



Dear Friends of the Sydney Centre

Welcome to the inaugural newsletter of the Sydney Centre for International Law, which aims to update you on the many activities of the Centre and its members: public seminars and lectures, research programmes, publications, policy submissions and legal opinions, presentations (such as conference and seminar papers), research grants, and media commentary. This first newsletter is a bumper edition covering all of 2007 but future issues will come out every six months.

2007 was a busy and productive year for the Centre. One highlight was a visit by the first Chief Prosecutor of the International Criminal Court, Luis Moreno-Ocampo, who successfully prosecuted some of those responsible for mass political killings in Argentina in the 1970s. The Prosecutor presented a well received public lecture to an Assembly Hall packed with over 200 people (see p 5), and spoke to international law student classes. His visit was coordinated by Centre Director (until mid-2007) Dr Brett Williams, and supported by Australia's Department of Foreign Affairs and Trade, as well as the Faculty's Parsons Visitor Scheme.

Another highlight was the 2007 International Arbitration Lecture, hosted by the Centre and major law firm Clayton Utz, which brought one of the world's leading arbitrators, Professor Gabrielle Kaufmann-Kohler of the University of Geneva, to Sydney for a large public lecture in the NSW Supreme Court (see p 7). Coordinated by Centre Programme Director Dr Luke Nottage, her visit also included a Continuing Legal Education seminar which covered cutting edge issues in arbitration for the benefit of Australian-based practitioners.

The Centre's public seminar and lecture series went from strength to strength in 2007 (see p 3), covering a large number of diverse and topical issues, including whaling, cluster bombs, international criminal law, criminalising war, anti-terrorism law, disability rights, oil and boundary disputes in the Timor Sea, Australia's security alliance with the United States, the Balibo inquest into the deaths of journalists in East Timor in 1975, the death penalty in Asia, incitement to genocide, and World Trade Organisation negotiations on agriculture.

In the lead up to the 2007 Australian federal election, the then Shadow Foreign Minister (now Attorney-General in the new Rudd Government), Robert McClelland MP, gave a thoughtful public lecture to over 80 people explaining the importance of the international rule of law in foreign policy - and which even attracted the attention of ABC television comedians *The Chaser*.

Soon after its election in late 2007, the new Government demonstrated its commitment to the rule of law by announcing its intention to initiate legal proceedings against Japan to stop commercial whaling in Antarctic waters. Centre members Professor Ivan Shearer, Dr Tim Stephens and Dr Christopher Ward helped to draft an opinion on legal avenues against whaling in 2007 (see pp 18 and 29), which had an important influence on public debate.

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2007 Newsletter

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Nigel White, *Wallaroo* (2007)
Sculpture by the Sea, Bondi

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Other legal opinions, policy submissions and research of Centre members have also made important contributions (see p 20), influencing parliamentary inquiries, European and Japanese law reforms, the NSW coroner's recommendation to prosecute war crimes at Balibo, and the Australian High Court in its decision about terrorist control orders in *Thomas v Mowbray* (2007).

Notable achievements include the award of major taxation prize to Professor Lee Burns in part for his contribution to tax reform in developing countries in the Pacific region, while Professor Ivan Shearer served on an international eminent persons group monitoring the investigation of serious human rights violations during the conflict in Sri Lanka (see p 29). Centre members were also involved in the training of senior officials from the Iraqi Ministry of Human Rights for AusAID (Australia's foreign aid agency).

In one important initiative, previous Centre Director Dr Brett Williams created new Research Programmes (see p 13) through which to coordinate the research interests of Centre members. Each programme is directed by a Centre Associate, and the programmes cover Public International Law, Private International Law, International Human Rights Law, International Economic Law, and Comparative and Global Law. We are also pleased to welcome the new Dean of Sydney Law School and former Director of the British Institute of International and Comparative Law, Professor Gillian Triggs, as a member of our Management Committee.

In another important initiative, from late 2007 the *Australian International Law Journal* (the journal of the International Law Association (Australian Branch)) will be published in association with the Sydney Centre (see p 15). The journal has become a peer reviewed law journal, publishing in all areas of public and private international law, and with Sydney Centre members serving as Editor in Chief and as some Associate Editors.

The Centre has created new opportunities for law students to become involved as student editors on the Journal (in addition to new student internship positions in the Centre itself). Students involved with the Centre have proven highly accomplished, with Sydney law students becoming world champions in 2007 in the world's most competitive and prestigious moot, the Philip C Jessup International Law Moot Court Competition (see p 31).

These are just some of the activities the Centre has been involved in throughout 2007. The Centre would like to thank all of its members, friends and supporters in 2007 who helped to make the Centre a lively and engaging scholarly environment. All are welcome to attend our free public seminar and lecture programme, where, over a glass of wine, you can hear stimulating speakers on issues of pressing international concern. We also welcome your ideas about what the Centre should be doing, or what it could be doing better, and we look forward to meeting more of you at our events in 2008. Please also encourage friends and colleagues to join our emailing list - through which you receive



notice of events - by emailing law.scigl@usyd.edu.au. In early 2008, the Centre will unveil a new website, which will enable you to keep up to date with Centre events and research, including the full text of many Centre publications.

Best wishes in 2008
Dr Ben Saul, Centre Director



Geraldton wax, University of Western Australia

Partners in 2007

The Centre would like to thank these organisations for partnering with us on events or initiatives in 2007:

- Amnesty International Australia
- AusAID
- Australian Lawyers Alliance
- Australian Lawyers for Human Rights
- Centre for Health Law, Ethics & Governance
- Centre for International and Public Law, ANU
- Chartered Institute of Arbitrators
- Clayton Utz
- Department of Foreign Affairs and Trade
- International Development Law Organisation
- International Law Association (Australia)
- NSW Disability Discrimination Law Centre
- Sydney PEN
- Sydney University Law Students
- UNSW International Law & Policy Group

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Dr Michael Fullilove
Lowy Institute for International Policy, Sydney

HE Judge C Weeramantry
Former Judge of the International Court of Justice

Centre Events

The Centre hosted a very active program of public events in 2007, including a regular seminar series, major public lectures and a special summit, and continuing legal education seminars.

Public Lecture: *Refugee Solutions or Solutions to Refugeehood?*

1 March 2007, 12.30–2 pm, Law School

Professor James Hathaway, University of Michigan

Professor James Hathaway is the James E. and Sarah A. Degan Professor of Law at Michigan Law School. He is one of the world's pre-eminent experts on international refugee law. He is the founding director of the Michigan's Program in Refugee and Asylum Law, Senior Visiting Research Associate at Oxford's Refugee Studies Programme, and President of the Cuenca Colloquium on International Refugee Law. Professor Hathaway's publications include more than sixty journal articles, a leading treatise on the refugee definition (*The Law of Refugee Status*, 1991), an interdisciplinary study of models for refugee law reform (*Reconciling International Refugee Law*, 1997) and *The Rights of Refugees under International Law* (2005) - an analysis of the human rights of refugees set by the UN Refugee Convention.

Public Seminar: *Teeming Voids: The International Law of Lawlessness*

8 March 2007, 12.30–2 pm, Law School

Dr Fleur Johns, Centre Programme Director

Places of 'extraordinary rendition', secret prisons, holding rooms for 'ghost detainees', unlisted flights: in recent international legal literature, these are configured as antithetical to public international law. Yet shadowy domains such as these remain crucial to international law's continued insistence upon the disciplinary and revelatory effects of legal conscience (whether individualized or vested in an 'international community'). Accordingly, the publication of the infamous torture memos, prepared by legal advisors to the Bush administration, was greeted among international legal scholars with a mixture of disgust, titillation, and triumph. It is that ambivalent response, among legal scholars, to the 'revelation' that the memos' publication enacted that this seminar probed. In so doing, it is concerned with the following questions: *How is the authority of international law constituted today, and what part do domains seen as lacking or preceding law play in that constitution?*



Dr Fleur Johns (centre) presented a seminar at ANU's Centre for International and Public Law in February 2007; seen here with Professor Kim Rubenstein (left) and Dr Mark Nolan (right)

Dr Fleur Johns is a Senior Lecturer in the Faculty of Law, University of Sydney, teaching and conducting research mainly in public international law and legal theory. Fleur is a graduate of the University of Melbourne (BA, LLB (Hons)) and Harvard

Law School (LLM, SJD). She is a member of the Editorial Boards of the *Leiden Journal of International Law* (co-editor, Articles), the *Australian Journal of Human Rights*, and the *Sydney Law Review* and a former Primary Editor of the *Harvard Human Rights Journal*. Fleur practised at the New York Bar for six years and has worked with a number of non-governmental and international organizations in Australia and elsewhere. Fleur's awards include the Menzies Scholarship (Harvard University), a Leverhulme Visiting Fellowship to the U.K. (Birkbeck College), and the Laylin Prize (Harvard Law School). Prior publications related to this seminar include: 'Performing Power: The Deal, Corporate Rule, and the Constitution of Global Legal Order' (2007) 34 *Journal of Law and Society* 116-138 and 'Guantanamo Bay and the Annihilation of the Exception' (2005) 16 *European Journal of International Law* 613-635.

Public Lecture: *The Law's Response to Terrorism: What mechanisms can best balance the interests of society and the rights of individuals?*

12 March 2007, 6–7.30 pm, Law School

Professor Brice Dickson, Queen's University Belfast

Professor Brice Dickson is Professor of International and Comparative Law at Queen's University Belfast, Northern Ireland. From 1999 to 2005 he was the Chief Commissioner of the Northern Ireland Human Rights Commission and before that a member of the Equal Opportunities Commission for Northern Ireland (1990-96) and of the Law Reform Advisory Committee of Northern Ireland (1997-2002). He serves on the British Council's Governance and Northern Ireland Advisory Committees. His publications include books on the Northern Ireland legal system, civil liberties in Northern Ireland, the European Convention on Human Rights, French law and the House of Lords. He is editing a volume for Oxford University Press on judicial activism in common law supreme courts.

Public Seminar: *Recent Investment Arbitration Decisions on the Standard of Fair and Equitable Treatment*

26 March 2007, 5.30–7 pm, Law School

Professor August Reinisch, University of Vienna, commentator, Kate Miles, Sydney Centre

Most bilateral investment treaties and many multilateral investment agreements contain clauses requiring the contracting States to provide 'fair and equitable treatment' to investors and or investments from the other contracting State. Today, fair and equitable treatment is one of the most frequently invoked provisions in treaty arbitrations and a considerable case-law has developed which helps to identify the precise meaning of the rather vague and general standard. This seminar focused on the legal bases of the 'fair and equitable treatment' standard as identified by investment tribunals. It will address such recent decisions as *LG&E v Argentina*, *Saluka v Czech Republic* (both 2006) and *PSEG v Turkey* (2007).

Professor August Reinisch is a Professor of European and International Law and Director of the LLM Program at the Faculty of Law, the University of Vienna. He holds degrees in law and philosophy and a doctorate from the University of Vienna and an LLM from New York University. His considerable consulting

and research experience in the field of international investment disputes includes serving as an arbitrator in the Austrian General Settlement Fund and as President in an UNCITRAL investment arbitration and serving as a member of the ILA Committee on the Law of Foreign Investment.

Public Seminar: *Climate Change Law: National and International Developments*

29 March 2007, 12.30–2 pm, Law School

Dr Tim Stephens, Centre Associate

Climate change law is emerging as the most fascinating arena for observing processes of national and international normative feedback, for three main reasons. First, because climate change is a truly globalised phenomenon that demands co-ordinated regulation of social, economic and environmental systems at micro, meso and macro scales. Second, because at each of these levels a range of legal responses are being developed (without a high degree of coordination) partly in order to influence the shape of an emergent international climate compact. Third, such an agreement is some distance from being agreed upon, notwithstanding some important steps to date under the rubric of the 1992 United Nations Framework Convention on Climate Change and the 1997 Kyoto Protocol.

This seminar focused on the actual and potential up-stream influence of Australian climate change law and policy on the development of an international climate change regime. It also considered cross-stream and down-stream normative flows as Australian climate change law at Federal and State levels takes inspiration from (and also inspires) climate change laws internationally and in other domestic jurisdictions. The overarching objective is to come to conclusions as to whether and how Australian climate change law may enable or obstruct the development of an effective successor to the Kyoto Protocol.



Dr Tim Stephens is a Lecturer at Sydney Law School and an Associate of the Centre. He is an expert in international dispute resolution, international courts and tribunals, international environmental law and the law of the sea.

Public Seminar: *Language Rights and International Law: Concepts, Perspectives and Pierre Bourdieu*

10 May 2007, 12.30–2.30 pm, Law School

Jacqueline Mowbray, Centre Associate

Language rights are protected in international law in different ways: minority rights, non-discrimination, freedom of expression and cultural rights all have implications for language use. This seminar identified common concepts and principles which these different areas of law apply to resolve conflicts regarding rights to use language. It then considered how these concepts and principles both enrich, and yet also limit, our understanding of language claims and the possibilities for resolving them. By orienting the relationship between international law and language policy in particular ways, these conceptual tools may, in some sense, constrain rather than enlarge the possibilities for 'linguistic justice'. The seminar suggested that an alternative

conceptual approach, namely that developed in the work of sociologist Pierre Bourdieu, may represent a more productive framework within which to evaluate questions of language use. In considering the usefulness of Bourdieu's work in this context, it is also hoped to draw some broader conclusions regarding the potential of Bourdieu's conceptual framework as an analytical tool for international law more generally.

Jacqueline Mowbray is a PhD candidate at Cambridge University, about to complete her doctorate in the Faculty of Law. Her research considers the role of international law in relation to language policy, drawing on the methodology of sociologist Pierre Bourdieu. Jacqui is a graduate of the University of QLD (B.A./LL.B., Hons - first class), the University of Melbourne (LLM) and the University of Cambridge (LLM, Hons - first class). She has practised law with Freehills in Melbourne and Barlow Lyde & Gilbert in London and taught at the University of Sarajevo, Bosnia-Herzegovina. Her peer-reviewed publications include writings on ethnic minorities' language rights, property laws in China and Indonesia, international tax treaties, and laws applicable to e-commerce. At Cambridge, she was awarded the 2004 General Sir John Monash Award and the 2002-2003 Britain-Australia Bicentennial Scholarship.

Public Seminar: *Chapter VII Powers and the Rule of Law*

7 June 2007, 12.30–2 pm, Law School

Dr Hitoshi Nasu, ANU Law College and Centre Affiliate

The expansion of the UN Security Council's activities since 1990s has posed a fundamental challenge to the supremacy of the rule of law over the influence of discretionary power. While the purposes and principles of the UN Charter as well as human rights norms set an 'outer limit' upon the exercise of Chapter VII powers, attention should also be drawn to an 'inner limit' specific to the valid exercise of the powers in conformity with the logical reading of the UN Charter. This seminar explored grounds for ascertaining jurisdictional errors that the Security Council may commit in exercising Chapter VII powers. To that end, it drew on the jurisprudence developed in the Australian migration law where the notion of jurisdictional error has recently been given a greater role against the backdrop of significant obstacles posed to judicial review of privative clause decisions.

Dr Hitoshi Nasu is a lecturer at the ANU College of Law. Prior to his appointment to the ANU, he was a part-time lecturer teaching international law in the Faculty of Law, The University of Sydney, where he also completed a PhD in 2006 by submitting a doctoral thesis on Precautionary Approach to International Security Law: A Study of Article 40 of the UN Charter. His recent publications related to this seminar paper include: 'Responsibility to React? Lessons from the Security Council's Response to the Southern Lebanon Crisis of 2006' (2007) *International Peacekeeping* (forthcoming); Kristen Daghish and Hitoshi Nasu, 'Towards a True Incarnation of the Rule of Law in War-Torn Territories: Centring Peacebuilding in the Will of the People' (2007) 54 *Netherlands International Law Review* 81-114.

Public Seminar: *The Prosecution of Mikhail Khodorkovsky*

13 June 2007, 6 – 7 pm, Law School

Robert Amsterdam, Partner, Amsterdam & Peroff, Canada

Mr Amsterdam discussed the cases in which he has been acting as defence counsel for Mikhail Khodorkovsky. His client, the former CEO of Russian oil company Yukos, was arrested in 2003 and charged with fraud and theft of Russian state property. Mr Amsterdam argued that in the criminal and tax proceedings the courts lacked independence, and did not adhere to Russian procedural and substantive law. Mr Khodorkovsky was found guilty and sentenced to 8 years prison. Mr Amsterdam argued that treatment of Mr Khodorkovsky in prison has violated Russian and international law. Mr Amsterdam also discussed the new charges of money laundering and embezzlement brought against his client in February this year.

Mr Robert Amsterdam is a member of the Canadian and International Bar associations. He holds a BA from Carleton University, Ottawa and an LLB from Queen's University in Ontario. He is the founding partner of the Toronto-based international law firm Amsterdam & Peroff. In his 25 years of practice, Amsterdam has overseen numerous high profile cases including shareholder disputes, corporate restructuring, fraud and asset recovery, corporate and human rights advocacy, and complex commercial litigation. He is also a specialist adviser on political risk. In 2003, he was retained by the former CEO of Yukos Oils, Mikhail Khodorkovsky.

