

ST ANDREWS INSTITUTE OF LEGAL AND CONSTITUTIONAL RESEARCH

ANNUAL REPORT

2018–2019

Now into its fifth year, the St Andrews Institute of Legal and Constitutional Research (ILCR) has built upon its previous successes and experienced another busy, enjoyable, and intellectually stimulating period.

Over the past academic year, the ILCR has enjoyed success in a number of areas: internationally recognized academic publications, innovative public engagement activities and unique research projects and workshops. Now in its fourth year, the MLitt in Legal and Constitutional Studies continues to attract students from various disciplines and a wide variety of countries.

This report contains information about the activities of the Institute and its members over the course of the 2018–2019 academic year.



University of
St Andrews

LECTURES AND EVENTS

Interview with Richard Moyes (Article 36), September 27

ILCR in association with the Constitution Reform Group and These Islands
“The Union: Past, Present, and Future”,
 October 18



Law’s Two Bodies: interview with Paul Seils, October 26

Law’s Two Bodies: interviews with Dame Elish Angiolini and Sir John Baker, October 27

Seminar: **“Law in theory and law in practice”**, Hugh Dillon (Sydney), October 30

Lecture (with Student Law Society): **“Tales from the Coroner’s Room”**, Hugh Dillon (Sydney), October 30

St Andrews Day Lecture: **“Law’s Futures”**, Bill Taylor, QC, 30 November



“800 years of Jury trial”, Rob Bartlett and John Hudson in conversation
 26 January

“The jury on trial: a debate”, 11 February

Lecture: **“Hidden Narratives in Medieval Welsh Law”**, Robin Stacey (Washington), 11 March

Workshop with Robin Stacey (Washington), 12 March

Law’s Two Bodies: interview with Harry Potter as Thomas Erskine, 3 May

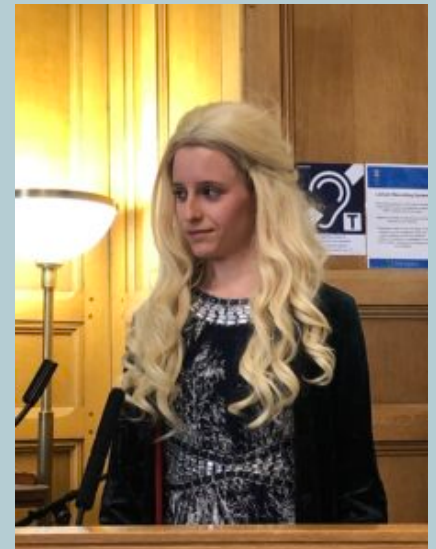
Talking Law: **“The Trial of Daenerys Targaryen”**, 3 May



Law’s Two Bodies: interview with Bruce Frier (Michigan) as the jurist Julian, 9 May

Lecture: **“What held Roman Law together”**, *Bruce Frier* (Michigan), 10 May

The ILCR held the second of its **'Talking Law'** events on 3rd May 2019 in Parliament Hall, *The Trial of Daenerys Targaryen*. The event aimed to encourage discussion of humanitarian law between students, members of the public, and legal professionals by dramatizing a trial based on the popular book and television series *Game of Thrones*. Using a trial set up, including a judge (Professor Malik Dahlan) and barristers (Harry Potter and Dr Mateja Peter) for the defence and prosecution, Daenerys Targaryen was charged with two counts of violating international law. The barristers presented their cases, and cross examined the accused.. The trial closed with the audience jury finding Daenerys guilty of the arbitrary deprivation of life but not guilty of inflicting torture and mutilation.



Rachel Horrocks as Daenerys



British Legal History Conference 2019, St Andrews

The twenty-fourth British Legal History Conference was held in St Andrews, 10–13 July 2019. The ILCR organizing team welcomed over 200 delegates to St Salvator's Quadrangle in St Andrews, where almost 80 speakers across 24 panels and five plenary sessions spoke about the conference's theme 'Comparative Legal History'.

