Dear Friends of the Sydney Centre

The Sydney Centre is pleased to bring you its latest newsletter detailing our activities in the first half of 2008. Highlights included five Centre members attending the national 2020 Summit on future policy directions for Australia; the publication of many new books and other research; prolific contributions to parliamentary inquiries into new legislation or other issues involving international law questions; major new research funding from AusAID for human rights work in Nepal; and Sydney’s Jessup International Law Moot Team winning the Australian Championship.

The Centre also hosted its usual weekly program of free Public Seminars, including reports from experts working in the field in Uganda, Sudan, Iraq and Lebanon, as well as topics such as European security policy, investor-State arbitration, racism and minority rights, the future of the United Nations Human Rights Council, the Security Council’s Criminal Tribunal to punish terrorists in Lebanon, crimes against humanity, oil and gas resources in the Timor Gap, property rights and dispossession, World Trade Organisation disputes about beef exports, and UNIDROIT principles and international commercial contracts. Major forums were held on the Bali Summit on Climate Change and on Japanese whaling.

Two new volumes of the Australian International Law Journal will soon be published, including a special issue on Climate Change, thanks to the magnificent work of our Student Editors. The Centre also welcomes Dr Simon Butt, expert in Indonesian law, as an Associate. We are also planning to establish Research Programs in International Environmental Law and Law and Development, and to host a series of expert workshops and major conferences in 2009 after we move into the new law building on main campus in late 2008. We look forward to seeing you at our events.

Centre Director Ben Saul pitching in at the new Law Building - and admiring the view!

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Five Sydney Centre Members Attend the National 2020 Summit

Five Sydney Centre Members were delegates at the national 2020 Summit in Canberra earlier this year. Ben Saul and Katherine Fallah were part of the panel on Australia’s future security and prosperity in a rapidly changing region and world, and contributed to the adoption of recommendations on strengthening the international rule of law and global governance; Helen Irving was on the Australian Governance panel, and was invited to chair the bill of rights stream; Anne Twomey also attended the Governance panel; and Mary Crock discussed the future of Population, Sustainability, Climate Change and Water. Sydney law student Angela Ha also attended the 2020 Summit, after being selected to represent the views of other young people who had attended the earlier 2020 Youth Summit. Behind the scenes was Grace Mang, a former student editor of the Australian International Law Journal, now working in the Department of Prime Minister and Cabinet.

Fieldwork on Refugees in Thailand and Cambodia

Mary Crock conducted fieldwork research on behalf of the NGO VOICE (Vietnamese Overseas Initiative for Conscience and Empowerment), visiting Bangkok in February and Cambodia (Phnom Penh and Siem Riep) in February and March. Mary researched the resettlement of Vietnamese refugees and the establishment of a local NGO specialising in measures to combat abuse of stateless Vietnamese women and children. On her return to Australia, Mary met with senior officials from the Department of Immigration and Citizenship concerning casework associated with the VOICE field trips.

Ivan Shearer Continues Human Rights Work

Ivan Shearer attended his final meeting as a member of the International Independent Group of Eminent Persons (IIGEP) observing the proceedings of the Commission of Inquiry into certain alleged human rights abuses established by the Government of Sri Lanka, held in Colombo on 18-23 February 2008. Ivan also attended the session of the United Nations Human Rights Committee at UN Headquarters New York from 10 March to 4 April 2008, in his capacity as Vice-Chair of the Committee. Most importantly, Ivan sat as a judge in the quarter-finals of the Lachs Space Law Moot Competition in Sydney on 11 April 2008.
Viva Survivor: Associate Defends Thesis in Cambridge

Congratulations to Centre Associate and Public International Law Program Co-Director, Dr Jacqueline Mowbray (above centre), for successfully defending her Doctor of Philosophy thesis at her viva (oral exam) in Cambridge in late June. Jacqui’s thesis deals with language and minority rights in international law.

Sabbatical at Cambridge... et Les Pyrénées

David Kinley was on sabbatical leave for the first semester of 2008, reconfigured (mostly) as a Herbert Smith Fellow at the University of Cambridge and a visitor at the Lauterpacht Centre for International Law in the Law Faculty there. During that time he was focused on writing his manuscript Civilising Globalisation: Human Rights and the Global Economy, which will be published by CUP early next year. He also completed the editing on another book, Human Rights and Corporations, for Ashgate’s International Library of Essays series (to be published in Jan 2009), and continued editing another collection of essays (Human Rights and the WTO), also due to be published next year, by Edward Elgar.

While in Europe he visited and gave papers at various other universities including the London School of Economics, Université Paris I Panthéon-Sorbonne, and Queen’s University Belfast; he attended the Biennial Conference of the British Branch of the International Law Association in London, and took part in a roundtable consultation with the UN Secretary-General’s Special Representative on Corporations and Human Rights and the IFC (part of the World Bank Group) on the impact of Stabilization Clauses in Investment Treaties held at Clifford Chance’s remarkable new offices at Canary Wharf. He also spent some sublime writing time in Estensan (population 13) in Les Hautes-Pyrénées, aided greatly by the Fifth Republic’s insistence that its schooling system must wrest your children from your grasp from 9am until 5pm!

Affiliate wins Justice Peter Hely Memorial Scholarship

Over 70 eminent judges, barristers, family and distinguished guests from the legal community joined the Dean of the Sydney Law School, Professor Gillian Triggs, to launch the Justice Peter Hely Memorial Scholarship on Tuesday 27 May 2008. As a member of the panel that included Justice Peter Jacobson and Professor Triggs, Justice Dyson Heydon of the High Court awarded the first Hely scholarship to Centre Affiliate Lucas Bastin. Generous contributions from the family, friends and colleagues of the late Justice Hely established the scholarship to promote postgraduate study in commercial law and equity and ensured a permanent memorial to one of the finest graduates of the University of Sydney Law School. Justice Heydon spoke of Lucas’s significant success as a mooter in the Jessup International Law Moot where he represented the Sydney Law School and was declared “Best Oralist” in the world final round. He also spoke of Lucas’s numerous sporting interests, achievements and community activities. Special guest speaker at the reception, The Hon Mr Roderick P Meagher AO, QC delighted guests with his warm reminiscences of Justice Hely. Mr Meagher spoke of Justice Hely as a “walking monument of higher learning” and of the “masterpieces of succinct learning” that were his written opinions. He reflected fondly on Justice Hely’s brevity of expression, wry wit and precision of thought.

Peter Cameron Scholarship to Oxford

Anish Bhasin, one of two inaugural Sydney Centre Interns in 2007, has been awarded the Peter Cameron Sydney Oxford Scholarship for postgraduate study in law at Oxford University, starting in 2008. Anish will be resident in Magdalen College, famed for deer and fritillaries, and which will soon celebrate its 550th anniversary.

Australian United Nations Mission Internship

Christine Ernst, a fourth year Economic and Social Sciences/Law student, and a Student Editor of the Australian International Law Journal, was selected for an internship at the Australian Mission to the United Nations in New York. The internship takes place during the annual session of the United Nations General Assembly, scheduled between September and December 2008. Christine is one of three candidates selected from across Australia. The role entails advocating Australia’s interests at the UN. Specific duties include: assisting with policy work on the UNGA Second Committee (economic, environment, humanitarian and international development); assisting with policy work on the UNGA Sixth Committee (legal issues); assisting with policy work on UN Development Boards. “I am thrilled to be taking up the opportunity to engage with the United Nations at a time when international cooperation has never been more important,” Christine said. “I look forward to exploring the workings of the international legal system from up close.”

Harvard World Model United Nations

Sydney law students recently received recognition for their outstanding level of diplomacy skills at the Harvard World Model United Nations in Puebla, Mexico recently. Of the six students from Sydney Law School who attended Harvard’s WorldMUN, three won Diplomacy Awards: Anshu De Silva Wijeyeratne (second year International Studies/Law), representing the International Committee (legal issues); assisting with policy work on the UNGA Second Committee (economic, environment, humanitarian and international development); assisting with policy work on the UNGA Sixth Committee (legal issues); assisting with policy work on UN Development Boards. “I am thrilled to be taking up the opportunity to engage with the United Nations at a time when international cooperation has never been more important,” Christine said. “I look forward to exploring the workings of the international legal system from up close.”

