



SCIL News

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DIARY DATES

25-26 NOVEMBER 2011
CONFERENCE
HUMAN RIGHTS: OLD DICHOTOMIES REVISITED

For more details visit the events website

DEAR FRIENDS OF THE SYDNEY CENTRE

It was a great privilege to be appointed Co-Director of the Centre in January.

The first half of 2011 has seen the Centre seek new opportunities to build upon our strengths as a centre of excellence in international legal research.

In February the Centre ran the highly popular and successful Himalayan Field School in Nepal. The offshore unit allows students to gain insights into the fascinating and difficult challenges of protecting human rights and promoting economic development. Ben Saul and Irene Baghoomians are to be congratulated for leading this wonderful initiative.

We've hosted an extraordinary range of events this year. In February we held a joint symposium with the Australian and New Zealand Society of International Law on current research in international economic law chaired by Brett Williams. In March Sir Michael Wood KCMG, former Legal Adviser to the Foreign and Commonwealth Office, delivered a major public lecture on 'The UN Charter as the Higher Law'. Special thanks to Chester Brown for coordinating Sir Michael's visit. In April the Centre held a seminar chaired by Brett Williams on 'Intellectual Property and Development in the WTO Doha Round' with a presentation by Jayashree Watal of the WTO's Intellectual Property Division. Also in April the Centre hosted with the International Law Association a stimulating public lecture by Geoffrey Roberston QC who mounted a stirring (and controversial) case for the legality of humanitarian intervention.

Also in May we launched the Centre's inaugural professional development seminar series on cutting-edge developments in both private and public international law. The first seminar was the brainchild of the Faculty's new Professor in Private International Law, Andrew Dickinson and brought together a stellar cast including Justice Paul Le Gay Brereton to examine the 'Future of Private International Law in Australia.' The second seminar considered recent developments in offshore resources law in Australia and the region. I would be delighted if you could support the Centre by attending one or more of the remaining seminars for 2011.

For me the highlight of 2011 so far was being on hand in Washington D.C. in March to witness the Sydney team win the Jessup International Law Moot final, defeating Columbia University Law School. This was a tremendous achievement. Congratulations go to the team and to their dedicated coach Natalie Zerial of the Office of International Law, Attorney General's Department.

Finally can I thank Ben Saul, the outgoing Co-Director, for his astounding energy and achievements in leading the Centre's activities over the past three years. His are impossibly big shoes to fill. I also offer a warm welcome to Emily Crawford who has joined the Faculty as a Postdoctoral Research Fellow.

Tim Stephens
Co-Director

NEWS

January 2011 Ron McCallum was honoured with the award of Senior Australian of the Year 2011. Ron was recognised at a ceremony in Canberra for his outstanding contributions to equal rights for people with disabilities. Congratulations Ron!

February 2011 August Reinisch, Vice Dean of the Law Faculty, University of Vienna visited the Sydney Law School to present Vienna's research focus and to discuss potential fields of future cooperation. SCIL members met with August over lunch.

February 2011 Rosemary Lyster attended lunch at Government House for Mongolian Prime Minister and mining industry delegation to discuss support for the improvement of Mongolian Environmental Impact legislation

March 2011 Sydney Law School's Jessup Moot team won the Jessup International Law Moot final, defeating Columbia University Law (see report below from team member Pat Wall for the full run down).

April 2011 Ron McCallum was re-elected Chair of the Committee on the Rights of Persons with Disabilities in Geneva.

April 2011 Tim Stephens, Simon Butt and Rosemary Lyster were successful in an AusAID Australian Leadership Awards Fellowships application. The project titled "Balancing climate change laws and policies with the needs of forest communities in Indonesia" will bring 4 Fellows from Indonesia to attend the Human Rights Advocacy Course run by Irene Baghoomians. They will also spend time as interns at the Environmental Defenders' Office and the Land and Environment Court, and undertake further research skills training in the Law School.

April 2011 The Sydney Law School together with the International Law Association hosted Geoffrey Robertson QC as part of the Distinguished Speakers Program where he spoke about Humanitarian intervention and international law.

April 2011 Chester Brown was the Faculty Coordinator for Sydney Law School's Willem C Vis International Commercial Arbitration Moot Team,

which participated in the Vis Moot in Vienna, Austria. The Sydney's team performed extremely well, making it to the quarter finals (more details below).

April 2011 Rebecca Millar was on mission in Bangladesh with the IMF to work on VAT reform.

April 2011 Ron McCallum attended and chaired the fifth session of the United Nations Committee on the Rights of Persons with Disabilities in Geneva Switzerland.

May 2011 Ben Saul met Iranian President Ahmadinejad in Tehran, as a speaker at the International Conference on Global Alliance against Terrorism for a Just Peace (see report below for details).

May 2011 Ben Saul was Humanitarian Law Instructor for the Harvard University Program on Humanitarian Policy and Conflict Research

May 2011 Jennifer Robinson, Solicitor: IP and Media at Finers Stephens Innocent in the UK spoke to the Public International Law Class about the issues of international law raised in the extradition proceedings against Julian Assange in the United Kingdom.

May 2011 The centre co hosted with the Australian Lawyers for Humans Rights a seminar titled 'Setting Dangerous Precedents: Terrorism trials in Australia. Nicola McGarrity spoke about her experience representing defendants in terrorism trials. Nicola is the Director of the Terrorism and Law Project at the Gilbert + Tobin Centre of Public Law and practices as a barrister in constitutional law, administrative law and human rights law.

May 2011 Ron McCallum together with Mary Crock attended a technical meeting called by the United Nations High Commissioner for Human Rights to examine ways of reforming the United Nations treaty body system in Sion, Switzerland.

May 2011 In May, Centre Visitor Sandesh Sivakumaran of the University of Nottingham presented his research on 'Rethinking the Law of Internal Armed Conflict'.

June 2011 Ron McCallum participated in the launch of the World Health Organisation/World Bank, World Report into Disability.

June 2011 Chester Brown co-lectured "International Commercial Arbitration" as part of the LLM programme of the Faculty of Law at the University of Auckland.

Ron McCallum in the Salle XX at the Palais des Nations where the Human Rights Council meets



Ron McCallum (6th from right) and Mary Crock (2nd from right) after lunch with the High Commissioner for Human Rights on the last day of the Meeting of Chairs in Geneva, Switzerland

KATE MILES AWARDED PHD

Centre member, Senior Lecturer in Law, Kate Miles, was awarded her PhD at the May 2011 University of Sydney graduation ceremonies. Supervised by Emeritus Professor Ben Boer and Dr Tim Stephens, Dr Miles' topic was "Transforming Foreign Investment: International Investment Law, Empire and the Environment". The thesis is a fundamental and critical analysis of how international investment law has developed over the past centuries. She indicates that this law

has mostly favouring the interests of the corporations and governments of investing states at the expense of the environment and people of resource-rich, mostly developing, host states. It urges a transformative approach to modern international investment law and includes a range of recommendations for reform. Dr Miles is currently negotiating with an international publisher to bring her work to a wide audience.



L-R: Ben Boer, Kate Miles and Tim Stephens

PERSONALIA

In May Centre Director, Tim Stephens, took out 7th place in the Ken Dinnerville Memorial Race 2011 in the Illawarra. Tim can be seen crossing the finish line on you tube.

