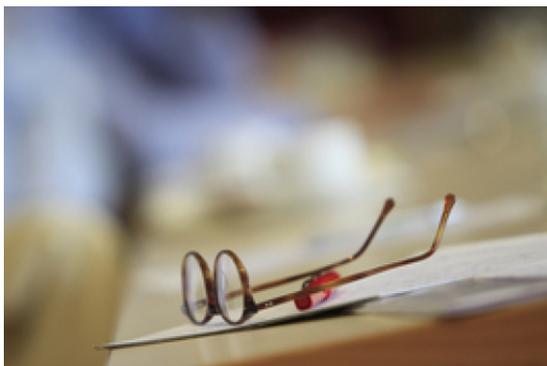


# European Legal History



Newsletter of the Max Planck Institute,  
April 2019 #22

We are delighted to welcome you to our newsletter. It is designed for everyone with an interest in legal history, global history, or legal studies. The Max Planck Institute for European Legal History investigates the history and development of law in Europe and beyond. In our monthly newsletter, we keep you updated about events at the Institute, new publications by our fellows, and other news about the field. For comments, suggestions, and general feedback, please [email](#) us. We hope you enjoy this month's issue.



## Opportunities

**CfA: Editorial Assistant (m/w/d)**,  
deadline 15 April 2019

**CfA: Postdoctoral and Research Scholarships 2020** at the MPI, deadline 31 May 2019

[more details](#)



## Events

**3 April, 10:00, Guest lecture:** The horizon of a Chinese legal history, Zhiping Liang (Institute for Advanced Study of Arts and Humanities, Beijing)

**10 - 12 April, Reading Course: Alonso de la Vera Cruz**, Christiane Birr, José Luis Egío (MPI / Goethe Universität)

**29 April, 14:45-15:45, Seminar:**  
Judges, juries and contested justice:  
murder and capital punishment in colonial  
Ghana, c.1920-50s, Stacey Hynd  
(University of Exeter)

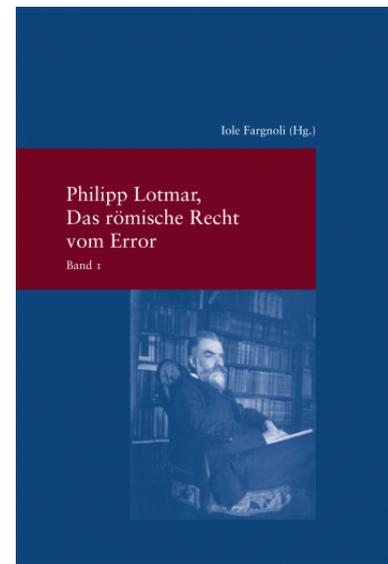
[more events](#)

## Publications

Das römische Recht vom Error

**by Philipp Lotmar, edited by Iole Fagnoli, Studien zur europäischen Rechtsgeschichte 316, Frankfurt am Main, Klostermann 2019, ISBN 978-3-465-04368**

*The Roman law of Error* is the title of an impressive two-volume work, a major contribution to studies of Roman law, written by Philipp Lotmar (1850-1922), professor of Civil Law at the University of Bern. Known primarily as an innovative jurist of labour law, Lotmar also focused on the Roman doctrine of errors in contract law, examining a wide range of sources. The result was a text of about 2,000 pages written in Sütterlin. During his lifetime, this *opus magnum*, which was conceived as a criticism of Karl Friedrich von Savigny's influential position, remained unknown to the public. Thanks to the editorial efforts of Iole Fagnoli, Director of the Romanistic Institute at the University of Bern, those parts of the manuscript Lotmar himself had prepared for publication – on cases and concepts of error – are now made available to the scholarly community, almost exactly a century after his death.

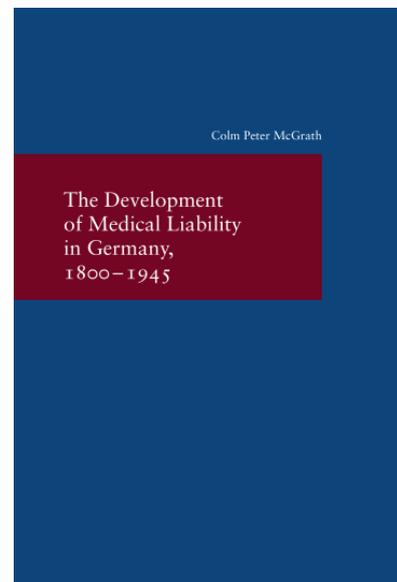


The Development of Medical Liability  
in Germany, 1800–1945

**by Colm Peter McGrath, Studien zur europäischen Rechtsgeschichte 314,**

## Frankfurt am Main: Klostermann 2019, ISBN: 978-3-465-04367-6

This book looks at the legal conceptions and consequences of medical errors. The work examines medical errors in German criminal law, contract law and the law of delict during the nineteenth century, before turning, after 1900, to the BGB. McGrath explains how the fault requirement was understood and applied to liability for errors in the diagnosis and treatment of a patient. By focusing on the development of the law, and how it related to changes in the nature of medicine, medical practice and healthcare over this period, it uncovers a rich interaction between the legal and medical narratives concerning fault. The author illustrates that lawyers were influenced by the broader social context, identifying a gradual shift towards asserting the independence of courts from accepted medical narratives in the light of technological advances. The main research for this PhD thesis (Cambridge) was conducted at the Max Planck Institute for Comparative and International Private Law, Hamburg.



