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New Books Panel

This is a proposal for a New Books Panel at the 2021 ANZSIL Conference, along the same lines as the Book Panel held at the 2017 ANZSIL Conference. The proposed panel would include ANZSIL members who have authored a book in the period since the 2017 Conference, when the last book panel was held. Thus far, we have identified the eight authors named above, whose books are described below. The Panel is not intended to be exclusive and if the COC approves this panel and is aware of any other authors who might want to be included, we would be happy to contact them.

The panel would serve a number of functions. First, it would give the authors an opportunity to publicise their work in a collegiate format, and discuss it in more detail with the audience, in response to audience questions or questions from the other panellists. Secondly, the panel would give ANZSIL an opportunity to support the work of members of its community, many of whom are early career academics, by providing a supplementary book launch after a disrupted year. Thirdly, it would also give PhD students and other early career academics an opportunity to engage directly with the process of book publication, as they decide whether to undertake this option themselves.

The format will include short descriptions of each book, followed by a curated conversation constructed around questions sent to the authors in advance. These questions will include:

- What was the original motivation for this project? How did the focus of the project change over time?
- What proved to be the major challenges in bringing the project to completion as a book?
- Taking a retrospective view, what is most important intervention the book makes? Was this the intervention you understood yourself to be making when undertaking the research?
- Which audience / audiences would you most like to engage with this research? Has it been received by an audience or in a way that you didn't anticipate?
- What subsequent questions did this research lead you toward? How does your current research pick up or depart from the conclusions reached in the book?

Treasa Dunworth, *Humanitarian Disarmament: An Historical Enquiry* (CUP, 2019)

In the past twenty years, the international community has agreed to bans on anti-personnel landmines, on cluster munitions and on nuclear weapons and claims of humanitarianism have taken centre-stage as the explanation for these successes. Disarmament, it is said, is being driven now by humanitarian ideals rather than by national security perspectives. The central claim of this book is that



the humanitarian framing of arms control and disarmament is not a novel development, but rather represents a re-emergence of a much older sensibility of humanitarianism in disarmament. This longer view makes space for a more careful consideration of the meaning of ‘humanitarianism’ and ‘humanitarian disarmament’. The book argues that humanitarianism’s appeal lies in part in the ideal of being cleansed of politics and thus having a moral simplicity. However, this account shows that far from being apolitical, humanitarianism generally, and humanitarian disarmament in particular, have their own political agendas. Presenting the longer account of humanitarian disarmament also reveals how over time, there have been many failures of humanitarian disarmament campaigns as well as successes. The book concludes that while humanitarianism has been an important feature of disarmament discourse historically, there are other potentially more radical discourses that could be employed.

Dr Treasa Dunworth LLB(Hons), LLM(Harv), PhD(Melb) is an Associate Professor in Law with the University of Auckland, where she teaches a range of public international law related courses, including a course devoted exclusively to disarmament law. From 2014-2016, Treasa worked on projects with the New Zealand Ministry of Foreign Affairs and Trade examining legal issues involved in nuclear weapons disarmament, in particular the legal relationship between the NPT and any nuclear weapons disarmament initiatives. In 2017, Treasa joined the delegation of United Nations Institute for Disarmament Research (UNIDIR) at the negotiations for a Nuclear Weapons Prohibition Treaty. She has recently published *Humanitarian Disarmament: An Historical Enquiry* with Cambridge University Press.

Alison Duxbury and Hsien-Li Tan, *Can ASEAN Take Human Rights Seriously?* (CUP, 2019)

The adoption of the ASEAN Charter in 2007 represented a watershed moment in the organisation’s history – for the first time ASEAN member states explicitly included principles of human rights and democracy in a binding regional agreement. Since then, developments in the region have included the creation of the ASEAN Intergovernmental Commission on Human Rights in 2009 and the adoption of the ASEAN Human Rights Declaration in 2012. Despite these advances, many commentators ask whether ASEAN can take human rights seriously. This book explores this question by comprehensively examining ASEAN’s human rights mechanisms in the context of existing national and international human rights institutions. This book places these regional mechanisms and commitments to human rights within the framework of the political and legal development of ASEAN and its member states, and considers the way in which ASEAN could strengthen its new institutions to better promote and protect human rights. This book was published during a period of great interest in the human rights institutions and policies of ASEAN, but also at a time of grave concern about human rights violations in the region.

Alison Duxbury is a Professor at Melbourne Law School and the Deputy Dean. She is also the Chair of the International Advisory Commission of the Commonwealth Human Rights Initiative, a non-governmental organisation with offices in Delhi, Accra and London. Alison is a member of the Council of the Australian and New Zealand Society of International Law, the Executive Council of the Asian Society of International Law and the Board of Directors of the International Society for Military Law and the Law of War. Alison's major teaching and research interests are in the fields of international law, international institutional law, human rights law and public law. Her publications include *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (Cambridge, 2011), a co-edited collection, *Military Justice in the Modern Age* (Cambridge, 2016), and a co-authored book, *Can ASEAN Take Human Rights Seriously?* (Cambridge, 2019).



