





FRONT COVER IMAGE: Laws and Political Economies of the South - 23 February 2017.

AUTHORISED BY IILAH Director

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Laws and Political Economies of the South - 23 February 2017

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MESSAGE FROM THE DIRECTOR

In 2017, both the IILAH community and our repertoire of research activities has continued to grow. This year, like the last, we have welcomed a number of outstanding scholars, new graduate students and new members to the Institute. We have also built on the innovation introduced last year, of inviting scholars from outside the University of Melbourne with whom IILAH has an ongoing relationship to become 'Associate Members', building our global links.

Driving IILAH's work are its twelve Research Programs, directed or co-directed by fourteen Melbourne Law School faculty members, including both new and established scholars. Within each research program, directors and co-directors continue to develop a record of research leadership in their field and foster active engagement with other scholars and students. Our research programs also extend Melbourne Law School's scholarly networks and collaborations globally, spanning across international law areas ranging from international law and sound studies, to law and development to legal history and jurisprudence of the global South.

This year IILAH launched a weekly newsletter which shares events and opportunities with our broader community related to interdisciplinary international law issues. This initiative has significantly extended IILAH's reach, with 700 IILAH members and friends now signed up to the newsletter. Through the support and contributions of IILAH's community, we hosted or co-hosted over thirty events this year. Seminars, public lectures and workshops covered a wide range of topics including the mythology of modem law, climate change, antimicrobial resistance, acoustic justice, indigenous jurisprudence and foreign investment.

Notably, IILAH, Melbourne Law School and La Trobe Law School co-hosted the biannual Law, Literature and the Humanities Association of Australasia conference 'Dissents and Dispositions'. Spread over four days, two locations and with over 150 attendees, the conference explored the effect that literature and the arts have on shaping laws of all kinds, in different ways. The conference attracted a wonderful and diverse participation. Keynote speakers included Professor Marianne Constable from UC Berkeley working in the areas of rhetoric and socio legal studies, Associate Professor Vasuki Nesiah from NYU working on international law, literature and human rights, and Professor Tony Birch from Victoria University, a multi-award winning author, activist and respected curator.

In 2017, IILAH continued to support the wonderful graduate student-led, Melbourne Doctoral Forum, now in its 10th year. This year's theme, 'Time in Law-Law in Time' brought together graduate researchers from across the country and worldwide to collaborate on research exploring the ideas of time and temporality in Australian and international jurisprudence. The Annual Doctoral Forum is crucial to IILAH's contribution to nurturing research in international law and the humanities in Australia and globally. IILAH also simultaneously ran a 'skills-circle' workshop for PhD Candidates and Early Career Researcher, which draws on the pedagogical model of participants with different levels of experience sharing reflections and ideas around scholarly practices which are essential, but seldom taught, such as ways to engage well at a conference, successfully chairing events, asking better questions, being a collaborative conference goer, and so on.

In 2017, IILAH hosted distinguished international visitors including Professor Christine Chinkin (LSE) who presented her latest research on gender and post-conflict reconstruction, as well as Professor Balakrishnan Rajagopal (MIT) who presented his work on displacement, eviction and land rights. IILAH's inaugural faculty reading group also continued for its second year with the theme 'International Law and Race'. The reading group continued to be a rich forum for critically oriented academics, doctoral students and colleagues from other facilities and institutions to engage interdisciplinary, international law issues.

III.AH was also happy to welcome Dr Adil Hasan Khan as a new McKenzie Postdoctoral Fellow. Adil's focus on disaster regulation and how national disasters shape law, has already contributed enormously to the range of research taking place at III.AH. While becoming the institutional home for a growing cohort of graduate students, III.AH also said farewell to eleven graduate research students this year, having the pleasure to host the completion seminars of Marie Aronsson-Storrier, Meg Brodie, Madelaine Chiam, Sara Dehm, Gahahun Lemessa Fura, Erin O'Donnell, Joshua Paine, Connal Parsley, Dudi Rulliadi, Cait Storr and Marc Trabsky.

Alongside a vibrant calendar of events, IILAH's directors and members produced a number of publications, a full list is provided later in this report. The milestones celebrated by IILAH this year, including the 10 year anniversary of the Doctoral Forum, could not have been achieved without the enduring support of IILAH's community. The commitment of Program Directors, members, supporters and friends continues to build an academic community open to interdisciplinary engagement in all areas of international law which is key to our ongoing success.

I want particularly to thank IILAH Administrator, Christopher Pidgely, for all of his vital contributions. It has been a pleasure to work with him. We farewell Christopher this year and wish him the best in his new position at the Melbourne School of Government, where I am sure he will facilitate ongoing collaborations with IILAH. I also wish to thank the IILAH Fellow, Balawyn Jones, for her work throughout the year. A lot of work goes on behind the scenes to run the Institute successfully, and it is not possible to individually thank all of IILAH's contributors who have made this year such a success. IILAH has gone from strength to strength in 2017, and we close the year looking forward to the exciting, thought-provoking and rich collaborations and engagements in 2018.

Sundhya Pahuja Director, Institute for International Law and the Humanities

OVERVIEW

The Institute for International Law and the Humanities (IILAH) is dedicated to integrating the study of international law with contemporary approaches to the humanities. IILAH facilitates and promotes innovative research and critical thinking on emerging questions of international law, governance, human rights and justice, positioning Melbourne Law School as one of the leading institutions for international legal scholarship in the world.

Aims and Objectives

III.AH supports interdisciplinary scholarship on contemporary international law, relating in particular to the promotion of social and economic justice and giving voice to those who are marginalised by the historical commitments of international law. Many of the significant modes of thought that have framed the way in which international lawyers understand the world have developed in conversation with the humanities. III.AH continues this engagement by foster-ing dialogue with scholars working in disciplines such as anthropology, criminology, cultural studies, gender studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH encourages the work of younger scholars and those developing new approaches to the field of international law and facilitates engagement between scholars and the community of professionals and activists working on issues of international law and governance. It has developed networks with scholars from Canada, China, Colombia, Egypt, Finland, France, India, Italy, New Zealand, South Africa, Sweden, Norway, the United Kingdom and the United States. IILAH has a particular interest in developing links with scholars in the global South, in order to explore the shared legal legacies of colonialism.

Activities

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures and research seminars, workshops and reading groups; supervises and supports the work of graduate research degree students; and undertakes and facilitates collaborative and interdisciplinary research projects within the University of Melbourne, as well as nationally and internationally. With these research activities, IILAH contributes to ongoing debates about the theoretical foundation and practical effect of international law and the humanities in the political climate of today.

RESEARCH PROGRAMS

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

Australian Legal Histories

Program Directors: Ann Genovese and Tanya Josev

Fragmentation and Regime Interaction in International Law

Program Director: Margaret Young

Feminist and Queer Approaches to International Law

Program Director: Dianne Otto

Indigenous Peoples in International and Comparative Law

Program Directors: Kirsty Gover and Mark McMillan

International Criminal Justice Program Director: Peter Rush

International Environmental Law Program Director: Jacqueline Peel

International Human Rights Law

Program Directors: Hilary Charlesworth, John Tobin and Dianne Otto

International Investment Law Program Director: Jürgen Kurtz

International Refugee Law

Program Director: Michelle Foster

Jurisprudences of the South

Program Director: Shaun McVeigh

Law and Development

Program Director: Jennifer Beard

Law, Sound and the International

Program Director: James Parker

Legal Biographies

Program Directors: Ann Genovese, Shaun McVeigh and Peter Rush

Property and the International Program Director: Cait Storr

DIRECTORS and RESEARCH FELLOWS



Professor Sundhya Pahuja Director

Sundhya Pahuja's research focuses on the history, theory and practice of international law in both its political and economic dimensions. She has a particular interest in international law and the relationship between North and South, and the practice, and praxis, of development and international law. Sundhya has been awarded the American Society of International Law Certificate of Merit (2012), the Woodward Medal for Excellence in the Humanities and Social Sciences (2014) and a Fulbright Senior Scholar award which she took up in September 2016 at the Institute for Global Law and Policy at Harvard Law School. From 2012 – 2015, Sundhya concurrently held a Research Chair in Law at SOAS, University of London, and in 2014, served as Director of Studies in Public International Law at the Hague Academy of International Law. She has held visiting appointments at the LSE, NYU and UBC, currently serves as core faculty at the Harvard Law School Institute for Global Law and Policy Workshop, as Affiliate Faculty of the European Collaborative Doctoral Programme in Globalisation and Legal Theory, and holds Visiting Chairs at Birkbeck and SOAS.

Sundhya's published works include the book Decolonising International Law: Development, Economic Growth and the Politics of Universality (Cambridge University Press, 2011), as well as the edited collections, Reading Modern Law: Critical Methodologies and Sovereign Formations (Routledge, 2012) (co-edited with Ruth Buchanan and Stewart Motha), and Events: The Force of International Law (Routledge, 2011) (co-edited with Fleur Johns and Richard Joyce). Sundhya is currently writing a book on *International Development* with Ruth Buchanan and Luis Eslava as part of the Routledge-Cavendish *Critical Approaches to Law* series. Her current projects also include an Australian Research Council funded project on International Law and the Cold War, with Gerry Simpson and Matthew Craven, and a large project on the history of the corporation in international law from the early modern period to the present day.



Dr Jenny BeardProgram Director, Law and Development

Jennifer Beard is currently involved in research on the role of the not-for-profit sector in law and development and on migration law and policy in the Asia Pacific region. Jennifer was a member of the Migration Review Tribunal and the Refugee Review Tribunal from 2009 to 2014. Jennifer takes particular interest in the relationship between law and society and law and development. She is interested in theories of the State and the role of law in the exercise of political power. Jennifer's five-year appointment to the Refugee and Migration Review Tribunals have strengthened her interest in due processes, accountability and justice in public and private governance across all levels of society. Jennifer has been a visiting fellow at the University of British Columbia Law School 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.

Professor Michelle Foster Program Director, International Refugee Law



Michelle Foster is Associate Dean (Research) at Melbourne Law School. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. Michelle has LLM and SJD degrees from the University of Michigan Law School, where she was a Michigan Grotius Fellow. She also holds an LLB and BComm (Hons 1 and the University Medal) from the University of New South Wales. Prior to her graduate studies, she worked for the Commonwealth Attorney-General's Department, as Research Director for the Hon AM Gleeson AC (then Chief Justice of NSW) and Legal Research Officer in the Chambers of the NSW Solicitor-General and Crown Advocate. Michelle has published widely in the field of international refugee law, and her work has been cited extensively in the international refugee law literature and also in judicial decisions in the United Kingdom, Australia and New Zealand. Her first book, International Refugee Law and Socio-Economic Rights: Refuge from Depriva-tion, was published by Cambridge University Press in 2007 and has been widely and favourably reviewed. Michelle is coauthor, with James Hathaway, of The Law of Refugee Status, Second Edition, published by CUP in 2014. Since joining Melbourne Law School in 2005, Michelle has developed a new curriculum in Refugee Law in both the LLB and JD degrees. She has conducted training workshops for the New Zealand Refugee Status Appeals Authority and the Australian Refugee Review Tribunal and has been engaged as a consultant by the United Nations High Commissioner for Refugees. Michelle is an Advisory Board Member of the Melbourne Journal of International Law, an Associate Member of the International Association of Refugee Law Judges and a Board member of AMES (http://www.ames.net.au/).

