

Queering International Law

Possibilities, Alliances, Complicities, Risks



Provocations II - Legal Theory Workshop Series
14 - 15 December 2015 - Melbourne Law School

Cover image: 'Q' - *David McDiarmid 1994*

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

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

Dianne Otto (Convenor)

Francine V McNiff Chair in Human Rights Law
Director Institute for International Law and the Humanities

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Those many participants who found funds to cover the balance of their travel expenses.



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Program

	Monday, 14 December 2015
	All sessions will be held in: Room 920, Level 9, Melbourne Law School 185 Pelham Street Carlton
9.00-9.20	Welcome: Professor Carolyn Evans (Dean) and Dianne Otto (Convenor) Introductions
9.20-9.50	1. Complicities: Sexuality, Coloniality and Governance Chair: Mark McMillan (MLS) <i>Atonement</i> Presenter: Rahul Rao (SOAS)
9.50-10.00	Commentator: Maria Elander (UMelb, Criminology)
10.00-10.10	General Discussion
10.10-10.40	<i>African sexual wrongs and the rationalities of transnational governance: from criminalization to market regulation</i> Presenter: Doris Buss (Carleton)
10.40-10.50	Commentator: Christina Kenny (ANU)
10.50-11.00	General Discussion
11.00-11.20	TEA AND COFFEE BREAK
11.20-11.50	<i>Gay governance: a queer critique</i> Presenter: Aeyal Gross (Tel Aviv)
11.50-12.00	Commentator: Fleur Johns (UNSW)
12.00-12.10	General Discussion
12.10-12.30	General Discussion of morning's theme and papers
12.30-1.30	LUNCH

1.30-2.00	<p>2. Possibilities: Rethinking Peace/Violence/Crisis Chair: Madelaine Chiam (MLS) <i>Queering peace and law: transcending the categorization of conflict-related actors</i></p> <p>Presenters: Philipp Kastner (UWA) and Elisabeth Roy Trudel (Concordia)</p>
2.00-2.10	Commentator: Laura Grenfell (UAdel)
2.10-2.20	General Discussion
2.20-2.50	<p><i>International law as violence: competing absences of the other</i> Presenter: Vanja Hamzić (SOAS)</p>
2.50-3.00	Commentator: Dave McDonald (UMelb, Criminology)
3.00-3.10	General Discussion
3.10-3.30	TEA AND COFFEE BREAK
3.30-4.00	<p><i>Objects of [queer] curiosity: walled states and homosexual panics</i> Presenter: Dianne Otto (MLS)</p>
4.00-4.10	Commentator: Wayne Morgan (ANU)
4.10-4.20	General Discussion
4.20-5.10	<p><i>Readings of desire</i> Presenters: Joan Nestle, Neo Sinxolo Musangi, Yasmin Tambiah and Maddee Clark</p>
5.10-5.20	Discussion of readings
5.20-6.00	General discussion afternoon's theme, papers and readings
6.00-7.00	<p>Book Launch (Common Room) <i>Sexual and Gender Diversity in the Muslim World: History, Law and Vernacular Knowledge</i> (IB Tauris, 2015) Author Vanja Hamzić In Conversation with Shakira Hussein (National Centre of Excellence for Islamic Studies, Asia Institute) and Dianne Otto. Convened by Rose Parfitt.</p>
7.00-9.00	DINNER – University House @ Woodward, level 10 (presenters, commentators and chairs)

Program

	Tuesday, 15 December 2015
	All sessions will be held in: Room 920, Level 9, Melbourne Law School 185 Pelham Street Carlton
9.00-9.10	Welcome
9.10-9.40	3. Alliances: Making Queer Lives Matter Chair: Yasmin Tambiah (UWSydney) <i>Does the heteronormativity of international law affect the breastfeeding legal man in Norway?</i> Presenter: Anniken Sørli (Oslo)
9.40-9.50	Commentator: Maddee Clarke (UMelb, Culture and
9.50-10.00	Communication) General Discussion
10.00-10.30	<i>Women that matter: comments on article 14 of the Maputo Protocol</i> Presenter: Neo Sinxolo Musangi (Brit Instit East Africa)
10.30-10.40	Commentator: Marc Trabsky (LaTrobe)
10.40-10.50	General Discussion
10.50-11.10	TEA AND COFFEE BREAK
11.10-11.40	<i>The Security Council, threat to the Peace, sexual violence and heteronormativity</i> Presenter: Tamsin Paige (UAdel)
11.40-11.50	Commentator: Claire Opperman (MLS)
11.50-12.00	General Discussion
12.00-12.30	General Discussion of morning's theme and papers
12.30-1.30	LUNCH

1.30-2.00	<p>4. Risks: Troubling Sovereignty and its Borders Chair: Kris Walker QC <i>Queer border crossers: pragmatic complicities, indiscretions and subversions</i> Presenter: Bina Fernandez (UMelb, Development Studies)</p>
2.00-2.10	Commentator: Debolina Dutta (MLS)
2.10-2.20	General Discussion
2.20-2.50	<p><i>Queer territory</i> Presenter: Ralph Wilde (UCL)</p>
2.50-3.00	Commentator: Oishik Sircar (MLS)
3.00-3.10	General Discussion
3.10-3.40	TEA AND COFFEE BREAK
3.40-4.10	<p><i>Queering international law's stories of origin and queer asylum seekers</i> Presenter: Nan Seuffert (Wollongong)</p>
4.10-4.20	Commentator: Sundhya Pahuja (MLS)
4.20-4.30	General Discussion
4.30-5.00	Discussion of afternoon's theme and papers
5.00-5.30	Wrap up/next steps/conclusions
	Drinks on 10th floor
6.30-7.30	<p>Side Event: IILAH Book Launch (Common Room) <i>Local Space, Global Life: The Everyday Operation of International Law and Development</i> (CUP, 2015) Author Luis Eslava will be interviewed by Sundhya Pahuja. Convened by Rose Parfitt.</p>

