

# ANNUAL REPORT 2019





*Conference participants, 'Taking up a training in conducting lawful encounters' - 21 to 23 August 2019*

## Authorised by the IILAH Director

Published by the Institute for International Law and the Humanities,  
Melbourne Law School, University of Melbourne.

## Intellectual Property

For further information refer to: <https://unimelb.edu.au/statutes/>

COPYRIGHT IN THIS PUBLICATION IS OWNED BY THE MELBOURNE LAW SCHOOL, THE UNIVERSITY OF MELBOURNE AND NO PART OF IT MAY BE REPRODUCED WITHOUT THE PERMISSION OF THE MELBOURNE LAW SCHOOL.

## Statement on Privacy Policy

When dealing with personal information about individuals, the University of Melbourne is obliged to comply with the Information Privacy Act 2000. For further information refer to: <https://policy.unimelb.edu.au/>

## Disclaimer

The University has used its best endeavours to ensure that material contained in this publication was correct at the time of printing. The University gives no warranty and accepts no responsibility for the accuracy or completeness of information and the University reserves the right to make changes without notice at any time in its absolute discretion.

## Contact Details

Institute for International Law and the Humanities  
Melbourne Law School, University of Melbourne  
Victoria 3010 Australia  
P: +61 3 8344 4799  
E: [law-iilah@unimelb.edu.au](mailto:law-iilah@unimelb.edu.au)

## Editors

Connor Foley and Sundhya Pahuja

# CONTENTS

- Director’s Message..... 1
- Overview..... 3
- Research Programs ..... 4
- Directors and Research Fellows ..... 6
- Members..... 17
- Graduate Research Students..... 23
  - Current Students ..... 23
  - Completed Students ..... 33
- Events and Engagement..... 36
  - Interdisciplinary Masterclasses ..... 36
  - Workshops ..... 38
  - Public Lectures ..... 41
  - Research Seminars..... 44
  - Unique Events ..... 53
  - Book Launches ..... 54
  - Doctoral Forum ..... 55
  - Conference ..... 57
- Visiting Scholars ..... 58

# DIRECTOR'S MESSAGE

The Institute for International Law and the Humanities (IILAH) experienced another exciting year of growth in 2019, with increases in its research outputs, engagement activities, subscribership, and global reach. As a result, IILAH has cemented itself as a thriving hub for interdisciplinary research at the intersections of international law and the humanities. Research and collaboration continues to be driven by our vibrant membership, our active subscriber base and through our continued support of various research programs and projects. As a community, IILAH brought together scholars by hosting seventeen international visitors, holding over 35 events including seminars, public lectures and workshops, and by creating online platforms for academic collaboration.

IILAH now releases a weekly newsletter which reaches more than a thousand subscribers worldwide. Instituted in 2018, the newsletter has increased its subscriptions from a base of 650 to 1000-plus. The newsletter provides our researchers a platform from which to broadcast their activities to the international law and humanities community. The newsletter also helps connect researchers from around the globe and has fostered interdisciplinary research and activities across multiple institutions.

IILAH continues to support the Melbourne Law School's annual Melbourne Doctoral Forum on Legal Theory (MDFLT), now in its 12th year. As always, the MDFLT was accompanied by an IILAH Skills Circle focused on sharing academic skills with students and researchers through an informal roundtable. The theme this year was 'Law on a Tightrope' which explored the tensions, stasis, and ruptures that characterises our time, from unfolding ecological system collapse to the disruption(s) caused by rapid technological advancements and geopolitical upheavals. Around 30 PhD candidates from Melbourne and abroad were joined by renowned scholars Mark McMillan, Ian McLean and Ann Genovese to discuss and dissect this year's themes.

IILAH has continued to support externally funded projects, including several McKenzie Fellowship projects such as Dr Kathleen Birrell's "Counter Narratives", Shane Chalmers' "Antipode: Law and Society in a Settler Colony" and Adil Khan's "Southern Jurists". Adding to the list of supported projects include James Parker's "Machine Listening" (DECRA) and Margaret Young's, Hilary Charlesworth's, and Emma Nyhan's "Australia and the International Court of Justice" (ARC Discovery Project), among others.

The support offered ranges from the financial, to administrative and resources support. We now support four related networks, four McKenzie Fellowships and six collaborative projects.

in 2019, IILAH hosted a total of 35 events: up from 26 events in 2018, not including 17 IILAH Reading Group sessions and supporting 16 sessions for Dr Kathleen Birrell's 'Laws and the Humanities in the Anthropocene' Reading Group. In late 2019, IILAH began hosting a third reading group 'STS@UoM' which is run by Program Director Dr James Parker and IILAH member Dr Jeremy Baskin. Event highlights include the ABC-hosted Big Ideas Lecture with Professor Desmond Manderson (ANU), Professor Hilary Charlesworth (MLS) and Artist, Writer and Curator Julie Gough; A three-day conference organised by IILAH and Adil Khan: "taking up a training in conducting lawful encounters"; and the Melbourne Doctoral Forum on Legal Theory 2019, among many other events.

This year also saw IILAH embark on establishing a podcast, and what will be the first centre-based and run podcast at Melbourne Law School. It is planned that the podcast will feature recordings from seminars, interviews, panel discussions, lectures, workshops and monologues prepared and delivered by special guests, visiting scholars and University of Melbourne academia. IILAH plans on releasing the podcast in mid-2020.

Of course, none of this would have been possible without the passion, energy and good cheer displayed by our members, students and support staff at IILAH. Much of what has been achieved could not have happened without their tireless efforts. IILAH's success is owed to them, so we thank you. We look forward to carrying this same commitment and passion into our activities in 2020.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Sundhya Pahuja - IILAH Director

# 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 (MLS) as one of the leading institutions for international legal scholarship in the world.

## Aims and Objectives

IILAH 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. IILAH continues this engagement by fostering 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, Germany, 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 (UoM), 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

## Law and Development

Program Director: Jennifer Beard

## International Human Rights Law

Program Director: Hilary Charlesworth and John Tobin

## International Refugee Law

Program Director: Michelle Foster

## Australian Legal Histories

Program Director: Ann Genovese and Tanya Josev

## Indigenous Peoples in International and Comparative Law

Program Director: Kirsty Gover

## Jurisprudence of the South

Program Director: Shaun McVeigh

## Feminist and Queer Approaches to International Law

Program Director: Dianne Otto

## Law, Science, Technology and Society

Program Director: James Parker

## International Environment Law

Program Director: Jacqueline Peel

## International Criminal Law

Program Director: Peter Rush



## **Property and the International**

Program Director: Olivia Barr

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

Program Director: Margaret Young

## **Legal Biographies**

Program Director: Ann Genovese, Shaun McVeigh and Peter Rush

# DIRECTORS AND RESEARCH FELLOWS

## Professor Sundhya Pahuja | IILAH Director



Sundhya Pahuja is the Director of IILAH. Her 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. She teaches across public international law, international law and development, trade, development and human rights, globalization and law, and legal theory.

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 2016 at the Institute for Global Law and Policy at Harvard Law School. In 2017 and 2019, Sundhya held a fellowship at the Stellenbosch Institute for Advanced Studies (STIAS) in South Africa, and in 2018, held the Genest Visiting Chair at Osgoode Hall law school in Toronto. Sundhya was invited to give the 2018 Lauterpacht Lectures at the University of Cambridge, the 2019 Newman Lecture at Yale Law School and the Douglas McK. Brown Lecture at UBC in 2020. In 2019, she was made a Fellow of the Australian Academy of Social Sciences.

Sundhya 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 was a founding member of the Legal Theory Interest group of the European Society of International Law, and the trilingual network Global Justice/Injustice with Emmanuel Jouannet and Albane Geslin (Sciences Po). She serves on the editorial board of the Australian Feminist Law Journal, and on the editorial advisory board of several journals including Humanity, the Melbourne Journal of International Law, the Law, Social Justice and Global Development Journal (LGD, the City University of Hong Kong Law Review, the Journal of the History of International Law, and the London Review of International Law.

### A/Professor Ann Genovese | Program co-Director: Australian Legal Histories, Legal Biographies



Ann Genovese is an Australian historian and jurist. Her interests are broadly set in the field of legal history where she researches the relationship 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. She has explored these interrelated concerns across multiple sites and projects, and her work has been integral to the establishment of an emergent field - contemporary histories of Australian jurisprudence. 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 a successful recipient of ARC funding on several projects, most recently 'The Court as Archive' (with Kim Rubenstein at ANU and Trish Luker at UTS). She is co-Director of the Lives Lived With Law project, MLS. She is a member of the editorial board of Australian Feminist Law Journal.

### Professor Anne Orford | IILAH Director Emeritus



Anne Orford is Redmond Barry Distinguished Professor, the inaugural holder of the Michael D Kirby Chair of International Law, and an Australian Laureate Fellow at MLS, where she directs the Laureate Program in International Law. Anne has held numerous senior visiting positions globally, including Visiting Professor and John Harvey Gregory Lecturer on World Organization at Harvard Law School, Senior Emile Noël Research Fellow at New York University, and Visiting Professor at the Sorbonne Law School among others. Her research focuses on the relationship of international law to a wide range of other disciplines, combining history, theory, and practice of international law, social theory, economics, history, and philosophy. Recognition of her work includes the award of honorary doctorates of laws by Lund University, the University of Gothenburg, and the University of Helsinki, election to the Academy of the Social Sciences in Australia, the award of the Woodward Medal for Excellence in Humanities and Social Sciences by the University of Melbourne, and three competitive Fellowships awarded by the Australian Research Council. In 2005, Professor Orford became the founding Director of IILAH.

