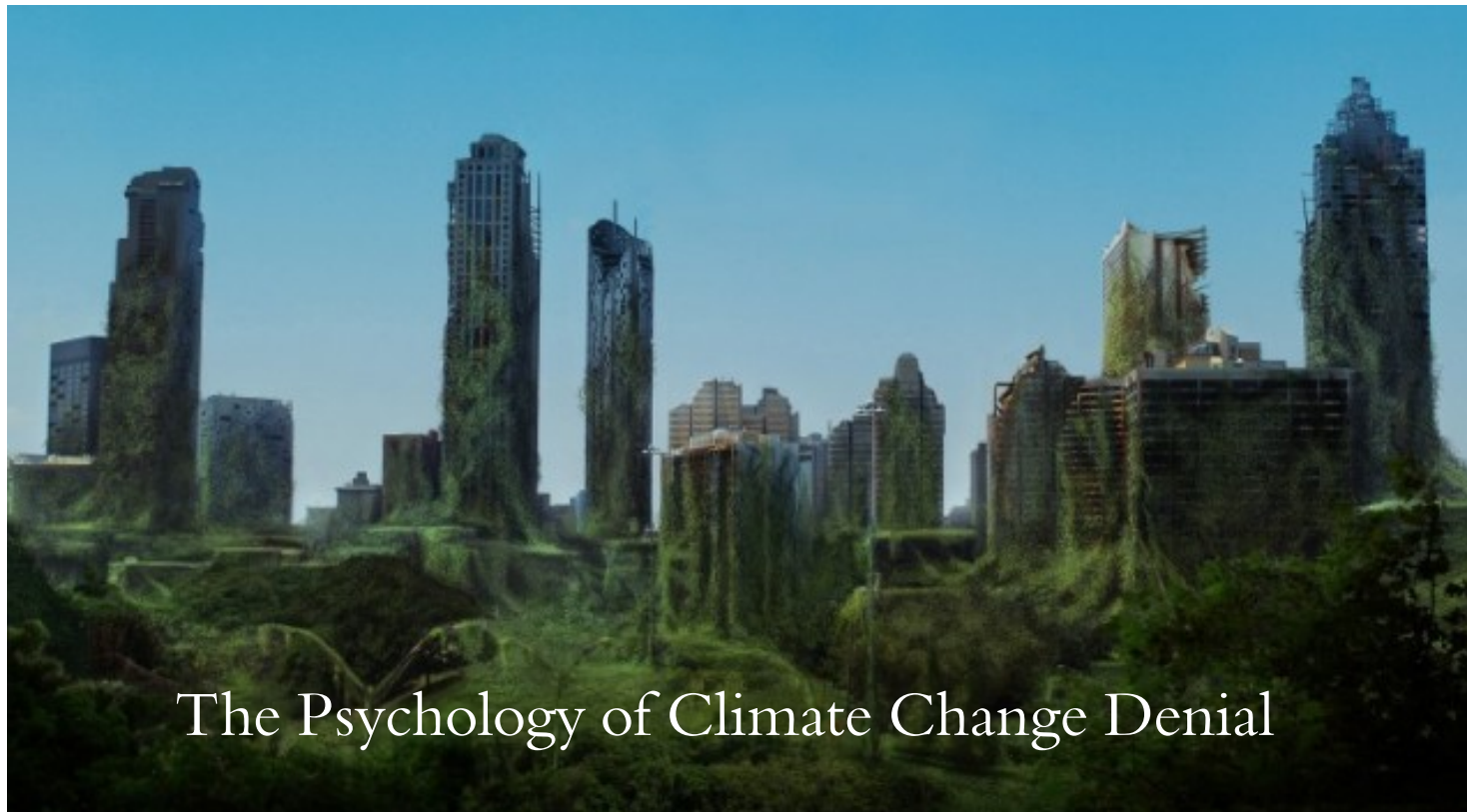


# De Minimis

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## The Psychology of Climate Change Denial

**LACHLAN MACFARLANE**

If you're anything like me, the words climate change only occasionally buzz around the back of your head, perhaps after reading an excessive bi-monthly power bill. The climate crisis either feels like an issue that has faded in relevance, or that someone else is busy taking care of. It hasn't made the news since all that unfortunate business with Julia Gillard's carbon "tax". Even the name is less threatening than the previous, more ominous moniker, global warming.