Abstracts

Professor Doris Buss

Law and Legal Studies
Carleton University

African sexual wrongs and the rationalities of transnational governance: from criminalization to market regulation

In this paper, I am interested in how certain conceptions of the wrongs of African sexuality are mobilized by Western advocates and decision-makers to construct ideas about proper forms governance. Scholars such as Ann Stoler have productively drawn attention to the significance of sexuality to colonial forms of governance, while others, building on Foucault have traced the bio-political arrangements made possible through contemporary sex panics. In this paper, I want to draw from this work to focus more specifically on forms of governance that are rationalized and made coherent in relation to articulations of the wrongs and rights of sexuality. In a slight departure, I am interested in forms of governance that are not, at first glance, directed at the management of sexuality per se, but which function, I argue, to rationalize qualities of governance that can be seen as sexualized. My analysis considers, time permitting, three examples: conflict related sexual violence, particularly in Africa's Great Lakes Region, and the emergence of criminalization and data-collection as the twin themes in the global response. Second, 'conflict minerals' and global efforts to regulate the supply chain of gold, tin, tantalum and tungsten ('3TGs'), (again, echoing the twin themes of criminality and surveillance). Finally, state-sponsored homophobia and 'intolerance' by certain African governments, notably Uganda.

Dr Bina Fernandez

Lecturer in Development Studies, School of Social and Political Sciences
The University of Melbourne

Queer border crossers: pragmatic complicities, indiscretions and subversions

Queer struggles for the reform of immigration and asylum laws in recent decades have been positioned against the heteronormativity of the regulatory state apparatus, with some legislative successes. Nevertheless, state practices of assessments of 'authentic'

LGBTI migrant and asylum seeker claims focus arguments around the credibility of narratives and the discretion/visibility of claimants. Responses to these practices have constructed LGBTI identities in specifically gendered, classed, racialised and imperial ways to make them legible to the state, privileging ‘coming out’, public (hyper) visibility and homonormative happy families. While such strategies may be pragmatic complicities with official regimes of knowledge about non-citizen queer lives, they produce a homonationalist (Puar 2007, 2013) consolidation of power consonant with capitalist accumulation, the biopolitics of control over population movements, and liberal rights discourses. This paper argues that queer struggles in this modality not only ossify an identitarian politics, they set up yet another missionary rescue project, re-enforcing queer border crossers as ‘victim subjects’ incapable of exercising agency. They simultaneously leave unproblematised the methodological nationalism of normative constructs of state borders and territorially based citizenship. I suggest an alignment of queer migrant activism with ‘no borders’ politics offers more emancipatory possibilities that would resonate with the anti-identitarian impulse of queer theory. I explore how resistance could be framed not just in opposition to heteronormativity, but as subversions of neoliberal, capitalist projects of empire, and consider the implications for reconfiguration of the state.

Professor Aeyal Gross

Faculty of Law, Tel-Aviv University

Visiting Reader in Law, SOAS, University of London

Gay governance: a queer critique

In 2009 the US Congress passed legislation which expanded federal hate crime law to include crimes motivated by the victim’s gender, sexual orientation or gender identity. While this was heralded by many as a victory for LGBT rights, some queer groups expressed strong reservations, arguing that the harsher prison sentences accorded to hate crimes, grant more power to the prison system, in which trans people, people of color and poor people, are disproportionately incarcerated. In the same year, when queer activists in Israel criticized the city’s renovation of Independence Park because it destroyed its role as a major cruising area, a gay council member opposed this criticism, pointing to

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the fact that public cruising areas are a matter of the past. At the same time, the city has been organizing pride events annually since 2012, on Tel-Aviv's gay beach, located just under the park, in a way sponsoring cruising but one that is very different from the more democratized version that used to take place in the park. In 2013, after the legislation for same sex marriage passed in the UK, British Prime Minister David Cameron said he wanted to export gay marriage around the world as part of the "global race" where the UK should export and sell more. But in recent years it has been argued that the growing incidence of homophobic legislation and violence in Africa, is partly a backlash to the spread of same sex marriage recognition and the fear of such demands being made locally, not to mention exported globally.

These stories point to the complexity of what happens when homosexuality shifts from being a phenomenon persecuted or at least marginalized by states, to one that is incorporated into the state or the municipality. When gay activists support legislation that may create more incarceration or support the "gentrification" of cruising, and when same-sex marriage becomes something states want to "export", possibly at the expense of strengthening the persecution of people who practice same-sex relationship in the global south, can we talk of "gay governance"? Is gay governance similar to "governance feminism" – the hypothesis being that while LGBT groups have been more successful in achieving more equality through legislation and litigation in some countries, gay governance is rather more apparent in the appropriation of gay rights as homonationalist propaganda? What can queer critique offer in answer to these questions?

Dr Vanja Hamzić

Lecturer, School of Oriental and African Studies (SOAS)
The University of London

International law as violence: competing absences of the other

This paper analyses the would-be paradox of international law's continuous evolution towards evermore-diverse forms of juridical violence. From the falsehood of imperial pacifism, through the perils of its multiple turns to 'pragmatism' and quasi-proportionality with regards to legally sanctioned uses of force, to the infinitude of contemporary warfare – international law's spectacles of violence seem to proliferate at an unprecedented pace. It is

thus pertinent to ask what historical and present-day insights can be gained if international law is posited no longer as a discipline and practice intrinsically committed to regulation of violence, but as violence itself.

