



Institute for International Law  
and the Humanities

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MELBOURNE LAW SCHOOL

# Annual Report 2011





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Institute for International Law and the Humanities  
(IILAH)  
Annual Report 2011

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# Overview of IILAH

IILAH is dedicated to integrating the study of international law with contemporary approaches to the humanities. It facilitates and promotes innovative scholarship and critical thinking on emerging questions of international law, governance and justice, and strengthens the role of Melbourne Law School as a leading centre of research in this area.

IILAH supports interdisciplinary scholarship on emerging questions of international law, governance and justice. Many of the significant modes of thought that have framed the way in which international lawyers understand the world have developed in conversation with the humanities. IILAH continues this engagement, through fostering dialogue with scholars working in disciplines such as anthropology, cultural studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH focuses on encouraging the work of early career scholars and those developing new approaches to the field of international law, and facilitates engagement between scholars and the community of professionals and activists working on issues of international law and governance. It has developed networks with scholars in international law and the humanities from Canada, Colombia, Egypt, Finland, France, Germany, India, New Zealand, South Africa, Sweden, the United Kingdom and the United States. IILAH is currently focusing on developing links with scholars in the global South, in order to explore the shared legal legacies of colonialism and empire.

## Aims and objectives

To integrate the study of international law with contemporary approaches to the humanities

To facilitate and promote innovative scholarship and critical thinking

To strengthen the role of Melbourne Law School as a leading centre of research in international law and the humanities

To support the work of younger scholars

To encourage engagement between scholars and activists, and scholars and professionals

To develop networks with scholars in international law and the humanities, especially in the global south

## Activities

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures, workshops and reading groups; supervises and supports the work of graduate research students, and undertakes and facilitates collaborative and interdisciplinary research projects both within the University of Melbourne and internationally. In doing so, it contributes to ongoing debates about the theoretical foundation and practical effect of international law in today's political climate.

# IILAH Research Programmes

The activities of the Institute are currently organised around twelve key research programmes. The programmes build on the breadth of research expertise and interest amongst the faculty at Melbourne Law School, and represent areas of dynamic development and change in the fields of international and transnational law.

## **Australian Legal Histories**

Programme Director: Dr Ann Genovese

## **Comparative Tribal Constitutionalism**

Programme Director: Dr Kirsty Gover

## **Fragmentation and Regime Interaction in International Law**

Programme Director: Dr Margaret Young

## **Global Trade**

Programme Directors: Associate Professor Andrew Mitchell  
and Associate Professor Tania Voon

## **Histories of International Law and Empire**

Programme Director: Professor Anne Orford

## **International Criminal Justice**

Programme Director: Associate Professor Peter Rush

## **International Environmental Law**

Programme Director: Associate Professor Jacqueline Peel

## **International Human Rights Law**

Programme Director: Professor Dianne Otto

## **International Investment Law**

Programme Director: Associate Professor Jürgen Kurtz

## **International Refugee Law**

Programme Director: Associate Professor Michelle Foster

## **Jurisprudences of the South**

Programme Director: Associate Professor Shaun McVeigh

## **Law and Development**

Programme Director: Associate Professor Sundhya Pahuja

# Directors and Staff of IILAH

## Director

### Professor Anne Orford

Director of IILAH

IILAH Programme Director, Histories of International Law and Empire



Anne is the holder of the Michael D Kirby Chair of International Law at MLS. She researches in the fields of international law, international legal theory, international law and security, international economic law, international law and development, and histories of international law and empire. Her publications include *International Authority and the Responsibility to Protect* (CUP, 2011), the edited collection *International Law and its Others* (CUP, 2006), and *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (CUP, 2003). Anne was awarded a research-only Australian Professorial Fellowship by the Australian Research Council to undertake a project on 'Cosmopolitanism and the Future of International Law' from 2007 to 2011, and has been awarded a research-only Future Fellowship by the Australian Research Council to undertake a project on 'From Famine to Food Security: The Role of International Law' from 2012 to 2015.

Anne has been the Torgny Segerstedt Visiting Professor at the University of Gothenburg (2011–2012), Visiting Professor at Lund University (2011, 2007, 2005), a core faculty member of the Harvard Law School Institute for Global Law and Policy Workshop (2011), a senior Emile Noël Research Fellow at New York University (2003), and has lectured in the Cornell Law and Humanities Colloquium (2008), the NYU Institute for International Law and Justice Colloquium (2005), the Helsinki Summer Seminar on International Law (2004) and the Academy of European Law at the European University Institute (1998). She is a researcher in the project on 'Justice and International Law in a Global World' at the University of Paris 1. With Professor Dino Kritsiotis (Nottingham) and Professor Joseph Weiler (NYU), she will convene the Annual Junior Faculty Forum in International Law from 2012.

## Programme Directors

### Associate Professor Michelle Foster

IILAH Programme Director, International Refugee Law



Dr Michelle Foster is an Associate Professor and Director of the International Refugee Law Research Programme in the Institute for International Law and the Humanities at Melbourne Law School. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. Michelle has published widely in the field of international refugee law, and her work has been cited extensively in the international refugee law literature and also in judicial decisions in the UK, Australia and New Zealand. Her 2007 book, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*, published by Cambridge University Press, has been widely and

favourably reviewed in domestic and international law journals and was awarded the University of Melbourne's Woodward Medal in 2009. Since joining Melbourne Law School in 2005, Michelle has developed a new curriculum in Refugee Law in both the LLB and LLM degrees. Her current research is focused on an ARC Discovery project with Professor James Hathaway entitled 'The Law of Refugee Status: A Theoretical and Comparative Analysis'.



## Dr Ann Genovese

IILAH Programme Director, Australian Legal Histories



As an interdisciplinary legal scholar Ann's research focuses on the history and theory of the relationship between Australian law, the State and political culture in the twentieth century. Her major projects focus on: history, law and indigenous peoples; history of feminist legal activism and Histories of the administrative state. Ann's publications include *Rights and Redemption* (UNSWP, 2008), (with Ann Curthoys and Alexander Reilly), which has been widely reviewed, and cited by the High Court in *Northern Territory v Arnhem Land Aboriginal Land Trust* (2008) 263 CLR 24; and the forthcoming edited collection *Sovereignty: Frontiers of Possibility* (University of Hawaii Press) with Julie Evans, Patrick Wolfe, and Alexander Reilly. Ann has been the recipient of an ARC

Postdoctoral Fellowship (undertaken at MLS in relation to her work on feminist theory, family law and the state); a Fellowship at the Humanities Research Centre at the ANU (for their Law and the Humanities themed year), and was part of a successful ARC Discovery Grant team for research into historical evidence and indigenous litigation. Ann is Programme Director of the IILAH Australian Legal Histories research programme, a member of the editorial board of *Australian Feminist Studies* and a corresponding editor for *Feminist Review*.

Ann reviews for a range of journals, including *Australian Historical Studies*, *Borderlands*, the *University of New South Wales Law Review* to the *Indigenous Law Journal*. Ann has presented work by invitation at the Federal Court, the School of Oriental and African Studies at the University of London, the Sydney Institute, and numerous Australian universities and public forums. Ann is currently supervising doctoral students who work between law and humanities, and is experienced in cross Faculty supervisions.

## Dr Kirsty Gover

IILAH Programme Director, Comparative Tribal Constitutionalism



Kirsty joined MLS in 2009. Her research and publications address the law, policy and political theory of indigenous rights, institutions and jurisdiction. She has a particular interest in tribal constitutionalism. Dr Gover is a graduate of the New York University (NYU) JSD Doctoral Program, where she was an Institute for International Law and Justice (IILJ) Graduate Scholar and New Zealand Top Achiever Doctoral Fellow. Kirsty received her BA/LLB from the University of Canterbury, New Zealand, and her LLM from Columbia University, United States, where she was a Columbia University School of Law Human Rights Fellow and James Kent Scholar.

Kirsty is the author of *Tribal Constitutionalism: States, Tribes and the Governance of Membership* (OUP, 2010). She is interested in the role played by 'indigeneity' in the constitutionalism of settler societies, and in the importance of indigenous concepts of law and politics in settler state political theory. Recent work addresses the friction between tribal and settler state laws on the status of adopted children, the political theory of state-tribal jurisdictional agreements, and the absence of empirical reference to indigenous claims in theories of indigeneity.

## Associate Professor Jürgen Kurtz

IILAH Programme Director, International Investment Law



Jürgen researches and teaches in the various strands of international economic law, including the jurisprudence of the World Trade Organization and that of investor-state arbitral tribunals. He has a particular research interest in the impact of treaty-based disciplines on regulatory autonomy and development strategies. Jürgen's work has been published in a range of leading international law journals and has been cited by international tribunals in adjudication.

Jürgen has held research fellowships at the Jean Monnet Center for International and

Regional Economic Law Justice at New York University Law School (as an Emile Noël Fellow), at the University of Michigan Law School (as a Grotius Fellow) and the Academy of International Law in The Hague. He is also a Director of Study at the Academy of International Trade and Investment Law based in Macau and organised by the Institute of European Studies. In recent years, Jürgen has joined the Global Faculties of the Universidade Católica in Portugal, the Centre for Transnational Legal Studies in London, Bocconi University in Milan and was appointed Fernand Braudel Senior Fellow at the European University in Florence as well as Global Associate at the Centre for International Law at the National University of Singapore. Aside from research and teaching, Jürgen acts as a consultant to a variety of governmental and inter-governmental agencies, including the United Nations Conference on Trade and Development, the United Nations Development Program and the World Bank.

## Associate Professor Shaun McVeigh

IILAH Programme Director, Jurisprudences of the South



Shaun joined the MLS in 2007. He previously researched and taught at Griffith University in Queensland as well as Keele and Middlesex Universities in the United Kingdom. He has a long time association with critical legal studies in Australia and the UK. More recently he has been involved in convening a symposium 'Of the South' that develops an account of lawful existence within the global South.

Shaun has research interests in the fields of jurisprudence, health care, and legal ethics. His current research projects centre around three themes associated with refreshing a jurisprudence of jurisdiction: the development of accounts of a 'lawful' South; the importance of a civil prudence to thinking about the conduct of law (and lawyers); and, the continuing need to take account of the colonial inheritance of Australia and Britain.

## Associate Professor Andrew Mitchell

IILAH Programme Director, Global Trade



Andrew joined the faculty at MLS in 2006 having been a Senior Fellow since 2004. He has law degrees from Melbourne Law School, Harvard Law School and the University of Cambridge. His previous employers include the IMF, the OECD, Davis Polk & Wardwell and Allens Arthur Robinson. Andrew also consults for the private sector and governmental and non-governmental organisations including AusAID, the Department of Foreign Affairs and Trade, Telstra and the WHO. In 2007, following a nomination by the Australian government, the WTO's Dispute Settlement Body added him to the Indicative List of Governmental and Non-Governmental Panelists to hear WTO disputes. He has over 80 academic publications and has taught at numerous law schools in the United

States, Canada and Australia.

## Professor Dianne Otto

IILAH Programme Director, International Human Rights Law



Dianne's research is in the areas of public international law, human rights law and critical legal theory, with a current focus on gender and sexuality issues in the context of the UN Security Council, peacekeeping and international human rights law. Dianne's scholarship explores how international legal discourse reinforces hierarchies of nation, race, gender and sexuality, and aims to understand whether and how the reproduction of such legal knowledge can be resisted. Her work draws upon and develops a range of critical legal theories, particularly those influenced by feminism, postcolonialism, poststructuralism and queer theory. Her recent publications include chapters in Margaret Davies and Vanessa Munro (eds), *A Research Companion to Feminist Legal Theory* (Ashgate, 2012) and Sari Kouvo and Zoe Pearson (eds), *Feminist Perspectives on Contemporary International*

*Law: Between Resistance and Compliance?* (Onati/Hart, 2011). She has also edited three volumes on *Gender Issues and Human Rights* (Edward Elgar, forthcoming 2012) and prepared a bibliographic chapter, 'Feminist Approaches', in Tony Carty (ed), *Oxford Bibliographies Online: International Law*, (OUP, forthcoming 2012).

Dianne has held visiting positions at Columbia University, the School of Oriental and African Studies at the University of London, New York University and the University of British Columbia. In 2004 she was the Kate Stoneman Endowed Visiting Professor in Law and Democracy, at Albany Law School in New York. She sits on the Advisory Boards of *Third World Legal Studies*, *Melbourne Journal of International Law*, *The Third World and International Law*, and the *Australian Yearbook of International Law*. She has also been active in a number of human rights NGOs including Women's Rights Action Network Australia (WRANA), Women's Economic Equality Project (WEEP) Canada, International Women's Rights Action Watch Asia Pacific (IWRAP-AP) Malaysia, and International Women's Tribune Centre (IWTC) New York. She helped draft a General Comment on women's equality for the Committee on Economic, Social and Cultural Rights and a General Recommendation on treaty obligations for the Committee on the Elimination of Discrimination Against Women.

## Associate Professor Sundhya Pahuja

IILAH Programme Director, Law and Development



Sundhya's research focuses on the political economy of international law and institutions. She is particularly interested in the relationship between international law and the concepts of development and globalisation. Her work attempts to engage the divisions between public international law and international economic law, and between theory and practice. Her most recent book is *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (CUP, 2011). She is also the co-editor of *Events: The Force of International Law* (Routledge, 2011) and *Reading Modern Law: Critical Methodologies and Sovereign Formations* (Routledge, forthcoming). Sundhya has been invited to serve as the Director of Studies in Public International Law at the Hague Academy of International Law in 2014.

## Associate Professor Jacqueline Peel

IILAH Programme Director, International Environmental Law



Jacqueline holds the degrees of Bachelor of Science and Bachelor of Laws (Hon I) from the University of Queensland, a Master of Laws from New York University (NYU) where she was a Fulbright scholar, and a PhD from the University of Melbourne. In 2003–2004, Jacqueline returned to NYU Law School as a Hauser Research Scholar and Emile Noël Fellow. Prior to her appointment at MLS, Jacqueline completed an internship at the United Nations International Law Commission, working with Professor James Crawford on the ILC's *Draft Articles on the Responsibility of States for Internationally Wrongful Acts*. From 1997 to 1999 she practised environmental and planning law at the Australian law firm of Allens Arthur Robinson.

Jacqueline's established research interests are in the areas of environmental law (domestic and international), risk regulation and the role of science, and international trade law. She has published numerous articles on these topics in a number of prominent academic and international journals. Together with Lee Godden, she is the author of a major work on Australian environmental law: *Environmental Law: Scientific, Policy and Regulatory Dimensions* (OUP, 2010). In 2010 Jacqueline also published *Science and Risk Regulation in International Law* (CUP, 2010) based on her thesis examining the use (and abuse) of science in legal risk assessment processes, such as those undertaken by the dispute settlement bodies of the WTO in cases under the Sanitary and Phytosanitary Agreement. Jacqueline's expertise and scholarship in the field of law/science is also evident in her well-regarded book, *The Precautionary Principle in Practice* (Federation Press, 2005). In the area of international environmental law, Jacqueline has made a number of important scholarly contributions, particularly her work on the third edition

of *Principles of International Environmental Law* (CUP, forthcoming 2012) which she co-authored with Professor Philippe Sands of University College London.

In the last few years Jacqueline has expanded her research to focus on the emerging field of climate change law. She has published articles on climate law and climate litigation in leading Australian and international specialist journals and is the co-author (with Lee Godden and Alexander Zahar) of a new book *Australian Climate Law in a Global Context* (CUP, forthcoming 2012). A further book on Australian, US and international climate change litigation is in train, with a contract to publish with Cambridge University Press. Together with Lee Godden and Rod Keenan, Jacqueline holds an ARC Discovery grant to examine the regulatory framework for responding to climate change in Australia. In 2011, a workshop was held under the auspices of this grant which brought together Australian and international speakers around the topic 'Beyond a Carbon Price: A Framework for Climate Change Regulation in Australia'. Jacqueline also secured a US Studies Centre grant in 2009 to undertake a comparative analysis of Californian and Australian climate change law. These projects augment Jacqueline's existing publications and teaching in the fields of environmental and climate change law.

## Associate Professor Peter Rush

IILAH Programme Director, International Criminal Justice



Peter has been a youth worker, an artist, a filmmaker and a scholar. He has taught in law faculties and criminology departments in Australia and in England. In 2004–2005, he was the Karl Lowenstein Fellow in Political Science and Jurisprudence at Amherst College. He is the author of several books on criminal law and edited collections on jurisprudence, and on law and aesthetics. A longstanding member of the critical legal studies movement in the United Kingdom, he was coordinator of its national conference and a founding member of the interdisciplinary legal theory journal *Law & Critique*. He has been invited to present papers and lectures at institutions in the United Kingdom, United States and Canada, such as Birkbeck College, Carleton University, and New York University. He is a member of the editorial boards of several legal theory journals and has been active in the Australian Law and Literature Association and the Australian Law and Society Association. His areas of expertise include international criminal law, legal theory and jurisdiction, the histories and doctrine of criminal law, sexual assault law and its reform, legal aesthetics, and legal formations of trauma.

