

SYDNEY LAW SCHOOL

2012 POSTGRADUATE CONFERENCE

CROSSING BOUNDARIES



THE UNIVERSITY OF
SYDNEY

1-2 NOVEMBER 2012

**Sydney Law School
New Law Building (F10)
Eastern Avenue
University of Sydney
(Camperdown Campus)**

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CLAYTON UTZ

The conference image was created by Felicity Bell. Felicity is a PhD candidate researching in family law at Sydney Law School. The image for the conference was inspired by thoughts of hybridity and a future where we are all cyborgs.

CONFERENCE PROGRAM
1-2 November, 2012

ABOUT THE CONFERENCE

The University of Sydney Postgraduate Law Conference brings together postgraduate research students and scholars from across the Asia Pacific region. The conference aims to give research students the opportunity to present their work to their peers and to leading academics, in a supportive and collaborative environment. In 2012, the theme of the conference is "Crossing Boundaries."

The conference theme seeks to provoke thinking about the form and role of 'boundaries' in our discipline, in our work and in our lives, and the role of research in 'crossing' these boundaries. The law as a discipline is replete with boundaries: between law and equity; between domestic and international jurisdictions; between private and public law. In our research we encounter and often challenge the boundaries of accepted methods of inquiry: doctrinal; anthropological; philosophical; sociological. And in our lives as aspiring scholars we meet the boundaries of our own limitations, often made explicit in the charting of our failures and successes throughout the research process. The idea of 'boundaries' and in some cases the aspiration to cross these boundaries, thus shapes our subjects of inquiry, our selection of method and the scope and substance of our endeavours.

KEYNOTE ADDRESS:

**Professor Martin Krygier
University of NSW**

Why the rule of law is too important to be left to lawyers

The 2012 Keynote Speech will be given by Professor Martin Krygier. Professor Krygier is the Gordon Samuels Professor of Law and Social Theory at the University of New South Wales and an Adjunct Professor at the Regulatory Institutions Network (RegNet) at the Australian National University. He is also Co-Director of the Network for Interdisciplinary Studies of Law, based at the University of New South Wales. Professor Krygier's most recent book is *Philip Selznick: Ideals in the World* (Stanford University Press, 2012).

CONFERENCE PROGRAM DAY 1

10.30AM-12.00PM CONCURRENT PAPER SESSIONS 1

INTERNATIONAL LAW & BOUNDARIES OF VIOLENCE

Chair: Dr Emily Crawford, Sydney Law School
COMMON ROOM

Lee Walker, University of Sydney
Recent Developments in International Legal Immunities

Sina Etezazian, Monash University
The Necessity Condition of Self-Defence in International Law In Relation to its No-Choice-of-Means Requirement

Athena Nguyen, Monash University
Who will Guard the Guardians? The Legal Accountability of the United Nations

CLIMATE CHANGE AND NEW CHALLENGES IN ENVIRONMENTAL POLICY

Chair: Professor Rosemary Lyster, Sydney Law School
SEMINAR ROOM 403

Xiangbai He, University of Western Sydney
The Application of China's Environmental Impact Assessment in the Context of Climate Change: New Challenges and Development

Elena Aydos, University of Sydney
Environmental Regulation or Trade Distorting Subsidies? No Boundaries[?]

CROSSING THE BOUNDARIES OF LEGAL ROLES

Chair: Em. Professor Terry Carney, Sydney Law School
BOARDROOM

Felicity Bell, University of Sydney
"I'm not a psychologist, but...": Lawyers' views on meetings with children

Sonya Willis, University of Sydney
Crossing Boundaries: When judges become case managers

Carolyn Jackson, University of New South Wales:
The practice of regulatory independence: stakeholder perceptions of what it really takes to be independent

BOUNDARIES OF COMMERCIAL REGULATION

Chair: Professor Vivienne Bath, Sydney Law School
MEETING ROOM

Jessica Viven, Flinders University of South Australia
The Travelling Adventures of Good Faith across Time, Space and Law

Badar Alanazi, University of Wollongong
Investor Protection and the Civil Liability for Defective Continuous Disclosures by Corporations in Saudi Arabia: A Legal Analysis

David de Joux, Victoria University of Wellington
Borders and Natural Monopolies

12.00PM-1.00PM CONCURRENT PAPER SESSIONS 2

VICTIMS & BOUNDARIES OF CRIMINAL LAW

Chair: Dr Rita Shackel, Sydney Law School
COMMON ROOM

Fiona Tait, University of Sydney
Beating to a different drum. A therapeutic understanding of the value of the Victim Impact Statement

Kerstin Braun, University of Queensland
Where Two are Parties, are Three a Crowd? Victims' standing in Australian Criminal trials- Pushing the Boundaries?