## Professor Dianne Otto | Program Director: Feminist and Queer Approaches to International Law



Dianne Otto holds the Francine V McNiff Chair in Human Rights Law. Dianne's scholarship explores how international legal discourse reinforces hierarchies of nation, race, gender and sexuality, and aims to understand how the reproduction of such legal knowledge can be resisted. Her research enjoys a national and international reputation, marked by its emphasis on melding theory with transformative practice. Dianne has held visiting positions at Columbia University, the School of Oriental and African Studies, New York University and the University of British Columbia. In 2004 she was the Kate Stoneman Endowed Visiting Professor in Law and Democracy, at Albany Law School in New York. She has also been active in a number of human rights NGOs including Women's Rights Action Network Australia (WRANA), Women's Economic Equality Project (WEED) Canada, International Women's Rights Action Watch Asia Pacific (IWWAW-AP) Malaysia, and International Women's Tribune Centre (IWTC) New York. Dianne was a member of the Expert Panel at the Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict held in Phnom Penh in 2012.

## Professor Hilary Charlesworth | Program co-Director: International Human Rights Law



Hilary is a Melbourne Laureate Professor at MLS and 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, international legal theory, particularly feminist approaches to international law and the art of 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*, and has also been awarded the American Society of International Law's Goler T. Butcher award for her contributions to the development of international human rights law. Hilary has held both an ARC Federation Fellowship (2005-2010) and an ARC Laureate Fellowship (2010-2015). She has been a visiting professor at various institutions including Harvard Law School, New York University Global Law School, UCLA, Paris I and the London School of Economics. In 2016 Hilary was awarded an Honorary Doctorate by the Université Catholique de Louvain in Belgium. She is an associate member of the Institut de Droit International and served as Judge ad hoc in the International Court of Justice in the Whaling in the Antarctic case (*Australia v Japan*).

### Associate Professor Jennifer Beard | Program Director: Law and Development



Jennifer is currently involved in research on the public aspects of charity law over time, political advocacy of charities and the role of the not-for-profit sector in law and development. Her collaborations include research on Ethiopian charity law and the links between English charity law, imperialism, international law and religion. In all her research, Jennifer focuses on the relationship between public and private power, law and society, and law, imperialism and development. She is particularly interested in theories of the State, political authority, and the role of law in the exercise of political power. Jennifer has been a visiting fellow at the University of Otago Law Faculty; the University of British Columbia Law School; the Department of International Law and Human Rights at the United Nations University for Peace in Costa Rica; and the University of Lund Law School. Jennifer took leave from the academy for five years when she was a member of the Migration Review Tribunal and the Refugee Review Tribunal from 2009 to 2014.

### Professor Jacqueline Peel | Program Director: International Environment Law



Jacqueline is a leading 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 and risk regulation. This research has spawned an extensive body of work which has led to the awarding of numerous prizes and research grants. Jacqueline has been an active contributor to public policy formulation on climate change and environmental issues at the national and international level. Her research in this field has lead Jacqueline to the awarding of several ARC grants including to examine the regulatory framework for responding to climate change in Australia (2009-2011); on the role of climate change litigation in transitioning to a clean energy future (2012-2017); and on legal mechanisms for promoting corporate energy transition (2016-2019). Jacqueline has received several awards which include a Fulbright Scholarship, a NYU Hauser Scholarship and the Morrison Prize. She is regularly invited to take part in expert panels at conferences and to deliver keynote addresses, such as the 2016 Mahla Pearlman Oration in Environmental Law.

### Dr James Parker | Program Director: Law, Science, Technology and Society



James' research focuses on the relations between law, sound and listening, with a particular emphasis on international criminal law, and the law of war and privacy. James teaches evidence, criminal law, legal theory and ethics in the JD and Masters programs at MLS. He has an interest in legal pedagogy and has both spoken and published on the topic widely. James has provided commentary for the ABC, BBC and CNN, amongst others, on controversies including police use of the Long Range Acoustic Device and the alleged 'sonic attacks' at the US Embassy in Cuba in 2017. He has given public lectures and performances at universities and art institutions across the world, including Harvard, the Rietveld Academy, Gertrude Contemporary, firstdraft, Westspace and the Institute of Modern Art, Brisbane. James is co-curator of Eavesdropping, a collaboration between Liquid Architecture and MLS, comprising an exhibition, a public program, series of working groups and touring event which explores the politics of listening through work by leading artists, researchers, writers and activists from around the world. In 2018, Eavesdropping was staged at the Ian Potter Museum of Art in Melbourne and was later shown at the City Gallery in Wellington, NZ.

### Professor John Tobin | Program co-Director: International Human Rights Law



John's research interests includes all facets of human rights law including migration, children's rights and international human rights. Through his expertise, he has designed and taught several subjects in areas of international law, human rights, children's rights and public interest lawyering. He coordinates the legal internship subject across the LLB, JD and Masters programs at MLS 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.



### **Professor Kirsty Gover | Program Director: Indigenous Peoples in International and Comparative Law**



Kirsty was appointed to the MLS 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 importance of Indigenous concepts of law and politics in settler state political theory, constitutionalism and international law. Kirsty 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), examining the ways in which indigenous self-governance influences the development of international law and international legal theory by altering the behaviours of states. She 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 Chair of MLS's Reconciliation and Recognition Committee, Graduate Research Coordinator and Director of IILAH's Indigenous Peoples in International and Comparative Law Research Program.

### **Professor Margaret Young | Program Director: Fragmentation and Regime Interaction in International Law**



Margaret is an award-winning academic and lawyer who researches, writes and lectures about the ways in which social, environmental and economic norms interact in international law. Margaret joined MLS in 2009 from the University of Cambridge, where she held the inaugural position of Research Fellow in Public International Law at Pembroke College and the Lauterpacht Centre for International Law. Margaret's authorship has won numerous awards. Her book *'Trading Fish, Saving Fish: The Interaction between Regimes in International Law'* (CUP, 2011) was awarded the International Union for Conservation of Nature (IUCN) Academy of Environmental Law Junior Scholar Prize in 2012 and the University of Melbourne Woodward Medal in Humanities and Social Sciences in 2016, while her latest book, *'The Impact of Climate Change Mitigation on Indigenous and Forest Communities'* (CUP, 2017) was awarded the Certificate of Merit in a Specialized Area of International Law by the American Society of International Law. Margaret is currently a Visiting Legal Fellow at the Department of Foreign Affairs and Trade (DFAT). She has worked at the World Trade Organisation (Appellate Body Secretariat) and the United Nations International Law Commission.

### Professor Michelle Foster | Program Director: International Refugee Law



Michelle is the inaugural Director of the Peter McMullin Centre on Statelessness. She has published extensively in the field of international refugee law. Michelle teaches Refugee Law and International Refugee Law, and in 2017 taught in the International Summer School in Forced Migration at Oxford's Refugee Studies Centre. Michelle has undertaken consultancy work for the United Nations High Commissioner for Refugees, and training of refugee tribunal members in New Zealand and Australia. She is Editor in Chief (with Laura van Waas) of the Statelessness and Citizenship Review. Michelle is also an Advisory Board Member of the Melbourne Journal of International Law, an Associate Member of the International Association of Refugee and Migration Law Judges, and joint case editor (with Professor Hélène Lambert) of the International Journal of Refugee Law. Michelle previously 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.

### Dr Olivia Barr | Program Director: Property and the International



Olivia Barr joined the Law School as a Senior Lecturer in February 2016. Prior to her Melbourne appointment 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.



## A/Professor Peter Rush | Program Director: Legal Biographies, International Criminal Law



Peter joined the University of Melbourne in 1999. He has been a youth-worker, an artist, a filmmaker and a scholar. He has taught in Australia and in England on such topics as criminal law, jurisprudence, legal discourse, gender and law, evidence, legal history and legal method, and law and the body. He is the author of several books on criminal law and edited collections on jurisprudence and poststructuralist legal theory. A longstanding member of the critical legal studies movement in the United Kingdom, he was coordinator of its national conference and a founding member of the interdisciplinary legal theory journal *Law & Critique*. 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 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; jurisprudence and the humanities; international criminal justice; trauma and transitional justice.

## Professor Shaun McVeigh | Program Director: Legal Biographies, Jurisprudence 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 McVeigh 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.

### Dr Tanya Josev | Program co-Director: Australian Legal Histories



Tanya is a legal historian, researching in contemporary Australian and American legal and political history. Her interests include the origins and evolution of the binary understanding of the judicial role as involving 'activism' and 'restraint' across various common law jurisdictions; and judicial biography. Her first book, 'The Campaign Against the Courts: A History of the Judicial Activism Debate' was awarded the Law & Society Association of Australia and New Zealand's ECR prize in 2018. The doctoral thesis upon which the book was based also won the Dennis-Wettenhall Prize for the best thesis in Australian history in 2015. She previously worked as a commercial litigation lawyer at Allens and as an associate to the late Justice Alan Goldberg AO. She was one of MLS'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. She teaches The High Court in the Twentieth Century; the Law of Obligations; Legal Method and Reasoning; Corporations Law and Principles of Business Law.

### Dr Adil Hasan Khan | McKenzie Postdoctoral Fellow



Adil is currently a McKenzie Fellow at MLS, where his research seeks to explore the intersections between international law and disasters, with a focus on South Asia. He completed his PhD in International Studies, with a specialization 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 and a Junior Visiting Fellow at the Institute for Human Sciences (IWM), Vienna in 2015-2016.

### Balawyn Jones | IILAH Fellow



Balawyn is a PhD Candidate at the Asian Law Centre and Centre for Indonesian Law, Islam and Society at MLS. She researches across the fields of Indonesian law and human rights, in particular with respect to gender, religion and law. She has an interest in the protection of women's rights in developing jurisdictions and her doctoral thesis examines criminal justice responses to domestic violence. She also currently holds the positions of Fellow at IILAH and Teaching Fellow (Human Rights and

Global Justice). Balawyn holds a Bachelor of Laws (Honours Class I) and Bachelor of Arts (extended Geography major) from the University of Queensland. Prior to joining MLS, she worked as an Associate to the Federal Court and as the pro bono Legal Clinic Coordinator at Strategic Advocacy Human Rights (NGO). In the latter role, she supervised the development of strategic advocacy guides to argue defences against murder for battered women in domestic violence contexts in Afghanistan. She has also been involved in research projects on the death penalty in Papua New Guinea and jury reform in Tonga.