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## Featured Events



### Guest Lecture: The horizon of a Chinese legal history

**3 April, 10:00, Z01**

We will be holding a guest lecture with Professor Liang, Zhiping. Some of the topics not only strike a cord for Chinese

legal historians, but they also shed light on comparative legal theory, methods of legal historical research and historiography. Zhiping Liang is a senior research fellow at the Institute for Advanced Study of Arts and Humanities based in Beijing. His academic interests include comparative legal history, cultural study of law, law and society. His

major publications include *Searching for Harmony in a Natural Order: A Study of Chinese Traditional Legal Culture*; *Customary Law in Qing Dynasty: The State and Society*; *Ethical Code and Law: The Cultural Conflict in an Era of Legal Transplantation*.

## Call for Papers



CFP: Administrative multinormativity. Authors' workshop

[Administory. Journal for the History of Public Administration](#)

Which normative standards are able to guide

administrative action? Irrespective of the era or administrative culture, it should be clear that administration is not merely a dispassionate enforcer of legal norms or an executor of political programmes. Rather, administrations operate within a network of different normativities. Neither a law-like, differentiated programme of norms nor a binding force that derives its strength from judicial enforceability are necessary features thereof; some normativities can remain diffuse and informal; sometimes they first become visible when conflicts over norms erupt.

Contributions mapping out this landscape are now being collected for the special issue of *Administory*: 'Administrative Multinormativity', edited by Peter Becker (Vienna) and Peter Collin (Frankfurt am Main). Case studies involving 19th- and 20th-century administration should show how cooperation and conflict between different normativities were carried out, how new normative arrangements emerged, and how normative conflicts were made manageable.

First versions of the texts will be discussed at an author workshop to be held on 27 - 28 September 2019 at the Max Planck Institute for European Legal History, Frankfurt. Travel and accommodation costs will be covered. We invite historians, jurists, sociologists as well as cultural and political scientists to submit contributions (in German or

English). Proposals (maximum 500 words) should be submitted to [collin@rg.mpg.de](mailto:collin@rg.mpg.de) or [peter.becker@univie.ac.at](mailto:peter.becker@univie.ac.at) by **15 May 2019**.

## We introduce ...



### Otto Danwerth, the new head of our Editorial Department

Otto Danwerth has recently taken over the reins of the Editorial Department, and he is now responsible for the publication of our book series *Studien zur europäischen Rechtsgeschichte*, our

journal *Rechtsgeschichte – Legal History*, a number of other book series, working paper series and open access format, to name but a few. Otto Danwerth previously worked in the field of Ibero-American legal history and was a researcher at our Institute for many years. Having co-edited several collected volumes published in English and Spanish, he finds it 'especially attractive to develop multilingual publications and book series on European legal history in a global perspective'. He is looking forward to fostering cooperations with external authors and publishing houses as well as with the Institute's departments. He is a great bibliophile, who thoroughly enjoys the process of transforming a manuscript into a finished book.

## Guests and Visiting Scholars

- **Alford, Ryan** (Lakehead University, Canada): *The transmission of the concept of parliamentary sovereignty from the United Kingdom to Canada in the early nineteenth century*, visiting January – June 2019
- **Clausen, Thomas** (Trinity College, Cambridge, UK): *Roland Freisler (1893-1945): an intellectual biography*, visiting December 2018 – September 2019

- **Langella, Simona** (Università degli Studi di Genova, Italy): *Studio, edizione critica e traduzione spagnola del commentario inedito di Francisco de Vitoria alla I-IIae de la Summa theologiae di san Tommaso d'Aquino*, visiting April – June 2019
- **Lima, Bruno** (Universidade de Brasília, Brazil): *Between the ancien régime and modernity: natural law and constitution in the legal thinking of Fr. Joaquim do Amor Divino Caneca (1779-1825)*, visiting September 2018 – August 2019
- **Luque Reina, Antonio Manuel** (Universidad Autónoma de Madrid, Spain): *Dissolving the 'Polisinodia': The Royal Council of Spain and the Indies (1834-1836)*, visiting February – April 2019
- **Mamolea, Andrei** (Institut de Hautes Études Internationales et du Développement, Genève, Switzerland): *Reexamining International Arbitration, 1890-1914*, visiting April – August 2019
- **Mulet Martinez, Fabricio** (Universidad de Huelva, Spain): *The Royal Council and the commercial companies by shares in Cuba and Spain (1848-1868). Itinerary between private law and state interventionism in colonial nineteenth century*, visiting March – May 2019
- **Possemiers, Joost** (KU Leuven, Belgium): *Systematische Analyse von den juristischen Werken des Theologen Konrad Summenhart (c. 1485-1502); Situierung, Quellen und Einfluss auf die Schule von Salamanca*, visiting March – May 2019
- **Ramis Barceló, Rafael** (Universitat de les Illes Balears, Palma de Mallorca, Spain): *Encyclopaedism, textuality and Jurisprudence in 16th and 17th Centuries*, visiting April – June 2019
- **Roos, Mechthild** (Universität Augsburg, Germany): *The evolution of EU legislation on atypical work*, visiting February – April 2019
- **Tarozzi, Simona** (Università degli Studi di Bologna, Italy): *Rezeption der Grundlage des römischen Verfahrensrechts in römisch-germanischen Quellen und in common Law*, visiting April – September 2019