Public Seminar: *Current Developments in International Criminal Law*

1 August, 5.30–7 pm, Law School

Dr Kriangsak Kittichaisaree, Ambassador of Thailand
(co-hosted by the UNSW International Law & Policy Group and the International Law Association (Australian Branch))

Dr Kriangsak provided a wide ranging overview and a unique perspective on current developments in this area of specialisation which has grown rapidly in recent years.

Dr Kriangsak Kittichaisaree is Ambassador at Large in the Ministry of Foreign Affairs of Thailand and is a leading international criminal lawyer. He was involved in negotiations for the International Criminal Court and is the author of *International Criminal Law* (Oxford University Press, 2001), one of the definitive texts in the area. Dr Kriangsak has an LL.M from Harvard and a PhD from Cambridge, and is an Adjunct Professor at UNSW Law School.

Public Lecture: *The New System of International Justice in the Wake of the International Criminal Court*

8 August, 6–7 pm, Law School, **Luis Moreno-Ocampo**, Chief Prosecutor, International Criminal Court

(the lecture was supported by the Faculty's Parsons Visitors Scheme and the Department of Foreign Affairs and Trade)

The Prosecutor of the International Criminal Court (see picture above at right) addressed the new system of international criminal justice being spearheaded by the Court. The International Criminal Court is the first ever permanent judicial body vested with jurisdiction over genocide, crimes against humanity and war crimes. The court has recently embarked on its first prosecutions, with the trial of Thomas Lubanga Dyilo in respect of crimes allegedly committed in the Democratic



Republic of the Congo, including recruitment of child soldiers, underway in The Hague and arrest warrants having been issued in respect of two individuals in respect of the situation in Darfur, Sudan, and five individuals regarding the situation in Uganda. An investigation into crimes allegedly committed in the Central African Republic has recently commenced. At the same time as the Court becomes operational, further countries are solidifying their support for the Court and recognising its role in promoting peace and security and the rule of law with Japan expected to accede to the Court's statute shortly.

On 21 April 2003, the Assembly of States Parties elected **Luis Moreno-Ocampo** of Argentina as first Chief Prosecutor of the Court. Mr Moreno-Ocampo has a distinguished career as prosecutor, trial attorney, university lecturer and legal strategist on issues ranging from international criminal justice to human rights law, corruption control and journalists' protection. From October to April 1984, he led the investigations into the case against 9 senior Army commanders, including 3 former heads of state, from the military juntas which ruled Argentina between 1976 and 1980. The subsequent trial, which was held between October 1984 and April 1985 and led to the sentencing of the 5 of the accused, was the first case brought against individuals responsible for mass killings since the Nuremberg Trial of Nazi officers. During the proceedings, Mr Moreno-Ocampo presented arguments for 700 counts of murder, kidnapping and torture, calling 835 witnesses and citing thousands of documents.

He later prosecuted those responsible for mass killings during the 1987 and 1992 military rebellions in Argentina. For a decade after the so-called Junta Trials, Mr Moreno-Ocampo was involved in several high profile cases of international criminal justice, including the extradition of the former Nazi officer Mr Erich Priebke to Italy, the trial of Chilean secret police for the murder of General Carlos Prats and case against military commanders accused of malpractice during the Malvinas/Falklands war. A member of the global board of Transparency International, Mr Moreno-Ocampo has also been a visiting professor at both Stanford University and Harvard University. He has resigned from all of these institutions in order to remain impartial during his tenure as Chief Prosecutor of the Court.

Public Seminar: *Current Developments in International Whaling*

10 August, 5.15–6.45 pm, Law School

Professor Donald Rothwell (ANU Law), **Dr Natalie Klein** (Macquarie University Law), **Dr Timothy Stephens** (Sydney Centre), **Mick McIntyre** (International Fund for Animal Welfare) (co-hosted by the International Law Association (Australian Branch))

Following a recent meeting of the International Whaling Commission in Anchorage, this seminar brought together leading local international lawyers and experts to discuss current legal developments and the future of whaling in Australia's region.



Michael Smith, Rebecca Dodd and Adam McCarthy

Public Seminar:

Ban or Regulate Cluster Bombs?

Wednesday 15 August, 5.30–6.45 pm, Law School

Major General (Rtd) Michael Smith AO (CEO, Austcare), **Adam McCarthy** (Assistant Secretary, International Legal Branch, Department of Foreign Affairs and Trade), **Rebecca Dodd** (Humanitarian Law Manager, Australian Red Cross)

This seminar presented the views of key participants in debates about regulating cluster munitions, including those of a senior Australian government negotiator and leading representatives of humanitarian organisations involved in conflict zones. Cluster munitions have been extensively used in conflicts from Vietnam and Cambodia to Iraq, Kosovo, Afghanistan and Lebanon, often resulting in civilian casualties and causing harm long after wars come to an end. At the international level, there are currently two parallel diplomatic efforts attempting to regulate cluster bombs – one within the framework of the Convention on Conventional Weapons, and a more ambitious effort sponsored by the Norwegian government. In Australia, earlier this year the Australian Democrats proposed a bill to completely ban the use of cluster munitions by Australian military forces.

Public Seminar: The Role of the Inspector-General of Intelligence and Security and the Accountability Framework for the Australian Intelligence Agencies

29 August, 6–7 pm, Law School

Ian Carnell, Inspector General of Intelligence and Security

In this seminar, the Inspector-General discussed how Australia's intelligence agencies are held accountable within the Australian governmental system. The Inspector-General is an independent statutory office located in the Prime Minister's portfolio. Its responsibility is to ensure that the six intelligence and security agencies (Australian Security Intelligence Organisation, Australian Secret Intelligence Service, Defence Signals Directorate, Defence Imagery and Geospatial Organisation, Defence Intelligence Organisation and Office of National Assessments) act legally and with propriety.

Ian Carnell was appointed as the Inspector-General of Intelligence and Security in March 2004. The Inspector-General is an independent statutory position located in the Prime Minister's portfolio. Its responsibility is to ensure that the six intelligence and security agencies (Australian Security Intelligence Organisation, Australian Secret Intelligence Service,

Defence Signals Directorate, Defence Imagery and Geospatial Organisation, Defence Intelligence Organisation and Office of National Assessments) act legally and with propriety. Prior to this appointment Ian was Deputy Secretary, Criminal Justice and Security in the Attorney-General's Department. Additional roles included Chairmanship of the CrimTrac Board of Management and the Critical Infrastructure Advisory Council, as well as membership of the National Counter Terrorism Committee and the Board of the Australian Institute of Criminology. A career public servant since 1977, Ian held senior executive positions in the Departments of Social Security and Veterans' Affairs from 1985 to 1998. This included positions responsible for administrative law, for policy and program administration and for fraud control and investigations.



Sydney Summit on Russia

4 September, Park Hyatt Hotel Sydney

Robert Amsterdam (Partner, Amsterdam & Peroff and counsel for imprisoned former Yukos oil company boss Mikhail Khodorkovsky), **Grigory Pasko** (Russian journalist), **Senator Lyn Allison** (Australian Democrats), **Senator Christine Milne** (Greens), **Associate Professor Judith Armstrong** (University of Melbourne), **Dr Ben Saul** (co-hosted by the Australian National University Cultural Human Rights Network and the University of Melbourne Contemporary Europe Research Centre)

To coincide with the visit of Russian President Vladimir Putin to Sydney during the APEC meeting, a half day summit was held to consider the role of Russia in relation human rights, global security, the free market and corporate corruption, and uranium, as well as Australia's relationship with Russia. Grigory Pasko made his first visit to Australia to address the Summit and film a documentary on Australian uranium and its planned export to Russia under a proposed new agreement between the Australian and Russian Governments. Pasko had earlier filmed the Russian navy illegally dumping radioactive nuclear waste in the Sea of Japan in 1993. The film was shown on Japanese and Russian television and Pasko wrote articles on the incident and corruption in the Russian Fleet for naval and Japanese papers. In 1997 Pasko was arrested, charged with espionage and "high treason" and jailed in a prison colony in the Russian Far East. Amnesty International immediately declared him a prisoner of conscience and its more than one million members in 140 countries joined with human rights organizations around the world to campaign for Pasko's release and conviction to be quashed. Pasko was eventually released in 2003.

Public Lecture: *Making War a Crime*

20 September, 5.30–6.30 pm, Law School

Professor Gerry Simpson, London School of Economics

In the past two decades there has been a revival of interest in international criminal law. This renaissance has been stimulated by the wars in Sierra Leone, Cambodia, Afghanistan and Iraq, and the establishment of the world's first permanent international criminal court. This lecture considered a particular, and perhaps idiosyncratic, project within this field: namely, the attempt to criminalise war itself.

Professor Gerry Simpson is a Professor in Public International Law at the London School of Economics and Political Science. He is the author of *Great Powers and Outlaw States* (Cambridge, 2004) (awarded the American Society of International Law's annual prize for Pre-eminent Contribution to Creative Legal Scholarship) and is co-editor (with Tim McCormack) of *The Law of War Crimes: National and International Approaches*. His most recent books were *War Crimes Law Volumes I and II* (Ashgate, 2005) and he is currently completing two books: *Law, War and Crime* (Polity, 2007) and *Iraq and Just War* (ed, Ashgate, 2007).



Professor Gerry Simpson, LSE

Public Seminar: *The 2007 Convention on the Rights of Persons with Disabilities*

3 October, 5.30–6.45 pm, Law School

Graeme Innes AM (Human Rights and Disability Commission, HREOC), **Rosemary Kayess** (Board member, NSW Disability Discrimination Law Centre), **Professor Andrew Byrnes** (UNSW Law Faculty)
(co-hosted by the NSW Disability Discrimination Law Centre & the Centre for Health Governance, Law & Ethics)

In March 2007 the international community adopted the landmark Convention on the Rights of Persons with Disabilities, now signed by 110 countries and rising. This seminar brought together leading legal experts on disabilities, who were involved in the drafting of the Convention, to discuss how and why the Convention was adopted and its legal implications in practice. The Convention aims to promote, protect and ensure the human rights and freedoms of all disabled persons, and to promote respect for their

dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis.



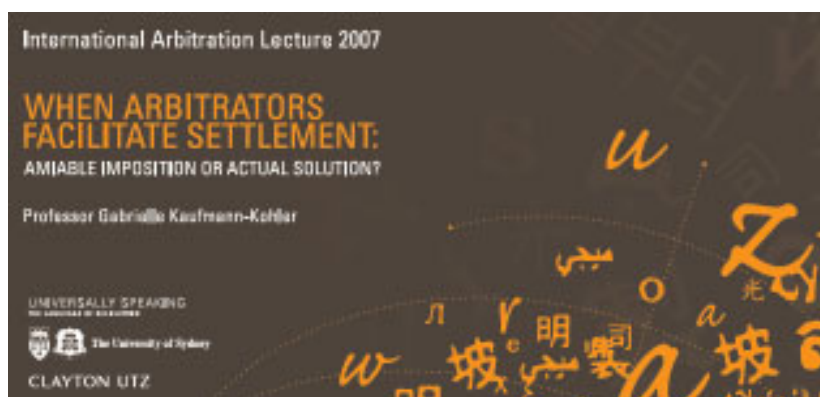
Damian Sturzacker (Gadens Lawyers) & Professor Kaufmann-Kohler

International Arbitration Lecture 2007: *When Arbitrators Facilitate Settlement: Amiable Imposition or Actual Solution?*

9 October, 5.30–9 pm, Banco Court, NSW Supreme Court

Professor Gabrielle Kaufmann-Kohler, University of Geneva (co-hosted by Clayton Utz)
(Transcript at: www.ialecture.com)

Professor Gabrielle Kaufmann-Kohler is regularly ranked among the top ten arbitrators worldwide in international surveys. She has been involved in approximately 140 international arbitrations (including ICC, ICSID, AAA, LCIA and DIS arbitrations) as presiding, sole or party-nominated arbitrator and as counsel in commercial and investment disputes. She is also renowned for her expertise in resolving sports disputes. She served as a member of the Arbitral Jury for the America's Cup (2004-2006) and chaired the Ad Hoc Division of the Court of Arbitration for Sports (CAS), which involved responsibility for the Olympics in Atlanta 1996, Nagano 1998 and Sydney 2000. She has published extensively as a partner of leading Swiss law firm Schellenberg Wittmer since 1996, and a professor at the University of Geneva Law School where she teaches postgraduate courses in private international law. Her teaching and research activities focus on dispute resolution, including commercial, investment, and sports arbitration, international litigation, international contracts, electronic commerce and online dispute resolution.



Public Seminar: *Should We Still Look to America? The Australia - United States Alliance*

10 October, 12.30–2 pm, Law School

Dr Michael Fullilove, Director of Global Issues,
Lowy Institute for International Policy
(www.lowyinstitute.org)

Many Australians appear to agree with a maxim ascribed to the Duke of Marlborough: that in every alliance one party wears the boots and the spurs while the other wears the saddle. In this seminar Michael Fullilove tested this claim against the reality of the longstanding alliance between America and Australia.



Dr Michael Fullilove, Program Director for Global Issues at the Lowy Institute for International Policy, has worked as a lawyer, a volunteer in the United Nations mission in East Timor, and an adviser to Prime Minister Paul Keating. Michael

graduated in international relations and law from the University of Sydney and UNSW, with dual university medals. He also studied as a Rhodes Scholar at the University of Oxford, where he took a master's degree in international relations and wrote his doctorate on Franklin D. Roosevelt's foreign policy. His dissertation was awarded the annual prize for the best international history thesis in Britain. Michael's work has appeared in publications such as *Slate*, *The Financial Times*, *The National Interest* and *Foreign Affairs*, and his first book, *'Men and Women of Australia!' Our Greatest Modern Speeches*, was published recently by Vintage. Dr Fullilove is also a member of the Advisory Board of the Sydney Centre.

Continuing Legal Education Seminar: *International Arbitration and Mediation (Arb-Med): Potential and Pitfalls*

10 October, 5.30–7 pm, Law School

**Professor Gabrielle Kaufmann-Kohler, Derek Minus,
Malcolm Holmes QC, Dr Luke Nottage**

(co-hosted by the Chartered Institute of Arbitrators – Australian Branch (CI Arb))

This CLE seminar examined the vexed issue of whether and how an arbitrator can serve as mediator to assist in settling disputes within one seamless hybrid process ("arb-med"). This contrasts with situations whereby an arbitrator suspends the arbitral process to allow the parties either to engage the services of a separate mediator or to pursue negotiations among themselves. It also differs from increasingly popular multi-tiered processes whereby the parties agree beforehand to begin with structured negotiations or mediation ("med-arb"), and if unsuccessful to initiate a separate arbitration proceeding.

Some practitioners and commentators, especially in the English common law tradition, remain very sceptical about arb-med hybrid processes. A particular concern is that the arbitrator, when serving as mediator, may become (or seem) prejudiced by information disclosed in private session (caucus) with one party. However, others point to the longstanding tradition even for judges in certain

European jurisdictions to facilitate settlement during civil proceedings. Arbitrators in those jurisdictions also tend to be more comfortable with serving as mediators, at least in some ways. There are some parallels with judicial and arbitral practices and rules in Asia-Pacific jurisdictions as diverse as China (still communist) and Japan (a capitalist economy influenced by German law). The time and cost efficiencies possible with such hybrid processes are also encouraging more discussion, proposals and experiments among those from a common law background.

Yet there remain pitfalls, practical and legislative. Arb-med may lead to challenges on natural justice grounds at the seat of the arbitration in international arbitrations governed by the UNCITRAL Model Law regime, such as the International Arbitration Act (Cth) in Australia, or when enforcement of an award is sought under the New York Convention. Few practitioners and disputants avail themselves of s27 added in 1990 to the Commercial Arbitration Act (NSW) to alleviate natural justice challenges and promote arb-med through prior consent.



Derek Minus is a barrister, mediator and chartered arbitrator based in Sydney (www.medarb.com.au). He specialises in the resolution of commercial disputes through combined mediation/arbitration. He has served as a court appointed arbitrator and mediator, and is a member of the NSW Workers Compensation Commission.

Malcolm Holmes QC is a barrister and chartered arbitrator based in Sydney (www.11thfloor.com.au) as well as a chartered arbitrator member of chambers at 20 Essex Street in London, UK (www.20essexst.com). He is also Adjunct Professor at the University of NSW in International Commercial Arbitration. Malcolm is the President of the Australian Branch of the Chartered Institute of Arbitrators, a director and Fellow of ACICA and a Fellow of the Institute of Arbitrators and Mediators Australia (IAMA). He has been a member of the Court of Arbitration for Sport in Lausanne since 1995 and was a member of the Ad Hoc Division in Athens in 2004 and in Turin in 2006.



Dr Luke Nottage is an Associate Professor at Sydney Law School, specialising in comparative and transnational commercial and consumer law. He studied and lectured at New Zealand and Japanese law schools, and is a founding Co-Director of the Australian Network for Japanese

Law (www.law.usyd.edu.au/anjel). Luke is regular writer, speaker and consultant on international commercial arbitration, as well as contracts, product safety and corporate governance. He is a Special Associate of the ACICA and its Rules committee, a founding member of AFIA and the expert Arbitrator Forum, and an Australian Correspondent for CLOUT (Case Law on UNCITRAL Texts). Luke has lectured for CI Arb and several universities world-wide.



