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## **International Law, Social Change and Resistance: Conversation between Professor Anna Grear (Cardiff) and Professorial Fellow Dianne Otto (Melbourne)**

In this conversation, we set out to ponder the question of what might be next for feminist scholarship and activism in international law. We start by reflecting on our somewhat different imaginings of feminist futures, before turning to a discussion of contemporary challenges presented by the Trump Administration, set against the contexts and logics of the ‘Anthropocene’ (Anna) or as a ‘new normal’ in the form of a ‘post-crisis’ era (Di). Either way, we agree that the present world is a dangerous place for all critical and analytical thinking, including feminism, and share some thoughts on how to survive as feminists working in international law and how law might/could/should respond to the life-threatening realities of the present.

**Anna:** Di, let’s start by talking about how we, as feminists working in international law, imagine the world(s) we are working to create.

**Di:** That’s a great place to start. I think that the lifeblood of all critical and progressive thinking and activism, lies in sharing, contesting and, as far as is possible, practicing our visions of a better world, especially at times, as at present, when they seem most endangered. Without imagined feminist futures it is impossible to have a sense of what needs to be done in the present and what role international and domestic laws should/could be playing. It is not always easy to keep hope alive in this discipline, despite the optimism of the references to ‘international cooperation and assistance’ in the UN Charter, the peaceful aspirations of public international law and the inclusive promises of human rights law. Notwithstanding many decades of feminist and postcolonial activism and critique, enriched more recently by

queer perspectives,<sup>1</sup> there is so much cause for despair. In 2009, I described the spread of feminist ideas throughout the UN system and their institutional cooption as ‘the exile of inclusion’,<sup>2</sup> which continues to be apt. We are desperately in need of new ways of creating, framing, understanding and applying international law, which enhance rather than diminish the importance and power of local, national and transnational movements for social justice and liberatory change.

The long-standing feminist goals of general disarmament, demilitarization and positive peace remain as important as ever, but are today seen by many as impossibly utopian. That the venerable Women’s International League for Peace and Freedom (WILPF) withdrew in 2015 from engagement with the UN Conference on Disarmament, accusing it of having ‘lost perspective of the bigger picture of human suffering and global injustice’, is a beacon to us all.<sup>3</sup> As their statement read, ‘there are better ways’ to pursue feminist goals than through international institutions committed to maintaining the status quo. We too need to find ‘better ways’ to work as feminists in the discipline of international law.

My vision of a feminist future is of local and global communities built on what I have recently described as ‘feminist logics of social justice and peace’.<sup>4</sup> This logic, as I understand it, is not static, but continually produced, contested, reconsidered and re-envisioned through

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<sup>1</sup> Dianne Otto (ed), *Queering International Law: Possibilities, Alliances, Complicities, Risks* (Routledge 2017).

<sup>2</sup> Dianne Otto, ‘The Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade’ (2009) 10 *Melbourne Journal of International Law* 11.

<sup>3</sup> WILPF Statement to the Conference on Disarmament on International Women's Day 2015, available at <http://www.reachingcriticalwill.org/news/latest-news/9559-wilpf-statement-to-the-conference-on-disarmament-on-international-women-s-day-2015> (date of last access: 5<sup>th</sup> September 2017).

<sup>4</sup> Dianne Otto, ‘Contesting Feminism’s Institutional Doubles: Troubling the Security Council’s women peace and security agenda’ in Janet Halley, Prabha Kotiswaran, Rachel Rebouché and Hila Shamir eds, *Governance Feminism: Notes from the Field* (University of Minnesota Press, forthcoming 2018).

global networks of circulating feminist theories, experiences and practices. The communities I hope for are not divided by nationalist heteronormative kinship systems, but are united by forms of global relationality that foster secure communities and everyone's well-being.<sup>5</sup> I associate such feminist logic with the kind of grass roots struggles that inform the work of organizations and coalitions like WILPF. It is a logic based on solidarity rather than division, grounded in positive peace rather than militarism, committed to redistributive goals rather than private enrichment, dedicated to eliminating the entrenched inequalities of the quotidian rather than normalizing and exploiting them, and devoted to environmental sustainability rather than environmental destruction. In my imagined world, expressions of gender, race and sexuality are understood as multiplicitous and performative (or social) rather than as dualistic and (naturally) hierarchical.<sup>6</sup> It is a world based on the recognition that we all have responsibilities to each other to ensure inclusion, well-being and self-fulfillment.

A version of this logic is expressed in the vision statement of the Post-2015 Women's Coalition, which presented a 'transformative alternative' to those drafting the Sustainable Development Goals.<sup>7</sup> The vision, endorsed by 168 NGOs, challenges the global development agenda and reframes it in feminist terms by prioritizing, *inter alia*, the elimination of poverty

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<sup>5</sup> Dianne Otto, 'Resisting the Heteronormative Imaginary of the Nation State: Rethinking Kinship and Border Protection' in Dianne Otto (ed), *Queering International Law: Possibilities, Alliances, Complicities, Risks* (Routledge, 2017) 236.