### Dr Kathleen Birrell | McKenzie Postdoctoral Fellow



Kathleen's postdoctoral project is focused on encounters between juridical, political and cultural narratives in the context of climate change. Her research adopts critical legal methodologies to consider the limits and possibilities of rights and obligations and encounters between laws in the context of the Anthropocene thesis. Her research is strongly interdisciplinary, encompassing environmental and climate change law, rights law, property law and native title, and intersects with Indigenous

jurisprudences, literature and the environmental humanities. Kathleen is the author of *Indigeneity: Before and Beyond the Law* (Routledge, 2016). This book 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. Kathleen has taught at Birkbeck, University of London, and at the University of Melbourne. Prior to entering academia, she worked at a leading Australian commercial law firm, specialising in environmental, property and native title law.

## Dr Shane Chalmers | McKenzie Postdoctoral Fellow



Shane joined MLS in 2018 as a McKenzie Research Fellow. Before that he was a Teaching Fellow in the Melbourne JD (2017), an Australian Endeavour Research Fellow at the Oñati International Institute for the Sociology of Law (2016), and a doctoral scholar at the Australian National University (2012-2016). Shane works at the intersection of law and cultural studies, crossing disciplines in the humanities and social sciences, including philosophy, history, literary and visual studies, and sociology.

His published research has contributed knowledge of the rule of law, legal pluralism, law and development, property theory, international law and human rights, aesthetic studies of law (literary and visual), and the philosophy of law. Central to all of his research, and teaching, is a concern with imperialism and social justice. Shane has published widely in leading international journals, including *Law, Culture and the Humanities*, *Law and Critique*, *Law & Social Inquiry*, *Social & Legal Studies*, *Humanity*, and *Law & Literature*. He is author of *Liberia and the Dialectic of Law: Critical Theory, Pluralism, and the Rule of Law* (Routledge, 2018) and co-editor of the forthcoming Routledge Handbook of International Law and the Humanities.

# MEMBERS

## Professor Alison Duxbury | Associate Director, Asia Pacific Centre for Military Law



Alison is Associate Director of the Asia Pacific Centre for Military Law. She is also the Chair of the International Advisory Commission of the Commonwealth Human Rights Initiative, a non-governmental organisation with offices in Delhi, Accra and London. Alison's major teaching and research interests are in the fields of international law, international institutional law, human rights law and public law.

Her publications include *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (Cambridge, 2011), a co-edited collection, *Military Justice in the Modern Age* (Cambridge, 2016), and a co-authored book, *Can ASEAN Take Human Rights Seriously?* (Cambridge, 2019).

Alison has been a Visiting Fellow at the Lauterpacht Centre for International Law in Cambridge, the Centre for Comparative and Public Law at the University of Hong Kong, the Oxford Institute for Ethics, Law and Armed Conflict and the Institute of Commonwealth Studies in London. Alison is the recipient of a Melbourne Teaching Citation, the Barbara Falk Award for Teaching Excellence and a National Citation for Outstanding Contributions to Student Learning. Prior to joining MLS, Alison worked at Blake Dawson Waldron (now Ashurst), the London office of Clifford Chance and Monash University. In late 2019, Alison was selected to succeed Professor Matthew Harding as the Deputy Dean of Melbourne Law School.

### A/Professor Anna Arstein-Kerslake | Coordinator of the Disability Human Rights Clinic



Anna is an academic at MLS where she developed, and leads, the Disability Human Rights Clinic (DHRC). From 2014-2017, she was the Academic Convenor of the Disability Research Initiative (DRI) at the University of Melbourne and she is now an Establishment Committee Member of the Melbourne Disability Institute. Prior to joining the University of Melbourne, she held a Marie Curie Research Fellowship at the Centre for Disability Law and Policy (CDLP). She was a Chief Investigator on the Unfitness to Plead project, funded by the Australian Government, which is applied a human rights framework to investigate the problem of indefinite detention of people with cognitive disability as a result of unfitness to plead findings. She has also received several grants for the development of the international Disability Human Rights Research Network (DHRN), which she founded in 2015 and spans Europe, India, the USA, and Australia. She has provided support to the United Nations Committee on the Rights of Persons with Disabilities on a general comment on the right to equal recognition before the law.

### Professor Amanda Whiting | Associate Director of the Asian Law Centre



Amanda Whiting is Associate Director (Malaysia) of the Asian Law Centre at MLS. She has been a member of the Centre since 1999, and she joined the School of Law as a Lecturer in 2004. She has been involved with the Australian Journal of Asian Law since its inaugural issue in 1999 and has been an editor since 2002. Her research is principally in the area of Malaysian legal and political history; human rights institutions and practices in the Asia-Pacific Region; and the intersection of gender, society, religion and the law (with particular reference to Malaysia). She is the author of scholarly articles, book chapters and media commentary about Malaysian law, society and history, dealing with the history and current struggles of the legal profession; human rights institutions and practices; the uncomfortable fit of women's rights, human rights and development; and the colliding and conflicting understandings of secular and religious law. Between 2009-2012, Amanda was the recipient of an Australian Research Council Post-doctoral Fellowship for the project "Lawyers, Civil Society and the State in Post-colonial Malaysia".



### Professor Bruce Oswald | Director of the Asia Pacific Centre for Military Law



Bruce “Ossie” Oswald is Director of the Asia Pacific Centre for Military Law. His interests include the areas of international humanitarian law, peace operations, state building, accountability and responsibility, and the application of human rights law to military operations, with a focus on examining the law and practice surrounding the protection of civilians, the taking and handling of detainees during military operations, and militias undertaking law and order functions. Ossie has served in the Australian Regular Army as a legal officer, and continues to serve in that role in the Army Reserves. He has seen operational service in Rwanda, the Former Yugoslavia, East Timor, Iraq and Afghanistan. He has provided legal advice and held staff appointments as a legal officer at tactical, operational and strategic levels. During his service in Australia he provided legal advice to the Deployable Joint Force Headquarters, Headquarters Australian Theatre, Strategic Command and Directorate of Operations and International Law. For his service as the Legal Officer for the Australian Contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross (CSC). Ossie was a Jennings Randolph Senior Fellow at the US Institute of Peace in Washington DC.

### Dr Jeremy Baskin | Senior Fellow, Melbourne School of Government



Dr Jeremy Baskin is a Senior Fellow at the Melbourne School of Government where he focuses on the legitimacy and accountability of knowledge experts in policy-making. His other research interests include climate and energy policy and associated technologies, the notion of the Anthropocene, and changing understandings of the authority of science. He is joint co-ordinator of a cross-faculty network of Science, Technology & Society (STS) scholars at the University STS@UoM. In 2017 Jeremy was awarded a PhD in Politics from the University of Melbourne. He also has degrees from the University of London and the University of Cape Town. He has been a Fellow of the Program on Science, Technology & Society (STS) at the Harvard Kennedy School of Government, and a Fellow at the Max Planck Institute for the Study of Societies in Cologne. He has worked at the University of Cambridge’s Institute for Sustainability Leadership, designing and delivering programmes targeted at senior leaders in business, government and civil society.

### Professor Joo-Cheong Tham | Director of the Electoral Regulation Research Network (ERRN)



Joo-Cheong is Director of the Electoral Regulation Research Network. His research spans the fields of labour law and public law with a focus on law and democracy, and the regulation of precarious work. He has published an extensive collection of articles, books, and book chapters. His research has also been published in print and online media, spawning more than 50 opinion pieces across various Australian-based news and media organisations. His research on the regulation of precarious work is currently focused on the challenges posed by temporary migrant work in Australia, particularly, the precariousness of such work. Joo-Cheong is currently researching labour protection under trade agreements and how the work of Robert Dahl can extend the law of democracy into the economic sphere. Joo-Cheong has held numerous visiting fellowships including a fellowship under the Genest Global Faculty, Osgoode Hall Law School, King's College, University of London; the Rydon Fellowship for Australian Politics and History at the Menzies Centre for Australian Studies, King's College, University of London; and an Australian Bicentennial Fellowship.

### Dr Jordana Silverstein | Postdoctoral Associate, ARC Laureate Fellowship



Jordana Silverstein is an ARC Postdoctoral Associate with the ARC Laureate Fellowship Project 'Child Refugees and Australian Internationalism: 1920 to the Present', led by Professor Joy Damousi. As part of this project, Jordana is investigating the history of Australian Government policy directed towards child refugees from 1970 to the present. Her previous research has focused on questions of belonging, nationalism, identity, historiography, sexuality and memory, which she has primarily investigated through the lens of Australian Jewish history. Her book, 'Anxious Histories: Narrating the Holocaust in Jewish Communities at the Beginning of the Twenty First Century' is published by Berghahn Books (2015), and she has also co-edited a volume entitled 'In the Shadows of Memory: The Holocaust and the Third Generation' (Valentine Mitchell, 2016).



## Professor Lee Godden | Director of the Centre for Resources, Energy and Environment Law



Lee Godden is Director of the Centre for Resources, Energy and Environmental Law. Lee's research interests include environmental law, natural resources law (especially water) property law and indigenous peoples' land rights. The impact of her work extends beyond Australia with comparative research on environmental law and sustainability, property law and resource trading regimes, water law resources and Indigenous land rights issues, in countries as diverse as Canada, New Zealand, UK, South

Africa, and the Pacific. Engagement with the theoretical and the grounded aspects of law is a hallmark of her scholarship distinguished by an interdisciplinary approach. Her work has appeared in leading International journals, as well as leading Australian law journals. She has a longstanding record in community knowledge transfer; a recipient of a 2007 Vice Chancellor's knowledge transfer award. Her contribution to environmental conservation and social justice has been recognised by leading international and national environmental, and natural resource organisations.

