



THE UNIVERSITY OF  
MELBOURNE



**Institute for International Law  
and the Humanities**

# Annual Report 2007

MELBOURNE LAW SCHOOL  
Australia's first, Australia's global.







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## Message from the Director

I am delighted to present the 2007 Annual Report of the Institute for International Law and the Humanities (IILAH). IILAH brings together a large and exciting group of faculty and research students working in the areas of international law and theory at the University of Melbourne. IILAH members share an interest in reflecting upon the difference that law makes to the conduct of international relations, or to the exercise of state power in encounters with aliens and enemies or in times of war and emergency. The scholarship of IILAH members has focused upon a wide array of pressing contemporary international issues, and drawn upon a diverse range of methodological and theoretical approaches in order to understand and question developments in international law and legal theory. IILAH events have provided the occasion for intense, lively and sustained dialogue, collaboration and debate across these differences of focus and approach. In this sense, IILAH is very much a child of the Melbourne Law School, in which a deep culture of respect, collegiality and pluralism has enriched the research and teaching of a generation of scholars and students.

In 2007, IILAH brought together many leading international and Australian scholars and practitioners to explore common problems and themes in international law and global governance. Over the course of the year, we welcomed a range of visitors, including Professor BS Chimni (Jawaharlal Nehru University), Mr Paul Cleary (author of *Shakedown: Australia's Grab for Timor Oil*), Professor Peter Drahos (Australian National University), Professor Michael Hahn (Waikato), Professor James Hathaway (Michigan, now Dean of Melbourne Law School), Professor Robert Howse (Michigan, now NYU), Professor David Kinley (Sydney), Dr Stewart Motha (Kent), Professor Elena Pariotti (Padua), Sir Nigel Rodley (Essex), Dr Roshan de Silva-Wijeyeratne (Griffith Law School), Dr Savitri Taylor (La Trobe) and Professor Stephen Zunes (San Francisco). Visitors presented public lectures and participated in seminars on issues including the right of states to regulate at international law, why refugee law still matters, the rights of children in the legal process, Third World approaches to international law, corporate social responsibility and international



soft law, legal questions raised by the off-shore processing and protection of refugees, the conduct of the Australian government and its international legal advisors in negotiations for access to Timor oil, women's experiences of the war on terror in Afghanistan, human rights conditionality in international trade and the lessons to be drawn from the colonial history of patent administration.

This year IILAH continued its commitment to engaging in interdisciplinary collaborations. In April, Associate Professor Dianne Otto and Professor Alice Miller of the Mailman School of Public Health at Columbia University co-hosted a Zero Policy Roundtable Discussion at Columbia Law School. The roundtable aimed to think through some of the complexities of the UN's 'zero tolerance' response to the problem of sexual exploitation and abuse, with participants including lawyers, health experts, UN policy-makers and NGO representatives. In July, Mr Jürgen Kurtz hosted a workshop on *Tracing the Contours of the Right to Regulate in International Law*, which staged a productive conversation between WTO lawyers, legal theorists, political theorists and human rights lawyers on the questions raised by the expansion of the WTO regime into areas formerly considered part of the states' sphere of regulation. In September, Professors Anne Orford, Gregor Noll (Lund) and Martti Koskeniemi (Helsinki) co-hosted a workshop on *International Law and Wars of Religion* at the Faculty of Law, University of Lund. The workshop brought together scholars from the fields of law, theology, politics and English to explore the history and potential of international law as a neutral mediator between religions. The resulting discussions across disciplinary boundaries were often challenging, but always productive, thought-provoking and inspiring.

Supporting the work of doctoral students is one of the central functions of IILAH. IILAH hosted a series of doctoral roundtables during 2007, at which students were invited to present their work to visiting professors and other audience members. Visitors who worked with IILAH doctoral students in 2007 were Sir Nigel Rodley (Vice-Chair of the UN Human Rights Committee; Essex University), Professor Antony Anghie (Utah), Professor Peter Drahos (Australian National University) and Professor BS Chimni (Jawaharlal Nehru University). I am very grateful to all involved in these roundtables for their critical engagement with

our doctoral students, and for the real sense of scholarly community which this engagement created. We are also delighted to offer our congratulations to Mr Luis Eslava, Dr Paula Gerber, Dr Amir Kordvani and Associate Professor Jacqueline Peel who successfully completed their research higher degrees in late 2006 or 2007. More details about the projects of IILAH's doctoral students can be found on page 22.

We were very proud to host the launch of two ground-breaking books by IILAH programme directors in 2007. In February, IILAH hosted the launch of Dr Jennifer Beard's *The Political Economy of Desire: International Law, Development and the Nation State*, and in July hosted the launch of Dr Michelle Foster's *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*. We have profiled the two books on page 51 and page 53.

The success of IILAH's activities over the past year is due to the creativity and energy of the faculty who direct the eight IILAH research programmes, and the enthusiasm and intellectual engagement of IILAH members, staff and research students. Associate Professor Dianne Otto took over as acting director of IILAH from August until December while I was visiting the Faculty of Law at the University of Lund, and she did a wonderful job of overseeing IILAH during that time. Ms Yoriko Otomo contributed enormously to the academic work of IILAH as our resident Research Fellow. We were also very fortunate to be joined in 2007 by Ms Vesna Stefanovski as the new IILAH Administrator. Vesna's cheerfulness, organisational ability, marketing flair and sheer hard work have been indispensable to the smooth running of IILAH.

Finally, I would like to take the opportunity to pay tribute to Dean Michael Crommelin, who at the end of 2007 stepped down as Dean of Melbourne Law School after 18 years in that role. Michael was an unfailing source of encouragement and support to the faculty and students involved in IILAH. He once suggested that my role as director was to respond to the ideas and ambitions of my colleagues with 'relentless enthusiasm'. I am not sure that I always lived up to this ideal, but without doubt he did. Michael made it not just possible, but enjoyable and exciting, to engage in the work of creating a space in which collaborations might prosper, creativity flourish, problems be solved, conversations expand

and friendships develop. Some of you reading this report will have met with Michael on your visits to Melbourne, and I know that many of you were impressed by the warmth of his welcome and the intellectual curiosity he displayed to those he met. Michael showed what the academy can and should be, and I am very grateful to have had the opportunity to work under his leadership.

A handwritten signature in blue ink, reading "Anne Orford". The signature is written in a cursive, flowing style.

**Anne Orford**

Australian Professorial Fellow

Director, Institute for International Law and the Humanities



## OVERVIEW of IILAH

The Institute for International Law and the Humanities (IILAH) is the successor to the Institute for Comparative and International Law, which was established in the Law School in 1999. In 2005, Professor Anne Orford was appointed as Director of the Institute and invited to undertake a reorganisation of the Institute to reflect the next stage of its development. IILAH 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 is dedicated to integrating the study of international law with contemporary approaches to the humanities. The modern discipline of international law has been a productive site for the exploration of concepts which have also absorbed the humanities - sovereignty, jurisdiction, force, universality, territory, asylum, peace, non-discrimination, equality, development, imperialism, human rights, security and states of emergency. Many of the significant modes of thought which 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, art, cultural studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH focuses on encouraging the work of those developing new approaches to the field of international law and on facilitating engagement between scholars and the community of professionals and activists working on issues of international law and governance in Australia and the Asia-Pacific region. IILAH seeks to develop networks with scholars in international law and the humanities from the global South, to explore the ways in which colonial law has arrived and been received. It will also focus on developing links with scholars in the United Kingdom and in former British colonies such as Canada, India, New Zealand and Sri Lanka, in order to explore the shared legacies of British colonialism with respect to international law and governance.

## Activities

IILAH hosts visits of distinguished and emerging international scholars; organizes 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.

## Research Programmes

IILAH's activities are structured around the following key research programmes, which represent areas of development and change in international law and legal theory and which build on the breadth of research expertise at Melbourne Law School:

- History and Theory of International Law (Director: Professor Anne Orford)
- International Economic Law (Director: Mr Jürgen Kurtz)
- International Environmental Law (Director: Associate Professor Jacqueline Peel)
- International Human Rights Law (Director: Associate Professor Dianne Otto)
- International Refugee Law (Director: Dr Michelle Foster)
- Law and Development (Directors: Dr Jennifer Beard and Associate Professor Sundhya Pahuja)
- Security and the Limits of International Law (Director: Professor Anne Orford)
- Theories of Sovereignty and Jurisdiction (Director: Associate Professor Peter Rush).

## Contacting IILAH

IILAH's website can be accessed at: <http://iilah.unimelb.edu.au>

IILAH can be contacted by email at: [law-iilah@unimelb.edu.au](mailto:law-iilah@unimelb.edu.au)

## Directors and Staff of IILAH

### Professor Anne Orford

#### Director of IILAH

#### Programme Director: History and Theory of International Law

#### Programme Director: International Law and Security



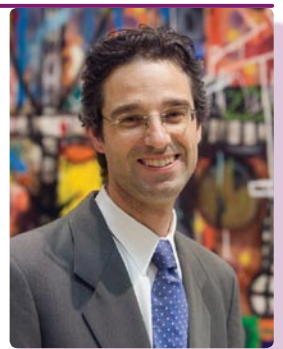
Anne Orford is an Australian Professorial Fellow, Chair of Law and Director of the Institute for International Law and the Humanities at the University of Melbourne. She researches in the areas of international law and legal theory, with a focus on the international legal legacies of European imperialism in the fields of international economic law, the law relating to the use of force and human rights law. Her publications include *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (2003) and the edited collection *International Law and its Others* (2006). Anne has held visiting positions at Lund University and New York University, and has presented lectures and seminars by invitation at a range of institutions including the Central European University, the European University Institute, Keele University, Osgoode Hall Law School, Stockholm University, the University of Helsinki, the University of Oxford, University Paris 1 Panthéon-Sorbonne, the University of Toronto, Uppsala University, the University of Vienna and the World Trade Organization. She is currently the holder of a research-only Australian Professorial Fellowship, awarded by the Australian Research Council for work on a research project entitled *Cosmopolitanism and the Future of International Law* from 2007 to 2011. Anne is on the Advisory Boards of *In-Spire Journal of Politics*, *International Relations and the Environment*, the *International Feminist Journal of Politics*, the *Journal of Intervention and State-Building* and the *Melbourne Journal of International Law*. She has been guest editor of the *Nordic Journal of International Law* (in 2002), and was an editor of the *Australian Feminist Law Journal* from 1994 to 1999.



## Mr Jürgen Kurtz

### Programme Director: International Economic Law

Jürgen Kurtz is a Senior Lecturer in the Law School. Jürgen researches and teaches in the various strands of international economic law, including the jurisprudence of the World Trade Organization and that of investor-state arbitral tribunals. He has a particular interest in examining whether treaty-based disciplines on regulatory autonomy can be conceived as mechanisms of improving governance outcomes in member states. In 2002, Jürgen was appointed an Emile Noël Fellow at the Jean Monnet Centre for International and Regional Economic Law and Justice at New York University Law School. He has subsequently held a Grotius Fellowship at the University of Michigan Law School (2003-2004) and was appointed a research fellow at the Hague Academy of International Law in 2004. Jürgen acts as a consultant to a variety of governmental (AusAID) and international agencies (including UNDP and UNCTAD) on law reform and the implementation of investment and trade treaty commitments in developing countries. In 2008, he was appointed convenor (with Professor Joseph Weiler of New York University) of the inaugural course on the Law of International Investment at the Academy of International Trade Law in Macau.



