



Legal Imaginaries across the Asia- Pacific: Vernacular laws and literatures

Hosted by ANU Network for Law, Arts and Humanities

Phillipa Weeks Staff Library, ANU College of Law

Thursday 5 September 2024



In *Zur Kritik der Gewalt*, Walter Benjamin envisages at least three broad kinds of law's relationship to violence: the law-making or law-preserving violence that maintains the state — 'pernicious' says Benjamin; the general strike that critiques it — 'revolutionary' he says; and the divine violence that breaks decisively with the past — 'pure power over all life for the sake of the living'. Is it not then possible to conceive of at least three kinds of law's relationship to literature — three kinds of legal imaginaries?

A pernicious imperial imaginary which constitutes and legitimates the violence of the state (and particularly, right across this region, the violence of colonialism). Literature as a revolutionary general strike which uncompromisingly critiques that imaginary and exposes that violence — even sometimes, in a moment of painful courage, invites it. And finally, a divine imaginary that shatters the past and prefigures an alternative legal future.

Perhaps when Benjamin suggested, in the closing page of his essay, that divine violence could be both annihilatory and, paradoxically, without bloodshed, it was the work of the imagination that he had in mind. Between the mythic power of the colonial legal imaginary and the divine power of the literary imagination there is this fundamental difference: 'The first demands sacrifice; the second accepts it.'



Legal Imaginaries across the Asia-Pacific: Vernacular laws and literatures: Program

- 9:30am** *Registration, welcome and morning tea/coffee*
- 10:00am** **Session 1: Lawmaking and law preserving violence, colonial imaginaries**
- Nikki Hessell**, *How to Close Read a Treaty*
Ann-Sophie Levidis, *Reimagining an Empire of Laws: France's pursuit of a global identity in the Asia Pacific*
Amy Hamilton, *Judgments of Character: Michelle de Kretser's The Life to Come and the 'sacrificial citizen' of Australian citizenship*
Holly Charles, *Becoming Indigenous: Constructions of identity within the Yorta Yorta native title trial*
- 12:00pm** *Lunch*
- 1:00pm** **Session 2: General strike: literature as critique**
- Honni van Rijswijk**, *The Australian Carceral Imaginary: From hell to police state*
Shane Chalmers, *The Writing is on the Wall*
Marco Wan, *Law, Film, and Gay Shame: Ray Yeung's Suk Suk*
Andre Dao, *'The Company Itself is My Property': Racial imaginaries and the corporation in Pramoedya's This Earth of Mankind*
- 3:00pm** *Afternoon tea*
- 3:30pm** **Session 3: Divine literature**
- Katerina Teaiwa**, *Phosphate mining, dance theatre, and cross-border displacement*
Luis Gomez Romero, *From Marcos to Galeano: Utopia as Revolutionary Method and Practice in Zapatista Storytelling*
James Fisher, *Social Memory, Futility, and the Ontology of Hope: Legal futures of Japanese popular culture*
Ben Goh, *Potential Legal History in the Art of Sonny Liew*
- 5:30pm** *Event concludes*

Shane Chalmers (Hong Kong University Faculty of Law)

The Writing is on the Wall

For over fifty years, Tsang Tsou Choi (1921-2007) – self-proclaimed King of Kowloon – covered the city of Hong Kong with calligraphy. Not all of Hong Kong: just government property. And not with “beautiful script”, as calligraphy implies, but with a vulgar style “recognisable for its lack of grace, elegance or learning” (Lim, 2022). As graffiti, Tsang’s work was an unsubtle attack from below on the authority of Britain’s claim to sovereignty – an unrelenting vandalism of colonial structures with walls of text that profaned the Crown (“Down with the Queen of England!”, or more simply, “Fuck the Queen!”). As political statement, Tsang’s work was no less subtle in making a counter claim to sovereignty, but from a position of aristocratic equality. More often than not the walls of text set out a genealogy that traced Tsang’s title over twenty generations to a legendary first King of Kowloon, with the ancestral names painted in towering pillars of black ink over the white surfaces of the colony – effecting a kind of sovereignty by counterpoint. But what was Tsang’s work doing as art? This paper will explore an answer to that question by reading Tsang’s work as an act of writing back to empire, which took the blank spaces that were central to the colonial projection of sovereignty and used them to project a counter-colonial sovereign imaginary. For this the King knew: the writing is on the wall for empire.



Holly Charles (RMIT)

Becoming Indigenous: Constructions of identity within the Yorta Yorta native title trial

This paper examines the relationship between settler constructions of Aboriginality and the narrative of terra nullius, and how this was apparent within the Yorta Yorta native title trial. By reference to the trial transcript, this paper reveals how narratives of Aboriginality worked to produce settler identity. In particular, a narrative of absence and the disavowal of Yorta Yorta identity allowed for the construction of settlers as indigenous, legitimising their possession of unceded Yorta Yorta lands. While terra nullius was declared a fiction by the High Court of Australia, it appears that the narrative of terra nullius continues within the settler imaginary to justify a righteous presence on unceded Aboriginal lands.

