

ANNUAL REPORT 2022



IILAH

Institute for International
Law and the Humanities





Participants in a series of workshops held in partnership with the Lauterpacht Centre at Cambridge University and IILAH Director and Program Directors Sundhya Pahuja, Margaret Young and Shaun McVeigh.

Front Cover Image Books in the Lauterpacht Centre Library

Authorised by the IILAH Director

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DIRECTOR'S MESSAGE

This year marked a welcome return to campus. IILAH began our return to in person engagements by hosting the enormously rewarding multi-day '*Face to Face: The IILAH/McKenzie Scholars Workshop 2022*', with 45 PhD candidates, researchers, academics and interdisciplinary guests from IILAH, Sydney, UNSW, UTS, Latrobe and Monash. It was wonderful to re-convene as a community and witness graduate researchers thriving as they received mentoring and provided each other with peer-support. I thank Kathleen Birrell and André Dao for co-convening this event with such imagination and care.

IILAH continued this momentum throughout the year, hosting many international visiting scholars and a terrific program of events, including building our Skills Circles program with sessions on editing our own and each other's work, peer review, and presenting with flair. Dr Alice Palmer, Program Director of '*Art and Law*', launched a striking new series of events that finessed IILAH's interdisciplinary commitment and expertise. Our Reading Groups took on new and exciting themes, with Danish Sheikh co-convening a series of conversations around '*Genre Trouble*', and Laura Petersen and Shaun McVeigh delving into '*Forms*' in the second semester.

We were proud to launch Dr Julia Dehm's wonderful book that began as a PhD thesis with IILAH, *Reconsidering REDD+ Authority, Power and Law in the Green Economy* (CUP 2021).

The 15th Doctoral Forum on Legal Theory, supported by IILAH, was a great success. Convenors Andrea Marilyn, Haris Jamil, Kate Jama and Sumedha Choudhury brought together an impressive program of presentations from international and local graduate researchers under the theme of '*Law, Text and Contrapuntal Reading*'. IILAH's James Parker and ANU's Ntina Tzouvala delivered wonderful keynote addresses.

IILAH continued to support externally funded projects, including the ARC-funded Discovery Grant (2020-2024), 'International Law and the Challenge of Populism', led by Richard Joyce at Monash along with myself and colleagues Andrew Benjamin (Monash), James Martel (San Francisco), and Kojo Koram (Birkbeck).

The year culminated with workshops on emerging issues in how we respond to our changing climate, and to the challenges posed by global corporations, in collaboration with the Laureate Program on Global Corporations and International Law, both held at the Lauterpacht Centre in Cambridge and supported by a MLS/Cambridge Partnership Grant. IILAH PhD students were able to participate in these events and build collaborations with international scholars, and I thank IILAH members Margaret Young and Shaun McVeigh for their contributions.

The entire IILAH community is to be congratulated for their passion and commitment which has made 2022 such a fantastic year. We look forward to what 2023 will bring for IILAH.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Sundhya Pahuja IILAH Director

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 (MLS) 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, Germany, 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 (UoM), 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

Law and Development

Program Director: Jennifer Beard

International Human Rights Law

Program Director: Hilary Charlesworth and John Tobin

International Refugee Law

Program Director: Michelle Foster

Art and Law

Program Director: Alice Palmer

Australian Legal Histories

Program Director: Ann Genovese and Tanya Josev

Indigenous Peoples in International and Comparative Law

Program Director: Kirsty Gover

Jurisprudence of the South

Program Director: Shaun McVeigh

Feminist and Queer Approaches to International Law

Program Director: Dianne Otto

Law, Science, Technology and Society

Program Director: James Parker

International Environment Law

Program Director: Jacqueline Peel

International Criminal Law

Program Director: Peter Rush

Property and the International

Program Director: Olivia Barr

Fragmentation and Regime Interaction in International Law

Program Director: Margaret Young

Legal Biographies

Program Director: Ann Genovese, Shaun McVeigh and Peter Rush

DIRECTORS AND RESEARCH FELLOWS

Professor Sundhya Pahuja | IILAH Director



Sundhya Pahuja is the Director of IILAH, Director of the Laureate Research Program in Global Corporations and International Law Director of Studies for the master's programs in International Law, and Law and Development, and Leverhulme Visiting Professor at the Lauterpacht Centre for International Law, University of Cambridge. Her 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. She teaches across public international law, international law and development, trade, development and human rights, globalization and law, and legal theory. In 2022 she embarked on a major project on Global Corporations and International Law, funded by an Australian Research Council Laureate Fellowship.

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 took up in 2016 at the Institute for Global Law and Policy at Harvard Law School. In 2017 and 2019, Sundhya held a fellowship at the Stellenbosch Institute for Advanced Studies (STIAS) in South Africa, and in 2018, held the Genest Visiting Chair at Osgoode Hall law school in Toronto. Sundhya was invited to give the 2018 Lauterpacht Lectures at the University of Cambridge, the 2019 Newman Lecture at Yale Law School and the Douglas McK. Brown Lecture at UBC in 2020. In 2019, she was made a Fellow of the Australian Academy of Social Sciences.

Sundhya 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 was a founding member of the Legal Theory Interest group of the European Society of International Law, and the trilingual network Global Justice/Injustice with Emmanuel Jouannet and Albane Geslin (Sciences Po). She serves on the editorial board of the Australian Feminist Law Journal, and on the editorial advisory board of several journals including Humanity, the Melbourne Journal of International Law, the Law, Social Justice and Global Development Journal (LGD), the City University of Hong Kong Law Review, the Journal of the History of International Law, and the London Review of International Law.

Dr Olivia Barr | Program Director: Property and the International



Olivia Barr joined the Law School as a Senior Lecturer in February 2016. Prior to her Melbourne appointment Olivia was a Lecturer at the University of Technology, Sydney. She has also worked as a government solicitor, in law reform, and for the United Nations Permanent Forum on Indigenous Issues. With Dr Karen Crawley (Griffith University), she is the Managing Editor of the Australian Feminist Law Journal: A Critical Legal

Journal. Olivia writes in jurisprudence, and her cross-disciplinary work engages with geography, anthropology, philosophy, architecture and contemporary public art practices. Her research focuses on questions of inheritance, especially ongoing relations between Anglo-Australian common law and Aboriginal law in Australia. Olivia recently published *A Jurisprudence of Movement: Common Law, Walking, Unsettling Place* (Routledge, 2016) in Routledge's 'Space, Materiality and the Normative' series. Her current research concerns questions of lawful place, and argues for greater attention to the place-making practices of law.

Dr Jeremy Baskin | Program Co-Director: Law, Science, Technology and Society



Dr Jeremy Baskin is a Senior Fellow at the Melbourne School of Government where he focuses on the legitimacy and accountability of knowledge experts in policy-making. His other research interests include climate and energy policy and associated technologies, the notion of the Anthropocene, and changing understandings of the authority of science. He is joint co-ordinator of a cross-faculty network of Science, Technology & Society (STS) scholars at the University STS@UoM.

In 2017 Jeremy was awarded a PhD in Politics from the University of Melbourne. He also has degrees from the University of London and the University of Cape Town. He has been a Fellow of the Program on Science, Technology & Society (STS) at the Harvard Kennedy School of Government, and a Fellow at the Max Planck Institute for the Study of Societies in Cologne. He has worked at the University of Cambridge's Institute for Sustainability Leadership, designing and delivering programmes targeted at senior leaders in business, government and civil society.

A/Professor Jennifer Beard | Program Director: Law and Development



Jennifer is currently involved in research on the public aspects of charity law over time, political advocacy of charities and the role of the notfor-profit sector in law and development. Her collaborations include research on Ethiopian charity law and the links between English charity law, imperialism, international law and religion. In all her research, Jennifer focuses on the relationship between public and private power, law and society, and law, imperialism and development. She is particularly interested in theories of the State, political

authority, and the role of law in the exercise of political power. Jennifer has been a visiting fellow at the University of Otago Law Faculty; the University of British Columbia Law School; the Department of International Law and Human Rights at the United Nations University for Peace in Costa Rica; and the University of Lund Law School. Jennifer took leave from the academy for five years when she was a member of the Migration Review Tribunal and the Refugee Review Tribunal from 2009 to 2014.