Of course, the antithesis is reality. The atmosphere continues to be pumped full of carbon, and the world continues to warm. According to the Climate Council, June was the 14th consecutive month of record-breaking heat worldwide. Warming has not meaningfully stalled, or slowed down, and humanity is still the cause. At this rate, the world will be four, perhaps a catastrophic six degrees hotter than it would have been without us, by the end of this century.

How can we know something is true, but determinedly act as if it is not? As it turns out, that question has a lot of psychological dirty laundry, described in George Marshall's book *Don't Even Think About It*.

As a supposedly faraway threat, we mentally "discount" climate change. We imbue insignificant actions with social meaning, and give ourselves "free passes" for mundane actions like installing solar panels, taking public

transport, or using a KeepCup at Porta Via. We distract ourselves with more upbeat storytelling than the narrative of a human civilisation suffering a long, slow decline. And if that fails to calm us, our basic response to existential anxiety kicks in. We become either wilfully blind, or outright, stubborn deniers. Sadly, the bullying of the latter group enforces the apathy of the former group.

Perhaps even, as law students, we are uniquely trained to ignore climate change. Every case we read has a clear pair of adversaries with a defined conflict and outcome, and we rarely are allowed to look at the broader picture. We lap up the individual justice served in personal injury cases, with only passing mention of much more cost-efficient no-fault compensation schemes that exist in other countries. We whittle down complex facts to a single ratio, and ignore evidence extrinsic to the contract, or causatory factors which are too remote. Nuance is relevant only so far as it can help us to argue for our newest client's problem. And how many of us want to think about the immense wealth inequality which we are helping to enforce by clerking at Freehills or Minters?

We are adept at engaging a mental blind spot. But climate change is a diffuse problem with no single enemy or solution. It resists such practised rationalisation.

One might think the solution to apathy is simply to motivate people, but, like my Admin cram in Swotvac last semester, well-meaning

action is counter-productive with flawed methods. Climate change has been framed as an "environmental" issue, and an environmental issue exclusively. It is the domain of political parties who will never form government, and stuffy academics in lab coats. It is communicated through images of droughts, bushfires, floods, polar bears, and sad-looking African children, which, despite their poignancy to myself, will only ever appeal to a portion of the voting population. The recent relegation of our Environmental Law elective to Law Masters level seems to demonstrate the unpopularity of "environment-only" topics. Refusing to broaden this discourse will lead as inexorably to our destruction as outright denial. But tree-huggers and scientists are subject to the same in-group inertia as the rest of us.

What is the take-away message here? What can we actually do? George Marshall seems to think that the answer is learning from religious movements. Only religion, he argues, has ever motivated people to act en masse against incalculable threats for uncertain rewards. This seems like a Hail Mary pass to me, but he's right that we can't get out of this hole by digging up. At the very least, I think we should throw off our wilful blindness, read the latest science, and think carefully about our remaining years of climatic normalcy. At this stage, it's probably due diligence.

*Lachlan Macfarlane is a second-year JD student*

## A Monkey in Silk is a Monkey No Less: A Reply to the 'Critics'

JASMINE ALI

I have canvassed response, after response, draft after draft, hoping to find some way to satisfy the 'critics'. I thought that I needed to display my intellectual prowess, to wave the logicians wand, and dispel blow, by blow, the line of 'reasoning,' offered by the nameless and faceless challengers.

But so evident in the 'reasoning' of the 'critics' was an unwillingness to treat the subject of the article, in the same manner, and with the same standards and generosity, as has been given to other articles in *De Minimis*, that something else is going on. When I looked further into it and I found an article recounting an incident of sexual assault at an MLS event printed last year. Tellingly, I did not see the perils of subjectivity, or the poverty of anecdote reprimanded there. I have concluded therefore, you do not warrant a response of the kind that you demand.

