

LAUTERPACHT CENTRE NEWS

Issue 28 | Lent Term 2019

In this issue...

Page 3

A pivotal moment for the
law of global governance?

Page 6

Round Table Discussion:
International Law in an Era
of Nationalism

Page 10

Fellows' News

Page 12

5 minutes with....
Dr Ivan Berkowitz

Page 18

New Faces at the Centre

Page 20

Lectures and Events

Contents

- 3 A pivotal moment for the law of global governance?
- 6 Round Table Discussion: International Law in an Era of Nationalism
- 8 Cente Publications
- 9 Fellows' Publications
- 10 Fellows' News
- 12 5 minutes with Dr Ivan Berkowitz
- 14 Symposium on Principles on Shared Responsibility
- 15 ESIL-sponsored workshop: 'Rethinking Reparations in International Law'
- 16 Workshop: 'On the Origins of International Legal Thought'
- 17 ILC Workshop: 'Crimes Against Humanity'
- 18 New Faces at the Lauterpacht Centre
- 20 Lectures and events including courses
- 26 The Eli Lauterpacht Fund
- 27 Lauterpacht Linked Partnership Programme
- 28 Visiting the Centre as a Visiting Fellow
- 30 Life at the Lauterpacht Centre

Joining our Mailing List

If you would like to receive details of events and news at the Lauterpacht Centre please join our **Mailing List** (www.lcil.cam.ac.uk/contact-us).

You can also follow us on **Twitter**, **Facebook** and **LinkedIn**.



Editor: LCIL Communications Team
communications@lcil.cam.ac.uk
+44 1223 335 358

Lauterpacht Centre News is published twice a year in the Lent and Michaelmas terms. It is sent free to subscribers on our mailing list and is available to read on the Centre's website.

Front Cover: Sundial in the Lauterpacht Centre Garden, January 2019

A pivotal moment for the law of global governance?



LCIL Director Professor Eyal Benvenisti

On 31 October 2018, the U.S. Supreme Court heard the oral argument in the case of *Jam v. International Finance Corporation* (IFC). The court is expected to decide by June 2019 whether under the *International Organizations Immunities Act* (IOIA), international organizations (IOs) enjoy the same (restricted) immunity from lawsuits that foreign governments have under the *Foreign Sovereign Immunities Act* (FSIA).

The IFC opposes this argument, claiming that when the IOIA was enacted in 1945 foreign states enjoyed unlimited immunity, and that the IOIA “froze” that unlimited immunity. Hence, argues the IFC, developments since 1945 to foreign state immunities that exposed foreign states to suit under the *commercial activities* exception (as also recognized by FSIA) do not affect the immunities of IOs. For an IO such as the IFC, whose main function is to offer financial assistance to commercial activities, the FSIA’s commercial activity exception might imply total exposure to US court scrutiny.

The IFC is not the only IO that takes this challenge very

seriously. Several other IOs, among them the African Union, the Food and Agriculture Organization, the OECD, the WHO as well as several multilateral development banks (MDBs) joined the deliberations as amici, supporting the IFC’s claim for absolute immunity from domestic legal proceedings. The IFC and these amici raise several concerns about the potentially devastating ramifications of the exposure of their *commercial activities* to scrutiny by US courts. Their apprehension is understandable: the outcome in *Jam v. IFC* is likely to be contagious. Courts in other jurisdictions will no doubt note the US court’s position, and a finding that IOs enjoy only restricted immunity might convince them to follow suit, exposing



The Tata Ultra Mega Power Project: the water from the sea is re-routed through channels as part of the power generation process (image copyright: Flickr/Sami Siva/ICIJ).

IOs to certain suits wherever they hold assets. While in most countries these IOs enjoy absolute immunity under treaties, at stake could be the compatibility between these treaties and the rights of individuals under constitutional and international human law, in particular the right to access courts to protect fundamental rights. Thus far several courts, including the European Court for Human Rights, have endorsed the absolute immunity of IOs even when that immunity blocked the ability of individuals to obtain judicial protection of their constitutional and human rights. New winds from the US Supreme Court that play down the IOs' concerns about the consequences of their exposure to courts might provoke an alternative approach. Therefore the JAM v. IFC case is potentially a pivotal moment for the law of global governance. IOs that for long have sought to deflect hard legal accountability might start facing the consequences of judicial scrutiny.

The suit arises from a loan granted by the IFC to an Indian company to build the Tata Mundra Ultra Mega coal-fired power plant in Gujarat, India. Budha Ismail Jam and his fellow plaintiffs, farmers and fisherworkers who had lived in the area before the plant was built brought a claim against the IFC in the US for negligence and breach of contract that resulted in severe environmental and social harms. They claim that the IFC failed to ensure compliance with its internal policies and the funding agreement.

The villagers' suit is well-documented. They rely on an internal **review** by IFC's own monitoring body, the Compliance Advisor Ombudsman (CAO), which since 2013 identified a host of failures in meeting the IFC's own standards. According to the CAO findings, these failures resulted in harms to the livelihood of a religious minority that occupies a socially marginal position given its migrant traditions. The CAO continues to monitor the situation while the IFC's Directorship **disputes** its findings. If anything, this litigation exposes the limits of the soft-law monitoring tools that IOs have developed since the mid-1990s to appease civil society activists and scholars concerned about development projects that ignore human rights and harm the environment.

While the court could decide this matter on technical, domestic law grounds without making any general policy statements, the overall message of the judgment could be significant. If the court upholds the restrictive immunity it might deal a crucial blow to the long standing self-congratulating argument of IOs about their reliance on absolute immunity.

The **Brief** submitted by the African Union and several other IOs as amici curiae in support of the IFC puts forward the classic IO concerns about their independence and functionality: absolute immunity "provide[s] international organizations with protection necessary to enable them to successfully and efficiently fulfill their missions of public interest with full independence" from their member states. Exposure to judicial proceedings "would allow private parties to use the United States judicial system to try

to dictate international organizations' priorities and the way they conduct their activities [... and] would frustrate the ability of international organizations to carry out their good work." In its **brief**, the IFC expresses concerns about the continued viability of its mission to promote development globally: "The prospect of becoming enmeshed in contentious litigation threatening billions in damages would force IFC to reevaluate its operations and policies to minimize litigation risk—a perspective that would be inimical to its development mission."

This last argument is further elaborated by the **Brief** of amici former US Secretaries of State and Secretaries of the Treasury, which highlights US interests: "support for IFC's founding goals, and the goals of MDBs generally, continues as a fundamental principle in American foreign policy today. A healthy, wealthy, and stable world is good for America, and a stable and strong IFC is in the interest of the United States." Accordingly, they warn, without immunity, IFC's ability to fulfill its mission would be "degraded," and "the effectiveness of a key mechanism for the U.S. to exert global influence and achieve its critical policy goals" would be reduced.

But the US Administration is unmoved by these concerns. Its amicus curiae **brief** in support of Jam contests the IO's concerns: "the State Department has made clear its view that the jurisdictional immunity afforded by the IOIA tracks the immunity afforded to foreign governments under the FSIA. This longstanding interpretation—evinced by actions of both political Branches—deserves deference." In **oral deliberations**, the US representative explained that IOs must be exposed to suits with respect to "quintessential domestic disputes, contract disputes with your contractor who renovated the building, the slip and fall at the -- at the organization's headquarters, or the driving accident on the streets of New York and D.C." The US believes that these would be the only consequences of the recognition of restricted immunity, and that Jam will ultimately fail in the US court. The State Department is of the view that suits with respect to foreign undertakings must show "nexus" to the US, which requires that the commercial activity occur in the United States. Some of the Justices expressed agreement with this view.

If this is the case, and Jam is expected to fail even if the IFC can be sued in the US, why are the IOs so concerned about the ramifications of a judicial recognition of the restrictive immunity of IOs under a US law?

Absolute immunity for IOs is one component of a long-standing policy, developed mainly by the International Court of Justice after 1945, that regarded IOs, in the **words** of Jan Klabbers, "as the harbingers of international happiness." This law asked us to have confidence in international decision-makers who have been selflessly seeking to promote the common good. One aspect of this policy has been the granting of absolute immunity to IOs in treaties, and a general doctrine of absolute IO immunity was developed (albeit contested) in the legal



Fishing clans live in the shadow of a power plant in Mundra, India. A fisherman prepares the net for an overnight fishing trip (Image copyright: Flickr/Sami Siva / ICIJ).

literature. The “long standing practice” of granting IOs absolute convinced the European Court of Human Rights as recently as **in 2013** to endorse such immunity even when it interfered with the individual right to access a court:

The attribution of privileges and immunities to international organisations is an essential means of ensuring the proper functioning of such organisations free from unilateral interference by individual governments. The immunity from jurisdiction ... is a long-standing practice established in the interest of the good working of these organisations.