The paper surveys an array of analytic traditions on the Left that disclose the inherent violence of international law. The discussion is framed in relation, in Badiouian terms, to an anti-Event: the ‘first-ever’ UN Security Council meeting on the persecution of ‘LGBT Syrians and Iraqis’ by the so-called ‘Islamic State’, which took place on the 24th of August 2015. Whilst dealing with but also *perpetrating and perpetuating* multiple forms of violence, this anti-Event, at the same time, reveals some productive voids, especially with regards to the dominant framing of the subjectivities and subjects of the international legal discourse and intervention. Such voids, I argue, allow for theorising the absence of international law and, in turn, the absence of the subject of juridical violence.

Assistant Professor Philipp Kastner

Faculty of Law

University of Western Australia

and

Ms Elisabeth Roy Trudel

PhD Candidate in interdisciplinary humanities studies, Concordia University (Montreal)

Honorary Fellow, Faculty of Law, The University of Western Australia

Queering peace and law: transcending the categorization of conflict-related actors

Drawing on queer theory, this paper examines the participation of various so-called non-state actors in contemporary peace negotiations, challenging the traditional frontiers of international law and attempting to envisage different spheres of influence for international law. Most of today’s peace agreements and the processes leading to their conclusion take radically different forms from classic, inter-state peace treaties and negotiations. Above all, the role and legitimacy of non-state negotiating parties as well as their contribution to building the normative framework of peace negotiations have not been adequately assessed. As this paper argues, peace negotiations seeking to end internal armed conflicts are rich norm-generating processes that escape much of the formalism in traditional law-making. Non-state actors, such as representatives of armed groups and civil

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society, are not beyond the reach of law; to the contrary, they are legal actors shaping the normative framework of peace processes and of international law more generally.

However, the dominant approach remains inherently anchored in a dichotomous, state-centric model that is preoccupied with the attainment of a state of negative peace and that does not adequately account for the legal agency of many actors. Armed groups, for instance, produce legal knowledge and fashion their legal environment, and they may conceive of peace in various ways. A pluralistic understanding of law allows us to recognize this norm-creative capacity of all the actors relevant in the context of peace processes and to appreciate the continuous, interactional creation and adjustment of international legal norms. Queer theory enables us to imagine both peace, or rather peaces, and legal normativity as ways to be in relation with one another and as processes that are characterized by and open to uncertainty, as aspirational endeavours that are constantly evolving. We argue that recognizing this relational legal agency and the relevance of all voices and experiences – without predetermined categorizations – can facilitate the peaceful resolution of armed conflicts and enhance the emancipatory potential of a reinvented and more inclusive international law.

Mx Neo Sinxolo Musangi

Humanities Research Fellow

British Institute in Eastern Africa, Nairobi, Kenya

Women that matter: comments on article 14 of the Maputo Protocol

[...]

I do not believe as some

that the vote is an end,

I fear even more

It is just a beginning.

So I must make assessment

Look to you and ask:

Where will you be when they come?

—June Jordan

The Protocol to the African Charter on Human and People's Rights on the Rights of

Women in Africa (better known as the Maputo Protocol) was adopted by the 2nd Ordinary session of the Assembly of the African Union on 11 July 2003 in Maputo, Mozambique and entered into force in 2005. Almost ten years later, the State Parties bound to this special protocol by signature, ratification or accession have made very little or no progress in its implementation. Indeed some states have done better at the partial implementation of the Protocol than others in areas such as the elimination of harmful practices such as Female Genital Modification/Mutilation and early and/or forced marriage as well as facilitating an enabling environment for the right to education and training for the girl-child/women, among others.

However, while some of the difficulties with implementing the Protocol have a lot to do with the systemic historical exclusion of women and resistance by particular nation-states to sections of the protocol; this is worsened by the complexity of how ‘women’ as a category is used within the terms of the Protocol. While focusing primarily on Article 14 on Sexual and Reproductive Health, this paper argues that by analyzing the assumptions within this article, the Protocol serves as a critical tool through which women are only legally recognizable if — and only if — they are cisgender, heterosexual and, capable and planning to bear children. While drawing examples from Kenya and South Africa, the paper uses strands of African feminism and Queer theory to argue that by prescribing to a Women’s Rights discourse that focuses on women as a category only referring to female-born and female-identifying persons —who are as a given heterosexual— (and a refusal to do analytical gender work), the Protocol coagulates legal discrimination even as women’s rights groups and the African Union continue to applaud it as the first women’s rights legal framework for the protection of women rights in Africa.

Abstracts

Professor Dianne Otto

Francine V McNiff Chair in Human Rights Law

Director Institute for International Law and the Humanities (IILAH)

Melbourne Law School

Objects of queer curiosity: walled states and sexual panics

In this paper, I have a two-fold focus for my queer curiosity in international law: the increasingly anxious discourse about the survival of the nation state and the, not unconnected, imaginary of the [homo]sexual panic. Before turning to these objects of curiosity, I will develop my understanding of queer curiosity, the element of surprise, and their combined emancipatory potentialities. My aim is to make very different objects out of nation states and sexual panics than their current guise permits. I conclude with some thoughts on how queer relational practises of kinship and alliance, which favour diverse communities and fluid expressions of identity and desire, as well as disarmament and positive peace, present a fundamental challenge to the 'normal' attributes of contemporary statehood which are currently being so violently, hatefully, and often lawlessly, defended.

Ms Tamsin Phillipa Paige

PhD Candidate and Research Associate, Research Unit on Military Law and Ethics

The University of Adelaide

Visiting Scholar, Columbia Law School (2015-2016)

The Security Council, threat to the peace, sexual violence and heteronormativity

The concept of 'threat to the peace' is a vague and amorphous one that is often described as fluid and arbitrary. The resolutions made by the Security Council represent negotiated consensus of the Security Council rather than the views of the individual members and as such they offer very little insight into the justifications of, and approaches to, such decisions. Between 2008 and 2010, the Security Council made four resolutions relating to Sexual Violence as a Tactic of War – three under the Women and Peace and Security agenda and one under the Children and Armed Conflict agenda – all of which concluded that as a concept, Sexual Violence as a Tactic of War did not meet the threshold for a finding of 'threat to the peace'. What these resolutions don't explain is why this is the case.