And so, after searching for tools to make sense of this experience, I found that this extract sums up our interactions well:

"When you removed the gag that was keeping these black mouths shut, what were you hoping for? That they would sing your praises? Did you think that when they raised themselves up again, you would read adoration in the eyes of these heads that our fathers had forced to bend down to the very ground? Here are black men standing, looking at us, and I hope that you-like me- will feel the shock of being seen. For three thousand years, the white man has enjoyed the privilege of seeing without being seen...The white man - white because he was man, white like daylight, white like truth, white like virtue-lighted up the creation like a torch and unveiled the secret white essence of beings. Today these black men are looking at us, and our gaze comes back to our own eyes; in their turn, black torches light up the world and our white heads are no more than Chinese lanterns swinging in the wind." - Black Orpheus, Jean- Paul Sartre

And so, with your responses, you have demonstrated not only that the issues of racism persist in the fine corridors of Melbourne Law School, but have also provided a glimpse into the attitudes that Aboriginal people and certain ethnic communities confront within the legal system; perched as it is, on-top of the deep racist foundations of denial and dispossession.

I am reminded of this every semester, when I show up to the exam hall in the Royal Exhibition Building, the place where the beginnings of the White Australia Policy was first legislated. I am reminded of it when I see Pauline Hanson, relaxed, smiling in Parliament, and when the Minister for Women wraps her in a warm, gentle embrace; happy, together, in Australia.

See you in class.

*Jasmine Ali is a second-year JD student*

## On the Other Side of the Keyboard: The Problem With Anonymous Commenting

ALICE KENNEDY

Last week, anonymous contributors used the *De Minimis* comment thread to post deeply ugly content. It is not the first time that a comments section has devolved into sledging. I have written for *De Minimis* several times. I care about maintaining it as a forum for law students to express themselves with their arguments, their insights and ideas. I am not prepared to see this publication used as a vehicle to anonymously victimise others.

That there is racism, sexism and classism in the law school is not surprising. That law students represent a diversity of views does not mean that those views are reflective of tolerance and equality. There's a lot of prejudice here, if you bother to scratch the surface.

Some argue that there is merit in allowing these opinions to be aired unmoderated on *De Minimis*' comment threads. Doing so exposes these undercurrents and makes them impossible to ignore. Indeed, last week, the commenters' words proved the author's point - that racism and marginalisation are real issues in the law school.

I have two concerns with this view. Firstly, that this means of furthering debate comes at a potential cost to authors of *De Minimis* articles. Law students are brave, brilliant and ready to fight for what they believe in. They are able to defend themselves and willing to defend each other. However, I believe there ought to be a minimum standard of conduct upheld online to ensure that contributors do not feel deterred from expressing their ideas.

Last week, the comments written diverged from fuelling debate: they were designed to devalue the thoughtful contributions of others and to disenfranchise. In other instances, comments have been used to smear and bully. That kind of discourse should not be tolerated. I think that we have a responsibility to our contributors to provide a forum in which their ideas can be hotly debated without subjecting them to behaviour that is beyond the par.

According to *De Minimis*, a minimum standard is currently in place to ensure that "grossly offensive or discriminatory" content is deleted. In this case, it was stated that the comments came "close to, but did not breach this standard". I would differ on that point. Accusing an author of being a liar, especially in that context, is grossly offensive and an unjustified attack on a person's integrity. In any event, I would also suggest that moderation should extend to disabling the comment function on threads where comments descend into

sledging.

My second concern is that commenters to *De Minimis* should be prepared to be held accountable for what they say, both generally and in particular cases such as these. Last week, I suspect the commenters knew their words went beyond being controversial. I suspect they would not dream of addressing people in real life the way the author was addressed online, because of the repercussions to their reputation. I can think of few people who would look kindly on what was said and I can think of fewer employers who would hire a person who openly expressed such views.

I do not believe *De Minimis* should be used as a means of attacking others at no cost to the perpetrator. Online commenters ought to own their words. To avoid the disinhibition and vitriol that anonymity enables, there should be a means of identifying commenters in case of future incidents that are not borderline, as this incident was judged to be. There are two likely issues with this course of action: Firstly, it may not be possible to require commenters to post under verifiable names or to provide their email addresses so they are known to *De Minimis* moderators. However, I think that difficulty can be overcome. Secondly, it is also possible that removing or reducing anonymity would have an adverse effect: we might run the risk of fewer people commenting altogether. Unfortunately, anonymity is a double-edged sword.

Nonetheless, in spite of the risk of fewer comments being made, tempering anonymity would serve the valuable function of deterring inappropriate behaviour overall. And, if the JD Facebook page is anything to go by, I doubt that debate will actually be stifled. Moreover, if future behaviour amounted to repeated breaches of online standards or bullying, knowing the identity of the commenter would create an avenue for further action to be taken.