Professor Hilary Charlesworth | Program Co-Director: International Human Rights Law



Hilary Charlesworth is a Judge of the International Court of Justice. She is also Melbourne Laureate Professor at MLS and a Distinguished Professor at the Australian National University. Her research includes the structure of the international legal system, peacebuilding, human rights law and international humanitarian law, international legal theory, particularly feminist approaches to international law and the art of international law. Hilary received the American Society of International Law's award for creative legal scholarship for her book, co-authored with Christine Chinkin, *The Boundaries of International Law*, and has also been awarded the American Society of International Law's Goler T. Butcher award for her contributions to the development of international human rights law. Hilary has held both an ARC Federation Fellowship (2005-2010) and an ARC Laureate Fellowship (2010-2015). She has been a visiting professor at various institutions including Harvard Law School, New York University Global Law School, UCLA, Paris I and the London School of Economics. In 2016 Hilary was awarded an Honorary Doctorate by the Université Catholique de Louvain in Belgium. She is an associate member of the Institut de Droit International and served as Judge ad hoc in the International Court of Justice in the Whaling in the Antarctic case (*Australia v Japan*).

Professor Michelle Foster | Program Director: International Refugee Law



Michelle is the inaugural Director of the Peter McMullin Centre on Statelessness. She has published extensively in the field of international refugee law. Michelle teaches Refugee Law and International Refugee Law, and in 2017 taught in the International Summer School in Forced Migration at Oxford's Refugee Studies Centre. Michelle has undertaken consultancy work for the United Nations High Commissioner for Refugees, and training of refugee tribunal members in New Zealand and Australia. She is Editor in Chief (with Laura van Waas) of the *Statelessness and Citizenship Review*. Michelle is also an Advisory Board Member of the *Melbourne Journal of International Law*, an Associate Member of the International Association of Refugee and Migration Law Judges, and joint case editor (with Professor H el ene Lambert) of the *International Journal of Refugee Law*. Michelle previously 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.

Professor Ann Genovese | Program Co-Director: Australian Legal Histories, Legal Biographies



Ann Genovese is a Professor at the Melbourne Law School. She teaches and researches in the fields of public law, history, and jurisprudence. She is a Law and Humanities specialist; with expertise in explaining and caring for the archival sources, and techniques, that show how Australian people have lived with their law. Her work has been integral to the establishment of an emergent practice – jurisography. She publishes widely across feminist jurisprudence, history, Indigenous and non-Indigenous relations, law and interdisciplinary fields. She has been the recipient of six ARC grants over the course of her career, often working with institutions, to research the history, theory and lived experiences of the relations between Australian law and its diverse publics. Her publications

include: *Rights and Redemption: History, Law, Indigenous People* (Sydney: UNSW Press, 2008) (with Curthoys and Reilly); *Sovereignty: Frontiers of Possibility* (University of Hawaii Press, 2013) (with Evans, Wolfe, Reilly); *Australian Critical Decisions: Remembering the Koowarta and Tasmanian Dam Case* (Routledge, 2017), *The Court As Archive* (ANU Press, 2019) (with Rubenstein and Luker); and *Feminist Jurisography: Law, History, Writing* (Routledge, forthcoming 2022).

Professor Kirsty Gover | Program Director: Indigenous Peoples in International and Comparative Law



Kirsty was appointed to the MLS 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 importance of Indigenous concepts of law and politics in settler state political theory, constitutionalism and international law.

Kirsty 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), examining the ways in which indigenous self-governance influences the development of international law and international legal theory by altering the behaviours of states. She 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 Chair of MLS's Reconciliation and Recognition Committee, Graduate Research Coordinator and Director of IILAH's Indigenous Peoples in International and Comparative Law Research Program.

Dr Tanya Josev | Program Co-Director: Australian Legal Histories



Tanya is a legal historian, researching in contemporary Australian and American legal and political history. Her interests include the origins and evolution of the binary understanding of the judicial role as involving ‘activism’ and ‘restraint’ across various common law jurisdictions; and judicial biography. Her first book, ‘The Campaign Against the Courts: A History of the Judicial Activism Debate’ was awarded the Law & Society Association of Australia and New Zealand’s ECR prize in 2018. The doctoral thesis upon which the book was based also won the Dennis-Wettenhall Prize for the best thesis in Australian history in 2015. She previously worked as a commercial litigation lawyer at Allens and as an associate to the late Justice Alan Goldberg AO. She was one of MLS’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. She teaches The High Court in the Twentieth Century; the Law of Obligations; Legal Method and Reasoning; Corporations Law and Principles of Business Law.

Professor Shaun McVeigh | Program Director: Legal Biographies, Jurisprudence 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 McVeigh 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.

Professor Anne Orford | IILAH Director Emeritus



Anne Orford is Redmond Barry Distinguished Professor, the inaugural holder of the Michael D Kirby Chair of International Law, and an Australian Laureate Fellow at MLS, where she directs the Laureate Program in International Law. Anne has held numerous senior visiting positions globally, including Visiting Professor and John Harvey Gregory Lecturer on World Organization at Harvard Law School, Senior Emile Noël Research Fellow at New York University, and Visiting Professor at the Sorbonne Law School among others. Her research focuses on the relationship of international law to a wide range of other disciplines, combining history, theory, and practice of international law, social theory, economics, history, and philosophy. Recognition of her work includes the award of honorary doctorates of laws by Lund University, the University of Gothenburg, and the University of Helsinki, election to the Academy of the Social Sciences in Australia, the award of the Woodward Medal for Excellence in Humanities and Social Sciences by the University of Melbourne, and three competitive Fellowships awarded by the Australian Research Council. In 2005, Professor Orford became the founding Director of IILAH.

Professor Dianne Otto | Program Director: Feminist and Queer Approaches to International Law



Dianne Otto holds the Francine V McNiff Chair in Human Rights Law. Dianne's scholarship explores how international legal discourse reinforces hierarchies of nation, race, gender and sexuality, and aims to understand how the reproduction of such legal

knowledge can be resisted. Her research enjoys a national and international reputation, marked by its emphasis on melding theory with transformative practice. Dianne has held visiting positions at Columbia University, the School of Oriental and African Studies, New York University and the University of British Columbia. In 2004 she was the Kate Stoneman Endowed Visiting Professor in Law and Democracy, at Albany Law School in New York. She has also been active in a number of human rights NGOs including Women's Rights Action Network Australia (WRANA), Women's Economic Equality Project (WEEP) Canada, International Women's Rights Action Watch Asia Pacific (IWRAP-AP) Malaysia, and International Women's Tribune Centre (IWTC) New York. Dianne was a member of the Expert Panel at the Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict held in Phnom Penh in 2012.

Dr Alice Palmer | Program Director: Art and Law



Dr Alice Palmer is a Senior Lecturer at Melbourne Law School and a co-director of the Art and Law Program of the Institute of International Law and Humanities (IILAH). She teaches international and domestic environmental law as well as subjects that examine the human rights and development dimensions of international environmental law. Her research spans theory and practice, addressing the interfaces between law and image with a focus on legal interpretation in international law, theories for the visual arts and philosophies of environmental aesthetics. Alice is also involved in projects assessing laws on waste management for UN and regional bodies and strategic analysis of climate litigation for the philanthropic sector.

A/Professor James Parker | Program Co-Director: Law, Science, Technology and Society



James' research focuses on the relations between law, sound and listening, with a particular emphasis on international criminal law, and the law of war and privacy. James teaches evidence, criminal law, legal theory and ethics in the JD and Masters programs at MLS. He has an

interest in legal pedagogy and has both spoken and published on the topic widely. James has provided commentary for the ABC, BBC and CNN, amongst others, on controversies including police use of the Long Range Acoustic Device and the alleged 'sonic attacks' at the US Embassy in Cuba in 2017. He has given public lectures and performances at universities and art institutions across the world, including Harvard, the Rietveld Academy, Gertrude Contemporary, firstdraft, Westspace and the Institute of Modern Art, Brisbane. James is co-curator of Eavesdropping, a collaboration between Liquid Architecture and MLS, comprising an exhibition, a public program, series of working groups and touring event which explores the politics of listening through work by leading artists, researchers, writers and activists from around the world. In 2018, Eavesdropping was staged at the Ian Potter Museum of Art in Melbourne and was later shown at the City Gallery in Wellington, NZ.