## Associate Professor Tania Voon

IILAH Programme Director, Global Trade



Tania is a former Legal Officer of the WTO Appellate Body Secretariat and a graduate of Cambridge University (PhD in Law), Harvard Law School (LLM), and the University of Melbourne (LLB, BSc, Grad Dip Intl L). She has previously practised law with Mallesons Stephen Jaques and the Australian Government Solicitor, and has taught law in Australia, Canada and the United States (most recently at Georgetown University Law Center). She has published widely in the areas of public international law, preferential trade agreements, WTO dispute settlement, WTO trade remedies, trade-related aspects of intellectual property rights (TRIPS), and trade in services. Tania is the author of *Cultural Products and the World Trade Organization* (CUP, 2007), a member of the Editorial Boards of the *Journal of International Economic Law* and the *Indian Journal of International Economic Law*, and a member of the Indicative List of Governmental and Non-Governmental Panelists for resolving WTO disputes.



## Dr Margaret Young

IILAH Programme Director, Fragmentation and Regime Interaction in International Law



Margaret is the author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (CUP, forthcoming 2012). Her other book, *Regime Interaction in International Law: Facing Fragmentation* will also be published by Cambridge University Press (forthcoming 2012). The book is an edited collection based on the successful conference Margaret hosted at the University of Cambridge in July 2009. Contributing authors include Professors Georges Abi-Saab, James Crawford, David Kennedy, Martti Koskenniemi and Gunther Teubner. Margaret was previously the William Charnley Research Fellow in Public International Law at Pembroke College and the Lauterpacht Centre for International Law, University of Cambridge, where she also lectured in

Cambridge's LLM course on WTO law. She has worked at the World Trade Organisation (Appellate Body Secretariat), the United Nations International Law Commission and at Greenpeace International and is a former associate to former Chief Justice Michael Black AC, QC of the Federal Court of Australia. She teaches international law and public law classes in the Melbourne JD and MLM.

## Staff

### Ms Vesna Stefanovski

IILAH Administrator



Vesna Stefanovski joined IILAH in March 2007 as the institute's administrator. Vesna holds a Bachelor of Arts with majors in marketing (from Swinburne University of Technology) and media and a Certificate in Public Relations (from RMIT). She is currently undertaking a Certificate in University Management at the University of Melbourne. In her previous position Vesna worked in marketing and communications in the transport industry and has extensive practical experience in organising major public and staff events, implementing communication strategies, managing community and media relations. She has a reputation for being enthusiastic, providing energy and spark to the team and doing an excellent job in building a positive corporate culture. As the IILAH administrator Vesna

is involved in maintaining the IILAH web page, organising a range of IILAH conferences, public lectures, workshops and reading groups, as well as designing publications and flyers for the institute.

# IILAH Members

## Associate Professor Alison Duxbury



Alison's main areas of research are international institutional law, human rights law and international humanitarian law. She is currently undertaking research on the role of human rights and democracy in determining states' participation in international organisations. Alison is a member of the Australian Red Cross International Humanitarian Law Committee (Victorian Division), the Asia Pacific Centre for Military Law, and the International Advisory Commission of the Commonwealth Human Rights Initiative based in Delhi. In 2011 Alison was awarded an inaugural Melbourne Teaching Citation for outstanding contributions to building graduate attributes, for her work in promoting interdisciplinary approaches to human rights and student engagement with human rights issues. Alison has undertaken advice work in the areas of international law and human rights, and has published in Australian and overseas law journals in these fields. Alison has recently published *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (CUP, 2011).

## Professor Lee Godden



As well as her involvement with IILAH, Lee is the Director of the Centre for Resources, Energy and Environmental Law (CREEL). Accordingly, much of her scholarship occurs in areas at the intersection of law and the humanities related to environmental law, indigenous rights and natural resource management. An exploration of the relationship between law and history in the context of native title law formed a theoretical foundation for much early research. A similar interdisciplinary focus has informed other aspects of her scholarship in property theory and environmental regulation and governance. A further theme pursued in her work is the inter-relations between law, violence and bodily disciplining. Her work extends with engagement in public interest issues such as the impact of climate change on environmental law and water law and economic development for indigenous communities.

## Dr Kevin Jon Heller



Kevin teaches international criminal law and criminal law. He holds a JD with distinction from Stanford Law School, an MA with honours in literature from Duke University, and an MA and BA, both with honours, in sociology from the New School for Social Research. He received his PhD in law from Leiden University in June 2011.

Kevin's academic writing has appeared in a variety of journals, including the *European Journal of International Law*, the *American Journal of International Law*, the *Journal of International Criminal Justice*, the *Harvard International Law Journal*, the *Michigan Law Review*, the *Leiden Journal of International Law*, the *Journal of Criminal Law & Criminology*, *Criminal Law Forum* and the *Georgetown International Environmental Law Review*. His other published material includes *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (OUP, 2011) and an edited book (with Markus Dubber). *The Handbook of Comparative Criminal Law* (Stanford University Press, 2011). Kevin is a permanent member of the international-law blog *Opinio Juris*.

On the practical side, Kevin has been involved in the International Criminal Court's negotiations over the crime of aggression, served as Human Rights Watch's external legal advisor on the trial of Saddam Hussein (whose lawyers cited his academic work in their appeals), and consulted with a number of defendants at the ICTY and ICTR. He served from December 2008 until February 2011 as one of Radovan Karadzic's formally-appointed legal associates.

## Dr Wendy Larcombe



Wendy's doctoral research in the Law and Literature field was published by the Federation Press in 2005 as *Compelling Engagements: Feminism, Rape Law and Romance Fiction*. Her current research continues to explore issues of gender and sexuality in law and culture, with a particular interest in the construction of subjectivity in legal responses to violence against women and the constitution of reproductive and sexual health rights.

Wendy taught literature and cultural studies at the University of Melbourne for a number of years before coming to the MLS. She has also worked for the Women's Legal Resource Group and Equity and Diversity Programs at the University of Melbourne. She teaches Legal Method and Reasoning, and Legal Theory in the JD. She is a member of the Community Consultative Committee of the Medical Practitioners Board of Victoria and of the Recognition Review Group for Cosmetic Medical Practice (Australian Medical Council).

## Associate Professor Bruce 'Ossie' Oswald, CSC



Ossie's research interests are in the areas of international humanitarian law, peace operations law, international peace and security law, military law, and international criminal law. He teaches a range of post-graduate subjects in the MLS. Some of the subjects he teaches are Principles of International Law, International Dispute Settlement Law, International Humanitarian Law, International Peace and Security Law, Institutions in International Law and UN Law and Practice. Ossie continues to serve in the Australian Army as a legal officer and has seen active service overseas as a member of the Australian Defence Force. For his service as the Legal Officer for the Australian Contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross (CSC).

## Professor Gerry Simpson



Gerry Simpson holds the Kenneth Bailey Chair of Law at MLS. In addition to his involvement with IILAH, he is Director of the Asia Pacific Centre for Military Law, and Convenor of the Global Justice Studio. He is a Visiting Professor of Public International Law at the London School of Economics, where he held a Chair until 2009, and is currently an AFP/Open Society Fellow (based in Tbilisi, Georgia). He is the author of *Great Powers and Outlaw States* (CUP, 2004) (awarded the American Society of International Law's annual prize for Pre-eminent Contribution to Creative Legal Scholarship in 2005 and translated into several languages) and *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity, 2007), and has a forthcoming book a collection of essays entitled *The Margins of International Law* (forthcoming 2013).

## Associate Professor Joo-Cheong Tham



Joo-Cheong's research focuses on the regulation of non-standard work, anti-terrorism laws and political finance law. Joo-Cheong has published over 25 book chapters and refereed articles. His research has been published in print and online media, including more than 30 opinion pieces. He has also given evidence to parliamentary inquiries into terrorism laws and political finance law. In 2007–2008, he was a British Academy Visiting Fellow at King's College, University of London and undertook a comparative study of control orders in Australia and the United Kingdom in relation to the protection of human rights. Joo-Cheong has published *Money and Politics: The Democracy We Can't Afford* (UNSW Press, 2010), and two co-edited books *The Funding of Political Parties: Where Now?* (Routledge, 2011) (co-edited with Keith Ewing and Jacob Rowbottom) and *Electoral Democracy: Australian Prospects* (Melbourne University Press, 2011) (co-edited with Brian Costar and Graeme Orr).

## Associate Professor John Tobin



John has a combined commerce/law degree with honours and a PhD from the University of Melbourne. He also has an LLM with distinction from the University of London. He has designed and taught several subjects in areas of international law, human rights, children's rights and public interest lawyering. He coordinates the legal internship subject across the LLB, JD and Masters programs in the Melbourne Law School. In 2010 he was awarded the Barbara Falk Award for Teaching Excellence by the University of Melbourne, and in 2011 he was awarded a national citation for outstanding contribution to student learning in the area of human rights. In 2006 he was a Visiting Professor at both the American Academy of Human Rights and Humanitarian Law, Washington College of Law, American University and at the Law School at New York University. In 2011 he was the Senior Scholar in Residence at the Centre for Human Rights and Global Justice at NYU.

John has published numerous reports and articles on human rights, including a book *The Right to Health in International Law* (Oxford University Press, January 2012). He is currently working on an ARC Discovery Grant with Professor Philip Alston (NYU), titled '*Children's Rights from Theory to Practice*', which will involve an examination of the historical and philosophical foundations of children's rights and the measures required for their implementation. John has provided human rights training and advice as a consultant and on a pro bono basis on numerous occasions to organisations such as UNICEF, the Victorian Equal Opportunity Commission, and various law reform commissions, NGOs, statutory bodies, government departments and community groups. He is an Advisory Board member of the *Melbourne Journal of International Law* and *International Journal of Children's Rights*. He is also a member of several advisory committees and working groups for government bodies and NGOs. He is the coordinator the MLS Human Rights Alumni Network and joint coordinator, along with Professors Hilary Charlesworth and Andrew Byrnes, of the Human Rights Teacher's Network. Prior to becoming an academic John worked as a commercial lawyer, legal aid lawyer and legal officer with the Department of Justice.

## Dr Amanda Whiting



Amanda's research is in the area of human rights institutions and practices in the Asia-Pacific Region, gender and religion, and Malaysian legal history. She is Associate Director (Malaysia) of the Asian Law Centre. Amanda completed her honours degree in Arts at the University of Melbourne in 1981 and then taught seventeenth and eighteenth century history at the University's History Department over the next decade. She also has a Diploma of Education (1988) and a Graduate Diploma of Indonesian (1995), partly undertaken at Universitas Kristen Satya Wacana, Indonesia. She completed her LLB with First Class Honours in 2001. In 2007 Amanda completed her doctorate - a feminist analysis of mid-seventeenth century English legal and political history.

Amanda is currently researching and writing a history of the legal profession in Malaysia, focussing on its role as an agent of civil society, funded by an ARC Postdoctoral Fellowship (2009–2012). In 2004 her article "Some Women Can Shift It Well Enough": A Legal Context for Understanding the Women Petitioners of the Seventeenth-century English Revolution" was published in the *Australian Feminist Law Journal*. Amanda is the author of several articles and book chapters about human rights in Malaysia, the colliding and conflicting understandings of secular and religious law in Malaysia (particularly as they affect women and children), and the Malaysian legal profession. Amanda is the editor of *Mixed Blessings: Laws, Religions and Women's Rights in the Asia Pacific Region* (Martinus Nijhoff, 2006) (with Professor Carolyn Evans (Melbourne Law School)), a book about women's experiences of the dual regimes of law and religion in the Asia-Pacific region. Amanda is involved in two other book projects: one (with Professor Andrew Kenyon (Melbourne Law School)), concerns media, law and politics in Singapore and Malaysia; and the other (with Professor Andrew Harding (Victoria University, British Columbia)) about current issues in law and society in Malaysia.



# IILAH Graduate Research Students

## Completed in 2011



### Takele Soboka Bulto

**Thesis title:** *The Imperatives of Extraterritorial Application of the Human Right to Water: A Case Study of the Nile Basin*

**Supervisors:** Professor Carolyn Evans and Associate Professor Jacqueline Peel

Takele Soboka Bulto holds LLB and MA degrees from Addis Ababa University, Ethiopia, and an LLM degree from University of Pretoria, South Africa. Takele worked as a judge and lecturer in Ethiopia and a visiting lecturer at the Centre for Human Rights at the Faculty of Law, University of Pretoria. He also worked as Programme Coordinator for Child Rights and Child Rights Programming in Eastern and Central African Regional Office of Save the Children Sweden. Just before taking up his PhD studies at Melbourne Law School Takele was a Legal Officer in a pan-African pioneer NGO, the Institute for Human Rights and Development in Africa, where he practised before the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child. He represented victims of human rights violations from Zimbabwe, Ethiopia, Kenya and Angola and defended their cases before the two African regional human rights bodies.

Takele has published his works in American, South African, Ethiopian and Australian journals. His recent work on human rights and the right to water has been published in, among others, the *Melbourne Journal of International Law*, the *South African Journal of Human Rights* and the *International Journal of Human Rights*. His book, *Extraterritorial Application of the Human Right to Water in Africa*, will be published by Cambridge University Press in 2012.

Takele's PhD thesis analyses the operationalisation of the emerging human right to water in Africa. Given that every single African state has at least one water source to share with another state, the realisation of the human right to water in Africa is primarily dependent upon resources that cross international borders of states that rely on the same resource to fulfil the human right to water in their respective territories. Many states lack the necessary water resources from within their territories, and found themselves under resource constraints that would severely hamper their ability to 'respect', 'protect', 'promote' and 'fulfil' the human rights of their inhabitants. Taking the Nile Basin as a case study, Takele's thesis explores riparian states' extraterritorial legal obligations in the fulfilment of a human right to water of the populations living beyond their own borders.



### Olivera Simić

**Thesis title:** *Is the Zero Tolerance Approach to Sex between UN Peacekeeping Personnel and Local People in the Context of UN Peacekeeping Operations the Best Way to Prevent "Sexual Exploitation" in the Future?*

**Supervisors:** Professor Dianne Otto and Associate Professor Michelle Foster

Olivera Simić has an LLM in International Human Rights Law (Essex University, UK) and MA in Gender and Peacebuilding (UN University for Peace, Costa Rica). For more than a decade she has been working as Gender and Law Consultant for various agencies (UNICEF, OSCE, ICMPD, etc). Also, she has been actively engaged with projects related to women's and children's human rights in different capacities (activist, researcher, trainer, tutor and lecturer). Her fields of interests are gender, sexual abuse, sexual exploitation, organized crime, militarism, war, peacekeeping and reconciliation.

Her thesis argues that although the zero tolerance policy should be welcomed as the first important step towards comprehensive recognition of the problem of "sexual exploitation" in the UN peacekeeping context, the policy is

not only problematic because of its broad definition of “sexual exploitation”, but for several other reasons as well. In her thesis, she examines why and how the zero tolerance policy was tailored as well as what assumptions it makes, in particular about the people with whom it is most concerned. Her thesis aims to explain bewilderment about the zero tolerance policy’s broadly defined term of “sexual exploitation”. Searching for the identification of the fine line between coerced sex and different layers of consensual sex lies at the heart of her research project.

## Ongoing Graduate Research Students



### Olivia Barr

**Thesis title:** *Jurisprudence of Movement*

**Supervisors:** Associate Professor Peter Rush, Associate Professor Shaun McVeigh and Associate Professor Maureen Tehan

Olivia Barr graduated from the University of Western Australia with a Bachelor of Laws (Dist) and a Bachelor of Arts (Anthropology), before graduating from the University of British Columbia with a Master of Laws. Olivia has worked in law reform, as a government solicitor and for the United Nations Permanent Forum on Indigenous Issues. Her doctoral

thesis contemplates the role of jurisdiction in locating and placing the common law through the utilisation of critical approaches to jurisdiction and critical legal geography.



### Meg Brodie

**Thesis title:** *Agents of Change: What Power Do National Human Rights Institutions Have to Affect the Process of Transformative Social Change?*

**Supervisors:** Professor Dianne Otto and Professor Brian Burdekin (Lund)

Meg Brodie completed a BA(Hons)/LLB(Hons) at the University of Melbourne. A lawyer, Meg has worked in both the corporate and not-for-profit sectors and currently sits on the Board of the Oaktree Foundation. In 2009 Meg was a Teaching Fellowship at the MLS.

Meg’s thesis explores the power of National Human Rights Institutions (NHRIs) to create change. It analyses national inquiries conducted by Asia-Pacific NHRIs, focusing on Mongolia with reference to Australia, India and New Zealand experiences. Through empirical research it finds that NHRIs exercise informal power beyond the formal powers granted to them by statute. It argues that NHRI informal power is relational and persuasive, and when reinforced by formal statutory powers, NHRIs are able to contribute to the domestic internalisation of international human rights standards. Her fieldwork was supported by an Endeavour Research Fellowship.



