Open University Law School Symposium

Belonging

Dominance, Governance, Identity, Memory

Abstracts

Belonging in a Post-national World

Marjan Ajevski, Research Fellow in Law, The Open University

International relations and international law scholars are starting to think of the international system as a postnational system. There has been an increased rise in the impact and importance of international institutions to the point that we talk about international governance as the mode of international interaction rather than diplomacy. Furthermore, we no longer see the State as a unitary actor on the international stage and national governments have taken a disproportionate advantage of the international system to increase their power domestically. What is increasingly becoming clear is that the international system is becoming multi-layered where the state, including its legal and political order is becoming but one layer in this global order.

This paper will historically contextualise the emergence of the doctrine of sovereignty, statehood and sovereign equality from the mid-to-late nineteen century highlighting its racist origins, discuss how it has changed in the twentieth century and highlight the challenges that global governance poses to the current international law master-narrative. It will go on to discuss the possible ways in which national polities, majority and minority communities can start building a global community of belonging.

"I belong here": on the personal, the political and the scales of belonging in the age of migration

Marco Antonsich, Senior Lecturer in Human Geography, Loughborough University

Belonging is an ill-defined notion, often confused with identity, attachment, or citizenship. In this presentation, I aim to excavate its complex articulation by reflecting on a mundane claim such as

'I belong here'. Unpacking this expression allows to reflect on three main dimensions associated with the notion of belonging: its personal, political and geographical expressions. Belonging is first and foremost a personal feeling of home-ness. Yet, this feeling does not exist in a social vacuum, as the politics of belonging, with its discourses and practices of socio-spatial inclusion/exclusion, shapes the conditions of personal belonging. Today, as the international mobility of people disrupts the traditional rootedness of belonging, it becomes crucial to understand the plurality of forms of belonging and how they differently intersect with places and spaces 'here' and 'there'.

Class, change and community: the politics of belonging.

Harriet Bradley, Professor of Women's Employment, Universities of Bristol and the West of England

This presentation aims to pull together themes from my work as a sociologist and my recent experience as a city councillor in Bristol. Current economic and demographic changes have impacted on social class formations, at a time when public sector services have been under attack as part of government's austerity programme. My presentation will start with discussion of processes of class recomposition, especially with relation to working class groupings, and how these have led to new political alliances. This in turn has ramifications for local communities and people's identifications within them. Simultaneously, local politicians have been calling on communities to pull together in response to loss of local services. I will suggest how this has produced contestation around definitions of community. Who belongs where? Who is excluded? Increasingly the idea of community is being politicised within specific localities as people fight for resources and for recognition.

Belonging: cultural property and national identity

Keren Lloyd Bright, Senior Lecturer in Law, The Open University

This paper will explore the role that cultural property has to play in the creation of memory, identity and belonging. The particular focus of the paper is the Walhalla Monument in present day Germany. The monument is a building of significance which provides an example of a historical case of belonging. The idea for the Walhalla Monument was conceived during the Napoleonic era when much of Europe was subject, albeit for a short time, to conquest or control. The monument draws upon a number of diverse European cultural traditions: the temple architecture of classical Greece; the pantheon of ancient Rome; and Norse mythology. Belonging and identity are created and enforced by the sculptural reliefs adorning the Walhalla Monument and by the sculptures and plaques placed inside it. The building is notable for the cultural references it draws upon; and the cultural censorship of what it both includes and excludes. Belonging and identity imbued by the Walhalla Monument later resonated during the Nazi era and continues to provide us with pause for reflection today.

A Reflection on reading English Belonging

Dr Leslie Budd, Reader in Social Enterprise, The Open University

The notion of belonging is like identity in being complex and multi-dimensional. Similarly, belonging is negotiated through a complex of constitutional, political, social geographical, cultural and psychological factors. Yet, in the case of making a sense of belonging in the run-up to and aftermath of the Referendum on membership of the Europe Union (EU) of 2016, belonging appeared to have been to single dimension; in this case Englishness.

In part we have been before as set out in J.B.Priestley's masterly, *The English Journey,* written soon after the Great War and reflecting in the changes in English towns before and after this conflagration. Given recent events a re-reading of Priestly appears to be an imperative but one that needs a wider and possibly deeper reach. In this regard, this paper draws upon a reading of three books. *The Revolt of the Elties* (Christopher Lasch); *Imagined Communities* (Benedict Anderson); and, *Legitimation Crisis* (Jurgen Habermas), in order to explore Priestley's insights from the perspectives professional elites and democracy; nationalisms; and the decline of confidence in public institutions.