Professor Jacqueline Peel | Program Director: International Environment Law



Jacqueline is a leading 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 and risk regulation. This research has spawned an extensive body of work which has led to the awarding of numerous prizes and research grants. Jacqueline has been an active contributor to public policy formulation on climate change and environmental issues at the national and international level. Her research in this field has lead Jacqueline to the awarding of several ARC grants including to examine the regulatory framework for responding to climate change in Australia (2009-2011); on the role of climate change litigation in transitioning to a clean energy future (2012-2017); and on legal mechanisms for promoting corporate energy transition (2016-2019). Jacqueline has received several awards which include a Fulbright Scholarship, a NYU Hauser Scholarship and the Morrison Prize. She is regularly invited to take part in expert panels at conferences and to deliver keynote addresses, such as the 2016 Mahla Pearlman Oration in Environmental Law.

A/Professor Peter Rush | Program Director: Legal Biographies, International Criminal Law



Peter joined the University of Melbourne in 1999. He has been a youth worker, an artist, a filmmaker and a scholar. He has taught in Australia and in England on such topics as criminal law, jurisprudence, legal discourse, gender and law, evidence, legal history and legal method, and law and the body. 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*. 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 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; jurisprudence and the humanities; international criminal justice; trauma and transitional justice.

Professor John Tobin | Program Co-Director: International Human Rights Law



John's research interests includes all facets of human rights law including migration, children's rights and international human rights. Through his expertise, he has designed and taught several subjects in areas of international law, human rights, children's rights and public interest lawyering. He coordinates the legal internship subject across the LLB, JD and Masters programs at MLS 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.

Dr Boyd van Dijk | McKenzie Postdoctoral Fellow



Boyd van Dijk is a McKenzie Fellow at the University of Melbourne. He taught previously at the London School of Economics, King's College London, Queen Mary, and the University of Amsterdam. He studied Political Science and History in Amsterdam, Istanbul, Florence, and at Columbia University. He was shortlisted for the IISG-Volkskrant Thesis Award and received the Erik Hazelhoff Young Talent Award. He has published a monograph, articles, and essays for *Humanity*, *American Journal of International Law*, *Journal of the History of Ideas*, *Law and History Review*, *Yad Vashem Studies*, *Past & Present*, as well as Dutch magazines and newspapers. He is currently preparing a book manuscript that uses a comparative lens to understand the making of the 1949 Geneva Conventions (Oxford University Press).

Professor Margaret Young | Program Director: Fragmentation and Regime Interaction in International Law



Margaret is an award-winning academic and lawyer who researches, writes and lectures about the ways in which social, environmental and economic norms interact in international law. Margaret joined MLS in 2009 from the University of Cambridge, where she held the inaugural position of Research Fellow in Public International Law at Pembroke College and the Lauterpacht Centre for International Law. Margaret's authorship has won numerous awards. Her book *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (CUP, 2011) was awarded the International Union for Conservation of Nature

(IUCN) Academy of Environmental Law Junior Scholar Prize in 2012 and the University of Melbourne Woodward Medal in Humanities and Social Sciences in 2016, while her latest book, *The Impact of Climate Change Mitigation on Indigenous and Forest Communities* (CUP, 2017) was awarded the Certificate of Merit in a Specialized Area of International Law by the American Society of International Law. Margaret is currently a Visiting Legal Fellow at the Department of Foreign Affairs and Trade (DFAT). She has worked at the World Trade Organisation (Appellate Body Secretariat) and the United Nations International Law Commission.

MEMBERS

Professor Anna Arstein-Kerslake | Director: Disability Human Rights Clinic



Dr Anna Arstein-Kerslake is an internationally recognised legal academic in the fields of human rights, disability rights, and gender justice. She has published widely in these areas, including her recent books, *Restoring Voice to People* (Cambridge University Press 2017) and *Legal Capacity and Gender* (Springer 2020).

She has also led several large scale research projects as well as law and policy reform initiatives. For example, she was a Chief Investigator on the Unfitness to Plead Project, funded by the Australian Government, which applied a human rights framework to investigate the indefinite detention of people with cognitive disability after being found 'unfit to plead'. She has also received several grants for the development of the international Disability Human Rights Research Network (DHRRN), which she founded in 2015 and spans Europe, India, USA, and Australia.

She has been a leader in interdisciplinary and cross-sectorial research development. From 2014-2017, she was the Academic Convenor of the Hallmark Disability Research Initiative (DRI) across all faculties of the University of Melbourne. She is also currently an Establishment Committee Member of the Melbourne Disability Institute, which facilitates the development of disability research across Australia.

Dr Arstein-Kerslake is also committed to bringing research into the classroom and engaging students with community, industry, and government sectors. She developed, and leads, the Disability Human Rights Clinic (DHRC) and the National Disability Insurance Scheme (NDIS) and Disability Benefits Clinic at Melbourne Law School.

Professor Alison Duxbury | Deputy Dean, Melbourne Law School



Professor Alison Duxbury is the Deputy Dean of Melbourne Law School. She is also the Chair of the International Board of the Commonwealth Human Rights Initiative, a non-governmental organisation with offices in Delhi, Accra and London, and a member of the Executive Council of the Asian Society of International Law. Alison is the former Associate Director of the Asia Pacific Centre for Military Law and a former member of the Council of the Australian and New Zealand Society of International Law.

Alison's major teaching and research interests are in the fields of international law, international institutional law, human rights law and public law. Her publications include *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (Cambridge, 2011), a co-edited collection, *Military Justice in the Modern Age* (Cambridge, 2016), and a co-authored book, *Can ASEAN Take Human Rights Seriously?* (Cambridge, 2019). Together with Dr Madelaine Chiam, Alison is currently editing a collection, *Australia and International Law: From Empire to the Contemporary World*, to be published by Hart.

Alison has undertaken advice work in the areas of international law and human rights law. She has been a Visiting Fellow at the Lauterpacht Centre for International Law in Cambridge, the Centre for Comparative and Public Law at the University of Hong Kong, the Oxford Institute for Ethics, Law and Armed Conflict and the Institute of Commonwealth Studies in London. Alison has also taught at the Centre for Transnational Legal Studies in London and Auckland Law School. Alison is the recipient of a Melbourne Teaching Citation, the Barbara Falk Award for Teaching Excellence and a National Citation for Outstanding Contributions to Student Learning.

Professor Belinda Fehlberg | Melbourne Law School



Belinda Fehlberg is a professor of law in the Melbourne Law School, University of Melbourne, specialising in family law. She has a particular interest in how 'law in books' is understood, applied and experienced by professionals and families. Belinda has conducted empirical research over the past 20 years on a wide range of family law issues including spousal guarantees, pre-nuptial agreements, overlapping powers of the state children's courts and family law courts, children's contact services, and links between post-separation parenting and financial arrangements.

Professor Lee Godden | Director of the Centre for Resources, Energy and Environment Law



Lee Godden is Director of the Centre for Resources, Energy and Environmental Law. Lee's research interests include environmental law, natural resources law (especially water) property law and indigenous peoples' land rights. The impact of her work extends beyond Australia with comparative research on environmental law and sustainability, property law and resource trading regimes, water law resources and Indigenous land rights issues, in countries as diverse as Canada, New Zealand, UK, South Africa, and the Pacific. Engagement with the theoretical and the grounded aspects of law is a hallmark of her scholarship distinguished by an interdisciplinary approach. Her work has appeared in leading International journals, as well as leading Australian law journals. She has a longstanding record in community knowledge transfer; a recipient of a 2007 Vice Chancellor's knowledge transfer award. Her contribution to environmental conservation and social justice has been recognised by leading international and national environmental, and natural resource organisations.

Dr Jake Goldenfein | Senior Lecturer, Melbourne Law School



Jake Goldenfein is a Senior Lecturer at Melbourne Law School. He has been a researcher at Cornell Tech, Cornell University, Melbourne Law School, New York Law School, and the Swinburne Institute for Social Research in the fields of media and communications history and theory, intellectual property, communications policy, privacy and media law. He is an admitted lawyer in Australia, and previously practiced as a solicitor in an international firm in the areas of privacy and administrative law.

Dr Piers Gooding | Research Fellow, Melbourne Social Equity Institute



Dr Piers Gooding is a Senior Research Fellow at the Melbourne Law School, and an Australian Research Council DECRA Fellow. His work focuses on the law and politics of disability, and particularly mental health, with an interest in algorithmic and data-driven technology. Prior to joining MSEI, Piers was a Research Fellow at the Centre for Disability Law and Policy at the National University of Ireland, Galway, where he undertook research on European Commission research projects focusing on legal capacity-related law and policy reform. He worked on assisted decision-making law and policy for older persons, mental health service users and people with cognitive disabilities. He assisted the Centre in supporting the Committee on the Rights of Persons with Disabilities to draft its General Comment 1 on Article 12 of the UNCRPD. In Australia, Piers has worked with a range of organisations and research institutes, including the Social Policy Research Centre, University of New South Wales, People with Disabilities Australia, and the Australian Mental Health Commission.

