

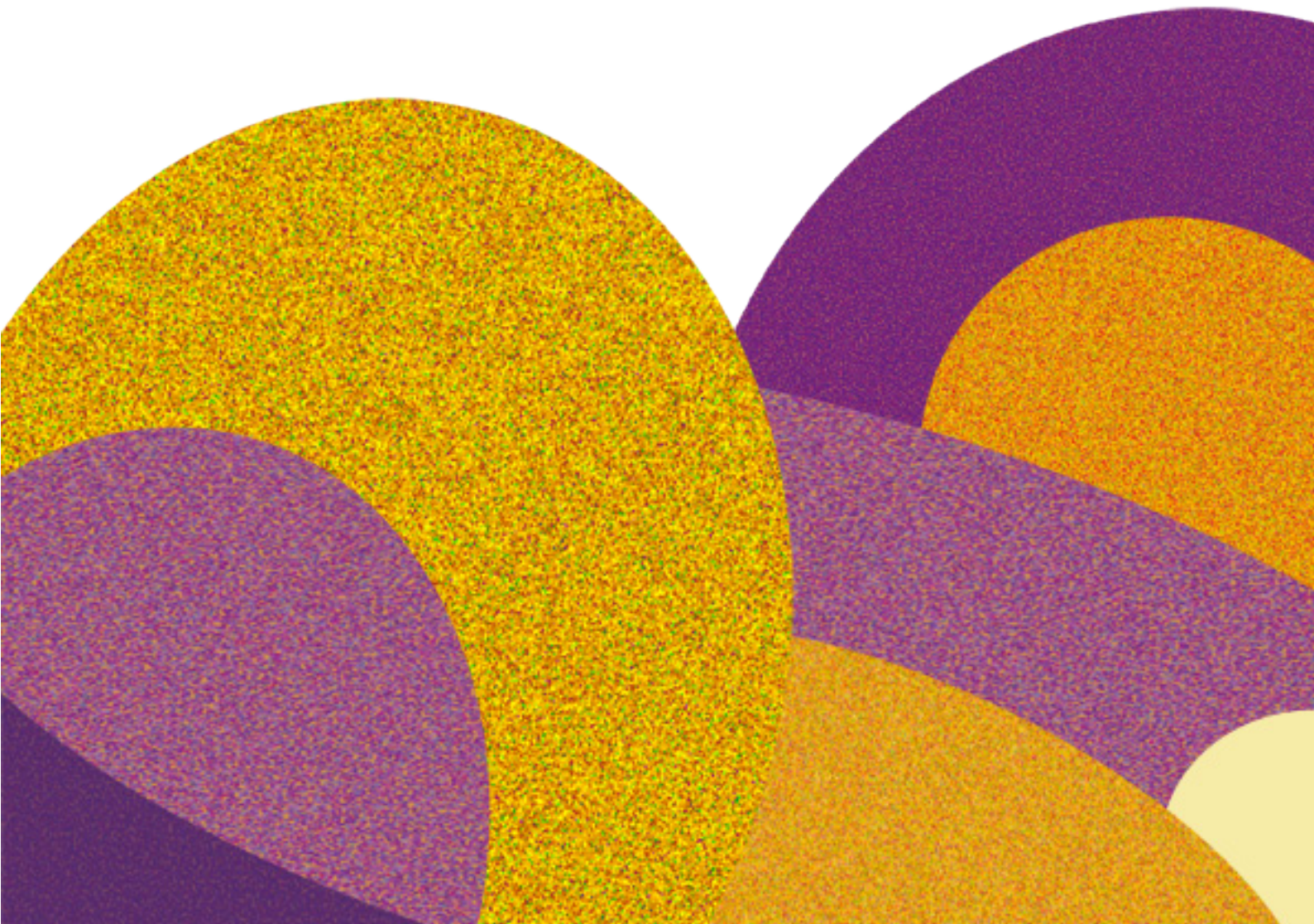


Institute for International Law
and the Humanities

MELBOURNE LAW SCHOOL

ANNUAL REPORT

2010



AUTHORISED BY IILAH Director

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Overview of IILAH

IILAH is dedicated to integrating the study of international law with contemporary approaches to the humanities. It facilitates and promotes innovative scholarship and critical thinking on emerging questions of international law, governance and justice, and strengthens the role of Melbourne Law School as a leading centre of research in this area.

Aims and objectives

IILAH supports interdisciplinary scholarship on emerging questions of international law, governance and justice. 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, through fostering dialogue with scholars working in disciplines such as anthropology, cultural studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH focuses on encouraging the work of early career 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 in international law and the humanities from Canada, Colombia, Egypt, Finland, France, Germany, India, New Zealand, South Africa, Sweden, the United Kingdom and the United States. IILAH is currently focusing on developing links with scholars in the global South, in order to explore the shared legal legacies of colonialism and empire.

Activities

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures, workshops and reading groups; supervises and supports the work of graduate research students, and undertakes and facilitates collaborative and interdisciplinary research projects both within the University of Melbourne and internationally. In doing so, it contributes to ongoing debates about the theoretical foundation and practical effect of international law in today's political climate.

IILAH Research Programmes

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

Australian Legal Histories

Programme Director: Dr Ann Genovese

Comparative Tribal Constitutionalism

Programme Director: Dr Kirsty Gover

Fragmentation and Regime Interaction in International Law

Programme Director: Dr Margaret Young

Global Trade

Programme Directors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon

Histories of International Law and Empire

Programme Director: Professor Anne Orford

International Criminal Justice

Programme Director: Associate Professor Peter Rush

International Environmental Law

Programme Director: Associate Professor Jacqueline Peel

International Human Rights Law

Programme Director: Professor Dianne Otto

International Investment Law

Programme Director: Associate Professor Jürgen Kurtz

International Refugee Law

Programme Director: Associate Professor Michelle Foster

Jurisprudences of the South

Programme Director: Associate Professor Shaun McVeigh

Law and Development

Programme Director: Associate Professor Sundhya Pahuja

Directors and Staff

Director



Professor Anne Orford

Director of IILAH

Programme Director

Histories of International Law and Empire

Anne Orford is the holder of the Michael D Kirby Chair of International Law and Director of the Institute for International Law and the Humanities at Melbourne Law School. She researches in the fields of international law, international legal theory, and histories of international law and empire. Her publications include *International Authority and the Responsibility to Protect* (CUP, 2011), the edited collection *International Law and its Others* (CUP, 2006), and *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (CUP, 2003). Anne was awarded a research-only Australian Professorial Fellowship by the Australian Research Council to undertake a project on *Cosmopolitanism and the Future of International Law* from 2007 to 2011. Anne has been the Torgny Segerstedts Visiting Professor at the University of Gothenburg (2011-12), Visiting Professor at Lund University (2011, 2007, 2005), a faculty member of the IGLP Workshop on Global Law and Economic Policy held at Harvard Law School (2011), a senior Emile Noël Research Fellow at New York University (2003), and has lectured in the Cornell Law and Humanities Colloquium (2008), the NYU Institute for International Law and Justice Colloquium (2005), the Helsinki Summer Seminar on International Law (2004) and the Academy of European Law at the European University Institute (1998). She is a researcher in the project on Justice and International Law in a Global World at the University of Paris 1. She currently supervises eight doctoral students working in the areas of international law, international legal history, international economic law, international law and development, histories of intellectual property, human rights and legal theory, and has supervised numerous doctoral students to completion. With Professor Dino Kritsiotis (Nottingham) and Professor Joseph Weiler (NYU), she will convene the Annual Junior Faculty Forum in International Law from 2012.

Programme Directors



Dr Ann Genovese

Programme Director

Australian Legal Histories

As an interdisciplinary legal scholar (Ann's PhD is in History) her research focuses on the history and theory of the relationship between Australian law, the State and political culture in the twentieth century. Her major projects have focused on: History, law and indigenous peoples; History of feminist legal activism and Histories of

the administrative state. Her representative publications include *Rights and Redemption: Law, History, Indigenous Peoples* (UNSW Press, 2008), (with Ann Curthoys and Alexander Reilly); *Sovereignties: Frontiers of Possibility* (UHP, forthcoming 2011), co-authored with Julie Evans, Patrick Wolfe, and Alex Reilly, and for *Feminist Review*, an edited collection of papers on the status of Australian feminism under neoliberalism, 'Mainstreamed or Muzzled' Issue 95 (2010). She has two ongoing research projects. One, the result of an ARC funded fellowship, is *Present Tense: The Recent Disruptive History of Feminism and Family Law*, which seeks to explore the tension in our own time between the dominance of legal form and the waning possibilities of minority political critique. The other is an 'in progress' collaborative project with anthropologists, historians, and public lawyers on the role and limits of the Court as Archive. Ann teaches Administrative Law, and the interdisciplinary subject Indigenous People, History and the Law. She also works with the Indigenous Studies and Gender Studies scholars at the University of Melbourne, in cross-disciplinary supervision and teaching.



Associate Professor Michelle Foster

Programme Director

International Refugee Law

Michelle Foster joined the Melbourne Law School as a Senior Lecturer in 2005. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. Michelle developed an expertise in international refugee law while completing an LLM and SJD at the University of Michigan, where she was a Michigan Grotius Fellow. Michelle has published widely in the field of international refugee law, and her work has been cited extensively in the international refugee law literature and also in judicial decisions in the United Kingdom, Australia and New Zealand. Her most important contribution to date has been her book, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (Cambridge University Press, 2007). Michelle has conducted training workshops for the New Zealand Refugee Status Appeals Authority and the Australian Refugee Review Tribunal, and has been involved in consultation with the Department of Immigration and Citizenship concerning new directions for refugee law and policy in Australia. Michelle is an Advisory Board Member of the *Melbourne Journal of International Law*, an Associate Member of the International Association of Refugee Law Judges and the National Co-ordinator (with Justice Tony North) of the Australian sub-site of the Michigan-Melbourne Refugee caselaw Site (<http://www.refugeecaselaw.org/default.asp>).

Michelle's current research project is an ARC funded project (with Professor James Hathaway) entitled, *The Law of Refugee Status: A Theoretical and Comparative Analysis* (2010-2012).



Dr Kirsty Gover

Programme Director

Comparative Tribal Constitutionalism

Kirsty Gover joined Melbourne Law School in 2009. Her research and publications address the law, policy and political theory of indigenous land claims and self-governance. She has a particular interest in tribal constitutionalism. Her most recent work examines the ways in which recognized tribes govern membership, by reference to the criteria used in tribal constitutions. Kirsty received her B.A./LL.B. from the University of Canterbury, New Zealand, and her LL.M. from Columbia University, United States. She was a Columbia University School of Law Human Rights Fellow

and James Kent Scholar, and was the first full-time Institute Fellow at NYU Law School's Institute for International Law and Justice (IILJ). She received her doctorate from NYU Law School, where she was a Graduate Institute Scholar of the IILJ, and a New Zealand Top Achiever Doctoral Fellow. Kirsty was a Senior Advisor and then consultant to the New Zealand government on international and domestic policy on indigenous peoples, and taught in this field at the Canterbury Law School. She represented the New Zealand government at intergovernmental drafting sessions of the U.N. Declaration on the Rights of Indigenous Peoples.

Her book *Tribal Constitutionalism: States, Tribes and the Governance of Membership* was published by Oxford University Press in 2010. Other work addresses the friction between tribal and settler state laws on the status of adopted children, and the participation of indigenous communities in international trade and investment dispute resolution fora. Her recent article *Genealogy as Continuity: Explaining the Growing Tribal Preference for Descent Rules* in the *American Indian Law Review* looks at changes in the way United States tribes have determined membership since the 1930s, with an emphasis on the increased tribal use of blood quantum rules.



Associate Professor Jürgen Kurtz

Programme Director

International Investment Law

Jürgen researches and teaches in the various strands of international economic law including the jurisprudence of the World Trade Organization and that of investor-state arbitral tribunals. He has a particular research interest in the impact of treaty-based disciplines on regulatory autonomy and development strategies. Jürgen's work has been published in a range of leading international law journals and has been cited by international tribunals in adjudication. Jürgen has held research fellowships at the Jean Monnet Center for International and Regional Economic Law Justice at New York University Law School (as an Emile Noel Fellow), at the University of Michigan Law School (as Grotius Fellow) and the Academy of International Law in The Hague. He is also the inaugural convenor of the General Course on International Investment Law of the Academy of International Trade and Investment Law based in Macau and organized by the Institute of European Studies. This Institute aims to provide education and training at the highest international standard on the law of international trade and investment, the WTO, and select regional integration regimes such as the NAFTA, the EU, MERCOSUR and ASEAN.