Experience gained during more than seventy years of IO activity shows that IOs are not only harbingers of international happiness; reflecting human imperfections, they are also prone to mismanagement and to disregarding the powerless. Human tragedies in the hands of IOs demonstrate the obvious: the lack of accountability can lead to serious harms to individuals and communities.

The same experience suggests that the IOs’ worry about losing independence due to judicial intervention is misguided. Not only is this argument disingenuous because it fails the obvious influence of powerful members on the IO policies who are able to buy votes or otherwise shape

the IO’s decisions. The argument fails to acknowledge that courts have already asserted their authority to indirectly review the IO acts and omissions and thereby influence the IO’s policies. Even the UN Security Council acting under Chapter VII of the Charter had to modify its Targeted Sanctions rules as a result of judicial resistance emanating from European courts (the **Kadi** litigation), and several IOs have had to adopt rigorous procedures to protect the rights of their employees in response to pressure from courts (see **here**, pp. 159-162). Arguably, such pressure enhanced not only the IO’s accountability but also improved their functionality.

As much as the evolution of the restrictive immunity to foreign states was driven by unilateral state measures such as the Tate Letter (1952), issued by the U.S. Acting Legal Adviser, there is now a possibility that a rejection by the US court of the questionable premise that IOs’ functionality depends on absolutely immune could be followed by other national courts that would put individual human and constitutional rights before the interests of the IO. Will the US Supreme Court seize the moment and correct a misguided policy that for many years has insulated IOs from accountability to the adversely affected?

Round Table Discussion: International Law in an Era of Nationalism

PhD Law Student **Orfeas Chasapis Tassinis** offers a brief overview of this Round Table discussion which took place at the Lauterpacht Centre on the last day of the Michaelmas term 2018. The event was well attended with students, academics and visitors with an interest in international law from the UK and beyond. The event was concluded with an opportunity for current students to meet informally with the speakers and the Centre's Partner Fellows.

The round table zeroed in on the re-emergence of nationalism in the field of international law, and the growing skepticism against international institutions that comes with it. The broad but extremely topical theme gave ample room to each of the discussants to bring on board their unique experience from their own field of scholarship and practice.

Judge Greenwood expressed a reserved optimism about the ability of international law to withstand nationalist shocks. Sharing his experience as a judge in the Iran-US Claims Tribunal, he referred to the tribunal as a testament to how international institutions can manage to function properly despite historic tensions and nationalist passions running high. As he remarked in response to a question from the floor, there is still cause for at least some optimism that international institutions can provide solutions even in the face of growing national antagonisms: there are seventeen cases currently pending before the ICJ, the WTO dispute settlement system is still functioning, the Iran-US tribunal has made significant awards over the past years, and maritime boundary delimitation has been worked out in a moderately satisfactory way.

For his part, Prof Dugard, having dedicated his career to oppose the system of apartheid, saw the re-emergence of racist nationalism as a very real and dangerous prospect, focusing on the rise of white supremacy in the United States, as well as Israel's 2018 nation-state law. Prof Dugard highlighted how nationalist governments, including the current US and Israeli administrations, fail to abide by many rules of international law, pointing to the movement of the US embassy in Jerusalem and Israeli settlements in occupied territory. The relative apathy against such serious violations is what worried Prof Dugard the most, noting that developments in crucial areas of international co-operation such as international

criminal justice, but also climate change and refugee law, are constantly undermined by nationalist governments around the world.

Contributing from her field of expertise, Prof Catherine Barnard shared her experience talking about what EU law means to the public across the country during the run-up to the Brexit referendum. Her remarks focused on English nationalism and English self-assertion as the roots of the Brexit movement. She identified three relevant strands of dissatisfaction among that movement: governance issues, chiefly a reaction against devolution; identity issues in the form of a 'post-imperial anxiety'; and the sense of some that they have been left economically and socially behind. The genius of the Leave campaign was to draw together all these separate strands together under the 'take back control' motto. Yet, she observed, although the EU has some legal tools that could have addressed the situation, there has been a huge reluctance to utilize them in a way that makes a difference.

Going from the EU to world trade law, Dr Lorand Bartels explained that trade policy is about domestic trade offs between consumers and producers, meaning that it is difficult to characterize the promotion of one group's interests over the other as inherently nationalistic or the contrary. Yet, according to Dr Bartels, the current US administration's rhetoric evokes notions of trade as a mercantilist zero sum game. Things are more complicated than that, he remarked. In reality, industries and supply chains are interconnected to such a high degree that blocking imports of one good, for example steel, can actually hurt existing domestic manufacturers, for example in the car industry. Dr Bartels was more worried about how the US recently vetoed the re-appointment of Appellate Body's members, making it possible that the court will lack the required number of judges that are necessary

to issue a judgment, threatening to block the whole WTO dispute resolution system. If this move is calculated, as it may seem, to negotiate better terms of agreement with competitors such as China, that would squarely qualify as economic gunboat diplomacy, and potentially undermine the whole system.

A failure of international institutions, especially the EU, to do politics and engage with the public was a common thread among the discussants' responses during the Q&A. For Dr Bartels this was the result of the creeping technocratization of the system, obfuscating the genuine social and economic impact of internationally sanctioned policies in the lives of ordinary people. Judge Greenwood added that political movements cutting across boundaries never really materialized within the EU, making it hard to imagine a European political space. Prof Barnard underlined another dimension of the problem: the failure of EU institutions, whether this is the European Parliament or the Court of Justice, to engage with local constituencies. But she also stressed the EU did not enjoy a monopoly in neglecting periphery; domestic political systems, including in the UK, have sidelined local interests as well. Reflecting on international institutions more generally, Prof Dugard remarked that major changes in international law have always been achieved in times of idealism, such as the end of World War II and the 1990s, but what troubles him in the current state of affairs is that idealism is giving

its place to a cynical attitudes towards international law and its institutions.

In their final remarks, all discussants grappled with the issue of the ethical responsibility of lawyers facing these developments. Judge Greenwood commented that international lawyers should be careful of wholesale critiques of international institutions, for fear of undermining the whole edifice. Instead, what nuanced evaluations of institutions and more targeted critiques are called for. Prof Dugard remarked that international lawyers should be advocating the values of international law instead of simply serving the interests of their masters, while they should not be afraid of critiquing the system just because it is fragile. In this respect, Prof Barnard referred to the difficulty of critiquing the EU, as all too often any critique even by fairly uncontroversial standards, such as the lack of transparency in the European Parliament, is seen as an attack on the system. Dr Bartels remarked how international law is a convenient way of locking in domestic policies for which domestic support is difficult to muster, but this can only work so many times before it leads to the frustration of the domestic audience. Instead, international lawyers should not be afraid to be open about the impact and politics of their positions, and should not write off ex ante the solutions that domestic legal systems have to offer.

If you were unable to attend this event an audio recording is available at:

www.lcil.cam.ac.uk/friday-lunchtime-lecture-series



Speakers (left to right): Dr Lorand Bartels, Prof Catherine Barnard, Prof John Dugard and Sir Christopher Greenwood

Centre Publications

International Law Reports (ILR)

The Centre's longest running publication series, the International Law Reports, continues to produce six volumes per year covering the decisions of national and international courts and tribunals on issues of public international law.

The first volume, published this year in January, was volume 179, which is devoted to two important pieces of international jurisprudence. It contains the 2016 partial award and the 2017 final award of the arbitration tribunal in the territorial and maritime dispute between the Republic of Croatia and the Republic of Slovenia. It also includes Opinion 2/15 of the Court of Justice of the European Union concerning the Free Trade Agreement between the European Union and Singapore.

Volume 180, due to be published in March, focuses on issues of State immunity and diplomatic immunity, including cases concerning the right of access to court for civil claims under Article 6 of the European Convention on Human Rights and embassy employment disputes. It contains, amongst other cases, the UK Supreme Court judgments in *Reyes v. Al-Malki* and *Benkharbouche v. Secretary of State*, as well as the judgment of the European Court of Human Rights in *Naït-Liman v. Switzerland*.

