



Institute for International Law  
and the Humanities

# Annual Report 2009







AUTHORISED BY IILAH Director

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EDITOR: Vesna Stefanovski

#### CONTACT DETAILS:

Institute for International Law and the Humanities  
Melbourne Law School  
The University of Melbourne  
Victoria 3010 Australia

Telephone: +61 3 8344 6589  
Fax: + 61 3 8344 1013  
Email: [law-iilah@unimelb.edu.au](mailto:law-iilah@unimelb.edu.au)  
Web: <http://iilah.unimelb.edu.au/>





# CONTENTS

MESSAGE FROM THE DIRECTOR .....	4
OVERVIEW OF IILAH .....	6
IILAH RESEARCH PROGRAMMES .....	7
DIRECTORS AND STAFF .....	8
Director.....	9
Programme Directors .....	9
Staff.....	13
IILAH MEMBERS .....	14
Members .....	15
IILAH DOCTORAL STUDENTS .....	18
Completed in 2009.....	19
Ongoing .....	19
EVENTS AND VISITORS .....	26
PUBLICATIONS .....	34
Books .....	35
Book Chapters .....	35
Journal Articles.....	36
Selected Lectures and Presentations .....	38
Other Contributions .....	41

# MESSAGE FROM THE DIRECTOR

I am very pleased to present the 2009 Annual Report of the Institute for International Law and the Humanities (IILAH). IILAH provides an institutional focus for the research activities of a dynamic group of faculty and research students working in international law and the humanities at the University of Melbourne. It facilitates and promotes innovative scholarship and critical thinking on emerging questions of international law and global justice, and strengthens the role of Melbourne Law School as a leading centre of research in this area. IILAH events and publications have facilitated lively and sustained conversations about a wide range of pressing international issues, both amongst IILAH members and with an expanding international network of scholars, activists and legal professionals.

Over the course of 2009, we were delighted to welcome many Australian and international visitors to IILAH. They included Antony Anghie (Law, Utah), Hilary Charlesworth (RegNET, ANU), Ann Curthoys (History, ANU), Michael Dillon (Politics, Lancaster), John Docker (History, Sydney), Jo Feldman (Australian Government Attorney-General's Department), Amanda Gorley (Australian Department of Foreign Affairs and Trade), Graham Hammill (English, Buffalo), Gina Heathcote (Law, School of Oriental and African Studies), Martti Koskenniemi (Law, Helsinki), Meredith Kolsky Lewis (Law, Victoria University of Wellington), Jacques Lezra (Comparative Literature, NYU), Philip Lorenz (English, Cornell), Vera Mackie (Historical Studies, Melbourne), China Miéville (courtesy of the Melbourne Writers Festival), Chantal Morton (Osgoode Hall Law School), Sieglinde E Pommer (Harvard Law School), Frances Raday (Law, Hebrew University Jerusalem), Yasuhei Taniguchi (Counsel for Matsuo & Kosugi, Tokyo), Robert Wai (Osgoode Hall Law School) and Peer Zumbansen (Osgoode Hall Law School). Visitors presented public seminars on a diverse range of issues, such as the role of the WTO in protecting the global commons, state building and international law, the role of traditional knowledge in determining appropriate safety standards under the WTO regime, the problematic conception of 'situational gravity' relied upon by the Prosecutor of the International Criminal Court, the regulation of female nudity in public spaces, and multilateralism as terror in Haiti. Details of our 2009 events begin at p27.

During 2009 IILAH continued its commitment to engaging in interdisciplinary collaborations within and beyond the University of Melbourne. In July, Margaret Young convened a major international conference at the University of Cambridge, co-sponsored by IILAH and the Lauterpacht Centre for International Law and Pembroke College, Cambridge. The conference, on *Regime Interaction in International Law: Theoretical and Practical Challenges*, featured members of international tribunals, advisers to international tribunals, legal staff of state delegations and NGOs, and academics. It aimed to provide a forum to explore theoretical and practical challenges posed by regime interaction. In October, Ann Genovese hosted an Australian Research Council funded workshop on *Interregnums: Between the National and the Post-National*, which staged a productive conversation between historians, public lawyers and legal theorists about whether nation-states can still offer space for political or revolutionary projects. In November, I hosted an international workshop on *Reasons of State: Security, Civility, Immunity, Life*, to explore the histories, objects, passions and strategies of modern statecraft. The workshop brought together scholars analysing the modern state-making and administrative projects of international law, with scholars studying the theological, political and juridical foundations of worldly authority and state sovereignty. It was one of a series of workshops funded by the Australian Research Council as part of a five-year project I am undertaking on *Cosmopolitanism and the Future of International Law*. The closing international conference for that project will be held in Melbourne in November 2011. In December, Emmanuelle Jouannet and I co-hosted an international workshop held at the University Paris 1 (Panthéon-Sorbonne), reflecting upon critical approaches



to international law developed over the past twenty years in the work of Anglophone scholars. The workshop brought together 92 participants from 43 universities in Australia, Belgium, Canada, Egypt, Finland, France, Germany, Italy, the Netherlands, Romania, Switzerland, the UK and the US. Further details about these events are available at pp32-33.

Supporting and engaging with the work of an outstanding group of doctoral students remains one of the central roles and pleasures of IILAH. During 2009, IILAH students presented their work at international workshops and conferences, published articles in journals including the *Australian Feminist Law Journal*, *Colorado Journal of International Environmental Law and Policy*, *Journal of Ethiopian Law*, *The Law and Development Review*, *Law Text Culture*, and *Revista de Derecho del Estado*, and edited a special issue of *Sortuz: Oñati Journal of Emergent Sociolegal Studies*. We warmly congratulate Edward Mussawir and John Tobin who successfully completed their doctoral studies during the year. More details about the projects of the IILAH doctoral students can be found at pp19-25.

The continued range and success of IILAH's activities are due to the creativity and energy of the law school faculty who direct the twelve IILAH research programmes, and to the enthusiasm and intellectual engagement of IILAH members, staff, research students and audiences. Together the members of this group have worked to establish a space of collaboration, creativity, solidarity and intellectual excitement at Melbourne Law School. The IILAH community depends upon IILAH's administrator Vesna Stefanovski, who left us temporarily in mid-2009 to give birth to her twin boys Ilion and Isidor. Vesna's warmth, efficiency, organisational ability and marketing flair have remained indispensable to the smooth running of IILAH. In Vesna's absence, the administration of IILAH was ably carried out by Erin Lewis and Sarah Thyssen.

I hope this report gives you a sense of the vibrant scholarly community associated with IILAH. Details of the events, projects and conversations we have planned for 2010 and beyond are available on our website at <http://iilah.unimelb.edu.au/>.

Anne Orford



Michael D Kirby Professor of International Law  
 Australian Research Council Professorial Fellow  
 Director, Institute for International Law and the Humanities

# OVERVIEW OF IILAH

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

## Aims and objectives

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

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

## Activities

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



# IILAH RESEARCH PROGRAMMES

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

## **Comparative Tribal Constitutionalism**

Programme Director: Dr Kirsty Gover

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

Programme Director: Dr Margaret Young

## **Global Trade**

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

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

Programme Director: Professor Anne Orford

## **International Authority and the Responsibility to Protect**

Programme Director: Professor Anne Orford

## **International Criminal Justice**

Programme Director: Associate Professor Peter Rush

## **International Environmental Law**

Programme Director: Associate Professor Jacqueline Peel

## **International Human Rights Law**

Programme Director: Professor Dianne Otto

## **International Investment Law**

Programme Director: Mr Jürgen Kurtz

## **International Refugee Law**

Programme Director: Dr Michelle Foster

## **Jurisdictions of the South**

Programme Director: Associate Professor Shaun McVeigh

## **Law and Development**

Programme Director: Associate Professor Sundhya Pahuja

# DIRECTORS AND STAFF





## Director

### Professor Anne Orford

Programme Director, Histories of International Law and Empire

Programme Director, International Authority and the Responsibility to Protect



Anne Orford is the inaugural holder of the Michael D Kirby Chair of International Law and an Australian Research Council Professorial Fellow at Melbourne Law School, where she is also the foundation Director of the Institute for International Law and the Humanities. Her publications include *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge University Press, 2003) and the edited collection *International Law and its Others* (Cambridge University Press, 2006). She has held visiting positions at Lund University and New York University, and previous appointments at La Trobe University and the Australian National University. She was awarded a research-only Australian Professorial Fellowship by the Australian Research Council to undertake a project on *Cosmopolitanism and the Future of International Law* from 2007 to 2011. The first book from that project, entitled *International Authority and the Responsibility to Protect*, will be published by Cambridge University Press in January 2011.

## Programme Directors

### Dr Michelle Foster

Programme Director, International Refugee Law



Michelle Foster is a Senior Lecturer at Melbourne Law School. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. She holds LLM and SJD degrees from the University of Michigan Law School, where she was a Michigan Grotius Fellow, and an LLB and BComm (Hons 1) 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.

She has published widely in the field of international refugee law, and her work has been cited extensively in the international refugee law literature and also in judicial decisions in the UK, Australia and New Zealand. Her 2007 book, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*, published by Cambridge University Press, has been widely and favourably reviewed in domestic and international law journals and was awarded the University of Melbourne's Woodward Medal in 2009. Her current research is focused on an ARC Discovery project with Professor James Hathaway entitled 'The Law of Refugee Status: A Theoretical and Comparative Analysis'.

### Dr Kirsty Gover

Programme Director, Comparative Tribal Constitutionalism

Dr Gover joined the Melbourne Law School faculty in 2009. She is a graduate of the NYU School of Law JSD Program, where she was an Institute for International Law and Justice (IILJ) Graduate Scholar and New Zealand Top Achiever Doctoral Fellow. Dr Gover has an LLM from Columbia University School of Law in the United States, and a BA/LLB(Hons) from the University of Canterbury, New Zealand. A Columbia University School of Law Human Rights Fellow and James Kent Scholar, she was



also the first full-time Institute Fellow at NYU Law School's IILJ. She has worked as a senior advisor and consultant to Te Puni Kokiri (Ministry of Maori Development) and the Ministry of Justice, Wellington, New Zealand, consulting on international and domestic policy on indigenous peoples. She also taught in this field at the University of Canterbury Law School. At Melbourne she teaches Property Law and courses in indigenous rights. Her forthcoming book (Oxford University Press) is entitled *Constitutionalising Tribalism: States, Tribes and Membership Governance in Australia, Canada, New Zealand and the United States*. The book addresses the theory and practice of tribal membership governance in the Western Settler States, and is based on a large-scale study of the membership rules contained in the constitutions of 600 recognized tribes. Her recent article "Genealogy as Continuity: Explaining the Growing Tribal Preference for Descent Rules in Membership Governance", was published in the *American Indian Law Review* (33-1, 2009). Articles on aspects of comparative tribal constitutionalism and the concept of indigeneity are forthcoming in *Law and Social Inquiry*, the *New Zealand Journal of Public and International Law*, and as a chapter in an edited volume entitled *Self-determination and Recognition* (The Consortium on Democratic Constitutionalism (Demcon), UBC Press).