<http://www.youtube.com/watch?v=dg6q0fgfYU>

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UPCOMING CONFERENCE

25-26 November 2011

Human Rights:
Old Dichotomies Revisited

See website for more details



photos above and right taken during Mekong trip, see report page 17

EVENTS

SCIL/ANZSIL Symposium: current research in international economic law

25 February 2011

Jointly convened by SCIL and the International Economic Law Interest Group of the Australia New Zealand Society for International Law (ANZSIL).

This full day event on International Economic Law provided an opportunity to engage with new research. Papers covered a range of issues in international economic law. Topics spanned international trade in goods, international intellectual property and international investment treaties.

The day commenced with an address (via skype) by **Professor Debra P. Steger**, Faculty of Law at the University of Ottawa, formerly Director of the Secretariat to the WTO Appellate Body. The day closed with a discussion of the recent WTO Litigation between Australia and New Zealand over Australia's restrictions on imports of apples from New Zealand.



Intellectual property and the development aspects of the WTO's Doha round negotiations

11 April 2011

Ms Jayashree Watal, Intellectual Property Division, World Trade Organization

Chair: **Brett Williams**, Senior Lecturer and Associate, Sydney Centre for International Law

Welcome provided by Scott Bouvier, Partner, Mallesons Stephen Jaques with who SCIL proudly co-hosted the seminar.

The World Trade Organization 2001 Doha Declaration for the Development Round of negotiations included a number of intellectual property issues which are ongoing. Ms Watal explained the negotiations and possible outcomes covering the general review of the TRIPS agreement and negotiations on specific issues including:

- the possible establishment of a multilateral register for Geographical Indications on wine and spirits and

possible strengthening of the TRIPS rules on GIs for products other than wines and spirits;

- the question of patentability or non-patentability of plant and animal inventions and protection of plant breeders rights;
- the relationship between the TRIPS Agreement and the UN Convention on Biodiversity; and
- the protection of traditional knowledge and folk-lore.

Ms Jayashree Watal has been Counsellor in the Intellectual Property Division of the World Trade Organization since February 2001. During the Uruguay Round, Ms Watal acted for the Indian government in negotiating the TRIPS Agreement. She was a Deputy Secretary of the Indian Ministry of Industry between 1986 and 1991 and was the Director of the Trade Policy Division of the Indian Ministry of Commerce between 1995 and 1998. She also holds the position of Adjunct Professor of Law at the Georgetown University Law Center. She

has published many articles on issues related to intellectual property rights in both Law and Economics journals, and has authored a book Intellectual Property Rights in the WTO and Developing Countries (Kluwer Law International, 2001).

Jayashree Watal and Brett Williams



The future of private international law in Australia

16 May 2011

Justice Paul Le Gay Brereton, Judge of the Supreme Court of New South Wales

Thomas John, Commonwealth Attorney-General's Department

Andrew Dickinson, Professor in Private International Law, Sydney Law School

Australia's prominent position in the world economic order depends on the ability of its businesses to sell their products and expertise internationally, and to engage in cross-border ventures. This process of globalisation has also broadened the opportunities of Australians to travel, whether for business, employment, education or personal reasons. The, perhaps inevitable, result of these developments is a growth in the number of disputes before Australian courts which have a cross-border element, whether of the parties or the subject matter.

This fact puts the subject of "private international law" in Australia into focus. When should an Australian court hear

cases of this kind, and when should it send the parties elsewhere? Should local or foreign rules be applied? When will foreign decisions be recognised and enforced? The current approach to private international law in Australia consists of a rather eclectic mix of treaty obligation, local legislation and judicially created rules. By contrast, the European Union has moved to an almost exclusively legislative model.

Against this background, this seminar looked at the future of private international law in Australia. The four speakers addressed the topic from the different perspectives of judge, legislator, practitioner and academic.

Justice Paul Le Gay Brereton is a Judge of the Supreme Court of New South Wales, sitting principally in the Equity Division. Prior to his appointment, he practised as a solicitor and barrister in New South Wales. With Professor Martin Davies and Dr Bell, Justice Brereton is an editor of Nygh's Conflict of Laws in Australia, the 8th edition of which was published in 2010.

Dr Andrew Bell was called to the bar in 1995 and appointed as senior counsel

in 2006. He specialises in matters of private international law, transnational litigation and arbitration and has appeared before the High Court in many of the leading cases. He is one of the co-editors of Nygh's Conflict of Laws in Australia.

Thomas John currently heads the Private International Law Section of the Commonwealth Attorney-General's Department. He holds law degrees from the University of Konstanz in Germany and from the University of Queensland, and is admitted to practice as a barrister in Australia. Thomas is an Associate Member of the Chartered Institute of Arbitrators and the Chair of the Law Council of Australia's European Focus Group.

Andrew Dickinson is the Professor in Private International Law at Sydney Law School. He divides his time between Australia and the UK, where he practices as a solicitor. Andrew is one of the specialist editors of Dicey, Morris & Collins: The Conflict of Laws, the leading work on English private international law.

Offshore resources law: recent developments

30 May 2011

Nathan Cecil, Partner, Norton White

Andrew Beatty, Partner, Baker & McKenzie

Megan Flynn, Associate, Baker & McKenzie

Dr Tim Stephens Co-Director, Sydney Centre for International Law

This seminar examined developments in the regulation of the offshore resources and energy sector in Australia and the region. It considered the implications of the Report of the Montara Commission of Inquiry in July 2010 concerning the West Atlas oil spill, recent developments in the regulation of offshore carbon capture and sequestration projects. Also examined were the important February 2011 Advisory Opinion of the International Tribunal for the Law of the Sea, which considered the liability of governments for deep seabed mining operations, a case prompted by Nauru which is seeking to sponsor a plan of work for exploration for 'polymetallic nodules' in the Pacific.



Nathan Cecil speaking to a full Minter Ellison Room

Litigating before the WTO Appellate Body

22 June 2011

David Unterhalter, Member of the World Trade Organization Appellate Body

Chair: **Dr Brett Williams**, Faculty of Law, University of Sydney

David Unterhalter, Member of the World Trade Organization Appellate Body and member of the Johannesburg Bar discussed various aspects of disputes in the WTO dispute settlement system, drawing on his experience since 2006 as a Member of the Appellate Body and his many years of experience in litigation in the fields of trade law, competition law, constitutional law and commercial law.

David Unterhalter serves as a member of the Appellate Body of the World Trade Organization. He has enjoyed a leading practice as a barrister in the fields of trade law, competition law, and public law. He practices in London and Johannesburg, where he is a Senior Counsel. Mr Unterhalter has been a Professor of Law at the



L-R: David Unterhalter, Felicity Hammond and Brett Williams

University of the Witwatersrand in South Africa since 1998, and from 2000 - 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law. He has acted as an advisor to the South African Department of Trade and Industry and published widely in the

fields of competition law, the law of evidence and public law. Mr Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford

After Ruggie: The Future of Business and Human Rights - from courtrooms to boardrooms and beyond

27 June 2011

David Kinley, Sydney Law School

Rachel Nicolson, Allens Arthur Robinson

Odette Murray, Attorney-General's Department

In June 2011, the UN Human Rights Council released the Guiding Principles on Business and Human Rights. These Guiding Principles were the culmination of six years of research, consultation and discussion with governments, businesses and civil society by the UN Secretary-General's Special Representative on Business and Human Rights, Professor John Ruggie.

