



THE UNIVERSITY OF  
MELBOURNE

**iilah**  
Institute for International Law  
and the Humanities



# IILAH Annual Report 2015



FRONT COVER IMAGE: A close-up view of the Za'atari Camp in Jordan for Syrian Refugees as seen on July 18, 2013, from a helicopter carrying U.S. Secretary of State John Kerry and Jordanian Foreign Minister Nasser Judeh. *State Department Photo/ Public Domain*

AUTHORISED BY IILAH Director

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*The presenters and attendees from the Queering International Law, Provocations II Legal Theory Workshop*



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# MESSAGE FROM THE DIRECTOR

One of the leading international law research centres in the world, IILAH and its community of scholars and graduate research students expanded and thrived in 2015. Many high profile International Visitors and outstanding Graduate Research Students were welcomed to Melbourne Law School as a result. At the heart of IILAH's work are its twelve Research Programs, which are directed or co-directed by fourteen Melbourne Law School faculty members, including both new and established scholars. These Research Programs focus on a wide range of international legal issues including human rights and refugee law, law and development, indigenous peoples, criminal justice, jurisprudences of the South, fragmentation, sound, legal biographies and international environmental and investment law. Each Research Program has its own annual plan, providing Directors with an institutional platform from which to develop a visible record of research leadership in their field, foster active engagement with other scholars and students, and extend Melbourne Law School scholarly networks and collaborations globally. A further fourteen faculty members participate in the IILAH community as Members, helping to determine priorities and contributing to research activities. As result, IILAH showcases the impressive breadth of research expertise and dynamic mix of research interests at Melbourne Law School and brings them into meaningful dialogue under the broad banner of international law and the humanities.

Adding another important dimension to IILAH's network of scholarly communities, engaged with many of the most pressing issues of our time, is the Indigenous Nation Building Project, hosted by IILAH in conjunction with Program Director Mark McMillan. The Nation Building Project partners with three indigenous nations – the Gunditjmara Nation (Victoria), Ngarrindjeri Nation (South Australia) and Wiradjuri Nation (NSW). Using a distinctive collaborative research model, the project links together scholars from many disciplines and indigenous communities, in Australia and the United States.

Enormously enriching IILAH's scholarly community are the thirty Graduate Research Students associated with IILAH. During the year, the Director met twice with the group and a number of them organised IILAH seminars in their areas of research. IILAH supported, both financially and administratively, the 8th annual Melbourne Doctoral Forum on Legal Theory, Locating the Law: Place and Space in Relation to Legal Theory (7-8 December), which attracted graduate research students from around the country. IILAH also helped host the completion seminars of six of its Graduate Research Students. I would like to extend IILAH's congratulations to the six PhD students who completed in 2015: Dr Marie Aronsson, Dr Maria Elander, Dr Joseph Kikonjogo, Dr Eve Lester, Dr Liz McPherson and Dr Sophie Rigney. IILAH's graduate research students help, immeasurably, to sustain a cohesive, supportive and vibrant community of higher degree research students in the Melbourne Law School.

During 2015, remarkable scholars from around the world participated in IILAH research events, including from universities in Belgium, Canada, Finland, Germany, India, Italy, the Netherlands, New Zealand, Singapore, South Africa, Sri Lanka, Sweden, Switzerland, United Kingdom and the United States of America. Visitors hosted by IILAH included Professor Matthew Craven and Professor Diamond Ashiagbor (SOAS), Professor Helene Lambert (Westminster) and Professor Maria Drakapoulou (Kent). IILAH's research activities also fostered collaborations with academics from other leading Australian universities and attracted the regular participation of many academics and research students from other Faculties and Schools within the University of Melbourne, including Architecture, Criminology, Cultural Studies, Development Studies, Gender Studies, Historical and Philosophical Studies, Social and Political Science and Population and Health.

During 2015, IILAH's calendar of events included its two features series: Provocations, an annual legal theory research symposia and Constellations, cross-disciplinary research seminars concerned broadly with questions of methodology. Provocations II, Queering International Law: Possibilities, Alliances, Complicities, Risks was held 14-15 December and brought together an exciting group of international and Australian scholars. It was the very first symposium (as far as I know) devoted entirely to bringing the critical insights of queer theory to international law. I organised the symposium with the very able and enthusiastic assistance of IILAH Administrator, Vesna Stefanovski, and generous funding from IILAH, Melbourne Law School's International Collaboration Fund and the Dean's Discretionary Fund. The research presented and discussed at the symposium will be published by Routledge in 2017, as an edited collection. The third seminar in the Constellations series was organised by IILAH's McKenzie Scholar, Dr Rose Parfitt. Its theme, Cities and Public Space, was discussed by panellists from the disciplines of law, architecture, media and culture.

In addition to its feature series, in 2015 IILAH's regular program of research events included four Public Lectures, a Symposium Reimagining Mabo (with the National Indigenous Research and Knowledge Network (NIRAKN)), three Roundtables/Conversation, twenty-six research seminars and three book launches. IILAH's outstanding publishing record also continued during 2015, and you will find a very impressive list of books, book chapters and scholarly articles later in this Annual Report.

The success of IILAH in 2015, as always, is due to the enthusiasm and creativity of all the faculty and students involved with it. However, I want to make special mention of the enormous contribution made by Vesna Stefanovski, who fulfilled her responsibilities as IILAH Administrator with infectious enthusiasm and remarkable organizational skills, combined with immaculate care. Vesna left her position at the end of November – after seven years of great service – to take up a new position as Program Manager for the Laureate Fellowships in International Law. I wish her well on behalf of the entire IILAH community. In Vesna's place, we welcomed Christopher Pidgely as the new IILAH Administrator who managed to seamlessly step into the job and brings with him a new range of skills and energy that will very ably facilitate IILAH's work into the future. I would like to thank my research assistant, Ms Kalia Laycock-Walsh, who did an excellent job of everything I asked of her.

Finally, I am handing over the Directorship of IILAH to Sundhya Pahuja from 1 January 2016. I will continue my involvement with IILAH as Director of a new IILAH Research Program, Feminist and Queer Approaches to International Law, as well as continuing to co-direct the International Human Rights Law Research Program. I have very much enjoyed the opportunity to contribute to IILAH as its Director for the past four years, and leave the position with many new colleagues and friends. My own research has benefitted enormously from the vitality, creativity and supportiveness of the global IILAH community.

Professor Dianne Otto  
Francine V. McNiff Chair in Human Rights Law



# OVERVIEW

The Institute for International Law and the Humanities (IILAH) is dedicated to integrating the study of international law with contemporary approaches to the humanities. IILAH facilitates and promotes innovative research and critical thinking on emerging questions of international law, governance, human rights and justice, positioning Melbourne Law School as one of the leading institutions for international legal scholarship in the world.

## Aims and Objectives

IILAH supports interdisciplinary scholarship on contemporary international law, relating in particular to the promotion of social and economic justice and giving voice to those who are marginalised by the historical commitments of international law. 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 by fostering dialogue with scholars working in disciplines such as anthropology, criminology, cultural studies, gender studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH encourages the work of younger 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 from Canada, China, Colombia, Egypt, Finland, France, India, Italy, New Zealand, South Africa, Sweden, Norway, the United Kingdom and the United States. IILAH has a particular interest in developing links with scholars in the global South, in order to explore the shared legal legacies of colonialism.

## Activities

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures and research seminars, workshops and reading groups; supervises and supports the work of graduate research degree students; and undertakes and facilitates collaborative and interdisciplinary research projects within the University of Melbourne, as well as nationally and internationally. With these research activities IILAH contributes to ongoing debates about the theoretical foundation and practical effect of international law and the humanities in the political climate of today.

# RESEARCH PROGRAMS

The activities of the Institute are currently organised around thirteen key research programs with fourteen research program directors. The programs 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**

Program Directors: Ann Genovese and Tanya Josev

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

Program Director: Margaret Young

## **Indigenous Peoples in International and Comparative Law**

Program Directors: Kirsty Gover and Mark McMillan

## **International Criminal Justice**

Program Director: Peter Rush

## **International Environmental Law**

Program Director: Jacqueline Peel

## **International Human Rights Law**

Program Directors: John Tobin and Dianne Otto

## **International Investment Law**

Program Director: Jürgen Kurtz

## **International Refugee Law**

Program Director: Michelle Foster

## **Jurisprudences of the South**

Program Director: Shaun McVeigh

## **Law and Development**

Program Director: Sundhya Pahuja

## **Law, Sound and the International**

Program Director: James Parker

## **Legal Biographies**

Program Directors: Ann Genovese, Shaun McVeigh and Peter Rush

# DIRECTORS and STAFF



**Professor Dianne Otto**

Director, IILAH

Program Co-Director,  
International Human Rights Law

Dianne Otto holds the Francine V. McNiff Chair in Human Rights Law. Her research interests include addressing gender, sexuality and race inequalities in the context of international human rights law, the UN Security Council's peacekeeping work, the technologies of global 'crisis governance', threats to economic, social and cultural rights, and the transformative potential of people's tribunals and other NGO initiatives. She sat on the Expert Panel at the Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict held in Phnom Penh in 2012 and the Judicial Council of the Women's Court: Feminist Justice held in Sarajevo in 2015. Recent publications include 'Feminist Approaches to International Law' in Florian Hoffman and Anne Orford (eds), *Oxford Handbook of International Legal Theory* (2016); 'Queering Gender [Identity] in International Law' in *Nordic Journal of Human Rights* (2015); *Rethinking Peacekeeping, Gender Equality and Collective Security* (co-edited with Gina Heathcote 2014); and, *Gender Issues and Human Rights* (three edited volumes, Edward Elgar 2013). Dianne had the honour of being included in the Ai Weiwei artwork honouring Australian human rights advocates, which he created for the Andy Warhol/Ai Weiwei exhibition at the National Gallery Victoria 2015-2016.



**Professor Anne Orford**

Director Emeritus, IILAH

Anne Orford is Redmond Barry Distinguished Professor and Michael D Kirby Chair of International Law at Melbourne Law School and was the founding Director of the Institute for International Law and the Humanities. Anne has been awarded an ARC Kathleen Fitzpatrick Laureate Fellowship, and from 2016 will direct the [Laureate Program in International Law](#) at Melbourne Law School. She holds the Raoul Wallenberg Visiting Chair in International Human Rights and Humanitarian Law at Lund University, and has held numerous other visiting positions, including the Hedda Andersson Visiting Research Chair at Lund University, Visiting Professor at the Sorbonne Law School, Torgny Segerstedt Visiting Professor at the University of Gothenburg, and Senior Emile Noël Research Fellow at NYU Law School. She is a past President of the Australian and New Zealand Society of International Law, and has been awarded honorary doctorates of laws by Lund University and the University of Gothenburg, and the 2013 Woodward Medal for Excellence in Humanities and Social Sciences by the University of Melbourne. She will be awarded an honorary doctorate of laws by the University of Helsinki in May 2017. Anne's publications include *International Authority and the Responsibility to Protect* (Cambridge University Press 2011), *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge University Press 2003), the edited collection *International Law and its Others* (Cambridge University Press 2006), and, as co-editor, *The Oxford Handbook of the Theory of International Law* (Oxford University Press 2016). Her scholarship combines study of the historical and theoretical foundations of international law, analysis of developments in international legal doctrines and practice, and an engagement with central debates and concepts in related fields, in order to provide a clearer understanding of the role of international law in contemporary politics.



# Program Directors

**Professor Michelle Foster**  
Program Director, International  
Refugee Law



Michelle Foster is Associate Dean (Research) 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 LLM and SJD degrees from the University of Michigan Law School, where she was a Michigan Grotius Fellow. She also holds an LLB and BComm (Hons 1 and the University Medal) from the University of New South Wales. Prior to her graduate studies she worked for the Commonwealth Attorney-General's Department, as Research Director for the Hon AM Gleeson AC (then Chief Justice of NSW) and Legal Research Officer in the Chambers of the NSW Solicitor-General and Crown Advocate. 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 United Kingdom, Australia and New Zealand. Her first book, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*, was published by Cambridge University Press in 2007, and has been widely and favourably reviewed. Michelle is co-author, with James Hathaway, of *The Law of Refugee Status*, Second Edition, published by CUP in 2014. Since joining Melbourne Law School in 2005, Michelle has developed a new curriculum in Refugee Law in both the LLB and JD degrees. She has conducted training workshops for the New Zealand Refugee Status Appeals Authority and the Australian Refugee Review Tribunal, and has been engaged as a consultant by the United Nations High Commissioner for Refugees. Michelle is an Advisory Board Member of the Melbourne Journal of International Law, an Associate Member of the International Association of Refugee Law Judges and a Board member of AMES (<http://www.ames.net.au/>).

**Associate Professor Ann Genovese**  
Program Co-Director, Australian Legal  
Histories



Ann Genovese has, for over twenty years, in a variety of projects been researching and writing on the relationships between jurisprudence and historiography. This work addresses the epistemological resonance and dissonance between Law and History as disciplines and practices; the nature of legal archives and the responsibilities of custodians and writers towards them; and the sources, forms and techniques necessary to show how Australian people have lived with their law, since 1950. Ann has collaborated with leading scholars from law, history, feminist theory and indigenous studies, as well as with members of the judiciary and profession. She has been the successful recipient of ARC funding on several projects, most recently *The Court as Archive* (with Kim Rubenstein at ANU and Trish Luker at UTS). Ann's publications include: *Rights and Redemption* (UNSWP, 2008), (with Ann Curthoys and Alex Reilly), which has been widely reviewed, is included in many courses across disciplines, and has been cited by the High Court in *Northern Territory of Australia v Arnhem Land Aboriginal Land Trust* [2008] HCA 29 (30 July 2008); *Sovereignty: Frontiers of Possibility* (with Julie Evans, Patrick Wolfe, and Alexander Reilly) (UHP, 2013), and is the editor of two special editions of *Griffith Law Review* (2014, 2015) commemorating the thirtieth anniversaries of the *Koowarta v Bjelke Petersen* and *The Commonwealth v Tasmania*. She is an Advisory Board Member of University of Melbourne Archives; and a member of the editorial board of *Australian Feminist Law Journal*. She has been a Visiting Research fellow at the Centre for Public Law and Public Policy, University of Adelaide Law School; the Humanities Research Centre, ANU; Kent Law School. She is an Adjunct Professor at the UTS Faculty of Law.



**Associate Professor Kirsty Gover**  
Program Co-Director, Indigenous  
Peoples in International and  
Comparative Law

Kirsty Gover was appointed to the faculty in 2009. Her research and publications address the law, policy and political theory of indigenous rights, institutions and jurisdiction. 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 and international law. Dr. Gover is the author of *Tribal Constitutionalism: States, Tribes and the Governance of Membership* (Oxford University Press 2010). She is currently working on a book entitled: *When Tribalism meets Liberalism: Political Theory and International Law* (Oxford University Press, 2014), examining the ways in which indigenous self-governance influences the development of international law and international legal theory by altering the behaviours of states. Dr Gover is a graduate of New York University (NYU) JSD Doctoral Program, where she was an Institute for International Law and Justice (IJIL) Graduate Scholar and New Zealand Top Achiever Doctoral Fellow. She is Co-Director (with Mark McMillan) of Melbourne Law School's Indigenous Peoples in International and Comparative Law Research Program, and Chair of the Staff Equity and Diversity Committee.



**Dr Tanya Josev**  
Program Co-Director, Australian Legal  
Histories

Tanya Josev researches in modern Australian and American legal and political history, with a current interest in the origins and evolution of the binary understanding of the judicial role as involving 'activism' and 'restraint' across various common law jurisdictions. Tanya's doctoral thesis in law and political history concerned the intellectual and political history of the concept of 'judicial activism' in the United States and Australia. The thesis was awarded the university's Dennis-Wettenhall Prize for the best thesis in Australian history in 2015. Her book on the topic will be published by The Federation Press in 2017. Tanya has previously worked as a commercial litigation lawyers at Allens and as an associate to Justice Alan Goldberg AO of the Federal Court of Australia. In 2009, she was appointed one of the Law School's inaugural PhD Teaching Fellows. In 2010-11, she was based at New York University's School of Law through her appointment as a Hauser Global Fellow. Her research has been supported by scholarships from the Australian Federation of Graduate Women, the Alma Hansen Bequest, the Hauser Global program at NYU, and various other prizes.