## Dr Jennifer Beard

### Programme Director: Law and Development

Dr Jennifer Beard is a Senior Lecturer in the Law School and, together with Associate Professor Sundhya Pahuja, is a co-director of the Law and Development Research Programme at IILAH. In the Faculty, Jennifer undertakes teaching, research and writing in the areas of international law and development, property law, globalisation and the law, and critical legal theory. Jennifer has recently published her first book: *The Political Economy of Desire: International Law, Development and the Nation State* (London: Glass House Press; Routledge-Cavendish, 2007). The book is an interdisciplinary analysis of the genealogy of Western 'development' and the role Christianity,



international law and the nation state have played in that history. Since that time, Jennifer has continued to focus her research on the relationship of law to society, belief systems, historical narrative and ethics. Jennifer has two further books due to be published in 2008. The first, *Public International Law in Principle*, is an academic text to be co-edited with Dr Andrew Mitchell and published by Thomson. The second is a critical analysis of the relationship between law and development and is to be co-authored with Sundhya Pahuja as part of the Routledge-Cavendish “Critical Approaches to Law” series. In past years, Jennifer has been a visiting fellow at the University of British Columbia Law School in Canada where she taught a PhD Seminar on Legal Theory and Interdisciplinary Approaches to Law; a teacher of International Law, Trade and Development in the LLM Programme in the Department of International Law and Human Rights at the United Nations University for Peace in Costa Rica; and a visiting fellow at the University of Lund Law School in Sweden where she works in collaboration with Professor Gregor Noll on an analysis of the Refugee Status Determination processes of the UNHCR. Jennifer is also collaborating with Dr Hashim Tewfik, currently Ethiopia’s State Minister for Justice, on theories of rule of law development; as well as completing a critical history of the cab rank rule and the limits the rule places on legal ethics.

### **Dr Michelle Foster**

#### **Programme Director: International Refugee Law**



Michelle Foster joined the Melbourne Law School as a Senior Lecturer in 2005. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. Michelle developed an expertise in international refugee law while completing an LLM and SJD at the University of Michigan, where she was a Michigan Grotius Fellow. Michelle’s doctoral thesis in international refugee law was supervised by James C. Hathaway, with whom she has co-authored a number of papers on various aspects of the 1951 Refugee Convention. While at Michigan she also participated in the

2001 and 2004 Michigan Colloquia on Challenges in International Refugee Law as student and rapporteur respectively. Michelle's current research is related to her doctoral dissertation, entitled *Refuge From Deprivation: Forced Migration and Economic and Social Rights in International Law*.

## **Associate Professor Dianne Otto**

### **Programme Director: International Human Rights Law**

Dr Dianne Otto is Associate Professor of Law and Director of the International Human Rights Law Programme of the IILAH. She was acting IILAH Director for the second half of 2007, while Anne Orford was overseas. Dianne was the inaugural Convenor of the University's interdisciplinary Human Rights Forum in 2006. Her research interests include peace and security issues, international economic and social rights, international 'equality' jurisprudence, the exclusionary effects of legal representations of marginalized groups, gender issues in human rights and development, international human rights NGOs, and domestic implementation of international legal obligations. In the first half of 2007 she was a visiting scholar at Columbia University in New York and at the School of Oriental and African Studies in London. Dianne has been active in a number of human rights NGOs including Amnesty International, Women's Rights Action Network Australia, Women's Economic Equality Project (Canada) and International Women's Rights Action Watch Asia Pacific (IWRAP-AP), and the Human Rights Law Resource Centre (Melbourne).



## **Associate Professor Sundhya Pahuja**

### **Programme Director: Law and Development**

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.

### **Associate Professor Jacqueline Peel**

#### **Programme Director: International Environmental Law**

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Jacqueline Peel joined the Law Faculty at the University of Melbourne, Australia in February 2002 and was promoted to Associate Professor in 2007. She holds degrees of Bachelor of Science and Bachelor of Laws (Hon I) from University of Queensland and Master of Laws from New York University where she was a Fulbright scholar. In 2003-2004, Jacqueline returned to NYU Law School as a Hauser Research Scholar and Emile Noël Fellow, undertaking a project on international trade and its environmental law intersections. Prior to her appointment at Melbourne, Jacqueline completed an internship at the United Nations International Law Commission, working with Professor James Crawford on the Commission's State Responsibility articles. From 1997 to 1999 she practised environmental and planning law at the national law firm of Allens Arthur Robinson. Jacqueline's major research interests are in the areas of environmental law, international environmental law and international trade law and she has published articles on these topics in a number of prominent academic and international journals. Jacqueline also has inter-disciplinary expertise in the field of risk regulation, recently publishing a book on the implementation of the precautionary principle and completing her PhD thesis examining the use of science in risk assessment processes under international law. In addition, Jacqueline is currently researching and writing a book on Australian environmental law with a colleague in the Law Faculty, Dr Lee Godden (to be published by Oxford University Press in 2008/2009).

## Associate Professor Peter Rush

### Programme Director: Theories of Sovereignty and Jurisdiction

Peter Rush came to the Law Faculty at the University of Melbourne in 1999. He has been a youth worker, an artist, a filmmaker and a scholar. Since 1988, he has taught in law faculties and criminology departments in Australia and in England. Courses taught have included criminal law, jurisprudence, legal discourse, gender and law, evidence, legal history and legal method, law and the body, law and criminal justice. He is the author of several books on criminal law and edited collections on jurisprudence and poststructuralist legal theory. A longstanding member of the critical legal studies movement in the United Kingdom, he was coordinator of its national conference and a founding member of the interdisciplinary legal theory journal *Law & Critique*. Additionally, he has been invited to present papers and lectures at institutions in the United States and Canada, such as Amherst College, Carleton University, and New York University. In Australia, he is a member of the editorial boards of several legal theory journals and has been active in the Australian Law and Literature Association and the Australian Law and Society Association. He contributes to community and professional debate concerning law reform, particularly in relation to the policing and legislation of sexual offences. In 2000, he made a short documentary film concerning justice, aesthetics and colonialism in the city of Melbourne. His current scholarship is focussed on psychoanalysis and law, with specific reference to trauma and to international criminal justice, on law and the contemporary politics of sovereignty, and on the jurisprudence of jurisdiction.



## Ms Yoriko Otomo

### Research Fellow

Yoriko Otomo has worked in several government and non-government environmental organisations, and has contributed to publications relating to sustainable development, environmental law and humanitarian issues. She is currently working on her doctoral thesis which undertakes



a poststructural feminist analysis of key texts pertaining to the law of occupation and international economic law. Yoriko holds an Arts degree with majors in German and Cultural Studies, and a Law degree with Honours, both from the University of Melbourne. As Research Fellow at the Institute for International Law and the Humanities (IILAH) during 2007 she has been responsible for assisting the Director with seminars, workshops and lectures throughout the year.

### **Ms Vesna Stefanovski**

#### **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. In her previous position Vesna worked in marketing and communications in the transport industry and has extensive practical experience in organising major public and staff events, implementing communication strategies, managing community and media relations. She has a reputation for being enthusiastic, providing energy and spark to the team and doing an excellent job in building a positive corporate culture. As the IILAH administrator Vesna is involved in maintaining the IILAH web page, organising a range of conferences, public lectures, workshops and reading groups, as well as designing publications and flyers for the institute.



## IILAH Members

### Ms Alison Duxbury

#### Senior Lecturer, Melbourne Law School

Alison Duxbury's main areas of research are international institutional law, human rights law and international humanitarian law. She is currently undertaking research on the role of human rights and democracy in determining states' participation in international organisations. Alison is a member of the Australian Red Cross International Humanitarian Law Committee (Victorian Division), the Asia Pacific Centre for Military Law, and the International Advisory Commission of the Commonwealth Human Rights Initiative based in Delhi. She is currently Convenor of the University's Human Rights Forum.



### Associate Professor Carolyn Evans

#### Deputy Director of the Centre for Comparative Constitutional Studies, Melbourne Law School

Carolyn Evans works in the fields of international and constitutional law. She is Deputy Director of the Centre for Comparative Constitutional Studies. Her work has a particular focus on human rights, especially religious freedom and bills of rights. She is the author of *Religious Freedom under the European Convention on Human Rights* (Oxford University Press, 2000) and co-editor of *Religion and International Law* (Martinus Nijhoff, 1998) and *Mixed Blessings: Laws, Religions and Women in the Asia-Pacific Region* (Martinus Nijhoff, 2006). She writes regularly on religious freedom issues and on domestic institutions (including parliaments and national human rights commissions) that have responsibility for protecting human rights. She has spoken on religious freedom issues at conferences in China, Russia, the United Kingdom, the United States, Greece, Vietnam, Hong Kong, India and around Australia. In 2008 she wrote (with Simon Evans) a book on the new Australian Bills of Rights (*Australian Human Rights Acts: The Law*



of the Victorian Charter and the ACT Human Rights Act, LexisNexis 2008).

### Dr Ann Genovese

#### ARC Postdoctoral Fellow, Melbourne Law School



Ann Genovese joined the Faculty of Law in 2006 as a Senior Lecturer. Ann completed her Arts and Law degrees at the University of Adelaide, and her PhD, in History, at the University of Technology, Sydney, for which she won the inaugural Chancellor's Award for excellence. Her research interests have consistently been directed to understanding the theoretical and methodological relationship between law and history, and its impacts upon Australian law reform and justice. Prior to joining the Faculty, Ann worked inside and outside the Academy. She was a Senior Researcher at the Justice Research Centre in Sydney, working on public policy issues in relation to unrepresented litigants, and Legal Aid funding, in the family law jurisdiction. She has also taught Australian Legal History and Jurisprudence in the Faculty of Law at UTS; developed the subject Australian Political and Legal Systems for the first Masters in Indigenous Social Policy (also at UTS), and has taught various politics and theory subjects in the humanities at UTS and at UNSW. Her most recent research has been a collaborative ARC project with Professor Ann Curthoys (Manning Clark Chair of Australian History at ANU) and Associate Professor Alexander Reilly, (Law, University of Adelaide). The research has produced a book, *Rights and Redemption: Law, History, Indigenous People* (UNSW Press, forthcoming, 2008), which examines the role of history in key Indigenous rights cases which occurred during the era of the Howard government, and investigates how the courts have made use of historians as expert witnesses, as well as how the colonial past has been framed and understood by the courts. Ann is currently on leave, undertaking an ARC Postdoctoral Fellowship examining the interrelationships between shifts in liberal discourse and feminist legal reform in Australia's recent past, through the vehicle of family law.

## Associate Professor Lee Godden

### Melbourne Law School

Lee Godden works in areas at the intersection of law and the humanities related to native title, indigenous rights and environmental law. An exploration of the relationship between law and history in the context of native title law formed a theoretical foundation for much of her early work. A similar interdisciplinary focus has informed other aspects of her scholarship in property theory and environmental regulation and governance. One further theme pursued in her work is the inter-relationships between law, violence and bodily disciplining. Current projects include an application of post-colonial theory to property law and indigenous rights and a discussion of regulatory theory as it impacts on water law.



## Dr Andrew D. Mitchell

### Senior Lecturer, Melbourne Law School

Dr 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 is being published by Cambridge University Press as *Legal Principles in WTO Disputes*. Dr Mitchell 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). Dr Mitchell has published in numerous journals and books on areas including WTO law, international law, international humanitarian



law and constitutional law. In addition to his Melbourne teaching, Andrew has taught WTO law to undergraduate and postgraduate students at Bond University, Monash University, and the University of Western Ontario, and to Australian and overseas government officials at the Australian Department of Foreign Affairs and Trade and the International Development Law Organization respectively. Andrew also consults for the private sector and international organisations. He has been engaged by Telstra for a research project on trade and telecommunications issues and by the World Health Organization to advise on issues concerning the Framework Convention on Tobacco Control. In 2007, following a nomination by the Australian government, the WTO's Dispute Settlement Body added him to the indicative list of governmental and non-governmental panelists to hear WTO disputes. In 2008 he will take up a two month appointment as the Scholar-in-Residence at the International Arbitration Group of WilmerHale in London.

### **Mr Bruce Oswald**

**Lecturer, Melbourne Law School**

**Acting Director, Asia Pacific Centre of Military Law**



Bruce “Ozzie” Oswald has served in the Regular Australian Army as a legal officer. He has seen operational service in Rwanda, the Former Yugoslavia, East Timor and Iraq. He has provided legal advice and held staff appointments as a legal officer at tactical, operational and strategic levels. During his service in Australia he provided legal advice to the Deployable Joint Force Headquarters, Headquarters Australian Theatre, Strategic Command and the Directorate of Operations and International Law. For his service as the Legal Officer for the Australian Service Contingent serving in Rwanda, Ozzie was awarded the Conspicuous Service Cross (CSC). In 1997 Ozzie worked with the International Committee of the Red Cross as a Delegate to the Armed and Security Forces in the Former Yugoslavia.



