



**Asia Law & Policy Forum Report
2015-2022**



About the Forum

The Asia Law and Policy Forum at UNSW Law & Justice is a research cluster and network of researchers who foster and support research on law and politics in Asia.

Our aims are to:

- Foster excellence in interdisciplinary research and collaboration on the legal traditions of Asia
- Support a scholarly community of outstanding researchers and mentor emerging leaders with expertise on law and policy in Asia
- Equip the next generation of graduate and undergraduate students to gain in-depth knowledge of Asia and its laws through unique elective courses
- Provide internships, exchange experiences and higher degree research
- Enhance wider public engagement and understanding of contemporary issues of law and governance in Asia
- Promote and enhance exchange and collaboration between UNSW Law & Justice and leading research institutions across Asia.

We are part of a wider network of scholars working on Asia at UNSW Sydney.

The Forum was known as the Southeast Asia Law & Policy Forum from 2015 to 2022. From 2023, it expanded its scope and renamed as the Asia Law & Policy Forum, reflecting the faculty's growing engagement in South Asia.

People

Lead: Melissa Crouch, Professor

Academic members (current)

- Jonathan Bonnitcha, Senior Lecturer
- Andrew Byrnes, Emeritus Professor
- May Cheong, Associate Professor
- Rosalind Dixon, Professor
- Christine Forster, Professor
- Madeline Gleeson
- Graham Greenleaf, Professor
- Martin Krygier, Professor
- Theunis Roux, Professor
- Jane McAdam, Scientia Professor
- Natasha Naidu, Research Associate
- Elisabeth Perham, Lecturer
- Sarah Williams, Professor

Academic members (past)

- Dr Christoph Sperfeltz, Research Associate (2022)
- Samuel Hmung, Research Associate (2022)

PhD students (current)

- Chhunvoleak, PhD candidate
- Natasha Yacoub, PhD candidate
- Ayesha Wijayalath, PhD candidate
- Siddarth Narrain, PhD candidate
- Sonia Qadir, PhD candidate
- Md A Sayeed, PhD candidate
- Justin Jos Poonjaat, PhD candidate
- Tirtawening Parikesit, PhD candidate
- Mohammad Ibrahim, PhD candidate
- Raisa Annisa, PhD candidate
- Fitria Ratna Wardika, PhD candidate

PhD students (completed)

- **Ashraful Azad** completed his PhD at UNSW in 2022. His PhD research focused on the migration of Rohingya refugees from Myanmar and Bangladesh to Malaysia and the response of states towards such migration.
- **Lena Hanifah** completed her PhD at UNSW in 2021 on 'Islamic inheritance law in Indonesia: the experience of women'. She is now an academic at Lambung Mangkurat University, Banjarmasin, Kalimantan, Indonesia.
- **Milda Istiqomah** completed her PhD at UNSW in 2020. She is now senior lecturer at the Faculty of Law, Brawijaya University, Indonesia, teaching criminal law and criminology.
- **Indri Saptraningrun** completed her PhD at UNSW in 2020. Her thesis is entitled 'From government to governance: the politics of Indonesia's digital content policies post-2008.' Indri is an academic at Atma Jaya Catholic University, Jakarta.
- **Bhatara Ibnu Reza** completed his PhD at UNSW Law in 2019. His thesis is titled 'The development of the state-sponsored militia as the implementation of the total people's defence and security system in Indonesia'.
- **Dr Melissa Jardine** was awarded her PhD at UNSW Law on policing in Vietnam in 2019.
- **Fritz Edward Siregar** completed a Doctorate of Juridical Science (SJD) in 2016. In June 2017, he was a visiting fellow at UNSW Law. He served on the Indonesian Elections Supervisory Board (2017–22). Fritz has been a lecturer at several institutions, including the University of Indonesia, and Indonesia Jentera School of Law.
- **Phyo Mouk** completed a Master of Laws (LLM) in Dispute Resolution from UNSW, specialising in corporate and commercial law. He worked as a Judicial Officer in the Supreme Court Union of Myanmar.
- **Yin Myo Su Hlaing** obtained a Master of Laws (LLM) from UNSW in 2017, specialising in human rights and social justice. She is an Assistant Director for the Union Attorney General's Office (UAGO) in Myanmar.
- **Nyi Nyi Kyaw** received his PhD from UNSW in international and political studies in 2015. He is currently a visiting fellow at Chiang Mai University.

