

War, Peace and International Order? The Legacies of The Hague Conferences of 1899 and 1907

Interdisciplinary Conference
University of Auckland
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Hosted by the Faculty of Arts at the University of Auckland and the New Zealand
Centre for Human Rights Law, Policy and Practice

Conference Programme



ARTS



Information

Conference Location:

1-11 Short Street, Auckland 1010

(<https://www.google.com/maps?q=1-11+SHORT+ST,AUCKLAND,1010,New+Zealand>)

Contact information:

Main contact email: haguelegacies@gmail.com

Alternative contacts:

Associate Professor Maartje Abbenhuis

Email : m.abbenhuis@auckland.ac.nz

Christopher Barber (conference manager)

Email: c.barber@auckland.ac.nz

Keynote speakers:

Professor Randall Lesaffer

Dr William Mulligan

Commentators:

Professor Glenda Sluga

Professor Neville Wylie

Associate Professor Maartje Abbenhuis

Organizing Committee:

Associate Professor Maartje Abbenhuis

Christopher Barber

Annalise Higgins

Thomas Munro

Conference Schedule

08:30-09:00	Conference registration		
09:15-09:30	Welcome address		
09:30-10:30	Keynote 1: William Mulligan, 'Justifying international action: international law and diplomacy before 1914'		
10:30-11:00	Morning tea		
11:00-12:30	<p>Panel 1: Arbitration and adjudication</p> <p>Robert A. Nye, 'The Duel of Honor and the Origins of Rules for Arms, Warfare, and Arbitration in The Hague Conferences'</p> <p>Chris Barber, 'Sir Julian Pauncefote and the Creation of the Permanent Court of Arbitration'</p> <p>Matthias Packeiser, 'Adjudication in International Law - A Legacy of The Hague?'</p>	<p>Panel 2: Limiting arms</p> <p>Miloš Vec, 'Peace through Juridification of the Means of War? Prohibition of War Technology at the Hague Conferences and its Pitfalls'</p> <p>Andrew Webster, 'Reconsidering disarmament at the Hague Peace Conferences of 1899 and 1907'</p> <p>Marion Girard Dorsey, 'Bent but not Broken: Chemical Warfare and the 1899 and 1907 Hague Conferences'</p>	<p>Panel 3: Neutrality and Neutralism</p> <p>Gamarra, Yolanda, "'Active" Neutrality: The Influence of the Peace Convention of 1907 on the Spanish Constitution of 1931'</p> <p>Wolfgang Mueller, 'What about Permanent Neutrality in Peacetime?'</p> <p>Marta Stachurska-Kounta. Norway's legalistic approach to peace in the aftermath of the World War I'</p>
12:30-13:30	Lunch		

13:30-14:30	Keynote 2: Randall Lesaffer, 'Peace through Law: The Hague Peace Conferences and the rise of the "jus contra bellum"'		
14:30-16:00	<p>Panel 4: The Hague's Legacies</p> <p>Sarah Gendron, "Feminigenocide": Or the Effacement of Women in War'</p> <p>Thomas Davies, 'The Multiple Roles of the Hague Conferences in the Development of International Non-Governmental Organizations'</p> <p>Annalise Higgins, "Law, not war": James Brown Scott and the construction of the Hague Peace Conferences' historical legacies'</p>	<p>Panel 5: Political affairs of The Hague</p> <p>Michael Clinton, 'The Hague Peace Conferences & the French Peace Movement, 1899-1912'</p> <p>Alan M. Anderson, 'Jacky Fisher and the 1899 Hague Conference: A New Analysis'</p> <p>Airton Ribeiro da Silva Júnior, 'The absence of Brazil in the Hague Peace Conference of 1899'</p>	<p>Panel 6: The Hague's audiences</p> <p>Neville Wylie, 'Muddied waters: Applying the Geneva Conventions to maritime conflicts'</p> <p>Marco Duranti, 'The Hague Peace Palace and the Romance of Fin-de-Siècle International Law'</p> <p>Thomas Munro, 'The Importance of The Hague for British and American Reactions to the First World War'</p>
16:00-16:30	Afternoon tea		
16:30-17:30	Conference commentary: Glenda Sluga, Neville Wylie, and Maartje Abbenhuis		
17:30-18:30	Conference drinks		

Abstracts and Biographies (in schedule order)

Keynote 1

William Mulligan (University College Dublin)

'Justifying international action: international law and diplomacy before 1914'

Abstract The wars of the mid-19th century confirmed, in the eyes of many observers, the primacy of power politics. Yet within a few years of the German victory over France, the role of military power was constrained. This paper will explore how conceptions of international law shaped the international order after 1871. Negotiations over the Black Sea and the Alabama claims in the early 1870s contributed to the establishment of a complex normative environment that combined power politics and international law. By the turn of the century – at the time of the Hague conferences – diplomats regularly framed foreign policy action in terms of international law, though their understanding of it differed from that of lawyers. Paradoxically, as international law was being codified, its function in international diplomacy became more unstable, particularly during the First Moroccan Crisis (1905-6) and the Bosnian Crisis (1908-9). Shared understandings between diplomats of international law fragmented.