<sup>6</sup> Dianne Otto, 'International Human Rights Law: Towards Rethinking Sex/Gender Dualism' in Margaret Davies and Vanessa Munro (eds), *A Research Companion to Feminist Legal Theory* (Ashgate Companion Series, 2013) 197.

<sup>7</sup> Post-2015 Women's Coalition (since renamed Feminist Alliance for Rights), A coalition of feminist, women's rights, women's development, grass roots and social justice organizations working to challenge and reframe the global development agenda, 'Feminist Sustainable Development: A Transformative Alternative for Gender Equality, Development and Peace' (endorsed by 168 organisations in 2015).

[http://peacewomen.org/sites/default/files/Post2015WomensCoalitionVisionStatement\\_FINAL.pdf](http://peacewomen.org/sites/default/files/Post2015WomensCoalitionVisionStatement_FINAL.pdf).

and inequality, ending militarism and the arms trade, ensuring universal access to sexual and reproductive health and rights, and taking urgent action on environmental degradation.<sup>8</sup>

Yet the feminist logic that has achieved ascendancy in our discipline in recent years barely hints at this capacious vision. Concerned primarily with addressing (predominantly sexual) violence against women, this institutionalized form of feminism (also referred to as governance feminism<sup>9</sup>), can be thought of as feminism's 'institutional double'.<sup>10</sup> This single focus means that the 'feminist' work of international law and its institutions is premised on (sexual) violence as the primary locus of women's oppression, which continues the inexorable (re)presentation of women as always already victims in need of rescue and protection by the masculinist state-based systems of law and governance. We need to work out how to revive the other crucial elements of imagined feminist futures – redistributive economics, demilitarization, positive peace, substantive equality in all its dimensions, and ecological sustainability. Yet when I think about your work Anna, my vision of a better world seems rather inadequate. How would you describe the world you hope to foster through your work?

**Anna:** I would certainly not describe your vision of the world as inadequate. It seems to me that the vision you describe sits in an intimate relationship with the kind of world I am seeking to imagine and foster – and that we are closely aligned concerning the *human* aspects of that world.

What strikes me about the legally sanctioned hierarchies and exclusions you critically engage with in your work is how these seem to reflect a certain imperviousness in capitalistic

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<sup>8</sup> Ibid.

<sup>9</sup> Janet Halley, Prabha Kotiswaran, Hila Shamir and Chantal Thomas, 'From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four studies in contemporary governance feminism' (2006) 29 *Harvard Journal of Law & Gender* 335.

<sup>10</sup> Nancy Fraser, 'Feminism, Capitalism and the Cunning of History' (2009) 56 *New Left Review* 97.

international law – a kind of persistent adaptive capacity to return or rebound, to capture critique and co-opt it somehow into the frames of ‘oppression as usual’. I see such exclusory tenacity as being constituted by a complex of coloniality and entrenched privilege. I’m very struck by certain continuities and patterns: the juridical privileging of the corporate legal form (most particularly in its transnational configurations); the ascendancy of neoliberalism and its suffocating levels of governmentality; the continuities between the relentless priority of Eurocentric masculinist capitalism and patterns of colonial predation (corporate and governmental) that inaugurated and still shape the international legal order.<sup>11</sup> Underlying all of these highly familiar distributions of privilege and predation there seems to be a set of subject-object relations. And the central beneficiary of these subject-object relations is the figure of ‘the subject’ – in reality a privileged subject in relation to which human and non-human ‘others’ are marginalized (or perhaps ‘exiled’, as you put it). This subject, as feminist legal scholars well know, is a cluster concept elevating maleness, whiteness, property-ownership, agency and fully ‘rational’ autonomy – against which non-European ‘others’, feminized others, queer and ‘irrational’ others (including the indigenous – but also ‘the animal’<sup>12</sup>) and so forth are positioned in a set of subordinate hierarchical relations.

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<sup>11</sup> Anna Grear, ‘“Towards ‘Climate Justice’? A critical reflection on legal subjectivity and climate injustice: Warning signals, patterned hierarchies, directions for future law and policy’ (2014) Special Edition *Journal of Human Rights and the Environment* 103-133. See also, Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP, 2005). See also, Stephen Gill, ‘Constitutionalizing Inequality and the Clash of Globalizations’ (2002) 4 *International Studies Review* 47-65.

<sup>12</sup> Maneesha Dekha, ‘Intersectionality and Post-humanist Visions of Equality’ (2008) 23 *Wisconsin Journal of Law, Gender and Society* 249-267. See also, Murray Bookchin, *The Ecology of Freedom: The Emergence and Dissolution of Hierarchy* (AK Press, 2005); David Nibert, *Animal Rights, Human Rights: Entanglements of Oppression and Liberation* (Rowman and Littlefield, 2002).