## Mr Jürgen Kurtz

Programme Director, International Investment Law



Jürgen Kurtz 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. His work has been published in a range of leading international law journals and has been cited by international tribunals in adjudication. He has held research fellowships at the Jean Monnet Center for International and Regional Economic Law Justice at New York University Law School, the University of Michigan Law School and The Hague Academy of International Law. In 2008, he was appointed the inaugural convenor of the General Course on International Investment Law of the Academy of International

Trade and Investment Law based in Macau and organized by the Institute of European Studies. In 2010, he joins the Global Faculty of the Master of Laws in a European and Global Context at the Universidade Católica in Portugal and will then take up a position as Fernand Braudel Senior Fellow at the European University Institute in Florence. Aside from research and teaching, he acts as a consultant to a variety of governmental and inter-governmental agencies including the United Nations Conference on Trade and Development, the United Nations Development Program and the World Bank.

## Associate Professor Shaun McVeigh

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

take account of the colonial inheritance of Australia and Britain.

## Associate Professor Andrew D. Mitchell

Programme Director, Global Trade



Andrew Mitchell joined Melbourne Law School as a Senior Lecturer in 2006, having been a Senior Fellow since 2004. His major area of interest is international economic law, in particular the law of the World Trade Organization (WTO). He graduated from the University of Melbourne with First Class Honours in both his Bachelor of Laws and Bachelor of Commerce degrees. He subsequently obtained a Graduate Diploma in International Law from the University of Melbourne, a Master of Laws from Harvard Law School and a PhD from the University of Cambridge. His dissertation was published in 2008 by Cambridge University Press as *Legal Principles in WTO Disputes*. He was previously a solicitor with Allens Arthur Robinson in Australia and worked briefly at Davis Polk & Wardwell in New York. He has also 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).

He 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, he 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. He 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. In 2008 he was a Visiting Fellow at the Department of Law, London School of Economics and Scholar-in-Residence at the International Arbitration Group of WilmerHale in London.

## Professor Dianne Otto

Programme Director, International Human Rights Law



Dianne Otto holds a Chair at the Melbourne Law School. In addition to directing the International Human Rights Law Programme of IILAH, she is Project Director for Peacekeeping (APCML). She researches in the areas of public international law, human rights law and critical legal theory, with a current focus on gender and sexuality issues in the context of the UN Security Council, peacekeeping and international human rights law. She 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 sits on the Advisory Boards of *Third World Legal Studies*, *Melbourne Journal of International Law*, *The Third World and International Law* and the *Australian Yearbook of International Law*.

Her scholarship explores how international legal discourse reinforces hierarchies of nation, race, gender and sexuality, and aims to understand whether and how the reproduction of such legal knowledge can be resisted. Her work draws upon and develops a range of critical legal theories particularly those influenced by feminism, postcolonialism, poststructuralism and queer theory. She has been active in a number of human rights NGOs including Women's Rights Action Network Australia (WRANA), Women's Economic Equality Project (WEEP) Canada, International Women's Rights Action Watch Asia Pacific (IWRAP-AP) Malaysia, and International Women's Tribune Centre (IWTC) New York. She helped draft a General Comment on women's equality for the Committee on Economic, Social and Cultural Rights and a General Recommendation on treaty obligations for the Committee on the Elimination of Discrimination Against Women.



## Associate Professor Sundhya Pahuja

Programme Director, Law and Development



Sundhya Pahuja's scholarship explores the changing role of law and legal institutions in the context of globalisation. Her research crosses traditional disciplinary boundaries and challenges distinctions between public and private behaviours and the categories of economic and non-economic in new ways. The various national and trans-national regulatory practices (including law) through which governance is effected, especially in the context of the relationship between North and South, are a particular concern. To this end, her work engages with public international law, international economic law and a range of critical and philosophical approaches to law and legal theory, including postcolonial, post-structuralist and feminist theories.

## Associate Professor Jacqueline Peel

Programme Director, International Environmental Law



Jacqueline Peel is an Associate Professor at the Melbourne Law School. She holds the degrees of Bachelor of Science and Bachelor of Laws (Hon I) from the University of Queensland, a Master of Laws from New York University where she was a Fulbright scholar, and a PhD from the University of Melbourne. In 2003-2004, she returned to NYU Law School as a Hauser Research Scholar and Emile Noel Fellow. Prior to her appointment at Melbourne, she completed an internship at the United Nations International Law Commission, working with Professor James Crawford on the ILC's State responsibility articles.

Her established research interests are in the areas of environmental law (domestic and international), risk regulation and the role of science, and international trade law. Together with Lee Godden, she is the author of a major work on Australian environmental law: *Environmental Law: Scientific, Policy and Regulatory Dimensions* (Oxford University Press, 2010). Her forthcoming book *Science and Risk Regulation in International Law* (Cambridge University Press, forthcoming 2010) examines the use (and abuse) of science in legal risk assessment processes, such as those undertaken by the dispute settlement bodies of the WTO in cases under the Sanitary and Phytosanitary Agreement. In the last few years, she has expanded her research to focus on the emerging field of climate change law. She has published articles on climate law and climate litigation in leading Australian journals and will contribute several chapters to a new book - *Australian Climate Law in a Global Context* – to be published by Cambridge University Press. Together with L Godden and R Keenan, she holds an ARC Discovery grant to examine the regulatory framework for responding to climate change in Australia. She also secured a US Studies Centre grant in 2009 to undertake a comparative analysis of Californian and Australian climate change law.

## Associate Professor Peter Rush

Programme Director, International Criminal Justice



Peter Rush is an Associate Professor and Director of the International Criminal Justice programme at IILAH. He has been a youth worker, an artist, a filmmaker and a scholar. He has taught in law faculties and criminology departments in Australia and in England. In 2004-2005, he was the Karl Lowenstein Fellow in Political Science and Jurisprudence at Amherst College. He is the author of several books on criminal law and edited collections on jurisprudence, and on law and aesthetics. A longstanding member of the critical legal studies movement in the United Kingdom, he was coordinator of its national conference and a founding member of the interdisciplinary legal theory journal *Law & Critique*. He has been invited to present papers and lectures at institutions in the United Kingdom, United States and Canada, such as Birkbeck College, Carleton

University, and New York University. He is a member of the editorial boards of several legal theory journals and has been active in the Australian Law and Literature Association and the Australian Law and Society Association. His areas of expertise include international criminal justice, transitional justice, legal theory and jurisdiction, the histories and doctrine of criminal law, sexual assault law and its reform, legal aesthetics, and legal formations of trauma.

### Associate Professor Tania Voon

Programme Director, Global Trade



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

*of International Economic Law*, and a member of the Indicative List of Governmental and Non-Governmental Panelists for resolving WTO disputes.

### Dr Margaret Young

Programme Director, Fragmentation and Regime Interaction in International Law



Dr Margaret Young is a Senior Lecturer and author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (CUP, forthcoming). Her next book, *Regime Interaction in International Law: Facing Fragmentation* will also be published by Cambridge University Press. It is an edited collection based on the successful conference she hosted at Cambridge University in July 2009 (see [www.icil.cam.ac.uk/lectures/regime\\_interaction\\_programme.php](http://www.icil.cam.ac.uk/lectures/regime_interaction_programme.php)). Contributing authors include Professors Georges Abi-Saab, James Crawford, David Kennedy, Martti Koskenniemi and Gunter Teubner. 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), the United Nations International Law Commission and at Greenpeace International and is a former associate to the Chief Justice of the Federal Court of Australia. She teaches international and public law classes in the Melbourne JD and MLM.

## Staff

### Ms Vesna Stefanovski

IILAH Administrator



Vesna Stefanovski joined IILAH in June 2007 as the Institute's administrator. Vesna holds a Bachelor of Arts with majors in marketing and media and a Certificate in Public Relations. Vesna has extensive practical experience in organising major public and staff events, implementing communication strategies, managing community and media relations. As the IILAH administrator, she is involved in maintaining the IILAH web page, managing a range of conferences, public lectures, workshops, reading groups, as well as designing publications and flyers for the Institute.



# IILAH MEMBERS





# Members

## Associate Professor Alison Duxbury

Melbourne Law School



Alison Duxbury's main areas of research are international institutional law, human rights law and international humanitarian law. Alison is an Associate Director of the Asia Pacific Centre for Military Law, and a member of the Australian Red Cross International Humanitarian Law Committee (Victorian Division) and the International Advisory Commission of the Commonwealth Human Rights Initiative based in Delhi. Her book entitled *The Participation of States in International Organisations* will be published by Cambridge University Press in 2011.

## Dr Ann Genovese

Senior Lecturer, Melbourne Law School



As an interdisciplinary legal scholar (her PhD is in History), Ann Genovese's research focuses on the history and theory of the relationship between Australian law, the state and political culture in the twentieth century. Her major projects have focused on history, law and indigenous peoples; history of feminist legal activism and histories of the administrative state. Her recent representative publications include *Rights and Redemption: law, history, indigenous peoples* (UNSW Press, 2008), (with Ann Curthoys and Alexander Reilly); *Sovereignities: Frontiers of Possibility* (UHP, forthcoming 2010, co-edited with Julie Evans, Patrick Wolfe and Alex Reilly), and for *Feminist Review*, an edited collection of papers on the status of Australian feminism under neoliberalism, 'Mainstreamed or Muzzled' (forthcoming 2010). She has two ongoing research projects. One, the result of an ARC funded fellowship, is *Present Tense: The Recent Disruptive History of Feminism and Family Law*, which seeks to explore the tension in our own time between the dominance of legal form and the waning possibilities of minority political critique. The other is an 'in progress' collaborative project with anthropologists, historians, and public lawyers on the role and limits of the Court as Archive.

