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ZHONGHUA DU, FLEUR JOHNS

ENCOUNTERS IN INTERNATIONAL LAW: A DIALOGUE WITH FLEUR JOHNS

ABSTRACT: Questions of translation and dynamics of inter-generational relations have long animated developments in the field of international law. In this wide-ranging interview between Fleur Johns and Zhonghua Du (conducted in anticipation of Du's translation of some of Johns's recent work into Chinese, on digital technology in international law, published in PKU International and Comparative Law Review), the translation of Johns' piece becomes an occasion for the two international lawyers at different stages of their careers to reflect on scholarly trajectories, research methods, translation puzzles, and the collective endeavour of international legal scholarship. The translation project transforms into a space of many encounters: encounters between digital interfaces and international law, between states and civilisations, between different disciplines and peoples, and their interactions with one another and with international law.

KEYWORDS: international legal theory, analogue and digital, non-positivist empiricism, statehood, the practice of translation

This dialogue arises from the occasion of Zhonghua Du's translation of Fleur Johns' piece, 'International Law and the Provocations of the Digital: The 2021 Annual Kirby Lecture in International Law', which was published in the 2025 issue of PKU International Law and Comparative Law Review. The Kirby Lecture was delivered in the context of Fleur Johns' broader research project on diplomatic knowledge and the future of the international legal order, particularly in response to natural disasters and the rise of digital sources for information gathering. One of the project's signature publications is the book titled #Help: Digital Humanitarianism and the Remaking of International Order. This book, as discussed below, examined how digital humanitarianism impacts international law and politics by focusing on the study of 'interfaces'. The Kirby Lecture, on the other hand, examines how developments in digital technology may challenge disciplinary thinking in international

law, focusing on the 'state', understood as the basic conceptual and material architecture at work in the discipline. It also seeks to unpack how digitalisation has shifted the analogue logic internal to international law, challenging the standard approach of international law to certain problems in the world and making the question of inequality more acute. Our dialogue will start with the 'provocations' of the digital, as indicated in the title of the Kirby Lecture.

I. THE BEGINNING: THE PROVOCATIONS OF THE DIGITAL IN INTERNATIONAL LAW

Zhonghua Du: I was very struck by your article 'International Law and the Provocations of the Digital', published after your 2021 Annual Kirby Lecture at the ANU,[1] the first time that I read it. That piece was the starting point for me to think about questions of digital humanitarianism and international law—in a provocative way, like the title suggests—and it also motivated me to translate your piece and have this conversation with you about the coming into being of this article and the context of your broader research project. Could you share how you came into this register of the digital as the prime theme of this project, and why you approach it from the perspective of the 'provocations' of the digital, as you put it in the title of Annual Kirby Lecture?

Fleur Johns: It's a great question. Taking up the language of 'provocation' was a way of assuming a certain disposition towards what might be termed, in shorthand, the global digital economy. The language of provocation came out of an effort to work against two forms of technological determinism. One form would cast the increasing prevalence of digital technology on the international plane as leading us down a path of ever more intense inequality and monopolisation of power and resources; that is, the relentless affirmation of hierarchy. Another version would associate the prevalence of digital technology with prospects of human enhancement, and an expectation that it will optimise life and boost freedom.

I wanted to avoid both those versions—that is, suggesting that the digital is always a threat, or that the digital will ensure that human capacities are enhanced. Provocation seemed to be a way of holding on to the idea that there is a great deal at stake in thinking and working with

[1] Fleur Johns, 'International Law and the Provocations of the Digital: The 2021 Annual Kirby Lecture in International Law' (2022) 40 Australian Yearbook of International Law 3 ('The Provocations of the Digital').

digital technology in view of its many, growing implementations, but that we cannot be sure how this will play out.

Provocation also holds on to an idea of generativity; if you're provoked, you're provoked to do or think something. It seemed to imply the prospect of generating more provoking thoughts and actions.

In terms of how I became interested in digitalisation, I told this story at the start of the #Help book.[2] This interest came out of my work on law and development, particularly large-scale infrastructure development, for instance hydropower dam development in the Mekong River Basin. I did a collaborative project and produced a book about that.[3] The damming of the Mekong and its tributaries is a matter of intense conflict because of the tens of millions of people that depend upon the river, and the way that damming transforms the river (the flow of sediments, the migration of fish) and really threatens people's livelihoods. So, there is a huge amount at stake. The project explored how people appeal to law, legal argument and legal institutions in that context, which is not always an easy thing to do.

In that context, where law has limited capacity to deliver on what people want from it, we found that often those conflicts that one might see turning up in court in other jurisdictions were—in places like Thailand, Laos, Cambodia and to a lesser extent in Vietnam—manifesting in technical and technological conflicts, conflicts about modelling, such as scientific modelling, financial modelling, and associated agreements. I became interested in models and modelling as a form of governance and a site of conflict, that is as a site for people to work through conflict or to try to set it aside. Through investigating models, I became aware of a class of algorithms that are used in modelling as a way of capturing uncertainty. And I began to investigate these algorithmic aspects of governance.

I became increasingly unsure, however, about taking the algorithm as a point of entry for those investigations, even though that is a focus of a lot of literature on algorithmic governance and algorithmic rule. I continue to learn a lot from that literature. Even so, it seemed to me less promising to focusing on the algorithm than to examine the data flows through which algorithms learn, and the directionality and distribution of those data flows and associated infrastructures and entitlements. How data transforms phenomena is in some ways akin to the role that language plays in the world. So, I became really interested in the characteristics

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[2] Fleur Johns, *#Help: Digital Humanitarianism and the Remaking of International Order* (Oxford University Press 2023) ('#Help').

[3] Ben Boer and others, *The Mekong: A Socio-legal Approach to River Basin Development* (Routledge 2015).

and movements of digital data, and the distinctiveness of digital logics, in relationship to the analogue. My moving through those stages led to this focus on the provocations of the digital in international law.

Du: I find the framing of 'provocation' very intriguing, as it invites us to reflect on the difference between the digital as a force of technical determinism and it being a generative force impacting on our way of thinking and doing in the world. The mindset of technical determinism presumes a set of values or approaches that may not actually help us to better understand the phenomenon of digitalisation. That's why 'provocation' is such an insightful approach: it invites us to think about 'the digital' or the algorithm not solely as an opportunity or challenge to rule-of-law development but more as a juncture where law would generate lots of important distributive effects.[4] For that, we need to examine the directionality of data flows, their associated infrastructure and entitlements, rather than the technical side of algorithmic rule per se. And that really makes your approach to the digital and international law so unique.

Johns: Thank you for picking that up. Because that was certainly the aim. But one's never sure if it comes across. I'm glad that you picked that up.

II. THE STRUCTURAL DISSIMILARITY BETWEEN ANALOGUE AND DIGITAL LOGIC

Du: Let's move into the second question, which concerns the conceptualisation of the analogue logic and digital logic in this article and in the broader project. How does the contrast, or the combination between analogue logic and digital logic make a difference to our understanding of international law and the practice of international law?

Johns: That's a big question. And in a way, all the writing I've been doing in the last ten years has been a way of trying to figure out different takes on that question. The contrast between analogue and digital came to be crucial to me because I was looking for a way of expressing this idea of, as you said, the distributive dimensions of the turn to digital technology and its effects, but also its structuring capacities in a way that was not deterministic, that captured a sense that there is irresolution, and that there are fundamental differences and openings operating, wherever digital technology is being incorporated into international legal work.