RELIGIOUS FREEDOM AND ITS LIMITS

Chair: Professor Wojciech Sadurski, Sydney Law School
SEMINAR ROOM 403

Greg Walsh, University of Sydney
Exploring the Boundaries of the Right to Equality and the Right to Religious Liberty: Merits of a Pluralist Approach to Religion-State Interactions

Luke Beck, University of Sydney
Higgins' Argument for Section 116 of the Constitution: Sophistry or Orthodoxy?

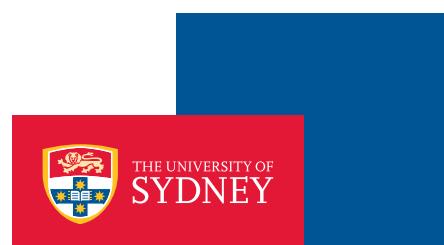
TRADING ACROSS CULTURAL AND LEGAL BOUNDARIES

Chair: Professor Bing Ling, Sydney Law School
BOARDROOM

Ling Ling He, University of Western Sydney
Some Reflections on the Australia-China Free Trade Agreement Negotiation Process

Pinghui Xiao, University of South Australia
Feeding China: Opportunity and Challenges for Australia in the Asian Century

1.00PM-2.00PM: LUNCH



CONCURRENT PAPER SESSIONS 2: TRADING ACROSS CULTURAL AND LEGAL BOUNDARIES

Some Reflections on the Australia-China Free Trade Agreement Negotiation Process Ling Ling He, University of Western Sydney

The difficulties in multilateral trade negotiations have encouraged many countries to move on to free trade agreement. An example of this is the Trans Pacific Partnership (TPP) Agreement currently being negotiated in the shadow of the deadlocked Doha Round WTO talks. The Australia-China FTA (ACFTA) has been in the offing since 2005 and has survived a change of government in Australia. It has been prompted by both economic and geopolitical imperatives. Largely due to differences in the economic, political and cultural outlook of the two countries, the negotiation process of ACFTA has proved to be slow and difficult. As at August 2012, eighteen rounds of talks have been conducted between Australia and China. Quick progress has been achieved on the market access to goods and customs procedures chapters, both of which are close to completion. Some progress has been made on the chapters of rules of origin, and technical barriers to trade. The difficult part of the negotiation mainly lies in the ASIG issues. This paper looks at means of overcoming such issues underlying ACFTA negotiation so an early achievement of the agreement between Australia and China can be reached.

LING LING HE is a PhD candidate in law of the University of Western Sydney. She holds LLB, LLM and LLM (Hons). Her major research interests are in the areas of WTO law and China, dispute settlement, and regional trade agreements. She has co-authored a few articles with her supervisor Professor Razeen Sappideen, four of which were published by the leading journals, such as Federal Law Review, and Journal of World Trade.

Feeding China: Opportunity and Challenges for Australia in the Asian Century Pinghui Xiao, University of South Australia

In a speech delivered for the purpose of the forthcoming White Paper on Australia in the Asian Century, Prime Minister Julia Gillard identified the Australian food industry as a key means to propel Australia's ambitions to broaden and deepen its commercial relationship with Asian powers like China.

Following the melamine milk scandal in 2009, China enacted the Food Safety Law which introduced the concept of food risk assessment into Chinese food regulation. Policy associated with food risk is still evolving. Whatever China learns or creates regarding food risk assessment will in turn affect its partner countries in the food trade regime.

China has 21 per cent of the world's population but only 8.5pc of the world's arable land. So to feed China by China is not an easy job but certainly this hints an opportunity for international food players. Arable land per capita in Australia stands at 2.15 hectares compared with 0.08 hectares in China. That means it is a huge potential for Australia to meet China's demand for food security.

China and Australia are negotiating a Free Trade Agreement (FTA), and among the key areas is the agriculture and food sector. If the Australian food sector wants more business engagement with China, it has to firstly understand China's new business language and rules relating to its food sector. This presentation will examine emerging issues of China's food regulation like risk assessment and their implications for its international food trade partners like Australia.

PINGHUI XIAO was trained in international institutions and organizations such as the European Institute of Public Administration, the WTO and the European Commission from 2008 to 2009. He is the winner of 2011 Governor's International Student Awards for Arts Achievement and a columnist for *Fine Wine and Liquor* in China.

2012 POSTGRADUATE CONFERENCE ORGANISING COMMITTEE

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