This seminar evaluated the guiding principles - commending their strengths while criticising their weaknesses. It considered whether the principles are adequate to address the broad diversity of corporate activities - from extractive industries to financial services.



David Kinley speaking to a packed Minter Ellison Room

The guidelines are likely to spur renewed engagement of governments and corporations with the business and human rights agenda. From grievance mechanisms to human rights due diligence, the guiding principles have the potential to significantly impact corporate operations. The directions that might be taken by Ruggie's successor in the mandate was also be discussed.

The seminar canvassed some of the ways in which corporations and their legal advisers, both in Australia and abroad, are already responding to the

business and human rights agenda. We highlighted how law firms could and should react in future as the business and human rights phenomenon gains pace.

The seminar also focused on the role of litigation as a means of corporate human rights accountability, charting recent developments in the landscape of 'Alien Tort Claims Act' suits in the United States Federal Courts. Such suits have been brought against non-US corporations - including Australian corporations - though recent developments may halt this trend.

THE LAW SCHOOL IN THE SKY: HIMALAYAN FIELD SCHOOL ON DEVELOPMENT AND HUMAN RIGHTS

Few law students have the opportunity to learn about law by talking to indigenous fisher-folk in a Nepalese river valley, interviewing residents of a Kathmandu slum, speaking with Tibetans in a refugee camp, or trekking for hours to visit a remote school on a Himalayan mountainside.

In February 2011, 30 Sydney law students left behind the lecture theatres of Sydney Law School and embarked on a unique legal expedition to Nepal. The Himalayan Field School on Development and Human Rights was pioneered by the Sydney Centre for International Law as an innovative new course for degree credit, open to undergraduates and postgraduates of Sydney Law School and other universities.

The course was delivered in partnership with the Kathmandu School of Law (KSL), with which Sydney had earlier collaborated on an AusAID-funded project to strengthen human rights in the criminal justice system in Nepal. KSL was involved in the design of the course and its delivery in Nepal, bringing the benefits of local expertise as well as enabling 15 Nepalese law students to participate in the course

The aim of the program, now offered every year, is to enable students to learn about international law in its practical context – how it applies to real problems of human development in a developing country. Land-locked Nepal was chosen as an ideal case study: it is one of the poorest countries in the world and it recently emerged from a protracted and bloody civil war.

In this context, the Field School was designed to expose Australian law students to the role and limits of law in addressing acute problems of human development. It adopted an interdisciplinary approach to understanding the complexity of development, drawing on international law and Nepalese law, as well as on disciplines such as human geography, environmental and urban studies, economics, peace and conflict studies, religion, history and politics.



Photographer: Louisa Mulquiney

Development was understood not as narrow economic growth, but through Amartya Sen's view of development as the expansion of human freedom. The course also explored various critiques of development.

The curriculum explored a range of inter-connected themes, starting with the transition from conflict to peace after a Maoist insurgency and the end of the monarchy, and efforts to draft a new constitution and build a new political and legal system. The course also investigated efforts to bring to justice the perpetrators of human rights abuses, while maintaining a fragile peace.

In exploring the practice of development in Nepal, the course considered the protection of socio-economic rights (including food, water, housing and livelihoods), and the impact of development projects on natural resources, human livelihoods,

and environmental protection.

Particular attention was paid to the experiences of minority groups (such as indigenous peoples, 'tribals', and dalits – untouchables in the caste system), women and children in the context of traditional social norms, and vulnerable outsiders such as Tibetan and Bhutanese refugees.

In learning about these issues, the Field School utilized innovative teaching methods, which encouraged creative thinking about the linkages between law, development and human rights. The traditional lectures delivered by Sydney and KSL academics, and extensive readings, were supplemented by a program of site visits and field trips.

The site visits allowed the students to visit the offices of numerous United Nations agencies (in the fields of development, human rights, refugees, and children), the International



Ben Saul and Irene Baghoomians

Committee of the Red Cross, the National Human Rights Commission of Nepal, and the Constituent Assembly of Nepal (which is both the parliament and constitution-drafting body). The visits facilitated enthusiastic, spirited and critical interactions between students and experts, and students felt privileged to gain such unprecedented access to key institutions.

The field visits allowed students to gain another perspective on development – that of those who adversely experience law and development processes. The field visits drew upon socio-legal research methods to enable students to directly engage with slum residents at risk of forced eviction in Kathmandu, Tibetan refugees who fled from Chinese persecution, and villagers adversely affected by development projects, and to reflect on how formal laws and institutions play out in practice.

A four-day field trip to the rural Melamchi district allowed students to witness and hear about the hardships faced by indigenous Nepalese whose communities and livelihoods are adversely affected by the construction of a water supply project. Students interviewed villagers with the invaluable interpreting assistance of Nepalese students, who facilitated these fascinating cultural encounters.

Villagers spoke of how they were not meaningfully consulted about the project, how the process was not transparent, and expressed real concerns about the impact of the project on their meagre subsistence livelihoods. For both the Australian and Nepalese students, this abject reality was confronting. So, too, was a visit to a nearby remote school, after a long mountain trek, which graphically illustrated the challenges of securing basic rights to food, education,

healthcare and sanitation for rural children.

The course was intellectually and physically demanding. Students evaluated the Field School highly, believing that it helped them to learn effectively and increased their confidence as legal thinkers. As one student wrote of the course: “Wow! What an intense and rewarding month in Nepal. ... I have returned to Australian shores with a spring in my step, and a grin permanently planted across my face.” Or as a group of students said: “We have all had an absolutely amazing, challenging and stimulating time and have learnt many academic and personal lessons and observations which will remain with us for a life time.”

Part of this success is attributable to the participation of Nepalese law students and guides, who not only enriched the learning experience but also produced strong bonds of friendship between Australian and Nepalese students. Students also enjoyed exploring Nepal’s rich culture and history through visits to major temples, palaces, and world heritage cities; learning the Nepali language; and even trying hard (with mixed success) at competitive, outdoor Nepalese disco dancing. Some students even went trekking in the Himalayas after the course.

Sydney Law School and Sydney students intend to maintain their links to Nepal. While in Nepal, the Director of Kathmandu School of Law, Dr Yubaraj Sangroula, was appointed Attorney-General of Nepal, and we are planning a new development project to support legal training in the Attorney’s Office. Students remain in touch through a dedicated Facebook page and are exploring ways to contribute to development activities in Nepal in the future.

Ultimately, it is hoped that the Field School opened up new professional and personal horizons for Australian and Nepalese law students – and perhaps inspired even a few to pursue future careers in development, international law, or human rights.

Associate Professor Ben Saul devised the Himalayan Field School, and coordinated it in Nepal with colleague Irene Baghoomians.

AMNESTY INTERNATIONAL DELEGATION TO CAMBODIA

In late February 2011, Ben Saul visited Cambodia as an international law delegate of the International Secretariat of Amnesty International in London.

