contents/

MESSAGE FROM THE DIRECTOR 2
OVERVIEW OF IILAH 6
DIRECTORS AND STAFF OF IILAH 8
IILAH MEMBERS 15
RESEARCH STUDENTS 22
EVENTS AND VISITORS 34
  Public lectures 34
  Workshops 37
  Conferences 40
  Seminars 41
  Postgraduate roundtables 46
  Book launches and discussions 48
PROFILED BOOKS 51
RECENT AND FORTHCOMING PUBLICATIONS 54
  Books 54
  Book chapters 54
  Journal articles 58
  Other contributions 62
  Selected lectures and presentations 64
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 Parriott (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 Koskenniemi (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.

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
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
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 (IWRAW-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**

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

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-relations 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 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

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

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


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**

**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 technoscience. 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**

**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**


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**

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

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.

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
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 Koskenniemi (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

(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.
(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 policymakers 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.

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.
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
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.

(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)

IILAH 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 gave 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
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.

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.
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.

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

International law, development
and the nation state

Jennifer L. Beard

a GlassHouse book
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.”
International Refugee Law and Socio-Economic Rights

Refuge from Deprivation

MICHELLE FOSTER
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


BOOK CHAPTERS


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


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).


**JOURNAL ARTICLES**


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


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


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


**OTHER CONTRIBUTIONS**


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.


SELECTED LECTURES AND PRESENTATIONS


**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.


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


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.


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**, *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.


**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.


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