Competition Law Forum

The Competition Law Forum (CLF) is a centre of excellence for European competition and antitrust policy and law, and provides a forum in which the practical application of competition policy can be considered by lawyers, economists, senior business managers, public servants, public affairs professionals, consumer bodies and other specialist practitioners.

The CLF organised 11 separate events during 2021 for its members to come together and discuss topics including, amongst others, recent developments in relation to class actions in the UK in the context of the Supreme Court's Merricks Judgement, sustainability considerations in competition enforcement in the dual context of climate change and COVID-19, and whether regulation can promote innovation and competition whilst simultaneously guarding against harms online.

Forum Directors: Liza Lovdahl Gormsen, Ioannis Kokkoris

Human Rights Due Diligence Forum

The Human Rights Due Diligence Forum (HRDD) is a platform for legal practitioners working in the area of business and human rights to discuss developments arising from the UN Guiding Principles as they relate specifically to legal practice. The Forum organises a regular programme of events and holds quarterly roundtable meetings involving thematic discussions and invites external speakers to join the members for particular topics.

During the first six months of 2021, the HRDD Forum partnered with the NOVA Centre on Business, Human Rights and the Environment, and the Portuguese Ombudsman Office, to organise a public webinar series that 'connected the dots' between corporate due diligence and issues such as civil liability, private international law, contract and company law, the green deal, sustainable finance and gender equality.

Events were also organised on topics including criminal liability for corporate human rights harms, corporate accountability and liability mechanisms for climate change, the legal implications of the proposed German Supply Chain Act, and human rights due diligence in contracts.

More details on research carried out by the Forum can be found on page 11.

Forum Director: Lise Smit

Investment Treaty Forum: Costs, Damages and Duration in Investor-State Arbitration project

States have expressed concerns that costs and damages awarded in investor-State disputes have become excessive, causing difficulty for those with limited financial resources. States are often required to pay lawyers, experts and arbitrators substantial sums using public funds

to defend claims initiated by foreign investors. For investors, particular those with relatively modest claims, the high costs and long duration of proceedings undermine their access to justice. Tackling high costs and the extended duration of Investor-State Dispute Settlement (ISDS) proceedings remains on the agenda of the United Nations Commission on International Trade Law (UNCITRAL) Working Group III which is considering the reform of investor-State dispute settlement.

BIICL's Investment Treaty Forum, in cooperation with Allen & Overy, examined over 470 Investor-State cases, giving a comprehensive account of how long ISDS proceedings last, their costs, how tribunals allocate costs, and the value of damages awarded. The study offers an empirical insight into the current position and changes in tribunals' practice in fixing and allocating such costs, and serves as a reference point for future investor-State arbitrations as well as policymakers considering the reform of the investor-State dispute settlement system.

The empirical study 'Costs, Damages and Duration in Investor-State Arbitration' came out in summer of 2021, and the Secretariat of the Working Group III: Investor-State Dispute Settlement Reform has cited it several times in its note 'Possible reform of investor-State dispute settlement (ISDS): Assessment of damages and compensation.' This note lays the foundation of reforming the system of investor-State dispute settlement.

[Read more](#)

Yarik Kryvoi, Matthew Hodgson, Daniel Hrcaka,
Allen & Overy
Forum Director: Yarik Kryvoi

"The value of this report to the work that UNCITRAL is currently carrying out in the context of ISDS reform is significant and cannot be overestimated. In order to carry out a systematic and thorough review of the ISDS system, it is essential that we have empirical data on which we can rely. This study highlights some significant trends in investor-State arbitrations which need to be addressed at the policy level."

Anna Joubin-Bret, Secretary of UNCITRAL and Director of the Division on International Trade Law in the Office of Legal Affairs of the United Nations

Product Liability Forum: Emergency products and COVID-19 project

The Product Liability Forum undertook a major project to assess the impact of COVID-19 on emergency products in the medical sphere, in particular vaccines. This is an important and topical theme which engages important public health considerations. A particular strand of this work focussed on the analysis of the social acceptance, legal and ethical implications of COVID-19 vaccines.