In 2010, Jürgen joined the Global Faculties of the Master of Laws in a European and Global Context at the Universidade Catolica in Portugal, the Centre for Transnational Legal Studies in London, Bocconi University in Milan and was appointed Fernand Braudel Senior Fellow at the European University in Florence. Aside from research and teaching, Jürgen acts as a consultant to a variety of governmental and inter-governmental agencies, including the United Nations Conference on Trade and Development, the United Nations Development Program and the World Bank.



Associate Professor Shaun McVeigh

Programme Director

Jurisprudences of the South

Shaun McVeigh joined the law school at Melbourne University in 2007. He previously researched and taught at Griffith University in Queensland as well as Keele and Middlesex Universities in the United Kingdom. He has a long

time association with critical legal studies in Australia and the UK. More recently he has been involved in convening a symposium “Of the South” that develops an account of lawful existence within the South. Shaun 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 inheritance of Australia and Britain.



Associate Professor Andrew Mitchell

Programme Director

Global Trade

Dr Mitchell joined Melbourne Law School as a Senior Lecturer in 2006, having been a Senior Fellow since 2004. His major area of interest is international economic law, in particular the law of the World Trade Organization (WTO). He graduated from the University of Melbourne with First Class Honours in both his Bachelor of Laws and Bachelor of Commerce degrees. He subsequently obtained a Graduate Diploma in International Law from the University of Melbourne, a Master of Laws from Harvard Law School and a PhD from the University of Cambridge. His dissertation was published in 2008 by Cambridge University Press as *Legal Principles in WTO Disputes*. Dr Mitchell was previously a solicitor with Allens Arthur Robinson in Australia and worked briefly at Davis Polk & Wardwell in New York. He has also worked in the Trade Directorate of the Organisation for Economic Co-operation and Development (OECD), the Intellectual Property Division of the WTO, and the Legal Department of the International Monetary Fund (IMF).

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



Professor Dianne Otto

Programme Director

International Human Rights Law

Dianne Otto is Professor of Law and Director of the International Human Rights Law Program of the Institute for International Law and the Humanities at the Melbourne Law School. Dianne was the Inaugural Convenor of the University’s interdisciplinary Human Rights Forum in 2006. Her research interests include peace and security issues,

the UN Security Council, international economic and social rights, the exclusionary effects of legal representations of marginalized groups, gender issues in human rights and development, international human rights NGOs, and domestic implementation of international legal obligations. Dianne has been active in a number of human rights NGOs including Amnesty International, Women's Rights Action Network Australia, Women's Economic Equality Project (Canada) and International Women's Rights Action Watch Asia Pacific (IWRAW-AP), and the Human Rights Law Resource Centre (Melbourne).



Associate Professor Sundhya Pahuja

Programme Director

Law and Development

Sundhya's scholarship explores the changing role of law and legal institutions in the context of globalisation. Her research crosses traditional disciplinary boundaries and challenges distinctions between public and private behaviours and the categories of economic and non-economic in new ways. The various national and trans-national regulatory practices (including law) through which governance is effected, especially in the context of the relationship between North and South, are a particular concern. To this end, Sundhya's work engages with public international law, international economic law and a range of critical and philosophical approaches to law and legal theory, including postcolonial, post-structuralist and feminist theories.



Associate Professor Jacqueline Peel

Programme Director

International Environmental Law

Jacqueline Peel is an Associate Professor at the Melbourne Law School. She holds the degrees of Bachelor of Science and Bachelor of Laws (Hon I) from the University of Queensland, a Master of Laws from New York University where she was a Fulbright scholar, and a PhD from the University of Melbourne. In 2003-2004, Jacqueline returned to NYU Law School as a Hauser Research Scholar and Emile Noel Fellow. Prior to her appointment at Melbourne, Jacqueline completed an internship at the United Nations International Law Commission, working with Professor James Crawford on the ILC's State responsibility articles. From 1997 to 1999 she practised environmental and planning law at the national law firm of Allens Arthur Robinson.

Jacqueline's established research interests are in the areas of environmental law (domestic and international), risk regulation and the role of science, and international trade law. She has published numerous articles on these topics in a number of prominent academic and international journals. Together with Lee Godden, she is the author of a major work on Australian environmental law, *Environmental Law: Scientific, Policy and Regulatory Dimensions* (OUP, 2010). Her book *Science and Risk Regulation in International Law*, based on her doctoral thesis, was published by Cambridge University Press in 2010. It examines the use (and abuse) of science in legal risk assessment processes, such as those undertaken by the dispute settlement bodies of the WTO in cases under the Sanitary and Phytosanitary Agreement. Jacqueline's expertise and scholarship in the field of law/science is also evident in her well-regarded book on the implementation of the precautionary principle (Federation Press, 2005).

In the last few years Jacqueline has expanded her research to focus on the emerging field of climate change law. She has published articles on climate law and climate litigation in leading Australian journals and will contribute several chapters to a new book – *Australian Climate Law in a Global Context* – to be published by Cambridge University Press. Together with Lee Godden and Rod Keenan, Jacqueline holds an ARC Discovery grant to examine the regulatory framework for responding to climate change in Australia. She also secured a US Studies Centre grant in 2009 to undertake a comparative analysis of Californian and Australian climate change law. These projects augment Jacqueline's existing publications and teaching in the fields of environmental and climate change law.



Associate Professor Peter Rush
Programme Director
International Criminal Justice

Peter Rush is an Associate Professor and Director of the International Criminal Justice programme at the Institute for International Law and the Humanities. He has been a youth worker, an artist, a filmmaker and a scholar. He has taught in law faculties and criminology departments in Australia and in England. In 2004-2005, he was the Karl Lowenstein Fellow in Political Science and Jurisprudence at Amherst College. He is the author of several books on criminal law and edited collections on jurisprudence, and on law and aesthetics. 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*. He has been invited to present papers and lectures at institutions in the United Kingdom, United States and Canada, such as Birkbeck College, Carleton University, and New York University. 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. His areas of expertise include international criminal law, legal theory and jurisdiction, the histories and doctrine of criminal law, sexual assault law and its reform, legal aesthetics, and legal formations of trauma.



Associate Professor Tania Voon
Programme Director
Global Trade

Tania Voon is a former Legal Officer of the WTO Appellate Body Secretariat and a graduate of Cambridge University (PhD in Law), Harvard Law School (LLM), and the University of Melbourne (LLB, BSc, Grad Dip Intl L). She has previously practised law with Mallesons Stephen Jaques and the Australian Government Solicitor, and she has taught law in Australia, Canada and the United States (most recently at Georgetown Law). She has published widely in the areas of public international law, preferential trade agreements, WTO dispute settlement, WTO trade remedies, trade-related aspects of intellectual property rights (TRIPS), and trade in services. Tania is the author of *Cultural Products and the World Trade Organization* (CUP, 2007), a member of the Editorial Boards of the *Journal of International Economic Law* and the *Indian Journal of International Economic Law*, and a member of the Indicative List of Governmental and Non-Governmental Panelists for resolving WTO disputes.



Dr Margaret Young

Programme Director

Fragmentation and Regime Interaction in International Law

Margaret Young joined Melbourne Law School as Senior Lecturer in 2009. She was previously the William Charnley Research Fellow in Public International Law at Pembroke College and the Lauterpacht Centre for International Law, University of Cambridge. She has worked at the World Trade Organisation (Appellate Body Secretariat) and the United Nations International Law Commission, is a former associate to the Chief Justice of the Federal Court of Australia, and has practiced as a solicitor at a major Australian national law firm. She is the author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (Cambridge University Press, forthcoming 2011), and the edited collection *Regime Interaction in International Law: Facing Fragmentation* (forthcoming late 2011). This collection includes contributions from leading international, comparative and constitutional law scholars, and is based on the conference she convened at the University of Cambridge in 2009 on Regime Interaction in International Law: Theoretical and Practical Challenges. Dr Young holds a PhD and an LLM from the University of Cambridge and a BA/LLB (Hons) from The University of Melbourne and has been a Visiting Scholar at Columbia Law School. Her graduate studies were supported by a number of awards, including the Gates Scholarship, the Commonwealth Scholarship and a scholarship from the Modern Law Review.

Staff



Ms Vesna Stefanovski

Administrator

Vesna Stefanovski joined IILAH in 2007 as the institute's administrator. Vesna holds a Bachelor of Arts with majors in marketing and media and a Certificate in Public Relations. She is currently undertaking a Graduate Certificate for University Management at The University of Melbourne. In her previous position Vesna worked in marketing and communications in the transport industry and has extensive practical experience in organising major public and staff events, implementing communication strategies, managing community and media relations. She has a reputation for being enthusiastic, providing energy and spark to the team and doing an excellent job in building a positive corporate culture. As the IILAH administrator Vesna manages the organisation of a range of conferences, public lectures, workshops and reading groups, as well as designing publications and flyers for the institute. She also, in consultation with the director and all IILAH programme directors, manages the content of the IILAH web page.

IILAH Members



Associate Professor Alison Duxbury

Alison Duxbury's main areas of research are international institutional law, human rights law and international humanitarian law. She is currently undertaking research on the role of human rights and democracy in determining states' participation in international organisations. In 2007-2008 Alison was Convenor of the University's Human Rights Forum. Alison is a member of the Australian Red Cross International Humanitarian Law Committee (Victorian Division), the Asia Pacific Centre for Military Law, and the International Advisory Commission of the Commonwealth Human Rights Initiative based in Delhi. She is currently convenor of the University's Human Rights Forum.



Professor Lee Godden

Professor Lee Godden holds a research and teaching position within the Melbourne Law School. As well as her involvement with IILAH, she is the Director of the Centre for Resources, Energy and Environmental Law (CREEL). Accordingly much of her scholarship occurs in areas at the intersection of law and the humanities related to environmental law, indigenous rights and natural resource management. An exploration of the relationship between law and history in the context of native title law formed a theoretical foundation for much early research. A similar interdisciplinary focus has informed other aspects of her scholarship in property theory and environmental regulation and governance. A further theme pursued in her work is the inter-relations between law, violence and bodily disciplining. Her work extends with engagement in public interest issues such as the impact of climate change on environmental law and water law and economic development for indigenous communities.



Dr Kevin Jon Heller

Kevin Jon Heller is currently a Senior Lecturer at Melbourne Law School, where he teaches international criminal law and criminal law. He holds a JD with distinction from Stanford Law School, an MA with honours in literature from Duke University, and an MA and BA, both with honours, in sociology from the New School for Social Research. He received his PhD in law from Leiden University in June 2011.

Kevin's academic writing has appeared in a variety of journals, including the *European Journal of International Law*, the *American Journal of International Law*, the *Journal of International Criminal Justice*, the *Harvard International Law Journal*, the *Michigan Law Review*, the *Leiden Journal of International Law*, the *Journal of Criminal Law & Criminology*, *Criminal Law Forum*, and the *Georgetown International Environmental Law Review*. His other published material includes *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford University Press, 2011) and an edited book (with Markus Dubber) *The Handbook of Comparative Criminal Law* (Stanford University Press, 2011). Kevin is a member of the international-law blog *Opinio Juris*.

On the practical side, Kevin has been involved in the International Criminal Court's negotiations over the crime of aggression, served as Human Rights Watch's external legal advisor on the trial of Saddam Hussein (whose lawyers cited his academic work in their appeals), and consulted with a number of defendants at the ICTY and ICTR. He served from December 2008 until February 2011 as one of Radovan Karadzic's formally-appointed legal associates.



Dr Wendy Larcombe

Wendy Larcombe joined the Law Faculty as a Senior Lecturer in 2006. Her doctoral research in the Law and Literature field was published by the Federation Press in 2005 as *Compelling Engagements: Feminism, Rape Law and Romance Fiction*. Her current research continues to explore issues of gender and sexuality in law and culture, with a particular interest in the construction of subjectivity in legal responses to violence against women and the constitution of reproductive and sexual health rights.