The four-day conference saw keynotes by Alice Taylor (KCL), Rebecca Probert (Exeter), Janet McLean (Auckland) and Ian Williams (UCL) as well as panels on medieval, early modern and modern legal history. In addition, a panel of legal practitioners held a plenary session on the topic of legal history and their own work in various parts of the legal system. The panel was made up of Justice Geoff Lindsay from the Supreme Court of New South Wales, Lorna Drummond QC, Sheriff of Tayside and Fife, and Hector McQueen, formerly of the Scottish Law Commission.

And on top of that, all were treated to fine weather, several wine receptions and a ceilidh!

The ILCR was delighted to host **Professor Bruce Frier**, the John and Teresa D'Arms Distinguished University Professor of Classics and Roman Law, University of Michigan (Ann Arbor) and one of the world's leading scholars on Roman law and the civilian tradition. On Thursday 9th May Professor Frier gave us a fascinating insight into the mindset of the Roman Classical Jurist Julian, in the form of a **'Law's Two Bodies'** interview. The following day, Professor Frier gave a lecture - held jointly with the Edinburgh Roman Law Group - on **"What Held Roman Law Together?"**. The lecture was followed by a lively and learned question and answer session, with discussion ranging from Niklas Luhmann's theory of autopoietic legal systems to the Roman jurists 'uneasy relationship to the Courts'. Prof. Frier's Law's Two Bodies Interview and his lecture can be viewed online on the ILCR's website (ilcr.wp.st-andrews.ac.uk).



On the 18th October 2018, the **ILCR together with 'Constitution Reform Group and These Islands'** was delighted to host a one-day workshop and panel discussion on "The Union: Past, Present, and Future". 2018 was a significant year in the history of the Union (although the events of 2019 have perhaps already outstripped it!): the EU Withdrawal Bill became law after almost two years of debate, and the Supreme Court was asked to rule on the constitutionality of the Scottish Parliament's Continuity Bill. The

Constitution Reform Group

workshop and panel discussion was aimed at exploring the strength of the Union, legally, politically, and symbolically, as it commenced a new chapter in its history. As the organisers noted, the aim of the workshop was "to discuss the significance of the Union, with reference to its past, present, and future, reflecting on how it has evolved in a historical, legal, and political context." The first panel discussion focused on the ways in which "our reading of history has shaped our understanding of the idea of Britain" and began with a short introduction by Professor Ali Ansari (St Andrews) drawing on his recent book *These Islands: A Letter to Britain*. Other panelists included Professor Chris Whatley (Dundee/These Islands), Professor Richard Whatmore (St Andrews), Philippe Auclair (These Islands) and Chandrika Kaul (St Andrews), with Professor John Hudson chairing. The second panel of the afternoon featured members of the 'Constitution Reform Group': Lord Robert Salisbury, Rt Hon Gisela Stuart, Daniel Greenberg and Sir Paul Silk, introducing their long-awaited Act of Union Bill via Lord Lisvane in the House of Lords in October 2018. The discussion was chaired by Professor Caroline Humfress. For a more detailed report see: <https://www.constitutionreformgroup.co.uk/reflections-on-the-union-past-present-and-future/>

PUBLICATIONS

David de Concilio

‘*Summula de presumptionibus*’, as found in *Vatican Pal. lat. 653* (online publication)

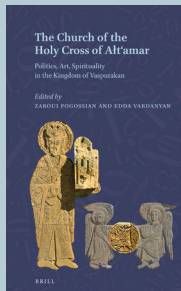
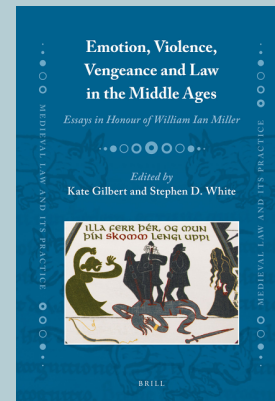
“Moneta e cultura giuridica. Un brocardo di Azzone nella costruzione del diritto pecuniario medievale”, *Tijdschrift voor Rechtsgeschiedenis / Revue d'Histoire du Droit / The Legal History Review* 87 (forthcoming, 2019)

Will Eves

The Earliest Treatise within the Materials Comprising the So-Called Très Ancien Coutumier of Normandy, as found in Vatican Library ms. Ott. Lat. 2964 (online publication)

‘Common Law’, in *The Routledge Medieval Encyclopedia Online* (accepted – forthcoming, Routledge, 2019).