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2008 Jessup Law Moot: National Champions

The Sydney Law School team was victorious in the Australian National Rounds of the 2008 Jessup International Law Moot, held in Canberra, on Saturday, 2 February 2008, building on the success of last year’s team who were World Champions. The Sydney team defeated the University of New South Wales in the final in the High Court, presided over by Justice Kiefel. Sydney faced a tough draw, confronting the University of Western Australia in the quarter finals and last year’s Australian winners, the University of Queensland. Centre Associate and Team Adviser Tim Stephens reported that the team of Joel Gilbourd, Lisa-Claire
Hutchinson, Laura Johnston, Alexandra Meagher and Suzannah Morris all performed at an exceptional level throughout the preliminary and advanced rounds of the competition. Laura Johnston was awarded the prestigious award for best advocate in the final. “Our thanks and congratulations must be extended to the team’s dedicated coach, Houda Younan, who took considerable time out of her busy practice at the Sydney Bar to coach the team over the summer,” said Dr Stephens.

Jessup Awards in Washington DC

Sydney’s Jessup International Law Moot Team went on to perform at a high level at the international rounds in Washington DC. Team members Suzannah Morris and Laura Johnston were named 5th and 7th Best Speakers in the world respectively. “This is a tremendous achievement given the strength of the competition and the number of mooters eligible for the best oralist awards - well over 150 speakers,” said Centre Associate and Faculty Adviser Tim Stephens. “On behalf of the Sydney team, and their coach Houda Younan, I would like to acknowledge the tremendous support provided by many institutions and individuals. “Allen’s Arthur Robinson, the NSW Bar Association, the Australian New Zealand Society of International Law, the International Law Association and Jessup International Law Moot Inc all provided substantial financial support which allowed the team to travel to Washington. Thanks also to so many of the Law School’s Academic staff for devoting their time in judging practice moots.” The Sydney Team faced four challenging moots at this year’s finals, including against teams from the Netherlands and Hong Kong. The team then progressed to the run-off rounds against a team from the Philippines, but in a close result were defeated. “By all accounts the Australian national champions put in an exceptional performance in all of their moots in Washington D.C.,” said Dr Stephens. The Winner of the Competition for 2008 was Case Western Reserve University School of Law from Cleveland, Ohio, USA.

News in Brief

Sarah Williams was appointed as the Dorset Fellow in Public International Law at the British Institute for International and Comparative Law in London.

Gillian Triggs taught at the prestigious Xiamen Academy of International Law Summer Program in China in June.

Natasha Simonsen is now working for UNICEF in Pakistan.

Nicole Dicker, former student editor of the Australian International Law Journal, now works with the United Nations in Fiji.

Fiona Roughley recently worked with the North Australian Aboriginal Justice Agency in the Northern Territory.

Tim Stephens was elected to the Executive Council of the Australia New Zealand Society of International Law.

Fleur Johns was on the organising committee of the annual conference of the Australia New Zealand Society of International Law, at which a number of Centre members presented.

Ben Saul provided humanitarian law training for the Australian Red Cross IHL Instructors Course in Sydney.

The Jessup Moot Team (L to R): Laura Johnston, Alexandra Meagher, Suzannah Morris, Joel Gilbourd and Lisa-Claire Hutchinson

News in Brief (continued)

The Centre hosted Australia’s Ambassador to the United Nations in New York, Robert Hill, at an informal meeting in Sydney.

The Centre completed production of the 2006 volume of the Australian International Law Journal.

Ben Saul provided training to NGO leaders from the Philippines on internal displacement and human rights in the conflict in Mindanao, for AusAID and Queensland University of Technology.

Katherine Fallah and Ben Saul delivered humanitarian law and international criminal law training to senior officials from various ministries of the Iraqi Government for AusAID.

Ben Saul became Vice-President of Sydney PEN, the writers’ organisation which advances the freedom to write and read.

Jane McAdam and Ben Saul helped to organise the 21st Birthday Party of the Refugee Advice and Casework Service, with guest speaker Tom Keneally and an auction of Justice Michael Kirby’s dissent in the Al-Kateb case (2004) (where the majority upheld potentially indefinite detention of failed asylum seekers). The price of dissent is officially $1,000!

Personalia

Tim Stephens, his wife Anna-Maria and their son Ted were joined by a baby girl, Matilda Ellen, in March.

Fleur Johns, her husband Peter and their son Arlo were joined by a baby boy, Claude William, in May.

Thalia Anthony married Mark O’Donnell, under the Jacaranda Tree in the Sydney University Main Quadrangle in May.
New Research in Nepal

Safeguarding Human Rights in the Criminal Justice System in Nepal

Sydney Centre for International Law and Kathmandu School of Law
Funded by AusAID’s Public Sector Linkages Program ($170,000)
Administered by the Research Institute for Asia-Pacific

Centre Director Ben Saul and Program Director David Kinley will lead a one-year project in collaboration with Kathmandu School of Law to improve understanding and knowledge of, and respect for, human rights law amongst key actors in the criminal justice system in Nepal, including police, prosecutors and young lawyers.

Insurgency and associated lawlessness have seriously undermined the criminal justice system in Nepal. Despite strong, formal legal protections for human rights in the justice system, there are still serious institutional weaknesses, such as reliance on forced confessions, inhumane treatment in detention, sexual harassment by police, prolonged delays, lack of impartial investigations, lack of access to lawyers, and unfair trials. This has a particularly adverse impact on marginalised groups such as dalits, the poor, women, the disabled and minorities. Nepalis are amongst the world’s poorest people, with Nepal ranking 142 of 177 in the UN Development Program’s Human Development Index.

Our project hopes to strengthen the effective functioning of the justice system to address these weaknesses and have real impacts on the reduction of human rights abuses in Nepal. The project aims to improve awareness of avenues of accountability for violations which do occur; enhance public confidence in the justice system; and strengthen the effective functioning of the justice system in accordance with international legal standards. It will address the culture of impunity for serious violations of human rights, including enforced disappearances, State-sanctioned killings and torture.

The first part of the project will involve reviewing and auditing legal education in Nepal on human rights in the criminal justice system and formulating and disseminating a model curriculum for adoption by key actors. The second part of the project will involve the design and delivery of human rights training workshops for police and prosecutors involved in Nepal’s criminal justice system, in both urban and rural areas.

The sustainability of this development project will be ensured through a training of trainers program and ongoing support of Kathmandu School of Law by the Sydney Centre for International Law after the project is completed. The project aims to enhance the capacity of Kathmandu School of Law to further contribute to law and justice reform initiatives in Nepal, by equipping KSL staff with new skills, insights and legal materials concerning human rights education and training in Nepal. The project will draw on the expertise of a number of Centre Associates and Affiliates, and involve considerable time spent in Nepal.
To some the Jessup moot is merely a course at university; to others, an academic pursuit; and to still others, a chance to party in Washington. To Sydney University students, however, the Jessup moot is an epic battle that must be fought year after year to defend the honour of the Law School and the validity of international law.

With this in mind, it seems fitting that the Jessup campaign of the 2008 Sydney University team began with a meeting under a statue of Athena, the Ancient Greek goddess of wisdom, war and justice, at a Greek restaurant in Sydney. And so it was under Athena’s gaze that we were introduced to the people with whom we would spend most (if not all!) waking hours of the next six months crafting the written memorials and oral submissions that ultimately led us to Washington: the team comprising Joel Gilbourd, Lisa-Claire Hutchinson, Laura Johnston, Alexandra Meagher and Suzannah Morris; and our fearless leader and coach Houda Younan.

Our first task was to draft two memorials, each 9000 words, pleading different sides of the case. Jessup moots are known for posing a question to which there is no settled answer and this year was no exception. The problem featured some of the most hotly contested questions in international law, including self-defence against non-State actors, the boundaries of permissible treatment of detainees and the criminal immunity of retired Heads of State for torture. The question also had the advantage (and disadvantage) of being highly topical – meaning that world events detailed in the newspapers often had to be integrated into our arguments at a moment’s notice!

The drafting of memorials often felt like an endless process of early morning coffees, late night chocolates and ongoing debate about every last word and footnote. Eventually, however, 6 January came around and our final arguments were locked into place and sent off for marking.

Stage one of the battle completed, the team suited up for the practice moots in preparation for the Australian Jessup rounds in Canberra. Night after night, we would put our arguments before a panel of new judges. As the judges were drawn from a variety of backgrounds – from Law School faculty to commercial lawyers to former Jessupers – we benefited from a range of perspectives on how to present our arguments. Day after day, we would rethink our arguments, refine our speaking styles and try again. Arguments that we had carefully honed for our memorials suddenly became much more simple, direct and fluid. Before we knew it, Canberra was upon us.