Shadow Foreign Minister Robert McClelland MP (now Attorney-General) with Centre Director Ben Saul

Public Lecture: *Is Peace Possible Through An International Rule of Law?*

17 October, 12.15–1.30 pm, Law School

Robert McClelland MP, Shadow Minister for Foreign Affairs

As the federal election approached, this lecture was an opportunity to hear the perspective of the Shadow Minister for Foreign Affairs on the international legal order. Mr McClelland discussed how far the international legal system has come since the end of the Cold War, and outlined some of the key legal and enforcement challenges the international community confronts today, to further ensure the international rule of law is both robust and relevant.

Robert McClelland MP was elected as the Federal Member for Barton in March 1996 and has been the Shadow Minister for Foreign Affairs since December 2006. Prior to this he held the Shadow Ministerial portfolios of Attorney General, Workplace Relations, Homeland Security and, most recently, Defence. Robert has a Bachelor of Law (BA LLB) from the University of NSW and a Master of Law (MLB) from the University of Sydney. He has been a strong supporter of the Australia-US alliance and believes we could add much greater value to the alliance in the South East Asian region. He sees future regional security as increasingly involving the interaction between the military, law enforcement agencies as well as relevant government and non-government agencies. The need for Australia to re-engage in the UN system and respect the international rule of law is also central to Robert's foreign policy priorities. Robert is a strong advocate of a future Australian Republic and has encouraged all levels of government to match recent national security measures with a renewed vigour for inclusive community building. Before entering Federal Parliament he was a partner in the Sydney law firm Turner Freeman where he specialised in labour and sporting law. A keen surfer and rugby enthusiast, Robert is married to Michelle and they have three daughters and a son.

Public Seminar: *The Globalization of Hatred: Incitement to Genocide and the Migration of Transnational Legal Norms*

21 October, 12.30–1 pm, Law School

Professor Noah Novogrodsky, Director, International Human Rights Program, University of Toronto

This seminar used the case of *Citizenship and Immigration Canada v. Mugesera* as a lens into the adjudication of incitement to genocide and the migration of transnational legal norms. The case, in which Professor Novogrodsky and students appeared as interveners, required the Canadian Supreme Court to evaluate the content of a 1992 Kinyarwanda speech delivered in Rwanda to determine the deportability of a landed immigrant. In the process, the Court overturned Canada's crimes against humanity standard and engaged in a remarkable dialogue with the jurisprudence of the International Criminal Tribunals for Rwanda and the Former Yugoslavia. The seminar offered a theory of horizontal adoption to explain the convergence and resistance to international criminal law in domestic proceedings.

Noah Novogrodsky is the Director of the International Human Rights Program at the Faculty of Law, University of Toronto and a Visiting Scholar at Georgetown University Law Center. He has lived and worked in the United States, England and South Africa. In September 2003, Professor Novogrodsky founded Canada's first international human rights clinic at the Faculty of Law, University of Toronto. In addition to *Mugesera*, the clinic was granted intervener status in *Charkaoui*, the Canadian Supreme Court case striking down the use of security certificates, *Outside of Canada*, the clinic has actively litigated an aboriginal title case in Belize, an educational equality case in Singapore, the criminality of recruiting child soldiers before the Special Court of Sierra Leone and a minority rights claim before the European Court of Human Rights.

Public Seminar: *Shakedown – Australia's Grab for Timor Oil*

24 October, 12.30–2 pm, Law School

Paul Cleary (author) and **Dr Chris Ward** (President, International Law Association (Australian Branch) President) (co-hosted by the International Law Association)



Dr Chris Ward and author Paul Cleary

This seminar involved a presentation and discussion of Paul Cleary's book, *Shakedown: Australia's Grab for Timor Oil*, in which the author, a former East Timor government adviser, gives a gripping, insider's account of the six years of bruising negotiations between Australia and East Timor that followed the independence ballot. In 2000, one of the poorest nations on earth began negotiations with Australia over rights to the lucrative oil and gas

resources of the Timor Sea. With the revenue from the oil and gas fields, the young democracy of East Timor would have a chance to secure its economic future – if Australia would allow it. In an ironic twist of fate, East Timor found that Australia, the country which had delivered freedom to Timor by intervening against Indonesia's bloody attacks in 1999, was now trying to deny it a fair share of the profits.

Paul Cleary began his career as an Australian journalist reporting on economic and social policy, and on Southeast Asia. After a decade in Australia's national press gallery, he was awarded a Chevening Fellowship by the UK Foreign Office, and after completing studies in London was appointed by the World Bank as an advisor to the Prime Minister of East Timor on the Timor Sea oil and gas negotiations. He now lives in Sydney.

Dr Christopher Ward is a barrister with a specialist practice in public and private international law. He is the President of the International Law Association (Australian Branch) and represented Petrotimor and Oceanic Exploration, Inc in relation to Timor Sea issues. He was co-author with Commander Chris Carleton and Professor Vaughan Lowe of a joint legal opinion prepared in 2002 on East Timor's maritime boundaries.

**Public Seminar: War Crimes at Balibo?
Investigating and Prosecuting for the Deaths
of Five Journalists in East Timor in 1975**

21 November, 5.30–6.45 pm, Law School

Mark Tedeschi QC (Senior Crown Prosecutor for NSW & Counsel Assisting the NSW Coroner), **Dr Ben Saul** (Director, Sydney Centre & barrister advising the Media Alliance)



Mark Tedeschi QC, in front of the Balibo Five

After 32 years, in the week prior to this seminar, the NSW Coroner found that five journalists at Balibo were deliberately killed by Indonesian special forces invading East Timor in 1975 – and that the Balibo Five did not die in the cross-fire as suggested by two previous Australian inquiries. The Coroner identified a number of possible suspects, and submitted to the Australian Attorney General that an Australian war crimes investigation and prosecution may be appropriate. The Coroner recommended that the Australian government should seek the repatriation of the journalists' remains, and that a national safety code for journalists be developed. In this seminar, Mark Tedeschi QC, counsel assisting the coroner, discussed the background, process and findings of the inquest, while Dr Ben Saul commented on the prospects of war crimes prosecutions and extradition.

Mark Tedeschi QC is the Senior Crown Prosecutor for New South Wales. In 2007, Mark was the Counsel Assisting the Coroner in the Inquest into the deaths of five Australian journalists at Balibo in East Timor during the Indonesian invasion in 1975. He is the Head of Chambers of the 91 Crown Prosecutors in this State. He is also the President of the Australian Association of Crown Prosecutors. Mark became a barrister in 1977, a Crown Prosecutor in 1983, a Queen's Counsel in 1988, a Deputy Senior Crown Prosecutor in 1990, and the Senior Crown Prosecutor in 1997. He has prosecuted some of the major trials in this State, including: Ivan Milat, Neddy Smith, the murderers of Dr Victor Chang, Philip Bell, Dolly Dunn, Phuong Ngo, Kathleen Folbigg, Sef Gonzales and Bruce Burrell. In 2004 he went to Fiji to prosecute the Vice-President and five other prominent citizens for taking treasonous oaths of office during the coup led by George Speight. In 2006, he went to Fiji to prosecute Maj Gen Sitiveni Rabuka.

Dr Ben Saul is Director of the Sydney Centre for International Law and as a barrister he advised the Media Entertainment and Arts Alliance in the Balibo inquest. In 2007 Ben provided an expert opinion to the International Criminal Tribunal for the former Yugoslavia (ICTY) in the *Boškoski* case and his terrorism research was cited by the ICTY in *Galic (Appeal)* (2006) and the Australian High Court in *Thomas v Mabrway* (2007). He has previously advised on cases in the Inter-American Court of Human Rights, the Guantanamo Bay military commissions, the Israeli Supreme Court (on the security barrier) and in South Africa (on HIV/AIDS drug pricing). In 2007 he advised the German Foreign Office on negotiations for a new UN anti-terrorism treaty. Ben has taught law at Sydney, UNSW, Oxford and in Cambodia, Hong Kong, Nepal and India, and his recent book, *Defining Terrorism in International Law* (Oxford, 2006) is the leading scholarly work on the subject.

**Public Seminar: The July 2007 Falconer Draft
Text for the World Trade Organization
Negotiations on Agriculture**

22 November 2007, 4–5.45pm, Main Campus

Dr Brett Williams (Senior Lecturer & Programme Director, Sydney Centre) and commentator **John Finn** (Visiting Research Fellow, Institute of International Trade, University of Adelaide and Counsellor, Agriculture and Commodities Division, World Trade Organization) (*co-hosted by the International Development Law Organisation*)

This seminar reviewed the July 2007 draft text released by the Chair of the WTO negotiating group on agricultural trade and the proposed feasible outcome in the context of the reform of the application of the GATT to agriculture that was begun in the Uruguay Round. The seminar noted that the proposed outcome deviates significantly from fundamental principles of the GATT. The resulting rules would still discriminate against Members with a comparative advantage in agriculture, largely as a result of the exclusion of the most protected products from liberalization. The outcome would largely fail to serve the GATT function of guiding members away from the most inefficient policy instruments, largely as a result of the overemphasis on domestic support rather than market access. The outcome would fail to assist Developing Members to overcome their own protectionist pressure because of the way that the outcome would accord a right to special and differential treatment to members who are in fact able to fully participate in the multilateral system as contemplated in the 1979



From left: Hongxia Lui (IDLO), Gothima Indikadahena (Sri Lankan Consul in Sydney), Mr John Finn (WTO), Dr Brett Williams (Sydney Centre), Miles Young (IDLO)

Enabling Clause. The seminar argued that this outcome will enable the most protectionist Members to resist liberalization, and that the main reason for the unsatisfactory outcome which the Chairman has put forward as politically feasible is that Developing Members have focussed more on creating exceptions for themselves than on trying to reinforce the integrity of the rules. The seminar concluded by expressing the concern that perhaps the deviations from the guiding principles of reciprocity, ranking of policy instruments and non-discrimination are reaching the point at which it will be impossible for the system to harness the interests of exporters to arrive at politically sustainable economic welfare enhancing deals – perhaps we are already there and not even this very imperfect deal is possible.

Dr Brett G Williams is a Senior Lecturer and Director, Programme in Public International Economic Law at the Sydney Centre for International and Global Law in the Faculty of Law of the University of Sydney. He teaches, researches and consults in the field of the law of the World Trade Organization. He also teaches Competition Law and Public International Law. His PhD was entitled "The Importance of Disciplining the Choice of Policy Instrument to the Effectiveness of the GATT as International Law Disciplining Agricultural Trade".

Public Seminar: Australians on Death Row: Reflections on Van Nguyen and the Bali Six

3 December 2007, 6–8 pm, Law School

Julian McMahon (barrister for Van Nguyen and some of the Bali 9), **John North** (solicitor for Scott Rush and former Law Council President), **Michael Walton** (New South Wales Council for Civil Liberties) (co-hosted by *Amnesty International Australia and Australian Lawyers Alliance*)



This seminar was held to commemorate the second anniversary of the execution of Van Nguyen, and to reflect on the future of the six members of the "Bali Nine" facing the death penalty in Indonesia. **Julian McMahon** discussed the law, diplomacy and politics surrounding recent death penalty cases involving Australian citizens overseas. He focused on the steps taken in the various death penalty cases in which he has been involved, including cases in Singapore, Sudan and Indonesia, and addressed some of the rhetoric that arises in relation to the death penalty debate. **John North** discussed the recent decision of the Indonesian Constitutional Court, and particularly the issues raised by the strong dissenting judgments for the "Bali Six", who are still facing the death penalty. **Michael Walton** discussed the ways in which the Australian Federal Police can and should be bound by human rights obligations.

Julian McMahon, a barrister at the Victorian Bar, acted in a number of high profile cases in which Australians faced the prospect of the death penalty, including on behalf of Myuran Sukumaran and Andrew Chan of the Bali Nine and Van Nguyen in Singapore.



Michael Walton is on the executive committee of the New South Wales Council for Civil Liberties. He has done extensive research into the role of the Australian Federal Police in the arrest and conviction of the Bali Nine. Michael Walton is the convenor of CCL's subcommittee against the death penalty. He is the author of many reports and submissions to parliamentary inquiries into issues as diverse as death penalty issues, internet censorship and prison conditions. Mr Walton is a practising solicitor and is also member of the NSW Law Society's Human Rights Committee.

Since **John North** left his position as President of the Law Council of Australia (2005-2006), he has been acting for Scott Rush in his legal appeals in Indonesia. He is a Partner of North & Badgery Solicitors and former President of both the Law Council of Australia and the Law Society of NSW.



Other Centre Events



*Fleur Johns and
Irene Baghoomians*



*Edwin Bikundo and
David Kinley*



*Jennifer Hill, Tim Stephens
and Lee Burns*



*Sarah Williams and
Rebecca Millar*



*Odette Murray, Natasha Simonsen,
Lucas Bastin and Mai Nguyen*

In addition to the public events hosted by the Centre in 2007, there were a number of events held involving Centre Associates and Affiliates. These included a number of informal or working lunches for Centre members and an invited afternoon tea with the Prosecutor of the International Criminal Court in August.

Author Meets Reader Seminar

At a Law Faculty seminar on 13 September 2007, Centre members Kate Miles, Jacqueline Mowbray, Edwin Bikundo and Katherine Fallah were lively commentators on a new book, *War, Law and Crime*, by Faculty visitor Professor Gerry Simpson of the London School of Economics.

International Law Careers Forums

The Centre also organised, in conjunction with the Sydney Law Student Society, two international law careers forums. On 15 August 2007, Adam McCarthy, Assistant Secretary in the International Legal Branch of Australia's Department of Foreign Affairs and Trade, explained the role of the government international lawyer and answered questions about graduate employment in DFAT.

On 16 October 2007, panellists provided perspectives on a range of different international law careers: Professor Gillian Triggs, Dean of Sydney Law School, reflected on her academic and practitioner experiences; Dr Chris Ward, barrister, President of the International Law Association (Australian Branch), and Centre member, discussed international legal practice as a barrister based in Australia; Rebecca Graham, Legal Aid lawyer and former Legal Officer at the International Criminal Tribunal for the former Yugoslavia, recounted her involvement in the long running Milosevic trial in the Hague; Gemma Namey, a graduating Sydney law student, spoke about her recent internship in the Yugoslav tribunal; and Sarah Ngo, a Sydney lawyer, talked about her internship at the International Criminal Tribunal for Rwanda.

Centre End of Year Party

Centre Associates and Affiliates also enjoyed an End of Year lunch at the Andrew (Boy) Charlton Pool Café (overlooking Woolloomooloo Bay) in late November, to celebrate the end of another busy academic year.



*Irene Baghoomians,
Shae McCrystal
and Ben Saul*

Research Programs

In early 2007 the Centre established five research programs to broadly reflect the key research interests of Centre members:

Public International Law

Director: Dr Fleur Johns

Private International Law

Director: Mr Ross Anderson

Comparative and Global Law

Director: Dr Luke Nottage

International Human Rights Law

Director: Professor David Kinley

Public International Economic Law

Director: Dr Brett Williams

Three of these research programs are featured below. In addition to the activities described below, the programmes also contribute actively to the Centre's regular Public Seminar and Lecture series, public policy submissions to parliamentary inquiries and law reform processes, and the production of the *Australian International Law Journal* and the case notes section of the *Australian Yearbook of International Law*.



Public International Law Programme

Research in this programme spans a broad spectrum of areas of public international law. Associates of this programme are particularly active in these research areas:

- the history and theory of public international law, including the discipline's particular history in Australia and in other post-colonial settings;
- international human rights law and policy, including refugee rights;
- inquiries into the global economy, including the law and practice of foreign investment and the work of international institutions;
- public international law on the use of force and humanitarian law, including legal responses to terrorism;
- the law of global climate change and related inquiries;
- international legal pedagogy, including clinical education in the public international law domain; and
- processes of international environmental governance through international dispute settlement.

Associates of this programme are involved in **teaching** a wide range of undergraduate and postgraduate subjects across public international law. Associates are also active in research supervision in public international law. A list of research projects currently being pursued by Masters and Doctoral students under the rubric of this programme is available on our website.

Those interested in pursuing postgraduate research in public international law, particularly research with a multi-disciplinary orientation, are encouraged to seek further information through the Faculty's Postgraduate Research office and/or to contact any individual listed below who is working in the area of interest.