The project examined the issue of the acceptability of emergency vaccines and remedies for adverse reactions by adopting an interdisciplinary methodology, examining the historical, legal, regulatory and economic, and ethical perspectives to this important issue. This interdisciplinary project brought together a collaborations between academics from BIICL, University of Manchester, and University of Oxford.

Amongst many outputs from this work, the Forum Team submitted a response to the UK Government Consultation on modification of medicine licensing rules to support the rollout of COVID-19 vaccines, published a briefing paper on a bespoke compensatory scheme for possible adverse effects caused by a COVID-19 vaccine, and an article drawing on this briefing paper was published in The Lancet in February 2021. The team's work is continuing with international partners as well as representatives of WHO and COVAX to explore the development of vaccine compensation schemes in future.

[Read more](#)

Duncan Fairgrieve, Geraint Howells and Prof. Søren Holm, School of Social Sciences, University of Manchester, Samantha Vanderslott, Oxford Vaccine Group and Oxford Martin School, University of Oxford, Claas Kirchhelle, University College Dublin; Oxford Martin School, University of Oxford
Forum Director: Duncan Fairgrieve

Training and Public Engagement

"A great introduction to many aspects of international law with very knowledgeable speakers..."
Comment from course participant

Events At BIICL

The BIICL events programme in 2021 remained online due to the risk posed by COVID-19 but continued to offer high level discussions with speakers from across the world. During the year BIICL partnered with a variety of organisations including the Asia-Pacific Europe Law Institutes Alliance (APELIA), Sant'Anna School of Advanced Studies (SSSA), The Alan Turing Institute and the Center for Climate Change Studies and Sustainable Actions (3CSA). Many other collaborations during the year included law firms and members of our forums as speakers and sponsors.



Key events during 2021 included the ICLQ Annual Lecture delivered by Professor Simon Chesterman, National University of Singapore on his paper 'Artificial Intelligence and the Limits of Legal Personality' and the Grotius Lecture which this year was delivered by Professor Sir Malcom Evans KCMG, OBE, who spoke about the UN human rights treaty system. In addition the BIICL World Trade Organization (WTO) conference returned with a keynote from H.E. Ambassador Simon Manley, CMG, UK Mission to the WTO, speakers from the WTO, alongside government representatives, academics and businesses discussing COVID-19 and World Trade.

With the lifting of pandemic restrictions, BIICL resumed in person events to provide the all important networking element of our event programme while hybrid events will continue to allow engagement with our worldwide audience.

Training

In 2021 BIICL significantly expanded its programme of short courses to bring a wider range of topics to participants from across the world. Courses are convened and taught by expert researchers from BIICL's own team, often in collaboration with external partners. This provides academic expertise with practical experience rarely available in short course format.

During the year BIICL offered the popular Public International Law in Practice short course, alongside existing courses in Business and Human Rights, Climate Change Law, International Trade Law and Law of the Sea. New courses in 2021 included Aviation Law, Cultural Heritage Law and Migration and Refugee Law.

BIICL courses enable legal practitioners, government officials, students, academics and civil society organisations to gain expert insights and to deepen their knowledge. In 2021, we trained over 550 participants coming from governments around the world, international organisations, law firms and barristers' chambers, civil society and companies.

The provision of short courses on international law subjects supports the fulfilment of the Institute's mandate to promote international law while building capacity around the world.

biicl.org/training

“This course helped me to understand my role in society as a citizen of my country, the Caribbean region, and the world.”
Comment from course participant

Public Legal Education Update

Legal knowledge is not widespread throughout society; we do not teach people about their legal rights and entitlements outside of universities and other formal educational settings. This has the greatest impact on the poor, women and minority groups who benefit most from access to the law but are most frequently excluded from it. They often cannot afford legal representation and are unable to hold people that have not respected their legal rights to account.

In February 2020, BIICL launched a ‘Massive Open Online Course’ (MOOC) called ‘Citizenship and the Rule of Law’ in collaboration with the University of London. This MOOC provides students from across the world with video lectures, set reading and exercises to develop their knowledge of the rule of law.