There is one last thing I would like to say, and that is to the unkind anonymous commenters, wherever they may be. In the real world, in your professional and personal lives, you will be measured by the content of your character, inclusive of your treatment of others. The person you are online is not divorced from the person you are in reality. It is a part of who you are. Ask yourself if the person you want to be is disrespectful and intolerant. Then ask yourself if you aspire to be someone better than that, and what you should do to make a change.

*Alice Kennedy is a second-year JD student*

# MLS Diversity Problem: More Than Just Racism

KAI LIU

Jasmine Ali is right when discussing the issues that MLS has with diversity. She is right, and her lived experiences should not be doubted by people who read her article. What she has experienced, what all people, not just PoC have experienced, are valid life events, and should not be doubted, nor attacked. The comments on the article calling her life experiences “asinine” were disgusting.

But racism is merely one side of a stacked, diversity restricting, coin. Jasmine rightly identified that MLS students tend to be:

“students with historically high levels of socio-economic stability, and their flow on effects, adequate study time, financial support from families, a culture of veneration for the student’s chosen academic pursuit, and equally important, the relative freedom experienced from the fetters of day-to-day discrimination.”

Race is merely one part of the equation.

Class forms another. To clarify, I’m not arguing that class informs race, nor that race informs class. Rather, there is a worrying and correlated trend between those of lower socio-economic classes, and racial minorities. It is reductive to the extreme to say that racism is caused by class. As a minority, I have been lucky enough to lead a privileged life, in a stable household, and where I was given freedom and space to grow academically.

Not all of those who are minorities are so lucky. Aboriginal and Torres Strait Islander peoples are one such group in our society who are, disgracefully, over represented in the lower socio-economic classes. Refugees form another. In fact, even those from ‘model minority’ groups, such as East Asians and Indians find themselves in the ‘lower classes’. For them, the stigma attached to being an Asian ‘not good at study’ may be worse.

It’s no surprise that a law school that prides itself on academic achievement, and on success in the LSAT, would attract those who come from backgrounds where resources are available to ensure that they succeed. I’m not accusing MLS of having racist admittance policies, but those who can take time off to study for the LSAT will, of course, do better than those who cannot. Is it a surprise then, that students who have functioning families, don’t have to worry about working, and who

can afford to intern without pay are over represented in MLS?

And if that’s true, then of course the cohort will be overwhelmingly white; those who are able to afford to do so are likely to be overrepresented in that demographic group. It also explains why certain groups of East Asians are disproportionately represented in MLS as well.

But even those who are from minority groups that have generally been well off in this multicultural society have been discriminated against. As an Asian, I am cognisant of the existence of racism in our industry, and in business more generally. Of course racism exists in our society. To claim otherwise would be too reductive. Class is not the explanation for everything. For heaven’s sake, I prominently display my law textbooks every time I walk into the library, just to make sure people know I’m not a commerce student. I’ve felt the judgemental stares, and I wouldn’t wish them on anyone. Until we address underlying structural issues in our society, however, any proposed solution to racial inequality is merely shuffling the deckchairs on the Titanic as it sinks under the weight of decades, if not centuries of racial minorities stuck in lower socio-economic classes.

*Kai Liu is a second-year JD student*

## The 'Normal' Finishing Time

TIM SARDER

You’ve booked in a course planning meeting.

When you arrive at the appointment for the now-centralised service, you find another Unimelb student – who you can’t guarantee has ever set foot in 185 Pelham St – waiting as your advisor. She thanks you for coming in, and tells you that just she was just ‘catching up on the law course structure’.

It is midway through second semester first year. You’ve already pushed the Torts intensive back to November. You’ll later discover this was a sound choice, as the enthusiasm of Brad Jessup will make you greatly enjoy the subject, taking the sting out of being back in a classroom less than a few weeks after your Semester 2 exams.

With having to balance your classes with paid work to get by and other responsibilities (a challenge indeed), you’ve found that even doing three classes is a significant enough commitment that doing four sounds like a nightmare – you can’t imagine someone in your circumstances maintaining their sanity if they attempted it (for any JD students reading this who have lived out of home for the duration of their degree, worked to support themselves and have done four subjects a Semester and will finish in three years; I admire your resolve, time management and balls, but am not sure that it is worth it).