## Professor Lee Godden

Melbourne Law School



Lee Godden holds a research and teaching position within the Melbourne Law School. As well as her involvement with IILAH, she is the Director of the Centre for Resources, Energy and Environmental Law. Accordingly much of her scholarship occurs in areas at the intersection of law and the humanities related to environmental law, indigenous rights and natural resource management. An exploration of the relationship between law and history in the context of native title law formed a theoretical foundation for much early research. A similar interdisciplinary focus has informed other aspects of her scholarship in property theory and environmental regulation and governance. A further theme pursued in her work is the inter-relations between law, violence and bodily disciplining. Current projects include an application of post-colonial theory to property law and a discussion of regulatory theory as it impacts on water law.

## Mr Kevin Jon Heller

Senior Lecturer, Melbourne Law School



Kevin Jon Heller is currently a senior lecturer at Melbourne Law School, where he teaches international criminal law and criminal law. He holds a JD with distinction from Stanford Law School, an MA with honours in literature from Duke University, and an MA and BA, both with honours, in sociology from the New School for Social Research. His work has appeared in a variety of journals, including the *European Journal of International Law*, the *American Journal of International Law*, the *Journal of International Criminal Justice*, the *Michigan Law Review*, the *Leiden Journal of International Law*, the *Journal of Criminal Law & Criminology*, and *Criminal Law Forum*. His edited book *The Handbook of Comparative Criminal Law* will be published by Stanford University Press in October 2010 and his book *The Nuremberg Military Tribunals and the Origins of International Criminal Law* will be published by Oxford University Press in March 2011. On the practical side, he has been involved in the International Criminal Court's negotiations over the crime of aggression, served as Human Rights Watch's external legal advisor on the trial of Saddam Hussein (whose lawyers cited his academic work in their appeals), and consulted with a number of defendants at the ICTY and ICTR. He is currently serving as one of Radovan Karadzic's formally-appointed legal associates.

## Dr Wendy Larcombe

Senior Lecturer, Melbourne Law School



Wendy Larcombe joined the Law Faculty as a Senior Lecturer in 2006. Her doctoral research in the Law and Literature field was published by the Federation Press in 2005 as *Compelling Engagements: Feminism, Rape Law and Romance Fiction*. Her current research continues to explore issues of gender and sexuality in law and culture, with a particular interest in the construction of subjectivity in legal responses to violence against women and the constitution of reproductive and sexual health rights. She taught literature and cultural studies at the University of Melbourne for a number of years before coming to the Law School. She has also worked for the Women's Legal Resource Group and Equity and Diversity Programs at the University of Melbourne.

## Mr Bruce Oswald

Senior Lecturer, Melbourne Law School



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. He has served in the Australian Army as a legal officer and has seen active service overseas as a member of the Australian Defense Force.

## Professor Gerry Simpson

Melbourne Law School

Gerry Simpson holds a Chair of Law at the Melbourne Law School and is the Director of the Asia-Pacific Centre for Military Law and the Global Justice Studio at Melbourne Law School, and is a Visiting Professor of Public International Law at the London School of Economics and Political Science. He is the author of *Great Powers and Outlaw States* (Cambridge, 2004) (awarded the American Society of International



Law's annual prize for Pre-eminent Contribution to Creative Legal Scholarship) and *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (2007). He is co-editor of *The Law of War Crimes: National and International Approaches* and editor of *The Nature of International Law* (Ashgate 2001) and *War Crimes Law Volumes I and II* (Ashgate, 2005). In 2006-2007 Gerry engaged in human rights training with the UK Foreign Office and the Belgrade Humanitarian Law Centre. In 2008, he was appointed Director of Studies for The Hague Academy and in 2009 he gave the Global Leaders Lecture at the University of Santa Clara.

## **Dr Joo-Cheong Tham**

Senior Lecturer, Melbourne Law School



Joo-Cheong Tham is a Senior Lecturer at the Melbourne Law School and has taught at the law schools of Victoria University and La Trobe University. His research focuses on the regulation of non-standard work, anti-terrorism laws and political finance law. In 2007-2008, he was a British Academy Visiting Fellow at King's College, University of London and undertook a comparative study of control orders in Australia and the United Kingdom in relation to the protection of human rights. He is also writing a book on Australian political finance law that will be published by UNSW Press. He holds an LLB (Hons), LLM and PhD from the University of Melbourne.

## **Associate Professor John Tobin**

Melbourne Law School



John Tobin has a combined commerce/law degree with honours from the University of Melbourne, an LLM with distinction from the University of London specialising in human rights law and a Ph.D from the University of Melbourne. He has been a Visiting Professor at the American Academy of Human Rights and Humanitarian Law, Washington College of Law, American University and in 2006 was a Visiting Professor at the Centre for Human Rights and Global Justice, in the Law School at New York University. He has published numerous reports and articles on human rights and provided human rights training and advice as a consultant and on a pro bono basis to organisations such as UNICEF, the Victorian Law Reform Commissions, the Equal Opportunity Commission and the Human Rights Law Resource Centre. He is a

Director of Childwise, an Advisory Board member of the *Melbourne Journal of International Law*, an Advisory Committee member and occasional chair of the Human Rights Legal Resource Centre and a member of the Steering Committee for the Human Rights Forum, an interdisciplinary committee at the University of Melbourne. He has also worked as a commercial lawyer, legal aid lawyer and legal officer with the Department of Justice.

## **Dr Amanda Whiting**

Lecturer, Melbourne Law School



Amanda Whiting's research is in the area of human rights institutions and practices in the Asia-Pacific Region, gender and religion, and Malaysian legal history. She is Associate Director (Malaysia) of the Asian Law Centre. She 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. She completed her LL.B. with First Class Honours in 2001. In 2007 she completed her doctorate – a feminist analysis of mid-seventeenth century English legal and political history. In 2004 her article "Some Women can Shift it Well Enough": A Legal Context

for Understanding the Women Petitioners of the Seventeenth-Century English Revolution" appeared in 21 *Australian Feminist Law Journal* 77.



# IILAH DOCTORAL STUDENTS



## Completed in 2009



### Edward Mussawir

**Thesis:** *Jurisdiction: The Expression and Representation of Law*

**Supervisors:** Peter Rush and Anne Orford

Edward Mussawir has taught in the Melbourne Law School and in the Criminology department at the University of Melbourne and in 2009 completed his doctoral thesis addressing the place that various models of jurisdiction have had within a Western tradition of jurisprudence. His thesis was concerned with the jurisdictions of personality, possession and procedure. Drawing a theoretical influence from Gilles Deleuze, he has been interested in finding ways of addressing an expressive genre in jurisprudence. He has published in such journals as *Law and Literature*, *The Australian Feminist Law Journal* and *Studies in Law, Politics and Society* on themes ranging from Franz Kafka to law and cinematic representation. Other topics within his academic interest include issues of jurisdiction relating to animal law, terror-related procedures of control and the sexuate legal personality of children.



### John Tobin

**Thesis:** *Between Apology and Utopia: An attempt to map out the content of the right to health under the United Nations Convention on the Rights of the Child*

**Supervisors:** Anne Orford and Philip Alston

It has been said that 'one would be hard pressed to find a more controversial or nebulous human right than the "the right to health" which is characterised by conceptual confusion as well as a lack of effective implementation'. The aim of this thesis is to examine the extent to which clarity can be brought to the content of the obligations which States parties have assumed under article 24 of the Convention on the Rights of the Child.

## Ongoing



### Olivia Barr

**Thesis:** *Towards a Moving Jurisprudence*

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

Olivia Barr is a PhD Candidate and Senior Fellow at the Melbourne Law School. She graduated from the University of Western Australia with a Bachelor of Laws (Distinction) and a Bachelor of Arts (Anthropology) and from the University of British Columbia with a Master of Laws. Researching in the areas of common law, jurisprudence and jurisdiction, her doctoral thesis contemplates the relations between different forms of lawfulness and the place of movement in a critical poetics and critical prudence of the common law tradition. To this end, her doctoral thesis develops a minor jurisprudence of movement.





## Meg Brodie

**Thesis:** *Power to create change: national inquiry experiences of National Human Rights Institutions in the Asia-Pacific*

Supervisors: Dianne Otto and Brian Burdekin (external)

Meg Brodie holds a BA(Hons) and LLB(Hons) from the University of Melbourne. She is a lawyer who has worked in both the corporate and not-for-profit sectors and recently retired after six years of service on the Board of the Oaktree Foundation. In 2009 she was one of the Melbourne Law School's inaugural Teaching Fellows. Her PhD explores the power of National Human Rights Institutions (NHRIs) to create change. It analyses national inquiries conducted by Asia-Pacific NHRIs, focusing on Mongolia with reference to Australia, India and New Zealand experiences. Through empirical research it finds that NHRIs exercise informal power beyond the formal powers granted to them by statute. It argues that NHRI informal power is relational and persuasive, and when reinforced by formal statutory powers, NHRIs are able to contribute to the domestic internationalisation of international human rights standards. Her fieldwork was supported by an Endeavour Research Fellowship. In 2010, she will commence as the inaugural National Human Rights Institutions Fellow at the Raoul Wallenberg Institute for Human Rights and Humanitarian Law, in Lund, Sweden.



## Takele Soboka Bulto

**Thesis:** *The Extraterritorial Application of the Human Right to Water in Africa*

Supervisors: Carolyn Evans and Jacqueline Peel

Takele Soboka Bulto is an Ethiopian PhD candidate at the Melbourne Law School, where he has also been an inaugural Teaching Fellow from January 2009 to date. He holds LLB and MA degrees from Addis Ababa University, Ethiopia, and an LLM degree from University of Pretoria, South Africa. He worked as a judge and lecturer in Ethiopia and a visiting lecturer at the Centre for Human Rights, Faculty of Law, and University of Pretoria. He has also worked as Programme Coordinator for Child Rights and Child Rights Programming in the Eastern and Central African Regional Office of Save the Children Sweden. Just before taking up his PhD studies at Melbourne Law School, he was a Legal Officer in a Pan African NGO, Institute for Human Rights and Development in Africa, The Gambia, where he practiced before the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child. He represented victims of human rights violations from Zimbabwe, Ethiopia, Kenya and Angola and presented and defended their cases before the two African human rights tribunals.

His PhD thesis examines the normative bases of the emergent human right to water and its extraterritorial application in Africa. Taking the Nile Basin as a case study, his thesis seeks to explore riparian states' extraterritorial legal obligations in the fulfillment of the human right to water of the populations living beyond their own borders. He has published his work in American, South African, Kenyan, Swedish and Ethiopian journals and other publications.