Existing Projects

Contemporary Populism and Constitutional Democracy

This ARC Discovery Project aims to explain and evaluate constitutional populism or regimes that have come to power in a global wave of ‘populist’ parties challenging traditional ones. We will identify, reconstruct and evaluate legal and constitutional aims of, and institutional solutions adopted by, such regimes. We’ll examine whether they respect the forms of democracy or just pay lip service to, for example, principles of the rule of law and constitutionalism while working to subvert such principles.

Our project will focus on what ‘new populists’ do with power once they have it, what the consequences are for a global view of democracy and informing Australia’s geopolitical engagement with such regimes. Our project includes a focus on the Philippines.

Team

- [Professor Martin Krygier](#)
- Professor Adam Czarnota
- Professor Wojciech Sadurski (University of Sydney)

Constitutional Change in Authoritarian Regimes: The Case of Myanmar

This ARC Discovery Project aims to understand how and why constitutions change in authoritarian regimes.

After decades of authoritarian rule, there is lively public debate about formal amendment of the Myanmar constitution. Based on rigorous qualitative methods, including archival research and in-depth interviews, our project will investigate why Myanmar's constitution is both a constraint and an enabler of democratic reform.

Our timely socio-legal project seeks to inform Australia’s political, economic and cultural engagement with Myanmar as a strategic neighbour in southeast Asia and a new market for foreign investment.

Chief Investigator: [Professor Melissa Crouch](#)

Constitutionalism in the Global South

This project aims to foster scholarship and debate on constitutionalism in, of and from the Global South. The project aims to develop appreciation of Global South epistemologies and to enhance our understanding of the nature of constitutionalism in the Global South, both in its liberal and illiberal varieties. The project (with the Gilbert & Tobin centre) aims to run regular reading groups, seminars and occasional panels at conferences, with a particular focus on mentoring early career scholars from the Global South. This builds on the scholarship of Theunis Roux on South Africa and beyond, and Melissa Crouch on Southeast Asia.

Human Rights in Asia

This collaborative research project is on ‘Reimagining Vulnerability in the Light of COVID 19 in Sri Lanka’ (2021-2023). Dr Mario Gomez of the [International Centre for Ethnic Studies](#) and Melissa Crouch are collaborating on a two-year project under the [DFAT Sri Lanka grant scheme on Knowledge and Linkages for an Inclusive Economy](#). As the

international partners on the grant, Melissa Crouch will produce a report on the impact of covid-19 on rights and governance in the region, with a particular focus on Indonesia, Myanmar and Sri Lanka. Academics including Theunis Roux and Rosalind Dixon, and HDR students who are part of the Constitutionalism in the Global South Project, will contribute to a stakeholder workshop.

Law and Society in Indonesia

This project involves partnerships and collaborations with academics and universities in Indonesia to support and mentor scholars and students of law and society, and law and development through conferences, seminars, and trainings.

UNSW has hosted several conferences and seminars as well as visiting scholars from Indonesia. In 2014, UNSW co-hosted with the University of Sydney a conference on the Constitutional Court in Indonesia. In 2017, UNSW co-hosted a series of roundtables on judicial independence and electoral reform in Jakarta. In 2018, UNSW hosted two international workshops, one on court reform in Indonesia and the other on the 2019 elections. In 2019, UNSW hosted a work-in-progress seminar on Indonesian law and society. In 2021, UNSW collaborated with the Van Vollenhoven Institute for Law, Governance and Society (Leiden), the University of Indonesia, and University of Brawijaya, to support the Socio-legal Studies Conference and masterclass.

In 2022, Melissa Crouch contributed to the Socio-legal Studies program (Hukum dan Masyarakat) of the Faculty of Law, the University of Indonesia.