Dr Adil Hasan Khan | Melbourne Law School



Dr Adil Hasan Khan is currently a Senior Research Fellow at Melbourne Law School, where his research seeks to explore the intersections between international law and disasters, with a focus on South Asia. He completed his PhD in International Studies, with a specialisation in International Law and a minor in Anthropology and Sociology of Development, at the Graduate Institute of International and Development Studies (IHEID) in Geneva. His doctoral dissertation, titled *Inheriting Persona: Narrating the Conduct of Third World International Lawyers*, narrates the conduct of two generations of Third World international lawyers in their struggles to reimagine, re-found, and alternatively authorize international law, and identifies the defining struggle of the Third World in international law as being over temporal transmissions or inheritance.

A/Professor Jarrod Hepburn | Melbourne Law School



Jarrold joined Melbourne Law School in June 2015. His research interests lie largely in international economic law and general international law. He has been a visiting researcher at the Max Planck Institute for Comparative and International Private Law in Hamburg, the Europa-Institut at the University of Saarland and the Centre for International Law, National University of Singapore.

Jarrold is admitted to practice law in Australian federal and state jurisdictions, and has experience in the Competition Group of a major Australian commercial law firm. He is also a regular contributor to a specialised news service, *Investment Arbitration Reporter*, providing coverage and analysis of foreign investment disputes.

A/Professor Paula O'Brien | Co-Director of the Health Law and Ethics Network



Paula O'Brien is an Associate Professor, and Director of the Health Law and Ethics Network, the COVID-19 Research Network and the Health and Medical Law Masters at Melbourne Law School. She specialises in public health law in her research and teaching. Paula's work has canvassed the international right to health, accountability in health care for asylum seekers in detention, the phenomenon of privatisation, the global shortage of health workers, and access to health care for migrant workers and their families in Australia. Paula's work is influential in the reform of law and policy, and is widely cited by scholars in cognate disciplines such as public health, medicine, and addiction science. A recent focus of Paula's work has been the control of alcohol to reduce harm, where she has written on many aspects of the regulation of alcohol, its labelling, marketing, pricing, licensing and its trade as a global commodity. Paula's previous experience includes working as a lawyer at Minter Ellison, and as Executive Director of the Public Interest Law Clearing House in Victoria.

Professor Bruce Oswald | Professorial Fellow, Melbourne Law School



Bruce "Ossie" Oswald is a Professorial Fellow at Melbourne Law School. His interests include the areas of international humanitarian law, peace operations, state building, accountability and responsibility, and the application of human rights law to military operations, with a focus on examining the law and practice surrounding the protection of civilians, the taking and handling of detainees during military operations, and militias undertaking law and order functions.

Ossie has served in the Australian Regular Army as a legal officer, and continues to serve in that role in the Army Reserves. He has seen operational service in Rwanda, the Former Yugoslavia, East Timor, Iraq and Afghanistan. He has provided legal advice and held staff appointments as a legal officer at tactical,

operational and strategic levels. During his service in Australia he provided legal advice to the Deployable Joint Force Headquarters, Headquarters Australian Theatre, Strategic Command and Directorate of Operations and International Law. For his service as the Legal Officer for the Australian Contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross (CSC). Ossie was a Jennings Randolph Senior Fellow at the US Institute of Peace in Washington DC. Ossie retired from Melbourne Law School in September 2021.

A/ Professor Lisa Sarmas | Melbourne Law School



Lisa Sarmas is Associate Professor at Melbourne Law School and writes and researches in the area of equality, gender, and narratives, power and legal developments at the intersections of family law and private law.

Dr Jordana Silverstein | Senior Research Fellow, MLS



Dr Jordana Silverstein is a Senior Research Fellow in the Peter McMullin Centre on Statelessness in the Melbourne Law School. She is the author of *Anxious Histories: Narrating the Holocaust in Jewish Communities at the Beginning of the Twenty-First Century* (New York: Berghahn Books, 2015 hardcover, 2017 paperback) and co-editor (with Esther Jilovsky and David Slucki) of *In the Shadows of Memory: The Holocaust and the Third Generation* (London: Vallentine Mitchell, 2016 hardcover, 2020 paperback) and (with Rachel Stevens) *Refugee Journeys: Histories of Resettlement, Representation and Resistance* (Canberra: ANU Press, 2021). A cultural historian, she researches histories of statelessness, Australian child refugee policies, and Australian Jewish history, focusing on questions of belonging, nationalism, identity, historiography, sexuality and memory. Jordana has held a Visiting Fellowship (with grant) at the Humanities Research Centre at the ANU (March-May 2019) and was awarded the 2021

Marian Quartly Prize for best article published in History Australia in 2020 for her article entitled "Refugee children, boats and drownings: a history of an Australian 'humanitarian' discourse".

Professor Joo-Cheong Tham | Director of the Electoral Regulation Research Network (ERRN)



Joo-Cheong is Director of the Electoral Regulation Research Network. His research spans the fields of labour law and public law with a focus on law and democracy, and the regulation of precarious work. He has published an extensive collection of articles, books, and book chapters. His research has also been published in print and online media, spawning more than 50 opinion pieces across various Australian-

based news and media organisations. His research on the regulation of precarious work is currently focused on the challenges posed by temporary migrant work in Australia, particularly, the precariousness of such work. Joo-Cheong is currently researching labour protection under trade agreements and how the work of Robert Dahl can extend the law of democracy into the economic sphere. Joo-Cheong has held numerous visiting fellowships including a fellowship under the Genest Global Faculty, Osgoode Hall Law School, King's College, University of London; the Rydon Fellowship for Australian Politics and History at the Menzies Centre for Australian Studies, King's College, University of London; and an Australian Bicentennial Fellowship.

A/Professor Amanda Whiting | Associate Director (Malaysia), Asian Law Centre



Amanda Whiting is Associate Director (Malaysia) of the Asian Law Centre at MLS. She has been a member of the Centre since 1999, and she joined the School of Law as a Lecturer in 2004. She has been involved with the Australian Journal of Asian Law since its inaugural issue in

1999 and has been an editor since 2002. Her research is principally in the area of Malaysian legal and political history; human rights institutions and practices in the Asia-Pacific Region; and the intersection of gender, society, religion and the law (with particular reference to Malaysia). She is the author of scholarly articles, book chapters and media commentary about Malaysian law, society and history, dealing with the history and current struggles of the legal profession; human rights institutions and practices; the uncomfortable fit of women's rights, human rights and development; and the colliding and conflicting understandings of secular and religious law. Between 2009-2012, Amanda was the recipient of an Australian Research Council Post-doctoral Fellowship for the project "Lawyers, Civil Society and the State in Post-colonial Malaysia".

GRADUATE RESEARCH STUDENTS

Current Students

Sanam Amin

Regulating Torture: The Effect of the UN Convention Against Torture on Global Practices

Supervisors: Sundhya Pahuja and Shaun McVeigh

The UN Convention Against Torture (CAT) is an international legal instrument that articulates an absolute prohibition on torture, as a norm of jus cogens, or a peremptory norm in international law. Three decades since it came into force, it has been ratified by 171 states. Yet, torture remains a global phenomenon. This might seem to be a failure of prohibition or lack of law. There is a more complex possibility: that the CAT has changed rather than eliminated the practice of torture. This thesis examines this possibility, using archival analysis of the CAT and other legal documents that regulate torture.

Nina Araneta-Alana

International Climate Finance and the Philippine Climate Change Response: A Legal and Critical Analysis of Rules, Institutions and Structures

Supervisors: Margaret Young and Sundhya Pahuja

This project seeks to understand how international climate finance contributes to shaping Philippine responses to climate change. It provides an historical and doctrinal account of the Philippine state response to climate change and of 'climate finance' as an emerging international legal regime. The thesis draws attention to the ways in which multilateral development institutions, as actors of the climate finance regime, have been able to generate knowledge, and establish and stabilise particular kinds of norms in contested and plural spaces. The thesis analyses, legally and critically, how the international climate finance regime is translated into the national context of the Philippines. It explores how the operation and translation of international climate finance interact with existing legal and political-economic power structures, many inherited from the Philippine's colonial past. Multilateral development institutions, as actors of the international climate finance regime, have also become central to the 'translation' of climate finance from the international to the local sphere. From a broader perspective, the thesis aims to make a contribution to understandings of the way that international and state institutions interact to shape responses to climate change of nation-states in the Global South.