[4] Will Brehm and Fleur Johns, 'Episode 336: Digital Humanitarianism (Fleur Johns)' (*FreshEd*, 13 November 2023) <https://freshedpodcast.com/johns/> accessed 21 August 2025.

In framing my analysis around digital-analogue difference, I am using an old language, which is from early 1970s work of people like Anthony Wilden.[5] Others have made use of this disjunction between analogue and digital too, like N Katherine Hayles.[6] Another person whose work was helpful in the early stages of figuring out this in my own work on international law was Alexander Galloway.[7] I was in a reading group with him. His work on this, in a different register, in media studies and philosophy, was really helpful to me in figuring out a way of sustaining throughout my writing a structural dissimilarity, or a structural difference at work that could never be fully resolved and was or is abstract but also entirely concrete in its manifestation in technological objects and legal settings. Tracing the persistence of digital-analogue tensions offered me a way of amplifying the uncomfortable entanglements and complicities associated with increasing recourse to digital technology and digital logics in and around international legal work, broadly understood.

Du: When you talked about the conceptualisation of analogue logic and digital logic as an entanglement, and how you used that entanglement to sustain both the structuring and distributive effect of the digital, it reminds me of your emphasis on style in your writings. For instance, in your article 'From Planning to Prototypes',[8] you used the approach of style as a way to maintain a distance from both the structuralist and post-structuralist way of thinking about state agency. You suggested that the critical distance, which you term as the 'incommensurability' between structuralist borrowings and critical theory appropriations, could indeed be productive. It makes the practice of international law full of potential as it is not determined by what is already happening; instead, it opens up a space in international law for future changes: 'style is non-detachable from history, but it is not the effect of human mastery of history'.

When I am trying to think about my own research conceptually, for example, when I write about different modes of international legal discourses on corporate responsibilities, I aim to develop a theoretical framework that both characterises each period of the discursive development in a particular theme and not over-characterises it just for

[5] Anthony Wilden, *System and Structure: Essays in Communication and Exchange* (1st edn, Tavistock Publications 1972).

[6] N Katherine Hayles, 'Transmitting: Analog and Digital' in *My Mother Was a Computer: Digital Subjects and Literary Texts* (University of Chicago Press 2005) 169–240.

[7] See, eg, Alexander R Galloway, 'Golden Age of Analog' (2022) 48 Critical Inquiry 211; Alexander R Galloway, 'Mathification' (2019) 47 Diacritics 96; Alexander R Galloway, 'Language Wants to be Overlooked: On Software and Ideology' (2006) 5 Journal of Visual Culture 315.

[8] Fleur Johns, 'From Planning to Prototypes: New Ways of Seeing Like a State' (2019) 82 Modern Law Review 833 ('From Planning to Prototypes').

the sake of the argument—in a way similar to your approach of 'style'. I wanted to stay rigorous and truthful to my empirical materials while making a theoretical contribution, but it has been a hard balance to strike methodologically. Sometimes I receive the feedback that I tend to argue more than I analyse; sometimes I fall back into the pitfalls of the conventional divide between the subjective and objective writing and I write in self-doubt. I wonder if there were any difficulties for you when you applied this conceptualisation of international law as between analogue and digital logic? And how do you manage those difficulties in your writing and research?

Johns: It's another great question. Just one thing to note is that I do not think of the digital-analogue relation as just a conceptual disjunction, or, indeed, a discursive one. It is also a material one. It alludes to a different mode of building things—the difference between an analogue machine and a digital machine, for instance—they just work fundamentally differently, as you know. So, these are not just logics that are cerebral or ideal. They are very material signifying different ways of engineering the infrastructure of the world. Another thing to note is that I am not trying to collapse everything into this. There's a lot in the writings that is not reducible to the entanglement of analogue and digital. There's a lot in human relations that cannot be well described in those terms. And there's a lot in legal work and legal relations that is not well captured in terms of that opposition.

I wanted digital-analogue entanglements to be a central engine of the work in a way that is, as you say, indebted to structuralism, but also to post-structuralism, keeping alive the discord between post-structuralism and critical theory that is characteristic of much international legal scholarly work of interest to me over the past few decades, and which never really gets resolved in that work. As you highlight, I have repeatedly focused on style as a window onto these generative tensions. But I do not intend this dynamic as an explanatory force or diagnostic that could be applied to everything. I don't want the reader to think of it as a key that unlocks everything we've been talking about.

If one thinks of theoretical framings as tools to capture the world, or some worldly phenomena, then one's always destined to fail because those phenomena are always going to overrun the frame. But if one thinks of theory as a kind of intervention, a way of wedging something open, rather than trying to capture it, then those 'failures' become generative.

III. THE ELEMENTAL CHANGE IN INTERNATIONAL LEGAL ORDERING AND THE CONTINUING RELEVANCE OF CLASSICAL INTERNATIONAL LAW

Du: Talking about the kind of scholarly intervention, the approach taken in your article for the annual Kirby lecture is slightly different from the approach in the book #Help. In #Help, you specifically refer to your approach as thinking about the provocation from the prospect of interfaces in digital humanitarianism.[9] But this lecture-article focuses more on how provocation challenges or intertwines with existing approaches to international law, especially how we think about states. Can you draw some connections between the two projects, in particular between the approaches taken in the two projects?

Johns: It's interesting to think about the relationship between these two pieces. It's partially a matter of when I wrote them and the way one's thinking develops. But it's also a question of audience. I was invited to deliver this annual lecture named after Justice Kirby, a very celebrated international lawyer in Australia and a former High Court judge.[10] I had been planning to write a chapter in the book about the transformation of the state, following on from the Modern Law Review article 'From Planning to Prototypes'.[11] I wanted to show that one could approach the turn to digital technology in international legal work as an elemental change, as a profound structural challenge to international legal ordering. But at the same time, I wanted the Kirby lecture to resonate with a classical international law audience. For that reason, the lecture is much more focused than the #Help book on the kinds of instruments with which international lawyers are most familiar, such as the Montevideo Convention.[12] That Convention was a codification project. I wanted to start with the well-known historical instance of codification in international law, that was also an instance of challenge being made from what Immanuel Wallerstein would describe as the 'periphery' to the 'centre' of the field.[13] The Montevideo Convention reflected an effort, led by Latin American states, to challenge the racist civilising discourse within international law whereby states were held to a 'standard of civilisation' in order to

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[9] Johns, *#Help* (n 2), chapter 1.

[10] Johns, 'The Provocations of the Digital' (n 1).

[11] Johns, 'From Planning to Prototypes' (n 8).

[12] *Montevideo Convention on Rights and Duties of States*, opened for signature 26 December 1933, 165 LNTS 19 (entered into force 26 December 1934).

[13] See, eg, Immanuel Wallerstein, *World-Systems Analysis: An Introduction* (Duke University Press 2004).

determine whether they were eligible for statehood.[14]

I was interested in connecting with this history of codification and political challenge, and then hooking that to a kind of reformatting project underway with the increasing reliance on digital technology in international legal work. I wanted to provoke the idea that we could think of this turn to digital technology not just in terms of privatisation or contracting out, or, indeed, as a way of optimising international legal work, but also as a matter of confronting anew some first order questions about how we gather people at the level of the international, how they relate to one another, and how resources, power and authority are distributed internationally. The Kirby lecture shows great respect for the legacy of many generations of international legal work that was concerned with such elemental questions and suggests that we wrestle with the impact of digital technology in international legal relations in that tradition.

When I came to rewrite this into a chapter for the book, it then sat alongside and had to be related to other reformatting stories that I was telling in the book about changing practices around emergency—that is, in the temporality of emergency—and about populations and the different ways of people being gathered. It needed to make sense in that context, and for a broader audience that the book addresses, and perhaps it drew a little bit away from that classical international law register, and entered more into dialogue with humanities and social science scholarship around interfaces, as I rewrote it for that context.