Hot, dry Canberra was the site of our first battle – the Australian Rounds of the Jessup Competition. After mooting against teams from all across Australia, we managed to beat out last year’s champions, the University of Queensland, in the semi-finals. With our place in the international rounds now secure, we prepared to face UNSW in the national final in the High Court of Australia. Athena stood by us in the final as we presented our arguments to a panel presided over by Justice Susan Kiefel. In winning the final, we became the first Sydney University team since 1996 to bring home the National Championship.

Returning from Canberra, we had two months to rethink our battle plan and get ready for the international rounds in Washington, DC. The two months flew by in a flurry of practice moots and more late nights at law school. Before we knew it, we were at the Fairmont in Washington sussing out the other teams and revising our notes. We mooted well in the preliminary rounds and broke 16th of 24. Unfortunately, in a close moot, we lost to Ateneo de Manila University from the Philippines in the run-off round. All was not lost, however, as bowing out early meant more time to attend the ‘National Dress’ ball. We dressed as lifeguards to represent Australia and enjoyed meeting bright young law students from across the globe. And we didn’t come away empty-handed: Suzannah Morris and Laura Johnston were named 5th and 8th Best Speakers in the world respectively. Finally, we returned to Sydney, battle-weary but happy, and ready to pass on our wisdom to the next Jessup team to defend the honour of the Law School.
An ambitious plan to host a national conversation of 1,000 policy minds was bound to attract the usual sniping from sceptics. For some, evil, ignorance, stupidity or self-interest lurk behind any extraordinary initiative, and optimism in the capacity of government to do good has long been banished to distant recesses. Predictable pre-judgments of the 2020 Summit emerged long before it began: it would be a Labor love-in, stacked with left-wingers, plagued by too many delegates meeting for too little time, tarnished by an agenda manipulated by the government, leading to no real impacts on policy, and ultimately rubber-stamping the Rudd agenda.

My experience of the 2020 Summit confounded all of these expectations, as a member of the 100-strong foreign policy panel (pithily named ‘Australia’s future security and prosperity in a rapidly changing region and world’). A profound energy, good will and public spirit pervaded the weekend, with fellow delegates prepared to listen respectfully, frankly exchange views, and work collaboratively to reach recommendations for new policy outcomes.

While some people were disgruntled that their ideas were not taken up, in my view the Summit provided a fair process for summiteers to make their case for a good idea and seek others’ support for it. The Summit was a political process, not an opportunity for each summiteer to rule Australia by decree; and in the cut and thrust of debate, some ideas would inevitably fall by the wayside, others would be adjusted by necessary compromises, and yet others would sail through with widespread support.

As an international lawyer, ideas that were important to me fortunately attracted support: Australia should participate in strengthening global governance, including by reasserting the international rule of law and the importance of international institutions, all of which were badly damaged by the unilateralist tendencies of US President Bush and his ‘deputy sheriff’ in Asia, former Prime Minister Howard.

These broad aspirational goals were fleshed out by concrete steps, such as encouraging Australia to ratify key human rights treaties (relating to women, torture, disabilities, and economic/social/cultural rights), play a stronger role in arms control and nuclear disarmament, and support the United Nations human rights bodies, among others. Since Prime Minister Rudd had also asked us to come up with at least one no/low cost policy idea, we also recommending immediately repudiating the illegal Bush Doctrine of pre-emptive self-defence (supported by Howard), which had undermined security in our region by making our Asian neighbours deeply suspicious.

The Government ministers who co-chaired the ten panels appeared genuinely committed to the process, sincere about listening to the views of summiteers, and willing to treat those views seriously. There was none of the arrogance which plagued the dying years of the Howard Government. The hallmark of Rudd’s ministers was a quiet modesty, a spirit of empathy for the vulnerable (which had evaporated under the previous government), and a sense that this was a government made up of approachable, ordinary human beings born of any sense of entitlement. The Prime Minister himself quietly circulated from panel to panel, listening carefully, but also contributing important insights to our own small sub-stream on global governance.

What could have been done differently? First, dial down the celebrities. The presence of Cate Blanchett, Hugh Jackman and other stars was a double-edged sword. On one hand, they guaranteed more media coverage than 1,000 regular punters, raising the profile of the event. It is not beyond belief that celebrities might also have good ideas. But the celebrity factor soaked up much of the oxygen, with the media more fixated on Cate Blanchett’s new baby than on coverage of policy ideas. Indeed, the media coverage was sketchy at best and wildly off the mark at worst, with a failure across the board to reasonably depict actual events.

Secondly, cut out the well-known opinion-makers, ideologues and polemists. Well-known journalists and commentators already enjoy a national platform for their views, and bringing them to 2020 provided further opportunity to embed stale views, to perpetuate the droll, simplistic left/right warfare which obsesses the columnists, and ultimately institutionalises privileged positions. That is not to suggest that new ideas cannot emanate from old warhorses, or to diminish the contributions (of varying quality) made to debate over many years by people like Gerard Henderson, Miranda Divine, Paul Kelly, Robert Manne or David Marr. But when a person has had decades to provide public opinions and to influence policy, there comes a time comes when it is reasonable to expect that person to remain quiet for a single weekend – not least to open up space for new (or softer, less amplified) voices.

Thirdly, for all of the slick stage management of the weekend, and the involvement of corporate facilitators from places like McKinsey, the limited time available could have been better managed. On Sunday morning, an agonisingly dull multimedia presentation to all 1,000 summiteers, based on soft-focus interviews with Australians living abroad, wasted much precious time before the midday deadline for the streams to report on their final recommendations. As a result, we had 45 minutes to negotiate and finalize all of our substantive recommendations, and frame them in acceptable language, for the whole weekend’s deliberations. Not surprisingly, people got frazzled; important things were left out; unimportant things were left in; and the final texts were inelegantly expressed.

These criticisms are trivial when stacked against the Summit’s achievements. The Summit was rightly conceived as the beginning of an ongoing policy conversation between summiteers, their communities and across government. The Summit was not designed as an end in itself, to be simplisticly quantified by the number of recommendations adopted or rejected by government.

In sifting through the recommendations, of course the Government will properly accept some, modify some, and reject others, and that process will be one important measure of success. But it is a cause for optimism that the Summit has opened up a new form of political deliberation, and a democratic thickening of policy making – where one no longer need be a major donor to a political party, a CEO, trade union leader, NGO or lobbyist to meaningfully participate in our national political dialogue.
The Australian International Law Journal is a peer-reviewed scholarly journal produced by the International Law Association (ILA) (Australian Branch) in association with the Sydney Centre for International Law. 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. As of 2008, back issues of the Journal are available in electronic format through the subscription database Heinonline.

As the new editorial team brings the Journal back into regular publication, the 2006 volume will be published in July 2008, while work is underway on the 2007 and 2008 volumes, both due for publication later in 2008. The 2007 volume is a Special Issue on Climate Change and International Law, guest edited by Tim Stephens and Jane McAdam (UNSW Law School). The 2008 volume will be a Special Issue on Regionalism and International Law.

**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.

**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](http://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 Events

The Centre hosted an active program of public events in the first half of 2008, with details of each seminar provided below.

**Treading on Egg Shells: Challenges in Applying International Law in Uganda and Sudan**
Paul White, Senior United Nations Protection Officer
Wednesday 19 March, 5.30 – 6.45pm

Co-hosted by the International Law Association (Australian Branch) and the UNSW International Law & Policy Group

**About the Seminar**: Based on his last three field assignments in Northern Uganda and Sudan (Kassala and Darfur), Paul White deliberated on whether the ICC has been isolated as a result of the Ugandan government’s decision to establish a special division of the Ugandan High Court to deal with serious crimes of the LRA who have murdered, abducted, and mutilated thousands of people over twenty years. He also discussed whether using traditional justice is appropriate for ‘lesser’ offences. He discussed the likely effect and chances of success of the recent commitment to the elimination of female genital mutilation/cutting recently made by the 10 United Nations agencies who pledged to support governments, communities, and women and girls to abandon the practice within a generation. Paul assessed whether this is realistic in places where this ancient practice is still well entrenched. Finally, he discussed some impediments to the practice of law for Darfur lawyers and why they are particularly vulnerable if they associate themselves with international agencies.