Associate Professor Ann Genovese Program Co-Director, Australian Legal Histories



Ann Genovese has, for over twenty years, in a variety of projects been researching and writing on the relationships between jurisprudence and historiography. This work addresses the epistemological resonance and dissonance between Law and History as disciplines and practices; the nature of legal archives and the responsibilities of custodians and writers towards them; and the sources, forms and techniques necessary to show how Australian people have lived with their law, since 1950. Ann has collaborated with leading scholars from law, history, feminist theory and indigenous studies, as well as with members of the judiciary and profession. She has been the successful recipient of ARC funding on several projects, most recently The Court as Archive (with Kim Rubenstein at ANU and Trish Luker at UTS). Ann's publications include: *Rights and Redemption* (UNSWP, 2008), (with Ann Curthoys and Alex Reilly), which has been widely reviewed, is included in many courses across disciplines, and has been cited by the High Court in *Northern Territory of Australia v Arnhem Land Aboriginal Land Trust* [2008] HCA 29 (30 July 2008); *Sovereignty: Frontiers of Possibility* (with Julie Evans, Patrick Wolfe, and Alexander Reilly) (UHP, 2013), and is the editor of two special editions of *Griffith Law Review* (2014, 2015) commemorating the thirtieth anniversaries of the *Koowarta v Bjelke Petersen* and *The Commonwealth v Tasmania*. She is an Advisory Board Member of the University of Melbourne Archives; and a member of the editorial board of Australian Feminist Law Journal.



Associate Professor Kirsty Gover Program Co-Director, Indigenous Peoples in International and Comparative Law

Kirsty Gover was appointed to the faculty in 2009. Her research and publications address the law, policy and political theory of indigenous rights, institutions and jurisdiction. She is interested in the role played by 'indigeneity' in the constitutionalism of settler societies, and in the importance of indigenous concepts of law and politics in settler state political theory and international law. Dr Gover is the author of *Tribal Constitutionalism: States, Tribes and the Governance of Membership* (Oxford University Press 2010). She is currently working on a book entitled: *When Tribalism meets Liberalism: Political Theory and International Law* (Oxford University Press, 2014), examining the ways in which indigenous self-governance influences the development of international law and international legal theory by altering the behaviours of states. Dr Gover is a graduate of New York University (NYU) JSD Doctoral Program, where she was an Institute for International Law and Justice (IJIL) Graduate Scholar and New Zealand Top Achiever Doctoral Fellow. She is Co-Director (with Mark McMillan) of Melbourne Law Schools Indigenous Peoples in International and Comparative Law Research Program, and Chair of the Staff Equity and Diversity Committee.



Dr Tanya JosevProgram Co-Director, Australian Legal Histories

Tanya Josev is a researcher in modern Australian and American legal and political history, with a current interest in the origins and evolution of the binary understanding of the judicial role as involving 'activism' and 'restraint' across various common law jurisdictions. Tanya's doctoral thesis in law and political history concerned the intellectual and political history of the concept of 'judicial activism' in the United States and Australia. The thesis was awarded the university's Dennis-Wettenhall Prize for the best thesis in Australian history in 2015. Her book on the topic will be published by The Federation Press in 2017. Tanya has previously worked as a commercial litigation lawyers at Allens and as an associate to Justice Alan Goldberg AO of the Federal Court of Australia. In 2009, she was appointed one of the Law School's inaugural PhD Teaching Fellows. In 2010-11, she was based at New York University's School of Law through her appointment as a Hauser Global Fellow. Her research has been supported by scholarships from the Australian Federation of Graduate Women, the Alma Hansen Bequest, the Hauser Global program at NYU, and various other prizes.





Jürgen Kurtz is Director of International Economic Law Studies at Melbourne 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 research interest in the impact of treaty-based disciplines on regulatory autonomy and development strategies. Jürgen's book The WTO and International Investment Law: Converging Systems was published by Cambridge University Press in 2015. Jürgen has held research fellowships at the Jean Monnet Center for International and Regional Economic Law Justice at New York University Law School (as an Emile Noel Fellow), at the University of Michigan Law School (as Grotius Fellow), the Academy of International Law in The Hague and the European University Institute (as Fernand Braudel Senior Fellow) in Florence. He is also a Director of Study at the Academy of International Trade and Investment Law based in Macau and Shenzhen and organized by the Institute of European Studies. In recent years, Jürgen has joined the Global Faculties of the Universidade Catolica in Portugal, the Centre for Transnational Legal Studies in London, Bocconi University in Milan, the University of Barcelona in Spain and the Singapore International Arbitration Academy at the National University of Singapore. Jürgen has acted as a partynominated arbitrator in ICSID proceedings and as an expert consultant to the World Bank, the European Union, the ASEAN Secretariat, UNDP and UNCTAD. He currently serves on the Executive Committee of the Society of International Economic Law and the editorial boards of the Journal of International Dispute Settlement and the Journal of World Investment and Trade.

> **Associate Professor Shaun McVeigh** Program Director, Jurisprudences of the South



Shaun McVeigh joined the law school at Melbourne University in 2007. He previously researched and taught at Griffith University in Queensland as well as Keele and Middlesex Universities in the United Kingdom. He has a long time association with critical legal studies in Australia and the UK. More recently he has been involved in convening a symposium "Of the South" that develops an account of lawful existence within the South. Shaun has research interests in the fields of jurisprudence, health care, and legal ethics. His current research projects centre around three themes associated with refreshing a jurisprudence of jurisdiction: the development of accounts of a 'lawful' South; the importance of a civil prudence to thinking about the conduct of law (and lawyers); and, the continuing need to take account of the colonial legal inheritance of Australia and Britain.



Associate Professor Mark McMillan Program Co-Director, Indigenous Peoples in International and Comparative Law Nation Building Research Team

Mark McMillan joined the faculty of Melbourne Law School in 2011. He is a Wiradjuri man from Trangie, NSW. He was named National NAIDOC Scholar of the year for 2013. His research interests are in the area of human rights and, in particular, the expression and fulfillment of those rights for Indigenous Australians. Mark's current research projects include, with the ARC: Chief Investigator on ARC Linkage Grant: 'Indigenous Nationhood in the Absence of Recognition: Self-Governance Insights and Strategies from Three Aboriginal Communities'; Chief Investigator on ARC Discovery Grant: 'Resistance, Recognition and Reconciliation in Australia – lessons from South Africa and Northern Ireland'; Chief Investigator and Node Leader on ARC Special Initiative Grant: "National Indigenous Research and Knowledge Network' and Chief Investigator on ARC Linkage Grant: 'Minutes of Evidence: Promoting New and Collaborative Ways of Understanding Australia's Past Engaging with Structural Justice'. With the University of Melbourne: Melbourne School of Government Research Cluster Grant: 'Indigenous Nation Building: Theory; Practice and Emergence in Australia's Public Policy Discourse'; Melbourne Social Equity Institute Grant: 'Strengthening the Victorian Aboriginal Community's Response to Methamphetamine Use'; and Melbourne Social Equity Institute Grant: 'Sharing this Place: A Systematic Review of Three Faculties within the University of Melbourne to Identity and Establish their Opportunities for Engagement with Future and Current Indigenous Australian Students'.



Professor Dianne OttoProgram Director, Feminist and Queer
Approaches to International Law

Dianne Otto holds the Francine V. McNiff Chair in Human Rights Law. Her research interests include addressing gender, sexuality and race inequalities in the context of international human rights law, the UN Security Council's peace-keeping work, the technologies of global 'crisis governance', threats to economic, social and cultural rights, and the transformative potential of people's tribunals and other NGO initiatives. She sat on the Expert Panel at the Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict held in Phnom Penh in 2012 and the Judicial Council of the Women's Court: Feminist Justice held in Sarajevo in 2015. Recent publications include 'Feminist Approaches to International Law' in Florian Hoffman and Anne Orford (eds), Oxford Handbook of International Legal Theory (2016); 'Queering Gender [Identity] in International Law' in Nordic Journal of Human Rights (2015); Rethinking Peacekeeping, Gender Equality and Collective Security (co-edited with Gina Heathcote 2014); and, Gender Issues and Human Rights (three edited volumes, Edward Elgar 2013). Dianne had the honour of being included in the Ai Weiwei artwork honouring Australian human rights advocates, which he created for the Andy Warhol/Ai Weiwei exhibition at the National Gallery Victoria 2015-2016.





James Parker is a Senior Lecturer at Melbourne Law School. Prior to joining the faculty, James completed his BA in Jurisprudence at University College, Oxford, an LLM by research at McGill University, and a PhD at the Melbourne Law School. His research focuses on the relations between law and sound, with a particular emphasis on international criminal law and the law of war. He is currently a junior faculty member at the Harvard Law School Institute for Global Law and Policy Workshop and has previously taught at the University of Wollongong, the University of Technology Sydney and Macquarie University as well as on the Law School's Masters program. James' book Acoustic Jurisprudence: Listening to the Trial of Simon Bikindi was published by Oxford University Press in 2015. The book explores the trial of Simon Bikindi, who was accused by the International Criminal Tribunal for Rwanda of inciting genocide with his songs. The book develops two main threads: one substantive, the other methodological. Substantively, it is the first detailed study of a trial of considerable legal, historical and musicological importance, both to Rwandans and to the wider international community. Methodologically, the book examines a dimension of legal thought and practice that is scarcely ever remarked upon. Sound is a condition of the administration of justice, and yet as a community of jurists we have become deaf to law and to the problem of the acoustic. The book argues therefore for a specifically acoustic jurisprudence, an orientation towards law and the practice of judgment attuned to questions of sound and listening. James' most recent project The Jurisprudence of Sonic Warfare - for which he received an Early Career Research Grant (2015) - explores the weaponisation of sound across three main sites: the battlefield, the torture chamber and the city.

Professor Jacqueline Peel Program Director, International Environmental Law



Jacqueline Peel is an expert in the field of environmental and climate change law. Her scholarship on these topics encompasses international, transnational and national dimensions, as well as interdisciplinary aspects of the law/science relationship in the environmental field. Professor Peel is the author or co-author of five books and numerous articles on these topics. She has been an active contributor to public policy formulation on climate change and environmental issues at the national and international level through her work on bodies such as the ILA Committee on Legal Principles Relating to Climate Change. Professor Peel's research has attracted funding from various organisations including the Australian Research Council, VCCCAR and the United States Studies Centre. She has also been the recipient of prestigious awards such as a Fulbright Scholarship and NYU Hauser Scholarship.



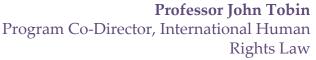
Associate Professor Peter Rush Program Director, International Criminal Justice

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. In 2004/2005, he was a Karl Loewenstein Fellow in Political Science at Amherst College (USA). He is the author of several books on criminal law and edited collections on jurisprudence and post-structuralist 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 both the law of sexual offences and the criminal law of HIV transmission. In 2000, he made a short documentary film concerning justice, aesthetics and colonialism in the city of Melbourne. His teaching and research interests include: criminal law (Australian, comparative and international); jurisprudence and the humanities; international criminal justice; trauma and transitional justice.



Dr Cait StorrProgram Director, Property and the International

Cait Storr (BA (Hons), JD, GDLP) is a Lecturer in Property and Legal Theory. Her current research focuses on the intersections of the private law of property and the public international law of territory, particularly in postcolonial states. She is a doctoral candidate at Melbourne Law School, and her thesis is entitled 'Nauru: International Status, Imperial Form and the Histories of International Law'. Cait was a legal adviser to the Parliament of Nauru in 2009 and worked as a solicitor with Freehills (now Herbert Smith Freehills). Prior to undertaking legal training, Cait taught in international relations and postcolonial theory with the University of Melbourne, then worked in indigenous affairs, including with the Victorian Ombudsman, the Department of Justice and with Aboriginal Affairs Victoria. In 2016, she was appointed as the inaugural Research Fellow with the Institute of International Law and the Humanities.





John Tobin has an LLM with distinction from the University of London. He has designed and taught several subjects in areas of international law, human rights, children's rights and public interest lawyering. He also coordinates the legal internship subject across the JD and Masters programs and coordinates the MLS Human Rights Alumni Network. In 2010 he was awarded the Barbara Falk Award for Teaching Excellence by the University of Melbourne, and in 2011 he was awarded a national citation for outstanding contribution to student learning in the area of human rights. In 2006 he was a Visiting Professor at both the American Academy of Human Rights and Humanitarian Law, Washington College of Law, American University and in the Law School at New York University. In 2011 he was the Senior Scholar in Residence at the Center for Human Rights and Global Justice at NYU Law School.