IV. HOW TO WRITE ABOUT TECHNOLOGY IN THE FIELD OF INTERNATIONAL LAW

Du: The audience question also relates to the crucial framing of the question from the empirical. I am inspired by what you define as first order questions because that relates also to the difference between speaking to a more classical audience of international lawyers and those in a more critical register, or even, the audiences that are very technologically informed. But in #Help, you engage with all these audiences very well, because, from my understanding, this is clearly an international law project that offers critical perspectives, yet it speaks well to technologically minded people. I think that's because you managed to draw the massive technological changes into a research question of international law. I wonder how you did that? How did you master the

[14] Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (Cambridge University Press 2015).

technological part and combine it with the more theoretical perspective in your project, and more importantly making it still a project primarily about international law?

Johns: You're being very kind and generous. I don't think I conveyed any mastery of the technological at all. I had to relax any expectation of mastery. I don't come from a maths background. I don't come from a scientific background or have any training in computer science. When I became interested in algorithms and then in digital logic and computation, I had a very steep learning curve ahead of me. And that learning curve I've been able to traverse through collaboration with very patient collaborators, including my co-chief investigator on the project that partly funded the work towards this book—Wayne Wobcke, who is an Associate Professor of Computer Science at the University of New South Wales, and others. When I was writing, I was always writing as a non-expert collaborator. When I'm addressing different audiences, I am interested in entering into conversation with scholars in fields that I have been reading into, without professing mastery of those fields.

In many ways, the book is a record of reading, and trying to make a contribution, much as one does in a reading group. That's how I imagine the interactions between the different fields into which my work has strayed. I always also have a sense that my primary training is in international law, so I need to stay close enough to that field and true enough to my background to be able to bring something to the conversation that is distinctive. I am never going to be a computer scientist, so I'm never going to write like a computer scientist, nor do I necessarily want to try. I am not going to write like a media studies person. I have endeavoured to write in a way that is legible to those various audiences, while staying true to my training, which is primarily in international law, in order to be able to bring something to those audiences that they wouldn't necessarily be able to access otherwise. I know a lot of people that I talk to are interested in international law and other forms of law. So, I was writing with those conversations in mind—the questions that people have asked me and so forth. I try to keep alive that sense in the book. It was not an exercise of import and export to or from the international legal field. It was not an exercise of finding new objects for international law to regulate. It was an exercise of reading alongside others.

Du: Absolutely. What do you think is the most unique contribution of international law in the field of digital humanitarianism?

Johns: International law and law generally—law in a small 'l' sense—comprise the full array of techniques which lawyers bring to the table,

including, practices of reading, writing, analysis, argument, institutional design and reform and practices of disentangling, connecting things and relating things. The full array of those practices and forms of expertise which international lawyers bring to the table is much more plural, much richer and more extensive a repertoire than some interdisciplinary scholarship suggests. Rather than characterising law—capital 'L' law—as doing this or having this, or being this, I wanted to convey a sense that international law (both public and private) offers some valuable ways of thinking through some of the distributional and political questions that I wanted to surface. When I think of the interdisciplinarity of my work, the aspiration is, again, showing that law and lawyers have something more to offer a conversation than judgement. International legal work is not just or even primarily about normative judgement, but also about various ways of bringing people, things, spaces, times, and jurisdictions into relation. I wanted to convey that.

Also, I do think international law is particularly fecund as a field of inquiry and argument because of its undisciplined, unruly tendencies. It's notoriously eclectic, at least in the post-Legal-Realist era. It roves around public law and private law. It's a relatively uncabined area of legal practice. That can be its weakness to some extent, but also its strength.

Du: That's so insightful. And it reminds me of how, in your Asser Annual Lecture in 2024, you talked about imagining international law as a space where different communities, different people and different non-humans live together.[15] That really resonates with what you said of international law as having this un-destined legacy to invite us to think about how, through that place, we can ask the political and distributive questions. And sometimes the stakes are higher than we thought it would be. I remember what you said in the podcast called 'FreshEd',[16] that you do not necessarily agree with a lot of quantified work on how large the field digital humanitarianism is, because it's more plural and more inclusive than certain criteria can actually characterise the field. That is maybe also true about international law's field and its encounters and registers, which may involve many difficulties as we discuss later.

Johns: I think that's right. And when you said these questions draw attention to the stakes being higher than we thought they might be, that is also a strength of international law, as it holds us close to profound and difficult questions. International law deals with entitlement to kill (I say

[15] Fleur Johns, *Connection in a Divided World: Rethinking 'Community' in International Law—Ninth Annual TMC Asser Lecture* (Asser Press 2024).

[16] Brehm and Johns (n 4).

that drawing upon the work of Nathaniel Berman and David Kennedy and others on international humanitarian law as distributing the privilege to kill, rather than to necessarily save).[17] International law stays close to the hardest, most difficult questions of how to live together. It stays close to profound inequality, even if it creates formal equalities between states. It never moves far from the recognition of profound inequality on the international plane. It never lets one get away with the idea that legal work is a low stakes endeavour.

V. THE METHOD OF NON-POSITIVIST EMPIRICISM

Du: Yes. I think what you have inspired other scholars taking different approaches to international law, is to probe deeply into those very difficult but important questions. That's what's unique about this project. There is another unique perspective of your research on digital humanitarianism, which is that you deal substantively with the empirical stuff. It doesn't mean that you use empirical methods as defined by social scientists, but you always pay close attention to what is happening on the ground or in the field, and what is in the mind of the interlocutors with whom you engaged in these humanitarian projects, like in Jakarta or in other projects. Can you explain how you define your empirical method in this project? And what does empirical method bring into your research?

Johns: I love that you asked this because I had not really reflected on it much until you did. Gayatri Spivak says, in her famous essay 'Can the subaltern speak?', that positivist empiricism 'cannot ask first questions', which means in the context of that essay, empiricism cannot ask questions about ideology, or indeed, present forms of counter-hegemonic ideology.[18] What I'm interested in is a non-positivist empiricism, an empiricism that can pose and address first questions.

The idea of non-positivist empiricism is not to prove something through providing an alibi or seeking to validate or authenticate that one has tapped directly into something concrete or grassroots. It's not meant to secure the claims that it yields; it is a making, not a recording—that's how I see non-positivist empiricism. This is connected to the study of practice, which is already invited by international law doctrine itself (the doctrine of sources concerning customary law, for instance). My interest in empiricism

[17] See, eg, Nathaniel Berman, 'Privileging Combat? Contemporary Conflict and the Legal Construction of War' (2004) 43 Columbia Journal of Transnational Law 1; David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton University Press 2004).

[18] Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?' (1988) 14(27) Die Philosophin 42.

is connected to my interest in practice, which is an interest characteristic of the international legal field. And the study of practice allows for different points of entry into the effects of international law and the ways in which international law is experienced by a range of different actors. So it allows for pluralism (that is, plural actors, vantage points, methodologies, laws and fields of law) as well.

Empiricism is, in a sense, a way of making an interface, enabling a way of interacting with international law and multiplying its interfaces. I could have just described international lawyers working with various digital technological tools, and I do that in my recent work. But then, I come back into the international law question by making certain digital artifacts and interfaces (such as dashboards and platforms developed to assist governments and international organisations in dealing with disasters) into points of re-entry for questions that international law and intentional lawyers typically pose. I endeavour to recast empirical analysis of such dashboards and platforms as an opportunity to reflect afresh on how authority and resources are distributed on the international legal plane, and who or what gets valued (and devalued) in the process.

