

Cambridge University Press  
978-1-108-42167-6 — Peoples' Tribunals and International Law  
Edited by Andrew Byrnes, Gabrielle Simm  
Frontmatter  
[More Information](#)

---

## PEOPLES' TRIBUNALS AND INTERNATIONAL LAW

*Peoples' Tribunals and International Law* is the first book to analyse how civil society tribunals implement and develop international law. With contributions covering tribunals in Europe, Latin America and Asia, this edited collection provides cross-disciplinary academic and activist perspectives and unique insights into the phenomenon of peoples' tribunals. Written by academics in law, anthropology and international relations, and civil society activists and advocates, it also incorporates the reflections of academics and activists on peoples' tribunals. The collection includes chapters ranging from the Permanent Peoples' Tribunal, successor to the Bertrand Russell Tribunal established to question the legality of the Vietnam War, to recent tribunals addressing atrocities in Soeharto's Indonesia and violations against migrants in Europe. *Peoples' Tribunals and International Law* offers the first sustained analysis of international law in tribunal proceedings. It will interest scholars of law, criminology, human rights, politics, sociology, anthropology and international relations.

ANDREW BYRNES is Professor of Law at the University of New South Wales (UNSW) Law School, Sydney, Australia, where he served as Chair of the Australian Human Rights Centre 2005–2017. He teaches and writes in the fields of public international law, human rights and international criminal/humanitarian law. He serves on the Board of the Diplomacy Training Program and was president of the Australian and New Zealand Society of International Law from 2009 to 2013. From November 2012 to September 2014 he was an external legal adviser to the Australian Parliamentary Joint Committee on Human Rights.

GABRIELLE SIMM is Chancellor's Postdoctoral Research Fellow at the Faculty of Law, University of Technology Sydney, Australia, and a Visiting Fellow at the Australian Human Rights Centre, UNSW Law School, Sydney, Australia. She is the author of *Sex in Peace Operations* (2013) and has research interests in international law, refugee and migration law. Prior to becoming an academic, she was an international lawyer in the Australian government, a diplomat in Southeast Asia and a refugee lawyer in Melbourne.

Cambridge University Press  
978-1-108-42167-6 — Peoples' Tribunals and International Law  
Edited by Andrew Byrnes , Gabrielle Simm  
Frontmatter  
[More Information](#)

---

# PEOPLES' TRIBUNALS AND INTERNATIONAL LAW

Edited by

ANDREW BYRNES

*University of New South Wales*

GABRIELLE SIMM

*University of Technology Sydney*



CAMBRIDGE  
UNIVERSITY PRESS

Cambridge University Press  
 978-1-108-42167-6 — Peoples' Tribunals and International Law  
 Edited by Andrew Byrnes, Gabrielle Simm  
 Frontmatter  
[More Information](#)

## CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom  
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA  
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia  
 314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India  
 79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)  
 Information on this title: [www.cambridge.org/9781108421676](http://www.cambridge.org/9781108421676)  
 DOI: 10.1017/9781108368360

© Cambridge University Press 2018

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2018

Printed in the United Kingdom by Clays, St Ives plc

*A catalogue record for this publication is available from the British Library.*

### *Library of Congress Cataloging-in-Publication Data*

Names: Byrnes, Andrew, editor. | Simm, Gabrielle, editor. | Australian Human Rights Centre, sponsoring body. | Permanent Peoples' Tribunal, sponsoring body.

Title: Peoples' tribunals and international law / edited by Andrew Byrnes, University of New South Wales, Sydney and Gabrielle Simm, University of Technology, Sydney.

Description: Cambridge, United Kingdom ; New York, NY, USA : Cambridge University Press, 2018. | Includes papers presented at the expert seminar of people's tribunals and international law on 27-28 September 2013 in Rome at the Permanent Peoples' Tribunal under the sponsorship of the Australian Human Rights Centre of the University of New South Wales, Sydney, Australia. | Includes bibliographical references and index.

Identifiers: LCCN 2017042294 | ISBN 9781108421676 (hardback)

Subjects: LCSH: International law—Citizen participation—Congresses. | International courts—Citizen participation—Congresses. | International criminal law—Citizen participation—Congresses. | Human rights and international law—Citizen participation—Congresses.

