DEAR FRIENDS OF THE SYDNEY CENTRE

2014 was a busy year for the Centre, and this Newsletter provides an overview of the many and varied activities of Centre associates and affiliates in 2014. The second annual Sydney Centre for International Law Year in Review conference was held on 21 February, and was a great success. Highlights included a discussion with Dr Amrith Rohan Perera PC, Chairman of the UN Ad Hoc Committee negotiating a Draft Comprehensive Convention on International Terrorism, a literary luncheon with author and environmentalist Anna Rose, and of course the keynote speech by the Hon Mark Dreyfus QC, MP, Shadow Attorney General, who spoke on his experience appearing before the International Court of Justice in the Case Concerning Whaling in the Antarctic.

The Whaling Case was a focus of attention for many Centre associates and affiliates, and indeed for international lawyers generally, so in April 2014 the Centre organised a ‘rapid response seminar’ on the case, following release of the ICJ’s judgment. Professor Don Rothwell (ANU) and our own Associate Professor Tim Stephens summarised the judgment and its implications, to a packed audience. Tim’s further thoughts on the case and its significance are explored in more detail in the pages of this Newsletter.

In addition, the Centre had the privilege to welcome international scholars to share their research insights with us, and we were honoured to hear Professor David Sloss (University of Santa Clara) discuss his work on the domestic implementation of treaties, Dr Sandy Lamalle (University of Montreal) on international legal personality, as well as talks by Dr Freya Baetens from Leiden University, Richard Hermer QC from Matrix Chambers in London, and Associate Professor Christina Binder from the University of Vienna. The Centre also hosted a roundtable on international trade issues, involving Centre members, academic colleagues from the University of Adelaide, and delegates from the European Union’s Directorate-General of Trade. These talks are explored in more detail in this Newsletter.
2015 looks to be an equally busy year, with the third annual Year in Review conference one of the highlights of a productive and exciting year. 2015 will also see co-Director Jacqui Mowbray temporarily step down from the directorship, while she pursues her Brown Fellowship. Emily Crawford will remain sole director in the meantime, but would like to express her deep gratitude to Jacqui for her enthusiasm, her intelligent and thoughtful approach to the work of SCIL, her kindness, her intellectual and personal generosity, and her endless patience in taking on the co-directorship.

Emily Crawford and Jacqui Mowbray, Co-Directors

Centre News

JANUARY

Associate Professor Tim Stephens was nominated by the Commonwealth Department of Agriculture Forests and Fisheries to join the List of Experts for the South Pacific Regional Fisheries Management Organisation, an intergovernmental organisation, which consists of a commission and a number of subsidiary bodies. Experts serve a quasi-judicial role, and are called upon from time to time to sit on Review Panels to consider objections to decisions by the Commission. Tim was nominated for his expertise in a wide range of public international law issues, including law of the sea and his nomination has been supported by other relevant departments, including the Department of Foreign Affairs and Trade and the Office of International Law in the Attorney-General’s Department.

Professor Emeritus Ivan Shearer was also nominated by Australia to the List of Experts for the South Pacific Regional Fisheries Management Organisation.

MARCH


APRIL

Professor Mary Crock was honoured as among the “best lawyers in Australia” for her contribution to practice in Immigration Law.
Professor Ben Saul presented at an expert roundtable on China and international human rights law, hosted by the Royal Institute of International Affairs at Chatham House in London, in April 2014.

An Australian team – UQ – won the 2014 Jessup Cup, and Associate Professor Tim Stephens was awarded the Steven M Schneebaum Award for outstanding service and dedication to the Jessup Competition as a national administrator.

MAY

Emeritus Professor Ron McCallum AO was one of only 12 recipients (world-wide) of Henry Viscardi Achievement Awards ‘which pay tribute to exemplary leaders in the disability community who have had a profound impact on shaping attitudes, raising awareness and improving the quality of life of people with disabilities’.