## Mr Joo-Cheong Tham

### Senior Lecturer, Melbourne Law School

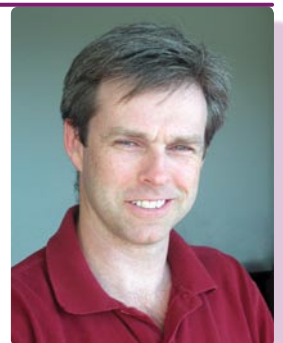
Joo-Cheong Tham is a Senior Lecturer at the Law Faculty and has taught at the law schools of Victoria University and La Trobe University. His research focuses on the regulation of non-standard work, anti-terrorism laws and political finance law. He has published over 25 book chapters and refereed articles. His research has also been published in print and online media with Joo-Cheong having written more than 30 opinion pieces. He has also given evidence to parliamentary inquiries into terrorism laws and political finance law. He is currently a British Academy Visiting Fellow at King's College, University of London and is undertaking 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 in 2009. Joo-Cheong graduated with a LLB (Hons) from the University of Melbourne in 1998 and completed an LLM in 2003 with the same university. He was granted a doctorate of laws by the University of Melbourne on the basis of his thesis that examined the legal precariousness of casual employment.



## Mr John Tobin

### Senior Lecturer, Melbourne Law School

John Tobin has a combined commerce/law degree with honours from the University of Melbourne and an LLM with distinction from the University of London specialising in human rights law. Since 2001 he has worked in the Law Faculty at the University of Melbourne where he is a Senior Lecturer and has designed and taught several subjects including Human Rights Litigation and Advocacy, International Human Rights Law, International Law, and International Law and Children's Rights. He also co-supervises the Graduate International Legal Internship. John 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. John 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 on numerous occasions to organisations such as UNICEF, the Victorian Law Reform Commissions, the Equal Opportunity Commission, the Human Rights Law Resource Centre, NGOs, statutory bodies, Government Departments and community groups. He is a Director of Childwise, a leading NGO which campaigns against the sexual exploitation of children in the Asia Pacific, 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 in numerous capacities as a solicitor including as a commercial lawyer, legal aid lawyer and legal officer with the Department of Justice.

### **Dr Tania Voon**

#### **Senior Lecturer, Melbourne Law School**



Tania undertook her Master of Laws at Harvard Law School (focusing on humanitarian intervention) and her PhD at the University of Cambridge, where she was a WM Tapp Scholar and a Fellow of the Cambridge Commonwealth Society. Her book, *Cultural Products and the World Trade Organization*, was published by Cambridge University Press (Cambridge) in 2007. Before joining Melbourne Law School, Tania was a Legal Officer in the Appellate Body Secretariat of the WTO, and in 2007 she was nominated by Australia and approved by the WTO's Dispute Settlement Body for inclusion on the Indicative List of Governmental and Non-Governmental Panelists. Tania has also worked with the Australian Government Solicitor, Mallesons Stephen Jaques, the UN Office of Legal Affairs, and the Environment Directorate of the OECD. Aside from international economic law, her research interests include the laws of war and cultural rights. Tania is a member of the Asia Pacific Centre for Military Law and a Fellow of

the Tim Fischer Centre for Global Trade & Finance.

## **Associate Professor Kristen Walker**

### **Melbourne Law School**

Kristen Walker is a member of the Centre for Comparative Constitutional Studies at the Melbourne Law School. She also practices as a barrister at the Victorian Bar specialising in constitutional and human rights work. Her main areas of research in international law are refugee law, gender, sexuality and international human rights law, and the interrelationship between international law and domestic law. Kristen is a member of the Editorial Board of the *Melbourne Journal of International Law*.



## **Dr Amanda Whiting**

### **Lecturer, Melbourne Law School**

Amanda Whiting joined the Faculty of Law at The University of Melbourne as a Lecturer in 2004. She has been a member of the Asian Law Centre since 1999. She has taught in the LLB courses Land, Race and Law in Southeast Asia, Law and Society in Southeast Asia, Law and Civil Society in Asia, History and Philosophy of Law, Property and Principles of Public Law; and in the Graduate subjects Islamic Law and Politics in Asia, and Citizens, Groups and States in Asia. Her research is in the area of human rights institutions and practices in the Asia-Pacific Region, gender and religion, and Malaysian legal history. She is Associate Director (Malaysia) of the Asian Law Centre. Amanda completed her honours degree in Arts at the University of Melbourne in 1981 and then taught seventeenth and eighteenth century history at the University's History Department over the next decade. She also has a Diploma of Education (1988) and a Graduate Diploma of Indonesian (1995) which was partly undertaken at Universitas Kristen Satya Wacana, Indonesia. 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.



## Research students

### Completed

#### Luis Eslava

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Supervisor: Jennifer Beard

Luis completed his undergraduate law degree at Universidad Externado de Colombia and a Master of Law and Development at the Melbourne Law School. He also holds a Diploma of Community Development from Swinburne University. Luis is interested in issues of Global Governance, from the perspective of critical Third World subjects. In the last few years, Luis has published various articles in Colombian and international journals, including 'Occupation Law: (Mis)use and Consequences in Iraq' in *Contexto* and a review of 'Developing Power: How Women Transformed International Development' for *Feminist Legal Studies*. In 2007, Luis completed his Masters Thesis on the denationalization of the development project in Colombia.

#### Paula Gerber

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Thesis: *From Convention to Classroom - The Long Road to Human Rights Education*

Supervisor: Dianne Otto

Paula Gerber has an LLB (QUT), MSc (King's College, London University) and an LLM (International and Comparative Law) (Monash). She is currently a Senior Lecturer, and Deputy Director of the Castan Centre for Human Rights Law, at Monash University. In addition to her academic career Paula also sits as a sessional member of the Victorian Civil & Administrative Tribunal. Paula's PhD is a socio-legal examination of the implementation of the international law norm pertaining to human rights education (HRE) as set out in Article 29(1) of the Convention on the Rights of the Child. It involves a comparative

study of HRE in secondary schools in Boston and Melbourne, and a detailed analysis of the various theories pertaining to compliance with international human rights treaties.

## Amir Kordovani

Thesis: *International Law, Economic Liberalization, and the Movement of Natural Persons*

Supervisor: Anne Orford

Amir's thesis investigated the implications of the WTO General Agreement on Trade in Services (GATS) for the cross-border movement of service suppliers from developing to developed countries. The movement of natural persons constitutes one of the modes of supply for services identified under GATS. However, entry regulations have been recognised as a major barrier to such movement. Proponents of strict visa requirements often justify their position by invoking the sovereign right of states to adjudicate the entry of foreigners into their territory to protect the welfare of their society. Highlighting the cumbersome nature of procedures for the application and processing of these visas through an examination of the immigration laws of the US, Britain, Germany, France, Canada, and Australia, this thesis argued that administration of the right in an unreasonable, subjective and discriminatory manner is inconsistent with Members' specific commitments on Mode 4 and the provision of art VI(1) of the GATS. It argued that the general and security exceptions embodied in arts XIV and XIV *bis* of the GATS should not be seen as allowing Members the right to adopt any measure they wish domestically, to regulate the movement of natural persons. This thesis concluded that developing countries would be unable to benefit from the opportunities in global service trade unless developed countries adopt immigration measures consistent with their obligations under the GATS.





## Jacqueline Peel



Thesis: *International Law and the Determination of Risk: Science, Uncertainty and the Role of Values*

Supervisors: Anne Orford, Philippe Sands and Gillian Triggs

International law and governance in the health and environmental field is increasingly becoming a site for risk regulation. Dominant supranational regimes, like the WTO, show a trend to privilege science in international risk decision-making. This over-estimates science's capacity to provide universally acceptable, universally valid criteria for risk policy and obscures the essential value dimension of global risk debates. The thesis argues that, ultimately, the broader legitimacy of supranational risk regulation may be determined by the defensibility of its value - rather than scientific - choices.

## Ongoing

### Megan Brodie



Thesis: *The Effectiveness of National Human Rights Institutions' Strategies and Responses to Human Rights Violations in the Asia-Pacific Region*

Supervisors: Dianne Otto and Brian Burdekin (external)

Meg Brodie completed a BA(Hons)/LLB(Hons) at the University of Melbourne and is now undertaking her Masters at Melbourne Law School. Her Masters thesis focuses in particular on the Human Rights Commissions of Mongolia and India, where she has conducted field research under the auspices of an Endeavour Research Fellowship. A lawyer, Meg has worked in both the corporate and not-for-profit sectors. Alongside her studies, Meg directs the youth leadership organisation Global Emerging Leaders and sits on the Board of the Oaktree Foundation, a youth run aid and development organisation focusing on education.

## Takele Soboka Bulto

Thesis: *Towards Realisation of the Human Right to Water through the African Human Rights System*

Supervisors: Dianne Otto and Colin Fenwick

Takele Soboka Bulto, (Ethiopia) holds LLB and MA degrees from Addis Ababa University, Ethiopia, and an LLM degree from University of Pretoria, South Africa. Takele won the Best Research Award at University of Pretoria, where his research on the inter-American system of human rights was named the best paper. He also won the Best Student Medal from Addis Ababa University upon completion of his MA studies in International Relations. His recent work entitled “Beyond the Promises: Resuscitating the State Reporting Procedure of the African Charter on Human and Peoples’ Rights” has been published in *Buffalo Human Rights Law Review*, Vol. 12, 2006. Takele has worked as a judge and lecturer in Ethiopia. He has represented victims of human rights violations from Zimbabwe, Ethiopia, Kenya and Angola and defended their cases before the two African regional human rights bodies: the African Commission on Human and Peoples’ Rights and the African Committee of Experts on the Rights and Welfare of the Child.

His PhD thesis analyses the normative content of the human right to water within the African regional human rights system. Considering that every single African state has at least one water source to share with another state, Takele’s research looks at rules of public international law pertaining to the consumptive utilisation of international waters to ensure that sufficient water resources are available to the state which would use this resource to respond to domestic water rights. Thus his thesis locates the human right to water at the intersection of public international law and international human rights law. Given the normative paucity surrounding the right to water in Africa (and elsewhere) his research aims at analysing the core content of the right to water and the mechanisms available in the African human rights system for the realisation of the right.



## Nicola Charwat



Thesis: *Contesting Global Governance: A Critical Examination of Amicus Curiae Briefs in the World Trade Organization's Dispute Settlement Body*

Supervisor: Dianne Otto

Nicola's thesis discusses whether the use of amicus curiae briefs in the DSB may be used to resist and transform neo-liberal economic governance embodied in the WTO, or whether their inclusion merely serves to legitimise neo-liberal economic governance and discipline resistance even as it appears open to it. The admission of amicus curiae briefs in the WTO Dispute Settlement Body (DSB) in 1998, four years after its establishment, is often presented as a hard won victory for civil society. According to the conceptions of governing at the global level, effective, efficient and democratic governance requires the recognition and encouragement of governing-beyond-the-state, which includes a role for the state, the market and civil society. The WTO however, follows a neo-liberal conception of global governance, which promotes 'market governance' through the agenda of trade and services liberalisation, but excludes civil society and non-market concerns.

## Carolyn Graydon



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

Supervisors: Tim Lindsey and Dianne Otto

Carolyn worked as an advocate in the area of refugee and immigration law for several years and then with the United Nations in Timor-Leste as a human rights officer. This experience triggered her interest in Timorese women's responses to gender violence, more particularly their use of formal and indigenous justice systems. Carolyn's thesis focuses on indigenous processes of developing and protecting human rights, more specifically, justice processes and their potential for long

term transformation so that they are better able to deliver the justice and protection sought by Timorese women. In 2006 and 2007 she lectured at Melbourne University in the subject Law and Society in Southeast Asia.

## Lia Kent

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

Supervisors: Dianne Otto, Jennifer Balint and Julie Evans

Lia holds a BA and a MPubIntLaw (University of Melbourne) and a MSW (Latrobe). Her fields of interest include postconflict reconstruction, transitional justice and reconciliation. Lia 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. Lia 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.