Wendy taught literature and cultural studies at the University of Melbourne for a number of years before coming to the Law School. She has also worked for the Women's Legal Resource Group and Equity and Diversity Programs at the University of Melbourne. She teaches Violence, Women and the Law and Reproductive and Sexual Health Rights in the LLB; Legal Method and Reason and Legal Theory in the JD. She is a member of the Community Consultative Committee of the Medical Practitioners Board of Victoria and of the Recognition Review Group for Cosmetic Medical Practice (Australian Medical Council).



Associate Professor Bruce Oswald CSC

Ossie's research interests are in the areas of international humanitarian law, peace operations law, international peace and security law, military law, and international criminal law. Ossie teaches a range of post-graduate subjects in the Law School. Some of the subjects he teaches are Principles of International Law, International Dispute Settlement Law, International Humanitarian Law, International Peace and Security Law, Institutions in International Law and UN Law and Practice. Ossie continues to serve in the Australian Army as a legal officer and has seen active service overseas as a member of

the Australian Defence Force. For his service as the Legal Officer for the Australian Contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross (CSC).



Professor Gerry Simpson

Gerry Simpson holds the Kenneth Bailey Chair of Law at Melbourne Law School, The University of Melbourne. In addition to his involvement with IILAH, he is Director of the Asia Pacific Centre for Military Law, and Convenor of The Global Justice Studio. He is a Visiting Professor of Public International Law at the London School of Economics, where he held a Chair until 2009, and is currently an AFP/Open Society Fellow (based in Tbilisi, Georgia). He is the author of *Great Powers and Outlaw States* (Cambridge, 2004) (awarded the American Society of International Law's annual prize for Pre-eminent Contribution to

Creative Legal Scholarship in 2005 and translated into several languages) and is co-editor (with Tim McCormack) of *The Law of War Crimes: National and International Approaches* and editor of *War Crimes Law Volumes I and II* (Ashgate, 2005). His latest book is *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity 2007). He has a forthcoming book *Outside International Law* (Cameron, 2011). In 2008, he was appointed Director of Studies for The Hague Academy and in 2009 he gave the Global Leaders Lecture at the University of Santa Clara.



Associate Professor Joo-Cheong Tham

Joo-Cheong Tham's research focuses on the regulation of non-standard work, anti-terrorism laws and political finance law. His research has been published in print and online media and written more than 30 opinion pieces. He has also given evidence to parliamentary inquiries into terrorism laws and political finance law. In 2007-2008, he was a British Academy Visiting Fellow at King's College, University of London and undertook a comparative study of control orders in Australia and the United Kingdom in relation to the protection of human rights. Joo-Cheong has published *Money and Politics: The Democracy We Can't Afford* (UNSW Press, 2010). He is currently editing two books, both forthcoming 2011: one to be published by Routledge is devoted to international perspectives on political finance while the other, which has the working title, *Electoral Regulation and Prospects for Australian Democracy*, will be published by Melbourne University Press. Together with Associate Professor Graeme Orr, University of Queensland and Professor Brian Costar, he is leading an Australian Research Council project, *Dollars and Democracy: The Dynamics of Australian Political Finance and its Regulation* (2010-2013).



Associate Professor John Tobin

John Tobin has a combined commerce/law degree with honours from the University of Melbourne and an LLM with distinction from the University of London specialising in human rights law. John has been a Visiting Professor at the American Academy of Human Rights and Humanitarian Law, Washington College of Law, American University and in 2006 was a Visiting Professor at the Centre for Human Rights and Global Justice, in the Law School at New York University. John has published numerous reports and articles on human rights and provided human rights training and advice as a consultant and on a pro bono basis on numerous occasions to organisations such as UNICEF, the Victorian Law Reform Commissions, the Equal Opportunity Commission, the Human Rights Law Resource Centre, NGOs, statutory bodies, Government Departments and community groups. He is a Director of Childwise, a leading NGO which campaigns against the sexual exploitation of children in the Asia Pacific, an Advisory Board member of the Melbourne Journal of International Law, an Advisory Committee member and occasional chair of the Human Rights Legal Resource Centre and a member of the Steering Committee for the Human Rights Forum, an interdisciplinary committee at the University of Melbourne.



Dr Amanda Whiting

Amanda Whiting joined the Melbourne Law School in 2004. She has taught in the LLB courses Land, Race and Law in Southeast Asia, Law and Society in Southeast Asia, Law and Civil Society in Asia, History and Philosophy of Law, Property and Principles of Public Law; and in the Graduate subjects Islamic Law and Politics in Asia and Citizens, Groups and States in Asia. Her research is in the area of human rights institutions and practices in the Asia-Pacific Region, gender and religion, and Malaysian legal history. She is Associate Director (Malaysia) of the Asian Law Centre. Amanda completed her honours degree in Arts at the University of Melbourne in 1981 and then taught seventeenth and eighteenth century history at the University's History Department over the next decade. She also has a Diploma of Education (1988) and a Graduate Diploma of Indonesian (1995) which was partly undertaken at Universitas Kristen Satya Wacana, Indonesia. She completed her LL.B. with First Class Honours in 2001. In 2007 she completed her doctorate - a feminist analysis of mid-seventeenth century English legal and political history.

Research Higher Degree Students

Completed in 2010



Lia Kent

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

Supervisors: Dianne Otto, Jennifer Balint and Julie Evans

Overview: This thesis aimed to reflect critically on the adequacy of transitional justice models for dealing with the complex and long-term needs of societies emerging from periods of conflict.

Bio: Lia holds a BA and M Pub Int Law (University of Melbourne) and a MSW (Latrobe). Her fields of interest include postconflict reconstruction, transitional justice and reconciliation. Lia has worked in the field of human rights and development for over ten years, in Australia and East Timor, including for non-government and intergovernmental organisations such as Oxfam and the United Nations. Lia is currently in the second year of her PhD which considers the transitional justice processes undertaken in East Timor during the period of United Nations Administration, and, in particular, the differing expectations of transitional justice held by international, national and local actors.



Daniel Muriu

Thesis title: *Recognition, Redistribution and Resistance: Assessing the Usefulness of the Right to Health in Africa*

Supervisors: Anne Orford and Jennifer Beard

Overview: Daniel's thesis examined the usefulness of human rights as a strategy for realising or ensuring better health in Africa. The thesis argued that, in light of the challenges posed to health by international economic actors and the problematic nature of the state in Africa, an adequate account of the utility of the right to health must go beyond legal doctrine and processes. Such an account must engage critically with such issues as power and structural constraints at both international and local levels in order bring out more clearly the possibilities and limits of the right to health.

Bio: Daniel completed his LLB with Honours at the University of Nairobi, Kenya in 1992 and his LLM with distinction at the University of Witwatersrand, Johannesburg in 2002. Prior to commencing his doctoral studies at Melbourne, Daniel was a partner at Hamilton Harrison and Mathews, which is the oldest and largest law firm in Kenya. His specialisations in legal practice have been in corporate, commercial, banking and intellectual property law amongst others. Since 1997, he has also worked on a pro bono basis for human rights organisations providing legal aid to women and children in Kenya and was a founder member and trustee of the Child Rights, Advocacy and Documentation Legal Centre (CRADLE) which is the foremost children rights organisation in Kenya.

2010 Doctoral Students



Olivia Barr

Thesis title: *Jurisprudence of Movement*

Supervisors: Peter Rush, Shaun McVeigh and Maureen Tehan

Overview: How does common law move? Unnoticed, but through jurisdiction. Noticing, this thesis carefully engages with two archives, one historical and one contemporary. The historical is a burial party that walked in colonial New South Wales. The contemporary is the struggle to bury the dead in Antarctica. Accounting for the technical and material forms of common law practice, the thesis creates a minor jurisprudence of movement. In doing so, it challenges the jurist to move well; to attend to the responsibilities of office.

Bio: Olivia Barr graduated from the University of Western Australia with a Bachelor of Laws (Dist) and a Bachelor of Arts (Anthropology) before graduating from the University of British Columbia with a Master of Laws. Olivia has worked in law reform, as a government solicitor and for the United Nations Permanent Forum on Indigenous Issues. Her doctoral thesis contemplates the role of jurisdiction in locating and placing the common law through the utilisation of critical approaches to jurisdiction and critical legal geography.



Meg Brodie

Thesis title: *Agents of Change: What power do national human rights institutions have to affect the process of transformative social change?*

Supervisors: Dianne Otto, John Chesterman and Brian Burdekin (external)

Overview: Meg's PhD investigates national inquiries conducted by the National Human Rights Commissions of Mongolia and India. Her fieldwork was supported by an Endeavour Research Fellowship.

Bio: Meg Brodie completed a BA(Hons)/LLB(Hons) at the University of Melbourne. A lawyer, Meg has worked in both the corporate and not-for-profit sectors and currently sits on the Board of the Oaktree Foundation. In 2009 Meg will take up a Teaching Fellowship at the Law School.



Takele Soboka Bulto

Thesis title: *The Imperatives of Extraterritorial Application of the Human Right to Water: A Case Study of the Nile Basin*

Supervisors: Carolyn Evans and Jacqueline Peel

Overview: Takele's PhD thesis analyses the operationalisation of the emerging human right to water in Africa. Given that every single African state has at least one water source to share with another state, the realisation of the human right to water in Africa is primarily dependent upon resources that cross international borders of states that rely on the same resource to fulfil the human right to water in their respective territories. Many states lack the necessary water resources from within their territories, and found themselves under resource constraints that would severely hamper their ability to 'respect', 'protect', 'promote' and 'fulfil' the human rights of their inhabitants. Taking the Nile Basin as a case study, Takele's thesis seeks to explore riparian states' extraterritorial legal obligations in the fulfilment of a human right to water of the populations living beyond their own borders.

Bio: Takele Soboka Bulto, (Ethiopia) holds LLB and MA degrees from Addis Ababa University, Ethiopia, and an LLM

degree from University of Pretoria, South Africa. Takele worked as a judge and lecturer in Ethiopia and a visiting lecturer at the Centre for Human Rights, Faculty of Law, University of Pretoria. He also worked as Programme Coordinator for Child Rights and Child Rights Programming in Eastern and Central African Regional Office of Save the Children Sweden. Just before taking up his PhD studies at Melbourne Law School Takele was a Legal Officer in a PanAfrican Pioneer NGO, Institute for Human Rights and Development in Africa, where he practiced before the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child. He represented victims on human rights violations from Zimbabwe, Ethiopia, Kenya and Angola and defended their cases before the two African regional human rights bodies. Takele has published his work in American, South African and Ethiopian Journals.



Sara Dehm

Thesis title: *'Humanising' the Border: Migrant Labour, Development and the Promise of Legality*

Supervisors: Sundhya Pahuja and Anne Orford

Overview: Sara's PhD research employs post-structuralist approaches to law to examine discourses of migration management, migration and development, citizenship and mobility, security and employment within international and regional institutions. Through an exploration of Australia's Seasonal Pacific Worker Pilot Scheme, her thesis attends to the ways in which the promise of formal migrant labour schemes to the international 'development' project has come to be narrated and implemented in the post-WWII period.

Bio: Sara Dehm holds Bachelors of Arts and Law and a Diploma of Modern Languages (Arabic Studies) from the University of Melbourne. She also works as a research and administrative assistant for the Social Justice Initiative at the University of Melbourne.



Maria Elander

Thesis title: *In The Name of the Victim: The Figure and Figuration of the Victim in International Criminal Justice*

Supervisors: Peter Rush and Dianne Otto

Overview: Maria's PhD research examines the figure and the figuration of the victim in a critical reading of the discourse on international criminal justice. In particular, the thesis asks what victim is figured in international criminal law, how the victim can speak in and through international criminal law, and how to understand the figurations of the victim that now exist in the field. To examine these questions, the research looks at the developments at the International Criminal Court (ICC) and the Extraordinary Chambers in the Courts of Cambodia (ECCC).

Bio: Maria Elander holds a BA in Arabic and a BSS in Political Science from Uppsala University, and a MA in Human Rights Law from the School of Oriental and African Studies, University of London. Before commencing her PhD candidature, she worked as a research assistant at the American University of Cairo.