Associate Professor Margaret Young Program Director, Fragmentation and Regime Interaction in International Law



Margaret A Young researches and teaches in the fields of public international law, international trade law, climate change law and the law of the sea. She is the author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (Cambridge University Press, 2011), which was awarded the International Union for Conservation of Nature (IUCN) Academy of Environmental Law Junior Scholar Prize in 2012; and the editor of *Regime Interaction in International Law: Facing Fragmentation* (Cambridge University Press, 2012), which includes contributions from leading international, comparative and constitutional law scholars. A former Gates Scholar, she is currently working on a book on forests and climate change. Margaret Young joined Melbourne Law School in 2009. She was previously the William Charnley Research Fellow in Public International Law at Pembroke College and the Lauterpacht Centre for International Law, University of Cambridge, where she also lectured in Cambridge's LLM course on WTO law. She has worked at the World Trade Organisation (Appellate Body Secretariat) and the United Nations International Law Commission, is a former associate to the Chief Justice of the Federal Court of Australia and has practised as a solicitor at a major Australian national law firm. Margaret holds a PhD and an LLM from the University of Cambridge and a BA/LLB (Hons) from the University of Melbourne and has been a Visiting Scholar at Columbia Law School, and serves as an expert for the E15 Initiative convened by the International Centre for Trade and Sustainable Development and the World Economic Forum.



Professor Anne OrfordDirector Emeritus, IILAH

Anne Orford is Redmond Barry Distinguished Professor and Michael D Kirby Chair of International Law at Melbourne Law School and was the founding Director of the Institute for International Law and the Humanities. Anne has been awarded an ARC Kathleen Fitzpatrick Laureate Fellowship and directs the Laureate Program in International Law at Melbourne Law School. She holds the Raoul Wallenberg Visiting Chair in International Human Rights and Humanitarian Law at Lund University, and has held numerous other visiting positions, including the Hedda Andersson Visiting Research Chair at Lund University, Visiting Professor at the Sorbonne Law School, Torgny Segerstedt Visiting Professor at the University of Gothenburg, and Senior Emile Noël Research Fellow at NYU Law School. She is a past President of the Australian and New Zealand Society of International Law, and has been awarded honorary doctorates of laws by Lund University and the University of Gothenburg, and the 2013 Woodward Medal for Excellence in Humanities and Social Sciences by the University of Melbourne. She was awarded an honorary doctorate of laws by the University of Helsinki in May 2017. Anne's publications include International Authority and the Responsibility to Protect (Cambridge University Press 2011), Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law (Cambridge University Press 2003), the edited collection International Law and its Others(Cambridge University Press 2006), and, as co-editor, The Oxford Handbook of the Theory of International Law (Oxford University Press 2016). Her scholarship combines study of the historical and theoretical foundations of international law, analysis of developments in international legal doctrines and practice, and an engagement with central debates and concepts in related fields, in order to provide a clearer understanding of the role of international law in contemporary politics.

Research Fellows

Dr Kathleen BirrellMcKenzie Postdoctoral Fellow



Dr Kathleen Birrell is a McKenzie Postdoctoral Fellow at Melbourne Law School. Her research is strongly interdisciplinary, encompassing property law, native title, environmental and climate change law, human rights law and intersections between Indigenous peoples and the law, as well as critical legal theory, philosophy of law, sociolegal studies and law and literature. It engages with critical approaches to native title; comparative work on Indigenous and non-Indigenous approaches to property and environment, focusing on Indigenous ontologies and epistemologies; Indigenous rights at international law, including climate justice; and Indigenous and local community engagement in climate change mitigation and abatement activities. Her postdoctoral project investigates intersections between the global imperatives of international climate change initiatives and associated legal frameworks and their domestic implementation, international human rights, and the narratives of Indigenous communities. This research critically compares global and local 'narratives' of climate change and imagines the impact of climate change transitions for local and Indigenous communities. Following various philosophical and critical legal perspectives, her recently published book, Indigeneity: Before and Beyond the Law (Routledge, 2016), examines contested notions of indigeneity, the troubled juxtaposition of law and justice in the context of Indigenous legal claims and literary expressions, the contested history and jurisprudence of native title, international and national discourses of rights and recognition, postcolonialism and resistance in 'settler' nation states, and the mutually constitutive relation between law and literature.

Dr Rosemary GreyMLS Postdoctoral Fellow



Dr Rosemary Grey is a Postdoctoral Fellow at Melbourne Law School. Her research focuses on gender issues in international criminal law, particularly the evolving law and practice regarding the prosecution of sexual and gender-based crimes. In June 2016, Rosemary joined Melbourne Law School to commence a two-year postdoctoral research project titled 'Prosecuting Gender Crimes at the International Criminal Court'. Informed by feminist critiques of international law, this project aims to identify and challenge gender discrimination in the interpretation of crimes within the jurisdiction of the ICC. In June 2017, she will deliver the International Criminal Justice Clinic at Melbourne Law School in partnership with Amnesty International. Prior to coming to Melbourne Law School, Rosemary completed her PhD at the University of New South Wales (UNSW). Her PhD thesis, titled 'Prosecuting sexual and gender violence crimes in the International Criminal Court: Historical legacies and new opportunities', presented an in-depth study of all cases before the ICC from 2002-2014. While completing her PhD, Rosemary also lectured in international criminal law and other core subjects at UNSW Law. She also worked and volunteered with a number of Hague-based organisations including Women's Initiatives for Gender Justice, the International Bar Association, and the International Criminal Court.



Dr Adil Hasan KhanMcKenzie Postdoctoral Fellow

Adil Hasan Khan is currently a McKenzie Fellow at the Melbourne Law School. He completed his PhD in International Studies, with a specialisation in International Law and a minor in Anthropology and Sociology of Development, at the Graduate Institute of International and Development Studies (IHEID) in Geneva. His doctoral dissertation, titled Inheriting Persona: Narrating the Conduct of Third World International Lawyers, narrates the conduct of two generations of Third World international lawyers in their struggles to reimagine, re-found, and alternatively authorize international law, and identifies the defining struggle of the Third World in international law as being over temporal transmissions or inheritance. He was a Residential Institute Fellow at the Institute for Global Law and Policy (IGLP), Harvard Law School during 2016–2017. He obtained a B.A.LL.B. (Hons.) from the National Law Institute University (NLIU) in Bhopal.



Dr Rose ParfittARC Discovery Early Career Researcher

Rose Parfitt joined IILAH in June 2013 after two years as Assistant Professor of International Law at the American University in Cairo. Rose's research concerns the relationship between theory and history in the study of international law, international relations and the history of political thought. She received her doctorate in 2011 from the SOAS School of Law (University of London). She is currently writing, or has recently published, on subjects including fascist colonialism; the Bandung Conference of 1955; the relationship between time and space in the construction of interna-tional legal subjectivity; the Futurist Giacomo Balla's 'anti-neutral suit'; the politics of international legal historiogra-phy; theories of state recognition and international personality; and the impact of the concept of 'earned sovereignty' on the right of peoples to self-determination, among other topics. Rose is currently working on a book based on her doctoral thesis. Its provisional title is *International Personality on the Periphery: The 'Abyssinia Crisis' and International Law*.

MEMBERS





Anna Arstein-Kerslake is the Director of the Disability Human Rights Clinic at Melbourne Law School and the Academic Convenor of the Disability Research Initiative (DRI) at the University of Melbourne (UoM). Her research focuses on the human rights of persons with disabilities, with a particular focus on the right to equal recognition before the law. She is currently undertaking research on unfitness to plead law and support for people with cognitive disability charged with a crime. Prior to joining UoM, she held a Marie Curie Research Fellowship at the Centre for Disability Law and Policy (CDLP) at (NUIG). Her work at the CDLP focused on research and global advocacy on the right to legal capacity. For example, she provided support to the United Nations Committee on the Rights of Persons with Disabilities on the general comment on the right to equal recognition before the law. She has participated widely in consultation with governments and other bodies, including: the United Kingdom Ministry of Justice, the Irish Ministry of Justice, Amnesty Ireland, Interights, the Mental Disability Advocacy Center, among others.

Dr Olivia Barr



Olivia Barr joined the Law School as a Senior Lecturer in February 2016. She completed her LLB (Distinction) and BA (Anthropology and Philosophy) at the University of Western Australia, an LLM at the University of British Columbia, and a PhD at Melbourne Law School. Prior to returning to Melbourne, Olivia was a Lecturer at the University of Technology, Sydney. She has also worked as a government solicitor, in law reform, and for the United Nations Permanent Forum on Indigenous Issues. With Dr Karen Crawley (Griffith University), she is the Managing Editor of the Australian Feminist Law Journal: A Critical Legal Journal. Olivia writes in jurisprudence, and her cross-disciplinary work engages with geography, anthropology, philosophy, architecture and contemporary public art practices. Her research focuses on questions of inheritance, especially ongoing relations between Anglo-Australian common law and Aboriginal law in Australia. Olivia recently published A Jurisprudence of Movement: Common Law, Walking, Unsettling Place (Routledge, 2016) in Routledge's 'Space, Materiality and the Normative' series. Her current research concerns questions of lawful place, and argues for greater attention to the place-making practices of law.



Professor Alison Duxbury

Alison Duxbury is a Professor at Melbourne Law School and an Associate Director of the Asia Pacific Centre for Military Law. She is a member of the International Advisory Commission of the Commonwealth Human Rights Initiative and the Board of Directors of the International Society for Military Law. Alison holds BA/LLB (Hons) and PhD degrees from the University of Melbourne, and an LLM from the University of Cambridge, where she was a Pegasus Cambridge Commonwealth Scholar. Prior to joining Melbourne Law School, Alison worked at Blake Dawson Waldron (now Ashurst), the London office of Clifford Chance and Monash University. She is a former Associate Dean of Melbourne's JD degree.



Dr Samia Khatun

Samia Khatun is a McKenzie Postdoctoral fellow at the University of Melbourne and is collaborating with workers rights activists in Bangladesh to produce a 400-year history of textile workers from Mughal Bengal to contemporary Bangladesh. Taking a slices-through-time approach, Samia is investigating how workers have memorialised five key moments in the history of textile production through song and poetry beginning with Mughal Bengal and ending with the Rana Plaza collapse in contemporary Bangladesh. Samia completed her PhD in 2012 at the University of Sydney, where her research examined connections between South Asia and Australia using Aboriginal and South Asian language materials. Since then she has held postdoctoral fellowships at Zentrum Moderner Orient, Berlin and The Centre for Research on Colonial Culture, Dunedin as well as a writing fellowship at the Asian-American Writers Workshop, New York. Samia has also made documentaries on Australian race relations that have screened on SBS and ABC-TV.



Professor Raimond Gaita

Raimond Gaita is a Professorial Fellow at Melbourne Law School and the Faculty of Arts at the University of Melbourne and Emeritus Professor of Moral Philosophy at King's College London. Rai's books, widely translated, and among many include, the award winning *Romulus*, *My Father*, nominated by Australian Financial Review as one of the decades best books, also made into a feature film starring Eric Bana. In 2012 Rai began research for a new book for which he says, "if anything I wrote could be deserved to be called that, will be my magnum opus". The book would develop in one direction via engagement with psychology and evolutionary theory, an original philosophy of the place of human beings in nature, and in another, via political theory and jurisprudence, an original philosophy of politics and law. Rai is working on several publications, an article on genocide and evil for a series, The History of Evil, an article on punishment and the moral emotions in the Criminal Law and Philosophy journal and a collection of Rai's essays entitled *Dignity*.





Lee Godden holds a research and teaching position at Melbourne Law School. As well as her involvement with IILAH, Lee is the Director of the Centre for Resources, Energy and Environmental Law (CREEL). Accordingly much of her scholarship occurs in areas at the intersection of law and the humanities related to environmental law, indigenous rights and natural resource management. An exploration of the relationship between law and history in the context of native title law formed a theoretical foundation for much early research. A similar interdisciplinary focus has informed other aspects of her scholarship in property theory and environmental regulation and governance. Lee's work extends with engagement in public interest issues such as the impact of climate change on environmental law and water law and economic development for indigenous communities. Lee was appointed to the Australian Law Reform Commission as a part-time Commissioner in July 2013, in charge of the Inquiry into the *Native Title Act 1993*.