## Kasia Lach

Thesis: *The EU and the Contemporary Notion of State Sovereignty*

Supervisors: Anne Orford and Carolyn Evans

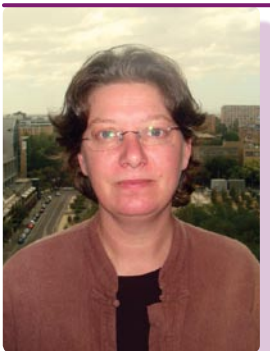
Kasia Lach is in the final year of her PhD candidature at Melbourne Law School. She studied law and political science at the University of Warsaw, Poland. After completing her Masters degree in 2001 she continued her education at the University of Melbourne where, in 2004, she obtained a Master of Commercial Law. Kasia previously worked for the United Nations Association of Australia, and the Refugee and Immigration Legal Centre. She also participated in two research



projects at the School of Political Science, Criminology and Sociology, concerning Political Corruption in Central and Eastern Europe and People Trafficking in Europe. Kasia was awarded the Australian Fellowship at the European University Institute in Florence, Italy. During her stay at the Institute she has participated in a number of research projects concerning the impact of European law on constitutional law, human rights and institutional market design in EU Member States. Recently, as a Poland Country Expert, she has been involved with the European Judicial Training Network in Brussels.

### Cressida Limon

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Thesis: *Genes, Biotechnology and Legal Imaginings*

Supervisors: Anne Orford and Lee Godden

Cressida Limon is a PhD candidate in the Faculty of Law, University of Melbourne and a lecturer at the Law School, Victoria University, Melbourne. Cressida's PhD thesis is concerned with narratives of invention and reproduction at the intersection of law and techno-science. Cressida is particularly interested in the reading and writing practices of the genre referred to as 'patents on life'. In her thesis, Cressida draws on feminist and poststructuralist theories of law, language and materiality to challenge the dominant view that links patents to techno-economic progress.

### Daniel Muriu

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Thesis: *Recognition, Redistribution and Resistance: Assessing the Usefulness of Human Rights in the Task of Realising Better Health in Sub-Saharan Africa in the Context of Challenges Posed by International Economic Actors*

Supervisors: Anne Orford and Jennifer Beard

Daniel Muriu is a PhD candidate in the Melbourne Law School. Daniel'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.

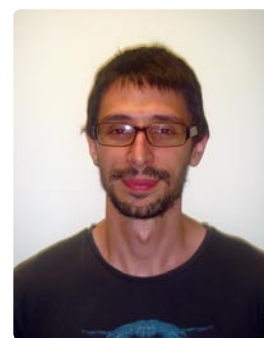
Daniel completed his LLB with Honours at the University of Nairobi, Kenya in 1992 and his LLM with distinction at the University of Witwatersrand, Johannesburg in 2002. A research paper Daniel submitted as part of his LLM, Paying Lip Service to the Principles of Regulation: A Comparative Critique of the Telecommunications Laws of Kenya, Uganda, South Africa, Ghana, Cameroon and Sri Lanka, was published in the *Journal of African Law*, University of London in 2002. Prior to commencing his doctoral studies at Melbourne, Daniel was a partner at Hamilton Harrison and Mathews, which is the oldest and largest law firm in Kenya, offering a full range of legal services to both local and international clients. 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.

## Edward Mussawir

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

Supervisors: Peter Rush and Anne Orford

Edward has taught in the Melbourne Law School and in the Criminology department at the University of Melbourne and is currently completing a doctoral thesis addressing the place that various models of jurisdiction have had within a Western tradition of jurisprudence. His research



focus is concerned with the jurisdictions of personality, possession and procedure. Drawing a theoretical influence from Gilles Deleuze, Edward 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 Edward's academic interest include issues of jurisdiction relating to animal law, terror-related procedures of control and the sexuate legal personality of children.

### Yoriko Otomo

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Thesis: *The Changing Landscapes of Risk: A Feminist Jurisprudence of the International Law of Occupation and International Economic Law*

Supervisors: Anne Orford and Jennifer Beard

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

### Connal Parsley

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Thesis: *Giorgio Agamben and the Failure of Law*

Supervisor: Peter Rush

Connal has lectured legal theory in the Melbourne Law School over the last 5 years. He has published a variety of pieces analysing aspects of legal discursive power, especially using the Australian legal system as a setting, often in connection with discourses of the public in art and law. His current project is a Masters thesis analysing the work of Giorgio Agamben concerning law and the image in relation to that

thinker's presentation of a coming politics.

## Olivera Simic

Thesis: *Is the zero tolerance approach to sex between UN peacekeeping personnel and local people in the context of UN peacekeeping operations the best way to prevent “sexual exploitation” in the future?*

Supervisors: Dianne Otto and Michelle Foster

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

Her thesis argues that, although the zero tolerance policy should be welcomed as the first important step towards comprehensive recognition of the problem of “sexual exploitation” in the UN peacekeeping context, the policy is not only problematic because of its broad definition of “sexual exploitation”, but for several other reasons as well. In her thesis she examines why and how the zero tolerance policy was tailored as well as what assumptions it makes, in particular about the people with whom it is most concerned. Her thesis aims to explain bewilderment about the zero tolerance policy's broadly defined term of “sexual exploitation”.

Search for the identification of the fine line between coerced sex and different layers of consensual sex lies at the heart of her research project.



## John Tobin

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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.





## Events and visitors

### Public lectures

#### 22 February 2007: Allen Hope Southey Memorial Lecture

***Why Refugee Law Still Matters, Professor James Hathaway (Law, University of Michigan; now Dean of Melbourne Law School)***

International refugee law has come under increasing attack in recent years. In particular, it has been suggested that international efforts are best addressed to meeting the needs of at-risk persons still inside their own country, and that whatever external protection is granted should be strictly temporary. In this lecture, Professor Hathaway sought to open a debate on the wisdom of departure from traditional notions of asylum, and to suggest constructive ways that the human rights of involuntary migrants can best be reconciled to the legitimate concerns of receiving states.



*Picture above: Dr Michelle Foster and Professor James Hathaway (now Dean of Melbourne Law School)*

## 6 June 2007: Sir Kenneth Bailey Memorial Lecture

***Third World Approaches to International Law: Past, Present and Future, Professor B S Chimni (School of International Studies, Jawaharlal Nehru University, New Delhi)***

Professor Chimni's lecture took a sweeping look at the past, present and future of international law using a critical third world approach. Professor Chimni explored the alienation of international law from the people of the Third World as the thread that binds the disparate fragments of past, present and future of international law. In speaking of the future of international law, he discussed the slow transformation of international law into internal law and the emergence of a Global State. Finally, the lecture reflected on the role of international lawyers in creating a just world order.



*Picture above: Professor B S Chimni*



*Picture above: At the lecture, 6 June 2007, Sir Kenneth Bailey Memorial Lecture, Melbourne Law School*



*Picture above: Professor Anne Orford*

[Click here to listen to the lecture.](#)

**18 July 2007: Melbourne Law School Distinguished Visitor  
Program public lecture**

***Human Rights Conditionality in International Trade: Revisiting the  
Debate, Professor Robert Howse (Law, University of Michigan)***

This lecture revisited the controversial issue of human rights conditionality and international trade. It did so in light of recent empirical evidence of when conditionality may be effective and when it will not, allowing for a closer analysis of the promise and limits of recent developments with respect to voluntary codes of conduct/corporate social responsibility, as well as the evolution of GSP conditionality (preferences) and conditionality in Regional Trade Agreements (RTAs).



*Picture above: (left to right) Professor Michael Crommelin, Professor Anne Orford, Professor Robert Howse and Mr Jürgen Kurtz*

[Click here to listen to the lecture.](#)

## Workshops

### **23 February 2007: *Protection Elsewhere: International law and the Off-shore Processing and Protection of Refugees***

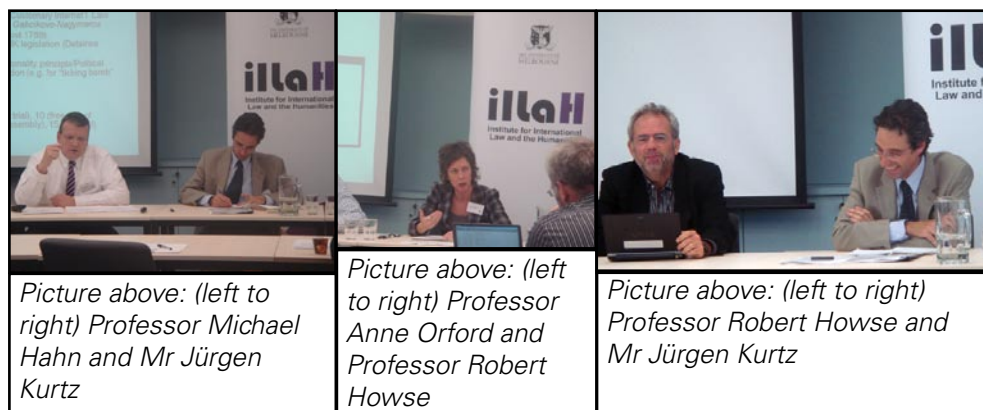
(Convenor: Dr Michelle Foster)

Participants at this workshop included prominent scholars, practitioners and advocates in Australian refugee law, including Justice Tony North of the Federal Court of Australia and President, International Association of Refugee Law Judges, as well as international visitors including Professor James C Hathaway (University of Michigan, now Dean of Melbourne Law School) and Mr Rodger Haines QC (Deputy Chairperson, New Zealand RSAA). The discussion based format of the workshop provided an opportunity for critical analysis of the key issues in the offshore processing and protection of refugees.

### **17 July 2007: *Tracing the Contours of the Right to Regulate at International Law***

(Convenor: Mr Jürgen Kurtz)

This workshop provided an examination of the interplay between the imperatives and limits that shape the contemporary regulatory state. It took as its normative starting point the right of states to regulate at international law. This then allowed for close analysis and contrast on



Picture above: (left to right) Professor Michael Hahn and Mr Jürgen Kurtz

Picture above: (left to right) Professor Anne Orford and Professor Robert Howse

Picture above: (left to right) Professor Robert Howse and Mr Jürgen Kurtz

the scope, quality and institutional structure of interventions on that right in key areas of public interest. These areas included national security, economic liberalism, development, the environment and human rights. The objective was to draw out the implications of these often conflicting interventions for regulatory autonomy and citizen welfare in the contemporary state.

Speakers included Professor Robyn Eckersley (Politics, University of Melbourne), Professor Michael Hahn (Law, University of Waikato), Professor David Kinley (Law, University of Sydney), Mr Jürgen Kurtz (Senior Lecturer, Law, University of Melbourne), Professor Anne Orford (Law, University of Melbourne) and Professor Jeff Waincymer (Law, Monash University). Professor Robert Howse of the University of Michigan acted as the closing speaker.

### **19 -20 July 2007: *Current issues in Refugee Status Determination***

(Convenor: Dr Michelle Foster)

This workshop was designed for refugee decision makers and explored cutting-edge issues in refugee status determination. The participants were refugee tribunal members and judges from New Zealand (the RSAA) and Australia (both the RRT and Federal Court). Issues discussed included economic, social and cultural rights in the context of refugee determination, particularly in relation to the question of when the deprivation of socio-economic rights may amount to persecution.

### **19-21 September 2007: *International Law and Wars of Religion, held at the Faculty of Law, University of Lund, Sweden***

(Convenors: Professor Anne Orford, Professor Martti Koskeniemi (Director, Erik Castrén Institute of International Law and Human Rights, University of Helsinki) and Professor Gregor Noll (University of Lund))

This workshop explored the history of international law as a modernizing and secularizing project. International law is often



represented as offering an answer to the resurgent discourse of religious warfare globally and to the challenge of civil warfare internally. In this vision, the turn to international law promises to perfect the elegant European solution to earlier periods of seemingly intractable religious warfare – the modern state. International legal rules and institutions would then represent a neutral and secular framework within which religious beliefs would be both protected and limited in their ambition. This workshop explored whether this familiar solution is really available to us. It asked whether the modern state and international law are in fact manifestations of neutral secularism, and to what extent practices such as the civilising mission, humanitarian intervention, promotion of universal values and the motivating force of images of suffering suggest the persistence of a Christian vision within international law. Is international law, in other words, an instrument to deal with the wars of religion, or perhaps a belligerent party itself?