I read the contemporary transnational corporate form as being the apotheosis of these patterns in the era of neoliberalism. As I see it, the ‘necropolitical logic’<sup>13</sup> of this entire hierarchy of being and action is so now overwhelmingly dominant at a planetary level that there is a kind of terminus, or horizon in view, against which all liberatory labour – including feminist liberatory labour – is positioned. One name, or figuration, for that horizon is ‘the Anthropocene’. The claim that the Earth system is now in the Anthropocene is essentially a claim that humans amount to a geological force (no longer merely a biological force): Humans have so altered the Earth’s balance, it is said, that the planet has been capitulated into a new geological epoch.<sup>14</sup>

But who is the *Anthropos* at the centre of this figuration? I have argued in recent work that ‘Anthropos’ is best understood as the privileged exclusory ‘human’ subject at the heart of the legal order—the apotheosis of which is the transnational corporate form.<sup>15</sup> For *Anthropos* all else (including marginalized others) is merely an objectified, external field upon which the central subject enacts its agency. And, with Donna Haraway, I suggest that the Anthropocene is therefore in reality the Capitalocene.<sup>16</sup> It is the very concretization of a Eurocentric,

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<sup>13</sup> Necropolitics refers to the ultimate expression of sovereignty lying in the state’s ability to determine who may live and who may die. See further Achille Mbembe, *On the Postcolony* (University of California Press, 2001).

<sup>14</sup> Paul J Crutzen, ‘Geology of Mankind’ (2002) 23 *Nature* 415.

<sup>15</sup> Anna Grear, ‘Deconstructing *Anthropos*: A Critical Legal Reflection on “Anthropocentric” Law and Anthropocene “Humanity”’ (2015) 26/3 *Law and Critique* 225-249.

<sup>16</sup> Donna Haraway, ‘Anthropocene, Capitalocene, Chthulucene: Staying with the Trouble’, a lecture given by Donna Haraway at University of California, Santa Cruz on 5th September 2014, available at <https://vimeo.com/97663518> (date of last access: 5<sup>th</sup> September 2017); Donna Haraway, *Staying With the Trouble: Making Kin in the Chthulucene* (Duke University Press, 2016).

corporate order of masculinized, appropriative power that leads us inexorably, to borrow Carolyn Merchant's apt phrase, further into 'the death of nature'.<sup>17</sup>

Merchant's work focuses on the 'death of nature' wrought by the deep ontological and epistemological violence of Cartesian subject-object relations and by Francis Bacon's scientific method.<sup>18</sup> And it is against this background that I suggest that the only way to operationalize the kind of world you envisage, and that I share aspiration for with you, is to go to the very foundations of our understanding of reality itself and to reconstitute it. As long as such binary and destructive subject-object relations persist, so will the objectification dynamic lying at the heart of the hierarchies of meaning so destructive for so much and to so many.

So my vision for a different world responds to this by turning to New Materialist work. Such work renders implausible the traditional assumption of the centrality of human agency in a way that simultaneously heightens human ethical attentiveness to 'what's there' – and wakes us up to the fact that the world is alive with multiple forms of communicative intelligence, all speaking different languages – speaking in different materio-semiotic tongues as it were – and that this matters for how humans conceive of the status of non-human things. New Materialist thinking – in short – dethrones the ontological and epistemological priority of the human (by which we normally refer, of course, to an idealized sub-set of the human – frequently to the *Anthropos* – and increasingly to its corporate manifestation). In the place of a relentless and sole human agency, New Materialism turns our attention to the multiple agencies of living materiality itself (though New Materialists speak of the capacity to affect and to be affected rather than of agency as such).<sup>19</sup>

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<sup>17</sup> Carolyn Merchant, *The Death of Nature: Women, Ecology and the Scientific Revolution* (Harper Collins, 1990).

<sup>18</sup> Ibid, Chapter 7.

<sup>19</sup> For an excellent introduction to New Materialist thought, see Diana Coole, Diana and Samantha Frost, *New*



The complex, multi-levelled, multi-directional, lively energies of the world thus emerge in all their particularity and entanglement for a much more nuanced, epistemically open and humble level of attention – including ethical and ethological attentiveness.<sup>20</sup> The vision you have, Di, of those complexity-rich, non-binary, grassroots ways of being, moving, organizing, flowing and pausing – and of mutual epistemic tutelage and so forth – become differently possible when consciously flowing from a New Materialist onto-epistemology. And while New Materialism builds upon some of the most radical insights from contemporary science, it also draws multiple excluded ways of knowing, including indigenous knowledges, into the circle of onto-epistemic engagement – and is richly open to ways of knowing both human *and* non-human. In this sense, it opens up multiple constituencies of meaning-making and different forms of potential public imagination – perhaps different forms of ‘publics’.<sup>21</sup> Such thinking opens the imagination to see humans as but one partner in an energetic entanglement of lively materiality – and to appreciate (concomitantly) the contingency and incompleteness of all subject-object identifications. Relations are performed, negotiated – materio-semiotically – in the way that your vision of feminist logic suggests – but include a whole host of more-than-human partners.