Associate Professor Wendy Larcombe

Wendy Larcombe teaches Legal Theory and Legal Method and Reasoning in the JD program. In addition, Wendy conducts research in the fields of law, gender and sexuality, and legal education with a particular research interest in theories of subjectivity, autonomy and consent and their application in a range of regulatory and institutional contexts. She has published widely on sexual violence and rape law reform in respected journals such as *Violence Against Women*, *Feminist Legal Studies* and the *Australian Feminist Law Journal*. Her current research projects investigate: the importance to the progressive criminalisation of marital rape of changes in the social role of marriage; evolving jurisprudence on 'reasonable grounds' for a belief in consent in rape law; alternative justice options for sexual assault survivors; and the role of educational institutions in supporting students' mental health.



Ms Cosima McRae

Cosima McRae joined Melbourne Law School's Institute for International Law and the Humanities as Research Fellow on the Indigenous Nation Building Project in January 2014. Previously, Cosi was the research assistant for the ARC Discovery Project Financial Literacy and Financial Wellbeing and published work on behavioural economics in law reforms to combat predatory targeting and financial exclusion of vulnerable consumers. Cosi currently works with a collaborative research team that partners with three Indigenous nations: Ngarrindjeri, Gunditjmara and Wiradjuri. Cosi is writing on how thinking, writing and acting as a nation challenges current Australian legal concepts of sovereignty; unsettling and resetting the institutional relationships between law schools and universities and Indigenous peoples; and intergovernmental relationships between Indigenous nations and settler governments in Australia. Cosi is committed to the principles of her research team of full and equal partnership with Indigenous nations that advance their rights as sovereign peoples.



Associate Professor Amanda Whiting

Amanda Whiting joined Melbourne Law School as a Lecturer in 2004. She has been a member of the Asian Law Centre since 1999. She taught the following subjects in the (previous) LLB: 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. She has also taught in the Melbourne Law Masters Programme: Islamic Law and Politics in Asia and Citizens and 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.





Paula O'Brien is a Senior Lecturer at Melbourne Law School. Paula has a LLM from the University of Cambridge, specialising in international law. Paula researches in the area of health law, including international and comparative law perspectives in her work. Her current doctoral research is on alcohol regulation, including the labelling, advertising, pricing and licensing of alcohol as a global commodity. She regularly makes written and oral submissions to government inquiries and processes regarding the regulation of alcohol. Paula has recently published on the international right to health and the phenomenon of privatisation, as well as the global shortage of health workers and its implications for the fulfilment of the right to health. She is currently involved in an empirical research project on social justice and temporary migrant workers in Australia, focusing on issues related to the accessibility of health care for migrant workers and their families.



Professor Bruce 'Ossie' Oswald CSC

Bruce Oswald's research interests are in the areas of international humanitarian law, peace operations law, international peace and security law, military law, and international criminal law. Ossie teaches a range of post-graduate subjects at Melbourne Law School, including Principles of International Law, International Dispute Settlement Law, International Humanitarian Law, International Peace and Security Law, Institutions in International Law and UN Law and Practice. Ossie continues to serve in the Australian Army as a legal officer and has seen active service overseas as a member of the Australian Defence Force. For his service as the Legal Officer for the Australian Contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross (CSC). Ossie is the Director of the Asia Pacific Centre for Military Law at Melbourne Law School, as of 2014.



Associate Professor Joo-Cheong Tham

Joo-Cheong Tham's key research areas are the regulation of non-standard work and political finance law. Joo-Cheong has also undertaken considerable research into counter-terrorism laws. He has published extensively and written more than 30 opinion pieces. Joo-Cheong regularly speaks at public forums and has presented lectures at the Commonwealth and Victorian Parliaments. He has also given evidence to parliamentary inquiries into terrorism laws and political finance law. Joo-Cheong has published *Money and Politics: The Democracy We Can't Afford* (UNSW Press, 2010). In 2011 he co-edited *The Funding of Political Parties: Where Now?* (Routledge, 2011) (co-edited with Keith Ewing and Jacob Rowbottom) and *Electoral Democracy: Australian Prospects* (Melbourne University Press, 2011) (co-edited with Brian Costar and Graeme Orr). Together with Graeme Orr, University of Queensland and Brian Costar, he is leading an Australian Research Council project, *Dollars and Democracy: The Dynamics of Australian Political Finance and its Regulation* (2010-2013).

GRADUATE RESEARCH STUDENTS

Current Graduate Research Students

Florence Adong

Thesis: The Responsibility to Prevent in International Law and Politics: Assessing the Responsibility of

International Financial Institutions to prevent Conflicts Supervisors: Anne Orford and Bruce Oswald

By analysing the responsibility of the international community to prevent conflicts and mass atrocities through early intervention, this thesis places the responsibility of International Financial Institutions ('IFIs') within the parameters of international law, and shows the complexities and ambiguities that exist in the international legal framework. The research uses examples from Africa to examine the questions of international authority, jurisdiction and the restraint of discretion that arise from the responsibility to protect concept and go to the heart of international law and politics. This examination leads to the question of what consequences the renewed emphasis on responsibility to prevent in terms of economic and development assistance has for activities of IFIs. This thesis concludes that the emphasis of the responsibility to protect concept on prevention through early intervention in terms of economic and development assistance, is valuable in resolving crisis, if it is undertaken with genuine intentions and precaution as to the principles of law, and giving attention to much stronger and viable aspects of intervention that gives the state the tools to resolve the conflict.

Tom Andrews

Thesis: *A Jurisprudence of Procedure*

Supervisors: Peter Rush and Shaun McVeigh

This thesis develops a legal theory of criminal procedure as an example of the becoming of law and the law of its becomings. The work offers a critical account of contemporary transformations in criminal law. It is concerned with how criminal law is authored, authorised and comes to express modes of authority as it is attached to world and event. If jurisprudence is traditionally concerned with the static categories of law - texts, concepts, definitions - then this thesis engages a tradition of dynamism and movement in order to reorient questions of technology, mediation and image to account for criminal procedure within the ambient social, political and economic situation broadly called neoliberalism.

Bernice Carrick

Thesis: *The Stratification of Equality Protections by Migration Status in Australia, Canada and the United Kingdom?* Supervisors: Jenny Beard and Beth Gaze

Worldwide 232 million people, or 3.2 per cent of the world's population, live outside their country of nationality. Although, in general, international human rights norms apply to such people, in practice, they are heavily and increasingly impacted by the recognition of state sovereignty over migration. This research aims to understand the rationales behind the distribution of equality and non-discrimination protections among residents of varying migration statuses in jurisdictions that employ parliamentary models of human rights protection. In the process it examines how equality and citizenship are understood in the law of each place, and investigates how jurisdictional disputes between the migration and equality law spheres are managed. This lays the ground for re-conceptualising the relationship between those spheres, with a view to ensuring the ongoing relevance and effectiveness of equality protections in the face of migration stratification.

Emily Cheesman

Thesis: *Children's rights based approaches to policies, services and programmes for Filipino street children* Supervisors: John Tobin and Helen Rhoades

Children's rights, particularly as articulated under the UN Convention on the Rights of the Child, have increasingly gained prominence in law and policy making in the Philippines. This has coincided with a shift in focus to a 'rights-based approach to development' or 'child rights programming' by international bodies and the broader development field. This research thesis considers how children's rights based approaches (RBAs) are conceived and applied by non-governmental organisations (NGOs) to service and design programmes for children colloquially known as 'street children' in Manila, Philippines. The research is framed through a detailed consideration of the legal, political, economic and cultural context within which NGOs operate, and investigates the factors that inhibit and facilitate the design and effective operation of RBAs.

Debolina Dutta

Thesis: Sluts vs Saviours: The 'Political Society' of Sex Workers in India and the Political Economy of

the Global Rescue Industry

Supervisors: Shaun McVeigh and Ann Genovese

In India, since colonial times, the subject of sex work has been a traditional site for feminist debates on questions of women's sexuality, equality and agency. The research in this thesis engages with non-lawyer Indian sex workers' activism to show how they collectively think with, act with, and live with law, and by doing so, how they produce knowledge about law and sex work in India. The argument is that Indian sex workers' activism is a 'feminist praxis'; and when addressed to law, is in itself a feminist jurisprudence. The thesis raises questions about the politics and modes of production of feminist jurisprudence in India, aiming to understand methodology as central to theory production. The aim is to enable an academic-activist exchange of knowledge, as a way of 'co-producing' feminist jurisprudence in India. This is distinct from an ethnographic production of feminist jurisprudence, through a researcher-researched encounter.

Hailegabriel Feyissa

Thesis: The Ethiopian civil code project: reading a 'landmark' legal transfer case differently.

Supervisors: Pip Nicholson and Jennifer Beard

This thesis responds to calls for the re-examination of the legal transfer project that sailed through radically different times – times that saw the emergence in Ethiopia of successive political regimes with their own ideologically-driven legal modernisation projects. It critiques and provides an alternative account to existing scholarship on the Ethiopian Civil Code project. It examines how contests over the nature of state and society relationships in Ethiopia (1890s-2010) have shaped the project.

Valeria Vazquez Guevara

Thesis: Living Together with Law after Violent Conflict: Truth Commissions, Peacebuilding and

Technologies of International Jurisdiction

Supervisors: Sundhya Pahuja and Shaun McVeigh

This thesis aims to understand the relationship between truth commissions and law, and how this relationship informs the problem of 'living together with law after violent conflict'. Truth commissions are generally understood as 'non-judicial' or 'quasi-legal' devices. Against this, the thesis follows the intuition that truth commissions have a distinct legal form, which shapes what 'living together' might entail. The analysis focuses on four truth commissions: Uganda (1974), Argentina (1983), Chile (1990), and El Salvador (1992). To do this, this thesis draws on jurisprudence related to historical, prudential and aesthetic consideration of form. Paying close attention to these truth commissions, the thesis contributes a new way of understanding the form and practices of truth commissions as both legal and lawful, and their relationship to shaping how societies live together after violent conflict.

Ingrid Landau

Thesis: Risks, Rights and Regulatory Efficacy: Can Human Rights Due Diligence Help Protect and

Promote Rights at Work?

Supervisors: John Howe and John Tobin

Ingrid's research explores the conceptual and practical implications of human rights due diligence for the promotion and protection of workers' rights. In doing so, the research aims to contribute to an understanding of how best to design and implement adequate human rights due diligence, and regulatory initiatives to support and promote such processes, with respect to workers' rights. It is also hoped that the research will contribute more broadly to understanding the nature, limits and implications of ongoing efforts to frame workers' rights as human rights.

Andrea Leiter

Thesis: *International Investment Law - The making of a legal field* Supervisors: Sundhya Pahuja and Hilary Charlesworth

In my dissertation I study the making of the field of international investment law over the course of the 20th century. The overall concern of my thesis is the constitution of investment law as a field of law and the consequent shift of authority to order the property relations between foreign investors and states. By tracing the practices at work and embedding them in their context, I point to the boundaries of the legal field, uncovering the violent processes of exclusion that characterize the constitution of the field. In order to approach this question I revisit moments in the history of international investment law that have profoundly shaped its character.

Tayechalem Moges

Thesis: Developing a transformative human rights approach towards the practice of (girl) early marriage

in Ethiopia

Supervisors: Dianne Otto and Beth Gaze

The practice of early marriage remains prevalent in Ethiopia despite having received attention, criticism and intervention from international and national human rights actors. The durability of traditional support for the practice has led to questions about the effectiveness of individualized international human rights law in Ethiopia's communitarian society. Moreover, child wives remain at the periphery of these efforts as their role has been largely limited to providing stories of victimization. Drawing upon postcolonial and feminist perspectives, this thesis explores the emancipatory potential of international human rights law to end the practice of early marriage in Ethiopia from the perspectives of former child wives.