Earn Asanasak

Global Comparisons in National Imaginations: Translation and Transmission of the Thai Legal Tradition

Supervisors: Shaun McVeigh and Sarah Biddulph

This thesis studies the techniques and practices of legal comparison that are used in the process of imagining a Third World national legal tradition and institutions. Drawing from the making of the Thai nation-state since the late 1800s, the thesis offers three interrelated studies. Each illustrates how domestic and foreign jurists devise and apply different legal techniques of comparison to express and formulate their laws and authorities within the multiple imaginations of a Thai nation and the ever-changing global imaginations. These techniques, I argue, enable a translation and transmission of the Thai legal tradition as a global and pluralist tradition.

Sumedha Choudhury

The State, Statelessness and International Law: A Third World Perspective

Supervisors: Michelle Foster and Adil Hasan Khan

My thesis is guided by an intuition that international law plays a role in contributing to the 'crises' of statelessness in postcolonial states. In so doing, I look at the 'state practice' of postcolonial states and reflect on how they have historically positioned themselves on statelessness matters. I explore what this historical tracing tells us about the relationship between international law and statelessness.

Alex Dela Cruz

The Imperial Sea: Imaginaries of ocean rule of law and development

Supervisors: Sundhya Pahuja and Margaret Young

This thesis seeks to understand how international law shapes human relations with the sea. It examines an object called the 'maritime', a distinct set of practices, processes, and activities that author, authorise, and actualise lawful relations in and with the sea. The project pays attention to the 'maritime' through a critical redescription of its characteristics, its examples, and in terms of how the practices associated with it have changed over time. Broadly, the thesis advances a contribution that situates the contemporary law of the sea at the meeting point of old (imperial) and new (capitalist) modes of maritime legality.

Johanna Commins

Law's handmaids: text, image, resistance and the rule of law

Supervisors: Peter Rush and Ann Genovese

Starting with Margaret Atwood's novel, this thesis considers the iconography of

the handmaid through her various iterations: in the 1985 text and its related art, the Hulu television series begun in 2017, the 2019 Graphic Novel by Renee Nault, and her contemporary status as a protest symbol. As a symbol of idealised and highly regulated femininity, the handmaid invites legal questions about thresholds and access, silence and speaking, affect, irony and ontological excess. This project seeks answers to such questions by drawing on scholarship in law and the humanities, affect theory, and critical, feminist and queer (legal) theories.

André Dao

Human Rights for the Algorithmic Society

Supervisors: Sundhya Pahuja and Hilary Charlesworth

Overwhelmingly, scholars frame the connection between digital technologies like artificial intelligence, machine learning, and the internet and human rights as a question of what is to be done about technology. That is, the dominant frame assumes that the proper starting point of enquiry is to ask how human rights law can better regulate digital technologies. An ancillary frame, largely taken up by human rights practitioners and agencies, is to ask what digital technologies can do for human rights. The starting point here is to ask how digital technologies can help achieve the goals of human rights law. Yet in accepting those frames, both scholars and practitioners make a series of assumptions: about law and technology as distinct objects of inquiry, about the normative desirability of human rights law and the normative neutrality of technology, and about the nature of the global society as the field upon which human rights law and digital technologies are to meet and interact. These assumptions, in turn, tend to obscure and even undermine the shared normative concern motivating scholars and practitioners in this area: to secure a just human future. In contrast to the dominant frames, this project takes as its starting point the question of how we are to understand the relationships between human rights law and digital technologies, specifically, digital data. The thesis will examine this question in the context of the activities of the UN and its corporate partners, with a focus both on how these actors construct the relationship between digital data and human rights, and on what the relationship looks like when we look beyond that construction to the actual operation of the technologies in question. This approach allows for an examination of what conduct or action the various relationships (both as constructed and as actualised) between digital data and human rights make possible.

Kate Jama

The Indian Ocean and Mapping Relationships of Law

Supervisors: Shaun McVeigh and Peter Rush

The Indian Ocean is often presented as an empty space in opposition to land. In my thesis, I will examine how the law shapes relationships to the Indian ocean. My project builds on the growing legal scholarship on the ocean as a contested legal space by paying particular attention to how maps, as a legal mode, shape how the law, and lawyers, see the Indian Ocean. An interdisciplinary methodology centred on mapping and art making will make visible otherwise invisible histories associated with this oceanic space.

Haris Jamil

A Critical History of the Concept of 'State Practice' and its Role in the Making of the State

Supervisors: Sundhya Pahuja and Adil Hasan Khan

In the technical idiom of international law, 'state practice' refers to the conduct of states, relevant as evidence of state consent leading to international lawmaking. In this account, 'states' make 'state practice', which sequences 'states' as coming first, followed by 'state practice' second. My thesis follows an intuition in which this order of relation is reversed in order to investigate the role that the concept of 'state practice' has played and plays in the making of the 'state'. In so doing, it critically examines the history and jurisprudence of the concept of 'state practice'.

Tim Lindgren

Beyond the Universality of International Law: Earth Jurisprudences and Ruptures from the Peripheries

Supervisors: Shaun McVeigh and Sundhya Pahuja

This doctoral project examines the relationship between peoples' tribunals and international law, considering what it means to enact and perform resistance through peoples' tribunals as a legal form. Peoples' tribunals are often imagined as political spaces where an already determined international law is engaged, rather than spaces of law in themselves. This thesis, however, thinks through and with the intuition of peoples' tribunals as spaces of law. Pushing back against the story of the international law of nation-states as the only 'international' and 'law' there is, it attends and takes serious the jurisdictions and institutions that peoples' tribunals bring into being. The analysis centres upon three tribunal moments in the history of tribunals: The Russell Tribunal (1967), the Permanent Peoples' Tribunal (1988-1994) and the International Rights of Nature Tribunal (2015-2019). Drawing on jurisdictional thinking,

histories of international law and development, and postcolonial and decolonial theories, it examines peoples' tribunals as scenes of rivalry internationals and laws in themselves. It attends the form that these tribunals take and the forms of law that are spoken in these tribunals. Thinking about what resistance through tribunals does to international law and what forms of resistance are possible through tribunals, it imagines peoples' tribunals as sites of struggle over what 'lawful' worlds we may inhabit.

Odette Mazel

Can the master's tools dismantle the master's house? Queer perspectives on law, difference, and radicalism after marriage equality in Australia

Supervisors: Ann Genovese and Beth Gaze

Whilst the legalisation of same-sex marriage has been widely celebrated in Australia, it has also brought to the surface tensions for some LGBTIQ+ activists and queer theorists who see this legal achievement as a form of assimilation to a heteronormative ideal, rather than an expression of the right to be different. Taking a queer theoretical approach, and drawing on feminist and critical race scholarship, this project investigates the tensions involved in navigating the impulse toward equal rights and advocating social change, whilst keeping true to a more radical queer imaginary. Can the legal and marital institutions, deeply set with white, patriarchal privilege and homophobic histories provide us the tools with which to carve our future? Through an empirical examination that engages members of the LGBTIQ+ community, an exploration is conducted as to how, why and when LGBTIQ+ people have worked with or without the law to bring about change, if and how the legal system has responded, and what the impacts or the implications of these approaches are. How do we navigate the entanglements of pragmatic practices and emancipatory ideals, and what does this tell us about the current relationship between law, praxis and the lived experience of LGBTIQ+ people in Australia at this point in time?

Juliette McIntyre

Procedures of the International Court: Theory, Function and Practice

Supervisors: Hilary Charlesworth and Margaret Young

This thesis asks the question "what do theories of adjudication and civil procedure tell us about how the Court should manage its procedures?" It will consider the extent to which underlying rationales regarding the role of pleading, access to justice, efficiency, and case management which inform civil procedure reform in domestic courts may be applicable to the International Court.