**Paul White** has a Bachelor of Laws from the University of Adelaide and a Master of Laws from the London School of Economics and Political Science. He spent 10 years working in Community and Aboriginal Legal Services in South Australia before going to Hong Kong to establish the Jesuit Refugee Service’s Australian Lawyers Project. He has experience as an adjudicator of Refugee Status in both Hong Kong and Australia. Most recently Paul has worked on protection and human rights issues with refugees and internally displaced persons. He is currently working as one of 15 Senior Protection Officers in a project developed to enhance the protection capacity (ProCap) of the UN. ProCap is administered by the Norwegian Refugee Council and UN Office of the Coordinator of Humanitarian Affairs. It is a resource that provides senior-level expertise and leadership in protection and is used primarily to support priority countries and/or operations as identified by the Global Protection Cluster Working Group. These include both existing, protracted or neglected crises, as well as new, emerging or rapidly changing humanitarian emergencies, particularly, but not exclusively, involving situations of internal displacement. Through ProCap or otherwise Paul has worked with UNICEF, UNHCR and UN OHCHR. Amongst other places Paul has worked in Sudan both in the East and Darfur, Northern Uganda where the Lord’s Resistance Army caused havoc, Malaysia, Afghanistan and Kenya. He has also worked as a consultant for UNHCR in Geneva on both IDPs issues and Child Protection. As well as general protection experience in refugee and IDP settings he has experience with the demobilisation of child soldiers, reintegrating former camel jockeys, establishing projects aimed to prevent female genital cutting and establishing legal aid networks.

**Back to the Future** for Investor-State Arbitrations: Revising Rules to Meet Public Interests
Associate Professor Luke Nottage and Kate Miles, Sydney Centre for International Law
Wednesday 2 April, 5.30 – 6.45pm

**About the Seminar**: The more things change, the more some stay the same. This seminar first highlighted renewed concerns about delays and, especially, costs in international commercial arbitration (ICA). Many now urge quite radical solutions to make ICA more efficient, including allowing parties to authorise arbitrators to facilitate settlement (Arb-Med). At the same time, there are growing calls for more transparency, third-party participation, and other rule changes to maintain the legitimacy of the burgeoning field of investor-state arbitrations (ISA). Such reforms are justified by the greater variety of public interests involved in ISA, despite some possible losses in efficiency (Part 2). We should resist a certain tendency simply to extend the solutions devised or proposed for ICA, particularly in the form of Rules of arbitral institutions, to contemporary ISA. However, some reforms incorporating proper safeguards may also be advisable in both fields, such as Arb-Med processes, or arbitrator remuneration providing better incentives to streamline proceedings. Most reforms are best implemented by institutions devising tailored ISA Rules, to be added as options for investors in bilateral or regional investment treaties or Free Trade Agreements (FTAs; Part 3). This seminar therefore proposed a variety of improvements (Part 4). These are based on comparisons of the main Rules adopted for ISA (ICSID and the UNCITRAL Rules), the Arbitration Rules of institutions like the Australian Centre for International Commercial Arbitration (ACICA) and the Japan Commercial Arbitration Association (JCAA), and some of the provisions already found in Australia’s FTAs or governing trade disputes under the World Trade Organisation (WTO) system. Hopefully, these improvements will enable ISA to keep developing through bilateral initiatives like the proposed Australia-Japan FTA, emerging regional initiatives, and ultimately a multilateral framework for investment (Part 5). Although reforms are currently needed to bolster the legitimacy of ISA, longer-term reforms may instead re-emphasise efficiency, rather like ICA has done after decades spent achieving global acceptance.

**Luke Nottage** is Associate Professor at Sydney Law School, Director of the Australian Network for Japanese Law and of Japanese Law Links Pty Ltd. He specialises in comparative and transnational commercial and consumer law, and is a Special Associate of the Australian Centre for International Commercial Arbitration.
Kate Miles is a lecturer at the Faculty of Law, University of Sydney, specialising in international investment law and international environmental law. She has published work on issues relating to international investment law, sustainable finance, ecosystem services, and voluntary codes of corporate conduct. She has an LLM in Environmental Law (Hons I) from the University of Auckland, New Zealand, and an LLM in International Legal Studies from New York University School of Law. She has also lectured at King’s College, University of London, and studied at University College London. She is currently researching the interrelationship between international investment law and principles of environmental protection, as well as the way in which public interest issues are addressed in investment treaty arbitration. She has also practiced as a solicitor in commercial litigation in Auckland and at Allens Arthur Robinson in Sydney.

The Fight against Racism and for the Rights of Minorities in the 21st Century
Gay McDougall, UN Independent Expert on Minority Rights and Distinguished Scholar, Washington College of Law
Tuesday 8 April, 5.30pm
Co-hosted by SCIL, HREOC and Amnesty

Gay McDougall is the UN Independent Expert on Minority Issues, the Chairperson of the Coordinating Committee of UN Human Rights Special Procedures, and a Distinguished Scholar at Washington College of Law. She has previously been a member of the UN Committee on the Elimination of Racial Discrimination, the UN Sub-Commission on Promotion and Protection of Human Rights, and the UN Special Rapporteur on Systemic Rape and Sexual Slavery.

The European Union’s Common Foreign and Security Policy: Threats and Prospects
Professor Panos Koutrakos, Professor of European Union Law, University of Bristol
Wednesday 9 April, 5.30 – 6.45pm

About the Seminar: The process of drafting, signing, debating and, ultimately, rejecting the Treaty Establishing a Constitution for Europe has made the European Union undergo a considerably long process of group therapy. This appears to have settled with the adoption of the Lisbon Treaty, which is likely to enter into force in the early months of 2009. The role of the European Union as a global player has been at the very core of all these debates about the Union’s reform in the last five years. This seminar focused on a specific aspect of the EU’s international relations, namely its Common Foreign and Security Policy. It charted its development by reference to its main characteristics, namely its incremental development, its focus on procedures and its dynamic and sui generis character, and discussed how these have shaped its reform. The seminar then assessed the current state of affairs through the lens of three themes: the coherence and consistency between different EU external policies, the focus on the development of the European Security and Defence Policy and the need for, and pitfalls of, flexibility.

Panos Koutrakos is Professor of European Union Law at the University of Bristol. In September 2007, he was also awarded a Jean Monnet Chair in European Law by the European Commission. He is Visiting Professor at University of Antwerp, Belgium. He has held teaching posts at the Universities of Durham and Birmingham. He was a Jean Monnet Research Fellow at the University of Michigan and Visiting Professor at the University of Iowa. He has written widely in European law in general and EU external relations in particular on which he published EU International Relations Law (2007 Hart Publishing) and Trade, Foreign Policy and Defence in EU Constitutional Law (2001, Hart Publishing). In the context of the recent two enlargements, he contributed to training programmes for judges and civil servants from central and eastern Europe. He is the joint editor of European Law Review.

The Bali Summit on Climate Change
Richard Merzian, Bali Summit Delegate
Rachael Walmsley, Environmental Defenders Office
Wednesday 16 April, 6–7.30pm
Co-hosted by the Australian Centre for Environmental Law

About the seminar: Richard discussed his experience on the Government Delegation at the UN Conference in Bali, and how the slow grind of diplomacy contrasts to the increasing urgency of scientific findings and grassroots demand for strong climate laws. Rachel spoke about her Bali UNFCCC experience, and discussed the current climate change law reform projects being undertaken by the EDO.

Richard Merzian recently joined the Environmental Defenders Office as an Assistant Policy Officer on Climate Change. He has just completed a Bachelor of Economics and a Bachelor of Laws from the University of Sydney. Previously Richard was an Advisor on the Australian Government Delegation to the UN Conference on Climate Change in Bali. In late 2006 Richard helped establish and has since been on the Steering Committee of the Australian Youth Climate Coalition, an umbrella group of concerned and proactive youth organizations around the nation. Richard was selected for Al Gore’s Climate Change Leadership Program in September 2007 and volunteers Inconvenient Truth presentations in the greater Sydney region. He also trains students under the AYCC youth climate messenger program. Outside of the office Richard can be found watching undervalued reality TV shows in an attempt to relive his 15 minutes of fame as the Eco-Nerd on the cult show Nerds FC.

Rachael Walmsley is the Policy Director at the Environmental Defender’s Office, and works on environmental policy and legislative reform. Rachel holds a Bachelor of Laws with Honours in international environmental law, and a Bachelor of Arts from ANU and is currently completing a Masters in Environmental Science and Law. Rachel is currently a Member of the Ministerial Reference Group on Biodiversity Banking, does guest lecturing on native vegetation law at UNSW Law School, and was a member
of the CANA delegation to the Bali Climate Change Conference. Rachel was recently on the Australian delegation for meetings of parties to the Convention on Biological Diversity. Previously Rachel has worked for the peak environment groups of New South Wales, the Australian Centre for Environmental Law (ACEL) at ANU in Canberra, and British conservation organisations in London and Tanzania. Rachel will be talking about her Bali UNFCCC experience, and discussing the current climate change law reform projects being undertaken by the EDO.