Classification: LCC KZ1240 .P46 2018 | DDC 341/.04—dc23 LC record available at <https://lcn.loc.gov/2017042294>

ISBN 978-1-108-42167-6 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

CONTENTS

*List of Contributors*      vii  
*Acknowledgements*      x  
*Note on References*      xiii

**Introduction**      1  
ANDREW BYRNES AND GABRIELLE SIMM

**PART I    Introduction: History of Peoples’ Tribunals**      9

1 **International Peoples’ Tribunals: Their Nature,  
Practice and Significance**      11  
ANDREW BYRNES AND GABRIELLE SIMM

2 **The History of the Permanent Peoples’ Tribunal**      42  
GIANNI TOGNONI

**PART II    The Politics of Bearing Witness  
and Listening**      59

3 **Peoples’ Tribunals, Women’s Courts and International  
Crimes of Sexual Violence**      61  
GABRIELLE SIMM

4 **The Tokyo Women’s Tribunal: Transboundary Activists  
and the Use of Law’s Power**      84  
USTINIA DOLGOPOL

5 **The International People’s Tribunal on 1965 Crimes  
against Humanity in Indonesia: An Anthropological  
Perspective**      107  
SASKIA E. WIERINGA

6	<b>The Participation of Peoples and the Development of International Law: The Laboratory of the Permanent Peoples' Tribunal</b>	133
	SIMONA FRAUDATARIO AND GIANNI TOGNONI	
	<b>PART III Legal Pluralism and Popular International Law</b>	155
7	<b>Accusing 'Europe': Articulations of Migrant Justice and a Popular International Law</b>	157
	SARA DEHM	
8	<b>The Permanent Peoples' Tribunals and Indigenous Peoples' Struggles in Mexico: Between Coloniality and Epistemic Justice?</b>	182
	ROSALBA ICAZA	
9	<b>The Biak Massacre Citizens' Tribunal and the Disputed Indonesian Region of West Papua</b>	209
	NICOLA EDWARDS	
10	<b>Assessing the Contribution of the Latin American Water Tribunal and Transnational Environmental Law</b>	230
	BELÉN OLMOS GIUPPONI	
	<b>PART IV The Future of International Peoples' Tribunals</b>	257
11	<b>Reflections on the Past and Future of International Peoples' Tribunals</b>	259
	ANDREW BYRNES AND GABRIELLE SIMM	
	<i>Select Bibliography</i>	274
	<i>Index</i>	287

## CONTRIBUTORS

ANDREW BYRNES is Professor of Law at the Faculty of Law, University of New South Wales (UNSW) Sydney, Australia, where he also served as Chair of the Steering Committee of the Australian Human Rights Centre from 1995 to 2017. He researches and teaches in the fields of international law and human rights.

SARA DEHM is Lecturer at the Faculty of Law, University of Technology Sydney, Australia. She researches and writes on topics of international law and institutions, migration politics and governance and legal theory. She is also a doctoral candidate at the Institute for International Law and the Humanities, University of Melbourne, Australia, and an associate with the Australian Human Rights Centre, UNSW.

USTINIA DOLGOPOL is Associate Professor of Law at Flinders University, Adelaide, Australia. She has published in the fields of human rights, children's rights, women's rights, the interplay between human rights law and international criminal law, the gender dynamics of issues before the International Criminal Court and the search for redress by the 'Comfort Women'. During December 2000, she was one of the chief prosecutors for the Women's International War Crimes Tribunal held in Tokyo. She has served on a number of domestic and international boards including the Advisory Board of the Women's Initiatives for Gender Justice.

NICOLA EDWARDS is a Research Assistant and PhD student at the Sydney Southeast Asia Centre at the University of Sydney, Australia. She was awarded the Sydney University medal for Arts (Languages) for her undergraduate thesis on the movement towards sustainable agriculture in Indonesia, and the university medal for Law (Juris Doctor) at the University of New South Wales. Her research on human rights and social activism has been published in *Social Activism in Southeast Asia*

Cambridge University Press  
 978-1-108-42167-6 — Peoples' Tribunals and International Law  
 Edited by Andrew Byrnes, Gabrielle Simm  
 Frontmatter  
[More Information](#)

(Routledge, 2013), *The Australian Journal of Asian Law*, *Court of Conscience and Inside Indonesia*.