Andre Dao (University of Melbourne)

‘The company itself is my property’: Racial imaginaries and the corporation in Pramoedya’s *This Earth of Mankind*

Set in Java in 1898, Pramoedya Anata Toer’s *This Earth of Mankind* depicts the racially stratified world of the Netherlands Indies, where everyday life was dominated by three racial categories: Native, Mixed-Blood and Pure. The novel’s narrator is Minke, a privileged Native boy taught in the best school in Surabaya to admire the modernity brought to Java by the Dutch colonialists. As a bildungsroman, the novel charts Minke’s coming to anti-colonial consciousness. His ‘teacher’ in resistance is Nyai Ontosoroh, a Native concubine who has, extraordinarily, come to run – and own – her Dutch master’s large agricultural company. In this paper, I explore the role the corporate form plays in Nyai’s anti-colonial resistance – first, as the mask that allows her to obtain a freedom otherwise denied to her racial (and gender) status, and second, as the mechanism through which the fruits of that freedom will be stripped from her by novel’s end. I set this analysis against the background of the colonial Dutch Indies’ race-based plural corporate law, and subsequent transition to an ostensibly universalist corporate law after Indonesian independence, to understand corporate personhood as a vector of postcolonial tragedy.



James Fisher (ANU College of Law):

Social memory, futurity and the ontology of hope: Legal futures of Japanese popular culture

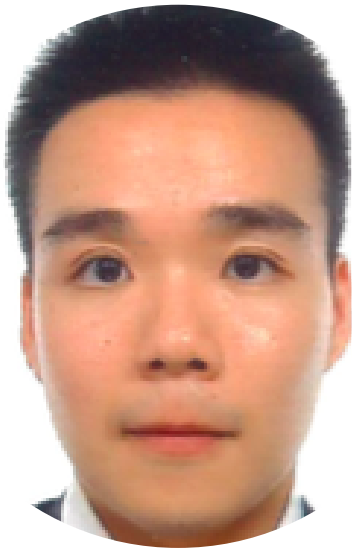
Social narrative is the basis of all claims to civic authority; the imaginaries that prevail concerning history, and just as crucially the future, shape the political and legal orders that are possible. This work synthesises renderings of legal futures in Japanese science-fictional popular cultural artifacts which cast doubt on the prospect of continuing human flourishing. As the contingencies of late capitalism remind us, an enduringly hospitable world is not an inevitability, but a science-fictional hypothesis — one at the heart of liberal legal theory. The paper offers jurisprudential readings of atrophying fictive worlds, ‘lawless’ not in the sense of chaotic or lacking in mechanisms of social control; rather they feature social orders which have shed the normative, hermeneutical plane which the concept of legitimate authority inhabits. These narratives present a social environment absent a necessary foundation for legal culture: a future-orientated social ontology of hope.

The paper engages in thematic cross-analysis of classic franchises (including Neon Genesis Evangelion, Cowboy Bebop, Trigun, and Final Fantasy) and their influence on successors such as Nier Gestalt and Automata, Attack on Titan and PsychoPass. This analysis is placed within the capitalist-Realistic resentment of the neoliberal era, exposing and critiquing its gravest implications for a lawful world, namely the purging of hope for transformative renewal from ‘serious’ political imagination.



Ben Goh (National University of Singapore Faculty of Law)

Potential Legal History in the Art of Sonny Liew



This paper reads Sonny Liew's graphic novel, *The Art of Charlie Chan Hock Chye* (2015), as an expression and interlocutor of Ariella Aïsha Azoulay's method of potential history. Thinking alongside Walter Benjamin's media theory and philosophy of history, Azoulay reconceives the camera shutter as one of the 'imperial shutters' or material apparatuses that execute the imperial violence of expelling, and rendering obsolete, the past and the outside in the name of progress. Azoulay's critical practice finds its artistic analogue in Liew's graphic novel, which suspends Singapore's official history by remediating archived photographs of the nation's former politicians. My bilateral reading of Liew and Azoulay advances 'potential legal history' as a theoretical perspective that orients legal scholars to historical fictions, including graphic novels, as vital materials for the study and rewriting of legal histories. I further introduce Singapore law and literature as one of the emerging vernacular fields with cross-cultural, and potentially planetary, significance that interest our network.

Luis Gomez Romero (University of Wollongong School of Law)

From Marcos to Galeano: Utopia as Revolutionary Method and Practice in Zapatista Storytelling

In 1994, the Zapatista Army of National Liberation (EZLN) took up arms in Mexico against the daily oppressions and injustices faced by Indigenous Mexicans in neo-colonial political systems and juridical orders tailored to their discrimination and economic exploitation. The EZLN soon broadened its demands from local Indigenous Mexicans to encompass other social groups oppressed by global neoliberalism.