The United Nations Human Rights Council: More of the Same?

Chris Sidoti, Immediate Past Director, International Federation for Human Rights Service, Geneva, and Centre Associate Tuesday 22 April, 5.30 – 6.45pm

About the Seminar: Over the past two years the international human rights system has undergone its most sweeping reform in decades. The UN Commission on Human Rights was abolished exactly 60 years after its establishment. It was replaced by the new Human Rights Council. The Council met for the first time in June 2006 and immediately commenced an “institution building” process that is still not complete. After two years, however, it is possible to start making some judgments about the significance of the reform and whether in fact anything has changed at all. Just as significantly, if there has been change, has it been for the better or the worse? Chris Sidoti returned to Australia at the end of 2007 after four years heading the International Service for Human Rights, the pre-eminent human rights non-government organisation in Geneva. In that role he participated in all the reform discussions and closely followed the process of the end of the Commission and the beginning of the Council. In this seminar he told some stories, shared some reflections and made some provisional assessments of the reform.

Chris Sidoti is a human rights lawyer, activist and teacher. He currently works from Sydney, Australia, as an international human rights consultant, specialising in the international human rights system and in national human rights institutions. He is also the independent chair of the United Kingdom Government’s Northern Ireland Bill of Rights Forum and chair of the NSW Casino Control Authority, a quasi-judicial appointment. He was director of the International Service for Human Rights, based in Geneva, Switzerland, from 2003 to 2007. He has been Australian Human Rights Commissioner (1995-2000), Australian Law Reform Commissioner (1992-1995) and Foundation Director of the Australian Human Rights and Equal Opportunity Commission (1987-1992). He has also worked in non-government organisations, including the Human Rights Council of Australia and the Australian Catholic Commission for Justice and Peace. He is an adjunct professor at the University of Western Sydney, Griffith University (Queensland) and the Australian Catholic University and a Fellow of the Castan Centre for Human Rights Law at Monash University.

Punishing Assassins: The UN Security Council’s Criminal Tribunal in Lebanon

Sarah Williams, former Legal Officer, British Foreign Office and Sydney Centre Affiliate Wednesday 30 April, 5.30 – 6.45pm

About the Seminar: In May 2007, the UN Security Council authorized the establishment of the Special Tribunal for Lebanon. The tribunal has jurisdiction to prosecute the individuals responsible for the assassination of former Prime Minister Rafiq Hariri in February 2005, and other connected attacks. The hybrid tribunal was originally envisaged as a treaty-based court. However, due to disagreement within Lebanon that precluded ratification of the required treaty, the Security Council intervened, ultimately establishing the tribunal by means of a binding resolution pursuant to its Chapter VII powers. Resolution 1757 was controversial, with several members of the Council expressing concern that it represented an unwarranted interference in the domestic affairs of a member state. It also raised questions as to the correct legal basis of the tribunal. This seminar provided a background to the establishment of the tribunal and an examination of its key features. It then discussed the powers of the Security Council in this area, the correct legal basis for the tribunal and any implications for issues such as immunity and state cooperation.

Sarah Williams has been a Lecturer in Public International Law at Durham University since 2003. In 2006, Sarah was the Senior Legal Researcher at the Foreign and Commonwealth Office of the United Kingdom. In this role Sarah appeared before various United Nations committees and commissions, and advised the British Government on issues of international, foreign and domestic law. Sarah’s main research areas are in general public international law, international humanitarian law and international criminal law. She is currently completing a book on internationalized criminal tribunals for publication in late 2008. Sarah has recently been appointed as the Dorset Fellow in Public International Law at the British Institute of International and Comparative Law from July 2008.
reasons for the gap between the theory and the practice. As several others in the recent past, in an effort to identify the need to strengthen the protection of civilians have not been successful. In spite of the shock and horror that follows such occurrences, efforts to resort to the use of force as one of the means of realising this protection. In the nature of conflict and that it is no longer possible to distinguish between combatants and non-combatants. On the other hand, the resort to the use of force has also been questioned. The invasion of Iraq in 2003, albeit illegal, bred the country of a regime that had persecuted large segments of its own people for decades, but protection of civilians has not improved; it is arguably worse. Around 1 million Iraqi civilians are reported to have been killed since the invasion. When Israel attacked Lebanon in July-August 2006 over 1,000 Lebanese civilians were killed; over forty Israeli civilians were killed. The Security Council in recent years has underlined the need to enhance the protection of civilians in peace-keeping operations by enabling peace-keeping operations, under certain conditions, to “protect civilians in imminent danger of physical violence”. The use of cluster bombs by Israel in this conflict further emphasised the need to protect civilians. The case made by Boutros Ghali in 1993 has since been re-vitalised in the shape of the responsibility to protect (R2P) and the consequent application of the use of force as one of the means of realising this protection. In spite of the shock and horror that follows such occurrences, efforts to strengthen the protection of civilians have not been successful. This seminar shared experiences from these two conflicts as well as several others in the recent past, in an effort to identify the reasons for the gap between the theory and the practice.

John Pace is an international human rights specialist with over forty years experience at the front line of the development of the international human rights programme. As a United Nations official, he combined conference room with field experience, serving as Secretary of the UN Commission on Human Rights, Coordinator of the Vienna World Conference on Human Rights and several other UN bodies, as well as seeing action in several countries, in different capacities, ranging from leading several fact-finding missions, to ‘good offices’ assignments. Most recently he has served as the Chief of the United Nations Human Rights Office in Iraq and as Senior Advisor to the Humanitarian Coordinator in Lebanon. He is currently engaged in human rights work in Nepal and Indonesia, among others.

About the Seminar: At the opening of the World Conference on Human Rights in Vienna on 14 June 1993, UN Secretary-General Boutros Boutros Ghali stated that “the State should be the best guarantor of human rights. It is the State that the international community should principally entrust with ensuring the protection of individuals. However, the issue of international action must be raised when States prove unworthy of this task, when they violate the fundamental principles laid down in the Charter of the United Nations, and when - far from being protectors of individuals - they become tormentors.” Armed conflicts that have occurred since the Second World War have shown that, in spite of efforts by the United Nations, the Red Cross movement and other international organisations, civilians have not been spared. In several conflicts they are the targets. It has been said that this is due to the change in the nature of conflict and that it is no longer possible to distinguish between combatants and non-combatants. On the other hand, the resort to the use of force has also been questioned. The invasion of Iraq in 2003, albeit illegal, bred the country of a regime that had persecuted large segments of its own people for decades, but protection of civilians has not improved; it is arguably worse. Around 1 million Iraqi civilians are reported to have been killed since the invasion. When Israel attacked Lebanon in July-August 2006 over 1,000 Lebanese civilians were killed; over forty Israeli civilians were killed. The Security Council in recent years has underlined the need to enhance the protection of civilians in peace-keeping operations by enabling peace-keeping operations, under certain conditions, to “protect civilians in imminent danger of physical violence”. The use of cluster bombs by Israel in this conflict further emphasised the need to protect civilians. The case made by Boutros Ghali in 1993 has since been re-vitalised in the shape of the responsibility to protect (R2P) and the consequent application of the use of force as one of the means of realising this protection. In spite of the shock and horror that follows such occurrences, efforts to strengthen the protection of civilians have not been successful. This seminar shared experiences from these two conflicts as well as several others in the recent past, in an effort to identify the reasons for the gap between the theory and the practice.
the whales had much less to do with our concern for the whales themselves (or how endangered they really were) than with our relationships to one another – and thus with politics.

Dr Charlotte Epstein is a lecturer in International Relations at Sydney University. She read first in Philosophy and Literature at La Sorbonne and then in International Relations at Cambridge, where she did her PhD. Before coming to Sydney she was a George Lury visiting scholar at UC Berkeley. She has written on the nature of power in the international system, questions of sovereignty and the changing nature of the modern state, and global environmental politics.