## Dr Piers Gooding | Research Fellow, Melbourne Social Equity Institute



Piers Gooding is a Research Fellow at the Melbourne Social Equity Institute (MSEI). He is a socio-legal researcher with a background in law and humanities. He focuses on disability-related law, policy and practice. Piers works specifically on projects related to social inclusion, mental health law, unfitness to plead laws, and access to justice for people with cognitive disabilities. Prior to joining MSEI, Piers was a Research Fellow at the Centre for Disability Law and Policy at the National University of

Ireland, Galway, where he undertook research on European Commission research projects focusing on legal capacity-related law and policy reform. He worked on assisted decision-making law and policy for older persons, mental health service users and people with cognitive disabilities. He assisted the Centre in supporting the Committee on the Rights of Persons with Disabilities to draft its General Comment 1 on Article 12 of the UNCRPD. In Australia, Piers has worked with a range of organisations and research institutes, including the Social Policy Research Centre, University of New South Wales, People with Disabilities Australia, and the Australian Mental Health Commission.

### Dr Paula O'Brien | co-Director of the Health Law and Ethics Network



Paula O'Brien is co-Director of the Health Law and Ethics Network (HLEN). Paula researches in the area of public health law, regulation of corporate conduct to protect human health; international economic law and human health; and the regulation of health care systems. Paula's work has canvassed the international right to health, accountability in health care for asylum seekers in detention, the phenomenon of privatisation, the global shortage of health workers, and access to health care for migrant workers and their families in Australia. Paula's work is influential in the reform of law and policy, and is widely cited by scholars in cognate disciplines such as public health, medicine, and addiction science. A recent focus of Paula's work has been the control of alcohol to reduce harm, where she has written on many aspects of the regulation of alcohol, its labelling, marketing, pricing, licensing and its trade as a global commodity. Paula's previous experience includes working as a lawyer at Minter Ellison, and as Executive Director of the Public Interest Law Clearing House in Victoria.

### Associate Professor Wendy Larcombe | Researcher



Wendy Larcombe joined MLS as a Senior Lecturer in January 2006. In addition to teaching Legal Theory, Legal Method and Reasoning and Legal Research in the JD, Wendy conducts research in the fields of law, gender and sexuality, and legal education. She has particular research interests in issues of subjectivity, autonomy and consent in the regulation of sexual/domestic violence and health care. In the field of legal education, her research concentrates on issues of student engagement, wellbeing and access and equity. Wendy is also a member of the Editorial Board and the Australian Feminist Law Journal.

# GRADUATE RESEARCH STUDENTS

## Current Graduate Research Students

**Alex Dela Cruz**

*The Imperial Sea: Imaginaries of ocean rule of law and development*

**Supervisors: Sundhya Pahuja and Margaret Young**

This thesis seeks to understand how international law shapes human relations with the sea. It examines an object called the 'maritime', a distinct set of practices, processes, and activities that author, authorise, and actualise lawful relations in and with the sea. The project pays attention to the 'maritime' through a critical redescription of its characteristics, its examples, and in terms of how the practices associated with it have changed over time. Broadly, the thesis advances a contribution that situates the contemporary law of the sea at the meeting point of old (imperial) and new (capitalist) modes of maritime legality.

**Alice Palmer**

*Aesthetics of Image in International Environmental Law*

**Supervisors: Lee Godden and Shaun McVeigh**

This thesis seeks to reveal how concepts associated with the humanities inform determinations of 'outstanding universal' aesthetic value of natural heritage under the World Heritage Convention. Language derived from humanistic ideas of beauty, the sublime and the picturesque, together with a range of images, are used in World Heritage deliberations to describe nature from, in the words of the treaty, 'an aesthetic point of view'. The World Heritage Committee is, however, uncritical in its use of aesthetic methods, beholden to a concept of nature informed largely by European Romanticism. Contemporary humanistic approaches such as eco-criticism, providing a complex account of the aesthetic value in nature, are absent. The deliberate use of such contemporary humanistic methods and images to judge environmental aesthetics would facilitate critical inquiry without falling foul of the international legal principles that govern decisions of international bodies made under treaties.

## André Dao

*Human Rights for the Algorithmic Society*

**Supervisors: Sundhya Pahuja and Hilary Charlesworth**

Overwhelmingly, scholars frame the connection between digital technologies - like artificial intelligence, machine learning, and the internet - and human rights as a question of what is to be done about technology. That is, the dominant frame assumes that the proper starting point of enquiry is to ask how human rights law can better regulate digital technologies. An ancillary frame, largely taken up by human rights practitioners and agencies, is to ask what digital technologies can do for human rights. The starting point here is to ask how digital technologies can help achieve the goals of human rights law. Yet in accepting those frames, both scholars and practitioners make a series of assumptions: about law and technology as distinct objects of inquiry, about the normative desirability of human rights law and the normative neutrality of technology, and about the nature of the global society as the field upon which human rights law and digital technologies are to meet and interact. These assumptions, in turn, tend to obscure and even undermine the shared normative concern motivating scholars and practitioners in this area: to secure a just human future. In contrast to the dominant frames, this project takes as its starting point the question of how we are to understand the relationships between human rights law and digital technologies, specifically, digital data. The thesis will examine this question in the context of the activities of the UN and its corporate partners, with a focus both on how these actors construct the relationship between digital data and human rights, and on what the relationship looks like when we look beyond that construction to the actual operation of the technologies in question. This approach allows for an examination of what conduct or action the various relationships (both as constructed and as actualised) between digital data and human rights make possible.

## Anna Saunders

*Enemy States and the United Nations: A Legal and Political History*

**Supervisors: Anne Orford and Hilary Charlesworth**

The enemy states clauses are an often-forgotten aspect of the origins of the United Nations. This thesis will redescribe those origins through examining the negotiations, practices of implementation, and subsequent erasure of the enemy state concept. The enemy states clauses in the Charter of the United Nations provided for a transitional period during which the major powers were allocated responsibility for the occupation and demilitarisation of Germany and Japan, the detachment and administration of enemy state territory, and the conclusion of peace agreements. The

thesis aims to critically assess the legacy of this formative period for the postwar international legal order, informing contemporary debates on international law's role in maintaining peace and security.

**Bernice Carrick**

*Migration Status Equality in the Midst of the Border*

**Supervisors: Jennifer Beard and Beth Gaze**

Both discrimination law and immigration law in 'settler states' are concerned with constituting communities through the regulation of relations between individuals and groups. This thesis explores the impact of the immigration jurisdiction on discrimination law in Australia and Canada. Understanding state borders as detached from territorial boundaries, it focuses how border law attaches to individuals and how this affects the way that discrimination law engages with them.

**Christopher Gevers**

*African states' engagement with international law: a theoretical exposition*

**Supervisors: Anne Orford and Gerry Simpson (LSE)**

This thesis is an intellectual history of Pan-Africanism and international law, from 1900 to 1963. It tells the story of the Pan-Africanist who sought to radically re-imagine the international order through their political writings, fiction and public activism. Through these alternative internationalisms, these intellectuals contested the orthodox accounts of the international legal order by: (i) conceptualizing Global White Supremacy as a constitutive feature thereof, (ii) deconstructing its Eurocentric historiography, and (iii) unsettling and re-orienting its 'imaginative geography'.

**Claerwen O'Hara**

*Queering Consensus in International Law*

**Supervisors: Hilary Charlesworth and Sundhya Pahuja**

Claerwen's doctoral project examines how the concept of 'consensus' operates in international human rights law—in areas such as consensus decision-making in international human rights organisations, the use of 'European consensus' by the European Court of Human Rights as an interpretive method, and customary international law. Using the case study of sexuality and gender, it explores the ways in which legal approaches based on the concept of 'consensus' can reinforce power relations, marginalise particular groups and experiences, and stifle dissent.

## **Danish Sheikh**

*Reparative Jurisprudence*

**Supervisors: Peter Rush and Shaun McVeigh**

How might dissent be conducted in a manner that is reparative? This thesis asks this question in the context of dissenting practices that emerge in relation to the colonial anti-sodomy law in India. Danish identifies moments of dissent across different spaces: in the theatre, in academic writing, in activist engagement, and in the space of legal pedagogy. The acts of dissent that are looked at occupy a prefigurative mode, performing the change they intend to seek. Drawing upon theatre and performance studies, Danish tracks the reparative as it moves across different dissenting spaces; at times generating hope and evoking the utopian, at others providing a space for mourning and remembrance.

## **Emily Cheesman**

*Bringing Street Children' Rights to Life: Non-Government Organisations (NGOs) in the Philippines*

**Supervisors: Hilary Charlesworth and John Tobin**

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 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.

## **Florence Adong**

*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.

### **Ingrid Landau**

*From Rights to Risks: Transnational Labour Regulation and the Emerging Business of Human Rights due Diligence*

**Supervisors: John Howe and John Tobin**

Human rights due diligence is emerging as a new global orthodoxy for responsible corporate behaviour. This includes in the area of workers' human rights, with the concept now found in numerous transnational and national regulatory instruments that deal in whole or in part with labour issues, as well as in the discourse and practices of business, non-governmental organisations and the international trade union movement. This project examines the implications of this development for the protection and promotion of labour rights in a global economy. It considers the strengths and weaknesses of human rights due diligence as a tool of transnational labour regulation, and explores how the meaning of human rights due diligence, understood as an emerging transnational norm, is being contested and by whom. It also considers how regulatory frameworks can maximise the potential of the concept as a tool of transnational labour regulation. In exploring these issues, the project draws on a diverse body of scholarly literature, as well as on extensive analysis of documents and qualitative interviews with actors in Australia, North America and Western Europe.