Research and writing projects currently underway under the direction of Faculty members associated with this programme include the following:

- *Corporations and Human Rights* (David Kinley, forthcoming in Ashgate's International Library of Essays)
- *Events: The Force of International Law* (Fleur Johns, with Sundhya Pahuja of the University of Melbourne and Richard Joyce of Birkbeck College, London)
- *Human Rights and Global Economy: Two Globalizations* (David Kinley, monograph to be published by Cambridge University Press in 2008)
- *Impact of WTO Membership on Human Rights in Vietnam* (David Kinley, with Ho Chi Minh National Political Academy 2006-07 and funded by Friedrich Ebert Stiftung)
- *International Courts and Environmental Protection* (Tim Stephens, monograph to be published by Cambridge University Press in 2008)
- *International and Comparative Anti-Terrorism Law* (Ben Saul, including *International Law Documents on Terrorism* to be published by Hart, Oxford, in 2008)
- *International Humanitarian Law* (Ben Saul)
- *Laws of Lawlessness: International Law in Economy and Security* (Fleur Johns)
- *Rethinking Water: Mapping International Law and Policy Paradigms* (Fleur Johns, Ben Saul and Tim Stephens)
- *The Complete Law of the Sea* (Tim Stephens with Donald R Rothwell, ANU College of Law)
- *The WTO and Human Rights* (Professor David Kinley with Professors Joseph and Waincymer (Monash University; edited collection to be published by Edward Elgar in 2008)
- *Climate change and international law* (Tim Stephens, Ben Saul and Jane McAdam)
- *International Law Documents on Antarctica* (Gillian Triggs, Tim Stephens and Ben Saul)

Associates contributing to this programme are: Irene Baghoomians, Mary Crock, Fleur Johns, David Kinley, Kate Miles, Jacqueline Mowbray, Ben Saul, Ivan Shearer, Anne Twomey and Tim Stephens. Affiliates contributing are: Nicole Abadee, Hitoshi Nasu, Alison Pert, Jane McAdam, Justin Hogan-Doran, Robert Dubler SC and Christopher Ward.

Comments about the programme are welcome, as are expressions of interest in research collaboration. Please contact f.johns@usyd.edu.au or law.scigl@usyd.edu.au.



Comparative & Global Law Programme

This programme mainly covers comparative legal studies. They increasingly involve international law, either indirectly (as national legal systems are themselves influenced by international law) or directly (as national systems are compared against international regimes underpinned by international law). Such comparative studies also increasingly contribute to the project of building up 'global law'.

One example is the identification of common themes or patterns among national legal systems, even if not (yet) formalised through international instruments. Another is the refinement of 'the new *lex mercatoria*', based primarily on the norms developed by private commercial parties, either substantive (especially to govern contractual relationships) or procedural (especially to apply in cross-border arbitration).

Associates currently involved in this programme have particular interests in private norms and law (contracts, torts, family relationships, health issues, corporations, financial products), while generally exploring the surrounding public interests. They are Belinda Bennett, Peter Kwon, Luke Nottage (convenor), David Rolph, Andrew Tuch and Alex Ziegert.

Associates are also involved in **teaching** many courses involving such topics and themes. Undergraduate electives include Comparative Jurisprudence, Chinese Law, Japanese Law, and International Commercial Transactions. Postgraduate courses include (among many others) International Business Law, Health Law, and Consumer Protection – Supplier Liability. The Programme also supports the student moot team that competes (and, in 2006 and 2007, won) the Intercollegiate Arbitration and Negotiation Competition held every December in Tokyo.

Current or recently completed **grants** have supported research into shifts in Japanese commercial regulation, consumer credit, product safety, and the spread of infectious diseases. Publications, including public submissions, are listed in the Centre's Annual Reports; and many works by Associates can be found and freely downloaded via www.ssrn.com.

The Programme was **launched** with a CLE Seminar (see pp 7-8), co-hosted by the Chartered Institute of Arbitrators, on 'International Arbitration and Mediation: Potential and Pitfalls' held on 10 October 2007. This dealt with the contentious issue of whether and how international arbitrators should seek to facilitate settlement of commercial disputes, one area where a 'global standard' remains elusive. The Seminar came the day after the 6th Clayton Utz/Sydney University International Arbitration Lecture, delivered by Professor Gabrielle Kaufmann-Kohler (University of Geneva).

Comments about the programme are welcome, as are possibilities for research collaboration. Please contact L.Nottage@usyd.edu.au or law.scigl@usyd.edu.au



Public International Economic Law Programme

This programme is intended to cover public international law regulating economic relations between States. The principal field of study is the regulation of international trade and investment through multilateral or bilateral treaties, with the major focus of research being the law of the World Trade Organization. We expect the work of the programme to develop more broadly to embrace other fields including investor state arbitration, and international intellectual property law.

Associates of this programme are involved in the **teaching** of subjects in this field including International Trade Regulation and Advanced International Trade Regulation.

Current **research projects** including those supported by research grants are:

- The application of the GATT to agricultural trade
- The incorporation of the general theory on distortions & welfare into the law of the World Trade Organization.

The Programme was **launched** with a presentation of the first in the Centre's Public International Economic Law Discussion Papers: 'How and Why the GATT Works – Or Doesn't'. The paper was presented on 21 September 2006 as a Staff Seminar at the World Trade Organization in Geneva and at the official launch of the programme at the Sydney Law School on 23 March 2007.

Associates contributing to this programme are Brett Williams, David Kinley and Martyn Taylor.

Comments about the programme are welcome, as are possibilities for research collaboration. Please email brett.williams@usyd.edu.au or law.scigl@usyd.edu.au.



Australian food aid packaging reused in a Burmese market

Centre Publications



Australian International Law Journal

In October 2007, the International Law Association (ILA) (Australian Branch) agreed to publish their annual journal, the *Australian International Law Journal*, in association with the Sydney Centre for International Law. By linking with a leading international law research centre at one of Australia's pre-eminent law schools, the Journal will benefit from a firmer institutional foundation and closer ties with current legal scholarship. The Journal will remain the journal of the ILA (Australian Branch), with an Editorial Board composed of international lawyers from a variety of different places. Centre Director Ben Saul is now Editor in Chief of the Journal, while Centre Associates David Kinley, Fleur Johns, Tim Stephens, Brett Williams and Luke Nottage, and Centre Affiliate Jane McAdam, are Associate Editors, among others from outside the Centre.

As one of very few international law journals published by a national branch of the International Law Association (ILA), the Journal has a distinctive role as a publication with a shared commitment to the objectives of the ILA: 'the study, clarification and development of international law, both public and private, and the furtherance of international understanding and respect for international law'. Like the ILA, the Journal serves as an important focal point for legal practitioners, academics, government and NGO lawyers, judges and experts from related fields with a common interest in international law.

Under the arrangement with the Sydney Centre, the Journal will benefit from important new initiatives. First, it has become a peer-reviewed journal, ensuring that the historically high standard of scholarship will continue to rise in quality and consistency. Peer review will help to attract contributions from leading international and Australian scholars, in a university environment where increasing emphasis is placed on research quality. It will also encourage wider citation of the Journal and enhance its scholarly impact. While articles will be peer-reviewed, the new policy will not preclude the publication of relevant contributions with a more practitioner-oriented focus.

Secondly, the Journal has adopted a professional new design which will better convey its content to readers. While the Journal began its life as a publication produced on type-writers, a cleaner, modern design will help to facilitate the transmission of the Journal's content and make it a (greater) pleasure to read. Thirdly, back issues of the Journal will be available through the online legal subscription database, Heinonline, which will amplify the reach of the Journal and bring it to new readers worldwide. Finally, some future volumes of the Journal will be symposium volumes, dedicated to particular themes or contemporary issues. The first symposium (in the 2007 volume) will address international legal responses to climate change, guest edited by Tim Stephens and Jane McAdam. Regular articles on other topics will continue to be published in addition to symposium pieces.

Due to various production difficulties in recent years, the Journal finds itself behind schedule, with this 2004 volume appearing in late 2007. The Editorial Board is committed to rectifying the delay and ensuring that the Journal, as an annual publication, is published near the end of the relevant calendar year. To that end, the 2006 volume will be published in early 2008, the 2007 volume (the climate change law symposium) in mid-2008, and the 2008 volume by the end of that year.



Call for Contributions

The Journal welcomes articles, case notes and book reviews on public or private international law issues at any time and instructions for authors are on the website. Contributions on private international law (conflict of laws) are particularly encouraged. A focus on international law in Australia and the Asia-Pacific is welcome, but by no means essential, and the Journal is open to international law scholarship of any kind.

Subscribing to the Journal

If you are interested in subscribing to the Journal, please visit the website at:

www.ila.org.au/publications_journal.htm

An individual subscription costs \$45 for one year (plus \$4 postage & handling within Australia or \$7 outside Australia).

An institutional subscription costs \$60 for one year (plus \$4 postage & handling, or \$7 outside Australia).

Centre Publications

Ross Anderson

Books

B McDonald, Ross Anderson & S Yeo, *Cases on Torts* (4th ed, Federation Press, Sydney, 2007), 457 pp

Belinda Bennett

Books

Belinda Bennett (ed), *Contemporary Perspectives on Health Law and Policy* (Federation Press, Sydney, 2007)

Articles

Belinda Bennett, 'Regulating Small Things: Genes, Gametes and Nanotechnology' (2007) *Journal of Law and Medicine*

Mary Crock

Books

Mary Crock, J Bhabha, N Finch & S Schmidt, *Seeking Asylum Alone: A Comparative Study* (Themis Press, Sydney, 2007)

Book Chapters

Mary Crock and E Santow, 'Privative Clause and Jurisdictional Error' in M Groves and HP Lee (eds), *Australian Administrative Law: Fundamentals, Principles and Doctrines* (Cambridge University Press, 2007), 345-367

Articles

Mary Crock, 'Defining Strangers: Human Rights, Immigrants and the Foundations of a Just Society' (2007) 31 *Melbourne University Law Review*

Mary Crock, 'The Heart In Action: The *Seeking Asylum Alone* Project and the Experiences of Unaccompanied and Separated Children in Australia's Refugee Determination Process', Sacré Coeur Association of NSW: Cor Unim: Celebrating 125 Years of Sacred Heart Education, First Forum, 14 February 2007

Katherine Fallah

Book Chapters

Katherine Fallah, 'Regulating Private Security Contractors in Armed Conflicts', in S Gumedze (ed), *Private Security in Africa: Manifestation, Challenges and Regulation* (Institute for Security Studies, Pretoria, 2007), 97-123

Katherine Fallah, 'Criminalising Mercenarism in Africa: Legal Challenges and Options for Reform', in S Gumedze (ed), *Mercenarism in Africa* (Institute for Security Studies, Pretoria, 2007) (forthcoming)

Articles

Katherine Fallah, 'Corporate Actors: The Legal Status of Mercenaries in Armed Conflict' (2006) 863 *International Review of the Red Cross* 599-611

Fleur Johns

Book Chapters

Fleur Johns, 'Performing Power: The Deal, Corporate Rule, and the Constitution of Global Legal Order' in S Motha (ed.), *Democracy's Empire: Sovereignty, Law, and Violence* (Blackwell, Oxford, 2007), 116-138

Articles

Fleur Johns, 'Performing Party Autonomy' in K Knop, R Michaels & A Riles (eds), (2007) 71 *Law & Contemporary Problems* (Special Issue: The Return of the Private: Private International Law Meets Global Governance)

Fleur Johns & S Freeland, 'Teaching International Law Across an Urban Divide: Reflections on an Improvisation', (2007) 57(4) *Journal of Legal Education*

Fleur Johns, 'Performing Power: The Deal, Corporate Rule, and the Constitution of Global Legal Order' (2007) 34 *Journal of Law and Society* 116-138

Reviews

Fleur Johns, 'Review: International Law and its Others' (2007) 8 *Melbourne Journal of International Law* 516-535

David Kinley

Books

David Kinley and Hai Nguyen, *The Implications for Human Rights and Vietnam's Accession to the WTO* (Friedrich Ebert Stiftung, 2007)

Book Chapters

David Kinley and J Nolan, 'Human Rights, Corporations and the Global Economy' in G Palazzo & A Scherer (eds), *Handbook on Corporate Citizenship* (Edward Elgar, 2007)

David Kinley, J Nolan and N Zerial, 'The Norms are Dead. Long Live the Norms! The Politics Behind the UN Human Rights for Corporations' in McBarnett, Voiculescu and Campbell (eds), *The New Corporate Accountability: Corporate Social Responsibility and the Law* (Cambridge University Press, 2007)

Articles

David Kinley, 'Human Rights Fundamentalisms' (2007) 29 *Sydney Law Review* 545-75

David Kinley and T Wilson, 'Engaging a Pariah: Human Rights Training in Burma' (2007) 29 *Human Rights Quarterly*

David Kinley, J Nolan and N Zerial, 'The Politics of Corporate Social Responsibility: Reflections on the United Nations

Human Rights Norms for Corporations' (2007) 25 *Company and Securities Law Journal* 30-42

Reports

Victorian Charter of Human Rights Workshop Manual for Legal and Legislative Policy Officers (Government of Victoria; 145 pp) (multiple authors; significant contributor)

Rosemary Lyster**Books**

Rosemary Lyster, Z Lipman, N Franklin, G Wiffen and L Pearson, *Environmental and Planning Law in New South Wales* (Federation Press, Sydney, 2007)

Roger Magnusson**Articles**

Roger Magnusson, 'Non-communicable Diseases and Global Health Governance: Enhancing Global Processes to Improve Health Development' (2007) 3 *Globalization and Health*

Roger Magnusson, 'Legal Issues in Teamwork: Liability within Medical Teams and Hierarchies in NSW?' (2007) 79 *Precedent* 10-17

Kate Miles**Book Chapters**

Kate Miles, 'Targeting Financiers: Can Voluntary Codes of Conduct for the Investment and Financing Sectors Achieve Environmental and Sustainability Objectives?' in *Critical Issues in Environmental Taxation - Volume V* (Oxford University Press, 2007)

Articles

Kate Miles, 'Transforming Foreign Investment: Globalisation, The Environment and a Climate of Controversy' (2007) 7 *Macquarie Law Journal* 81

Reviews

Kate Miles, 'The Oxford Handbook of International Environmental Law' by D Bodanksy, J Brunnée, and E Hey (eds) (2007) *Asia Pacific Journal of Environmental Law*

Jacqueline Mowbray**Articles**

Jacqueline Mowbray, 'The Right to Food and the International Economic System: An Assessment of the Rights-Based Approach to the Problem of World Hunger' (2007) 20 *Leiden Journal of International Law* 545

Luke Nottage**Book Chapters**

Luke Nottage, 'Legal Harmonization' in D Clark (ed), *Encyclopedia of Law and the Social Sciences: American and Global Perspectives* (Sage, New York, 2007)

Luke Nottage, 'Product Liability and Safety Regulation' in G McAlinn (ed), *Japanese Business Law* (Kluwer, The Hague, 2007), 221-262

Luke Nottage, 'Globalization of Japanese Corporations and the Development of Corporate Legal Departments: Problems and Prospects' (with Toshimitsu Kitagawa), in W Alford (ed), *Raising the Bar: The Emerging Legal Profession in East Asia* (Harvard University Press, 2007), 201-85

Luke Nottage, 'Comparing Product Liability and Safety in Japan: Path-Dependent Globalization' in H Scheiber and L Mayali (eds), *Emerging Rights in Japanese Law* (The Robbins Collection, Berkeley, 2007), 143-67

Luke Nottage, "Tetsuzukikihan to shite no Lex Mercatoria: Kokusai Shoji Chusai no Kako, Genjo, Mirai [The Procedural Lex Mercatoria: The Past, Present and Future of International Commercial Arbitration]" (Nakabayashi and Nasu, trans) in Akira Saito et al (eds), *Kokusai Keiyaku Ruru no Tanjo [The Birth of International Contract Law Rules]* (Dobunkan, Tokyo, 2007), 113-56

Articles

Luke Nottage and J Kellam, 'Happy 15th Birthday, TPA Part VA! Australia's Product Liability Morass' 15 *Competition and Consumer Law Journal* 26-73

Luke Nottage, 'Form and Substance in Changed Circumstances: English, New Zealand, US, Japanese and International Contract Law and Practice' (2007) 14 *Indiana Journal of Global Legal Studies* [30 pp]

Luke Nottage, 'Japan – Overview, and (assisted by J Rheuben) Case Notes' in British Institute of International and Comparative Law (ed), 'Product Liability Forum Database', forthcoming at www.biicl.org/plf/

Luke Nottage and J Kellam, 'Australia – Overview, and Case Notes' in British Institute of International and Comparative Law (ed), 'Product Liability Forum Database', forthcoming at www.biicl.org/plf/

Luke Nottage, 'Arb-Med in Australia: The Time Has Come' (December 2007) *ADR Reporter* (Chartered Institute of Arbitrators – Australian Branch)

Other Articles

Luke Nottage, contributing editor, *CCH Japan Business Law Guide* (looseleaf, 2 volumes, Singapore); update to 'Product Liability' chapter (originally with Masanobu Kato); update to 'Contract Law' chapter (last revised by V Taylor)

Luke Nottage and D Jay, contributing authors for the 'Sales and Product Liability' tab of the *Butterworths Forms and Precedents* looseleaf/online service, Sydney; and update to 'International Sales' tab

Luke Nottage and J Kellam, contributors on Japan in 'Asia and the Pacific Rim' in DRI (ed), *Product Liability Defenses: A State-by-State Compendium* (CDROM service, Defence Research Institute, Chicago)

David Rolph

Articles

David Rolph, 'Preparing for a Full-Scale Invasion: Truth, Privacy and Defamation' (2007) 25(3/4) *Communications Law Bulletin* 5-8

Ben Saul

Book Chapters

Ben Saul, 'The Curious Element of Motive in Definitions of Terrorism: Essential Ingredient – Or Criminalizing Thought?' in A Lynch, E MacDonald and G Williams (eds), *Law and Liberty in the War on Terror* (Federation Press, Sydney, 2007), 28-39

Ben Saul, 'Australian Administrative Law: The Human Rights Dimension', in M Groves and HP Lee (eds), *Australian Administrative Law: Fundamentals, Principles and Doctrines* (Cambridge University Press, Cambridge, 2007), 50-76

Ben Saul, 'Defining Terrorism to Protect Human Rights', chapter in D Staines (ed), *Interrogating the War on Terror* (Cambridge Scholars Press, Cambridge, 2007), 190-210



Ben Saul outside the University of Yangon (Rangoon), Myanmar (Burma) after being refused entry to the campus in January 2007. The University was once the centre of the student democratic movement and is just down the road from Aung San Suu Kyi's house.

