



THE UNIVERSITY OF QUEENSLAND  
AUSTRALIA

TC Beirne School of Law

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# *Marine & Shipping Law Unit*

## *Report*

### *2018-2021*

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## **MASLU MEMBERS**

Professor Craig Forrest (Director)

Professor Nick Gaskell (full time to April 2020; Emeritus Professor 2020)

Dr Rosemary Gibson, Casual lecturer

Adjunct Professor Dr Michael White OAM QC

Adjunct Professor Dr Damien Cremean

### **MASLU Research Assistants**

Laura Heit (2021 Student Editor *Australian and New Zealand Maritime Law Journal*)

Sophie Peibbenow (2019-2021 MLAANZ CMI project)

Lachlan Peat (2020 Student Editor *Australian and New Zealand Maritime Law Journal*)

Joshua McKersey (2019 Student Editor *Australian and New Zealand Maritime Law Journal*)

Penelope Bristow (2018 Student Editor *Australian and New Zealand Maritime Law Journal*)

Katelyn Lamont (2018-2020 RMI Project)

Gargi Dengweker (2019-2020 MLAANZ conference project)

Keilin Anderson (2018 MLAANZ conference project)

Sangeetha Badya (2018 MLAANZ CMI project)

Christopher Vale (Great Barrier Reef Research cluster start up project)

MASLU RHD Scholar: Yan Xuan, PhD candidate

Thesis title: *China's Maritime Arbitration System's "Selective Adaptation" to International Legal Norms and Practice* (PhD awarded 6 November 2020)

MASLU Visiting Scholar 2019: Dr Stephen Allen, Senior Lecturer in Law at Queen Mary, University of London; Barrister 5 Essex Court Chambers, London.

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## MASLU EVENTS

### Wreck Workshop 27 February 2020

The aim of the 2020 workshop was to consider legal issues relating to the removal of wrecks and Australia's position in relation to the Nairobi Wreck Removal Convention. The workshop included representatives from the Commonwealth Department of Agriculture, Water, and the Environment; Commonwealth Department of Infrastructure, Transport, Regional Development and Communications; Australian Maritime Safety Authority; Maritime Safety Queensland; a number of maritime law firms and the P&I Shipowners Club.

The following papers were presented:

*Public law issues: Jurisdiction and scope*

Craig Forrest (MASLU)

*Private Law issues: Shipowner's rights, liabilities and limitation*

Nick Gaskell (MASLU)

*A commercial perspective*

Michelle Taylor (Partner, Colin Biggers & Paisley, Brisbane)

*P&I club perspective*

Paul Smit (Shipowners Club, Singapore)

*Queensland's war on wrecks*

John Kavangh (Pacific Maritime Lawyers, Brisbane)

*Polluting historic wrecks: The Nairobi Convention and the UCH Convention*

Andy Viduka (Assistant Director, Underwater and Commonwealth Heritage, Department of Agriculture, Water, and the Environment)

*New treaty action for the Wrecks Convention*

Andrew Johnson (General Manager, Surface Transport Policy, Department of Infrastructure and Regional Development)



## MASLU Seminar

### Self-determination and the Implications of the Chagos Opinion

#### 6 August 2019

Presented by MASLU Visiting Scholar Dr Stephen Allen, Senior Lecturer in Law at Queen Mary, University of London; Barrister 5 Essex Court Chambers, London.

## MASLU and UQ Solomon Island Partnership Panel Session

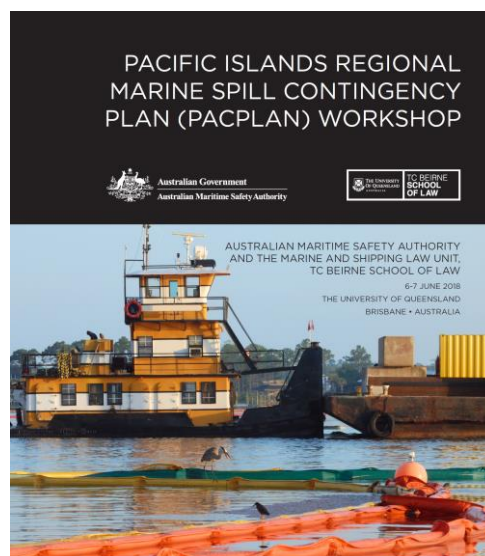
### The grounding of the *Solomon Trader*

#### 17 June 2019

In February 2019, the *MV Solomon Trader* ran aground on a reef in Lughu Bay, Solomon Islands, spilling over a hundred tonnes of oil into the waters off the Coast of Rennell Island. This panel session of three presentations, question and answers addresses this incident. Oanel members: Professor Craig Forrest, Stefan Armbruster (SBS News and Current Affairs) and Associate Professor Ian Tibbetts Director of the Centre for Marine Science at The University of Queensland. The session will be chaired by Professor Jennifer Corrin.