Melissa has also contributed as keynote speaker to conferences organised by Law Faculties at Atmajaya University, University of Brawijaya (Malang), University of Diponegoro (UNDIP) (Semarang), University of Airlangga, Gadjah Mada University, Trisakti University, Jentara Law School and the Indonesian Student Association for International Studies (ISAFIS). Melissa has been a visiting scholar at the Faculty of Law, the University of Indonesia (2018); Brawijaya University, Malang (2021), and University of Diponegoro, Semarang (2022). She has been a visiting researcher at the Centre for the Study of Islam and Society PPIM, Syarif Hidayatullah State Islamic University, Jakarta, and Sunan Kalijaga State Islamic University (Yogyakarta) (Universitas Islam Negeri UIN Sunan Kalijaga Yogyakarta).

At UNSW, the new subject Law and Society in Asia will provide students with an introduction to Indonesian law and society.

Past Projects

Professional Legal Education in Myanmar

The project, funded by the Asian Development Bank (ADB), was led by Melissa Crouch (2016–19). The focus was on improving legal education and skills integral to the transactional practice and adjudication of commercial law. The project included developing a training program for the practical legal needs of private lawyers, government lawyers, prosecutors and judges in commercial and financial law.

Australia's Asia Education Imperative

Melissa Crouch and Edward Aspinall (ANU) co-lead a major educational review of trends in Asian Studies in Australia, in partnership with the Asian Studies Association of Australia (ASAA). Roughly every twenty years, a review of teaching and research in Asian Studies is undertaken by the ASAA, the peak academic association for the study of Asia in Australia. The report is the fifth in a series of reports since the 1970s. The report focuses on trends in the promotion of Asia literacy in Australian universities from 2000 to 2022, highlighting both achievements and challenges.

The report identifies a decline in government, and in many cases, university support, pointing to growing challenges in Australia's efforts to promote Asia literacy among Australian graduates at a time when Asia's global prominence and influence is more obvious than ever. The report proposes a set of recommendations to the government and to universities in order to renew and strengthen national commitment to Asia literacy. The report is available for download [here](#).

Australia Myanmar Constitutional Democracy Project

This project, which began in 2013, was a joint enterprise of various law schools, including UNSW Sydney, the University of Sydney and the Australian National University (ANU).

We aimed to directly increase the capacity of local actors to participate positively in the process of constitutional reform in Myanmar. We did this by expanding the constitutional vocabulary of different groups within society (such as ethnic communities, grassroots organisations, political leaders and members of the media) so they could contribute to political discourse.

Our objective was to expand the democratic political space during a critical time in Myanmar's transition towards constitutional democracy. Our project aimed to support increased constitutional stability, leading to an environment where there is greater prospect for peaceful and equitable development.

We held 10 workshops in various locations in Myanmar. Past sponsors include Rotary Australia, the Australian Embassy in Yangon, Konrad Adenauer Stiftung, the University of Sydney, UNSW, the ANU, the National University of Singapore (NUS), KOICA and the Community of Democracies.

Team

- [Professor Martin Krygier](#)
- [Professor Theunis Roux](#)
- [Professor Melissa Crouch](#)
- Professor Adam Czarnota
- Professor Catherine Renshaw (Australian Catholic University)
- Professor Wojciech Sadurski (University of Sydney)

Fostering Women’s Empowerment through Digital Entrepreneurship

This workshop series brought leading experts and researchers from Australia, Thailand and Indonesia together to focus on the role of digital entrepreneurship in enabling women’s economic empowerment and financial inclusion in developing communities and develop a capacity-building road map. The series was funded by an Australia-ASEAN grant. Our workshops – held in Jakarta (November 2019), Thailand (March 2020) and Canberra (June 2020) – provided a platform for dialogue among academics, government, businesses, communities and media on issues of women’s economic empowerment and financial inclusion. Key participants shared case studies of kampung digital programs, the effect of digital marketplaces, and the current state of women’s digital entrepreneurship initiatives and SMEs in farming communities in West Java and South Sulawesi of Indonesia.

These workshops promoted and supported knowledge development on women in leadership. This interdisciplinary project involved UNSW faculties of Business, Law and Arts & Social Sciences, UNSW’s Institute for Global Development (IGD) and in-kind collaboration with the Ford Foundation, the Social Trust Fund and the State Islamic University (Jakarta) and Thammasat Business School (Thailand).