The workshop brought together scholars working on the histories of international law and the state in Europe and the New World, with those seeking to theorize about contemporary developments in the laws of war and peace, including the emergence of concepts such as the responsibility to protect, human security, preventive self-defence and the war on terror. Participants included Professor Tony Anghie (Law, Utah), Dr Ida Auken (Theology, Copenhagen), Professor Nathaniel Berman (Law, Brooklyn), Dr Jennifer Beard (IILAH, Melbourne), Associate Professor Ian Duncanson (Law, Griffith), Associate Professor Judith Grbich (Law, Griffith), Professor Werner Jeanrond (Theology, Lund), Dr Petter Korkman (Helsinki Collegium for Advanced Studies, University of Helsinki), Professor Friedrich Kratochwil (Political and Social Sciences, European University Institute), Professor Philip Lorenz (English, Cornell), Dr Alejandro Lorite (Law, American University in Cairo), Dr Naz Modirzadeh (Humanitarian Policy and Conflict Research, Harvard) and Dr Pamela Slotte (Centre of Excellence in Global Governance Research, Helsinki). IILAH research students Ms Yoriko Otomo and Mr Luis Eslava also presented at the workshop. The workshop was funded by the Australian Research Council, the Academy of Finland,

IILAH and the Faculty of Law, University of Lund.

**16 November 2007: *Seen and Heard: Priority for Children in the Legal Process, 10 years on: Looking Back and Moving Forward***

(Convenors: Mr John Tobin (IILAH and the Melbourne University Human Rights Forum), Ms Tiffany Overall (Youth Law (Victoria)) and Mr James McDougall (the National Children's and Youth Law Centre))

As it is now 10 years since the release of the Australian Law Reform Commission's report, *Seen and Heard: Priority for Children in the Legal Process*, the workshop provided a timely opportunity to (a) reflect on the extent to which the recommendations proposed in the report have been adopted and (b) consider the research and advocacy necessary to affirm, develop and expand upon the vision articulated in the report with respect to the treatment of children within Australia. The workshop brought together forty government and community practitioners, researchers and academics, stimulating what is hoped will be an ongoing and collaborative discussion with respect to these issues.

## Conferences

**29-30 November, 2007: *Markings: sites of analysis, discipline, interrogation***

IILAH co-hosted this international conference with the Centre for Media and Communications Law at the Melbourne Law School and the Law and Society Association of Australia and New Zealand. Plenary keynote speakers and panellists included Sadaf Aziz (Lahore University of Management Sciences), Eve Darian-Smith (University of California, Santa Barbara), William MacNeil (Griffith University), Shaun McVeigh (Melbourne Law School) and Rebecca Scott Bray (University of Sydney).

## Seminars

### **21 February 2007: *The WTO Panel's Rulings in GMO/Biotech: A Conversation***

(Convenor: Associate Professor Jacqueline Peel)

At over 1000 pages, the WTO Panel decision in the recent GMO/Biotech case is arguably one of the longest and most complex decisions issued by the international trade dispute settlement system to date. The decision deals with many important issues that touch not only on the interpretation of trade agreements (particularly the SPS Agreement), but also matters of public international law. The Panel's decision will not be appealed, making an examination and understanding of its findings vital for all those interested in international trade law and its intersection with broader areas of public international law. At this seminar, chaired by Professor Anne Orford, five panellists from Melbourne Law School discussed their different perspectives on key aspects of the Panel's rulings. Speakers were Dr Jacqueline Peel (on the background to the GMO/Biotech case), Mr David Morgan (on the scope of the SPS Agreement), Dr Tania Voon and Dr Andrew Mitchell (on the use (and misuse) of public international law in the GMO/Biotech case) and Mr Jürgen Kurtz (on implications of the GMO/Biotech case for other regulatory regimes).

### **24 April 2007: *Unveiling the Political: A Postcolonial Theory Seminar***

(Convenor: Associate Professor Sundhya Pahuja)

Speakers at this seminar were Dr Stewart Motha (Kent Law School), presenting on 'Veiled Women and the Affect of Religion in Democracy' and Dr Roshan de Silva-Wijeyeratne (Griffith Law School), presenting on 'On the (Im)possible Relation between the Universal and the Particular: Representation and the Limits of Relativism'. Associate Professor Peter Rush (Law) opened the seminar, and Dr Andy Schaap (Politics) led a general discussion following the papers.



### **27 April 2007: Zero Tolerance Policy Roundtable Discussion, held at Columbia Law School, New York**

(Convenors: Associate Professor Dianne Otto and Professor Alice Miller (Columbia))

This roundtable on the problem of sexual exploitation and abuse in UN peace support operations was co-convened by IILAH with the Law and Policy Project, Mailman School of Public Health, Columbia University. The roundtable aimed to think through some of the complexities of the UN's response to the problem of sexual exploitation and abuse, which has been to implement a policy of 'zero tolerance' with respect to all sexual activities between peacekeeping personnel and the host population. Participants included a mix of feminist scholars, UN policy-makers and NGO practitioners, all of whom had some involvement with these issues, but from quite different perspectives. The roundtable fostered a unique dialogue among these diverse participants. In addition, areas for research that would inform future policies were identified and ideas about alternative approaches were canvassed.

Copies of the proceedings will be available, in the second half of 2008 at <http://iilah.unimelb.edu.au>.

**7 June 2007: State power, patent power and patent offices - lessons for developing countries from history**

(Convenor: Professor Anne Orford)

This seminar was presented by Professor Peter Drahos, Director of the Centre for Governance of Knowledge and Development and the Head of Program of the Regulatory Institutions Network at the Australian National University.



*Picture above: Before the seminar (left to right) Professor Peter Drahos, Professor William Van Caenegem, Associate Professor Natalie Stoianoff and Professor Anne Orford*



*Professor Peter Drahos*

The seminar, convened by Professor Anne Orford, Director of IILAH, explored the histories of patent law and patent office administration. Professor Drahos spoke about the emergence of modern patent administration in Europe and the US. He asked whether this regulatory history contains lessons as to how developing countries today might approach patent administration. Professor BS Chimni offered a response, drawing on the history of modern patent law and administration in post-colonial India.

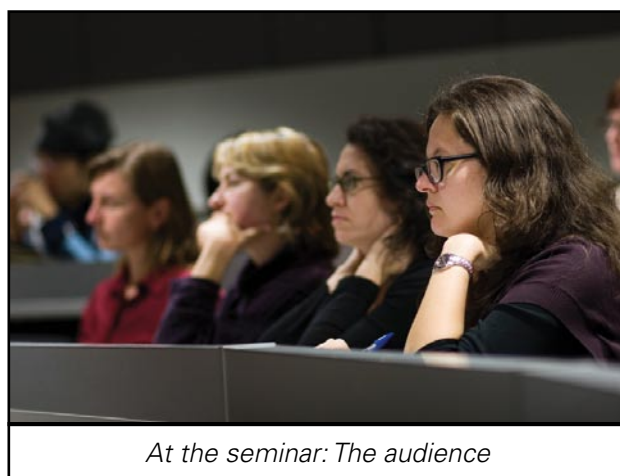


**14 August 2007: Afghanistan 2007: Women liberated or a continued struggle for fundamental human rights?**

(Convenor: Associate Professor Dianne Otto)



*Before the seminar*

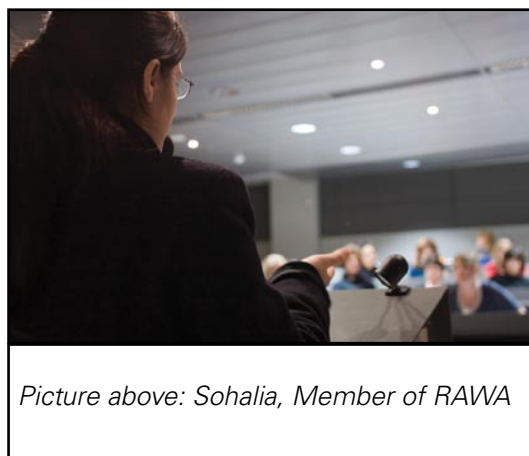


*At the seminar: The audience*

The seminar, convened by Associate Professor Dianne Otto, commenced with an introduction by Ms Olivera Simic, which drew parallels between women's experiences of the war on terror in Afghanistan and the war in her home country, the former Yugoslavia. The speaker was Sohaila (a pseudonym), from the Revolutionary Association of the Women of Afghanistan (RAWA), who drew a bleak picture of the present lives of women in Afghanistan and of their future prospects for equality. She described extreme poverty, high mortality rates related to malnutrition, childbirth or suicide, and a culture of



*Picture above: Ms Olivera Simic, PhD student, Melbourne Law School*



*Picture above: Sohaila, Member of RAWA*

misogyny. Security for girls is extremely poor, with kidnap, rape and murder occurring frequently. The seminar drew a large and engaged audience.

***23 August 2007: Corporate social responsibility and international soft law: Opportunities and limits for transnational corporations' accountability for human rights***

(Convenor: Associate Professor Dianne Otto)

At this seminar, Professor Elena Pariotti, IILAH Visiting Scholar from the University of Padua, Italy, argued for drawing a clear distinction between the 'hard law' (binding) obligations of TNCs and their ethical 'soft law' obligations. She defined TNC's hard law obligations as encompassing the obligation to 'respect', which she emphasised is a negative obligation that attaches to all human rights, not just civil and political rights. She included the minimum essential core of every human right necessary for survival with dignity in her notion of the obligation to respect.

***16th October 2007: Australia's Return of Asylum Seekers to Indonesia and Papua New Guinea: Lawful Protection Elsewhere Policies?***

(Convenor: Dr Michelle Foster)

This seminar was presented by Dr Savitri Taylor, Senior Lecturer at LaTrobe University's Faculty of Law and a visiting scholar at IILAH during 2007. The seminar attracted a diverse range of participants including scholars, students, solicitors, and representatives of a number of non-governmental organisations with an interest in refugee protection. Dr Taylor examined the international legal framework governing the attempt by states to circumvent or transfer their protection responsibilities under the 1951 Refugee Convention. She then scrutinised Australia's recent practices in returning asylum seekers to Indonesia and PNG in light of these legal obligations, concluding that there are serious concerns with Australia's implementation of "protection elsewhere" policies.

## Postgraduate roundtables

### **26 February 2007: Postgraduate roundtable with Sir Nigel Rodley, Vice-Chair of the UN Human Rights Committee and a Professor of Law and Chair of the Human Rights Centre at Essex University**

(Convenors: Professor Anne Orford with Ms Alison Duxbury and Associate Professor David Philips)



*Picture left: (left to right)  
Professor Anne Orford, Sir Nigel  
Rodley and Ms Alison Duxbury*

ILLAH and the University of Melbourne Human Rights Forum co-hosted this postgraduate roundtable with Sir Nigel Rodley. Sir Nigel was the inaugural UN Special Rapporteur on Torture from 1993-2001 and has been a Commissioner of the International Commission of Jurists since 2003. He has also provided judicial and legal educational programs in Geneva, Africa, Eastern Europe and numerous Commonwealth countries. Postgraduate students from across the University of Melbourne gave brief presentations on human rights related research, which was then discussed in a roundtable setting. Sir Nigel also give some insight into his work with the UN human rights treaty bodies and special procedures.

### **16 March 2007: Postgraduate roundtable with Professor Tony Anghie (University of Utah)**

(Convenor: Professor Anne Orford)

Four research students working in the areas of critical theory and international law presented work-in-progress on the theme of *New*



*At the roundtable, Melbourne Law School*

*Thinking in International Law*, and discussed their projects with Professor Antony Anghie (Utah) and audience members. Papers were presented by Ms Yoriko Otomo (IILAH), Mr Luis Eslava (IILAH), Mr Daniel Muriu (IILAH) and Ms Nesam McMillan (Criminology).