Laura Petersen

Thesis: Law and Aesthetics after the Holocaust: Gestures of Justice and Restitution

Supervisors: Peter Rush and Shaun McVeigh

Laura Petersen is in the third year of her PhD at the Melbourne Law School at University of Melbourne. Her interdisciplinary research moves across visual art, fictional texts and jurisprudential memory to explore concepts of restitution. Basing her analysis in Germany after World War II, her project examines the legal, memorial and aesthetic processes involved in coming to terms with atrocity. Before returning to the University of Melbourne for her PhD study, Laura completed her Master of Arts in Comparative Literature at Freie Universitat Berlin, supported by a DAAD scholarship. Her thesis (in German) considered the role of metafictional narratives in Holocaust memory, examining texts by W.G. Sebald, Vladimir Sorokin and Jonathan Safran Foer.

William Phillips

Thesis: *The Why and Wherefore of Human Rights: Examining the grounding relations of human rights* Supervisors: Hilary Charlesworth and Dale Smith

Human rights are frequently invoked to describe the types of wrongs that we find most objectionable. But do human rights do any more than this? Are they any more than rhetorical flourishes? In the face of the slaughter of civilians in Syria, the torture of suspected terrorists after 9/11, and other daily breaches of human rights, many theorists wonder whether human rights really exist at all. My thesis examines existing philosophical accounts of human rights and asks whether they can adequately defend a conception of human rights as rights properly so called. It looks at the existence conditions for human rights.

Robi Rado

Thesis: Trading in People and Trading in Services: The Political Economy of Indians' International

Labour Mobility, the Development Project and International Law

Supervisors: Sundhya Pahuja and Jurgen Kurtz

International law increasingly governs whether, and the manner in which, people may move to other countries to work. This regulation is often justified on the basis of claims about the link between migration and the development project. Using a case study concerning workers from India, Rabi's thesis will seek to develop a better understanding of the legal regimes governing international labour mobility, and of the relationship between those regimes and the development project. The thesis aims to elaborate the political economy of those regimes, and to unpack the assumptions underpinning, and interests driving, the expansion of international law and governance in this area.

Robin Robinson

Thesis: A Question of Jurisdiction: The Recognition at Common Law of Australian Indigenous Peoples'

Intra-group Rights and Interests under Communal Native Title

Supervisors: Maureen Tehan and Kirsty Gover

This thesis explores how best to protect the native title rights and interests held by individual native title holders with multi-affiliations as members of sub-groups, the wider native title holding group and as citizens of the State. It considers the propositions that intra-group native title rights and interests are vulnerable for want of legal and institutional safeguards. Further, their vulnerability is compounded by particular judicial methodology relating to the principle of communal native title and the strict interpretation of the doctrine of continuity. It investigates reforms to the jurisdictional arrangements between the State and the community of native title holders regarding the resolution of intra-group disputes, drawing on jurisprudence from other common law countries and international human rights law, as a means to safeguard intra-group native title rights and interests.

Oishik Sircar

Thesis: Assemblages of Affect: The Juridical Ordering of Collective Memory in 'New' India

Supervisors: Dianne Otto and Sundhya Pahuja

This thesis studies one of the most litigated, mediatised and politically polarising events of mass religious atrocity in contemporary India - the 2002 anti-Muslim violence in the western Indian state of Gujarat - to understand the ways in which collective memories of violence and trauma, in a postcolonial, democratic, secular and developmental nation-state like India, are affectively assembled through encounters between public archives of the legal and the aesthetic. By analysing select cultural spaces and forms of memory production - criminal trials, feature and documentary films, literary and artistic works, and the everyday experiences of living lawfully reflected in the curation of the Museum of Resistance in Ahmedabad - the project argues that a 'jurisprudential-aesthetic' reading of how these 'assemblages of affect' remember/ re-describe/ re-count/ re-configure the event of atrocity, could render visible the roles secular law is called on to play by the nation-state, its 'citizens' and 'others', to make intelligible the event of mass violence, and order its aftermath.

Ana Maria Palacio Valencia

Thesis: The Pacific Alliance: Assessing the Institutional Framework and Designing Reforms for Long-

Term Consolidation

Supervisors: Tania Voon and Andrew Mitchell

Ana María's doctoral thesis focuses on the Pacific Alliance (PA), a regional integration mechanism comprising Chile, Colombia, Mexico and Peru. The thesis examines the institutional framework, ideological underpinnings and the institutional practices developing within the PA to assess the current model of governance and its suitability in supporting the aim for deeper integration. The thesis identifies shortfalls and provides insights on possible adjustments to the PA framework and foresees potential constraints for these changes to take place.

Kay Wilson

Thesis: Mental Health Law: Abolish or Reform?

Supervisors: Dianne Otto and Bernadette McSherry

Mental health law permits the detention and treatment of people with mental illness without their consent. It has always been controversial and the subject of reform. However, recently critics, including international human rights bodies, have called for the abolition of mental health law on the grounds that it is discriminatory and unjustifiably deprives individuals of their liberty, legal decision-making capacity and bodily integrity. My thesis will take a normative and law-in-context approach to evaluating the justifications for mental health law and the arguments for and against its abolition, and present options for reform using a human rights conceptual framework.

Completed Graduate Research Students in 2017

Meg Brodie

Thesis: Law, Change and Socialisation: Constructing An Account of the Role of National Human Rights Institutions in Addressing Systemic Violations - A Case Study of National Inquiries

Conducted by NHRIs Across the Asia-Pacific Region?

Supervisors: Dianne Otto and Brian Burdekin (external)

This thesis constructs an account of how NHRIs contribute to the socialisation of international human rights norms. The change created by national inquiries into systemic human rights violations is examined by drawing on empirical research with Asia-Pacific NHRIs and analysis of other texts. Four core characteristics of the national inquiry strategy which facilitate the socialisation process are identified: the legislative framework, the relational dynamic between NHRIs and other actors, the public nature of the process and its orientation towards change.

Dudi Rulliadi

Thesis: Indonesian Public-Private Partnerships (PPPs): A Legal Study of Private Sector

Participation in Infrastructure Development

Supervisors: Anne Orford, Andrew Mitchell and Tim Lindsey

Taking Indonesia as a case study, Dudi's doctoral thesis examines how the evolution of Public-Private Partnerships (PPPs), from its western origins to today's implementation within the broader context of international development policies and national legal reforms, shapes the manner in which PPPs are implemented in the Third World states.

Marie Aronsson-Storrier

Thesis: The Role of Covert Action in the Development of Jus ad Bellum

Supervisors: Anne Orford and Kevin Jon Heller

The aim of this thesis is to illuminate the role that covert action plays in the formation of the law regulating the resort to force in international relations. In connecting theories of international custom formation with methodological debates on jus ad bellum, it argues that unacknowledged conduct plays a substantial, though often indirect, role in the development of the law.

Madelaine Chiam

Thesis: *International Law in Australian Public Debate*: 2003, 1965, 1916 Supervisors: Hilary Charlesworth, Ann Genovese and Gerry Simpson

This thesis argues that the contemporary prominence of international law in public debate is not new. Drawing on law as language scholarship, and using analyses of the language of the debates over Australia's participation in the 2003 Iraq War, the Vietnam War and the First World War, this thesis contends that international law has played a role in public debates about war across the 20th and now 21st centuries. The claims of legality that continue to be made in Australian debates about war are one of a number of forms of international legal language that speakers have used. This interest in 'legality' is therefore part of a longer practice of speaking international legal language in public debates about war.

Sara Dehm

Thesis: Ordering human mobility: international law, development, administration

Supervisors: Sundhya Pahuja and Anne Orford

This thesis examines how international laws and institutions have come to regulate human mobility in the contemporary world. The last two decades have seen a flurry of activity within international institutions concerned with facilitating the movement of people between states, including to and from states in the Global South. The thesis characterises this activity as a form of international administration through which international institutions exercise authority over mobile people and contribute to shaping the conditions and possibilities of human mobility. In the contemporary moment, Sara argues that the international administration of human mobility has made lawful particular forms of human mobility, crafted certain migrant subjectivities and shaped specific practices of statehood for governing human mobility.

Gashahun Lemessa Fura

Thesis: Transnational land acquisitions in sub-Saharan Africa: competing claims and the role of

(international) law

Supervisors: Sundhya Pahuja and Jurgen Kurtz

This thesis critically analyses the shaping of legal relationships around transnational large-scale acquisitions of land in SSA. It considers the interaction of domestic and international laws against the background of historical patterns of land ownership in Africa. The study focuses on Ethiopia, though many of the observations are generalisable to other countries in Africa, and perhaps elsewhere. By employing a critical-doctrinal analysis of the laws at play, the thesis argues that the legal regimes shaping the relationships around transnational land acquisitions in countries such as Ethiopia privilege (foreign) investors as compared with destination countries' host people, particularly prior land users. By conferring restricted land rights on people who are legally required to give way to investors, the law generally facilities these land deals and inhibits measures aimed at leveraging them for local needs such as addressing the prevalent hunger challenges in SSA host states, or reversing their adverse effects. This occurs despite some recalibration exercises in international investment law in recent years and the potential corrective role of human rights law. The global responses to 'land grabs' aimed at alleviating the social and environmental problems associated with large-scale acquisitions of land in SSA also leave largely unaddressed many of the structural issues embedded in domestic and international laws that shape relations around these land acquisitions. The implication of this is that although transnational land deals are often justified in terms of various development promises such as enhanced food security, the way they shape legal relations are likely to perpetuate hunger in investor host states like Ethiopia. Therefore, the role of the law needs to be considered more seriously in the debates around the growing number of transnational land acquisitions in Ethiopia and across Africa.

Erin O'Donnell

Thesis: Constructing the aquatic environment as a legal subject: legal rights, market participation, and

the power of narrative

Supervisors: Lee Godden, Sundhya Pahuja and John Freebairn

In 2010, the Victorian government created the Victorian Environmental Water Holder (VEWH) to be 'the single voice' for environmental water rights in Victoria. The VEWH is one of many 'environmental water managers' (EWMs) operating around the world. EWMs use a variety of legal forms to establish legal personhood to participate in water markets to acquire and manage water for the aquatic environment. The creation and operation of EWMs raises the question: what happens when the environment is constructed in law as a legal person? Erin uses the example of the EWMs in Australia and the USA to develop a new conceptual framework to understand how the environment is constructed in law, and how the multiple constructions can interact in unintended ways. In particular, She finds that there is an apparent paradox in the creation and operation of the EWMs: they are a regulatory tool intended to increase the legibility of the environment to law, and increase the rights and powers of the environment in law, but in doing so, they re-frame the environment as a mere participant in a market, which can weaken the cultural narratives that support environmental protection

Ioshua Paine

Thesis: *International adjudicatory functions: a comparative study through the lens of environmental cases* Supervisors: Anne Orford and Margaret Young

This thesis asks how international adjudicators might discharge their functions given the demands of the contemporary international legal order and the limitations of their roles. In order to answer that question, the thesis uses the focus of environmental cases to analyse how adjudicators across four key sites of international adjudication manage the pressing problems of change, dispute resolution, and the standard and method of review, and why their practices differ. Addressing the question posed is important because international adjudication is in need of legal techniques which help meet contemporary demands, including by addressing concerns and potential shortcomings that have arisen with the increased adjudicatory activity of the past twenty years.

Connal Parsley

Thesis: Jurisprudence without law? Law and the image in Giorgio Agamben

Supervisors: Peter Rush and Shaun McVeigh

This thesis presents an original reading of Italian philosopher Giorgio Agamben, in search of a new jurisprudence fit for the age of law's indistinction with life. Approaching Agamben's ambivalent proximity to the juridical tradition through the question of representationalism (using contemporary examples like legal personhood, cinematic representation, and political protest), this thesis argues that Agamben demonstrates a paradoxical reinhabitation of the theological and juridical traditions whose object, law, he seeks to overcome in the name of a new ethical life.

Anne Caithleen Storr

Thesis: Nauru: international status, imperial form, and the histories of international law

Supervisors: Sundhya Pahuja and Shaun McVeigh

This thesis is a critical redescription of the changing status of Nauru in international law from 1888 to 1968. As Nauru's status shifted from protectorate to mandate to trust territory to state, what occurred at the administrative level was an accretion of an imperial form established in the protectorate era.