The mestizo spokesperson of the EZLN, Subcomandante Marcos (also known as Subcomandante Galeano), accordingly employed a comprehensive communication strategy fundamentally involving storytelling and myth-making. This paper will outline a revolutionary utopian method capable of informing anti-colonial practices emerging from Marcos' stories, which ultimately envisage a world capable of holding other worlds by reinvigorating democracy and enriching our current conceptions of justice.



Amy Hamilton (ANU College of Law)

Judgements of character: Michelle de Kretser's *The Life to Come* and the 'sacrificial citizen' of Australian citizenship

This paper examines how both law and literature 'read' character - both in terms of how character is defined (and thus made legible) and in terms of the tropes that the court repeatedly rely on in articulating a particular representation of good character for the purposes of Australian citizenship law. To do this, this paper focusses on Michelle de Kretser's 2017 novel *The Life to Come* and the Administrative Appeals Tribunal character assessment at the heart of the recent 2019 Federal court decision of *BOY19 v Minister for Immigration and Border Protection* [2019] FCA 574 (BOY19). By contrasting de Kretser's modernist approach to character with the 19th century view of character understood as a person's "enduring moral qualities" as expressed in Australian citizenship law. Despite these differences, both law and literature rely on tropes to reflect an image of Australian citizenship and, in both cases that are the focus of the paper, I argue that these tropes align with Wendy Brown's 'sacrificial citizen' of neoliberal governmentality.



Nikki Hessel (Te Herenga Waka — Victoria University of Wellington School of English)

How to Close-Read a Treaty

This paper considers the way literary studies methods, such as close reading and reading intertextually, can help us understand the processes of treaty-making between Indigenous peoples and settler or imperial powers, in the Asia Pacific region and beyond. It focuses in particular on the way British poetry shaped the imaginaries of settler officials in ways that, in turn, shaped their understandings of treaty-making and the texts that it produced.



Ann-Sophie Levidis (ANU School of Languages, Literatures, and Linguistics)

Reimagining an Empire of Laws. France's Pursuit of a Global Legal Identity in the Asia-Pacific, 1945-1995

In the shadowed aftermath of World War II, France embarked on a quest to weave its republican virtue back into the fabric of the international community, marking its presence in the halls of the Tokyo and Saigon war crimes trials. Yet, as the phoenix of its sovereignty sought to rise from the ashes in Asia, particularly in Indochina, it encountered the winds of decolonization, the ascendancy of new global powers like the United States and China, the icy gusts of the Cold War, and the twilight of European colonialism. In this kaleidoscope of historical forces, France endeavoured to craft an empire of laws. Among the changing dynamics of global power, the Francophone overseas territories in the Pacific Region emerged as the scattered petals of France's imperial legacy, where legal imaginaries were reborn. Here, the remnants of colonial legal republicanism bore witness to France's attempts to tread softly yet impactfully, through nuclear testing and navigating the tumultuous waters of independence movements in New Caledonia. This narrative weaves a tale of France's intellectual odyssey from the wreckage of war to the crafting of a new identity on the global stage — an endeavour to remain relevant and influential, a testament to the enduring quest for power, clothed in the noble vestiges of law and order, amid the relentless march of history and the inexorable rise of new empires and new worlds.



Katerina Teaiwa (ANU College of Medicine)

Phosphate mining, dance theatre and cross-border displacement in the Pacific Islands



Honni van Rijswijk (University of Technology Sydney Law School)

The Australian Carceral Imaginary: From Hell to Police State



Why is Australia so invested in incarceration and policing? Our carceral deterrents are considered gold-standard by states looking for more punitive responses to immigration, and recruitments to our infamously historically corrupt police force are currently surging. To answer these questions, this paper traces the development of the Australian carceral

imaginary from its origins in the pre-Copernican European association of the bottom of the world as 'hell' to the establishment of the prison colony and then on to the post-Federation centrality of carceral history to national identity. I examine the disconnect between the anti-authority tropes of the national imaginary (the convict, the larrikin, mateship) and the excessively-punitive reality (a nation that accepts the incarceration of children) and show how contemporary reworkings of carceral colonial tropes such as the novels of Alexis Wright offer radical reimaginations of law and its enforcement in the colony.

Marco Wan (Hong Kong University Faculty of Law)

Law, Film, and Gay Shame: Ray Yeung's Suk Suk

In this paper, I take Ray Yeung's *Suk Suk* (2019) as a point of entry for thinking about the intersections between sexuality, law, and film. *Suk Suk* appeared amidst a series of victories for gay and lesbian rights in the Hong Kong courts, and in a period when the ethos of the community was increasingly marked by the univocality of gay pride. Drawing on discussions of shame by theorists such as Eve Kosofsky Sedgwick, David Halperin, and Valerie Traub, I argue that Yeung's film demonstrates the importance of thinking about gay shame in the twenty-first century. By opening the possibility for us to explore shame in all its complexity -- to feel its texture, to consider its psychological impact, to hear its contemporary echoes -- the film enables us to keep firmly in view the continuing impact of this affect on gay lives in our own, supposedly more liberatory, legal-cultural moment.