Dr Saul's investigated restrictions on the ability of NGO and human rights lawyers to represent the poor in Cambodia, including in disputes involving powerful commercial or government interests (such as "land grabbing", which results in forced evictions). In particular, Dr Saul identified concerns about the freedom of expression of lawyers in Cambodia and proposed restrictions on the registration of NGOs. Dr Saul met with key NGOs working on justice for the poor in Cambodia, including the Community Legal Education Centre (Amnesty's local partner in Cambodia), Legal Aid of Cambodia, and the Cambodian Defenders Project. In raising awareness about the restrictions on lawyers, Dr Saul met with the President of the Bar Association of Cambodia; the visiting UN Special Rapporteur for Human Rights in Cambodia (Surya Subedi, a Nepalese international lawyer); the Office of the UN High Commissioner for Human Rights; the British and Australian Ambassadors; the Deputy



Ben Saul (centre front) with villagers evicted by urban development around Boeung Kak Lake in Phnom Penh

Ambassador of the United States; the visiting US Deputy Assistant Secretary of State for Democracy, Human Rights and Labor. Dr Saul also took the opportunity to meet with an Australian judge of the Extraordinary Chamber

of the Courts of Cambodia (ECCC), Rowan Downing QC, for whom Sydney law students are providing research on the Khmer Rouge prosecutions under an agreement with the Sydney Centre for International Law.



Ben Saul (fourth from left) with Cambodian human rights lawyers

ECCC AND SYDNEY LAW SCHOOL

Over the summer holidays thirty Sydney Law School students generously volunteered to undertake legal research for the Pre-Trial Chamber of the Extraordinary Chambers of the Courts of Cambodia (ECCC).

BY ANNA COFFEY

The ECCC is a hybrid tribunal created under the Cambodian court system and applying Cambodia law and international law. The Court is result of an agreement between the United Nations and the Royal Government of Cambodia to bring to trial senior leaders of Democratic Kampuchea and those most responsible for the serious violations of Cambodian penal law and international humanitarian law and custom committed during the period from 17 April 1975 to 6 January 1979.

At the request of Pre-Trial Chamber Judge Rowan Downing QC students

were selected to conduct specific research tasks and prepare briefs on complex legal issues arising from the pre-trial appeals in Case 002, which involves the four senior Khmer Rouge leaders Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan.

Judge Downing assigned research tasks that would allow the students to experience the substantive and procedural applications of national, civil law and international humanitarian law. The students produced briefs on a wide variety of jurisdictional issues arising from the appeals by the four Charged

Persons of the Co-Investigating Judge's Closing Order and the appeals of more than 2000 rejected civil party applicants.

The judges and legal officers of the Pre-Trial Chamber were greatly assisted by such high quality briefs and sincerely appreciated the enthusiasm and dedication of the students.

The trial in Case 002 began in Phnom Penh in June 2011.



Above and right: Phnom Penh houses demolished in forced evictions



Phnom Penh resident forcibly evicted, with remains of her house



Home of urban poor

PHILIP C. JESSUP INTERNATIONAL MOOT COURT COMPETITION

In March this year the Sydney Law School's Jessup Moot team won the Jessup International Law Moot final, defeating Columbia University Law School. This was a fantastic achievement, and the third time that a Sydney team had won the Jessup Cup.

BY PATRICK WALL

The one question that I keep being asked after spending my summer as a member of the Sydney Law School team in the Philip C. Jessup International Moot Court Competition is "was it worth it?"

The question is a fair one. "The Jessup" is a gruelling task that consumes five law students 14 hours per day, six days per week from the middle of November until early February each summer. For those who are lucky enough to advance to the international grounds in Washington DC, the work continues until the end of March. In that time, teams must master the facts of a 5,500 word Compromis (the problem question) and all of the issues of international law raised by it. They must prepare two sets of 9,000-word memorials (written submissions) to the mock International Court of Justice and prepare oral submissions for both sides of the case, including the answers to any and all questions that might conceivably be asked by a judge. It is fair to say that all of this time in the Law School does not leave much time to cultivate a summer tan.

And so it was for Sydney Law School's 2011 Jessup team, which consisted of Patrick Bateman, Chris Beshara, Glenn Kembrey, Chelsea Tabart and myself. We locked ourselves away over the summer months to become acquainted with international humanitarian law, international human rights law and international corruption law. We set about formulating written and oral submissions about the legality of a program of Predator Drone strikes, the conditions under which a state may exercise a right of self-defence against a nonstate actor, the legal criteria for an act of aggression, the circumstances in which a state may prohibit the wearing of certain religious clothing and the obligations that states



L-R: Glenn Kembrey, Chelsea Tabart, Chris Beshara, Pat Bateman and Chris Wall



L-R: Pat Bateman, Chelsea Tabart and Chris Beshara

have to investigate and prosecute allegations of bribery.

Our written submissions were due on 10 January and, having submitted them in the nick of time, we set about preparing for the oral rounds. We are forever indebted to the help we received from former competitors, members of faculty and others from

the international legal community who came to judge us during our practice moots. With their assistance, and of course with the endless assistance of our coach, Natalie Zerial, and faculty adviser, Dr Tim Stephens, we sharpened our oral advocacy skills and honed the legal arguments that we would present to the judges.

In early February, the team travelled with Natalie and Tim to Canberra for the Australian regional rounds of the Jessup. After three victories in the four preliminary moots, we progressed to the quarter-finals as the fourth ranked team. We defeated the University of Melbourne in a hotly contested quarterfinal, the University of Queensland in an equally close semi-final and, represented by Chris Beshara and Patrick Bateman in Courtroom 1 of the High Court of Australia in front of a panel of judges that included Chief Justice French, we defeated the University of Western Australia and were declared Australian Champions. Patrick Bateman was adjudged best speaker in the tournament, while Chris Beshara was recognised as the best speaker in the grand final.

There was little time to savour the result, however, as reaching the grand final of the Australian rounds entitles a team to represent Australia at the International Rounds in Washington DC in late March. We therefore returned to the Law School to continue the work of polishing our oral submissions, again with the help of our wonderful volunteer judges. Classes recommenced at some point in early March, but this passed us by to some extent as the practice and research continued unabated.

In late March, the time came to make our way to Washington DC, where 130 teams from around the world were gathered for the International Rounds at the Capitol Hilton, just two blocks from the White House. After the four preliminary rounds, in which we recorded victories against teams from the Ukraine, Belarus, Canada and Indonesia, we were ranked first. We defeated teams from China in the runoff final, Chile in the octo-final and India in the quarter-final. In the semi-final, we mooted against an excellent team from Norman Manley Law School in Jamaica and scraped by on the thinnest of margins, with the marks from written submissions being the only difference between the teams.

We had made it, then, to the World Championship moot. We were ushered in to the Presidential Ballroom of the Capitol Hilton and then watched as the stampede of spectators entered the hall. We greeted our opponents, from Columbia University in New York City, and awaited the arrival of the judges.

Chris Beshara and Glenn Kembrey mooted before Thomas Buergenthal, former judge of the International Court of Justice; Claudio Grossman, former president of the Inter-American Commission on Human Rights; and Mark Pieth, Chairman of the OECD Working Group on Bribery. After an excellent moot against opponents of the highest quality, Judge Buergenthal announced that the University of Sydney were the 2011 World Champions of the Philip C. Jessup International Moot Court Competition. Later that evening, Chris Beshara was declared second best speaker and our written submissions also achieved the

second place award.