You tell the course planner that you want

to extend. She takes you through what your timetable might look like for the next couple of years, and explains that extending is as simple as not enrolling for a full load that Semester – there’s no magical ‘Extend’ button to click, or special permission you need to receive. She tells you, along with Torts, you’ll have to do at least one more intensive if you never want to do more than three subjects at a time.

She tells you ‘more than half of law students don’t finish in three years’. You take her word for it, but wonder where she got the statistic.

You check whether you are still eligible to receive Centrelink if you extend. You find out that you can receive Youth Allowance for one semester over ‘the minimum time it would normally take to complete the course’. While you understand the basic maths of 3 years + 1 semester means that at maximum, they will provide support for 3.5 years – and not 4 – you query whether the more operative word in that sentence is ‘minimum’ or ‘normally’. If a majority of students extend, is 3 still the normal finishing time? Sure, it’s the default. But technically the minimum is 2.5 years, for the speed demons out there.

While the JD Course does advertise its flexible course options on their website, three years is the ‘standard’ one. And nowhere are statistics made available about how many students will take a longer period of time to finish their degree – many

students who extend did not initially intend to. It would not be in the interests of marketing to tell students who have just spent at least three years in an undergraduate degree that they’re going to be more than doubling their entire time at university by the time they finish their JD.

In the midst of pursuing another legal opportunity, you will let one of your subjects fall by the wayside. You will fail it and repeat it next year, and it will mean that you will have to do another intensive at some point to stay on track to finish in 3.5 years. Although intensives will end up being some of your best marks and most enjoyable learning experiences, it will suck to have to give up a further break that you could have used to do paid work – or indeed, do what a student who has been burnt out to the point of failing needs the most – take a holiday.

You will, later, sit in a lecture. The lecturer will, in describing time commitments and study planning, remind the class that this is a ‘full-time course’. They will incredulously ask the class whether the university ‘even allows students to take on part-time work’ during Semester. You will – despite liking the teacher and enjoying their classes – feel those comments come down from an ivory tower that has no understanding of the student experience, at least your experience. You feel alienated, because you know you couldn’t do the course if you didn’t work. But you say nothing, and the day winds on.

*Tim Sarder is a second-year JD student*

# The Hiatus, and Why We Should Embrace It

DOMINIQUE LOGAN

Hiatus: (noun) a pause or break in continuity in a sequence or activity.

Hello semester two, I see you, and you're putting up a good fight. Yeah, the sheen of first year has worn off; clerkships have crept their way into my life, and keeping up with subjects and research papers is just downright exhausting. And then, when three days before clerkship applications were due a close family member took his own life, I almost let you win, semester two. Almost. But you see, I discovered the best way to remedy you- the Hiatus.

I am the first to admit I say yes to far too many things; social, extracurricular and academic. And I've always (stubbornly and stupidly) maintained that I'm not a quitter. So, when I found out about my cousin's death, I wasn't emotional. I mean, physically, it hurt – it felt like someone reached into the middle of my abdomen, took some vital stabilising organ, and then just bailed on me and my open wound. It still does feel like that. However, I wasn't emotional, because it simply wasn't practical – I had shit to do.

Yet, once I submitted that last application, all those pesky human feelings crept in. Every time I sat down to study my brain would start asking 'Why couldn't he see how much we all loved him?' 'Why couldn't he feel my love?' 'Should I have tried harder?' 'Did he die thinking we didn't care?' I'd take the Consta take home exam a million times over than have to experience a minute of these kind of thoughts.

Safe to say, I felt defeated. So, I decided to take a Hiatus, and here's what I learnt. Firstly, please don't think you have to experience the death of a loved one in order to feel defeated – sometimes it's accumulative. The straw that breaks the camel's back can be an average mark, or forgetting you were on call in class (take note teachers- this is v stressful), or accidentally sleeping through your alarm. And that's completely okay. Seriously, you're the best (and only) judge of how you're feeling and you do not need to justify them with excuses. Secondly, feeling defeated is not permanent, and you can remedy that feeling.

So, if that camel's back breaks, here's what I'd suggest: Let it.