Biography Dr William Mulligan teaches modern international history at University College Dublin. His research focuses on the history of international politics in the late nineteenth and early twentieth centuries. After completing his PhD at the University of Cambridge he taught at the University College Dublin and the University of Glasgow. Dr Mulligan was a Member at the Institute of Advanced Study in Princeton in 2012, and in 2014, a EURIAS Fellow at the Wissenschaftskolleg zu Berlin.

Panel 1: Arbitration and Adjudication

Robert A. Nye (Oregon State University)

'The Duel of Honor and the Origins of Rules for Arms, Warfare, and Arbitration in The Hague Conferences'

Abstract In the considerable scholarship on violence and the civilizing impulse that builds on the work of Norbert Elias, there has been a recent tendency to include the duel of honor among the aristocratic institutions that perished in the modern era, thereby permitting the advance of the rule of law and the decline of violence. I wish to argue, on the contrary, that the elaborate protocols that governed the duel throughout the West until 1914 in fact served as models for the three principal issues addressed by the Hague Conferences of 1899 and 1907: arms limitation, arbitration, and the rules of war. The gentlemen who attended the conferences were well acquainted with the etiquette and rules of the duel and sought, within the political constraints of the era, to apply them to the emergent international law on war.

Biography Dr Robert A. Nye is emeritus Professor of History and the Humanities at Oregon State University. He has published four books, edited several volumes, and published 60 scholarly articles and book chapters. His most recent books are *Masculinity and Male Codes of Honor in Modern France* (Oxford, 1993, Berkeley, CA., 1998) and an *Oxford Reader, Sexuality*

(Oxford, 1999). A co-edited volume of Osiris (with Erika Milam) entitled Scientific Masculinities will appear at the end of 2015.

Christopher Barber (University of Auckland)

'Sir Julian Pauncefote and the Creation of the Permanent Court of Arbitration'

Abstract At the first peace conference at The Hague in 1899, delegates created the Permanent Court of Arbitration—the oldest and longest running international court. The creation of the court is as much a history in ideas of international law as it is a history of key figures. This paper considers the role that British delegate Sir Julian Pauncefote played in creating the Permanent Court of Arbitration. Pauncefote was a vital influence in the conference proceedings and through his efforts came to be the 'father of the court'. In many ways, Pauncefote showed a degree of diplomatic activism in creating the court as was the case with a range of other political leaders and diplomats that supported the idea of international adjudication. To that end, the paper also considers the relationship between political leaders and the growing body of thought amongst peace and internationalist movements in support of an international court.

Biography Christopher Barber is a doctoral candidate in history at the University of Auckland. His research focuses on international arbitration in the period 1794 to 1914. His thesis, entitled 'The evolution of arbitration in global politics, 1794-1914' is due for completion in May 2017. His previous publications include 'Nineteenth-Century Statecraft and the Politics of Moderation in the Franco-Prussian War' *European Review of History: Revue europeenne d'histoire* (2014) and 'The "Revolution" of the Franco-Prussian War: The Aftermath in Western Europe' *Australian Journal of Politics and History* (2014). He is currently writing entries for Wiley-Blackwell's *Encyclopedia of Diplomacy* (expected 2016-2017). He was awarded a 2014 University of Auckland Doctoral Scholarship.

Matthias Packeiser (University of Hamburg/Tilburg University)

'Adjudication in International Law - A Legacy of The Hague?'

Abstract I would like to deal with the following points:

- a) When the United States proposed the Court of Arbitral Justice on the Second Hague Peace Conference (1907), international arbitration was first discussed on a multi-lateral conference. But why did she do so and what was the overall reaction?
- b) How did the discussion continue - e.g. on the Washington Conference (1907), the London Conference (1908), or the Four-Power-Conference (1910)?
- c) Could the Court of Arbitral Justice be seen as the starting point for those developments which led to the foundation of the Permanent Court of International Justice (1922)?

By answering these questions, I hope to be able to estimate the role of the Second Hague Peace Conference for the development of international justice.

