



Australian and New Zealand
Society of International Law

ANZSIL Zoom Keynote Lecture Series
1 – 11 December 2020

Our speakers will share their research and current thinking on contemporary issues with ANZSIL members wherever they are located. In this series, we draw from four panels that would have been presented at ANZSIL 2020 as well as the traditional and popular year-in-review session in addition to two research seminars. Please also note that on the 2nd December the ANZSIL 2020 Postgraduate Workshop will be running (also on zoom) (details have been sent separately). The panel abstracts and brief bios for each session are listed below the schedule. If you are an ANZSIL member you will have received the Zoom log in details for each session. If you are not a member and would like to attend any of the sessions below please contact me directly to request access (Karen.Scott@canterbury.ac.nz).

Schedule – Week Commencing 30 November

1 Dec 3pm AEDT	Associate Professor Douglas Guilfoyle, UNSW, Australia Defence Force Academy Professor Tim McCormack, University of Tasmania Gabrielle McIntyre, Practitioner Chair, Kate Smith, Director, International Law: Advising and Treaties Section, DFAT	Guilfoyle, McCormack and McIntyre in Conversation: The International Criminal Court: Threats, Challenges, and Opportunities
2 Dec	<i>ANZSIL Postgraduate Workshop – all day event</i>	
3 Dec 1pm AEDT	Victoria Hallum, International Legal Adviser, Divisional Manager, MFAT, NZ Sue Robertson, First Assistant Secretary, Office of International Law, International Division AG's Department, Australia Simon Newnham Chief Legal Officer, Legal Division, DFAT, Australia Chair, Karen Scott, ANZSIL President	2020 Year in Review
4 Dec 1pm AEDT	Dr Penelope Ridings, Practitioner Chair, Karen Scott, ANZSIL President	International Law Commission: Past and Future Contributions to the Development of International Law

Schedule – Week Commencing 7 December

7 Dec 1pm AEDT	Netta Goussac, SIPRI CAPT Darryn Mullins RAN, Department of Defence (Australia) Dr Simon McKenzie, University of Queensland Chair, Dr Eve Massingham, University of Queensland	Autonomous Military Technology and the Development of International Law
8 Dec 1pm AEDT	Professor Alberto Costi, Te Herenga Waka—Victoria University of Wellington Dr An Hertogen, University of Auckland Chair, Karen Scott, ANZSIL President	The “New Zealand School” of International Law?
9 Dec 1pm AEDT	Associate Professor Nengye Liu, Macquarie Law School Chair – Karen Scott, ANZSIL President	China and One Hundred Years of the Svalbard Treaty, Past, Present and Future
11 Dec 1pm AEDT	Professor Marcus Haward, University of Tasmania, Professor Tim Stephens, University of Sydney, and Professor AJ Press, University of Tasmania: <i>The Antarctic Treaty System: Managing External and Internal Challenges</i> Assoc Prof Nengye Liu, Macquarie Law School, <i>Thinking the Unthinkable, Will China Leave the Antarctic Treaty System by 2050?</i> Professor Shirley Scott, UNSW- Canberra, <i>The Implications for Australia’s Sovereignty over the Antarctic Territory of Non-Recognition of its title by Non-Claimant States</i> Chair - Associate Professor Jeffrey McGee, University of Tasmania	Geopolitical Change and the Antarctic Treaty System

Abstracts, Bios and Zoom Details

1 st Dec 3pm AEDT	Associate Professor Douglas Guilfoyle, UNSW, Australia Defence Force Academy	Guilfoyle, McCormack and McIntyre in Conversation: The International Criminal Court: Threats, Challenges, and Opportunities
	Professor Tim McCormack, University of Tasmania	
	Gabrielle McIntyre, Practitioner	
	Chair, Kate Smith, Director, International Law: Advising and Treaties Section, DFAT	

The world's first permanent judicial institution with jurisdiction over serious international crimes, the ICC continues to face its fair share of challenges. The causes are complex and interconnected. To blame "growing pains" or "teething issues" is to forget that the ICC has operated for almost as long as the ad hoc. Instead, regard must be had to the international processes that created the Court, and the particular array of relationships and tensions it must navigate as a result.