**Professor Jürgen Kurtz**  
Program Director, International  
Investment Law



Jürgen Kurtz is Director of International Economic Law Studies at Melbourne Law School. 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 book *The WTO and International Investment Law: Converging Systems* will be published by Cambridge University Press in 2016. 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 Noel Fellow), at the University of Michigan Law School (as Grotius Fellow), the Academy of International Law in The Hague and the European University Institute (as Fernand Braudel Senior Fellow) in Florence. He is also a Director of Study at the Academy of International Trade and Investment Law based in Macau and Shenzhen and organized by the Institute of European Studies. In recent years, Jürgen has joined the Global Faculties of the Universidade Catolica in Portugal, the Centre for Transnational Legal Studies in London, Bocconi University in Milan, the University of Barcelona in Spain and the Singapore International Arbitration Academy at the National University of Singapore. Jürgen has acted as a party-nominated arbitrator in ICSID proceedings and as expert consultant to the World Bank, the European Union, the ASEAN Secretariat, UNDP and UNCTAD. He currently serves on the Executive Committee of the Society of International Economic Law and the editorial boards of the Journal of International Dispute Settlement and the Journal of World Investment and Trade.

**Associate Professor Shaun McVeigh**  
Program Director, Jurisprudences of  
the South



Shaun McVeigh joined the law school at Melbourne University 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 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 legal inheritance of Australia and Britain.





**Associate Professor Mark McMillan**  
Program Co-Director, Indigenous  
Peoples in International and  
Comparative Law Nation Building  
Research Team

Mark McMillan joined the faculty of Melbourne Law School in 2011. He is a Wiradjuri man from Trangie, NSW. He was named National NAIDOC Scholar of the year for 2013. His research interests are in the area of human rights and, in particular, the expression and fulfilment of those rights for Indigenous Australians. Mark's current research projects include, with the ARC: Chief Investigator on ARC Linkage Grant: 'Indigenous Nationhood in the Absence of Recognition: Self-Governance Insights and Strategies from Three Aboriginal Communities'; Chief Investigator on ARC Discovery Grant: 'Resistance, Recognition and Reconciliation in Australia – lessons from South Africa and Northern Ireland'; Chief Investigator and Node Leader on ARC Special Initiative Grant: "National Indigenous Research and Knowledge Network" (see website at NIRAKN [www.nirakn.edu.au](http://www.nirakn.edu.au)); and Chief Investigator on ARC Linkage Grant: 'Minutes of Evidence: Promoting New and Collaborative Ways of Understanding Australia's Past Engaging with Structural Justice' (see website at [www.minutesofevidence.com.au](http://www.minutesofevidence.com.au)). With the University of Melbourne: Melbourne School of Government Research Cluster Grant: 'Indigenous Nation Building: Theory; Practice and Emergence in Australia's Public Policy Discourse'; Melbourne Social Equity Institute Grant: 'Strengthening the Victorian Aboriginal Community's Response to Methamphetamine Use'; and Melbourne Social Equity Institute Grant: 'Sharing this Place: A Systematic Review of Three Faculties within the University of Melbourne to Identify and Establish their Opportunities for Engagement with Future and Current Indigenous Australian Students'.



**Professor Sundhya Pahuja**  
Program Director, Law and  
Development

Sundhya Pahuja's research focuses on the history, theory and practice of international law in both its political and economic dimensions. She has a particular interest in international law and the relationship between North and South, and the practice, and praxis, of development and international law. Sundhya has been awarded the American Society of International Law Certificate of Merit (2012), the Woodward Medal for Excellence in the Humanities and Social Sciences (2014) and a Fulbright Senior Scholar award which she will take up in 2016 at the Institute for Global Law and Policy at Harvard Law School. From 2012 – 2015, Sundhya concurrently held a Research Chair in Law at SOAS, University of London, and in 2014, served as Director of Studies in Public International Law at the Hague Academy of International Law. She has held visiting appointments at the LSE, NYU and UBC, currently serves as core faculty at the Harvard Law School Institute for Global Law and Policy Workshop, as Affiliate Faculty of the European Collaborative Doctoral Programme in Globalisation and Legal Theory, and holds Visiting Chairs at Birkbeck and SOAS.

Sundhya's published works include the book *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011), as well as the edited collections, *Reading Modern Law: Critical Methodologies and Sovereign Formations* (Routledge, 2012) (co-edited with Ruth Buchanan and Stewart Motha), and *Events: The Force of International Law* (Routledge, 2011) (co-edited with Fleur Johns and Richard Joyce). Sundhya is currently writing a book on *International Development* with Ruth Buchanan and Luis Eslava as part of the Routledge-

Cavendish *Critical Approaches to Law* series. Her current projects also include an Australian Research Council funded project on International Law and the Cold War, with Gerry Simpson and Matthew Craven, and a large project on the history of the corporation in international law from the early modern period to the present day.

**Dr James Parker**  
Program Director, Law, Sound and the  
International



James Parker is a Senior Lecturer with Melbourne Law School. Prior to joining the faculty James completed his BA in Jurisprudence at University College, Oxford, an LLM by research at McGill University, and a PhD at the Melbourne Law School. His research focuses on the relations between law and sound, with a particular emphasis on international criminal law and the law of war. He is currently a junior faculty member at the Harvard Law School Institute for Global Law and Policy Workshop and has previously taught at the University of Wollongong, the University of Technology Sydney and Macquarie University as well as on the Law School's Masters program. James' book *Acoustic Jurisprudence: Listening to the Trial of Simon Bikindi* was published by Oxford University Press in 2015. The book explores the trial of Simon Bikindi, who was accused by the International Criminal Tribunal for Rwanda of inciting genocide with his songs. The book develops two main threads: one substantive, the other methodological. Substantively, it is the first detailed study of a trial of considerable legal, historical and musicological importance, both to Rwandans and to the wider international community. Methodologically, the book examines a dimension of legal thought and practice that is scarcely ever remarked upon. Sound is a condition of the administration of justice, and yet as a community of jurists we have become deaf to law and to the problem of the acoustic. The book argues therefore for a specifically *acoustic* jurisprudence, an orientation towards law and the practice of judgment attuned to questions of sound and listening. James' most recent project *The Jurisprudence of Sonic Warfare* - for which he received an Early Career Research Grant (2015) - explores the weaponisation of sound across three main sites: the battlefield, the torture chamber and the city.

**Professor Jacqueline Peel**  
Program Director, International  
Environmental Law



Jacqueline Peel is an expert in the field of environmental and climate change law. Her scholarship on these topics encompasses international, transnational and national dimensions, as well as interdisciplinary aspects of the law/science relationship in the environmental field. Professor Peel is the author or co-author of five books and numerous articles on these topics. She has been an active contributor to public policy formulation on climate change and environmental issues at the national and international level through her work on bodies such as the ILA Committee on Legal Principles Relating to Climate Change. Professor Peel's research has attracted funding from various organisations including the Australian Research Council, VCCCAR and the United States Studies Centre. She has also been the recipient of prestigious awards such as a Fulbright Scholarship and NYU Hauser Scholarship.

She holds a Master of Laws from New York University 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 Noel Fellow. She has published numerous articles and several books on these topics, including *Australian Climate Law in a Global Context* (CUP, Melbourne, 2013 with A. Zahar and L. Godden); *Principles of International Environmental Law* (3rd ed, CUP, 2012, with P. Sands); *Environmental Law: Scientific, Policy and Regulatory Dimensions* (OUP, 2010, with L. Godden); *Science and Risk Regulation in International Law* (CUP, 2010) and *The Precautionary Principle in Practice* (Federation Press, 2005).



**Associate Professor Peter Rush**  
Program Director, International  
Criminal Justice

Peter Rush came to the Law Faculty at the University of Melbourne in 1999. He has been a youthworker, an artist, a filmmaker and a scholar. Since 1988, he has taught in Law Faculties and Criminology Departments in Australia and in England. Courses taught have included criminal law, jurisprudence, legal discourse, gender and law, evidence, legal history and legal method, law and the body, law and criminal justice. In 2004/2005, he was a Karl Loewenstein Fellow in Political Science at Amherst College (USA). He is the author of several books on criminal law and edited collections on jurisprudence and poststructuralist legal theory. 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*. Additionally, he has been invited to present papers and lectures at institutions in the United States and Canada, such as Amherst College, Carleton University, and New York University. In Australia, 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. He contributes to community and professional debate concerning law reform, particularly in relation to both the law of sexual offences and the criminal law of HIV transmission. In 2000, he made a short documentary film concerning justice, aesthetics and colonialism in the city of Melbourne. His teaching and research interests include: criminal law (australian, comparative and international); jurisprudence and the humanities; international criminal justice; trauma and transitional justice.



**Professor John Tobin**  
Program Co-Director, International  
Human Rights Law

John Tobin 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 also coordinates the legal internship subject across the JD and Masters programs and coordinates the MLS Human Rights Alumni Network. 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 in the Law School at New York University. In 2011 he was the Senior Scholar in Residence at the Center for Human Rights and Global Justice at NYU Law School.



John is currently working on an ARC Discovery Grant with Professor Philip Alston from NYU titled 'Children's Rights: From Theory to Practice' which will produce a comprehensive commentary on the Convention on the Rights of the Child. He has also published numerous reports and articles on human rights especially children's rights. His book, *The Right to Health in International Law*, was published by Oxford University Press in January 2012. 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, Law Reform Commissions, the Law Institute of Victoria, Judicial College of Victoria, the Victorian Equal Opportunity Commission, NGOs, statutory bodies, Government Departments and community groups. He is an Advisory Board member to 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. Prior to becoming an academic John worked as a commercial lawyer, legal aid lawyer with Victoria Legal Aid and was a legal officer with the Department of Justice.

**Associate Professor Margaret Young**  
Program Director, Fragmentation and  
Regime Interaction in International  
Law



Margaret A Young researches and teaches in the fields of public international law, international trade law, climate change law and the law of the sea. She is the author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (Cambridge University Press, 2011), which was awarded the International Union for Conservation of Nature (IUCN) Academy of Environmental Law Junior Scholar Prize in 2012; and the editor of *Regime Interaction in International Law: Facing Fragmentation* (Cambridge University Press, 2012), which includes contributions from leading international, comparative and constitutional law scholars. A former Gates Scholar, she is currently working on a book on forests and climate change.

Margaret Young joined Melbourne Law School in 2009. She 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) and the United Nations International Law Commission, is a former associate to the Chief Justice of the Federal Court of Australia, and has practised as a solicitor at a major Australian national law firm. Margaret holds a PhD and an LLM from the University of Cambridge and a BA/LLB (Hons) from the University of Melbourne and has been a Visiting Scholar at Columbia Law School, and serves as an expert for the E15 Initiative convened by the International Centre for Trade and Sustainable Development and the World Economic Forum.

## Research Fellow



**Dr Rose Parfitt**

Mackenzie Postdoctoral Research Fellow

Rose Parfitt joined IILAH in June 2013 after two years as Assistant Professor of International Law at the American University in Cairo. Rose's research concerns the relationship between theory and history in the study of international law, international relations and the history of political thought. She received her doctorate in 2011 from the SOAS School of Law (University of London). She is currently writing, or has recently published, on subjects including fascist colonialism; the Bandung Conference of 1955; the relationship between time and space in the construction of international legal subjectivity; the Futurist Giacomo Balla's 'anti-neutral suit'; the politics of international legal historiography; theories of state recognition and international personality; and the impact of the concept of 'earned sovereignty' on the right of peoples to self-determination, among other topics. Rose is currently working on a book based on her doctoral thesis. Its provisional title is *International Personality on the Periphery: The 'Abyssinia Crisis' and International Law*.

## Staff



**Ms Vesna Stefanovski**

Program Manager ARC Laureate Fellowship

Research Centres Coordinator

IILAH Administrator

Vesna Stefanovski has been with the University of Melbourne since 2007 as the IILAH administrator. She manages the planning and implementation of a variety of events from seminars and reading groups to large public lectures, conferences, workshops and symposia. She liaises with numerous Melbourne Law School visitors from leading Australian and international academic, government and non-government institutions and facilitates their engagement with academics and the research life of Melbourne Law School. Vesna enthusiastically encourages a sense of scholarly community for all Graduate Research Students who research within international law and the humanities. She works closely with IILAH research programme directors and members. Vesna is also involved in maintaining the IILAH web page, as well as designing IILAH publications and flyers. She took up a new position as Program Manager of Anne Orford's Laureate Program from 1 December 2015.

# MEMBERS

**Dr Anna Arstein-Kerslake**



Anna Arstein-Kerslake is the Director of the Disability Human Rights Clinic at Melbourne Law School and the Academic Convenor of the Disability Research Initiative (DRI) at the University of Melbourne (UoM). Her research focuses on the human rights of persons with disabilities, with a particular focus on the right to equal recognition before the law. She is currently undertaking research on unfitness to plead law and support for people with cognitive disability charged with a crime. Prior to joining UoM, she held a Marie Curie Research Fellowship at the Centre for Disability Law and Policy (CDLP) at (NUIG). Her work at the CDLP focused on research and global advocacy on the right to legal capacity. For example, she provided support to the United Nations Committee on the Rights of Persons with Disabilities on the general comment on the right to equal recognition before the law. She has participated widely in consultation with governments and other bodies, including: the United Kingdom Ministry of Justice, the Irish Ministry of Justice, Amnesty Ireland, Interights, the Mental Disability Advocacy Center, among others.

**Dr Jennifer Beard**



Jennifer Beard is currently involved in research on the role of the not-for-profit sector in law and development and on migration law and policy in the Asia Pacific region. Jennifer was a member of the Migration Review Tribunal and the Refugee Review Tribunal from 2009 to 2014. In her research, Jennifer takes particular interest in the relationship between law and society and law and development. She is particularly interested in theories of the State and the role of law in the exercise of political power. Jennifer's five-year appointment to the Refugee and Migration Review Tribunals have strengthened her interest in due processes, accountability and justice in public and private governance across all levels of society. Her publications include, a textbook co-edited with Professor Andrew Mitchell, *International Law: In Principle* (Thomson, 2009) and *The Political Economy of Desire: International Law, Development and the Nation State* (Cavendish-Routledge, 2007). Jennifer has been a visiting fellow at the University of British Columbia Law School where she taught a PhD Seminar on Legal Theory and Interdisciplinary Approaches to Law; a teacher of International Law, Trade and Development in the LLM Programme in the Department of International Law and Human Rights at the United Nations University for Peace in Costa Rica; and a visiting fellow at the University of Lund Law School.



**Professor Alison Duxbury**

Alison Duxbury is Associate Dean (JD) and an Associate Director of the Asia Pacific Centre for Military Law, a collaborative initiative between Melbourne Law School and the Australian Defence Force Legal Service. She is also a member of the International Advisory Commission of the Commonwealth Human Rights Initiative, the Board of Directors of the International Society for Military Law and the Law of War and the Australian Red Cross International Humanitarian Law Committee (Victorian Division). Alison's major research interests are in the fields of international law, international institutional law and human rights law. Her book, *The Participation of States in International Organisations: The Role of Human Rights and Democracy* was published by Cambridge University Press in 2011. She is currently co-editing a book on military justice (with Associate Professor Matthew Groves) and is a member of the ASEAN Integration through Law Project, coordinated through the National University of Singapore (working on ASEAN and human rights with Dr Tan Hsien-Li).



**Professor Raimond Gaita**

Raimond Gaita is a Professorial Fellow at Melbourne Law School and the Faculty of Arts at the University of Melbourne and Emeritus Professor of Moral Philosophy at King's College London. Rai's books, widely translated, and among many include, the award winning *Romulus, My Father*, nominated by Australian Financial Review as one of the decades best books, also made into a feature film starring Eric Bana. In 2012 Rai began research for a new book for which he says, "if anything I wrote could be deserved to be called that, will be my magnum opus". The book would develop in one direction via engagement with psychology and evolutionary theory, an original philosophy of the place of human beings in nature, and in another, via political theory and jurisprudence, an original philosophy of politics and law. Rai is working on several publications, an article on genocide and evil for a series, *The History of Evil*, an article on punishment and the moral emotions in the *Criminal Law and Philosophy* journal and a collection of Rai's essays entitled *Dignity*.



### Professor Lee Godden



Lee Godden holds a research and teaching position at Melbourne Law School. 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. Lee's 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. Lee was appointed to the Australian Law Reform Commission as a part-time Commissioner in July 2013, in charge of the Inquiry into the *Native Title Act 1993*.

### Associate Professor Wendy Larcombe



Wendy Larcombe teaches Legal Theory and Legal Method and Reasoning in the JD program. In addition, Wendy conducts research in the fields of law, gender and sexuality, and legal education with a particular research interest in theories of subjectivity, autonomy and consent and their application in a range of regulatory and institutional contexts. She has published widely on sexual violence and rape law reform in respected journals such as *Violence Against Women*, *Feminist Legal Studies* and the *Australian Feminist Law Journal*. Her current research projects investigate: the importance to the progressive criminalisation of marital rape of changes in the social role of marriage; evolving jurisprudence on 'reasonable grounds' for a belief in consent in rape law; alternative justice options for sexual assault survivors; and the role of educational institutions in supporting students' mental health.