Biography Matthias Packeiser is a PhD Student at the University of Hamburg and Tilburg University.

Panel 2: Limiting Arms

Miloš Vec (University of Vienna)

'Peace through Juridification of the Means of War? Prohibition of War Technology at The Hague Conferences and its Pitfalls'

Abstract “Peace” became one of the leading principles not only among political activists but also among international law scholars around 1900. In their textbooks and in their professional activities, many of them devoted themselves to the promotion not only of formal structures in international relations (like some of their colleagues a century ago) but increasingly to material ideas as “peace” or “civilization”. An outcome of this was the aim of juridification of international relations which should create the preconditions of a safer world. As warfare itself wasn’t contested as fundamental right of sovereign states the efforts for civilizing war therefore raised among others with the control and settlement of war technologies. Some of the weapons were seen more critical than others and were prohibited, although the military had transnationally a vivid interest in implementing new technologies into their repertoire. However only a few years later, submarines, aircraft bombs, poison gas and flamethrowers were used in the battlefields of WW I, often against the wording and the spirit of the Hague Conventions, but justified as “war requirements”. My talk will analyze the aims and instruments of these regulatory efforts by focusing on selected technologies and their legal regimes. It will also try to assess the paradoxes, ambivalences and pitfalls of such measures through international law.

Biography Dr Vec Miloš has been Professor for European Legal and Constitutional History at the University of Vienna since October 2012. Before he was group leader at the Max Planck Institute for European Legal History and at the Cluster of Excellence „Formation of Normative Orders“, Frankfurt on Main. He completed his habilitation and *venia legendi* at the law faculty of Goethe-University Frankfurt on Main for the subjects modern legal history, philosophy of law, legal theory and civil law. Freelance writer for Frankfurter Allgemeine Zeitung since 1989. Teaching at the Universities of Hamburg, Berlin, Bonn, Frankfurt, Constance, Lyon, Tübingen and Vilnius.

Andrew Webster (Murdoch University)

‘Reconsidering disarmament at the Hague Peace Conferences of 1899 and 1907’

Abstract The Hague Peace Conferences of 1899 and 1907 are generally considered to mark the opening of the modern era of efforts towards international disarmament, even though the actual product of both conferences fell far short of Tsar Nicholas’ declared ambition to check the steady growth of land armaments and armies. This paper will undertake a substantial reconsideration of the place of disarmament within the work and legacies of the Hague conferences, in particular examining the link between their very limited outcomes and the renewed efforts for disarmament that followed the First World War and indeed formed a core task of the new League of Nations. In seeking to transcend the lengthy historiographical tradition which dismisses entirely the importance of disarmament as an issue at the Hague conferences, the paper will instead argue that it should be seen as another area in which policymakers sought to embed elements of flexibility and restraint into the international system. In doing so, it will consider the extent of to which a substantive connection can be drawn between the Hague and Geneva disarmament ‘processes’, in terms of ideas, methods and people.

Biography Dr Andrew Webster is Senior Lecturer in Modern European History at Murdoch University, Perth. He is the author of numerous articles on the history of the League of Nations, international disarmament and international arbitration during the interwar period. He is currently completing a manuscript on the history of international disarmament from 1899 to 1945.

Marion Girard Dorsey (University of New Hampshire)

‘Bent but not Broken: Chemical Warfare and the 1899 and 1907 Hague Conferences’

Abstract The 1899 and 1907 Hague Conferences sought to prevent chemical warfare, yet Germany deployed poison gas in World War I. While on the surface the Hague Conventions were a failure in the realm of chemical weaponry, the agreements demonstrated that broken arms control agreements could have influence. By prohibiting gas before modern chemical weapons (CW) had been used in war, the Hague Conventions illustrated proactive efforts to incorporate cutting edge science into diplomacy, an approach later followed with other weapons. In addition, the very existence of the ban reinforced global vilification of Germany's reputation, enhancing distrust in international relations reaching into the interwar period. The ban also helped foster interwar pressure to create and improve CW prohibitions, especially the Geneva Gas Protocol, which remained in place until the 1990s. The Hague Conventions CW clauses left a legacy that influenced the laws, attitudes, and behaviors during the interwar period and beyond.

Biography After earning a law degree (a JD) from Harvard, and a doctoral degree in History from Yale, I have become an associate professor of History and a core faculty member in Justice Studies at the University of New Hampshire in the United States. I have published work on chemical warfare, including a monograph titled *A Strange and Formidable Weapons: British Responses to World War I Poison Gas* (University of Nebraska Press, 2008, under the name Marion Girard) that included analysis of political, diplomatic, military, and cultural reactions to the weapon. Currently I am working on a book project on restraint regarding chemical warfare during World War II, focusing on the U.S., Canada, and the United Kingdom. I teach subjects that include the history of law, the history of war & society, and diplomatic history.