### Peter Chambers

**Thesis title:** *Power in Transformation: Christmas Island, Border Security, Governance*

**Supervisors:** Associate Professor Peter Rush and Professor Nikos Papastergiadis (School of Culture and Communication, Faculty of Arts)

In 2011, Christmas Island is best known as a place of immigration detention, a component of Australia’s expanding border security apparatus. In the 124 years since it was annexed by the British, Christmas Island has continued to take on changing political forms. In

exploring these changes empirically and theoretically, this thesis gives an account of the mutation of political sovereignty, the emergence of globalisation, the installation of governance, and their current co-operation through the practice of border security and immigration detention, as seen from the Island. It considers the way shifts

in thinking and ways of imagining problems - as political, as urgent - have provoked and continue to prompt the construction of certain kinds of structures: mines, casinos, and now the immigration detention centre. The centre is a high-tech, medium security prison situated in the middle of a tropical rainforest that includes back-to-base surveillance technology, wheelchair access, and specially designed concrete tunnels constructed to facilitate the orderly migration of red crabs across the Island.

The core argument stems from the recognition that all governing is a matter of problem solving, but that, every time, problems are solved within the enabling constraints characterising each problem space. Governing moves from imagination to application to a materiality that turns out to be perennially unruly: nothing works as intended; yesterdays best laid plans are today's follies; things fall apart. The picture of power's transformations depicted points not only to the transience of all things human, but that what is characteristic of power's shape in our time is that it holds without the centre. And yet, Christmas Island's story is also full of ironies and impasses. The attempted passage of authority through governance and the restless, anxious search for accumulative mobility characteristic of today's capitalism also, paradoxically, produces specific sites of friction and immobility, certain kinds of paralysis, and a curious desire to project messages into a region and future that border security can only recognise and secure as a threat-filled theatre of interdiction.

Christmas Island is strange, but the ways in which it is tell a striking and disquieting story about how power came to be what it is, while suggesting what we might be becoming. In accounting for transformations of power on Christmas Island, this thesis also offers an account of the conceptual and intellectual resources necessary to make sense of the power relations to which we are subject: here, now and in the future.



### Nicola Charwat

**Thesis title:** *Public Interest Amicus Curiae in WTO Dispute Settlement: Contesting Global Market Governance?*

**Supervisor:** Professor Dianne Otto

The WTO Appellate Body's acceptance of amicus curiae briefs (ACBs) submitted by public interest actors in dispute settlement is accepted as a hard-won victory by civil society. As such, the ACB is generally understood as improving WTO governance, which is otherwise characterised as prioritising market interests and excluding public interests. Nicola's

thesis provides a critical analysis of the potential contribution of public interest actor briefs to challenges to global market governance. Focusing on WTO dispute settlement as a powerful site of governance, Nicola explores both the limits of the ACB, and opportunities it presents, as a means of inserting the public interest into the interpretation and application of trade rules.



### Julia Dehm

**Thesis title:** *An Investigation into the Assumptions Made about the Management of Risk to Indigenous Peoples and Forest-Dependent Communities from REDD+; Indonesia and Beyond*

**Supervisors:** Associate Professor Maureen Tehan, Dr Margaret Young and Dr Kirsty Gover

Julia's research focuses on the social impacts of carbon trading schemes on politically and economically marginalised individuals and communities. She is also a climate justice activist who has been active in supporting mobilisations against coal in Australia and organising international solidarity against 'false solutions' to climate change. She presents a radio show 'Done By Law' ([www.donebylaw.org](http://www.donebylaw.org)) on community radio once a month and is involved in providing legal support to activist movements.



## Sara Dehm

**Thesis title:** *'Humanising' the Border: Migrant Labour, Development and the Promise of Legality*

**Supervisors:** Associate Professor Sundhya Pahuja and Professor Anne Orford

Sara Dehm holds Bachelors of Arts and Law and a Diploma of Modern Languages (Arabic Studies) from the University of Melbourne. She has also worked as a research and administrative assistant for the Social Justice Initiative, University of Melbourne. Her PhD research employs post-structuralist approaches to law to examine discourses of migration management, migration and development, citizenship and mobility, security and employment within international and regional institutions. Through an exploration of Australia's Seasonal Pacific Worker Pilot Scheme, her thesis attends to the ways in which the promise of formal migrant labour schemes to the international 'development' project has come to be narrated and implemented in the post-World War II period.



## Maria Elander

**Thesis title:** *In The Name of the Victim: The Figure and Figuration of the Victim in International Criminal Justice*

**Supervisors:** Associate Professor Peter Rush and Professor Dianne Otto

Maria Elander holds a BA in Arabic and a BSS in Political Science from Uppsala University, and a MA in Human Rights Law from the School of Oriental and African Studies, University of London. Before commencing her PhD candidature, she worked as a research assistant at the American University of Cairo. Her PhD research examines the figure and the figuration of the victim in a critical reading of the discourse on international criminal justice. In particular, the thesis asks what victim is figured in international criminal law, how the victim can speak in and through international criminal law, and how to understand the figurations of the victim that now exist in the field. To examine these questions, the research looks at the developments at the International Criminal Court (ICC) and the Extraordinary Chambers in the Courts of Cambodia (ECCC).



## Luis Eslava

**Thesis title:** *Spatial Dimensions of Law and Development: Transforming s overignty, state and citizenship*

**Supervisors:** Professor Anne Orford and Associate Professor Shaun McVeigh

Luis Eslava completed his undergraduate law degree at Universidad Externado de Colombia and a Master of Law and Development at the Melbourne Law School. Luis is interested in issues of Global Governance, from the perspective of critical Third World subjects. In the last few years, Luis has published various articles in Colombian and international journals, including 'Between Resistance and Reform: TWAIL and the Universality of International Law' (with Sundhya Pahuja) in *Law, Trade and Development*; 'Decentralization of Development and Nation-Building Today: Reconstructing Colombia from the Margins of Bogotá' in the *Law and Development Review*; 'Corporate Social Responsibility & Development: A Knot of Disempowerment' in *Sortuz Oñati Journal of Emergent Sociolegal Studies*; 'Occupation Law: (Mis)Use and Consequences in Iraq' in *Contexto*; and a review of *Developing Power: How Women Transformed International Development* in *Feminist Legal Studies*.

Luis' PhD project investigates the implications of the decentralization of development in Colombia since the reform of the Colombian Constitution in 1991. It specifically asks what have been the effects of the move from national to local development on the juridico-political concepts of sovereignty, state and citizenship. It suggests that these reforms altered the geographical space in which development was usually conceived and performed as part of an international trend that portrays States as overgrown and unmanageable spaces. The effect was the creation of multiple sub-national territorial units, which overtook the nation-state and its citizens as the preferred sites



of development interventions. To evaluate this development shift, the research adopts a case-based approach focusing on Bogotá, the capital city of Colombia.



### **Bec Goodbourn**

**Thesis title:** *Sensing the City: Space and Subjective Life of the Laneways*

**Supervisors:** Professor Alison Young and Associate Professor Peter Rush

Bec Goodbourn completed her BA with honours in Criminology at the University of Melbourne. Bec is interested in the everyday use of urban spaces; in looking at the way in which design and regulation affect physical and sensory experiences, and how physical and sensory experiences affect the ways in which we design and regulate. Her PhD research focuses specifically on the laneways of Melbourne's CBD. In problematising notions of bodies as discrete or stable forms, Bec argues for a greater understanding of the relationship between sensory and physical experience in the laneways, and the materiality of social, economic and political processes.



### **Carolyn Graydon**

**Thesis title:** *Domestic Violence in Timor-Leste: Is There a Place for Indigenous Justice Systems?*

**Supervisors:** Professor Tim Lindsey and Professor Dianne Otto

Carolyn worked as an advocate in the area of refugee and immigration law for several years and then with the United Nations in Timor-Leste as a human rights officer. This experience triggered her interest in Timorese women's responses to gender violence, more particularly their use of formal and indigenous justice systems. Carolyn's thesis focuses on indigenous processes of developing and protecting human rights, more specifically, justice processes and their potential for long term transformation so that they are better able to deliver the justice and protection sought by Timorese women. In 2006 and 2007 she lectured at Melbourne Law School in the subject Law and Society in Southeast Asia.



### **Joseph Kikonyogo**

**Thesis title:** *WTO Negotiations on Agriculture: Will the African Group Always Have a Raw Deal?*

**Supervisors:** Associate Professor Andrew Mitchell and Associate Professor Tania Voon

By analysing negotiations on agriculture in the WTO Doha Round and assessing the position of sub-Saharan Africa in international trade, Joseph's thesis argues that countries in sub-Saharan Africa will not achieve the development objective of the Round because the countries have a weak bargaining base. It is recommended, therefore, that the African Group concentrate on finding ways of first building strong domestic and regional economic, legal and political institutions to enable them have substantial contributions to bring to the table.



### **Kasia Lach**

**Thesis title:** *Sovereignty and the 2004 Eastern Enlargement of the European Union; An Inquiry into the Dynamics of European Legal Integration Intellectual Property*

**Supervisors:** Professor Anne Orford and Professor Carolyn Evans

On 1 May 2004, ten states joined the European Union. A particular challenge was posed by the accession of eight post-communist states of Central Eastern Europe since their

legal systems had had to be profoundly reformed in order for these states to become members of the European Union. One of the aspects that raised some concerns was the alleged attachment of the new Member States to sovereignty; an attachment supposedly largely absent in the old Member States and regarded as obsolete in the post-modern era of increasing interdependencies and extra-state configurations of authority.

Placed in such a context, the present inquiry brings together two phenomena: the conceptualisations and interpretations of sovereignty in the new Member States of the European Union and the process of European integration. The main research question is whether the Central Eastern European accounts of sovereignty and European integration are indeed specific to the new Member States (Poland and Hungary), or whether similar patterns have also been observable in the old Member States (Germany and France) and thus should be viewed as exemplifications of a universal development intrinsic to the process of European integration rather than as a Central Eastern European idiosyncrasy. Narrowing down the focus of the inquiry even further, the central thesis question has been analysed from the vantage point of constitutional law; the focus of the study is on constitutional accounts of sovereignty, European legal integration and the modes of interaction between the two.



### Eve Lester

**Thesis title:** *Making Migration Law Work in Australia: Paradoxes and Prospects*

**Supervisors:** Associate Professor Sundhya Pahuja and Associate Professor Shaun McVeigh

The central question of Eve's thesis asks which historical dynamics have shaped immigration law-making in Australia so as to circumscribe enjoyment of basic social and economic rights, and pivotally the right to work, by people who migrate as part of a survival strategy. To this end, Eve's thesis analyses the influence of a matrix of societal dynamics, including the concept of sovereignty, race, religion and political economy and their role in shaping social and economic rights and realities for survival migrants in Australia.



### Cressida Limon

**Thesis title:** *Genes, Biotechnologies and Legal Imaginings: A Feminist Analysis of Intellectual Property*

**Supervisors:** Professor Anne Orford and Professor Lee Godden

Cressida holds a BA (Biological Anthropology) from the Australian National University and an LLB (Hons) from La Trobe University. Cressida has worked in the community legal sector and has taught legal theory, legal research methods and discrimination law at Victoria University, Melbourne and bioethics at the University of California Santa Cruz. Cressida has been a member of the Editorial Board of the *Australian Feminist Law Journal* since 2001. Cressida's current research interests include intellectual property, feminist legal theory, science and technology studies and invention.

Cressida's thesis is concerned with the narratives of invention and reproduction at the intersection of law and technoscience. In the thesis, Cressida critically examines the theories of intellectual property to highlight the subjective and cultural basis of invention. This examination exposes the class, gendered and colonial dimensions of the laws of invention. Her analysis focuses on debates about patenting life, assisted reproduction technologies and genetic discrimination. Critical legal theory has shown how patent law assumes a binary opposition between nature/culture; science and technology studies have shown how biotechnologies undo the binary opposition between nature/culture; feminist theory shows that we should be sceptical about these positions.



### Liz Macpherson

**Thesis title:** *Indigenous Water Rights in Chile and Australia: Can Indigenous Water Rights be Sustainably Integrated in Water Markets?*

**Supervisors:** Associate Professor Maureen Tehan and Dr Kirsty Gover

Water planning frameworks underlying emerging Australian water markets do not adequately respond to indigenous demands for a water allocation for indigenous cultural and commercial use. This is because an indigenous water allocation is linked to prior recognition of indigenous groups and interests through the native title process, and native title water rights are difficult to establish, non-exclusive, and limited to non-commercial, traditional content. In Chile, where there is no recourse to native title, statute law has nonetheless been used to recognise water property rights for certain indigenous communities. The rights recognised contemplate an allocation under market-based water planning legislation and are not restricted to non-commercial content. Given that native title has failed to live up to indigenous water expectations, perhaps it is time to revisit approaches to indigenous water rights recognition. The creation of water markets, threatening to lock unrecognised indigenous use out of future water access, provides the opportunity to consider alternative recognition mechanisms. The aim of Liz's thesis is to suggest an improved legal mechanism for recognition of cultural and commercial indigenous water rights in Australia. Liz considers the potential for statutory recognition of indigenous water rights outside of native title, drawing on an analysis of the strengths and weaknesses of statutory indigenous water rights recognition in Chile, against the backdrop of existing Australian models for statutory recognition in Aboriginal land legislation. Liz's analysis of Chilean indigenous water rights includes their treatment in local administrative and judicial decisions, enabling an original contribution to the question of indigenous water rights recognition in Australia by opening up access to relevant information previously inaccessible to an English speaking audience.



### Yoriko Otomo

**Thesis title:** *Unconditional Life: The Time and Technics of International Law*

**Supervisors:** Professor Anne Orford and Associate Professor Shaun McVeigh

Yoriko Otomo has worked in several government and non-government environmental organisations, and has contributed to publications relating to sustainable development, environmental law and humanitarian issues. Her doctoral thesis seeks to develop a semiology of law through a poststructural feminist analysis of key texts within the law of occupation and international economic law.



### James Parker

**Thesis title:** *Listening to Law: Simon Bikindi and the Acoustics of Justice*

**Supervisors:** Professor Andrew Kenyon and Associate Professor Shaun McVeigh

James completed his undergraduate degree in jurisprudence at Oxford and his LLM by research at the University of McGill in Montreal. He has taught at a number of universities throughout Australia and had both his academic work and music journalism published. He is coming towards the end of the first year of his PhD candidature at Melbourne. His thesis uses the case of renowned Rwandan singer and popular figure Simon Bikindi, who stood trial before the International Criminal Tribunal for Rwanda accused of inciting genocide with his music, to explore the relationship between law and sound. More particularly, it aims to (re)introduce the acoustic into contemporary aesthetic and critical jurisprudence.



## Connal Parsley

**Thesis title:** *Image and Law in Giorgio Agamben*

**Supervisors:** Associate Professor Peter Rush and Associate Professor Shaun McVeigh

Connal Parsley teaches critical legal theory and legal ethics at the Melbourne Law School and School of Social and Political Sciences, University of Melbourne. With undergraduate degrees in law and linguistics, his work addresses intersections between legal, aesthetic and linguistic theory, and his publications have explored their interaction in particular

Australian political contexts. Examples include the stolen generations litigation, the bureaucratic treatment of asylum seekers, and distinctions between law and public art's respective structurings of the public sphere. His doctoral thesis extends his research interest in the relationship between visual culture and law, by examining the philosophical and jurisprudential dimensions of the relationship between image and law in the work of Italian philosopher Giorgio Agamben. By exposing the significance of Agamben's notion of the 'image' within his revision of political ontology, the thesis aims both to develop a new paradigm for understanding the relation between law and politics in Agamben's work, and to provide a rigorous basis for thinking the intimate tie between law and its spectral imagism.



## Laura Petersen

**Title:** *Legal Dystopias: The Implications of being Outside, Inside or Beyond the Law*

**Supervisors:** Associate Professor Peter Rush and Associate Professor Shaun McVeigh

Laura's interdisciplinary research moves across visual art, fictional texts and critical theory to explore the concepts of utopia/dystopia and their intersections with law.

Laura recently completed her Master of Arts in Comparative Literature at Freie Universität Berlin, supported by a DAAD scholarship. Her thesis (in German) considered the role of metafictional narratives in Holocaust memory, examining texts by W G Sebald, Vladimir Sorokin and Jonathan Safran Foer. Laura studied her BA/LLB (Hons) at the University of Melbourne prior to beginning her postgraduate research.