## Maria Elander

**Thesis:** *Turn to Law: Feminism, sexual violence and international criminal law*

Supervisors: Peter Rush and Dianne Otto

Maria Elander holds a BA in Arabic and a BSS in Political Science from Uppsala University, and a MA in Human Rights Law from the School of Oriental and African Studies, University of London. Before commencing her PhD candidature, she worked as a research assistant at the American University of Cairo. Her PhD research builds on feminist theory and psychoanalysis in a critical reading of the jurisprudence on sexual violence in international criminal law.





## Luis Eslava

**Thesis: *Spatial Dimensions of Law and Development: Transforming sovereignty, state and citizenship***

Supervisors: Anne Orford and Shaun McVeigh

Luis Eslava completed his undergraduate law degree at Universidad Externado de Colombia and a Masters of Law at the Melbourne Law School. He has also completed studies in Community Development and Economics. His research investigates the anthropological and political economic dimensions of today's global order from a jurisprudential perspective. In the particular context of his doctoral research, Luis is exploring the emergence of local jurisdictions (e.g. cities and municipalities) on the international scene. In the last three decades, local jurisdictions have become the preferred spaces to promote human, economic and environmental development. His thesis interrogates the rationale and contradictions that have accompanied this trend, using Bogotá as a case study. Through a critical examination of Bogotá's development policies and laws, and fieldwork that studies how the city interacts with its illegal neighbourhoods, he offers in his thesis a thick ethnographic account of the everyday operations of local jurisdictions in the current global moment. In 2009, he edited a special edition of *Sortuz Journal of Emergent Socio-Legal Studies* on critical legal methodologies with fellow PhD candidates Olivia Barr and Yoriko Otomo. He also published during 2009 two articles about the current model of global governance: 'Constitutionalization of Rights in Colombia' (2009) 22 *Revista Derecho del Estado* 183 and 'Decentralization of Development and Nation-Building Today' (2009) 2(1) *The Law and Development Review* 281.



## Carolyn Graydon

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

Supervisors: Tim Lindsey and Dianne Otto

Carolyn Graydon 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. Her 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.



## Lia Kent

**Thesis: *Exploring Expectations of Transitional Justice in Timor Leste***

Supervisors: Dianne Otto, Jennifer Balint and Julie Evans

Lia Kent holds a BA and a MPubIntLaw (University of Melbourne) and a MSW (Latrobe). Her fields of interest include postconflict reconstruction, transitional justice and reconciliation. She has worked in the field of human rights and development for over ten years, in Australia and East Timor, including for non-government and intergovernmental organisations such as Oxfam and the United Nations. She is currently in the second year of her PhD which considers the transitional justice processes undertaken in East Timor during the period of United Nations Administration, and, in particular, the differing expectations of transitional justice held by international, national and local actors. The project aims to reflect critically on the adequacy of transitional justice models for dealing with the complex and long-term needs of societies emerging from periods of conflict.



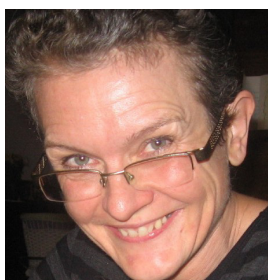
### Cressida Limon

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

Supervisors: Anne Orford and Lee Godden

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

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



### Eve Lester

**Thesis:** *Making migration law work in Australia: paradoxes and prospects*

Supervisors: Sundhya Pahuja and Shaun McVeigh

The central question of my 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, my 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.



### Daniel Muriu

**Thesis:** *Recognition, Redistribution and Resistance: Assessing the Usefulness of the Right to Health in Africa*

Supervisors: Anne Orford and Jennifer Beard

Daniel Muriu's thesis examines the usefulness of human rights as a strategy for realising or ensuring better health in Africa especially in the context of the pervasive power of international economic institutions such as the World Trade Organisation, the World Bank and the International Monetary Fund. Using insights from Third World Approaches to International Law and the writings of Michel Foucault, he argues for a conceptualisation of human rights that recognizes the limits of human rights as instruments of recognition, resistance and redistribution particularly in the light of the activities of the aforesaid non-state actors.

He completed his LLB with Honours at the University of Nairobi, Kenya in 1992 and his LLM with distinction at the University of Witwatersrand, Johannesburg in 2002. A research paper he submitted as part of his LLM, 'Paying Lip Service to the Principles of Regulation: A Comparative Critique of the Telecommunications Laws of Kenya, Uganda, South Africa, Ghana, Cameroon and Sri Lanka', was published in the *Journal of African Law* in 2002. Prior to commencing his doctoral studies at Melbourne, he was a partner at Hamilton Harrison and Mathews, which is the oldest and largest law firm in Kenya. His specialisations in legal practice have been in corporate, commercial, banking and intellectual property law amongst others. Since 1997, he has also worked

on a pro bono basis for human rights organisations providing legal aid to women and children in Kenya and was a founder member and trustee of the Child Rights, Advocacy and Documentation Legal Centre (CRADLE) which is the foremost children rights organisation in Kenya.



### Yoriko Otomo

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

Supervisors: Anne Orford and Jennifer Beard

Yoriko Otomo is completing a PhD thesis which looks at the conditions and operation of international law in terms of time, risk and jurisdiction. She is co-convenor of the *New Natures* public seminar series with Connal Parsley and co-editor of *Critical Animal Law: Towards a Posthumanist Jurisprudence* with Ed Mussawir, both of which will be published in 2011.



### James Parker

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

Supervisors: Andrew Kenyon and Shaun McVeigh

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



### Connal Parsley

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

Supervisors: Peter Rush and Shaun McVeigh

Connal Parsley teaches critical legal theory and legal ethics at the Melbourne Law School and the School of Social and Political Sciences, University of Melbourne. With undergraduate degrees in law and linguistics, his work addresses intersections between legal, aesthetic and linguistic theory, and his publications have explored their interaction in particular Australian political contexts. Examples include the stolen generations litigation, the bureaucratic treatment of asylum seekers, and distinctions between law and public art's respective structurings of the public sphere. His doctoral thesis extends his research interest in the relationship between visual culture and law, by examining the philosophical and jurisprudential dimensions of the relationship between image and law in the work of Italian philosopher Giorgio Agamben. By exposing the significance of Agamben's notion of the 'image' within his revision of political ontology, the thesis aims both to develop a new paradigm for understanding the relation between law and politics in Agamben's work, and to provide a rigorous basis for thinking the intimate tie between law and its spectral imagism.





## Walter Rech

**Thesis:** *Vattel and The 'Ennemis du Genre Humain'*

Supervisors: Anne Orford and Sundhya Pahuja

Walter Rech graduated in philosophy from the University of Trento (Italy), doing research in Germany at Humboldt University and Free University of Berlin and at the University of Freiburg. He started his PhD in law at the Max Planck Institute for European Legal History in Frankfurt in 2007 and is continuing the same at Melbourne Law School. His thesis focuses on the Swiss international lawyer Emer de Vattel (1714-1767), traditionally regarded by commentators as the theorist of the 'guerre en forme'. Walter's aim is to complicate this interpretation by analysing the notion of an 'ennemi du genre humain'.



## Mickaël Ho Foui Sang

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

Supervisors: Anne Orford and Olivier Cayla (Paris X)

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



## Olivera Simić

**Thesis:** *Distinguishing between exploitative and non-exploitative peacekeeping sex: the wrongs of 'zero tolerance'*

Supervisors: Dianne Otto and Michelle Foster

Olivera Simić is in her final year of a doctorate candidature in Law at University of Melbourne. She graduated from Essex University, UK with a Masters in International Human Rights Law and a year later from the UN University for Peace, Costa Rica with a MA in Gender and Peacebuilding. Before enrolling in the PhD program she worked in different NGOs and international organizations, such as UNICEF, OSCE and ICMPD. Her fields of interests are peacekeeping, peacebuilding, gender, international human rights and humanitarian law, trauma and reconciliation. She has taught in Bosnia and Herzegovina, Serbia and Australia and held awards for post-graduate studies from UK, Costa Rica and Australia. Her thesis critically examines the way that the UN addresses the problem of sexual exploitation in peacekeeping missions. With reference to feminist perspectives and people directly affected by the policy (Bosnian women and UN peacekeepers), the thesis finds that the inclusion of consensual sexual relationships and prostitution in the definition of 'sexual exploitation' is not supportable. It argues that the policy is over-protective, relies on negative gender and imperial stereotypes, and must be revised in consultation with those affected by it.



## Deborah Whitehall

**Title:** *Hannah Arendt, reproductive rights and the legal discourse between body politics*

**Supervisors:** Anne Orford and Ann Genovese

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



# EVENTS AND VISITORS





**21 January 2009: Seminar with Ms Chantal Morton (Osgoode Hall Law School, York University)**

***The Regulation of Female Nudity in Public Spaces: Why Are Breasts Such a Threat?***

(Convenors: Associate Professors Andrew Mitchell and Tania Voon)

In this seminar, Chantal Morton drew upon the approaches of Judith Butler and Henrie Lefebvre in order to examine the jurisprudence concerning female public nudity in Canada, and to develop a theoretical framework that could acknowledge the importance of bodies, spaces and legal discourses in the regulation/production of gendered identities.

**24 February 2009: PhD Completion Seminar for Mr Daniel Muriu**

***Recognition, Redistribution and Resistance: Assessing the Usefulness of the Right to Health in Sub-Saharan Africa***

Daniel Muriu examined the use of social and economic rights, and in particular the right to health, as a means of ensuring and securing better health in Sub-Saharan Africa. He argued that, in light of the challenges posed to health by international economic actors, it is critical that assessment of the utility of rights goes beyond the normative value, justiciability and enforceability of the right to health and engages with issues of power, resistance, international and local economic constraints and the nature of the state in the Third World. He concluded that such an engagement may help to bring out more clearly the possibilities and limits of the right to health.

**17 March 2009: Seminar with Ms Amanda Gorley (DFAT)**

***WTO Dispute Settlement: Recent Australian Experience***

(Convenors: Associate Professors Andrew Mitchell and Tania Voon)

Amanda Gorely commenced as the head of the WTO Trade Law Branch in the Department of Foreign Affairs and Trade in 2005. Since that time, she has had first hand involvement in Australia's dispute settlement activity. In this seminar, she discussed Australia's approach to WTO dispute settlement and reflected on some of the pros and cons of the dispute settlement system.

**25 March 2009: Seminar with Professor Antony Anghie (University of Utah)**

***State Building and International Law: Problems, Paradigms and Prospects***

(Convenor: Professor Dianne Otto)

In recent years, international organisations have become heavily involved in territorial administration and 'state building'. In this seminar, Tony Anghie reviewed some of the recent literature exploring the legal issues that international territorial administration present to the international system, and the different principles, doctrines and procedures that have been developed as a response. He considered how this 'law of international territorial administration' relates to broader issues of sovereignty, governance, development and security, and the relationship between current legal models of administration and historical precursors.