Panel 3: Neutrality and Neutralism

Gamarra, Yolanda (University of Zaragoza)

“Active” Neutrality: The Influence of the Peace Convention of 1907 on the Spanish Constitution of 1931’

Abstract The influence of pacifism as current thinking of the early twentieth century left its mark on the Spanish Constitution of 1931 as it picked the express renunciation of war. Article 6 of the Spanish Constitution of 1931 recognizes the waiver in the following terms: "the renunciation of war as an instrument of general policy." The proscription of all warmongering purpose of aggression or conquest, and the impossibility of breaking the rules of international law became constitutional provisions which imposed a serious constraint to any formulation of foreign policy. Spain renounced only those wars that might become "an instrument of international policy" conducted by downright illegal actions. This article was clear pacifist influence of the Hague Conventions of 1907-particularly the III Convention-, the Covenant of the League of Nations and the Kellogg-Briand Pact, to realize the constitutional limitation of recourse to the declaration of war.

Abstract La influencia del pacifismo como corriente de pensamiento de las primeras décadas del siglo XX dejó su huella en la Constitución española de 1931 en cuanto que recogió la renuncia expresa a la guerra. El artículo 6 de la Constitución de 1931 reconoce esa renuncia en los siguientes términos: “la renuncia a la guerra como instrumento de política general”. La proscripción de todo propósito belicista, de agresión o conquista, y la imposibilidad de transgredir las normas del derecho internacional se convirtieron en preceptos constitucionales que imponían un serio condicionante a toda formulación de política exterior. España tan sólo renunciaba a aquellas guerras que pudieran convertirse en “instrumento de política internacional” conducidas por móviles francamente ilícitos. En este artículo quedó clara la influencia pacifista de los Convenios de La Haya de 1907 –en particular el III Convenio-, el Pacto de la Sociedad de Naciones y el Pacto Briand-Kellogg, al materializar la limitación constitucional de la posibilidad de recurrir a la declaración de guerra.

Biography Dr Yolanda Gamarra took a first degree in History, followed a Masters in European Communities Studies and was subsequently awarded a PhD in Law in 1997. She has been Assistant Professor in Public International Law and International Relations at Zaragoza University (Spain) since 2000 and Professor of International Law from 2013. She followed a Management Programme by IESE, University of Navarra (Spain) in 2001. She specialises in European History Integration, International Cultural Co-operation: Instruments and Mechanisms, Succession of States, International Monitoring Mechanisms on Democracy and Human Rights, International Justice, Conflict Prevention and Peacekeeping Operations, Use of Force and Defence Policies, American Integration Processes and Theory and History and Theory of International Law. She has taught Public International Law and International Relations, also International Organizations, Human Rights, European Union Law (at first degree level) and the Law of Armed Conflicts (at doctoral level). She has also held the post of Coordinator of the International Forum at the Institution 'Fernando el Católico' (Diputación de Zaragoza, Spain) & Fundación Manuel Giménez Abad (Cortes de Aragón). She follows several specialised seminars on International Law and International Relations and Economic Law. She was Member of the Commission for the Evaluation of the Master on Global Security and Defence at the University of Zaragoza (Spain). Also, she is Member of the Ph.D. Commission of Human Rights at the University of Zaragoza (Spain). She has been Visiting Fellow at The Lauterpacht Centre for International Law, University of Cambridge, February to June 2009, and the Royal Complutense College at Harvard, March 2011. She was Visiting Researcher (as Fellow "Salvador de Madariaga" of Spanish Ministry of Education and the Government of Aragón) at the Institute for Global Law and Policy (Harvard Law School) and Fellow at the Royal Complutense College at Harvard, March-August 2012. She was also visiting-fellow at the Max Planck Institute for Comparative Public Law and International Law, May-June 2014.

Wolfgang Mueller (Institute for Modern and Contemporary Historical Research, Austrian Academy of Sciences)

'What about Permanent Neutrality in Peacetime?'

Abstract While the Hague conferences of 1899/1907 achieved a great deal in defining the rights and duties of neutral states in wartimes (cf. Dülffer 1981, Abbenhuis 2014), the "secondary obligations" of permanent neutrality in peacetime remained ill-defined. They were never internationally codified and, therefore, subject to diverging interpretations and conflicting views. While most Western experts argued that such obligations had to be interpreted restrictively so that acts of prudence or good will were not turned into legal obligation, the USSR in particular aimed at increasing the catalog of duties of peacetime neutrality. This wish-list included obligations that Soviet leaders apparently believed would draw the permanently neutral states nearer the socialist ones and make them tools for promoting Soviet aims. This paper, based on Russian and Western literature as well as archival documents, will analyze how the Soviets (and other actors) tried to make their proposals acceptable.