## Walter Rech

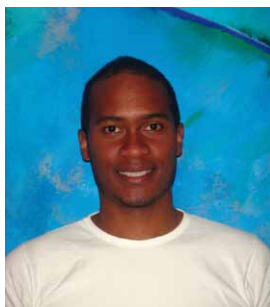
**Thesis title:** *Vattel and The 'Ennemi du Genre Humain'*

**Supervisors:** Professor Anne Orford and Associate Professor Sundhya Pahuja

Walter Rech graduated in philosophy from the University of Trento (Italy), doing research in Germany at Humboldt University and Free University of Berlin and at the University of Freiburg. He started his PhD in law at the Max Planck Institute for European Legal History in Frankfurt in 2007 and is continuing the same at Melbourne Law School. His thesis focuses on the Swiss international lawyer Emer de Vattel (1714–1767), traditionally

regarded by commentators as the theorist of the 'guerre en forme'. Walter's aim is to complicate this interpretation by analysing the notion of an 'ennemi du genre humain'.





### Mickaël Ho Foui Sang

**Thesis title:** *The Functions of Law in the Protection of Historical Truth*

**Supervisors:** Professor Anne Orford and Professor Olivier Cayla (Paris X)

Mickaël Ho Foui Sang is undertaking a PhD by cotutelle at Melbourne Law School and University of Paris X (Nanterre La Défense, France). Mickaël holds a Masters degree in Theory and Analysis of the Law and a degree in European Law from the University of Paris X (Nanterre, France). His Masters theses focused on the interaction of legal systems, especially on ways to rethink French private law in the context of European integration, both from a substantial and from a procedural law point of view. Mickaël is particularly interested in the tension between the State, collective memory and history in contemporary France and Australia. His research thesis explores the place and function of law in the process of reconciliation and the recognition of historical truth.



### Marc Trabsky

**Thesis title:** *Voices of the Dead: Law, Aesthetics and Mortality*

**Supervisors:** Associate Professor Peter Rush and Associate Professor Shaun McVeigh

Marc completed a BA/LLB (Hons) at the University of Melbourne and an MPhil in the Department of Gender and Cultural Studies at The University of Sydney. Before commencing postgraduate research, Marc taught undergraduate students in the School of Law at Birkbeck College. He currently teaches in the Melbourne Law School and the School of Social and Political Science at The University of Melbourne. His doctoral research explores a visceral jurisprudence of the dead. It questions not only how do the dead dwell in the places of law, but also the ceremonies and technologies through which the dead allow the law to speak. In particular, he examines the history of the legal form of the death mask and the use of visual and aural technology in the courtroom. The thesis engages with an aesthetic tradition as well as critical legal geography to consider a jurisdiction of the dead.



### Deborah Whitehall

**Thesis title:** *Hannah Arendt, Beginnings and Female Subjectivity in International Law*

**Supervisors:** Professor Anne Orford and Dr Ann Genovese

Deborah's research uses the work of Hannah Arendt as a resource for reworking familiar metaphors of human rights in ways that reveal the transformative potential of Law. She is particularly interested in how social and political theory can be used to generate questions about women's reproductive rights that reset the framework in which the options for reform might be considered. Deborah's project reflects her ongoing interest in the tensions between rights discourse in international human rights law and national law and the political and social trajectories in which human rights are given substance. Deborah has studied and taught law in Australia and the United Kingdom, and has experience in law reform, and as a solicitor in the public and private sectors.

# IILAH Events and Visitors

## 1 February 2011: PhD Confirmation Seminar, *In The Name of the Victim: The Figure and Figuration of the Victim in International Criminal Justice*, Maria Elander (PhD Candidate, MLS)

(Supervisors: Associate Professor Peter Rush and Professor Dianne Otto)

In contemporary discourse on international criminal justice, the victim is paradoxically both hyper visible and invisible. On the one hand, the victim stands at the centre by constituting the very foundation onto which justice is sought. On the other hand, the victim as a figure is curiously under-theorised. As Maria explained, this thesis posits that the victim figures at sites of tension: between the call to tell and the impossibility of speaking, between the horrors of mass atrocity and the legal demand for comprehensible categories, and between the call for victim participation and the practical workings of a court.

## 3 February 2011: IILAH Seminar, *Achieving Greater Coherence and Mutual Supportiveness between the Trade and Climate Change Regimes*, Ms Marie Isabelle Pellan (Visiting WTO Fellow, Institute for International Trade, University of Adelaide)

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)



L - R: Andrew Mitchell (MLS), Marie Isabelle Pellan (WTO) and Tania Voon (MLS).

Controlling global greenhouse gas emissions has become a top priority for governments around the world. In parallel to the multilateral negotiations on a post-Kyoto regime, several countries are in the process of developing national policies to reduce their GHG emissions and convert to a low-carbon economy. Some of the policy options under consideration aim at offsetting the loss of competitiveness of industries that will be hard hit by climate change legislation by applying trade measures against countries that do not impose similar GHG control measures domestically. An international agreement that would equitably share the burden of GHG emissions reduction among major emitters and set parameters for countries to take action at the

national and international level could alleviate some of the concerns regarding the unilateral application of trade measures to tackle climate change.

Against the backdrop of the ongoing UNFCCC negotiations, this seminar discussed the use of trade measures to address environmental policy objectives and the flexibilities available under WTO rules, focusing in particular on GATT Article XX jurisprudence and its potential relevance to GHG control measures. It argued that while WTO case law has evolved towards an accommodating view of public policy imperatives arising from global environmental challenges, the conclusion of an international agreement on climate change remains the first-best policy option to ensure mutually supportive outcomes both for the trade and climate change regimes. The presentation also highlighted how the multilateral trading system can contribute positively through its agenda to the achievement of climate change mitigation and sustainable development goals.

Marie Isabelle Pellan is a Visiting WTO Fellow at the Institute for International Trade, University of Adelaide. She is currently on leave from WTO where she is Counsellor in the Trade and Environment Division. From 2005–2010, Marie was Secretary of the WTO Committee on Trade and Environment entrusted with the Doha Round mandate of negotiations on the relationship between WTO and Multilateral Environmental Agreements, and environmental goods and services liberalisation. Prior to joining the WTO, Marie was Legal Counsel with Bombardier Transportation in Brussels. She is a member of the Quebec Bar and holds an LLM in International Business Law from the London School of Economics and Political Science and BCL and LLB degrees from McGill University.

## **10 February 2011: IILAH Seminar, *Deconfiguring Borders - Rebordering Figures*, Matthew Nicholson (University College London)**

(Convenor: Associate Professor Sundhya Pahuja)

This seminar explored the nature of 'international law'. It identified an object / subject dialectic at the core of international legal thought, illustrating this by an analysis of recent 'fragmentation' debates. Matthew argued that participants in international legal discourse find personal, existential security either from some definition of the legal object (a materialist 'the law') or a definition of their professional identity ('the lawyer'). In this sense international law, as a discipline, is preoccupied with its systemic integrity, focusing on that rather than its connection with global social processes and the complexities of life.

Employing the philosophy of Theodor Adorno, Matthew's contention is that we need to rethink and weaken our concept of 'international law'. We need to see the discipline as a process of narrating experience, as a mediative form, constantly remade and reshaped by the passage of time. Rather than searching for a secure foundation in a definition of the law or the identity of the lawyer, our effort should be to connect and articulate experiences of the world through the mediative frame of international law. In this sense, we should deconfigure our borders and have a light, ethereal idea of 'the law', whilst beginning to re-border our 'figures', caring less about what it is to be an 'international lawyer'.

Matthew Nicholson is a doctoral candidate and teaching fellow in the Faculty of Laws, University College London. He has previously worked as a research assistant at the London School of Economics and Political Science. His research interests include international legal theory, the history of international legal thought and international environmental law (particularly climate change). His doctoral research explores how we have thought about 'international law' and how, perhaps, we might think differently.

## **17 February 2011: IILAH Seminar, *On the (Possible) Relationship of the EU Court of Justice with the UN Security Council and International Tribunals*, Professor Joe Verhoeven (Université Panthéon-Assas (Paris II))**

(Convenor: Professor Anne Orford)

Does any international political or judicial 'authority' exist? This seminar addressed the problems of mutual collaboration in the 'international' sphere, including lessons from the *MOX Plant* and *Kadi* cases of the European Court of Justice, and the ramifications for the future of international and European law.

Professor Joe Verhoeven is Secretary General of the l'Institut de droit international; Professor at the Université Panthéon-Assas (Paris II); and Professeur extraordinaire at the Catholic University of Louvain. He was an ad hoc Judge of the International Court of Justice (ICJ) in the *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* case and is a member of the Permanent Court of Arbitration. In 2008 he delivered the 'General Course in Public International Law' at the Hague Academy of International Law. He also gave a specialised course at the Academy in 1985 on the impact of the absence of recognition of States, governments or situations on international relations in private law. Professor Verhoeven is also the editor of the *Annuaire français de droit international (French Yearbook of International Law)* and Director of the Institut de hautes études internationales (Graduate Institute of International Studies) at Université Panthéon-Assas (Paris II).

## **17 March 2011: IILAH Seminar, *Financial Services in the GATS and the Global Financial Crisis: A View from Singapore*, Associate Professor Dora Neo (Faculty of Law, National University of Singapore)**

(Convenor: Associate Professor Jürgen Kurtz)

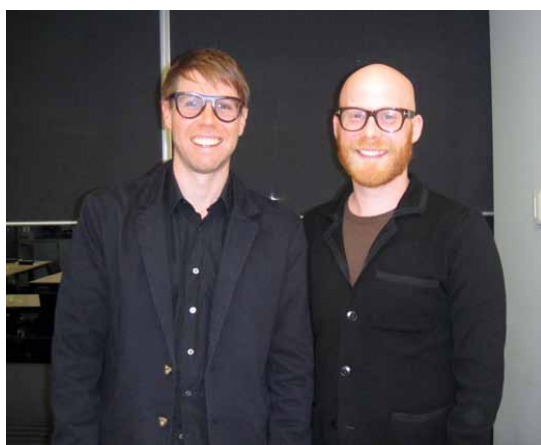
The financial crisis that began in the US in 2007 and crippled economic growth worldwide focused international attention on the financial services industry. Could the crisis or its continuance be attributed to the liberalisation of trade in services following the formation of the World Trade Organisation (WTO)? This seminar examined the

treatment of financial services under the General Agreement on Trade in Services (GATS), and the extent to which governments may take measures in response to financial crises without contravening their GATS obligations. Although Singapore, in common with other Asian economies, did not suffer serious casualty as a result of the recent global crisis, there were inevitable effects on its financial services industry. The presentation concluded by assessing the situation in Singapore and the measures taken by the Singapore Government in relation to the supply of financial services.

Associate Professor Dora Neo teaches international banking law, the law of secured transactions and contract law at the Faculty of Law, National University of Singapore (NUS). She is an Associate of the Centre for International Law in Singapore and was a member of the team that inaugurated the world trade law elective at NUS. Since 2008, she has been a regional trainer for the services component of the WTO's Regional Trade Policy Course for the Asia-Pacific.

### **31 March 2011: IILAH Seminar, *The Targeted Killing Judgment of the Israeli Supreme Court and the Critique of Legal Violence*, Mr Markus Gunneflo (Lund University)**

(Convenor: Professor Anne Orford)



L - R: Connal Parsley (PhD, Melbourne) and Markus Gunneflo (PhD, Lund)

The targeted killing judgment of the Israeli Supreme Court has, since it was handed down in December 2006, received a significant amount of attention: praise as well as criticism. Offering neither praise nor criticism, this seminar instead attempted a 'critique' of the judgment, drawing on the German-Jewish philosopher Walter Benjamin's famous essay from 1921, 'Critique of Violence'. In doing so the seminar focused on a key aspect of Benjamin's critique: the distinction between two modalities of 'legal violence' - lawmaking or foundational violence and law-preserving or administrative violence. Arguably, the targeted killing judgment of the Israeli Supreme Court collapses this distinction in a way that is related to but at the same time different from the breakdown of this distinction foreseen by Benjamin. Hence, it was argued that the targeted killing judgment is best understood as a form of administration

of foundational violence. In conclusion, Markus considered Judith Butler's reading of Benjamin's notion of 'divine violence', particularly the use of the commandment 'thou shalt not kill', as a 'non-violent violence' that must (for reasons related to Benjamin's critique that the strong modal verb 'must' is merited) be waged against the kind of legal violence of which the targeted killing judgment is exemplary.

Mr Markus Gunneflo is a PhD student at the Faculty of Law, Lund University, Sweden. He is writing his doctoral dissertation about American and Israeli targeted killings touching upon aspects of international law such as human rights and humanitarian law as well as legal and political theory. He was a visiting fellow at IILAH during 2011.

### **1 April 2011: Panel Discussion, *The International Intervention in Libya*, Professor Tim McCormack (APCML), Professor Anne Orford (IILAH) and Ms Elizabeth Wilmshurst (Chatham House, UK) in conversation with Professor Gerry Simpson (APCML and GJS)**

(Co-Convenors: Professor Anne Orford and Professor Gerry Simpson)

The panel discussed the international legal, political and moral implications arising from the recent events in Libya.

Professor Tim McCormack is a Professor of Law at the MLS and the Special Adviser on International Humanitarian Law to the prosecutor of the International Criminal Court in The Hague. Tim was working in The Hague in his capacity as the Special Adviser on International Humanitarian Law at the time the Security Council referred Libya to the International Criminal Court.





L - R: Tim McCormack (APCML), Anne Orford (IILAH), Elizabeth Wilmshurst (Chatham House, UK) and Gerry Simpson (APCML and GJS).

Professor Anne Orford holds the Michael D Kirby Chair of International Law at MLS. Her work has explored the nature of international law and its capacity to respond to some of the major challenges of our time, including humanitarian crises, civil wars and the expansion of international administration. She has recently published a book entitled *International Authority and the Responsibility to Protect* (CUP, 2011).

Ms Elizabeth Wilmshurst is an Associate Fellow, International Law, at Chatham House (the Royal Institute of International Affairs) and a visiting professor at University College, London University. She was a legal adviser in the United Kingdom diplomatic service between 1974 and 2003. Her experience has

been in public international law generally, with a particular emphasis on the use of force, international criminal law, the law of the United Nations and its organs, and international humanitarian law.

### 8 April 2011: IILAH Seminar, *Slavery as Ownership: Exploring the Property Elements of Contemporary Slavery*, Dr Jean Allain and Dr Robin Hickey (Queen's University, Belfast)

(Convenors: Professor Anne Orford and Associate Professor Shaun McVeigh)



L - R: Dr Jean Allain and Dr Robin Hickey (both from Queen's University, Belfast)

Jean Allain and Robin Hickey provided a sneak-preview of their project designed to establish the parameters of what constitutes 'slavery' in law. The project, undertaken by a group of leading academics and practitioners including Kevin Bales, Antony Honoré, Orlando Paterson, and Rebecca Scott, seeks to understand the 1926 definition of slavery which speaks of the exercise of 'any or all of the powers attaching to the right of ownership'. In light of the High Court of Australia's decision in *R v Tang* (2008) 237 CLR 1, this seminar explored what constitutes slavery internationally in an era when ownership of a person is illegal.

Dr Jean Allain is a Reader in Public International Law at Queen's University, Belfast; Extraordinary Lecturer in the Faculty of Law, University of Pretoria; and Visiting Scholar at the Melbourne

Law School. He is the co-Editor of the *Irish Yearbook of International Law*, a Leverhulme Research Fellow, and the author of *The Slavery Conventions* (Martinus Nijhoff, 2008) and the forthcoming *Slavery in International Law: Of Human Exploitation and Trafficking* (Martinus Nijhoff, 2012). Dr Allain previously clerked for the President of the International Criminal Tribunal for the former Yugoslavia.

Dr Robin Hickey is Lecturer in Property Law at Queen's University Belfast and International Research Visitor at MLS. His research interests centre around the concept of property and the structure of private property laws. He is the author of *Property and the Law of Finders* (Hart, 2010), and during his time at Melbourne was new research on the values underlying systems of land registration, with Associate Professor Matthew Harding.

### 8 April 2011: Workshop on *Legal Issues Relating to Plain Packaging of Cigarettes in Australia*

(Convenors: Associate Professor Andrew Mitchell, Associate Professor Tania Voon and Dr Jonathan Liberman (Cancer Council Victoria and Quit Victoria))

This workshop examined the various legal implications of Australia's scheme for the plain packaging of tobacco products. Invitation-only, the workshop took place the day after the government's release of an exposure draft and

consultation paper concerning the scheme, which was since contained in legislation working its way through the two houses of Parliament and expected to be implemented in 2012. The workshop led to a book to be published by Edward Elgar Publishing in 2012, including chapters by several academics from MLS and other universities in Australia and internationally as well as individuals from intergovernmental and non-governmental organisations. The book, *Public Health and Plain Packaging of Cigarettes: Legal Issues*, is being edited by IILAH Global Trade program directors Associate Professor Tania Voon and Associate Professor Andrew Mitchell, together with Dr Jonathan Liberman of the Cancer Council Victoria and Melbourne JD candidate Glyn Ayres.