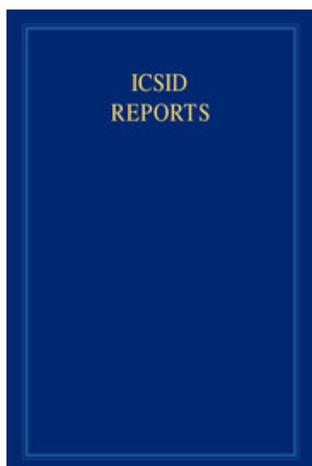


Maria Netchaeva, ILR Editorial Assistant and Karen Lee, Fellow and Director of Publications

Further information on the series is available on our website: <https://www.lcil.cam.ac.uk/publications/international-law-reports>

International Convention on the Settlement of Investment Disputes Reports (ICSID)

Cambridge University Press have appointed Professor Jorge Vinuales and Dr Michael Waibel general editors of the ICSID Reports. The Reports have been hosted at the Centre since their inception in 1993 by Sir Eli Lauterpacht, and edited over the years by Professor Rosemary Rayfuse, Professor James Crawford, Karen Lee and Dr Joanna Gomula, with Sir Eli as Consultant Editor. In the seventeen volumes published so far, the series has made available decisions rendered by arbitral tribunals and ad hoc committees under the aegis of the Centre established pursuant to the ICSID Convention.



The surge in investment arbitration proceedings as well as the growing role played by other arbitration institutions and by ad hoc arbitration under the UNCITRAL Rules have required some adjustments to the initial format. Starting with volume 18, the ICSID Reports will contain reports of decisions, including those rendered under ICSID but also under other fora, and a section on analysis. As before,

each decision will be introduced by a concise, self-contained and reliable summary highlighting particular aspects of the decision, following a digest format. Only the most relevant excerpts of the decisions will be reproduced, given that most decisions are now publicly and easily accessible online. The analysis section will include studies by the editors linking all the reported decisions to the wider body of case-law, and it will be open to submissions of manuscripts for potential publication in the same format of a peer-reviewed journal. Over time, we expect to publish three to four peer-reviewed articles per volume. On occasion, volumes will also publish special articles by invitation written by a leading figure.

Volume 18 will focus on the theme of 'Defences' and it will feature, in addition to the editors' introduction, an article by invitation from Professor Jan Paulsson and a study on defences by Professor Jorge Vinuales.

We hope that these reports, published in both paper and electronic format through Cambridge Core, will remain a valuable working tool for lawyers and scholars working on international investment law and arbitration.

Further information on the series is available on our website: <https://www.lcil.cam.ac.uk/publications/icsid-reports>.

Fellows' Publications

Professor Viñuales explores the legal foundations of the proposed Global Pact for the Environment

Professor Jorge Viñuales has recently completed a compilation of studies to guide the discussions of the ad hoc open-ended working group established by the UN General Assembly by resolution A/72/L.51 'Towards a Global Pact for the Environment'. The initial proposal to adopt a Global Pact was launched by an expert group in June 2017 and endorsed by the French President E. Macron, the former UN Secretary-General Ban Ki-moon, and the former COP-21 President L. Fabius. It could result in an instrument of a historical importance comparable to that of the Universal Human Rights Declaration or the two 1966 International Covenants.



The compilation is co-edited with the Secretary-General of the Group of Experts for the Pact, Professor Yann Aguila from Sciences Po, Paris, and it brings together the knowledge and expertise of several generations of international

environmental lawyers from around the world, including Virginie Barral, Antonio Benjamin, Laurence Boisson de Chazournes, David Boyd, Edith Brown Weiss, Neil Craik, Pierre-Marie Dupuy, Leslie-Anne Duvic-Paoli, Jonas Ebbesson, Francesco Francioni, Guillaume Futhazar, Shotaro Hamamoto, Marie Jacobsson, Walter Kälin, Yann Kerbrat, John Knox, Ginevra Le Moli, Sandrine Maljean-Dubois, Makane Mbengue, Jane McAdam, Pilar Moraga, Nilufer Oral, Michel Prieur, Alexander Proelss, Qin Tianbao, Lavanya Rajamani, Nicholas Robinson, Montserrat Rovalo Otero, Jason Rudall and Christina Voigt.

Each chapter is written in a concise, self-contained and practical manner. The analysis focuses on the different principles and aspects of the Draft Global Pact but it also reviews a range of other materials and topics. Some chapters survey aspects that were not included in the Draft Global Pact. These studies are followed by a compilation of international instruments relating to each principle.

The entire document will be shared through different channels with the State delegations participating in the ad hoc working group in order to support and guide the discussions.

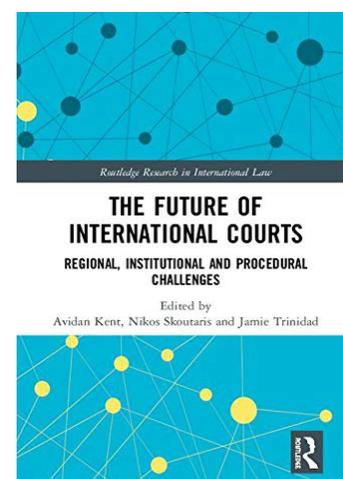
Contact Professor Viñuales for further information jev32@cam.ac.uk.

The Future of International Courts: *Regional, Institutional and Procedural Challenges* edited by Avidan Kent, Nikos Skoutaris, Jamie Trinidad

This book has been edited by Dr Jamie Trinidad, a Fellow of Wolfson College, Cambridge and the Lauterpacht Centre for International Law, University of Cambridge. His research and publications address, among other things, issues of self-determination, territory (land and sea) and the practice of international courts and tribunals. He is a practising barrister and he has a PhD from Cambridge.

'The Future of International Courts: Regional, Institutional and Procedural Challenges' addresses some of the most pressing challenges faced by international courts and tribunals today: from geopolitical shifts, to rising populism and authoritarianism, to increasing demands for third-party participation in international proceedings. It includes a keynote chapter by Karen Alter, and several of the other contributors are friends of the Lauterpacht Centre. The book is due to be published in March 2019.

The Future of International Courts - Regional, Institutional and Procedural Challenges (Routledge 29 March 2019) ISBN



Fellows' Publications

Why International Organizations are Accountable to You, in Resolving Conflicts in the Law: Essays in Honour of Lea Brilmayer 205-221 (Chiara Giorgetti and Natalie Klein Eds., Brill, 2019) - Prof Eyal Benvenisti

'International Law and the Post-Soviet Space I, *Essay on Chechnya and the Baltic States*, Columbia University Press (April 2019) - Dr Thomas D Grant

'International Law and the Post-Soviet Space II, *Essays on Ukraine, Intervention, and Non-Proliferation*, Columbia University Press (April 2019) - Dr Thomas D Grant

'Is There Something Missing in the Proposed Convention on Crimes against Humanity? A Political Question for States and a Doctrinal One for the International Law Commission' *Journal of International Criminal Justice*, Volume 16, Issue 4 (Sept 2018) - Dr Sarah Nouwen

'International Criminal Justice and Humanitarianism' (December 2018), Oxford Handbook on International Criminal Law, co-authored with Sara Kendall - Dr Sarah Nouwen

'The Globalisation of Justice: Amplifying and Silencing Voices at the ICC' in J. Handmaker and K. Arts (Eds), *Mobilising International Law for 'Global Justice'*, pp 46-62, Cambridge University Press (October 2018) - Warner Ten Kate, Dr Sarah Nouwen

'Protecting Children in Armed Conflict' Hart Publishing (September 2018) by Shaheed Fatima QC - Dr Federica Paddeu (Research team member and Contributor)

Global Content Protection Through Automation – A Transnational Law Perspective, Volume 49, issue 9 of *International Review of Intellectual Property and Competition Law (IIC)* (4 November 2018) - Dr Henning Grosse Ruse-Khan

'The Icarus Syndrome: How Credit Rating Agencies Lost their Quasi-Immunity' *SMU Law Review*, Vol 71, Issue 4 - Dr Michael Waibel

Fellows' News



Eyal Benvenisti gave lectures at The Fifth Biennial Conference of the Latin American Society of International Law LASIL-SLADI, held at the School of Law of the Torcuato Di Tella University (Buenos Aires) on 25 September, 2018, as well as at the Argentinian Supreme Court, on 26 September, 2018, the 8th Bonn Humboldt Award Winners' Forum, Bonn, 17 October, 2018, the ACIL Lecture at the Amsterdam Center for International Law, on 12 November, 2018, and at a conference on Public Law and Spatial Governance: New Frontiers, the Max Planck Institute for the Study of Religious and Ethnic Diversity, 7 December, 2018.



Dr John Barker, Lauterpacht Centre Fellow and founding Director of Cambridge Governance Labs, has teamed up with the Intellectual Forum at Jesus College, the Centre for the Study of Existential Risk in Cambridge and the Office of the Vice-Chancellor to facilitate a new series of discussions on global risks called Cambridge Global Conversations. The first of these multi-stakeholder two-day events is scheduled for the beginning of July and will address the ethics of climate change.



Markus Gehring made key contributions at the committee meeting of the ILA held at the Lauterpacht Centre during the summer on the role of international law in sustainable resources management for development ahead of the Round Table he co-hosted on Innovative Instruments for a Sustainable Energy Transition at the UN's Framework Convention on Climate Change (CoP24) in Katowice, Poland.