**Ms Cosima McRae**

Cosima McRae joined Melbourne Law School's Institute for International Law and the Humanities as Research Fellow on the Indigenous Nation Building Project in January 2014. Previously, Cosi was the research assistant for the ARC Discovery Project Financial Literacy and Financial Wellbeing and published work on behavioural economics in law reforms to combat predatory targeting and financial exclusion of vulnerable consumers. Cosi currently works with a collaborative research team that partners with three Indigenous nations: Ngarrindjeri, Gunditjmara and Wiradjuri. Cosi is writing on how thinking, writing and acting as a nation challenges current Australian legal concepts of sovereignty; unsettling and resetting the institutional relationships between law schools and universities and Indigenous peoples; and intergovernmental relationships between Indigenous nations and settler governments in Australia. Cosi is committed to the principles of her research team of full and equal partnership with Indigenous nations that advance their rights as sovereign peoples.



**Professor Andrew Mitchell**

Andrew Mitchell's major area of interest is international economic law, in particular the law of the World Trade Organization (WTO). He has worked in the Trade Directorate of the Organisation for Economic Co-operation and Development (OECD), the Intellectual Property Division of the WTO, and the Legal Department of the International Monetary Fund (IMF). Andrew has published in numerous journals and books on areas including WTO law, international law, international humanitarian law and constitutional law. In addition to his Melbourne teaching, Andrew has taught WTO law to undergraduate and postgraduate students at Bond University, Monash University, and the University of Western Ontario, and to Australian and overseas government officials at the Australian Department of Foreign Affairs and Trade and the International Development Law Organization respectively. Andrew also consults for the private sector and international organisations. He has been engaged by Telstra for a research project on trade and telecommunications issues and by the World Health Organization to advise on issues concerning the Framework Convention on Tobacco Control. 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.

**Ms Paula O'Brien**



Paula O'Brien is a Senior Lecturer at Melbourne Law School. Paula has a LLM from the University of Cambridge, specialising in international law. Paula researches in the area of health law, including international and comparative law perspectives in her work. Her current doctoral research is on alcohol regulation, including the labelling, advertising, pricing and licensing of alcohol as a global commodity. She regularly makes written and oral submissions to government inquiries and processes regarding the regulation of alcohol. Paula has recently published on the international right to health and the phenomenon of privatisation, as well as the global shortage of health workers and its implications for the fulfilment of the right to health. She is currently involved in an empirical research project on social justice and temporary migrant workers in Australia, focusing on issues related to the accessibility of health care for migrant workers and their families.

**Associate Professor Bruce 'Ossie' Oswald CSC**



Bruce Oswald'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. Ossie teaches a range of post-graduate subjects at Melbourne Law School, including 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). Ossie is the Director of the Asia Pacific Centre for Military Law at Melbourne Law School, as of 2014.



**Professor Gerry Simpson**

Gerry Simpson held the Kenneth Bailey Chair of Law at Melbourne Law School until the end of 2015. From 2010 to 2013 he was Director of the Asia Pacific Centre for Military Law at Melbourne Law School. Gerry is a Visiting Professor of Public International Law at the London School of Economics, where he will take up a Chair in International Law in 2016. Gerry is the author of *Great Powers and Outlaw States* (Cambridge, 2004) and *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity 2007). He is currently working on a book about the literary life of international law and editing another *Who's Afraid of International Law* (with Rai Gaita) forthcoming in 2016.



**Associate Professor Joo-Cheong Tham**

Joo-Cheong Tham's key research areas are the regulation of non-standard work and political finance law. Joo-Cheong has also undertaken considerable research into counter-terrorism laws. He has published extensively and written more than 30 opinion pieces. Joo-Cheong regularly speaks at public forums and has presented lectures at the Commonwealth and Victorian Parliaments. He has also given evidence to parliamentary inquiries into terrorism laws and political finance law. Joo-Cheong has published *Money and Politics: The Democracy We Can't Afford* (UNSW Press, 2010). In 2011 he co-edited *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). Together with Graeme Orr, University of Queensland and Brian Costar, he is leading an Australian Research Council project, *Dollars and Democracy: The Dynamics of Australian Political Finance and its Regulation* (2010-2013).



### Professor Tania Voon



Tania Voon is a former Legal Officer of the Appellate Body Secretariat of the World Trade Organization (WTO) and has previously practised law with Mallesons Stephen Jaques and the Australian Government Solicitor. In addition to her current role, Tania has taught law at Georgetown University, the University of Western Ontario, the Australian National University, Monash University, and Bond University. Tania undertook her Master of Laws at Harvard Law School and her PhD in Law at the University of Cambridge. Tania has published widely in the areas of public international law and international economic law. She is the author of *Cultural Products and the World Trade Organization* (Cambridge: Cambridge University Press, 2007), Editor of *Trade Liberalisation and International Co-operation: A Legal Analysis of the Trans-Pacific Partnership Agreement* (Edward Elgar, UK, 2013), and a member of the Indicative List of Governmental and Non-Governmental Panelists for resolving WTO disputes and the Roster of Panellists to assist in the resolution of trade disputes between parties to the Energy Charter Treaty. She is also a member of the Editorial Board of the *Journal of International Economic Law*, Editor (International Economic Law) of *ASIL Insights* and Co-Editor of the Oxford University Press Series on International Economic Law. Tania has provided expert advice and training to entities such as the Australian Department of Foreign Affairs and Trade, the WTO, the World Health Organization, the United Nations Conference on Trade and Development, Telstra, and the McCabe Centre for Law and Cancer. In 2014 Tania was Senior Emile Noël Fellow at the Jean Monnet Center for International and Regional Economic Law & Justice at New York University School of Law.

### Dr Amanda Whiting



Amanda Whiting joined Melbourne Law School as a Lecturer in 2004. She has been a member of the Asian Law Centre since 1999. She taught the following subjects in the (previous) LLB: Land, Race and Law in Southeast Asia, Law and Society in Southeast Asia, Law and Civil Society in Asia, History and Philosophy of Law, Property and Principles of Public Law. She has also taught in the Melbourne Law Masters Programme: Islamic Law and Politics in Asia and Citizens and Groups and States in Asia. Her 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) which was partly undertaken at Universitas Kristen Satya Wacana, Indonesia.

# GRADUATE RESEARCH STUDENTS

## Current Graduate Research Students

### **Florence Adong**

Thesis: *The Responsibility to Prevent in International Law and Politics: Assessing the Responsibility of International Financial Institutions to prevent Conflicts*

Supervisors: Anne Orford and Bruce Oswald

By analysing the responsibility of the international community to prevent conflicts and mass atrocities through early intervention, this thesis places the responsibility of International Financial Institutions ('IFIs') within the parameters of international law, and shows the complexities and ambiguities that exist in the international legal framework. The research uses examples from Africa to examine the questions of international authority, jurisdiction and the restraint of discretion that arise from the responsibility to protect concept and go to the heart of international law and politics. This examination leads to the question of what consequences the renewed emphasis on responsibility to prevent in terms of economic and development assistance has for activities of IFIs. This thesis concludes that the emphasis of the responsibility to protect concept on prevention through early intervention in terms of economic and development assistance, is valuable in resolving crisis, if it is undertaken with genuine intentions and precaution as to the principles of law, and giving attention to much stronger and viable aspects of intervention that gives the state the tools to resolve the conflict.

### **Tom Andrews**

Thesis: *A Jurisprudence of Procedure*

Supervisors: Peter Rush and Shaun McVeigh

This thesis develops a legal theory of criminal procedure as an example of the becoming of law and the law of its becomings. My work offers a critical account of contemporary transformations in criminal law. This thesis is concerned with how criminal law is authored, authorised and comes to express modes of authority as it is attached to world and event. If jurisprudence is traditionally concerned with the static categories of law - texts, concepts, definitions – then this thesis engages a tradition of dynamism and movement in order to reorient questions of technology, mediation and image to account for criminal procedure within the ambient social, political and economic situation broadly called neoliberalism.

### **Meg Brodie**

Thesis: *Law, Change and Socialisation: Constructing An Account of the Role of National Human Rights Institutions in Addressing Systemic Violations - A Case Study of National Inquiries Conducted by NHRIs Across the Asia-Pacific Region?*

Supervisors: Dianne Otto and Brian Burdekin (external)

The thesis constructs an account of how NHRIs contribute to the socialisation of international human rights norms. The change created by national inquiries into systemic human rights violations is examined by drawing on empirical research with Asia-Pacific NHRIs and analysis of other texts. Four core characteristics of the national inquiry strategy which facilitate the socialisation process are identified – the legislative framework, the relational dynamic between NHRIs and other actors, the public nature of the process and its orientation towards change.

## **Bernice Carrick**

Thesis: *The Stratification of Equality Protections by Migration Status in Australia, Canada and the United Kingdom?* Supervisors: Jenny Beard and Beth Gaze

Worldwide 232 million people, or 3.2 per cent of the world's population, live outside their country of nationality. Although, in general, international human rights norms apply to such people, in practice, they are heavily and increasingly impacted by the recognition of state sovereignty over migration. My research aims to understand the rationales behind the distribution of equality and non-discrimination protections among residents of varying migration statuses in jurisdictions that employ parliamentary models of human rights protection. In the process it examines how equality and citizenship are understood in the law of each place, and investigates how jurisdictional disputes between the migration and equality law spheres are managed. This lays the ground for re-conceptualising the relationship between those spheres, with a view to ensuring the ongoing relevance and effectiveness of equality protections in the face of migration stratification.

## **Emily Cheesman**

Thesis: *Children's rights based approaches to policies, services and programmes for Filipino street children* Supervisors: John Tobin and Helen Rhoades

Children's rights, particularly as articulated under the UN Convention on the Rights of the Child, have increasingly gained prominence in law and policy making in the Philippines. This has coincided with a shift in focus to a 'rights-based approach to development' or 'child rights programming' by international bodies and the broader development field. This research thesis considers how children's rights based approaches (RBAs) are conceived and applied by non-governmental organisations (NGOs) to service and design programmes for children colloquially known as 'street children' in Manila, Philippines. The research is framed through a detailed consideration of the legal, political, economic and cultural context within which NGOs operate, and investigates the factors that inhibit and facilitate the design and effective operation of RBAs.

## **Martin Clark**

Thesis: *The Jurisprudential Foundations of Recognition in International Law* Supervisors: Anne Orford and Kirsty Gover

Martin Clark holds honours degrees in law, history and philosophy from the University of Melbourne, and is a Research Fellow and tutor at Melbourne Law School. His MPhil examines the writings of jurists on the theory and practice of recognition of states and governments in international law. The thesis will trace the intellectual history of theories of recognition to critically evaluate how and why those theories have developed over the centuries, and the effect of that development on early to mid-twentieth century writings on international law. A nuanced history of the concept will then lay the ground for re-evaluating the questions and answers offered in current debates on recognition in international law.

## **Sara Dehm**

Thesis: *Ordering International Migration: Migrant Labour, Development and the Institutional Rationalities of Mobility* Supervisors: Sundhya Pahuja and Anne Orford

Sara's thesis offers a genealogy of the idea of 'migration and development' in international institutions. It traces the creation and rationalisation of the international jurisdiction to administer migration in the post-WWII period, exploring how the international supervision of human mobility has shaped the dynamic between the First and Third Worlds and become a technique for disciplining Third World states, populations and individual citizen-subjects. In particular, her thesis engages with intellectual histories on statehood, demography, human security and the juridification of human movement.

## **Treasa Dunworth**

Thesis: *The Resurrection of Human Security in Disarmament*

Supervisors: Tania Voon and Tim McCormack

The idea of human security - that people, not just states, should be at the centre of security discourse - has been gaining increasing traction in the last twenty years. Contemporary thinking in this area originated and developed mainly in the human rights area. This thesis will explore the evolution of the idea of “disarmament as human security” and critically assess its potential and pitfalls. The aim is to show that human security in disarmament is a much more powerful and profound idea than can be encapsulated in an incremental progression through different weapon-types, as currently witnessing. A genuine human security approach, taking human beings at the centre-point of analysis, would consider disarmament generally - all weapons - not weapons-types. The argument in this thesis is that this claim is not a new idea, but rather an idea that was strongly articulated in early disarmament efforts (1899 Peace Conference and beyond), but subsequently abandoned.

## **Debolina Dutta**

Thesis: *Sluts vs Saviours: The ‘Political Society’ of Sex Workers in India and the Political Economy of the Global Rescue Industry*

Supervisors: Shaun McVeigh and Ann Genovese

In India, since colonial times, the subject of sex work has been a traditional site for feminist debates on questions of women’s sexuality, equality and agency. The research in this thesis engages with non-lawyer Indian sex workers’ activism to show how they collectively think with, act with, and live with law, and by doing so, how they produce knowledge about law and sex work in India. The argument is that Indian sex workers’ activism is a ‘feminist praxis’; and when addressed to law, is in itself a feminist jurisprudence. The thesis raises questions about the politics and modes of production of feminist jurisprudence in India, aiming to understand methodology as central to theory production. The aim is to enable an academic-activist exchange of knowledge, as a way of ‘co-producing’ feminist jurisprudence in India. This is distinct from an ethnographic production of feminist jurisprudence, through a researcher-researched encounter.

## **Carolyn Graydon**

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

Supervisors: Tim Lindsey and 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 University in the subject Law and Society in Southeast Asia.

## **Ingrid Landau**

Thesis: *Risks, Rights and Regulatory Efficacy: Can Human Rights Due Diligence Help Protect and Promote Rights at Work?*

Supervisors: Professor John Howe and Professor John Tobin

Ingrid’s research explores the conceptual and practical implications of human rights due diligence for the promotion and protection of workers’ rights. In doing so, the research aims to contribute to an understanding of how best to design and implement adequate human rights due diligence, and regulatory initiatives to support and promote such processes, with respect to workers’ rights. It is also hoped that the research will contribute more broadly to understanding the nature, limits and implications of ongoing efforts to frame workers’ rights as human rights.



## **Tayechalem Moges**

Thesis: *Developing an Emancipatory Human Rights Approach to End the Practice of (girl) Early Marriage in Ethiopia*  
Supervisors: Dianne Otto and Beth Gaze

The practice of early marriage remains prevalent in Ethiopia despite having received attention, criticism and intervention from international and national human rights actors. The durability of traditional support for the practice has led to questions about the effectiveness of individualized international human rights law in Ethiopia's communitarian society. Moreover, child wives remain at the periphery of these efforts as their role has been largely limited to providing stories of victimization. Drawing upon postcolonial and feminist perspectives, this thesis explores the emancipatory potential of international human rights law to end the practice of early marriage in Ethiopia from the perspectives of former child wives.

## **Josh Paine**

Thesis: *The Contribution of International Courts and Tribunals to the Development of International Legal Meaning across Three Regimes*

Supervisors: Anne Orford and Margaret Young

This project aims to analyse the contribution of judgments of international courts and tribunals (ICTs) to the development of international legal meaning across three regimes, or distinct areas of international legal practice: investor-state arbitration, the 'generalist' world of interstate litigation in the International Court of Justice (ICJ) and regional human rights adjudication. It employs a rhetorical approach to international law, and is particularly interested in why interpretive claims are seen as persuasive or not in particular contexts. Accordingly, it places significant emphasis on the collective identities of the interpretive communities whose practices construct meaning. The aim is to combine an internal perspective that takes seriously interpretive arguments as understood by participants, with understanding of the broader sociological forces that shape and limit the possible outcomes of interpretive contestation in each regime. Such an analysis should improve understanding of the hermeneutics and (contested) identities of the three regimes, providing a stronger basis for assessing claims about their speciality or generality.

## **Ana Maria Palacio Valencia**

Thesis: *A Comparative Analysis into the Determinants of the Resilience and Evolutionary Capacity of Integration Efforts in Latin American Sub-Regionalism through the Lens of the Pacific Alliance Project*

Supervisors: Tania Voon and Andrew Mitchell

This research project will assist in considering the institutional, political and economic issues, under a legal context, that need to be addressed within the Pacific Alliance project to support in achieving the goals of deepening economic integration and fostering the relations with the Asia Pacific Region. This will be accomplished by considering historic, contextual and also global determinants that create the different challenges for its successful consolidation. The research does not intend to provide general rules to solve all the issues behind the complex situation of Latin American Integration, but will specifically develop the legal underpinnings that should support the institutional, political and economic settings that the Pacific Alliance requires to address in order to consolidate a long-term architecture. This research will be developed under a theoretical framework that although studies and compares this project to other projects (in the region and outside) it intends to assess its level of success by reference to the fulfilment of its actual goals rather than by the achievements of other regional projects. Comparative analysis will be an analytical tool guiding this study, but with the view to outline elements that need to be developed to comply with the aims set towards integration and regional cooperation.