In exploring English belonging through this reading, it is hoped that the paper will contribute to debates, that often to date have reduced this challenging notion to rather simplistic narratives.

Arenas of performance: Belonging as a radical act

Tim Butcher, Senior Lecturer in People Management & Organisation Studies, The Open University

This paper discusses findings from the Australian Research Council funded project: *Wellbeing not Winning*. This ethnographic project aims to understand the meaning and value of sport to remote Aboriginal communities in central Australia. This paper focuses on understanding the embodied experiences of community Sports Weekends as arenas of performance (Rose, 2004) in which a sense of belonging is enacted on sacred land to contest neo-colonial hegemonies.

Colonial hegemonies perpetually reshape and reform to attempt to dispossess remote Aboriginal peoples of their land, condemning their everyday lives to extreme poverty and disadvantage (Butcher and Judd, 2015). Yet Aboriginal people travel vast distances to reconnect with family and friends at self-organised Sports Weekends, reinforcing cultural and social connections to each other and the land (Butcher and Judd, 2016). This paper discusses how these events make space for a contemporary collective sense of belonging that is policed but otherwise unbound from non-Aboriginal governance. I argue that these events enable embodied radical acts of belonging insofar as participants contest the hegemonies that detrimentally affect their health and wellbeing, by demonstrating a vital and convivial sense of belonging embedded on Country. Hence this paper contributes to understanding the ethico-politics of belonging as performative radical resistance.

The Greek Nationality Code reform (2010-2015) in midst of the crisis.

Dimitris Christopoulos, Professor of Comparative Politics, Panteion University in Athens

Christopoulos discusses the path of an important reform of the Greek Citizenship Code, starting from the initial introduction of the Citizenship Law in 2010, the public debate and reactions that followed leading to its partial annulation as unconstitutional in 2012, and finally, the developments until its restoration with a new law in 2016. This initiative introducing radical reforms for the Greek context took place in the midst of the public debt crisis, and thus has not been discussed accordingly. Until then, the issue of Greek nationality represented a non-issue in the political agenda of the country, since the issue of citizenship was considered 'nationally sensitive'. His paper examines how such a reform is pushed forward during extremely difficult conditions, an unprecedented economic and political crisis, coupled by the largest refugee wave in the recent history of the country, having still an uncertain future/outcome.

Does Coercion Change our Sense of Agency?

Lisa Claydon, Senior Lecturer in Law, The Open University

Recent neuroscientific research by Caspar and Haggard et al has demonstrated that it is possible to show that subjective experience of our sense of agency is modified when the actions result from the coercive behaviour of others. This finding, that the reporting of the experience of acting was altered when the subject of the experiment experienced coercion, correlates with claims made by individuals that they "were only obeying orders".

This paper explores the use of the experimental paradigm and discuss whether the scientific findings challenge our existing notions of criminal responsibility. It seems that our sense of control over our behaviour may be influenced by the setting in which the behaviour takes place. If this is true then this may have a profound effect on our personal understanding of the rightness or wrongness of our behaviour. Are there lessons to be learned for the law and for society about our behaviour when coerced?

Belonging on the battlefield, exclusion from the nation?

Sara de Jong, Research Fellow, The Open University

NATO forces in Afghanistan, including the British Armed Forces, relied on the work of Locally Engaged Civilians (LEC) as interpreters, security guards, cooks etc. In Afghanistan, LEC are often considered traitors to the Afghan nation and Islam. With the withdrawal of troops and escalating insecurity, association with Western forces became increasingly dangerous. However, LEC who appeal to the countries that employed them for international protection have received mixed

responses: heralded by some as brothers in arms who deserve to be part of the nations they served, they are also viewed as undesired migrants.

Based on 40 semi-structured interviews with LEC who have sought protection from Western states and their advocates, this paper explores their claims to rights and exceptional status. It draws on histories of migrants' incorporation in the nation as soldiers; discourses of 'deserving' versus 'undeserving' migrants; and the contentious links between claims to welfare, workfare and warfare to interpret their political claims as well as the overwhelming public support that they receive, not only from liberals but also from right-wing conservative parties.