In this paper I will explore the meeting statements of the P5 (rather than the resolutions – which has been aptly done by a number of scholars) to understand their individual approach and justifications that led to these resolutions. After this case study has been conducted I will analyse how the consistent use of heteronormative language, conforming to gender stereotypes of male perpetrator/female victim when discussing the issue (even though it is the most frequent kind of wartime sexual violence) unhelpfully excludes other forms of sexual violence as a tactic of war from the debate. Further, it serves to perpetuate social perceptions of women as passive victims, lacking in agency, needing to be saved from men rather than as complex, autonomous agents.

Dr Rahul Rao

Senior Lecturer in Politics, SOAS

The University of London

Atonement

A prominent feature of contemporary British global advocacy on LGBT rights is the insistent reminder that criminal laws in a number of countries against (typically male) homosexuality are a legacy of British colonialism. In part, this claim - made both by Western and local activists - seeks to invert the conservative argument that homosexuality is Western, foreign and therefore inauthentic, with the suggestion that it is institutionalised homophobia that is the foreign import. In some British advocacy, this claim also functions as an implicit rationale for a leading role for British activists in the fight against global homophobia. Such advocacy seeks to deploy a range of tools and various forms of power in its efforts, including shaming, state pressure through conditionality, high-level legal assistance in judicial proceedings, etc. In this article, I ask whether atonement for colonialism has become an engine of neo-colonialism. Among

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other things, I hope to explore the use of the Commonwealth as an arena for normative contestation and change around issues of sexual orientation and gender identity.

Professor Nan Seuffert

Director, Legal Intersections Research Centre, School of Law
The University of Wollongong

Queering international law's stories of origin and queer asylum seekers

Scholarship in recent years has analysed the centrality of the colonial encounter between the Spanish and the Indigenous Americans in the work of Francisco de Victoria, and the influence of his work on the origins and development of international law (see Anghie 2005; Saito 2010; Otto 1996). This scholarship has not, however, focussed on the trajectory of the 'right to travel', so central to Victoria's work, in international law. Even less attention has been paid to how Victoria positions differences in sexuality in his work. This paper argues that Victoria's 'right to travel' is embedded in conceptualisations of sovereignty in international law. Tracing the right to travel and analysing his treatment of differences of sexual orientation deepens our understandings of the current dynamics of shifting imaginaries of sovereignty by western states, using the example of Australia's asylum seeker policy on sexual minorities.

Ms Anniken Sørlie

PhD Candidate, Department of Public and International Law, Faculty of Law
The University of Oslo

How does the heteronormativity of international law affect the breastfeeding legal man in Norway?

An increased number of jurisdictions have recently opened up the domestic categories of legal gender to include a more diverse understanding of legal men and legal women. The removal of restrictive requirements for change of legal gender such as sterilization or infertility, as well as hormone treatment, implies that the categories legal men and legal women contain multiple identities and bodies, as in Norway. As a result legal men can give birth and legal women can use their sperm to become a parent. International human rights have played a crucial role in the lengthy struggle for legal recognition and still do. Human rights principles such as human dignity, self-determination and non-discrimination embedded in numerous international conventions have been emphasized by domestic legislators when arguing in favour of the changes, and by domestic courts when ruling on the requirements. This role of human rights in attaining changes at a national level could give the impression that international law is progressive and emancipating. Yet, legal recognition is still based on dualistic categories which means that existing categories have been opened up – not removed. Even as some categories have been opened up, others seem to be even more tied to biological determinism. By exploring the case of parental categories in Norway, I trace the heteronormative patterning of both international law and Norwegian law in this paper. I highlight how international law undermines its emancipating project and excludes identities through its dualistic regime. I will consider which is the most progressive and least heteronormative – international law or Norwegian law.

Biographies - Presenters, Commentators and Chairs

Professor Doris Buss

Law and Legal Studies

Carleton University

Doris teaches and researches in the areas of international law and human rights, women's rights, global social movements, and feminist theory. Her research examines how gender equality and women's rights norms are framed and contested in various international legal, regulatory and policy sites. Over the last few years, this work has concentrated on international responses, through international criminal prosecutions, to sexual violence during or as part of armed conflict. More recently, and in collaboration with colleagues in the Institute of African Studies at Carleton and civil society organizations in Canada and Africa, Doris is part of a new research network on women, violence and conflict economies on the African continent, pursuing two large studies of women's livelihoods in artisanal and small-scale mining in six African countries. In this new direction, her work explores gender equality mainstreaming in post-conflict state-building, resource governance, and law reform projects in Africa. Doris is also part of a new initiative on Gender Equality Measurement, which critically interrogates the epistemological, political and regulatory effects of the 'measurement turn' in gender policy, both in Canada and internationally. She is the author (with Didi Herman) of *Globalizing Family Values: The International Politics of the Christian Right* (Minnesota Press, 2003), co-editor (with Ambreena Manji) of *International Law: Modern Feminist Approaches* (Hart, 2005), and co-editor (with Joanne Lebert, Blair Rutherford, and Donna Sharkey) of *Sexual Violence in Conflict and Post-Conflict Societies: International Agendas and African Contexts* (Routledge, 2014).

Ms Madelaine Chiam

PhD Candidate and Senior Fellow

Melbourne Law School

Madelaine teaches and is a PhD Candidate at Melbourne Law School. In 2014 and 2015, she was one of the Junior Faculty at the Harvard Law School Institute for Global Law and Policy Workshop. She holds undergraduate degrees in Arts and Law from the University of Melbourne and a Masters in Law from the University of Toronto.

