

IALS

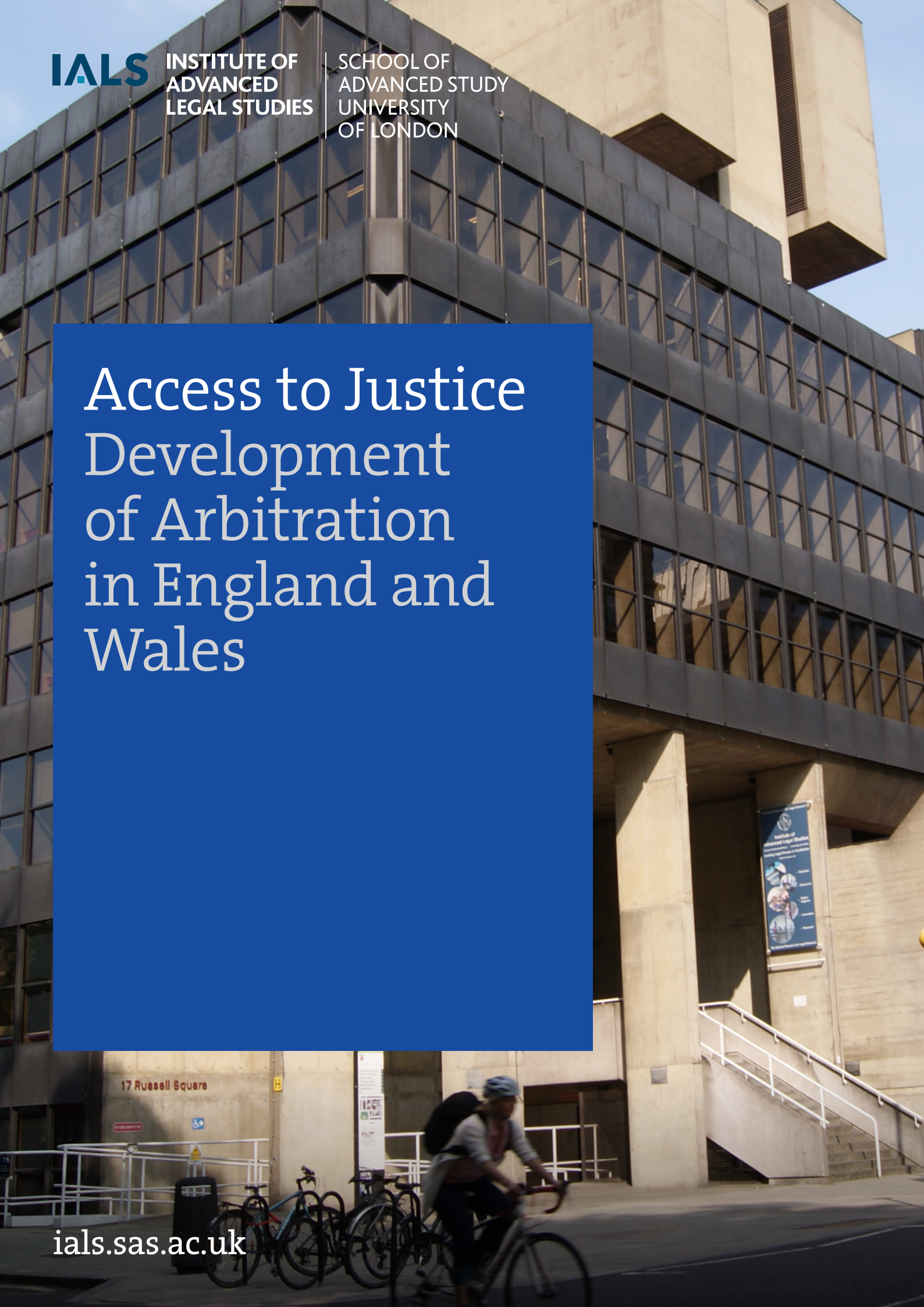
INSTITUTE OF
ADVANCED
LEGAL STUDIES

SCHOOL OF
ADVANCED STUDY
UNIVERSITY
OF LONDON

Access to Justice Development of Arbitration in England and Wales

17 Russell Square

ials.sas.ac.uk

A photograph of a modern, multi-story building with a grid of windows. In the foreground, a person wearing a blue cap and a backpack is riding a bicycle. To the left, a sign reads "17 Russell Square". A blue banner with the IALS logo and text is visible on the building's facade. The scene is set in an urban environment with a clear sky.

Access to Justice

This project, *Development of Arbitration in England and Wales*, will explore how arbitration changed to meet modern commercial demands and will establish a historical foundation for contemporary attempts to provide greater access to justice.