**7 June 2007: Postgraduate roundtable with Professors BS Chimni (Jawaharlal Nehru University, New Delhi) and Peter Drahos (Australian National University)**  
(Convenor: Professor Anne Orford)

This roundtable provided a forum for postgraduate research students to present work in progress on the theme of *Power, Property and Possession*, and to receive feedback from visiting professors BS Chimni (Jawaharlal Nehru University, New Delhi) and Peter Drahos



*Picture above: Professor Anne Orford and Professor Peter Drahos*



*Picture above: (left to right) Ms Nesam McMillan and Ms Yoriko Otomo*



*Picture above: Dr Jennifer Beard and Mr Luis Eslava*

(Australian National University) and from audience members. Speakers were: Ms Cressida Limon (IILAH) on 'Gene Patents, Gene Fetishism and Spectral Inventions', Mr Luis Eslava (IILAH) on 'Replication of (Legal) Dreams: Spatial Planning and Governable Spaces', Mr Daniel Muriu (IILAH) on 'The TRIPS Agreement: An Impediment to Access to Medicines in Sub-Saharan Africa', Mr Ed Mussawir (IILAH) on 'To Put to Flight: The Right to Possession', Ms Yoriko Otomo (IILAH) on 'The Sovereign's Voice: Unconditional Surrender in 1945 Japan' and Ms Nesam McMillan (Criminology) on 'Regret, Remorse and the Work of Remembrance: Looking Back on the 1994 Genocide'.

## Book launches and discussions

**16 February 2007:** Launch of Jennifer Beard, *The Political Economy of Desire: International Law, Development and the Nation State*.

The book was launched by Professor Anne Orford, Director of IILAH.

**19 July 2007:** Launch of Michelle Foster, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*.

The book was launched by the Hon Tony North, a Justice of the Federal Court of Australia and President of the International Association of Refugee Law Judges.

**29 August 2007:** Conversation between independent journalist and author Paul Cleary, and faculty member Dr Jennifer Beard about Paul's new book, *Shakedown: Australia's Grab for East Timor's Oil*.

Associate Professor Sundhya Pahuja chaired the event.





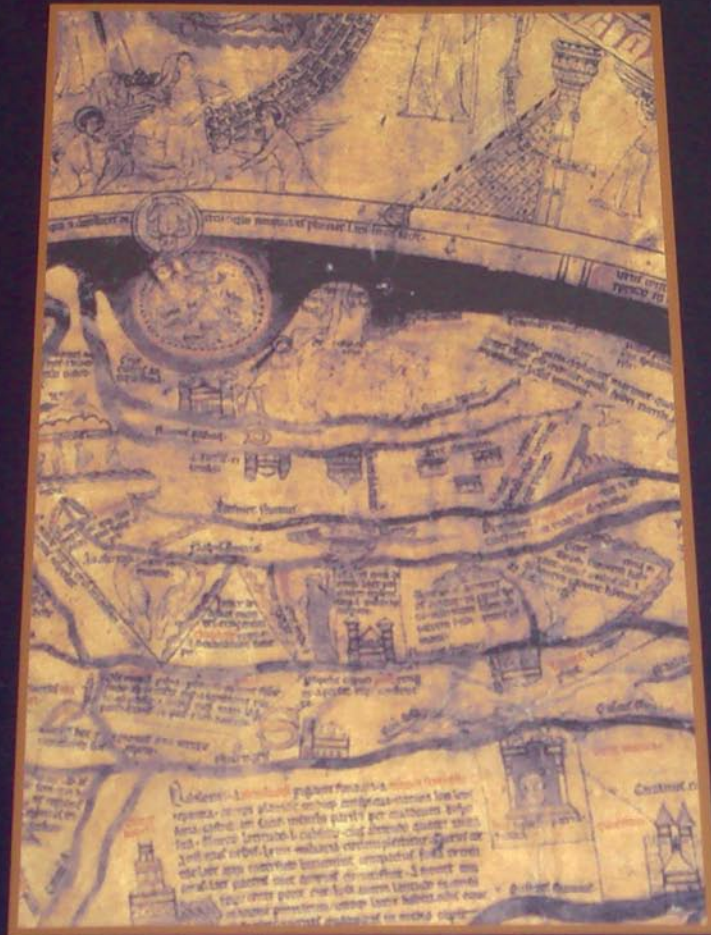
*Picture above: IILAH In Conversation, (left to right) Associate Professor Sundhya Pahuja, Mr Paul Cleary and Dr Jennifer Beard*

**7 December 2007:** Launch of Karin Arts and Pedro Pinto Leite (eds), *International Law and the Question of Western Sahara*, an edited collection of chapters written by eminent scholars, journalists and commentators on issues of international law concerning Western Sahara.

The book was launched by Professor Stephen Zunes of the University of San Francisco, a prolific writer on Middle Eastern politics, U.S. foreign policy, international terrorism, social movements and human rights.

# THE POLITICAL ECONOMY OF DESIRE

International law, development  
and the nation state



Jennifer L. Beard

a GlassHouse book

## Profiled books

Dr Jennifer Beard

***The Political Economy of Desire: International Law, Development and the Nation State* (London: Glass House Press; Routledge-Cavendish, 2007)**

The concept of development, whether defined in economic or social terms, is one of the fundamental concerns of international lawyers today. Lawyers working in a diverse but interconnected range of legal regimes: human rights, judicial reform, peace-building, trade and finance, corporate ethics or migration, undertake a combined effort to improve the quality of life of the world's people. The number of legal regimes where law and development meet seems endless. It is no surprise, therefore, that support for the rule of law has emerged as a major component of development programmes since the end of the Cold War. But if we dig a little more deeply into the connections between law and development, we find a great deal to consider and evaluate: historically, theoretically and in terms of how we understand social justice today.

In *The Political Economy of Desire*, Jennifer Beard suggests that international law and development have a metaphysical underpinning that enables them to be examined as if they were theological in approach. The book provides a thought-provoking interdisciplinary analysis of development in a manner that departs from the common position that development and underdevelopment are conceptual outcomes of the Imperialist/post-World War eras. Instead, the book situates the historical context of development within early Christian writings in which the western theological concepts of sin, salvation and redemption are expounded. The book uses these sources to embark on a passage through the discovery of the New World, the reformation in Europe, Enlightenment nation-building and the violence of the modern era to arrive at an original comprehension of development practices today. As stated in the *Foreword* by IILAH Director, Professor Anne Orford, "The result is a genealogy of development which journeys exuberantly through time and across disciplines, providing meticulous and careful readings of the most significant materials in the legal archive of the relevant periods along the way. In doing so, *The Political Economy of Desire* opens up new possibilities and avenues for further research into the relationship between human rights, development, economic restructuring and the rule of law".



CAMBRIDGE  
STUDIES IN  
INTERNATIONAL  
AND  
COMPARATIVE  
LAW

# International Refugee Law and Socio-Economic Rights

Refuge from Deprivation

MICHELLE FOSTER



**Dr Michelle Foster**

***International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (Cambridge: Cambridge University Press, 2007)**

A range of emerging refugee claims is beginning to challenge the boundaries of the Refugee Convention regime and question traditional distinctions between 'economic migrants' and 'political refugees'. This book identifies the conceptual and analytical challenges presented by claims based on socio-economic deprivation, and undertakes an assessment of the extent to which these challenges may be overcome by a creative interpretation of the Refugee Convention, consistent with correct principles of international treaty interpretation. The central argument is that, notwithstanding the dichotomy between 'economic migrants' and 'political refugees', the Refugee Convention is capable of accommodating a more complex analysis which recognizes that many claims based on socio-economic deprivation are indeed properly considered within the purview of the Refugee Convention. This, the first book to consider these issues, will be of great interest to refugee law scholars, advocates, decision-makers and non-governmental organizations.



## RECENT AND FORTHCOMING PUBLICATIONS

### BOOKS

**Jennifer Beard** and **Sundhya Pahuja**, *Law and Development* (London: Routledge-Cavendish, forthcoming 2008).

**Jennifer Beard** and **Andrew Mitchell** (eds), *International Law in Principle* (Sydney: Thomson, forthcoming 2008).

**Jennifer Beard**, *The Political Economy of Desire: International Law, Development and the Nation State* (London: Routledge-Cavendish, 2007).

**Michelle Foster**, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (Cambridge: Cambridge University Press, 2007).

Ann Curthoys, **Ann Genovese** and Alex Reilly, *Rights and Redemption: History, Law and Indigenous People* (Sydney: UNSW Press, 2008).

**Andrew Mitchell**, *Legal Principles in WTO Disputes* (Cambridge: Cambridge University Press, forthcoming 2008).

**Tania Voon**, *Cultural Products and the World Trade Organization* (Cambridge: Cambridge University Press, 2007).

### BOOK CHAPTERS

**Alison Duxbury**, 'The Impact and Significance of *Teoh* and *Lam*' in Matthew Groves & H P Lee (eds), *Australian Administrative Law: Fundamentals, Principles and Doctrines* (Melbourne: Cambridge University Press, 2007).

**Carolyn Evans**, Anna Hood and Jessica Moir, 'From Local to Global and Back Again: Religious Freedom and Women's Rights' in Jianfu Chen,

Gonzalo Villalta Puig and Gordon Walker (eds), *Rights Protection in the Age of Global Anti-Terrorism* (Annandale, NSW: Federation Press, 2007).

Simon Evans and **Carolyn Evans**, 'Parliamentary Deliberation about Religious Vilification Legislation' in Katharine Gelber and Adrienne Stone (eds), *Hate Speech and Freedom of Speech in Australia* (Annandale, NSW: Federation Press, 2007).

**Lee Godden**, 'A Jurisdiction of Body and Desire: Exploring the Boundaries of Bodily Control in Prostitution Law' in Shaun McVeigh (ed), *Jurisprudence of Jurisdiction* (London: Routledge-Cavendish, 2007).

**Lee Godden** and Maureen Tehan, 'Translating Native Title to Individual "Title" in Australia: Are Real Property Forms and Indigenous Interests Reconcilable?' in Elizabeth Cooke (ed), *Modern Studies in Property Law IV* (Oxford: Hart Publishing, 2007).

**Jürgen Kurtz**, 'National Treatment, Foreign Investment and Regulatory Autonomy: The Search for Protectionism or Something More?' in Philippe Kahn & Thomas W Walde (eds), *New Aspects of International Investment Law* (Leiden, Netherlands: Martinus Nijhoff Publishers, 2007).

**Andrew Mitchell**, 'Electronic Commerce' in Ramkishan Rajan and Kenneth Reinert (eds), *Princeton Encyclopaedia of the World Economy* (Princeton: Princeton University Press, 2008).

**Andrew Mitchell** and **Tania Voon**, 'The Agreement on Trade-Related Aspects of Intellectual Property Rights' in Donald McRae, Daniel Bethlehem, Rodney Neufeld and Isabelle Van Damme (eds), *Oxford Handbook on International Trade Law* (Oxford: Oxford University Press, 2008).

**Andrew Mitchell**, 'GATT Art XIV: Exceptions to the Rule of Non-Discrimination' in Rüdiger Wolfrum and Peter-Tobias Stoll (eds), *Max Planck Commentaries on World Trade Law* vol 5 (Leiden: Koninklijke Brill NV, 2008).

**Andrew Mitchell**, 'GATT Art XV: Exchange Arrangements' in Rüdiger Wolfrum and Peter-Tobias Stoll (eds), *Max Planck Commentaries on World Trade Law* vol 5 (Leiden: Koninklijke Brill NV, 2008).

**Andrew Mitchell** and **Tania Voon**, 'Free Trade Agreements and Public International Law' in Simon Lester and Bryan Mercurio (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (Cambridge: Cambridge University Press, forthcoming 2008).

**Andrew Mitchell** and Nicholas Lockhart, 'Legal Requirements for FTAs under the WTO' in Simon Lester and Bryan Mercurio (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (Cambridge: Cambridge University Press, forthcoming 2008).

**Andrew Mitchell**, 'The Relationship between the WTO and an Australia-China FTA' in Gary Magee, Sisira Kumara Jayasuriya and Donald MacLaren (eds), *Negotiating a Preferential Trading Agreement: Lessons from Australia and China* (London: Edward Elgar, 2008).

**Andrew Mitchell**, 'The Australia-United States Free Trade Agreement' in Ross Buckley, Vai lo Lo and Laurence Boulle (eds), *Challenges to Multilateral Trade: The Impact of Bilateral, Preferential and Regional Agreements* (The Hague: Kluwer Law International, 2008).

**Anne Orford**, 'The Responsibility to Protect as a Theory of the State' in Richard Falk, Ramesh Thakur and Vesselin Popovski (eds), *Legality and Legitimacy in International Order* (Tokyo: United Nations University Press, forthcoming 2008).