Biography Dr Wolfgang Mueller is deputy director for the Institute for Modern and Contemporary Historical Research, Austrian Academy of Sciences. He has been visiting professor at the Universities of Bern (2011 and 2012), Vienna (2012 and 2014), Rostock (2014) and Stanford University (2008-9). His publications include *A Good Example of Peaceful Coexistence? The Soviet Union, Austria, and Neutrality, 1955-1991* (2011); 'The USSR and Permanent Neutrality in the Cold War', *Journal of Cold War Studies* (2015); and *The Struggle for the State Treaty, Neutrality, and the End of the East-West Occupation 1945-1955* with Gerald Stourzh (forthcoming 2016).

Marta Stachurska-Kounta (University of Oslo)

'Norway's legalistic approach to peace in the aftermath of the World War I'

Abstract The paper aims at exploring the question of how the experience from The Hague peace conferences moulded the Norwegian attitudes towards the emerging new international system in the aftermath of the World War I. Accordingly, the paper draws on a distinction between the Wilsonian anti-formalistic internationalism, identified with the rejection of the legacy of The Hague conferences, and a legalistic conception of international organization based on the twin cause of arbitration and codification of international law. This typology, which originates in a dichotomy between law and politics, is instrumental to comprehend Norway's ardent support for peaceful settlement of international disputes and the country's aloofness to great powers politics.

Biography Marta Stachurska-Kounta is a PhD student at the University of Oslo, Norway. Her research focuses on Norwegian foreign and security policy in the interwar period, with a particular stress on the country's attitude towards the League of Nations. The title of her PhD thesis is 'Norway and the League of Nations (1919-1939). A Small State's Quest for International Peace'. The thesis is expected to be finished by December 2015.

Keynote 2

Randall Lesaffer (Tilburg Law School, Catholic University of Leuven)

'Peace through Law: The Hague Peace Conferences and the rise of the "jus contra bellum"'

Abstract After the crisis of the 1860s and early 1870s, caused by the American Civil War and the Franco-Prussian War, the international peace movement had found a new purpose and strategy through its alliance with the emerging discipline of international law. The movement tabled two major legal instruments to restrict resort to war and force by States. One was to impose a duty to exhaust pacific means to settle disputes, including legal means such as arbitration, before settling it through arms. The other was collective security. Both ideas had deep intellectual roots in the traditions of just war and early-modern peace plans for Europe; the latter also had a practical antecedent in the Concert of Europe.

By the turn of the 20th century, the movement has set upon the prior route as the preferred one. The First Hague Peace Conference would confirm international lawyers in this choice. The Conference offered a golden opportunity for the movement. Tsar Nicholas II's withdrawal from his prior enthusiasm for disarmament allowed for the resetting of the initial agenda and to include some of the main programmatic points of the Peace through Law-movement. Although achievements in relation to arbitration, were relatively meagre, the establishment of the Permanent Court of Arbitration was highly visible and marketable result. Over the next 15 years, the judicial route to peace would continue to grow in the imagination of many peace activists and international lawyers, including several in high politics, and materialise in numerous – albeit in most cases aborted or unsuccessful – initiatives.

The Paris Peace Conference of 1919 marked a turnabout in that it put collective security over arbitration in its construction of a new world order. Nevertheless, the judicial agenda was also further developed at Paris. This led to a hybrid reconstruction of use of force law in the Covenant of the League of Nations, a construction that puzzles international lawyers to this day.

Traditional historiography has sketched the rise of the 'jus contra bellum' between its initial tabling at The Hague in 1899 and its textual accomplishment in the Charter of the UN in 1945 in terms of a radical turn-over of international use of force law. It contrasts the incremental attempts to restrict the right for States to resort to force with an almost complete freedom to do so under the classical use of force law of the 19th century, emptying the latter from almost all real meaning. This view can however not be sustained as classical international law did impose conditions on the right of States to resort to force, and thus restricted it. This paper

maps the developments from the First Peace Conference to the Paris Peace Conference (1899-1919) in relation to use of force law from this revisionist perspective. It shows how the steps taking to restrict use of force were not set in a juridical vacuum, as it traditionally contended, but can only be assessed at their true value if they were read against the backdrop of existing use of force law. This approach helps to entangle the complex laws which emerged from this period and explain some of the intricacies of current use of force law.