Team

- [Dr Felix Tan](#) (Business School)
- [Dr Carmen Leong](#) (Business School)
- [A/Professor Wing Wah Tham](#) (Business School)
- [A/Professor Minako Sakai](#) (UNSW Canberra)
- [Professor Melissa Crouch](#)

Constitutional Democracy in Indonesia

In 2019, a conference was held around the theme of constitutional democracy in Indonesia. This resulted in the collaborative edited volume: [Constitutional Democracy in Indonesia](#) (OUP 2023). The Indonesian Constitution is an important legal text that governs the world’s third largest democracy. After decades of authoritarian rule, a key aspect of the transition to constitutional democracy was the amendment of the 1945 Constitution. The amended Constitution introduced profound changes to the legal and political system, including an emphasis on judicial independence, a bill of rights and the establishment of a Constitutional Court. This volume explores the ongoing set of debates over the meaning, implementation and practice of constitutional democracy in Indonesia. This includes debates over the powers of the legislature, the role of the military, the scope of decentralisation, the protection of rights and permissible limits on rights, the regulation of elections, the watchdog role of accountability agencies, and the leading role of the Constitutional Court. These legal issues are analysed in light of the contemporary social, political, and economic environment that has seen a decline in tolerance, freedom and respect for minorities. Contributions to this

volume review the past two decades of reform in Indonesia and assess the challenges to the future of constitutional democracy amidst the wide-spread consensus on the decline of democracy in Indonesia. Demands for amendments to the Constitution and calls to revert to its initial form would be a reversal of Indonesia's democratic gains.

The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia

This book project is an outcome of a workshop hosted by UNSW Law. In this volume, experts on Indonesian law and courts reflect on the growth and changes in the role and function of courts in Indonesia. Indonesia's judiciary is a critical part of its democratic system. Since the transition from authoritarian rule in 1998, a range of new specialized courts have been established, from the Commercial Court to the Constitutional Court and the Fisheries Court. In addition, constitutional and legal changes have affirmed the principle of judicial independence and accountability. A raft of judicial reform programs have been pursued to address various issues within the judicial system, not the least of these being corruption. The growth of Indonesia's economy, combined with the size as the fourth most populous country in the world, means that the courts are facing greater pressure to resolve an increasing number of disputes. The aim of this volume is to offer in-depth reflections on the role of the courts and legal reform in Indonesia. The chapters acknowledge that late Professor Dan S Lev was a leading scholar of the politics of courts in Indonesia. The chapters share a common concern by reconsidering the relevance of Lev's work in light of the changes to the judiciary in Indonesia. Not least of these is the question of whether Lev's reflections on legal culture, and particularly his concerns about the increase of corruption and the decline in professionalism, remain true today and to what extent legal reforms have addressed these concerns. This volume will be of interest to scholars of law, political science, law and development, Asian Studies, the politics of courts, and law and society.

Full details on the book are available [here](#).

Women in Asia Conference and book project

With the Institute of Global Development, UNSW hosted the 12th Women in Asia Conference in June 2019. The theme of the conference was "Women in Asia in an Era of Anti-Elitism". This interdisciplinary event is organised by Melissa Crouch, Felix Tan, Louise Edwards, Tanya Jakimow, Minako Sakai and Carmen Leong. The event was a key forum for networking and solidarity, fostering important research on issues of gender and development, and supporting the academic careers of early career scholars and students. Over several days we hosted 150 presenters in seven panel streams; and in addition we held two research methods masterclasses; a distinguished public lecture; an early career workshop with nine outstanding speakers to an audience of 80 participants; two sub-regional council AGMs, and a side event on China. Across all events this involved close to 300 people. Our speakers came from over 14 countries in Asia, including India, Indonesia, Singapore, Japan, Sri Lanka, Thailand, Philippines, Malaysia, Hong Kong, Bangladesh, China and Korea. The speakers were drawn from at least 29 universities in the region. The event was funded by ASAA, FASS, the Business School, and the Women in Asia Forum. Bursaries were granted to 19 students (8 international and 11 domestic). The Early Career Workshop was funded by the Australian Academy for the Humanities. The Law Panels were funded by Konrad Adenauer Stiftung and the Gilbert + Tobin Centre for Public Law.