**2 April 2009: Seminar with Ms Meredith Kolsky Lewis (Victoria University of Wellington)**

***Safety standards and indigenous products: what role for traditional knowledge?***

(Convenor: Associate Professor Andrew Mitchell)

Meredith Lewis examined legal questions relating to the export of indigenous plant-based foods and medicinal products. In particular, she looked at recent bans and other forms of import restrictions on kava from Pacific Island countries and tea tree oil from Australia. Both products have traditional uses which date back hundreds of years. In both cases, the products have been adapted for new uses, and health problems have been linked to these new uses. The trade restrictions imposed upon those products in response have covered the products as a whole, thus burdening the traditional uses as well as the new, adapted uses. The seminar considered the

implications of such bans on indigenous communities/developing countries, and explored whether steps could be taken to minimise the risk of imposing overbroad regulations on products that may have a traditional and safe use as well as new, perhaps not-so-safe uses. Meredith concluded that traditional knowledge, which is at present a concept limited to the intellectual property/TRIPS context within the WTO, may also have a role to play in the SPS and TBT contexts.

### **29 April 2009: Seminar with Mr Kevin Jon Heller (Melbourne Law School)**

#### ***Situational Gravity Under the Rome Statute***

(Convenor: Professor Anne Orford)

The ICC is often derided as the “African Criminal Court.” That criticism cannot easily be dismissed: all of the Office of the Prosecutor’s (OTP) current investigations focus on African states – Uganda, the Central African Republic, the Democratic Republic of Congo, and the Sudan – and it is analysing the situations in three other African states, Cote D’Ivoire, Kenya, and Chad, to determine whether formal investigation is warranted. At the same time, the OTP has declined to investigate the situations in a number of non-African states, such as Venezuela and Iraq – the latter despite its conclusion that there was a “reasonable basis to believe” that UK nationals had wilfully killed a number of civilians and subjected a number of others to inhumane treatment. The OTP has not denied – nor could it – that it has focused exclusively on situations in Africa. Instead, it has argued that its investigative decisions have been driven solely by an objective assessment of the gravity of the various situations, as required by Article 53 of the Rome Statute. In its view, the African situations are simply graver than the non-African situations, because they involve far greater numbers of victims.

In this seminar, Kevin Heller critiqued the OTP’s quantitative conception of situational gravity. More specifically, he argued that the OTP should de-emphasize the number of victims in a situation in favour of three qualitative factors when it determines the gravity of a situation: (1) whether the situation involves crimes that were committed systematically, as the result of a plan or policy; (2) whether the situation involves crimes that offend the fundamental values of the international community – those that cause “social alarm”; and (3) whether the situation involves crimes that were committed by States, instead of by rebel groups.

### **3 June 2009: Twilight Seminar with Professor Peer Zumbansen (Osgoode Hall Law School, York University)**

#### ***Transnational Law and Transnational Legal Pluralism: Methodological Observations***

(Convenor: Professor Anne Orford)

Today, as governments and civil society actors work through the challenges of a continually unfolding economic crisis, the relative historical and socio-economic embeddedness of various proposed ‘responses’ must be understood as starting points, not as obstacles in the search for remedies. While the global dimension of the crisis suggests the need of global responses, such efforts should not come at the price of disregarding particular local regulatory experiences and normative trajectories.

Peer Zumbansen argued that a comparative perspective on law and political economies allows us more adequately to assess the evolution of embedded regulatory responses and their contestation. Seen through a legal pluralist lens, law and regulation appear as part of a continuing transformation of national legal orders and political economies, both as sociological objects and as discursive practices. In order, however, to grasp the increasingly transterritorial nature of public and private spaces in which particular instantiations and developments of ‘law’ and ‘regulation’ are recognised, it is necessary to complement the comparative law and political economy perspective with a distinctly transnational dimension. It is on the transnational level, that the proliferation of public, private and increasingly hybrid, quasi-political transnational actors that seek to regulate and to influence human affairs is both lauded and criticised with regard to open questions concerning these actors’ legitimacy, authority and accountability. While lawyers tend to address these concerns by attempting to

re-embed transnational governance actors into traditional concepts of the state or of civil society, non-lawyers offer intriguing perspectives on the normative challenges of transnational governance that both build on and reach beyond state-society distinctions.

Against this background, Peer Zumbansen argued for a concept of 'transnational legal pluralism' that goes beyond Philip Jessup's 1956 proposal of complementing and challenging Public and Private International Law with the idea of 'transnational law'. That broader notion of transnational legal pluralism brings together insights from legal sociology, comparative law and legal theory with research on 'global justice', ethics and regulatory theory. Such a concept might allow us to illuminate and assess the methodological premises of contemporary investigations into transnational or global governance.

## **26-27 June 2009: International conference co-sponsored by IILAH and the Lauterpacht Centre for International Law and Pembroke College, Cambridge**

### ***Regime Interaction in International Law: Theoretical and Practical Challenges***

(Convenor: Dr Margaret Young)

International law develops in a fragmented way to address functional needs. This has resulted in the development of special regime of norms and decision-making procedures and accompanying international organisations. There is much scholarship about allegedly autonomous legal regimes addressing international trade, human rights, humanitarian law, environmental protection and other issues. The need to resolve conflicting norms between regimes has led to recommendations by the International Law Commission. Less attention, however, has been given to the way in which, in the default situation of diversity and concurrent activities, regimes interact, and how international law might help to shape this interaction.

This conference was hosted at the Lauterpacht Centre for International Law and Pembroke College (Cambridge), and co-sponsored by IILAH. It aimed to provide a forum to explore theoretical and practical challenges posed by regime interaction. The premise for discussion was that international law is shaped by a disparate and largely covert legal framework of regime interaction. It was hoped that the combination of these perspectives, together with participation and discussion with all conference attendees, would contribute to an emerging understanding of the legal framework for regime interaction across different phases of international rule-making and adjudication.

Conference speakers were members of international tribunals, advisers to international tribunals, legal staff of state delegations and NGOs, and academics, including: Georges Abi-Saab (formerly Appellate Body, World Trade Organisation), James Crawford (University of Cambridge), Jeff Dunoff (Temple University), James Flett (European Commission), Francoise Hampson (University of Essex), Stephen Humphreys (International Council on Human Rights Policy), David Kennedy (Brown University), Martti Koskenniemi (University of Helsinki), Andrew Lang (London School of Economics), Nele Matz-Luck (Max-Planck-Institute, Heidelberg), Sol Picciotto (Lancaster University Law School), Cheryl Saunders (University of Melbourne), Joanne Scott (University College London), Eleanor Sharpston (European Court of Justice), Gunther Teubner (University of Frankfurt/Main) and Margaret Young (University of Melbourne).

## **15 July 2009: Seminar with Ms Sieglinde E Pommer (Harvard Law School)**

### ***International Law and Translation: Overcoming Legal Pluralism and Linguistic Diversity***

(Convenor: Professor Anne Orford)

Common knowledge of international law can only be achieved by crossing barriers of language, legal cultures, and institution which is effectuated by legal translation as a way of efficient and successful transmission of knowledge about law across legal cultural as well as linguistic boundaries. The translation of law therefore plays an integral part in the interaction of legal systems in today's highly interconnected world, where international



lawyers and legal translators are confronted with the asymmetry of legal systems, the relativity of concepts, and have to deal with inconsistent categorizations and classifications.

This seminar discussed legal translation as an increasingly important form of intercultural communication and highlighted the significance of comparative legal insights for bridging legal cultural gaps. Sieglinde Pommer questioned how legal information is possibly altered by its transmission from one legal system and legal language to another and demonstrated how cultural embeddedness conditions this.

## **22 July 2008: International Workshop, co-hosted by IILAH and the Postgraduate Law Students Association (PLSA)**

### ***Creating change? National Human Rights Institutions' (In)Action in the Asia-Pacific Region***

(Convenors: Professor Dianne Otto and Ms Meg Brodie)

Since the 1990s, National Human Rights Institutions (NHRIs) have been promoted as a possible bridge between international human rights obligations and their domestic implementation. The international community, through the UN, has seen these institutions as part of a long-term strategy to advance sustained human rights change. In the Asia-Pacific region, NHRIs have an important role to play in the absence of a regional human rights mechanism. This workshop focused on the achievements and challenges faced by NHRIs in the Asia-Pacific and looked to the future of the protection and promotion of human rights facilitated by these institutions. Speakers included practitioners and academics from across Australia, the region and beyond.

## **28 July 2009: Seminar with Ms Gina Heathcote (School of Oriental and African Studies, University of London)**

### ***From Security Council Resolution 1325 to 1820***

(Convenor: Professor Anne Orford)

SC Res 1325 (1st October, 2000) on Women, Peace and Security has been described as functioning foremost as a tool that feminist activism has centred around (Enloe, 2004). In contrast, international institutions have been slow to pick up on the possible ramifications of 1325 and critical feminist scholarship has challenged the underlying framework of 1325 (Otto, 2006). In June 2008, the Security Council 'added' a second tool for the implementation of gender justice in post-conflict situations: Resolution 1820 (18th June, 2008). This paper looks at the different structures of the two Security Council resolutions; their limitations, their potential and the opportunities they present for feminist action. This seminar focused on the discrepancy between the requirement of participation evident in Res 1325 and the framing of Res 1820 as a response to sexual violence. It asked whether the latter Resolution functions as a refinement of 1325, as a complementary tool or as a negation?

## **5 August 2009 and 9 September 2009: IILAH and Global Justice Centre Film Nights**

During semester 2, IILAH hosted a series of film nights in conjunction with the Global Justice Centre. The first film *Darwin's Nightmare* ([www.darwinsnightmare.com](http://www.darwinsnightmare.com)) was introduced by Margaret Young and the second, *The Reckoning: The Battle for the International Criminal Court* ([www.pbs.org/pov/reckoning/](http://www.pbs.org/pov/reckoning/)), was introduced by Kevin Heller.