Articles

Ben Saul, 'Branding Enemies: Regional Legal Responses to Terrorism in Asia' (2007) *Asian Yearbook of International Humanitarian Law*

Other Publications

Ben Saul and S Johnston, Editorial (2005) *Australian International Law Journal*

Ben Saul, "From the Guest Editor: building the law on genocide" (2007) 9 *Journal of Genocide Research* 173

Ben Saul, Book Review of Stephen Grey's *Ghost Plane: the untold story of the CIA's torture programme* (Scribe, 2007), in (July 2007) *Law Society Journal*

Ben Saul, 'Response to Danielle Celermajer's "Are we entering a post human rights era?"' (2007) *Human Rights Defender*

Tim Stephens

Book Chapters

Tim Stephens & B Boer, 'Enforcement and Compliance in the Australian Antarctic Territory: Legal and Policy Dilemmas' in L Kriwoken et al (eds), *Looking South: Australia's Antarctic Agenda* (Federation Press, Sydney, 2007), 57-70

Tim Stephens, 'A Slow Burn: The Emergence of Climate Change Law in Australia' in G Birch (ed), *Water, Wind, Art and Debate: How Environmental Concerns Impact on Disciplinary Research* (Sydney University Press, 2007), 1-22

Articles

Rosemary Lyster and Tim Stephens, 'The Rise and Rise of Environmental Markets: Biodiversity Banking in Australia' (2007) 10 *Asia Pacific Journal of Environmental Law* 1-12

Tim Stephens, 'The United Kingdom's Carbon Emissions Reduction Legislation' (2007) 24 *Environmental and Planning Law Journal* 249-252

Laura Thomas and Tim Stephens, 'The Environment Protection and Biodiversity Conservation Act: New Prospects for Effective Implementation?' (2007) 18 *Public Law Review* 84-88

Tim Stephens, 'The United Kingdom's Carbon Emissions Reduction Legislation' (2007) 24 *Environmental and Planning Law Journal* 249-252

Reviews

Tim Stephens, 'International Environmental Law: Fairness, Effectiveness and World Order by Elli Louka' (2007) 10 *Asia Pacific Journal of Environmental Law* 149-151

Case Notes

Tim Stephens and D Rothwell, 'Japanese Whaling in Antarctica: *Humane Society International Inc v Kyodo Senpaku Kaisha Ltd*' (2007) 16 *Review of European Community and International Environmental Law* 243-246

Tim Stephens and Brett Williams, 'Cases Before International Courts and Tribunals Involving Australia 2005' (2007) 26 *Australian Year Book of International Law* (forthcoming)

Justin Hogan-Doran and Tim Stephens, 'Cases Before International Courts and Tribunals Involving Australia 2004' (2006) 25 *Australian Year Book of International Law* 403-424

Andrew Tuch

Articles

Andrew Tuch, 'Securities Underwriters in Public Capital Markets: The Existence, Parameters and Consequences of the Fiduciary Obligation to Avoid Conflicts' (2007) 7 *Journal of Corporate Law Studies* 51-84

Anne Twomey

Articles

Anne Twomey, 'Truth, Error and Government Obstruction' (2007) Jan-Feb *Quadrant*

Anne Twomey and G Withers, 'Australia's Federal Future', Council for the Australian Federation, *Federalist Paper No 1*, 29 March 2007

Anne Twomey, 'Foreign Affairs in Australia - Evolution and Reform' (2007) 5 *Blingenbacher R and Pasma C (eds), Dialogues on Foreign Relations in Federal Countries*

Anne Twomey, 'A Constitution for a new State – Dilemmas for the Northern Territory' (2007) 18 *Public Law Review* 200

Anne Twomey, 'Aspirational Nationalism or Opportunistic Federalism', *Quadrant*, October 2007

Anne Twomey, 'The Future for Australian Federalism' (Spring 2008) *Impact Magazine* (ACOSS), 20

Brett Williams

Articles

Brett Williams, 'The Falconer Draft Ttext for the Doha Round WTO Negotiation on Agriculture – A 'Ha'port of tar' to Save the Vessel from Sinking or Just a dab of Paint on an Irreparably broken Hull?' (2007) 30(2) *UNSWLJ* 368-468

Case Notes

Tim Stephens and Brett Williams, 'Cases Before International Courts and Tribunals Involving Australia 2005' (2007) 26 *Australian Year Book of International Law* (forthcoming)



Israel's security barrier surrounding a Palestinian refugee camp on the outskirts of Jerusalem, May 2007

Submissions

Luke Nottage

Luke Nottage, National Report on Australia, to Kyoto Comparative Law Center, for the Japanese Cabinet Office Project on Representative Actions for Monetary Remedies

Luke Nottage, National Report on New Zealand, to Kyoto Comparative Law Center, for OECD Project DTSI/CP(2006)8: 'The Report on OECD Member Countries' Approaches to Consumer Contracts', 6 July 2007, at www.oecd.org/dataoecd/11/28/38991787.pdf

Luke Nottage, National Report on Australia, to KU Leuven, for European Commission Project SANCO 2005/B/010, 'An Analysis and Evaluation of Alternative means of Consumer Redress other than Individual Redress through Ordinary Judicial Proceedings', 2006-07, at http://ec.europa.eu/consumers/redress/reports_studies/inded_en.htm

Luke Nottage, 'Inquiry into Australia's Consumer Policy Framework, Productivity Commission, in preparation 2007, for www.pc.gov.au/inquiry/consumer

Ben Saul

Ben Saul and Lily Tsen, Submission to the Parliamentary Joint Standing Committee on Treaties, Inquiry into the Australia Philippines Status of Visiting Forces Agreement, September 2007

Ben Saul, Submission to the All Party Parliamentary Group on Tackling Terrorism, United Kingdom Parliament, 24 August 2007

Ben Saul, Submission to the Parliamentary Joint Standing Committee on Treaties, Inquiry into the Agreement on Operational and Strategic Cooperation between Australia and the European Police Office, 16 July 2007

Ben Saul, Submission to the Parliamentary Joint Standing Committee on Treaties, Inquiry into the Treaty between Australia and the Kingdom of Thailand on Mutual Assistance in Criminal Matters, 16 July 2007

Ben Saul, Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the International Trade Integrity Bill 2007, 11 July 2007

Ben Saul, Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007, 10 July 2007

Ben Saul, Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the Australian Citizenship Amendment (Citizenship Testing) Bill 2007, 6 July 2007

Joint Submission by the Sydney Centre, Sydney PEN and Australian Lawyers for Human Rights on the Attorney-General's Classification Review of Material Advocating Terrorism, 29 May 2007

Ben Saul, Submission to the Consultation Committee for the Proposed Western Australian Human Rights Act, 16 May 2007

Ben Saul, Submission to the Parliamentary Joint Standing Committee on Treaties, Inquiry into the Australia Indonesia Security Cooperation Agreement, 23 February 2007 (and oral evidence in Sydney, 30 April 2007)

Ben Saul, Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade, Inquiry into the Cluster Munitions (Prohibition) Bill 2006, 19 February 2007 and supplement of 13 March 2007

Legal Opinions

Ben Saul

Ben Saul, Opinion for Falun Gong practitioners on the immunity of Chinese officials for alleged acts of torture in China (NSW Supreme Court proceedings), December 2007

Ben Saul, Opinion for the Media Entertainment and Arts Alliance and Counsel Assisting the NSW Coronial Inquest into Death of Brian Peters [pictured at right] (at Balibo, East Timor, in 1975) on the Legal Protection of Journalists, May 2007



Ben Saul, Expert Opinion for Defence Counsel, *Boskoski* case, International Tribunal for the former Yugoslavia, March 2007

Ben Saul, Opinion for the Australian Coalition for Transitional Justice in East Timor on criminal liability for international crimes under Australian law in respect of East Timor, May 2007

Ben Saul, Opinion for the defendants in the 'Pine Gap 4' trial, Northern Territory Supreme Court, 2006-07

Tim Stephens

Advice to the International Fund for Animal Welfare, Asia Pacific, regarding compliance by the Government of Japan with its obligations under international law in relation to its scientific whaling programme in the Antarctic (with D Rothwell, I Shearer, N Klein, C Ward, and G Rose), 2007

Presentations

Vivienne Bath

Vivienne Bath, 'China and WTO Transparency Requirements' presented at 'China's Conformity to the WTO: Progress and Challenges' held by the Association for Chinese Economic Studies (Australia), 13 July 2007

Vivienne Bath, 'Regulation and Change in China and Australia – Starting a Business,' Conference of the Centre for Asian and Pacific Law and the Law Council of Australia on 'Law Reform and Business Efficiency in China and Indonesia', 6 July 2007

Vivienne Bath, 'Resolution of Commercial Disputes in China,' Seminar of Centre for Asian and Pacific Law on 'Resolution of Commercial Disputes in the Chinese Courts – A Judge's View', 4 July 2007

Mary Crock



Mary Crock (centre) at an Amnesty International event

Mary Crock, 'The Future of Refugee Protection in Australia', Women's International Zionist Organisation meeting, 26 November 2007

Mary Crock, 'Seen and Heard Invitational Conference', Children and the Law at Melbourne University, 16 November 2007

Mary Crock, 'The Impact of Migrants on the Development of Public Law in Australia', The Death of the Rule of Law?, Public Law Weekend, ANU, Canberra, 10 November 2007

Mary Crock, 'Refugee Protection: Where to from here?', Rural Australians for Refugees, Phillip Island, 2 November 2007

Mary Crock, Invited Round Table for Refugee Law Academics, UNHCR, Canberra, 26 October 2007

Mary Crock, 'Refugees and Human Rights', Law Institute of Victoria, La Trobe Library, Melbourne, 12 September 2007

Mary Crock, 'The Church as Community of Love: Migrants and Refugees', John Paul II Centre – 'The Church as Community of Love', 25 July 2007

Mary Crock, 'Asylum Seekers, Detention and Deportation', Politics in the Pub, Sydney, 20 July 2007

Mary Crock, 'The Future of Immigration Law', Lexis Nexis Immigration Law Forum, 5-6 June 2007

Mary Crock, Key Directions Lecture: 'Defining Strangers: Human Rights, Immigration and the Foundations for a Just Society', RIHSS, University of Sydney, 2 May 2007

Mary Crock, 'Mental and physical health problems among detained adult and child asylum seekers and refugees before, during and after detention', Manning Clark *Weekend of Ideas: A fair go for refugees? Dispossession, dislocation, discrimination, resolution*, 31 March 2007

Mary Crock, 'Children and Migration', NSW State Legal Conference, Sydney, 27 March 2007

Mary Crock, 'Refugees and Human Rights', Centre for Peace and Conflict Studies, Summer Program, 22 March 2007

Mary Crock, Refugee Workshop: Children and Refugee Protection and the Challenge of Trafficking in Persons (with James Hathaway and Jennifer Burn), CLE, Sydney Law Faculty, 1 March 2007

Mary Crock, 'Seeking Asylum Alone: Unaccompanied and Separated Children and Refugee Protection in Australia, the UK and the US', Human Rights Program and Law School, Harvard University, 21 February 2007

Mary Crock, 'The Heart in Action: The *Seeking Asylum Alone* Project and the experiences of Unaccompanied and Separated Children in Australia's Refugee Determination Process', Sacré Coeur Association of NSW: Cor Unum: Celebrating 125 Years of Sacred Heart Education. First Forum, 14 February 2007

Katherine Fallah



Katherine Fallah (right) with colleagues in Pretoria

'Regulating Private Security Contractors in Armed Conflict: International Humanitarian Law and the Principle of Distinction', Conference on Regulation of the Private Security Sector in Africa, Institute for Security Studies, Pretoria, 18–20 April 2007

Katherine Fallah, 'At War with the Rule of Law: Guantánamo, Iraq and Legal Black Holes', Racism, Guantanamo Bay and the War on Terror Forum, University of Sydney, 15 March 2007

Mark Findlay

Mark Findlay, 'China's Place in International Criminal Justice?', Crime and Justice in Chinese Societies: Global Challenges and Local Responses, Law School and Department of Sociology, Chinese University of Hong Kong, 19-20 March 2007

Mark Findlay, 'Global Terror and Organised Crime: Symbiotic or Synonymous?' Organised Crime in Asia: Governance and accountability, National University of Singapore, 28-29 June 2007

Mark Findlay, 'Governing through Globalised Crime', British Society of Criminology Conference, London School of Economics, 18-20 September 2007

Fleur Johns

Fleur Johns, 'Performing Power: The Deal, Corporate Rule, and the Constitution of Global Legal Order', Meeting of the Law and Society Association and the Research Committee on Sociology of Law, Humboldt-Universität, Berlin, 25 July 2007

Fleur Johns, 'Living in International Law', Festschrift for Professor Peter Fitzpatrick, Berlin, 24 July 2007

Fleur Johns, 'The Gift of Realism: Julius Stone and the International Legal Academy in Australia, 1954-1994', Julius Stone Centenary Conference, University of Sydney, 7 July 2007

Fleur Johns, 'Teeming Voids: The International Law of Lawlessness', Sydney Law School Staff Seminar/Sydney Centre for International and Global Law Seminar Series, Sydney, 8 March 2007

Fleur Johns, 'International Legal Authority, Torture and the Claim to Conscience', ANU Staff Seminar/Centre for International and Public Law Seminar Series, Canberra, 21 February 2007

David Kinley

David Kinley, 'Corporate Social Responsibility and Human Rights', Judicial Commission of NSW, Annual Conference, Hawkesbury, NSW, September 2007

David Kinley, 'The Executive and Bills of Rights: Not Just Steak Knives!': Bill of Rights Conference, Melbourne, September 2007

David Kinley, 'Viet Nam, Human Rights and the WTO' in *Human Rights and the WTO Conference*, Prato, Italy, July 2007; also conference organiser (co-hosted by Monash Law School)

David Kinley, 'Measuring the Impact of Human Rights: Problems in Practice', Seminar at the World Bank, Washington DC, April 2007

David Kinley, 'The Implications for Human Rights of Vietnam's Accession to the WTO', Vietnam, Human Rights and the WTO conference, Ho Chi Minh National Academy of Political Science, Hanoi, May 2007 (also conference co-

organiser, co-hosted by the Vietnamese Institute of Human Rights, Ho Chi Minh National Academy of Political Science)

David Kinley, Invitee to a Select Symposium on Corporate Social Responsibility and International Law, Harvard University, Kennedy School of Government, April & November 2007

Roger Magnusson

Roger Magnusson, 'Imagining the Future: Law and Tobacco Control Towards a Sub-10% Prevalence Environment', American Public Health Association, 135th Annual Meeting, Washington DC, 6 November 2007

Roger Magnusson, 'Beyond the Blame Game: Liberty, Personal Responsibility and the Challenges of "Lifestyle Diseases"', 2007 Oration, Menzies Centre for Health Policy, Australian National University and University of Sydney; 17 September 2007

Roger Magnusson, 'Imagining the Future: A Short History of the Future of Tobacco Control Law & Regulation', Oceania Tobacco Control Conference, Auckland, 4-7 September 2007

Roger Magnusson, Breakfast seminar, 'The Devil's Choice in Palliative Care and the ICU', St George Hospital, Kogarah, 6 March 2007

Kate Miles

Kate Miles, 'Funding Climate Change Adaptation: A Role for Decentralised Innovative Financing Mechanisms', Third Plenary Meeting, Leading Group on Solidarity Levies to Fund Development, Seoul, South Korea, September 2007 (invited participant)

Kate Miles, 'Investor-State Arbitration and Broader Issues for Public International Law', Diploma on International Commercial Arbitration, Chartered Institute of Arbitrators (Australia)/UNSW, Sydney, July 2007

Kate Miles, 'Reconceptualising International Investment Law: Bringing the Public Interest into Private Business', Inaugural Conference of the New Zealand Centre of International Economic Law, *International Economic Law and National Autonomy: Convergence or Divergence?*, Wellington, New Zealand, December 2007

Luke Nottage

Luke Nottage, 'The Trajectory of Australian M&A and Corporate Law' (in Japanese), Comparative Corporate Governance Symposium, Doshisha Law School, 15-16 December 2007

Luke Nottage, 'Comparing the Regulatory Mix for Consumer Credit in Japan, Australia and Beyond', 2nd Consumer Law Roundtable, Griffith University, Brisbane, 4 December 2007

Luke Nottage and Souichirou Kozuka, 'Re-regulating Consumer Credit in Japan: The Culture, Economics and Politics of Contemporary Law Reform', Law and Society Association/RCSL Joint Conference, Berlin, 25-28 July 2007; and at the Symposium

'Approaches to Law and Development in the Asia Pacific Region', Centre for Comparative Law and Development Studies in Asia and the Pacific, University of Wollongong, 17 September 2007