The results of one of the workshop panels have been published in the volume Women and the Judiciary in Asia and the Pacific (CUP 2021).

Law Reform, Development and Economics in Myanmar

The book project – *The Business of Transition: Law Reform, Development and Economics in Myanmar* (CUP 2017) - is an outcome of a workshop hosted by UNSW Law in 2017. This volume offers a timely reflection on law, development and economics through empirical and comparative perspectives on contemporary Myanmar. The central theme of the book is to understand the business that takes place in times of major political change through law and development initiatives and foreign investment. This book identifies the way in which law reform creates new markets, embodies hopes of social engineering and is animated by economic gain. This book is an invitation to think carefully and critically about the intersection between law, development and economics in times of political transition. The chapters in this volume speak to a range of common issues – land rights, access to finance, economic development, the role of law including its potential and its limits, and the intersection between local actors, globalised ideas and the international community. This interdisciplinary book is for students, scholars and practitioners of law and development, Asian Studies, political science and international relations.

Constitutional Reform and the Peace Process in Myanmar

The purpose of this project was to support and equip key local actors to contribute to constitutional reform, democratic consolidation and lasting peace in Myanmar. The project had three main components. The first component was to host an international workshop on “Peace Processes, Federalism and Constitution-making” at UNSW from 6-7 December 2018. Five Distinguished Visiting Scholars from Myanmar were sponsored to attend and present at the event.

The second component of the project was the publication of a book, *The Constitution of Myanmar: A Contextual Analysis* (with Hart Publishing’s leading series on Constitutions of the world). The English and Burmese version of the book was published and disseminated in 2019-2020. This book by Crouch is the first to analyse the 2008 Constitution of Myanmar (Burma) in its historical, political and social context. This accessible book provides an in-depth exploration of the key elements of the 2008 Constitution in theory and practice. This book will be an invaluable resource for students, scholars and local political actors to facilitate greater understanding and appreciation of constitutional law in Myanmar, and inform strategies for reforming the current constitution.

The third component of the project was to initiate a series of workshops in Myanmar, which will use the book as the basis for capacity building on constitutional literacy. This built on previous capacity building initiatives on constitution-making. In 2016, the International Institute for Democracy and Electoral Assistance (International IDEA) established a Myanmar Constitution (‘MyConstitution’) Centre in Yangon. The Centre focused on education and advice to all Myanmar stakeholders, including political parties, members of parliament, ethnic armed groups, military, media and civil society organizations. Melissa Crouch was invited by International IDEA to provide recommendations for curriculum

design, detailed in a report on “Curriculum Guidelines on Constitutional Design for the MyConstitution Centre” (2016), which aims to integrate best practise and knowledge in comparative constitutional design with deep knowledge of local Myanmar constitutional context. The following modules have been developed:

- Feb 2017: Melissa developed and delivered the module on ‘Principles and Processes of Constitution-making’ in Yangon.
- June 2017, Theunis Roux developed and delivered a module on ‘Land and Natural Resource Governance in Constitutional Design’ in Yangon.
- Nov 2017, Melissa developed and delivered a module on Judicial Independence to the Supreme Court in Naypyidaw.
- Nov 2017, Melissa developed and delivered a module on Checks and Balances in Constitution-making to the International Relations Committee of parliament.
- Feb 2018, Melissa delivered a series of lectures, workshops and consultations with parliament, civil society, ethnic groups, Yangon University and the Supreme Court around federalism, the role of courts in a federal system and judicial independence
- June 2018, Melissa contributed to a Constitutional Academy Bootcamp in Pyin Oo Lwin
- Jan 2019, Melissa taught at the University of Mandalay and the University of Yangon
- Jan 2019, book launch hosted by The Asia Foundation in partnership with Mosaic Myanmar, with panellist Dr Lian H Sakhong, Saw Kapi and Htet Min Lwin
- May 2020, Melissa delivered a course on the Constitution of Myanmar for Yangon School of Political Science
- Nov 2020, Melissa delivered two courses on the Constitution of Myanmar for civil society, run by International IDEA
- Jan 2021, Melissa delivered a course on the Constitution of Myanmar for law professors, run by International IDEA (online)