## **21 April 2011: IILAH and IPRIA Twilight Seminar, *The World Trade Organization's Trade Related Aspects of Intellectual Property (TRIPS) Agreement and Access to Medicines*, Professor Jayashree Watal (World Trade Organization, Switzerland)**

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)



L - R: Tania Voon (MLS), Jayashree Watal (WTO), Andrew Mitchell (MLS) and Jürgen Kurtz (MLS).



Attendees at the IILAH and IPRIA Twilight Seminar.

The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) attempts to strike a balance between the long term social objective of providing incentives for future inventions and creation, and the short term objective of allowing people to use existing inventions and creations. The TRIPS Agreement provides flexibility for governments to fine-tune the protection granted in order to meet social goals. For patents, it allows governments to make exceptions to patent holders' rights such as in national emergencies, anti-competitive practices, or if the right-holder does not supply the invention, provided certain conditions are fulfilled. For pharmaceutical patents, the flexibility has been clarified and enhanced by the 2001 Doha Declaration on TRIPS and Public Health. The enhancement was put into practice in 2003 with a decision enabling countries that cannot make medicines themselves, to import pharmaceuticals made under compulsory licence. In 2005, members agreed to make this decision a permanent amendment to the TRIPS Agreement, which will take effect when two thirds of members accept it. In this presentation Professor Watal explored the issue of pharmaceutical patents, the 2001 Doha Declaration on TRIPS and Public Health and the issue of compulsory licences for export.

Jayashree Watal is currently Counsellor in the Intellectual Property Division of the World Trade Organization. She also holds the position of Adjunct Professor of Law at the Georgetown University Law Centre, United States. She has more than 22 years of government experience in India, of which ten years was devoted to policy, diplomacy, research and administration on intellectual property rights. She worked as Director, Trade Policy Division, Ministry of Commerce and represented India at a crucial stage in the Uruguay Round of TRIPS negotiations. She has researched and published articles on issues related to intellectual property rights, including the book *Intellectual Property Rights in the WTO and Developing Countries*. She has been a Visiting Scholar at the Centre for International Development at Harvard University, the Peterson Institute for International Economics at George Washington University Law School.

**10 May 2011: IILAH Seminar, *Contesting Legitimacy: Sources of Authority within the Just War Tradition and International Law*, Dr Tarik Kochi (University of Sussex)**

(Convenor: Associate Professor Shaun McVeigh)

Within contemporary international law, just war theory is often drawn upon to provide an extra-legal, 'moral', argument by which an act of war may be declared legitimate or illegitimate. Many lawyers, like many just war theorists, place hope in the idea that a universal set of moral principles may help to better regulate violence and draw state conduct into uniformity. Critics of this approach claim that the use of just war theory operates as a rhetorical strategy in which a moral discourse is manipulated for a variety of strategic and neo-colonial ends. This paper considered the limits of just war theory through an examination of the concept of 'legitimate authority'. Rather than being a universal principle with a fixed and stable content that can be applied to a diverse range of potential conflicts, the question of who has the authority to carry out legitimate violence is continually contested by a range of different theorists who make up the just war and international law traditions. Tarik Kochi argued that there is no stable meaning of 'legitimate authority' within the just war tradition and that the lack of meaning is a symptom of continual social contestation and disagreement over the nature and scope of political and legal authority. Such contestation should not be ignored, rather, it sits at the heart of the problem 'legitimate violence' - that is, struggles for recognition that posit and entrench differing conceptions of right.

Dr Kochi is Lecturer in Law and International Security at the University of Sussex, Brighton, UK. His research focuses upon legal and political theory and international law. He is the author of *The Other's War: Recognition and the Violence of Ethics* (Birkbeck Law Press, 2009), which was awarded the ISA International Ethics Award in 2010. Dr Kochi is currently working on a second monograph entitled *The Global Good: Property, Power and the Broken Promise of International Law*. From 2004–2005, Dr Kochi was a DAAD Research Fellow in the Philosophy Faculty, Eberhard Karls Universität, Tübingen, Germany and in 2006 a Research Fellow in the Altonaer Stiftung für Philosophische Grundlagenforschung (Altona Foundation for Philosophical Research), Hamburg, Germany. From 2006–2009 he was a Lecturer in Law at Queen's University Belfast, Northern Ireland.

**11 May 2011: IPRIA, CMCL and IILAH Seminar, *Human Rights and Intellectual Property: Mapping the Global Interface*, Professor Larry R Helfer (Duke University) and Professor Graeme W Austin (Victoria University of Wellington and MLS), with Associate Professor Shaun McVeigh (MLS) as commentator**

(Convenor: Professor Megan Richardson)

The relationship between intellectual property and human rights has captured the attention of governments, policymakers, and activist communities in a diverse array of international and domestic venues. These actors often raise human rights arguments as counterweights to the expansion of intellectual property in areas such as freedom of expression, public health, education, privacy, agriculture, and the rights of indigenous peoples. At the same time, creators and owners of intellectual property are asserting a human rights justification for the expansion of legal protections. Drawing from their recently published book, *Human Rights and Intellectual Property: Mapping the Global Interface* (CUP, 2011), Professors Larry Helfer and Graeme Austin explored some of the conflicts and the possibilities for coexistence between these two areas of domestic and international law and policy.

**4 July 2011: IILAH Seminar, *The Clash of Analogies and Approaches in the Investment Treaty System*, Anthea Roberts (London School of Economics and Politics), with Gavan Griffith QC as commentator**

(Convenor: Associate Professor Jürgen Kurtz)

How we understand the investment treaty system is currently up for grabs. Some argue that it should be seen as a sub-field of public international law, while others view it as simply another form of international (commercial) arbitration. Some have argued that we should recharacterise the field as one of international public law because investment tribunals are acting akin to administrative or constitutional courts, while others draw parallels with





L -R: Anthea Roberts (London School of Economics and Politics), Gavan Griffith QC and Jürgen Kurtz (MLS).

treaty regimes that give rights to non-state actors, such as the European Convention on Human Rights. In this talk, Anthea Roberts argued that this clash of approaches goes to the heart of disagreements both within and about the investment treaty field. Using the idea of 'Choice of Analogies', she explored what each of these analogies reveals and obscures about the investment treaty system, along with which professional groups and participants tend to champion which analogies and why.

Anthea Roberts (Department of Law, London School of Economics and Political Science) graduated from the Australian National University with a Bachelor of Arts and a Bachelor of Laws with First Class Honours and a University Medal. She completed a Master of Laws in International Legal Studies at New York University on a

Fulbright Scholarship and a Hauser Scholarship. Anthea served as an Associate to the Chief Justice of the High Court of Australia, the Hon A M Gleeson AC, and as an intern for the Hon Judge Simma at the International Court of Justice, before spending five years as an attorney in the International Dispute Resolution Group at Debevoise & Plimpton LLP in New York and London. Anthea's current research is focussed on the sources and interpretation of international law, including investment treaty law. Anthea has served as a member of the Executive Council of the American Society of International Law (ASIL), a Co-Chair of the ASIL Annual Meeting and the Rapporteur for the International Bar Association's Task Force on Extraterritorial Jurisdiction. Anthea was awarded the 2011 Francis Deák Prize by the American Society of International Law for her article 'Power and Persuasion in Investment Treaty Interpretation: The Dual Role of States' (2010) 104 *American Journal of International Law* 179 and the 2002 Francis Deák Prize for her article 'Traditional and Modern Approaches to Customary International Law' (2001) 95 *American Journal of International Law* 757 (2001).

Gavan Griffith QC was Solicitor-General of Australia (1984–1997) and now practices, as senior counsel, at the Australian and English bars. His public and private law practice has included being agent and counsel at the International Court of Justice as well as holding adjudicatory office in a range of diverse commercial, treaty and investment law disputes. In recent years, he has been appointed President of seven ad hoc ICSID Annulment Committees including the decisions in *Azurix v Argentina* and *Enron v Argentina*.

## 20 July 2011: IILAH and APCML Public Lecture, 'Terrorist': Diasporic Emotions, Sense of Justice and International Criminal Classification, Professor Ghassan Hage (Future Generation Professor of Anthropology and Social Theory, University of Melbourne)

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)

For most Lebanese Shi'a immigrants, Hassan Nasrallah, Hizballah leader, is close to a Saint: perceived not only as a hero but also as a highly ethical and just person. The Australian government, following the American government, classify him as a criminal, a terrorist. For Shi'a immigrants in Australia, this is often perceived as a further extension of the sense of injustice generated by Western conceptions of 'criminality/terrorism' in relation to Palestine. For immigrants a question is continuously, implicitly or explicitly, foregrounded: To what extent can one integrate in a country that considers your Saint a Devil? Can you believe in a law that is a mode of domination rather than as law? To what extent is this perception of international law as a mode of Western domination reproduced internally. For example, does this experience of international justice influence the way French Arab-background youth relate to the police as enforcers of national justice, seeing them as an opposite 'gang' they have to battle with, rather than 'the law'. This paper analysed the diasporic emotions generated by these cultural/colonial dissonance created in the legal process using particularly Pierre Bourdieu's work on the legal field and the question of symbolic violence within it. It explored the extent to which emotions such as desire for revenge, resentment, schadenfreude, etc, comes at the intersection between law, sense of justice and what Nietzsche calls 'sense of power'.



Ghassan Hage is Future Generation Professor of Anthropology and Social Theory at the University of Melbourne. He works in the field of comparative nationalism, racism and multiculturalism. His most well known works are *White Nation* (Routledge, 2000) and *Against Paranoid Nationalism* (Pluto Press, 2003). This paper is part of an ARC funded ethnographic project on emotions towards the Israeli-Palestinian conflict among Arab-Muslim immigrants in Australia, France and the US.

This public seminar was supported by the Institute for International Law and the Humanities, the Asia Pacific Centre for Military Law (APCML) and by an Australian Research Council Discovery Project Grant.



L - R: Ghassan Hage (Anthropology and Social Theory, Melbourne) and Peter Rush (MLS)



Attendees at the IILAH and APCML Public Lecture.

## 21 July 2011: IILAH and APCML Lecture, *The Experience of an Extreme Loneliness: Resentment and Reconciliation as Affective States of International Criminal Law*, Professor Jill Stauffer (Haverford College)

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)



Jill Stauffer (Haverford College).

Trials after war or mass violence may be hampered by a lack of viable evidence, by missing defendants, by poor procedures, and so on. But even with all the right elements and the right outcome - conviction of a guilty party - a trial may fail if it does not do justice to what exceeds the reaches of law's rationality: the sense, amongst those who have lost loved ones to violence, or who have survived atrocity, that justice has been done. It is often surmised that reconciliation, as a revisionary practice, aims to transform conditions such that those who are estranged can live together, the hope being that survivors will overcome resentment for the sake of a future. Jill Stauffer interrogated the hopefulness of that claim by exploring what she called ethical loneliness: the phenomenological experience of having been abandoned by humanity, which may linger in those who have been victimised long after a trial has done its work. Calling upon testimony from legal and other proceedings, as well as confessional writings from a wide range of survivors, she argued that it is that condition of abandonment that must be transformed before reconciliation after an irreparable moral

harm - reconciliation of the self with others, or even of the self with the world as it is - can succeed. In other words, a legality kept separate from affective states may not be able to achieve reconciliation. Justice may, at times, need to make room for resentment, as an ethical claim against moral harm, over the more restorative discourse of forgiveness. Pursuing this line of thought may also demonstrate why certain demands of human rights legality require a revisionary practice, the aim of which is to transform not the affective life of victims, but law itself.

Before moving to Haverford College in Fall 2009 to create a new interdisciplinary human rights theory program for

undergraduates, Jill Stauffer taught at Amherst College in Massachusetts in the Department of Law, Jurisprudence and Social Thought, and at John Jay College of Criminal Justice in New York. Professor Stauffer is on the Board of Directors for the non-profit book series Voice of Witness, which illuminates human rights crises through the stories of the men and women who live through them. Her academic interests include philosophy of law, political philosophy, continental philosophy, and ethics. She has published widely on the international reach of rights, personal and political responsibility, political reconciliation, and the rule of law. Her edited volume, *Nietzsche and Levinas: After the Death of a Certain God*, was published by Columbia University Press in 2009. She is currently writing a book on political subjectivity as it relates to the promise and limits of reconciliation after violence.

## 20–22 July 2011: APCML/IILAH Symposium, *Affective States of International Criminal Justice*

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)

This Symposium was co-convened by the Asia Pacific Centre for Military Law and the Institute for International Law and the Humanities and supported by an Australian Research Council Discovery Project Grant.

International criminal justice is repeatedly called upon to respond to events that overwhelm our common sense or explode the limits of the law, unsettling the settled frameworks through which law comes to know and act upon the world. In the midst of war crimes and atrocities, trials and tribunals, treaties and resolutions, analysis and advocacy, what binds international criminal justice as a community or field? And, how are we to understand our relations with the forms of knowledge and institutional practices of International criminal justice?

This symposium brought together people interested in reflecting on, talking about and engaging with the emotional life that organises or informs or disrupts the distinctive but plural communities of international criminal justice. Under the rubric of affective states, participants were invited to think of the communities of victims and of survivors (such as the Mothers of Srebrenica), those of the international legal profession (eg, the office of the prosecutor, or the conscience of the judge, or the practice of the teacher), and those of the witnesses (eg, their memory-work and advocacy). They explored the institutional forms and technologies through which emotions are harnessed and expressed or tamed and repressed (eg, criminal trials, truth commissions, Argentinean truth trials, apologies, amnesties and pardons, as well as executions and testimonial procedures). Participants considered the affective states which are prevalent in and give shape to international criminal justice: horror and revenge, pity and consolation, anger and aggression, sadness and outrage, joy and hate amongst others. They explored the intellectual and scholarly resources capable of addressing these emotions, passions and feelings of injustice: jurisprudence, doctrine, policy, literary trope (eg, tragedy), psychology and psychoanalysis (for example, the idioms of trauma and memory), the language of the virtues (and vices), and the discourse of conscience.



L - R: Lia Kent (Law, ANU) and Olivera Simić (Law, Griffith)



Sonja Litz (World Bank, Jakarta) asking a question at the IILAH and APCML symposium.

The Centre for Contemporary Photography (CCP) in Fitzroy, Melbourne, presented the 'Without words' exhibition in association with this event.



L - R: Tom Nicholson (Monash), Kyla McFarlane (CCP), Gerry Simpson (MLS) and Peter Rush (MLS) at the CCP 'Without words' exhibition.



Audience members for the closing session of the IILAH and APCML symposium at the Centre for Contemporary Photography.

## 25 July 2011: IILAH Master Class, *Jurisprudence, Politics & Ethics in an International Frame*, Professor Jill Stauffer (Haverford College) (Convenor: Associate Professor Peter Rush)

Jill Stauffer presented a Master Class for Melbourne Law School Research Higher Degree students. Her work is situated at the intersection of political theory, jurisprudence and continental philosophy, and recently has engaged with issues of human rights, justice and reconciliation. The Master Class provided an opportunity for the community of research students to engage in a dialogue with Jill about their work and the issues that interest them.



Melbourne Law School Graduate Research Students at the IILAH Master Class by Jill Stauffer.



L - R: Jill Stauffer (Haverford College) and Julia Dehm (PhD, Melbourne)



L - R: Maria Elander (PhD, Melbourne) and James Parker (PhD, Melbourne).



L - R: Olivia Barr (PhD, Melbourne), Sara Dehm (PhD, Melbourne) and Peter Rush (MLS).



## 10 August 2011: PhD Confirmation Seminar, *Enemies of Mankind: Warmongers and Warlike Peoples in Vattel's Law of Nations*, Walter Rech (PhD Candidate, MLS)

(Supervisors: Professor Anne Orford and Associate Professor Sundhya Pahuja)



Emer de Vattel has been regarded by eminent legal historians as the most authoritative contributor to a theory of classical international law grounded on sovereignty and the *ius in bello*. Far from contesting this, the present investigation attempts to unveil Vattel's other face by exploring his notion of an 'enemy of mankind'. Walter described how the thesis analyses the meanings and functions of this concept in the early modern international legal doctrine, particularly in the Vattelian system as its culminating point.

Walter Rech (PhD Candidate, MLS) presenting his PhD Completion Seminar.

## 11 August 2011: IILAH Seminar, *Rights and the Australian Council for Civil Liberties*, Dr James Waghorne (School of Historical Studies, University of Melbourne), with Dr Ann Genovese (MLS) as discussant

(Convenor: Professor Anne Orford)

The progressive lawyers, academics and artists who formed the Council for Civil Liberties in 1936 sought to defend liberties by campaigning to uphold and improve the processes of parliament and the judiciary. Liberties would be safeguarded, they believed, through these processes and by the rule of law. The Council's concerns included legislation that granted ministers arbitrary powers or eroded court processes including as trial by jury, or parliamentary processes that militated against open debate. This emphasis on process, and indeed on liberties, separated it from the arguments about rights that emerged during World War II. This seminar examined the Council's response to rights discourse through its engagement with Aboriginal rights and Cold War politics, as an example of an early reaction to international conceptions of rights.