**Di:** So your vision reframes the feminist logics of social justice and peace that I referred to, into a project wherein non-human lives also become, to use Judith Butler’s term,

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*Materialisms: Ontology, Agency and Politics* (Duke University Press, 2010).

<sup>20</sup> For a rich feminist study of ecological epistemology, see Lorraine Code, *Ecological Thinking: The Politics of Epistemic Location* (OUP, 2006).

<sup>21</sup> Anna Grear, ‘Ecological Publics: Imagining Epistemic Openness’ (2017) 10/44 *Global-E*, available at: <http://www.21global.ucsb.edu/global-e/june-2017/ecological-publics-imagining-epistemic-openness> (date of last access: 5<sup>th</sup> September 2017).

‘lives that matter’?<sup>22</sup> Your pathway to the future is more attentive to the necropolitics of the present?

**Anna:** Perhaps. But I think your vision is equally critically attentive to the death-drive of the present system. I think that the main difference between us is possibly my explicit focus upon the ecological and systemic devastation wrought by neoliberalism and in particular, my focus upon the juridical construction of transnational corporate subjectivity as a form of masked coloniality deploying a form of ‘legal humanity’ as a core tool of structural unevenness.<sup>23</sup> I have to say that I have been deeply inspired, Di, by your work on the construction of marginalized subjectivities and your exposure of the complicity of human rights in the macro- and micro-politics of entangled oppressions. I want to position such projects of enquiry against the emergence of important questions concerning the ethical significance of non-human actants, including, of course, non-human animals, other living systems, machines and artificial intelligences and so forth. I’m interested in how the well-rehearsed practices of necropolitics work themselves out in patterns associated with those kinds of questions.<sup>24</sup>

For the purpose of our present conversation, a particularly pressing question concerns how it will be possible to resist the logics fighting to retain the privilege of the highly patterned hierarchies of being and the forms of gendered, raced panic associated with them that you write about so lucidly. It is very sobering to see the reactionary nature of, for example, Trump’s environmentally illiterate, anti-climate, anti-women, fundamentally racist, capitalist, corporate-greed elitism. It strikes me that there is an incredibly powerful symbolic

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<sup>22</sup> Judith Butler, *Bodies that Matter: On the Discursive Limits of Sex* (Routledge, 1993).

<sup>23</sup> Anna Grear, *Redirecting Human Rights: Facing the Challenge of Corporate Legal Humanity* (Palgrave Macmillan, 2010).

<sup>24</sup> Anna Grear “‘Mind the Gap’: One Dilemma Concerning the Expansion of Legal Subjectivity in the Age of Globalisation’ (2011) 1/1 *Law, Crime and History* 1-8.

significance in the fact that the planet is broadly endangered, at present, by a white male narcissist. And it is equally symbolic (and hopeful) that the fightback is inspiring grassroots resistance to defend diversity and the need for eco-socio-economic justice in new forms.

Crisis governance seems to be such a central strategy in the reactive spasm of backward-looking white male terror that Trump signifies so well. So Di, let's now return to the world as it is in the present and the question of how the election of Trump as US President fits with preceding trajectories concerning the racist/sexed production of crisis as legitimization. Is the Trump Administration just another example of the type of crisis governance that has become more firmly established since the events of 9/11, or does it inaugurate a mode of governance that has its own distinctive features?

**Di:** While emergency law-making has a long history, including as a feature of colonial governance,<sup>25</sup> my interest in the technologies of crisis governance has focused on the utilization of sexual and gender 'panics' since the events of 9/11, to help legitimize the increasingly extensive use of executive and military power, and to spur the attendant downgrading of political debate and participation. I build on Gayle Rubin's astute observation, over three decades ago, that 'sexual panics are burdened with an excess of significance' which makes them available to 'function as signifiers for personal and social apprehensions to which they have no intrinsic connection'.<sup>26</sup> Since 9/11, anxieties associated with sexuality and gender transgressions (usually also racialized) have been used to generate a climate of fear that enables the erosion of human rights and fundamental freedoms and the fanatical preoccupation with walling states, which provide symbolic reassurance of

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<sup>25</sup> Nasser Hussain, *The Jurisprudence of Emergency: The Rule of Law under Colonialism* (University of Michigan Press, 2003).

<sup>26</sup> Gayle Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in Carole S. Vance (ed.) *Pleasure and Danger: Exploring Female Sexuality* (Routledge & Paul, 1984) 297.

continuing sovereign power.<sup>27</sup> Those directly responsible for the 9/11 atrocities were themselves cast as sexually perverse by reports in the west of their preference for masculine company while on earth and their hopes for eternal access to virgins in the afterlife,<sup>28</sup> which helped cast them as ‘terrorists’, rather than mere ‘criminals’, and to justify a military response.