### **Johanna Commins**

*Law's handmaids: text, image, resistance and the rule of law*

**Supervisors: Peter Rush and Ann Genovese**

Starting with Margaret Atwood's novel, this thesis considers the iconography of the handmaid



through her various iterations: in the 1985 text and its related art, the Hulu television series begun in 2017, the 2019 Graphic Novel by Renee Nault, and her contemporary status as a protest symbol. As a symbol of idealised and highly regulated femininity, the handmaid invites legal questions about thresholds and access, silence and speaking, affect, irony and ontological excess. This project seeks answers to such questions by drawing on scholarship in law and the humanities, affect theory, and critical, feminist and queer (legal) theories.

### **Juliette McIntyre**

*Procedures of the International Court: Theory, Function and Practice*

**Supervisors: Hilary Charlesworth and Margaret Young**

This thesis asks the question “what do theories of adjudication and civil procedure tell us about how the Court should manage its procedures?” It will consider the extent to which underlying rationales regarding the role of pleading, access to justice, efficiency, and case management which inform civil procedure reform in domestic courts may be applicable to the International Court.

### **Kay Wilson**

*The relationship between resources and human rights in mental health law, policy and practice*

**Supervisors: Dianne Otto and Bernadette Sherry**

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. This thesis takes 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.

### **Laura Petersen**

*Forms of restitution after the Holocaust: encounters between art and law*

**Supervisors: Peter Rush and Shaun McVeigh**

This thesis is in the area of legal aesthetics and set in Germany after the Holocaust. Laura reads examples from legal and literary writing, and public and visual art as objects which can help us understand the dynamics of attempting Wiedergutmachung / ‘restitution’ in Germany. Laura looks at the way writers and artists take on responsibilities regarding the aftermath of the Holocaust,



articulating the modes of practice and reception undertaken by the texts. This thesis argues that the sites of taking responsibility and undertaking attempts at restitution after the Holocaust are fragmented, tentative and unresolved, crossing disciplinary, generational and territorial borders

**Nina Araneta-Alana**

*International Climate Finance and the Philippine Climate Change Response: A Legal and Critical Analysis of Rules, Institutions and Structures*

**Supervisors: Margaret Young and Sundhya Pahuja**

This project seeks to understand how international climate finance contributes to shaping Philippine responses to climate change. It provides an historical and doctrinal account of the Philippine state response to climate change and of 'climate finance' as an emerging international legal regime. The thesis draws attention to the ways in which multilateral development institutions, as actors of the climate finance regime, have been able to generate knowledge, and establish and stabilise particular kinds of norms in contested and plural spaces. The thesis analyses, legally and critically, how the international climate finance regime is translated into the national context of the Philippines. It explores how the operation and translation of international climate finance interact with existing legal and political-economic power structures, many inherited from the Philippine's colonial past. Multilateral development institutions, as actors of the international climate finance regime, have also become central to the 'translation' of climate finance from the international to the local sphere. From a broader perspective, the thesis aims to make a contribution to understandings of the way that international and state institutions interact to shape responses to climate change of nation-states in the Global South.

**Odette Mazel**

*Can the master's tools dismantle the master's house? Queer perspectives on law, difference, and radicalism after marriage equality in Australia*

**Supervisors: Ann Genovese and Beth Gaze**

Whilst the legalisation of same-sex marriage has been widely celebrated in Australia, it has also brought to the surface tensions for some LGBTIQ+ activists and queer theorists who see this legal achievement as a form of assimilation to a heteronormative ideal, rather than an expression of the right to be different. Taking a queer theoretical approach, and drawing on feminist and critical race scholarship, this project investigates the tensions involved in navigating the impulse toward equal rights and advocating social change, whilst keeping true to a more radical queer imaginary.

Can the legal and marital institutions, deeply set with white, patriarchal privilege and homophobic histories provide us the tools with which to carve our future? Through an empirical examination that engages members of the LGBTIQ+ community, an exploration is conducted as to how, why and when LGBTIQ+ people have worked with or without the law to bring about change, if and how the legal system has responded, and what the impacts or the implications of these approaches are. How do we navigate the entanglements of pragmatic practices and emancipatory ideals, and what does this tell us about the current relationship between law, praxis and the lived experience of LGBTIQ+ people in Australia at this point in time?

**Renuka Balasubramaniam**

*Supplementing Gaps in Social Protections Within the Malaysian Palm Oil Industry: A Role for Business Supervisors: Amanda Whiting and Jennifer Beard*

The Malaysian palm oil industry, despite being a critical driver of the state's economic growth is lightly regulated. Under-regulation contributes to deficient identification and alleviation of the harms caused by the industry. As in other former post-colonial states, the unintended outcome is that the interests of the subaltern or underclass communities as well as of the environment are subordinated to structural biases within dominant institutions. This thesis aims to evaluate the deficiencies of international law and transnational private regulation frameworks presently governing the industry and considers the extent to which domestic regulatory governance is potentially ameliorative.

**Robi Rado**

*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 (EUI)**

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.

## Sebastián Machado

*Hermeneutics of Humanitarianism: Interpretation, Tradition, and Existentialism in War*

**Supervisors: Anne Orford and Hilary Charlesworth**

International law is a language-game which comes into existence when it becomes part of the tools that international lawyers use to make better sense of the world; a discourse which is situational, a discipline that exists only because of its readiness-at-hand to international lawyers. At the same time, international lawyers talk about their profession through the existence of past actions which they deem significant of their interpretation as law-creating facts, particularly through the creation of custom. This thesis looks at how these facts are and may be interpreted by international lawyers to create opportunities for their discourses.

## Sebastián Rioseco

*The expansion of Conferences of the Parties beyond international environmental law: a critical assessment of their law-making activities*

**Supervisors: Margaret Young and Hilary Charlesworth**

The activities of the treaty body usually known as Conferences of the Parties (COPs) have pushed the boundaries of international law-making. However, academics have approached the topic almost exclusively from an international environmental law perspective. The examples used and the conclusions drawn are based on the outcomes of COPs established by Multilateral Environmental Agreements. Building on this literature, this thesis will explore the expansion of COPs into other areas of international law, such as health, cultural heritage, and human rights. This thesis aims to further our general understanding of modern international law-making by assessing and bringing into the discussion the law-making activities of COPs in those other areas of international law.

## Tim Lindgren

*Beyond the Universality of International Law: Earth Jurisprudences and Ruptures from the Peripheries*

**Supervisors: Shaun McVeigh and Sundhya Pahuja**

This doctoral project examines the relationship between peoples' tribunals and international law, considering what it means to enact and perform resistance through peoples' tribunals as a legal form. Peoples' tribunals are often imagined as political spaces where an already determined international law is engaged, rather than spaces of law in themselves. This thesis, however, thinks through and with the intuition of peoples' tribunals as spaces of law. Pushing back against the

story of the international law of nation-states as the only 'international' and 'law' there is, it attends and takes serious the jurisdictions and institutions that peoples' tribunals bring into being. The analysis centres upon three tribunal moments in the history of tribunals: The Russell Tribunal (1967), the Permanent Peoples' Tribunal (1988-1994) and the International Rights of Nature Tribunal (2015-2019). Drawing on jurisdictional thinking, histories of international law and development, and postcolonial and decolonial theories, it examines peoples' tribunals as scenes of rivalry internationals and laws in themselves. It attends the form that these tribunals take and the forms of law that are spoken in these tribunals. Thinking about what resistance through tribunals does to international law and what forms of resistance are possible through tribunals, it imagines peoples' tribunals as sites of struggle over what 'lawful' worlds we may inhabit.

**Tom Andrews**

*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. Tom's work offers a critical account of contemporary transformations in criminal law. This thesis 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.

**Valeria Vazquez Guevara**

*The Legal Forms and Force of Truth Commissions*

**Supervisors: Sundhya Pahuja and Shaun McVeigh**

The 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.

### **William Phillips**

*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. This 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.

## **Completed Graduate Research Students in 2019**

### **Ana Maria Palacio Valencia**

*The Pacific Alliance: Assessing the Institutional Framework and Designing Reforms for Long-Term Consolidation*

**Supervisors: Andrew Mitchell and Tania Voon**

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.

## Andrea Leiter

*Making the World Safe for Investment: The Protection of Foreign Property 1922-1959*

**Supervisors: Sundhya Pahuja and Ursula Kriebaum (Vienna)**

Andrea's thesis studies the making of the field of international investment law over the course of the 20th century. The overall concern of the 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, Andrea points 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, Andrea revisits moments in the history of international investment law that have profoundly shaped its character.

## Debolina Dutta

*A Conduct of Conversations: Sex Worker Activists, Legal Academics and Indian Feminist Jurisprudence*

**Supervisors: Shaun McVeigh and Ann Genovese**

This thesis argues that diverse experiences of mutual law–life relations, at varied locations, contribute to the productions of a field of feminist jurisprudence in contemporary post-colonial India. The thesis grounds its argument by conducting conversations with two sets of interlocutors—legal academics Upendra Baxi and Ratna Kapur; and sex worker activist groups Durbar Mahila Samanwaya Committee (DMSC) and Veshya Anyay Mukti Parishad (VAMP). It reads a select set of texts authored by the sex workers' collectives and the legal academics and, to engage with these materials, it develops a localised practise of *adda*—an activity of reciprocal conversations—as a scholarly methodology. *Adda* refers to the everyday action or activity of engaging in reciprocal conversations (as verb), and to a meeting place (as noun). The thesis adapts and shapes the practice of *adda* as a living act and activity of reading and interpreting texts in reciprocal conversations with the authors, for the specific purpose of situating and relating their experiences of life and law. The focus of this thesis lies in illuminating how a field of Indian feminist jurisprudence is experienced and produced as a body of knowledge, through reciprocal relations. In this regard, both the argument and the method of the thesis are of value. The demonstration of the argument helps to know about the conscious experiences of mutual law–life relations, which, although significant for understanding how law is lived in post-colonial India, have remained undocumented in scholarly projects of Indian feminist jurisprudence. *Adda* as a method works against a structural disparity that exists in the field of intellectual labour in India with respect to who can be counted as knowledgeable or experienced in law, and by speaking from where. *Adda* works to render the practice of

research as a creative and an imaginative exercise of conducting conversations in a manner that enables reciprocal ties with, and amongst, the interlocutors in the thesis, who are disparately located both socially and in terms of the field of legal knowledge production per se.