Joanna Gomula organized a symposium at the Centre on: 'The Principles of shared responsibility in international law' in June 2018, which featured a debate on the principles elaborated within the framework of the SHARES project (see page 14). In October, Dr Gomula spoke on the relevant practice and jurisprudence of the WTO at an international conference on 'The impact of climate change on international law' which was held at the University of Cardinal Stefan Wyszyński in Warsaw, Poland.



Sarah Nouwen gave the Third Hans Kelsen Memorial Lecture at the Institute for Peace and Security Law at the University of Cologne on 8 November 2018.



Marie-Claire Cordonier Segger organized and co-led an experts panel at the Faculty and a committee meeting of the ILA at the Lauterpacht Centre during summer 2018 on the role of international law in sustainable resources management for development, which was approved at the ILA's 78th Biennial Conference in Sydney, and formally submitted as a report in the fall 2018. Marie-Claire also spoke on how the Paris Agreement supports sustainable development as a treaty of international law at the international conference on 'The Impact of Climate Change on International Law' held in October at the University of Cardinal Stefan Wyszyński in Warsaw, Poland, and led a delegation to the UN's Framework Convention on Climate Change (CoP24) in Katowice, Poland where she co-chaired the international law symposium 'Advancing Law & Governance Contributions to Climate Action under the Paris Agreement' co-hosted with the University of Silesia Faculty of Law and an international law experts panel event at CoP24. Together with the UNFCCC Secretariat, she also led a specialisation course for CoP24 delegates and observers on international law and governance on climate change. She similarly led a delegation to the UN's Convention on Biodiversity (CoP14) in Sharm-el-Sheikh, Egypt, where she co-chaired the international law symposium 'Contributions of International Law & Governance to Mainstreaming Biodiversity' and an international law experts panel event at CoP14, delivering the outcomes statement to the plenary of the CBD CoP. The analysis feeds into new international law books with Cambridge University Press.



Michael Waibel spends Lent Term 2019 at Harvard Law School as the Nomura Visiting Professor of International Financial Systems. He teaches two courses International Investment Law and Arbitration, as well as European Union Law and Policy.



Rumiana Yotova was invited to address the 6th Plenary of the Global Alliance for Genomics & Health in Basel, Switzerland on 4 October 2018, which was attended by over 400 delegates. She presented her research on the right to benefit from science and its implications for the sharing of genomic data. The Global Alliance is an international, non-profit alliance that accelerates the potential of research and medicine to advance human health. Rumiana's book chapter on 'Compliance with Domestic Law: an Implicit Condition in Treaties Conferring Rights and Protections on Foreign Nationals?' was published in J Klingler, Y Parkhomenko and C Salonidis (eds), *Canons of Construction and Other Interpretative Principles in International Law* (Wolters Kluwer, 2018).

5 minutes with...

Dr Ivan Berkowitz



Dr Berkowitz with Lady Catherine Lauterpacht

Dr Berkowitz is a corporate executive and advisor, with over 40 years experience in the financial and real estate industries. In 2003, he founded and served as the Chairman of Great Court Capital, a global structured finance and traditional merchant banking firm based in New York City. Until its sale in 2003 Dr Berkowitz was a senior managing partner of Avatar Associates, a New York headquartered institutional asset management firm. Currently, he is president of Maytiv Foundation, a non-profit dedicated to supporting educational and health related programs. He is a Life Member of the Cambridge Union and served for 20 years on the Board of the Council on Economic Education. He holds a PhD in International Law from Cambridge University, an MBA in Finance from Baruch College and a BA in Economics from Brooklyn College.

What is your main area of research?

Until very recently, I spent my entire professional career in investment banking and international asset management. From the time that I came up to Trinity in 1973 to read law for my second BA and in continuing with my work on the PhD, the focus of my efforts was mostly concentrated on understanding the workings of the US-based multinational enterprise. The purpose was always to examine various aspects of its conduct and ultimate impact it had on the global community. It was Sir Eli Lauterpacht who made me aware early on that there was a scholarly void in this area and that the longstanding importance of these enterprises deserved further examination.

Today, with more than forty years of such investigations I have decided to confine my scholarly interest to Hugo Grotius and the sources he relied on to compose his theories of natural law.

I am currently focussing on researching the extent to which Grotius was exposed to rabbinic literature and its interpretation of natural law. We know that a considerable amount of talmudic and exegetical commentary was Latinised by the beginning of the 17th century. The study of such works was confined to scholars, known as Christian Hebraists, who had deep connections in the Jewish communities of certain parts of Europe and especially in Amsterdam.

Grotius was clearly aware of and even involved in the dynamics of some of those relationships, though his knowledge of Hebrew was limited. Nevertheless, he considered these Jewish sources as valuable in developing his formulations on Law and Philosophy. On the face of it, this view could be mystifying as the ancient Jewish nation had a very different history and culture than the polities familiar to Grotius. Thus, it seems that for Grotius, the talmudic legal system offered an unusual case study of how, over a long history, a stateless people can maintain the workings of a binding legal framework. In idealising the rationalism and the uninterrupted traditions of rabbinic writings it appeared to him that a new jurisprudence could emerge, less dependent on scholasticism and medieval philosophy.

As a Visiting Fellow this year what have you been working on whilst at the Lauterpacht Centre?

As a Visiting Fellow I am writing a paper titled "Grotius and rabbinic interpretation in natural law". Here, I argue that, contrary to representations made by certain observers, Grotius had more than a brief engagement with important rabbinic works and was hardly disconnected from the nuances found in the scholarship when referencing it in his citations. This is particularly true with regard to Maimonides's "Guide of the Perplexed" and his law code, "Mishneh Torah."

In tracing the development of natural law, and in particular the “Grotian Tradition” in international law, I am engaging in a kind of restructuring of historical periodisation. Through such an analysis I suggest that it is very plausible that a traditionally trained Calvinist theologian would emerge as a figure to be reckoned with, in the developing science of international relations. Grotius’s use of Jewish sources makes the transition from scholastic to modern natural law theory more than philological. His understanding of scripture and rabbinic scholarship served as a prerequisite for the new way in which he viewed societies, their mores and the search for a legal framework as a juridical standard.

This particular determination to understand the logic if not the metaphysics of a functioning system of rabbinically imposed Judaic legal practice, helps in our understanding the impulse which distinguished Grotius’s views on sovereignty, as an example from that of Hobbes’s. Grotius embraces the age of gritty competition amongst nations, as against the retreat from a world of constant rivalry proposed by Hobbes in the “Leviathan”. Practically speaking we see that Grotius’s view prevailed because of the premium placed on his erudition in the age of utilitarianism.

I find that one of the most interesting aspects of Grotius’s life is to be found in his opinions on religious matters, and the zeal with which he undertook to reunite Christians under a single doctrinal faith. This effort to confront reality and attempt to solve intra-religious issues has come to be known in the academy as “Irenicism”.

The rabbinic doctrine of “Darchei Shalom”, a form of MacIntyre’s communitarian “inner moral voice”, should not be overlooked as a possible influence on Grotius’s Irenicism.

His correspondence with scholars shows that he sought advice on formulations of individual autonomy and social order, which can be explained through the agency of the talmudic doctrine. Grotius’s reading and reception to these texts buttresses the argument that the structuring of his theories may have found the necessary support in this distinct literature. The representations of my research in this regard will address the presence of this propulsive derivation and dependency.

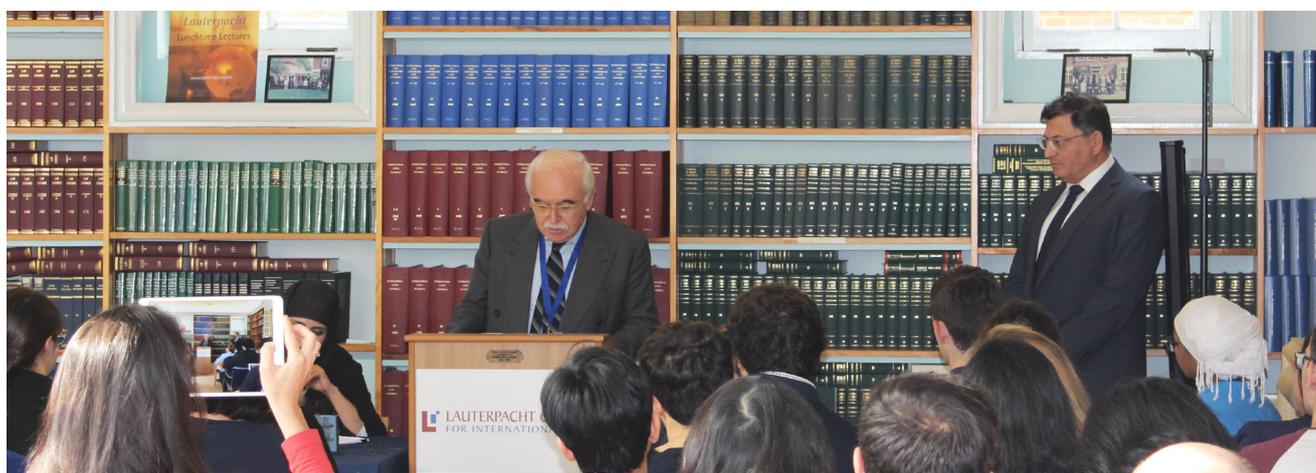
How has the Centre enabled you to carry out your research?

