



THE UNIVERSITY OF  
SYDNEY

# International Law 2019 – The Year in Review

Presented by Sydney Centre for International Law  
8<sup>th</sup> Annual Conference

## PROGRAM



## Friday 21 February 2020

**Venue:** Sydney Law School, Common Room, Level 4, New Law  
Building (F10), Eastern Avenue, Camperdown  
The University of Sydney

**CPD points for full day attendance: 7**

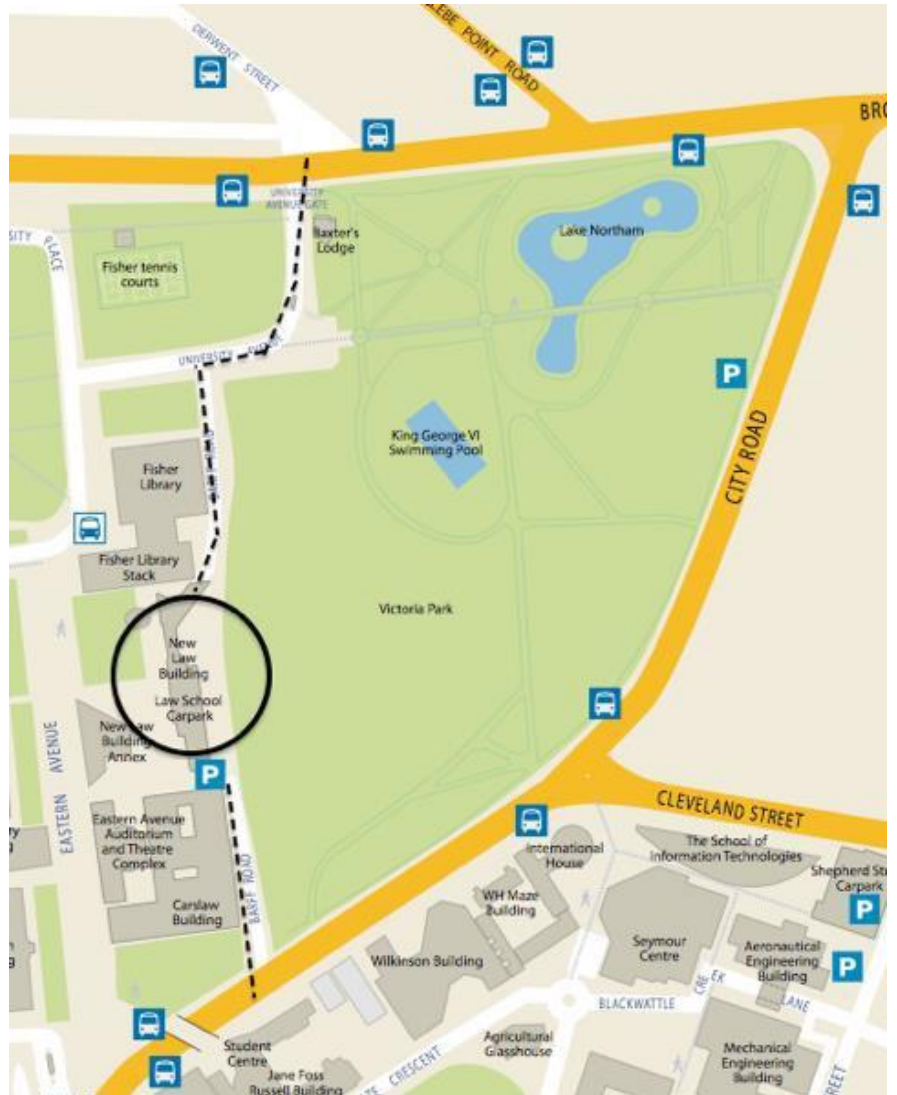
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## LOCATION

Sydney Law School,  
Common Room, Level 4,  
New Law Building (F10),  
Eastern Avenue, The  
University of Sydney