Caitlin Murphy

International Law and the Energy Transition Through the Lithium Supply Chain
Supervisors: Sundhya Pahuja and Shaun McVeigh

Green energy commodities such as lithium are widely embraced as promising a way to leave the fossil fuel economy behind. But despite, or perhaps because of this promise, the underside of such commodities is only beginning to be examined. This thesis inquires into the circumstances of lithium's extraction and movement from within the earth to an energy storage facility. The project is guided by an intuition that international law may be central to understanding the possible trajectories of the energy transition away from fossil fuels. Specifically, this thesis investigates the legal forms that carry the promise of lithium – and those that are carried by its extraction and use.

Danish Sheikh

Reparative Jurisprudence

Supervisors: Peter Rush and Shaun McVeigh

How might dissent be conducted in a manner that is reparative? This thesis asks this question in the context of dissenting practices that emerge in relation to the colonial anti-sodomy law in India. Danish identifies moments of dissent across different spaces: in the theatre, in academic writing, in activist engagement, and in the space of legal pedagogy. The acts of dissent that are looked at occupy a prefigurative mode, performing the change they intend to seek. Drawing upon theatre and performance studies, Danish tracks the reparative as it moves across different dissenting spaces; at times generating hope and evoking the utopian, at others providing a space for mourning and remembrance.

Rashmi Venkatesan

Law, Development and the Making of Post-colonial India: A Study of the Industries (Development and Regulation) Act 1951

Supervisors: Sundhya Pahuja and Jenny Beard

This thesis analyses the Industries (Development and Regulation) Act 1951 to explore the ideas of 'industrialisation' and 'development' that led to its enactment and understand how the Act shaped political, economic and legal relations in post-colonial India. It argues that it is through and in relation to 'development' that 'the state', 'the economy' and 'the nation' came to be imagined and constructed. Through an analysis of the Act, which was enacted in pursuit of 'development', the thesis makes visible the legal technologies at play in 'fixing' the meaning of 'development' and in constituting 'the state', 'the economy' and 'the nation'.

Ella Vines

At the coalface: Legal Constraints on Coal Mining after the Paris Agreement

Supervisors: Margaret Young and Jacqueline Peel

This thesis examines the influence of the Paris Agreement on the regulation of coal consumption and extraction in Australia. While the Paris Agreement does not expressly regulate this activity, despite its contribution to anthropogenic climate change, the parties commit to ongoing implementation of measures to meet temperature targets. The thesis finds that laws from a variety of 34 specialized legal spheres including human rights and business law create legal pathways for the regulation of GHGs from coal. Drawing on domestic litigation in Australia, the thesis points to the guiding role of the Paris Agreement in the interrelationships between the analysed laws.

Tina Yao

Administration and Criminal Law: The Jurisdictions of Corruption in Australia and China

Supervisors: Peter Rush and Sarah Biddulph

Contemporary society witnesses the expansion of administration and the innovation of administrative toolkits through law. The legitimisation of administrative practices has altered the contour of law, transforming its ordinary mode of operation. This thesis examines the interaction between criminal law and administration in the specific context of anti-corruption laws using two case studies: anti-corruption laws and institutions in New South Wales and China. By focusing on legal techniques employed throughout anti-corruption activities, the thesis analyses the discourses, institutions, procedures and officials of anti-corruption laws. It interrogates the role played by administration in informing our understanding of criminal law as a discipline.

Completed Students



Dr Valeria Vázquez Guevara giving her completion seminar.

James Cameron

Reconciling the responsibilities of parents and the state: Is the best interests principle still the appropriate test for making decisions about the provision of life sustaining treatment to young children?

Supervisors: John Tobin, Julian Savulescu, Michelle Taylor-Sands

High profile court cases in England and Wales, such as those involving Charlie Gard and Alfie Evans, highlighted the challenges of determining that life sustaining medical treatment is not in a young child's best interests. These cases led to calls for law reform, which reflect broader criticisms of the best interests principle that is applied under current laws. The criticisms suggest that the application of the best interests principle is too indeterminate to guide decisions and that the principle requires an impractically narrow focus on the child. This thesis considers whether the best interests principle should be retained to guide decisions about whether a young child receives life sustaining treatment. The

thesis explores the theoretical foundations of the best interests principle and alternatives offered in the academic literature.

Craig Dickson

Aspects of Juridification: procedural fairness and the legalisation of sporting (disciplinary) tribunals.

Supervisors: Jack Anderson, Jenny Morgan, James Parker

Technological developments have had important and far-reaching effects on the collection, verification and admissibility of evidence in the courts. The drive to incorporate technological advances for rule adjudication on the sports field has mirrored this increasing use of technological support in legal proceedings. The thesis aims to compare the increasing use of evidential video as a species of documentary evidence in the courts with the ever increasing use of video technology for adjudication within sporting contests and in post-match disciplinary tribunals. Both in the courts and sporting arenas, there is manifest an identifiable tendency to look for best practice elsewhere to indicate what the acceptable standards should be. Moreover, in determining the veracity of video evidence routinely used for adjudication, the question that must always be asked is, “can we believe what it is we see.”

Christopher Gevers

African states' engagement with international law: a theoretical exposition

Supervisors: Anne Orford and Gerry Simpson (LSE)

This thesis is an intellectual history of Pan-Africanism and international law, from 1900 to 1963. It tells the story of the Pan-Africanist who sought to radically re-imagine the international order through their political writings, fiction and public activism. Through these alternative internationalisms, these intellectuals contested the orthodox accounts of the international legal order by: (i) conceptualizing Global White Supremacy as a constitutive feature thereof, (ii) deconstructing its Eurocentric historiography, and (iii) unsettling and re-orienting its ‘imaginative geography’.

Balawyn Jones

Reaching Out From the Ocean: Women's Experiences Navigating the Anti-Domestic Violence Law in Aceh, Indonesia

Supervisors: Tim Lindsey and Amanda Whiting

This thesis investigates the barriers to access to justice faced by domestic violence victims when seeking to exercise their rights under the Indonesian Anti-Domestic Violence Law (the Law). Applying a qualitative socio-legal methodology, I analyse how the intersections between religion, gender, and law affect the implementation of the Law in Aceh – a 98 percent Muslim-majority province in Indonesia.

Sophie Lamond

Campus Foodscapes as Sites of Transformation: Mapping Policy and Projects in US Universities Envisioning Just, Sustainable, and Healthy Food Systems

Supervisors: Christine Parker and John Howe

Drawing on fieldwork and interviews across eleven US institutions and their campus foodscapes this research presents insights into the emergence of policies, projects, and protest to envision and enact more just, sustainable and healthy food futures. It looks at drivers and barriers to change as well as power dynamics in this complex ecosystem. Results are presented as analysis and as maps of campus and higher education foodscapes which include activities, policies and stakeholders as well as vignettes of exemplar projects and considerations of the impact of corporate influence in educational settings.

Tim Mann

Cause Lawyering in a Fragile Democracy: The Indonesian Foundation of Legal Aid Institutes Supervisors: Tim Lindsey

This study explores how democratic change affects lawyers and the strategies they use to promote social change, through a case study of Indonesia and the Indonesian Foundation of Legal Aid Institutes (Yayasan Lembaga Bantuan Hukum Indonesia, YLBHI) and its regional offices, known as LBH. I examine YLBHI-LBH by drawing on literature on cause lawyering and legal mobilisation. Under the authoritarian New Order, YLBHI was Indonesia's most prominent cause lawyering organisation and an influential hub of resistance to the Soeharto regime. The far-reaching democratisation process that began after Soeharto fell in 1998 established many conditions supportive of cause lawyering. Yet the impact of democratic transition on the practice of cause lawyering in Indonesia is yet to be examined in the literature. This project seeks to address this gap, and, as its title suggests, it also addresses the democratic regression that has become a feature of Indonesia over the past decade.

Tony Mihalopoulos

Imagining News Modes of Cultural Co-existence for Ethnocultural Groups in Australia: An Interdisciplinary Study

Supervisors: Beth Gaze and Lisa Sarmas

This thesis utilises a variety of disciplines such as politics, philosophy, history and law and systems and structures in other jurisdictions and at different historical times to argue that modern democratic nation states need to be better attuned to cultural, religious and legal diversity and to the issues faced by members of ethnocultural communities. The main areas of focus are faith-based dispute resolution and religious divorce.

Claerwen O'Hara

Consensus in International Law: Authority, Democracy, Difference

Supervisors: Hilary Charlesworth and Sundhya Pahuja

This thesis investigates the idea of 'consensus' in international law. It does so through an exploration of two case studies: consensus decision-making in the General Agreement on Tariffs and Trade (1947) (GATT) and the World Trade Organisation (WTO), and the European Court of Human Rights' use of 'European consensus' as a method of treaty interpretation. The thesis redescribes consensus in international law as an historically specific technique of authorisation. It argues that consensus lends authority to institutional practices and decisions by gesturing towards a widespread, yet unfixed, level of agreement.

