

## Global Legal Research and Information Management: Legal Scholars and New Technologies, 7.5 HEC

(Juridisk forskning och informationshantering i en global kontext, 7,5 hp)

Course dates: February 1 - February 26, 2021

You find the course webpage [HERE](#).

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### SCHEDULE - OVERVIEW

All seminars are held in Zoom.

#### Day Feb 1-5 Module 1: [Law and technology I](#)

Mon	Feb 1	10-12	The past and future of cyberlaw	Liane Colonna
Tue	Feb 2	10-12	Law - too lethargic for the online era?	Liane Colonna
Fri	Feb 5	10-12	Group presentations	Liane Colonna

#### Day Feb 8-12 Module 2: [Law and technology II](#)

Mon	Feb 8	10-12	The law and artificial intelligence: Can't a robot just write my dissertation?	Liane Colonna
Tue	Feb 9	10-12	The quest for law/IT law problem solving	
Fri	Feb 12	10-12	Group seminar	Liane Colonna

#### Day Feb 15-19 Module 3: [Legal scholars and technology](#) (practical use of ICT to support doctoral students)

Mon	Feb 15	10-12	Developing legal research skills and methodologies: expanding the paradigm through the use of technology	Liane Colonna
Tue	Feb 16	10-12	Information literacy as the new legal research paradigm	Liane Colonna
Fri	Feb 19	10-12	Seminar	Liane Colonna

#### Day Feb 22-26 Module 4: [GRiM Winter School](#)

Mon	Feb 22	10-12	Introduction to ICT Law	
		13-15	Semantic representation of legal information	Professor Peter Wahlgren
Tue	Feb 23	10-12	Big data, competition law aspects	
		13-15	Law, philosophy and technology	Professor Ugo Pagallo, University of Turin
Wed	Feb 24	10-12	The realignment of the sources of the law and their meaning in an information society	
		13-15	Emerging and disruptive technologies and the evolution of law	Dr. Liane Colonna, Stockholm
Thu	Feb 25	10-12	Intellectual property rights with respect to researching, disseminating research and teaching	Dr. Johan Axhamn
		13-15	The visualization of law	Dr. Liane Colonna, Stockholm
Fri	Feb 26	10-12	GDPR for Researchers	Dr. Liane Colonna, Stockholm
		13-15	The ethical use of information communication technologies	

## ASSESSMENT TASKS

Active participation in the course discussions, including reading preparation.

Please read all articles in advance of class and be prepared to actively participate in the group discussions. Additionally, please prepare 2 discussion questions for each seminar. I know that you are all very busy so I have provided you with my discussion questions below so you can focus your reading accordingly. I have also included some optional reading for those students who have the time and interest.

There is a requirement of active attendance at 80% of the seminars. Active attendance means that the student shall have prepared the seminar assignments and be prepared to participate in seminar discussions.

Each student will submit a paper (max. 1250 words) every week, in which he or she examines the relevance of the concepts under discussion for his or her dissertation. The student will also briefly present this paper orally at the weekly, Friday seminar in front of his or her classmates (this is a great chance to talk about your research and to get feedback on it!).

Assignments should be submitted 24 hours before each tutorial to Liane Colonna at [liane.colonna@juridicum.su.se](mailto:liane.colonna@juridicum.su.se). You can also share your papers with your classmates if you wish.

Each student will submit a final paper (max. 5000 words in English), drawing out the key insights for the course as relevant to the student.

## SCHEDULE - READING LIST

### Module 1: Law and technology I

February 1-5

#### FEB 1 (10-12), The past and future of cyberlaw (Liane Colonna)

##### Reading

- David R. Johnson and David G. Post, *Law and Borders—The Rise of Law in Cyberspace*, 48 *Stanford Law Review* 1367 (1996).
- Lawrence Lessig, *The Law of the Horse: What Cyberlaw Might Teach*, 113 *Harvard Law Review* 501 (1999).
- Deirdre K. Mulligan and Kenneth A. Bamberger, *Saving Governance-by-Design*, 106 *Cal. L. Rev.* 697 (2018).

##### Discussion questions based on reading:

David R. Johnson and David G. Post, *Law and Borders—The Rise of Law in Cyberspace*, 48 *Stanford Law Review* 1367 (1996).