Marc Trabsky

Thesis: *Institutions of the dead: law, office and the coroner*

Supervisors: Peter Rush and Shaun McVeigh

This thesis writes a history of the institutional life of coronial law in the nineteenth and twentieth centuries. The office of coroner has occupied an important role in the common law since the twelfth century. Its status may have waned, its duties may have changed, yet its enduring concern with investigating the causes of death has preserved its vital role in the juridical governance of the dead. This thesis offers a historical account of the modalities by which coroners have occupied their offices and formed lawful relations with the dead in Australia. It does so by examining coronial law in terms of its technologies and its institutional formations. The chapters that follow explore a range of lawful technologies, including place-making, architecture, super visum corporis, manuals and files, each of which became attached to the conduct of the office of coroner in the nineteenth and twentieth centuries. The thesis thus offers an institutional history of the coroner by thinking through how technologies have attached the dead to coronial institutions, how coroners have performed their offices, and how they have assumed responsibilities for caring for the dead

EVENTS and ENGAGEMENT

Law, Literature and Humanities Association of Australasia Conference: Dissents and Dispositions

11 - 14 December 2017

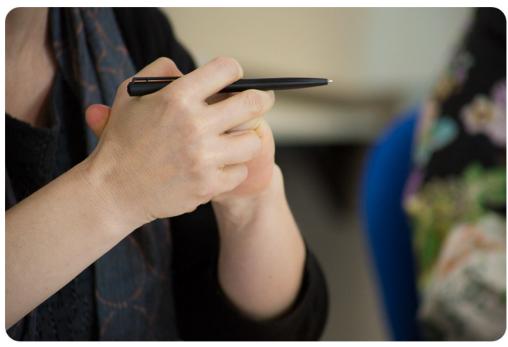
Convenors: Dr Olivia Barr, Associate Professor Shaun McVeigh, Dr James Parker, Associate Professor Peter Rush

Dissent and disposition are both relational. To dissent is to disagree and be at variance: to refuse an established order, to diverge from orthodoxy, to oppose, critique, quarrel and rearrange. If political dissent is commonly understood as speaking truth to power, how does this occur, or occur differently, now that power is increasingly dislocated from state forms, and the production of "truth" by experts is itself subverted? How might law facilitate and energise, or suppress and silence such dissent? More than just political or legal dissent, how might these forms work alongside aesthetic, literary and artistic modes of dissent in reshaping the conduct of law, and of life?

Dispositions relate to the character, arrangements, tendencies and temperaments of conduct – arrangements of language and law, orderings of space and time, as well as proclivities and attitudes. Dispositions involve legal transfers, bestowals, and powers to dispose or control. What, then, of lawful or unlawful dispositions, as well as dispositions of literature, of images and imagination?

The Law, Literature and Humanities Association of Australasia invited consideration of the arrangements and rearrangements of the conduct of law and life; of the dispositions of law and jurisprudence, and how these relate to dissents, resistance and transformation.

Attracting a huge number of submissions, this conference culminated in the participation of over 100 scholars from across the globe, presenting their research to hundreds of domestic and international scholars and spanning research streams which included: city spaces; stanzas; environmentality; visual laws; crafting law; public art; environmental dispositions; enabling/disabling law; writing feminism with jurisprudence; dispositions of social media; forms of life; the afterlives of letters; blame; allegiance, dialogue + dissent; mobile narratives; voices and diverse jurisdictions; environmental humanities; writing, temporality, spatiality; and Dispositions of the other.



Dissents and Dispositions Conference, December 2017

Symposium

16-17 February: 2017 Australian Legal Geography Symposium

Convened by: Mr Brad Jessup

The Institute of Australian Geographers Legal Geography Study Group, supported by the Centre for Resources, Energy and Environmental Law and the Institute for International Law and Humanities at Melbourne Law School, The University of Melbourne, hosted the 2017 Australian Legal Geography Symposium.

The symposium offered a collegial environment to be kept abreast of the research of study group members, to broaden networks, to support PhD scholarship, and to explore research synergies and collaborations.

Participants' papers explored a topic, method or concept in the field of legal geography. Framed by the reflective keynote address from legal geography pioneer, Professor Lee Godden, the symposium allowed participants to recall the progress the Institute of Australian Geographers Legal Geography Study Group has made in less than a decade of shared scholarship and to consider future research within the field.



2017 Australian Legal Geography Symposium - February 2017

Workshops

23 February 2017: Laws and Political Economies of the South

with: Professor Tony Anghie (NUS), Dr Donatella Alessandrini (Kent), and Professor Muthucumaraswamy Sornarajah (NUS).

IILAH hosted an early career workshop with three field-changing scholars of international law, Professors Muthucumaraswamy Sornarajah (NUS), Antony Anghie (NUS, Utah) and Donatella Alessandrini (Kent). This intimate workshop was an opportunity for early career scholars to develop work in progress that engages with relationships between international laws and political economies, and specifically with patterns of legal and economic arrangement that perpetuate contemporary global inequality.

We invited PhD candidates and Early Career Researchers working in international law, history, economics, postcolonial studies, and related fields to apply. Our three guest professors read and commented on the work of up to 7 of the presenting participants. Up to 10 non-presenting participants also participated in the discussion.

Muthucumaraswamy Sornarajah is CJ Koh Professor at the Faculty of Law of the National University of Singapore. He is Visiting Professor at the Centre for Human Rights, London School of Economics, and has previously served as the Tunku Abdul Rahman Professor of International Law at the University of Malaya at Kuala Lumpur, and the Head of the Law School of the University of Tasmania, Australia. His extensive body of publications includes *The Pursuit of Nationalized Property* (Martinus Nijhoff, 1986); *International Commercial Arbitration* (Longman, 1992); *The Law of International Joint Ventures* (Longman, 1994); *The International Law on Foreign Investment* (Cambridge University Press, 1996, with a fourth edition in 2015); *The Settlement of Foreign Investment Disputes* (Kluwer, 2001) and *Resistance and Change in the International Law on Foreign Investment* (Cambridge University Press, 2015). Professor Sornarajah was the Director of the UNCTAD/WTO Programme on Investment Treaties, Pretoria and New Delhi. He is a member of the Advisory Boards of the International and Comparative Law Quarterly, the Indian Journal of International Law and several other international journals. He is a member of the Advisory Board of the Columbia Centre Sustainable Investment. He is a Fellow of the Australian Centre for International Commercial Arbitration.

Antony Anghie is Professor of Law at the National University of Singapore. Professor Anghie is the author of *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2005) and a leading figure in the Third World Approaches to International Law (TWAIL) movement.

Donatella Alessandrini is Co-Director of Postgraduate Studies at Kent Law School. Her publications include *Developing Countries and the Multilateral Trade Regime: The Failure and Promise of the WTO's Development Mission* (Hart, 2010) and *Value Making in International Economic Law and Regulation* (Routledge, 2016). Dr Alessandrini's research lies at the intersection of law and political economy, with a particular interest in development studies, critical trade and development literature, feminist political economy and political theory. Her earlier work has focused on the political economy of 'development' in multilateral trading relations, with an emphasis on the World Trade Organisation. Dr Alessandrini has served on the Editorial Boards of Feminist Legal Studies and Law and Critique, and is a member of the International Association of Feminist Economics and the Society for the Advancement of Socio-Economics.



Dr Donatella Alessandrini (Kent), Professor Sundhya Pahuja, Professor Tony Anghie (NUS) and Professor Muthucumaraswamy Sornarajah (NUS) - Laws and Political Economies of the South- 23 February 2017

12 May 2017: The Mythology of Modern Law: At 25 Years

With: Professor Peter Fitzpatrick (Birkbeck, London)

In 1992, Peter Fitzpatrick published The Mythology of Modern Law. The text challenged everything we thought we knew about the foundations of modern law and their relationship to myth. It questioned the solidity of modern law's foundations and issued an invitation to think through the implications, both legal and political, of this challenge to modern law's supposedly coherent, secular and universal pretensions.

Many took up that invitation, and in myriad ways. The text has become foundational to the critical cannon in several disciplines, and its author has become perhaps the world's leading theorist of postcolonial legality.

This conference sought to bring together scholars in many disciplines to consider the (still unfinished) legacy of The Mythology of Modern Law and the continuing importance of its intellectual and ethical imperatives for our times.



The Mythology of Modern Law: At 25 Years - 12 May 2017

14 & 15 July 2017: Acoustic Justice

Curated by: Dr James Parker and Joel Stern (Liquid Architecture)

There is a reason it's called a hearing. Gavels knock, oaths are sworn, testimony is delivered, judgement pronounced: and all this out loud, viva voce. Contemporary courtrooms are wired for sound. The microphone is becoming a condition of legal practice. Trials are intensely mediated: video-linked, transcribed, recorded, compressed and archived; the judicial soundscape no longer limited to the phenomenological range of those physically present.

Sound is essential to the administration of justice, an inalienable part of our legal worlds. But not just any sound. Listen carefully. What do you hear? To begin with, silence: a powerful quiet. Mobiles are switched off. Conversations whispered. Soundproofing isolates against the volume of daily life. The judicial soundscape depends on and entrenches an association between silence and civility, noise and disorder, with an exceptionally long pedigree in the West and elsewhere. In the courtroom, silence is figured as the proper condition out of which legal discourse emerges.

The opening of proceedings. An aggressive cross-examination. Latinisms. A witness stumbling to make themselves understood. The portentous eloquence of a barrister in closing. In a word, words. Speech, discourse, dialogue. And in court, this speech acts; subtended by the power of the state, the threat of handcuffs and incarceration, a violence that may or may not remain latent but which is required to sustain the operation of law. A courtroom is not a gallery.

Legal practice is, of course, highly aesthetic and theatrical, yet in its imagined pursuit of justice according to rule and dispassionate reason, the law expends great energy on the denial or repression of this fact. The aesthetic is everything that law, in the West, is not supposed to be. The courtroom and gallery exist in tension: each insisting that they are not the other.

This insistence is our point of departure. Sometimes it is only from the edge that the centre becomes clearly discernible. Precisely by transgressing, over-reaching and extending the ordinary principles of courtroom aurality, attention can be drawn to them. They can be made audible, and so susceptible to critique. Then again ... What constitutes a transgression when the court is not 'in session'? When is a courtroom just a room? How much does the courtroom remain one even when it has been offered up as a gallery?



Acoustic Justice - 15 July 2017

Interdisciplinary Masterclasses

11 May 2017: Early Career Workshop Professor Peter Fitzpatrick (Birkbeck, London)

Convenor: Dr Kathleen Birrell

The Institute for International Law and the Humanities was pleased to host an early career workshop with Professor Peter Fitzpatrick, Anniversary Professor of Law (Birkbeck, University of London). This workshop preceded the conference to celebrate the 25th anniversary of The Mythology of Modern Law, and to consider the continuing importance of its intellectual and ethical imperatives for our times.

Early Career Researchers and PhD candidates were invited to participate in this intimate workshop, to develop works in progress and to engage with questions concerning the foundations of modern law, its relationship to myth, and its pretensions to coherence, secularity and universality.

Participants were invited from a range of scholarly fields, not limited to law. Professor Fitzpatrick read and commented on the work of three of the participants. The workshop included up to four non-presenting participants who participated in the discussion.

Peter has enjoyed a long and distinguished career as a legal academic, teaching at universities in Europe, North America and Papua New Guinea and acting in an advisory capacity to regulatory bodies and other universities. He has published widely on legal philosophy, law and social theory, law and racism and imperialism. His most recent books include Law as Resistance: Modernism, Imperalism, Legalism (Ashgate, 2008) and, with Ben Golder, Foucault's Law (Routledge, 2009). Peter has also worked in international legal practice (including in the Prime Minister's Office in Papua New Guinea for several years).

Peter has been an Honorary Professor at Kent since 2005 and is also an Anniversary Professor of Law at Birkbeck, University of London.