International Law and Rights to the Oil and Gas Resources of the Timor Gap: Trick or Treat?
Professor Gillian Triggs, Dean of Sydney Law School
Wednesday 28 May, 5.30 – 6.45pm

Gillian Triggs, Dean of the Faculty, is an expert in international law and a barrister in the Victorian Supreme Court. Formerly the Director and Professorial Chair at the British Institute of International and Comparative Law, Professor Triggs is an international lawyer with publications on World Trade Organisation dispute resolution, energy and resources law, law of the sea, territorial sovereignty, jurisdiction and immunity, international criminal law, international environmental law and human rights. Professor Triggs has previously held academic positions in Melbourne, where she graduated in law in 1968 and gained a PhD in 1982. Professor Triggs has maintained an international commercial practice as a consultant to Mallesons Stephen Jaques and has advised governments in the Asia Pacific on questions relating to sovereignty and jurisdiction. She has also directed several projects for the Asian Development Bank on legal capacity building in Vietnam, Mongolia and Indonesia and has been the Australian Representative on the Council of Jurists for the Asia Pacific Forum for National Human Rights Institutions, and is currently the joint general editor of the International and Comparative Law Quarterly and a member of the editorial boards of the Melbourne Journal of International Law and the International Journal of Energy & Natural Resources Law. A recent publication is a general text, International Law: Contemporary Principles and Practices, published in 2006.

The Japanese Whale Case: Implications for Australia and Beyond
Dr Anthony Bergin, Australian Strategic Policy Institute
Dr Andrew Edgar, Sydney Law School
Rob Nicoll, Greenpeace
Professor Don Rothwell, ANU
Dr Tim Stephens, Sydney
Dean Gillian Triggs, Sydney
Thursday 5 June, 3.30 – 7pm

About the Forum: In January 2008 the Federal Court declared whaling operations by a Japanese company in the Australian Whale Sanctuary near the Australian Antarctic Territory had violated Australian law. The Sydney Centre for International Law and Australian Centre for Climate and Environmental Law have brought together leading commentators to examine this landmark ruling and its ramifications for Australia’s stance in the International Whaling Commission, for Australia’s place in the Antarctic Treaty System, and for Australian environmental law.

CLE Seminar: Property Rights, Dispossession and Compensation
Professor John Sheehan, Faculty of Design Architecture and Building, UTS
Wednesday, 11 June, 6.00-7.30pm

About the Seminar: The assessment of compensation has always exposed the multifarious issues which can emerge as heads of compensation arise from acquisition or impairment of a property right by the State, notably land property. With separate property rights now extending to not only land and minerals, but also water and biota, carbon credits, saline credits, transferable development rights, and even electro magnetic spectrum, settled compensation law and practice are revealing their shortcomings. The recognition of ancient Indigenous property rights in 1992 by the High Court of Australia has raised questions about the ability of compensation law and practice to adequately deal with issues such as spiritual and cultural attachment which are an integral part of Aboriginal rights and interests, and also the propriety of land use regulations in this context. The methodological discourse between property, law and expectations of the community is examined in the light of the aims of compensation. The ability of current practice and theory to achieve just goals of compensation is reviewed. While many in the Australian community are calling for a transparent set of outcomes to provide precedents for the future, the likelihood of current attempts at compensation to achieve robust justice is found questionable. Directions for future efforts towards resolution of this problem are suggested including issues at the heart of property, legal theory and land use regulation. To attempt a solution without dealing with all of these is argued to risk perpetuating the problem.

Professor John Sheehan is an expert in land economics (valuation), land use planning and environmental law. Between March 2001 and 2004 he was President of the NSW Division of the Australian Property Institute. He has published extensively on Indigenous property rights and regularly lectures in Australia and overseas. As a recognised authority on compensation for native title in Australia, John Sheehan has been briefed to undertake some of the earliest work of assessing compensation for the extinguishment of native title in this country. In January 2007, he was appointed as Acting Commissioner in the Land and Environment Court of NSW with notable expertise in valuation appeals, compensation, and also the Aboriginal Land Rights Act 1983 (NSW). Most recently, John was appointed Adjunct Professor with the Property Rights Research Group at the University of
Taking Your Beefs to the WTO: The Continuing Hormones Dispute and Issues in WTO Dispute Settlement
Victoria Donaldson, Institute of International Trade, University of Adelaide (on leave from WTO Appellate Body Secretariat)
Thursday 12 June, 5.30 – 6.45pm

About the Seminar: In 1998, Canada and the United States succeeded before the World Trade Organization in their legal challenge to an EC ban on the import of hormone-treated beef. However, the ban remains in place today. The multiple proceedings relating to this dispute that have taken place over more than 10 years illustrate both the strengths and weaknesses of WTO dispute settlement. Drawing in particular on the ongoing hormones dispute, Victoria Donaldson discussed the mechanics and evolution of the WTO dispute settlement system, including certain recent developments. She covered issues such as transparency and public hearings at the WTO, evidence in WTO dispute settlement, the use of retaliatory trade sanctions, and discussions amongst WTO Member states as to how to improve their dispute settlement system in the future.

The Practice of International Law
Professor James Crawford, Whewell Professor of International Law, University of Cambridge
Director, Lauterpacht Centre for International Law
Wednesday 24 June, 5.30 – 6.45pm

About the Seminar: As one of the world’s most sought-after international law practitioners, arbitrators and scholars, Professor Crawford will discuss some of the trends in international law practice: the proliferation of forums and sources of law, issues of specialization, the role of practitioners and academics, and the realm of the “political” and the “legal” in international affairs.

Professor James Crawford is Whewell Professor of International Law at the University of Cambridge and Director of the Lauterpacht Centre for International Law. He was previously the Challis Professor of International Law at Sydney Law School and is a current member of the Advisory Board of the Sydney Centre for International Law. He was previously a member of the International Law Commission and is well known for his leading work on the ILC Articles on State Responsibility. Professor Crawford has appeared before the International Court of Justice, the International Tribunal for the Law of the Sea, and the International Centre for the Settlement of Investment Disputes, among others. His cases include the Israeli Wall Advisory Opinion, the Nuclear Weapons Advisory Opinion, the Nauru Case, the East Timor Case, the Oil Platforms Case, the Danube Dam Case, and the Genocide Case, among many others.

CLE Seminar: The UNIDROIT Principles of International Commercial Contracts: What Do They Mean for Australia?
Professor MJ Bonell, University of Rome
Commentators: The Hon Justice Paul Finn & Adjunct Professor Donald Robertson
Chair: The Hon LJ Priestley QC
Thursday 25 June, 6.00 – 7.00pm
Co-hosted by the Federal Court of Australia

About the Seminar: UNIDROIT is an intergovernmental organisation founded in Rome in 1926 to promote private law unification. In 1994 it published “Principles of International Commercial Contracts”, primarily for parties to incorporate into their cross-border agreements. Courts and especially arbitrators also refer to them to interpret or supplement national contract law rules, not necessarily suited to cross-border transactions, or international instruments such as the 1980 UN Convention on Contracts for the International Sale of Goods (CISG, adopted by Australia in 1989). The 2004 edition of the Principles extended coverage even further, affecting third parties (agency and assignment) and limitation periods. Since 2006, a UNIDROIT Working Group (chaired by Prof Bonell and including Justice Finn) is working on the third edition dealing further with multiple parties, illegality, etc. This Seminar will introduce the Principles to Australian lawyers, focusing on such areas, as well as their actual and potential usage in negotiating, drafting and resolving disputes concerning a wide range of international commercial contracts.

Professor M J Bonell, at the University of Rome I “La Sapienza”, is one of the world’s leading experts in comparative and transnational contract law. Since 1978 he has been a Consultant to UNIDROIT, chairing three Working Groups on the Principles of International Commercial Contracts. He has also been Italy’s representative to UNCITRAL, a member of the ALI, and a Visiting Professor at leading universities in Europe and the US.

Justice Paul Finn serves on the Federal Court of Australia, and as a Consultant to UNIDROIT. He was formerly Professor of Law at the ANU, and is a Professorial Fellow at the University of Melbourne as well as a Fellow of the Academy of Social Sciences in Australia.

The Hon LJ (Bill) Priestley QC has practised as a barrister in Sydney since retiring from the NSW Court of Appeal. He maintains
strong interests in comparative commercial law, having served as a Consultant to UNIDROIT and as a member of the ALI.

Adjunct Professor Donald Robertson is a senior Partner in the Competition and Market Regulation Group at Freehills. He is also Adjunct Professor of Law, University of Sydney Law School. He writes and teaches in the areas of competition and regulatory law, contract and commercial law.