Du: Thank you. That's such a great answer. And I think non-positivist empiricism describes your approach to the empirical world so well.

VI. ON THE QUESTION OF 'ENCOUNTER'

Du: A moment ago we talked about how the study of digital humanitarianism can open up the space of international law as a site of encounters. You used the word 'encounter' in the translated piece a few times; and the questions around and about 'encounter' also come into play in my translation of your work, which involves deliberate translational choices.

One of these is the normative connotations with the word 'encounter'. When I consult the dictionary, there are two major but distinct definitions of 'encounter'.[19] It can be a meeting that is unpleasant, usually of adversaries or opposing parties, but it can also be a relatively unstructured or casual meeting with a person or thing. Loosely they correspond to the Chinese phrases of 'zāoyù' （遭遇) and 'xiāngyù' (相遇） One can use the latter phrase xiāngyù to describe a romantic meeting, whereas the former phrase zāoyù is more often used to depict a serious, confrontational situation. For example, zāoyù has been used by historians to describe the forced opening of Chinese ports by Western colonial powers during the late Qing dynasty.

[19] *Oxford English Dictionary* 'encounter'.

It's a powerful phrase that simultaneously conveys a sense of trauma and an awakening that points to an eventful period in Chinese history when questions of modernity and tradition become prominent.

What I feel is, if I translate to convey the sense that encounters in international law involve hostilities, I am already taking quite a critical lens of the work of international law, which can be seen as an engine of different forms of colonialism or domination, and I believe this understanding of international law aligns well with the problématique of the historical approach to international law, which always problematises our presumption about what international law is and what it does. It also seems to align with your research questions. But still, I feel a kind of discomfort making that choice. Do you also have these questions in mind when you provided that definition of international law as encounters between states in your article?

Johns: I love this question, and I feel like I've already learned so much from having you pose the question and draw my attention to the translation difficulties. I wish I was multilingual enough to be able to follow you into those translation difficulties and experience them first-hand, because I feel I would learn a lot from understanding the various different options available to you in Chinese. Thank you for bringing this up.

You're absolutely right. It would be a pity to lose both those senses. I wonder if there's a way to hyphenate or hybridise the two? Perhaps the first port of call is the unpleasant, potentially hostile relationship, or experience of coming across another actor, or a state-to-state relation. The unexpectedness of this experience creates a sense that the architecture of international law needs to be remade over and over again and is remade relationally. The potential hostility draws attention to what's at stake in that relation. And as you say, it connects to all that we've learned over the past few decades about the role that international law plays in intensifying and compounding hierarchy, domination, and violence. That's the first port of call. So, if I had to choose, I would choose that translation option.

But holding onto the casual is also really important, because one of the things I've done throughout my work is that I have sought to demonstrate and show curiosity towards the most mundane, low prestige,[20] repetitive forms of work in the international legal field. This article doesn't convey that as much. But I think elsewhere, I have pursued lot of interest in mid-level operatives in international law—not necessarily the ministers of state

[20] Fleur Johns, 'On consular internationalism' (2025) 38 Leiden Journal of International Law 60–83.

and heads of state that are making decisions, not necessarily the intended beneficiaries of humanitarian work, although, of course, I'm interested in them as well. I am especially interested in staying, as I do in the #Help book, with those officials who are trying to make sense of and trying to bring into relation those constituencies. And 'casual' seems to connect to this idea that you don't know when and where an encounter that holds significance for international law is going to surface. Sometimes you don't recognise that you're doing the work of international law while you're doing it. I don't think those data scientists and others who are, say, making digital interfaces to help with the governance of humanitarian responses to famine think of themselves as doing international law work, but I aim to show that they are, in a sense, working in and on international law. The second translation option that you have identified connects to the unexpectedness of this involvement, suggesting a certain kind of accidental quality to it and perhaps also a sense of operating in private or to the side of the main players and the main scenes of international law: something that I have characterised in my work as infra-legality.[21]

I think the encounter is close to the event as read through the legal and philosophical register of Events,[22] which is a book I co-edited with Richard Joyce and Sundhya Pahuja to which many contributed. But the encounter seems to me a more relational way of capturing that sense of the event. And again, this relates to this idea that the architectures of international law are continually being called up and remade. International law doesn't just reproduce itself automatically and there's nothing inevitable about its extension, even though it is profoundly durable and profoundly reproductive.[23] It does tend to endure.

Du: Thank you for that answer. It's so much richer than what I would think of encounter before, in the sense of the casual meeting between things as an accidental daily operation of international law. But there is much more in that seemingly mundane, daily mid-level operation of international law. I've also learned so much from your work in Non-Legality of International Law and that book could also be understood as an attention to the casual in international law and what does that tell us international law's objects and its fields. I think that's extremely helpful. And I wish I could find a word that captures both senses, but I have to keep

[21] Fleur Johns, *Non-Legality in International Law: Unruly Law* (Cambridge University Press 2013) 185–254.

[22] Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge-Cavendish 2011).

[23] See generally Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (Cambridge University Press 2019).

trying.

Johns: And maybe you should just decide.

Du: Yes! It's also useful for the reader to know what stakes are involved in choosing between different senses and what either sense misses and catches in the meaning. And I think that's really important.

Johns: Yes, definitely.

VII. HOW DIGITAL TECHNOLOGY BRINGS ABOUT THE FUNDAMENTAL TRANSFORMATION OF STATEHOOD?

Du: My next question is about the structure of a state. One central observation you made in this article is that digitalisation is bringing openings and instabilities that challenge the basic structure of international law, particularly of states as negotiated in the Montevideo Convention. Specifically, it challenges the criteria of statehood, including how states purport to answer to the requirements of having a permanent population, defined territory, government, and capacity to enter into relations with other states. Nonetheless, peoples and places in the semi-periphery and in the periphery are once again crucial drivers and bearers of this change, as you amply showed in this article. Maybe this is a speculative question: what do you think of these changes' potential to challenge the fundamental structures of the doctrine of states in international law with its colonial and hegemonic underpinnings? Or is it just making it worse? And how do you anticipate the practice of statehood in international law would grasp these changes?

Johns: These are difficult and big questions and I fear I'm not going to deliver a satisfactory answer but let me try. As I said earlier, I wanted to advance the idea of digitalisation being a fundamental transformation of the mode of doing statehood, how statehood is performed, how it's sustained, and how states relate to one another and relate to their various constituencies, to peoples, and other ways of organising collectives in the world. I also wanted to connect the transformation associated with digitalisation with earlier periods of transformation. I could have gone further; there's obviously a lot of work that shows how much work has had to go into propagating a standard format for political union on the international plane (statehood) and the great costs of doing so, and how it was imposed on people under very strict conditions. For example, Antony Anghie's work and Sundhya Pahuja's work has shown the profound conditionality that has been associated with colonised peoples' entry into

statehood through decolonisation.[24]

And yet, if you think about a longer time period, this predominance of statehood is just a blip, just a few hundred years' old. In some of my doctoral work, I looked at the early modern period, and particularly the idea of the city, and the changing legal composition of the city state, as faith-based ways of gathering and dividing up people gave way to secular statehood.[25] So, I have long been interested in this idea that the ubiquity of statehood internationally is a relatively short-term phenomenon that people always have to work to sustain. It's actually quite hard to sustain this idea that the international is a plane comprised of states and statehood to the exclusion of other forms of connecting and organising. And it never really excludes other forms of connecting or organising for example, those characteristic of corporate forms, faith-based forms, substate forms, and Indigenous nations and communities. There are so many ways of organising that are still very lively and crucial on the international plane and yet, international law tries to maintain the centrality and indispensability of the state.