Luis Eslava

Thesis title: *Spatial Dimensions of Law and Development: Transforming sovereignty, state and citizenship*

Supervisors: Anne Orford and Shaun McVeigh

Overview: Luis' PhD project investigates the implications of the decentralization of development in Colombia since the reform of the Colombian Constitution in 1991. It specifically asks what have been the effects of the move from national to local development

on the juridico-political concepts of sovereignty, state and citizenship. It suggests that these reforms altered the geographical space in which development was usually conceived and performed as part of an international trend that portrays States as overgrown and unmanageable spaces. The effect was the creation of multiple sub-national territorial units, which overtook the nation-state and its citizens as the preferred sites of development interventions. To evaluate this development shift, the research adopts a case-based approach focusing on Bogotá, the capital city of Colombia.

Bio: Luis completed his undergraduate law degree at Universidad Externado de Colombia and a Master of Law and Development at the Melbourne Law School. Luis is interested in issues of global governance, from the perspective of critical Third World subjects. In the last few years, he has published various articles in Colombian and international journals, including 'Decentralization of Development and Nation-Building Today: Reconstructing Colombia from the Margins of Bogotá' in *The Law and Development Review*, 'Corporate Social Responsibility & Development: A knot of disempowerment' in *Sortuz - Oñati Journal of Emergent Sociolegal Studies*, 'Occupation Law: (Mis)Use and Consequences in Iraq' in *Contexto* and a review of 'Developing Power: How Women Transformed International Development' for *Feminist Legal Studies*.



Carolyn Graydon

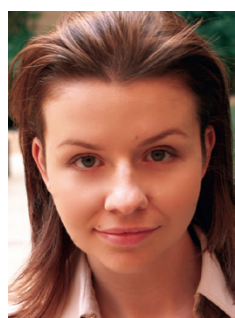
Thesis title: *Domestic Violence in Timor-Leste: Is There a Place for Indigenous Justice Systems?*

Supervisors: Tim Lindsey and Dianne Otto

Overview: Carolyn's thesis focuses on indigenous processes of developing and protecting human rights, more specifically, justice processes and their potential for long term transformation so that they are better able to deliver the justice and protection sought by

Timorese women.

Bio: Carolyn worked as an advocate in the area of refugee and immigration law for several years and then with the United Nations in Timor-Leste as a human rights officer. This experience triggered her interest in Timorese women's responses to gender violence, more particularly their use of formal and indigenous justice systems. In 2006 and 2007 she lectured at Melbourne University in the subject Law and Society in Southeast Asia.



Kasia Lach

Thesis title: *Sovereignty and the 2004 Eastern enlargement of the European Union; an inquiry into the dynamics of European legal integration Intellectual Property*

Supervisors: Anne Orford and Carolyn Evans

Overview: On 1 May 2004 ten states joined the European Union. A particular challenge was posed by the accession of eight post-communist states of Central Eastern Europe since their legal systems had had to be profoundly reformed in order for these states to become members of the European Union. One of the aspects that raised some concerns was the alleged attachment of the new Member States to sovereignty; an attachment supposedly largely absent in the old Member States and regarded as obsolete in the post-modern era of increasing interdependencies and extra-state configurations of authority.

Placed in such a context, the present inquiry brings together two phenomena: the conceptualisations and interpretations of sovereignty in the new Member States of the European Union and the process of European integration. The main research question is whether the Central Eastern European accounts of sovereignty and European integration are indeed specific to the new Member States (Poland and Hungary), or whether similar patterns have also been observable in the old Member States (Germany and France) and thus should be viewed as exemplifications of a universal development intrinsic to the process of European integration rather than as a Central Eastern European idiosyncrasy. Narrowing down the focus of the inquiry even further, the central thesis

question has been analysed from the vantage point of constitutional law; the focus of the study is on constitutional accounts of sovereignty, European legal integration and the modes of interaction between the two.



Cressida Limon

Thesis title: *Genes, Biotechnologies and Legal Imaginings: A Feminist Analysis of Intellectual Property*

Supervisors: Anne Orford and Lee Godden

Overview: Cressida's thesis is concerned with the narratives of invention and reproduction at the intersection of law and technoscience. In the thesis Cressida critically examines the theories of intellectual property to highlight the subjective and cultural basis of invention.

This examination exposes the class, gendered and colonial dimensions of the laws of invention. Her analysis focuses on debates about patenting life, assisted reproduction technologies and genetic discrimination. Critical legal theory has shown how patent law assumes a binary opposition between nature/culture; science and technology studies have shown how biotechnologies undo the binary opposition between nature/culture; feminist theory shows that we should be sceptical about these positions.

Bio: Cressida holds a BA (Biological Anthropology) from the Australian National University and an LLB (Hons) from La Trobe University. Cressida has worked in the community legal sector and has taught legal theory, legal research methods and discrimination law at Victoria University, Melbourne and bioethics at the University of California Santa Cruz. Cressida has been a member of the Editorial Board of the Australian Feminist Law Journal since 2001. Cressida's current research interests include intellectual property, feminist legal theory, science and technology studies and invention.



Eve Lester

Thesis title: *Making migration law work in Australia: paradoxes and prospects*

Supervisors: Sundhya Pahuja and Shaun McVeigh

Overview: The central question of this thesis asks which historical dynamics have shaped immigration law-making in Australia so as to circumscribe enjoyment of basic social and economic rights, and pivotally the right to work, by people who migrate as part of a survival strategy. To this end, the thesis analyses the influence of a matrix of societal dynamics, including the concept of sovereignty, race, religion and political economy and their role in shaping social and economic rights and realities for survival migrants in Australia.



Yoriko Otomo

Thesis title: *Unconditional Life: The time and technics of International Law*

Supervisors: Anne Orford and Jenny Beard

Overview: This thesis begins with two cases in which international law is called upon to determine the legality of technologies that have the power both to annihilate human life and to guarantee the economic and military security of states - the *Nuclear Weapons*

Advisory Opinion, where the International Court of Justice is called upon to decide as to the legality of the threat or use of nuclear weapons, and the *EC-Biotech dispute*, where the World Trade Organisation is called upon to determine the legality of the European Union's moratorium on genetically modified organisms. The thesis begins with the question of why international law is used to guarantee human life, and wends its way through the Late

Middle Ages and the twentieth century to uncover how it is used. At its end the thesis returns to ask whether, if international law fails to save our humanity, we might find ourselves compelled to begin to rethink international law, humanness and the relation between the two altogether.

Bio: Yoriko Otomo has worked in several government and non-government environmental organisations, and has contributed to publications relating to sustainable development, environmental law and humanitarian issues.



James Parker

Thesis title: *Listening to law: Simon Bikindi and the acoustics of justice*

Supervisors: Andrew Kenyon and Shaun McVeigh

Overview: This thesis uses the case of renowned Rwandan singer and popular figure Simon Bikindi, who stood trial before the International Criminal Tribunal for Rwanda accused of inciting genocide with his music, to explore the relationship between law and sound. More particularly, it aims to (re-)introduce the acoustic into contemporary aesthetic and critical jurisprudence.

Bio: James completed his undergraduate degree in jurisprudence at Oxford and his LLM by research at the University of McGill in Montreal. He has taught at a number of universities throughout Australia and had both his academic work and music journalism published.



Connal Parsley

Thesis title: *Image and Law in Giorgio Agamben*

Supervisors: Peter Rush and Shaun McVeigh

Overview: Connal's doctoral thesis extends his research interest in the relationship between visual culture and law, by examining the philosophical and jurisprudential dimensions of the relationship between image and law in the work of Italian philosopher Giorgio Agamben. By exposing the significance of Agamben's notion of the 'image' within his revision of political ontology, the thesis aims both to develop a new paradigm for understanding the relation between law and politics in Agamben's work, and to provide a rigorous basis for thinking the intimate tie between law and its spectral imagism.

Bio: Connal Parsley teaches critical legal theory and legal ethics at the Melbourne Law School and School of Social and Political Sciences, University of Melbourne. With undergraduate degrees in law and linguistics, his work addresses intersections between legal, aesthetic and linguistic theory, and his publications have explored their interaction in particular Australian political contexts. Examples include the stolen generations litigation, the bureaucratic treatment of asylum seekers, and distinctions between law and public art's respective structurings of the public sphere.



Walter Rech

Thesis title: *Vattel and The 'Ennemis du Genre Humain'*

Supervisors: Anne Orford and Sundhya Pahuja

Overview: Walter's thesis focuses on the Swiss international lawyer Emer de Vattel (1714-1767), traditionally regarded by commentators as the theorist of the 'guerre en forme'. Walter's aim is to complicate this interpretation by analysing the notion of an 'ennemi du genre humain'.

Bio: Walter Rech graduated in philosophy from the University of Trento (Italy), doing research in Germany at

Humboldt University and Free University of Berlin and at the University of Freiburg. He started his PhD in law at the Max Planck Institute for European Legal History in Frankfurt in 2007 with Professor Michael Stolleis, and is continuing the same at Melbourne Law School.



Mickaël Ho Foui Sang

Thesis title: *The Functions of Law in the Protection of Historical Truth*

Supervisors: Anne Orford and Olivier Cayla (Paris X)

Overview: Mickaël's thesis explores the tension between the State, collective memory and history in contemporary France and Australia. His research thesis explores the place and function of law in the process of reconciliation and the recognition of historical truth.

Bio: Mickaël Ho Foui Sang is undertaking a PhD by cotutelle at Melbourne Law School and University of Paris X (Nanterre La Défense, France). Mickaël holds a Masters degree in Theory and Analysis of the Law and a degree in European Law from the University of Paris X (Nanterre, France). His Masters theses focused on the interaction of legal systems, especially on ways to rethink French private law in the context of European integration, both from a substantial and from a procedural law point of view.



Olivera Simić

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

Supervisors: Dianne Otto and Michelle Foster

Overview: Her thesis argues that, although the zero tolerance policy should be welcomed as the first important step towards comprehensive recognition of the problem of "sexual exploitation" in the UN peacekeeping context, the policy is not only problematic because of its broad definition of "sexual exploitation", but for several other reasons as well. In her thesis she examines why and how the zero tolerance policy was tailored as well as what assumptions it makes, in particular about the people with whom it is most concerned. Her thesis aims to explain bewilderment about the zero tolerance policy's broadly defined term of "sexual exploitation". Search for the identification of the fine line between coerced sex and different layers of consensual sex lies at the heart of her research project.

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



Deborah Whitehall

Thesis title: *Hannah Arendt, Beginnings and Female Subjectivity in International Law*

Supervisors: Anne Orford and Ann Genovese

Overview: Hannah Arendt answers the question of exile, helplessness and rightlessness by asserting that human beings are capable of beginnings. Her conception of natality expresses the beginning that is physical birth as well as the figurative arrival of a Self or Selves into the world of politics. This project investigates how natality works as a conceptual node for re-

figuring the gendered dichotomies that code women's subjectivity in international law. In doing so, it suggests that natality is useful for initiating new legal imaginaries that contemplate human rights and freedom not as goals that rules can secure but as processes that law support and which are permanently under construction. The thesis explores Hannah Arendt's account of natality to illuminate new ways of responding to the problem of female subjectivity in international law as conceived by feminist scholars working in the discipline. Consideration is given to the international community's response to HIV/AIDS, international anti-trafficking laws and the political and international legal activism of Argentina's mourning mothers to develop a contextualised account of natality that can be helpful for extending feminist approaches within international legal theory.

Bio: Deborah has previously worked as a solicitor in private practice and government, most recently on the implementation of the Victorian Charter of Human Rights and Responsibilities. She has degrees in law and literature from the University of Queensland and the University of Oxford.

Events and Visitors

16 March 2010: PhD Completion Seminar, *Unconditional Life: The Time and Technics of International Law*

Presenter: Ms Yoriko Otomo



Ms Yoriko Otomo (PhD Candidate, IILAH)

Called upon to regulate changing economics of risk, international law today faces new challenges in its quest to determine 'human security', resulting in a fantasy of unconditional life. Thinking about this fantasy in terms of time and/as technics, Yoriko Otomo's thesis examines how despite, or perhaps because of its failures to determine such security, international law maintains its claim to be a universal experience of modern time. This thesis demonstrates the ongoing relevance of international law to rethinking the futures of secular society.

24 March 2010: IILAH Seminar, *Developing Countries in WTO Dispute Settlement*

Presenter: Mr Frieder Roessler (Executive Director of the Advisory Centre on WTO Law (ACWL))

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)

Mr Roessler presented an insight into the operation of the WTO dispute settlement system and how developing countries could benefit from it.