Introduction

Arbitration is about making peace, through the resolution of disputes. Its history informs us about the evolution of civil justice and current government policy.

For over 20 years, Professor Derek Roebuck, Senior Associate Research Fellow at the Institute of Advanced Legal Studies (IALS), has been writing a landmark study on the history of arbitration starting from the ancient world and covering its history in England up to the 17th century.

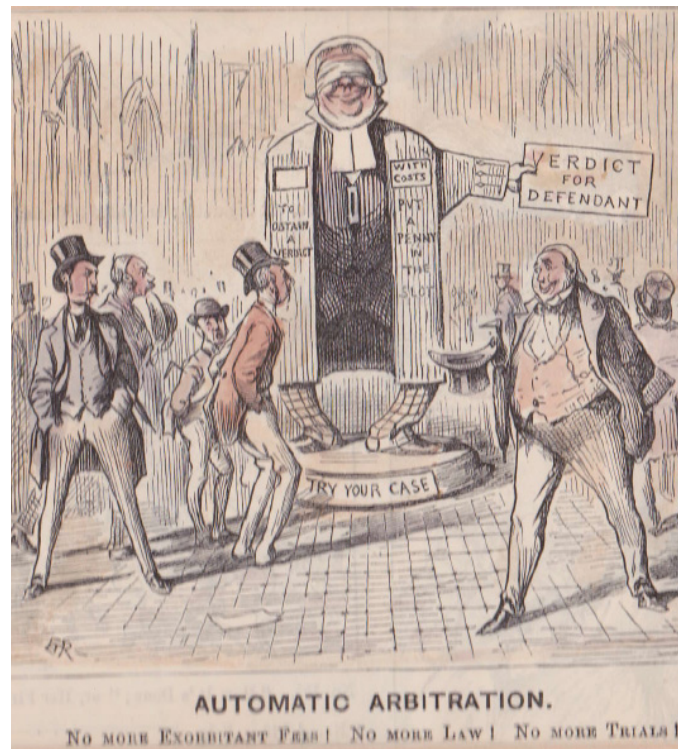
The proposed 3-year project, *Development of Arbitration in England and Wales*, based at IALS, will continue this historical inquiry from 1703 to 1900, and explore the period when arbitration changed from a process appropriate to pre-capitalist societies to one that can meet modern commercial demands.

From this historical foundation, the project will provide new insights into contemporary attempts to make justice widely available, efficient and economical.

This programme of research will result in scholarly outputs including monographs and digital resources, alongside a longer-term, sustainable platform for arbitration historians more widely.

This project forms part of the University of London's commitment to access, facilitating research, and promoting law's relevance to society, and furthers IALS' vision to be at the heart of developments in citizens' access to law.

“How did dispute resolution become overwhelmed by the culture of litigation in the 18th and 19th centuries?”



Above: 'Automatic Arbitration' from *Punch*, 17 May 1890. courtesy of Derek Roebuck.

IALS at the University of London

IALS is the national centre for the promotion and facilitation of legal research in the UK and a national research library. It holds a unique position at the international crossroads of legal scholarship bringing together researchers, students, judges, lawyers and civil servants from diverse backgrounds, and providing networks across disciplines and jurisdictions.

Its function is to promote, facilitate and disseminate the results of advanced study and research in the discipline of law, for the benefit of people and institutions in the UK and abroad. Its inclusive approach to legal studies embraces the theoretical basis of law, its sources and documentation, and its direct impact on human lives.

The development of the project

As Sir Stephen Sedley wrote in his review of Professor Roebuck's monograph *Early English Arbitration*, the history of arbitration presents "an engaging series of polymathic raids into the territory of geographers, ethnographers, linguists, lawyers, historians and archaeologists."

This project, like all Professor Roebuck's work, is determinedly interdisciplinary, with implications beyond law and social history. It will be part of an emerging field of comparative research, including the current Government and judiciary debate on the roles appropriate to litigation and its alternatives.

In 2013, the *Archives of Arbitration* project was established at IALS. It scoped the archival holdings on arbitration, demonstrating its widespread historical practice and its use in fluid combination with mediation. Historian Dr Francis Boorman, IALS Associate Research Fellow, collaborated on the project with Professor Roebuck.

The Chartered Institute of Arbitrators and three donors gave seed funding to support the project, while IALS and the University of London have provided further support-in-kind.

This resulted in two monographs covering the period between 1558-1703, which have been praised by reviewers for their brilliance, as well as the use of "voluminous original archival material", and how the text is "imbued with a sense of passion on modern realities."

The opportunity now arises to increase the interdisciplinary, international and scholarly reach of this research and establish its legacy.

"This project aims to complete Derek Roebuck's landmark study, and establish a long-term platform for arbitration historians."