Madelaine's research interests are in the histories of international law, human rights and the relationships between the global and the local. She has published predominantly on global-local interactions, particularly aspects of Australia's engagement with the international system. Madelaine's PhD examines the role of international law in public discourse about war in 20th century Australia. She was previously a Research Fellow and Lecturer at the Australian National University College of Law.

Ms Maddee Clark

PhD Candidate, School of Culture and Communication
The University of Melbourne

Maddee is a Bundjalung PhD Candidate whose research interests include trans and queer Indigenous studies, Indigenous writing, futurism, science fiction, Indigenous feminisms, and non-western utopias. Maddee has been published in *Artlink* and *Overland* magazine.

Ms Debolina Dutta

PhD Candidate, Institute for International Law and the Humanities
Melbourne Law School

Debolina's doctoral research looks at the activism of the sex workers' movement in India as a feminist jurisprudence. She has previously worked for Delhi-based feminist organization CREA, and represented them as a sexual rights activist at the UN Human Rights Council, Geneva. In 2011, Debolina co-directed a documentary film called 'We Are Foot Soldiers' on the activism of children of sex workers in Sonagachi, Kolkata.

Ms Maria Elander

Lecturer in Criminology, School of Social and Political Studies
The University of Melbourne

Maria recently submitted her PhD-thesis in law, undertaken at Melbourne Law School, which examines the figurations of the victim in international criminal justice. Her research

Biographies - Presenters, Commentators and Chairs

interests lie in the areas of international criminal justice, understandings of criminal justice, legal practices and political transitions, and in feminist and critical theory.

Dr Bina Fernandez

Lecturer in Development Studies, School of Social and Political Sciences
The University of Melbourne

Bina is an Australian Research Council DECRA Fellow. Her current research focuses on migration and care policies. In previous lives, she has worked with NGOs in the development sector, and with feminist and lesbian activist groups in India.

Professor Aeyal Gross

Faculty of Law, Tel-Aviv University
Visiting Reader in Law, SOAS, University of London

Aeyal teaches and publishes in areas of international and constitutional law, international humanitarian law, human rights, and law and sexuality. He is a co-founder of the LGBT and Queer studies forum at Tel-Aviv University which, since 2001, has organized the annual LGBT and Queer studies conference at the university. Aeyal is also legal commentator for the Israeli daily *Haaretz* newspaper and serves as a member of the Board of the Association for Civil Rights in Israel. He has served as a research fellow at the Institute of Advanced Legal Studies at the University of London, as a Visiting Fellow at the Stellenbosch Institute for Advanced Studies in South Africa, and as a Joseph Flom Global Health and Human Rights Fellow at Harvard Law School. Additionally he taught as a visitor at Columbia University, the University of Toronto and the Academy of European Law, European University Institute, in Florence. He has published many articles and books including *The Writing on the Wall: Rethinking the International Law of Occupation* (Cambridge University Press, forthcoming 2016) and co-editor (with Colleen Flood) of *The Right to Health at the Public/Private Divide: A Global Comparative Study* (Cambridge University Press, 2014).

Dr Vanja Hamzić

Lecturer, School of Oriental and African Studies (SOAS)
The University of London

Vanja's legal, anthropological and historical research primarily revolves around human subjectivity formation and insurrectionary vernacular knowledge. He is particularly interested in various Islamic legal traditions and their intersections with gender diversity, as well as Marxist social, political and economic thought. Vanja's publications include *Sexual and Gender Diversity in the Muslim World: History, Law and Vernacular Knowledge* (I.B.Tauris, 2015) and co-author (with Ziba Mir-Hosseini) of *Control and Sexuality: The Revival of Zina Laws in Muslim Contexts* (Women Living Under Muslim Laws, 2010).

Professor Fleur Johns

Faculty of Law
The University of New South Wales

Fleur's research and teaching is in public international law and legal theory. Her publications include *Non-Legality in International Law: Unruly Law* (Cambridge, 2013), co-author (with Ben Boer, Philip Hirsch, Ben Saul and Natalia Scurrah) of *The Mekong: A Socio-legal Approach to River Basin Development* (Routledge, forthcoming 2016), co-editor (with Sundhya Pahuja and Richard Joyce) of *Events: The Force of International Law* (Routledge, 2011) and author of *International Legal Personality* (Ashgate, 2010). Currently, Fleur is working on the use of data analytics in global governance in the humanitarian and development fields. Before joining the University of NSW she was Co-Director of the Sydney Centre for International Law and an Associate Professor at the Faculty of Law, the University of Sydney. Fleur has also been a Visiting Professor at the University of Toronto, a Leverhulme Visiting Fellow at Birkbeck College and a Visiting Fellow at the European University Institute. Fleur has a BA and LLB (Hons) from the University of Melbourne and a LLM and SJD from Harvard Law School. Before commencing her academic career, Fleur practised as a corporate lawyer for six years with Sullivan & Cromwell LLP in New York, specialising in international project finance.

Biographies - Presenters, Commentators and Chairs

Assistant Professor Philipp Kastner

Faculty of Law

The University of Western Australia

Philipp researches and teaches in the areas of the resolution of armed conflicts and transitional justice, international criminal law, public international law, international human rights and humanitarian law, and legal pluralism. His current research focuses mainly on the creation and role of legal norms in the context of peace negotiations aiming to end internal armed conflicts. His publications include *International Criminal Justice in bello? The ICC between Law and Politics in Darfur and Northern Uganda* (Martinus Nijhoff, 2012) and *Legal Normativity in the Resolution of Internal Armed Conflict* (Cambridge University Press, 2015). Philipp holds a DCL and LLM from McGill University, Montréal and a Dr. iur. from the University of Innsbruck.