Dr James Waghorne is a fellow in the School of Historical Studies at the University of Melbourne, where he completed his PhD on the Australian Council for Civil Liberties in 2008. He manages an oral history project of the History of the University Unit, as well as the Australian Centre literary and cultural awards, and is currently working on a commissioned history of the Australian Institute of Judicial Administration. His new book *Liberty: A History of Civil Liberties in Australia*, co-authored with Professor Stuart Macintyre, was published by UNSW Press in September 2011.

## 17 August 2011: IILAH Public Seminar, *On the Effective Implementation of Human and Minority Rights in Europe*, Dr Panayote Dimitras (Greek Helsinki Monitor)

(Convenor: Dr Kirsty Gover)



Panayote Dimitras (Greek Helsinki Monitor)

Greece, Bulgaria and Macedonia deny the existence in their territory of some national minorities that are perceived as 'taboos' by domestic public opinion and official national histories. In recent years, these non-recognised minorities have successfully appealed to the European Court of Human Rights (ECtHR), which has effectively recognised their existence. States are expected to execute these judgments by registering the corresponding minority associations, but seem reluctant to do so. This seminar explored the struggles of these minorities to oblige states to respect their dignity and the reasons why two decades later very little has been achieved.

Dr Panayote Dimitras is a founding member of the non-governmental organisations Minority Rights Group - Greece (1992) and the Greek Helsinki Monitor (1993). He has worked for 17 years researching, monitoring, reporting, and advocating for minority rights; co-authored a country study on the Roma in Greece, and jointly submitted parallel reports on Greece to UN CERD, UN CESCR, UN CAT, UN CRC, UN HRC, UN CEDAW, ECRI, Commissioner for Human Rights at the Council of Europe, OSCE High Commissioner for National Minorities; as well as applications or communications or third party interventions to the ECtHR, the European Committee for Social Rights, and the UN Human Rights Committee.

**29 August 2011: IILAH Seminar, *Makeshift Migrants and Law: Gender, Belonging, and Postcolonial Anxieties*, Professor Ratna Kapur (Geneva School of Diplomacy and International Relations), with Deborah Whitehall (PhD Candidate MLS) as discussant**

(Convenor: Professor Dianne Otto)

Ratna Kapur spoke about her recent book, which exposes how the migrant subject is assembled or dismantled in law in a postcolonial context. She sought to uncover the deeper issues implicated in debates over migration and the rights claims of migrants. Her analysis concentrated on the terms of belonging and non-belonging and how juridical entitlements are bestowed or withheld against the boundaries of sexual, gender, and religious differences as well as postcolonial anxieties over securing national borders and identity. Ratna focused on migrants who occupy a subaltern position, including women who cross borders clandestinely as a result of anti-trafficking interventions, tightening of border controls or anti-terror laws; citizens subjects who are rendered as lesser citizens because of suspicions over their fealty to the nation and the threat they seem to pose to the very identity of the nation-state, such as Muslims. She argued that the subaltern migrant is regulated by a scaffolding of laws that tolerate, ignore, rescue, incarcerate, deport or even eliminate, but rarely liberate.

Professor Ratna Kapur practised law for a number of years in New Delhi, and now teaches and publishes extensively on issues of international law, human rights, feminist legal theory and postcolonial theory. In 2011 she was a Visiting Professor at Jindal Global Law School. During the autumn of 2010 she was a Visiting Professor at Yale Law School. She is on the Faculty of the Geneva School of Diplomacy and International Relations and also lectures occasionally at the Indian Society for International Law. She is the director of the Centre for Feminist Legal Research, based in New Delhi.

Deborah Whitehall is completing her PhD at MLS. Her research considers how Hannah Arendt's theory of political foundation and agency is provocative for rethinking the problematic of female subjectivity in international law. Deborah has previously worked as a solicitor in private practice and government, most recently on the implementation of the Victorian Charter of Human Rights and Responsibilities and has degrees in law and literature from the University of Queensland and the University of Oxford.

**30 August 2011: IILAH Seminar, *Reading and Rereading the Caroline Correspondence, 1838–1842*, Professor Dino Kritsiotis (University of Nottingham)**

(Convenor: Professor Anne Orford)

The seminar considered in some detail the historical background to, and the precise contents of, the correspondence developed between the United States and Great Britain in the period from 1838 to 1842. Although the correspondence is well known for its statement of the Caroline principles of necessity and proportionality, its course over the period of four years, and why it is divided into two sets of correspondence by a long interval, deserve greater explanation. The 'mythological' status of this correspondence will also be questioned (Christine Gray, *International Law and the Use of Force* (3rd ed., 2008)), principally through the pragmatism of the principles of necessity and proportionality. This 'reading' of the correspondence was accompanied by a 'rereading' of the correspondence via the lens of the International Court of Justice in the *Nicaragua Case* (1986), which raises questions about the relevance of the requirement of an 'armed attack' and the impact of this for the Caroline correspondence in the Charter period.

Dino Kritsiotis is Professor of Public International Law in the University of Nottingham, where he has taught since October 1994. His teaching and research interests concern international law and the use of force, international humanitarian law, general international law, as well as the history and theory of international law. He is widely published in these fields. Professor Kritsiotis is a regular member of the visiting faculty at the University of Michigan Law School, where he has held the L Bates Lea Visiting Professorship in Law (2005–2008), and he has taught at the Fletcher School of Law and Diplomacy at Tufts University and at the University of Cape Town. In 2011, he was a Senior Visiting Fellow at the University of Melbourne, where he taught a seminar entitled Imperial International Law.

**1 September 2011: PhD Confirmation Seminar, *Hannah Arendt, Beginnings and Female Subjectivity in International Law*, Ms Deborah Whitehall (PhD Candidate, MLS)**

Supervisors: Professor Anne Orford and Dr Ann Genovese

Hannah Arendt answers the question of exile, helplessness and rightlessness by asserting that human beings are capable of beginnings. Her conception of natality expresses the beginning that is physical birth as well as the figurative arrival of a Self or Selves into the world of politics. This presentation investigates how natality works as a conceptual node for re-figuring the gendered dichotomies that code women's subjectivity in international law. In doing so, it suggests that natality is useful for initiating new legal imaginaries that contemplate human rights and freedom not as goals that rules can secure but as processes that law supports and which are permanently under construction.

**8 September 2011: PhD Confirmation Seminar, *'Humanising' the Border: Migrant Labour, Development and the Promise of Legality*, Sara Dehm (PhD Candidate, MLS)**

Supervisors: Associate Professor Sundhya Pahuja and Professor Anne Orford

The idea of 'migration and development' as a normative program has been increasingly promoted and shaped by key international institutions over the past two decades, and provides an ideological framing and language of humanitarianism for the resurgence of regional temporary 'low-skilled' guest worker programs. Central to the paradigm's traction is the idea that the development project can be better realised through harnessing a more participatory, bottom-up model that celebrates lawful migrant workers as subjects of development and as the very actors who can bring about their own development, empowerment and, thus, 'freedom'. This presentation focused on the dual figurations that are brought to the fore and re-enlivened through the migration and development paradigm: that of the individualised lawful migrant worker and of the collectivised nation-state. In conceiving both figures as produced through and positioned by international law, the paper offered an account of how a particular politics of mobility, prosperity and belonging is at stake through the materialisation of the migration and development paradigm and the allegiances, responsibilities and subjectivities it invests in. In doing so, the paper interrogated international law's claim to bring about a more equal, secure, prosperous and thus, just world through the paradigm of migration and development.

**22 September 2011: IILAH and CCCS Public Seminar, *Beyond the Malaysian Solution? Refugee Responsibility Sharing in the Asia-Pacific Region*, with Panel Members Mr Richard Towle (UNHCR), Professor James Hathaway (University of Michigan) and Associate Professor Michelle Foster (MLS), chaired by Professor Adrienne Stone (MLS)**

(Convenor: Associate Professor Michelle Foster)

In this public seminar, attended by 220 people, the UNHCR's Regional Representative in Canberra and leading academic commentators explored the international and domestic legal issues surrounding regional refugee responsibility sharing arrangements, with a particular focus on the High Court of Australia's recent decision in *M70*. The seminar examined the High Court's judgment and explored the judgment's legal and practical ramifications. The seminar engendered lively debate amongst the presenters and the guests and was a very successful event.



*L - R: Michelle Foster (MLS) presenting at this IILAH and CCCS Public Lecture.*



*L - R: Audience members at this IILAH and CCCS Public Lecture at the Melbourne Law School.*

Richard Towle is the Regional Representative of the United Nations High Commissioner for Refugees, for Australia, New Zealand, Papua New Guinea and the Pacific. Prior to assuming his responsibilities in Canberra in early 2007, Mr Towle was Special Advisor for the Office of the Director, Department of International Protection, at the UNHCR's Geneva Headquarters from 2003 to 2005. During a temporary period of leave from the UNHCR in 2005 and 2006, Mr Towle was a Member of the New Zealand Refugee Status Appeal Authority. Mr Towle has previously worked with the United Nations High Commissioner for Human Rights in several parts of the world. He was UNHCR Chief of Mission in Belgrade, Yugoslavia, between 2001 and 2003. At UNHCR Headquarters in Switzerland, he was Senior Human Rights Officer at the Department of International Protection between 1997 and 2001. From 1994 to 1997, he filled the position of Regional Protection Officer in the United Kingdom, and, from 1992 to 1994, he was appointed Coordinator of several programmes in the Office of the UNHCR in Hong Kong. Mr Towle also worked in Hong Kong prior to joining UNHCR, for the AVS/UNHCR Joint Programme, where he was Senior Appeals Counsellor at the Deputy Chair of the Hong Kong Refugee Status review Board. In his home country of New Zealand, Mr Towle has also worked as a Senior Litigation Partner in a law firm specialising in refugee and human rights law.

James C Hathaway is the James E and Sarah A Degan Professor of Law and Director, Program in Refugee and Asylum Law, at the University of Michigan Law School and Professorial Fellow, University of Melbourne.

Michelle Foster is an Associate Professor and Director, Research Programme in International Refugee Law, IILAH, at Melbourne Law School.

Adrienne Stone is Professor and Director, Centre for Comparative Constitutional Studies (CCCS) at Melbourne Law School.

## **22-24 September 2011: IILAH/ARC Workshop, *The Law of Refugee Status***

**(Convenor: Associate Professor Michelle Foster)**

This workshop was supported by IILAH and the Australian Research Council.

This workshop was part of a broader ARC funded research project being undertaken by Associate Professor Michelle Foster (Melbourne Law School) and Professor James Hathaway (Michigan Law School). The project's aim is to undertake a rich theoretical and comparative analysis of both scholarship and case-law across a wide range of states parties to the Refugee Convention, in order to test the hypothesis that despite profound challenges, the Refugee Convention's definition of 'refugee' has a remarkable capacity to expand, in a principled and coherent manner; to produce an evolutionary rights protective approach which is capable of application to contemporary refugee flows.

This workshop brought together leading refugee law scholars and decision-makers from both common law and civil countries in order to achieve a genuinely deep engagement with the jurisprudence and analysis in different jurisdictions. The participants were Professor Catherine Dauvergne (University of British Columbia); Professor



Marjoleine Zieck (University of Amsterdam); Professor Penelope Mathew (Australian National University); Rodger Haines QC (former Deputy Chairperson of the New Zealand Refugee Status Appeals Authority); Dr Constantin Hruschka (UNHCR, Geneva); and Jason Pobjoy (PhD Candidate, University of Cambridge). The participants spent three days engaging deeply with draft chapters of a forthcoming book by James Hathaway and Michelle Foster, which produced a great deal of debate, discussion and fruitful engagement with some of the most difficult issues of refugee law today. It was a highly successful and rewarding experience for all participants, all of whom have agreed to return to Melbourne in 2012 for a similar event.

#### **4–6 October 2011, Workshop on *International Law and Empire*, University of Helsinki**

(Convenors: Professor Martti Koskeniemi and Professor Anne Orford)

This international workshop on the theme of International Law and Empire was co-sponsored by the Erik Castrén Institute for International Law and Human Rights, University of Helsinki; IILAH; the European Research Council research project on 'Europe between Revolution and Reaction 1815–1914'; and the Australian Research Council research project on 'Cosmopolitanism and the Future of International Law'.

Many of the thinkers who have been hailed as the founders of modern liberal international law — including Francisco de Vitoria, Alberico Gentili, Hugo Grotius, Thomas Hobbes, John Locke and Emer de Vattel — developed doctrines and theories that helped in the expansion of empire. For centuries, international law has been used to justify, civilise and sometimes to limit the imperial ambitions of powerful international actors. Its rules have organised the acquisition of non-European territory by Europeans and the relations between European settlers and native populations. From the eighteenth to the twentieth century the 'Public law of Europe' divided the world into civilised and uncivilised nations, constituting relations of inequality and dependency between them. At the same time, the rules of ownership, contract and freedom of movement originating in Europe laid the basis for a global network of commercial relations. The ensuing 'empire of private law' has often been at least as important in upholding relations of domination and exploitation between imperial centres and peripheries as rules on sovereignty and jurisdiction. Well into the twentieth century — and perhaps still today — European and United States global influence has shifted between moments of 'formal' and 'informal' empire. In the construction of both, law and legal thought have played a central role.

This workshop brought together leading scholars from international law, history, anthropology, international relations and literature, to assess the role of law in the organisation and occasional critique of formal and informal empire, and the role of empire (and the righteous critique of empire) in the organisation of modern international law. How did international law contribute to the process of European expansion from the 16th century to the 20th century? What has been the role of legal institutions and legal thought in the organisation of global commercial relations from the time of the Spanish empire to the present? How have international law and legal thought affected the global distribution of material and spiritual resources? To what extent have rules of public and private law facilitated the establishment of imperial relationships and when have they instead operated as an anti-imperial force?

Alongside such historical questions, the purpose was also to examine the persistence of empire in today's global political and economic relations. To what extent do the concepts of empire and imperialism help to grasp the nature of global relations today? Do categories of 'formal' and 'informal' empire still have a useful role to play in analysing the present world? Are the normative foundations and the legal relationships of 'globalisation' similar or different from those of formal 'empire'? Have imperialism and anti-imperialism still purchase as terms of political analysis and engagement?

The workshop speakers were: Mr Olivier Barsalou (Law, NYU), Professor Anthony Carty (Law, Hong Kong), Dr Ayça Çubukçu (Social Studies, Harvard University), Dr Ignacio de la Rasilla (Law, European University Institute), Dr Adriana Di Stefano (Law, Catania), Dr Maria Drakopoulou (Law, Kent), Mr Luis Eslava (Law, Melbourne), Ms Mónica García-Salmones (Law, Helsinki), Mr Markus Gunneflo (Law, Lund), Dr Stephen Hopgood (International Relations, SOAS), Professor Martti Koskeniemi (Law, Helsinki), Professor Philip Lorenz (English, Cornell), Dr Alejandro Lorite Escorihuela (Helsinki Collegium for Advanced Studies), Ms Doreen Lustig (Law, NYU), Mr Robert Murtfeld (Law,



SOAS), Professor Vasuki Nesiah (Galatin, NYU), Professor Gregor Noll (Law, Lund), Professor Luigi Nuzzo (Law, Lecce), Professor Liliana Obregón (Law, Bogotá/Helsinki), Professor Anne Orford (Law, Melbourne), Professor Umut Özsü (Law, Manitoba), Associate Professor Sundhya Pahuja (Law, Melbourne), Dr Rose Parfitt (Politics, American University in Cairo), Professor Jennifer Pitts (History, Chicago), Mr Walter Rech (Law, Melbourne), Professor Teemu Ruskola (Law, Emory), Professor Susan Zimmermann (History, Central European University), Dr Andraž Zidar (Ministry of Foreign Affairs, Republic of Slovenia).

**27 October 2011: IILAH Seminar, *Agonism and Abjection: Hannah Arendt, Giorgio Agamben and the Right to Have Rights*, Dr Andrew Schaap (Politics, University of Exeter) with Mr Connal Parsley (PhD Candidate, MLS) as discussant.**

(Convenor: Dr Ann Genovese)

This paper examined Giorgio Agamben's 'correction' of Hannah Arendt, from whose work, he says, a biopolitical perspective is altogether lacking. More specifically, it focused on Agamben's radicalisation of Arendt's critique of human rights. By invoking bare life (in place of the person), the ban (in place of the social contract) and the camp (in place of polity) Agamben claims to reveal the true function that human rights perform in contemporary politics: through the inscription of human rights within the modern state life is politicised, brought into relation with sovereign power and therefore subject to bio-political regulation. Arendt's work has proved fertile for many contemporary scholars who have sought to articulate an agonistic conception of the politics of human rights to account for how those rendered abject through the deprivation of polity are able to contest this status. By enacting the 'right to have rights', mobilisations such as that of the *sans papiers* engage in constituent acts, which both disclose their humanness and constitute new public spaces in which their voice can be heard as speech. In contrast, Agamben seems less able to recognise how human rights might lend themselves to an 'emancipatory' politics since they are irremediably implicated in the politicisation of bare life. This paper considered the strengths and limitations of each of these perspectives on the politics of human rights.