‘Threats and Intimidation in Anglo-Norman Legal Disputes’, in Kate Gilbert and Steven D. White, eds, *Vengeance, Violence, Emotions, and Law in the Middle Ages* (Brill, 2018).



Tim Greenwood

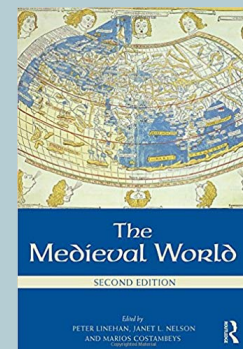
‘Historical Tradition, Memory and Law in Vaspurakan in the era of Gagik Arcruni’, in *The Church of the Holy Cross of Alt'amar: Politics, Art, Spirituality in the Kingdom of Vaspurakan, Armenian Texts and Studies* 3, ed. Zarouï Pogossian and Edda Vardanyan (Leiden: Brill, 2019), pp. 27-48

Caroline Humfress

“A New Legal Cosmos” in Marios Costambeys and Peter Linehan, eds., *The Medieval World*. Second edition (London, 2018), pp. 653–673

“Natural Law and Casuistic Reasoning in Roman Jurisprudence” in Peter Adamson and Christoff Rapp, eds., *State and Nature: Essays on Ancient Political Philosophy* (Berlin: De Gruyter, accepted for publication)

“The Early Church” in Anders Winroth and John Wei, eds., *The Cambridge Companion to Medieval Canon Law* (Cambridge and New York: Cambridge University Press, accepted for publication)

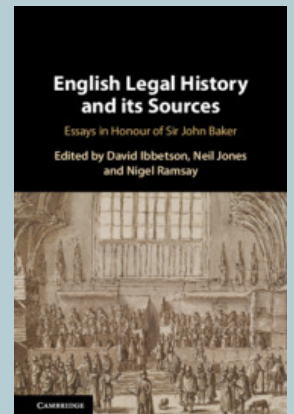


John Hudson

'The Balliol Glanvill' (online publication, 2019)

'The place of Henry I in English legal history', *Haskins Society Journal* 28 (2017), 63-81.

'Reading terminology in the sources of the early Common Law: Seisin, simple and not so simple', in *English Legal History and its Sources: Essays in Honour of Sir John Baker*, eds. D. Ibbetson, N. Jones, and N. Ramsay (Cambridge, 2019), pp. 79-99.



Ingrid Ivarsen

'The Latin Law-Code of King Ine', *Anglo-Saxon England* 48 (forthcoming)

Attilio Stella

"Bringing Feudal Law Back Home. Social Practice and the Law of Fiefs in Italy and Provence (1100-1250)" *The Journal of Medieval Studies* (forthcoming, 2020).

Mnemonic Poem for memorising the structure of the second section of the Decretum Gratiani, as found in Berlin, SBPK 462 (online publication, 2019)

Libri Feudorum: Vulgata (online publication, 2019)

'The Summa Feudorum of MS Parm. 1227: a Work by Iacobus Aurelianus (1250ca.)?', *Reti Medievali Rivista*, 20/2 (2019)

Pseudo Revigny 'Summa feudorum' Parma Biblioteca Palatina, ms. Parm. 1227 (online publication, 2019)

"The *Liber Ardizonis*. Reshaping the *Libri Feudorum* in the Early Thirteenth Century," *Studi Medievali*, LVIII/1 (2017): 175-227.