Ms Christina Kenny

PhD Candidate

Australian National University

Christina's PhD critically engages with the demands the international human rights project makes of its subjects. Using Kenyan women's gender and citizenship rights as a focal point for her research, Christina argues that human rights discourse creates particular kinds of recipients of rights, and often compels these subjects to perform their human rights subjectivities in limiting and problematic ways. Her research is grounded in over 13 months of field work conducted in Kenya between 2012 - 2013, with case study sites in Nairobi, as well as rural areas around Lake Victoria. She has spent several years working with a variety of human rights based projects in the government and non-profit sectors in Australia and Africa, particularly on the rights of Indigenous peoples, country of origin research and refugee determination, and gender and sexuality rights with organisations including: the Australian Human Rights Commission, the Australian Migration and Refugee Review Tribunals, the Kenya Human Rights Commission, Women's Legal Centre in Cape Town and the South African Human Rights Commission.

Dr Dave McDonald

Lecturer in Criminology, School of Social and Political Sciences
The University of Melbourne

Dave's research explores the intersections between sex, gender, crime and politics, informed in particular by queer and feminist theory. His recent research includes book chapters entitled 'Who is the Subject of Queer Criminology? Toward an Unravelling of the Category of the Paedophile' in Angela Dwyer, Mathew Ball and Thomas Crofts (eds), *Queering Criminology* (Palgrave Macmillan, 2015) and 'Policing Obscenity' in Paul Johnson and Derek Dalton (eds) *Policing Sex* (Routledge 2012). In addition to articles such as 'The Search for Finality: Serial Killing, the Narration of Sexual Injury and the Search for Consolation' (2015) *Crime, Media, Culture*, 'The Politics of Hate Crime: Neoliberal Vigilance, Vigilantism and the Question of Paedophilia' (2014) 3(1) *International Journal for Crime, Justice and Social Democracy* 68-80 and 'Ungovernable Monsters: Law, Paedophilia, Crisis' (2012) 21(3) *Griffith Law Review* 585-608

Dr Mark McMillan

Senior Lecturer, IILAH Programme Co-Director, Indigenous Peoples in International and Comparative Law
Melbourne Law School

Mark is a Wiradjuri man from Trangie, NSW. His research interests are in human rights and in particular, the expression and fulfilment of those rights for Indigenous Australians. Mark is currently working on an ARC grant relating to Indigenous nation building. He leads two other ARC funded projects. The first relates to reconciliation processes in South Africa and Northern Ireland to determine whether there are lessons for Australia, as Australia moves to a federal constitutional amendment that might recognise Indigenous Australians. The second, relates to the 'Coranderrk' enquiry of 1881 – looking at how Australia's federation was influenced by particular Indigenous and non-Indigenous voices in Victoria. Mark intends to expand his research outcomes to include the application of 'constitutionalism' to, and for, Indigenous Australians with a particular emphasis on the use of current constitutional law for the protections that were envisioned for Indigenous people in the constitutional referendum of 1967.

Biographies - Presenters, Commentators and Chairs

Mr Wayne Morgan

Senior Lecturer in Law

Australian National University

Wayne has been an academic lawyer since 1990. He began teaching at Melbourne Law School and, since then, taught at Charles Darwin University and Flinders University before joining the ANU in 2001. Internationally he has taught at Columbia University and Nan Kai University in China. He teaches a range of subjects in both international and domestic law including International Trade Law, International Dispute Resolution and Property. With Kris Walker and Lisa Sarmas, he instigated Law and Sexuality studies at Melbourne Law School in the mid 1990s and now teaches this subject at ANU. Wayne maintains a small anti-discrimination and human rights practice where he advises pro-bono clients on discrimination and UN Human Rights Committee cases. He has advised on UN Communications in indigenous issues, as well as refugee and sexuality issues. He has been writing about queer theory and law since the mid 1990s.

Mx Neo Sinoxolo Musangi

Humanities Research Fellow

British Institute in Eastern Africa, Nairobi, Kenya

Neo is a queer feminist artist, activist and scholar on a fellowship at the British Institute in Eastern Africa, Nairobi. Neo is trained in African Literature, Gender and Cultural Studies and their research interests lie somewhere in the intersection between space, gender and the norms that govern their embodiment and performance

Ms Joan Nestle

Writer and Activist

Joan was born in the Bronx in 1940 and entered public lesbian life in the bars of Greenwich Village in 1958. In 1974 she co-founded the Lesbian Herstory Archives which still thrives today in its Brooklyn home. Joan has always advocated for a more complicated vision of women's desire (and victimhood), understood in its historical context. She is author of *A Restricted Country* (Firebrand, 1987; Cleis, 2003), *A Fragile Union* (Cleis, 1998) and editor of *The Persistent Desire: A Femme-Butch Reader* (Alyson, 1989). She also

co-edited (with Naomi Holoch) the series *Women on Women: An Anthology of Lesbian Short Fiction* (Plume 1990, 1993, 1996) and *The Vintage Book of International Lesbian Fiction* (Random House, 1999) and co-edited (with Riki Wilchins and Clare Howell) *GenderQueer: Voices from Beyond the Binary* (Alyson, 2002).

Ms Claire Oppermann

PhD Candidate, Institute for International Law and the Humanities
Melbourne Law School

Claire's research revolves around jurisprudence, water and questions of movement. She is interested in a lot of things, including Australian histories, feminist practices and education.

Professor Dianne Otto

Francine V McNiff Chair in Human Rights Law
Director Institute for International Law and the Humanities (IILAH)
Melbourne Law School

Dianne's research interests include addressing gender, sexuality and race inequalities in the context of international human rights law, the UN Security Council's peacekeeping work, the technologies of global 'crisis governance', threats to economic, social and cultural rights, and the transformative potential of people's tribunals and other NGO initiatives. Her scholarship explores how international legal discourse reinforces hierarchies of nation, race, gender and sexuality, and aims to understand how the reproduction of such legal knowledge can be resisted. She co-edited (with Gina Heathcote) *Rethinking Peacekeeping, Gender Equality and Collective Security* (Palgrave-Macmillan 2014); edited three volumes of *Gender Issues and Human Rights* (Edward Elgar, 2013); and author of 'A Queer Feminist Perspective on the Productivity of Crisis for International Law and its Resistive Possibilities' in *International Law and Its Discontents: Confronting Crisis* (Barbara Stark ed, Cambridge University Press 2015) and 'Queering Gender [Identity] in International Law' *Nordic Journal of Human Rights* (2015).