Laura Petersen

Making-Good-Again? Law, Aesthetics and Responsibility

Supervisors: Peter Rush and Shaun McVeigh

Over the last 75 years since the end of WWII, the state-based gestures of taking responsibility for Wiedergutmachung (restitution) in the aftermath in Germany have been the most visible. But in this thesis, I argue for a new understanding of restitution, encapsulated by the literal translation of Wiedergutmachung in English which is 'making-good-again.' I examine the work of selected jurists, authors and artists who all engage with the NS regime and the Holocaust and contend they also offer accounts of restitution; they take responsibility for restitution through the 'making' of texts and objects. Parallel to this, I highlight the jurisprudential commentary within their accounts, focusing on questions of form and technique. This thesis therefore tells a different story about restitution which expands across genres, sites and temporalities; it re-writes the jurisprudence of restitution within the context of law and humanities scholarship.

Windy Triana

Reforming the Education of Islamic Judges in Indonesia

Supervisors: Tim Lindsey and Farrah Ahmed

The Religious Courts of Indonesia, the country's Islamic courts, have been criticised for their inability to deliver justice to vulnerable groups, such as women and children. One of the causes of this is major shortcomings in the pre- and post-appointment education of the judges who preside in these courts. However, judicial education in Indonesia is an understudied area. This study seeks to respond to this by investigating the challenges faced by the current education system for Religious Court judges in Indonesia, identifying its weaknesses and the factors causing them, and proposing reforms.

Valeria Vázquez Guevara

Truth Commissions: The Authority of International Law and the State after Conflict

Supervisors: Sundhya Pahuja and Shaun McVeigh

This thesis argues that Truth Commissions have drawn, in different ways, on the authority of international law to 'authorise' their accounts of the truth of past violence and their promises of future community. Over the last thirty years, Truth Commissions have proliferated and gained an international reputation as important post-conflict institutions that help to create a peaceful, just, and law-abiding relationship between state and society after civil conflict. Truth Commissions are generally understood to be investigatory institutions that establish an official, yet independent, account of past violent events. This thesis examines how Truth Commissions create an authoritative account of violent conflicts, and how they deal with the plurality of (rival) accounts that exist across communities. The thesis examines three of the earliest and most internationally-influential Truth Commissions: Argentina (1983-1984); Chile (1990-1991); and El Salvador (1992-1993).

EVENTS AND ENGAGEMENT

Public Lectures

Wednesday 27th April: Landscapes Disrupted: A Conversation about Art and law

Danie Mellor in conversation with Alice Palmer

International laws protect the natural environment for its value, including its 'aesthetic' value. But these laws have operated to endorse a Western European and British landscape tradition as universal at the expense of plural understandings of aesthetics. In this talk, artist Danie Mellor was in conversation with Alice Palmer to discuss how Mellor's artworks disrupt a colonial vision of the Australian landscape and engage First Nations' conceptions of Country.

Wednesday 17th August: Celebrate The Gallery of Less Challenging Art - 13 Years on



IILAH and the Office of the Dean warmly invited all staff and supporters of The Gallery of Less Challenging Art to come together in a celebration 13 years in the making. Dr Alice Palmer engaged founder and head curator of The Gallery of Less Challenging Art, Professor Emeritus Ian Malkin, Gallery critic and Dean of Melbourne Law School, Matthew

Harding, and Gallery champion Professor Sarah Biddulph, in a lively discussion of The Gallery's evolution as a site of collegiality and of private interests put to public ends. Together they delved into questions of authority and judgement, the inexpert and the elite, and why MLS staff just want to have fun.

Research Seminars

4th August: At the Margins of Globalization: Indigenous Peoples and International Economic Law

Sergio Puig (Arizona)

In this seminar, Professor Sergio Puig (Arizona) discussed his recent book, *At the Margins of Globalization*. Despite the tremendous progress in the development of scientific knowledge, the understanding of the causes of poverty and inequality, and the role of politics and governance in addressing modern challenges, issues such as social inclusion, poverty, marginalization and despair continue to be a reality across the world - and most often impact Indigenous Peoples. *At the Margins of Globalization* explores how Indigenous Peoples are affected by globalization, and the culture of individual choice without responsibility that it promotes, while addressing what can be done about it. Though international trade and investment agreements are unlikely to go away, the inclusion of Indigenous rights provisions has made a positive difference. This book explains how these provisions operate and how to build from their limited success.

Workshops

16th – 18th February 2022: Face to Face: The IILAH/McKenzie Scholars' Workshop

Organised by Professor Sundhya Pahuja, Dr Kathleen Birrell and André Dao (IILAH).

IILAH welcomed PhDs, early career researchers and faculty from around Australia for an in person workshop which prompted us to rekindle our bonds, refresh our minds, spark creativity, remember our physical existence, reflect on the way we do things, and refine some of our skills, including writing, and engaging with the work of others. The residential style workshop was held in partnership with the McKenzie Postdoctoral Fellowship of Dr Kathleen Birrell, and included participants from The University of Adelaide, La Trobe University, the University of New South Wales, Monash University, and the University of Technology Sydney.

15th – 16th December 2022, Cambridge, UK: Global Corporations and International Law PhD/Early Career Researcher Workshop

Organised by Professors Sundhya Pahuja (Melbourne, Laureate Program in Global Corporations and International Law) and Surabhi Ranganathan (Lauterpacht Centre for International Law (Cambridge))

The purpose of this workshop was to begin to think together about how the research questions international lawyers ask might change if we started with the company/corporation. We invited participants to give a short, exploratory presentation which takes their current research, locates a company or corporation within it, and tells the story from that point.

The workshop, Professor Pahuja's visit, and the participation of MLS Faculty and PhD students were supported by the ARC Laureate Program in Global Corporations and International Law, the Lauterpacht Centre for International Law, a Cambridge Law Faculty - Melbourne Law School Partnership Grant, the Institute for International Law and the Humanities, and the Leverhulme Foundation.



A full room of participants at the Global Corporations and International Law Workshop.

12th – 13th December 2022, Cambridge, UK: The Climate Regime and Public International Law PhD/Early Career Researcher Workshop

Organised by Prof Margaret Young (Melbourne Law School) and Dr Markus Gehring (Cambridge)

This workshop assessed current trajectories of the climate regime in the context of public international law and in the wake of the Conference of the Parties (COP27) of the United Nations Framework Convention on Climate Change (UNFCCC) in Sharm El-Sheikh, Egypt. Themes included intersections between climate change and human rights, climate change and trade and investment law, climate change and oceans governance, climate change and decarbonisation, and international climate litigation. Participants were invited to depart from the pragmatic, state-oriented discussions of COP27 and offer scholarly analysis and critique. Rights and obligations of states, subnational entities, international organisations and other actors were assessed. Papers drew on a variety of methodologies, including historical work, empirical country-based engagement, and a focus on how the COP's sphere of professional specialisation sits alongside other regimes of international law. The participants were PhD students, Early

Career Researchers and senior academics from Melbourne Law School and the University of Cambridge.

The discussants at the workshop included Prof Margaret Young, Dr Markus Gehring and Prof Marie-Claire Cordonier Segger, in addition to Professor Jacqueline Peel (online).

The workshop and the participation of MLS Faculty and PhD students were supported by a Cambridge Law Faculty - Melbourne Law School Partnership Grant, the Lauterpacht Centre for International Law, and the Institute for International Law and the Humanities.



Professor Margaret Young sets up for the Climate Regime and Public International Law Workshop.

Skills Circles

The 'Skills Circle' is an ongoing collaboration between IILAH, the UNSW Critique Network of Professor Ben Golder, and La Trobe Law and Humanities Network co-led by Dr Kathleen Birrell. Each year we hold around 6 sessions.

It is modelled on the knitting circle, which brings knitters of all levels of experience together into a room to knit, and while they do so, to share ideas and techniques, and to experience the camaraderie of a shared activity. Accordingly, we invite scholars of all levels, from PhD students and early career researchers, to mid and late career researchers who want to share their knowledge, or watch how other people do things to reflect upon their own methods. Sessions are kept small to allow for good conversation, and often feature special guests. We create recordings for the IILAH podcast from the episodes.