In the years since 9/11, there are many other examples of fear generated by panics about practices of sexuality and gender that do not conform to dominant heteronormative, dualistic, compliant norms – supported in large part by feminism’s institutional doubles (which presents a new crisis for feminism). They include a new spike of concern about the cross-border trafficking of women and girls to work in the sex industry, high levels of anxiety in the west about veiled women, and scandals about sexual exploitation and abuse in UN peacekeeping missions.<sup>29</sup> These panics have served, in various ways, to strengthen the hold of neoliberal crisis governance – by justifying increased border surveillance, harsher policing technologies and expanded detention facilities, by stoking Islamophobia and justifying muscular military interventions/occupations in Muslim states, by extending the state’s biopolitical power through laws that reach into the most intimate parts of our lives – all in the name of protecting vulnerable women and children. But the less visible effect of such panics is to shift attention and outrage away from the exercise of unaccountable, exploitative and hegemonic power by the Executive branches of states, wealthy individuals, international economic institutions and transnational corporations.

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<sup>27</sup> Wendy Brown, *Walled States, Waning Sovereignty* (Zone Books 2010).

<sup>28</sup> Anna M Agathangelou, ‘Power, Borders, Security, Wealth: Lessons of violence and desire from September 11’ (2004) 48 *International Studies Quarterly* 530.

<sup>29</sup> Dianne Otto, ‘Decoding Crisis: A Queer Feminist Perspective on the Productivity of Crisis for International Law and its Resistive Possibilities’ in Barbara Stark (ed), *International Law and Its Discontents: Confronting Crisis* (Cambridge University Press 2015) 115.

During his election campaign, Trump used many of the well-worn techniques of crisis governance. For example, he fueled panicked white patriotism by promising, to ‘build a great wall’ to protect Americans from Mexican immigrants who bring ‘drugs’ and ‘crime’, and are ‘rapists’.<sup>30</sup> Since Trump’s election, the Administration has certainly exhibited many of the features of crisis governance, which are all deeply marked by bigotry, misogyny and xenophobia. There has been an explosion of Executive law-making and, as part of the project of ‘making America great again’, a frighteningly more aggressive form of militarism has quickly become entrenched. North Korea has been provoked, tensions in the Middle East have been stoked, huge arms deals have been struck with Saudi Arabia, and the pace of US bombing in Syria, Afghanistan, Iraq and Yemen (and now perhaps Pakistan as well) has increased in pursuance of Trump’s campaign to ‘bomb the shit out of’ ISIS.<sup>31</sup>

However, unlike the heavy reliance of crisis governance on economic, technocratic and military experts to solve global problems, Trump is wary of expertise. He has made his contempt for scientists, academics, intelligence officers, diplomats and even military strategists, very clear. Many of the appointees to his administration share his disdain for expert knowledge, including climate change denier, Scott Pruitt, who now heads the Environmental Protection Agency. The new President has surrounded himself with advisers, including family members, who share or are prepared to align themselves, with his worldview which is based primarily, if not solely, on self-interest and self-aggrandizement. The dismissal of analytical and critical perspectives, the diminution of space for democratic

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<sup>30</sup> ‘Full text: Donald Trump announces a presidential bid’, Washington Post, 16 June 2016, available at [https://www.washingtonpost.com/news/post-politics/wp/2015/06/16/full-text-donald-trump-announces-a-presidential-bid/?utm\\_term=.d3b312d1b5ab](https://www.washingtonpost.com/news/post-politics/wp/2015/06/16/full-text-donald-trump-announces-a-presidential-bid/?utm_term=.d3b312d1b5ab) (date of last access: 5<sup>th</sup> September 2017).

<sup>31</sup> ‘Donald Trump: I would “bomb the s\_\_\_ out of” ISIS’, *Business Insider Australia*, 14 November 2015, available at <https://www.businessinsider.com.au/donald-trump-bomb-isis-2015-11?r=US&IR=T> (date of last access: 5<sup>th</sup> September 2017).

participation and deliberation, and the dismissal of everyday structural inequalities and injustices as a concern of government, have all reached a new zenith, justified in the name of making America (Trump) great again, and only secondarily, if at all, in the name of urgency. In his Arizona speech of August 2017, Trump even threatened to ‘shut down the (US) government’ if it prevented him from fulfilling his election promise to finish building the wall along the Mexican border.<sup>32</sup> It seems that the excessive use or abuse of power no longer requires the justification of a crisis.