So, is it worth it? While everyone's experience of the Jessup is different, and our perspective is from a very fortunate position, I would have to answer in the affirmative. While not all teams can make it to Washington, the Jessup does give all competitors an unrivalled opportunity to develop a passion for and, to an extent, an expertise in international law. The skills of oral advocacy and teamwork that must be acquired are lasting ones, as is camaraderie with those who have also competed.



L-R: Pat Wal, Chris Beshara, Glenn Kembrey, Cheslea Tabart and Pat Bateman



L-R: Pat Bateman, Pat Wall, Chris Beshara, Chelsea Tabart, Natalie Zerial, Glenn Kembrey and Tim Stephens

SIR MICHAEL WOOD VISITS SYDNEY LAW SCHOOL

In late March 2011, the Sydney Centre for International Law was privileged to host a visit by Sir Michael Wood KCMG, Member of the International Law Commission, Senior Fellow of the Lauterpacht Centre for International Law at the University of Cambridge, and Barrister at 20 Essex St Chambers, London.

BY CHESTER BROWN



In late March 2011, the Sydney Centre for International Law was privileged to host a visit by Sir Michael Wood KCMG, Member of the International Law Commission, Senior Fellow of the Lauterpacht Centre for International Law at the University of Cambridge, and Barrister at 20 Essex St Chambers, London.

Sir Michael was previously the Legal Adviser to the British Foreign and Commonwealth Office (1999 – 2006). After joining the FCO as an Assistant Legal Adviser in 1970, he was a member of the United Kingdom delegation to many international conferences, including most sessions of the Third United Nations Conference on the Law of the Sea, the Lancaster House Conference on Rhodesia, the ‘Two-plus-Four’ negotiations on German Unification, the Cambodia Peace Conference, and the Dayton and Rambouillet Conferences on the former Yugoslavia.

His postings included three years (1991 – 1994) at the United Kingdom Mission to the United Nations in New York, dealing chiefly with Security Council matters. He was Agent for the United Kingdom for a number of years

before the European Commission and Court of Human Rights, and UK Agent in cases before the ICJ, as well as in proceedings before the International Tribunal for the Law of the Sea and the arbitral tribunals in the MOX Plant cases.

During Sir Michael’s visit to Sydney Law School, he gave a lecture on the topic ‘The UN Charter as the Higher Law’ on Thursday 24 March 2011. In his lecture, Sir Michael explored the complex issue of overlapping treaty obligations in inter-State relations, which is an increasing problem faced by States given the proliferation of treaties being concluded on a wide range of issues which were not previously the subject of international attention. As a result, questions of hierarchy in international law (such as *jus cogens* / peremptory norms, *erga omnes* obligations, and the effect of Article 103 of the United Nations Charter) arise with increasing frequency in practice, in diplomatic discourse at the United Nations and elsewhere, and in cases before international and domestic courts and tribunals. Recent and pending cases which raise such questions include the *Kadi* case before the European Court of Justice; the *Al-Jedda* case, which was before the United Kingdom House of Lords and the European Court of Human Rights; and the *Behrami* case, which also came before the European Court of Human Rights. Sir Michael explained that there is a need for greater understanding and clarity on these matters among practitioners and judges, including those in domestic or regional courts.

On Friday 25 March 2011, Sir Michael also spoke at a lunchtime seminar on ‘The International Law Commission

at its Recent Work’. The International Law Commission was created under Article 13(1)(a) of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the ‘progressive development and codification of international law’. Since its formal establishment in 1946, the International Law Commission has considered and produced draft articles, draft conventions and other draft instruments on many core topics of international law, including the law of treaties, the law of the sea, diplomatic and consular relations, the creation of an international criminal court, and State responsibility. Despite its importance, the workings of the ILC are relatively little-known outside the circles of Ministries of Foreign Affairs, Attorney-General’s Departments, and international organisations. The purpose of this seminar was to shed light on the history, function, and composition of the ILC, and to discuss two topics which have been on the ILC’s programme of work; namely, the ‘Expulsion of Aliens’, and the International Law Commission’s Guide to Practice on ‘Reservations to Treaties’. The session, which followed a panel format, was chaired by Associate Professor Chester Brown. The other speakers were Associate Professor Ben Saul, of Sydney Law School, and Mark Jennings, Senior Counsel in the Office of International Law at the Commonwealth Attorney-General’s Department.

During his visit, Sir Michael also very kindly addressed students in the courses ‘Advanced Public International Law’, and ‘War Law: Use of Force and Humanitarian Law’.

WILLEM C VIS INTERNATIONAL COMMERCIAL ARBITRATION MOOT TEAM

In April 2011 Chester Brown coordinated the Sydney Law School's Willem C Vis International Commercial Arbitration Moot Team, which participated in the Vis Moot in Vienna, Austria. The University of Sydney's Vis Moot team performed extremely well, making it to the quarter finals. After the general rounds, the Sydney team broke into the top 64 teams (out of 260 teams participating in the competition), and proceeded to defeat the University of Freiburg (in the round of 64), Wuhan University

(in the round of 32), and the American University of Washington DC (in the round of 16), before narrowly losing to St John's University, of New York, in the quarter-finals. Overall, this was a wonderful achievement, particularly bearing in mind that it is only Sydney's third year of competing in the Vis Moot. The team's coaches, Nick Rudd and Stephanie Vatala, did a superb job preparing the team, and each of the team members - Pat Caldwell, Domenico Cucinotta, Nadia Yetton-Lim and Reuben Ray - put in a superb

performance each time, earning high praise from the arbitrators here. Nadia Yetton-Lim was also awarded a prize as one of the best oralists at the Vis Moot. Of the other Australian teams competing in the Vis Moot, only UNSW, UTS, Griffith University, and Murdoch University made it into the round of 64, and they were each eliminated at the first hurdle. The Vis Moot was ultimately won by Ottawa University, which defeated the University of Montevideo in the final.

GLOBAL TERRORISM CONFERENCE IN IRAN

BY BEN SAUL

There is a certain irony in attending a conference on terrorism in Iran. The Iranian government is often thought by various governments and analysts to be a state-sponsor of 'terrorist' organisations such as Hezbollah and Hamas.

As an intrepid, open-minded academic, an invitation to an international conference in Tehran on a 'Global Alliance against Terrorism for a Just Peace' in May 2011 was too good to pass up, not least to hear how those in a pariah regime construct ideas about "terrorism".

The conference did not disappoint. Speakers from over 60 countries were invited by our Iranian hosts, the Islamic World Peace Forum (an Iranian NGO), and the Faculty of World Studies at the University of Tehran. It was soon apparent that the Iranian Government was heavily involved in organising and funding the conference.

An overwhelming majority of speakers (almost all men) defined terrorism roughly as any violence committed by America or Israel. The level of political and intellectual rage against 'the west' was palpable. Whether one thinks it justified or not, that itself was an important lesson. At this conference, the word terrorism became little more than a moniker for one's political enemies.