The Unbearable Lightness of Being Swedish? Naturalization and Integration in a Liberal Citizenship Regime

Christian Fernandez, Associate Professor in Political Science, Malmö University

The objective of this article is twofold. Firstly, I seek to improve understanding of the liberal Swedish naturalization by highlighting the particular traits of an open yet largely instrumental citizenship regime, which existing theories have not been able to sufficiently account for. I argue that the liberal openness of Swedish citizenship should be attributed not only to a liberal ideology of pluralism and equality, but to a fairly administrative, sterile and pragmatic conception of citizenship that is largely dissociated from existing conceptions of nationhood, integration and societal membership. Secondly and related to the first, I take issue with the widespread yet implicit theoretical notion of citizenship being defined by shared conceptions of the national demos. I argue that this connection varies and that it is significantly closer and stronger in some cases than others, regardless of its lenience towards an ethnic or civic, monist or pluralist conception of the nation. While newer, post-national theories of citizenship offer valuable insights into the reshaping of citizenship, they systematically underestimate and, consequently, fail to account for the enduring differences between and idiosyncrasies of national citizenship regimes. In trying to capture a hitherto neglected dimension of the citizenship-nationhood nexus, I propose a distinction between ideologically thin and thick citizenship, with Sweden serving as an example of the first.

Tradition: a tool for fostering a sense of belonging

Jessica Giles, Lecturer in Law, The Open University

The concept of tradition, rather like that of secularism, has come to mean different things to different people in a variety of contexts. This paper explores the development of the concept identifying how these definitions interlink with an understanding of belonging. The overarching thesis is that tradition could provide a platform to nurture a sense of belonging within society amongst individuals, institutions of civil society and governments, whilst still ensuring the

maintenance of the integrity and identity of each party and protection of individual rights. Multivalent reasoning, including religious reasoning, is suggested as the tool to facilitate multi-faith dialogue in order to build this consensus, in particular to envisage the common good, and to inform law creation and adjudication. The aim is to both counter the secular narrative that has manifested itself in extreme forms of *Laïcité* in some countries in Europe and, on the other end of the spectrum, to provide a means of entering into dialogue with those states encompassing forms of theocracy or confessionalism. Tradition as a platform for dialogue is put forward to bolster the right to freedom of religion, in particular in those states where a plurality of religious voices is seen as a threat rather than a richly diverse canvas upon which to paint the interactions of civic life and formulate the law that governs those interactions.

Exclusion and belonging in the Georgian Period

Amanda Goodrich, Lecturer in History, The Open University

This paper will consider issues of exclusion and belonging in Britain, in both political and social contexts in the Georgian period. The lack of legal frameworks to define citizenship and national identity at that time renders such issues particularly complex. Who did or did not 'belong' in English society and politics was predicated on a number of exclusions based on age, gender, wealth, social status, religion and race. The vast majority of the population were excluded from formal politics for one reason or another. 'Scientific' identifications of race were only just emerging and there were many interpretations of racial 'difference.' Considerations of exclusion on the basis of race both in relation to the colonial centre and periphery, and within England itself provide conflicting evidence.

In particular, radicalisation was a problem for governments in the Georgian period, as it is today. The contexts and impetus for such radicalisation were, however, somewhat different. Nevertheless, they were focused around a sense of exclusion and sometimes alienation from the status quo. This paper will briefly consider radicalisation during the French Revolution with reference to Henry Redhead Yorke. As a dual heritage, illegitimate creole of African/European descent from the West Indies, who was educated to be a gentleman in England, Yorke represents an interesting case study for issues regarding politicisation and identity, exclusion and belonging.

Neighbourhood watch: The institutionalisation of exclusion in the public sphere through the Immigration Act 2014 and the Immigration Act 2016

Neil Graffin, Lecturer in International Law, The Open University

The Immigration Act 2014 and the Immigration Act 2016 require that private citizens check the immigration status of individuals when they seek to access to services, such as the labour market, healthcare, housing, or banking. This paper will consider that this has the effect of making private

citizens immigration controllers, thereby institutionalising the exclusion of individuals within the public sphere. In this space, some of those who 'belong' are required to police those who may not. Bordering becomes increasingly internalised within the state's infrastructure. Following Brexit, this could be amplified given the likelihood that this form of immigration controlling will be enhanced.