Biographies - Presenters, Commentators and Chairs

Professor Sundhya Pahuja

ILAH Programme Director, Law and Development
Melbourne Law School

Sundhya'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, Sundhya's 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. She is author of *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011) which was awarded the 2012 American Society of International Law Certificate of Merit, co-editor (with Ruth Buchanan and Stewart Motha) of *Reading Modern Law: Critical Methodologies and Sovereign Formations* (Routledge, 2012) and co-editor (with Fleur Johns and Richard Joyce) of *Events: The Force of International Law* (Routledge, 2011).

Ms Tamsin Phillipa Paige

PhD Candidate and Research Associate, Research Unit on Military Law and Ethics
The University of Adelaide
Visiting Scholar, Columbia Law School (2015-2016)

Tamsin's PhD dissertation is a historical, sociological analysis of the approaches of the Permanent Five members of the Security Council to the concept of 'threat to the peace' in Art 39 of the UN Charter. In relation to this work she is a recipient of an Endeavour Scholarship from the Australian Government and is a Visiting Scholar with Columbia

Law School for the 2015-16 academic year. Prior to commencing her PhD, Tamsin received her LLB from the University of Technology, Sydney and her MPhil (Law) from the Australian National University. Her MPhil work was on the role and impact of the law in counter piracy operations through two case studies, European Colonial Expansion and Somalia from 2007 onwards. Some of this work has been published or is forthcoming and a number of articles are still under review. Before engaging in academic study and work, Tamsin was a waitress at a number of Sydney's most prestigious restaurants.

Dr Rahul Rao

Senior Lecturer in Politics, SOAS
The University of London

Rahul's research interests span critical international relations theory, comparative political thought, and gender and sexuality with an area focus on South Asia and East Africa. He is the author of *Third World Protest: Between Home and the World* (Oxford University Press, 2010). Rahul is currently working on a book on queer postcolonial temporality.

Professor Nan Seuffert

Director, Legal Intersections Research Centre, School of Law
The University of Wollongong

Nan teaches and researches in the areas of jurisprudence, critical legal theory, law and history, law and literature, race, gender, sexuality and the law, and securities regulation. Her current research projects include 'Queer Asylum Seekers' and 'Contract and Colonialism.' She is also working on a project based on an unfinished manuscript of the late Professor Penny Pether (a dear friend who died in 2013) on Culinary Jurisprudence. Forthcoming publications include: 'Culinary Jurisprudence and National Identity: Penny Pether on the Taste of Country Cooking' (2015) 60(3) *Villanova Law Review* and 'Contract, Consent and Imperialism in New Zealand's Founding Narrative' (2015) *Law and History*. Nan has also recently published on sexual minorities in Australia's asylum seeker detention camps in the *Griffith Law Review* and has submitted an article on this topic to *Law Text Culture*.

Biographies - Presenters, Commentators and Chairs

Mr Oishik Sircar

PhD Candidate, Institute for International Law and the Humanities and Teaching Fellow, Melbourne Law School

Oishik was previously assistant professor at the Jindal Global Law School. His doctoral work is on collective memory and cinematic justice in the context of the 2002 Gujarat Pogrom. He is the co-editor of *New Intimacies/ Old Desires: Law, Culture and Queer Politics in Neoliberal Times* (Zubaan and University of Chicago Press, forthcoming, 2016) and *Desire and its Discontents: New Queer Politics in Neoliberal India* (Zubaan and University of Chicago Press, forthcoming, 2016). Oishik has co-directed two documentary films.

Ms Anniken Sørlie

PhD Candidate, Department of Public and International Law, Faculty of Law
The University of Oslo

Anniken is involved in the research project 'Gender identity and sexual orientation in international and national (Norwegian) law' funded by the Research Council of Norway. She was a co-organiser of the Sexual Freedom, Equality and the Right to Gender Identity as a Site of Legal and Political Struggles Conference, held in Oslo, December 2014. Anniken graduated from Law at the University of Oslo in 2012 and holds a Bachelor in European and American Studies. Her PhD critically reflects on laws and regulations that impact on the lives of transgender people in Norway.

Dr Yasmin Tambiah

Adjunct Fellow, Institute for Culture and Society
The University of Western Sydney

Yasmin is a researcher, research manager and creative writer. Trained as a European medievalist her subsequent research has focused on sexuality, ethnicity and criminal law in postcolonial states (Sri Lanka, Trinidad & Tobago, Singapore); sexuality and militarization (Sri Lanka); and gender and governance (South Asia). Her work has appeared in

Reproductive Health Matters, Gender & Society, Caribbean Review of Gender Studies and Faith Smith (ed) *Sex and the Citizen: Interrogating the Caribbean* (University of Virginia Press, 2011) among others. She co-authored *Essays on Gender and Governance* (United Nations Development Program, 2005) and *Smart Engagement with Asia: Leveraging Language, Research and Culture* (Australian Council of Learned Academies, 2015). Yasmin has been senior research fellow at the International Centre for Ethnic Studies, Colombo, and a co-director of the Centre for Feminist Legal Research, New Delhi. She has also managed interdisciplinary research projects for the ‘Securing Australia’s Future’ program of the Australian Council of Learned Academies. She is an award-winning creative writer with work published in *Conditions* (New York), *Sinister Wisdom* (Berkeley), *Nethra* (Colombo), *ZineWest* (Western Sydney), Naomi Holoch and Joan Nestle (eds) *The Vintage Book of International Lesbian Fiction* (1999) and Chloe Brien (ed) *Award Winning Australian Writing 2014*.