Above: 'Shakespeare and his contemporaries' by John Faed, 1851.

Future plans and opportunities

This proposed 3-year research project will employ a researcher who will focus on primary sources and explore how different forms of dispute resolution developed in our modern world.

The researcher will be a key member of IALS and will contribute directly to the Institute's scholarly community, and strengthen its links with other Institutes across the University of London and beyond. Professor Roebuck is anticipated to act as the researcher's Mentor and Project Advisor.

The project's future plans cover five key themes, including:

1. **Archival work:** to identify and catalogue primary documentation, with a comprehensive search for sources from 1703 to 1900 online and in regional archives.
2. **Publications:** to produce monographs, articles and other scholarly outputs on the history of arbitration in 18th and 19th century England and Wales, as well as symposium proceedings and publications by project associates on international aspects of arbitration history.
3. **Digital resources:** to develop an open access database with the University of Missouri to allow long-term scholarly access to material relating to the history of dispute resolution.
4. **Networks:** to set up a series of seminars to support a community of arbitration historians and develop an international symposium to establish a regular arbitration history conference. The project will aim to host visiting fellows at IALS and encourage their international participation in conferences and seminars across academic fields.
5. **Engagement:** to foster collaboration with other disciplines, including with the Institute of Historical Research, University of London. The project will also seek to inform Government policy, promote the peaceful settlement of disputes by mediation and arbitration, and help devise related teaching materials for schools.

The project also aims to create a network and platform for arbitration historians, building upon the existing international collaborations that have already developed.

How IALS will contribute

IALS will provide the researcher with office accommodation and access to the IALS Library, Senate House Library and libraries of other Institutes within the School of Advanced Study. The researcher will be able to use rooms in IALS for academic events connected to the *Development of Arbitration* project, and host visiting fellows.

IALS expects to establish an Advisory Group for the project, made up of experts from areas including research, legal history and legal practice.

As a member of IALS and the University of London, the researcher will be able to apply for internal and external funding to support further activities for the duration of the project. This will multiply the impact of the initial investment, and further increase the scope and impact of the work.



Above: The IALS Library at Charles Clore House on Russell Square in Bloomsbury.

Why now?

The Government is presently concerned with access to justice. The relationship between the courts and arbitration was discussed in the 2016 consultation paper *Transforming our Justice System*, which set out proposals for reform. By examining the birth of modern arbitration, this project will provide a more reliable historical foundation for debate, and contribute to the better development of dispute management processes.

Currently, there is a gap in the history and understanding of how mediation and arbitration developed in the 18th and 19th centuries. During this time, dispute resolution became overwhelmed by the culture of litigation and the interests of lawyers, but the reason for this is as yet not fully known. The law reports tell a part of the story, but research carried out so far through the *Archives of Arbitration* project has demonstrated that primary sources can show what happened in practice.

Through already established collaborations in Africa, Australia, Canada, India, Latin America and the USA, the foundations have already been laid for a sustainable network of arbitration historians, and the creation of a lasting legacy for Professor Roebuck's work.



Above: An illumination of Queen Guinevere arbitrating between two knights.

“Histories of early modern England have neglected arbitration and mediation. This project will increase our understanding of dispute resolution.”

Illustrative costs for the project

Total cost is £208,500 for three years, or £136,500 for two years. This will support one researcher, together with project expenses including research, travel and events expenses, and hosting visiting fellows.

The salary has been calculated at the University of London's scale for an Early Career Researcher. Costs include the gross salary, on which UK tax is paid, pension and National Insurance contribution by the University. Salary scale points have been increased for each year, following University policy.

University costs include costs to the University of London and IALS of core functions integral to the running of the University, and thus of the project. These include the University's administrative infrastructure, such as personnel, finance, libraries, access to institutional research facilities such as equipment and IT facilities, as well as clerical staff, maintenance and premises costs.

Year	Salary	University Costs	Project expenses	Total
2017-18	£49,000	£9,000	£9,000	£67,000
2018-19	£51,500	£9,000	£9,000	£69,500
2019-20	£54,000	£9,000	£9,000	£72,000
	£154,500	£27,000	£27,000	£208,500

For further information

To find out more about the *Development of Arbitration in England and Wales* project, please contact:

Dr Nellie Phoca-Cosmetatou, Development Manager

Email: nellie.cosmetatou@london.ac.uk

Telephone: +44 (0)20 7862 8007

Below: A seminar at IALS.



If you would like more information or to discuss how you could support this project and the University of London, please contact:

Dr Nellie Phoca-Cosmetatou

Development Manager

Email: nellie.cosmetatou@london.ac.uk

Telephone: +44 (0)20 7862 8007

© University of London 2017