Frieder Roessler is the Executive Director of the ACWL, a Geneva based international organisation providing legal advice on WTO law, support in WTO dispute settlement proceedings and training in WTO law to developing countries, and a former Director of Legal Affairs of the GATT and the WTO.

*Mr Frieder Roessler,
Executive Director of the Advisory Centre on WTO Law
(ACWL)*



24 March 2010: IILAH Seminar, *Making Women's Rights a Reality in Australia: Engaging the procedures of the Convention on the Elimination of All Forms of Discrimination against Women*

Presenters: Ms Caroline Lambert (YWCA Australia), Ms Simone Cusack (PILCH) and Professor Dianne Otto (Melbourne Law School)

(Convenor: Professor Dianne Otto)



Left to right: Professor Dianne Otto (IILAH),
Ms Caroline Lambert (YWCA Australia),
Ms Simone Cusack (PILCH)

In 2009, a coalition of Australian women's organisations submitted an NGO report to the UN Committee on the Elimination of Discrimination against Women critically analysing the adequacy of steps taken by the Australian Government to implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As well, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP) entered into force for Australia, empowering women in Australia to make individual complaints about violations of their rights protected by CEDAW.

The panelists reflected on these developments and, in particular, on whether or not human rights are an effective tool to advance women's rights in Australia. They discussed the Australian Government's obligations under CEDAW; the benefit of the submission of NGO reports for monitoring the Government's compliance with CEDAW; the potential of the Optional Protocol for ensuring substantive equality in Australia, and its effective use in other countries, and working with the limitations of using an anti-discrimination framework to improve women's position in society.

26 March 2010: IILAH and IPRIA Seminar, *TRIPS at 15: A New Centre of Gravity? Reflections on the Evolution of the TRIPS Agreement*

Presenter: Mr Tony Taubman (World Trade Organization)

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)



Left to right: Associate Professor Tania Voon (IILAH), Mr Tony Taubman (WTO) and Associate Professor Andrew Mitchell (IILAH)



Seminar attendees.

15 years into its life, TRIPS still provokes uncertainty about its proper place within the system of international law, and unease about its impact on domestic law and policy. For its critics, TRIPS was the first 'trade and...' agreement: it seemingly yoked 'non-trade' concerns and 'behind the border' domestic regulatory issues together with the regime of multilateral trade law; it was about creating barriers to trade, not removing them; and human rights lawyers saw it as countering a host of human rights norms. The debate over TRIPS as a 'trade and...' legal instrument has given way to a more widespread debate about 'TRIPS and....' human rights, food security, biodiversity, health and more recently climate change. While TRIPS ostensibly called for an approach to IP protection as leading to 'social and economic welfare', and enshrines a 'balance' between rights and obligations, it was seen as a constraint on good public policy rather than a contribution to it, and raised anxiety that it would give wealthy economies a means of extracting rent from developing countries, against the threat of punitive 'sanctions'. This seminar reviewed the expectations of TRIPS at its negotiation and inception, against two contemporary challenges: the challenge of coherence, or the 'TRIPS and...' debate, and the challenge of legitimacy: or, how to give effect to the public policy 'should' enshrined in the objective that TRIPS sets for IP protection.

Mr Tony Taubman is Director, Intellectual Property Division, World Trade Organization, with responsibility for intellectual property, competition and government procurement issues. From 2002 to 2009, he was Director, Global Intellectual Property Issues Division, including the Traditional Knowledge Division and Life Sciences Program of the World Intellectual Property Organization. Tony left the Australian Department of Foreign Affairs and Trade (DFAT) in 2001 to join the newly-formed Australian Centre for Intellectual Property in Agriculture, at the Australian National University, teaching and researching on international IP law. From 1998 to 2001, he was Director of the International Intellectual Property Section of DFAT, and in that capacity was engaged in multilateral and bilateral negotiations on intellectual property issues, domestic policy development, regional cooperation, and TRIPS dispute settlement. Tony joined DFAT in 1988 as a career diplomat, and his service included disarmament policy and participation in the negotiations on the Chemical Weapons Convention, a posting in the Australian Embassy in Tehran as Deputy Head of Mission, and a posting to the Hague as Alternate Representative to the Preparatory Commission for the Organisation for the Prohibition of Chemical Weapons and Chair of the Expert Group on Confidentiality. He practised as a patent attorney in Melbourne in the 80s and is a graduate of Melbourne University's Faculty of Arts (Philosophy and Greek).

20 May 2010: Book Launch of Rebecca J. Cook and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives*

(Convenor: Professor Dianne Otto)



The book was launched by Professor Hilary Charlesworth (Australia National University) at the Melbourne Law School. Drawing on domestic and international law, as well as on judgments given by courts and human rights treaty bodies, *Gender Stereotyping* offers innovative perspectives on ways gender stereotypes might be eliminated through the transnational legal process in order to ensure women's equality and the full exercise of their human rights.

Left to right: Ms Simone Cusack (PILCH), Professor Hilary Charlesworth (ANU) and Professor Dianne Otto (IILAH)

25 May 2010: IILAH and APCML Seminar, *Chivalry Without a Horse: The Impact of Military Honour on the Modern Law of Armed Conflict*

Presenter: Mr Rain Liivoja (University of Helsinki)

(Convenor: Professor Anne Orford)

In this seminar, Rain Liivoja argued that according to popular belief, the law of armed conflict is a precarious balancing act between military necessity and considerations of humanity. But this does not appear to be the whole picture. The historical development of the law suggests that an element of honour is missing from the equation. Contemporary sentiments among the military profession, as expressed, for instance, in military manuals on the law of armed conflict, point in the same direction. This seminar considered the imprint that military honour in its medieval guise - usually called chivalry - has left on the modern law of armed conflict. Rain argued that some rules of warfare that are on the books today cannot be rationalised without reference to chivalry, and that the modern law occasionally refers to military honour as a separate normative system.

Rain Liivoja is a Research Fellow at the Centre of Excellence in Global Governance Research, University of Helsinki, and a Visiting Lecturer at the Estonian National Defence College. He has published on the law of treaties and international criminal law, and currently focuses his research on the exercise of criminal jurisdiction over members of the armed forces. He is a Board Member the Estonian and Finnish associations for international law (the Martens Society and the Ius Gentium Association, respectively) and an Editor of the Finnish Yearbook of International Law. Rain holds a B.A. in Law from the University of Tartu and an LL.M. and an LL.Lic. in Public International Law from the University of Helsinki.

29 June 2010: IILAH and CCCS Twilight Seminar, *The Future of Human Rights Litigation in US Courts*

Presenter: Professor Ingrid Wuerth (Vanderbilt University Law School)

(Convenor: Professor Anne Orford)



Left to right: Professor Dianne Otto (IILAH) and Professor Ingrid Wuerth (Vanderbilt Law)

Ingrid Wuerth argued that the Alien Tort Statute has become an important but also very controversial vehicle for the redress of international human rights violations in U.S. courts. As the cases have increased in number, value and complexity, they have generated significant legal questions about the liability of corporations under international law, the standard for accomplice liability, and sovereign immunity, among others. This paper provided a “state of play” look at important legal issues under the Alien Tort Statute, including an evaluation of the U.S. Supreme Court’s 1 June 2010 decision in *Samantar v Yousuf* and its likely impact on future cases. Professor Wuerth argued that the Alien Tort Statute is best understood to extend liability to corporations, based on both congressional intent

and the unsettled state of international law, that a knowledge rather than purpose standard should be applied to aiding and abetting claims, in part because international law has frequently delegated the mens rea issue to domestic law or to development by courts. Finally, prescriptive jurisdiction limitations should apply in ATS cases, and limit the types of claims that can go forward.

Ingrid Wuerth is a Professor of Law and Director of the International Legal Studies program at Vanderbilt University Law School. She joined the Vanderbilt faculty in 2007, after teaching at the University of Cincinnati College of Law. Her courses include International Law, International Human Rights, and Foreign Relations Law. Professor Wuerth was selected as a Chancellor's Fellow of the Alexander von Humboldt Association during 1997-1998 and returned to Berlin, Germany in the summer of the 2006 and the fall of 2007 as a Humboldt Scholar and as the Fulbright Senior Scholar. Professor Wuerth is the co-chair of the International Law in Domestic Courts Interest Group of the American Society of International Law, and is also on the American Society of International Law Programming Committee for the 2011 Annual Meeting. Professor Wuerth has written on both international law in domestic courts and on U.S. foreign relations law, including articles published in the *Northwestern*, *Michigan*, *Chicago*, *Boston College*, *Notre Dame*, and *Harvard International Law Journals*. She is also the co-author of a forthcoming casebook on comparative constitutional law.

8-9 July 2010: IILAH and Global Justice Studio Workshop, *The South of International Law*

Convenors: Mr Luis Eslava (University of Melbourne), Associate Professor Shaun McVeigh (University of Melbourne), Mr Kevin Murray (RMIT University School of Art), Associate Professor Sundhya Pahuja (University of Melbourne), Professor Gerry Simpson (University of Melbourne)



Workshop attendees.



Left to right: Peter Odhiambo (Law, Griffith) and Associate Professor Shaun McVeigh (IILAH)



Left to right: Dr Fleur Johns (Law, Sydney) and Sharmin Jahan Tania (Macquarie Law)



Left to right: Dr Nesam McMillan (Melbourne) and Ms Yoriko Otomo (PhD Candidate, IILAH)

This workshop invited scholars to speak of the many ways the South is patterned by indigenous, national, international and other laws - some providing parallel accounts of law(s) of the South, others that intersect and conflict. The aim of the workshop was to develop the repertoires of thinking through the laws that position the South in the domains of international laws. Critics of contemporary international legal orders have pointed out that the grid of international law has locked in a particular vision and distribution of political and economic relations that perpetuates the history of the colonization of the South. It is from here that many of the North-South and South-South debates gain their legal focus. In these accounts the South emerges as a domain in constant need of recuperation of and by the laws, politics, economies and cultures of the North. At the same time South-South relations have emerged in resistance and relations to the dynamics of North-South relations. However, if this rendering of accounts of imperial and post-colonial law is let a while, there are other patterns of law that can be understood to shape the South.

26 July 2010: IILAH Twilight Seminar, *Looking into the Void: A Dialogue on Cinematic Representations of Lawless Spaces*

Presenters: Professor Shulamit Almog (University of Haifa) and Professor Ruth Buchanan (Osgoode Hall Law School)

(Convenor: Professor Anne Orford)



Left to right: Professor Shulamit Almog (University of Haifa) and Professor Ruth Buchanan (Osgoode Hall Law School)



Left to right: Mr Connal Parsley (PhD Candidate, IILAH) and Mr Luis Eslava (PhD Candidate, IILAH)

This seminar was presented as a dialogue between Shulamit Almog and Ruth Buchanan exploring two films that work with and against the genre of the Western: *Dead Man* and *Ajami*.

Shulamit Almog is a Professor of Law at the University of Haifa and director of the University's Jewish-Arab Center. She researches in the areas of law and the humanities, law and culture, law and literature, law and film, children's rights and feminist legal studies.

Ruth Buchanan is an Associate Professor at Osgoode Hall Law School. Her research interests include globalization, law and social justice, law and development, and law and film.

5 August 2010: IILAH and APCML Seminar, *Humanitarian Intervention: Noble Cause or Gendered Paradigm?*

Presenter: Ms Gina Heathcote (SOAS)

(Convenor: Professor Dianne Otto)

In this seminar, Gina Heathcote analysed international legal justifications for the use of force on humanitarian

grounds (reiterated by President Obama in his Nobel acceptance speech, 2009) and considered how the production of 'domestic state violence' under international law mimics the regulation (or failed regulation) of domestic family violence under (Western and liberal) national legal structures. The paper began by identifying how law and violence scholarship, as developed by Robert Cover, is a useful tool to understand international law and its relationship with violence. Moreover, she argued that by adding gender to the law and violence relationship the social constructed meaning of law, violence and gender is better understood. Domestic family violence then becomes the paradigm case of exposing 'the gendering of violence in the law'. Ms Heathcote concluded by using feminist approaches to domestic violence, specifically studies into the consequences of interventions into domestic family violence, as a template to re-consider and interrogate justifications for interventions into domestic state violence.