## PROGRAM

8.45am - 9.00am	Registration
9.00am - 9.15am	Opening and Welcome from Centre Co-Directors: <b>Professor Mary Crock</b> and <b>Dr Rowan Nicholson</b> (University of Sydney)
9.15am - 10.00am	<b>Session 1:</b> <b>Keynote Address – Juan Pablo Bohoslavsky</b> (UN Independent expert on debt, the financial obligations of states and human rights, OHCHR), <i>"Private Debt and Human Rights"</i> <u>Chair:</u> <b>Professor David Kinley</b> (University of Sydney)
10.00am - 11.15am	<b>Session 2: Major International Law Cases in 2019</b> <u>Speakers:</u> <b>Alex Norris</b> (Principal Legal Officer, Office of International Law, AGD), <i>"International Disputes of interest to Australia in 2019"</i> <b>Professor Mary Crock</b> (University of Sydney), <i>"A Review of Australian Cases Involving Questions of International Law in 2019"</i> <u>Chair:</u> <b>Associate Professor Emily Crawford</b> (University of Sydney)
11.15am - 11.30am	Morning tea
11.30am - 12.45pm	<b>Session 3: International Environmental Law: 2019 Progress in implementing the Paris Agreement</b> <u>Speakers:</u> <b>Professor Rosemary Lyster</b> (University of Sydney) <b>Dr Dean Bialek</b> (Principal Advisor, Mission 2020) <b>Tim Baxter</b> (Climate Council and University of Melbourne Climate and Energy College) <u>Chair:</u> <b>Professor Tim Stephens</b> (University of Sydney)
12.45pm - 1.30pm	<b>International Law Literary Lunch – Behrouz Boochani</b> , Winner of multiple awards for <i>"No Friend but the Mountains"</i> In Discussion with <b>Dr Omid Tofighian</b> and <b>Professor Mary Crock</b> (University of Sydney)



<b>2.00 – 3.30pm</b>	<b>Session 4: Crimes Against Humanity and International Criminal Law in 2019</b> <u>Speakers:</u> <b>Professor Catherine Renshaw</b> (Western Sydney University), <i>“Myanmar, the ICJ and the International Criminal Court”</i> <b>Dr Robert Dubler SC</b> (NSW Bar), <i>“The ICCs preliminary examination into the situation in Afghanistan”</i> <b>Dr Rosemary Grey</b> (University of Sydney), <i>“The International Criminal Court’s first trial for gender-based persecution”</i> <b>Tamer Morris</b> (University of Sydney), <i>“UN and Peacekeeping’ immunity”</i> <u>Chair:</u> <b>Professor Ben Saul</b> (University of Sydney)
<b>3.30 - 4.00pm</b>	Afternoon tea
<b>4.00 - 5.30pm</b>	<b>Session 5: Developments in International Economic Law in 2019</b> <u>Speakers:</u> <b>Professor Luke Nottage</b> with <b>Ana Ubilava</b> (University of Sydney), <i>“Australia’s new treaties relating to investment dispute resolution”</i> <b>Professor Vivienne Bath</b> (University of Sydney), <i>“Hope, experience and Chinese investment law”</i> <b>Associate Professor Jeanne Huang</b> (University of Sydney), <i>“Upgrading the Australia-China FTA in the contexts of coronavirus and the China-US trade deal”</i>
<b>5.30 – 6.30pm</b>	Cocktail reception for conference participants



## SPEAKERS/CHAIRS

(in alphabetical order)

### **Vivienne Bath, The University of Sydney**

Professor Vivienne Bath is Professor of Chinese and International Business Law at Sydney Law School and Director of the Centre for Asian and Pacific Law at the University of Sydney. Her teaching and research interests are in international business and economic law, private international law and Chinese law. She has first class honours in Chinese and in law from the Australian National University, and an LLM from Harvard Law School. She has also studied in China and Germany and has extensive professional experience in Sydney, New York and Hong Kong, specialising in international commercial law, with a focus on foreign investment and commercial transactions in China and the Asian region. Recent publications include: V Bath and G Moëns, *Law of International Business in Australasia* (2<sup>nd</sup> ed, Federation Press 2019).