## The Institute out and about

Keeping you up-to-date on the activities and public engagements of the Institute's researchers abroad. If you are in the area and are interested in attending, feel free to stop by.

**Justine Collins**, *An examination of the transplantation & use of English policing laws and martial law within the British West Indian Societies 1650-1700*



(Socio Legal Studies Association Conference, University of Leeds, UK, 3 – 5 April)

**Casper Ehlers**, *Herrschaft und Raum. Möglichkeiten der historischen Analyse* (Tagung Burg und Expansion des Wissenschaftlichen Beirats der Deutschen Burgenvereinigung e. V., Brandenburg, 5 – 7 April)

**Karl Härter**, *Soziale Sicherheit und Disziplinierung des Einzelnen im Ordnungsraum der frühneuzeitlichen guten Policey* (Bensheimer Gespräche: Der Einzelne und das Ganze. Staatspark Fürstenlager Bensheim-Auerbach, 25 – 27 April)

**Jasper Kunstreich**, *Designing Rules for Failure. Bankruptcy in Germany, 1815-1877* (Shelby Cullom Davis Center, Princeton University, Princeton, 5 April)

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## Hansaallee 41



### Researching the English Court of Wards

For two months in March and April, I have been living from a backpack, training through England visiting county and national archives for my research project on the English Court of Wards. The Court had been established in 1540 to manage the Crown's right to manage landed estates which had descended to a child (the ward) until they attained their age of majority, as well as taking custody of the child. Many of the Court's documents survive in the National Archives in London, but conditions can best be described as variable. After the



### The Institute's Running Group: 'The Winter's Thaw'

Spurred on by the early return of spring-like weather, the running group came out of hibernation at the beginning of February. At the moment, we have a group of 5-8 people from the Institute who come out on a regular basis. More are expected to participate as the weather continues to improve.

We meet in the foyer each Tuesday and Thursday at 17:00 (eventually shifting to 17:30 as the weather gets warmer). I am happy to report that most departments at the Institute are represented as well as

Court was abolished in 1660, its records were deposited at a fishyard in Westminster; perhaps it should not have been surprising that many of my requested documents need to undergo mould treatment. Happily, pictured here is a better example of surviving documentation, a book of the Court's decrees for 1638-40.

The Court, though, was notoriously corrupt, and its official documents can only tell us so much - a fuller picture emerges in the smaller county archives. In Sheffield, for instance, it was possible to learn the story of John Goodhand, the Court's local officer for the West riding of Yorkshire. After kidnapping a girl who he alleged was in wardship, he then extorted monies from the family for her to be returned. When the Court sent messengers to retrieve the girl, he ensured they were distracted, while his brothers smuggled her out the back door.

In the immediate term, the research will be used to finish a book on the Court, although the longer-term aim is to examine the spread of wardship to Scotland, Ireland and, long after its demise in England, India.

*Sean Bottomley*

the guest researchers. We are also anxious to see if the directors eventually show up.

So, whether you are looking to make good on your New Year's resolutions, improve your fitness after another grey winter, want to set some PRs or you want to socialize without hearing terms like 'Rechtsprechung', 'Grundlagenforschung', or 'Gesetzgebung', just send me a quick e-mail, and I will put you on the listserve.

\*Disclaimer: No actual promise is made that you won't hear these terms. In point of fact, it's not uncommon to talk about research projects, interesting ideas, and useful literature while running. However, the decisive point is that if someone does, and you don't, then just run faster.

*James Thompson*

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**Max Planck Newsletter for Ibero-American Legal History**

If you find this newsletter interesting, you might also be interested in

the special newsletter for Ibero-American Legal History, which is published monthly by our research group 'Legal History of Ibero-America'. You can subscribe under the following [link](#).

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[https://listserv.gwdg.de/mailman/listinfo/mpierg\\_news](https://listserv.gwdg.de/mailman/listinfo/mpierg_news). Just scroll down to the bottom of the page and to the row 'To unsubscribe from MPleRg\_news (...)'. Needless to say, seeing you leave would make us very sad.



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