Biography Randall Lesaffer (°Bruges, 1968) studied law as well as history at the universities Ghent and Leuven and obtained his PhD in 1998 from the latter university. Since 1999 he is professor of Legal History at Tilburg University, where from 2008 to 2012 he served as dean of Tilburg Law School. He is also part-time professor of International and European Legal History at the University of Leuven. His work focuses on the history of international law, particularly in relation to use of force as well as peace-making.

Panel 4: The Hague's Legacies

Sarah Gendron (Marquette University)

“Feminigenocide”: Or the Effacement of Women in War’

Abstract Prior to the nineteenth and twentieth centuries, there were few linguistic or legal mechanisms in place for addressing the specificity of women’s experience in war. Just War theories from Aristotle to St. Thomas Aquinas treated the subject of women in conflict only parenthetically, and only to highlight their status as the legitimate spoils of war. Although several nations later adopted laws labeling rape in wartime as a capital offense, it was not until The Hague Conventions that rape became codified as an international criminal offense. Despite this, throughout most of the twentieth century, the idea that women were fair game in military conflict remained much unchanged from what it had been before. By examining the legal and political narratives surrounding the treatment of women in international conflict since The Hague Conventions, this presentation seeks to demonstrate the fundamental bond between the evolution of legal language and that of social change.

Biography Dr Sarah Gendron is Associate Professor of Francophone and Genocide Studies at Marquette University, in Milwaukee, WI. Her publications include *Repetition Difference and Knowledge* (on post-structuralism and language), translations of literary works by Simone de Beauvoir and Frédéric Brun, and scholarly articles related to genocide. She is currently writing a manuscript on cultural and linguistic propaganda in genocide entitled *Genocide Culture*.

Thomas Davies (City University London)

‘The Multiple Roles of the Hague Conferences in the Development of International Non-Governmental Organizations’

Abstract This paper seeks to disaggregate the multiple ways in which the Hague Conferences played a crucial role in the development of international non-governmental organizations. Existing literature has highlighted a number of aspects, such the opportunities that these conferences provided for transnational advocacy and their role in the origins of institutions such as parallel summits and consultative procedures. This paper sheds new light though its exploration of previously under-researched dimensions, including the conferences’ crucial role in the development of the scientific study of transnational associations and projects for global co-ordination of international non-governmental organizations, such as those of the subsequently established Union of International Associations and the Foundation for Internationalism. Through its evaluation of an unprecedentedly broad range of impacts of the Hague conferences for the development of international non-governmental organizations, the

paper reveals previously neglected shortcomings of the conferences' impacts and enables a more nuanced interpretation of their roles.

Biography Dr Thomas Davies is Senior Lecturer in International Politics at City University London. He has written extensively on the history of international non-governmental organizations, transnational activism, and the peace movement. He is the author of *NGOs: A New History of Transnational Civil Society* (Oxford University Press, 2014) and *The Possibilities of Transnational Activism: The Campaign for Disarmament between the Two World Wars* (Martinus Nijhoff, 2007).

Annalise Higgins (University of Auckland)

“Law, not war”: James Brown Scott and the construction of the Hague Peace Conferences’ historical legacies’

Abstract When historians consider the 1899 and 1907 Hague Peace Conferences, they usually consult the five volume Proceedings of the Hague Peace Conferences: Translation of the Official Texts. They do not, however, think about how and why these volumes came to be published by the Carnegie Endowment for International Peace during the early 1920s. This paper considers why it is important not to treat James Brown Scott’s reference volumes as if they sprung into being organically and in English solely because such a progression was a logical consequence of a conference with hugely important ramifications for the global community. The way in which information is selected and presented can have a large impact on how it is received. This paper argues that it is important to pay attention to Scott’s intellectual construction of international law and how this influenced his interest in, understanding of, and presentation of the Hague Peace Conferences.

Biography Annalise Higgins is a master’s student in History at the University of Auckland. She has worked extensively on the history of the two Hague peace conferences and neutrality, with a special focus on Britain and the United States in the period 1898- 1907. Her research interests lie in environment diplomacy, a field in which she hopes to pursue a PhD in 2016.