I think these developments herald a tectonic shift beyond crisis, into a terrifying dystopian world that brazenly represents itself as the ‘new normal’. Picking up on your earlier comment, you might say that the figure of Trump presents us with the *Anthropos* par excellence. Notwithstanding the fact that the US has always eschewed international legal restraints when it has been in its interests to do so, an unprincipled, egocentric and more brutal form of militarized white hetero-masculinity is in rapid ascendance. The sphere of politics that we have relied on to sustain and enrich life is rapidly disappearing in the confusion of fake news, shameless homophobia and misogyny, racist American war-mongering and, since the Charlottesville disaster, increasingly bold assertions of white supremacy and neo-nazism. Domestically, Trump’s sights are set on dismantling already scanty social welfare programs, limiting already restricted civil rights, intensifying already simmering racism and fortifying already heavily militarized borders. This new everyday seriously threatens feminist and other liberatory thinking, which situates current international legal and political problems in a broader topography of white masculinist (neoliberal) economic and social inequality and injustice.

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<sup>32</sup> ‘President Trump Ranted for 77 Minutes in Phoenix. Here’s What He Said’, *Time*, 23 August 2017, available at <http://time.com/4912055/donald-trump-phoenix-arizona-transcript/> (date of last access: 5<sup>th</sup> September 2017).

Taking your point Anna, the human and non-human worlds are in great danger, what do you make of the outrage expressed by so many states to Trump's withdrawal of the US from the Paris Agreement on Climate Change and the new alliance that it has prompted between Europe and China in apparent defence of the environment? Do you think we are seeing other contours of a tectonic post-crisis shift emerge?

**Anna:** I think that the post-crisis dystopianism presented as the 'new normal' is a very good way of characterizing the dynamics you discuss – but I also wonder whether the 'new normal' is just the open surfacing of the logic I spoke about earlier: the colonizing, rapacious logic of appropriation and control based upon objectification and the violence of the subject-object relations lying in the foundations of the international order. I also think that the 'new normal', if this is what it is, is increasingly exposed by competing, counter-hegemonic visions of alternative potential 'normals'. I'm thinking here of the emergence of a wide range of complexity-responsive social alternatives, such as commoning, community-led initiatives based around sharing, sustainability, circularity, open-source information and the like.<sup>33</sup> But returning to the thought about the new normal as the open surfacing of pre-existing logics, I think this is relatively clear in relation to the climate crisis and environmentalism. In fact, the Paris Agreement is a case in point, and serves as a useful example. The Agreement is, in one sense, a timely response to environmental crisis: unprecedented agreement on a level of warming below which the world needs to stay, unprecedented levels of international support – and so forth. It is hugely symbolic, in that sense, and powerful as an overarching signal of increased planetary awareness that 'we' are all in this together: humans and planet. On the other hand, the Paris Agreement has been criticized as a site at which neoliberal

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<sup>33</sup> David Bollier and Silke Helfrich, Silke, *Patterns of Commoning* (Commons Strategies Group, 2015); and for a critical reflection on the commons, George Caffentzis, 'The Future of the "Commons": Neoliberalism's "Plan B" or the Original Disaccumulation of Capital?' (2010) 69 *New Formations* 23-41, 2010.

priorities have largely been left intact<sup>34</sup> – and this is a line of attack convergent with a whole line of critique of environmental law and governance concerned with the ways in which neoliberal governance increasingly subjugates and financializes ‘nature’ in the name of protecting the future from the very crisis engendered by neoliberalism.<sup>35</sup> Indeed, many environmental legal critics point out the way in which traditionally unjust global North-global South relations are also merely perpetuated and operationalized by law and governance structures and strategies responding to the discourse of environmental crisis – in forms of corporation-friendly neocoloniality.<sup>36</sup>

As for an alliance between Europe and China, these powers will have a host of motives and imperatives in play other than genuine concern for the climate, I suspect. I suppose none of these moves are ever non-ambivalent. I think that reading such developments through the lens of a worldview struggle between hegemonic and counter-hegemonic dynamics is useful—analogous to the way you have just described feminist logic as continually produced, contested, reconsidered and re-envisioned through global networks of circulating theories and practices. This is precisely the way that environmental and neoliberal logics also work, circulating through assemblages such as the Convention on Biological Diversity, or the Conferences of the Parties of the UN Framework Convention on Climate Change. Ethnographic studies, for example, of the Convention on Biological Diversity (CBD) reveal it

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<sup>34</sup> See, for just one example, the early critical response from a social movement position by Danny Chivers and Jess Worth, ‘Paris Deal: Epic Fail on a Planetary Scale’ (2015) *New Internationalist*, available at <https://newint.org/features/web-exclusive/2015/12/12/cop21-paris-deal-epi-fail-on-planetary-scale/> (date of last access: 5<sup>th</sup> September 2017).

<sup>35</sup> On neoliberal environmental governmentality, see Timothy W Luke, ‘On Environmentality: Geo-Power and Eco-Knowledge in the Discourses of Contemporary Environmentalism’ (1995) 31 *Cultural Critique* 57–81.