Dr Luke Nottage is Associate Professor at Sydney Law School and Co-Director of the Australian Network for Japanese Law (ANJeL). He specialises in comparative and transnational commercial law: contracts, product safety, arbitration and corporate governance.

Jennifer Hill (far right) was invited to brief senior Hong Kong corporate regulators, hosted by the Hong Kong Companies Registrar, in May 2008

Stolen Generation Forum organised by Thalia Anthony (right) and Amnesty International, with Father Frank Brennan (second from left) and colleagues

Thalia Anthony (second from left, and below) conducted research in indigenous communities in Central Australia in the Northern Territory
New Books

**Gender and the Constitution: Equity and Agency in Comparative Constitutional Design**
(Cambridge University Press, 2008)

Helen Irving

Associate Professor Helen Irving, one of the Centre’s experts on comparative constitutional law, published *Gender and the Constitution: Equity and Agency in Comparative Constitutional Design*, which considers what needs to be taken into account in writing a constitution when gender equity and agency are goals. It does so by examining principles of constitutionalism, constitutional jurisprudence, and history and applying a “gender audit” to existing constitutions. “In 2004, while teaching a course on comparative constitutionalism at Sydney Law School, I had the good fortune to come across a report on constitution making by Vivien Hart, written for the United States Institute of Peace,” said Associate Professor Irving. “Vivien’s ideas and mine seemed to run along similar lines. My impromptu correspondence with her led to our collaboration in early 2005 on a UNDP paper on gender equity and constitution making with respect to Iraq. Here, we sought to identify, in a nutshell, all the things that framers of a new constitution would need to consider if gender equity were among their goals. Inspired by this work, I developed a course, *Gender and Constitution-Making from Australia to Iraq*, which I taught in spring semester 2006 at Harvard Law School during a year there as visiting professor and as Harvard Chair of Australian Studies. In 2007, I taught a modified version of this course at Sydney Law School and picked up many last-minute ideas, as well as much encouragement, from my wonderful Sydney students.” Associate Professor Irving is also the author of *To Constitution a Nation: A Cultural History of Australia’s Constitution* and *Five Things to Know about the Australian Constitution*. She is also the editor of *A Woman’s Constitution?: Gender and History in the Australian Commonwealth*, *The Centenary Companion to Australian Federation*, and *Unity and Diversity: A National Conversation*, among others.

**The Critical Criminology Companion**
(Federation Press, 2008)

Thalia Anthony and Chris Cuneen (editors)

Centre Associate Thalia Anthony co-edited with Professor Chris Cuneen (UNSW) this Companion which presents the major debates and issues in Critical Criminology. It presents new research on crime, policy and the internationalisation of the criminal justice system. It sheds light on traditional debates in critical criminology through a confronting analysis of contemporary developments in criminal justice and criminology. This is the first textbook that brings together the major Australian and New Zealand theorists in Critical Criminology. The chapters represent the contribution of these authors in both their established work and their recent scholarship. It includes new approaches to theory, methodology, case studies and contemporary issues. It traverses a range of debates including the criminalisation of Indigenous people, ethnic communities, the working class, rural communities and young people from critical perspectives, and introduces new concepts of state crime. It covers developments in the penal system that have responded to globalisation and neo-liberalism, particularly in law and order and anti-terror campaigns. This coverage is counterpoised by portrayals of resistance within the penal system and considerations of restorative justice. The Companion is relevant to a broad range of courses and levels of study. It covers the major components of a Criminology course through a critical lens. It is a thorough introduction to concepts and critiques in criminology, as well as a provocative analysis of the assumptions underpinning the criminal justice system. Students, teachers and scholars in criminology, law and sociology will find this Companion invaluable. For international lawyers, Mark Findlay’s chapter on ‘Globalised Crime and Governance: The Outcomes for Understanding International Criminal Justice’ is of interest, as is Mike Grewcock’s chapter on ‘State Crime: Some Conceptual Issues’, Elizabeth Stanley’s piece on ‘Torture and Terror’, and Sharon Pickering on ‘The New Criminals: Refugees and Asylum Seekers’. 
New Books

International Frontiers and Boundaries: Law Politics and Geography (Brill, 2008)
Gillian Triggs and Victor Prescott

This new book was co-authored by the Dean, Professor Gillian Triggs and Emeritus Professor Victor Prescott (University of Melbourne). The book is designed as a companion to The Maritime Political Boundaries of the World (Chapters 3 and 5) (April 2005), American Society of International Law and a suitable successor to G Triggs and V Prescott, Territorial Boundaries: Legal and Political Issues (Brill Publishers, November 2007). “International frontiers and boundaries separate land, rivers and lakes subject to different sovereignties,” said Professor Triggs. “Frontiers are zones of varying widths and they were common many centuries ago. By 1900 frontiers had almost disappeared and had been replaced by boundaries that are lines. The diverse nature of frontiers and boundaries has formed the focus of inter-disciplinary studies by economists, geographers, historians, lawyers and political scientists. Scholars from these disciplines have produced a rich literature dealing with frontiers and boundaries. We surveyed this extensive literature and summarised the themes which have attracted the most attention.” The book falls into three sections. The first section deals systematically with frontiers, boundary evolution and boundary disputes. The second considers aspects of international law related to boundaries, and deals with international law and territorial boundaries as well as river boundaries and international law. The third consists of seven regional chapters that examine the evolution of boundaries in the Americas, the Middle East, Africa, Europe, islands off Southeast Asia and Antarctica.

Forthcoming Book

International Courts and Environmental Protection
Cambridge Studies in International and Comparative Law (No 62)
Tim Stephens

International environmental law has come of age, yet the global environment continues to deteriorate. The challenge of the twenty-first century is to reverse this process by ensuring that governments comply fully with their obligations, and progressively assume stricter duties to preserve the environment. This book is the first comprehensive examination of international environmental litigation. Analysing the spectrum of adjudicative bodies that are engaged in the resolution of environmental disputes, it offers a reappraisal of their relevance in contemporary contexts. The book critiques the contribution that arbitral awards and judicial decisions have made to the development of environmental law, and considers the looming challenges for international litigation. With its unique combination of scholarly analysis and practical discussion, this work is especially relevant to an era in which environmental matters are increasingly being brought before international jurisdictions, and will be of great interest to students and scholars engaged with this vital field.
January-June 2008

**Publications**

**Thalia Anthony**

**Vivienne Bath**

**Belinda Bennett**

**Mary Crock**

**Mark Findlay**

**Jennifer Hill**

**Helen Irving**

**David Kinley**

**Roger Magnusson**

**Shae McCrystal**

**Rebecca Millar**

**Jacqueline Mowbray**

**Luke Nottage**


Ben Saul


Ben Saul, ‘Forgiving Terrorism: Trading Justice for Peace, or Imperilling the Peace?’ in P Matthew and M Gani (eds), Fresh Perspectives on the ‘War on Terror’ (ANU E-Press, Canberra, 2008) 189-210


Tim Stephens


Gillian Triggs


Anne Twomey


Irene Watson

Irene Watson, ‘De-colonising the space: Dreaming back to country’ in Sally Morgan Tjalaminu, and Blaze Kwaymullina, Heartsk for Country (Freemantle Arts Centre Press, Perth, 2008)

Submissions

Joint Submissions

Ben Saul, Jacqueline Mowbray and Irene Baghoomians, Submission to the Commonwealth Attorney-General’s Department on the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 19 June 2008

Ben Saul and Mary Crock, Submission to the Joint Standing Committee on Migration, Inquiry into Detention, 19 June 2008

Ben Saul and Claire McEvilly, Submission to the Joint Parliamentary Joint Committee on the Australian Crime Commission, Inquiry into organised crime groups, 18 June 2008

Ben Saul and Claire McEvilly, Submission to the Clarke Inquiry into the Case of Dr Mohammed Haneef, 18 June 2008


Thalia Anthony and Ben Saul, Submission to the Senate Committee Inquiry into Provisions of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2008

Thalia Anthony, Ben Saul and Naomi Hart, Submission to the Senate Committee Inquiry into the Stolen Generation Compensation Bill 2008, 9 April 2008

Ben Saul and Claire McEvilly, Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill, 9 April 2008

Ben Saul and Claire McEvilly for Sydney PEN, Submission on Freedom of Expression to Australia’s 2020 Summit, 8 April 2008

Sydney Centre for International Law, Submission to Australia’s 2020 Summit on Australia’s Future Security and Prosperity in a Rapidly Changing Region and World, 8 April 2008