Dr Andrew Schaap teaches Politics at the University of Exeter. He is the author of *Political Reconciliation* (Routledge, 2005) and editor of *Law and Agonistic Politics* (Ashgate, 2010). He is currently working on a book called *Human Rights and the Political*.

**12 December 2011: IILAH Joint Public Seminar, *Cosmopolitan Justice in a Postcolonial World and Integration Regimes and Governmentality***

(Convenor: Associate Professor Sundhya Pahuja)

***Cosmopolitan Justice in a Postcolonial World* presented by Professor Nikita Dhawan (Goethe-University Frankfurt)**

In recent discussions on transnational justice, there has been renewed interest in cosmopolitanism as an ethico-political imperative and commitment to planetary conviviality in a postnational, globalised world. In the face of growing global interdependence, the project of cosmopolitanism promises to facilitate a transnational citizen's movement, which could potentially galvanise the establishment of democratic global institutions. The figure of the 'cosmopolitan' has gained prominence as an agent of global justice, peace and democracy. In the face of increased transnational movement of capital, commodities, people, ideas, and images, cosmopolitans seemingly overcome narrow territorial-based affiliations in favour of an allegiance to all of humanity. Such an expansive consciousness of world citizenship has the pursuit of 'solidarity across borders' as its normative ideal.

Detractors of liberal cosmopolitanism highlight the spectre of global capital that is seen as the necessary precondition for the emergence of a cosmopolitan sensibility. It is argued that cosmopolitanism leaves intact the privileges of the global elite by erasing the continuities between cosmopolitanism, neo-colonialism and economic globalisation.

Postcolonial feminists locate the shortcomings of liberal cosmopolitanism by unpacking how it can be mobilised for predatory global capitalism and imperialism. Despite well-intentioned efforts to offer a more critical version of

plural and discrepant cosmopolitan identities which challenge the Eurocentric and androcentric bias as well the imperial origins of cosmopolitanism, critical discourses risk reproducing a form of 'Feudality without Feudalism' (Spivak). This leaves us with the challenge of how to reimagine cosmopolitanism from and for the postcolonial world? How can the discontinuity between the dispensers of justice and rights and those coded as receivers be undone through a remapping of subject-formation through 'epistemic change' (Spivak) at both ends? Against this background, this talk will critically engage with discourses of global (gender) justice, development politics, human rights, decolonisation and democratisation from a feminist-postcolonial perspective.

Nikita Dhawan is Junior Professor of Political Science with focus on Gender/Postcolonial Studies at the Goethe-University Frankfurt. Since 2008 she has been Director of the Frankfurt Research Center for Postcolonial Studies and Principal Investigator in the Cluster of Excellence 'The Formation of Normative Orders' Department and Member of the Board of Directors of the Cornelia Goethe Center for Women's and Gender Studies, at Goethe-University Frankfurt. She has held short-term Visiting Professorships at University of La Laguna, Spain (2011), DFG Research Training Group 'Dynamics of Space and Gender', University of Kassel/Göttingen (2011), Pusan National University, South Korea (2011), Maria-Goeppert-Mayer Guest Professor at the Carl von Ossietzky University Oldenburg (2006–2007). In Spring 2008 she was Visiting Scholar at Columbia University, New York. She received her doctorate in Philosophy (2006) from Ruhr-University Bochum, Germany and holds a double MA in German Studies (1995) and Philosophy (2000) from Mumbai University, India.

### ***Integration Regimes and Governmentality* presented by Professor María do Mar Castro Varela (Alice Salomon University Berlin)**

In his 1795 treatise on Perpetual Peace, Immanuel Kant proposes *ius cosmopolitanum* (Weltbürgerrecht) and the principle of universal hospitality grounded in humankind's common ownership of the earth. One can hardly imagine a right that has been so extensively violated as the freedom to move across borders. The nation-state system has monopolised the authority to determine who shall enter its territory and who will be treated with hospitality. In this, sense, the transnational migrant, especially from the global South, is the unintended bearer of the Kantian message of the unfulfilled right to be treated without hostility.

Migration regimes in Europe, specifically Germany, are a good case in point. Since the Immigration Act (Zuwanderungsgesetz) came into force in January 2005, which officially affirmed Germany as a country of immigration (Einwanderungsland), a new phase of migration policies and politics has been ushered in Germany. A crucial aspect of this is the discourse about integration, which seeks the successful assimilation of migrants into German society. Here 'German culture' and the 'culture of migrants' are represented to be incommensurable, so that the only solution for a harmonious co-existence is through the assimilation of the Other into the Same. Consequently, on one hand, migrants are encouraged to mimic German cultural practices and are accordingly rewarded for their efforts with the privilege of citizenship rights. On the other hand those unwilling to internalise 'German core norms and values' are made responsible for their social exclusion. Their 'reluctance' to adapt to German society is interpreted as a sign of disrespect to their host and even evokes suspicions regarding their intentions. These migrants are accused of living in 'parallel societies' (Parallelgesellschaften), which are coded as sites of repression and discrimination against women and other minorities. In contrast, mainstream German society is represented as secular and progressive, wherein gender justice and tolerance prevails.

In this presentation Professor do Mar Castro Varela focused on the Foucaultian notion of governmentality and related it to the current migration regime in Germany. From a Foucaultian perspective this politics of integration can be seen as organised practices and techniques through which migrant subjects are governed. She unfolded how these technologies of power are inextricably linked to processes of the building of 'fortress Europe' and a systematic disenfranchisement and disciplining of those perceived as the Other.

María do Mar Castro Varela is Professor of Pedagogy at the Alice Salomon University Berlin. She was Visiting Fellow at Pusan National University, South Korea (2011) and Maria-Goeppert-Mayer Guest Professor at the Institute of Political Science, Carl von Ossietzky University, Oldenburg, Germany in Winter Semester 2006–2007. She holds a doctorate in Political Science from the Justus Liebig University Giessen and a double degree in Psychology and Pedagogy, both from the University of Cologne, Germany. Her research specialisations are queer diasporas, anti-

discrimination politics and feminist postcolonial theory.

#### **14 December 2011: PhD Completion Seminar, *Jurisprudence of Movement*, Olivia Barr (PhD Candidate, MLS)**

(Supervisors: Associate Professor Peter Rush, Associate Professor Shaun McVeigh and Associate Professor Maureen Tehan)

How does common law move? Unnoticed, but through jurisdiction. Noticing, this thesis carefully engages with two archives, one historical and one contemporary. The historical is a burial party that walked in colonial New South Wales. The contemporary is the struggle to bury the dead in Antarctica. Accounting for the technical and material forms of common law practice, the thesis creates a minor jurisprudence of movement. In doing so, it challenges the jurist to move well; to attend to the responsibilities of office.

#### **15 December 2011: IILAH Public Seminar, *TRIPS and the Non-Communicable Diseases Epidemics*, Professor Kevin Outterson (Boston University)**

(Convenors: Associate Professor Andrew Mitchell, Associate Professor Tania Voon and Dr Jonathan Liberman (Cancer Council Victoria))

The US and EU governments are attempting to exclude noncommunicable diseases (NCDs) from certain safeguards and flexibilities built into global trade agreements and national laws. The governments contend that these access initiatives must be limited to epidemic diseases such as AIDS, malaria and tuberculosis. This position is unsupported in the relevant legal texts and is a dangerous policy given demographic shifts in the global burden of disease. The primary beneficiaries of this anti-NCD initiative will be global pharmaceutical companies, although it is also argued that society will also benefit from subsequent pharmaceutical innovation.

Professor Kevin Outterson teaches health law and corporate law at Boston University, where he co-directs the Health Law Program, currently ranked second in the country by US News. He serves as the Editor-in-Chief of the *Journal of Law, Medicine & Ethics*; faculty co-advisor to the *American Journal of Law & Medicine*; immediate past chair of the Section on Law, Medicine & Health Care of the AALS; and a member of the Board of the American Society of Law, Medicine & Ethics. His research work focuses on the organisation and finance of the health sector. Areas of specialisation include state-based reform and global pharmaceutical markets, including antibiotics and other antimicrobials that can degrade in usefulness over time through resistance. On behalf of the *New England Journal of Medicine* and other clients, Outterson recently filed an amicus brief in the US Supreme Court, supporting Vermont's prescription privacy law. His work was cited by Justice Breyer in *Sorrell v IMS Health*. A team at Boston University is working on numerous amicus briefs for constitutional challenges to Obamacare.

#### **15–16 December 2011: Postgraduate and Early Career Researchers Workshop, *Law and Its Accidents***

This workshop was held for the fourth year. It again brought together higher research students and early career researchers, who in different disciplines and across diverse fields of scholarship, engage with law and its theoretical and methodological questions.

It was supported by the MLS and its research centres and institutes: Centre for Employment and Labour Relations Law (CELRL), Centre for Media and Communications Law (CMCL), Centre for Resources Energy & Environmental Law (CREEL), Institute for International Law and the Humanities (IILAH), Intellectual Property Research Institute of Australia (IPRIA) and the Postgraduate Law Student Association (PLSA).

Speakers included: Professor Paul Carter (Centre for Memory, Imagination and Invention, Deakin University) and Dr Rebecca Scott Bray (Department of Sociology and Social Policy, University of Sydney).

# Publications and Presentations 2011

## Books

**Anne Orford**, *International Authority and the Responsibility to Protect* (Cambridge University Press, 2011)

**Sundhya Pahuja**, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011)

Fleur Johns, Richard Joyce and **Sundhya Pahuja** (eds), *Events: The Force of International Law* (Routledge-Cavendish, 2011)

## Book Chapters

**Jürgen Kurtz**, 'Delineating Primary and Secondary Rules on Necessity at International Law' in Tomer Broude and Yuval Shany (eds), *Multi-Sourced Equivalent Norms in International Law* (Hart Publishing, 2011) 231–258

**Andrew Mitchell** and Joanne Wallis, 'Pacific Countries in the WTO: Accession and Accommodation' in Yong-Shik Lee, Gary Horlick, Won-Mog Choi and Tomer Broude (eds), *Law and Development Perspectives on International Trade Law* (Cambridge University Press, 2011) 179–222

**Anne Orford**, 'Constituting Order' in James Crawford and Martti Koskenniemi (eds), *Cambridge Companion to International Law* (Cambridge University Press, in press)

**Anne Orford**, 'The Past as Law or History? The Relevance of Imperialism for Modern International Law' in Emmanuelle Jouannet (ed), *Tiers Monde: Bilan et Perspectives* (Société de Législation Comparée, in press)

**Anne Orford**, 'Lawful Authority and the Responsibility to Protect' in Richard Falk, Mark Juergensmeyer and Vesselin Popovski (eds), *Legality and Legitimacy in Global Affairs* (Oxford University Press, in press)

**Dianne Otto**, 'Remapping Crisis through a Feminist Lens' in Sari Kouvo and Zoe Pearson (eds), *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance?* (Oñati/Hart Publishing, 2011) 75–95

**Sundhya Pahuja**, 'Global Poverty and The Politics of Good Intentions' in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Restorative Justice* (Hart Publishing, 2011)

**Sundhya Pahuja**, 'The Poverty of Development and the Development of Poverty in International Law' in James Crawford and Sarah Nouwen (eds), *Select Proceedings of the European Society of International Law* (Hart Publishing, in press)

**Sundhya Pahuja**, 'Conserving the World's Resources?' in James Crawford and Martti Koskenniemi (eds), *Cambridge Companion to International Law* (Cambridge University Press, in press)

Fleur Johns, Richard Joyce and **Sundhya Pahuja**, 'Introduction' in Fleur Johns, Richard Joyce and **Sundhya Pahuja** (eds), *Events: The Force of International Law* (Routledge-Cavendish, 2011) 1–17

**Sundhya Pahuja**, 'Decolonisation and the Eventness of International Law' in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge-Cavendish, 2011) 91–105

**Jacqueline Peel**, 'Environmental Protection in the Twenty-First Century: The Role of International Law', in Regina S Axelrod, Stacy D VanDeveer and David Leonard Downie (eds), *The Global Environment: Institutions, Law, and Policy* (CQ Press, 3rd ed, 2011) 48–69

**Jacqueline Peel**, 'Climate Change Litigation' in David Hodgkinson (ed), *Climate Change Law and Policy* (online)



(LEXIS-NEXIS, 2011) chapter 9 [8-005]–[8-290]

**John Tobin**, 'Courts and the Construction of Childhood: A New Way of Thinking' in Michael Freeman (ed), *Childhood and the Law* (Oxford University Press, forthcoming)

**John Tobin**, 'Children's Rights in Australia: From Theory to Practice' (forthcoming)

**John Tobin**, 'Understanding a Human Rights Based Approach to Matters Involving Children: Conceptual Foundations and Strategic Considerations' in Antonella Invernizzi and Jane Williams (eds), *Human Rights of Children: From Visions to Implementation* (Ashgate, 2011) 61–99

**Tania Voon**, 'The Cultural Diversity Convention and Substantive WTO Law' in Toshijuki Kono, Jan Wouters and Steven Van Uytsel (eds), *The UNESCO Convention for the Promotion and Protection of Diversity of Cultural Expressions* (Intersentia, forthcoming 2011)

**Tania Voon**, 'GATT Article XVII: State Trading Enterprises' in Rüdiger Wolfrum, Peter-Tobias Stoll and Holger Hestermeyer (eds), *Max Planck Commentaries on World Trade Law* (Koninklijke Brill NV, volume 5, 2011) 386–400

## Journal Articles

Lisa Caripis, **Lee Godden**, Rod Keenan and **Jacqueline Peel**, 'Australia's Carbon Pricing Mechanism' (2011) 2(4) *Climate Law* 583–603

**Luis Eslava** and **Sundhya Pahuja**, 'Between Resistance and Reform: TWAIL and the Universality of International law' (2011) *Trade, Law and Development* 103–130

**Michelle Foster** and Jason Pobjoy, 'A Failed Case of Legal Exceptionalism? Refugee Status Determination in Australia's "Excised" Territory' (2011) 23(4) *International Journal of Refugee Law* 583–631

**Michelle Foster**, 'Book Review: Refugees, Asylum Seekers and the Rule of Law' (2011) 23(2) *International Journal of Refugee Law* 431–434

**Ann Genovese**, 'Metaphor of Redemption, Myths of State: Historical Accountability in Luhrmann's Australia and *Trevorrow v South Australia*' (2011) 20 *Griffith Law Review* 67–90

**Ann Genovese**, 'National Legislation and Transnational Feminism' (2011) *Feminist Review* e99–e115

**Lee Godden**, Rod Keenan and **Jacqueline Peel**, 'Climate Change Law and Governance from the "Bottom up": Introduction to the Special Issue' (2011) 2(4) *Climate Law* 459–468

**Wendy Larcombe**, **Andrew Mitchell**, **Bruce Oswald** and **Tania Voon**, 'Education in the Field: A Case Study of Experiential Learning in International Law' (2011) 21 *Legal Education Review* 69–96

**Andrew Mitchell** and David Studdert, 'Plain Packaging of Cigarettes in Australia: A Novel Regulation Faces Legal Challenge' (2011) *Journal of the American Medical Association*

**Andrew Mitchell** and **Tania Voon**, 'International Trade Law Implications of Australia's National Broadband Network' (2011) 35(2) *Melbourne University Law Review* 578–620

**Andrew Mitchell** and Sebastian Wurzberger, 'Boxed In? Australia's Plain Tobacco Packaging Initiative and International Investment Law' (2011) 27(4) *Arbitration International* 623–651

**Andrew Mitchell** and **Tania Voon**, 'Implications of the World Trade Organization in Combating Non-Communicable Diseases' (2011) 125(12) *Public Health* 832–839

**Andrew Mitchell** and **Tania Voon**, 'Time to Quit? Assessing International Investment Claims against Plain Tobacco

Packaging in Australia' (2011) 14(3) *Journal of International Economic Law* 515–552

**Andrew Mitchell** and **Tania Voon**, 'Face Off: Assessing WTO Challenges to Australia's Scheme for Plain Tobacco Packaging' (2011) 22(3) *Public Law Review* 218–240

**Andrew Mitchell** and **Tania Voon**, 'Regulating Tobacco Flavours: Implications of WTO Law' (2011) 29(2) *Boston University International Law Journal* 383–425