**Connal Parsley**

Thesis: *Jurisprudence Without Law: Giorgio Agamben and the Juridical Tradition*

Supervisors: Peter Rush and Shaun McVeigh

His doctoral thesis extends his research interest in the relationship between visual culture and law, by conducting a jurisprudential reading of the Italian philosopher Giorgio Agamben. By exposing the significance of the category of the 'image' within both the juridical history of the legal person, and Agamben's revision of political ontology, the thesis aims to develop a new paradigm for understanding the relation between law, politics and theology in Agamben's work. In doing so, it develops an account of why Agamben's work potentially offers an exciting new path to contemporary jurisprudential thought.

**Laura Petersen**

Thesis: *Law and Aesthetics after the Holocaust: Gestures of Justice and Restitution*

Supervisors: Peter Rush and Shaun McVeigh

Laura Petersen is in the second year of her PhD at the Melbourne Law School at University of Melbourne. Her interdisciplinary research moves across visual art, fictional texts and jurisprudential memory to explore concepts of restitution. Basing her analysis in Germany after World War II, her project examines the legal, memorial and aesthetic processes involved in coming to terms with atrocity. Before returning to the University of Melbourne for her PhD study, Laura 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.

**Robi Rado**

Thesis: *Trading in People and Trading in Services: The Political Economy of Indians' International Labour Mobility, the Development Project and International Law*

Supervisors: Sundhya Pahuja and Jürgen Kurtz

International law increasingly governs whether, and the manner in which, people may move to other countries to work. This regulation is often justified on the basis of claims about the link between migration and the development project. Using a case study concerning workers from India, Robi's thesis will seek to develop a better understanding of the legal regimes governing international labour mobility, and of the relationship between those regimes and the development project. The thesis aims to elaborate the political economy of those regimes, and to unpack the assumptions underpinning, and interests driving, the expansion of international law and governance in this area.

**Robin Robinson**

Thesis: *A Question of Jurisdiction: The Recognition at Common Law of Australian Indigenous Peoples' Intra-group Rights and Interests under Communal Native Title*

Supervisors: Maureen Tehan and Kirsty Gover

This thesis explores how best to protect the native title rights and interests held by individual native title holders with multi-affiliations as members of sub-groups, the wider native title holding group and as citizens of the State. It considers the propositions that intra-group native title rights and interests are vulnerable for want of legal and institutional safeguards. Further, their vulnerability is compounded by particular judicial methodology relating to the principle of communal native title and the strict interpretation of the doctrine of continuity. It investigates reforms to the jurisdictional arrangements between the State and the community of native title holders regarding the resolution of intra-group disputes, drawing on jurisprudence from other common law countries and international human rights law, as a means to safeguard intra-group native title rights and interests.

## **Dudi Rulliadi**

Thesis: *Indonesian Public-Private Partnerships (PPPs): A Legal Study of Private Sector Participation in Infrastructure Development*

Supervisors: Anne Orford with Andrew Mitchell and Tim Lindsey

Taking Indonesia as a case study, Dudi's doctoral thesis examines how the evolution of Public-Private Partnerships (PPPs), from its western origins to today's implementation within the broader context of international development policies and national legal reforms, shapes the manner in which PPPs are implemented in the Third World states.

## **Oishik Sircar**

Thesis: *Assemblages of Affect: The Juridical Ordering of Collective Memory in 'New' India*

Supervisors: Dianne Otto and Sundhya Pahuja

This thesis studies one of the most litigated, mediatised and politically polarising events of mass religious atrocity in contemporary India – the 2002 anti-Muslim violence in the western Indian state of Gujarat – to understand the ways in which collective memories of violence and trauma, in a postcolonial, democratic, secular and developmental nation-state like India, are affectively assembled through encounters between public archives of the legal and the aesthetic. By analysing select cultural spaces and forms of memory production – criminal trials, feature and documentary films, literary and artistic works, and the everyday experiences of living lawfully reflected in the curation of the Museum of Resistance in Ahmedabad – the project argues that a 'jurisprudential-aesthetic' reading of how these 'assemblages of affect' remember/ re-describe/ re-count/ re-configure the event of atrocity, could render visible the roles secular law is called on to play by the nation-state, its 'citizens' and 'others', to make intelligible the event of mass violence, and order its aftermath.

## **Cait Storr**

Thesis: *End State: Nauru and the Construction of Territory in International Law*

Supervisors: Sundhya Pahuja and Gerry Simpson

The international community has known since 2001 that some island states risk losing their entire territory due to climate change. This thesis mounts a critical response to the legal question of whether a state can survive total loss of territory. Whilst much attention is paid in international law to territorial limits and borders, it is habitually assumed that the content of the concept of territory is both uniform and fixed. This thesis constructs a legal history of Nauru from German annexation in 1886 to the contemporary era to demonstrate that territory is neither a fixed nor uniform concept, but a mode of juridical abstraction underpinned by a contingent set of normative assumptions about the relationship of people to land to government.

## **Marc Trabsky**

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

Supervisors: Peter Rush and Shaun McVeigh

This thesis offers an institutional account of the dead in law. It questions how the dead dwell in the office of the coroner, but also what the significance is of thinking through law by means of the institutions of the dead. The case studies used for the purpose of this thesis include the local history of the office of the coroner and the legal form of the death mask.

## **Carlos Arturo Villagrán Sandoval**

Thesis: *Overcoming Central America's Paradoxes: On Constitutionalism, Free Trade Agreements and Regional Integration*

Supervisors: Cheryl Saunders and Jurgen Kurtz

The integration of Central-America has been a long constitutional aspiration since the fallout of the Central-American Federation in the XIX Century. Since then, various attempts on reunification have been sought, most unsuccessful. Yet, after WWII the Central American states embarked again on integration, spearheaded by the creation of a regional common market. Nevertheless, such enterprise was not accomplished due to the political conflict engulfing the region. After 1991, the integration scheme was rebooted; however, it has not lived up to its expectation, and now has been challenged by other regional enterprises, such as the DR-CAFTA and other FTA's. This thesis attempts to draw on lessons of other regional integration schemes, such as the EU and ASEAN, and, thus, develop a regional governance scheme by which Central-American states, and their citizens, may benefit from globalisation and trade liberalisation. A governance scheme by which international, regional and constitutional norms are at interplay and complement each other. Therefore this thesis embarks on the study of regional comparative integration schemes, constitutional and international law interaction and economic integration.

## **Kay Wilson**

Thesis: *Mental Health Law: Abolish or Reform?*

Supervisors: Dianne Otto and Bernadette McSherry

Mental health law permits the detention and treatment of people with mental illness without their consent. It has always been controversial and the subject of reform. However, recently critics, including international human rights bodies, have called for the abolition of mental health law on the grounds that it is discriminatory and unjustifiably deprives individuals of their liberty, legal decision-making capacity and bodily integrity. My thesis will take a normative and law-in-context approach to evaluating the justifications for mental health law and the arguments for and against its abolition, and present options for reform using a human rights conceptual framework.



# Completed Graduate Research Students in 2015

## Marie Aronsson

Thesis: *The Role of Covert Action in the Development of Jus ad Bellum*

Supervisors: Anne Orford and Kevin Jon Heller

The aim of this thesis is to illuminate the role that covert action plays in the formation of the law regulating the resort to force in international relations. In connecting theories of international custom formation with methodological debates on *jus ad bellum*, it argues that unacknowledged conduct plays a substantial, though often indirect, role in the development of the law.

## Maria Elander

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

Supervisors: Peter Rush and Dianne Otto

Maria 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 Extraordinary Chambers in the Courts of Cambodia (ECCC).

## Joseph Kikonyogo

Thesis: *Sub-Saharan Africa and the WTO Negotiations on Agriculture*

Supervisors: Tania Voon and Pip Nicholson

Joseph's thesis analyses the Doha Round of Negotiations on Agriculture, and explore the challenges sub-Saharan African Members face in multilateral trade negotiations. I also question the efficacy of the proposals that have been put forward to assist sub-Saharan African Members to integrate into the multilateral trading system. In the analysis, I examine the importance of the agriculture negotiations to sub-Saharan Africa; the demands of the sub-Saharan African Members under the negotiation pillars of market access, domestic support and export subsidies; and the capacity of sub-Saharan African Members to negotiate with other Members. The thesis concludes that sub-Saharan Africa will not achieve the development objective of the Doha Round.

## Eve Lester

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

Supervisor: Sundhya Pahuja and 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, the 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.

## **Liz Macpherson**

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

Supervisors: Maureen Tehan and 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 aim of this thesis is to suggest an improved legal mechanism for recognition of cultural and commercial indigenous water rights in Australia. The thesis will consider 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.

## **Sophie Rigney**

Thesis: *Fairness, Procedure and the Rights of the Accused in International Criminal Trials*

Supervisors: Tim McCormack and Peter Rush

This thesis examines the relationships between fairness, the rights of the accused, and procedure, in contemporary international criminal trials. Sophie argues that while fairness and rights are theoretically closely related, by examining the procedures of contemporary international criminal trials, we can witness a distancing between fairness and rights. This thesis ultimately calls for a renewed close association between fairness and the rights of the accused, particularly when considering and determining matters of procedure in international criminal trials.

# EVENTS and ENGAGEMENT

## Provocations Symposia

IILAH convenes an annual series of legal theory symposia called *Provocations* in order to further engage and foster innovative scholarship and critical thinking in international law and the humanities. The Provocations events provide a forum for provocative (re)thinking of the callings, passions and effects of international law. Participants are invited to consider the emancipatory possibilities and risks of contemporary international legal developments and the resulting ordering of relations of persons, places and events in the world.

### 14 - 15 December 2015: IILAH Provocations Symposium II

#### 'Queering International Law: Possibilities, Alliances, Complicities, Risks'

Convenor: Professor Dianne Otto (Francine V McNiff Chair in Human Rights)

Just as feminist and postcolonial critiques of international law have exposed some of the ways in which it can work to reinforce hierarchies of power and knowledge, so too can the critical insights of queer theory enrich our understanding of the conceptual and practical limits of the discipline. In today's crisis-ridden world, new ways of framing and applying international law are desperately needed. We need an international legal framework that can build solidarity rather than foster division, promote redistributive values rather than private enrichment, challenge the entrenched inequalities of the quotidian rather than normalizing and exploiting them, advance positive peace rather than militarism, and ensure environmental sustainability rather than degradation.

This two-day legal theory workshop, hosted by the Institute for International Law and the Humanities (IILAH) at Melbourne Law School, as part of its annual Provocations series, brought together new and established international and Australian scholars working with queer, feminist and postcolonial theories and practices, in international law and related disciplines, to share perspectives on the possibilities for pursuing emancipatory projects in and through international law, and examine the associated risks. The goal was to foster alliances and borrowings from across theoretical and disciplinary boundaries, while gaining a better understanding of the complicities and compromises that engagement with power, in the form of international law, may extract.

Symposium speakers included: Professor Doris Buss (Carleton University); Dr Bina Fernandez (University of Melbourne); Associate Professor Aeyal Gross (Tel-Aviv University); Dr Vanja Hamzic (SOAS); Assistant Professor Phillip Kastner (University of Western Australia); Mx Neo Sinxolo Musangi (British Institute Nairobi, Kenya); Professor Dianne Otto (Melbourne Law School); Ms Tasmin Phillipa Paige (University of Adelaide); Dr Rahul Rao (SOAS); Professor Nan Seuffert (Wollongong University); Ms Anniken Sørli (University of Oslo); Dr Ralph Wilde (University College London).



Ms Madeline Chiam (Melbourne), Associate Professor Mark McMillan (Melbourne), Dr Rahul Rao (SOAS) and Professor Di Otto (Melbourne)

# Constellations Series

IILAH's McKenzie Postdoctoral Research Fellow, Dr Rose Parfitt, initiated a new IILAH series of cross disciplinary seminars in 2014 called *Constellations*, which focus broadly on the question of methodology. This series continued into 2015. The series aims to bring together scholars from several different disciplines including law, history, philosophy, art theory, anthropology, international relations, sociology and political theory, in order to work through some of the thornier methodological problems confronted by scholars across these different fields of study. The seminars bring together a panel of four or five who are invited to reflect on their personal methodological journeys – on what led them to select or develop a specific method, on their hopes for and fears about this choice, on what was gained by it and what was lost – and to discuss these journeys with each other and with the audience. For this reason, the seminar series borrows the concept of 'constellations' from Walter Benjamin. In Benjamin's work, the image of the constellation signified the advent of a 'Copernican revolution' in historical method or historiography. The purpose of the Constellations series is to get away from intellectual alignment in order to learn where points of reference might exist among the innumerable, and in many cases inter-estranged, research projects ongoing in Melbourne's universities and elsewhere. The aim is to provide a spark for new ideas and fresh approaches to the theory and practice of method. Once detached from the linearity inherent in the idea of 'discipline' it is hoped that the various projects discussed during each seminar will trigger what Benjamin described as a 'flash of awakened consciousness', which might help illuminate the topography of some of the controversial problems confronting scholarship in the arts and social sciences.

## 3 March 2015: IILAH Constellations Series

### 'Cities and Public Space'

Convenor: Dr Rose Parfitt

IILAH hosted the third in its new seminar series, Constellations, on the theme of 'Cities and Public Space'. The series is Panellists for this seminar included:

Helmut Philipp Aust, Senior Research Fellow at the Humboldt University, Berlin, and Visiting Fellow with the Institute for International Law and the Humanities Melbourne Law School. His research focuses on international responsibility, the relationship between international and domestic law, and on global cities.

Chris Hudson, Associate Professor Asian Media and Culture at RMIT, Program Manager of the Globalization and Culture program at the Global Cities Research Institute and Co-Director of the Centre for Communication, Politics and Culture. His research focuses on Southeast Asia, and in particular on theatre and performance, urban space, political discourse, memory and trauma, eco-cultures, and gender.

Stanislav Roudavski, Senior Lecturer in Digital Architectural Design at the University of Melbourne and a founding partner of the creative initiatives Elseware and ExLab. His research interests include philosophy of ecology, technology, design and architecture; design fiction and conceptual designing; parametric and generative processes in architecture; emergence and self-organisation; complex geometries and digital fabrication; virtual and augmented environments; theory and practice of place-making; and practice-based research methodologies.

Illan Rua Wall, Associate Professor at Warwick Law School and co-editor of the blog [www.criticallegalthinking.com](http://www.criticallegalthinking.com). Illan's research focuses upon law and disorder, focusing on Occupy, the Indignados and other current sites of unrest. He has published on critical legal theory, theories of constituent power, the Arab Spring, protest and transitional justice in Colombia, theories of human rights and revolt, and new Andean constitutional apparatuses.



# Symposia

## 9 June 2015: IILAH / NIRAKN Symposium: 'Reimagining Mabo'

Convenors: The Hon Peter Gray AM (former Justice of the Federal Court of Australia), Dr Mark McMillan (MLS) and Henry Hamilton Lindsay (JD Student, MLS)

The *Mabo* judgment offered amazing possibilities. It recognised Indigenous legal systems at common law for the first time. It overturned established doctrines of land and sovereignty. It promised a new foundation for relations between the Aboriginal people and the new arrivals.

Yet, after over two decades and the Native Title Act, too many of the possibilities *Mabo* offered have been frustrated. The recognition it gave has not been expanded on. It has become a part of the doctrines it once threatened. Its promise has been left unfulfilled.

This symposium explored those lost possibilities, and reimagined the judgment in ways that allow them to be realised. In doing so, it considered how the promise of *Mabo* might finally be fulfilled.



Dr Rose Parfitt (Melbourne), Associate Professor Illan Rua Wall (Warwick Law School), Dr Helmut Aust (Humboldt University), Dr Stanislav Roudavski (University of Melbourne) and Associate Professor Chris Hudson (RMIT)

# Public Lectures

## 18 March 2015: The Dean's Distinguished Public Lecture - 'Sovereignty and Property'

Speaker: Professor Martti Koskenniemi (University of Helsinki)

Convenor: Professor Anne Orford

Melbourne Law School with the support of the Melbourne Journal of International Law and IILAH presented The Dean's Distinguished Public Lecture for 2015 on 'Property and Sovereignty', given by Professor Martti Koskenniemi, Academy Professor and Director of the Erik Castrén Institute of International Law and Human Rights at the University of Helsinki.