Anzac Day, elasticity, and the enactment of 'unbelonging'

Matthew Howard, Lecturer in Law, The Open University

Due to the fixed and regular character of many nationally observed commemorative events, they are often identified as a significant element in the enactment of a political identity or community (Assmann 2011; Assmann and Shortt 2012). Indeed, collective commemorations can be identified as paragons of the elasticity of community boundaries. Here, elasticity is taken to mean limited tolerance and the inevitable pulling back, rather than suppleness and malleability. As such, it is argued that a commemorative event, and the regular production and confirmation of memories therein, offers a means by which recognition and belonging are sustained or denied (see eg Butler 2004).

This paper seeks to implicate Anzac Day in the elastic definition of the Australian national community. The commemorative narrative in Anzac Day offers a means by which race, sexuality, and gender are recognized as included within or excluded from the idealized character of Australian-ness. This paper builds on previous work which examines the question of aboriginality in Anzac Day and turns its attention to the question of sexuality. It argues that the Australian character, romanticized in Anzac Day, is elastically heteronormative and continues to limit belonging within the Australian national community.

Devolution: a new sense of belonging?

Carol Howells, Senior Lecturer in Law, and Edwin Parks, Senior Lecturer in Law, The Open University

The paper explores the constitutional arrangements within the United Kingdom. What does 'belonging' mean when looking at the 'UK' and has devolution created a new sense of 'belonging' or does it re-enforce old divisions? What are the consequences of a piecemeal and fragmented process which has been driven by the centre? The paper then considers the impact of Brexit negotiations on the constitutional arrangements. What does 'the people have spoken' mean for the notion of a United Kingdom and what may the future hold? What impact does legitimacy have in relation to belonging and the impending constitutional debate?

The Role of Law in the Construction of Belonging in Nazi Germany

Simon Lavis, Lecturer in Law, The Open University

Law can be used both to exclude and to include; to alienate, discriminate against and repress certain groups and individuals in society, as well as to help construct and foster a sense of belonging among those in tune with the moral purposes underlying legal regulation. Often the two are co-dependent: the act of inclusion contains within it a tacit or explicit act of exclusion. In our understanding of Nazi Germany, the legal system is often discussed for its repressive and exclusionary aims and consequences, particularly for Jews, homosexuals, gypsies and other groups despised, discriminated against, and in large numbers ultimately killed by the regime. An equally sinister, but often overlooked, aspect of Nazi law is its contribution to the ideological construction of a sense of *belonging* among those members of society who were considered part of the *Volksgemeinschaft* (national community). Law's ability to construct communities of belonging in conjunction and cooperation with its repression and exclusion of outsiders should be more central to our understanding of the Third Reich and is explored in this paper.

Belonging by the Book & Images of Belonging

Simon Lee, Professor of Law, The Open University

A year ago, I was re-reading 60 books, one a day, in advance of my 60th birthday. Now I am selecting 94 photos for a celebration of my father's life, as he has just died at the age of 94. The links below relate to some of the references to belonging in the first of these exercises while a first sample of the current process is given in my son's tweet below. In reflecting on the former in the light of the latter, I aim in this paper to draw some wider lessons about 'belonging'.

https://sixtybookworkout.wordpress.com/2017/03/10/sixty-book-workout-day-46-caryl-phillips-extravagant-strangers-a-literature-of-belonging/

https://sixtybookworkout.wordpress.com/2017/03/13/sixty-book-workout-day-49-drusilla-scott-a-d-lindsay-a-biography/

https://sixtybookworkout.wordpress.com/2017/03/16/sixty-book-workout-day-52-marianne-elliott-the-catholics-of-ulster-a-history/

https://sixtybookworkout.wordpress.com/2017/03/17/sixty-book-workout-day-53-john-hume-personal-views-politics-peace-and-reconciliation-in-ireland/

https://sixtybookworkout.wordpress.com/2017/03/19/sixty-book-workout-day-55-mary-smith-a-l-smith/

https://twitter.com/jamessflee/status/980549797819047936

Accommodation of Religion in the Public Sphere

Hugh Mcfaul, Lecturer in Law, The Open University

Accommodation of religion in the public sphere can depend upon law and policy makers choosing to recognise certain beliefs and practices as *religious* beliefs and practices and, in certain contexts, this recognition is contingent upon religious groups acquiring legal personality. Achieving this recognition has proven to be problematic for some minority religious groups. This is particularly the case in Central and East European jurisdictions where minority religions are sometimes perceived as non-traditional loci of foreign influence.

I will argue that this process can be viewed as a form of invented tradition where certain religious groups are favoured at the expense of others for political purposes. Reference will be made to a number of recent cases before the European Court of Human Rights in addition to recent developments in Russia, including the Russian Supreme Court ruling restricting the activities of Jehovah's Witnesses.