## **10 August 2009: IILAH/Asian Law Centre Seminar with Professor Yasuhei Taniguchi (Counsel for Matsuo & Kosugi (Tokyo))**

### ***Enforcement Problem in the WTO - Success, Limitations and Possible Improvement***

(Convenors: Mr Jürgen Kurtz and Ms Stacey Steele)

The rate of compliance with WTO reports is reported to be between 80% and 90% which is widely accepted as a success. There are, however, several infamous cases in which compliance has been delayed for a very

long time. Therefore, the WTO dispute settlement system is widely recognised as incomplete in respect to compliance. WTO relief is not retroactive and, therefore, there is no incentive for early compliance except for informal pressure from the international community. Because a “recommendation/ruling” is usually general (not specific as allowed under DSU 19), disputes tend to continue about the existence of compliance. The ultimate relief by way of retaliation is not only cumbersome, but also maybe ineffective and even detrimental. Various proposals have been made by academics to correct these shortcomings and discussed by the member states in the DSU review project. But the prospects are not very good. Is this the limit of an international organisation?

**17 August 2009: Seminar with Ms Jo Feldman (Legal Research Officer at the Office of International Law, Commonwealth Attorney-General's Department)**

**The Role of the WTO in Protecting the Global Commons - Is There Scope for Unilateral Environmental Measures?**

(Convenor: Dr Margaret Young)

Ms Jo Feldman is a Senior Legal Officer in the Trade section of the Office of International Law in the Attorney-General's Department. She has been a legal advisor on several free trade agreements, including the Australia-Korea Free Trade Agreement and the Australia-China Free Trade Agreement, provided advice on Australia's obligations under the WTO Agreements and assisted in the drafting of Australia's third party submissions to various WTO disputes.

**20 August 2009: Twilight Seminar with Dr China Miéville**

***Multilateralism as Terror: International Law, Haiti and Imperialism***

(Convenor: Professor Anne Orford)

Much of the liberal criticism of the Bush administration's prosecution of the war in Iraq has taken a legalistic form, decrying that law as 'illegal'. This criticism has often implied that US unilateralism has been definitional to the neoconservative project and the geopolitical moment, and that a contrasting and supposedly non-existent 'multilateralism' would be neither illegal nor objectionable. The overthrow of Haiti's President Jean-Bertrande Aristide in 2004 and the subsequent installing of UN MINUSTAH peace-keepers in the country was a model multilateral action, the fact of which should have problematised this model. In this seminar, China Miéville investigated the almost wholesale ignoring of that intervention in the scholarly international law literature. He argued that the intervention was a successful imperialist action, and that multilateralism as much as unilateralism can easily be part of an imperialist strategy. China Miéville appeared courtesy of the Melbourne Writers Festival.

**28 October 2009: IILAH/ARC Symposium**

***Interregnums: Between the National and the Post-National***

(Convenor: Dr Ann Genovese)

The key question for this Symposium was: from the perspective of the Left, can nation states offer space for political or revolutionary projects? It is an inescapable, though not always explicitly acknowledged, premise in much contemporary scholarship and political experience that we inhabit a world where nations are waning. This appears to be a tectonic shift, predicated on a vastly changed world order, post 1945, and manifests in interconnected ways: economic theory's move to the Right and the processes of global regulation, the breakdown of state sovereignty; the changing demands placed upon the idea and practices of international law. Yet through this transformation, this epistemic turn to the global, local struggles and national identities appear to refuse easy re-categorisation, and also refuse to evaporate. Citizens of specific nations are often, in turn, resistant, reactive, or melancholic about what is left of their culture, memory, history and law. Political theorist Wendy Brown characterises this current moment as an 'interregnum.... where power still traverses both circuits', and argues that the 'most difficult thing ...to do now is to simultaneously work in a national

and a post-national way.’ (Wendy Brown (2006), ‘Learning to Love Again: An Interview with Wendy Brown’, *Contretemps: An Online Journal of Philosophy* 25-42).

Interregnums are both events and tropes, which recur across literatures and across periods. They offer space to consider the unease, danger, renewal and violence that disrupt nations as events and ideas transform them, from inside and outside. The time between identifiable epistemes that interregnums represent however is notoriously difficult to characterise, and even more difficult to analyse. This is particularly the case when the process of attempting to engage with what fundamental change in relationships of power means occurs in a range of interrelated, but often separately debated, disciplinary and political sites with different imperatives. In our own time this is a particular challenge for the Left, who are caught in an epistemological interregnum, a space between the historical failures of Marxism, and regret and longing over the limits of liberalism and what it allows and disavows. The symposium sought to address what different disciplines have at stake in seeking to analyse, characterise and diagnose interregnums, both in our own time, and in the past. Presenters included: Ann Curthoys (Manning Clark Professor of History (ANU)), John Docker (University of Sydney), Maria Drakopoulou (Kent Law School, UK), Ann Genovese (IILAH, Melbourne Law School), Lia Kent (PhD, Melbourne Law School), Vera Mackie (Historical Studies, University of Melbourne) and Anne Orford (IILAH, Melbourne Law School). This symposium was funded by the Australian Research Council.

### **9-10 November 2009: IILAH/ARC International Workshop**

#### ***Reasons of State: Security, Civility, Immunity, Life***

(Convenor: Professor Anne Orford)

This workshop aimed to explore the histories, objects, passions and strategies of modern statecraft, and to ask what happens when the claims made for and on behalf of the reason of state move across time and space. The questions about the relationship between freedom and authority that faced European jurists of the 16<sup>th</sup> and 17<sup>th</sup> centuries remain persistent questions for those seeking to justify, craft, comprehend or resist the practices of states today. Determining what political form might bring an end to divisive civil war, distinguishing the representatives of lawful authority from usurpers or insurgents, defining the limits of a state’s responsibility to protect its population or deciding when killing can be justified to preserve the commonwealth – these and many more such tasks of contemporary statecraft involve questions about the proper limits and ends of authority. The doctrines of responsibility and of protection that accompany acts of state or projects of international humanitarianism explain that those exercising power, whether as representatives of states or of the international community, are in fact guaranteeing the security, civility, immunity and life of those they control, manage, kill or wound. It is through the perfection of the modern state that protection and prosperity are to be achieved.

That project of perfecting the form of the state is at the heart of the contemporary theory and practice of international law. International law is often understood as the law governing the external relations of states. Yet international law is also intimately concerned with the project of creating the state as the form in which we moderns are able to declare our independence from the past and express our freedom to shape the future. International lawyers may at times see themselves as the representatives of a civilised conscience or shared sensibility that transcends the state, yet they still rely upon the state as the vehicle through which this universal law is to find expression. To the extent that international law is concerned with that relation between private conscience and public authority, it can be understood as one site in which the protestant project of the modern state is today being worked through. In that sense, theological debates about the proper form of the state are not past and immutable, but rather represent a normative tradition that modern international law inherits and with which it remains actively engaged. While statecraft has long been represented as a rational process involving the balancing of individual life and state survival, the reason of military statecraft is also itself the expression of a passionate attachment to a form of life.



This workshop brought together scholars analysing the modern state-making and administrative projects of international law, with scholars studying the theological, political and juridical foundations of worldly authority and state sovereignty. Speakers included: Hilary Charlesworth (RegNet, ANU), Michael Dillon (Politics, Lancaster), Ian Duncanson (Postcolonial Studies, Melbourne), Luis Eslava (IILAH, Melbourne Law School), Ann Genovese (IILAH, Melbourne Law School), Lee Godden (Melbourne Law School), Graham Hammill (English, Buffalo), Mickaël Ho Foui Sang (Law, Melbourne and Paris X), Martti Koskenniemi (Law, Helsinki/NYU), Jacques Lezra (Comparative Literature, NYU), Philip Lorenz (English, Cornell), Shaun McVeigh (IILAH, Melbourne Law School), Yoriko Otomo (IILAH, Melbourne Law School), Robert Wai (Law, Osgoode) and Eric Wilson (Law, Monash).

This workshop was funded by the Australian Research Council as part of a five-year Discovery Project being undertaken by Anne Orford entitled *Cosmopolitanism and the Future of International Law*. Further information about this project is available at: <http://www.law.unimelb.edu.au/cosmopolitanism/>

### **19 November 2009: IILAH/CCCS Seminar with Professor Frances Raday (Lieberman Chair in Labour Law at the Hebrew University, Jerusalem)**

#### ***Women's Autonomy: Religion on Trial***

Each of the monotheistic religions - Christianity, Judaism and Islam - restricts women's autonomy. Multi-culturalist and anti-secular critiques within the human rights literature have ignored or marginalised the impact of organised religion on women. The Human Rights Council's "traditional values" resolution in October 2009 has injected this marginalisation of women's harm into the United Nations human rights machinery. In this seminar, Frances Raday examined various ways in which women have perceived and formulated their claims to constitutional protection for their human rights as regards the patriarchal restrictions of religion. Selected issues were abortion, women's religious identity claims and the veil.

### **11-12 December 2009: CERDIN/IILAH Workshop presented at the Université Paris I (Panthéon-Sorbonne)**

#### ***Evaluating Critical Approaches to International Law***

(Convenors: Professor Emmanuelle Jouannet (CERDIN) and Professor Anne Orford (IILAH))

This workshop brought together 92 participants from 43 universities in Australia, Belgium, Canada, Egypt, France, Germany, Italy, Finland, the Netherlands, Romania, Switzerland, the UK and the US to reflect upon the contributions and limitations of critical approaches to international law developed over the past twenty years in the work of Anglophone scholars. The workshop was organised around four roundtables that discussed reports on 'critical approaches and political conceptions of international law' (report by Alexandre Lorite Escorihuela, chaired by David Kennedy), 'critical approaches and human rights' (report by Frédéric Mégret, chaired by Hilary Charlesworth), 'critical approaches and the Third World' (report by Rémi Bachand, chaired by Robert Howse) and 'critical approaches and the history of international law' (report by Thomas Skouteris, chaired by Martti Koskenniemi).

# PUBLICATIONS





## Books

**Andrew Mitchell** and **Jennifer Beard**, *International law in principle* (North Ryde, Australia: Thomson Lawbook Co, 2009)

**Lee Godden** and **Jacqueline Peel**, *Environmental Law: Scientific, Policy and Regulatory Dimensions* (Oxford: Oxford University Press, 2009)

## Book Chapters

**Takele Soboka Bulto**, 'The Indirect Approach to Promote Justiciability of Socio-Economic Rights of the African Charter on Human and Peoples' Rights' in Rachel H Murray (ed.) *Human Rights Litigation and the Domestication of International Human Rights Standards in Sub-Saharan Africa* (Stockholm and Nairobi: International Commission of Jurists, 2009) 135-167.

**Michelle Foster**, 'Refugee Law' in Sc I Freckelton & H Selby (eds), *Appealing to the Future: Michael Kirby and His Legacy* (Sydney: Thompson, 2009) 685-719.