In early modern legal thinking, sovereignty and property were described as the only two forms of legitimate authority that humans could exercise towards each other. Their common origin in God's lordship over the world (*dominium*), maintained them as part of a unified perspective on the governance of humans. In the course of the 17<sup>th</sup> and 18<sup>th</sup> centuries, however, with the separation of state government from the operations of the "economy," the two began to drift apart. Ideas about the existence of two separate fields of "public" and "private" law consolidated. The talk made the point that this separation obscured our understanding of the ways of domestic and international governance. For example, by concentrating on state sovereignty and formal international institutions, "public" international law came to encompass forms of international authority of only secondary importance. In a historical view, sovereignty and property have always relied on each other and often have been practically indistinguishable. The talk appealed to rejoining the understanding of the two as parallel and interdependent forms of human governance.

Professor Martti Koskenniemi is Academy Professor and Director of the Erik Castrén Institute of International Law and Human Rights at the University of Helsinki, a Professorial Fellow at Melbourne Law School, and Centennial Professor at the London School of Economics and Political Science. He has held visiting professorships at New York University, the University of Cambridge, the University of Utrecht, Columbia University, the University of São Paulo, the University of Toronto, and the Universities of Paris I, II, X and XVI. He was a member of the Finnish diplomatic service from 1978 to 1994 and of the International Law Commission (UN) from 2002 to 2006. His main publications include *From Apology to Utopia: The Structure of International Legal Argument* (1989), *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (2001), *The Politics of International Law* (2011), and *The Cambridge Companion to International Law* (2012, co-edited with Professor James Crawford). He is a graduate of the universities of Turku and Oxford, and holds the degree of doctorate of laws *honoris causa* from the Universities of Uppsala and Frankfurt. He is a Fellow of the British Academy. He is presently working on a History of International Legal Thought from the late Middle Ages to the 19<sup>th</sup> century. Professor Martti Koskenniemi teaches International Law and Politics in the Melbourne Law Masters program.

## 28 October 2015: Annual London School of Economics Lecture - 'Crimes Against Humanity: A Century of Retributive Humanitarianism'

Speaker: Professor Gerry Simpson, (Kenneth Bailey Chair of Law at Melbourne Law School)

On 12 October 1915, an English nurse, Edith Cavell was executed by the Germans in Brussels and partly as a result, there emerged an almost entirely novel way of thinking about international law. Defeated enemies became 'war criminals', atrocities became 'crimes against humanity' and (a certain sort of) war became 'aggression'. The first half of the 20<sup>th</sup> century, then saw the appearance of a whole idiom and, then, architecture (Nuremberg, Tokyo) of what became known as international criminal law. This field (sometimes referred to also as 'war crimes law') began as tentative foothold (Versailles, Leipzig) but has now thoroughly colonised our thinking about war and peace (Rome, The Hague). And when it comes to human rights abuses, it is de rigueur to call for war crimes trials for the perpetrators, and justice for the victims. In this lecture Gerry Simpson engaged in a critical stocktaking of this century of retributive humanitarianism.

**4 December 2015: 'Uncomfortable Collaborations'**  
**Co-hosted by Meridian 180 and IILAH**  
**Moderator: Professor Fleur Johns (UNSW)**

Meridian 180 is dedicated to transforming the Asia-Pacific dialogue—an absolute prerequisite for transformative policy change. Founded in 2012 and coordinated by the Clarke Program in East Asian Law and Culture at the Cornell University Law School in Ithaca, New York, Meridian 180 is a nonpartisan multidisciplinary community of academics, practitioners and policy makers from around the Pacific Rim and the world.

In a mash-up of the scholarly and the popular, the weighty and the amusing, this event brought together an incomparable panel to explore the perils and delights of uncomfortable collaborations. Panelists from diverse worlds will share their expertise in engaging audiences and interlocutors across different languages and fields of expertise and what may be learned or unlearned, in the process, about one's home discipline, default mode or mother tongue. At once a convivial gathering of the curious and a serious reflection on techniques for living together amid global tumult, this event took the form of a discussion between a curated panel of speakers and a curious audience.

Robert Chu is head of the Australian practice of leading U.S. law firm Sullivan and Cromwell, and former head of its Beijing office, with experience advising companies in the Asia-Pacific region, the Americas, Europe and the Middle East.

Ghassan Hage is Future Generation Professor of Anthropology and Social Theory at the University of Melbourne and Fellow of the Australian Academy of the Humanities.

Annelise Riles is Jack G Clarke Professor of Law in Far East Legal Studies, Professor of Anthropology and Director of the Clarke Program in East Asian Law and Culture at Cornell University. Professor Riles is the founder of the quadrilingual, multidisciplinary Meridian 180 community.

Meow Meow is known globally for her unique brand of 'kamikaze cabaret' that "erases boundaries between cultures and languages" (New York Times).



*Meow Meow, Professor Annelise Riles (Cornell), Professor Ghassan Hage (Melbourne) Mr Robert Chu (Sullivan and Cromwell) and Professor Fleur Johns (UNSW)*

## 5 November 2015: 'Cinematic Histories: International (Criminal) Law and Film'

With: Professor Olivier Corten (Université libre de Bruxelles)

Convenor: Professor Gerry Simpson (MLS) and Dr Gabrielle Dimm (UTS)

International law is the proximate or indirect subject of a surprisingly large number of films. And, increasingly, film has become a way of communicating ideas about international law to non-specialists. Many international lawyers use film when teaching to introduce aspects of international law to students. However, what do international lawyers know about film? How do international lawyers read films and how do films inform the discipline?

This was the first workshop on international law and film to be held in Australia. Professor Olivier Corten, Director, Centre for International Law, Université libre de Bruxelles, was the keynote speaker. His opening address was entitled 'International Law and Cinema: What methodologies?' Three panels addressed different aspects of international law and film. Panel 1: 'Film as Evidence' speakers were: Dr Kiran Grewal (Australian Catholic University), Associate Professor Sarah Williams and Emma Palmer (UNSW) with commentary by Professor Penelope Andrews (University of Cape Town). This was followed by a film showing of Walkey-Award winning documentary *Taliban Country* (2004) and discussion with the director, Dr Carmela Baranowska. Panel 2: 'Film as Transition' speakers Dr Deborah Whitehall (Monash), Professor Andrea Durbach (UNSW) and Associate Professor Peter Rush and Dr Maria Elander (Melbourne) addressed film as transition and response to atrocity. Panel 3: 'Film and Art' was given by Dr Lucas Lixinski (UNSW) and Dr Rose Parfitt (MLS).

The workshop was organised by Dr Gabrielle Simm at the University of Technology Sydney Faculty of Law and was supported by Professor Gerry Simpson's Australian Research Council-funded project, 'War Crimes Law: A Conceptual History'. It was the final in a series of workshops, 'Untold Stories' (2010), 'Affective States' (2011), 'Eichmann at 50' (2011) and 'The Passions of International Law' (2012).



Professor Olivier Corten (Bruxelles)



# Roundtables and Conversations

## 10 July 2015: 'Law and Society Scholarship - Thinking about Method with Southern Traditions' Convenor: Oishik Sircar

ILLAHL organized a roundtable discussion with Indian sociologist Nandini Sundar, a professor at the University of Delhi. Professor Sundar was visiting Melbourne to deliver the Baba Amte Memorial Lecture at the Australia India Institute at the University of Melbourne, and is the author, among others, of the book *Subalterns and Sovereigns: An Anthropological History of Bastar* (2007). In 2010, she was awarded the Infosys Prize for Social Sciences. She writes in the areas of citizenship, war and counterinsurgency in South Asia, indigenous identity and politics in India, the sociology of law, and inequality.

The roundtable convened by MLS PhD student Oishik Sircar. The event was arranged around a reading by Sundar, through which she offered an account of the question of method in her scholarship, drawing on her political and academic inheritances and trajectories. This was followed by brief comments by Professor Sundhya Pahuja and Associate Professor Shaun McVeigh from Melbourne Law School, and then was opened up into a conversation with participants on the question of method in their projects. Two separate readings by Pahuja and McVeigh were also shared with the participants. The round-table was attended by graduate students and scholars from a range of disciplines.

## 7 August 2015: 'Feminist Inheritances: Law, Life, Politics'

Associate Professor Wendy Harcourt (Erasmus University), Associate Professor Anne Genovese and Professor Dianne Otto  
Convenor: Debolina Dutta

What makes our projects feminist? In this conversation, three feminist scholars from within the disciplines of law and development studies critically responded on this question. They spoke about it in light of a current project they worked on, by reflecting on their feminist inheritances: activist and/or scholarly traditions that they draw from; and the methods through which they conduct their feminist scholarly activity as an extension of their feminist lives. Participants were invited to actively engage in this tea-time conversation with the speakers and contribute by sharing perspectives and insights from their own work.

Wendy Harcourt is Associate Professor at the International Institute of Social Studies of the Erasmus University, The Hague. She has written extensively on sexual and reproductive rights, environment, globalisation and development from a gender perspective. She received the 2010 Feminist and Women's Studies Association's Prize for her book on *Body Politics in Development: Critical Debates in Gender and Development* (2009).

Ann Genovese is Associate Professor at the Melbourne Law School, Program Director of the Australian Legal Histories research program, and Co-Director of the Legal Biographies research program with the Institute for International Law and the Humanities.

Dianne Otto holds the Francine V McNiff Chair in Human Rights Law, she is the Director of the Institute for International Law and the Humanities, also the Co-Director of the ILLAH International Human Rights Law Program, and Director of Studies, Human Rights Law, Melbourne Law School.



**19 August 2015: 'In Conversation - Foreign Relations Law'**  
Professor Campbell McLachlan (Victoria University Wellington)  
Professor Gerry Simpson (Melbourne Law School)

Professor Campbell McLachlan opened the conversation by considering and evaluating the foreign relations practices of Australia, the UK, Canada and New Zealand, against the background of a theoretical approach to foreign relations law as performing an allocative function.

Campbell specialises in international law and dispute resolution. After taking his LLB at Victoria, Campbell studied in Europe and then practised law as a partner in the firm of Herbert Smith, and as Head of its International Law Practice Group, until his return to New Zealand in 2003. Campbell is President of the Australian and New Zealand Society of International Law, an Arbitrator for the International Centre for the Settlement of Investment Disputes, and a Member of the International Chamber of Commerce Court of Arbitration. In July 2008, he became the first New Zealand-based academic to give a course of lectures at The Hague Academy of International Law. Campbell was appointed Queen's Counsel in 2007.

Professor Gerry Simpson holds the Kenneth Bailey Chair of Law at Melbourne Law School. Gerry is currently writing a book called *The Sentimental Life of International Law* and editing *Who's Afraid of International Law* (with Rai Gaita) (forthcoming in 2015) as well as co-directing, with Matthew Craven (SOAS) and Sundhya Pahuja (MLS), a project to rethink the Cold War as a legal event.



*In Conversation - Foreign Relations Law, with Professor Campbell McLachlan (Victoria University Wellington)*

# Research Seminars

## 10 February 2015: 'Undertaking Tasks of Inheritance in 'Abject Times''

Mr Adil Hasan Khan (IHEID Geneva)

Convenor: Professor Sundhya Pahuja

We are said to be living in 'abject times'. Times characterized by the operations of a seemingly intractable Empire, a closing of emancipatory futures, a combination of amnesia and nostalgia towards pasts and an endlessly extended present beset by constant crisis and premonitions of planetary catastrophe. How do we, as international lawyers, respond to these times?

Khan's paper attempted to craft a possible response to this question of our times by centering the actualizing role of the discipline of international law in the emergence of these times and by highlighting issues of responsibility and conduct. It focused on describing how a particular group of international lawyers, international lawyers 'of the South', *have* critically responded to these times. It argues that they have done so by *taking up* their inheritance from a previous generation of anticolonial nationalist international lawyers, a task that has entailed them narrating tragic histories of the struggles of this generation past to bring about decolonization and overcome a colonial international legal order.

Adil Hasan Khan was a Visiting Fellow at IILAH. He is a doctoral candidate in International Law at the Graduate Institute of International and Development Studies (IHEID) in Geneva and a Junior Fellow at the Institute for Human Sciences (IWM) in Vienna. He obtained a Ba/LLB (Hons) from National Law Institute University, Bhopal before receiving a MIS (Specialization in International Law) from IHEID, Geneva. He has previously worked as a Research Associate with IELRC, New Delhi and has been a Graduate Exchange Student at Harvard Law School, Cambridge. His research is situated at the intersections of international legal history, postcolonial legal studies, legal theory and human rights and explores questions of temporality, coloniality, inheritance, forms of historical narrative employment and indigeneity in international law.

## 12 March 2015: 'The Occupy Crowd'

Associate Professor Illan Rua Wall (University of Warwick)

Convenor: Dr Rose Parfitt

The crowd is neither a technology nor a subject of sovereignty. It is not the 'agent' who could take, create or destroy sovereignty; nor is it a 'means' for others to become sovereign. The crowd is remarkable because of its prevalence and excision. It is often there in those paradigmatic moments of sovereignty, but generally maligned and denigrated. The project as a whole is designed to investigate the intuition that today the crowd presents a distinct way of thinking about crucial questions of exceptionality, constituent power and the political. Illan looked at two crucial ideas of 'crowd theory' – de-individuation and super-identity – and begin to unravel them in the context of various Occupy Crowds around the world.

Illan Rua Wall is an Associate Professor in the School of Law, University of Warwick. His current research focuses upon the relation between law and disorder. It examines the disorder that makes up the basis of constituent power. Thinking about Occupy, the Indignados and the many current sites of unrest, it begins to develop the novel field of the 'law of disorder'. This is not simply a collection of the various different legal apparatuses that repress or capture disorder, rather the 'law of disorder' thinks about law through and disorder. He has published on critical legal theory, theories of constituent power, the Arab Spring, protest and transitional justice in Colombia, theories of human rights and revolt, and new Andean constitutional apparatuses. He is one of the editors of the blog [www.criticallegalthinking.com](http://www.criticallegalthinking.com), and is on the editorial board of Law and Critique, and the editorial advisory board of the Journal of Critical Globalization.

## 23 March 2015: 'Studies in Ableism: Illuminating Disability Jurisprudence'

Associate Professor Fiona Kumari Campbell (University of Kelaniya)

Convenor: Oishik Sircar

In the last fifteen years there has been a growth in scholarship concerning disability and law. Unlike feminist and racial jurisprudence, in most of these works the application of a theoretical analysis of the underpinnings and impacts of law has been absent. Compulsory able-bodiedness is implicated in the foundations of law whether that is in terms of a jurisprudence of deliberative capacity or the notion of the reasonable 'man'. This paper demonstrated that as a domain of theory, Studies in Ableism epistemologically can contribute to new ways of thinking about legal and policy interventions with the vulnerable subject especially persons characterised as disabled. It argues that ableist relations are a useful schema for reframing of understandings of dis(ability), capacity and difference.

Associate Professor Fiona Kumari Campbell (University of Kelaniya, Sri Lanka) headed for 9 years the largest disability studies program in the southern hemisphere at Griffith University. She introduced and taught the course Disability Jurisprudence for two years at the Griffith Law School. Campbell is Adjunct Professor in Disability Studies, Faculty of Medicine at the University of Kelaniya, Sri Lanka and acts as a consultant for the Law School at the University of Colombo. She is the author of 50 publications, including one book *Contours of Ableism: The Production of Disability and Abledness* (Palgrave, 2009) and is currently completing a new book on Disability Jurisprudence.

## 26 March 2015: 'Does Expanding Non-Refoulement Secure Greater Access to Asylum?'

Associate Professor Cathryn Costello (University of Oxford)

Convenor: Professor Michelle Foster

Various forms of externalised border controls impede access to asylum, requiring refugees to undertake increasingly perilous journeys in order to access protection, particularly in Europe and in other developed countries. Although diverse, these practices share their externalised focus – the functional border has shifted beyond the territorial one, yet asylum continues to be distributed territorially. It is often assumed that legal duties need to be (re)asserted over these practices. In particular, it seems to be assumed that these legal duties will enhance access to asylum. This talk sought to explore that premise, by seeking to understand the impact of the European Court of Human Rights in *Hirsi Jamaa v. Italy* (Application no. 27765/09, Eur. Ct. H.R. 10 (2012)) to see whether one example of the reassertion of legal duties over extraterritorial border rejection (interdiction at sea) has increased access to asylum.

It revealed the particular multi-level, multi-actor context of the Council of Europe and the European Union, tracing the impact at an individual and institutional level. At the institutional level, it canvassed the general responses by Italy (the respondent government), and at the various European levels. A range of diverse actors are implicated by the ruling, not merely the Italian state, which is in any event evidently a disaggregated constellation. The ruling's political impact is refracted through a complex set of institutions, and changed regional politics. The paper thus provided the opportunity to consider the complex institutional constellation at play in the Mediterranean, and has been evident in on-going debates on rescue at sea, safe access to asylum, and further moves to delink responsibility and territory.