Luke Nottage and Souichirou Kozuka, 'Re-regulating Consumer Credit in Japan: Implications for Corporate Governance', Japanese Studies Association of Australia 15th Biennial Conference, ANU, 1-4 July 2007

Luke Nottage, Panel presentation at the Conference on 'Beyond Borders in the Classroom: The Possibility of Transnational Legal Education', Ritsumeikan Law School, Kyoto, 10 February 2007 (transcribed for special issue of the (2008) *Ritsumeikan Law Review*)

Luke Nottage, Panel Presentation and Keynote Address on 'International Arbitration and Business Law Education: Leveraging IT for Transnational Linkages' (in Japanese), Conference on 'New Possibilities in Collaborative Education in Postgraduate Law School', Kagoshima/Kumamoto/Kyushu Law Schools, Japan (by four-way videolink, including Sydney), 28 January 2007

Luke Nottage, Chair/organiser and Commentator at a CLE Seminar on "International Arbitration and Mediation: Potential and Pitfalls", Sydney Law School, 10 October 2007

Ben Saul

Ben Saul, 'Contemporary Challenges in International Humanitarian Law', Society of International Law and International Committee of the Red Cross Workshop, National University of Juridical Sciences (Kolkata), 10 December 2007

Ben Saul, 'Climate Change, Water Security and Conflict in the Asia-Pacific', Indian Society of International Law, Fifth International Conference on Environmental Law, Delhi, 8-9 December 2007



Ben Saul, 'Voicing Dissent: Anti-Terrorism Laws and Freedom of Expression', for the Graduate Diploma of Social Sciences (Community Services), University of Western Sydney and Association of Children's Welfare Agencies/Centre for Community Welfare Training, Sydney, 19 November 2007

Ben Saul, 'An Australian Bill of Rights?', NSW Young Lawyers Human Rights Committee Evening, 1 November 2007

Ben Saul, Seminar on International Criminal Law, AusAID Training Programme for Senior Delegates from the Iraqi Ministry for Human Rights, 26 October 2007

Ben Saul, 'International Security Law, Migrants and Refugees: Threatening or Threatened?', Workshop on Securitizing Migration: State Security or Human Security?, Department of Sociology, University of Sydney, 19 October 2007

Ben Saul, Seminar on International Humanitarian Law, AusAID Training Programme for Senior Delegates from the Iraqi Ministry for Human Rights, 18 October 2007

Ben Saul, 'Australia's Anti-Terrorism Laws and Civil Liberties', Public Forum, Pennant Hills Community Centre, 4 October 2007 (with Maxine McKew and Julian Burnside QC)

Moderator, Human Rights and Australian Identity in the Age of Terror, Public Forum, UNSW Amnesty International, Sydney, 3 October 2007 (with The Hon Malcolm Fraser, Professor George Williams and Justice John Dowd)



Amnesty International: Ben Saul (2nd from left) with Malcolm Fraser (centre), George Williams (3rd from right) & John Dowd (right)

Ben Saul, 'Australia's Anti-Terrorism Laws', The Good, The Bad and the Ugly Forum, Northern Beaches Your Rights at Work Group, Manly Leagues Club, Sydney, 27 September 2007 (with Tom Keneally)

Ben Saul, Paper on the Draft UN Anti-Terrorism Treaty, High-Level Seminar: Towards a Comprehensive Convention on International Terrorism, German Federal Foreign Office and the German Institute for International and Security Affairs, Berlin, 11-12 September 2007

Ben Saul, 'Reasserting Russian Power in an American Century: Threatened or Threatening?', Sydney Summit on Russia, Park Hyatt Hotel, Sydney 4 September 2007

Ben Saul, 'Irregular Renditions and Torture', UNSW Amnesty International Forum, 22 August 2007

Ben Saul, 'David Hicks and International Law', Continuing Legal Education Seminar, NSW Young Lawyers and Australian Lawyers for Human Rights, Sydney, 22 August 2007

Ben Saul, 'The Law on Terror', Lowy Institute for International Policy, Sydney, 15 August 2007

Ben Saul, 'The Equivalent Logic of Torture and Terrorism: Legal Regulation of Moral Monstrosity', Symposium on Terrorism and Torture, Institute of Advanced Studies, University of Western Australia, Perth, 9-11 August 2007

Ben Saul, 'Introduction to International Human Rights Law', Amnesty International Australia, Sydney, 25 July 2007

Ben Saul, 'Apologist, Formalist or Jurist Par Excellence: Julius Stone and the Question of Palestine in International Law', Julius Stone Centenary Conference, Julius Stone Institute of Jurisprudence, University of Sydney, 5-7 July 2007

Ben Saul, 'Competing Definitions of Terrorism', Law and Liberty in the War on Terrorism International Conference, Gilbert + Tobin Centre of Public Law, Sydney, 4-6 July 2007

Ben Saul, 'What Is The "International Rule of Law" and Does It Need Restoring?', Australia/New Zealand Society of International Law Conference, Canberra, 28-30 June 2007

Ben Saul, 'Complementarity or Collision of Overlapping Legal Regimes: Human Rights Law, Security Council Measures and the Law of Occupation', Forty Years after 1967: Reappraising the Law of Occupation, International Committee of the Red Cross, Minerva Centre for Human Rights (Hebrew University), Konrad Adenauer Stiftung, Tel Aviv/Jerusalem, 5-7 June 2007



Ben Saul at Israel's security barrier in Occupied East Jerusalem

Ben Saul, Guest Lecture, 'International Law and the War in Iraq', Foundations of Law Lecture, Sydney Law School, 28 May 2007

Ben Saul, 'Is there an Asian International Law?', Asian Law Institute Conference, University of Indonesia, 24-25 May 2007



Faculty of Law, University of Indonesia, May 2007

Ben Saul, Guest Lecture, 'Prisoners of War and the War on Terror', Australian Red Cross, International Humanitarian Law Certificate Course, Sydney, 22 May 2007

Ben Saul, Guest Lecture, 'Forced Migration and Development', UNSW Postgraduate Masters course on Law and Development, Sydney, 3 May 2007

Tim Stephens

Tim Stephens, 'Australian Climate Change Law and the National Interest', invited speaker, Australia and Climate Change Diplomacy: Towards a Post-Kyoto Regime, Academy of the Social Sciences in Australia Workshop, UNSW, 23 November 2007

Tim Stephens 'Human Rights Education', Training Programme for Officials from the Iraqi Ministry for Human Rights, 26 October 2007

Tim Stephens, 'A Critique of Posner and Sunstein on Climate Change Justice', Julius Stone Institute of Jurisprudence, Intersections Seminar Series, University of Sydney, Faculty of Law, 12 October 2007

Tim Stephens, 'Parallel Tracks for Action Against Japan over JARPAII', International Law Association (Australian Branch) and Sydney Centre for International Law, Current Developments in International Whaling, University of Sydney, Faculty of Law, 10 August 2007

Tim Stephens, 'Japanese Whaling in Antarctica: Science, Politics and Law', Veterinary Science for Animal Welfare Association, University of Sydney, Faculty of Veterinary Science, Sydney, 2 August 2007

Tim Stephens, 'Kyoto is Dead, Long Live Kyoto! A New Era for International Climate Change Law', Australian and New Zealand Society for International Law, 15th Annual Conference, Australian National Museum, Canberra, 28 June 2007

Tim Stephens, 'Climate Change and Elasticity in Political Leadership', invited speaker, Lowy Institute for International Policy, New Voices Conference, Sydney, 25 May 2007

Tim Stephens, 'Climate Change Law: National and International Developments', University of Sydney, Faculty of Law, Lunchtime Seminar Series, 29 March 2007

Anne Twomey

Anne Twomey, 'The Decolonisation of the Australian States' presented at the State Creation and Nationalism Conference, Centre for Comparative Law, History and Governance, Macquarie University, 9-10 March 2007

Anne Twomey, 'The involvement of Sub-national Entities in Direct and Indirect Constitutional Amendment within Federations' Sub-national Constitutions Workshop, 7th World Congress of Constitutional Law, Athens, 11-15 June 2007

Anne Twomey, 'The Queen of Australia and the Divisibility of the Crown' Nineteenth Conference of the Samuel Griffith Society, Melbourne, 19 August 2007

Research Grants

Thalia Anthony

'Indigenous "Stolen Wages"', Don Chipp Foundation Grant

'Critical Criminology', Legal Scholarship Support Fund

'Teaching Critical Criminology', Conference Seeding Grant

'The Future of Teaching Indigenous Legal Studies in Australian Law Schools', Conference Seeding Grant

Vivienne Bath

'The Administrative Licensing Law of the People's Republic of China: To An Empirical Review and Evaluation', Legal Scholarship Support Fund

Belinda Bennett

'Gender Inequities in Health Research: Towards a New Regulatory Framework', Legal Scholarship Support Fund

'Research in Contemporary Issues in Health Law', Legal Scholarship Support Fund (with Isabel Karpin)

'Access and Equity: Language Interpreters in the NSW Criminal Justice System', University of Sydney Research & Development Grant Scheme Bridging Support Grant (with Isabel Karpin)

'Regulating Reproductive Decision to Making in Australia and the Impact of Genetic Technologies', Faculty Redesign Grant (with Isabel Karpin)

Mary Crock

'Regulating Reproductive Decision Making in Australia and the Impact of Genetic Technologies', Australian Research Alliance for Children & Youth (with Judith Cashmore)

'The Impact of Migrants on Australian Public Law: An Historical and Cultural Study', ARC Discovery Project (with Helen Irving)

'Seeking Asylum Alone: Unaccompanied and Separated Children and Refugee Protection in Australia', Myer Foundation (with Helen Irving)

Mark Findlay

'Crime and Global Governance', Legal Scholarship Support Fund

Fleur Johns

'The Force of International Law', Arts and Humanities Research Council (UK) Research and Networks Scheme (with Professor Peter Fitzpatrick, Birkbeck College, University of London)

'Power and Rule in the Mekong Basin: The Dynamics of 'Hard' and 'Soft' Law in International Watercourse Governance', University of Sydney Faculty of Law Summer Grant (with Tim Stephens)

David Kinley

'Human Rights and the WTO', ARC Discovery Grant

Rosemary Lyster

'The Environmental Impact of Law', Conference Seeding Grant (with Nicola Franklin)

'Compliance and Enforcement: Towards More Effective Implementation of Environmental Law', Overseas Conference & Travel Grant

Roger Magnusson

'Lifestyle wars: law's role in responding to the challenges of non-communicable diseases', ARC Discovery Grant

Luke Nottage

'"Traction" or "Turbulence" in Japanese Regulatory Style? An Empirical Analysis of Japanese Commercial Law Reform since the 1990s', Legal Scholarship Support Fund

'Reforming Tort Law and Regulation in Australia: Holistic and Comparative Perspectives on Consumer Product Safety', Legal Scholarship Support Fund

'Re-regulating Consumer Credit: Australia, Japan and Beyond', Legal Scholarship Support Fund

Ben Saul

'Climate Change, Water Security and Conflict in the Asia-Pacific', Faculty Overseas Conference Travel Grant (India)



Kolkata (Calcutta), December 2007



*Indian Supreme Court,
New Delhi*

'Commentary on the 1993 Cambodian Constitution' (Royal University of Law and Economics, Phnom Penh), Asialink/Myer Weary Dunlop Fellowship

Tim Stephens

Finalisation of manuscript, *The Adjudication of International Environmental Disputes*, for publication by Cambridge University Press, Legal Scholarship Support Fund

'Power and Rule in the Mekong Basin: The Dynamics of "Hard" and "Soft" Law in International Watercourse Governance', University of Sydney Faculty of Law Summer Grant (with Fleur Johns)

David Rolph

'The Concept of Reputation in Defamation Law', RIHSS Writing Fellowship

Andrew Tuch

'Confronting Conflicts of Interest in Change-of-control Transactions', Legal Scholarship Support Fund

'The Effectiveness and Regulatory Implications of Chinese Walls in the Legal Profession', Legal Scholarship Support Fund

'Duties of Target Company Directors: Identifying Company Interests in Assessing Competing Takeover Bids', Legal Scholarship Support Fund

Irene Watson

'Law to Full Aboriginal Women and Australian Law', Legal Scholarship Support Fund

'Up Against the Nation State of Feminist Legal Theory', AHRC Research Centre for Law, Gender and Sexuality, University of Kent (UK), Overseas Conference & Travel Grant

'Law to Full Woman: An Exploration of the Self to Determination of Aboriginal Women's Law, its Colonisation and the Possibility of the Journey towards Decolonisation, to the Place of the Law to Full Woman', Sydney Postdoctoral Research Fellowship

'The Impact of the Australian Legal System upon Aboriginal Women's Laws and Lives', Summer Research Grant

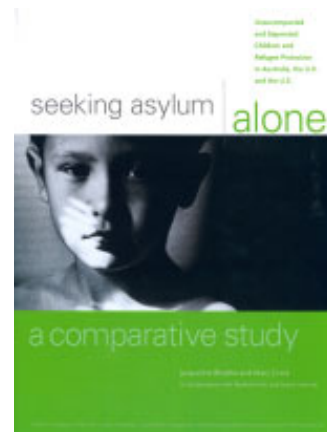
Brett Williams

'Resolving the Deadlock in the Doha Round World Trade Organisation Negotiation on Agricultural Trade Liberalisation', Legal Scholarship Support Fund

'Bhagwati's Theory of Distortions and Welfare as the Backbone of the WTO', Overseas Conference & Travel Grant

Seeking Asylum Alone: A Comparative Study

*Unaccompanied and Separated
Children and Refugee Protection in
Australia, the UK and the US*



In this report funded by the MacArthur Foundation (Chicago), the Australian Research Council and the Myer Foundation, **Mary Crock and Jacqueline Bhabha**, assisted by Nadine Finch and Susan Schmidt, describe the nature and scale of the migration of unaccompanied and separated children, the complex and unsatisfactory policies and procedures which funnel children through an adversarial system that frequently ignores their best interests and violates their human rights, and the range of remedies available to children. Drawing on government data, court proceedings and hundreds of interviews with officials, advocates and the children themselves, the report highlights serious deficiencies in current practice and makes key recommendations for reform.

Available online at www.law.usyd.edu.au/scigl

In the Media

Nicole Abadee

Opinion Articles

Nicole Abadee, 'Lessons from Turkey's strife', *The Canberra Times*, 5 November 2007 (Turkish incursions into Iraq)

Thalia Anthony

Interviews/Comments

Sydney Morning Herald, 15 December 2007 (indigenous stolen wages)

East Side Radio, 15 October 2007 (*doli incapax*)

Malaysia Sun, 8 November 2007 (indigenous stolen wages)

Uni News, 5 September 2007 (indigenous stolen wages)

ABC Radio The World Today, ABC, 13 September 2007 (indigenous stolen wages)

The Total News, 12 April 2007 (rewards for capturing criminals)

National Indigenous Times, 8 February 2007 (stolen wages)

Vivienne Bath

Interviews/Comments

Lawyers Weekly, 3 August 2007 (improvements in Chinese judicial system)

Mary Crock

Interviews/Comments

ABC Radio PM Program, 17 August 2007 (Zimbabwean students visa controversy)

ABC TV 7.30 Report, 23 July 2007 (Dr Mohammed Haneef case)

ABC Radio 702 (Sydney) (Dr Mohamed Haneef case and immigration law)

ABC TV Compass, 13 May 2007 (profile of Dean Ron McCallum)

Sun Herald, 21 January 2007 (permanent residency and health)

Katherine Fallah

Opinion Articles

Katherine Fallah, 'When Self-Regulations Means a Licence to Kill', *Sydney Morning Herald*, 25 September 2007 (private security companies)

Mark Findlay

Opinion Articles

Mark Findlay, 'Fine state of affairs when only top end put on spot', *Sydney Morning Herald*, 25 October 2007 (criminal infringement notices)

Mark Findlay, 'It's a pity it should come to secrecy, innuendo and leaks', *Sydney Morning Herald*, 19 July 2007 (Dr Haneef)

Interviews/Comments

ABC Radio, 19 October 2007 (identification of boy in suitcase)

Sydney Morning Herald, 25 August 2007 (helping strangers)

ABC Radio 702, 26 July 2007 (Dr Haneef case)

ABC Radio PM Program, 19 July 2007 (Dr Haneef case)

ABC Radio The World Today, 30 March 2007 (Jake Kovco inquest findings)

ABC News, 22 March 2007 (retrial and double jeopardy)

ABC TV Australian Story, 12 February 2007 (death of private Jake Kovco)

Sydney Morning Herald, 9 January 2007 (on a single Australian criminal law)

ABC Radio 702 (Sydney) (failed NSW Police recruits deployed into local area commands)

David Kinley

Interviews/Comments

ABC Radio National (new ASEAN Human Rights Commission)

ABC Radio National Talking Heads Program (human rights)

ABC Radio National Asia Pacific Program (on Burma)

SBS News Radio (ASEAN & Burma)

The Epoch Times (on Pinochet's death)

Roger Magnusson

Interviews/Comments

ABC Radio National, 11 March 2007 (patient responsibility)

Kate Miles

Interviews/Comments

ABC National Radio, 3 August 2007 (green credit scheme to fight pollution in China)