### **Dian Bialek**

Dian Bialek is Principal Advisor, Strategy, Mission 2020 and member of a new global team led by former UNFCCC Executive Secretary, Christiana Figueres, aimed at bending the global GHG emissions curve downwards by 2020. Focused on global political strategy and the low-carbon transformation of energy systems in the Asia region. Dean was previously a diplomat and legal adviser at the Department of Foreign Affairs and Trade, and served in the Permanent Mission of Australia to the United Nations.

### **Tim Baxter**

Tim Baxter is Senior Researcher, Climate Solutions, The Climate Council and Fellow at Melbourne Law School and Associate of the Climate and Energy College at the University of Melbourne. Tim's research interests are diverse but centre around climate change law, broadly construed to include corporate social responsibility, torts, planning law and administrative law, as well as the more traditional concern with United Nations Framework Convention on Climate Change-led processes and domestic climate politics.

### **Behrouz Boochani, New South Wales University**

Behrouz Boochani (born 23 July 1983) is an Iranian-Kurdish journalist, human rights defender, writer and film producer. He was born in western Iran. He was held in the Australian-run Manus Island detention centre in Papua New Guinea from 2013 until its closure in 2017. He remained on the island before being moved to Port Moresby along with the other detainees around September 2019. On 14 November 2019 he arrived in Christchurch, New Zealand on a one-month visa, to speak at a special event organised by WORD Christchurch on 29 November, as well as other speaking events. In December 2019, his one month visa to New Zealand expired. It has been confirmed that Boochani has not left New Zealand, and is currently there on an expired visa. Boochani is the co-director, along with Iranian film maker Arash Kamali Sarvestani, of the documentary *Chauka, Please Tell Us the Time*, has published numerous articles in leading media internationally about the plight of refugees held by the Australian government on Manus Island, and has won several awards. His memoir, *No Friend But the Mountains: Writing from Manus Prison*, won the Victorian Prize for Literature and the Victorian Premier's Prize for Nonfiction in January 2019. The book was tapped out on a mobile phone in a series of single messages over time and translated from Persian into English by Omid Tofighian.



### **Juan Pablo Bohoslavsky**

Juan Pablo Bohoslavsky is the United Nations Independent Expert on Debt and Human Rights. He previously worked at the United Nations Conference on Trade and Development (UNCTAD), as a consultant for the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) and for the Argentine State in international investment arbitration. A doctor of law with wide experience in international relations and litigation, he is the author of numerous books and articles on finance and human rights.

### **Chester Brown, The University of Sydney**

Professor Chester Brown is Professor of International Law and International Arbitration at the University of Sydney Law School, and the Co-Director of the Sydney Centre for International Law. He is also a Barrister at 7 Wentworth Selborne Chambers, Sydney, and an Overseas Associate of Essex Court Chambers, London, and Maxwell Chambers, Singapore. He teaches and researches in the fields of public international law, international dispute settlement, international arbitration, international investment law, and private international law. He also maintains a practice in these fields, and has been involved as counsel in proceedings before the International Court of Justice, the Iran-United States Claims Tribunal, inter-State and investor-State arbitral tribunals, as well as in inter-State conciliation proceedings and international commercial arbitrations.

### **Emily Crawford, The University of Sydney**

Dr Emily Crawford is an Associate Professor and an associate of the Sydney Centre for International Law (SCIL). Previously at the Law Faculty at the University of New South Wales, Emily completed her Arts and Law degrees before working as a researcher at the Australian Broadcasting Corporation, before returning to UNSW to undertake her PhD. Her doctoral thesis on the disparate treatment of participants in armed conflicts was published by Oxford University Press in 2010.

Emily has taught international law and international humanitarian law, and has delivered lectures both locally and overseas on international humanitarian law issues, including the training of military personnel on behalf of the Red Cross in Australia. A member of the International Law Association's Committee on Non-State Actors, as well as the NSW Red Cross IHL Committee, Emily's most recent research project examined major developments in the conduct of armed conflicts in the 21st century, such as cyber warfare, targeted killings, and the increasing presence of civilians directly participating in armed conflicts. The research project was published in 2015 by Oxford University Press as *Identifying the Enemy: Civilian Participation in Armed Conflict*.