- Do Johnson and Post believe that territorially-based legal regimes can be applied online? Why or why not?
- What do Johnson and Post advocate for instead of territorially-based legal regimes?
- Does Johnson and Post overstate the impossibility of regulation? Do they mistake valid regulation with some measure of near perfect enforcement?
- After this article what do you think the big debate in cyber law was?

Lawrence Lessig, *The Law of the Horse: What Cyberlaw Might Teach*, 113 *Harvard Law Review* 501 (1999).

- Lessig theorized that there were four modalities that applied force to control the choice of actions of an individual's behavior online: law, architecture, norms and the market. What did he first say about law?
- What does Lessig say about the limits on law's power over cyberspace? What examples does he provide?
- What is Lessig's concept of network architecture all about?
- When it comes to architectural designs? What was Lessig concerned about?
- The article closes with some lessons. What are they?
- What big issues arise in the context of the internet that need to be governed by law or some other form?

Deirdre K. Mulligan and Kenneth A. Bamberger, *Saving Governance-by-Design*, 106 *Cal. L. Rev.* 697 (2018).

- In what ways have different actors come to realize the power of technology design to regulate behavior?

- How are values embedded in technology? What happens when law is "translated" into code?
- What challenges and risks to public values exist when regulating through technology? What are four key governance-by-design dysfunctions?
- How do Mulligan and Bamberger suggest that we can save "governance-by-design"? Do you agree?

### Optional reading:

Laurence E. Diver, *Digisprudence: The affordance of legitimacy in code-as-law*, Doctoral thesis (The University of Edinburgh April 2019), Chapter 1.

- Examine how Diver discusses some of the core concepts presented in your assigned reading. Also take note of the way that he presents his research questions and theoretical framework. Do you think he does a good job?

### General questions for discussion:

- Does the existence of widespread computer-assisted communications-cyberspace-really raise novel legal issues? Or does it raise the same issues that lawyers have had to grapple with for decades, only in a different medium?
- Does the Internet create distinctive legal challenges for international law and international institutions?
- Is cyberspace a separate legal domain, for which new rules are needed and the old rules are useless, inappropriate, or self-defeating?
- Can legal norms be articulated in code? If so, what is gained and what is lost in translation? If not, what happens to legal norms when we transform them into computer code? Are they transformed into unlegal or alegal norms, or are they transformed into rules or algorithms that do not qualify as norms?
- Does code have the potential to be a complete regulator of human behavior? If so, what concerns are raised?
- Should laws be technology specific or technology neutral? That is, should laws be drawn narrowly to specific technologies or broadly to general characteristics?
- Do you think the technological revolutions that we are currently experiencing are propelling us into a Post-Westphalian legal order? If so, how? If not, why?

### FEB 2 (10-12): Law - too lethargic for the online era? (Liane Colonna)

#### Reading:

- Gary E. Marchant, *The Growing Gap Between Emerging Technologies and the Law*, In: *The Growing Gap Between Emerging Technologies and Legal-Ethical Oversight* (Springer 2011), 19-33.
- Mireille Hildebrandt, *Technology and the End of Law in Facing the Limits of the Law*, In: *Facing the Limits of the Law* (Springer 2008), 1-22.

- Lyria Bennett Moses, *How to Think about Law, Regulation and Technology: Problems with 'Technology' as a Regulatory Target*, 5 *Law, Innovation and Technology* 1 (2015).

**Optional reading:**

Erik Claes, Wouter Devroe, Bert Keirsbilck, *The Limits of the Law*, In: *Facing the Limits of the Law* (Springer 2008), 1-24.

**Discussion questions based on reading:**

Gary E. Marchant, *The Growing Gap Between Emerging Technologies and the Law*, In: *The Growing Gap Between Emerging Technologies and Legal-Ethical Oversight* (Springer 2011), 19-33

- How does Marchant explain the pacing problem? What are some of the dimensions of the pacing problem?
- What is the ossification of rulemaking?
- Can you sum up some of Moses' potential problems that may result from the failure of law to keep pace with technology? Do you agree? Do you see any other problems that she fails to identify?
- What legal mechanisms might provide more flexible and adoptive regulatory systems?
- What do you think about self-regulation or cooperative regulation?
- What do you think about principles-based regulation?

