

SCHOOL OF LAW AND SOCIAL JUSTICE

INTERNATIONAL CRIMINOLOGICAL RESEARCH UNIT (ICRU): RESEARCH SEMINAR

WEDNESDAY MAY 9, 2018: 3.30 p.m. - 5.00 p.m.

RENDALL SEMINAR ROOM 10

**'The immoral, the illegal and the criminal. Exploring the relationship between law and corporate harm in Indonesia'**

**Professor Fiona Haines**

**University of Melbourne**

**Abstract:** This paper will draw on two separate case studies in Indonesia. The first case study, development of a REDD+ scheme in West Kalimantan, illustrates the challenges involved in a business attempting to comply with all legal requirements to set up its operations. Ultimately, this attempt failed. The second case study, palm oil in Indonesia and the specific case of Wilmar, also comes from West Kalimantan. Here, the business model involved ignoring many legal requirements and then only addressing illegality after the plantation was operational. However, close attention to the details of this case caution against drawing easy conclusions about the connection between illegality and corporate crime. Certainly, there were significant harm wrought by Wilmar in its operations most particularly in the form of pushing people off their land, intimidation and illegal deforestation. However, there were reasons why breaking the law took place. The case studies demonstrate a different dimension in challenges to use law to shape business activity that allows socially responsible, ecologically sustainable and commercially viable business to flourish. Ultimately, the analysis supports the notion that business harm often involves illegality but also reveals a deeper antagonism between law and business that can fuel impunity.

**Fiona Haines** is Professor of Criminology in the School of Social and Political Sciences at the University of Melbourne, Adjunct Professor at the Regulatory Institutions Network at ANU and Fellow of the Academy of Social Sciences in Australia. Her recent books include *The Paradox of Regulation: what regulation can achieve and what it cannot* (2011) and *Regulatory Transformations: Rethinking Economy Society Interactions* (2015). Her major current research projects include an analysis of how to hold multinational corporations accountable for human right's abuse, the social impact of coals seam gas exploration and rethinking regulation in an ecologically constrained world.