Panel 5: Political Affairs at The Hague

Michael Clinton (Gwynedd Mercy University)

‘The Hague Peace Conferences & the French Peace Movement, 1899-1912’

Abstract This paper explores the dynamic connections between the French peace movement in its national and transnational contexts and the two Hague Peace Conferences. It explains the views regarding international arbitration and solidarism that animated the diplomatic efforts and peace advocacy of Léon Bourgeois and Paul-Henri d’Estournelles de Constant, two of the three members of the French delegation to both conferences awarded Nobel Peace Prizes for their contributions to the work of the conferences. It traces the expansion of the peace movement in France during the decade following the 1899 conference, the elements of a distinctively French perspective within the transnational peace movement, and the peace movement’s effect on attitudes about international relations among French political and cultural elites. It reaches beyond 1907 to analyze the impact that debate over the petition championed by Anna Eckstein to hold a Third Hague Peace Conference had for peace activists in France.

Biography Dr Michael Clinton is associate professor of history at Gwynedd Mercy University in Pennsylvania. Publications based on his research on the French peace movement during the decades preceding the First World War include: “The New World will create the New Europe’:

Paul-Henri d'Estournelles de Constant, the United States, and International Peace," in the *Proceedings of the 40th Annual Meeting of the Western Society for French History* (2014); "Revanche ou Relèvement': The French Peace Movement Confronts Alsace and Lorraine, 1871–1918," in the *Canadian Journal of History* (2007); and "Coming to Terms with 'Pacifism': The French Case, 1901–1918," in *Peace & Change* (2001). He has also participated in numerous academic conferences in North America and Europe, serves on the board of the Peace History Society, and edits the book reviews published in the journal *Peace & Change*.

Alan M. Anderson (King's College London)

'Jacky Fisher and the 1899 Hague Conference: A New Analysis'

Abstract The 1899 Hague Conference has received short shrift in the historiography of the pre-First World War era. Similarly, the role of then-Vice Admiral Sir John A. ("Jacky") Fisher as technical naval delegate at the Conference and its impact on his later years as First Sea Lord have been largely overlooked. The standard view, as characterized by Avner Offer in *The First World War: An Agrarian Interpretation*, is that Fisher "was no respecter of the laws of war." (P. 270.) This paper presents a new examination of Fisher and the 1899 Conference. It provides a corrected and more nuanced analysis of his appointment, role, and positions taken at the Conference. Fisher was not the wild-eyed opponent of peace as he is typically viewed. It also argues that his experiences at the 1899 Conference should be considered more fully in analyzing his role as First Sea Lord vis-à-vis the 1907 Peace Conference. Fisher took the implications of the laws of naval warfare far more seriously and did not simply ignore them.

Biography Alan M. Anderson is a PhD candidate at the Department of War Studies, King's College London.

Airton Ribeiro da Silva Júnior (University of Florence)

'The absence of Brazil in the Hague Peace Conference of 1899'

Abstract The purpose of the research is to determine the main causes of Brazil's refusal to attend the First Hague Conference, and its possible repercussions in the Brazilian doctrine of International Law. Brazil and Mexico were the only Latin American countries invited to attend the First Hague Conference. Surprisingly, the Brazilian government declined the invitation. The principal hypothesis is that Brazilian diplomacy was mainly concerned, at the time, with definitely establishing its borders, while maintaining a pacifist 'good neighbor policy' in the continent, as this can be interpreted in the official response of the Brazilian government to the invitation. The timid posture towards the external relations was to be changed only in 1907, when Brazil attended the Second Hague Conference.

Biography Airton Ribeiro da Silva Júnior is currently a PhD student at the University of Florence, Italy. He researches in the field of International Legal History.

Panel 6: The Hague's audiences

Neville Wylie (University of Nottingham)

'Muddied waters: Applying the Geneva Conventions to maritime conflicts'

Abstract This paper examines the steps taken at the Hague conferences in 1899 and 1907 to update and apply the Geneva conventions to maritime conflicts. Various attempts had been made to extend the humanitarian principles enshrined in the 1864 Geneva convention to sea warfare, but although a set of draft articles had been drawn

up in 1868, no agreement had been reached before the first peace conference convened in 1899. Contrary to expectations, securing agreement on a maritime 'Geneva' convention proved difficult; contentious issues had to be excluded before a consensus could be achieved on the ten core articles of the resulting convention (Hague III, 1899); opinions also differed on how far the conference could import 'Geneva law' into the new conventions. As a result, the development of a maritime convention in 1899 - subsequently updated at the X convention of 1907 - became dependent on discussions in Geneva over a revised Geneva convention in 1906. The paper explores the relationship between the two 'strands' of international humanitarian law, and shows how subsequent attempts to apply the 'Geneva principles' to maritime conflicts were affected by this legacy.

Biography Neville Wylie is professor of international political history and associate pro vice chancellor at the University of Nottingham, UK. His current research focuses on the development of international humanitarian law and the role of protecting powers in international politics.