Sarah White



'*Iudicium est actus trium personarum*,' as found in Oxford St John's College 178 (online publication)

"Thomas Wolf c. Richard de Abingdon, c. 1293-1295: A Case Study of Legal Argument", *Journal of Ecclesiastical History* (forthcoming 2019)

"Witnesses in the Thirteenth-century English Ecclesiastical Courts: The Procedure and Practice of Proof", *Studies in Church History* 57 (forthcoming 2019)

"Legal Arguments and Citations in the 13th-Century Court of Canterbury", *Proceedings of the Fifteenth International Congress of Medieval Canon Law: Paris, 17-23 July 2016* (forthcoming 2020)

All online publications can be found here: <http://clicme.wp.st-andrews.ac.uk/online-texts/>

CONFERENCES, PAPERS AND OTHER ACTIVITIES

Will Eves participated in the round table *Divergence and Transformation in Western Europe from the late eleventh to the thirteenth centuries* at Roma Tre in March 2018, alongside Dr Cecchinato, Dr Stella and Dr White, and all four were on the panel *Civil law, Common law, Customary law* at the Comparative Legal History Workshop (St Andrews, May 2018).

John Hudson co-organised a workshop on 'History of Law and Emotions' (London August 2018) and the event 'Reflections on the Union: Past, Present and Future' (St Andrews October 2018), and was the Chair of the Organising Committee, British Legal History Conference, St Andrews, 2019. Professor Hudson delivered a keynote lecture at the 2018 International Society for Intellectual History conference, St Andrews, entitled 'F. W. Maitland, Civil Law, and Common Law: Borders and Boundaries', and gave the invited seminar 'Exploring patterns of legal development in twelfth-century Europe' (Zurich, 2018). He was elected member of the Academia Europaea (2019)

Caroline Humfress became an Associate Member (part of the Advisory Board) for the Centre for Legal History, Edinburgh Law School University of Edinburgh in 2018. She gave the plenary lecture "The Church and the Law" at the winter meeting of the Ecclesiastical History Society (Institute of Historical Research, London) in January 2019, and was an invited panelist at the American Society for Legal History (Houston), International pre-conference workshop and American Society for Legal History Conference. In April 2019, she was an invited chair and respondent at the conference "Clerics in Church and Society up to 700 CE" at the University of Warsaw, and gave a seminar paper to the 'Ewa Wipszycka Seminar (Legal History and Papyrology, University of Warsaw)', entitled "Reframing P. Petra IV.39".

Attilio Stella was invited as a discussant for *Dal caso alla regola, dalla teoria ai fatti: alle radici della cultura giuridica europea* at the École française in Rome in 2019. He gave the paper 'In aliquibus locis est consuetudo. French lawyers and the Lombard customs of fiefs (13th century)' at the BLHC 2019.

Sarah White delivered the paper "Fama and Hearsay: The Procedure and Practice of Proof in the Thirteenth Century," Seminar Series: Centre for English Legal History Seminar Series in Cambridge, May 2019. She also gave the John Lewis Memorial Lecture in Cardiff in March 2019, entitled "Canon Law in the Thirteenth Century: Canterbury Advocates and Proctors". In December 2018, she gave the paper "Ordines iudicarii and Procedure in Practice," Workshop held at Roma Tre.



In February 2019, **John Hudson Caroline Humfress, Andrew Cecchinato, Will Eves, Attilio Stella and Sarah White, Dan Armstrong and David de Concilio** participated in the *Atelier Doctoral* at the *École Française* in Rome, on the theme: *'Dal caso alla regola, dalla teoria ai fatti: alle radici della cultura giuridica europea'*.

The doctoral week provided the opportunity for PhD and early career researchers to present their research and act as discussants to papers delivered by other attendees. Professor John Hudson delivered a keynote lecture on the subject of *Learning from casuistic approaches to Common Law*. Dan Armstrong gave a paper entitled *Politics, Law, and Ecclesiology in Anglo-Papal relations*, and David de Concilio presented on the topic of *Dialectic in the development of medieval legal thought: a European history*.