## Pacific Islands Regional Marine Spill Contingency Plan

### 1 June 2018



MASLU staff, Australian government representatives and State delegations from six Pacific Island States (Papua New Guinea, Solomon Islands, Vanuatu, Tuvalu, Nauru and Kiribati) met at the TC Beirne School of Law to discuss the implementation of the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN). The Secretariat of the Pacific Regional Environment Programme, in partnership with the International Maritime Organization, has responsibility for implementation of the Pacific Ocean Pollution Prevention Program

(PACPOL), which is the primary mechanism for a number of Pacific Island States to seek assistance from Australia in the event of a marine pollution incident.



PACPLAN participants and convenors- School of Law

The two-day workshop covered topics such as understanding the support and needs required for the Pacific nations in the event of an oil spill, international maritime conventions, the role of AMSA in the PACPLAN, as well as strategic response training required at local and regional levels. The workshop was convened and facilitated by MASLU on behalf of, and in conjunction with, the Australian Maritime Safety Authority (AMSA). This workshop was a follow on to that hosted by MASLU in September.

## Global Shipping Law Forum 4 July 2018

In 2015, MASLU, the Centre for Maritime Law at the National University of Singapore and the Centre for Commercial Studies at Queen Mary University London established the *Global Shipping Law Forum* as a mechanism to further discussion on pressing issues in maritime law. In 2015, a workshop was held in Singapore on *Contracts of indemnity and guarantee in maritime law* and in 2017 a workshop was held in London on *Shipping and Energy: The Role of the Law*. A third workshop was hosted by MASLU in Brisbane on 4 July 2018 on *Carriage of Passengers by Sea: Legal Issues*. The papers presented at the workshop were:

*Passenger Claims in Australia: problems with the current legal framework*

Professor Kate Lewins (Murdoch University)

*Athens Convention: creation and basic provisions*

Professor Nick Gaskell (MASLU)

*Implementing Athens in the EU*

Dr Simone Lamont-Black (University of Edinburgh)

Commentator: Dr Miriam Goldby (QMUL)

*Passenger claims and conflict of laws*

Associate Professor Paul Myburgh (NUS)

Commentator: Professor Craig Forrest (MASLU)

*Cruise ship passenger contracts*

Rosemary Gibson (MASLU)

Commentator: Professor Stephen Girvin (NUS)

*Personal injury/death claims and cruise ships*

Matthew Hockaday (Thynne + Macartney)

*Cruise ships and regulatory issues*

Andrew Johnson (Department of Infrastructure and Regional Development)

## Australia-Timor Leste Maritime Boundary 1 May 2018

This seminar covered the 2018 Australian and Timor-Leste treaty that establishes a permanent maritime boundary in the Timor Sea and a framework for developing the vast oil and gas reserves that lie between the two States. The agreement was the result of the first-ever Compulsory Conciliation proceedings under the United Nations Convention on the Law of the Sea and was a landmark moment for the two States and the resolution of complex disputes under international law more generally. The seminar speakers were Ms Gitanjali Bajaj, Partner, DLA Piper Australia and Mr Ben Huntley, Senior Lawyer, Commonwealth Attorney General's Department, and chaired by MASLU Adjunct Professor Dr Michael White OAM QC.

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## International Maritime Law Arbitration Moot

MASLU staff play an important advisors role to the UQ International Maritime Law Arbitration Moot teams each year.

In 2018 the Law School hosted the 19<sup>th</sup> International Maritime Law Arbitration Moot between 9 June – 3 July. The UQ team defeated the University of Hong Kong in the grand final at the Federal Court of Australia in Brisbane.



### UQ Law team wins the IMLAM 2018

In 2019 the University of Queensland defeated The University of Sydney in the grand final of the 20<sup>th</sup> International Maritime Law Arbitration Moot held in Rotterdam, marking UQ's second consecutive world-title win.



UQ Law team wins the IMLAM 2019 with Justice Derrington

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## **RESEARCH PROJECTS**

### **Marshall Islands Maritime Investment Project**

The World Bank sponsored 'Marshall Islands Maritime Investment Project: Registries Assessment and Options Technical Assistance' involves a collaboration between MASLU and Columbia University's Sabin Centre for Climate Change Law, University College London's Institute for Sustainable Resources, the University of the South Pacific's Micronesian Centre for Sustainable Transport and University of New South Wales. The project evaluates the capacity of the Republic of the Marshall Islands to meet the threat posed by climate change for small islands States and the role that its own corporate and shipping registries may play in future plans to mitigate this threat.