The ICC is a creature of multilateral treaty – to which a third of the world's States are not party. Its authority derives not from the UN Security Council but (for the most part) from States Parties' delegation of jurisdiction. The Court has missed key opportunities to consolidate the legal narrative concerning its role in an increasingly fractured international political landscape, and its interactions with those States that have not acceded to the Rome Statute. States Parties have been slow to underpin the lofty ideals captured in the Rome Statute with effective governance oversight and reliable selection of those most qualified to serve in key posts.

But the necessarily imperfect nature of the institution should not detract from its important contributions to the canon of international criminal law, and the role it serves in normalising in the contemporary international landscape the principles of individual criminal responsibility for serious international crimes borne from Nuremberg.

This panel will bring together in conversation Ms Gabrielle McIntyre, Associate Professor Douglas Guilfoyle and Professor Tim McCormack, moderated by Ms Kate Smith.

Associate Professor Douglas Guilfoyle is Associate Professor of International and Security Law at the School of Humanities and Social Sciences, University of New South Wales at the Australian Defence Force Academy. His principal areas of research are maritime security, the international law of the sea, and international and transnational criminal law. Particular areas of specialism include maritime law-enforcement, the law of naval warfare, international courts and tribunals, and the history of international law. He is a 2019-2020 DFAT Visiting Legal Fellow (appointed jointly with Professor Margaret Young, Melbourne Law School).

Professor Tim McCormack is Professor of International Law and former Dean of the Faculty of Law at the University of Tasmania. He is Special Adviser on International Humanitarian Law to the Prosecutor of the International Criminal Court, honorary Professorial Fellow at Melbourne Law School, inaugural DFAT Visiting Legal Fellow (appointed jointly with Associate Professor Anthea Roberts, ANU) and the 2018 New Zealand Law Foundation Distinguished Visiting Fellow. In 2010, he was appointed a Fellow of the Australian Academy of Law.

Ms Gabrielle Louise McIntyre is an international legal practitioner, jurist, and the Chairperson of the Seychelles' Truth, Reconciliation and National Unity Commission. She previously served as the *Chef de Cabinet* and Principal Legal Advisor to the President of the International Residual Mechanism for Criminal Tribunals (IRMCT), the successor institution to the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Previously, Gabrielle served as the *Chef de Cabinet* and Principal Legal Advisor to four successive Presidents of the ICTY: Judge Meron (two periods of two consecutive terms each), Judge Pocar, and Judge Robinson. She has also served as the acting Head of Chambers.

Ms Kate Smith (Panel Moderator) is Director of the *International Law: Advising and Treaties Section* in the Department of Foreign Affairs and Trade where she advises on general international law issues including jurisdiction, immunities, statehood, decolonisation, and aviation law, as well as Australia's domestic treaty making processes. She has previously advised on international criminal law and accountability policy, and led on Australia's engagement with international criminal courts and tribunals, including the International Criminal Court. Prior to joining DFAT, Kate worked in private legal practice specialising in criminal defence. She holds a Master of Laws in Public International Law from Leiden University.

3rd Dec Victoria Hallum, International 2020 Year in Review
1pm Legal Adviser, Divisional
AEDT Manager, MFAT, NZ

Sue Robertson, First Assistant
Secretary, Office of
International Law,
International Division
AG's Department, Australia

Simon Newnham
Chief Legal Officer, Legal
Division, DFAT, Australia

Chair – Karen Scott, ANZSIL
President

An edited overview of legal developments of significance to Australia and New Zealand in 2020. Please send your questions in advance to karen.scott@canterbury.ac.nz. As this is an open event, questions will not be taken from the floor.