Inside the conference

Al Qaeda was scarcely mentioned at all in days of papers, nor Hezbollah, Hamas, Jemaah Islamiyah and so on. Where such groups were mentioned, it was typically only to explain away their behaviour as natural reactions to western evils. Non-western governments were also largely off the hook, remarkable in the midst of the 'Arab Spring', where citizens of Arab countries were busy protesting for their lives and freedom against 'state terror'.

My own small paper took a different

tack, albeit delicately put: deliberate killing of civilians by any government may be terrorism, but so too is state-sponsorship of terrorist organisations abroad, or taking diplomats hostage in their own embassies.

The western media too was heavily criticised as full of lies and distortions about the non-western and Islamic worlds. No Nobel Prize winning insights there. But there was also a stunning lack of self-awareness from many speakers. The western media also gets

to the truth surprisingly often, holding the powerful to account, blowing the lid on Abu Graib or Guantanamo and so on. That is far more than can be said for state media monopolies in quite a few countries worldwide, which dish out more official propaganda than unfiltered truth.

The highlight of the conference was a speech by Iran's President, Mahmoud Ahmadinejad. He is a gifted and charismatic orator in Persian, and many in the Iranian audience rushed to hug and kiss him like a rock-star after his speech. There were some memorable lines: he has it on 'good authority' that Bin Laden was not killed as the Americans said, not to mention that 9/11 was some kind of conspiracy. And of course, calling for the elimination of the Zionist regime is by now de rigeur in his speeches. During our conference, the President was locked in a power struggle with the conservative religious leadership in Iran. In that struggle, Ahmadinejad is the moderate. Politics is always relative.

Our Iranian hosts were delightful, gracious and hospitable. The hotel was marvellous and the Persian food exquisite. We had fascinating doses of political tourism thrown in: the first



Mausoleum of Ayatollah Khomeini, leader of the Iranian Revolution

Ayatollah's grave, and the cemetery of the (hundreds of thousands of) martyrs from the horrible, unimaginably violent Iran-Iraq war. Iran is a beautiful and tragic country.

Overall, the conference was a stark learning experience. Listening to fundamentalism is not pleasant – indeed, at times it was chilling – and

hardly gives one optimism for the future. But it is important to hear how others think, even if one disagrees, and to contribute to transnational and inter-cultural dialogue – firmly putting one's view, trying to convince others, debunking error, and doing one's best to assuage the instinct to violence on all sides.

COMPLAINT BY DAVID HICKS TO THE UN HUMAN RIGHTS COMMITTEE

Ben Saul is counsel acting for David Hicks in a complaint against Australia before the United Nations Human Rights Committee.

Ben Saul is counsel acting for David Hicks in a complaint against Australia before the United Nations Human Rights Committee. Mr Hicks alleges numerous violations by Australia of the International Covenant on Civil and Political Rights (ICCPR) of 1966.

Australia is a party to the First Optional Protocol to the ICCPR, which allows individuals to make complaints directly to the UN Committee in Geneva, once domestic remedies have been exhausted. Mr Hicks lodged his complaint in September 2010, and it was publicly announced in June 2011. Australia is now late in responding to the UN as required.

Mr Hicks claims that the offence for

which he was convicted before a US Military Commission, "providing material support for terrorism", is a retrospective charge contrary to article 15 of the ICCPR. It is contended that such offence was unknown to any law at the time of Mr Hicks' alleged conduct in Afghanistan in 2001.

By enforcing his sentence in an Australian prison, Mr Hicks argues that Australia assumed responsibility for his unlawful, retrospective criminal punishment. Because the basis of his detention was unlawful, and his sentence resulted from the denial of a fair trial, Australia also breached the prohibition on unlawful detention under article 9 of the ICCPR.

Mr Hicks also argues that his Plea Agreement was obtained under duress, given his circumstances at Guantanamo Bay. His plea required him to surrender his right of appeal, freedom to speak freely after conviction, and freedom from undue interference by law enforcement authorities. Mr Hicks argues that Australia's involvement with his Plea Agreement implicates it in the violation of a number of his rights.

Further, by interviewing Mr Hicks in US custody to gather intelligence, and in utilising that evidence in control order proceedings in Australia, Australia participated in Mr Hicks' unlawful treatment by the US. That included ill-treatment, arbitrary or unlawful

detention, and inhumane conditions of detention. Australia's public and practical support for Mr Hicks' unfair trial also amounts to unlawful assistance to the US in Mr Hicks' unlawful, unfair trial.

Australia also allegedly violated its obligation to independently investigate credible allegations of torture made by an Australian national concerning ill-treatment by a foreign State, in circumstances where the US failed to conduct a full independent inquiry or to otherwise explain the causes of his injuries.

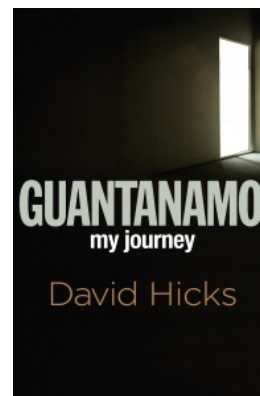
Finally, Mr Hicks argues that the anti-terrorism control order imposed upon him by Australia was neither necessary nor imposed by a fair procedure. In such circumstances, the

restrictions placed upon Mr Hicks' rights were not shown to be necessary or proportionate in pursuit of any legitimate public security aim under international law.

Further, the completion of Mr Hicks' term of imprisonment in Australia should have been regarded as expiating his criminal responsibility for any past wrongful conduct. Yet, the control order was imposed upon him after his release from prison, on the basis of the same past conduct, contrary to the principle against double punishment under international law.

Since lodging his complaint, Australia's Director of Public Prosecutions has sought to seize the any profits made by Mr Hicks in writing a book about his experiences. If such attempt succeeds,

that proceeding too will be based on retrospective offence and would be arguably unlawful under the ICCPR. Ben Saul recently wrote about those proceedings in an opinion article in *The Australian* on 22 July 2011 ('Bid for Hicks' profits "mistaken").



CENTRE INTERNS

Throughout Semester 1 the Centre was delighted to provide four internships to Claire Burke, Steve Hind, Ishani Jayaweera and Daniel MacPherson. Volunteering one day per week, the interns make a valuable contribution to the Centre's work. Claire and Daniel have each shared their experiences of interning with the Centre below.



Claire Burke

The internship was a fantastic opportunity to undertake different types of research work across many areas of public international law. Some of the work I was able to do included researching the legality of the Libyan 'no-fly' zone, writing a case headnote for inclusion in the Oxford Reports on International Law in Domestic Courts, and co-drafting a submission to government on amendments to the Migration Act. My work at SCIL exposed me to issues of family law, the use of force, refugee law, voting rights, and the role of international instruments in constitutional interpretation. I truly enjoyed my time at SCIL and appreciated working with its academic members.



Daniel MacPherson

I am very grateful to SCIL for the opportunity to complete the internship, and particularly to Amber, Tim, and Ben, who were my main contacts. Thanks also to Claire, the other intern in the office on Fridays. My main tasks were preparing a case note for an Oxford database and preparing case summaries for the Australian Year Book of International Law. This was rewarding as it exposed me to new areas of law and highlighted how public international law affects everyday society, such as in the (alarming number of) cases involving one parent wrongfully removing children across borders. The other fascinating project was preparing a submission to the parliamentary enquiry into proposed Migration Act amendments. Though SCIL's entreaties will likely go distressingly unheeded, I enjoyed participating in that process of political discourse. The atmosphere was relaxed and staff were welcoming; the internship was a valuable use of my Fridays.