This has involved consultation with all levels of the Republic Marshall Islands Government, including Attorney-General, Auditor-General, Ambassadors and Cabinet Ministers. It has also led to assistance with Republic of Marshall Island's submissions to IMO committee meetings. This research has generated broader interest, including US interests, and led to consultations with US Consul-General in Australia as well as from a range of US agencies including FBI, DEA, IRS and Homeland Security.

Phase I (\$72,500) was completed in 2019 with phase II (\$87,400) currently underway.

## Protection of Underwater Cultural Heritage in Solomon Islands

This UNESCO funded research consultancy responds to a request from Solomon Islands Government for a gap and national interest analysis in relation to wrecks and other underwater cultural heritage in Solomon Islands, and possible ratification of the 02001 Convention on the Protection of the Underwater Cultural heritage. This project is being undertaken in collaboration with Major Projects Foundation, a registered charity seeking to assist small islands developing State address to threat of marine pollution from sunken wrecks.

## Protection of Underwater Cultural Heritage in Micronesia

This UNESCO funded project provided a framework and recommendations for five Micronesian States (Federated States of Micronesia, Kiribati, Nauru, Palau and Republic of the Marshall Islands) to consider ratification and implementation of the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 as appropriate for each State. The project was completed by Craig Forrest and Dr Bill Jeffrey (University of Guam) in 2019 and the UNESCO publication of the project report made available on-line: <https://unesdoc.unesco.org/ark:/48223/pf0000366460>

## MLAANZ CMI project

This project implements the Maritime Law Association of Australia and New Zealand's commitment to the Comité Maritime International's Judicial Decisions on International Conventions Database project. With financial support from MLAANZ, Craig Forrest and MASLU Research Assistants Sangeetha Badya (2018) and Sophie Peibbenow (2019-2021) prepare and digest Australian cases for inclusion in the CMI international database.

## MLAANZ Conference proceedings project

The Maritime Law Association was founded in 1973 and ran its first annual conference in 1974. MLAANZ has engaged MASLU to source, collect, collate and store a hard copies of all conference proceedings to date, and to digitise the collection. Craig Forrest and MASLU Research Assistants Keilin Anderson (2018), Gargi Dengweker (2019-2020) and Sophie Peibbenow (2021) are engaged in completing the project, due for completion at the end of 2021.

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## MASLU Publications

### BOOKS

Nick Gaskell and Craig Forrest, *The Law of Wreck* (Informa Press, 2019)

Craig Forrest, *Maritime Legacies and the Law: Effective Legal Governance of WWI Wrecks* (Edward Elgar Press, 2019)

### JOURNAL ARTICLES & BOOK CHAPTERS

Craig Forrest, 'Towards the Recognition of Legacy Wrecks as Memorials and Maritime War Graves' in Hakan Karan, XXX Ademuni-Odeke and Kubra Varturk (eds) *The Legal Regime of Underwater Cultural Heritage and Marine Scientific Research* (Ankara University, 2020) 119-127

Justine Bell-James and Craig Forrest, 'Ecologically Sustainable Development and the Great Barrier Reef – a delicate balance of interests' (2019) 36 *Environment and Planning Law Journal* 97-112

Elena Perez-Alvaro and Craig Forrest, 'Underwater cultural heritage in the South China Sea (2018) 25 *International Journal of Cultural Property* 375-401

N.J.J Gaskell, 'Liability and Compensation Regimes: Pollution of the High Seas' in R Beckman, M McCreath, J Roach, Z Sun (eds), *High Seas Governance: Gaps and Challenges* (Brill/Nijhoff, 2018) 229-272.

### ANNUAL REVIEW

C Forrest, 'South Africa' (2021) *International Maritime and Commercial Law Yearbook* forthcoming

C Forrest, 'South Africa' (2020) *International Maritime and Commercial Law Yearbook* 345-349

C Forrest, 'South Africa' (2019) *International Maritime and Commercial Law Yearbook* 171-182

C Forrest, 'South Africa' (2018) *International Maritime and Commercial Law Yearbook* 171-182

### CONFERENCE PAPERS & SEMINARS

Craig Forrest 'Human Remains on Sunken Warships' *Historic Shipwreck Management Workshop series* (Lokakarya Pengelolaan Kerangka Kapal Perang Bersejarah) 23 November 2020 (via zoom)

Craig Forrest 'Shipwrecks, historic wrecks and Underwater Cultural heritage in Australia' Maritime Law Association of Australia and New Zealand Conference, Auckland New Zealand 11-13 September 2019

Craig Forrest 'The grounding of the Solomon trader' MASLU and UQ Solomon Island Partnership seminar, Brisbane, 27 June 2019



Craig Forrest 'Towards the Recognition of Legacy Wrecks as Memorials and Maritime War Graves' *The Legal Regime of Underwater Cultural Heritage and Marine Scientific Research* Workshop, Ankara University Research Center of the Sea and Maritime law 4-5 October 2018 Bodrum Turkey