**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: Routledge, forthcoming 2008).

**Anne Orford**, 'Von der Humanität der Stärke zur Verantwortung für den Schutz. Die neue internationale Interventionspolitik' ['From Muscular Humanitarianism to the Responsibility to Protect: The New Politics of International Intervention'] in Karin Fischer and Susan Zimmerman (eds), *Internationalismen: Transformation weltweiter Ungleichheit im*

19. und 20. Jahrhundert (trans Andrea Kremser) (Vienna: Promedia Verlag, 2007).

**Anne Orford**, 'Biopolitics and the Tragic Subject of Human Rights' in Elizabeth Dauphinee and Cristina Masters (eds), *The Logics of Biopower and the War on Terror: Living, Dying, Surviving* (New York: Palgrave-Macmillan, 2007).

**Dianne Otto**, 'Pursuing Women's Rights by Integrating the Standards of CEDAW into the Work of the Other Treaty Committees' in Shanthi Dairiam (ed), *Women's Human Rights: Challenges and the Way Forward* (Malaysia: IWRAW-AP, forthcoming 2008).

**Dianne Otto**, 'Securing the "Gender Legitimacy" of the UN Security Council: Prising Gender from its Historical Moorings' in Hilary Charlesworth and Jean-Marc Coicaud (eds), *Faultlines of International Legitimacy* (Cambridge: Cambridge University Press, forthcoming 2008).

**Dianne Otto**, 'Making Sense of Zero Tolerance Policies in Peace-keeping Sexual Economies' in Vanessa Munro and Carl F Stychin (eds), *Sexuality and the Law: Feminist Engagements* (Oxford & New York: Routledge-Cavendish, 2007).

**Sundhya Pahuja**, 'La Necesaria Inclusión Del Excluido: La Pluralidad inherente a la Condicionalidad del Fondo Monetario Internacional' ['The Necessary Inclusion of the Excluded: The Inherent Plurality of IMF Conditionality'] in Oscar Correas (ed), *Pluralismo Jurido: Otros Horizontes* (trans Alexis Duarte) (Coyoacan: Editions Coyoacan, 2007).

**Sundhya Pahuja**, 'Rights as Regulation: The Integration of Development and Human Rights' in Bronwen Morgan (ed), *The Intersection of Rights and Regulation* (London: Ashgate, 2007).

**Sundhya Pahuja** and Ruth Buchanan, 'Law, Nation and (Imagined) International Community' in John Hawley and Revathi Krishnaswamy (eds), *The Postcolonial and the Global* (Minnesota: University of Minnesota Press, 2008).

**Joo-Cheong Tham**, 'Australian Terror Laws and Academic Freedom' in James L Turk and Allan Manson (eds), *Free Speech in Fearful Times: After 9/11 in Canada, the U.S., Australia & Europe* (Toronto: James Lorimer & Company Limited, 2007).

Simon Evans, Colin Fenwick, Cheryl Saunders, **Joo-Cheong Tham** and Megan Donaldson, 'Work Choices Case: Analysis and Implications' in *WorkChoices: The High Court Challenge* (Sydney: Thomson, 2007)

**Tania Voon**, 'GATT Article XVII: State Trading Enterprises' in Rüdiger Wolfrum and Peter-Tobias Stoll (eds), *Max Planck Commentaries on World Trade Law* vol 5 (Leiden: Koninklijke Brill NV, forthcoming 2008).

**Tania Voon**, 'The Convention and Substantive WTO Law' in Toshijuki Kono, Jan Wouters and Steven Van Uytsel (eds), *The UNESCO Convention for the Promotion and Protection of Diversity of Cultural Expressions* (forthcoming 2008).

**Tania Voon**, 'The Law of the World Trade Organization' in Jennifer Beard and Andrew Mitchell (eds), *International Law – In Principle* (Sydney: Thomson, forthcoming 2008).

**Tania Voon** and **Andrew Mitchell**, 'Australia-US Free Trade Agreement' in Simon Lester and Bryan Mercurio (eds), *Bilateral and Regional Trade Agreements: Case Studies* (Cambridge: Cambridge University Press, forthcoming 2008).

**Amanda Whiting**, 'Desecularising Malaysian Law?' in Pip Nicholson and Sarah Biddulph (eds), *Comparative Legal Studies in Asia* (Leiden: Martinus Nijhoff, forthcoming 2008).

## JOURNAL ARTICLES

**Alison Duxbury**, 'Moving Towards or Turning Away from Institutions? The Future of International Organizations in Asia and the Pacific' (2007) 11 *Singapore Year Book of International Law* 1-17.

**Alison Duxbury**, 'The Defence Power, Chapter III and *White v Director*



*of Military Prosecutions* (2007) 235 ALR 455' (2007) 18 *Public Law Review* 233-239.

**Alison Duxbury**, 'Drawing Lines in the Sand - Characterising Conflicts for the Purposes of Teaching International Humanitarian Law' (2007) 8 *Melbourne Journal of International Law* 259-272.

Simon Evans and **Carolyn Evans**, 'Australian Parliaments and the Protection of Human Rights' (2007) 47 *Papers on Parliament: Lectures in the Senate Occasional Lecture Series* (Department of the Senate, Parliament House, Canberra) 17-39.

**Carolyn Evans** and Beth Gaze, 'Religious Freedom and Non-Discrimination Laws' (2007) 16(2) *Human Rights Defender* 5-6.

**Carolyn Evans**, 'Time for a Treaty? The Legal Sufficiency of the Declaration on the Elimination of All Forms of Intolerance and Discrimination' (2007) 3 *Brigham Young University Law Review* 617-638.

**Carolyn Evans**, 'Undemocratic and Elitist? A Defence of Bills of Rights' (2007) 2 *Right Now: Human Rights Law in Australia*.

**Michelle Foster**, 'Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State' (2007) 28 *Michigan Journal of International Law* 223-286.

**Michelle Foster** et al, 'The Michigan Guidelines on Protection Elsewhere', (2007) 28 *Michigan Journal of International Law* 207-220.

**Michelle Foster**, Review of Jane McAdam, *Complementary Protection in International Law* (2007) 30 *University of New South Wales Law Journal* 316-320.

**Lee Godden**, Maureen Tehan, Marcia Langton and Odette Mazel, 'Accommodating Interests in Resource Extraction: Indigenous Peoples, Local Communities and the Role of Law in Economic and Social Sustainability' (forthcoming 2008) 26 (1) Special Edition of the

*Journal of Energy and Natural Resources Law, Indigenous and Local Peoples and Resource Development: International Comparisons of Law, Policy and Practice.*

**Lee Godden**, 'The Invention of Tradition: Property Law as a Knowledge Space for the Appropriation of the South' (2007) 16 *Griffith Law Review* 335-354.

**Jürgen Kurtz**, 'A Look Behind the Mirror: Standardisation, Institutions and the WTO SPS and TBT Agreements' (2007) 30 *University of New South Wales Law Journal* 504-523.

**Andrew Mitchell**, 'The Legal Basis for Using Principles in WTO Disputes' (2007) 10 *Journal of International Economic Law* 795-835.

**Anne Orford**, 'Ritual, Mediation and the International Laws of the South' (2007) 16 *Griffith Law Review* 353-374.

**Bruce Oswald**, 'Developing a Course on the Law of Peace Operations: Method and Practice – Making Ends Meet' (2007) 4 *Journal of Peace Education* 57-74.

**Bruce Oswald**, 'The Law on Military Occupation: Answering the Challenges of Detention during Contemporary Peace Operations' (2007) 8 *Melbourne Journal of International Law* 311-326.

R McLaughlin and **Bruce Oswald**, "'Wilful killing" during Armed Conflict: Is there a Defence of Proportionality in Australia?' (2007) 18 *Criminal Law Forum* 1-41.

**Dianne Otto**, 'The Sexual Tensions of UN Peace Support Operations: A Plea for "Sexual Positivity"' (2007) XVIII *Finnish Yearbook of International Law* (forthcoming 2008).

**Dianne Otto**, 'The Gastronomics of TWAIL's Feminist Flavourings: Some Lunch-time Offerings' (2007) 9 *International Community Law Review* 345-352.

**Dianne Otto and Joo-Cheong Tham**, 'Deconstructing the Logic of

Responding to One Threat with Another: The Perils of Countering Terrorism by Eroding Human Rights' (2007) 2 *Asia-Pacific Yearbook on International Humanitarian Law* (forthcoming).

**Sundhya Pahuja**, 'Beheading the Hydra: (Legal) Positivism and Development' (2007) 1 *Law, Social Justice and Global Development Journal* (online at <[http://go.warwick.ac.uk/lgd/2007\\_1/pahuja](http://go.warwick.ac.uk/lgd/2007_1/pahuja)>).

**Sundhya Pahuja**, 'La Necesaria Inclusión Del Excluido: La Pluralidad inherente a la Condicionalidad del Fondo Monetario Internacional' (2006) [published 2007] 25 *Crítica Jurídica: Revista Latinoamericana de Política, Filosofía y Derecho* 185-207 (also published as a book chapter: see above).

**Sundhya Pahuja**, *European Journal of International Law*, invited review essay on recent books on development including Jennifer Beard, *The Political Economy of Desire*; William Easterley, *The White Man's Burden* and Gilbert Rist, *The History of Development* (forthcoming 2008).

**Jacqueline Peel**, 'The Role of Climate Change Litigation in Australia's Response to Global Warming' (2007) 24 *Environmental and Planning Law Journal* 90-105.

**Jacqueline Peel** and **Lee Godden**, 'The *Environment Protection and Biodiversity Conservation Act*: Dark Sides of Virtue' (2007) 31 *Melbourne University Law Review* (forthcoming).

**Jacqueline Peel**, 'When (Scientific) Rationality Rules: (Mis)Application of the Precautionary Principle in Australian Mobile Phone Tower Cases' (2007) 19 *Journal of Environmental Law* 1-18.

**Jacqueline Peel**, 'International Law and the Legitimate Determination of Risk: Is Democratising Expertise the Answer?' (2007) 38 *Victoria University of Wellington Law Review* (forthcoming).

**Joo-Cheong Tham** and Keith Ewing, 'Limitations of a Charter of Rights in the Age of Counter-Terrorism' (2007) 31 *Melbourne University Law Review* 462-498.

**Joo-Cheong Tham**, 'Towards an Understanding of Standard Employment Relationships under Australian Labour Law' (2007) 20 *Australian Journal of Labour Law* 123-159.

**John Tobin**, 'Seeking Clarity in Relation to the Principle of Complementarity: Reflections on the Recent Contributions of Some International Bodies' (2007) 8 *Melbourne Journal of International Law* 356-372.

**Tania Voon** and **Andrew Mitchell**, 'Achieving a Common Market for Telecommunications Services in Australia and New Zealand' (2007) 26 *Australian Year Book of International Law* 1-50.

**Tania Voon**, 'A New Approach to Audiovisual Products in the WTO: Rebalancing GATT and GATS' (2007) 14 *UCLA Entertainment Law Review* 1-32.

**Tania Voon** and Ian Malkin, 'Social Hosts' Responsibility for Their Intoxicated Guests: Where Courts Fear to Tread' (2007) 15 *Torts Law Journal* 62-86.

**Tania Voon**, 'The End of Zeroing? Reflections Following the Appellate Body's Latest Missive' (2007) 34 *Legal Issues of Economic Integration* 211-230.

**Kristen Walker**, 'The Same-Sex Marriage Debate In Australia' (2007) 11 *International Journal of Human Rights* 109-130.

## OTHER CONTRIBUTIONS

AC Jackson and AE McKenzie (with **Carolyn Evans** and Simon Evans) *Human Rights Law Resource Centre: Evaluation Report* (Melbourne: School of Enterprise, The University of Melbourne, 2008).

**Carolyn Evans** and Timothy Rogan, 'Australia' in Gerhard Robbers (ed), *Encyclopaedia of World Constitutions* (New York: Facts on File, 2007).

**Carolyn Evans**, media interview on the extension of the intervention in Aboriginal communities to the State, on JJJ radio, 'Hack' programme, 28 February 2008.

**Carolyn Evans**, quoted in the media on Australian Labor Party's plan to take over hospitals, *The Age*, 25 August 2007, p 2.

**Carolyn Evans**, media interview on free speech in Australia, Drive Program with Libby Burns, 22 January 2007.

**Lee Godden** and K Birrell, 'Indigenous Rights and Biodiversity Protection in Victoria', Environmental Defenders Office Issues Paper, May 2007.