Cathryn Costello is Andrew W. Mellon Associate Professor in International Human Rights and Refugee Law, at the Refugee Studies Centre, Oxford, with a fellowship at St Antony's College. From 2003-2013, she was Francis Reynolds Fellow and Tutor in EU and Public law at Worcester College, Oxford, during which time she also completed her DPhil studies on EU asylum and immigration law. Cathryn has published widely on many aspects of asylum, migration and human rights law, including the EU Common European Asylum System, EU migration regulation, the EU Charter of Fundamental Rights, EU Citizenship and third country national family members, family reunification and immigration detention. She has co-edited a collection (with Mark Freedland) on the intersection of labour and migration law, *Migrants at Work: Immigration and Vulnerability in Labour Law* (OUP, 2015). Her monograph on the *Human Rights of Migrants in European Law* will be published by OUP later in 2015.



## **23 April 2015: 'Refugee Status, Arbitrary Deprivation of Nationality, and Statelessness'**

Professor Hélène Lambert (University of Westminster)

Convenor: Professor Michelle Foster

The question of whether arbitrary deprivation of nationality constitutes persecution for the purposes of a determination of refugee status has received increased attention in recent jurisprudence. However, no systematic argument has been made to date on the ordinary meaning of words, context, object and purpose of Article 1A(2) of the *1951 Convention Relating to the Status of Refugees* as it applies to stateless refugees. This is an important question because the absence of determination procedures and a protection regime specifically for stateless persons in many jurisdictions makes refugee and/or complementary protection the only options. This seminar presentation examined existing landmark judicial decisions worldwide, relevant UN documents, and academic writing on whether arbitrary deprivation of nationality, either on its own or when taken with other forms of harm, amounts to persecution within the meaning of Article 1A(2) of the *1951 Refugee Convention*, and if so on what grounds. It concludes by suggesting when (arbitrary) deprivation of nationality should lead to a finding of persecution, based on good practice, and points to a global consensus on a new rights perspective concerning nationality.

Hélène Lambert is Professor of International Law in the Department of Advanced Legal Studies (Westminster Law School, University of Westminster). She was previously a Reader at Westminster (2007-2010), a Senior Lecturer at Brunel University (2006-2007), and a Lecturer at the University of Exeter (1993-2005) and the University of the West of England, Bristol (1991-1993). She has worked as a Protection (Legal) Officer for the United Nations High Commissioner for Refugees (UNHCR). She has acted as a consultant for UNHCR, the Council of Europe, and the European Commission. In this capacity, she wrote the study that formed the basis of Recommendation 99(23) adopted by the Council of Ministers of the Council of Europe, and advised the Governments of Moldova, Ukraine and Serbia-Montenegro on their draft asylum legislation. She also participated in the training of officials on behalf of the Council of Europe and UNHCR in Poland, Slovenia, Moldova, Romania and Serbia-Montenegro. In April 2015 Professor Lambert visited IILAH and the Melbourne Law School as a University of Melbourne Dyason Fellow.

## **28 April 2015: 'Common Goal, Different Journeys: Debunking Perceived Tensions between Public Health and Human Rights in the Criminalisation of HIV'**

Dr Lucy Stackpool-Moore (International HIV and AIDS Alliance UK)

Convenor: Professor Dianne Otto

Law has prominence in the formation and regulation of moral norms - not only in regard to human rights, but also in regard to HIV, the policing of sexuality and intimate behaviours, and the production of stigma. In this presentation, Dr Stackpool-Moore drew upon empirical research focused on the potential and impotence of law in the context of HIV in Malawi. She explored the complementarities and tensions between human rights and public health responses to HIV. Linking the local context with international initiatives such as the Global Commission on HIV and the Law, she will highlight three main points: 1) law has a complex interaction with the response to HIV, paradoxically straddling the capacity to protect against discrimination, while also fuelling stigma and social marginalisation for vulnerable groups; 2) criminal law has symbolic power in a context like Malawi, even with limited enforceability in daily life; 3) the latest research and progress in HIV treatment aligns public health and human rights ambitions in the response to HIV.

Dr Lucy Stackpool-Moore is the Senior Advisor for Sexual and Reproductive Health at the International HIV and AIDS Alliance in the UK, and is also a Senior Fellow with Melbourne University Law School and Birkbeck Law School, and has a strong history in human rights, law, community-based research and social mobilisation in the response to HIV. Lucy has a PhD from SOAS, University of London, titled '*Narratives of human rights: Universal concepts brought into focus through the lenses of life stories.*'

### 30 April 2015: 'Surrogacy and the Right to Autonomy'

Dr Ronli Sifris (Monash University)

Convenor: Professor Dianne Otto

The issue of commercial surrogacy is vexed and complex; giving rise to passionate arguments relating to the rights of the child conceived through surrogacy, the rights of the intended parent(s) and the rights of the surrogate. In the context of commercial surrogacy arrangements between surrogates in the developing world and intended parents in the developed world, the discussion frequently focuses on the rights of the surrogate as many people argue that such arrangements violate her human rights. In contrast, it may be argued that an outright prohibition on commercial surrogacy is itself an infringement of the right of a woman to choose to enter into such an arrangement. International human rights law enshrines the right to autonomy, also referred to as the right to privacy. This right includes the right of a person to make her own choices regarding her own life. From an autonomy based perspective, if a woman is making a free and fully informed decision to be a surrogate, then to prevent her from doing so is in fact to impinge on her right to make choices regarding her own life and her own body. The presumption of exploitation which frequently dominates the conversation about surrogacy is problematic as it is paternalistic and assumes a lack of agency on the part of the surrogate. That said, there are situations which reek of exploitation and the line is often blurred, particularly in circumstances where women are in fact using surrogacy as a means of raising themselves out of abject poverty. Thus this paper considered the question of commercial surrogacy from an autonomy based perspective, taking account of the myriad of other human rights norms which are relevant to this discussion.

Ronli Sifris is a Lecturer in Monash University's Faculty of Law and an Associate of the Castan Centre for Human Rights Law. Ronli's expertise in human rights law ranges from domestic to international human rights, with a focus on reproductive rights. She has published widely on various aspects of reproductive rights, traversing matters relating to abortion, involuntary sterilisation and surrogacy. Her most recent publication is, *Reproductive Freedom, Torture and International Human Rights: Challenging the Masculinisation of Torture* (2014, Routledge), conceptualises restrictions on reproductive freedom within the framework of torture discourse.

### 19 May 2015: 'Of Critique, Biopolitics and Sexual Difference'

Dr Maria Drakopoulou (University of Kent)

Convenor: Associate Professor Ann Genovese

Sexual difference, the concept Luce Irigaray thought could constitute and expand the horizons of intellectual worlds more fecund than any known to date, has almost entirely vanished from the Anglo-American feminist agenda. In contrast, the concepts of 'biopolitics' and 'biopower' are steadily gaining ascendancy in the diagnosis and critique of the state of things in our current times. It is these two distinct analytical categories, sexual difference and biopolitics that Dr Drakopoulou aimed to bring into dialogue in this presentation. Foregrounding analysis of the bio-political theories of Foucault and Agamben on the concept of sexual difference, she explored the productive role that sexual difference plays in the formation of their biopolitical accounts. More specifically, she argued that a sexual economy already operating at what are seen as the 'foundational moments' of such accounts has indelibly marked the manner of their formation. However, in seeking to reveal the shadowy thread that connects sexual difference to Foucault's and Agamben's biopolitical theories, Dr Drakopoulou did not wish to suggest and critique processes of erosion, exclusion, or indifference, but rather to expose the critical possibilities of a problematic hitherto omitted.

Maria Drakopoulou is Reader in Law at Kent Law School, University of Kent, UK. Her main areas of research interest are Feminist Theory and Jurisprudence, Roman Law, and the History of Philosophy and Law. She has held research fellowships at the European University Institute in Florence and Griffith Law School, Brisbane. Recent publications have included an edited collection entitled *Feminist Encounters with Legal Philosophy* (2013), a paper, 'Revisiting Feminist Jurisprudence: A Rehabilitation' (feminists@law 2013), and a co-edited special issue of the *Australian Feminist Law Journal* (2013) on the theme of law, history, space and time, which included her piece 'Clio's Forgotten Consciousness: History and the Question of Feminist Critique in Law'. Her current project builds on this work in the areas of feminist theory and critical thought more generally.



## **21 May 2015: 'Transnational Lives: How the Movement of Persons is Redefining International Law'**

Associate Professor Frédéric Mégret (McGill University)

Convenor: Professor Dianne Otto

Amidst all the talk of 'transnational law', the extent to which the mobility of persons is reshaping international law is a surprisingly neglected topic. When it comes to public international law, the movement of persons is understood as relevant only during the small window in which individuals are on the move. What happens to such individuals when in their host country is typically outsourced to private international law. Yet it is increasingly clear that diasporas, migrants, and "aliens" all make demands on international law that are increasingly changing its very nature.

Frédéric Mégret is an Associate Professor of Law at McGill University, and the Canada Research Chair on the Law of Human Rights and Legal Pluralism. In March 2015, he was made a William Dawson Scholar. His interests lie in the theoretical dimensions of international criminal justice, international human rights law and international humanitarian law, as well as general international law.

## **22 July 2015: 'Time to Draw the Line, In the Timor Sea That Is'**

Ms Janelle Saffin (former Federal Member for Page, Parliament of Australia)

Convenor: Professor Dianne Otto

The Timor Sea dispute between Australia and Timor-Leste can only be settled with the drawing or delimitation of the maritime boundary. It can be done by negotiation or by submitting to the judicial umpires. Australia prides itself on settling these matters bilaterally and has done so with PNG, NZ, Solomon Islands, New Caledonia and Indonesia, but refuses to do so with Timor-Leste. Australia also removed itself from the judicial umpires, the ICJ and ITLOS in 2002 on the eve of the restoration of Timor-Leste's independence. So where does this leave Timor-Leste? What are its options? This begs the question as to why Australia has not wanted to delimit maritime boundaries with Timor-Leste and why it would remove the judicial umpire.

In this seminar presentation Ms Saffin canvassed these questions, looking at the legal nature of delimitation of maritime boundaries, covering the median line (equidistant approach) and continental shelf arguments, past agreements with neighbours and if they can bind third party states, and the petroleum political nature of the Timor Sea that guided Australia's earlier approach and now spills over to its current relationship with Timor-Leste.

It is said by both parties that it is a close and friendly relationship, but it can also be said that it is replete with tension, the major one the lack of the will to draw the line.

Janelle Saffin's involvement and political activism with East Timor began over 30 years ago. When she was in Federal Parliament, from 2007 - 2013 she chaired the Australian Parliament-Timor-Leste Group, advising the Australian Government and the Foreign Minister on matters relating to East Timor. As a Southern Cross University Council member and fellow she has supported a number of Timorese students, and has presided over the graduation of Timorese students in Dili in 2010.

## **30 July 2015: 'Dreams and Nightmares of Liberal International Law'**

Dr Tarik Kochi (University of Sussex)

Convenor: Associate Professor Shaun McVeigh

This paper offered a relatively simple argument. That international law, in its present form, cannot solve the problem of war. At first sight this might seem a little basic, there are of course many ongoing conflicts around the world which the current system of international law has clearly struggled to resolve. However, the reasons why contemporary international law fails to solve the 'war problem' run much deeper than the commonly voiced claims that states and politicians lack the 'political will', or that states are simply too 'self-interested' to combat global conflict. Indeed, one key and crucial reason why contemporary international law cannot solve global conflict has to do with the very nature of international law itself.

To see why global conflict and acts of war, terror and violence continue, we need to understand the historical development, the logic and the inner workings of the system of liberal international law. Thus, it is not that liberal international law merely fails to solve the war problem; rather, liberal international law is a central cause of the war problem. The system of liberal international law plays a key role in actively creating and perpetuating war, violence, terror and mass killing. This apparent failure of liberal international law is, in many ways, the source of its greatest success: its ongoing ability to facilitate and enable a brutal and violent process of global capital accumulation. Dr Tarik Kochi is a political and legal theorist who researches and writes on questions related to Conflict and Security and Law and Political Economy. His work addresses questions of violence, war and international law, as well as the relationship between law and capitalism more generally. Dr Kochi holds a Doctorate in Law from Griffith University, Brisbane, Australia (2005) and is currently as senior lecturer in law at Sussex University, UK. He has been a lecturer in law at Queens University Belfast and a research Fellow in the Philosophy Faculty, Eberhard Karls Universität, Tübingen, Germany and in the Altona Foundation for Philosophical Research, Hamburg, Germany. His first monograph was the prize winning *The Other's War: Recognition and the Violence of Ethics* (Birkbeck Law Press, 2009) and *War, Law and Killing* (Reaktion Books) in due out at the beginning of 2016.

#### **4 August 2015: 'Human Rights and the Belief in a Just World'**

Professor Günter Frankenberg (Goethe-University Frankfurt)

Convenor: Professor Anne Orford

The belief that the world is just and things are basically fair is one of the most ardent convictions of humans but also one of the most profound delusions. The astounding career of human rights law has been energized by this belief, and the romantic discourse on human rights has tried to negate tragedy. The lecture presented various human rights narratives and discussed how they relate to the belief in a just world as well as the power of human rights to "correct" tragedy.

Professor Günter Frankenberg (Goethe-University Frankfurt) has written numerous publications, including 'Critical Comparisons – Re-thinking Comparative Law' (*Harvard International Law Journal*, 1985); *Order from Transfer: Comparative Constitutional Design and Legal Culture* (ed. Elgar, 2013); *Political Technology and the Erosion of the Rule of Law and Normalizing the State of Exception* (Elgar, 2014). He is a Visiting Professor, among others, at the Harvard Law School, Boston University School of Law, Tulane Law School, University of Pennsylvania Law School and the Paris Institute of Political Studies. In the 1990s he participated as legal consultant in law and constitution-making projects in Central and Eastern European countries. He has forensic experience as counsel of the Federal Diet (prohibition of the Neo-Nazi party) and political parties, and legal counsel in constitutional law cases.

#### **11 August 2015: 'Communism Against Empire: The Soviet Union and the Fight Over "Colonial Clauses" in Early UN Treaties, 1947 - 1954'**

Dr Philippa Hetherington (University of Sydney)

Convenor: Professor Gerry Simpson

On 21 March 1950, the UN Convention for the *Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* opened for signature at Lake Success. The drafting of the Convention, supposedly a simple matter of the transfer of League of Nations agreements against trafficking to the UN, had been hotly debated in the Economic and Social Council for the past three years. Debate had centered not so much on the precise nature of the threat posed by the 'traffic in persons,' by then something that had been the subject of repeated multilateral agreements in 1904, 1910, 1921 and 1933. Rather, controversy swirled around the presence in these agreements of so-called 'colonial clauses', which allowed a party state to sign on for, or exclude, any or all of its colonies ('dependent states'). In an early example of Soviet 'third-worldism' on the international stage, the USSR delegation contended that such clauses demonstrated the entanglement of international law and imperialism, and must be eradicated. In doing so, the Soviets framed themselves as saviors of the colonial world, provoking a fight that would result in the removal of the clauses from the treaty, and lead the UK, France and the US to vote no or abstain from the Convention. Thus, despite what later anti-trafficking activists have erroneously claimed, the lack of 'first-world' support for the Convention on the Suppression of the Traffic had less to do with trafficking or prostitution, and more to do with the earliest debates over colonialism and decolonisation at the UN. At the same time, by asserting their superior moral position on both prostitution (which they claimed to have eradicated) and colonialism, the Soviets conceptually linked their opposition to sexual violence and empire, claiming

a politically expedient space for themselves as champions of humanitarian causes in the early days of the Cold War.

Philippa Hetherington is a Postdoctoral Research Fellow at the Laureate Research Program in International History at the University of Sydney. From September 2015 she will join the faculty at the School of Slavonic and East European Studies at University College London in the UK. She earned her PhD at Harvard University in 2014, and studies the cultural, social and legal history of late imperial Russia and the Soviet Union in international context, with particular attention to histories of gender, migration, and the interplay between domestic and international law. Her current book project *'Circulating Subjects: The Traffic in Women and the Russian Construction of an International Crime'* examines the emergence of 'trafficking in women' as social problem and legal question in Russia, linking this to the development of international humanitarian law, global migratory regimes and gendered understandings of subjecthood.

## **12 August 2015: 'Convergence and Fragmentation: The Social in the International Order'**

Professor Kerry Rittich (University of Toronto)

Convenor: Madelaine Chiam

Transformations in both theory and practice have provoked a profound realignment of the relationship between social and economic objectives on the international plane in the last two decades, one involving processes of both convergence and fragmentation. The redescription and absorption of social into economic objectives can be witnessed clearly in the rise of market-centered governance projects in three areas: development, gender equality and labour standards. A key unifying figure in these projects is the (endlessly) productive market worker. Yet the proliferation of actors and institutions, private as well as public, engaged in regulatory activities is also producing immense normative and institutional diversity, ensuring ongoing possibilities for both conflict and resistance going forward.