Mireille Hildebrandt, *Technology and the End of Law in Facing the Limits of the Law*, In: *Facing the Limits of the Law* (Springer 2008), 1-22.

- What is legal normativity?
- What is the non-neutrality thesis?
- What is the normative impact of a technology? How can it be regulative? How can it be constitutive?
- What is the multi-stability of technologies?
- What is the difference between a legal and a technological impact? What does the author say about the difference?
- What are the three different conceptions of law that Hildebrandt describes?

Lyria Bennett Moses, *How to Think about Law, Regulation and Technology: Problems with 'Technology' as a Regulatory Target*, 5 *Law, Innovation and Technology* 1 (2015).

- What is regulation and how is it broader and narrower than law?
- What is "technology regulation"?
- What is the challenge of regulatory connection?
- What is the pacing problem?
- What is the Collingridge dilemma?
- Moses' main point is that 'technology regulation' is not the best lens for considering the kinds of issues raised by new technologies. Do you agree?

### Optional reading:

Erik Claes, Wouter Devroe, Bert Keirsbilck, *The Limits of the Law*, In: Facing the Limits of the Law (Springer 2008), 1-24. What are some of the functions of the law?

- What are some of the limits of the law described in the article?
- What is the “open texture” of law? What are some of the implications of the open-texture nature of the law?
- What are some of the drawbacks of the open texture of law (especially when you think about embedding law into code!)?
- How is law a scientific enterprise?
- How is law an argumentative practice?
- How is law an institutionalized practice?

### General questions for discussion:

- Is the nature of law changing?
- What is the role of technology in law?
- Should technology adapt to the law or should the law adapt to technology?
- Should law be embedded in technology?
- Why do you think that techno-regulation, or legal regulation by design, have become so popular these days? Does it have something to do with the self-enforcing character of techno-regulation?
- What happens when we substitute legal constraints for technological constraints? What concerns are raised? How is design theory implicated in this context?
- Are existing regulatory systems and ethical frameworks inadequate to provide effective, meaningful and timely oversight of the current and future generations of emerging technologies?
- Are our traditional government oversight systems mired in stagnation, ossification and bureaucratic inertia, and seriously and increasingly lagging behind new technologies?

### **Week 1 assignment (minimum one page, be prepared to discuss and present your paper to the group):**

- Select one piece of legislation relating to your personal research interests. Interpret the piece of legislation into as simple, concise and accessible a form as possible. Identify any ambiguities, grey areas, loopholes, conflicts or overlaps with other legislation or unexpected consequences. In other words, how, if at all, does the legal instrument fail to adequately serve the social function it was designed to serve? Speculate on how your piece of legislation could be re-written and what implications this might have for your area of research.
- Explain the key insights that you have obtained from the course this week as relevant to your research project.

**FEB 5 (10-12): Group presentations (Liane Colonna)**

Be prepared to present your paper to the group

### FEB 8 (10-12): The law and artificial intelligence: Can't a robot just write my dissertation? (Liane Colonna)

#### Reading:

- Ugo Pagallo, Massimo Durante, *The Pros and Cons of Legal Automation and Its Governance*, 7 *European Journal of Risk Regulation* 323 (2016).
- Ryan Calo, *Artificial Intelligence Policy: A Primer and Roadmap*, 51 *UC Davis Law Review* 399 (2017).
- Sergio David Becerra, *The Rise of Artificial Intelligence in the Legal Field: Where We Are and Where We Are Going*, 11 *Journal of Business, Entrepreneurship and the Law* (2018).

#### Podcast (highly recommended):

Ted Talk, Nick Bostrom, What happens when our computers get smarter than we are?

[https://www.ted.com/talks/nick\\_bostrom\\_what\\_happens\\_when\\_our\\_computers\\_get\\_smarter\\_than\\_we\\_are/discussion](https://www.ted.com/talks/nick_bostrom_what_happens_when_our_computers_get_smarter_than_we_are/discussion)

FLI Podcast: On Consciousness, Morality, Effective Altruism & Myth with Yuval Noah Harari & Max Tegmark

<https://futureoflife.org/2019/12/31/on-consciousness-morality-effective-altruism-myth-with-yuval-noah-harari-max-tegmark/>

#### Discussion questions based on reading:

Ryan Calo, *Artificial Intelligence Policy: A Primer and Roadmap*, 51 *UC Davis Law Review* 399 (2017).