Citizenship, Religion, Gender and the Politics of Belonging: A Case Study of White, Middle-Class Christian Men in the East Midlands, United Kingdom

Line Nyhagen, Reader in Sociology, Loughborough University

Religion, and in particular Christianity, is losing ground in the UK as fewer people identify as Christian and more people report having no religion. Although religion remains influential in politics, education and welfare, the role and legitimacy of religion in the public sphere is highly contested. This context of religious and cultural change provides the background for a case study of white, middle class, Christian men in the East Midlands and how they understand and experience citizenship in everyday life. The article examines how religious faith and citizenship are linked, and whether religion provides resources or barriers to citizenship. The article argues that the interviewed men draw on both status and practice based understandings of citizenship, and on both instrumental and expressive forms of masculinity, depending on context. Notably, some of the men invoke a defensive discourse in reference to alleged threats posed to Christianity by secular forces and by Islam. The findings have larger implications for the politics of belonging in the UK and Western Europe.

Hitler's 'National Community': Inclusion and Exclusion, Germany 1933-1945

Lisa Pine, Associate Professor of History, London South Bank University

This paper examines how the Nazi government sought to socialise its citizens into acceptance of its ideological worldview and compliance with its policies in regard to the creation of a 'national community'. Hitler's accession to power in January 1933 brought about fundamental changes to

the nature of German society. The new Nazi regime sought to homogenise German society into its perception of an ideal society, to which some sections of the population belonged and others did not. This paper explores the impact of the Nazi dictatorship upon German society, examining the way in which the Nazis created a *Volksgemeinschaft* ('national community'), whose members or *Volksgenossen* ('national comrades') had to be 'racially pure', 'hereditarily healthy', physically fit, politically reliable and socially responsible. The regime aimed to break down traditional loyalties – to class, family, region, religion – and to replace them with loyalty to Hitler, the Nazi Party and the nation as a whole. The first part of the paper discusses the attempts of the Nazi government to forge this new self-identity and national awareness amongst its people (who belonged to the nation) and to create the ideal type of 'national comrade'. The second part of the paper considers the fate of the groups that were excluded from the *Volksgemeinschaft* – including the Jews, the Sinti and Roma ('Gypsies'), the 'asocials', homosexuals, and the mentally ill and physically disabled – and who were considered not to belong to the nation for a variety of reasons.

Are we all like Denmark now? The Nordic welfare state and convergence on nationalism and refugees

Clara Sandelind, Postdoctoral Research Fellow in Politics, University of Sheffield

Denmark and Sweden tend to be described as polar opposites in refugee and integration policy, and discourses on refugee protection, despite their institutional similarities. Most research has focused on diverging integration policies, explaining differences by pointing to different nationalisms and different party politics dynamics. This paper looks specifically at diverging refugee policies in these two progressive welfare states since the 1980s, yet also at the convergence in policy since the refugee crisis in 2015. Based on policy paper analysis and interviews with policy-makers in the two countries, I argue that previous research has underplayed the importance of party politics dynamics, of the political nature of nationalism and of the welfare state. This has led to a somewhat static view of Nordic nationalism, which in turn has underestimated the exclusionary potential of especially Swedish welfare nationalism.

"Shame on you for being ashamed!" Feelings as reasons for and instruments of exclusion from the polity.

Lisa S. Villadsen, Associate Professor of Media, Cognition and Communication, University of Copenhagen

Shame is a complex, agonizing feeling that involves embarrassment, humiliation, and loss of self esteem. In the West shame is primarily seen as a feeling held by the individual. Shame thus is not a feeling often appealed to in civic rhetorical manifestations, but when invoked, it tends to ignite anger and meet with social sanctions of suspicion and exclusion. In this paper I contribute to a larger theoretical discussion about the role of emotion in public debate. I seek to describe the use

of shame as a public feeling and to theorize and discuss shame as a rhetorical move. As case material I use the public debate in Denmark about the government's efforts to lower the number of refugees coming to Denmark in 2015-2016. Occasioned by a law allowing the police to seize valuables from arriving refugees, a number of Danish celebrities made statements to international media to the effect that they were ashamed about the Danish policy. This led to a heated debate in Danish media. Focusing on two examples I analyse how shame is a sanctioning emotion and how it is sanctioned, and I ask if shame can be understood as an expression of solidarity with the polity.