Lucas Lixinski, *International Heritage Law for Communities: Exclusion and Re-Imagination* (OUP, 2019)

This book critically engages the shortcomings of the field of international heritage law, seen through the lenses of the five major UNESCO treaties for the safeguarding of different types of heritage. It argues that these five treaties have effectively prevented local communities, who bear the brunt of the costs associated with international heritage protection, from having a say in how their heritage is managed. The exclusion of local communities often alienates them not only from international decision-making processes but also from their cultural heritage itself, ultimately meaning that systems put in place for the protection of cultural heritage contribute to its disappearance in the long term. International Heritage Law for Communities adds to existing literature by looking at these UNESCO treaties not as isolated regimes, but rather as belonging to a discursive continuum on cultural heritage. In doing so, the book focuses on themes that cut across the relevant UNESCO regimes like the use of expert rule in international heritage law, economics, the relationship between heritage and the environment, among others, rather than the regimes themselves. It uses this mechanism to highlight the blind spots and unintended consequences of UNESCO treaties and how choices made in their drafting have continuing and potentially negative impacts on how we think about and safeguard heritage.

Dr Lucas Lixinski is an Associate Professor at the Faculty of Law, UNSW Sydney. Prior to joining UNSW Law, he was a Postgraduate Fellow at the Bernard and Audre Rapoport Center for Human Rights and Justice at the University of Texas School of Law. He holds a PhD in International Law from the European University Institute (Florence, Italy), an LLM in Human Rights Law from Central European University (Budapest, Hungary), and an LLB from the Federal University of Rio Grande do Sul (Porto Alegre, Brazil). He researches and teaches across a range of fields in international law, primarily international cultural heritage law and international human rights law. He sits on the Board of Editors of the International Journal of Heritage Studies, the Australian Journal of Human Rights, the Santander Art and Culture Law Review, and the European Court of Human Rights Law Review. He is also a member of the Board of Directors of the International Law Students Association, Vice President (Conference) of the Association of Critical Heritage Studies, and Rapporteur to the International Law Association's Committee on Participation in Global Cultural Heritage Governance.

Simon McKenzie, *Disputed Territories and International Criminal Law* (Routledge, 2019)

It has been over 50 years since the beginning of the Israeli occupation of the Palestinian Territories. It is estimated that there are over 600,000 Israeli settlers living in the West Bank and East Jerusalem, and they are supported, protected, and maintained by the Israeli state.

This book discusses whether international criminal law could apply to those responsible for allowing and promoting this growth, and examines what this application would reveal about the operation of international criminal law. It provides a comprehensive analysis of how the Rome Statute of the International Criminal Court could apply to the settlements in the West Bank through a close examination of the potential operation of two relevant Statute crimes: first, the war crime of transfer of population; and second, the war crime of unlawful appropriation of property. It also addresses the threshold question of whether the law of occupation applies to the West Bank, and how the principles of individual criminal responsibility might operate in this context. It explores the relevance and coherence of the legal arguments relied on by Israel in defence of the legality of the settlements and considers how these arguments might apply in the context of the Rome Statute. The work also has wider aims, raising questions about the Rome Statute's capacity to meet its aim of establishing a coherent and legally effective system of international criminal justice.

Dr Simon McKenzie is a research fellow in the Law and the Future of War research group at the University of Queensland School of Law. He holds a PhD from the University of Melbourne in



international criminal law. He has also worked as a policy officer for the Victorian Department of Justice and Community Safety, a researcher at the International Criminal Court and the Supreme Court of Victoria, and as a lawyer.

Tamsin Phillipa Paige, *Petulant and Contrary: Approaches by the Permanent Five Members of the UN Security Council to the Concept of 'Threat To The Peace' under Article 39 of the UN Charter* (Brill/Nijhoff, 2019)

Aside from Article 51 of the UN Charter, a UN Security Council authorisation under Articles 39-42 is the only exception to the prohibition on the use of force provided for in Article 2(4). To authorise military intervention within a given situation, the Security Council must first determine whether or not that situation constitutes a ‘threat to the peace’ under Article 39. The Charter has long been interpreted as placing few bounds around how the Security Council arrives at such determinations. As such commentators have argued that the phrase ‘threat to the peace’ is undefinable in nature and that such decisions are fluid, arbitrary and lacking in consistency. Through a critical discourse analysis of the justificatory discourse of the P5 surrounding individual decisions relating to ‘threat to the peace’ (found in the meeting transcripts), this book demonstrates that each P5 member has a consistent definition and understanding of what constitutes a ‘threat to the peace’. As a result, it suggests that a Security Council wide definition, if this was ever possible, would sit in the middle ground of these P5 national understandings. These approaches and findings regarding ‘threat to the peace’ were dubbed “profound” by Prof Nigel White in his foreword, where he also stated that “there is no doubt in my mind that it makes a very valuable contribution to our knowledge and understanding of how the Security Council works and, more broadly, how international law functions.”