28 June 2017: Law and Displacement: A Manifesto Associate Professor Balakrishnan Rajagopal (MIT)

Convenor: Professor Sundhya Pahuja

One of the most significant aspects of displacement and eviction research in recent years is the increasing recognition of the centrality of law, both as a structure that generates dispossession and displacement, and also as a terrain of resistance relied on regularly by displaced communities. Some of this work problematises property as a legal relation, while others point to the judicialisation of displacement. The points of resistance revolve around the potential and possibilities of a rights-turn in legal form – including through international human rights law and domestic constitutional jurisprudence. In this presentation, Professor Rajagopal critically assessed this 'legalisation turn' in displacement scholarship, and offer several theses about its pros and cons for a progressive trajectory in the increasingly tumultuous and connected fields of studies that focus on displacement. Professor Rajagopal also discussed some of the work being done at the MIT Displacement Research Action Network.

The Displacement Research and Action Network is the first-ever global network on displacement and land rights. It brings together activists, academics and policy makers to build new theory and evidence of the increasing incidence of internal displacement around the world due to development, conflict or climate disaster.

Balakrishnan Rajagopal is Associate Professor of Law and Development at the Department of Urban Studies and Planning and founding Director of the Program on Human Rights and Justice at MIT (Massachusetts Institute of Technology) and the founder of the Displacement Research and Action Network. He is recognized as a leading participant in the Third World Approaches to International Law (TWAIL) Network of scholars and is one of its founders, and is recognized as a leading global commentator on issues concerning the global South. He has been a member of the Executive Council and Executive Committee of the American Society of International Law, and is currently on the Asia Advisory Board of Human Rights Watch, the International Advisory Committee of the Robert F. Kennedy Memorial Center for Human Rights and the International Rights Advocates. He is a Faculty Associate at Harvard Law School's Program on Negotiation and has been a Fellow at the Woodrow Wilson Center for International Scholars in Washington, DC, the Madras Institute of Development Studies and the Jawaharlal Nehru University in India, the Institute for Advanced Studies at Hebrew University and a Visiting Professor at the UN University for Peace, University of Melbourne Law School and the Washington College of Law, the American University.



Professor Sundhya Pahuja and Associate Professor Balakrishnan Rajagopal (MIT) - Law and Displacement - 28 June 2017

Research Seminars

22 February 2017: Victim Participation in International Criminal Justice

Dr Rudina Jasini (New York University)Convenor: Professor Hilary Charlesworth

This presentation critically examined the role, scope and implications of victims' participation in international criminal proceedings, drawing from developments in human rights doctrine, victimology and transitional justice. The comprehensive analysis of the complex and multifaceted legal mechanism of victim participation is conducted primarily through the lens of the ECCC. The interpretation of victims' participatory rights has been significantly diffuse and at times divergent, betraying a far from cohesive and consistent approach, and making the study of civil party participation a meaningful and instructive endeavour. Victim participation is still in its infancy in international criminal proceedings, and as such, the trials at the ECCC have appeared more as 'experimenting laboratories' than as processes guided by sound and well-crafted rules and procedures. The research argues that whilst the apparent benefits of participation seem self-evident, and may lead, at least in theory, to the realisation of the aspiration of restorative justice for victims, the manner in which civil party participation has been crafted and interpreted in the trials before the ECCC has raised some important issues and questions regarding its role and impact with respect to the functionality of court proceedings, the rights of the accused, and the rights of victims themselves.

Rudina Jasini is an attorney and researcher specialising in international criminal law and human rights law. She is currently an ESRC GCRF fellow at the Faculty of Law. Her ESRC research project aims to contribute to the scholarly debate, policy discussion and policymaking on victim participation, its role, scope and implications in transitional justice. It also seeks to offer a broader and deeper knowledge base of victim participation both as an approach and a principle. This project builds upon her doctoral research at the University of Oxford, which centred on the participation of victims of gross violations of human rights as civil parties in international criminal proceedings. Previously, Rudina was appointed as a Postdoctoral Global Fellow at New York University Law School Center for Human Rights and Global Justice. She has also held appointments as a visiting scholar at Harvard Law School and the Max Planck Institute for Foreign and International Criminal Law. In addition, Rudina has taught tutorials in public international law at Oxford University. She is the recipient of numerous academic awards and the author of several peer-reviewed articles on international justice, and has presented her work at various conferences and symposia. In April 2015, Rudina was selected as member on the ILA International Committee on Complementarity in International Criminal Law.

2 March 2017: Rights and Regulation Professor Hilary Charlesworth

Convenor: Professor Dianne Otto

In this seminar, Hilary Charlesworth discussed the implications of regulatory theory for the protection of human rights. Despite its elaborate system of norms and institutions, human rights law often appears ineffective. International human rights scholars have tended to focus on law as the sole form of regulation in the field and they have paid little attention to other forms of human rights influence. Hilary examined two aspects of regulatory scholarship that can enrich approaches to protecting human rights: the influence of networks and the concept of ritualism, concluding by considering the value of the concept of responsive regulation to the field.

Hilary Charlesworth is a Melbourne Laureate Professor at Melbourne Law School. She is also a Distinguished Professor at the Australian National University. Her research includes the structure of the international legal system, peacebuilding, human rights law and international humanitarian law and international legal theory, particularly feminist approaches to international law. Hilary received the American Society of International Law's award for creative legal scholarship for her book, co-authored with Christine Chinkin, The Boundaries of International Law. She was also awarded, with Christine Chinkin, the American Society of International Law's Goler T. Butcher award for 'outstanding contributions to the development or effective realization of international human rights law'.

15 March 2017: Property and Territory Dr Henry Jones (Durham)

Convenor: Dr Cait Storr

This seminar was concerned with how law organizes and controls space. Henry argued that property and territory are connected, historically produced, sets of practices for ordering and controlling space. It seeks to understand the creation of these systems to better understand their limits. Henry made three specific claims: that

property and territory are directly connected, historically produced practices, that they have their origin in English colonialism, and that that legacy continues to shape the legal ordering of space today.

Dr Henry Jones is Lecturer in Law at Durham University. Prior to joining Durham in 2013 he completed a PhD, entitled "Unequal from the Start: A History of International Law in the Context of Colonialism", at the University of Leicester. Henry's research interests are in legal history and legal theory generally, with a particular focus on international law.

His research has focused on the use of historical method in international law generally, as well as on specific histories of the law of armed conflict and the law of the sea. His most recent work has concerned the historical connections between territory and property as legal spatial practices. He is currently working on a more theoretical approach to the same question of connecting territory and property.

16 March 2017: Rethinking the Relation between Criminal Law and Markets Professor Lindsay Farmer (Glasgow)

Convenor: Associate Professor Peter Rush

National, transnational and supranational legal systems have steadily increased the criminalisation of particular market practices and financial or economic behaviour since the 1980s. This reflects a more fundamental change in understandings of markets themselves. It is no longer just the 'rogue trader' or the 'bad apple' who is seen as the problem, but rather that the fundamental conception of markets as neutral and self-regulating arenas of exchange has begun to change. Markets were theorised from the beginning of modernity as a form of sociality based on efficient exchange between strangers, a model that also became the basis for thinking about forms of civil order and the proper role of criminal law. However, while the foundation of civil society was tied to the institution of law, the economy was understood as being subject to its own laws and regularities. Markets have been seen as morally neutral, as a kind of natural or spontaneous order. Increasingly, though, financial institutions and market relations are seen as criminogenic, corrosive of social relations and incentivising opportunistic criminal conduct. In this paper, I will argue that existing approaches to financial crime need to engage more fully with the historical and theoretical dimensions of the relationship between the modern criminal law and the market. An engagement with the normative question of the proper role of the criminal law in regulating market conduct thus requires that the criminal law has to rethink the way that it sees or understands markets and their place in society.

Lindsay Farmer is Professor of Law at the University of Glasgow. He has written extensively on the history and theory of criminal law and is the author, most recently, of *Making the Modern Criminal Law: Criminalization and Civil Order* (Oxford, 2016).



Professor Lindsay Farmer (Glasgow) and Associate Professor Peter Rush - 16 March 2017

April 2017: International Law and Revolution: Concepts, Categories, and History Dr Vidya Kumar

Convenor: Sundhya Pahuja

In this talk, Dr Kumar addressed the "fit" between revolution and international law which is the subject of her monograph, and builds on her recent work, International Law, Kelsen and the Aberrant Revolution: Excavating the Practices of Revolutionary Legality in Rhodesia and Beyond" in The Power of Legality: Practices of International Law and Their Politics, eds Nikolas M. Rajkovic, Tanja Aalberts, Thomas Gammeltoft-Hansen (CUP 2016). Specifically, her paper examined the nature of the problem that revolution poses as a concept for the discipline of international law and for the telling of international legal pasts and beginnings. It also examined some of the ways legal scholars and jurists have historically framed revolution in extant international legal categories. Finally Dr Kumar discussed the turn to history in the discipline of international law, and the ways in revolutionary events can help us think about the limits and possibilities of international legal practices.

5 April 2017: Remote Control of Asylum Seekers: The US Experience Professor David Scott Fitzgerald

In this seminar, Professor FitzGerald argued that the US government has built an expanding set of concentric rings of control around its territory. the effect of which - and often the intent - is to prevent asylum seekers from reaching the US to lodge claims or enjoy the full procedural rights of those on US territory. Within each of these rings, however, there are limits to the government's ability to keep out asylum seekers.

6 April 2017: Declaring Crimes Dr Chloe Kennedy

For centuries, Scots criminal law has been renowned for its flexibility and adaptability. One striking example of this characteristic is the so-called declaratory power: the power of Scotland's highest criminal court to declare conduct punishable in the absence of statutory authority or direct precedent. This article considers the origins and early use of the declaratory power in light of some of the questions that occupied key thinkers in Enlightenment Scotland to show how, in contrast to its contemporary opprobrium, the power might once have appeared unobjectionable. It then considers some more recent examples of judicial lawmaking in Scots criminal law and suggests that this nuanced historical understanding casts them in a potentially more favourable light. Beyond their relevance to Scots law, these observations resonate with more general debates about the requirements of legality, legal authority, the limits of judicial discretion and the relationship between laws and the community. Her research includes the following projects: National Action Plans on Business & Human Rights, Indigenous Peoples and the Extractives Sector; Investment Chain Mapping; the Effectiveness of Non-Judicial Grievance Mechanisms; Business and Human Rights Advocacy; and Benefit Corporations.

26 July 2017: The rise of antimicrobial resistance: lessons for global health governance and international law

Adjunct Professor Gian Luca Burd (Graduate Institute, Geneva)

Convenor: Professor Tania Yoon

The increasing resistance of all kinds of microbes to existing medicines - in particular antibiotics - is one of the gravest global health challenges of our time. If left unchecked, it risks setting public health worldwide to a pre-antibiotic era and undermining a century of progress in health care. Antimicrobial resistance (AMR) has been dubbed "a wicked problem" as it involves a number of sectors with distinct forms of national and international governance and diverse interest -human health care, animal health, food production, agriculture and environmental protection. The main challenges from a human health perspective are conservation of existing antimicrobials, research and development of new ones, and equitable access for all persons in need. Policy, legal and governance questions are at the centre of the current debate, which reached the UN General Assembly in September 2016. In this seminar Prof Burci reviewed the terms of the problem, on-going discussions and initiatives as well as areas of interactions with other global health issues and possible

Prof Gian Luca Burci has been Adjunct Professor of International Law at the Graduate Institute for International and Development Studies in Geneva since 2010, Director of the Joint LLM in Global Health Law and International Institutions co-organized by the Graduate Institute and the Georgetown University School of Law, and Senior Fellow in the Global Health Centre of the Graduate Institute. Professor Burci was the Legal Counsel of the World Health Organization between April 2005 and February 2016. Prior to that appointment, he was Senior Legal Officer in the World Health Organization between 1998 and 2005, legal officer in the Office of the Legal Counsel of the United Nations from 1989 to 1998, and legal officer in the International Atomic Energy Agency between 1988 and 1989. His research interests focus on the law of international immunities, the law and governance of international organizations, global health law and governance, and the role of the Security Council. He is currently member of the editorial board of the International Organization Law Review. Professor Burci is the co-author of a book on the World Health Organization (2004) and of a large number of articles and book chapters, most recently on the responsibility and immunities of international organizations and public-private parh1erships. A national of Italy, Professor Burci holds a doctorate in law from the University of Genoa (Italy).