SIMONA FRAUDATARIO has worked with the Permanent Peoples' Tribunal since 2006 as coordinator of its activities, closely involved with the organising committees of the main sessions held in Latin America and Asia (Colombia, Mexico, India, Cambodia, Indonesia). Due to her activities and investigations, she participated in international conferences in Colombia, Argentina and Brazil. She edited the second edition of François Rigaux's volume on the Universal Declaration of the Rights of Peoples (*La Carta di Algeri*) and was co-editor and co-author of the volume *Colombia entre violencia y derecho: Implicaciones de una sentencia del Tribunal Permanente de los Pueblos*. She was also co-author of *Memorie di repressione resistenza e solidarietà in Brasile e in America Latina*. She took part as researcher on the role of peoples' participation in the Second Russell Tribunal on Latin America in a project concluded by the Fondazione Lelio and Lisli Basso ISSOCO in agreement with the Ministry of Justice of the Brazilian government.

ROSALBA ICAZA is Senior Lecturer in Governance and International Political Economy at the International Institute of Social Studies, Erasmus University Rotterdam, in the Netherlands. She served as a senior researcher in the University of Amsterdam's Diversity Commission to conduct research on the state of epistemic justice and pedagogical diversity. She researches and teaches in the fields on international studies, feminism, social movements and epistemic justice.

BELÉN OLMOS GIUPPONI is Senior Lecturer in EU and International Law at Liverpool Hope University, England. Her research interests include EU law, general international law, international economic law, human rights and environmental law.

GABRIELLE SIMM is Chancellor's Postdoctoral Research Fellow, Faculty of Law, University of Technology Sydney, and a visiting fellow and formerly a research associate at the Australian Human Rights Centre, UNSW Law. Her research interests include international law and migration law. She has worked as a government lawyer advising on international law, a diplomat and a refugee lawyer.

## LIST OF CONTRIBUTORS

ix

GIOVANNI TOGNONI is a doctor of medicine and surgery and since 1969 has undertaken basic, clinical, epidemiological and public health research in some of the most critical fields of medicine, such as cardiology, intensive therapy, neurology, psychiatry and oncology, publishing results in more than 600 articles in leading international journals. He has also served as the director of research in various departments of the Mario Negri Institute in Milan. Among his activities, he has served as a World Health Organization (WHO) consultant for the selection of essential medicines, as a founding member of the international society for independent information on pharmaceuticals and as a coordinator of projects on community epidemiology in countries in Central and Latin America and Africa. From his collaboration with the Second Russell Tribunal to scientific activities, he has actively worked in the fields of human rights, right to health and rights of peoples. He has been the secretary-general of the Permanent Peoples' Tribunal since its establishment in 1979.

SASKIA WIERINGA is Emeritus Professor of Anthropology at the University of Amsterdam. She occupied the chair of Gender and Women's Same-Sex Relations Crossculturally. She has published widely on sexual politics in Indonesia, women's empowerment and women's same-sex relations, and heteronormativity globally. She chairs the Foundation International People's Tribunal on the Mass Crimes against Humanity in Indonesia and is working on two books on the Indonesian genocide.



## ACKNOWLEDGEMENTS

The research project in the context of which this book was developed was largely funded by an Australian Research Council Discovery grant, DP11 110101594 ('Whose Law Is It, Anyway? Citizens' and Peoples' Challenges to State Dominance in the Making and Application of International Law') (2011–13) awarded to Andrew Byrnes and administered through the Australian Human Rights Centre at UNSW where Gabrielle Simm worked as a co-researcher on the project from 2012 to 2013. That funding concluded at the end of 2013, and work on the project continued with the support of UNSW Law, the Macquarie Law School and the University of Technology Sydney Law Faculty. We are most grateful for that support.

We acknowledge the assistance of the Lelio and Lisli Basso Foundation, which hosts the Permanent Peoples' Tribunal (PPT) in Rome. In particular, Secretary-General of the PPT, Dr Gianni Tognoni, and Research Officer, Simona Fraudatario, have been patient and consistently generous in their support of this project despite its having taken much longer than was originally envisaged. They facilitated a visit in 2011 by Andrew Byrnes to carry out research into the archives of the PPT at the Basso Foundation in Rome, and his attendance at the PPT Session on Agrochemical Transnational Corporations in Bangalore in December 2011.