NAVIGATING 'HARD' AND 'SOFT' LAW IN THE MEKONG

On 21 June – 3 July, Fleur Johns, Ben Saul and Ben Boer from Sydney Centre for International Law, and Philip Hirsch and Natalia Scurrah of the Australian Mekong Resource Centre, travelled to Cambodia and Thailand to meet and interview a range of actors involved in the management of the Mekong River basin.

BY NATALIE SCARRAH

The preliminary fieldwork visit is part a three-year collaborative research project between law and human geography funded by the Australian Research Council.

Our research examines the role of 'hard' and 'soft' law and legal institutions in governing the Mekong River Basin, focusing on the four Lower Mekong Countries – Cambodia, Laos, Thailand and Vietnam. The aim is to gain a better understanding of the ways in which justice is achieved in international river basin management and governance and the extent to which law is – or is not – part of this.

Around 25 interviews were held with a range of people from government, nongovernmental organisations, bilateral aid agencies, public interest law firms, academics and local communities. The interviews probed people's understanding and expectations of law and the factors by which those have been shaped. We also explored how different people used law to assert claims to particular resources, resolve disputes and address grievances.

This preliminary mapping of the role of law in Cambodia yielded some insights into how law is understood and used by different actors. Perhaps most startling was the prevalence of the view that law is not seen to be there to protect the rights and interests of the people, but instead is often used as a tool of control or oppression to serve the interests of powerful elites. There seems to be very little success in using the law on behalf of villagers to seek justice. We heard many cases where private companies and investors enjoyed the full backing of the law. Land grabbing was a common example – stories of huge land concessions



L-R: Fleur Johns, Ben Saul and Ben Boer in Bangkok



Meeting with Mekong villagers in Cambodia

being granted to private companies for a mine or tree plantations with no acknowledgement or compensation given to existing land users/owners. In many cases private companies encroached on additional land outside what they were authorised to use. Arrest or intimidation, we heard, is common punishment for people who

dare to resist, protest or take matters to court.

It is no surprise then, that many people we spoke to (NGOs and communities in particular) expressed reluctance and hesitation about using the courts or other formal legal ('hard law') mechanisms to address grievances/

resolve disputes. There are a number of public interest legal NGOs that take cases on behalf of individuals or communities, albeit with limited success. However, the vast majority of NGOs we interviewed in Cambodia used law as a tool for empowering communities by, for example, educating them about the laws and their rights, as well as for advocacy purposes (i.e. 'soft' mechanisms or uses of law).

Contrary to the idea of law as a tool of 'oppression', the view of law as a strategy for 'empowerment' suggests people still have faith in the law (or at least in the idea of 'the rule of law' as a something to strive for). It also suggests that the rather gloomy depiction above of how law is used and deployed is incomplete. Indeed, during our interviews we also came across examples where the law is upheld and enforced successfully by communities, NGOs and local government alike, such as in the use of the fisheries law to regulate against



Philip Hirsch (left) meeting with senior Mekong villager

illegal fishing. Law is also capable of accommodating different interests, whether intentionally or not.

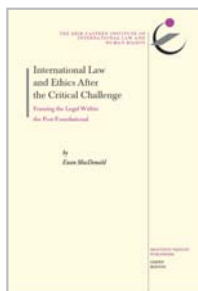
As is so often the case, the picture that emerges from the field is a complex

one. Our task now is to analyse and interpret our field notes and present a picture that captures this complexity.

NEW BOOKS FROM CENTRE MEMEBERS

International Law and Ethics After the Critical Challenge: Framing the Legal Within the Post-Foundational (Brill Academic Publishers, The Netherlands, 2011)

Euan MacDonald



Around twenty years ago, a challenge was laid down to international law by those writing at the critical periphery of the discipline; a challenge that has yet to find

satisfactory response. Although often (mistakenly) characterised as nihilist, this book seeks to recast it in positive terms; to pose the question of what – if anything – is left of international law and ethics if we accept both that apolitical rules are impossible and that the values that must – inevitably – be used to justify them are irreducibly, radically subjective. After detailed analyses of different political and international legal philosophers who have confronted this issue, the answer is located in a "turn to literature" and a rehabilitation of the ancient notion of rhetoric.

Human Rights in the Asia-Pacific Region: Towards Institution Building (Routledge-Cavendish, Abindgon, 2011)

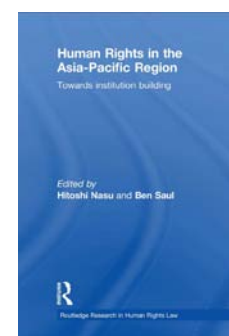
Hitoshi Nasu and Ben Saul (eds)

The Asia-Pacific is known for having the least developed regional mechanisms for protecting human rights. This edited collection makes a timely and distinctive contribution to contemporary debates about building institutions for human rights protection in the Asia-Pacific region, in the wake of ASEAN's establishment in 2009 of a sub-regional human rights commission.

Drawing together leading scholarly voices, the book focuses on the systemic issue of institutionalising human rights protection in the Asia-Pacific. It critically examines the prospects for deepening and widening human rights institutions in the region, challenging the orthodox scepticism about whether the Asia-Pacific is "ready" for stronger human rights institutions and exploring the variety of possible forms that regional and sub-regional institutions might take. The volume also analyses the impediments to new institutions,

whilst questioning the justifications for them. The collection provides a range of perspectives on the issues and many of the chapters bring interdisciplinary insights to bear. As such, the collection will be of interest to scholarly, practitioner, and student audiences in law, as well as to readers in international relations, political science, Asian studies, and human rights.

This book is the product of a successful collaboration between the Sydney Centre for International Law, Australian Network for Japanese Law, Centre for Asian and Pacific Law, and the Australian Human Rights Centre (UNSW), following an international conference in November 2009 at Sydney Law School.



AUSTRALIAN INTERNATIONAL LAW JOURNAL

The 2010 Volume of the *Australian International Law Journal* was published in April and is available by subscription through the ILA.



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 databases Heinonline and Informat, and soon via Austlii.

Subscribing to the Journal

If you are interested in subscribing, please visit the website at: www.ila.org.au/publications_journal.htm

Subscription costs: include postage and handling.

An individual subscription: \$50 for one year within Australia or \$55 outside Australia.

An institutional subscription: \$70 for one year within Australia or \$75 outside Australia.