Dr Tamsin Phillipa Paige is a Lecturer with Deakin Law School and consults for the UN Office on Drugs and Crime in relation to Maritime Crime. Prior to this, she was a Postdoctoral Fellow with the research centre: Conflict and Society, in the School of Humanities and Social Sciences at UNSW Canberra @ ADFA. Her work is interdisciplinary in nature, using qualitative sociological methods to analyse international law. She was awarded an Endeavour Scholarship by the Australian Government for her PhD research (conducted at the University of Adelaide and Columbia Law School) on the Security Council and ‘threat to the peace’. Prior to her Security Council work she conducted research into the application and impact of international law in counter-piracy operations in Somalia. In a former life, she was a French trained, fine dining pâtissier.

Cait Storr, *International Status in the Shadow of Empire: Nauru and the Histories of International Law* (CUP, 2020)

Nauru is often figured as an anomaly in the international order. This book offers a new account of Nauru’s imperial history and examines its significance to the histories of international law. Drawing on theories of jurisdiction and bureaucracy, it reconstructs four shifts in Nauru’s status – from German protectorate, to C Mandate, to trust territory, to sovereign state – as a means of redescribing the transition from the 19th century imperial order to the 20th century state system. The book argues that as international status shifts, imperial form accretes: as Nauru’s status has shifted, what has occurred at the local level is the gradual bureaucratisation of an administrative form first established via agreement between a German trading company and the Bismarckian Reich in the late nineteenth century. Two conclusions follow from this argument. The first is that Nauru’s post-independence ‘failures’ did not originate in the post-independence period, but are fundamentally continuous with its history of imperial administration. The second is that, contrary to the statist paradigm of self-determination, recognition of sovereign status is better understood as marking a beginning and not an end of the process of decolonisation.



Dr Cait Storr is a Chancellor's Postdoctoral Research Fellow in the Faculty of Law at the University of Technology Sydney. Her research addresses the history of international administration, with particular focus on regimes governing natural resource extraction outside sovereign territorial jurisdiction, and decolonial struggles for control over natural resources. She has held positions as Lecturer at the University of Glasgow and Lecturer (Early Career Academic Fellow) at Melbourne Law School.

Ntina Tzouvala, *Capitalism As Civilisation: A History of International Law* (CUP, 2020)

Methodologically and theoretically innovative, this monograph draws from Marxism and deconstruction bringing together the textual and the material in our understanding of international law. Approaching 'civilisation' as an argumentative pattern related to the distribution of rights and duties amongst different communities, Ntina Tzouvala illustrates both its contradictory nature and its pro-capitalist bias. 'Civilisation' is shown to oscillate between two poles. On the one hand, a pervasive 'logic of improvement' anchors legal equality to demands that non-Western polities undertake extensive domestic reforms and embrace capitalist modernity. On the other, an insistent 'logic of biology' constantly postpones such a prospect based on ideas of immutable difference. By detailing the tension and synergies between these two logics, Tzouvala argues that international law incorporates and attempts to mediate the contradictions of capitalism as a global system of production and exchange that both homogenises and stratifies societies, populations and space.

Dr Ntina Tzouvala is a Senior Lecturer at the ANU College of Law. Before joining the ANU, she was a Laureate Postdoctoral Fellow at Melbourne Law School. Her work focuses on the history and theory of international law drawing from historical materialism, deconstruction, and critical feminist traditions. Her first book, *Capitalism as Civilisation: A History of International Law*, was published by Cambridge University Press in 2020. She is currently working on a new project on international law and racial capitalism in the aftermath of white-minority rule.

Panel Chair

Dr Madelaine Chiam is a Senior Lecturer at La Trobe Law School in Melbourne, Australia. Her research examines the relationships between the global and the local, and the language and histories of international law. She has a particular interest in the role of international law in Australian life. Madelaine is a contributor to the *Oxford Bibliographies in International Law*, and her work has been published in journals such as *London Review of International Law*, *Journal of Conflict and Security Law* and *Griffith Law Review*. Her monograph, *International Law in Public Debate*, will be published by Cambridge University Press in 2020. Madelaine is a regular member of the faculty of the Harvard Law School Institute for Global Law and Policy Workshop and a founding member of the La Trobe International Legal Studies Research Group.