Kerry Rittich is Associate Dean and Professor at the Faculty of Law, and Professor at the Women and Gender Studies Institute and the School of Public Policy and Governance at the University of Toronto. Her recent work concerns with the use of crisis policy to advance structural reform. Among her publications are *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press, 2006); (with Atleson, Compa, Sharpe and Weiss), *International Labor Law: Cases and Materials on Workers' Rights in the Global Economy* (West Publishing, 2008); and "Black Sites: Locating the Family and Family Law in Development" and, with Janet Halley, "Critical Directions in Comparative Family Law: Genealogies and Contemporary Studies of Family Law Exceptionalism", (*American Journal of Comparative Law*, 2010).

## **13 August 2015: 'American Law Institute Restatement of the Law Fourth, the Foreign Relations Law of the United States'**

Professor Paul B Stephan (University of Virginia)

Convenor: Professor Gerry Simpson

This Restatement updated the influential 25-year-old Restatement Third of The Foreign Relations Law of the United States. It was a very large project involving eight reporters, including two coordinating reporters. Initial topics for consideration included jurisdiction, the domestic effect of treaties, and sovereign immunity. Professor Stephan was one of the coordinating reporters for this project.

Paul B Stephan is John C Jeffries, Jr, Distinguished Professor of Law in the University of Virginia School of Law. He is an expert on international business, international dispute resolution and comparative law, with an emphasis on Soviet and post-Soviet legal systems. In addition to writing prolifically in these fields, Stephan has advised governments and international organisations, taken part in cases in the Supreme Court of the United States, the federal courts, and various foreign judicial and arbitral proceedings, and lectured to professionals and scholarly groups around the world on issues raised by the globalization of the world economy. During 2006-2007, he served as counsellor on international law in the U.S. Department of State. He is one of the coordinating reporters for the American Law Institute's Restatement (Fourth) of the Foreign Relations Law of the United States. He visited the Melbourne Law School in 2015 to teach *Energy Resources in Emerging Markets* in the Melbourne Law Masters program.

## 8 September 2015: 'Laws and Societies in Global Contexts: Contemporary Approaches'

Professor Eve Darian-Smith (University of California)

Convenor: Professor Dianne Otto

Eve presented a global sociolegal theoretical framework which she argued was better able to deal with the pressing inter-related legal issues of the 21st century. A global sociolegal perspective envisions a new legal paradigm that takes seriously the concept of legal pluralism, and engages with multiple legal systems and epistemologies operating within and across national borders. Eve argued that a global sociolegal perspective is relevant to legal issues that are more "global" in nature such as immigration and environmental degradation, as well as to local issues such as hate crime and domestic violence that are not generally thought of in such worldly terms.

Eve Darian-Smith is Professor and Chair in Global Studies at the University of California, Santa Barbara and an Adjunct Professor at Regulatory Institutions Network, Australian National University. Trained as a lawyer, historian and anthropologist, she is interested in issues of postcolonialism, legal pluralism, and sociolegal theory and has published widely including ten books and edited volumes. Her first book *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* (2009) won the USA Law and Society Association Herbert Jacob Book Prize. Other books include *Laws of the Postcolonial* (with Peter Fitzpatrick, 2009); *New Capitalists: Law, Politics and Identity Surrounding Casino Gaming on Native American Land* (2004); *Religion, Race, Rights: Landmarks in the History of Modern Anglo-American Law* (2010), and most recently *Laws and Societies in Global Contexts: Contemporary Approaches* (2013, UCP). Her new book project is titled *New Indian Wars: Indigenous Sovereignty in Global Perspective*. She is on various editorial boards including the *Canadian Journal of Law and Society* and *Social and Legal Studies*, and she is a former Associate Editor of *American Ethnologist* and *Law and Society Review*.

## 10 September 2015: 'Asia's Ambivalence about International Law and Institutions: Past, Present and Futures'

Professor Simon Chesterman (National University of Singapore)

Convenor: Professor Dianne Otto

It is a paradox of the current international order that Asia — the most populous and economically dynamic region on the planet — arguably benefits most from the security and economic dividends provided by international law and institutions and yet is the wariest about embracing those rules and structures. Asian states are the least likely of any regional grouping to be party to most international obligations or to have representation reflecting their number and size in international organizations. This [draft] article explored the reasons for Asia's under-representation and under-participation in international law and institutions. Part I traced the history of Asia's engagement with international law. Part II assessed Asia's current engagement with international law and institutions, examining whether its under-representation and under-participation is in fact significant. Finally, Part III attempted to project possible future developments based on three different scenarios. These are referred to here as status quo, divergence, and convergence.

Simon Chesterman is Dean of the National University of Singapore Faculty of Law. He is also Editor of the *Asian Journal of International Law* and Secretary-General of the Asian Society of International Law. Educated in Melbourne, Beijing, Amsterdam, and Oxford, Professor Chesterman's teaching experience includes periods at the Universities of Melbourne, Oxford, Southampton, Columbia, and Sciences Po. From 2006-2011, he was Global Professor and Director of the New York University School of Law Singapore Programme. Prior to joining NYU he held positions at the International Peace Academy and International Crisis Group in New York, and with the UN Office for the Coordination of Humanitarian Affairs in Yugoslavia. Chesterman is the author or editor of fourteen books, including *One Nation Under Surveillance* (OUP, 2011); *You, The People* (OUP, 2004); and *Just War or Just Peace?* (OUP, 2001).



## 25 September 2015: 'Intimacies of the Jurist: Limit-Cases in the Roman Law Scholarship of Yan Thomas'

Dr Edward Mussawir (Griffith University)

Convenor: Associate Professor Ann Genovese

Is it possible to recover anything intimate about the cold rationality, the inert procedural forms and the sober, precise and pragmatic language of juridical institutions? In this paper, my attempt is to explore some figures from the Roman law jurisprudence of the late legal historian Yan Thomas. A specialist of Roman jurisprudence, Yan Thomas's work offers a sparkling insight into the tortuous corridors of Western legal history, the institutional life of legal science and the contemporary problem of its relation to the humanities as a whole. By following the way in which Thomas isolates the specifically jurisprudential meaning that four concepts - that of work, the womb, the father and the tomb - acquire in the casuistry of the Roman jurists, this reading attempts to explore some of the intimacies and limit-cases through which the life of the scholar is brought to the otherwise inert place of law.

Ed Mussawir is a lecturer at Griffith Law School, Brisbane. He is the author of *Jurisdiction in Deleuze: The Expression and Representation of Law* (Routledge, 2011) and editor of *Law and the Question of the Animal: A Critical Jurisprudence* (Routledge, 2013). His current research focuses on questions in the law of persons, biography of jurists, procedural jurisprudence, animal law and the inheritance of European jurisprudence.

## 6 October 2015: 'Spectral Legal Personality in Interwar International Law: On New Ways of Not Being a State'

Dr Natasha Wheatley (University of Sydney)

Convenor: Professor Gerry Simpson

In the interwar years, international legal personality emerged as a central and pressing question for research and analysis. Looking back over the period in 1944, Hersch Lauterpacht identified a fundamental transformation. "I suppose that twenty-five or thirty years ago," he mused, "every respectable writer on international law had little hesitation in stressing emphatically that States only, and no one else, were the subjects of international law. I doubt whether this is to-day the pre-eminently respectable doctrine." Who were the new subjects undermining the state's stranglehold on international personality? Scholars pointed to a range of non-sovereigns — including individuals, minorities, and mandate territories — that seemed to have acquired some sort of standing in international law. Yet most jurists maintained that these new or would-be subjects lacked full capacity. This presentation explores the analogies, typologies, and metaphors that interwar jurists employed to theorize these new legal persons and their semi-presence, or qualified capacity, in international law. In reaching for correlates such as ghosts, slaves, and unborn children, interwar jurists turned the jurisprudence of ILP into a kind of netherworld of international law, populated with a catalogue of legal archetypes that straddled the line between legal being and non-being.

Natasha Wheatley is a Postdoctoral Fellow in the Laureate Research Program in International History at the University of Sydney. She completed her PhD in History at Columbia University in 2015. Her dissertation, *Law, Time, and Sovereignty in Central Europe* explored the conceptual implication of constitutional and international law in the Austro-Hungarian Empire and the afterlives of imperial law in the interwar international order. A long study of international legal claims in interwar Palestine was published last May in *Past and Present* under the title, "Mandatory Interpretation: Legal Hermeneutics and the New International Order in Arab and Jewish Petitions to the League of Nations." Her new project explores the intellectual history of international law subjectivities in the first half of the twentieth century.



## 7 October 2015: 'Fossil Fuel Subsidy Reform: A New Zealand Perspective on the International Law Framework'

Mr Vernon Rive (Auckland University of Technology)

Convenor: Associate Professor Margaret Young

Subsidies and other forms of government support for the production and consumption of fossil fuels are used by almost all states over a broad political, economic and cultural spectrum. They are implemented in a variety of ways: some explicit, but many in guises which are difficult to identify and assess. Fossil fuel subsidies are directly linked with a range of significant adverse global environmental impacts, most notably, climate change.

In June 2010, New Zealand launched what would become an internationally recognised campaign directed at the global reduction of fossil fuel subsidies. As leader of the 8-nation member 'Friends of Fossil Fuel Subsidy Reform' it has engaged in public and private advocacy in various international fora including the G-20, UNFCCC, APEC, WTO and World Bank seeking enhanced arrangements and standards for fossil fuel subsidy reporting, and the incorporation of stronger measures to discipline the practice of fossil fuel subsidies in international law instruments.

This seminar presented key findings of a two-year research project supported by the New Zealand Law Foundation that examines and critiques New Zealand's role in the initiative. It draws on empirical, doctrinal and theoretical research with input from academics, government officials, diplomats and NGO representatives. Particular attention is given to the importance and role of epistemic communities (of which the 'Friends' is one) in the development of normative frameworks in the climate change context, and the sometimes vexed issue of consistency between domestic policies and international positioning on the part of the 'Friends' members, and relevance of that factor to international law reform efforts.

Vernon Rive joined the School of Law at AUT University Law School as Senior Lecturer and Director of External Relations in 2009 after over 14 years of private practice, latterly as a partner in the Environmental/Resource Management team at national commercial law firm Chapman Tripp. His research activities focus on three key areas of interest: climate change law, international environmental law and New Zealand environmental law. Vernon is in the process of completing a book *Fossil Fuel Subsidy Reform: an International Law Response* (Edward Elgar, forthcoming) which, among other things, examines the ability of a fragmented international law system to effectively respond to the largely uncontrolled practices of government support for fossil fuel exploration, production and consumption.

## 9 October 2015: 'PACER-PLUS Negotiations on Melbourne – Who Gets a Plus One?'

Mr Peter Lunenborg (South Centre, Geneva)

Convenor: Mr Joseph Kikonyogo

Trade negotiators converged on Melbourne in the week of 5 October to further negotiate the PACER-plus, a comprehensive trade agreement between Australia/New Zealand and 14 Pacific countries. This envisaged free trade agreement was in final stages with the Trade in Goods chapter being the major issue left on the agenda.

To what extent are these agreements beneficial for Pacific countries? The speaker shared some insights from the PACER-plus negotiations. Liberalisation of goods and other commitments in the area of goods have major implications on the development prospects of Pacific countries. Besides that the (balance of) benefits of other chapters considered more or less 'closed' can be questioned, such as commitments on investment arbitration and the non-legally binding nature of access to (seasonal) labour markets in Australia/New Zealand. The desirability of investment provisions in bilateral trade deals has been questioned by the Australian public as well as the administration, for example in relation to the Australia-China FTA. However, the very same issue seems to have gone unnoticed in the PACER-plus negotiations. Parallels were drawn with the experience of the Economic Partnership Agreement (EPA) negotiations between European Union and regions within Africa, Caribbean and the Pacific (ACP).

Peter Lunenborg is a Researcher in the Trade for Development Programme at the South Centre, a Geneva-based international organisation with 51 member countries. He provides training and policy advice on trade, investment and development policies to developing country delegations in multilateral as well as bilateral trade negotiations.

## 21 October 2015: 'EU Law as a Platform for Building Transnational Markets as Social Institutions'

Dr Yane Svetiev (European Union Institute and Bocconi University)

Convenor: Associate Professor Margaret Young

This seminar was organised jointly by IILAH and the Global Economic Law Network.

Darkening clouds over Europe have triggered more intense questioning of many fundamentals of the EU integration project even by the EU's once ardent supporters. The purposive focus of EU legislation on building – and stimulating competition in – the internal market is said to create a “market rationality” straight-jacket that excessively constrains national policy-making sensitive to local context or specific policy concerns, particularly in areas where social and even expressive policy goals are very salient. An alternative account provided by a number of authors is that EU legal integration over the past two decades increasingly discloses and formalizes an experimentalist governance architecture.<sup>2</sup> Such an architecture allows (and even promotes) policy innovation to respond to local context or policy preferences in return for formal obligations of reporting, peer review, and monitoring of the effects of such interventions.

In this seminar, Dr Svetiev adopted an experimentalist governance perspective, to argue that the suggestion that EU economic regulation that follows “a market rationality” tends to obscure, rather than reveal, the broader underlying transformative pressures on national law and regulation. It also tends to conceal the role that EU integration can play in coping with such pressures to help the Member States in building markets as social institutions through problem-solving and error-corrections. It draws on examples from fields such as electronic communications, energy and financial services and shows how experimentalist EU law can offer both a platform and a template for building transnational markets consistent with a broad set of normative commitments.

Dr Yane Svetiev comes from the Department of Legal Studies of Bocconi University in Milan (Italy). He also holds an appointment as Professor (part-time) at the Law Department of the European University Institute in Florence. He studied economics and law at the University of Sydney and obtained his masters and doctoral degrees at Columbia University, New York. He has also worked as judicial associate to the Hon. Michael Kirby AC CMG of the High Court of Australia and as litigation associate at Cravath Swaine and Moore in New York. He researches in the areas of competition law and economic market regulation, with a particular focus on the design of implementation instruments and governance regimes at national, regional and transnational level. His current research examines EU intervention in regulated markets to promote competition or for other regulatory purposes (such as consumer protection), including the interface of EU regulation with Member States' national legal institutions from an experimentalist governance perspective. He collaborates with the European Research Council funded research project on European Regulatory Private Law at the EUI and with the Swiss Network of International Studies (SNIS) funded project on Power Shifts in Global Regulation at the Universities of Geneva and Lucerne. He is a member of the scientific advisory committee of the Turin School of Local Regulation.



*Professor Dianne Otto (Melbourne) and Professor Simon Chesterman (NUS)*

## **27 October 2015: 'South Africa, Universal Jurisdiction and the Struggle for the Souls of International Law'**

Mr Christopher Gevers (University of KwaZulu-Natal)

Convenor: Professor Gerry Simpson

The South African Constitutional Court recently handed down its decision in the 'Zimbabwe Torture Docket' case, finding that police are obliged to investigate alleged international crimes when it is reasonable and practical to do so, wherever they occur and regardless of whether or not the suspect is present. According to the judges (and many commentators), the decision ensures that the country takes up its place as 'a member of the family of nations to investigate crimes against humanity'. This talk will critically consider this decision in the light of the country's much-celebrated failure to deal (criminally) with its own violent past, and the ongoing debate regarding South Africa's place in this estranged 'family of nations'

Christopher Gevers is a lecturer in the School of Law, University of KwaZulu-Natal where he teaches human rights and international law. His research focuses broadly on international law, with a specific interest in international criminal law and international humanitarian law, as well as international legal theory. He has acted as an adviser to litigants in cases concerning international law in South Africa and abroad, and most recently co-authored an amicus brief to the US Supreme Court in *Kiobel v. Royal Dutch Petroleum*. He also acts as a consultant for various non-governmental organisations on issues relating to human rights and international law. He has studied at the London School of Economics and Political Science and the University of KwaZulu-Natal.

## **18 November 2015: 'No Asylum for 'Infiltrators': The Legal Predicament of Eritrean and Sudanese Nationals in Israel'**

Dr Ruvi Ziegler (University of Reading School of Law)

Convenor: Professor Michelle Foster

This talk explored the precarious status of Eritrean and Sudanese nationals in Israel. Having crossed the Israeli-Egyptian border without authorisation and not through an official border crossing, Israeli law defines such individuals as 'infiltrators', a charged term which dates back to border-crossings into Israel by Palestinian Fedayeen in the 1950s. Eritreans and Sudanese nationals constitute over 90 percent of 'infiltrators' in Israel. Their livelihood is curtailed through hostility, sanctions, and detention, while Israel refrains from deporting them to their respective countries of origin, recognising that such forced removal could expose them to risks to their lives and/or freedom. This talk argues that the regularisation of asylum in Israel, including legal recognition of 'refugee', 'asylum-seeker', and 'beneficiary of subsidiary protection' statuses, is long due.