In spending the Michaelmas term at the Centre I have been the beneficiary of much learning and advice provided by visiting colleagues in discussing my project. In his capacity as the Director of the Centre, Professor Eyal Benvenisti, has generously introduced me to scholars working in the same field at various universities in Europe. The insight and expert advice provided through such associations encouraged me to persist in attaining my goal. The valuable suggestions received from learned experts who made themselves available on short notice here in Cambridge could only have happened because of my association with the Centre. Their comments and judgements were of particular value in solving problems of translations and transcriptions of original texts and primary sources. In doing so they have enriched my understanding of the subject, and by extension the value of my research.

What do you like best about the Centre in Cambridge?

The dynamic intellectual atmosphere fostered at the Centre is invaluable as an essential ingredient in championing the pursuit of researchers who can often encounter states of isolation in their preparation of their scholarly contributions.

The variety of lectures offered in the Friday luncheon series along with the other events held at the Centre, encourages the Fellow/Scholar to partake in a menu of offerings that can only enrich and broaden the dimensions of the particular scholarship pursued by the individual. Not to speak of the exposure to recent developments in the thinking and practice of international law at the highest levels. The daily coffee breaks and the weekly workshop presentations also manifest an exemplary way in which ideas and scholarship can be shared with those who can proffer valuable advice in a nurturing and supportive setting. The confidences and friendships developed with colleagues and staff also underscores that special differentiated value to be found at the Centre.



Dr Berkowitz opens the Eli Lauterpacht Lecture 2018 held at the Lauterpacht Centre on 5 October 2018

Symposium on Principles on Shared Responsibility

Centre Fellow Dr Joanna Gomula

On 6 June 2018 the Lauterpacht Centre hosted a symposium on 'Principles on shared responsibility in international law', at which the most recent version of the Principles on Shared Responsibility in International Law (the Principles) was presented and discussed.

The Principles have been elaborated within the SHARES project, led by Professor André Nollkaemper (University of Amsterdam) and funded by the European Research Council. They are designed to supplement and adjust the existing rules of the law of international responsibility, as reflected in the Articles on the Responsibility of States for International Wrongful Acts, the Articles on the Responsibility of International Organizations, as well as in international practice and scholarly thought. The Principles are intended to serve as guidance to judges, practitioners and researchers with respect to problems of shared responsibility arising between states, international organizations and, in certain situations, other persons.

Dr Michael Waibel, Co-Deputy Director of the Lauterpacht Centre, opened the symposium, welcoming the participants and emphasizing the importance of rules of state responsibility in international law. His address was followed by the first session of the symposium, chaired by Dr Joanna Gomula at which two authors of the Principles and leading experts in the field, Professor André Nollkaemper and Professor Jean d'Aspremont (University of Manchester), gave an overview of the Principles, focusing on their origin, contents and legal implications.

The second session of the symposium, chaired by Professor Photini Pazartzis (University of Athens/Lauterpacht Centre), featured a discussion of selected aspects and concepts reflected in the Principles, introduced in each case by an expert associated with the project. Professor André Nollkaemper presented the Principles in light of concerted actions and reparations, Professor Jean d'Aspremont spoke about control, as well as international organizations, while Dr Bérénice Boutin (Asser Institute) and Dr Nataša Nedeski (University of Amsterdam) discussed causation and shared obligations, respectively. A lively debate followed, sparked by the comments of discussants assigned to each topic (in alphabetical order): Professor Pierre d'Argent (University of Louvain), Dr Fernando Bordin (University of Cambridge), Dr Daniel Costelloe (Wilmer Hale), Dr Tibisay Morgandi (Cambridge Centre for Environment, Energy and Natural Resource Governance), Ms Odette Murray (University of Cambridge), Professor Christian Tams (University of Glasgow), Dr Kimberley Trapp (University College London), and Mr Luis Viveros Montoya (University College London/Lauterpacht Centre).

The event was organized by Professor d'Aspremont and Dr Gomula, and sponsored by the Lauterpacht's Centre International Law Events and Research Grants Fund.



ESIL-sponsored workshop: 'Rethinking Reparations in International Law'



Research Assistant **Sabrina Boudra**

On 16-17 November 2018, the Lauterpacht Centre for International Law, in collaboration with the Athens Public International Law Center, held a workshop entitled 'Rethinking Reparations in International Law', organized by Dr Veronika Fikfak, fellow and director of studies at Homerton College, and Prof Photini Pazartzis, professor at the Faculty of Law at the National & Kapodistrian University of Athens.

The ESIL-funded workshop sought to address the recent developments and scholarship in the area of reparations in international law. It addressed questions such as the role remedies play in international law, whether this role is different in different areas of international law, how they are chosen by judges and arbitrators, how they are calculated, their efficiency, as well as various other issues. The workshop worked as a platform for discussion of new ideas about the efficiency of reparations in international law by bringing together scholars writing on theory of reparations, those conducting empirical or comparative research, as well as practitioners, judges and arbitrators.

The workshop lasted two days and consisted of 7 panels, each addressing a different question. The first day ended with a debate with judges and practitioners on the issue of remedies in practice. The debate was led by Professor Eyal Benvenisti, Whewell Professor of International Law at the University of Cambridge, and the issue was discussed by Judge Pete Kovacs, judge at the ICC, Judge Paulo Pinto de Albuquerque, judge at the European Court of Human

Rights, Dr Carla Ferstman, senior lecturer at the University of Essex, and Dr Conor McCarthy, barrister at Monckton Chambers.

Overall, the workshop was a success. It drew reparation experts from institutions all over the world – various EU countries, but also South Africa, Turkey, the United States, and China. It received a lot of positive feedback from the participants, who saw it as a great opportunity to discuss reparations in a multidisciplinary setting.

This workshop was audio-recorded and is available on the university's media streaming service at <https://www.sms.cam.ac.uk/collection/2870585>.

(Note: this article is also to be published in the European Society of International Law (ESIL) newsletter)



Workshop: 'On the Origins of International Legal Thought'

Centre Fellow Dr Edward Cavanagh

On 7 December 2018, this workshop was convened at the Lauterpacht Centre. Delegates arrived from Chicago, Gothenburg, Kent, Göttingen, Hong Kong, Florence, Paris, The Hague, and, of course, Cambridge. The workshop was intensive, with papers exploring centuries of history and many parts of the world, all heard in one day.

Comprehension of the development of legal thought over time is necessary for any historical, philosophical, practical, or theoretical enquiry into the subject today. Perspective is everything. When seen against the background of broad geopolitical, diplomatic, administrative, intellectual, religious and commercial changes, law begins to appear very resilient. It withstands the rise and fall of empires. It provides the framework for the establishment of new orders in the place of the old. Today what analogies, principles, and authorities of law have survived these changes continue to inform so much of the international legal tradition, and it is unobvious why tomorrow will be any different.



(Left to right) speakers at the table: Edward Cavanagh, Eric Loefflad and Jedidiah Kroncke.

Delegates were asked to read all the papers in advance. This procedure always runs the risk of two or three delegates arriving to take their seats in coils like cold-blooded taipans ready to strike at others. Happily, no reptilian creatures showed up, and a decorous spirit of charity and constructiveness was felt in the room from the start to the end. Bloods were kept warm in the winter with tea and coffee. And the presentations all ran smoothly, thanks to the support of the LCIL team.

The first panel featured Clifford Ando on public law and republican empire in Ancient Rome, and Zachary Chitwood on Muslims and non-Orthodox Christians in Byzantine law. The second panel featured Eric Loefflad on the Scottish Enlightenment and the 'standard of civilisation', Alexander Heinze on the Kantian origins of international criminal law, and Jedidiah Kroncke on missionaries and the law in the nineteenth century. The third panel featured Lia Brazil on British war office manuals and the laws of war and martial conduct, Eraldo Santos on civil disobedience and American constitutionalism, and Léon Castellanos-Jankiewicz on nationality, alienage, and international legal personality. The fourth panel featured Joshua Smeltzer on Carl Schmitt and the concept of the 'state', and Emma MacKinnon on Djamila Bouhired and anti-colonial revolution.