Gianni Tognoni and Simona Fraudatario undertook a great deal of work in organising, hosting and presenting at the workshop held on 27–28 September 2013 in the PPT in Rome at which many of the papers collected here were presented. The workshop was conducted in English, Spanish and Italian, and we are indebted to the interpreters provided by the PPT for facilitating communication. Salvatore Senese, the former president of the PPT, and Franco Ippolito, the current president, also participated. Without the assistance of the PPT and the guidance they have so generously and patiently provided, much of our research would not have been possible.

## ACKNOWLEDGEMENTS

xi

We would also like to thank the participants at the 2013 workshop. They include Gill Boehringer, Javier Bogantes, Brid Brennan, Harold Cook, Sara Dehm, Soledad Castro Vargas, Ayça Çubucu, Tina Dolgop, Daniel Feierstein, Dianne Otto, Antoni Pigrau Solé, Sarojeni Rengam, Claudia Torrelli, Ramon Vera Herrera and Sarah Williams. While not all the papers presented at the workshop are included in this volume, a number of these contributions have been published elsewhere.

We would like to thank colleagues at UNSW. Diane Macdonald, administrator of the Australian Human Rights Centre, played a key role in supporting the project website and assisting with arrangements for the workshop. The director of the centre, Andrea Durbach, and its deputy director, Justine Nolan, have been very supportive of the project and always willing to be enlightened as to the many virtues of the peoples' tribunal format. Leanne Palmer in her role as research administrator in the Faculty of Law provided enthusiastic and efficient support for the project, as did other colleagues in the faculty. We are grateful to Lucas Lixinski for his advice on a number of translation matters.

We owe a significant debt to several UNSW students who provided research support and translation assistance at various stages of the project, in some cases in their role as interns with the Australian Human Rights Centre. We would like to thank Amy Rogers, Gabriela Cuadrado Quesada, Alba Boer Cueva, Monique Dam, Uzma Sherieff, Joanna Lee and Ruby Lew.

Gabrielle Simm would like to acknowledge former president of the Permanent Peoples' Tribunal, the late François Rigaux, who provided fascinating insights into the history of the PPT in an interview shortly before his death in November 2013. She also thanks Dianne Otto and Christine Chinkin for the opportunity to participate in a panel on peoples' tribunals, which was part of a workshop at Melbourne Law School in 2013.

Andrew Byrnes would like to thank the students in the different versions of the course on Peoples' Tribunals and International Law that he has taught at UNSW, the University of Zurich and the University of Vienna for their engagement with this topic and their critical feedback. Thanks are also due to Professor Christine Kaufmann at the University of Zurich and Professor Christina Binder then of the University of Vienna for facilitating the offering of courses at their institutions in 2013 and 2015 respectively. Andrew would like to thank the Centre for Human Rights Research at the University of Vienna – in particular its then Director Professor Manfred Nowak and Anna Müller

Funk – and Professors August Reinisch and Ursula Kriebaum and the staff of the International Law Department of the Faculty of Law, University of Vienna, where he spent a productive period of sabbatical in late 2015.

We are grateful to Palgrave Communications for permission to include in this collection a revised version of Rosalba Icaza's article, 'The Peoples' Permanent Tribunals and Indigenous People's Struggles in Mexico: Between Coloniality and Epistemic Justice' (2015, 1 *Palgrave Communications*, [www.palgrave-journals.com/articles/palcomms201520](http://www.palgrave-journals.com/articles/palcomms201520)), and to Cambridge University Press for its willingness to permit us to include a revised version of Belén Olmos Giupponi's article, 'Transnational Environmental Law and Grass-Root Initiatives: The Case of the Latin American Water Tribunal' (2016, 5[1] *Transnational Environmental Law* 145–74).

We thank Finola O'Sullivan and Rebecca J. Roberts at Cambridge University Press for their patience and assistance with the publication process.

And we acknowledge the support and patience of our families throughout the process of this project.

## NOTE ON REFERENCES

The material contained in the various chapters is up to date as of May 2017. References to websites were also current as of that date. The websites of a number of peoples' tribunals that were active at the time the tribunals were held are no longer available online at the original web address. However, some or all of the documents from those websites are available through the internet archive, Wayback Machine (<http://archive.org/web/>), and we have included citations to those archived versions where available, or to the documents on other websites. We have also done this for other sources where the original version is no longer available but the material is available through the Internet Archive.