Reuven (Ruvi) Ziegler is lecturer in law at the University of Reading School of Law, where he is a member of the Global Law at Reading (GLAR) research group specialising in human rights, international humanitarian law and international refugee law. He is Editor-in-Chief with the Working Paper Series of the Refugee Law Initiative (Institute for Advanced Legal Study, University of London). He is a Research Associate of the Refugee Studies Centre, University of Oxford, and an Academic visitor at its Faculty of Law. He is also a researcher at the Israel Democracy Institute (analysing the treatment of African asylum seekers in Israel as part of the Constitutional Principles project). Previously, he was a visiting researcher at Harvard Law School (affiliated with its Immigration and Refugee Clinic and with the Human Rights Program), a Tutor in Public International Law at the University of Oxford, and a legal advising officer at the Israel Defence Forces' Legal Counsellor's Office (mandatory military service).

### **30 November 2015: 'Institutional Complexity and its Consequences for Environmental Justice: The Cases of Climate Geoengineering, REDD+, and Short-Lived Climate Pollutants'**

Associate Professor Fariborz Zelli (Lund University)

Convenor: Associate Professor Margaret Young

A core phenomenon in global climate governance today is a growing degree of institutional complexity or fragmentation. This is manifest in three distinct issues of high policy relevance in global climate governance: a) climate geoengineering, i.e. forms of solar radiation management and carbon dioxide removal; b) reducing emissions from deforestation and forest degradation (REDD+); and c) short-lived climate pollutants like black carbon, methane or hydrofluorocarbons. The paper presents first findings of a collaborative project regarding the following questions: 1) What is the degree of institutional complexity in the three issue areas of global climate governance? 2) What are the underlying causes of institutional complexity in these areas? To what extent are the observed degrees based on constellations of power and interests, cognitive gaps or contestations, and problem-structural aspects? 3) What are the consequences for aspects of environmental justice like legitimacy and participation? Which actors benefit from the growing complexity and which ones are disadvantaged or excluded? The paper drew on different strands of institutionalism (neoliberal, sociological and discursive), and provided new insights into how public and transnational institutions influence each other, and how institutional fragmentation widens participatory and power gaps across scales.

Fariborz Zelli is Associate Professor at the Department of Political Science at Lund University. Prior to this, he worked at the German Development Institute and the Tyndall Centre for Climate Change Research. His research interests include global environmental governance, institutional complexity and the intersections of forestry, climate change and trade. He is vice-chair of the Environmental Studies Section of the International Studies Association (ISA). His publications include a special issue of *Global Environmental Politics* on institutional fragmentation (2013, as guest editor) and *Global Climate Governance Beyond 2012* (Cambridge University Press, 2010).

### **7 December 2015: 'Is Redemption Possible Here? Developing an Ethics of Memory for Historical Childhood Sexual Abuse in Ireland'**

Dr Sinéad Ring (University of Kent)

Convenor: Dr Rose Parfitt

This paper engaged with questions of representation and memory in the Irish courts' engagement with adults who report childhood sexual abuse. In the last twenty years, the Irish criminal justice system has been confronted with an explosion in the number of people seeking criminal prosecutions for abuse they suffered as children. The courts have had to consider whether the delay in reporting prevented a fair trial. They have framed the reasons for the delay in terms of an innocent child paralysed by a dominating abuser. This interpretive move has ensured that criminal responsibility is not constrained by temporal limits, so that these trials may proceed. However, in the process problematic narratives about victims are produced. These tend to emphasise individual victims' traumatised experience, rather than State complicity in their suffering. This is marked contrast to victims' testimony to courts and public inquiries of providing contemporaneous reports of abuse to teachers and police. According to these testimonies, these figures of State authority did not act on reports of abuse. Furthermore, public inquiries have found evidence of deference by the police to the authority of the Catholic Church. The courts' insistence on the idea of the traumatised victim erases the agency of individuals from the historical record, and nourishes the fiction of the 'innocent Irish State', apparently passive and ignorant of the harms and extent of child sexual abuse. This paper explored the redemptive possibilities of drawing attention to the unheard stories of adult victims of childhood sexual abuse.

Dr Sinéad Ring is a Lecturer at Kent Law School where she teaches The Law of Evidence and Gender, Sexuality and Law. Her research interests lie in memory and trauma studies and in law's responses to historical sexual violence. Sinéad's PhD, which was funded by the Irish Research Council for the Humanities and Social Sciences, examined questions of fairness and truth-telling in historical child sexual abuse trials. Sinéad is a Visiting Scholar at University Technology, Sydney. She has been a visiting researcher at University College Dublin, Harvard Law School and Osgoode Hall, York University.



# Doctoral Research Seminars and Forums

## **23 February 2015: PhD Completion Seminar, 'Africa and the Ailing Promise of the Doha Development Agenda in the WTO Negotiations on Agriculture'**

Mr Joseph Kikonyogo (PhD Candidate, Melbourne Law School)

Supervisors: Professor Tania Voon and Professor Pip Nicholson

In his thesis, Kikonyogo argues that the promise of development in the *Marrakesh Agreement Establishing the World Trade Organization*, the *Agreement on Agriculture* and the Doha Work Programme is not being realised for the African Group in the agriculture negotiations in the Doha Round. The ailing promise of development is reflected in uncertainty about the place of development in the WTO legal framework, the stalemate in negotiations, persistent agricultural trade distortions, and the African Group's inability to put forward development-oriented negotiating positions.

## **23 March 2015: PhD Completion Seminar, 'Covert Operations and the Development of International Law on the Use of Force'**

Ms Marie Aronsson (PhD Candidate, Melbourne Law School)

Supervisors: Professor Anne Orford and Associate Professor Kevin Heller

This thesis illuminates the role that covert operations play in the development of jus ad bellum. Aronsson argues that the dichotomy between 'public' and 'covert' acts is unsatisfactory when assessing the value of contemporary uses of force for the development of international law as such acts often encompass a level of publicity even when not acknowledged by the acting state. Following an unpacking of the requirement of publicity, the thesis concludes that partially- and unacknowledged operations may affect the law in different ways depending on to what extent, when, and by whom they have been made public.

## **28 April 2015: PhD Completion Seminar, 'Fairness, Procedure and the Rights of the Accused in International Criminal Trials'**

Ms Sophie Rigney (PhD Candidate, Melbourne Law School)

Supervisors: Professor Tim McCormack and Associate Professor Peter Rush

This thesis examines the relationships between fairness, the rights of the accused, and procedure, in contemporary international criminal trials. Rigney argues that while fairness and rights are theoretically closely related, by examining the procedures of contemporary international criminal trials, we can witness a distancing between fairness and rights. This thesis ultimately calls for a renewed close association between fairness and the rights of the accused, particularly when considering and determining matters of procedure in international criminal trials.

## **20 May 2015: PhD Completion Seminar, 'The Figure of the Victim in International Criminal Justice'**

Ms Maria Elander (PhD Candidate, Melbourne Law School)

Supervisors: Associate Professor Peter Rush and Professor Dianne Otto

Victims appear centre stage in international criminal justice. This thesis examines victim representations at the Extraordinary Chambers in the Courts of Cambodia. By way of close reading, the predicaments of justice come into view as the victim moves through the legal institution; from the pre-trial representation of crime, to the trial itself, and then beyond in outreach. Studying crimes against humanity, victim participation, and photographic images, I argue that the figuration of the victim – both individual and collective – is manifold and indeterminate. What emerges is the performance and promise of legal order in the politics of transition.



## **Melbourne Doctoral Forum on Legal Theory**

### **'Locating the Law: Place and Space in Relation to Legal Theory'**

7-8 December 2015

Convenors: Thomas Harre and Brandais York

The Melbourne Doctoral Forum on Legal Theory is a welcoming, collegial and supportive environment that aims to foster intellectual and personal relationships between researchers and to help build a community of new scholars engaging with interdisciplinary approaches to law and legal theory.

In 2015, the Doctoral Forum set out to explore issues of space and law. Law cannot exist in a vacuum – it must be situated within a wider geography: temporal, spatial or cultural. Six PhD researchers presented draft papers representing work engaging with the ways that law occupies physical, theoretical and jurisprudential space.

# Book Launches

## **16 February 2015: IILAH and SOAS Centre for Gender Studies Roundtable Discussion and Book Launch, Gina Heathcote and Dianne Otto (eds.) *Rethinking Peacekeeping, Gender Equality and Collective Security* (Palgrave-Macmillan, 2015)**

Convenor: Professor Dianne Otto

Discussant: Susan Brennan (SC) (Vice President, World YWCA)

*Security Council Resolution 1325* was a landmark in collective security, making the link between women's security and international peace and security. The collection argues it is time to rethink the way the 'women, peace and security' framework has since unfolded. From the hyper-visibility of sexual violence to strategies for 'counting the women', the limitations of the framework are thoughtfully considered. A renewed vision is urged, that returns to the anti-militarist agenda long associated with feminist thinking and responds to gender issues in all their diversity. A roundtable discussion on issues raised in the text was held between contributors Jacqui True (Monash), human rights advocate Stephanie Cousins (Amnesty International), Olivera Simic (Griffith University), Gina Heathcote (SOAS) and Dianne Otto (Melbourne Law School). The text was then launched by Susan Brennan (SC), Vice President of World YWCA.

## **14 December 2015: Book Launch: Vanja Hamzić, *Sexual and Gender Diversity in the Muslim World: History, Law and Vernacular Knowledge* (Tauris, 2015)**

Convenor: Professor Dianne Otto

Discussant: Shakira Hussein (National Centre of Excellence for Islamic Studies)

Vanja Hamzić offers a path-breaking historical analysis of the discourses on sexual and gender diversity in, or related to, the Muslim world, as well as an ethnographic account of contemporary Muslims in Lahore, Pakistan, whose pluralist sexual and gender experience defies the disciplinary gaze of both international and state law. It provides a stellar mapping of Islamic jurisprudence, court practice and social developments in Muslim polities and the worlds around them, in reliance on extensive materials written across many centuries in numerous classical and contemporary languages. The central claim of this book is that careful examinations of the legal, social and political genealogies of the Islamic legal tradition (in as much as it addresses human sexual and gender difference) and European law (as expressed, in particular, in its manifold elaborations of human rights), although marred by multiple imperial/colonial projects, can ultimately reveal some salient patterns of insurrectionary vernacular knowledge and discursive practices. The ethnographic narrative of the book documents and interrogates some such practices, while the concomitantly pursued critical historical analysis provides a broader background for understanding their invaluable role. In sum, this book is a revolutionary account of diversity and resistance to hegemonic visions of the self and the communal in Muslim lifeworlds.

Vanja Hamzić is Senior Lecturer in the Faculty of Law and Social Sciences, SOAS, University of London. He holds two First Class Honours degrees from the University of Sarajevo, an LLM with Distinction in Human Rights Law from the University of Nottingham and a PhD in Law from King's College London. He has worked as an activist and researcher with various international and civil society organisations in South Asia, South East Asia, the Middle East, Europe and South Africa. Before coming to SOAS, Vanja held posts at King's College London and City University London. Vanja is a co-founder and former Co-Chair of the Centre for Ottoman Studies at SOAS.

**15 December 2015: Book Launch: Luis Eslava, *Local Space, Global Life: The Everyday Operation of International Law and Development* (Cambridge University Press, 2015)**

Convenor: Dr Rose Parfitt

Discussant: Professor Sundhya Pahuja (Melbourne Law School)

*Local Space, Global Life* engages with the expansive, ground-level and intertwined operations of international law and the development project by discussing the current international focus on local jurisdictions. Since the mid-1980s, and through the discourse of decentralization, municipalities and cities in emerging nations have become the preferred spaces in which to promote global ideals of human, economic and environmental development. Through an ethnographic study of Bogotá's recent development experience and the city's changing relation to its illegal neighbourhoods, Luis Eslava interrogates this rationale and exposes the contradictions involved in the international turn to the local. Attentive to historical and current transformations, norms and praxis, and both ideology and materiality, he provides an innovative reading of the nature of international law and the development project, and reveals their impact on local spaces and lives at the urban periphery of today's world order.

Luis Eslava is a lecturer in international law at Kent Law School, a senior fellow at Melbourne Law School, and an international professor at Universidad Externado de Colombia. He teaches and writes in the areas of international law, international legal theory and history, anthropology of international law, public law, law and development, and urban law and politics. The initial research for this book was also awarded the Harold Luntz Prize for the best PhD thesis completed in 2013 at Melbourne Law School, and The University of Melbourne's 2014 Chancellor's Prize for Excellence.

# VISITING SCHOLARS

IILAH brings leading international legal scholars and professionals to Melbourne Law School, and builds international linkages and networks for colleagues and students through a programme of public lectures, seminars, roundtables, visitors and major ARC-funded international workshops. Many of the visitors to IILAH have established strong working and co-publishing relationships with Melbourne Law School faculty and doctoral students as a result. These are the 2015 IILAH international and inter-state Visiting Scholars:

**Dr Adil Hasan Khan**

Graduate Institute of International and Development Studies (Geneva)  
October 2014 – February 2015

**Dr Ronli Sifris**

Faculty of Law, Monash University  
February – May 2015

**Dr Cathryn Costello**

Refugee Studies Centre, Department of International Development, Oxford University  
March 2015 - April 2015

**Professor Matthew Craven**

School of Oriental and African Studies, University of London  
April 2015

**Professor Hélène Lambert**

Westminster Law School, University of Westminster  
April 2015 – May 2015

**Professor Maria Drakopoulou**

Kent Law School, University of Kent  
May 2015

**Mr Vernon Rive**

AUT Law School, Auckland  
July 2015 - November 2015

**Dr Tarik Kochi**

University of Sussex  
July 2015

**Professor Diamond Ashiagbor**

School of Oriental and African Studies, University of London  
December 2015





*Mr Adil Hasan Khan (IHEID Geneva) and Professor Sundhya Pahuja (Melbourne), Research Seminar, 10 February 2015*

# PUBLICATIONS

## Books

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Jacqueline Peel, *Climate Change Litigation: Regulatory Pathways to Cleaner Energy* (Cambridge University Press, 2015).

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Mark McMillan, 'Words are like Weapons, They Wound Sometimes': Andrew Bolt, Gay White Men, and an Out and Proud Gay Black Man' in Dino Hodge (ed.), *Colouring the Rainbow: Blak Queer and Trans Perspectives: Life Stories and Essays by First Nations People of Australia* (Wakefield Press, 2015).

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Dianne Otto, 'Decoding Crisis in International Law: A Queer Feminist Perspective' in Stark (ed.), *International Law and Its Discontents: Confronting Crises* (Cambridge University Press, 2015).

James Parker, 'The Trouble with Contemporary Music Criticism: Retromania, Retro-historicism and History' in Woodworth and Grossan (eds.), *How To Write About Music* (Bloomsbury Academic, 2015).

Jacqueline Peel, 'Changing Conceptions of Environmental Risk' in Viñuales (ed.), *The Rio Declaration on Environment and Development: A Commentary* (Oxford University Press, 2015).

Jacqueline Peel, 'Regulation of the Nexus' in Pittock, Hussey and Dovers (eds.), *Climate, Energy and Water: Managing Trade-Offs, Seizing Opportunities* (Cambridge University Press, 2015).

Jacqueline Peel, 'Unpacking the Elements of a State Responsibility Claim for Transboundary Pollution' in Jayakumar et al (eds.), *Transboundary Pollution: Evolving Issues of International Law and Policy* (Edward Elgar Publishing, 2015).

Whiting, A, *Women and Petitioning in the Seventeenth-Century English Revolution: Deference, Difference, and Dissent*, Brepols, Belgium (2015)

Voon, T 'The World Trade Organization, the TRIPS Agreement and Traditional Knowledge' in M Rimmer (ed), *Indigenous Intellectual Property: A Handbook of Contemporary Research*, Edward Elgar Publishing, United Kingdom (2015), 64-82

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Margaret Young, 'Fragmentation, Regime Interaction and Sovereignty' in Chinkin and Baetens (eds.), *Sovereignty, Statehood and State Responsibility: Essays in Honour of James Crawford* (Cambridge University Press, 2015).

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John Tobin (with others), 'Listening to Victorian Communities about Female Genital Cutting' (2015) *BJOG: An International Journal of Obstetrics and Gynaecology*.





*Presenters and attendees from the Queering International Law, Provocations II Legal Theory Workshop*



*Presenters and attendees from the Queering International Law, Provocations II Legal Theory Workshop*







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