### **Oishik Sircar**

*Ways of remembering: law, cinema and collective memory in the 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 post-colonial, 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.

### **Sadaf Aziz**

*The State of Knowledge and Knowledges of the State in Pakistan*

**Supervisors: Sundhya Pahuja and Shaun McVeigh**

This thesis is a broad ranging study of the conditions and discourses that organized the offices of the state, offices inherited and or formally authorized by an outgoing colonial power, has mostly been absent across studies that have found a great deal of other matter to investigate in reference to the Pakistani state and nation. In fact, as attention is often directed at a state that operates above and below as well as through the law in a manner that elides the imposition of limits on its powers, this lacunae is significant. Understanding the quality of interaction between branches of government or between the state and its citizenry requires a slowing down of analysis to take account of these founding conditions; specifically, that representative government was chimerical at best and administrative office holders and members of the high executive acted with considerable latitude in a context of crisis and against ever present fears of national disintegration. In this thesis I argue from the premise that the actualization of governmental order simultaneous to the formal announcement of founding is a central aspect of post-colonial state formation.

# EVENTS AND ENGAGEMENT

## Interdisciplinary Masterclasses

### 9 May 2019: Refining Your Research Project: A Symposium with Kerry Rittich

Professor Kerry Rittich (University of Toronto)

IILAH took the opportunity to host a 2 hour masterclass for students during Professor Kerry Rittich's visit to Melbourne Law School. Open to all MLS-based PhD students, the participants were chosen through a competitive call for papers. Selected participants were invited to present their work and receive feedback from Professor Rittich and fellow participants. Students who had missed out on the call were invited to attend as participants in the Q + A sections of the class. Professor Rittich was an IILAH visitor between 29 April - 10 May, 2019.

### 29 July 2019: Teaching (Law) Through the Arts

Professor Sara Ramshaw (University of Victoria, Canada),  
Professor Sundhya Pahuja (MLS) and Dr James Parker (MLS)

This event was held as an informal roundtable designed for all MLS Research Higher Degree students. The roundtable aimed to explore another side to legal training(s) including how experiential, rather than textual, learning can help create more empathetic lawyers and in general, what an arts-based approach can bring to legal training - something which cannot be attained through traditional modes of learning. Ten students were selected to participate in the roundtable. Sara Ramshaw was an IILAH visitor from 20 July - 8 August, 2019.



## 20 September 2019: Law, Art and Politics

Professor Desmond Manderson (Australian National University)

Convenor: Dr Shane Chalmers

IILAH was very pleased to have Professor Manderson visit and conduct a Interdisciplinary Masterclass with MLS Early Career Researchers and doctoral students. The masterclass provided participants with the opportunity to receive feedback and guidance on their research projects. The masterclass was co-organised by Dr Shane Chalmers (McKenzie Postdoctoral Fellow) and IILAH, and was held at MLS. It formed part of a series of events which took place on Friday 20 September 2019.



*A view of the city of Melbourne, Level 9 Melbourne Law School*

## Workshops

### **31 January - 1 February 2019: Redistributive Human Rights?**

IILAH (MLS), Australian Human Rights Institute (UNSW) and  
La Trobe University School of Law

This workshop, co-hosted and co-funded by the Australian Human Rights Institute at the University of New South Wales (UNSW) Law School, the Institute for International Law and the Humanities, and the La Trobe University School of Law, was held at the UNSW Law Faculty campus on 31 January - 1 February 2019. This workshop considered the different ways in which the language and frameworks of human rights have been mobilised - both to make redistribute justice claims or to contest economic inequalities, but also to close down political discussions around distributional questions and crush Third World demands for global wealth redistribution. Professor Samuel Moyn (Yale University) delivered the Keynote address to workshop participants on 1 February 2019.

### **7 - 8 February 2019: Thinking with Walter Benjamin**

IILAH and the McKenzie Postdoctoral Fellowship

**Convenor: Dr Adil Hasan Khan (MLS) and Dr Ben Silverstein (ANU)**

In February 2019, Dr Adil Hasan Khan and Dr Ben Silverstein, with the support of the Institute for International Law and the Humanities and the McKenzie Fellowship, hosted a two day workshop featuring an interdisciplinary group of scholars engaged with work on or by twentieth century philosopher and writer Walter Benjamin. Touching on themes of politics and theology, historicity and literature, the workshop was an opportunity to discuss Benjamin's thought and its meaning today.

### **10 May 2019: Writing Place, Writing Laws:**

**Laws & the Humanities in the Anthropocene**

IILAH and the McKenzie Postdoctoral Fellowship

**Convenor: Dr Kathleen Birrell**

This full-day workshop was organised by Kathleen Birrell as part of the long-standing 'Counter Narratives' project, and was the flagship event in a new reading group series entitled "Laws and the Humanities for The Anthropocene" instituted in February 2019. The workshop provided

scholars with an interdisciplinary forum in which to critically consider intersections and encounters between law and the humanities in the context of the proposed Anthropocene epoch. The workshop Featured speakers Professor Alexis Wright (University of Melbourne), Dr Kate Wright (UNE), Dr Kathleen Birrell (McKenzie Fellow, MLS), Associate Professor Francine Rochford (La Trobe), Dr Alda Balthrop-Lewis (ACU), Daniel Sherrell (Fulbright Scholar), Dr Georgia Snowball (Performer and Scholar) and Loren Kronemyer (Artist and Founder, Pony Express).

### **10 May 2019: Exploratory Roundtable: Development, Geopolitics and the New Cold War?**

Dr Luis Eslava (Kent Law School), Professor Sundhya Pahuja (MLS) and Professor Kerry Rittich (University of Toronto)

During Professor Rittich's visit to MLS, she also participated in a discussion which explored the question 'are we in the midst of a new Cold War, one played out through regional hegemonic conflict and contestation around the use of information, technology and economic power?' Together with Professor Sundhya Pahuja and Dr Luis Eslava, the group read and discussed several short texts on the subject. Kerry Rittich was an IILAH visitor between 29 April - 10 May, 2019.

### **15 August 2019: Intuiting the Archive: A Workshop for Researchers and Story Tellers**

Dr Tiffany Shellam (Deakin University), Associate Professor Ann Genovese (MLS), Dr Alessandro Antonello (UoM) and Dr Sam Balton-Chrimes (Deakin University)

Bringing together legal academics and historians from numerous Institutions, this all day workshop was designed for researchers who were interested in developing their skills in archival research - something for which historians are better trained. This workshop was co-hosted by the Critical Development Studies Network, the Manchester-Melbourne Universities Strategic Partnership, the Institute for Postcolonial Studies and the Institute for International Law and the Humanities. It was held at the Institute for Post-Colonial Studies in North Melbourne.

## 26 August 2019: Supporting Personhood: An Examination of the Evolving Relationship Between the Legal Person and the State

Convenors: Dr Erin O'Donnell and A/Professor Anna Arstein-Kerslake

This Workshop brought together scholars from Australia and New Zealand to foster new research into the evolving laws around personhood and the obligations of the state. With over 30 scholars in attendance, the workshop began a series of conversations which have led to several new research collaborations. The Workshop was organised by IILAH members Dr Erin O'Donnell and Dr Anna Arstien Kerslake and was co-hosted by the Centre for Resources, Environmental and Energy Law (CREEL) at MLS.

Discussants and speakers included the likes of Dr Rosemary Kayess (UNSW), Dr Jo Watson (Deakin) and Dr Piers Gooding (MLS) to discuss aspects of disability; Dr Alessandro Pelizzon (SCU), Dr Liz Macpherson (Canterbury) and Professor Afshin Akhtar-Khavari (QUT) to discuss aspects of Environment; Dr Katie O'Bryan (Monash), Dr Anne Poelina (CDU) and Associate Professor Kirsty Gover (MLS) to explore the Indigenous experience; and Professor Ngaire Naffine (Adelaide), Dr Laura Griffin (Latrobe) and Professor Lee Godden (MLS) on Theory.



*Supporting Personhood An Examination of the Evolving Relationship Between the Legal Person and the State - 26 August 2019*

## Public Lectures

### **21 March 2019: Surveillance, Trust and Democracy**

Professor David Lyon (Queen's University, Canada)

**Convenor: Dr James Parker**

Professor David Lyon is a leading international figure in Surveillance Studies. He was invited to speak with members of the University of Melbourne and the general public in a lecture held at MLS. Based on previous research, David presented a paper on the ever-expanding data collection and analytics activities conducted by both government institutions and corporations, resulting in a new form of state and corporate surveillance which has steadily eroded trust in these institutions and our democracies. This event was co-hosted by IILAH, the Culture, Media and Economy research hub at Monash University and Liquid Architecture, an Australian organisation for artists working with sound.

### **12 April 2019: What are the implications of AI technologies for the concept of responsibility from a 'human rights' perspective?**

Professor Karen Yeung (University of Birmingham)

**Convenor: Dr James Parker**

At the invitation of Dr James Parker, Professor Karen Yeung presented some of her findings that emerged from a research study undertaken for the Council of Europe study of the implications of AI for the concept of responsibility within a human rights framework. Karen delivered the public lecture to a crowd of 70+ at MLS. The event was co-hosted by IILAH, the Transactional Law Group and the Centre for Corporate Law at MLS.



## 11 July 2019: Future Histories: What Ada Lovelace, Tom Paine, and the Paris Commune Can Teach Us About Digital Technology

Elizabeth O'Shea (Lawyer, Writer)

Elizabeth O'Shea (Human Rights Lawyer, Writer and Broadcaster) was invited to present a public lecture in anticipation of the release of her latest work *Future Histories: What Ada Lovelace, Tom Paine, and the Paris Commune Can Teach Us About Technology* (Bloomsbury Publishing, 2019). Elizabeth delivered her presentation to a packed audience held at Melbourne Law School. This public lecture was co-hosted by the newly incorporated Digital Citizen's Network and the Institute for International Law and the Humanities. As a result of the presentation, Elizabeth was invited to be interviewed for the University's flagship research magazine *Pursuit*.