RECHERCHE

ÉCOLE FRANÇAISE DE ROME

PROGRAMMA SEMINARIO DOTTORALE

18-23 FEBBRAIO 2019

ROMA PIAZZA NAVONA 62

Moyen Âge

SEMINARIO DOTTORALE

Dal caso alla regola, dalla teoria ai fatti: alle radici della cultura giuridica europea

LUNEDÌ 18 FEBBRAIO	MARTEDÌ 19 FEBBRAIO
<p>10.00</p> <p>ÉCOLE FRANÇAISE DE ROME PIAZZA FARINSE, 67 - SALA VOLTERRA</p> <p>Tavola rotonda introduttiva:</p> <p>Paolo NAPOLI - EHESS La casuistica comune: "terroir du droit" et la contribution de Yves Thomas</p> <p>Caroline HUMFRESS - University of St Andrews Casuistic approaches to ancient Law</p> <p>Emanuele CONTE, Sara MENZINGER - Università di Roma Tre Casistica nella tradizione di diritto comune</p> <p>Luca FANTAPPI - Università di Roma Tre Casi di coscienza nella prima Età moderna</p> <p>Otto PEERSMANN - EHESS La svolta casistica nella dogmatica giuridica</p> <p>14.30</p> <p>Presentazioni dei lavori di:</p> <p>Dimitri AKRIVONGS - University of St Andrews Politics, Law, and Ecclesiology in Anglo-Papal relations Relatore: Emanuele CONTE</p> <p>Vincenzo Roberto IMPERIA - Università di Palermo Le eccezionali potestà dell'Arcivescovo di Monreale il caso dell'alta giustizia criminale Relatore: Cécile CABY - Université Lyon 2</p> <p>Sarah WHITE - University of St Andrews</p> <p>David DE CONCILIO - University of St Andrews Dialectic in the development of medieval legal thought: a European history Relatore: Clément LENOBLE - EHESS Andrew CECCHINATO - University of St Andrews</p>	<p>9.30</p> <p>ÉCOLE FRANÇAISE DE ROME PIAZZA NAVONA, 62</p> <p>Paper of John HUDSON - University of St Andrews Learning from casuistic approaches to Common Law</p> <p>Presentazioni dei lavori di:</p> <p>Bernardo CASON DUNNER - Université Paris Nanterre / Madrid Sous les drapeaux des pratiques du Liber Iudicium dans la résolution de conflits dans le Nord-ouest hispanique (IX^e-XII^e siècles) Relatore: John HUDSON</p> <p>Will EVES - University of St Andrews</p> <p>14.30</p> <p>Anna FLORIS - Università di Trento Casi e dottrina nelle questioni giuridiche esplicative della Carta de Logis Relatore: Sara MENZINGER</p> <p>Notémie ISSAN-BENCHEDOL - EHESS Le serment judiciaire en droit talmudique: cas typiques, faits stylisés, présomptions Relatore: Caroline HUMFRESS</p> <p>Dimitri LAURENT - EHESS La pratique juridique du Gues de Roganchov. Le cas, l'abstraction, l'histoire Relatore: Otto PEERSMANN</p>
GIOVEDÌ 21 FEBBRAIO	VENERDÌ 22 FEBBRAIO