Four questions emerged for future thought. The first concerns the need to understand office: to focus, more specifically, upon officeholders as a rule-bound class of legal actors. The second concerns translation: to focus, more specifically, upon the need to move legal ideas and institutions across contexts and languages, and how sometimes the pursuit for universal understanding leads to choosiness and an overly heightened awareness of audience. The third concerns empire: to focus, more specifically, upon changing notions of empire, and how this variability makes it fickle across periodisations. The fourth concerns civil law not only as a repertoire of ideas and institutions, but also as a movable notion itself: to focus, more specifically, upon city jurisdiction, civility, and scales of 'civilisation', as well as the principles and analogies of the *Corpus Iuris Civilis*.

That all of this, of course, brings us back to Ancient Rome – to officio, to translatio, to imperium, to civitas – offers an important reminder of where so much of our international legal tradition comes from, and where so much more of our attention, as a result, should be focused in the future. This was something Hersch Lauterpacht recognised in the 1920s. That a hundred years later some of us should come to think the same in an event hosted with the generosity of the centre for international law that takes his family name is pleasing indeed.

ILC Workshop: 'Crimes Against Humanity'

In October 2018, the Centre hosted Professor Sean Murphy, President of the American Society of International Law and the International Law Commission's Special Rapporteur on Crimes against Humanity. Organised by Dr Michael Waibel and Dr Federica Paddeu, this day-long by-invitation-only workshop on a topic on the ILC's agenda has become a regular feature in the Centre's academic calendar.

Over the course of the day, Professor Murphy introduced the *ILC draft Articles on Crimes against Humanity* that the ILC adopted on first reading in 2017. Providing the background to the articles, he explained that they aimed to fill a gap in international law, a gap that is apparent if one considers that there are suppression treaties on genocide and war crimes but not on crimes against humanity.

Twenty participants from practice, government and academia subjected the Draft Articles and Commentary to detailed scrutiny and provided comments, line by line. The discussion continued over an informal dinner.

Hopefully, the comments will be useful now the Commission proceeds to the second reading.

For more analysis of the ILC's draft articles, see also the *September 2018 Special Issue of the International Journal of Criminal Justice*, with a foreword by ILC Rapporteur *Sean Murphy*, a conclusion co-authored by former LCIL Visiting Fellow *Claus Kreß* and chapters by, among others, former LCIL Visiting Fellow *Elies van Sliedregt* and LCIL Co-Deputy Director *Sarah Nouwen*.



Professor Sean Murphy

Centre Library honoured to receive book donation

On a bright and crisp February morning in Cambridge, Orfeas Chassapis-Tassinis and Sarah Nouwen visited Mrs Cherry Hopkins, who had kindly offered her late husband's international law books to the Centre.

A fellow of Downing and Hughes Hall, John Hopkins www.dow.cam.ac.uk/news/announcement-3 was one of Cambridge's foremost teachers in law, including international law. His bookshelves were testament to his life-long interest in international law, carrying Oppenheim, Kelsen and McNair, as well as Christine Gray's 4th edition of the International Law on the Use of Force and other books that had come out only a few months before his death in September 2018. The shelves also featured the British Yearbook of International Law, from the very first edition, 'the days in which people still wrote short articles', as Mrs Hopkins commented. For 25 years, she was assistant editor of the Yearbook. While Orfeas and Sarah packed up books, Mrs Hopkins www.girton.cam.ac.uk/directory/hopkins-charity/ shared memories of her lectures in international law, which had been delivered by Eli Lauterpacht. The stories, teachings and books will continue to live on, in and beyond the Lauterpacht Centre.



Mrs Cherry Hopkins and Dr Sarah Nouwen

New faces at the Lauterpacht Centre

We welcome the following Visiting Fellows and Researchers to the Centre this term. Full Visitors' profiles are available at www.lcil.cam.ac.uk.



Stephen Bailey is a counsel at Lindeborg Counsellors at Law. In this capacity, he has acted for individuals before the Permanent Court of Arbitration and the United Nations Human Rights Committee, and in investor-State arbitration. Stephen has published work in journals such as the *International Criminal Law Review* and the *European Journal of Human Rights*. He has also given guest lectures on international law, including a lecture on 'INTERPOL and the responsibility of international organisations' at All Souls College, University of Oxford. Prior to joining Lindeborg, Stephen was a lawyer at Davis Polk & Wardwell, and he taught law at the University of Cambridge and the University of Edinburgh.



Emma Dunlop is a PhD candidate at UNSW Sydney, Australia. Previously, Emma worked in the Legal Directorate of the Organisation for Economic Co-operation and Development (OECD) from 2014–2016. She has also worked as a contractor in the International Criminal Court's Presidency Legal and Enforcement Unit and undertaken a nine-month university traineeship at the International Court of Justice. Emma holds a Bachelor of Laws and a Bachelor of Arts (Honours) from the University of Sydney, an LL.M in International Legal Studies from New York University, where she studied as a Hugo Grotius Scholar, and a Master of Studies in Legal Research from the University of Oxford.



Franz Ebert is a research fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg where he pursues a PhD on Labour Governance by International Economic Institutions. Franz studied law in Bremen, Oldenburg, and Geneva and holds an LL.M. from Utrecht University. At the Max Planck Institute, Franz manages a research project concerning the relationship between Latin American constitutional law and international economic law. The project has so far resulted in an edited volume in Spanish, which Franz has co-edited.



Nartnirun Junngam has been an Associate Professor at the Faculty of Law, Thammasat University, since 2012 and has served as its Director of the International Law Centre from 2014 to 2016. He received his LL.B. (Hons) from Thammasat and LL.M. and J.S.D. from Yale Law School, where he was an advisee of Professor W. Michael Reisman and a Howard M. Holtzmann Fellow in International Arbitration and Dispute Resolution. He has been a member of the Executive Council of the Asian Society of International Law (AsianSIL) since 2015.



Paul Komba (Brandon Fellow) is a Barrister in the Middle Temple Inn, London having been called to the Bar in 2007 and a Quondam Fellow, Wolfson College, Cambridge. He recently served as Fellow at the Department of Mercantile Law, Faculty of Law, University of Johannesburg, South Africa. His work focused on the law applicable in international commercial contracts and defences open to states in International investment law. His research interests are primarily focused on Public Law and Private international law, international investment law, human rights, and Judicial Review in supranational courts and tribunals.



Ginevra Le Moli is a Ph.D. candidate in International Law at the Graduate Institute of International Law and Development Studies (IHEID), as well as a Teaching Assistant for the LLM Programme in International Law. She holds an LL.B. and a Masters in Law cum laude from the University of Roma Tre, an LL.M degree in International Law from the Graduate Institute (cum laude) and a Diploma in International Law from the London School of Economics.



Michele Saporiti (Ph.D.) is senior research fellow in Philosophy of law at the University of Milano-Bicocca where he carries out research on sovereignty and human rights. He completed his post-doctoral studies at the École Pratique des Hautes Études (PSL) in Paris. His main research interests are philosophy of human rights, law and ethics, theories of sovereignty and religions.



Isabel Staudinger is a second-year PhD researcher at the Salzburg Centre of European Union Studies. Her thesis deals with the Legal Nature of Financial Assistance Conditionality and is supervised by Professor Stefan Griller and Professor András Jakab. Her main research areas are the European Economic and Monetary Union (EMU) as well as fundamental rights.



Latha Varadarajan is a Professor of Political Science, and the Director of the Center on International Security and Conflict Resolution at San Diego State University. She is the author of *The Domestic Abroad: Diasporas in International Relations* (OUP, 2010) and *Imperialism Past and Present* (with Emanuele Saccarelli, OUP, 2015). Her articles on transnationalism, nationalism and imperialism have been published in journals including *The European Journal of International Relations*, *International Relations*, *New Political Science*, and *Review of International Studies*.



Laura Visser is a PhD candidate at Maastricht University, The Netherlands. She studied law at the same university: the Bachelor European Law School English Track (cum laude) and the Master International Laws. During her studies she was a student-assistant for the Maastricht University Centre for Human Rights, she worked as an intern for the Dutch Red Cross at the department of International Humanitarian Law and she participated in the Frits Kalshoven IHL Moot Court Competition.



Zhiliang Zhang is a PhD candidate at Xi'an Jiaotong University Law School and Lecturer in Chinese language, culture and history. She also has a Msc in Language Teaching from the University of Edinburgh and is a proficient Mandarin and Chinese culture teacher who has been engaging in international students' education for years. She is also involved in helping international students deal with non-academic issues. This part of her job raises her awareness to problems being concealed behind the current regional "studying in China" fever, as well as flaws in the legal system, which pose as obstacles for international students. Thus, she made a major career move pursuing law hoping to address these problems, as well as enhancing the studying and living experience of students who study abroad.