Marco Duranti (University of Sydney)

'The Hague Peace Palace and the Romance of Fin-de-Siècle International Law'

Abstract Scholarly accounts of the genesis of international justice are typically histories of technocratic internationalism that obscure how early twentieth-century campaigns for the creation of new international courts were discursively oriented towards a pre-modern past. Whereas technocratic internationalists shared a liberal faith in progress, reason and science, romantic internationalists looked back nostalgically to an idealized deeper past as a basis for new transnational imagined communities that would overcome the evils of the modern age. The latter could be witnessed in the Hague Peace Palace, a Renaissance dreamscape whose classical motifs and Christian iconography illustrated the common standards required for the attainment of full sovereign status in what the Hague Conventions termed the "society of civilized nations". These largely ignored the transformation of European societies since the French and Industrial Revolutions, instead recalling an older cosmopolitanism suited to elites who saw themselves as impartial custodians of peace unmoved by mass politics.

Biography I am Lecturer in Modern European and International History at the University of Sydney, where I am director of the Nation-Empire-Globe research cluster. Before arriving at the University of Sydney, I was a Fulbright fellow at the European University Institute, a Fox fellow at the Institut d'Études Politiques de Paris, and a postdoctoral fellow in the Max Planck research group on history and memory at the University of Konstanz. I have published widely on the history of human rights at the United Nations and the Council of Europe, as well as the cultural and political history of internationalism, international law and international organizations more broadly. I am currently completing a monograph under contract with Oxford University Press on the conservative origins of human rights and international justice in Europe, 1899-1959.

Thomas Munro (University of Auckland)

'The Importance of The Hague for British and American Reactions to the First World War'

Abstract The outbreak of the First World War and the nature in which it was fought, has led many historians to dismiss the Hague Peace Conferences as cynical and almost irrelevant events

on the path to war in 1914. Despite acknowledging the widespread public engagement with the ideas of the conferences before 1914, historians have not studied how the public's conception of The Hague developed over time. Drawing on an examination of newspaper coverage in Britain and the United States during August and September 1914, this paper will argue that The Hague had become an important framework for people to understand and assess the behaviour of states in times of war. During the opening months of the war, many different aspects of the conflict were discussed in the newspapers with reference to The Hague, including the treatment of civilians in occupied territory, belligerent access to neutral communication networks, and the use of submarines and aircraft. This engagement with The Hague, particularly its use as a means of determining the legality of particular conduct by belligerents and neutrals, demonstrates its continued relevance to people in Britain and the United States.

Biography Thomas Munro is a doctoral candidate in history at the University of Auckland, New Zealand. He works on the meanings of international law and The Hague conferences and conventions during the First World War.

Commentators

Maartje Abbenhuis (University of Auckland)

Biography Maartje Abbenhuis is Associate Professor in Modern European History at the University of Auckland. She specialises in the history of neutrality, internationalism and the culture of war and peace, with a special focus on Europe in the period 1815 – 1919. She has authored two books: *The art of staying neutral. The Netherlands in the First World War 1914 – 1918* (Amsterdam University Press, 2006) and *An age of neutrals. Great power politics 1815 – 1914* (Cambridge University Press, 2014), both to critical acclaim. At present she is working on a global history of the Hague peace conferences of 1899 and 1907 supported by a prestigious Royal Society of New Zealand Marsden Grant. She is also writing two overview histories: *The nineteenth-century world. The first age of industrial globalisation* (forthcoming, Bloomsbury, 2019) and *Global war, global catastrophe: neutrals, belligerents and the transformation of the First World War* (with Ismee Tames, forthcoming, Bloomsbury, 2020).

Glenda Sluga (University of Sydney)

Biography Glenda Sluga is Professor of International History and Australian Research Council Laureate Fellow. She oversees a Laureate Program in International History, 'Inventing the International'. Her most recent book is *Internationalism in the Age of Nationalism*. She is currently completing an ARC-funded study of the Congress of Vienna. She is also editing with Patricia Clavin and Sunil Amrith, a collection of essays on Histories of Internationalism (CUP, forthcoming); In 2002 she was awarded the Max Crawford Medal by the Australian Academy of the Humanities. In 2006 she was appointed a member of the International Scientific Committee for the History of UNESCO. In 2009 she was elected to the Australian Academy of the Humanities.

Neville Wylie (University of Nottingham)

Biography Neville Wylie is professor of international political history and associate pro vice chancellor at the University of Nottingham, UK. His current research focuses on the development of international humanitarian law and the role of protecting powers in international politics.