

WESTERN SYDNEY UNIVERSITY



School of Law Research Seminar Spring Series 2015

The School of Law Research Seminar Series Presents:

Day: Thursday, 17 September 2015
Time: 11.30- 12.30
Venue: EB.G.38, Parramatta South Campus
Co-ordinator: Dr Masudul Haque – a.haque@uws.edu.au

Legal Strategies to Expand Indigenous Governance in Climate Change Adaptation: Opportunities and Barriers

Professor Donna Craig, Western Sydney University



Bio Professor Donna Craig is a specialist in international, comparative and national environmental and planning law and policy. She was one of the founders of Macquarie University Centre for Environmental Law. She previously held a Research Chair as Professor of Desert Knowledge, Charles Darwin University and is currently Professor of Environmental Law, School of Law, at the University of Western Sydney. Donna has 40 years experience in research, legal practice, teaching and working with communities, NGO's, indigenous peoples' organizations, governments and corporations. Her research and publications emphasize the social, cultural and human rights dimensions of legislation, programs, impact assessment and sustainable development. Donna served as IUCN Regional Vice-Chair for the IUCN Commission of Environmental Law, was a founding member of the Northern Territory EPA (2007-2012), and continues as a member of Advisory Board of Greenland-based International Training Centre of Indigenous Peoples and Regional Governor of the International Council on Environmental Law.

Abstract: Climate change is triggering various adaptation and mitigation management responses. These include protected area connectivity, and new institutional arrangements like carbon markets. These responses implement concepts of governance that reflect world-views about the importance of issues and interests, including the function or usefulness of law in governance. Notably absent from the governance frameworks, and thus from climate change responses, is respect for indigenous rights. These Indigenous rights have been affirmed through international law, and have been assimilated into domestic law either as legal requirements or as norms that should be respected in responding to climate change.

Indigenous people are involved in climate change governance because of three distinct roles. First they are citizens within the general population. Second, many are vulnerable citizens, and third they are people with Indigenous interests and rights that are additional to their rights in their other roles. These rights are distinct and additive. Indigenous rights can exist within the domestic legal order of nation-states, or be independent of (and to some degree supervene) nation-state sovereignty.

The paper does not pretend to provide a simple solution to the challenge of properly respecting these rights. Rather it highlights this issue as an important legal aspect of climate change governance that is not being recognised and acted upon. It is not an aspect that should continue to be largely ignored. New measures to adapt to climate change offer an opportunity to develop contemporary natural resource governance with respect for Indigenous rights, in line with international law and strengthening legal principles. Should this opportunity be lost it will represent a backward step in both environmental law and Indigenous justice.

Lunch will be Provided