2010 JOURNAL ARTICLES

'Direct Participation in Hostilities': A Legal and Practical Road Test of the International Committee of the Red Cross's Guidance through Afghanistan
- Damien van der Toorn

Secondary Forms of Genocide and Command Responsibility under the Statutes of the ICTY, ICTR and ICC
- Tahlia Petrosian

Playing the Ace? Jus Cogens Crimes and Functional Immunity in National Courts
- Rebecca Zaman

A Dog without a Bark: A Critical Assessment of the International Law on Language Rights
- Sadhana Abayasekara

International Jurisdiction Agreements, and the Recognition and Enforcement of Judgments in Australian Litigation: Is There a Need for the Hague Convention on Choice of Court Agreements?
- Rosehana Amin

The Applicability of International Law as Governing Law of State Contracts
- Hop Dang

EU Financial Reform and New Opportunities for European Integration
- Michael Longo

The UNIDROIT Principles of International Commercial Contracts: Achievements in Practice and Prospects for the Future
- Michael Joachim Bonell

Long-Term Relational Contracts and the UNIDROIT Principles of International Commercial Contracts
- Donald Robertson

The UNIDROIT Principles: An Australian Perspective
- Justice Paul Finn

'Afterthoughts: International Commercial Contracts and Arbitration'
- Luke Nottage

NEW CENTRE MEMBER - EMILY CRAWFORD



This year SCIL was delighted to welcome Dr Emily Crawford as a new member to the Centre.

Dr Emily Crawford joins the Centre as a post-doctoral fellow and associate. Previously at the Law Faculty at the University of New South Wales, Emily completed her Arts and Law degrees before working as a researcher at the Australian Broadcasting Corporation, before returning to UNSW to undertake her PhD. Her doctoral thesis on the disparate treatment of participants in armed conflicts was published by Oxford University Press in 2010.

Emily has taught international law and international humanitarian law, and has delivered lectures both locally and overseas on international humanitarian law issues, including the training of military personnel on behalf of the Red Cross in Australia. A member of the International Law Association's Committee on Non-State Actors, as well as the NSW Red Cross IHL Committee, Emily's current research project is looking at major developments in the conduct of armed conflicts in the 21st century, such as cyber warfare and targeted assassinations, and the implications for both domestic and international law.

MEDIA

ALISON PERT

Opinion article: 'Legality Blurred in Libya Intervention', *The Australian*, 15 April 2011

BEN SAUL

TVB Australia (Chinese TV) interview, 10 January 2011 (Wikileaks)

Opinion article: 'Confiscate Howard's proceeds of crime', ABC Online *The Drum*, 2 February 2011

Opinion article: 'Bombing for humanity', ABC Online *The Drum*, 22 March 2011

ABC24 TV, 22 March 2011 (Libya intervention)

Caijing (Beijing news magazine) 23 March 2011 (Libya intervention)

China Radio International, 2 May 2011 (Bin Laden's death)

BBC World Service, 4 May 2011 (Bin Laden's death)

The Australian, 5 May 2011 (Bin Laden's death)

ABC Radio National, PM Program, 5 May 2011 (Bin Laden's death)

Sun-Herald, 19 June 2011 (David Hicks & UN)

GILLIAN TRIGGS

ABC News 24, 9 May 2011 (Humane Society International federal court case against a Japanese whaling)

ABC News 24, 9 May 2011 (United Nations Convention on the Regulation

of Whaling)

ABC1 Lateline, 27 June (Phillip Morris legal action over plain cigarette packaging)

TIM STEPHENS

Opinion article: 'Cardinal Pell's Climate Hot Air', Eureka Street, 19 May 2011

Opinion article: 'A Whale of a Story', *The Drum*, ABC, 7 January 2011.

'Online Study Kills Uni Life', 27 February 2011, Yuko Narushima and Justin Norrie, *The Sun Herald*

Fingerlings for rice paddies (Mekong trip)



Public health message for safe drinking water (Mekong trip)



CENTRE MEMBERS 2011

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.

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

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 Jacqueline Mowbray is a Senior Lecturer with a particular interest in international law and legal theory, with a focus on both international human rights law and international commercial issues.

Associate Professor Luke

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

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

Dr Tim Stephens, Senior 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

Associate Professor Vivienne Bath is 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.

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.

Associate Professor Chester Brown is an expert on international law and international dispute settlement.

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.

Dr Simon Butt is a Senior Lecturer and expert in Indonesian law, with research interests in comparative law.

Professor Terry Carney, specialising in welfare law, has contributed extensively to international legal scholarship on social security, mental health and drug law.

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

Dr Charlotte Epstein is a Senior Lecturer in the Department of Government and International Relations and her interests include concepts in IR theory (in particular, articulations of sovereignty, the state and North-South Relations), critical security studies, feminist IR theories, global environmental politics and the international politics of energy, and the overlap between international trade and the environment.

Katherine Fallah lectures in international law and specialises in international humanitarian and criminal law. She is writing a doctoral thesis

on the accountability of mercenaries and private military contractors under international law.

Dr Salim Farrar lectures in public international law and criminal procedure, with a special interest in human rights, Islamic law and comparative criminal justice in Asia.

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.

Professor Helen Irving is Professor of Constitutional Law and expert in federal constitutional law, comparative constitutionalism, and gender and constitution-making.

Miiko Kumar is a Barrister and a Senior Lecturer at the Faculty of Law at the University of Sydney. Miiko teaches both compulsory and elective courses in Evidence and Procedure.

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

Dr Euan MacDonald expert in public international law and legal theory and recently worked on the Global Administrative Law project.

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

Professor Ron McCallum is Professor of Industrial Law and an expert in labour and employment law.

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

Kate Miles is a Senior Lecturer and expert in international environmental law and international trade and investment law.

Rebecca Millar is an Associate Professor 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 James Renwick, a former Fulbright Scholar, with a doctorate from Sydney University, is a member of the NSW Bar, practising in the fields of both public and commercial law. He has appeared in many constitutional matters in the High Court. He is a pioneer of the teaching and practice of national security law in Australia. He holds a commission in the Royal Australian Naval Reserve.

Dr David Rolph is an Associate Professor 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.

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

CENTRE AFFILIATES

Dr Thalia Anthony is a Senior Lecturer at UTS with interests in indigenous

people and the law (including indigenous rights in international law), criminology, comparative tort law, native title and legal history

Danielle Celermajer is Director of the Asia Pacific Masters of Human Rights and Democratisation, Director of the Masters of Human Rights and a Senior Lecturer at the Department of Sociology and Social Policy, University of Sydney. Her research interests include international human rights law and institutions and their domestic application, and mechanisms for dealing with violations in the past.

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.

Robert Hill is an Adjunct Professor in Sustainability at the United States Studies Centre at the University of Sydney. He has been a member of the Australian Senate from 1981 to 2006, and a former Minister for the Environment, Minister for the Environment and Heritage and Minister for Defence. From 2006 to 2009 he served as the Australian Ambassador to the United Nations. He was recently appointed by the Prime Minister as Chairman of the Australian Carbon Trust.

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 research interests include corporate governance, and international environmental law with a focus on climate change and energy.

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.

Associate Professor Jake Lynch is Director of the Centre for Peace and Conflict Studies at the University of Sydney. He is a leader in the field of

peace journalism, as an experienced international reporter and scholar.

Associate Professor Jane McAdam is Associate Professor 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.

Melissa Perry QC is a senior barrister practicing primarily in the federal sphere, specialising in public international law, constitutional law, administrative law, native title and environmental law.

Chris Sidoti is a human rights lawyer, activist and teacher who currently works from Sydney, Australia, as an international human rights consultant, specialising in the international human rights system and in national human rights institutions.

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.

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The Washington Monument, Washington DC taken during Jessup Moot



Villager demonstrating Mekong flood levels in Cambodia

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