At the time of writing, 11,000 students have enrolled on the MOOC, and 2160 students have graduated from it. The course is BIICL’s most geographically diverse initiative, with over 2,000 students from India, 481 from the Philippines and 406 from Bangladesh.

In addition to the MOOC, the Bingham Centre has expanded upon its previous ‘Citizenship Education and The Rule of Law’ work by creating a new initiative. ‘The Public and Youth Engagement Programme’ is a volunteering initiative for young lawyers bringing them into the classroom to teach school students about the rule of law. The programme involves a dual benefit; young lawyers are trained in how to teach law in a community/school setting, and the pupils that receive that knowledge gain an unparalleled level of practical legal and political knowledge.

20 volunteers were trained as part of the programme in 2021.

International and Comparative Law Quarterly (ICLQ)

As the ICLQ enters its 70th year, its reputation as a trusted resource for international scholarship of the highest quality is stronger than ever. The latest two-year Impact Factor score has increased significantly to 1.932 due to a sustained increase in the number of citations to ICLQ articles. Worldwide, the ICLQ is now the highest ranked comparative law journal, the highest ranked generalist European law journal and the second highest ranked international law journal.

Across all online platforms, there were over 600,000 article downloads in 2021 and scholars from around the world submitted hundreds of new articles for consideration by the Editorial Board (the second highest number of submissions ever received, down only slightly on the record number in 2020). The ICLQ has a strong following on social media with over 5,000 followers on its dedicated Twitter account @iclq_jnl and its online reach is further evidenced by Altmetrics continuing to show that ICLQ articles are shared widely across many platforms.

During 2021, the editorial board of the journal was happy to welcome five leading scholars; Professors Angus Johnston, Urfan Khaliq, Chin Leng Lim, Lavanya Rajamani and Philippa Webb. In addition the journal managing editor Anna Riddell Roberts was away on maternity leave and her role was filled by Anthony Wenton.

biicl.org/iclq

Membership



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

[Find out more](#)

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As a small, independent charity, BIICL relies on donations, research grants and income from events, training and publications to continue. The demand for our work is growing.

Our ability to address emerging legal issues in international law, threats to the rule of law, and global challenges such as climate change and the rapid development of technology, depends on the ongoing support of our members, donors, funders and sponsors.

BIICL 60+ Appeal

Chaired by Lord Neuberger of Abbotsbury, the BIICL 60+ Appeal has already helped to fund the major refurbishment of our office space, allowing us to accommodate our growing team of researchers and visiting fellows and incorporate a large attractive space for public events. Through their generous contributions to our Appeal, our supporters have also helped BIICL's research team widen their reach, expand their work and continue to make a positive and lasting difference in the areas you have read about in this report.

We are extremely grateful to all of those who have supported the Appeal so far. We would particularly like to thank those individuals who have made generous personal donations and thereby joined the **BIICL 60+ Appeal President's Circle**.

Our thanks also go to a number of trusts whose contributions towards the renovation have been instrumental in helping us to complete the extensive works. **The Dorset Foundation**, a longstanding supporter of our Public International Law activities made a considerable gift to help establish **The Harry Weinrebe Room**, our events suite; **The Bluston Hub**, our central meeting hub, was made possible by a gift from **The Bluston Charitable Settlement**, in memory of David and Lily Bluston; and **The Sybil Shine Room**, our ground floor resources and meeting room,

was made possible by a gift from **The Sybil Shine Memorial Trust**, which has also shown generous support for the Bingham Centre's Public and Youth Engagement Programme.

The Appeal still has a long way to go if we want to make the impact we hope to through the next phase of our development, including: continuing and strengthening our international law, European law and rule of law research and influence, expanding our climate change law activity and deepening our work on the issues posed by AI and technology.

We would be delighted to discuss your interest in supporting our work and welcome gifts at all levels. For more information on the Appeal or the President's Circle, or to make a donation, please [visit our 60+ Appeal page](#) or [contact](#):

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