<p>9.30</p> <p>Presentazione del lavoro di: Gregorio CUSTINI - Università di Perugia Tecniche di insegnamento del diritto nella scuola dei glossatori Relatore: Luca LOSCHIAVO - Università di Roma Tre</p> <p>FRANCESCO BOZZI - Università di Milano Il contratto di aderenza e la sua strutturazione come strumento politico Relatori: Otto PEERSMANN Attilio STELLA - University of St Andrews</p> <p>Esther TELLO-HERNANDEZ - EBHAR Nichti sobri: norma e pratica circa la contribuzione ecclesiastica nella Corona d'Aragona tra pontificato di Avignone e Soria (1308-1418) Relatore: Pierre SAVY - EFR</p> <p>14.30</p> <p>Dario INTERMILLO - Università di Roma Tre Giuris, giustizia e tecniche di diritto a Roma nel XII secolo. Riflessi sulla documentazione del Senato Relatore: Massimo VALLEIANI - Università di Torino</p> <p>Elsa GARBAUD - Université Paris Nanterre Lecture croisée de textes doctrinaux et d'archives judiciaires sur l'issue (XIV^e-XV^e siècles) Relatore: Paolo NAPOLI</p> <p>Marta GRAVELLA - Università di Torino Negotiazione della cittadinanza nelle petitioni alle autorità Relatore: Jean-Claude MARIE VIGELUR - Università di Roma Tre</p> <p>18.30 Visita biblioteca EFR</p>	<p>9.30</p> <p>Amine BENABDALLAH - Università di Perugia / EHESS L'institution juridique du temps et les limites de la responsabilité de l'État: étude du cas Hoffman-Glemane, Vichy (Conseil d'État, 2009) Relatori: Clément LENOBLE Michele SPANO - EHESS</p> <p>Xenia CHAROMONTE - Università di Bologna Towards an archaeology of the principle of social defence and non-defence: The No-Tort criminal question Relatore: Michele SPANO</p> <p>12.30</p> <p>Tavola rotonda conclusiva:</p> <p>Cécile CABY, Jacques CHIFFOLEAU, Emmanuelle CONTE, John HUDSON, Caroline HUMFRESS, Clément LENOBLE, Luca LOSCHIAVO, Jean-Claude MARIE VIGELUR, Sara MENZINGER, Paolo NAPOLI, Otto PEERSMANN, Pierre SAVY, Michele SPANO, Massimo VALLEIANI</p> <p>Nella storia del Medioevo europeo continentale il diritto viene erroneamente ritratto a una dimensione azusa. La norma o le collezioni di norme sono considerate "teorie", distinte se non addirittura estranee ai "fatti" concreti. L'atelier punta a rivedere questo approccio, utilizzando il legame sempre esistente tra fatti e teoria, caso e astrazione, evento storico e norma. Il fine è, da un lato, scollinare giovani studiosi di diverse nazionalità sul tema della storia del diritto medievale e moderno, lato quanto ecclesiastico; dall'altro, mettere in discussione la dinamica separazione che nel XII secolo si sarebbe verificata tra le due grandi famiglie giuridiche europee: quel law continentale e common law anglosassone. L'approccio "casuista" al diritto, che si basa sulla centralità del caso storico nell'analisi della dimensione giuridica, rappresenta infatti uno strumento fondamentale per ridurre la distanza tra due tradizioni che hanno geneologicamente in comune, in realtà, più di quanto le segue.</p>