Myanmar/Burma Online Law Database with AsianLII

Professor Graham Greenleaf and Philip Chung of the Australasian Legal Information Institute (AustLII), in consultation with Melissa Crouch, established a Myanmar/Burma online law database as part of the [AsianLII program](#). A guide on how to use the database is available [online](#). AsianLII was established in 2006 and provides for searching and browsing over 400,000 documents in more than 400 databases of legislation, case-law, law reform reports, law journals and other legal information, from all 28 jurisdictions in the region. All databases can be searched simultaneously, or searches limited to one country’s databases or other combinations. Search results can be ordered by relevance, by date, or by database. For each country, AsianLII also contains an extensive catalogue of law-related websites, and a ‘Law on Google’ facility which assists users to search Google only for legal materials from that country. AsianLII is operated by AustLII in cooperation with partner institutions in Asian countries, and other legal information institutes (LIIs) in the Free Access to Law Movement with Asian databases. Part of the aim of the AsianLII project is to assist in the development of the local capacity of our partner organisations to develop and maintain independent local legal information to the standards of world’s best practice, and to integrate them into international free-access law networks such as AsianLII, WorldLII and LawCite. This may include the provision of AustLII’s Sino search engine and other software for LII development, joint development of new databases, AustLII support for applications by local partners to obtain resources, and some in-country training.

Collaboration with Universities in Myanmar

In 2014, UNSW Law School signed a Memorandum of Understanding (MOU) with Mandalay Law Department, at the University of Mandalay. This was the initiative of Professor Carolyn Penfold and Professor Brendon Edgeworth, and was the result of their visit to Mandalay University in 2013. In February-March 2015, two law professors, Daw Htin Htay Ei and Daw Nu Nu Yee, from the Law Department at Mandalay University visited the UNSW Law School. In July 2015, Professor Brendon Edgeworth and Dr Melissa Crouch gave guest lectures at the Law Department in Mandalay to about 100 students and staff. In March 2016, Professor David Dixon, Dean of UNSW Law, visited the University of Yangon, met with the Myanmar Centre for Responsible Business and the Australian Embassy. Further cooperation on legal education is planned in the future, and there are plans to sign an MOU with the University of Yangon. Melissa Crouch has also undertaken curriculum development and teaching at the University of Yangon from 2013-2020. In January 2020, Melissa again visited the University of Mandalay. Melissa has also contributed to teaching initiatives and programs on constitutional democracy and legal education run by the Yangon School of Political Science, International IDEA, and the Open Society, among others.

The First Decade of Indonesia's Constitutional Court

This special issue of the Australian Journal of Asian Law comprised papers presented at the workshop, 'The Constitutional Court and Democracy in Indonesia: Judging the First Decade', which was hosted by the University of New South Wales Faculty of Law and the University of Sydney Faculty of Law on 11-12 December 2014.

The issue includes the following articles (free to download from SSRN):

- Rosalind Dixon, Simon Butt and Melissa Crouch, *The First Decade of Indonesia's Constitutional Court*
- Theunis Roux and Fritz Siregar, *Trajectories of Curial Power*
- Simon Butt, *The Constitutional Court and Indonesian Electoral Law*
- Stefanous Hendrianto, *Socio-Economic Rights and the Indonesian Constitutional Court*
- Nadirsyah Hosen, *The Constitutional Court & 'Islamic' Judges in Indonesia*
- Melissa Crouch, *Constitutionalism, Islam and the Practise of Religious Deference*

Student Opportunities

Members of the forum offer a range of electives for students interested in studying Asia

- LAWS3139/ JURD7539 Law and Society in Asia (note: this subject may run as an overseas in-country elective in Indonesia)
- LAWS3167/ JURD7567 The Rule of Law in Asia
- LAWS8375/ JURD7975 Constitutionalism in the Global South
- LAWS8060/ JURD7460 Human Rights in Asia
- LAWS3445/JURD7745/LAWS8845 Women, Gender and the Law (taught at ILS Law College in Pune, India)