### **Mary Crock, The University of Sydney**

Professor Mary Crock is Professor of Public Law in the University of Sydney Law School and co-Director of the Sydney Centre for International Law. Co-founder in 1989 of the specialist community legal service now known as Refugee Legal in Melbourne, Victoria, she has worked in the area of immigration and refugee law since 1985. She has been recognised as an Accredited Specialist in Immigration Law since 1994 and is listed in the peer-driven publication *Best Lawyers in Australia* in Immigration Law. She has served on a variety of national, state and NGO bodies relating to immigration, refugees, disability and child protection. Professor Crock has written extensively on issues related to immigration, refugee law, and international human rights. Recent publications include (with L Smith-Khan, B Saul and RC McCallum) *The Legal Protection of Refugees with Disabilities: Forgotten and Invisible?* (Elgar Publishing, 2017); (with L



Benson), *Protecting the Migrant Child: Central Issues in the Search for Best Practice* (Elgar Publishing, 2018); and (with K Bones, D Ghezelbash, J Hollonds and MA Kenny), *Children and Young People in Asylum and Refugee Processes: Towards Best Practice* (Federation Press, 2020).

### **Robert Dubler SC, Barrister, and Western Sydney University**

Dr Robert Dubler SC studied law and Economics at the University of Sydney, undertook an LLM at Cambridge as a Churchill Fellow and Commonwealth Scholar. He completed his PhD in Law at Sydney University (on International criminal Law – crimes against humanity) while working as a barrister, taking silk as Senior Counsel in October 2004. He is a LEADR Accredited mediator, Senior Member of the NSW Civil and Administrative Tribunal and an Adjunct Professor at Western Sydney University.

Apart from having a broad practice primarily in commercial law, Robert maintains a keen interest in international human rights law and international criminal law. He is a member of the International Commission of Jurists and chairman of the Sri Lankan Evidence Project which is assembling evidence of war crimes. He has appeared pro-bono in several cases in these areas including the Aboriginal Stolen Generation constitutional law case in the High Court, refugee cases, as Counsel for one of the 'Balibo five' of Australian journalists killed in East Timor in 1975, at his coronial inquest and for victims of torture in China before the Committee Against Torture in Geneva, the New South Wales and the High Court of Australia. He published a major text in 2018 with Matthew Kalyk *Crimes Against Humanity in the 21<sup>st</sup> Century* (Brill/Nijhoff).

### **Rosemary Grey, The University of Sydney**

Dr Rosemary Grey's research focuses on gender & international criminal law, particularly the prosecution of gender-based crimes in the International Criminal Court (ICC) and Extraordinary Chambers in the Courts of Cambodia (ECCC). She has consulted and interned for key organisations in the international criminal justice field, including Amnesty International, Women's Initiatives for Gender Justice, the International Bar Association, and the ICC.

Before joining Sydney Law School in 2018, she completed a postdoctoral fellowship at the University of Melbourne, where she co-taught the International Criminal Justice Clinic, an initiative of Melbourne Law School and Amnesty International. She also spent time as a visiting scholar at the Grotius Centre for International Legal Studies (University of Leiden) and PluriCourts (University of Oslo). Her PhD, titled *Prosecuting sexual and gender violence crimes in the International Criminal Court* was completed at the University of New South Wales in 2015. She uses feminist methods in international law, doctrinal analysis, and interviews.

### **Dr. Jie (Jeanne) Huang, The University of Sydney**

Associate Professor Dr. Jie (Jeanne) Huang, SJD (law) Duke University School of Law in the US; Master of International Law and LLB, Shanghai University of International Business and Economics in China. Dr. Jeanne Huang is an associate professor at the University of Sydney Law School in Australia. She is widely known for her research on legal issues in digital trade and e-commerce, international investment and Chinese law. She has published four books and authored many articles in leading peer-reviewed law journals, such as *Journal of International Economic Law* and *Journal of Private International Law*. Twelve of her articles are indexed by SSCI. She has received funding from University of Sydney, University of New South Wales, China National Social Science Fund general project (equivalent to Australian ARC), China Ministry of Education, the China Law Society, Shanghai Philosophy and Social



Science Fund, and Shanghai Government Development and Research Centre Fund on research topics related to international trade and investment regulations.