**Lee Godden**, 'Towards a new ethic in Australian water law and policy' in H Sykes (ed), *Climate Change on for Young and Old* (Melbourne: Future Leaders, 2009) 46-60.

**Lee Godden** and Anne Kallies, 'The year in review - Country/region reports Australia' in O Fauchald, D Hunter and W Xi (eds), *Yearbook of International Environmental Law* (Oxford: Oxford University Press, 2009) 617-624.

**Andrew Mitchell** and Nicolas Lockhart, 'Ensuring compliance between a bilateral PTA and the WTO' in S Jayasuriya, D Maclaren and G Magee (eds), *Negotiating a Preferential Trading Agreement: Issues, Constraints and Practical Options* (Cheltenham: Edward Elgar Publishing, 2009) 235-253.

**Andrew Mitchell** and Nicolas Lockhart, 'Legal requirements for PTAs under the WTO' in B Mercurio and S Lester (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (Cambridge: Cambridge University Press, 2009) 81-113.

**Andrew Mitchell** and **Tania Voon**, 'Australia-United States free trade agreement' in B Mercurio and S Lester (eds), *Bilateral and Regional Trade Agreements: Case Studies* (Cambridge: Cambridge University Press, 2009) 6-43.

**Andrew Mitchell** and **Tania Voon**, 'PTAs and public international law' in B Mercurio and S Lester (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (Cambridge: Cambridge University Press, 2009) 114-139.

**Andrew Mitchell** and **Tania Voon**, 'TRIPS' in D Bethlehem, I Van Damme, R Neufeld and D Mcrae (eds), *The Oxford Handbook on International Trade Law* (Oxford: Oxford University Press, 2009) 186-208.

**Anne Orford**, 'What can we do to stop people harming others? Humanitarian intervention in Timor-Leste (East Timor)' in Jenny Edkins and Maja Zehfuss (eds), *Global Politics: A New Introduction* (London and New York: Routledge, 2009) 427-453.

**Dianne Otto**, 'The sexual tensions of UN peace support operations: A plea for "sexual positivity"' in J Klabbers (ed), *Finnish Yearbook of International Law* (Leiden: Martinus Nijhoff Publishers, 2009) 33-57.

**Jacqueline Peel**, 'International environmental law' in Andrew Mitchell and Jennifer Beard (eds), *International law in principle* (Sydney: Thomson Lawbook Co, 2009) 287-310.

**Gerry Simpson**, 'Stop calling it aggression': War as crime' in C O'Cinneide and J Holder (eds), *Current Legal Problems 2008* (Oxford: Oxford University Press, 2009) 191-228.

**Gerry Simpson**, 'Men and abstract entities: Individual responsibility and collective guilt in



international criminal law' in A Nollkaemper and H Van Der Wilt (eds), *System Criminality in International Law* (Cambridge: Cambridge University Press, 2009) 69-100.

**Tania Voon**, 'Geographical indications, culture and the WTO' in B Ubertazzi and E Muniz Espada (eds), *Le Indicazioni Di Qualità Degli Alimenti: Diritto Internazionale Ed Europeo* (Milan: Giuffrè Editore, 2009) 300-311.

**Tania Voon**, 'The World Trade Organization' in **Andrew Mitchell** and **Jennifer Beard** (eds), *International law in principle* (Sydney: Thomson Lawbook Co, 2009) 237-259.

## Journal Articles

**Olivia Barr**, **Luis Eslava** and **Yoriko Otomo**, 'In search of authority, rebellion and action' (2009) 3 *Sortuz: Oñati Journal of Emergent Sociolegal Studies* 1-13.

**Takele Soboka Bulto**, 'Between Ambivalence and Necessity in the Nile Basin: Occlusions on the Path towards a Basin-Wide Treaty' (2009) 20(3) *Colorado Journal of International Environmental Law and Policy* 291-320.

**Takele Soboka Bulto**, 'The Monist-Dualist Divide and the Supremacy Clause: Revisiting the Status of Human rights Treaties under the Ethiopian Constitution' (2009) 23(1) *Journal of Ethiopian Law* 132-160.

**Luis Eslava**, 'Constitutionalization of rights in Colombia: Establishing a ground for meaningful comparisons' (2009) 22 *Revista de Derecho del Estado* 183-229.

**Luis Eslava**, 'Decentralization of development and nation-building today: Reconstructing Colombia from the margins of Bogotá' (2009) 2(1) *The Law and Development Review* 281-366.

**Michelle Foster**, 'Book review: Nuala Mole, Asylum and the European Convention on Human Rights' (2009) 21(3) *International Journal of Refugee Law* 645-649.

**Michelle Foster**, 'An "alien" by the barest of threads, The legality of the deportation of long-term residents from Australia' (2009) 33(2) *Melbourne University Law Review* 483-541.

**Michelle Foster**, 'Non-Refoulement on the basis of socio-economic deprivation: The scope of complimentary protection in international human rights law' (2009) *Part II New Zealand Law Review* 257-310.

**Lee Godden**, 'Death, desire, modernity and redemption: Climate change and public international law' (2009) 10(2) *The Melbourne Journal of International Law* 543-578.

Mark Burgman, **Lee Godden**, Paul Martin and Terry Walshe, 'Designing regulation for conservation and biosecurity' (2009) 13(1) *Australasian Journal of Natural Resources Law and Policy* 132-160.

**Kirsty Gover**, 'Genealogy as continuity: Explaining the growing tribal preference for descent rules in membership governance in the United States' (2009) 33(1) *American Indian Law Review* 243-309.

**Kevin Jon Heller**, 'The cognitive psychology of mens rea' (2009) 99(2) *Journal of Criminal Law and Criminology* 317-379.

**Jürgen Kurtz**, 'Access to justice, denial of justice and international investment law: A reply to Francesco Francioni' (2009) 20(4) *European Journal of International Law* 1077-1085.

**Jürgen Kurtz**, 'The use and abuse of WTO law in investor - state arbitration: Competition and its discontents' (2009) 20(3) *European Journal of International Law* 749-771.

**Jürgen Kurtz**, 'The use and abuse of WTO law in investor-state arbitration: Competition and its discontents: A rejoinder to Robert Howse and Efraim Chalamish' (2009) 20(4) *European Journal of International Law* 1095-1098.

Anne van Aaken and **Jürgen Kurtz**, 'Prudence or discrimination? Emergency measures, the

global financial crisis and international economic law' (2009) 12(4) *Journal of International Economic Law* 859-894.

**Wendy Larcombe**, 'Can assessment policies play a role in promoting student engagement in law?' (2009) 2(1&2) *Journal of the Australasian Law Teachers Association* 197-206.

**Andrew Mitchell** and John Farnik, 'Global administrative law: Can it bring global governance to account?' (2009) 37 (2) *Federal Law Review* 237-261.

**Andrew Mitchell** and Elizabeth Sheargold, 'Global governance: The World Trade Organization's contribution' (2009) 46 (4) *Alberta Law Review* 1061-1080.

**Andrew Mitchell** and **Tania Voon**, 'Operationalizing special and differential treatment in the World Trade Organization: Game over?' (2009) 15(3) *Global Governance: a review of multilateralism and international organizations* 343-358.

**Andrew Mitchell** and **Tania Voon**, 'Patents and public health in the WTO, FTAs and beyond: Tension and conflict in international law' (2009) 43(3) *Journal of World Trade* 571-601.

**Anne Orford**, 'International Law and the Making of the Modern state: Reflections on a Protestant Project' (2009) 3 *Sortuz: Oñati Journal of Emergent Sociolegal Studies* 14-27.

**Anne Orford**, 'Jurisdiction without Territory: From the Holy Roman Empire to the Responsibility to Protect' (2009) 30 *Michigan Journal of International Law* 981-1015.

**Yoriko Otomo**, 'Endgame: Feminist lawyers and the revolutionary body' (2009) 31 *Australian Feminist Law Journal* 153-164.

**Dianne Otto**, 'The exile of inclusion: Reflections on gender issues in international law over the last decade' (2009) 10(1) *The Melbourne Journal of International Law* 11-26.

**Jacqueline Peel**, 'Interpretation and application of the precautionary principle: Australia's contribution' (2009) 18(1) *Review of European Community and International Environmental Law* 11-25.

**Jacqueline Peel** and **Lee Godden**, 'Planning for adaptation to climate change: Landmark cases from Australia' (2009) 9(2) *Sustainable Development Law & Policy* 37-41.

Juliet Rogers and **Peter Rush**, 'The remains of authority and the trial of Saddam Hussein' (2009) 31 *Australian Feminist Law Journal* 121-134.

**Olivera Simić**, 'Activism for peace in Bosnia and Herzegovina: A gender perspective' (2009) 8(15) *Global Media Journal* 11.

**Olivera Simić**, 'Remembering, visiting and placing the dead: Law, authority and genocide in Srebrenica' (2009) 13(1) *Law Text Culture* 273-310.

**Olivera Simić**, 'Rethinking "sexual exploitation" in UN peacekeeping operations' (2009) 32(4) *Women's Studies International Forum* 288-295.

**Olivera Simić**, 'What remains of Srebrenica? Motherhood, transitional justice and yearning for the truth' (2009) 10(4) *Journal of International Women's Studies* 220-236.

**Olivera Simić**, 'Who should be a peacekeeper?' (2009) 21(3) *Peace Review* 395-402.

**Olivera Simić**, 'Book review: Dubravka Zarkov, 'The Body of War: Media, Ethnicity, and Gender in the Break-up of Yugoslavia'' (2009) 16(2) *Indian Journal of Gender Studies* 280-284.

**Gerry Simpson**, 'Revisiting the Tokyo war crimes trial (2009) 78(4) *Pacific Historical Review* 608-613.

**Joo-Cheong Tham**, 'Democratic deliberation of labour law: A preliminary inquiry into the making of the Fair Work Act' (2009) 22(3) *Australian Journal of Labour Law* 232-257.

**Joo-Cheong Tham**, 'Law-making and temporary migrant labour schemes: Accountability and the 457 visa scheme' (2009) 8(1) *Australian Journal of Administrative Law* 18-20.

**John Tobin**, 'Judging the judges: Are they adopting the rights approach in matters involving children?' (2009) 33(2) *Melbourne University Law Review* 579-625.

**John Tobin**, 'The international obligation to abolish traditional practices harmful to children's health: What does it mean and require of states?' (2009) 9(3) *Human Rights Law Review* 373-396.