Lent Term 2019

Lectures take place in the Finley Library at 1pm with a sandwich lunch from 12.30pm

Friday 18 January



From Timbuktu to The Hague and Beyond: The War Crime of Intentionally Attacking Cultural Property

Professor Mark Drumbl
Washington and Lee University

Friday 22 February



Let's Talk About the Boteros: Law, Memory, and the Torture Memos at Berkeley Law

Professor Laurel Fletcher
University of California

CILJ-LCIL Annual Lecture 2019

Friday 25 January



Instigator or Inhibitor? The Role of International Law in Dealing with the Legacy of the Northern Ireland Conflict

Professor Louise Mallinder
Queen's University Belfast

Friday 1 March



Double Amnesia: Zionism and Human Rights in History and Memory

Professor James Loeffler
University of Virginia

Friday 1 February



Decolonising the International Law Curriculum

Dr Christine Schwöbel-Patel
University of Warwick

Friday 8 March



What is the WTO Agreement on TBT All About?

Professor Petros C Mavroidis
Columbia Law School

Friday 8 February



Some Reflections on Territorial Sovereignty Today

Professor Malcolm Shaw QC
Essex Court Chambers

Friday 15 February



Instrumental International Criminal Justice

Professor Miles Jackson
University of Oxford

Hersch Lauterpacht Memorial Lecture 2019

Democracies and International Law: The Trials of Liberalism

6 pm, Tuesday 12 March - Thursday 14 March

A series of 3 lectures followed by a Q&A session on:

1 pm, Friday 15 March



Professor Tom Ginsburg
University of Chicago Law School

The Lauterpacht Centre Friday lecture series is kindly sponsored by Cambridge University Press

Additional events this term

The following events take place in the Finley Library at the Lauterpacht Centre. For further details please visit our events page at: www.lcil.cam.ac.uk/press/events/all

Tuesday 19 & Wednesday 20 February - 09:00 hrs - 17:00 hrs

Two-day workshop: 'The Development of International Procedural Law'

In recent years, there has been an increasing interest in the procedural aspects of international dispute settlement. There is a deepening awareness of the extent to which rules of procedure may affect not only the efficiency and timeliness of settling a dispute reviewed by an international court or tribunal, but also the substantive outcome of such dispute. The workshop, which will bring together over twenty scholars and practitioners, is part of a project that aims to capture recent developments in the broadly defined area of the 'international dispute settlement process' and to examine whether a separate and distinct field of 'international procedural law' could be emerging.

The workshop is organized by Dr Joanna Gomula (Lauterpacht Centre) and Professor Stephan Wittich (University of Vienna).

Attendance will be open subject to registration (places are limited). Please contact Dr Gomula at jg218@cam.ac.uk if you wish to register.

Further details: www.lcil.cam.ac.uk/press/events/2019/02/lcil-workshop-development-international-procedural-law

Tuesday 5 March 2019 - 17:15 hrs

Evening Event: 'The Role of the Military Legal Adviser during Armed Conflict and Peacetime Military Operations' by Commander Ian Park

Commander Ian Park (Royal Navy International Law Legal Adviser) will offer a view on the role of the military legal adviser during armed conflict and peacetime military operations. He will consider recent armed conflicts in Iraq, Libya, Afghanistan, and Syria, and Royal Navy peacetime military operations in the Arabian Gulf, Indian Ocean and Mediterranean.

Commander Ian Park is a barrister in the Royal Navy and specializes in international law. He has deployed as a legal adviser on operations to Afghanistan and, on many occasions, to the Middle East. Ian is, or has been, a Hudson Fellow at Oxford University, a Visiting Fellow at Harvard Law School, a First Sea Lord's Fellow and a Freeman of the City of London. He has a doctorate in law from Balliol College, Oxford and has lectured at Harvard Law School, Oxford University, The Academy of Military Sciences, Beijing, Hanoi University, Shanghai Jiao Tung University and Freiburg University amongst other institutions. Ian is the author of 'The Right to Life in Armed Conflict' (Oxford University Press, 2018) and in 2018 was the winner of the outstanding performance by an HM Forces barrister at the UK Bar Awards.

A drinks reception will follow afterwards in the Old Library.

Further details: www.lcil.cam.ac.uk/press/events/2019/03/lcil-evening-event-role-military-legal-adviser-during-armed-conflict-and-peacetime-military

Monday 11 March 2019 - 17:00 hrs

Book Launch: 'The Trump Administration and International Law' by Harold Hongju Koh, Sterling Professor of International Law, former Dean and co-founder of the Rule of Law Clinic at Yale Law School and Visiting Fellow at the Lauterpacht Centre.

Further details: www.lcil.cam.ac.uk/press/events/2019/01/lcil-book-launch-trump-administration-and-international-law-prof-harold-koh

Sir Hersch Lauterpacht Memorial Lecture 2019

Democracies and International Law: The Trials of Liberalism

Professor Tom Ginsburg

*(Leo Spitz Professor of International Law, Ludwig and Hilde Wolf
Research Scholar, Professor of Political Science, The University of
Chicago, the Law School)*



Further information available at: <http://bit.ly/2zTap9n>

**Main lectures
(in three parts)**

Tuesday 12, Wednesday 13 and Thursday 14 March 2019
All lectures start at 18:00 hrs

Q & A session

Friday 15 March 2019
13:00 hrs (with sandwich lunch from 12:30 hrs)

Venue

Lauterpacht Centre for International Law
5 Cranmer Road, Cambridge, CB3 9BL



The Hersch Lauterpacht Memorial Lecture is an annual three-part lecture series given in Cambridge to commemorate the unique contribution to the development of international law of Sir Hersch Lauterpacht.

These lectures are given annually by a person of eminence in the field of international law and a revised and expanded version of the lectures is usually published in the Hersch Lauterpacht Lecture Series by Cambridge University Press.

Further information: www.lcil.cam.ac.uk/events/hersch-lauterpacht-memorial-lectures

Graduate Workshop Series 2019

PhD Law Student Neli Frost

The Graduate Workshop Series is an emerging endeavour to provide Doctoral students researching in the field of international law with the opportunity to further integrate in the academic community at the Lauterpacht Centre.

The workshops are intended to afford a broader platform for young scholars to present their projects and ideas, to engage in a meaningful dialogue with fellows and long-time experienced researchers, and to receive their constructive feedback.

Alongside the newly established PhD discussion group, the Workshop Series is intended therefore, to make available an additional venue for Doctoral students to contribute to the development of knowledge and scholarship in the field of international law, and to establish themselves as future academics in the field.

The idea of the Workshop Series was enthusiastically welcomed by Fellows at the Lauterpacht Centre. Professor Benvenisti encouraged and supported the idea, offering

to be the first commentator on the work presented. Dr Megan Donaldson and Dr Andrew Sanger offered their advice on the structure of the workshops and will also act as commentators to the papers presented this year.

Hopefully, these workshops will continue to advance in following years and connect students interested in presenting their work with Fellows interested in taking part in younger scholars' mentoring and career-building process.

These events are open to the public. To register your attendance, and to receive information ahead of the workshops, please contact Neli Frost: nf343@cam.ac.uk

Thurs 7 March 2019
14:00 hrs - 17:00 hrs

Bruno Gelinas-Faucher 'Misinterpreting the Rules?
The Role of ICJ judges in ISDS'

Maayan Menashe, 'International Labour Law as a Global Public Good – Enhancing Labour Regulation in an Era of Globalisation'

Commentator: Prof Eyal Benvenisti

Wed 29 May 2019
09:30 hrs - 12:30 hrs

Neli Frost, 'The case for the international regulation of social media companies'

Eirini Kikarea, 'State Owned Enterprises and International Law'

Commentator: Dr Andrew Sanger



INVESTMENT LAW AND ARBITRATION

**The Lauterpacht Centre for International Law, in collaboration with
Cambridge Judge Business School Executive Education**

A five-day, advanced introduction to international investment law and arbitration

Monday 27 - Friday 31 May 2019

Programme Summary

This five-day programme provides an advanced introduction to international investment law in the context of public international law and practice focusing on recent developments. It offers the opportunity to learn from Cambridge law and business school academics, as well as leading practitioners drawn from major law firms and barristers' chambers. It is designed both for junior practitioners who are developing a practice in international investment law and for more senior lawyers who wish to re-orient themselves to investment arbitration.

**Course details are available on the
Lauterpacht Centre's website :**

www.lcil.cam.ac.uk/investment-law-and-arbitration

Who is the Programme for?