Friday 25th March: Editing a Collection

Featured Guest: Shane Chalmers.

Friday 29th April: Editing your Own Work

Featured Guest: Rebecca Croser

Thursday 18th April: Peer Review

Featured Guest: Associate Professor Ntina Tzouvala

Thursday 29th September: Balancing Breadth and Depth

Featured Guest: Professor Margaret Davies

Thursday 20th October: The Art of the Conference Presentation

Featured Guest: Danish Sheikh

Reading Group – ‘Genre Trouble’

This year the IILAH reading group read texts that challenge the genre conventions of legal writing. We gathered to explore writings that take on forms ranging from memoir to judgment; from the affectively attuned to the bruisingly satirical.

The reading group for Semester 1 was co-convened by Danish Sheikh and Sundhya Pahuja.

Reading Group – ‘Form’

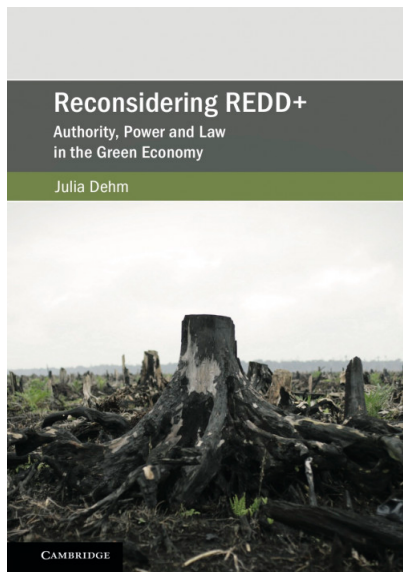
In semester two, the IILAH Reading Group centred on why 'form' might matter for law and legal critique. Expanding our discussion on genre, thinking with 'form' provoked questions of repetition and tradition, content and style. We read texts which challenge the potential (and limitations) of disciplinary forms and methods – texts which made us question how we make meaning, how we make judgments and how writing practices form and re-form our ways of knowing the world.

The reading group for Semester 2 was co-convened by Laura Petersen and Shaun McVeigh.

Book Launches

20th July 2022: Reconsidering REDD+: Authority, Power and Law in the Green Economy

Dr Julia Dehm and Professor Margaret Young



Julia Dehm, *'Reconsidering REDD+: Authority, Power and Law in the Green Economy'*, (CUP, 2021)

This year, IILAH launched Julia Dehm's monograph, 'Reconsidering REDD+: Authority, Power and Law in the Green Economy'. The book was launched by Professor Margaret Young.

Reconsidering REDD+: Authority, Power and Law in the Green Economy provides a critical analysis of how the Reducing Emissions from Deforestation and Forest Degradation (REDD+) scheme operates to reorganise social relations and to establish new forms of global authority over forests in the Global South, in ways that benefit the interests of some actors while further marginalising others. It shows that REDD+ represents a particular way of framing and responding to the urgent challenge of addressing climate change that is not neutral in its effects, but has potential wide-ranging implications for how forests are governed and valued, both for biodiversity and for the estimated 1.6 billion people who live in and around forests and depend upon

them to some degree for their livelihoods. It was mostly researched as at PhD thesis while Julia was at IILAH.



Dr Julia Dehm addresses the assembled crowd at the launch of her book.

Doctoral Forum

15th Annual Melbourne Doctoral Forum on Legal Theory

Thursday 24th and Friday 25th November, 2022

Forum organisers: Andrea Marilyn, Haris Jamil, Kate Jama and Sumedha Choudhury

The Annual Melbourne Doctoral Forum on Legal Theory (DFLT) is an annual interdisciplinary workshop hosted by graduate researchers. The provides a safe space for graduate researchers and early career scholars from a range of disciplines and backgrounds to think methodically, theoretically and critically about law and theory.

The theme for this year's Forum was *Law, Text and Contrapuntal Reading*. Against this backdrop, the organisers invited participants to the DFLT-15 to share their readings of laws and texts that form part of their research. They welcomed contributions from different disciplines and fields to explore their engagement with law. The idea of the DFLT-15 was to bring together doctoral and early career scholars and build a community of peers. The forum included a series of presentations and panel discussions in a supportive and collegial environment.



Convenors listen to participant presentations at the 15th Doctoral Forum.

VISITING SCHOLARS

Deborah Whitehall

Deborah Whitehall works at the interface of international law, political theory and human rights. She was the Associate to the Hon. Justice SM Kiefel AC, a solicitor at King & Wood Mallesons, a principal solicitor at the Victorian Government Solicitor's Office, a Lecturer of Law at Monash University and most recently a Lecturer at the University of Sydney. She has presented her research at NYU, the LSE, the Max Planck Institute and has delivered the 2017 Cambridge International Law Journal Lauterpacht Centre for International Law Annual Lecture.



Gabrielle Simm

Gabrielle Simm joined University of Technology Sydney as a Chancellor's Postdoctoral Research Fellow in 2015 and was promoted to Senior Lecturer in 2018. She researches and teaches in international law. She has held visiting positions at the EUI, UNSW, ANU and UBC. Prior to commencing her PhD, she worked as an international lawyer with DFAT and the AG's Department in Canberra. She has also worked as a refugee lawyer at Victoria Legal Aid and in a voluntary capacity at the Refugee & Immigration Legal Service in Melbourne.



Hailegabriel Freyissa

Hailegabriel is a Research Associate at Melbourne Law School. His previous roles include Lecturer at Addis Ababa University (Ethiopia), Editor-in-chief of the Bahir Dar University Journal of Law (2012-2013) and as High Researcher at the Justice and Legal System Research Institute of Ethiopia. Hailegabriel's research interests include comparative law, (Ethiopian) property and land law, legal history, law and development and international law. His latest research focuses on the colonial encounter between sub-Saharan Africans and Europeans between the 16th and 20th centuries.



Judy Grbich

Judy Grbich (Griffith University's Law School and Socio-Legal Research Centre) is the Editor-in-Chief of the *Australian Feminist Law Journal*. Her current research has a focus on theological frameworks carrying colonialism across times, spaces, histories and currencies and their effects within the subjectivities of first world and third world peoples.



Laura Petersen

Laura Petersen's research interests are cross-disciplinary, integrating approaches to jurisprudence with literature and visual art. She has a particular interest in Germany in the 20th Century. Her recently completed PhD focused on the jurisprudence of restitution or Wiedergutmachung in Germany after WWII, arguing that legal, literary, artistic and memorial works are practices of restitution. Laura won the inaugural international 2021 Zipporah B. Wiseman Prize for Scholarship on Law, Literature and Justice run by the University of Texas (Austin). Her paper was based on her research into a German lawyer, Dr Walter Schwarz, and his glossatorial writings.



Luis Bogliolo

Luis Bogliolo holds a PhD from the University of Melbourne and was a Teaching Fellow from 2018-2021 at Melbourne Law School. His research is focused on the history and theory of international law in the context of the intersections between technology and warfare. He adopts critical legal methodologies and historical materialism to consider the structures, limitations and possibilities of international legal discourse.



Martin Clark

Martin Clark is an Adjunct Lecturer at the Faculty of Law, University of Tasmania. Arriving in Hobart from Scotland in March 2020, he was awarded his PhD in Law from the London School of Economics and Political Science in May 2020, where he was a Judge Rosalyn Higgins Scholar and Modern Law Review Scholar. His work focuses mostly on the history of legal thought, international law and public law. He is an assistant editor at the London Review of International Law, and Web Assistant at the Modern Law Review.



Michelle Lesh

Michelle Lesh has taught Public Law at MLS and international criminal law at LSE Summer School. Prior to her teaching, Michelle worked at the UN as an international lawyer on a Commission of Inquiry and for the UN Special Rapporteur on the occupied Palestinian territory. She has clerked for Israel's Supreme Court Chief Justice (Ret.) Aharon Barak, has worked at the Israeli human rights organisation B'Tselem, as the principal researcher for the Turkel Commission on investigating alleged violations of the law of armed conflict, and as an assistant to Israel's Deputy Attorney General for International Law.



William Phillips

William Phillips is currently a lawyer with the Australian Government Solicitor in the Civil Regulation Team. He has broad litigation and advising experience in both public and private law. William has acted for a range of different regulators facing different sensitivities and imperatives, including working in-house with the Australian Competition and Consumer Commission on its Consumer Data Right implementation project.