Dr Gina Heathcote lectures in Public International Law and the International Law on the Use of Force at the School of Law, SOAS, University of London. Her forthcoming book, *The Use of Force: a Feminist Analysis*, approaches international justifications for the use of force through the lens of feminist interrogations of interpersonal justifications for violence. Gina's research covers feminist approaches to international law, collective security, and the relationship between gender, violence and law.

12 August 2010: PhD Completion Seminar, *Power to Create Change: National Inquiry Experiences of National Human Rights Institutions in the Asia-Pacific*

Presenter: Ms Meg Brodie

Meg Brodie explored the power of National Human Rights Institutions to create change. She analysed national inquiries conducted by Asia-Pacific NHRIs, focusing on Mongolia with reference to Australia, India and New Zealand experiences. Through empirical research, Ms Brodie found that NHRIs exercise informal power beyond the formal powers granted to them by statute. She argued that NHRI informal power is relational and persuasive, and when reinforced by formal statutory powers, NHRIs are able to contribute to the domestic internalisation of international human rights standards.

17 August 2010: PhD Completion Seminar, *Genes, Biotechnologies and Legal Imaginings: A Feminist Analysis of Intellectual Property*

Presenter: Ms Cressida Limon

Cressida's thesis is concerned with the narratives of invention and reproduction at the intersection of law and technoscience. Ms Limon critically examined the theories of intellectual property to highlight the subjective and cultural basis of invention. This examination exposes the class, gendered and colonial dimensions of the laws of invention. Her analysis focused on debates about patenting life, assisted reproduction technologies and genetic discrimination. Critical legal theory has shown how patent law assumes a binary opposition between nature/culture; science and technology studies have shown how biotechnologies undo the binary opposition between nature/culture; feminist theory shows that we should be sceptical about these positions.

17 August 2010: PhD Completion Seminar, *Distinguishing Between Exploitative and Non-Exploitative Peacekeeping Sex: The Wrongs of 'Zero Tolerance'*

Presenter: Ms Olivera Simić

Ms Simić critically examined the way that the UN addresses the problem of sexual exploitation in peacekeeping missions. With reference to feminist perspectives and people directly affected by the policy (Bosnian women and UN peacekeepers), her thesis found that the inclusion of consensual sexual relationships and prostitution in the definition of 'sexual exploitation' is not supportable. Ms Simić argued that the policy is over-protective, relies on negative gender and imperial stereotypes, and must be revised in consultation with those affected by it.



Left to right: Associate Professor Michelle Foster (IILAH), Ms Olivera Simić (PhD Candidate, IILAH), Professor Dianne Otto (IILAH) and Associate Professor Sean Cooney (MLS)

24 August 2010: IILAH Twilight Seminar, *The Erosion of the Right to Privacy in the Fight Against Terrorism*

Presenter: Professor Martin Scheinin (European University Institute)

(Convenor: Professor Dianne Otto)

Martin Scheinin discussed his recent report to the Human Rights Council (December 2009) in which he raised a number of concerns about the protection of the right to privacy in the fight against terrorism. He argued that it is a misperception that the legitimate aim of preventing acts of terrorism would be a trump card that always prevails over privacy and other fundamental rights of the individual. Instead, some measures are, and ought to remain, prohibited because they nullify the right to privacy and therefore conflict with foundational principles of a free society. Further, the most privacy intrusive measures are not always the most effective ones from the perspective of preventing terrorism. As with other fundamental rights, privacy needs to be protected under a rigorous analytical framework that ensures that any restrictions are adequately provided for in clear and precise provisions of domestic law, and that they are effective for the purpose they are intended to serve, necessary in a democratic society and proportionate to the real advantage gained. Professor Scheinin in his final year as UN Special Rapporteur, reflected upon his experiences of working with the UN Human Rights Council since its establishment in 2006.

Martin Scheinin is the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism and Professor of Public International Law at the European University Institute in Florence.

This seminar was co-hosted by IILAH and the Human Rights Law Resource Centre.

8 October 2010: Book Launch of Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law*



(left) Associate Professor Sundhya Pahuja (IILAH)

(right) Professor Anne Orford (IILAH)





Left to right: Professor Anne Orford (IILAH), Associate Professor Sundhya Pahuja (IILAH) and Fleur Johns (Law, Sydney)



Left to right: Ms Sara Dehm (PhD Candidate, IILAH), Ms Maria Elander (PhD Candidate, IILAH) and Ms Laura Griffin (PhD Candidate, MLS)

Events: The Force of International Law was launched by Professor Anne Orford at Melbourne Law School. *Events* presents an analysis of international law, centered upon those historical and recent events in which international law has exerted, or acquired, its force. From Spanish colonization and the Peace of Westphalia, through the release of Nelson Mandela and the Rwandan genocide, and to recent international trade negotiations and the 'torture memos', each chapter in this book focuses on a specific international legal event. Short and accessible to the non-specialist reader, these chapters consider what forces are put into play when international law is invoked, as it is so frequently today, by lawyers, laypeople, or leaders. At the same time, they also reflect on what is entailed in naming these 'events' of international law and how international law grapples with their disruptive potential.

26 October 2010: IILAH Seminar, *Foucault's Critical (Yet Ambivalent) Affirmation: Three Figures of Rights*

Presenter: Dr Ben Golder (Law, University of New South Wales)

(Convenor: Associate Professor Sundhya Pahuja)

In this seminar, Ben Golder argued that Michel Foucault is not often read as a theorist of human rights. On the one hand, there is a tendency to read his works of the mid-1970s - his celebrated poststructuralist genealogies of subjectivity, of discipline, of bio-politics, and so forth - as proposing a critique of rights discourse which definitively rules out any political appeal to rights. On the other hand, there is a tendency to read his works of the late-1970s and early-1980s - his perhaps less celebrated concern with ethics and with technologies of the self - as tacitly re-introducing a liberal humanist notion of subjectivity and, with that, an embrace of orthodox rights discourse. Beginning from this curious disjunction between the critical and the liberal Foucault, this paper attempted to articulate a Foucaultian politics of human rights along the lines of a critical affirmation of human rights. Neither a full embrace nor a total rejection of human rights, the Foucaultian politics of human rights developed there elaborates (and attempts to connect) several disparate figures in his thought: rights as ungrounded and illimitable, rights as the strategic instrument-effect of political struggle, and rights as a performative mechanism of community.

Ben Golder is a Lecturer in the Faculty of Law at the University of New South Wales. He holds undergraduate law and English literature degrees from UNSW and a doctorate in legal theory from the University of London. Prior to joining the faculty, Ben taught law at the University of East London, University College London, Birkbeck College and New York University in London. Ben's research interests are in legal and social theory (particularly critical, feminist and post-structuralist approaches to law), legal philosophy, criminal law and public law (particularly critical approaches to counter-terrorist law, capital punishment and human rights). The work Ben is presenting is part of an ongoing project on Foucault and human rights.

28 October 2010: IILAH and CREEL Screening of *The End of the Line*

(Convenor: Associate Professor Sundhya Pahuja)

The film *The End of the Line* is about over-fishing of the world's oceans. The synopsis from the film's website at endoftheline.com/ states:

'Imagine an ocean without fish. Imagine your meals without seafood. Imagine the global consequences. This is the future if we do not stop, think and act. *The End Of The Line* is the world's first major documentary about the devastating effect of overfishing and examines the imminent extinction of bluefin tuna, brought on by increasing western demand for sushi; the impact on marine life resulting in huge overpopulation of jellyfish; and the profound implications of a future world with no fish that would bring certain mass starvation.'

Law academic Dr Margaret Young and Melbourne-based writer Ms Hilary McNevin led a general discussion after the screening of the film.

Hilary McNevin is author of *Guide to Fish: Choosing and Cooking Sustainable Species* (John Fairfax Publications, 2008) and regularly publishes with Broadsheet.com.au and *The Age*. Her blog, www.foodwiththought.com.au, discusses issues of consumer agency and sustainability.

Margaret Young is Senior Lecturer, Melbourne Law School and author of the forthcoming book *Trading Fish, Saving Fish: The Interaction Between Regimes in International Law* (Cambridge University Press).

4 November 2010: *Critical Legal Pluralism and the Everyday Life of Secondary School Students: Legal For Whom? Critical For What?*

Presenter: Mr Thomas McMorow (Law, McGill University, Montréal)

(Convenor: Mr James Parker)

In this seminar, Thomas McMorow drew on the artistic depictions of everyday life in secondary school offered by the 2008 French film, *Entre les Murs*, and the 2007 satirical Australian television show, *Summer Heights High* as entry points into his discussion of the "everyday law of high school". In this presentation, Thomas explained how and why he draws upon these specific cultural artefacts in order to problematise what he argued is the ordinary, legal positivist way of imagining law and its relationship to social interaction within secondary schools. Contrasting this traditional view with one oriented to a critical legal pluralist conception of law, Thomas used examples from the film and television show, as well as from studies of educational administration and youth access to justice, in order: a) to highlight the informal and implicit dimensions of legal normativity; and b) to trace some of the implications of attending to these elements in a study of the relationship between law and everyday life in secondary school.

Thomas McMorow is a doctoral student in law at McGill University, Montréal, under the supervision of Professor Roderick Macdonald. He has been a visiting research student at the Faculty of Law, University of Wollongong, working with Dr. Rick Mohr since July. Thomas' research focuses on the role of secondary school students in experiencing, interpreting, negotiating and constructing the plurality of intersecting normative orders, institutions, norms and discourses which constitute the "everyday law of high school." His work critically examines the branch of legal theory known as critical legal pluralism, by exploring two inter-related questions: 1) What does a critical legal pluralist perspective reveal about the relationship between law and the everyday life of secondary school students? and 2) What does an examination of the relationship between law and the everyday life of secondary school students illustrate about the strengths and weaknesses of critical legal pluralism as a frame of legal theoretical analysis?

11-12 November 2010: Visit from Iraqi Government Officials

(Convenors: Associate Professors Andrew Mitchell and Tania Voon)

Andrew Mitchell and Tania Voon acted as course directors for a four-week AusAid funded capacity building training

programme for Iraqi government officials on accession to the World Trade Organization (WTO). The programme was spread across Melbourne, Canberra and Sydney and involved presentations by academics, Australian government representatives and the private sector.



Iraqi delegation visiting IILAH and Melbourne Law School, with Associate Professor's Andrew Mitchell and Tania Voon

17 November 2010: IILAH Seminar, *Formal justice, community justice: initial discussion on tensions, territories and cooperation in Afghanistan*

Presenter: Ms Sonja Litz (World Bank)

(Convenor: Professor Anne Orford)

In this seminar for Melbourne Law School staff and students, Sonja Litz offered some informal reflections on her work to date in Afghanistan as a consultant with the World Bank and former Director of the AusAID Afghanistan Program.

10 December 2010: IILAH Workshop, *Responsibility Sharing or Shifting? Australia's Proposals for a regional System of Refugee Protection*

(Convenor: Associate Professor Michelle Foster)



This workshop was designed for academics to discuss the implications of Australia's proposals for a regional protection framework. It was held following the High Court's decision regarding Christmas Island, and provided an opportunity to take stock of the domestic and international law context to the government's proposals.

Left to right: Associate Professor Michelle Foster (IILAH), Associate Professor Alexander Riley (Adelaide), Ms Azadeh Dastayari (Monash) and Dr Michael Grewcock (UNSW)

13 December 2010: IILAH Public Seminar, *ACT UP/Feel Up: Remembering ACT UP's Libidinal Politics*

Presenter: Professor Kendall Thomas (Columbia Law School, New York)

(Convenor: Professor Dianne Otto)

In this seminar, Kendall Thomas explored recent critical writing on the 'emotional politics' of the AIDS Coalition to Unleash Power. Drawing on his experience as a member of ACT UP New York, he offered a critical participant-perspective on the affective dimensions of ACT UP's activism and advocacy, and reflect on the contemporary state of the 'queer' politics that is its most valuable and, increasingly, its most vulnerable legacy.

Kendall Thomas is the Nash Professor of Law at Columbia University in the City of New York. He was a founding member of the Majority Action Caucus of ACT UP New York. Professor Thomas was an inaugural recipient of the Berlin Prize Fellowship of the American Academy in Berlin, Germany and a member of the Special Committee of the American Center in Paris, France. Past chair of the Jurisprudence and Law & Humanities sections of the Association of American Law Schools. Founding member of the Majority Action Caucus of the AIDS Coalition to Unleash Power, Sex Panic! and the AIDS Prevention Action League. Former member and Vice-Chair of the Board of Directors of Gay Men's Health Crisis.