Using the opportunity posed by the turn to digital technology, and drawing attention to the different ways of performing statehood that this occasions, I wanted to recapture a sense of that work (of making statehood indispensable) being unfinished. This connects to that earlier observation, that the aim of the empirical work has been bringing to the surface first order questions of how to relate, how to distribute resources, and how to conduct relations on a relatively large scale. That's the work that I wanted this article to do—to reopen what's at stake when we try to sustain the state as the standard form for conducting international relations. How standardised is it actually? If we're reformatting statehood in the course of making it digital, if we're rethinking the standards and the conditions associated with how to be a state, can we do better than the norms that we've received to date?

I wanted to make the changes in practice associated with the digitalisation of international legal work into an opportunity to ask ourselves those questions again, or for many people to ask those questions again.

Du: Yes. To start asking those questions may not fix the world's problems, but it's a start to rethink the way we understand the world.

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[24] Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (1st edn, Cambridge University Press 2011).

[25] Fleur Johns, 'The Globe and the Ghetto' in Markus Lederer and Philipp S Müller (eds), *Criticizing Global Governance* (Palgrave Macmillan 2005) 69.

That reminds me of your introduction to your edited called volume International Legal Personality, when you quoted Althusser, saying, 'doctrines of international legal personality and surrounding debates hail those in whom personhood is vested, evoking in them a particular way of being in the world'.[26] From there, we sense the particular way of being in the world, hailed as perhaps the only, or the most authoritative way of being in the world that you try to problematise.

Johns: That's a great connection to draw. In Althusser's analysis, he explains how subjects get called into being as political subjects and also as legal subjects through the allegory of a police officer hailing someone on the street, saying 'hey you' and prompting that person to turn around and recognise themselves as identifiable and answerable to that call and thereby becoming, in that relation, a subject of law.[27] In analysing the work of some digital interfaces being employed by governments and international organisations, I am telling a story somewhat akin to that. On the level of the collective, these digital interfaces invite communities to become subjects of international law. When, for example, using a certain app to access humanitarian aid, the community that is seeking that aid or the intended beneficiary of that aid becomes an international legal subject through that medium. There is something distinctive about doing that through an app rather than through an interaction with a police officer on the street, or a humanitarian professional in the field. And the way that the ensuing international legal subjectivity gets called into being matters for the constitution of that subjectivity and its relation to the form of law or form of authority that does the calling. My research is telling a collectivised version of Althusser's allegorical story. I have also written about how digital technologies used for governance tend to assemble collectives without any Althusserian interpellation into subjects, but that is probably a conversation for another day.[28]

Du: Yes, and there is a strong connection between the question of subjectivity and the status of the corporation in the sense that communities and peoples using apps (or the digital logic) are subject to the international regulations, diminishing their inherent subjectivity. I am curious about this question because of my own work on transnational corporations: as many of these apps are based in the Global North, the question of the

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[26] Fleur Johns (ed), *International Legal Personality* (Routledge 2010).

[27] Louis Althusser, 'Ideology and Ideological State Apparatuses (Notes Towards an Investigation)' in Louis Althusser, *Lenin and Philosophy and Other Essays*, (Ben Brewster tr, Monthly Review Press 1971) 127.

[28] Fleur Johns, 'Governance by Data' (2021) 17 Annual Review of Law and Social Science 53, 59–60.

relationship between Global North and Global South emerges. In the article, you discussed a litany of 'data doubles' that Southern states must navigate in the new digital world. Commercial actors create digital representations of their politics and visualisations of social and economic conditions in parallel with and sometimes in lieu of state actors within their territories. The corporate digital representations, often driven by extractivist or profit-making objectives, often conflict with the state's visions of its future. How do you understand the role of corporations in this process? Do you think it follows a similar logic to the role corporations played in the colonial history of international law? Or do you believe that in the digital world, there are actually more instabilities and openings in that role played by corporations? And how does the corporation's role in the new digital world transform the form of nation-states and the corporate-state relations? And how could that transformation, if there is any, be relevant for our understanding of international law?

Johns: The story of the role that corporations play in the digitalisation of international legal work could be told in a number of ways. If we think of the core business of a corporation being about assetisation—the designation of certain things as assets and the protection of those assets being key to the structure and logic of the corporate form—then it is clear that this is an important dimension of the role that they're playing in the digital economy. That is, corporations are key to the various modes of legalised assetisation being wrought on digital data and infrastructures internationally.

If data and associated forms of technological capacity and value, particularly capacities for machine learning and model training, are being hoarded by and stored in corporate forms and on corporate balance sheets, then this conditions the degree to which people and governments get access to that capacity and value, and the terms on which they may do so. This connects to what we were talking about earlier, about the changing modalities of statehood. If a government must appeal to a corporate actor for data on their own territory and on their own people, then they are invited into a transactional mode of relation—a consumer-producer type mode of relation—as a condition for maintaining their capacity to govern.

I think it's extremely significant that so much of the infrastructure and asset value of the digital economy is being stored in this form, that is in corporate entities and as corporate assets, because it is conditioning how we interact with digital technology and its distribution in profound ways that go beyond the question of privatisation or contracting out. This isn't just about states contracting out their capacities, which they've done for

hundreds of years. It is about communities giving ground to corporate actors and associated logics in more profound ways because of the tremendous capacities for governmental intelligence, insight and analysis that come with these stores of data and associated technologies that are in corporate hands.

Relationships between states and corporations are shifting. States are becoming more corporate and corporations are becoming more state-like. Obviously, there's a lot of differentiation in these entanglements. Decades of feminist work on the public and private divide and the way that they interact is very useful here.[29] But there are specific manifestations of that entanglement associated with digital technology. These are somewhat different to the work that corporations did in the colonial period and in other eras, although there is of course a long history of corporate-state entanglement that it is worthwhile keeping in mind in this context.

The idea of asset protection and the organisation around asset preservation imperatives is key to the distinctiveness of using the corporate form as a primary repository for what we might think of as public data and associated computational and machine learning capacities. And I think that we are using corporations as primary repositories for these public 'assets' internationally. This a highly generalised claim, but in the article, I talk about some specific examples. For instance, I discuss Palantir's re-configuration of the basket of goods that the World Food Program was distributing. What I tried to capture in telling that story is that when Palantir does that work, it's not just doing it in the way that the World Food Program would do it otherwise. Obviously, Palantir would still be concerned about the instructions that the World Food Program presumably gave them—not to reduce nutritional value and so forth—but it's also bringing quite a different logic to the idea of optimisation in comparison to that which an international organisation such as the World Food Program would otherwise bring to bear. There's something distinctive to the logic that a corporate actor brings to distributional questions, particularly around who has a stake in those questions. There is a tendency for these to be reduced to value questions, questions of nutritional value, monetary value, or financial value—things that you can work out on a ledger. An alternative register for thinking about how you distribute food to a population in need is to think about it as a practice inviting a relationship with those people in need, occasioning a concern with how they came to be in such need. Those are the kinds of inquiries

[29] See, eg, Susan B Boyd (ed), *Challenging the Public/Private Divide: Feminism, Law, and Public Policy* (University of Toronto Press 1997).

with which international organisations have historically been concerned, but they are not the sorts of inquiries that a corporation brought in to discharge a certain responsibility under a contract of a certain value is going to be inclined to make.