**John Tobin** and Ruth McNair, 'Public international law and the regulation of private spaces: Does the convention on the rights of the child impose an obligation on states to allow gay and lesbian couples to adopt?' (2009) 23(1) *International Journal of Law, Policy and the Family* 110-131.

**John Tobin**, 'Using human rights to protect the sexual health of children and adolescents' (2009) 101 *Health Issues* 17-20.

**Tania Voon**, 'China - Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products' (2009) 103(4) *American Journal of International Law* 710-716.

**Margaret Young**, 'Fragmentation or interaction: the WTO, fisheries subsidies, and international law' (2009) 8(4) *World Trade Review* 477-515.

## Selected Lectures and Presentations

**Olivia Barr**, *Walking with Empire*, paper presented at the 'Critical Legal Conference', University of Leicester, 12 September 2009.

**Olivia Barr**, *In the Spaces of Jurisdiction*, paper presented at the 'Politics of Space and Place' Conference, University of Brighton, 18 September 2009.

**Luis Eslava**, *Mas allá del Mapa: Construyendo espacio para el desarrollo en Bogotá*, paper presented at 'VIII Seminario de Investigación Urbano - Regional ACIUR: Gobierno de Municipios y Aglomeraciones Urbanas', Universidad Nacional de Colombia, Bogotá, DC, 28-30 September 2009.

**Luis Eslava**, *Spatial dimensions of Law and Development: Ethnographic inquiries on the nature of sovereignty, state and citizenship today*, paper presented at 'Research and High Degree Colloquium', Melbourne Law School, 4 November 2009.

**Luis Eslava**, *Jurisdictional Encounters and the Fight for Citizenship: The Case of Colombian Internally Displaced Population in the City of Bogotá*, guest speaker, La Trobe Refugee Research Center, Faculty of Social Sciences, La Trobe University, 5 November 2009.

**Luis Eslava**, *Local Mimics of the State: Governance anxieties in times of decentralization*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

**Luis Eslava**, *La Participación Ciudadana y el Derecho a la Ciudad en Soacha*, videoconference presented at the 'Foro-Taller Comunitario de Asentamientos Informales en Soacha: Hacia un proceso de regularización con participación ciudadana en el marco del Derecho Humano a la Ciudad', Centre on Housing Rights and Evictions (COHRE, Colombia), Fundación Educación y Desarrollo (FEDES), and Federación Nacional de Organizaciones de Vivienda Popular (FEDEVIVIENDA), Soacha, 4-5 December 2009.

**Michelle Foster**, commentator, *Violations of Socio-economic Rights as a Form of Persecution and as an Element of Internal Protection* by Kate Jastram, Anne Mactavish, and Penelope Mathew at the International Association of Refugee Law Judges' 8th World Conference, Cape Town, January 2009.

**Michelle Foster**, *Interception and Reception in the Asia-Pacific Region*, roundtable discussion with the United Nations High Commissioner for Refugees, Mr António Guterres in Melbourne, 24 February 2009.



**Ann Genovese**, *Legislation, History and Nation: A Conversation on Jean Carbonnier and what is left for the Left* paper presented at a Symposium 'Interregnums: Between the National and the Post-National', hosted by the Institute for International Law and the Humanities, Melbourne Law School, 28 October 2009.

**Ann Genovese**, *Australia and Myth Making: Law's Stories of the Stolen Generations*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and Humanities, Melbourne Law School, 9-10 November 2009, also presented at a conference on 'Baz Luhrmann's Australia Reviewed', National Museum of Australia, Canberra, 7-8 December 2009.

**Lee Godden**, *Water Crisis and Climate Change*, invited presentation at Melbourne City Council Public Lecture Series, BMW Edge, Federation Square, Melbourne, 19 February 2009.

**Lee Godden** and Samuel Alexander, papers presented at a conference on 'Property Rights and Sustainability: The Evolution of Property Rights to Meet Ecological Challenges', The University of Auckland, 16-18 April 2009.

**Lee Godden**, *Climate Change: Exploring the Intersection of Public International Law and the Reflexivity of Modern Environmental Law*, paper presented at a Conference on 'Connecting International and Public Law: Environmental Discourses in International and Public Law', Canberra, 13-15 August 2009.

**Lee Godden**, *Water and Indigenous Peoples' Rights: Lessons for Climate Change Adaptation from Australia*, paper presented at IUCN Academy of Environmental Law, University of Ottawa, 6 October 2009.

**Lee Godden**, *Death Desire Sin and Redemption: Climate Change and the Rationality of Environmental Law*, Inaugural Professorial Lecture, Melbourne Law School, 4 November 2009.

**Lee Godden**, *Governing Climate Change as a Question of State Responsibility*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

Anita Foerster and **Lee Godden**, *Climate Change and Water Law: Prospects for Adaptive Governance*, paper presented at a workshop on 'Systemic and Adaptive Water Governance', University of Melbourne, 14 December 2009.

**Mickaël Ho Foui Sang**, *From the Abolitionist State to the Redemptive State: Making Sense of the Slave Past in the Present*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

**Shaun McVeigh**, *Civility of the South*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

**Andrew Mitchell**, *Learning from Doha: Can "Development" be Operationalized in International Economic Law?*, paper presented at the 103<sup>rd</sup> Annual Meeting of the American Society of International Law, Washington, DC, 25-28 March 2009.

**Andrew Mitchell**, *The "Inherent Jurisdiction" of WTO Tribunals - The Need for a "Principled" Approach*, paper presented with David Heaton at 'International Trade Law Symposium', Canberra, 3-4 April 2009.

**Andrew Mitchell**, *Global Administrative Law*, paper presented at the China University of Political Science, Beijing, 7 May 2009.

**Andrew Mitchell**, *Inherent Jurisdiction of WTO Tribunals*, paper presented with David Heaton at 'WTO Appellate Body Speaker Series', Geneva, 9 July 2009.

**Andrew Mitchell**, *With an Eye to the Past: Precedent in the WTO*, paper presented at the Institute of International Economic Law, Georgetown University Law Center, Washington DC, 30 September 2009.

**Andrew Mitchell**, *Climate Change and the WTO*, paper presented at the Canadian Council on International Law - 2009 Annual Conference, Ottawa, 14-16 October 2009.

**Andrew Mitchell**, *In Search of Coherence Between Trade and Health: Inter-Institutional Opportunities*, paper presented with Jonathan Liberman at a Symposium on 'Global Law and Multilateral Law: Evolving Conceptions of International Law and Governance', University of Maryland School of Law, Baltimore, 23 October 2009.

**Andrew Mitchell**, *Current Issues on Biofuels and Trade*, paper presented at the Institute of International Economic Law, Georgetown University Law Center, Washington DC, 3 November 2009.

**Andrew Mitchell**, *Commentator: The relationship between regimes of international economic law and the production of knowledge about the global economy*, Scholarship Roundtable on The Law and Political of International Cooperation, Centre for International & Comparative Law, Duke University School of Law, 6-7 November 2009.

**Andrew Mitchell**, *The Evaluation of Environmental Services Commitments and Offers of Liberalisation in the WTO and RTAs*, paper presented at the International Centre for Trade and Sustainable Development, Geneva, 20 November 2009.

**Anne Orford**, *Jurisdiction without Territory: From the Holy Roman Empire to the Responsibility to Protect*, paper presented by invitation at the Michigan Journal of International Law Symposium on 'Territory without Boundaries', University of Michigan, 6-7 February 2009.

**Anne Orford**, *The Responsibility to Protect and the Limits of International Authority*, closing plenary address presented by invitation at a symposium on 'Imperfect Duties? Humanitarian Intervention in Africa and the Responsibility to Protect in a Post-Iraq Era', DePauw University, Indiana, 5-7 March 2009.

**Anne Orford**, *The Question of Status and the Administration of Life*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

**Anne Orford**, *Institutionalising Feminism*, paper presented by invitation at a workshop on 'Feminist Internationalisms', Centre for International Governance and Justice, Australian National University, 23-24 November 2009.

**Anne Orford**, *The Responsibility to Protect Populations at Risk*, paper presented by invitation at a Panel of International Experts on 'Rights of the Vulnerable', Jindal Global Law School, 4 December 2009.

**Anne Orford**, *Protection and the Management of Decolonisation: Tracing the Origins of the Responsibility to Protect*, paper presented at the Joint Meeting of the Indian Society of International Law and the Australian and New Zealand Society of International Law, New Delhi, 5-6 December 2009.

**Yoriko Otomo**, *Law and the Question of the Animal*, paper presented at 'Minding Animals: International Conference on Animals and Society', Newcastle, 13-18 July 2009.

**Yoriko Otomo**, *Human Trouble: International Law and the Subversion of Identity*, paper presented at a workshop on 'Reasons of State: Security, Civility, Immunity, Life', Institute for International Law and the Humanities, Melbourne Law School, 9-10 November 2009.

**Dianne Otto**, Panel Convenor, 'Visions of International Law: Insights from Normative Theory', 103<sup>rd</sup> Annual Meeting of the American Society of International Law, 25-28 March 2009.

**Dianne Otto**, *Some Cautionary Thoughts on the Successes of Feminist Strategies in International Human rights Law*, Final Plenary, 'Feminist Perspectives on Human Rights in Canada Conference', University of Ottawa, Canada, 28-29 March 2009.

**Dianne Otto**, *A Question of Law or Politics? Australia's "indirect" implementation of its international human rights obligations*, conference on 'International Law in the Domestic Context', Valparaiso University School of Law, Indiana, 3 April 2009.

**Dianne Otto**, *Pushing Feminism off the Map? International Law in Times of Crisis*, Inaugural Professorial Lecture, Melbourne Law School, 20 May 2009.

**Dianne Otto**, *A Dangerous Liaison: Feminist Engagement with International Law through the UN Security Council*, paper presented at a workshop on 'Feminist Internationalisms: Celebrating feminist engagement with international law and politics', Centre for International Governance and Justice Workshop, Australia National University, 23-24 November 2009.

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**Tania Voon**, *Treatment of Trade Remedies in Regional Trade Agreements*, 'WTO Appellate Body Speaker Series', WTO, Geneva, 15 July 2009

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## Other Contributions

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[www.iilah.unimelb.edu.au](http://www.iilah.unimelb.edu.au)

**CONTACT DETAILS**

Institute for International Law and the Humanities  
Melbourne Law School  
The University of Melbourne  
Victoria 3010 Australia

Telephone: +61 3 8344 6589

Fax: +61 3 8344 1013

Email: [law-iilah@unimelb.edu.au](mailto:law-iilah@unimelb.edu.au)

Web: <http://www.iilah.unimelb.edu.au>



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