15 December 2010: IILAH Seminar, *Empirically Evaluating ICSID*

Presenter: Professor Susan Franck (Washington and Lee University School of Law) with Associate Professor Sundhya Pahuja as discussant

(Convenor: Associate Professor Andrew Mitchell)

The legitimacy of the World Bank's dispute resolution body - the International Centre for the Settlement of Investment Disputes (ICSID) - is a matter of heated debate. States question ICSID's integrity, allege that ICSID is biased, have withdrawn from the ICSID Convention and advocated creating alternative regional arbitration systems.

By focusing on amounts claimed and award outcomes, this paper offered a report of a quantitative assessment of ICSID to evaluate its purported bias. The results generally indicated that there was no reliable statistical relationship between ICSID arbitration and either amounts claimed or ultimate outcomes. Results did not generally differ when controlling for: (1) the presence of an energy dispute, (2) the presence of a Latin American respondent, or (3) the respondent's Development Status.

While the outcomes were equivalent for Latin American and non-Latin American respondents, amounts claimed against Latin American states were higher - but only in non-ICSID cases. While the perception of higher initial arbitration risk may account for claims of ICSID bias, the results provide evidence that criticisms may have been misattributed to ICSID. Rather, the results suggested, on the whole, that ICSID arbitration was not necessarily biased. Nevertheless, caution about the scope of this finding is appropriate as one analysis suggested that, for ICSID Convention awards only, awards against Low Income respondents were statistically higher than awards against High Income respondents. Qualitative commonalities in that sub-set of awards suggested that the effect might be linked to factors such as the role of counsel, the effects of recent civil war and/or the experience of African states. In light of the data, but recognising the need for replication and methods to facilitate qualitative and normative assessments of ICSID, this paper suggested there is value in implementing structural safeguards to tailor reform strategically to address potential concerns, to improve the management of international economic conflict and to minimize the backlash to the international investment system.

Professor Susan Franck is currently a Visiting Professor of Law at Vanderbilt University Law School. She is the author of various articles published in journals such as the *American Journal of International Law*, *Fordham Law Review*, *Harvard Journal of International Law*, *Minnesota Law Review*, *North Carolina Law Review*, *Virginia Journal of International Law* and *Washington University Law Review*. She has presented her research to major international organizations including the Asian Pacific Economic Cooperation (APEC), the International American Development

Bank (IADB), the International Centre for Settlement of Investment Disputes (ICSID) and the United Nations Commission on Trade and Investment (UNCTAD). Professor Franck has been elected to the International Who's Who of Commercial Arbitration and received the "New Voices" award from the American Society of International Law (ASIL) for her groundbreaking empirical analysis of investment treaty arbitration.

16 December 2010: IILAH Seminar, *Nomos, Physis and sexual difference in 17th century civil philosophies: some reflections upon law and feminist politics*

Presenter: Dr Maria Drakopoulou (Kent Law School) with Professor Anne Orford as discussant

(Convenor: Dr Ann Genovese)

Seventeenth century political thought has often been acknowledged as the repository of ethical and legal argument constitutive of the rationale for the Western liberal political order. Commentary and critique of this body of thought, feminist or otherwise, is therefore available in some abundance. In revisiting 17th century political thought however, Maria Drakopoulou did not want to merely add one more layer of such commentary. Instead, she sought to explore the possible relationship between the seventeenth century civil philosophies, the feminist canon of their interpretation, and modern feminism's project in law. More specifically, she argued that, with their emphasis on natural law, contract and consent, these philosophies allowed for novel understandings of subjectivity, truth and power to emerge. It was her contention that these understandings became indivisible from specific modes of feminist resistance and critique, and in being so, already foreclosed the manner in which our present feminist engagement with law is constituted, conducted and experienced.

Maria Drakopoulou, a Reader in Law at Kent Law School (KLS), the University of Kent, UK, became an academic after practicing for eleven years as a criminal barrister in Athens, Greece. She has held research fellowships at the European University Institute in Florence and at Griffith/Queensland Law Schools, Brisbane (2003, 2009), and



Left to right: Dr Ann Genovese (IILAH), Professor Anne Orford (IILAH), Dr Maria Drakopoulou (Kent Law School) and Associate Professor Shaun McVeigh (IILAH)

attended the University of Helsinki Law School in 2005 as academic invitee. She acts as an external reviewer for the Law Department group of the Centre for Gender Studies at the University of Umeå, Sweden, is a founding member and editorial group member of the journal *Feminist Legal Studies*, for which she has performed various roles, and

is currently the Director of Postgraduate Research at KLS. Her main areas of research interest are Feminist Theory and Jurisprudence, Legal Theory and Philosophy, Roman Law and Legal History. She is currently working on a book on the genealogy of feminist critique in law.

16-17 December 2010: Melbourne Doctoral Forum on Legal Theory, *Figuring borders, bordering figures*

(Convenors: Ms Sara Dehm and Ms Maria Elander)

The third annual Melbourne Doctoral Forum on Legal Theory was held with support from IILAH and Melbourne Law School's Postgraduate Law Student Association. The theme was 'Figuring borders, bordering figures'. Professor Kendall Thomas (Columbia Law School) and Professor Eve Darian-Smith (University of California) were keynote speakers. The workshop provided a collegial forum and supportive intellectual community for exploring interdisciplinary encounters with law.



Left to right: Professor Kendall Thomas (Columbia Law, New York) and Mr Peter Chambers (PhD Candidate, MLS)



Melbourne Doctoral Forum on Legal Theory, *Figuring borders, bordering figures* - workshop attendees.

Publications

Books

Adrian Bates, Helen Durham and **Bruce Oswald**, *Documents on the law of UN peace operations* (Oxford University Press, 2010)

Lee Godden and **Jacqueline Peel**, *Environmental law: Scientific, policy and regulatory dimensions* (Oxford University Press, 2010)

Lee Godden and **Maureen Tehan**, *Comparative perspectives on communal lands and individual ownership: Sustainable futures* (Routledge, 2010)

Kirsty Gover, *Tribal constitutionalism: States, tribes, and the governance of membership* (Oxford University Press, 2010)

Fleur Johns, Richard Joyce and **Sundhya Pahuja** (eds), *Events: The Force of International Law* (Routledge, 2010)

Jacqueline Peel, *Science and Risk Regulation in International Law* (Cambridge University Press, 2010)

Joo-Cheong Tham, *Money and politics: The democracy we can't afford* (University of New South Wales Press, 2010)

Book Chapters

Anne Van Aaken and **Jürgen Kurtz**, 'Emergency measures and international investment law: How far can States go?' in Sauvant K (ed.), *Yearbook on International Investment Law & Policy 2009-2010* (Oxford University Press, 2010), 505-537

Ann Genovese, 'A radical prequel: Historicising the concept of gendered law in Australia' in M Thornton (ed.), *Sex Discrimination in Uncertain Times* (ANU E Press, 2010), 47-73

Lee Godden, 'A modern understanding of the rights of Indigenous peoples in the 'occupation and enjoyment of land in Australia' in Shaun Berg (ed), *Coming to Terms: Aboriginal Title in South Australia* (Wakefield Press, 2010), 25-56

Lee Godden, 'Communal governance of land and resources as a sustainable institution' in Lee Godden and Maureen Tehan (eds), *Comparative Perspectives on Communal Lands and Individual Ownership: Sustainable Futures* (Routledge, 2010), 385-388

Lee Godden, 'Governing common resources: Environmental markets and property in water' in Aileen McHarg, Barry Barton, Adrian Bradbrook and Lee Godden (eds) *Property and the Law in Energy and Natural Resources* (Oxford University Press, 2010), 413-436

Lee Godden and Maureen Tehan, 'Introduction: A sustainable future for communal lands, resources and communities' in Lee Godden and Maureen Tehan (eds), *Comparative Perspectives on Communal Lands and Individual Ownership: Sustainable Futures* (Routledge, 2010), 1-22

Lee Godden and Ray Ison, 'From water supply to water governance; in Mark Davis and Miriam Lyons (eds), *More Than Luck: Ideas Australia Needs Now* (Centre for Policy Development, 2010), 177-184

Kevin Jon Heller, 'Situational gravity under the Rome Statute' in Larissa van den Herik and Carsten Stahn (eds) *Future Perspectives on International Criminal Justice* (TMC Asser Press, 2010), 227-253

Jürgen Kurtz, 'The merits and limits of comparativism: National treatment in international investment law and the WTO' in Stephen W Schill (ed), *International Investment Law and Comparative Public Law* (Oxford University Press, 2010), 243-278

Eve Lester, 'Socio-economic rights, human security and survival migrants: Whose rights? Whose security?' in Alice Edwards and Carla Ferstman (eds), *Human Security and Non-Citizens: Law, Policy and International Affairs* (Cambridge University Press, 2010), 314-356

Tim McCormack and **Bruce Oswald**, 'The maintenance of law and order in military operations' in Terry Gill and Dieter Fleck (eds) *The Handbook of the International Law of Military Operations* (Oxford University Press, 2010), 445-463

Shaun McVeigh and **Sundhya Pahuja**, 'Rival jurisdictions: the promise and loss of sovereignty' in Charles Barbour and George Pavlich (eds), *After Sovereignty: On the Question of Political Beginnings* (Routledge, 2010), 97-114

Andrew Mitchell and **Tania Voon**, 'The TRIPS Waiver as a recognition of public health concerns in the WTO' in Thomas Pogge, Matthew Rimmer & Kim Rubenstein (eds), *Incentives for Global Public Health: Patent Law and Access to Essential Medicines* (Cambridge University Press, 2010), 56-76

Anne Orford, 'The Passions of Protection: Sovereign Authority and Humanitarian War' in Didier Fassin and Mariella Pandolfi (eds), *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions* (Zone Books, 2010), 335-356

Dianne Otto, 'Institutional Partnership or Critical Seepages? The Role of Human Rights NGOs in the United Nations' in Mashood Baderin and Manisuli Ssenyonjo (eds), *International Human Rights Law: Six Decades after the UDHR and Beyond* (Ashgate, 2010), 317-335

Dianne Otto, 'The Security Council's alliance of gender legitimacy: The symbolic capital of Resolution 1325' in Hilary Charlesworth and Jean-Marc Coicaud (eds), *Fault Lines of International Legitimacy* (Cambridge University Press, 2010), 239-275

Jacqueline Peel, 'Environmental protection in the twenty-first century: The role of international law' in Regina S Axelrod, David Leonard Downie and Stacey D Van Deveer (eds), *The Global Environment: Institutions, Law and Policy* (CQ Press, 2010), 48-69

Jacqueline Peel, 'Notice of claim by an injured state' in James Crawford, Alain Pellet and Simon Olleson (eds), *The Law of International Responsibility* (Oxford University Press, 2010), 1029-1033

Peter Rush, 'Criminal law and the reformation of rape in Australia' in Clare McGlynn and Vanessa E Munro (eds), *Rethinking Rape Law: International and Comparative Perspectives* (Routledge, 2010), 237-250

Gerry Simpson, "Satires of circumstances': Some notes on war crimes trials and irony' in Larissa van den Herik and Carsten Stahn (eds), *Future Perspectives on International Criminal Justice* (TMC Asser Press, 2010), 11-23

Gerry Simpson, 'Death in Gaza' in Raimond Gaita (ed.), *Gaza: Morality, Law & Politics* (University of Western Australia Press, 2010), 31-51

Journal Articles

Olivia Barr, 'A moving theory: Remembering the office of scholar' (2010) 14 *Law Text Culture* 40-54

Adrian Bates and **Bruce Oswald**, 'Privileges and immunities of United Nations police' (2010) 14 *Journal of International Peacekeeping* 375-402

Alison Duxbury, 'The curious case of the Australian Military Court' (2010) 10 *Oxford University Commonwealth Law Journal* 155-184

Ann Genovese, 'Worlds turned upside down' (2010) 95 *Feminist Review* 69-74

Lee Godden and Mahala Gunther, 'Realising capacity: Indigenous involvement in water law and policy reform in South-Eastern Australia' (2010) 20 *The Journal of Water Law* 243-253