Victoria Hallum is the Chief International Legal Adviser of the New Zealand Ministry of Foreign Affairs and Trade. The Legal Division provides advice to the New Zealand government on all aspects of international law including trade, environment and natural resources, and peace and security issues.

Simon Newnham currently serves as the Chief Legal Officer in DFAT's Legal Division since April 2020. In his capacity, he provides legal advice and services across the breadth of DFAT's operations, including international law, sanctions crime and sea law, as well as corporate law.

Sue Robertson is the First Assistant Secretary of the International Division of the Commonwealth Attorney-General's Department. In that role she heads the Office of International Law, responsible for advising cabinet on a broad range of legal issues including international security, law of the sea, trade, environment and human rights. She is also responsible for Australia's international crime cooperation involving extradition and mutual legal assistance.

4th Dec 1pm AEDT	Dr Penelope Ridings, Practitioner Chair – Karen Scott, ANZSIL President	International Law Commission: Past and Future Contributions to the Development of International Law
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The International Law Commission (ILC) commemorated its 70th session in 2018. This presentation considers the impact of the Commission on the development of international law over these years and the contribution that New Zealanders and Australians have made to the work of the Commission. It goes on to reflect on what the future holds for the ILC and the importance of maintaining the ongoing relevance of the ILC and its work.

Dr Penelope Ridings is an International Lawyer practising in the field of public international law, including law of the sea, environment, international trade and investment, and dispute settlement. She was formerly New Zealand's Chief International Legal Adviser and is its candidate for the International Law Commission for election in 2021.

7th Dec
1pm
AEDT

Netta Goussac, SIPRI
CAPT Darryn Mullins RAN,
Department of Defence
(Australia)

Dr Simon McKenzie,
University of Queensland

Chair, Dr Eve Massingham,
University of Queensland

**Autonomous Military Technology and
the Development of International Law**

Rapid developments in artificial intelligence are driving advances in complex robotic systems that can operate without real-time human supervision. Such systems have a wide spectrum of application, ranging from self-driving cars to autonomous weapon systems. The legal implications of the latter have preoccupied the international community for the better part of the last decade. For the past three years, a Group of Governmental Experts (GGE) has met under the auspices of the Convention on Certain Conventional Weapons to explore the prospects of regulating the so-called 'lethal autonomous weapon systems'. This panel will offer multiple perspectives on this intergovernmental process, which might (or might not) lead to the adoption of a legally or politically binding instrument to govern the use of autonomous weapons.

Netta Goussac will consider the GGE process broadly, and put it in the context of other international discussions on the regulation of emerging military technologies. **Darryn Mullins** will look at the Australian position in this process, and critically examine the interplay between legal and ethical arguments that have been made by proponents of further regulation. **Simon McKenzie** will focus on one particular concept – ‘control’ – that has featured prominently in the GGE debates, and contrast it to the notion of ‘command’ that features in several international law instruments.

Netta Goussac is an Associate Senior Researcher with the Stockholm International Peace Research Institute, and a Special Counsel with Lexbridge. Since 2017, Netta has participated in the UN’s Group of Governmental Experts on lethal autonomous weapon systems. She is co-author of the 2020 report *Limits on Autonomy in Weapon Systems: Identifying practical elements of human control*.

Darryn Mullins is a Captain in the Royal Australian Navy. He is currently the Director Operations and International Law and Director Navy Legal Service.

Simon McKenzie is a Research Fellow at the University of Queensland School of Law.

Eve Massingham is a Senior Research Fellow at the University of Queensland School of Law.

8th Dec
1pm
AEDT

Professor Alberto Costi, Te
Herenga Waka—Victoria
University of Wellington

The “New Zealand School” of
International Law?