Ben Saul

Opinion Articles

Ben Saul and Anish Bhasin, 'Rudd fails the test on human rights', *The Age*, 12 October 2007 (death penalty for terrorists)

Ben Saul, 'Haneef case proves need for fairer laws', *The Canberra Times*, 25 August 2007

Ben Saul, 'Silencing even good sense', *The Age*, 20 August 2007 (new terrorism censorship laws)

Ben Saul, 'A gritty request, if we can stomach it', *Sydney Morning Herald*, 1 June 2007 (Indonesian war crimes at Balibo)

Interviews/Comments

ABC Radio PM Program, 28 November 2007 (AWB inquiry)

Epoch Times, 22 November 2007 (China & Falun Gong)

ABC Radio Late Night Live, 20 November 2007 (ASIO accountability)

ABC Radio AM (Jakarta), 19 November 2007 (Balibo inquest)

ABC Radio Asia Pacific, 16 November 2007 (Balibo inquest)

The Australian, 16 November 2007 (Balibo inquest)

2SER Radio, 16 November 2007 (Balibo inquest)

2SEM Radio, 15 November 2007 (ASIO accountability)
 ABC Radio, 15 November 2007 (ASIO accountability)
The Australian, 13 November 2007 (ASIO and terrorism)
 Channel 7 TV News, 30 October 2007 (death penalty)
The Chaser (ABC TV), 24 October 2007 (Sydney Centre lecture)
The Australian, 13 October 2007 (new ASIO guidelines)
Sydney Morning Herald, 13 October 2007 (new ASIO guidelines)
Sydney Morning Herald, October 2007 (Iran and genocide)
The Age, 21 September 2007 (ASIO accountability)
 ABC Radio National AM Program, 21 September 2007 (ASIO)
 ABC Radio National The Book Show, 24 August 2007 (terrorism
 censorship laws, with Frank Moorehouse)
 Triple J Radio, 28 August 2007 (US Attorney General resigned)
 Interview for film on Palestine, 17 August 2007
 SBS Radio, 17 August 2007 (death penalty and Thailand)
Sydney Morning Herald, 16 August 2007 (terrorism laws)
 ABC Radio The Law Report, 16 August 2007 (*Thomas* case)
 Triple J Radio, 31 July 2007 (UN peacekeeping in Sudan)
 The Sheet – Business Journalism, 30 July 2007 (UN sanctions)
 Canberra Radio 2CCC, 31 July 2007 (Dr Haneef case)
 ABC TV 7.30 Report, 30 July 2007 (Dr Haneef case)
 India Voice, 19 July 2007 (Dr Haneef case)
 SBS TV News, 13 July 2007 (Dr Haneef case)
 ABC 7.30 Report, 15 February 2007 (Balibo inquest)
 ABC Radio National PM, 6 February 2007 (Balibo inquest)

Tim Stephens

Opinion Articles

Tim Stephens, 'From Bali to Antarctica: Rudd's next green challenge', *Crikey*, 19 December 2007
 Tim Stephens, 'Rudd Can Get Moving on Kyoto Ratification', *Crikey*, 28 November 2007

Interviews/Comments

Sydney Morning Herald, 21 December 2007 (Japanese whaling)
 International Herald Tribune, 20 December 2007 (whaling)
 RadioLIVE New Zealand, 20 December 2007 (whaling)
 ABC Radio National PM Program, 19 December 2007 (whaling)

Gillian Triggs

Interviews/Comments

The Australian, 17 October 2007 (appointment of Michael Spence as new Vice-Chancellor)

Anne Twomey

Opinion Articles

'Federalism – Facts and Fallacies', ABC Radio National *Perspectives*, 7 May 2007



Flowering gum, University of Western Australia

'Let's have a read debate, Mr Costello, not hot air', *Sydney Morning Herald*, 3 April 2007

'Queens and Country', ABC Radio National *Perspectives*, 20 March 2007

Interviews/Comments

Sydney Morning Herald, 17-18 November 2007 (constitutional validity of nomination of Labor candidate George Newhouse)
 SBS Radio, 28 September 2007 (Senate Lecture: federalism)
 ABC TV Difference of Opinion, 30 August 2007 (federalism).
WA Business News, 29 May 2007 (federalism)
The Age, *Sydney Morning Herald* 28 May 2007 (federalism)
The Canberra Times, 16 May 2007 (new federalism)
The Australian, 16 May 2007 (taxation and federalism)
 ABC News Radio, 11 May 2007 (Northern Territory & the Queen)
Sydney Morning Herald, 3 April 2007 (taxation and federalism)
The Australian, 2 April 2007 (federalism)
The Australian, 30 March 2007 (Editorial, 'Federal Reform is not all about taxes')
Australian Financial Review, 30 March 2007 (Editorial: 'Treasurers must tidy their turf')
The Australian, 29 March 2007 (GST and income tax)
Sydney Morning Herald, 29 March 2007 (federalism)
The Age, 29 March 2007 (cost of federalism)
Australian Financial Review, 29 March 2007 (tax and federalism)
The Sunday Times (Malta), 4 March 2007 (Strickland's recall from NSW)
 ABC News Radio, 16 February 2007
Sydney Morning Herald, 10-11 February 2007 ('The hidden hand of her Majesty')
 ABC Regional Radio Tasmania, 29 January 2007

Irene Watson

Interviews/Comments

ABC Radio National, 24 February 2007 (child sexual abuse allegations in remote indigenous communities)

Other News and Activities

Human Rights Violations in Sri Lanka

Ivan Shearer has been a member of the International Independent Group of Eminent Persons (IIGEP) observing, since February 2007, the work of the Sri Lankan Commission of Inquiry into certain alleged breaches of human rights and international humanitarian law. The Group met in plenary in Colombo four times during 2007, in addition to which individual members have spent additional time in-country on a staggered basis to observe the sessions of the Commission. There are 11 members of the Group, one each from Australia, Bangladesh, Canada, Cyprus, France, Indonesia, Japan, the Netherlands, USA, and the UK. It is headed by the former Chief Justice of India. The Group will be terminating its mission at the end of March 2008, although the Commission is expected to continue. Sydney Centre members **Ivan Shearer**, **Ben Saul**, **David Kinley** and **John Pace** have recently been shortlisted for major funding from the European Commission for projects to investigate, document and monitor violations of humanitarian and human rights law in Sri Lanka, in conjunction with Sri Lankan partners the Centre for Policy Alternatives and the Weeramantry International Centre for Peace Education and Research.

Legal Action against Japanese Whaling

Centre members **Ivan Shearer**, **Chris Ward**, **Tim Stephens** and former Centre Director and founder **Don Rothwell** were members of the Sydney Panel of Independent International Legal Experts which provided an opinion on Japanese whaling to the International Fund for Animal Welfare. **Natalie Klein**, an Associate Editor and Case Notes Editor of the *Australian International Law Journal*, was also on the Panel. After its election in November 2007, the Rudd Government indicated its intention to take international legal action against Japan, partly on the basis of the views of the Sydney Panel. The government has asked Centre Advisory Board member **James Crawford** to be involved as counsel in potential proceedings.

Tax Reform in Developing Countries

Lee Burns was awarded the Graham Hill Annual Revenue Law prize in 2007 by Justice Edmunds of the Federal Court of Australia. The award is given to a person who has made a significant contribution to improving the administration, policy, practice, teaching or understanding of revenue law in Australia. In addition to his expertise in Australian taxation law, Lee is recognised as an authority on comparative tax law. He advised the Board of Taxation and the Australian Treasury on the reform of Control Foreign Company and Foreign Investment Fund rules, and on the reform of international tax rules generally. Lee also works closely with the International Monetary Fund, providing technical assistance to over twenty developing and transitional countries on the design of their tax rules, including Timor-Leste, Philippines, Pakistan, Ghana and Uganda. Lee's development work has recently focused on many of the Pacific Island countries such as Tonga, Micronesia, Timor-Leste, Papua New Guinea, Samoa and Niue. Centre Associate **Rebecca Millar** is also involved in tax reform initiatives in developing countries.

Iraqi Human Rights Ministry Training

In August 2007 the Centre hosted a delegation of senior officials from the Iraqi Ministry of Human Rights who were visiting Australia on a scoping mission to identify technical assistance and training possibilities with Australian partners, as part of the AusAID program, the Rehabilitation Assistance Facility for Iraq (RAFI). Subsequently, Centre Associates **Ben Saul**, **Tim Stephens** and **Katherine Fallah** delivered two training workshops to a second delegation of senior officials from the Iraqi Ministry for Human Rights in October 2007. The workshops provided an introduction to basic principles of international humanitarian law (including the controversial issue of the accountability of private security contractors in Iraq), international criminal law, internally displaced persons, and international human rights education. Centre Associates **David Kinley** and **John Pace** were involved as human rights specialists accompanying the delegates on their visit to Australia.

Stolen Wages & Indigenous Stockworkers



Thalia Anthony is involved in preparing a test case to recover over \$50 million in 'stolen wages' owed to indigenous stockworkers who were never paid by Vestey Group Ltd more than 40 years ago, when indigenous workers went on strike on Lord Vestey's property at Wave Hill in the Northern Territory. Dr Anthony

has begun compiling evidence - oral testimony, correspondence from station owners, and detailed government records - to demonstrate that between 1930 and 1960 the Wave Hill workers were systematically denied their wages through illegal and underhanded practices, and that this was done with the permission and in some cases the assistance of the federal government. Although the Wave Hill strike led to the first successful Aboriginal land rights claim under Prime Minister Gough Whitlam in the 1970s, the wages have never been paid.

Human Rights Initiatives

David Kinley and **Ben Saul** were involved as consultants and trainers in a consortium which successfully tendered to train the Victorian public service in 2006-07 on their responsibilities under the new Victorian Charter of Human Rights and Responsibilities.

David Kinley was involved in a project on the human rights implications of Viet Nam's accession to the WTO with the Vietnamese Human Rights Institute, Ho Chi Minh National Political Academy, Hanoi, funded by the Friedrich Ebert Stiftung, from April to December 2007, as well as providing corporate social responsibility and human rights policy advice and training to various transnational corporations in Australia and South Africa from April to December 2007.

Ben Saul became President of the Management Committee of the Refugee Advice and Casework Service in Sydney in 2007.

Ben also sits on the NSW Legal Aid Commission's Human Rights Committee, which allocates funding to meritorious human rights test cases in NSW. Ben is a member of the management committees of Australian Lawyers for Human Rights, Sydney PEN, and the International Law Association (Australian Branch). As a barrister, he gave advice in human rights cases such as the Balibo coronial inquest into war crimes in East Timor (including a recommendation, accepted by the coroner, that war crimes prosecutions should be considered), the prosecution of anti-Iraq war activists for civil disobedience actions at Pine Gap, a war crimes prosecution in the International Criminal Tribunal for the former Yugoslavia, and in an attempt to prosecute Chinese officials for the alleged torture of Falun Gong practitioners. Ben also advised the German Foreign Office on the drafting of a proposed United Nations anti-terrorism treaty, while his recent book, *Defining Terrorism in International Law*, was cited extensively by the Australian High Court in the controversial *Thomas v Mowbray* decision on control orders.



Phnom Penh, Cambodia

Visiting Appointments

David Kinley was a Visiting Professor at the University of the South Pacific Law School in Vanuatu in June-July 2007.

Ben Saul was a Visiting Professor at the Royal University of Law and Economics in Cambodia in January 2007; at the City University of Hong Kong in November 2007; and the National University of Juridical Sciences in Kolkata (Calcutta), India, in December 2007.

Promotions

Mary Crock was promoted to Professor of Public Law from 2008 and was nominated for the Justice Medal by the Law and Justice Foundation of NSW in 2007.

Luke Nottage was promoted to Associate Professor from 2008.

Mooting Victories

The Sydney Law School Jessup Mooting team were world champions in Washington DC in 2007 (see report in this newsletter), coached by Centre Associate Justin **Hogan-Doran**, and featuring Centre Affiliates **Lucas Bastin, Fiona Roughley, Odette Murray, Natasha Simonsen** and **Zelie Wood**.

For a second year, the Australian Network for Japanese Law's (ANJeL) 'Team Australia' won the 6th Intercollegiate Negotiation and Arbitration Competition held in Tokyo on 1-2 December 2007, edging out teams from top Japanese and international universities. ANJeL is directed by Centre Associate and Programme Director **Luke Nottage**, who also coached the team along with Kent Anderson (ANU) and Leon Wolff (UNSW). ANJeL warmly thanks its Team sponsors: Australian National University, Australia Japan Business Association, Australia Japan Society of NSW, Blake Dawson, Chartered Institute of Arbitrators - Australian Branch, Percy Lam, Nagashima Ohno, UNSW and the University of Sydney.

Governing through Globalised Crime

In his new book to be published in March 2008, *Governing through Globalised Crime: Futures for International Criminal Justice* (Willan Publishing, 288 pages), **Mark Findlay** analyses the impact of globalisation of crime on the governance capacity of the international criminal justice system. He explores how the perceived increased risk in global security has resulted in a reformulation of the relationship between crime and governance.

The book argues that values of freedom, equality, communitarian harmony and personal integrity, which the prosecution of crimes against humanity are said to advance, need not be sacrificed in a new world order obsessed with partial security and secularized risk. The book argues that international criminal justice provides a central tool for global governance. In exploring the dependency of global governance on crime and control, projections can be made about the changing face of international criminal justice. Fundamental transformation is required to hold *unjust* global dominion to account.

The book's policy perspective challenges international criminal justice to return to the more critical position justice has exercised in the *separation of powers* constitutional legality. For liberal democratic theory, judicial authority and its institutions have ensured constitutional legality by requiring the legislature and the executive to operate accountably against a higher normative order. This is not a predominant function of judges and courts in the international context despite their statutory invocation to this task. Case-studies of global crime and control reveal contexts in which the co-opted governance of institutional ICJ in particular, has a politicized motivation which too often advances the authority and interests of one world order against the legitimate resistance of criminalized communities. When the analysis moves to victim community interests, and to the appropriate global constituencies of ICJ, the nature and limitations of ICJ supporting governance in the risk/security model becomes apparent.



Centre Director (centre) with Indian law students in Kolkata

World Championship Jessup Mooting Team

Lucas Bastin, a member of the World Championship Jessup Mooting Team in Washington DC in 2007, reports on the highs and lows of participating in the world's most competitive international law mooting competition.

Level 14 of the Sydney University Law School does not have air conditioning. It is built to accommodate about 3 or 4 people, and it reverberates with the thud of squash balls on the other side of the main wall. During summer, the Bogong moths invade, and temperatures soar over 35 degrees. It is, on reflection, a most unlikely place from which to launch a Jessup campaign.

But launch it we did. From level 14, over a period of about 8 months, we, the Sydney University Jessup Moot team of 2007 – comprising Odette Murray, Fiona Roughley, Natasha Simonsen, Zelig Wood and Lucas Bastin – crafted the memorials and oral submissions that ultimately led us all the way to Washington.

This year's Jessup problem revolved around the refusal by an economic union (think: the EU) to admit a country (Turkey) on account of its poor human rights record (refusal to acknowledge the Armenian genocide), and the ways in which a country in that position might lawfully respond to such a refusal.

Our journey began with drafting two memorials, each of 9,000 words, each pleading a different side of the case. Researching and drafting these documents was painstaking work. Jessup moots are famous for posing a question to which there is no settled answer, and the task of trying to create one often felt like an exercise in futility! For all the emphasis on the performative element of the Jessup – the actual standing up and talking – it is easy to forget the huge effort exerted in the equally as important pursuits of researching and drafting. And, when all's done and dusted, it's the memorial drafting phase that provides the best memories: it's when our moot team became friends, when huge amounts of chocolate sustained us through late nights, and when a pedantry for footnoting and italicisation was held in high esteem.

Eventually, however, we had to shed the familiarity of level 14, and embark on seemingly endless rounds of practice moots, each time refining our arguments in an exercise redolent of Schumpeter's theory of creative destruction. Every moot was before new judges, with new ideas and new criticisms. What had taken

us 6 months to draft suddenly became less monumental, and much more fluid. Arguments were tried, modified, improved and retried. Our speaking styles were wrenched back and forth. We often only had overnight to substantially alter submissions before they were mauled again the next day. But as the Australian oral rounds loomed larger, this intense preparation ensured that we honed our submissions and began to master our nerves.

And it was a good thing we did. The first round against Melbourne University was a baptism of fire, with a barrage of questions focusing less on testing the integrity of our arguments, and more on the breadth of our international law knowledge. Heavy questioning was a theme of the Australian rounds, particularly during the later knock-out moots. Our ability to engage with the bench, to answer questions directly and then segue neatly back into our planned submissions, was decisive. Overcoming Adelaide University in the quarter-final and Bond University in the semi-final, we booked our place in the top two Australian teams and consequently our ticket to the international rounds in Washington. While we were Runners Up to the University of Queensland in the final, we had the amazing privilege of pleading in the High Court of Australia, before Bill Campbell QC, Professor Sarah Joseph, and the Chief Justice of Australia, Murray Gleeson.