*Elizabeth O'Shea presents her work at a public lecture at Melbourne Law School - 11 July 2019*

## 21 August 2019: Saba Mahmood Memorial Lecture:

### On the Ruins of History and the Obstinacy of Struggles

Associate Professor Samera Esmeir (University of California, Berkeley)

As part of the Southern Jurists Conference in 2019, a special memorial lecture was inaugurated to celebrate the life and work of the late Professor Saba Mahmood (1962 - 2018) who's ground-breaking contributions to contemporary debates on secularism, religion and feminist theory and the practice of, opened up new ways of understanding religion in public life and feminist theory in the context of Islam. Our inaugural speaker, Samera Esmeir, delivered the lecture to a packed room of conference goers and MLS academics.



*Professor Sundhya Pahuja introduces Associate Professor Samera Esmeir at the inaugural Saba Mahmood Memorial Lecture - 21 August 2019*



## Research Seminars

### **12 February 2019: Patriarchy in International Human Rights Law**

Dr Cassandra Mudgway (Auckland University of Technology)

**Convenor: Professor Hilary Charlesworth (MLS)**

Cassandra Mudgway presented a paper on her latest research which investigates the efforts of signatories to the Convention on the Elimination of Discrimination against Women (CEDAW) to dismantle patriarchal structures in government and the private sphere. More than 30 MLS academics and students attended the inaugural IILAH research seminar for 2019.

### **28 February 2019: Laying Down the Law: Americans as Makers of Legal Worlds in Occupied Nazi Germany and Imperial Japan**

Professor Rande Kostal (Western University, Canada)

This talk explored how at the close of WWII American agencies in occupied Nazi Germany and Imperial Japan designed and implemented the two greatest law reform projects in the history of the world. Rande W. Kostal is a Professor of Law and History at Western University in London, Canada.

### **5 April 2019: Human Rights in a Shrinking Civic Space**

Professor Antoine Buyse (Utrecht University)

**Convenor: Professor Hilary Charlesworth (MLS)**

In this presentation, Professor Antoine Buyse presented his analysis on the plethora of new laws and policies being instituted around the world that target the operations human rights NGOs that criticise populist law-making. Not only did Antoine's research chart the decline of protections for NGOs, but presented evidence that these States were learning from each other and acting in concert to suppress humanitarian activities within their respective jurisdictions. Antoine was an IILAH visitor between 4 March and 30 April, 2019.



*Professor Antoine Buyse, Melbourne Law School - 5 April 2019*

### **24 April 2019: Indigenous Legal Orders: Objects and Narratives**

Assistant Professor Jeffery Hewitt (York University)

During a visit to Australia, Assistant Professor Jeffery Hewitt was invited to speak on his research about reengagement in reconciling relationships between Indigenous Peoples and settler states through the examination of treaty-making and settler state legal narratives in the Canadian context. Jeffery drew on imagery used in Indigenous Canadian legal custom to show how Indigenous lore can be recognised and indeed upheld in future treaty-making. Jeffery was an IILAH visitor from 17 - 28 April, 2019.

### **30 April 2019: Native Dignity**

Dr Shane Chalmers (McKenzie Fellow)

Shane's work-in-progress paper examined the concept of "native dignity" in the context of colonial nineteenth-century Australia. Drawing on the painting *Native Dignity* (1860) by S.T Gill and

other materials, Shane presented his argument on the concept's adoption and reversal by Indigenous Australia to counter British colonial assertions on what constitutes native dignity. A short workshopping Q + A followed the presentation, which was attended by MLS and other Melbourne-based researchers, including members of the general public. This work was later published in the Griffith Law Review, released in April 2020.

### 5 May 2019: Beyond Normal Trade Law?

Professor Robert Wai (York University)

Co-hosted by the Global Economic Law Network and IILAH, Professor Robert Wai (Osgoode Hall Law School, York University) was invited to speak at MLS on his research into the breakdown of the WTO's authority over international trade regulation. Robert Wai's presentation was attended by members of the University's academic staff and the general public. Robert was an IILAH visitor between 29 April - 7 May, 2019.



*Assistant Professor Jeffery Hewitt answers questions at a post-presentation Q&A - 24 April 2019*

### **9 May 2019: Colonial Labour Market Governance Redux?**

#### **Making Productive Workers, Then and Now**

Professor Kerry Rittich (University of Toronto)

At the invitation of the Director, Professor Kerry Rittich spoke at a public seminar on her latest research. Kerry's work in progress paper explores the way in which labour organisation in the Global South has diverged from their colonial labour governance roots: how can these old labour frameworks regulate or even conceptualise today's novel forms of work? Kerry Rittich was an IILAH visitor between 29 April - 10 May, 2019.

### **23 May 2019: Advancing Marginalized Actors and**

#### **Regulatory Quality in Transnational Governance**

Professor Stepan Wood (University of British Columbia)

Professor Stepan Wood was invited to present a seminar to MLS academics and researchers. Stepan touched on his work investigating transnational business governance interactions (TBGIs) and how they can be harnessed to improve the quality of transnational regulation. This research later formed part of an edited book by Stepan Wood and others, released in 2019. This event was co-hosted by CREEL and IILAH.

### **10 July 2019: Disaster Relief and the Sovereignty of Knowledge**

Assistant Professor Saptarishi Bandopadhyay (York University)

In July, Assistant Professor Saptarishi Bandopadhyay visited MLS as a host of the Institute. During his stay, Saptarishi presented his latest research to a small group of IILAH and MLS academics. Saptarishi's work studies the relationship between national assertions of sovereignty during disaster relief operations and in this presentation, Saptarishi argued that the politics of disaster relief and the lessons of Global Warming discourse oblige us to understand 'sovereignty,' a core tenet of international law, as a show of technoscientific (epistemic) prowess. Saptarishi was an IILAH visitor between 7 - 18 July, 2019.



*Assistant Professor Saptarishi Bandopadhyay is introduced by Dr James Parker - 10 July 2019*

### **16 July 2019: What are International Courts Made of? The Law and Politics of 'Recognised Competence in International Law' and How to Control the Bench**

**Dr Mando Rachovista (University of Groningen)**

At the invitation of Associate Professor Margaret Young, Dr Mando Rachovista delivered a presentation based on her latest research of the fragmentation of bodies and courts operating in the realm of international law. Specifically, the presentation explored the meaning and (formal or informal) evolution of the statutory requirement 'recognised competence in international law' in judicial and State practice across a multitude of courts and (quasi)adjudicative bodies. Mando Rachovista was an IILAH between 8 - 28 July, 2019.



## 11 September 2019: Regimes of Difference: Culture and Order in World Politics

Professor Christian Reus-Smit (University of Queensland)

In this seminar, Christian Reus-Smit discussed the new perspective detailed in the first two volumes of his unfolding trilogy on cultural diversity and international order. He explored how the major theories of international relations have consistently misunderstood the nature and effects of culture, returning time and again to a conception long abandoned in specialist fields: the idea of cultures as coherent, bounded, and constitutive. Drawing on theoretical insights from anthropology, cultural studies, and sociology, and informed by new histories of diverse historical orders, he presented a new theoretical account of the relationship between cultural diversity and international order, illustrated with historical and contemporary cases. The seminar was followed by a small cocktail event to provide audience members with an informal Q&A.



*Dr Christoph Sperfeldt  
pre-seminar chat - 10  
October 2019*

### **20 September 2019: Danse Macabre: Temporalities of Law in the Visual Arts**

Professor Desmond Manderson (ANU), Professor Ian McLean (UoM),  
Dr James Parker (MLS) and Ms Laura Petersen (MLS)

Scholars from IILAH and the University of Melbourne arranged a special book review panel seminar to celebrate and discuss the release of Professor Desmond Manderson's latest work *Danse Macabre: Temporalities of Law in the Visual Arts* (Cambridge University Press, 2019). Our guest reviewers included Professor Ian McLean (Hugh Ramsey Chair of Australian Art History, University of Melbourne), Dr James Parker (Senior Lecturer, Melbourne Law School) and Ms Laura Petersen (Ph.D candidate, Melbourne Law School). After the panel reviews of the book, the author was invited to respond, followed by a Q&A with audience members. The panel seminar was co-organised by Dr Shane Chalmers (McKenzie Postdoctoral Fellow) and IILAH, MLS. It formed part of a series of events which took place on Friday 20 September 2019.

### **10 October 2019: Genocide Recognition at the Khmer Rouge Trials in Cambodia**

Dr Christoph Sperfeldt (MLS) and Dr Rachel Killean (Queen's University, Belfast)

In light of recent developments at the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the much anticipated second judgement delivered against former senior leaders of the Khmer Rouge Regime, Nuon Chea and Khieu Samphan, Drs Sperfeldt and Killean took the opportunity to discuss their ongoing post-doctoral research into the subject. Talking to members of the Peter McMullin Centre on Statelessness, IILAH and the general public, the presenters discussed the implications of this judgement for genocide recognition and social repair and minorities' cultural heritage in Cambodia drawing from their research with the Cham and ethnic Vietnamese communities. This event was co-hosted by the Peter McMullin Centre on Statelessness at Melbourne Law School.

### **26 November 2019: Researching the 'International' in International Tax**

Celine Braumann (University of Vienna)

Celine Braumann, (PhD candidate, University of Vienna) on the invitation of Professors Miranda Stewart and Sundhya Pahuja, presented her latest research based on her Ph.D project, to members of the Tax Group and IILAH at MLS. The research looked at custom and general principles governing international taxation from the perspective of a public international lawyer. The seminar primarily focused on the complex, mixed-method inductive approach and the



theoretical underpinnings required to discern custom and general principles of international taxation. This seminar was co-hosted by the Tax Group at MLS.