Mr Marc Trabsky

Lecturer, La Trobe Law School
LaTrobe University

Marc writes in the intersections of legal theory, history and aesthetics. His research examines the relationship between law, institutions and technology. He has published book chapters and journal articles in the *Australian Feminist Law Journal*, *Griffith Law Review*, *Law in Context* and *Media & Arts Law Review*. He is currently completing a doctoral thesis at the Melbourne Law School on ‘Voices of the Dead: Law, Office and the Coroner’ and is the Associate Editor of *Law in Context*.

Ms Elisabeth Roy Trudel

PhD Candidate, Concordia University (Montreal)
Honorary Fellow, Faculty of Law, The University of Western Australia

Elisabeth’s current research focuses on legal subjectivity and agency in international human rights and on sensori-legal studies. She holds degrees from McGill University (BA in Political Science and Environment), Concordia University (Graduate Diploma in Journalism) and the Université du Québec à Montréal (LLM). She has worked for

Biographies - Presenters, Commentators and Chairs

international organizations, such as the UN Office of the High Commissioner for Human Rights and the UN mission in Côte d'Ivoire. Throughout her work, Elisabeth seeks to articulate a vision in which law's connection to humanist disciplines is critical to its justice and its social relevance. Her general research interests include the interactions between law, culture, the senses and emotions, marginalized groups and voices, and various critical theories such as legal pluralism and postcolonial studies. Elisabeth's publications include 'La culture des groupes minoritaires face au droit international' (The Culture of Minority Groups vis-à-vis International Law) (2013) 28(3) *Canadian Journal of Law and Society* 347-367.

Associate Professor Kristen Walker QC

Victorian Bar

Melbourne Law School

As a barrister, Kristen specializes in constitutional law, administrative law, human rights law and refugee law. She has appeared in various cases involving sexuality and the law, including a case concerning sex slavery (*R v Tang*), a case concerning adoption by a gay man in a long term relationship, and a case concerning whether a birth certificate can record a 'non-specific' gender (*Norrie's Case*). Kristen has degrees in law and science from the University of Melbourne and a LLM from Columbia Law School. She served as associate to Sir Anthony Mason, Chief Justice of Australia. Before being called to the Bar, Kristen was an Associate Professor at Melbourne Law School, where she continues to teach in the Masters program and the JD program. She has also taught Gender, Sexuality and Human Rights at Columbia Law School and at the James E Rogers School of Law at the University of Arizona. Kristen has written extensively in the area of law and sexuality.

Dr Ralph Wilde

Reader in Law, Faculty of Laws, University College London
The University of London

Ralph's current research focuses on the extraterritorial application of international human rights law. His book *International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away* (Oxford University Press, 2008) was awarded the Certificate of Merit (book prize) of the American Society of International Law in 2009. He is a member of the Executive Board of the European Society of International Law. He has previously served on the Executive Council of the American Society of International Law. As a member of the International Law Association (ILA), he has served as Co-Rapporteur of the Human Rights Committee, one of the UK representatives on the international Executive Council, Rapporteur of the Study Group on UN Reform, and Joint Honorary Secretary of the British Branch.

Biographies - Other Attendees

Dean R P Edwards

Solicitor

Dean is a lawyer in general practice at a small firm in Melbourne CBD. Dean's interests include the sociological development of Western law as a tool of power and historical memory.

Associate Professor Ann Genovese

Melbourne Law School

Ann's current research projects focus on the history of the relationship between jurisprudence and feminisms since 1950; the histories of Australian public trials; and the responsibilities of legal institutions when they act as archives of the administrative state.

Brad Jessup

Lecturer, Melbourne Law School

Brad is a geographer and an environmental law specialist who offers global, national, comparative and local perspectives in his research. He is especially interested in the law of place, the human and environmental experience of harm, and the role of the law, lawyers, society and policy in responding to risk and harm.

Associate Professor Shaun McVeigh

Melbourne Law School

Shaun's research centres 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); the continuing need to take account of colonial legal inheritances of Australia and Britain.

Matthew Mitchell

PhD Candidate, Criminology, University of Melbourne

Matt's 2014 Honours thesis in Criminology, at the University of Melbourne, was awarded the Law and Society Association of America's Best Undergraduate Student Prize. He is currently working on a PhD proposal that draws on queer legal theory and the intersex legal subject.

Sarah Moorhead

Assistant Editor, Melbourne Journal of International Law

Sarah is a second year JD student. She is particularly interested in the critical intersections between international humanitarian law, traditional human rights discourse and feminist/post-colonial scholarship.

Caitlin O'Neil

Submissions Coordinator, Melbourne Journal of International Law

Caitlin is a JD student and a research assistant at Melbourne Law School. She has an interest in historical perspectives on international law and scholarship regarding gender and development.

Dr Rose Parfitt

McKenzie Postdoctoral Research Fellow, Melbourne Law School

Rose's research is concerned with the relationship between theory and history in the study of international law, international relations and the history of political thought. Her latest project is a book, *International Personality on the Periphery: The Abyssinia Crisis and International Law*.

Lisa Sarmas

Senior Lecturer, Melbourne Law School

Lisa has an interest in all things queer. Her research and teaching interests include 'Queer Approaches to Equity and Trusts', 'Marriage Equality and Queer Theory' and 'Law and Sexualities'.

Dr John Waugh

Senior Fellow, Melbourne Law School

John is a legal historian. His recent research includes work on judicial biography, court history, and Australia's colonial sodomy laws.

Kay Wilson

PhD Candidate, Melbourne Law School

Kay has an interest in human rights, mental health and disability law. Her thesis, 'Mental Health Laws: Abolish or Reform?', evaluates the justifications for mental health law and the arguments for and against its abolition, and considers present options for reform.

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