**Anne Orford**, 'Peacekeeping' in Peter Cane and Joanne Conaghan (eds), *The New Oxford Companion to Law* (Oxford: Oxford University Press, forthcoming 2008).

**Anne Orford**, 'Book Review: China Miéville, *Between Equal Rights: A Marxist Theory of International Law*' (2005) [published 2007] XVI *Finnish Year Book of International Law* 416-427.

**Sundhya Pahuja**, 'International Financial Institutions and Development' in Peter Cane and Joanne Conaghan (eds), *The New Oxford Companion to Law* (Oxford: Oxford University Press, forthcoming 2008).

**Tania Voon**, 'General Agreement on Tariffs and Trade', 'International Law Commission' and 'National Treatment' in *The Oxford Australian Law Dictionary* (Oxford: Oxford University Press, forthcoming 2009).

**Tania Voon**, 'Book Review: The WTO Anti-dumping Agreement: A Commentary' (2007) 56 *International and Comparative Law Quarterly* 463-465.



## SELECTED LECTURES AND PRESENTATIONS

**Alison Duxbury**, seminar paper on refugee status determinations, presented at a workshop on 'Current Issues in Refugee Status Determination', Melbourne Law School, 19-20 July 2007.

**Alison Duxbury**, *Interpreting Article 1F(a) of the Refugee Convention*, presented to officials from the NZ Refugee Review Appeals Authority, 20 July 2007.

**Alison Duxbury**, *Moving Towards or Turning Away from Institutions? The Future of International Organisations in the Asia Pacific Region*, presented at the Inaugural Conference of the Asian Society of International Law, National University of Singapore, Singapore, 7 April 2007.

**Alison Duxbury**, *The Relevance of Rights to the WTO Accession Process*, presented at the 'Future of the WTO' forum, University of Melbourne, 1 March 2007.

**Carolyn Evans**, *Religious Controversy and Curriculum Design in State Schools: An International Human Rights Perspective*, presented at a conference on 'Religion and the Rule of Law in South East Asia', Hanoi, Vietnam, 2-4 November 2007.

**Carolyn Evans**, *Australian Parliaments and Terrorism Laws: Assessing Democratic Institutions for Protecting Human Rights*, presented at 'Terrorism, Human Security and Development: Human Rights Perspectives', City University of Hong Kong, China, 16-17 October 2007.

**Carolyn Evans**, *Securing Human Rights when Securing the State*, presented to the Law Institute of Victoria, Melbourne, 3 October 2007.

**Carolyn Evans**, *The Desirability and Legality of Entrenching State Bills of Rights*, presented to the Australian Parliamentary Studies Association, Victorian Chapter, Parliament House Victoria, 19

September 2007.

**Carolyn Evans**, *Religious Freedom and Women's Equality*, presented at the World Conference of Constitutional Law, Athens, Greece, July 2007.

**Carolyn Evans**, *Religious Freedom and Women's Rights*, presented to the Oxford Society for Law and Religion, 24 April 2007; also presented at Liverpool Law Faculty, 26 April 2007.

**Carolyn Evans**, *British Influences on Australian Human Rights Acts*, presented at the Faculty of Law, University of Oxford, 24 April 2007.

**Carolyn Evans**, *Spirited Girls who Would Not Know their Place: Religious Speech Directed against Women's Equality*, presented at a conference on 'Extreme Speech and Democracy', University of Cambridge, 21 April 2007; also presented at Bristol Faculty of Law, 25 April 2007.

**Carolyn Evans**, *State Bills of Rights in Australia – the Seven Deadly Sins of Bills of Rights Opponents*, presented at the Constitutional Law Conference, Gilbert +Tobin Centre of Public Law, February 2007.

**Michelle Foster**, *Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State*, presented at the 'Metropolis' conference, Melbourne, 9 October 2007.

**Michelle Foster**, *Climate Change and Refugees*, presented at a workshop on 'Human Rights and Climate Change', Human Rights Forum, University of Melbourne, 23 August 2007.

**Michelle Foster**, *International Protection for the Victims of Sex Trafficking*, presented at a workshop on 'Feminism and International Law', National Centre of Competence in Research on International Trade Regulation, University of Zurich, 23-24 June 2007.

**Michelle Foster**, *Constraints on Protection Elsewhere Schemes Imposed by the Refugee Convention*, presented at a workshop on 'Protection Elsewhere: International Law and the Off-Shore Processing

and Protection of Refugees', Melbourne Law School, 23 February 2007.

**Lee Godden**, *Death by Desire or Climate Change Targets?*, presented at Markings: Law & Society Conference, University of Melbourne, December 2007.

**Lee Godden**, *Law's Demand of Performance: The Practice of Native Title*, presented at 'Performing Nature at the World's Ends', University of Melbourne, 26-27 November 2007.

**Lee Godden**, *Governance and Property in Urban Water*, presented at the Fenner School of Environment, Australian National University, 23 November 2007.

**Lee Godden**, *Sustainability and Graduate Environmental Education*, presented at 'Education for Sustainability in Australian Higher Education: The Curriculum Challenge', RMIT, Melbourne, 21-22 November 2007.

**Lee Godden**, *Property in Urban Water: Private Rights and Public Governance*, presented at the People Power Water Academy of Social Sciences Symposium, Australian National University, 20 November 2007.

**Lee Godden**, *Climate Change: Human Rights and the Right to Water*, presented to Office for Environmental Programs and Melbourne Law School, 29 August 2007.

**Lee Godden**, *Agreements, Treaties and Negotiated Settlements Project*, presented at Agreement-Making with Indigenous and Local Peoples and the Resources Boom, Broome, Western Australia, July 2007.

**Lee Godden**, *Property, Privatisation and Water: Whither environmental sustainability?*, presented at the University of New South Wales Law School Seminar, 25 July 2007.

**Lee Godden**, *Cultural Heritage*, presented at the 'Mining and Indigenous

Peoples Symposium', Broome, Western Australia, 9-12 July 2007.

**Lee Godden**, *Moving Beyond the Carbon Economy in Australia*, presented at a workshop at the Faculty of Law, University of Calgary, Banff, Canada, 1-4 June 2007.

**Lee Godden**, *Water, Energy, Climate Change Futures: Australia and China* in association with UNlwater and CREEL, Melbourne Law School, 22-24 May 2007.

**Lee Godden**, *EIA and Energy–Water Interactions*, presented at the Climate Change Futures 'Water and Energy?' Conference, Melbourne Law School, 22-23 May 2007.

**Lee Godden**, *Water for the Environment in a Federal System: Australia's Election Issue 2007*, presented at 'Water: Australia's Election Issue 2007?' Centre for Public Policy, University of Melbourne, 27 March 2007.

**Jürgen Kurtz**, *The State Decides the Exception? International Law and the Argentine Financial Crisis*, presented at a workshop on 'The Right to Regulate at International Law', Institute for International Law and the Humanities, Melbourne Law School, 17 July 2007.

**Anne Orford**, *Cosmopolitanism as the Future of International Law?*, presented at the University of Paris 1 (Panthéon-Sorbonne), 15 December 2007.

**Anne Orford**, *The Responsibility to Protect and the Politicization of International Law*, presented as a paper to the Oxford Public International Discussion Group, University of Oxford, 29 November 2007.

**Anne Orford**, *The Cosmopolitan Turn in International Law*, roundtable seminar presented at the Research Institute of Law, Politics and Justice, Keele University, 27 November 2007.

**Anne Orford**, *The Responsibility to Protect and the Politicization of International Law*, presented as a public lecture at the Faculty of Law,

University of Uppsala, 8 November 2007.

**Anne Orford**, *Intervening for Humanity? Human Rights and the Use of Force in the Post-Cold War Period*, parallel public lecture series presented at the Institute for International Development, University of Vienna, 17 October 2007 and at the Department of History, Central European University, Budapest, 16 October 2007.

**Anne Orford**, *Legality, Legitimacy and the Responsibility to Protect*, guest lecture presented at the Faculty of Law, University of Stockholm, 3 October 2007.

**Anne Orford**, *From Metaphysics to Politics? The Responsibility to Protect as a Theory of the State*, presented at a workshop on 'International Law and Wars of Religion', Faculty of Law, University of Lund, 19-21 September 2007.

**Anne Orford**, *The Turn to Cosmopolitanism in International Economic Law*, presented at a workshop on 'The Right to Regulate at International Law', Institute for International Law and the Humanities, Melbourne Law School, 17 July 2007.

**Anne Orford**, *The Responsibility to Protect as a Theory of the State*, presented by invitation at a conference on 'Legality and Legitimacy in the International Order', United Nations University and Orfalea Center for Global and International Studies, University of California, Santa Barbara, 27-28 April 2007.

**Dianne Otto**, *Agency, Sexuality and Law: Globalising Economies, Localising Cultures, Politicising States*, presented at a Research Workshop, Goa, India, 11-14 December 2007, co-organised by the Tata Institute of Social Sciences, Mumbai, and the Centre for Law, Gender and Sexuality, UK.

**Dianne Otto**, *Litigating Human Rights: Public Interest Advocacy and Social Policy Outcomes*, presented at a conference at the University of NSW, Sydney, 5 October 2007, organised by the Australian Human Rights Centre in conjunction with researchers from the University of Wollongong and Macquarie University.



**Dianne Otto**, *The Transformative Potential of the Victorian Charter*, commentary in response to Professor Sandra Leibenberg's keynote address, 'Beyond Civil and Political Rights: Protecting Social, Economic and Cultural Rights under Bills of Rights – the South African Experience' at the Protecting Human Rights Conference, Melbourne Law School, 25 September 2007.

**Dianne Otto**, *Responsibility, Human Rights and Health: How Do Key Stakeholders Meet their Responsibilities?*, presented at the Critical Debates in Aboriginal Health Series of Public Forums, convened by the Onemda VicHealth Koori Health Unit, The University of Melbourne, 6 September 2007.

**Dianne Otto**, *Emergency Law: Cautionary Tales about Responding to International Terror and Peacekeeping Sex*, presented at a Faculty Research Seminar, Melbourne Law School, 20 August 2007; also presented at a joint seminar of the Centre for the Study of Law, Gender and Sexuality and the International Law Interest Group, University of Kent, Canterbury, 21 March 2007.

**Dianne Otto**, *Has Emergency Law Become the Norm? Exploring the Significance of the Proliferation of Emergency Regimes in International Law*, presented at the 15<sup>th</sup> Annual Australian and New Zealand Society of International Law Conference, Canberra, 28-30 June 2007.

**Dianne Otto**, *The Gastronomics of TWAIL's Feminist Flavours: Some Lunch-time Offerings*, Luncheon address presented at The Third World and International Law Conference III, Albany Law School, 20-21 April 2007.

**Dianne Otto**, *The Gender of Peacekeeping*, presented at a Research Seminar, International Law Interest Group, Columbia University, 12 April 2007.

**Dianne Otto**, *"Taking a Break" from "Normal": Thinking Queer in the Context of International Law*, presented as part of the Queering International Law Panel, American Society of International Law Annual Meeting, Washington DC, 28-31 March 2007.

**Dianne Otto**, *The Exile of Inclusion: Rethinking Feminist Strategies in Human Rights Law*, Centre for Legal Research, International Law and Human Rights Unit, University of West England, Bristol, 16 March 2007.

**Dianne Otto**, *Survival and Consent: UN Peacekeeping Sexual Economies and State Consent in International Law*, Second Annual Shimizu Lecture in International Law, London School of Economics, 7 March 2007.

**Dianne Otto**, Experts Group Meeting on CEDAW Article 2: National and International Dimensions of State Obligation, International Women's Rights Action Watch Asia Pacific (IWRAP-AP), Kuala Lumpur, 14-16 February 2007.

**Sundhya Pahuja**, *Sovereignty, Universality and Development*, presented at the Joint Conference of the International Sociological Association/Socio-legal Studies Association/Law and Society Association, Humboldt University, Berlin, 2007.

**Sundhya Pahuja**, *Rights as Regulation: The Integration of Development and Human Rights*, presented at the 15<sup>th</sup> Annual Australian and New Zealand Society of International Law Conference, Canberra, 28-30 June 2007.



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