- How does Calo define AI?
- What challenges does AI pose for policy makers?
- Does artificial intelligence present an existential threat to humanity?

Sergio David Becerra, *The Rise of Artificial Intelligence in the Legal Field: Where We Are and Where We Are Going*, 11 *Journal of Business, Entrepreneurship and the Law* (2018).

- How does Sergio define AI?
- Sergio mentions "soft AI" - what is that?
- What can we attribute the rise in automation to?
- How can we use AI to model legal argument?
- How does Sergio define AI in the practice of law?



- What kind of legal processes can be performed by AI?
- What kind of legal products have resulted from AI?
- What is the potential impact of AI on the practice of law?
- Sergio says that AI will not replace lawyers. Do you agree?

Ugo Pagallo, Massimo Durante, *The Pros and Cons of Legal Automation and Its Governance*, 7 *European Journal of Risk Regulation* 323 (2016).

- What is legal automation?
- What are some of the pros of legal automation?
- What are legal ontologies?
- What are the cons of legal automation?
- What is techno-regulation?
- The Article refers to Chris Reed and technological neutrality. What does it discuss?
- What is the difference between plain and hard cases? What is the relevance to legal automation?
- Overall, what kind of governance issues do the authors suggest arise because of autonomous systems?

#### **General questions for discussion:**

- How does the development of AI, actual or projected, affect the law, its academic study or its practice?
- Can an expert system replicate the functions of judges, whether by mimicking their decision-making process or by a new and better method?
- How can one adequately represent to a computer legal problem-solving strategies as well as legal concepts, if at all?
- Is it possible to automate all forms of legal reasoning?
- What is the liability of those responsible for designing, developing, and releasing software and hardware if something goes wrong?
- Should computers have legal rights?

#### **FEB 9 (10-12): The quest for law/IT law problem solving**

##### **Week 2 assignment (minimum one page, for discussion at tutorial):**

Choose one of the following questions;

1. How does automation of information processing affect the area of law that you are studying, if at all?
2. Explain the key insights that you have obtained from the course this week as relevant to your research project.

#### **FEB 12 (10-12): Group seminar (Liane Colonna)**

## Module 3: Legal scholars and technology

February 15-19

(practical use of ICT to support doctoral students)

**FEB 15 (10-12): Developing legal research skills and methodologies: expanding the paradigm through the use of technology (Liane Colonna)**

### Reading:

- Andras Jakab, *Seven Role Models of Legal Scholars*, 12 German L.J. 757 (2011).
- Chris Dent, *A Law Student-Oriented Taxonomy for Research in Law*, 48 Victoria University of Wellington Law Review 371 (2017).
- R. Van Gestel, H.-W. Micklitz and M. Poiares Maduro, *Methodology in the New Legal World*, EUI Working Papers (2012).
- Peter Seipel, *Nordic School of Proactive Law Conference, June 2005 Closing Comments*, <https://www.scandinavianlaw.se/pdf/49-21.pdf>.

### Optional reading:

- Julie Graves Krishnaswami, *Strategies for Seeing the Big Picture in Legal Research*, 25 Perspectives: Teaching Legal Research & Writing 15 (2016).
- M. Van Hoecke, Legal doctrine. Which method(s) for what kind of discipline, in: M. Van Hoecke (ed.), *Legal doctrine: which method(s) for what kind of discipline?* European Academy of Legal Theory Series, Hart Publishing (2011) 1-18.

Andras Jakab, *Seven Role Models of Legal Scholars*, 12 German L.J. 757 (2011).

- Do you agree with Jakab's categorizations? Which model(s) do you represent, if any, and why?

Chris Dent, *A Law Student-Oriented Taxonomy for Research in Law*, 48 Victoria University of Wellington Law Review 371 (2017).

- What are the three broad forms of legal research methods that Dent lists? How does he define them? Do you agree?
- The author states that "law is exceptional" and that our methods are not absolute. Do you agree? Do you agree that there is an "interplay" between methods? What happens when a doctrinalist refers to a non-legal source?
- The author makes a distinction between "approaches" and "purposes" of legal research. What are some of the approaches she mentions?
- What do you need to ask yourself when you consider the purpose of your research? What two purposes of research are described in the article?