Du: And especially considering the problematic way of how the digital logic, by transforming people, actions, things into data, involves an inevitable process of reduction. And there are biases involved in those datafication as well. From the perspective of corporations as what you define as the assetisation of data, these reductions may not necessarily be the concern of the private actors.

Johns: That's right. I'm sure that individuals in those corporations are acutely aware of the reduction and biases. But as you say, all the incentives, all the directives, and all the way of working that one is invited to adopt in a commercial setting tend to direct attention away from troubling oneself too much with what gets lost or who loses when you deliver on a mandate of generating a better return on investment.

Du: Yes, if it's about humanitarian work including distribution of food and helping people, from which these corporations get so much authority and legitimacy. The involvement of corporations in these humanitarian practices make them even more problematic.

Johns: I allude to this issue in the article. A lot of work that large tech corporations are doing in the humanitarian sphere is very much a matter of carving out testing grounds at global sites of relative disadvantage. I talk about Project Lucy[30] in the article; it's an example of the way in which humanitarian work can be a testing ground for things that later get translated and assetised in a commercial setting. The urgency and the dire need characteristic of humanitarian disaster sometimes create a more permissive situation, a kind of relaxation of cautionary guard rails, that allows corporations to take liberties. I think corporations recognise this. As has been the case with welfare, lots of things have been tried out on the poorest people in many different societies for hundreds of years before being mainstreamed across those societies. And you're seeing a repetition of that pattern in the turn to digital technology in international legal work surrounding disaster relief and humanitarian assistance. Lots of tools are being tried out on people that are in the greatest need, and then sometimes getting converted into commodities aimed at broader user communities or customer bases.

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[30] VueTel Italia, 'Project Lucy: IBM technology at the service of Africa', (*Medium*, 20 October 2024), <https://medium.com/@VueTel_Italia/project-lucy-ibm-technology-at-the-service-of-africa-4b3d85762f42> accessed 21 August 2025.

Du: Definitely. I think that really brings the question of equality to the forefront. In the article, you have also discussed how the shift of governmental operations into discrete proprietary digital registers is impacting the independence of Global South states in their foreign affairs, and how that is reminiscent of the standard of civilisation in international law's history. And Project Lucy is perhaps one example of that. My question is, in this context, do you think there is still emancipatory potential, in the new standard of digitalisation? At the end of the article, you offered an invitation for international legal work to revisit and remake relations among international laws, constituent units, and experimenting around and against prevailing approaches to global commoning. What could international lawyers and international legal scholars do regarding digitalisation to reorient their efforts away from the civilising mission and more towards radical equality and anti-imperialism? Could you provide some examples that bring us hope in the practice of digitalisation?

VIII. HOW TO RESIST (NEO-)COLONIALISM IN INTERNATIONAL LEGAL WORK IN A WORLD OF DIGITALISATION?

Johns: We're still really in the early stages of this—this digitalisation of almost everything. There is a lot of room for reorientation and redirection of energy and resources and collective endeavour. There's nothing necessary or incontestable about the idea that states need to work towards ever-more intensive data extraction and accumulation. It is far from decided that centralisation or standardization of all data-gathering according to certain monopoly models is required in order for governments to meet an emerging 'standard of datafication', to prove themselves as competent in the work of governance, as I described.

There's some interesting work being done around language in the context of natural language processing, and the development and training of large language models (LLMs). Computer scientists characterise some languages as 'low-resource languages' meaning those in which relatively small amounts of data are available for training AI systems. In some low-resource languages, for example, Māori in Aotearoa New Zealand, there's quite a lot of work being done around how to realise Māori data sovereignty and what this might entail in the realm of LLMs, including some experimentation among Māori communities with creating data

sets and training models.[31] The aim of these efforts, as I understand them, is to recast and reposition the engagement of Māori speakers with the dominance of LLMs and generative AI. Te Mana Raraunga, the Māori Data Sovereignty Network, is highly engaged around these issues.[32] And there might also be prospects for communities of speakers of low-resource languages to connect up and share resources; there has been some interesting participatory research along those lines.

The same is true of other exercises in data aggregation; there have been some collective experiments trying to shift prevailing political and economic dynamics. The cities of Amsterdam and Barcelona have made a lot of effort to try and gather city residents' data in open repositories the governance of which is transparent to the city, so that the value from that data aggregation flows back to the residents of the city and supports services in the city. They have run several pilot projects along these lines over the past decade.[33] So, there are interesting experiments underway in the data commons space at the city level from which I think international lawyers could learn much.

Cities have similarly led the way, in many respects, in advancing global efforts to mitigate climate change. When things were stalling at the international level, it was in many instances cities that were advancing projects to demonstrate what a transition to a low emission or zero carbon economy might look like. I gain some hope from comparable things happening in the digital economy. That said, it is important not to lose sight of how differently positioned states and cities are. If you're a small Pacific Island state, let alone a single city in such a state, the prospect of renegotiating relationships to the major players in the global digital economy is profoundly different to, say, the United States or China or India. And then, of course, within India, there are communities that are very differently positioned, vis-à-vis one another, in relation to the national project of Digital India. And such differences are also apparent in the US and in China.

These are very profound inequalities and I am not pollyannaish about the prospect of reengineering those. But there is a lot that can be done. There's always a lot that can be done.

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[31] See, eg, Angie Lee, 'Māori Speech AI Model Helps Preserve and Promote New Zealand Indigenous Language' (*NVIDIA*, 16 January 2024), <https://blogs.nvidia.com/blog/te-hiku-media-maori-speech-ai/> accessed 21 August 2025.

[32] PT Brown et al, 'Māori Algorithmic Sovereignty: Idea, Principles, and Use' (2024) 23 Data Science Journal 15.

[33] DECODE, 'Pilots', <https://decodeproject.eu/pilots.html> accessed 21 August 2025.

IX. THE USE OF CASE STUDIES IN CRITICAL LEGAL WORK

Du: Yes, there is a lot that can be done, or put it differently, to create an imaginary of alternatives. The alternative way of thinking, doing, and governing in the digital economy. And as you said, it's all still in the early stages. And for international lawyers, there's so much to learn in that space of global data commonality, referring back to your Asser Annual Lecture in 2024. Now I am going to move to some more 'selfish' questions on my side, because I am curious about your craft of research and your research trajectory.

I have my first craft question regarding your writing style and research method on case studies. The reason why I ask this question is because when I was approaching case studies as a way of thinking and also as a way of writing, I'm constantly faced with the anxiety that whether this case study is representative enough for answering my question, or whether the writing through case studies will bring rich enough resources into answering that question. That also relates to our earlier discussion about non-positivist empiricism, what case studies can really bring to theoretical thinking about international law. I'm curious about how you approach case studies, and what do you think of the limits and potentials of case studies in critical legal work?

Johns: Yes, such a great question, and something that I really have enjoyed reflecting on in preparing for this conversation. The way I approach case studies is informed by my training as a common lawyer. It is associated with the way that the case and the case method have featured in common law legal education. This is somewhat different to the way the case study features in social science, in that you wouldn't typically have the concern about a case being representative in the legal setting. A case is not necessarily something that a common lawyer examines to prove something or to generalise something. The case is in a slightly different relationship to the general or the generic in the context of common law analysis; it may generate precedent, but in so doing it will also generate dicta (that is, obiter dictum, or statements that may be explanatory but do not carry precedential value).

Some modes of reasoning from a case that are characteristic of and distinctive to a legal register are useful to the task of non-positivist empiricism. For instance, in the common law tradition, analysis of a case is also a way of enlivening legal theoretical terms and understandings through a combination of inductive and abductive reasoning. So case-based analysis offers a way of reasoning and theorising that isn't deductive,

that doesn't start from general principles and reason from them, but rather enables one to reason and theorise inductively or abductively.