COMITATO SCIENTIFICO

Cécile CabY, Emanuele Conte,
Caroline Humfress, Sara Menzinger,
Paolo Napoli, Pierre Savy

CONTATTI

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Centre for Global Constitutionalism

2018–2019

The Centre for Global Constitutionalism is dedicated to exploring the development of global order in its many manifestations. From its inception, the Centre has focused on the concept and application of constitutionalism at the national, regional, and global levels. More broadly, we are concerned with contemporary developments in the study and practice of global governance, international law, and organisations as applied to a wide range of issues including security, human rights, trade, refugees and migration, and the environment. We promote broad thinking and cutting-edge scholarship through our regular talks and workshops, working paper series, and student internships.

The Centre continued this tradition with a range of events in the 2018-19 academic year. We hosted four talks by invited guests on topics ranging from the regulation of weapons and international humanitarian law to the politics of global climate change and international criminal justice, as well as four expert roundtables on global constitutionalism, China in the 21st Century global order, United Nations peace operations, and international courts and populism. Three of these latter events served to launch new books by School of International Relations and CGC staff. In addition to the public events we organised four masterclasses for postgraduate (MLitt and PhD) students focusing on research skills (e.g., a session on integrating small and large datasets in research) and in-depth conversations with leading scholars and practitioners. The Centre also provided modest financial support for two events organised by colleagues in the School of IR: the launch of *Threads, War and Conflict*, a month-long exhibition of “conflict textiles” and associated events, and a visit by Professor Brackette Williams of the University of Arizona.

The Centre supports student learning and professional development through two distinct programmes. We host a cohort of current PhD students—drawn from IR as well as other Schools—as Associate Fellows. The Fellows assist in the Centre’s operation and can draw on CGC resources to advance their own research by presenting draft papers or thesis chapters at an internal workshop, publishing a CGC Working Paper, and through various networking opportunities throughout the year.

Finally, in 2018-19 we were again fortunate to have seven exceptional undergraduate and MLitt interns who assisted us with the promotion of CGC events and served as a vital point of contact between the Centre and the wider university community. The centrepiece of the internship programme is our *Junior Scholar Working Paper Series* which serves as a platform for encouraging high-quality student scholarship. Each intern develops an original research essay of approximately 3000 words on a topic of their choosing, based around an annual theme. Their work is supported through a collaborative peer review workshop and a mentoring scheme where we pair each intern with an Associate Fellow for one-on-one meetings to discuss their research. The final essays are published each spring and are available on the Centre’s website: <https://cgc.wp.st-andrews.ac.uk/publications-and-papers/junior-scholar-working-paper-series/>.

Dr Adam Bower and Dr Mateja Peter

Life after the Legal and Constitutional Studies MLitt

In 2018/9 St Andrews enrolled eleven students for the third year of the MLitt Legal and Constitutional Studies. The MLitt students worked with scholars and researchers from across History, International Relations, Philosophy and Classics, producing some outstanding research on a number of diverse topics related to legal history, international law, legal philosophy and constitutionalism. As in previous years, the 2018/9 MLitt cohort participated fully in the academic life of the Institute, in addition to enjoying a number of social events hosted in the medieval Undercroft and elsewhere. We warmly wish the graduating class of 2018/19 every success and look forward to staying in touch with you all! Further information about the MLitt in Legal and Constitutional Studies at the University of St Andrews can be found here: <https://www.st-andrews.ac.uk/subjects/history/legal-constitutional-studies-mlitt/>



“The MLitt wonderfully brought unexpected clarity to my then future ambitions. Having begun with a solid intention to go into legal practice immediately afterwards, I now intend to begin my doctoral degree in the coming year. This is, in part, due to my desire to explore further a fantastic area of research I came across during the second-half of the programme. Although anchored in legal studies, the MLitt uniquely permits students to investigate a diverse range of interests and disciplines – with the requisite support from other departments within the university when needed. I especially appreciated this aspect and had an excellent year of learning as a result. I am looking forward to continuing my academic journey.”

Karen Katiyo, MLitt student 2018–19

“My experience of the Legal and Constitutional MLitt was incredible. Academically, the course was extremely flexible and versatile in its outlook. This allowed me to explore diverse subjects and fields such as Ancient Law and International Law all in the same semester. One of the best parts of the course, however, was the people I met and the environment in which we studied. The intimate module sizes really challenged us to participate and engage with the subject material, but also get to know each other and make lasting friendships in the process. The events of the ILCR also supplemented the course well and allowed us to hear from experts and about contemporary events in the legal field. I am now working in the Admissions department of the University, and I can safely say that I have taken many of the skills that I learned as part of the course with me as I perform in my new role.”

Alasdair Wilde, MLitt student 2018–19

“I enjoyed every aspect of the MLitt in Legal and Constitutional Studies. The support received from professors and staff, the opportunity to connect with other students through MLitt classes and activities, and the small number of students in seminars make this master's and university an ideal place where to learn and grow.”

Alex Miller-Pelletier, MLitt student 2018–19