**Andrew Mitchell** and **Tania Voon**, 'Implications of International Investment Law for Tobacco Flavouring Regulation' (2011) 12(1) *Journal of World Investment and Trade* 65–80

**Andrew Mitchell** and Constantinos Salonidis, 'David's Sling: Cross-Agreement Retaliation in International Trade Disputes' (2011) 45(2) *Journal of World Trade* 457–488

**Andrew Mitchell** and **Tania Voon**, 'The NBN and the WTO' (2011) 61(1) *Telecommunications Journal of Australia* 6.1–6.7

Elizabeth Sheargold and **Andrew Mitchell**, 'Oils Ain't Oils: Product Labelling, Palm Oil and The WTO' (2011) 12(2) *Melbourne Journal of International Law* 396–418

**Shaun McVeigh**, 'Reasons to be Satisfied: Tim Dare and the Limits of Positivist Ethics' (2011) 36 *Australian Journal of Legal Philosophy* 166–176

**Anne Orford**, 'From Promise to Practice? The Legal Significance of the Responsibility to Protect Concept' (2011) 3 *Global Responsibility to Protect* 400–424

**Dianne Otto**, 'Prospects for International Gender Norms' (2011) 31(3) *Pace Law Review* 873–881

**Jacqueline Peel**, 'Issues in Climate Change Litigation' (2011) 5(1) *Carbon and Climate Law Review* 15–24

**Jacqueline Peel**, 'Review: Regulating Health and Environmental Risks under WTO Law — A Critical Analysis of the SPS Agreement' (2011) 23(1) *Journal of Environmental Law* 157–160

**John Tobin**, 'High Court and Sexual Orientation' *New York University Journal of Law and Politics* (2011)

**Margaret A Young**, 'Towards a Legal Framework for Regime Interaction: Lessons from Fisheries, Trade and Environmental Regimes' (2011) 105 *Proceedings of the Annual Meeting of the American Society of International Law* (in print)

**Margaret A Young**, 'Climate Change Law and Regime Interaction' (2011) 5(2) *Carbon and Climate Law Review* 147–157

## Lectures and Presentations

**Michelle Foster**, *Learning from Experience: Australia's Proposals for a Regional Approach to Refugee Protection in an International Context*, paper presented at the conference 'Looking to the Future, Learning from the Past: A Conference to Mark 60 Years of the Refugee Convention', University of New South Wales, Sydney, 15 June 2011

**Michelle Foster**, *The High Court and the Malaysian Solution*, paper presented at the Australian Institute of Administrative Law seminar, Melbourne Law School, 26 October 2011

**Michelle Foster**, *Beyond the Malaysian Solution? Refugee Responsibility Sharing in the Asia-Pacific Region*, paper presented at the Human Rights and Governance Colloquium, Queensland University of Technology, Brisbane, 24 November 2011

**Ann Genovese**, *Legalism and Its Feminist Discontents: Australian Family Law Reform in the 80s*, paper presented at the International Network for Law and Feminist Theory, 'Justice, Judgment and Other Feminist Discontents'

symposium, convened by Professor Rosemary Hunter, University of Kent, United Kingdom, 6–8 July 2011

**Ann Genovese**, *Australian Communist Party of Australia v The Commonwealth: Australia's Internal Legal History*, paper presented at the 'Democracy vs Communism: Remembering the 1951 Referendum on the Banning of the Communist Party' symposium, convened by Professors Joy Damousi (University of Melbourne) and Ann Curthoys (University of Sydney), Department of History, University of Melbourne, 22–23 September 2011 (by invitation)

**Jürgen Kurtz**, *State Recalibration of Investment Treaties: Causes, Embodiments and Implications*, paper presented at the Second International Investment Law Conference, National University of Singapore, Singapore, 31 May 2011

**Jürgen Kurtz**, *International Investment Law and its Intersections*, paper presented at the 17<sup>th</sup> Annual Investment Treaty Forum, British Institute for International and Comparative Law, London, United Kingdom, 9 September 2011

**Jürgen Kurtz**, *Science as a Common Proxy for Rational Regulation: The Converging Strands of International Trade and Investment Law*, paper presented at the International Conference on Trade, Science, Technology and Justice, Institute of Technology Law, National Chiao Tung University, Hsinchu, Taiwan, 1–2 November 2011

**Andrew Mitchell**, *Back in Your Box: Big Tobacco's Legal Challenges to Plain Packaging in Australia*, paper presented at the University of Lausanne, Lausanne, Switzerland, 18 November 2011; also presented at the World Trade Institute, University of Bern, Bern, Switzerland, 16 November 2011 and at the Melbourne School of Population Health, 7 September 2011

**Andrew Mitchell**, *The Power of the FCTC in an Era of Trade and Investment Challenges*, paper presented at the World Health Organization, Geneva, Switzerland, 15 November 2011

**Andrew Mitchell**, *Trade and Investment Law Issues concerning Australia's Plain Packaging of Tobacco Initiative*, paper presented at the University of Geneva and The Graduate Institute — Geneva, Geneva, Switzerland, 14 November 2011

**Andrew Mitchell**, *Trade, Science and Plain Packaging*, paper presented at the International Conference on Trade, Science, Technology and Justice, National Chiao Tung University, Hsinchu, Taiwan, 3–4 November 2011

**Andrew Mitchell**, *Dead or Resting? Observations on the Doha Round*, paper presented at the Chinese University of Hong Kong, Hong Kong SAR, 28 October 2011

**Andrew Mitchell**, *International Trade and Investment Law and Plain Packaging*, paper presented at the Chinese University of Hong Kong, Hong Kong SAR, 27 October 2011

**Andrew Mitchell**, *Plain Packaging of Tobacco: The Australian Experience so Far*, paper presented at the Oceania Tobacco Control Conference, Brisbane, 18 October 2011

Jennifer Hawkins and **Andrew Mitchell**, *China's Currency and IMF Issues*, paper presented at the Inaugural Conference, Centre for Financial Regulation and Economic Development, Hong Kong SAR, 11–13 August 2011

**Andrew Mitchell** and **Tania Voon**, *International Trade Law Implications of Australia's National Broadband Network*, paper presented at the 19<sup>th</sup> Annual Conference, Australian and New Zealand Society of International Law, Australian National University, Canberra, 25 June 2011

**Andrew Mitchell**, *Implications of International Economic Law for Tobacco Control in Africa*, paper presented at the African International Economic Law Regional Conference, Johannesburg, South Africa, 5–6 May 2011

**Andrew Mitchell**, *The Implications of International Investment Law for Plain Cigarette Packaging*, paper presented at the 'Legal Issues relating to Australia's Proposed Plain Packaging of Cigarettes' workshop, Melbourne Law School, 8 April 2011

**Andrew Mitchell**, **Bruce Oswald** and **Tania Voon**, *Teaching in the Field*, Collegial conversation seminar, Melbourne Law School, 23 March 2011

**Andrew Mitchell**, *The Implications of WTO & Investment Law for Tobacco Control Measures*, paper presented at the 'Economic Integration of the Asia-Pacific Region and Beyond' conference, College of Law, National Taiwan University Taipei, Taiwan, 4 March 2011

**Andrew Mitchell**, *Trade and NCDs*, paper presented at the 'Inter-Faculty Workshop on Law and Non-Communicable Diseases', Melbourne Law School, 24 February 2011

**Anne Orford**, *Authority and the Responsibility to Protect*, paper presented at the 'Experiencing War' workshop, co-hosted by the Gothenburg Centre of Globalization and Development and the School of Global Studies, University of Gothenburg, Gothenburg, Sweden, 15 April 2011 (by invitation)

**Anne Orford**, *Law and the Administrative State*, doctoral seminar presented at the School of Business, Economics and Law, University of Gothenburg, Gothenburg, Sweden, 18 April 2011

**Anne Orford**, *Libya, the Responsibility to Protect and the Legacy of Hammarskjöld*, public lecture presented as the Torgny Segerstedt Visiting Professor, School of Business, Economics and Law, University of Gothenburg, Gothenburg, Sweden, 28 April 2011

**Anne Orford**, *The Role of the State in Reconstruction and Development: The Competing Internationalisms of Dag Hammarskjöld, Franz Neumann, Gunnar Myrdal and Alva Myrdal*, seminar presented at the Eric Castrén Institute of International Law and Human Rights, University of Helsinki, Helsinki, Finland, 5 May 2011

**Anne Orford**, *Nation, Family and Empire: Rethinking the History of International Population Control*, paper presented by invitation at the 'Gender, Social Movements, Peace and Conflict' seminar, Harvard Law School, Cambridge, Massachusetts, United States, June 2011

**Anne Orford**, *From Promise to Practice? The Normative Significance of the Responsibility to Protect Concept*, keynote address presented at the 19<sup>th</sup> Annual Meeting of the Australian and New Zealand Society of International Law, Australian National University, Canberra, 23–25 June 2011

**Anne Orford**, *In Praise of Description*, lecture presented at the Swedish National Doctoral Student Conference, Lund University, Lund, Sweden, 22 September 2011

**Anne Orford**, *The Arab Spring and the Legacy of Hammarskjöld*, lecture presented at the Göteborg Book Fair, Göteborg, Sweden, 25 September 2011

**Anne Orford**, *The Responsibility to Protect and the Legacy of Hammarskjöld*, keynote address presented at the Annual Meeting of Swedish Researchers in International Law, Lund University, Lund, Sweden, 10 October 2011

**Anne Orford**, *Penséeféministe et droit international*, opening address presented at the 'Femmes et Droit International' workshop, Société française pour le droit international, Université Paris 1 (Panthéon Sorbonne), Paris, France, 18 November 2011

**Anne Orford**, *International Interventions as Governance*, keynote address presented at the 'Globalization and Development: Rethinking Interventions and Governance' conference, Gothenburg Centre of Globalization and Development, University of Gothenburg, Gothenburg, Sweden, 22–23 November 2011

**Anne Orford**, *From Promise to Practice? The Legal Significance of the Responsibility to Protect Concept*, paper presented the 'The Responsibility to Protect: Ten Years On' public seminar, Asia-Pacific College of Diplomacy, Australian National University, Canberra, 1 December 2011 (by invitation)

**Anne Orford**, *Gender, Protection and the State in International Law: 1981–2011*, paper presented the 'Gender, Protection and the State: Nordic and International Perspectives' workshop, Department of Law and the Gothenburg Interdisciplinary Gender Research Network, University of Gothenburg, Gothenburg, Sweden, 19–20 December 2011

**Anne Orford**, *The Arab Spring and the Responsibility to Protect*, seminar to be presented at the 'International



Institutions' workshop, Department of International Relations, London School of Economics and Political Science, London, United Kingdom, confirmed for 17 January 2012

**Anne Orford**, *International Law and the State*, invited presentation to be given at the launch of the *Cambridge Companion to International Law*, Lauterpacht Centre for International Law, University of Cambridge, Cambridge, United Kingdom, confirmed for 26 January 2012

**Anne Orford**, *The Responsibility to Protect and the Legacy of Hammarskjöld*, public lecture to be co-hosted by the Dag Hammarskjöld Foundation, the Swedish Institute for International Law and the Uppsala Association of International Affairs, Uppsala University, Uppsala, Sweden, confirmed for 7 February 2012

**Anne Orford**, *The Responsibility to Protect after Libya*, paper to be presented at a panel with Louise Arbour, Sarah Cleveland, Anne Orford, Eric Posner and W Michael Reisman on 'Military Intervention and the Law of Peace', Meeting of the American Society of International Law, Washington DC, United States, confirmed for 28–31 March 2012 (by invitation)

**Dianne Otto**, *Power and Danger: Feminist Engagement with International Law through the UN Security Council*, paper presented at the Centre for Gender Studies, School of Oriental and African Studies, University of London, London, United Kingdom, 17 March 2011

**Dianne Otto**, *The Paradoxes of Feminist Engagement with International Law*, address to launch the Feminism and International Law Interest Group of the European Society of International Law, Leicester University, Leicester, United Kingdom, 28 April 2011

**Dianne Otto**, *Transnational Homo-Assemblages: Contesting "Gender" in Counter-terrorism Discourses*, paper presented at the 'Queer Perspectives on Law: Sharing Reflections' conference, School of Oriental and African Studies, University of London, London, United Kingdom, 13 May 2011

**Dianne Otto**, International Women's Rights Action Watch, Asia Pacific Planning Meeting, Kuala Lumpur, Malaysia, 16–20 August 2011

**Dianne Otto**, *Pursuing Radical Change through International Human Rights Law: Promise and Limits*, paper presented at the 'Human Rights in the 21<sup>st</sup> Century: Asia-Pacific Perspectives' workshop for postgraduate students, Wollongong University, Wollongong, 2 September 2011; also presented at the 'Human Rights Beyond the Law: Politics, Practices and Performances' workshop, Jindal Global Law School, Sonipat, India, 14–17 September 2011

**Dianne Otto**, *The Human Rights Council - Signs of Hope?*, paper presented at 'Looking Ahead: Cross-cutting Issues in International Law', the Inaugural Attorney-General's Department International Law Colloquium, Attorney-General's Department, Canberra, 14 November 2011

**Dianne Otto**, *Remapping Crisis through a Feminist Lens*, paper presented at the 'Theorising Crisis: Feminist Perspectives' workshop, University of New South Wales, Sydney, 1 December 2011

**Jacqueline Peel**, *International Climate Policy before COP17*, paper presented at the panel of international experts, Hamburg International Environmental Law Conference, Hamburg, Germany, 15–16 September 2011 (by invitation)

**Lee Godden**, Rod Keenan and **Jacqueline Peel**, *Beyond a Carbon Price: An Australian Regulatory Framework for Climate Change*, paper presented at the Melbourne University Conference on Climate Change, University of Melbourne, August 11–12 2011

**Jacqueline Peel**, *Of Apples and Oranges (and Hormones in Beef): Science and the Standard of Review under the SPS Agreement*, paper presented at the Society for Risk Analysis (Europe) and iNTeg-Risk Conference, Stuttgart, Germany, June 6–8 2011

**Jacqueline Peel**, *Submission on the Clean Energy Legislative Package*, paper presented at the 'Beyond a Carbon Price: A Framework for Climate Change Regulation in Australia' workshop, Melbourne Law School, 22 August 2011

**John Tobin**, *Social Technologies: Can All Students' 'Living' Technologies Become 'Learning' Technologies?*, paper presented at the 'Charting New Technologies with Digital Technologies' Provost Summit, University of Melbourne, 22 July 2011

**John Tobin**, *Assessing Children's Best Interests: The Role of Rights*, paper presented at the Child Protection Legal Conference, Children's Court of Victoria, Melbourne, 16–17 June 2011

**John Tobin**, *Rule of Law and the Role of Right*, lecture presented at Bayside Secondary College, Melbourne, April 2011

**John Tobin**, *Using Social Media to Enhance Student Learning*, lecture presented at the University of Melbourne, March 2011

**John Tobin**, *Constructing Childhood: What is the Rights Approach?*, lecture presented at the 'Constructions of Childhood (Breadth Subject)', University of Melbourne, April 2011

**John Tobin**, *Courts and Human Rights: An Introduction*, seminar presented at the 'New Judicial Appointees' workshop, Judicial College of Victoria, Melbourne, February 2011

**Tania Voon**, *The Implications of WTO Law for Plain Cigarette Packaging*, paper presented at the 'Legal Issues relating to Australia's Proposed Plain Packaging of Cigarettes' workshop, Melbourne Law School, 8 April 2011

**Tania Voon**, *Pursuing a Career in International Law*, spoke at the 'Careers in Law Evening', Melbourne Law School, 19 May 2011

**Tania Voon**, *Zeroing and Precedent in the WTO*, paper presented at the Research Workshop Series, Melbourne Law School, 9 May 2011; also presented at the Eleventh WTO Conference of the Institute of International Economic Law and the British Institute of International and Comparative Law, London, 25 May 2011

**Tania Voon**, *Public Health Initiatives in the Asia Pacific: The Challenge of International Investment and Trade Law*, paper presented at the International Law Association Asia-Pacific Regional Conference, Taipei, Taiwan, 31 May 2011

**Tania Voon**, *Australia and International Trade Law*, paper presented at the Australian Institute of International Affairs Workshop, Canberra, 22 June 2011

**Margaret Young**, panelist on *New Voices Panel: Global Health, Trade & Common Resource Regimes*, Annual Meeting of the American Society of International Law, Washington DC, United States, 24 March 2011

## Submissions

**Michelle Foster**, Penelope Mathew and Jane McAdam, 'Australian Senate Legal and Constitutional Affairs Committee (References Committee), Inquiry into Australia's Agreement with Malaysia in relation to Asylum Seekers', Submission dated 15 September 2011, written on behalf of 14 refugee law academics, cited extensively in Committee's Final Report dated October 2011 (see for example, paragraphs 1.9; 3.34; 3.35; 3.38 and 3.55).



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