I also think of cases as points of re-entry. Grappling with a case is an exercise of thinking and often an exercise of re-scaling very challenging and enduring conditions or phenomena on the macro-scale and translating them to a meso- or micro-scale in order to think through them, to work through them. A case is a point of re-entry into very large questions, but it's not necessarily a place where everything will be resolved. It might allow one a way into big questions that is hopefully illuminating, enlivening, or provocative. In all these ways, I think that my way of working with case studies is more connected to legal ways of thinking about a case than it is indebted to the classical, empirical social science way of thinking about a case study as a site of hypothesis validation.

X. MOVING BETWEEN THEORIES AND PRACTICES

Du: That's such a productive way of understanding case studies as a method, and to use your training as a common lawyer to approach case studies in a non-deductive way of thinking about international law. That is very inspiring. I suppose that's the movement between case studies and the more generic claims of international law. And that relates to my next question of how you move between the practical and the theoretical dimensions in your research while not losing the power of each of these dimensions, with the variations of your focus in different projects? How does this reflect your personal experience and your scholarly aesthetics? Another curiosity of mine is whether you have any theoretical heroes that have been inspiring you for a long time?

Johns: Great questions, let me take them one by one. In terms of the emphasis that I place on practice and theorising from practice, rather than starting with the theory and applying it to practice as a way of explaining that practice, there's a couple of reasons why I find that helpful.

One is the epistemological hierarchy that one often encounters in law and adjacent fields between theory and practice. Theoretical work is sometimes considered the hard and high-level stuff, with practice understood as the sphere of implementation and operationalisation, or a testing ground for the theory. I'm interested in inverting that epistemological hierarchy to focus on practice as a way of doing theoretically engaged work that is material, embodied and engaged with the difficulties of the world and the difficulties of living. I am drawn to the idea of legal theory as a mode of doing, acting, and struggling. And I think

of the focus on practice as a way of expressing that.

In terms of legal theorists who have been inspiring me for a long time, David Kennedy is probably the person from whom I've learned more in my legal education than anyone, although I have been fortunate to have had exposure to many inspiring lecturers and research supervisors and I have always learned a lot from students as well, including my fellow students before I became an academic. One of the many things that I have learned from David Kennedy is not to accept conventional understandings of where the action is in the international legal field, or who is making politically significant decisions and who is not. In an article in the New York Journal of International Law and Politics,[34] he talks about the way in which international lawyers have appealed to the practitioner, creating a sense that the whole purpose of scholarship in international law is to persuade the archetypal 'practitioner being' to do something different. Kennedy draws attention to the politics of that set-up and calls it into question.

I have been interested, in related yet distinct ways, in thinking about practitioners—legal practitioners and those engaged in adjacent forms of practice—not as end users of scholarly work, but as theorists, generating ideas; not just implementing the decisions of rulers, but ruling in their own right and often in highly problematic ways. It's related to what I was talking about earlier, about reversing epistemological hierarchies. The supposed end users of international law, the practitioners and the intended beneficiaries of that work, are not on the receiving end of a conveyor belt of ideas coming out of the academy. They're producing ideas and instilling modes of rule on a daily basis doing all sorts of work. They're engaged in high stakes work, engaging with first order questions, going back to what we were talking about earlier. In order to demonstrate that, I've always thought of the work of being a lawyer, a legal educator, a regulator or policymaker, and a legal scholar as closely related, recognising, of course, their distinct work environments and important differences among these roles as well. In other words, I have sought to challenge the way we typically characterise their relation.

And in terms of theoretical heroes, maybe 'teachers' is what I would say; there are many: contemporaries who I think of as fellow travellers and writers who have been key for me at different points. I see writing very much as a collective endeavour. I've become a little bit better at signalling that over time I think, and I've tried out lot of different ways of signalling

[34] David Kennedy, 'When Renewal Repeats: Think Against the Box' (2000) 32 New York Journal of International Law and Politics 335.

that—sometimes casting these influences more into the background than the foreground. Michel Foucault, Walter Benjamin, Roland Barthes, Gayatri Spivak that I mentioned earlier, Karl Marx—their texts I've gone back to over and over again over many years, but there are many others whom I could name as well.

Recently I have been trying to signal all the way through my footnotes how many conversations are crucial to the work that I am doing. I am not just talking about the boldface names in the footnotes, but also all the conversations with colleagues and peers and students that are equally generative. And there's also a whole raft of international lawyers, a significant number of whom happen to be Australian women, though not all, whose work has been really key to my thinking: people like Annelise Riles, Karen Knop, Hilary Charlesworth, Anne Orford, Susan Marks. Many colleagues and contemporaries here, where we are having this conversation now, at the University of Melbourne have been influential upon me, as well as my colleagues at the University of New South Wales, and more recently at the University of Sydney. Roberto Unger, who supervised my Masters; the late Gerald Frug, who, along with David Kennedy and Duncan Kennedy, supervised my doctorate; these have all been key figures in my learning and remain key figures for my thinking.

Sometimes I'm quite explicit about the influential figures and texts that I have in mind when I am writing. And sometimes I'm not. But there are always formative texts that I keep going back to that are doing some sort of work in the background.

Du: I think the practice of keep engaging with those formative texts and keep going back to them, is really representative of how you approach writing as a collective endeavour, something that I will definitely learn from. For me a classic text can offer different things across different periods of my thinking and learning about international law, and it's always helpful to keep going back to those texts.

And what you have said about equal conversations with different interlocutors, and gaining something from each of the interlocutors is a great way of articulating the style of international legal scholarship you are doing. I find that so liberating.

Johns: You never do it alone. There were periods where I have written alone or tried to approach writing as a matter of striking out on my own, and I don't think it's very productive. If I'm too isolated in my writing and thinking, I go into a madness, where I lose the ability to actually see the work and get some distance from it, including critical distance. It's really not great for editing and writing, if I am too lost in my own thoughts. I

need to keep engaging with colleagues and reading alongside the writing. I need to keep engaging with other texts and other writers and thinkers in order to keep some distance from my own thoughts—to maintain some kind of critical distance from my own writing.

Du: And the conventional image, or a fantasy, really, of a scholar doing deep thinking and writing alone in solitude, is perhaps not helpful.

Johns: Yes, and my early teachers were key in making that point, or trying to encourage me to think of scholarly endeavour as a collective enterprise, throughout my masters and doctoral studies—and I really only recognised the value of it later. I was constantly being encouraged to see myself as contributing to a collective project, not doing something all on my own. Roberto Unger, David Kennedy and Gerald Frug were constantly creating reading groups and communities of scholars. Even if the dynamic in the Harvard Law School Graduate Program was sometimes difficult, sometimes fraught, the effort that these professors made to continually push people to collectivise their endeavour and recognise that they didn't have to try to be little masters of the universe was tremendously helpful. I think that it is important to approach scholarship as making a contribution to something that's much bigger than oneself and one's own career.

XI. NAVIGATING DIVERSE RESEARCH AREAS AND ACADEMIC INTERESTS

Du: Thank you so much for that answer. You have a great diverse array of research subjects and interests,[35] and I'm wondering if there is a common theme or common motivation that drives you across these different projects in different periods, and how do you navigate such rich and diverse academic interests over time? For me, there are the academic rabbit holes that I'm so drawn to, but I cannot spare my energy equally among all of them. I have to keep my focus. What's your advice?