Lee Godden, Anne Kallies, Rodney Keenan and **Jacqueline Peel**, 'Reducing emissions from deforestation and forest degradation in developing countries (REDD): Implementation issues' (2010) 36 *Monash University Law Review* 139-172

Kirsty Gover, 'Comparative tribal constitutionalism: Membership governance in Australia, Canada, New Zealand, and the United States' (2010) 35 *Law & Social Inquiry* 689-762

David Heaton and **Andrew Mitchell**, 'The inherent jurisdiction of WTO tribunals: The select application of public international law required by the judicial function' (2010) 31 *Michigan Journal of International Law* 559-619

Kevin Jon Heller, 'Book Review: The Oxford Companion to International Criminal Justice' (2010) 104 *American Journal of International Law* 154-159

Jürgen Kurtz, 'Adjudging the exceptional at international investment law: Security, public order and financial crisis' (2010) 59 *International and Comparative Law Quarterly* 325-371

Jürgen Kurtz, 'The paradoxical treatment of the ILC articles on state responsibility in investor-state arbitration' (2010) 25 *ICSID Review: Foreign Investment Law Journal* 200-217

Jonathan Liberman and **Andrew Mitchell**, 'In search of coherence between trade and health: Inter-Institutional opportunities' (2010) 25 *Maryland Journal of International Law* 143-186

Andrew Mitchell, 'Australia's move to the plain packaging of cigarettes and its WTO compatibility' (2010) 5 *Asian Journal of WTO & International Health Law and Policy* 405-425

Andrew Mitchell, 'Too close for comfort: Lane v Morrison and its effect on Australian military justice' (2010) 21 *Public Law Review* 9-13

Andrew Mitchell, 'The TRIPS-Consistency of Australia's move towards plain cigarette packaging' (2010) 5 *Asian Journal of WTO & International Health Law and Policy* 399-419

Andrew Mitchell and Christopher Tran, 'The consistency of the EU renewable energy directive with World Trade Organization agreements: The case of biofuels' (2010) 1 *Renewable Energy Law and Policy Review* 33-44

Andrew Mitchell and **Tania Voon**, 'Open for business? China's telecommunications service market and the WTO' (2010) 13 *Journal of International Economic Law* 321-378

Andrew Mitchell and Joanne E Wallis, 'Pacific pause: The rhetoric of special & differential treatment, the reality of WTO accession' (2010) 27 *Wisconsin International Law Journal* 663-706

Anne Orford, 'International territorial administration and the management of decolonization' (2010) 59 *International and Comparative Law Quarterly* 227-249

Dianne Otto, 'Power and danger: Feminist engagement with International Law through the UN Security Council' (2010) 32 *Australian Feminist Law Journal* 97-121

Dianne Otto, 'Protecting human rights a countering terrorism: Australia's contradictory approaches to implementing its international legal obligations' (2010) 44 *Valparaiso University Law Review* 911-925

Jacqueline Peel and Michael Power, 'Climate change law: Lessons from the Californian experience' (2010) 27 *Environmental and Planning Law Journal* 169-188

Jacqueline Peel, 'Book review: Adjudicating climate change: State, national, and international approaches' (2010) 1(1) *Climate Law* 227-229

Jacqueline Peel, 'Book review: When Cooperation Fails: The International Law and Politics of Genetically Modified Organisms' (2010) 11(1) *Melbourne Journal of International Law* 175-184

John Tobin, 'Seeking to persuade: A constructive approach to human rights treaty interpretation' (2010) 23 *Harvard Human Rights Journal* 1-50

John Tobin, 'Book review: John Wall, 'Ethics in Light of Childhood'' (2010) *International Journal of Children's Rights*

Tania Voon, 'China and cultural products at the WTO' (2010) 37(3) *Legal Issues of Economic Integration* 253-259

Tania Voon, 'Eliminating trade remedies from the WTO: Lessons from regional trade agreements' (2010) 59 *International and Comparative Law Quarterly* 625-667

Amanda Whiting, 'Secularism, the Islamic State and the Malaysian legal profession' (2010) 5 *Asian Journal of Comparative Law* 1-34

Margaret A Young, 'Protecting endangered marine species: Collaboration between the food and agriculture organization and the cites regime' (2010) 11 *Melbourne Journal of International Law* 441-490

Lectures and presentations

Ann Genovese, *Present tense: Histories of the Unmaking of Modern Australia- Some Questions of Method*, paper presented at Melbourne Law School Research Seminar, 19 April 2010

Ann Genovese, *Feminist Scholarship in Australian Universities: Some Complexities*, paper presented at Australian Women's and Gender Studies Annual Conference, University of South Australia, Adelaide, 30 June - 2 July 2010

Ann Genovese, *Reading Yougarla*, paper presented at the ARC funded *Settler Self-Government and Indigenous Australia* workshop, University of Sydney, 25-27 October 2010

Ann Genovese, *Australian Feminism, Family Law and Genealogy as Politics*, paper presented at the Australian and New Zealand Law and History Society Conference, University of Melbourne, 10-12 December 2010

Andrew Mitchell, *International Trade Law Implications of the National Broadband Network*, paper presented at the American Society of International Law, International Economic Law Interest Group 2010 Biennial Meeting, Minnesota, 18-20 November 2010

Andrew Mitchell, *Tobacco or Trademarks? Australia's Plain Packaging Initiative*, paper presented at Vanderbilt Law School, Nashville, 21 October 2010

Andrew Mitchell, *The Development Aspect of Trade & Health*, paper presented at the Law and Development Institute Inaugural Conference, Sydney, 16 October 2010

Andrew Mitchell, *Trade and Non-communicable diseases*, paper presented at the Law and Non-Communicable Diseases Workshop, Melbourne, 28 July 2010

Andrew Mitchell, *China's Telecommunication Services Markets*, paper presented at the International Conference on the Political Economy of Liberalising Trade in Services, Hebrew University of Jerusalem, 14-15 June 2010

Andrew Mitchell, *The FCTC and WTO law*, paper presented at the 2010 International Conference on FCTC: Review and Prospect, Asian Center of WTO & International Health Law and Policy of National Taiwan University College of Law, Taipei, 11-12 June 2010

Andrew Mitchell, *Implications of the World Trade Organization in Combating Non-Communicable Diseases, Legislate, Regulate, Litigate?*, Sydney Law School, 10 June 2010 (with Tania Voon)

Andrew Mitchell, *Perennial WTO Disputes – What Can We Learn from Them?*, paper presented at the Tenth Annual WTO Conference, British Institute of International and Comparative Law, London, 19-20 May 2010

Andrew Mitchell, *Open for Business? China's Telecommunications Service Market and the WTO* paper presented at the CMCL Seminar, Melbourne Law School, 21 April 2010 (with Tania Voon)

Andrew Mitchell, *David's Sling: Cross-Agreement Retaliation in International Trade Disputes* paper presented at the International Law Association (British Branch) 2010 Annual Conference, Oxford, 15-16 April 2010) (with Constantinos Salonidis)

Anne Orford, *Human Rights, Private Conscience and the Role of the United Nations*, lecture presented at a symposium on 'Alternative Visions of Human Rights' to celebrate the 10th Anniversary of the LLM in Human Rights, University of Hong Kong, Faculty of Law, 13 March 2010

Anne Orford, *Law, History and the Third World*, paper presented at a workshop on 'Tiers Monde: Bilan et perspectives', University of Paris 1 (Panthéon-Sorbonne), 2-3 July 2010

Anne Orford, *The Emergence of the Responsibility to Protect*, opening paper presented at 'The International Criminal Court and the Responsibility to Protect' seminar, University of Helsinki, 3-4 December 2010

Dianne Otto, panelist on *Making Women's Rights a Reality in Australia: Engaging the procedures of the Convention on the Elimination of All Forms of Discrimination against Women* with Caroline Lambert (YWCA Australia) and Simone Cusack (PILCH), Melbourne Law School, 24 March 2010

Dianne Otto, *Optimism and Despair: A Conversation about the Future of Public International Law*, opening plenary panel with Gerry Simpson, Hilary Charlesworth, Sundhya Pahuja, and Treasa Dunworth at 18th Annual Australian and New Zealand Society of International Law Conference, ANU, 24-26 June 2010

John Tobin, *The Victorian Charter and its relevance to the work of Victorian Courts and Tribunals*, paper presented at a seminar for New Judicial Appointees, Judicial College of Victoria, February 2010, Melbourne

John Tobin, *The ACT Human Rights Act – Should it include the right to health?* paper presented at a workshop at ACT Department of Health, March 2010

John Tobin, *Advocating for Indigenous and Torres Strait Islander Children – Exploring the relevance of rights*, paper presented at a workshop, Secretariat of Aboriginal and Islander Child Care, March 2010

John Tobin, *The Education Revolution – Is there any room for rights?*, paper presented at a seminar, Victorian Curriculum and Assessment Authority, March 2010, Melbourne

John Tobin, *The Coroner's Court and the Victorian Charter of Rights: Using Principles to Inform Practice* paper presented at a Seminar at the Judicial College of Victoria, Coroner's Court Annual Retreat, April 2010

John Tobin, *The Victorian Charter and Child Protection: Using Principles to Inform Practice*, paper presented at a conference at Victoria Legal Aid Forum on Child Protection, April 2010

John Tobin, *Human Rights Advocacy: Helpful or Harmful?* paper presented at the 'Human Rights Arts and Film Festival' forum, Community Forum, May 2010

John Tobin, *Curriculum Design: What's the Rights Approach?* paper presented at the Victorian Curriculum and Assessment Authority Seminar, June 2010

John Tobin, *Justice: What is the Rights Approach?*, Sample Lecture, Melbourne Law School, September 2010, also presented at the Kwong Lee Dow Young Scholars Case Competition July 2010

John Tobin, *Educating Tertiary Students: What is the rights based approach?* paper presented at a staff seminar, Melbourne Law School, August 2010

John Tobin, *Securing the best interests for children in out of home care: The rights approach* keynote paper presented at a National Symposium on 'Health Care for Children in Out of Home Care', Department of General Practice, University of Melbourne and Office of Child Safety Victoria, October 2010

John Tobin, *Understanding a Rights Based Approach: Conceptual Foundations and Strategic Considerations* paper presented at a workshop at UNICEF Sydney, Australia, October 2010, also presented at a workshop on 'Save the Children', Melbourne, December 2010

Tania Voon, *Open for Business? China's Telecommunications Service Market and the WTO*, Centre for Media and Communications Law Seminar, Melbourne Law School, 21 April 2010

Tania Voon, *Implications of the World Trade Organization in Combating Non-Communicable Diseases*, paper presented at the Conference on Legal Perspectives on Cancer Prevention and Treatment, Sydney Law School, 11 June 2010 (with Andrew Mitchell)

Tania Voon, *China's Telecommunications Service Market: Why is it Still Closed?*, paper presented at the International Conference on the Political Economy of Liberalizing Trade in Services, Leonard Davis Institute of International Relations, Hebrew University of Jerusalem, 14 -15 June 2010

Tania Voon, *Trade and Non-Communicable Diseases*, paper presented at the O'Neill Institute for National and Global Health Law, Georgetown University Law Center, 17 June 2010 (with Benn McGrady)

Tania Voon, *China's Telecommunications Service Market and the WTO*, paper presented at the Federal Communications Commission, Office of Strategic Planning & Policy Analysis Economic Seminars, Washington DC, 18 June 2010

Tania Voon, *The World Trade Organization as a Legitimate Influence on Morality*, paper presented at the Australian and New Zealand Society of International Law, 18th Annual Conference, Australian National University, Canberra, 25 June 2010

Tania Voon, *Open for Business? China's Telecommunications Service Market and the WTO*, paper presented at the Society of International Economic Law Conference, University of Barcelona, 8 - 10 July 2010

Tania Voon, *Challenges to Tobacco Control Measures under International Trade and Investment Law*, paper presented at the Using the Law to Prevent and Treat Non-Communicable Diseases workshop, University of Melbourne, 2 September 2010

Tania Voon, *International Trade Law Implications of the National Broadband Network*, paper presented at the Biennial Conference of the International Economic Law Interest Group of the American Society of International Law, University of Minnesota, 19 November 2010

Tania Voon, *International Trade Law Implications of the National Broadband Network*, paper presented at the Centre for Media and Communications Law Conference, Melbourne Law School, 26 November 2010

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