<sup>36</sup> Carmen Gonzalez, ‘Bridging the North-South Divide: International Environmental Law in the Anthropocene’ (2015) 32 *Pace Environmental Law Review* 407–434.



to be precisely such a dynamic set of interactions – in which corporations also play a dominant role. I have in mind here the work of Catherine Corson and Kenneth McDonald on ‘Green grabs’, or ‘conservation grabs’ (the ‘expropriation of land or resources for environmental purposes’).<sup>37</sup> The CBD is a site, one among many, for the circulation of forms of knowledge, the construction of regulatory devices and setting of programmatic targets – and the like – that structure day to day practices that iteratively result in a kind of rapacious primitive accumulation expressing neoliberal market imperatives. The 10<sup>th</sup> Conference of the Parties to the CBD was analyzed as an ethnographic site by Corson and McDonald in order to trace the patterns of interaction involved in legitimizing a wave of global land grabs ‘justified’ by ‘green’ goals – revealing the highly ambivalent nature of such regulatory mechanisms, and the pervasive power of corporations in such processes.

I think now would be a particularly apt moment to ask you how you see resistive responses to what you describe as a post-crisis ‘new normal’ emerging in international law. You speak of international law’s ‘parallel universes’ – of places and spaces of resistance where ‘un-crisis’ thinking might be developed. Can you expand on this and talk about how this applies in the post-crisis world you describe?

**Di:** In a dystopian setting that is so strongly marked by hostility to feminist, queer and postcolonial critique, the need to find ways to carve out spaces for analytical thinking, progressive politics and activism becomes even more urgent. Both life and politics need to be reclaimed and protected from the grip of post-crisis law and governance. I am encouraged by the almost daily street protests across the US that are contesting the new Trump ‘reality’ and refusing its normalization, just as the counter-hegemonic movements – that you refer to Anna – are exposing the hollowness of the ‘green’ credentials of neoliberalism. And I have been

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<sup>37</sup> Catherine Corson and Kenneth I McDonald, ‘Enclosing the global commons: The convention on biological diversity and green grabbing’ (2012) 39/2 *Journal of Peasant Studies* 263-283.

encouraged too by many colleagues I have found in the ‘parallel universes’ of the back corridors and side-bars of international law conferences with whom, sometimes much to my surprise, I share perspectives, discuss tactics and find support.

The main challenge is to keep breathing hope and life into our wide-ranging imaginaries of feminist futures. As international lawyers/legal academics, many opportunities are available to us to actively shape and promote feminist/liberatory goals, although they also often involve taking risks. As researchers, we can use gender as an analytical tool to push at the boundaries of orthodox thinking, expose the hierarchies of privilege and exclusionary tenacity of our discipline, and ensure that marginalized and demonised knowledges are valued in our work, including the multiple forms of communicative intelligence that you refer to, Anna. As teachers, we have a great opportunity to share our fears and hopes with our many students, to build their awareness of the dangers of being mere ‘technicians’ of our discipline and the life-sustaining importance of critical engagement and activism. And as lawyers, we are well-placed to expose the power and the politics of law – its masculinist, white, imperial, life-threatening actuality – and look to the traces left by past movements of rebellion in international law (against colonialism, racism, misogyny, armed conflict, economic exploitation and inequitable development) to provide footholds for another uprising that rejects the ‘new normal’ of the present. In this sense, returning to your earlier remark about the adaptive capacity of law to return to its status quo commitments, I think/hope that this return is never complete and that traces of liberatory struggles remain which can be rejuvenated by future struggles.

Which brings me to the challenges of surviving as a feminist in international law. Like the UN Conference on Disarmament, the international legal establishment is clearly committed to maintaining the status quo. To work in such a powerful and elitist discipline presents many quandaries, including that our critical engagement may lend it unintended

‘feminist’ legitimacy in the form of feminism’s institutional doubles. Besides risking cooption, feminist work in the legal academy may also threaten one’s academic standing and privileges, and even our jobs. We are faced with many, often invidious, calculations about how far we are prepared or able to go. For me, surviving in this environment is as much about the relationships we foster within the academic and legal institutions that we inhabit, as it is about the legal advocacy and change that we might hope to accomplish. We need to ensure that feminists have ways to find and support each other, and that the hierarchies that operate so powerfully within our discipline are disrupted – or at least subverted – by the collaborative ways we work with each other, our students and other colleagues. I have never had reason to doubt that the ‘personal is political’ and that small acts of resistance can have powerful effects.