11 October 2017: Realising the right of every child to a nationality Dr. Laura van Waas

Around the world, civil society, government, academic and UN actors are undertaking efforts to gain traction on childhood statelessness. Awareness campaigns, state pledges, treaty accessions, law reform, litigation, birth registration initiatives, human rights advocacy, research, capacity building - initiatives can be seen in all of these areas, and more, specifically targeting the realisation of every child's right to a nationality. As this work takes shape, we are gaining an ever-better picture of what underlying problems must be addressed and starting to understand what tools and techniques are effective in tackling these problems. A new body of knowledge is starting to emerge. In this seminar, Dr van Waas explored the tools offered by international law to support the right of every child to a nationality. On the basis of analysis carried out by the Institute on Statelessness and Inclusion, she will discussed the unique potential of the Convention on the Rights of the Child to contribute to the fight against childhood statelessness. Drawing on the broader body of research and engagement in which she has been involved with partners around the world, Dr. van Waas will also touch upon the value of other frameworks, such as the Universal Periodic Review and the Sustainable Development Goals, in realising the right of every child to a nationality.

Dr. Laura van Waas is Co-Director of the Institute on Statelessness and Inclusion (www.InstituteSI.org), as well as Assistant Professor at Tilburg Law School. In more than a decade of working on statelessness, Laura has carried out a wide array of research and teaching projects, both within academia and for the UN Refugee Agency. She has conducted studies for, among others, Plan Annual Report International, 2017 the OHCHR, Open Society Foundations, the Women's Refugee Commission, the United States Department of State, the European Parliament, and the Norwegian Refugee Council.

Book Launches and Public Events

22 February 2017: Originating a Field -The Law of Foreign Investment.

In Conversation with Professor Muthucumaraswamy Sornarajah Presented by: Professors Sundhya Pahuja and Antony Anghie

In this event, Professors Antony Anghie (National University of Singapore, Samuel D. Thurman Professor of Law at the University of Utah, and author of Imperialism, Sovereignty and the Making of International Law) and Sundhya Pahuja (Director of IILAH, author of Decolonising International Law: Development, Growth and the Politics of Universality) sat down with Professor Muthucumaraswamy Sornarajah to reflect on his exceptional career in international law, his commitment to addressing global inequality, his origination of the field of the international law of foreign investment, and to his critical engagement with the enduring Eurocentricity of international law.



Professor Sornnrajah signing copies of his latest publication post-lecture - 2017

11 May 2017: Indigeneity: Before and Beyond the Law

Dr Kathleen Birrell

Launched by: Professor Peter Fitzpatrick

Examining contested notions of indigeneity, and the positioning of the Indigenous subject before and beyond the law, this book focuses upon the animation of indigeneities within textual imaginaries, both literary and juridical. Engaging the philosophy of Jacques Derrida and Walter Benjamin, as well as other continental philosophy and critical legal theory, the book uniquely addresses the troubled juxtaposition of law and justice in the context of Indigenous legal claims and literary expressions, discourses of rights and recognition, post-colonialism and resistance in settler nation states, and the mutually constitutive relation between law and literature.

Dr Kathleen Birrell is a McKenzie Postdoctoral Fellow at Melbourne Law School. Her research is strongly interdisciplinary, encompassing property law, native title, environmental and climate change law, human rights law and intersections between Indigenous peoples and the law, as well as critical legal theory, philosophy of law, sociolegal studies and law and literature. Her postdoctoral project investigates intersections between the global imperatives of international climate change initiatives and associated legal frameworks and their domestic implementation, international human rights, and the narratives of Indigenous communities.

11 May 2017: IILAH Film Lunch: Songs of War Convenors:

Professor Sundhya Pahuja and Dr James Parker

In May 2017 the Institute for International Law and the Humanities (IILAH) hosted the first in a series of lunchtime screenings of films addressing questions of international law. The first film in this series is Tristan Chytroschek 2010 documentary Songs of War: Music as a Weapon, which follows Christopher Cerf composer of the well-known theme song to Sesame Street, and his discovery that his music is routinely used by the US military as a technique of torture in prisons like Guantanamo and Abu Ghraib.

What Cerf uncovers raises important questions about the relationship between music, torture, war and law. How do human rights law or the laws of war fail to prevent practices of torture and so-called enhanced interrogation? Is law complicit in the production of spaces like Guantanamo or Abu Ghraib where sonic torture takes place? If so, in what ways? And how do these practices speak to common assumptions regarding the necessarily benign nature of entertainment and art more generally?

13 July 2017: Acoustic Jurisprudence: Listening to the Trial of Simon Bikindi by Dr James Parker

Launched by: Professor Sundhya Pahuja and Joel Stern (Liquid Architecture)

Acoustic Jurisprudence explores the trial of Simon Bikindi, who was accused by the International Criminal Tribunal for Rwanda of inciting genocide with his songs. The book develops two main threads: one substantive, the other methodological. Substantively, it is the first detailed study of a trial of considerable legal, historical and musicological importance, both to Rwandans and to the wider international community. Methodologically, the book examines a dimension of legal thought and practice that is scarcely ever remarked upon. Sound is a condition of the administration of justice, and yet as a community of jurists we have become deaf to law and to the problem of the acoustic. The book argues therefore for a specifically acoustic jurisprudence, an orientation towards law and the practice of judgment attuned to questions of sound and listening. Dr James Parker is a senior lecturer at Melbourne Law School, where he is also director of the research program law, Sound and the International' at the Institute for International Law and the Humanities.

14 September 2017: Queering International Law: Possibilities, Alliances, Complicities, Risks Edited by Professor Dianne Otto

Launched by: Associate Professor Wayne Morgan (ANU)

This ground-breaking collection reflects the growing momentum of interest in the international legal community in meshing the insights of queer legal theory with those critical theories that have a much longer genealogy notably postcolonial and feminist analyses. Beyond the push in the human rights field to ensure respect for the rights of people with diverse sexual orientations and gender identities, queer legal theory provides a means to examine the structural assumptions and conceptual architecture that underpin the normative framework and operation of international law, highlighting bias and blind spots and offering fresh perspectives and practical innovations. The contributors to the book use queer legal theory to critically analyse the basic tenets and operations of international law, with many surprising, thought-provoking and instructive results. The following are contributors: Rahul Rao (SOAS), Doris Buss and Blair Rutherford (Carleton), Monika Zalnieriute (MLS), Vanja Hamzie (SOAS), Tamsin Phillipa Paige (UNSW), Maria Elander (LaTrobe), Ratna Kapur (Jindal/Queen Mary), Aeyal Gross (Tel Aviv/SOAS), Anniken Sorlie (Oslo), Bina Fernandez (UMelb), Nan Seuffert (Wollongong), and Dianne Otto (MLS).

23 October 2017: A moment in the sun: does the Paris Agreement on climate change mark an evolution or an extinction of international environmental law?

Mr Jacob Werksman (Principal Advisor, European Union Directorate General for Climate Action)

Convened by Dr Alice Palmer

In this event, Jacob Werksman, Lead Negotiator for the European Union, spoke to Alice Palmer, on the place of the Paris Agreement in the development of international environmental law. Since world leaders met in Paris in 2015 and adopted an agreement on climate change, states have been eager to promote the pact as a triumph of international cooperation. But does the Paris Agreement's deference to sovereign choice mark a picant erosion in the nature of international climate change law? Or is the agreement a pragmatic framework for cooperation and accountability that recognizes the practical limitations of international law?

Jacob Werksman is Principal Adviser to the European Union Directorate General for Climate Action, where his work focuses on the international dimensions of European climate policy. His responsibilities include leading aspects of the European Union negotiations under the UN Framework Convention on Climate Change. Jacob formerly held positions at the United Nations and major not-for-profit organisations working on international environmental law and policy.

Alice Palmer is a Senior Fellow teaching Melbourne Law Masters subjects on international law and environmental protection. She was previously the Director of the Foundation for International Environmental Law and Development (FIELD) in London where she worked with developing country governments and advocacy groups to use international law for the environment. Alice's recent article, Valuing Aesthetics in World Heritage Decisions, examines the extent to which world heritage status is confined to natural landscapes that conform to a European Romantic ideal.

Doctoral Events

8 December 2017: Melbourne Doctoral Forum on Legal Theory/IILAH Skills Circle

Convenor: Professor Sundhya Pahuja

In anticipation of the Melbourne Doctoral Forum on Legal Theory, the MDFLT organising committee and IILAH presented a short workshop, or IILAH Skills Circle, called Engagement: Methods/Modes/Manners.

In holding the workshop, it was hoped to lay common ground for positive and generous academic engagement at the Forum. Attendees spoke about what makes for mutually beneficial and generous interaction in academic settings, and how to navigate such settings as social and professional spaces; what makes good questions and how we can ask them; the characteristics of an excellent Chair (lumbar support); and sundry other notes on playing well with others. The point was to foster some community investment in the run-up to the Forum, and to share and benefit from the range of skills and experiences we each bring to social academic life.

7-8 December 2017: Time in Law-Law in Time

Organisers: Andrea Leiter, Tobias Barkley, Luis Bogliolo and Marnie Lloyd

In anticipation of the Melbourne Doctoral Forum on Legal Theory, the MDFLT organising committee and IILAH presented an IILAH Skills Circle Workshop on Engagement: Methods/Modes/Manners.

Here, common ground was laid for positive and generous academic engagement at the Forum. Attendees spoke about what makes for mutually beneficial and generous interaction in academic settings, and how to navigate such settings as social and professional spaces; what makes good questions and how we can ask them; the characteristics of an excellent Chair. The Skills Circle series allows us to share and benefit from the range of skills and experiences we each bring to social academic life.

IILAH Reading Group

In 2017, IILAH continued the tradition of the open Reading Group successfully launched in 2016. With a regular group of faculty, PhD students, early career researchers, as well as some LLM and JD students and practitioners, we focused on International Law and Race.

Racial differentiation was openly assumed in international legal theory and practice until the midtwentieth century, and in many instances persisted far longer. However, the contemporary universalist language of international law works to obscure this problematic history. As questions of race and racism once again rise to prominence in international politics, the IILAH Reading Group considered texts , from scholars such as Robert Vitalis, Marilyn Lake and Frantz Fanon, as well as institutional texts from a range of moments, that directly touch on the legacies and contemporary resonances of racial differentiation in international law.

These works touched upon the interdisciplinary nature of the Institute's research. The diverse composition of the Reading Group has linked emerging academics and doctoral students with some of our established researchers, and also brought in colleagues from outside the Faculty of Law and the University of Melbourne.

VISITING SCHOLARS

IILAH brings leading international legal scholars and professionals to Melbourne Law School, and builds international linkages and networks for colleagues and students through a programme of public lectures, seminars, roundtables, visitors and major ARC-funded international workshops. Many of the visitors to IILAH have established strong working and co-publishing relationships with Melbourne Law School faculty and doctoral students as a result. These are the 2017 IILAH international and inter-state Visiting Scholars:

Associate Professor Vidya Kumar

Leicester Law School, University of Leicester 24 January- 11 April

Dr Henry Jones

Durham Law School, Durham University 20 February- 31 March

Dr John Morss

Deakin University 6 March - 16 June

Associate Professor Judith Grbich

Griffith Law School 1 May - 31 December

Associate Professor Sara Ramshaw

Faculty of Law, University of Victoria (Canada) 7 July - 7 August

Jeswynn Yogaratnam

Charles Darwin University School of Law 1 September - 31 December Academic host Sundhya Pahuja

PUBLICATIONS

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Josev, T, The Campaign Against the Courts A History of the Judicial Activism Debate, Federation Press, Australia (2017)

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