Johns: I wouldn't necessarily recommend the pursuit of such a diversity of interests! But I think that, despite my work spanning a range of topics, there are recurring themes that run through it. These concerns attempting to interrupt the incessant reproduction of hierarchy, address inequality, raise and confront distributional questions and find different ways of doing these things. There's a lot of connective tissue between all these disparate

[35] For example, Fleur Johns' research over the years includes, but is not limited to, topics like transnational corporations and international law, international law and human rights, international legal personality, finance as governance, non-legality in international law, international law and events/contingency, and international law and development.

projects. Even though I have addressed a number of different kinds of subject matter of international law, the 'how' or the mode in which I approach these remains very connected. I think the story that I told earlier of how I came to work on digital technology is indicative of how things get strung together. I've worked on long-term projects, tackling each over an extended period of time, and then each one has led to the next. But there's also been back-tracking. I frequently return to the concerns of my earlier work. It's not as though I have been continually progressing in a single direction.

The standard way of becoming an international legal scholar is to announce oneself as a scholar of environmental law, or international humanitarian law, or whatever it is. I have not really done that and it has created a few problems, particularly in the early stages of my career, where people really couldn't say what I was an expert in X or Y, and for good reason, because I had done some of this and some of that. Some people had trouble identifying who I was as a scholar and found that disconcerting. In light of that experience, I think that there is an easier path to travel which is to start with a specialisation, rather than to be a generalist international lawyer who moves across a number of areas as I have.

But there is some benefit to not staying with a single specialisation because one learns a great deal from moving between public and private international law, investigating different institutional and doctrinal environments, different ways of working. I've learned a lot from working on different areas of law and focusing on different institutions and collaborating with colleagues with different kinds of expertise. You learn a lot from making those connections, and it enables you to draw comparisons that wouldn't otherwise be possible if you stayed in the one sub-field. So, if you do start in one sub-field, then I think it's useful to branch out. And I found collaboration very useful for that.

The trajectory that my research and writing has followed wasn't really through design though. I didn't start off saying, 'I'm going to be a generalist international lawyer who moves across a lot of areas'. My doctoral project (which I never published in its entirety) was a little bit over-ambitious and that probably didn't set me up for focusing upon a single area or sub-field, and maybe that's how things got started in this way. There certainly wasn't a master plan. It was just a matter of how I formulated one research question and then the next, and the different things that I became interested in over time.

Du: And in the meantime, staying true to the common theme that drives you - those questions of equality, distribution, hierarchy and the

challenging of the hierarchy. You can never design such things, and there is never a 'right' way to do such things but to stay true to your curiosity and your commitment, to what you want from this academic work.

Johns: Exactly. And I think if you are interested in collaboration, then that always leads you to the edges of what you're working on, and that's also a valuable way of finding bridges and connections between different sub-fields and contributing to a collective endeavour.

XII. THE POSITIONALITY OF AN INTERNATIONAL LEGAL SCHOLAR AND THE NEXT STEPS

Du: That's a great way of thinking about it. The question of remaining open to your enthusiasms and frustrations also relates to my last question regarding your positionality in your research. How would you position yourself in your subject matters, and how does that relate to your motivations, as senses of urgency, anxiety, enthusiasm, or curiosity? And if you don't mind giving some spoilers, what are your next research projects and next research interests?

Johns: My positionality in the writing expresses an awareness of privilege, but also a discomfort with that privilege. There's a certain restlessness that animates my work, which connects to that discomfort with, yet awareness of, privilege. This is the position that I try to articulate and invite people into in the work that I do: I'm interested in identifying privileges and rendering them uncomfortable. That's also related to my positionality as a teacher: teaching with an awareness of authority and its distribution and rendering that distribution a little bit uncomfortable. I also take up the positionality of being a collaborator, and a translator, I suppose, in some ways, forging connections between different debates. This work on digital technology has particularly been about that being a mediator and translator between different fields of knowledge and fields of practice.

That's actually related to my current research project; I haven't published much out of it yet, but some more is coming out. I've been working on the law of diplomatic and consular relations. The last two projects that I've done—the work on dam development in the Mekong, and the work on digital technology—have involved quite a lot of interaction with diplomats and officials in international organisations. At times, it has felt as though I've been doing some version of diplomatic work myself. And I've become interested in that world through interacting with people in that world—people with diplomatic or consular expertise. I am also interested

in how the language of diplomacy in a non-literal way is being used in anthropological and historical work in thinking about the relation between the human and the non-human, particularly in the Anthropocene.

My current project has been concerned with thinking and writing these two things into relation—the field of expertise and legal doctrine surrounding diplomatic work and consular relations, and the metaphoric use of diplomacy in the humanities as a way of thinking about the relation between the human and non-human. Through bringing these together, I've been trying to think about the law of diplomatic and consular relations as something more than, other than just an extension or instrumentalisation of foreign policy.

I think of diplomacy as a plural field, in which there are all these intriguing techniques for addressing conflict, approaching difference, navigating difference. This is a legal field but also a profoundly political domain. There is obviously law concerning diplomacy and consular relations—key instruments of international law. But diplomacy is mostly written about in the fields of diplomatic studies, international relations, political science, and diplomatic history. Diplomacy typically features as a section in an international law textbook concerning privileges and immunities, for example, but beyond that, the law story of this field has not really been written yet. Likewise, diplomacy and consular relations seem to be the core business of political science and international relations, but are somehow not central to those fields as well. So, I became interested in diplomacy as a semi-marginal field. That is what I'm writing about at the moment: the law of diplomatic and consular relations, including as a way to navigate human-machinic and other human-nonhuman relations and hierarchies in the international sphere.

However, I am going be taking a little bit of a pause for the next five years or so while I do more of a management role, which is going to be a different experience for me.[36] But I plan to stay connected with research even if I'm much less active in this regard. And I still intend to approach this new role in the way in which I've approached my research, which is through collaboration and, as has been the focus of my last few research projects, through trying to create opportunities for others. Hopefully the work as Dean will be an extension of that kind of collaborative, enabling work, oriented less towards my own research and more towards

[36] University of Sydney, 'Professor Fleur Johns appointed as Head of School and Dean of Sydney Law School' (*University of Sydney*,18 March 2024) <https://www.sydney.edu.au/news-opinion/news/2024/03/18/fleur-johns-appointed-head-of-school-and-dean-of-sydney-law-school.html> accessed 21 August 2025.

the collective, the community, and the workplace, including towards engagement with other scholars and law schools in our region.

Du: That's such a beautiful way of thinking about different roles you have played and thinking about different areas of laws in its pluralities. Plurality is a common theme that we have talked about today—the plural ways of understanding international and its encounters, the plurality of scholarly engagement, and the plurality of this interdisciplinary thinking, and how it can be productive for the questions of inequality, justice, hierarchies and distribution. Thank you so much for the richness you bring into this conversation, and my best wishes for your new position as the Dean.

Johns: Thank you so much for this conversation, it has been so inspiring. I learned so much from it. I really appreciate you devoting so much time and intention and care to this. Your questions were brilliant.

Du: That's so kind of you to say. The conversation has been such an inspiration for me, and I will continue to go back to them and reflecting on them, as I am certain it will be refreshing for me across different times of my career and my life. Thank you so much for your generosity in these answers.

Law School,
University of Amsterdam, Building REC A10.15, Nieuwe Achtergracht 166, 1018 WV Amsterdam Postbus 15859, 1001 NJ Amsterdam, The Netherlands
E-mail: z.du@uva.nl

Sydney Law School,
University of Sydney, Corner of Parramatta and City roads, Camperdown NSW 2006, Sydney, Australia
E-mail: fleur.johns@sydney.edu.au