The law can be, and usually is, part of the problem. Our quest as feminists relies on not vesting too much power in the law as against other means of struggling for social justice and the dismantlement of entrenched and naturalized hierarchies of privilege. Yet I also think that law has a role to play in the realization of a peaceful and equitable global community, especially in holding those who exercise economic, military and governmental power accountable. A feminist logic of social justice and peace needs to operate both outside and within the boundaries of international legal institutions, universities and other fora. It needs to juggle the uneasy tensions between ‘compliance’ with governmental methods and processes in the hope of creating footholds for feminist change, and ‘resistance’ to the inequitable and militarized framework that is institutionally embedded, as other colleagues have observed.<sup>38</sup>

For inspiration, I have sometimes turned to futuristic novels, which is how I came to the idea of ‘un-crisis’ thinking, following Marxist international lawyer China Mieville’s lead

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<sup>38</sup> This is a reference to the tension discussed in Sari Kouvo and Zoe Pearson (eds), *Feminist Perspectives on Contemporary International Law: Between Resistance and Compliance?* (Onati/Hart 2011).

in his novel for young adults *Un Lun Dun*.<sup>39</sup> His fantasy city, UnLunDun, is the flip side of the London we all know, where all the unwanted people (like bus conductors) and unwanted things (like broken umbrellas and smog) end up, in a kind of ‘parallel universe’ hidden from view. ‘Un-post-crisis’ thinking, like Mieville’s ‘un-gun’, is the flip side of crisis/post-crisis thinking. The un-gun (which uses friendly ‘ammunition’) is used to fight the ‘evil’ smog that creeps into the brains of UnLunDuners and has addictive and malicious powers (rather like post-crisis thinking). Un-post-crisis thinking means refusing the logic of necropolitics and the single-issue campaigns of feminism’s institutional doubles. It means, together, supporting the capacious visions and activism of feminists and other liberatory movements outside the mainstream institutions of law and politics, as well as carving out spaces of resistance and hopefulness on the inside. For all this we need each other.

Anna, if we are to conclude, where does New Materialist thinking, which moves our attention from human agency to the multiple agencies of living materiality as discussed, lead you with respect to law, and promotion of the kind of foundational feminist change you call for?

**Anna:** I’ve begun to wrestle with what this means for law – and there is so much more thinking to be done – but minimally, it would mean creating new forms of legal openness to different kinds of knowing. It would also mean, ensuring law’s responsiveness to multiple forms of being and speaking and letting materiality gain its own ethical significance for law. Some relevant work is already being done on this by scholars working on the significance of the non-human in the production of normative relations.<sup>40</sup> Minimally, law would need to

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<sup>39</sup> China Mieville, *Un Lun Dun* (Macmillan 2007).

<sup>40</sup> See, for example, Margherita Pieraccini, ‘Property Pluralism and the Partial Reflexivity of Conservation Law: The Case of Upland Commons in England and Wales’ (2012) 3 *Journal of Human Rights and the Environment* 273–87; Andreas Philippopoulos-Mihalopoulos, ‘The Triveneto Transhumance: Law, Land, Movement’ (2012) 3 *Politica and Societa* 447–68.

move beyond the masked and oppressive centralization of a highly particular human agent, and to open to multiplicity, complexity and material liveliness in new and imaginative ways. This need not stop at giving rights to non-human entities, but could open up space for imaginative litigation strategies, new awards of personhood, new forms of legal *fora* and more. What this would mean for international law is an as-yet unaddressed question, for me at least, and I'd be really intrigued to take such thinking further towards considerations of law and the geopolitical. In the meantime, it is exciting to see forms of thought and praxis moving in directions deeply compatible with this vision. I think here, again, of multiple commons-based expressions of grassroots, situated co-living all over the planet between humans and other animals, and living systems.

But further questions remain concerning the implications of the 'rise of the machines', of privatized climate engineering initiatives, of the extensive financialization of 'nature', and so forth – which seems to be continuing apace under the strictures of neoliberal environmental law and governance. Quite apart from all the provocations arising from the impossibility of retaining, as it were, clean lines between 'the human' and the 'non-human', there are very important questions concerning the potential for a beefed up form of turbo-capitalist subjectivity to rise to even greater power and prominence, to further entrench the disadvantages and injustices of 'oppression as usual'. It is highly foreseeable, in the age of the 4<sup>th</sup> Industrial Revolution, that the usual 'outsider' subjects – both human and non-human – with their objectified status as 'bodies' either in the way of, or the raw material for, turbo-capitalist consumption, will continue to provide the material base for extensive plunder and exploitation in the service of neoliberal capitalist appropriation. In such a foreseeable configuration of injustice, it may well be that machines and new forms of artificial intelligence are complexly constituted as privileged 'insiders' to a capitalist techno-economy, even as they are instrumentally deployed to serve elite interests. All such questions and

possibilities must, to my mind, form a core component of future-facing feminist reflection upon liberatory struggle. There are multiple ethical sources to draw upon, key among which, to my mind, are New Materialist thought and reflection, and the multiple, dispersed, complexity-responsive and exciting community initiatives emerging all over the planet as innovative, ground-level responses to injustice and predation. My own hope is that a consciousness-shift can take place before the post-crisis ‘new normal’ forcibly destroys these multiple signs and sources of hope.<sup>41</sup>

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<sup>41</sup> For further resources, see the ‘Reimagine the Future’ project and film, available at <http://gnhre.org/reimagine/> (date of last access: 5<sup>th</sup> September 2017).