We arrived in Washington just as the cherry blossoms were beginning to bloom along the Potomac. The grandeur of the capital and the funky atmosphere of Georgetown made for an impressive setting for the international Jessup rounds. So too did the five star Fairmont hotel, which accommodated us and hosted the moots. Thronging with more than 600 law students, coaches and judges from over 70 countries, the international rounds were as much a cosmopolitan social event as they were



Fiona Roughley, Odette Murray, Natasha Simonsen, Zelig Wood and Lucas Bastin

an intellectual contest. Over drinks and dancing, friendships were formed, photos were taken and tensions were eased.

But ultimately, all 100 or so teams had come to town for the same purpose: a tilt at the Jessup Cup. Four preliminaries in two days narrowed the field to 24 teams. A further two knock-out moots the next day saw us progress to the final eight. After winning our quarter-final, we met our compatriots, the University of Queensland, in the semi-final. Given that a spot in the world final was at stake, the rematch was tense. Ultimately, however, our ability to engage the bench with both personality and precision won the day. After 8 months of effort, we had only one more moot, the following afternoon.

The final was against King's College, London. It was held in an auditorium seating 500 people, and was presided over by His Excellency Judge Hisashi Owada of the International Court of Justice, UN Assistant Secretary-General for Legal Affairs Larry Johnson, and Principal Legal Advisor of the Legal Service of the European Commission Pieter Jan Kuijper. Having drawn respondent, we had the luxury of hearing King's College's submissions before responding. Their arguments were novel, and our response drew heavily on reservoirs of research which we hadn't used during the earlier rounds. Thankfully all the hard work paid off, and the expert bench reacted well both to our criticism of King's College's submissions and to the arguments we positively advanced. After a short adjournment, the bench announced that, in a unanimous decision, The University of Sydney was the 2007 Jessup Champion.



The winning moment

Along the way, we picked up a number of accolades, both individually and as a team. In the Australian rounds, the team was awarded prizes for Best Applicant Memorial, Best Respondent Memorial and Best Overall Memorials – it being a rare feat for the same team to win all three memorial prizes. In addition, Natasha Simonsen was awarded Best Oralist in the Final Round. In the Washington rounds, our writing and oral efforts were again rewarded. The team won the Dillard Award for Best Overall Memorials, and Lucas Bastin was awarded Best Oralist in the Semi-Finals and Best Oralist in the Championship Round. Most importantly, of course, the team won the Jessup Cup. Tarnished with many champagne celebrations and dented with 50 years of international travel, it is a massive trophy covered in plaques bearing the names of all past winners. It and its smaller replica now sit proudly in the Law School library as quiet reminders of our summer of Jessup, and as encouragement for those Sydney University law students who at some point in the future will begin a similar journey from the inauspicious confines of level 14.

Centre Visitor



Katja Samuel, a doctoral student from the University of Sheffield, assistant to a British parliamentary inquiry into terrorism and foreign policy, and a former barrister in the Royal Navy, reports on her time as a Centre Visitor in mid-2007.

I am a firm believer that any form of research should be both informative and enjoyable, and was delighted when Ben Saul agreed that I could visit the Sydney Centre for International Law for two months during August and September this year. A barrister by background, I am currently engaged in full-time doctoral research on international law and terrorism at Sheffield University in England. Specifically, I am examining how international organisations, as well as less formal collective input of states, influence and create international norms on terrorism, with an aim to better understanding how such entities can be engaged in counter-terrorism. I am strongly of the belief that an international law perspective has far more to offer in the area of foreign policy formulation than governments (certainly the UK government) perhaps realise or choose to utilize.

During my time with the Centre, I was occupied primarily with drafting a UK Parliamentary Inquiry report relating to the impact of the UK's foreign policy on tackling international terrorism in both the UK and overseas, as well as with my own research. As well as contributing a written submission to the Inquiry, Ben was kind enough to discuss and exchange ideas relating to other aspects of my own research, enabling me to draw on his own deep expertise in the field. The Centre also held a number of interesting and informative seminars on diverse international legal issues during my stay, such as the public complaints system relating to the Australian security services, as well as a book launch of Gerry Simpson's latest book, *Law, War and Crime*. One lasting impression that I did take away from these seminars, as well as from our weekly get-togethers in a local coffee shop, was a surprisingly benign institutional attitude to international human rights law in Australia – I think the Centre has its educational role cut-out here in the coming years!

Most of all, I greatly appreciated the warm Aussie welcome from the Centre, the Law Faculty, and those whom I met in and out of work. Sydney is a fantastic city and my daily commute back in Sheffield is just not quite the same without my daily ferry crossing past the Opera House! You have an amazing country that I was able to catch glimpses of during my time, and I am looking already for an excuse to return at the earliest opportunity!

Centre Interns

In 2007 the Sydney Centre established a new internship program open to Sydney Law School students who have completed the compulsory undergraduate course International Law. After a highly competitive application process, two students were selected to become the inaugural Centre Interns in Semester Two, 2007: Anish Bhasin and Lily Tsen. Here **Anish Bhasin**, now a lawyer at the Director of Public Prosecutions in Sydney, tells of his experience as a Centre Intern.

In the second semester of 2007 I volunteered as a student intern with the Sydney Centre for International Law one day per week. Working with the centre provided a fantastic opportunity to engage with a range of contemporary issues in international law. The work was always interesting and often challenging, and spanned a wide range of topics. For example, I prepared a background brief discussing the legality under international law of the United States Military Commission process and the trial of David Hicks; examined the efforts of the United States to secure bilateral immunities agreements in an attempt to exclude United States citizens from the reach of the International Criminal Court; considered Australia's possible extra-territorial criminal jurisdiction for acts of torture; helped draft questions for use in a public panel asking Prime Minister Malcolm Fraser about his view of Australia's anti-terrorism legislation in light of international human rights principles; and co-authored an opinion piece in *The Age* about the ambivalent attitudes of Australian politicians to the death penalty in the Asian region.



As an intern I also helped the Centre host a number of distinguished guest speakers, including the Inspector-General of Intelligence and Security, and the then Shadow Foreign Minister Robert McClelland MP (complete with cameo appearance by the ABC's *The Chaser* comedy team). A personal highlight for me was being able to participate in a small group discussion with Luis Moreno-Ocampo, the current Prosecutor of the International Criminal Court. Overall the internship experience was a thoroughly enjoyable and educational experience and I extend my sincere thanks to all of the Centre staff, and in particular the Director, Ben Saul, for the opportunity.



From left: Inspector-General of Intelligence and Security, Ian Carnell, with Centre Interns Anish Bhasin and Lily Tsen

Is Peace Possible through An International Rule of Law?

*Extract from a speech by the then Shadow Foreign Minister (now Attorney-General) **Robert McClelland MP** at the Sydney Centre on 17 October 2007.*

'It is unrealistic to expect that international legal mechanisms will single-handedly bring about a world where our children will no longer witness genocide and mass killings.

Clearly the pursuit of other options will continue to be necessary. These must include the promotion of democracy in a form that is more than simply rule by the elected majority. True democracy must include the rule of law, independent judiciaries, freedom of the press, respect for minorities and the protection of fundamental human rights.

As acknowledged by the Responsibility to Protect Report, capacity building in all its forms is vital. It must include political competence, engagement of a civil society, providing decent housing and health care. Developing infrastructure and economic activity are also vital. As always, access to universal education is a necessary foundation for this development. Also essential is the challenge of climate change because, as we have seen in respect to Darfur, scarcity of resources including water, food and land will inevitably lead to future conflict.

It must be acknowledged that the increasingly effective body of international law to prevent violence and crimes against humanity is not matched by the international community's preparedness to take effective action.

Nevertheless, there are some interesting and innovative trends in respect to the application of international laws and institutions to provide potentially valuable mechanisms to call to account the perpetrators of the worst human atrocities.

Taking appropriate action is something that the international community legitimately expects and feels a collective responsibility to address. In many ways the task before us is one of drawing together the concepts of "collective responsibility" with the emerging concept of "individual accountability".

Respected middle powers with sound democratic principles and a history of peaceful development, such as Australia, are well placed to contribute to the development of these trends. This process inevitably involves challenges. They are not straightforward, and effective implementation of international law will require resources.

On the other hand, ignoring the potential use of international law and institutions to hold international criminals to account leaves an unacceptable alternative. The choice between only inaction or military action is ham fisted, unsophisticated and unacceptable.

It is naive not to recognize that a situation may be such that there is no alternative to military intervention to prevent a human catastrophe. But, as we have seen in respect to the invasion of Iraq, military invasion inevitably leads to extensive loss of life, the displacement of citizens and massive cost.

Surely the time has come to encourage developments that will ensure military intervention becomes absolutely the last alternative.'



Centre Affiliate Dr Jane McAdam conducted field research on human displacement in Myanmar (Burma); stopped for a photo by curious monks (above); and at the UN High Commissioner for Refugees in Yangon (below)



Centre Members in 2007

The number of Centre members continues to grow and we are pleased to welcome our new Associates (academic or teaching staff at Sydney Law School with international law interests): Lee Burns, Jennifer Hill, Rebecca Millar, Thalia Anthony, Shae McCrystal and John Pace. We also welcome new Affiliates (those with international law expertise and some connection to the Centre): Robert Dubler, Jane McAdam, Chris Sidoti, Sarah Williams, Natasha Simonsen, Zelie Wood, Odette Murray and Lucas Bastin.

Centre Management Committee

Ross Anderson, Senior Lecturer and expert in private international law and international criminal law.

Professor Mary Crock, Professor of Public Law and expert in international law and human rights law, especially migration, citizenship and refugee law.

Professor David Kinley, Professor of Human Rights Law and expert in human rights and corporate responsibility, the World Trade Organisation, World Bank and International Monetary Fund.

Dr Fleur Johns, Senior Lecturer and member of the New York bar with research interests in public international law, including the history and theory thereof.

Associate Professor Luke Nottage, expert in comparative and transnational contract law, product liability, international arbitration and corporate governance especially in relation to Japan.

Dr Ben Saul, Senior Lecturer and barrister, specialises in public international law, especially terrorism, use of force, humanitarian law, human rights, refugees and the United Nations.

Dr Tim Stephens, is a Lecturer and expert in international dispute resolution, international courts and tribunals, international environmental law and the law of the sea.

Professor Gillian Triggs, Dean of Law, former Director of the British Institute of International and Comparative Law, barrister, and expert in all areas of public international law.

Dr Brett Williams, Senior Lecturer and expert in international trade law and international regulations of trade especially the law of the World Trade Organisation.

Centre Associates

Nicole Abadee is a Sydney barrister who has appeared in a number of leading High Court cases concerning International Law, both public and private. She teaches and writes in the field of international law and the use of armed force.

Dr Thalia Anthony is a Lecturer with interests in indigenous people and the law (including indigenous rights in international law), criminology, comparative tort law, native title and legal history.

Vivienne Bath is a Senior Lecturer and an expert in the Law of International Business Transactions and in Chinese Law.

Irene Baghoomians is a Lecturer and expert in international human rights law having experience in litigation of civil rights and human rights cases.

Associate Professor Belinda Bennett is expert in health law and globalisation, especially as it relates to biomedicine.

Professor Ben Boer, Professor of Environmental Law and expert in international environmental law, including sustainable development law, Asian Pacific environmental law and natural and cultural heritage law.

Professor Lee Burns is a Professor in Taxation Law and specialises in international and comparative tax law, and is a consultant to the International Monetary Fund and various donor agencies on taxation reform in developing countries.

Graeme Coss, a Senior Lecturer in the Faculty of Law has research interests in, inter alia, international human rights law and international criminal law.

Professor Mark Findlay, Professor of Criminal Law and expert in comparative criminal justice, globalisation and crime and international criminal law.

Professor Jennifer Hill is Professor of Corporate Law with research interests in international and comparative corporate governance, including in the United States and Europe.

Justin Hogan-Doran is a Barrister in private practice in Sydney. He lectures in public and private international law and coached the winning Jessup Mooting team in 2007. Justin is an Army Reserve Officer, attached to the ADF Military Law Centre.

Associate Professor Rosemary Lyster, expert in Asian Pacific environmental, international environmental law and international energy law, especially in relation to climate change.

Associate Professor Roger Magnusson is an expert in health law and in public health law with, an interest in global health governance and in legal response to epidemics.

Dr Shae McCrystal is a Senior Lecturer with interests in labour and employment law, including international labour law.

Kate Miles, Lecturer and expert in international environmental law and international trade and investment law.

Rebecca Millar is a Senior Lecturer with research interests in GST, comparative VAT, and the income tax concession for research and development. She is also involved in taxation reform in developing countries for a number of donor agencies.

John Pace lectures in international human rights law and has served as a senior United Nations human rights official in Geneva, Iraq and Lebanon, among others.

Alison Pert lectures in public international law and has a special interest in the use of armed force and Australia's compliance with its treaty commitments.

Dr David Rolph is a Lecturer with research interests in private international law, especially multi-state torts.

Emeritus Professor Ivan Shearer AM, former Challis Professor of International Law and expert in all areas of international law, especially international human rights law, the law of the sea, international humanitarian law and the use of armed force.

Andrew Tuch, Lecturer, has research interests in international financial services regulation, and globalisation and the provision of legal services.

Associate Professor Anne Twomey has interests in public international law and comparative constitutional law, especially issues concerning federal systems of governance.

Dr Irene Watson is a Post-Doctoral Research Fellow and an expert in legal issues relating to Aboriginal Peoples.

Associate Professor Alex Ziegert, expert in legal theory, notably the analysis of global law as a legal system.

Centre Affiliates

Robert Dubler SC is a senior Sydney barrister who completed his PhD in international law from the University of Sydney, with research interests in international criminal law.

Jolyon Ford, Lecturer at the Australian National University and former Lecturer at Sydney Law School, with interests in public international law, constitutional law, and post-conflict studies.

Rebecca Graham is a criminal lawyer at NSW Legal Aid and a former Legal Officer at the International Criminal Tribunal for the former Yugoslavia, where she worked for a number of years on the Milosevic trial. She is a graduate of Sydney Law School.

Eric Knight is a doctoral student at the University of Oxford on a Rhodes Scholarship, and previously an Associate at Baker & McKenzie in the Environmental Markets team. His interests include public international law, environmental law, and finance.

Dr Peter Kwon, partner at DLA Piper, Hong Kong and specialist in cross-border securitisation, derivatives, capital markets, and structured finance law and research interests in legal culture, cross-border negotiations, and the interaction between the two.

Dr Jane McAdam is a Senior Lecturer in the Faculty of Law at the University of New South Wales. She holds a doctorate from the University of Oxford and has published widely in the areas of international human rights law and refugee law.

Dr Hitoshi Nasu is a lecturer at the ANU College of Law and an Associate Director of The Australian Network for Japanese Law (ANJeL). His thesis on the 'Precautionary Approach to International Security Law: A Study of Article 40 of the UN Charter' was completed in 2006.

Chris Sidoti is a human rights lawyer, activist and teacher, independent chair of the UK Government's Northern Ireland Bill of Rights Forum and chair of the NSW Casino Control Authority. He was director of the International Service for Human Rights in Geneva from 2003-07, Australian Human Rights Commissioner (1995-2000), an Australian Law Reform Commissioner (1992-95) and Foundation Director of the Australian Human Rights Commission (1987-1992).

Dr Martyn Taylor is a Senior Associate at Mallesons Stephen Jaques, practising in competition & trade law, telecommunications law and international economic law. He has interests in international competition policy, international finance, and trade regulation.

Sarah Williams formerly worked in international law at the British Foreign and Commonwealth Office and is now researching the establishment by the United Nations Security Council and Lebanon of a criminal tribunal to prosecute political violence in Lebanon.

Jessup Affiliates

Lucas Bastin is an Associate to Justice Tamberlin in the Federal Court of Australia and a member of the world championship Sydney University team at the 2007 Phillip C Jessup International Law Moot Court Competition in Washington DC.

Odette Murray is a recent graduate of Sydney Law School, and a member of the 2007 world championship Jessup Moot team. She also participated in the Red Cross International Humanitarian Law moot, the World Trade Organisation Moot, and the Manfred Lachs Space Law Moot.

Fiona Roughley is in the final year of her law degree at Sydney and was a member of the 2007 world championship Jessup Moot team. She has research interests in international criminal law and private international law.

Natasha Simonsen is in the final year of her law degree at Sydney and was a member of the 2007 world championship Jessup Moot team. She is currently writing a thesis on expropriation under international law.

Zelie Wood was a member of the 2007 world championship Jessup Moot team. She is currently studying European and Public International Law at Universiteit Utrecht in the Netherlands.

Centre Interns

Anish Bhasin, final year Sydney law student in 2007 and now a lawyer at the Director of Public Prosecutions in Sydney.

Lily Tsen, final year Sydney law student in 2007 and now a graduate lawyer in Melbourne.

Student Editors of the *Australian International Law Journal*

Andrew Bilski, Shipra Chordia, Nicole Forster, Martin Hill, Sally Johnson (Coordinator), **Grace Mang, Alexandra Meagher** (Coordinator), **Emma Perera, Ben Wahlhaus**

Centre Visitors

Dr Luis Moreno-Ocampo, International Criminal Court

Katja Samuel, PhD student, University of Sheffield and former barrister, Royal British Navy

Professor Gerry Simpson, London School of Economics

Professor August Reinisch, University of Vienna