Nick Gaskell 'Making the Maritime Polluter Pay' , Staff Research Seminar 2018, Schulich Law School, Dalhousie University, Halifax Nova Scotia, 4 October 2018

Nick Gaskell 'The International Maritime Organisation and Making International Maritime Law', LLM/JD students, Schulich Law School, Dalhousie University, Halifax, Nova Scotia, 12 September 2018

Nick Gaskell 'Wrecks, Admiralty Law and Eastern Canada', paper delivered at Eastern Admiralty Law Association, Halifax, Nova Scotia, 10 September 2018

Nick Gaskell 'International Liability and Compensation Conventions', in Pacific Islands Regional Marine Spill Contingency plan (PACPLAN) Workshop, Australian Maritime Safety Authority (AMSA) and MASLU, Brisbane, 6-7 June 2018.

Nick Gaskell 'Liability & Compensation Regimes under New Zealand law—Consideration of New Zealand accession to the Wreck Removal Convention 2007 and the Athens Convention on the Carriage of Passengers by Sea 2002', Annual Conference of the NZ Branch of the Maritime Law Association of Australia and New Zealand (MLAANZ), Auckland, 25 May 2018.

Damien Cremean 'Ownership of Unclaimed Wreck' (2018) 92 Australian Law Journal 667

Damien Cremean 'AMSA's Power to Detain Vessels' (2018) 92 Australian Law Journal 592

Damien Cremean 'Reforming Australia's Admiralty Jurisdiction' (2018) 92 Australian Law Journal 246.

## [MEDIA](#)

Craig Forrest 'Solomon Islands may not recover funds from stricken carrier to pay for oil spill clean-up, says expert' ABC New Radio: Pacific beat 6 March 2019

Craig Forrest 'Ship owner sorry for Solomons oil spill amid liability concerns' SBS News 6 March 2019

## [COMMISSIONED RESEARCH REPORTS](#)

Peter Nuttall, Romany Webb, Michael Gerrard, Katelyn Lamont, Craig Forrest, Isabelle Rojon, and Ben Milligan (University of the South Pacific, Micronesian Centre for Sustainable Transport

Columbia University, Sabin Centre for Climate Change Law University of Queensland, Marine and Shipping Law Unit University College London, Energy Institute) *Republic of the Marshall Islands Registries Assessment Technical Assistance Project: Costs and benefits of the Marshall Islands Ship and Corporate Registries in the context of climate change and sustainable development* (Funded by World Bank, 29 January 2019, 130 pages)

Craig Forrest and Bill Jeffrey UNESCO Technical Reports on Underwater Cultural Heritage – related legislation and programme review in the five countries of Micronesia (UNESCO 2018, 141 pages)

## RESEARCH GRANTS AND CONSULTANCIES

2020	Marshall Islands Shipping and Corporate Registry project - World Bank (University of South Pacific, Columbia University, University College London, University of Queensland) – <b>\$87,400</b>
2018	Marshall Islands Shipping and Corporate Registry project - World Bank (University of South Pacific, Columbia University, University College London, University of Queensland) – <b>\$72,500</b>
2018	UNESCO – Protection of Underwater Cultural Heritage in Micronesia (with Bill Jeffrey, University of Guam) <b>\$9,916</b>
2018	Australian Maritime Safety Authority - Pacific Pollution Plan (PACPLAN) Implementation Project <b>\$67,226</b>
2018 -2021	MLAANZ CMI project <b>\$7,000</b>
2018-2021	MLAANZ Conference proceedings project <b>\$3,500</b>

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## MASLU MARITIME COURSES

### Maritime Law Courses

In addition to the research and conference presentations by the members of MASLU, those members also contribute to the teaching of maritime law subjects in the undergraduate and postgraduate degrees in the law School.

*Maritime Law* (LAWS5160) Undergraduate course

*Maritime Law* (LAWS7865) Postgraduate course

*Carriage of Goods by Sea* (LAWS7876) Postgraduate course

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## ***Australian and New Zealand Maritime Law Journal***

The *Australian and New Zealand Maritime Law Journal* is published by MASLU in two volumes each year (July and November) under the general editorship of Craig Forrest and student editorship of Penelope Bristow (2018), Joshua McKersey (2019), Lachlan Peat (2020) and Laura Heit (2021).

In 2021 the Journal will have a refit – moving to a new platform, with a new design and presentation, and a new inter-connectivity with searchable databases and platforms such as google scholar. The new *Journal* platform will not only house the *Journal* (and past *Journal* archives), but also house the archive of MLAANZ conference papers beginning with the first conference of full papers held in 1976.

A new Editorial board is also being established, consisting of 12 members; with the President of MLAANZ and the chairs of the five branches as the ex-officio members, and a further six by invitation for a tenure of 3 years.

The first edition of the re-launched journal will be in the second half of 2021

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