R. Van Gestel, H.-W. Micklitz and M. Poiares Maduro, *Methodology in the New Legal World*, EUI Working Papers (2012).

- The authors contend methodology and legal theory have a complex relationship. Why is this so? Do you agree?
- Why do we need methodology in legal research?
- Why do we need more or other legal methods than in the past and what methodologies are available for law in a globalized world?
- Why is there resistance against making our implicit legal methods more explicit and what are the pros and cons of methodological innovation in scholarly legal research?
- What is the debate on the scientific nature of legal scholarship all about and why is it relevant to the topic of methodology?
- Why do the authors contend that law is a discipline in transition?

Peter Seipel, *Nordic School of Proactive Law Conference, June 2005 Closing Comments*, <https://www.scandinavianlaw.se/pdf/49-21.pdf>.

- What is the proactive-law approach?

### Optional reading:

M. Van Hoecke, Legal doctrine. Which method(s) for what kind of discipline, in: M. Van Hoecke (ed.), *Legal doctrine: which method(s) for what kind of discipline?* European Academy of Legal Theory Series, Hart Publishing (2011) 1-18.

- Should legal doctrine become an empirical social science?
- Which is the main goal of legal doctrine?

Julie Graves Krishnaswami, *Strategies for Seeing the Big Picture in Legal Research*, 25 *Perspectives: Teaching Legal Research & Writing* 15 (2016).

### Questions:

- What is the nature and meaning of 'legal research'?
- How is technology changing the nature of legal research?
- How do you think digitalization has impacted law and, in particular, our understanding of hierarchy?
- What methodologies are most effective in achieving the aims of legal research?
- What is 'different' about how lawyers research?
- What are the different types of research and their basic characteristics?
- What is the significance of a literature review?
- What are the different steps involved in a research process?
- What are your motivations for conducting legal research?
- What are the advantages and disadvantages of conducting doctrinal and non-doctrinal research?
- What are the benefits and disadvantages to the "law and..." subjects?

**FEB 16 (10-12): Information literacy as the new legal research paradigm (Liane Colonna)**

Activity preparation:

- **Select an article relevant to your research and to spend 45 minutes engaging in interactive reading individually (prepare in advance of class)**
- You will have a few minutes to add some additional notes after my lecture
- Switch your notes with another classmate (15 minutes).
  - Can you identify the big picture in the interactive notes?
  - Did your classmate record the theoretical-conceptual approach?
  - How did she record the methodologies?
  - How could your classmate be more precise and concise with her notes?
  - How can you help your classmates to take useful and efficient notes?

**Week 3 assignment (minimum one page, for discussion at tutorial):**

Choose one of the following questions;

- Explain whether you will conduct doctrinal or non-doctrinal research. Motivate your response.
- Explain the key insights that you have obtained from the course this week as relevant to your research project.

**FEB 19 (10-12): Seminar (Liane Colonna)**

## Module 4: GRiM Winter School

February 22-26

(given in cooperation with the master's program in legal theory at Goethe University Frankfurt)

	<b>Monday FEB 22</b>	<b>Tuesday FEB 23</b>	<b>Wednesday FEB 24</b>	<b>Thursday FEB 25</b>	<b>Friday FEB 26</b>
10:00 – 12:00	Introduction to ICT Law	Big data, competition law aspects	The realignment of the sources of the law and their meaning in an information society (Professor Ugo Pagallo, University of Turin)	Intellectual property rights with respect to researching, disseminating research and teaching (Dr. Johan Axhamn)	GDPR for Researchers (Dr. Liane Colonna, Stockholm)
<b>12:00 – 13:00</b>	<b>Lunch</b>	<b>Lunch</b>	<b>Lunch</b>	<b>Lunch</b>	<b>Lunch</b>
13:00 – 15:00	Semantic representation of legal information (Professor Peter Wahlgren)	Law, philosophy and technology (Professor Ugo Pagallo, University of Turin)	Emerging and disruptive technologies and the evolution of law (Dr. Liane Colonna, Stockholm)	The visualization of law (Dr. Liane Colonna, Stockholm)	The ethical use of information communication technologies

Final assignment (max. 5000 words in English):

- Explain the central legal method applied in your dissertation (max. 5000 words in English); or
- Explain the key insights that you have obtained from the course as relevant to you