Go find people that love you, let them know how you're feeling, and do not return to MLS for at least 48 hours. If you're going to miss class, email your teachers to let them

know (they're real humans, guys!), and then turn off your phone. Ignore the people messaging 'Why aren't you in class?!'; 'Oh my god I cannot get my readings done this week!'; because once that camel's back is broken, these problems are not problems. They're luxuries.

Do what makes you feel good – go for a walk, hang out with your dog, or just lie in bed for hours staring at that weird crack on your window pane that kinda looks like Dobby. But the main point is – forget you study law. Please please please, give yourself permission to fall a week or two behind, and opt to get on top of what's going on in your brain and that weird tight knotty feeling near your diaphragm (we've all felt it). Personally, I believe a Hiatus will benefit you more than reading Work Choices before you get to class. Yeah, this is not going to magically fix your problems – we signed up for the JD and eventually will have to get back to working hard. But, I can guarantee the Hiatus will make it a lot easier to be inside your brain. And that's so important.

So let's accept that we don't have to be 100% on 100% of the time, and embrace the Hiatus. And as a side note – screw you semester two, we got this.

*Dominique Logan is a second-year JD student*

## Forget Corporate Law, You Can Be a Space Lawyer

HOLLY WATSON-REEVES

We've all had our undies in a twist lately about whether corporate law is a benign necessity or the work of the devil. My carefully considered opinion on the matter is that corporate law can suck it, because I've just found a much better option for all of us.

### SPACE LAW

Despite being the 'number one law school in Australia', MLS has truly failed us by not offering this certifiably dope subject. Luckily, I'm on exchange at McGill (Canada) this semester – the home of the Institute of Air and Space Law – and I'm writing home to answer all your questions.

Holly, what the fuck is space law?

Good question. I enrolled in this subject on the sole basis that it sounded sick, so tbh I didn't really know either. Space law is a body of national and international laws and customs that regulate human activities in outer space. Fun facts:

- You cannot appropriate outer space or celestial bodies by claim of sovereignty, by means of use, or by any other means;
- Astronauts have the best job descriptions ever, aka the 'envoys of mankind';

- No Death Stars – you are not allowed to put weapons of mass destruction in orbit, on celestial bodies, or station them in outer space in any other manner.

How is this even a thing?

When the decade long intercontinental thermonuclear dick waving contest\* (aka the Cold War) got going, someone wondered whether our existing laws would cover all the shit we were blasting into space. Unfortunately, because stuff in space refuses to stay still and follows orbits instead, the ordinary rules that linked sovereignty to overhead airspace wouldn't work. So now we have space law, which takes into account the wonderful peculiarities of the space environment. Thanks, Russia!

Since then, five main treaties have been adopted by the UN General Assembly. These include things with cool names like the 'Outer Space Treaty' and the 'Moon Agreement'.

But Holly, what if I'm really set on pursuing the capitalist agenda / sticking it to the man? How do I do that in outer space?

I have wonderful news for you, my friends. Everybody wins.

If rapid, mega-profit making is your jam, then jump on in, because anyone involved in the space industry in the next decade or two is going to find their way into the upper 0.00000001% of our new space-faring elite. You will be paid squillions to answer questions like: How do I get a licence to own and launch a spaceship? How will companies establish their own landing zones and exploit

outer space resources without property rights? How do I get these cashed-up space tourists to sign waivers so that they don't sue me after they inevitably receive enough cosmic radiation for a lifetime after a million-dollar, 2-minute sub-orbital jaunt?

If you're more of a latte-sipping hipster commie, like myself, then never fear! You, too, can find yourself agonising over things like: What do we do about the legal loopholes that have already allowed 500,000 pieces of space debris to accumulate around the planet? Do we need to apply principles about precaution and biodiversity protection in space? Will I even get to see space on this poor-ass pro bono salary?

Sold. How do I become a space lawyer?

Unfortunately the space law job market is incredibly competitive, and there's only really one group of students at MLS who will make it. I, for one, welcome our new #LizardPeopleofMLS overlords.

\*Special thanks to Encyclopedia Dramatica for this most wonderful and historically accurate phrase.

*Holly Watson-Reeves is a third-year JD student*

## De Minimis AGM

Come along to our AGM on Thursday the 6th of October at 6.30pm. We'll be in room G27 and there will be reports, elections and pizza!