Ben Saul on behalf of the Refugee Advice and Casework Service, Submission to the Productivity Commission Inquiry into Paid Maternity, Paternity and Parental Leave, June 2008

Thalia Anthony


Luke Nottage

National Report on Australia, to Kyoto Comparative Law Center, for Japanese Cabinet Office Project on Consumer ADR (English version completed April 2008)

Ben Saul

Ben Saul, Submission to the Parliamentary Joint Standing Committee on Treaties, Inquiry into the Australia-UAE Agreement Concerning Defence Cooperation, 19 June 2009

Ben Saul, Confidential Submission to the Joint Standing Committee on Treaties, Inquiry into the Convention on the Rights of Persons with Disabilities, 19 June 2008
Thalia Anthony
Thalia Anthony, ‘The Role of Historians in Native Title Litigation’, History Society, University of Sydney, 17 April 2008

Vivienne Bath
Vivienne Bath, ‘Enforcement in International Business Transactions in Asia’, 5th Asian Law Institute Conference, Faculty of Law, National University of Singapore, 22-23 May 2008
Vivienne Bath, ‘Bankruptcy and Foreign Investment Enterprises’, China Enterprise Bankruptcy Law Symposium, Institute of Asian-Pacific Business Law (University of Hawaii) and Asian Institute of International Financial Law (University of Hong Kong), Hong Kong University, 25 March 2008
Vivienne Bath, ‘FDI and Corporate Governance in China’, Seminar: FDI and Corporate Governance in China, CAPPLUS (Centre for Asian and Pacific law), Sydney, 24 June 2008
Vivienne Bath, ‘The Role of the State as a Shareholder in Chinese Companies’, The Corporate Law Teachers Association Conference, National University of Singapore, 4-5 February 2008

Mary Crock

Mark Findlay
Mark Findlay, ‘The Challenge for Asian jurisdictions in the Development of International Criminal Justice: An ‘Expert Seminar’- Professor Michael Furmston, Dean of the Faculty, Law School, Singapore Management University, 3 April 2008
Mark Findlay, ‘Workshop on Publishers’ Contracts’, Lunchtime seminar, University of Sydney, Faculty of Law, 22 May 2008

Jennifer Hill
Jennifer Hill, Public Address, ‘The Shifting Balance of Power Between Shareholders and the Board: News Corp’s Exodus from Delaware and Other Antipodean Tales’, Corporate Law Studies Interest Group, Hong Kong
Jennifer Hill, Invited address, ‘Dialogue with the Regulators’ - invited briefing to senior Hong Kong corporate regulators (hosted by Hong Kong Companies Registrar) (May 2008)

Roger Magnusson
Roger Magnusson, ‘Product Regulation, Harm Reduction, and Smoking Cessation Business as Usual? Debating the Role of Industry in Meeting the Challenges of Chronic Disease’, Centre for Health Governance, Law & Ethics (USyd) & the Australian and New Zealand Institute of Health Law & Ethics, Faculty of Law, University of Sydney, 29 February 2008

Shae McCrystal
Shae McCrystal, ‘Re-imagining a Role for Trade Unions after Work Choices’, Remaking Industrial Relations Forum, Workplace Research Centre, Sydney, 16 June 2008

Kate Miles

Jacqueline Mowbray

Jacqueline Mowbray, ‘Language Rights and Diasporic Communities’, Scottish Gaelic Association of Australia winter school, June 2008

Luke Nottage


David Rolph

David Rolph, ‘Privacy issues for artists’, Arts Law Centre of Australia and City of Sydney conference, Arts Law Centre of Australia and City of Sydney, Sydney, 3 April 2008

Ben Saul

Ben Saul, ‘Making Crime Not War: Defining Terrorism in International Law’, International Centre for Political Violence and Terrorism Research, S Rajaratnam School of International Studies, Nanyang Technological University, Singapore, 23 May 2008
Ben Saul, ‘Studying Postgraduate Law in Australia’, Faculty of Law, University of Indonesia, Jakarta, 4 July 2008
Ben Saul, 2020 Summit Seminar, Sydney Law School, 21 April 2008
Ben Saul, ‘International Law Issues in the Israeli/Palestinian Dispute’, Sydney University Law Students Public Forum, Sydney University, 1 April 2008

Ivan Shearer

Ivan Shearer, Guest class on the work of the Human Rights Committee to the Intensive Course in Human Rights, University of Sydney, 3 May 2008

Tim Stephens


Gillian Triggs

Gillian Triggs, ‘International law and Rights to Oil and Gas Resources of the Timor Gap: Trick or Treat?, Sydney Centre for International Law Seminar Series, Sydney Centre for International Law, Sydney, 28 May 2008


Anne Twomey

Irene Watson

Brett Williams
Brett Williams, ‘How and Why the GATT Works – Or Doesn’t’, Guest lecture to the International Trade Regulation class at The International Graduate School of Social Sciences, Yokohama National University, Ritsumeikan University in Kyoto, Japan, February 2008
Brett Williams, ‘What do Trade Agreements Do and How Do They Work’, Seminar at the Crawford School of Government, Australian National University, 10 April 2008

Media

Thalia Anthony
2SER Radio (Stolen Generations), 1 July 2008
Daily Telegraph (Stolen Generations apology), 13 February 2008
2SER Radio (Stolen Generations apology), 4 February 2008

Tim Stephens
The Age (Japanese whaling), February 2008
Sydney Morning Herald (Japanese whaling), 8 February 2008
Canberra Times (Japanese whaling case), 24 January 2008, p 3
Japan Times (Sea Shepherd and whaling), 19 January 2008,
Sydney Morning Herald (whaling case), 5 January 2008, p 6
National Geographic TV Australia, 5 July 2008 (legal protections for humpbacks and Japanese whaling in the Southern Ocean)
RadioLIVE New Zealand (meeting of the International Whaling Commission in Santiago, Chile), 24 June 2008
ABC Television: Lateline (Japanese whaling), 7 February 2008
Radio 2GB Sydney (Japanese whaling), 18 January 2008
ABC Radio National PM (Japanese whaling), 17 January 2008
RadioLIVE New Zealand (Sea Shepherd), 16 January 2008
Radio 2UE (Sea Shepherd detainees), 16 January 2008
ABC Radio National PM (whaling case), 15 January 2008

Luke Nottage

Ben Saul
2SER FM Sydney (review of anti-terrorism laws), 31 May 2008
ABC Radio (book censorship in Australia), 17 April 2008
ABC News (stolen generation compensation), 16 April 2008
The Australian (disclosure in terrorism cases), 14 April 2008
The Australian (Australian military and Fiji coup), 1 April 2008
The Australian (detention & fair terrorism trials), 28 March 2008
The Australian (Street Review of terror cases), 13 March 2008
Triple J Radio (Iraqi civilians compensation), 28 February 2008
Centre Members in 2008

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.

Dr Jacqueline Mowbray, Lecturer and human rights expert.

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.
Members

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.


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

Alexandra Meagher is a member of the 2008 National Jessup International Law Champion team. She will complete her LLB at the Fondation Nationale des Sciences Politiques (Sciences Po) in Paris, studying public international law in 2009.

Laura Johnston is in the final year of her law degree at Sydney and was a member of the 2008 Australian champion Jessup Moot team. Her research interests include international humanitarian law and the law governing the use of force.

Joel Gilbord is studying for a law degree at Sydney and was a member of the 2008 Australian champion Jessup Moot team.

Lisa-Claire Hutchinson was a member of the 2008 Australian champion Jessup Moot team.

Suzannah Morris was a member of the 2008 Australian champion Jessup Moot team.

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 Philip 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 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 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: Semester 1, 2008

Claire McEvilly, Naomi Hart, Ben Wahlhaus

Student Editors of the Australian International Law Journal

Martin Hill, Sally Johnson (Coordinator), Grace Mang, Alexandra Meagher (Coordinator), Emma Perera, Monique Foy, Allegra Day, Darko Vranesovic, Deniz Tas, Susan Cirillo, Christine Ernst, Rachel Ranjan, Emma Dunlop, Don Do, Lorraine Hui, Sue Soueid, Robynne Croft, Miroslav Sandev, Ken Xie, Eleanor Browne

Centre Administrator

Clare Gardoll, final year Sydney graduate law student and BA (Languages, with Distinction)

Centre Advisory Board

Emeritus Professor Ivan Shearer AM, RFD
Faculty of Law, University of Sydney; Chair of Board

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Former Judge of the International Court of Justice