### **David Kinley, The University of Sydney**

Professor David Kinley holds the Chair in Human Rights Law at the University of Sydney Law School. He is also an Academic Panel member of Doughty Street Chambers in London, a member of the Australian Council for Human Rights, and was a founding member of Australian Lawyers for Human

Rights. He is currently on the Faculty of Oxford/George Washington Universities' International Human Rights Law Summer School and has previously held teaching positions at Cambridge University, ANU, University of New South Wales, Washington College of Law, American University, and Paris 1 (La Sorbonne). He was also the founding Director of the Castan Centre for Human Rights Law at Monash University (2000-2005). David was a Senior Fulbright Scholar in 2004, based in Washington DC, and the Herbert Smith Visiting Fellow at the Faculty of Law, University of Cambridge in 2008. He has also held visiting positions at the universities of Edinburgh, Geneva, Pretoria, Queen's University Belfast, Sciences Po, Paris and the South Pacific (Vanuatu), and has been invited to lecture at leading law schools worldwide, including the Chinese Academy of Social Sciences, City University of Hong Kong, Columbia, Copenhagen, Duke, Georgetown, George Washington, Harvard, Hong Kong University, Humboldt, the LSE, the Max Planck Institute, McGill, NYU, New Delhi, Nottingham, Osgoode Hall, Oxford, the Raoul Wallenberg Institute, Sheffield, Stanford, Tilburg, Toronto, Trinity College Dublin, Tulane, Tsinghua, UCLA, Virginia and Yale. He has written and edited eleven books and more than 100 articles, book chapters, reports and papers.

### **Rosemary Lyster, The University of Sydney**

Professor Rosemary Lyster is the Professor of Climate and Environmental Law at the University of Sydney Law School and a Fellow of the Australian Academy of Law. Rosemary's special areas of research are Energy Law and Climate Justice and Disaster Law. She has published prolifically in this area including two recent books: Rosemary Lyster and Robert M. Verchick (eds.) *Climate Disaster Law* (Edward Elgar: 2018) and *Rosemary Lyster Climate Justice and Disaster Law* (Cambridge University Press: 2015). In 2018, Rosemary was selected by the Australian Financial Review as a '100 Women of Influence' in the Public Policy category. In 2015, Rosemary was appointed by the Victorian government to a three-person Independent Review Committee (IRC) to review the state's *Climate Change Act 2010* and make recommendations to place Victoria as a leader on climate change. The government accepted 32 of the 33 recommendations and enacted the *Climate Change Act 2017* (Vic).

### **Tamer Morris, The University of Sydney**

Tamer Morris is in his final year of the PhD program in international law. He worked shortly in the UN where his interests in peacekeeping and international law arose. His research focuses on the legal interpretation of protection of civilians in UN-led peacekeeping missions. Specifically focusing on the Security Council's mandate and legal ramifications of peacekeepers engaging in protection activities. Tamer completed his LLM at the University of Sydney, and his bachelor of Laws at Macquarie University.





### **Rowan Nicholson, University of Cambridge**

Rowan Nicholson completed his doctorate at the University of Cambridge in 2017. In the past he has worked as a legal practitioner in Australia and as the senior associate to Professor James Crawford; at present he lectures at Sydney Law School and is one of the incoming co-directors of the Sydney Centre for International Law. His monograph, *Statehood and the State-Like in International Law*, will be published by Oxford University Press in 2019. His current research focuses on international legal history and theory.