Dr An Hertogen, University of
Auckland

Chair – Karen Scott, ANZSIL
President

Led by Professor Karen Scott, Professor Alberto Costi, editor of the recently published Public International Law: A New Zealand Perspective, and Dr An Hertogen, co-editor (with Dr Anna Hood) of the forthcoming International Law in Aotearoa/New Zealand, will reflect on overall themes and ideas that have emerged from each book, and explore the idea of a New Zealand School of International Law

Professor Alberto Costi is a Professor of Law at Victoria University of Wellington. He is the Secretary-General of the International Law Association New Zealand Branch and the President of the New Zealand Association for Comparative Law, and sits on various editorial committees and scientific associations in New Zealand and overseas.

Dr An Hertogen is a Senior Lecturer at the University of Auckland. Her current research projects deal with the concept of good neighbourliness in international law, and with international law in Aotearoa/New Zealand. She is a graduate of the University of Auckland, Columbia University and the KULeuven in Belgium.

9 Dec 1pm AEDT	Associate Professor Nengye Liu, Macquarie Law School	China and One Hundred Years of the Svalbard Treaty, Past, Present and Future
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**Chair – Karen Scott, ANZSIL
President**

This paper aims to examine China's engagement with the Svalbard Treaty over the past hundred years. It first provides an overview of China's involvement of the Svalbard Treaty as part of the post-World War I order. The paper then discusses China's recent expansion in the Arctic, including in the Svalbard Archipelago. As a rising power, China has become more and more confident in interpreting and shaping the existing global governance regimes in order to pursue its own national interests. This paper therefore sheds light on where and how China might influence the future governance of the Svalbard, a strategically important region in the Arctic.

Associate Professor Nengye Liu, Director, Centre for Environmental Law, Macquarie Law School, Macquarie University, Sydney, Australia.

11 Dec
1pm
AEDT

Professor Marcus Haward,
University of Tasmania,
Professor Tim Stephens,
University of Sydney, and
Professor AJ Press, University
of Tasmania: *The Antarctic*
Treaty System: Managing
External and Internal
Challenges

Geopolitical Change and the Antarctic
Treaty System

Assoc Prof Nengye Liu,
Macquarie Law School,
Thinking the Unthinkable,
Will China Leave the Antarctic
Treaty System by 2050?

Professor Shirley Scott,
UNSW-Canberra, *The*
Implications for Australia's
Sovereignty over the Antarctic
Territory of Non-Recognition
of its title by Non-Claimant
States

Chair - Associate Professor
Jeffrey McGee, University of
Tasmania

From its very creation, resolution – or at least management – of geopolitical tension, has been at the heart of the Antarctic Treaty System (ATS). The 1959 Antarctic Treaty was formed during a high point of the Cold War to effectively manage tension by demilitarising the Antarctic continent and making commitments to peaceful use and scientific research. The ATS now faces a new set of geopolitical tensions and biophysical drivers of change. The fifty-three member states parties to the Antarctic Treaty now include very large and fast rising states such as China and India and newly acceding members such as Malaysia and Pakistan, which may challenge interpretation and/or implementation of existing norms. There have even been calls for a greater security emphasis in Antarctic law and policy. The ATS also faces significant governance challenges from the increased scale of science activities, tourism, shipping, fishing and potentially bioprospecting. A warming global climate is also a key driver of change in Antarctica and the Southern Ocean, affecting both biophysical and human systems. Throughout its history the ATS has been viewed as a successful example of international law and governance due to its ability to adapt and respond to internal and external tensions. This panel will explore ways in which this new geopolitical environment and changing biophysical drivers are creating new challenges for the Antarctic Treaty System (ATS). The panel will explore these new challenges to the ATS and the legal and institutional developments that might be required for their management.

Prof Marcus Haward (University of Tasmania, Institute for Marine and Antarctic Studies)

Prof Tim Stephens (University of Sydney, Sydney Law School)

Prof A. J. Press (University of Tasmania, Institute for Marine and Antarctic Studies)

Assoc Prof Nengye Liu (Macquarie University, School of Law)

Prof Shirley Scott (UNSW-Canberra)