- For lawyers in private practice, government departments or in-house counsel, a thorough understanding of the building blocks of international investment law and how it is embedded in general international law is becoming increasingly important.
- Lawyers in private practice who are developing a practice in international investment arbitration, and who seek to consolidate their knowledge of international investment law and general international law.
- In-house counsel or government lawyers working on investment arbitrations.
- Lawyers in private practice who aspire to expand their practice to include investment arbitration (e.g. lawyers specialised in commercial law or international commercial arbitration).

If you have any queries, please email Dr Michael Waibel, Academic Director (mww27@cam.ac.uk)



2019 BRANDON RESEARCH FELLOWSHIP



The Lauterpacht Centre for International Law is pleased to invite applications for the 2019 Brandon Research Fellowship, funded by a generous gift given in 2009 by Mr Michael Brandon MA, LLB, LLM (Cantab.), MA (Yale) (1923–2012) and by Mr Christopher Brandon in 2013.

The Lauterpacht Centre provides facilities for research in international law in Cambridge for legal practitioners and academics from around the world.

The Brandon Fellow will be welcomed as part of the community of visiting scholars at the Centre. Visiting scholars have the opportunity to meet with other researchers in their field and are encouraged to participate fully in the activities of the Centre, including the Friday lectures and the work-in-progress seminars.

Visiting scholars have automatic access to the Centre's Library and access by application to the University Library and the Faculty of Law's Squire Law Library.

For further information on this fellowship and how apply please visit:

www.lcil.cam.ac.uk/about-centre/scholarships

APPLICATION DEADLINE: 28 March 2019



The Eli Lauterpacht Fund

The Eli Lauterpacht Fund has been set up in memory of Sir Eli to support the work of the Lauterpacht Centre for International Law, which he founded, directed and inspired. We hope you will join us in remembering this extraordinary international lawyer and friend through donating to this Fund. During this current fund-raising drive, the Centre's ambition is to raise £750,000.

With your support the Fund will be used to strengthen the Centre not only generally but additionally for three new initiatives – the *Cambridge International Lawyers' Archive*, the *Eli Lauterpacht Visiting Fellowships* and the *Eli Lauterpacht Events Fund*. This will enable the Centre to become an even more vibrant place for research in international law, cementing its position as one of the field's leading research centres in the world.

The LCIL Cambridge International Lawyers' Archives

In collaboration with Cambridge University Library, LCIL is working to create an archive for the papers of international lawyers who have a strong connection to Cambridge, thereby attracting scholars from across the world who are interested in the history of international law. The library offers world-class archival facilities. In addition to Sir Eli's papers, these facilities presently include those of deceased former lawyers - Clive Parry, Derek Bowett and Robert Jennings. LCIL needs £250,000 for the cataloguing of the papers it has already received.

Eli Lauterpacht Visiting Fellowships

Eli loved welcoming scholars from across the world to the Centre. An *Eli Lauterpacht Visiting Fellowship* allows LCIL to invite each year a scholar, or a practitioner in international law, whose work is relevant to LCIL Fellows to spend at least a month at the Centre and join in research collaborations. £250,000 will endow one such fellowship.

Eli Lauterpacht Events Fund

Strengthening the Centre as a vibrant focal point for research in international law, the Eli Lauterpacht Events Fund will enable LCIL to convene seminars on a wide range of topics, welcoming leading scholars and practitioners from diverse backgrounds and regions. The Centre hopes to raise £250,000 for the Events Fund.

Contributing to the Fund

The Centre warmly welcomes gifts to the Eli Lauterpacht



Fund either for the Centre's general use in developing facilities and promoting the study of international law, or for any of the three above initiatives.

The support received helps the Centre maintain its position as one of the leading research centres for international law in the world, consistent with Sir Eli's vision, and to ensure that the Centre is well placed to contribute to the development and the study of international law.

Please contact the Centre's Director, Eyal Benvenisti, eb653@cam.ac.uk or telephone +44 1223 335358 for further information.



Lauterpacht Linked

The Partnership Programme of the Lauterpacht Centre for International Law

Lauterpacht Linked is a partnership programme of the Lauterpacht Centre for International Law (LCIL), which creates and consolidates strong relationships between practitioners and the Centre.

The programme was launched in 2017 and gives practitioners unique and exclusive access to people, events and research associated with the Centre, in exchange for their support to the Centre's infrastructure and activities.

The Lauterpacht Linked Programme deepens the relationship between a very select group of practitioners who support the Centre and its wider community.

Membership of the programme is open to fifteen to twenty select law firms, barristers' chambers and major companies with an interest in International law and foreign ministries.

Financial support for LCIL

LCIL Partners financially support the Centre thereby contributing to the development of its research activities and physical infrastructure.

For further programme enquiries please contact
Dr Michael Waibel on mww27@cam.ac.uk.



"The Linked partnership is designed to strengthen the bonds between LCIL fellows and practitioners in international law, and is deliberately open-ended and flexible. We look forward to welcoming our Linked Partner fellows in the very special community of international lawyers that is the Lauterpacht Centre."

Dr Michael Waibel, Co-Deputy Director of LCIL

Exclusive benefits for LCIL Partners:

- LCIL Partner firms, chambers and companies may nominate one representative to the position of *LCIL Partner Fellow*;
- LCIL Partner Fellows are invited to Centre lectures, events and dinners;
- LCIL Partner Fellows enjoy exclusive networking opportunities with LCIL fellows and other LCIL Partner Fellows;
- LCIL Partner Fellows can build strong relations with LCIL fellows working in their area of interest, fostering opportunities for collaboration in practice and in research;
- LCIL Partner firms, chambers and companies are invited to an exclusive annual 'Your Career in International Law' event, during which they can meet and present themselves to promising graduate students;
- LCIL Partners are welcome to organise events at LCIL;
- LCIL Partners can nominate members of their organisation to become practitioner in residence at the LCIL for a term, cultivating opportunities for collaboration with LCIL fellows;
- LCIL Partners can suggest executive education and training programmes for LCIL to organise in specific areas of international law e.g. investment arbitration.

Visiting the Lauterpacht Centre

The Lauterpacht Centre encourages qualified applicants with interests in the broad field of public international law and organization to come to Cambridge as Visiting Fellows.



The following are some guidelines if you are considering applying to be a Visiting Fellow or Scholar:

Applicants should first make an initial inquiry to the Centre setting out their research objectives;

The Centre also accepts applications for people completing work on their PhD as visiting scholars;

All enquires should be sent to the Centre's Administrator, **Anita Rutherford**;

If the research objective falls within the remit of the Lauterpacht Centre, detailed application forms and information, including information on fees will be forwarded;

Decisions regarding Visiting Fellow or Scholar applications are made by the Management Committee which reviews applications four times a year, usually at the start

of each term. Dates by which applications are required to be received are given in the information document but are generally towards the end of the preceding term for review at the next meeting;

All Visitors must have a reasonably high proficiency in spoken and written English. If English is the applicant's second language, applicants are requested to demonstrate proficiency with a certificate of TOEFL iBT score 100 or IELTS level 7 (minimum);

In principle, the Centre does not accept persons enrolled for higher degrees at UK universities (including Cambridge) as Visiting Fellows or Scholars;

Visiting Fellows and Scholars pay a 'Centre fee' to assist in covering the cost of provision of facilities at the Centre, including computers, libraries (University of Cambridge Library and the Squire Law Library) and desk space;

Visiting Fellows and Scholars are encouraged to attend all open Lectures and other events that are held at the Centre. By arrangement they may also attend lectures and talks on international law and related subjects elsewhere in the University;

Visitors normally stay at the Centre between one term and one year, however, longer or shorter stays may be approved;

The Centre is not a teaching institution, and therefore does not award diplomas or certificates. Those interested in enrolling for Cambridge University degree or diploma courses in international law or international relations should contact the Faculty of Law or the Department of Politics and International Studies.

Further information on the Centre is available at www.lcil.cam.ac.uk.



Life in pictures @ the Lauterpacht Centre

Visiting Scholars' Mug-in, Michaelmas Term 2018



Visiting Scholars' Michaelmas Term 2018



Christmas Jumper Day - Friday 14 December 2018

Lauterpacht Centre Christmas Dinner 2018 at Downing College



A red urban fox in the Centre garden!



Snowdrops in the Centre garden. One of the earliest flowering plants, snowdrops are a welcome sign that spring is on its way.



 **LAUTERPACHT CENTRE**
FOR INTERNATIONAL LAW

www.lcil.cam.ac.uk



Lauterpacht Centre for International Law

University of Cambridge

5 Cranmer Road

Cambridge CB3 9BL

Tel: +44 (0)1223 335358

communications@lcll.cam.ac.uk