### **Alex Norris, Attorney General's Department**

Alex Norris is a Senior Legal Officer, Office of International Law, Attorney General's Department, Canberra. She studied Law and Asian Studies (Japanese) at ANU. The Office of International Law, provides advice to the Australian Government across all aspects of public international law. Most recently, Alex was co-leader of two teams of lawyers responsible for jurisdictions and immunities law, and international security law. Alex has worked across a number of areas in the Office including on cyber and international criminal law issues.

### **Luke Nottage, The University of Sydney**

Dr Luke Nottage is Professor of Comparative and Transnational Business Law at the University of Sydney Law School, specialising in arbitration, contract law, consumer product safety law and corporate governance, with a particular interest in Japan and the Asia-Pacific. He is founding Co-Director of the Australian Network for Japanese Law (ANJEL) and Associate Director of the Centre for Asian and Pacific Law at the University of Sydney. He is also Managing Director of Japanese Law Links Pty Ltd. ([www.japaneselawlinks.com](http://www.japaneselawlinks.com)).

### **Catherine Renshaw, Western Sydney University**

Dr Catherine Renshaw is a Professor in the School of Law at Western Sydney University. She teaches public international law and international human rights law. Catherine has a particular research focus on human rights and democratization in Southeast Asia. Her most recent books are *Human Rights and Participatory Politics in Southeast Asia* (University of Pennsylvania Press, 2019) and *Nonsense on Stilts? Rescuing Human Rights in Australia* (Connor Court 2019). Catherine is a Senior Visiting Fellow at the University of New South Wales, where she is involved in the Australia Myanmar Constitutional Democracy Project; and a Senior Visiting Fellow at the PM Glynn Institute at Australian Catholic University, where she served as Deputy Head of the Thomas More Law School. Recent journal articles on the situation in Myanmar include: 'Myanmar's Genocide and the Legacy of Forgetting,' in *Georgia Journal of International and Comparative Law* (2020); 'Poetry, Irrevocable Time and Myanmar's Political Transition,' in *International Journal of Transitional Justice* (2020) and 'Myanmar's Transition without Justice,' in *Journal of Contemporary Southeast Asian Studies* (2020).

### **Ben Saul, The University of Sydney**

Ben Saul is Challis Chair of International Law at the University of Sydney; Chair of Australian Studies at Harvard University; and an Associate Fellow of Chatham House, London. He has appeared as an advocate in international, regional and national courts outside Australia, and he is admitted to practice as a barrister in New South Wales. Author of a great many books and articles, his research



interests include international law, in particular, international aspects of anti-terrorism law, humanitarian law, human rights law, among others.

### **Tim Stephens, The University of Sydney**

Tim Stephens is Professor of International Law and Australian Research Council Future Fellow at the University of Sydney. He is President of the Australian and New Zealand Society of International Law. Tim teaches and researches in public international law, with his published work focusing on the international law of the sea, international environmental law and international dispute settlement.

### **Dr Omid Tofighian**

Dr Omid Tofighian is a lecturer, researcher and community advocate, combining philosophy with interests in rhetoric, religion, popular culture, transnationalism, displacement and discrimination. He completed his PhD in Philosophy at Leiden University, the Netherlands, and graduated with a combined honours degree in Philosophy and Studies in Religion at the University of Sydney. Omid has lived variously in the UAE where he taught at Abu Dhabi University; Belgium where he was a visiting scholar at K.U. Leuven; the Netherlands for his PhD; and intermittent periods in Iran for research. His current roles include Honorary Research Associate for the Department of Philosophy at the University of Sydney; faculty at Iran Academia; and campaign manager for 'Why Is My Curriculum White? - Australasia.' He contributes to community arts and cultural projects and works with asylum seekers, refugees and young people from Western Sydney. He has published numerous book chapters and journal articles and is author of *Myth and Philosophy in Platonic Dialogues* (Palgrave 2016) and translator of *Manus* by Behrouz Boochani (Picador 2017).

### **Ana Ubilava, The University of Sydney**

Anna Ubilava is a PhD candidate at the University of Sydney Law School and Executive Co-ordinator of the Australian Network of Japanese Law. Her doctoral work is on "Demystification of Mediation "Voodoo" and its role in Investor-State Dispute Resolution".