*Seminar attendees at Dr Helen Hughes' seminar - 28 November 2019*

**28 November 2019: Forgery in Eighteenth-Century Britain And Colonial Australian Art: A Case Study of Francis Greenway's Prison Scenes**  
Dr Helen Hughes (Monash University)

In this presentation Helen Hughes, using two scenes of Bristol's Newgate Prison painted by the convicted forger cum Colonial Architect Francis Greenway, examined the way in which changes to sentencing for forgery crimes in eighteenth-century Britain delivered a range of artists to the new penal colonies in Australia, and how early colonial Australian visual culture was shaped by Britain's criminal sentencing regime.

**29 November 2019: Trends in Aboriginal water ownership in New South Wales, Australia:  
The continuities between colonial and neoliberal forms of dispossession**

Dr Lana Hartwig (Griffith University)

In this seminar, Lana Hartwig presented key findings from her latest research on the access that Aboriginal organisations have to statutory water use entitlements in the NSW portion of the Murray-Darling Basin (MDB). Drawing from years of water management evidence, Lana's research indicated that a new wave of dispossession of Aboriginal-held water entitlements was taking place. This research has important implications for state and federal policy and law reform processes currently underway in NSW, Victoria and at the federal level.

**17 December 2019: Assassination, Necropolitics and Afropessimism: Reading the  
Legacy of Thomas Sankara As Revolutionary Contingency in International Law**

Associate Professor Vidya Kumar (University of Leicester)

**Convenor: Dr Adil Hasan Khan (MLS)**

In this seminar we were joined by Associate Professor Vidya Kumar (University of Leicester) who used the opportunity to present her latest work-in-progress research on an examination of the assassination of Thomas Sankara, revolutionary leader of Burkina Faso, and the effect of his death on Burkinabé, African and decolonial emancipatory imaginaries. Presenting to members of MLS and the general public, Vidya critiqued the historical disciplinary narrative accounts of "assassinations" in international law through an excavation of the obscured contingencies produced by particular assassinations upon revolutionary emancipatory projects, imaginaries and futures. Feedback and discussions followed the presentation. Vidya Kumar was an IILAH visitor between 15 October 2019 and 9 January 2020.

## Unique Events

### 20 September 2019: The Politics of Art

Professor Desmond Manderson (ANU), Professor Hilary Charlesworth (MLS) and Julie Gough (Artist, Writer and Curator), Chair: Paul Barclay (ABC Radio National)

In this special panel seminar, Mr Paul Barclay (ABC Radio National) interviewed three of Australia's leading public intellectuals: Prof Desmond Manderson, the author of a new book on the importance of art to how we think about law and justice; Prof Hilary Charlesworth, a world-renowned international jurist and Hague Lecturer on the art of international law; and Dr Julie Gough, one of the most important artists working in Australia today on the topic of how art shapes our politics and how imagery is used by politicians to frame political debates.



*Paul Barclay, Julie Gough, Desmond Manderson and Hilary Charlesworth at the recording of 'The Politics of Art' - 20 September 2019*

The panel seminar was recorded to a packed house at the Melbourne Law School on Friday 20 September. The recording was released to the general public on Wednesday 13 Nov 2019 and can be accessed on the ABC Big Ideas website here: <https://www.abc.net.au/radionational/programs/bigideas/art,-law-and-politics/11670728>. The panel seminar was co-organised by Dr Shane Chalmers (McKenzie Postdoctoral Fellow) and IILAH, MLS. It formed part of a series of events which took place on Friday 20 September 2019.

### **13 December 2019: W. Wesley Pue Memorial Panel**

Emeritus Professor Wilfrid Prest (University of Adelaide), Associate Professor Mehera San Roque (UNSW) and Ms Louise Falconer (Women's Health West)

This special Memorial Service and Panel discussion was dedicated to the late Professor W. Wesley "Wes" Pue (1954 - 2019), foundation Nemetz Professor of Legal History at the University of British Columbia (UBC) who died in Vancouver at the age of 64. In what was a very touching and emotional event, both panellists and audience members shared their stories of Wes in both the personal and professional contexts. Panellists' presentations were followed by select readings from audience members. The Panel was held as part of the Australia and New Zealand Law and History Society's (ANZLHS) annual conference.

### **Book Launches**

#### **23 August 2019: Towards a Theatrical Jurisprudence: Space, Materiality and the Normative**

Associate Professor Marett Leiboff (University of Wollongong), Professor Shaun McVeigh (MLS), Laura Petersen (MLS), Sean Mulcahy (Warwick University) and Dr Adil Hasan Khan (MLS)

As part of the Southern Jurists Conference in August 2019, Marett Leiboff was invited to launch her new work *Towards a Theatrical Jurisprudence: Space, Materiality and the Normative* (Routledge, 2019). The Book Launch was arranged in a roundtable format featuring book review presentations from local and international scholars.





*Tim Lindgren (MLS) and Professor Mark McMillan (RMIT) , 12th Annual Melbourne Doctoral Forum, Melbourne Law School - 9 December 2019*

## Doctoral Forum

### 9 - 10 December 2019: 12th Annual Melbourne Doctoral Forum on Legal Theory

Organisers and Convenors: Johanna Commins (PhD Candidate), Tim Lindgren (PhD Candidate), Nina Araneta-Alana (PhD Candidate) and Andre Dao (PhD Candidate)

The Melbourne Doctoral Forum on Legal Theory (MDFLT) is an annual interdisciplinary workshop hosted by graduate researchers at Melbourne Law School. The Forum brings together research students and early career researchers from a range of academic disciplines to engage with social, political, theoretical, and methodological issues raised by law and legal theory.

This year's theme was Law on a Tightrope. The organisers invited scholars to think critically and jurisprudentially about the tensions, stasis, and ruptures that characterise our time. To illustrate the Forum, the organisers chose a painting called Tightrope Walking by the indigenous artist Trevor Nickolls, as it neatly encapsulated the Forum's themes.

A total of 53 abstracts were received in response to the call for papers. From these submissions, 22 were invited to present at the forum, with two of those invited provided with travel and accommodation support. A total of 14 Australian and international institutions were represented at the forum.

Keynote presenters and discussants included Professor Mark McMillan (RMIT), Associate Professor Ann Genovese and Associate Professor Shaun McVeigh (Melbourne Law School) Professor Ian McLean (Faculty of Arts). Discussants included Annie Blatchford, Dr Kathleen Birrell, Robi Rado, Claerwen O'Hara and Danish Sheikh all from the Melbourne Law School, and Likim Ng (ANU).

The event was supported by the Melbourne Law School, IILAH and the Graduate Research Association (GRA).



*Participants at the 'Taking up a training in conducting lawful encounters' conference - 22 August 2019*

## Conferences

### 21- 23 August 2019: Taking up a training in conducting lawful encounters

Organiser and Convenor: Dr Adil Hasan Khan (MLS)

This conference sought to attend to the rich tradition of diplomatic conduct concerned with the encounter of laws, both in, and of, the South, and to draw from these descriptions of this tradition, a training for conducting such diplomacy today. Such training included drawing out different rules of diplomatic comportment, an attentiveness to how laws travel and get carried, particular ceremonies and protocols enabling intercultural meeting, the public work entailed in treaty-making, an acknowledgment, or a lack thereof, of the plurality of laws, the specific offices/duties of the juris-diplomat in illuminating and caring for legal relations, and the significance of ritual performance as a mode of training for, and creating, sites of lawful encounter.

Running over three days, presenters and attendees participated in a rich array of discussions, workshops and lectures held on the 21-23 August 2019. The conference included a visit to the Bunjilaka Aboriginal Cultural Centre at the Melbourne Museum and a conference dinner at Shakahari in Carlton.

The conference was attended by more than 30 noted international scholars from 13 institutions. Among them were Moin Ahmad Nizami, Hassanal Bolkiah Fellow (University of Oxford); Seema Alavi, Professor (Delhi University); Hilary Charlesworth (Melbourne Law School); Samera Esmeir (University of California); Christopher Gevers (University of KwaZulu-Natal); Dorota Gozdecka (University of Helsinki); Farhat Hasan (Delhi University); Siddharth Mallavarapu (Shiv Nader University); Dianne Otto (Melbourne Law School); Gerry Simpson (LSE) and many more.

The conference raised particularly valuable conversations, especially during a time that has been otherwise characterised by a loss of civility, diplomacy and an amnesia for traditions on how to meet others well.



# VISITING SCHOLARS

## **Assistant Professor Jeffrey Hewitt**

University of Windsor, Faculty of Law

## **Professor Antoine Buyse**

Utrecht University, Director of the Netherlands Institute of Human Rights

## **Associate Professor Robert Sze-Kwok Wai**

York University, Osgoode Hall Law School

## **Professor Kerry Rittich**

University of Toronto, School of Public Policy and Governance

## **Senior Lecturer Jason Taliadoros**

Deakin University, Faculty of Law

## **Associate Professor Stacey Douglas**

Carleton University, Department of Law and Legal Studies

## **Assistant Professor Saptarishi Bandopadhyay**

York University, Osgoode Hall Law School

## **Assistant Professor Mando Rachovista**

University of Groningen, School of Law

## **Raphael Schäfer**

Research Fellow, Max Planck Institute

## **Associate Professor Sara Ramshaw**

University of Victoria, Faculty of Law

**Professor Payandeh Mehrdad**

Bucerius Law School

**Professor Gerry Simpson**

London School of Economics, Department of Law

**Professor Matthew Craven**

SOAS, School of Law

**Daniel Ricardo Quiroga-Villamarin**

Graduate Institute of International and Development Studies

**Adrian Howe**

Independent writer and scholar

**Associate Professor Judith Grbich**

Griffith University; Editor-in-Chief of the Australian Feminist Law Journal

**Associate Professor Vidya Kumar**

University of Leicester, School of Law