JUNE

SCIL Co-Director Dr Jacqueline Mowbray was awarded a Brown Fellowship. The Brown Fellowship is named after Mary Elizabeth Brown, who became one of the first women graduates of the University while shouldering significant family caring responsibilities raising a niece. The Brown assists researchers whose career has been interrupted by the undertaking of sustained primary caring duties, in order to allow them to focus on their research while re-establishing or enhancing their academic research careers.

JULY

SCIL was host to a round table in July on EU trade policy - more details can be found in the Centre Events section.

AUGUST

SCIL hosted a number of eminent international scholars including Dr Freya Baetens of Leiden University, Richard Hermer QC from Matrix Chambers in London, and Associate Professor Christina Binder from the University of Vienna - more details about their talks can be found in the Centre Events section of this newsletter.

NOVEMBER

The annual SCIL Research Retreat was held at the Gibraltar Hotel in Bowral - a report on the work and outcomes of the retreat can be found in Centre Events

Irene Baghoomians was promoted to Senior Lecturer, and Tim Stephens was promoted to Professor - congratulations to both Irene and Tim!

Professor James Crawford AC SC was elected to the International Court of Justice. Professor Crawford was elected for a term of nine years, and is only the second Australian to be elected to the Court. The first Australian to be elected to the Court was Sir Percy Spender KCVO, an alumnus of the Sydney Law School, who served on the Court between 1958 and 1967 and was President from 1964 to 1967.
Centre Events

2014 Jessup Moot

Emily Crawford
February 2014

The Sydney Law School team for the 2014 Jessup International Law Moot achieved commendable success this year, making it to the quarter-finals of the DLA Piper Australian regional rounds in Canberra in February of 2014. The team, comprised of Tom Farmakis, Connie Ye, Nina Ubaldi, Lovelle D’Souza, and Nicholas Condylis, instructed and coached by Quang Trinh (formerly senior associate at King Wood Mallesons, himself a stalwart contributor to Jessup as, variously, participant, compromis author, and judge) spent their summer analysing the minutiae of the international law of underwater cultural heritage, hot pursuit, contiguous zones, and the right of return of items of cultural significance.

The team underwent a gruelling schedule of practice moots throughout January, being quizzed on the compromis by academics from Sydney Law School, former Jessup competitors and current Sydney Law students, as well as legal luminaries and supporters including barristers, solicitors, and judges - indeed, the team were judged in the traditional final pre-Canberra practice moot by Professor Ben Saul from Sydney Law School, Justice Ian Black from the Supreme Court of New South Wales, and Jeremy Stoljar SC, of Eighth Floor Selbourne Chambers.

The team achieved early success in the preliminary rounds in Canberra, winning all four of their first round moots, and progressed to the quarter-finals as third-placed team. Unfortunately, the team was bested in their quarter-final by Murdoch University, but the team was uniformly commended on their advocacy skills, and one team member, Tom Farmakis, was ranked one of the top ten mooters in the Australian rounds.

The coach, Quang Trinh, and Faculty Adviser, Emily Crawford, wish to express their thanks to the many SCIL associates and affiliates who generously gave of their time and expertise during the practice moot period - your generosity and guidance helped us enormously. We look forward to taking on Jessup 2015!

2014 Year in Review Conference

Jacqui Mowbray
21 February 2014, Sydney Law School

Following the success of the inaugural SCIL International Law Year in Review Conference in 2013, the Centre held the second Year in Review Conference on 21 February 2014. Once again, the day proved to be a great opportunity to bring together academics, practitioners and others working in the broad field of international law, to review and reflect on events of significance for international law from the previous year.

With a particular focus on matters of interest to Australia, our panels gave participants a comprehensive survey of international legal developments in fields ranging from human rights to international economic law, Australia’s treaty making to international efforts to combat terrorism, private international law to refugee law. A highlight was the keynote address by the Hon Mark Dreyfus QC, MP, Shadow Attorney General, who spoke on his
Lunchtime Seminar: Dr Sandy Lamalle

Emily Crawford
13 March 2014, Sydney Law School

The Sydney Centre for International Law welcomed Dr Sandy Lamalle in March of 2014. Dr Lamalle is a researcher at the Research Centre in Public Law (CRDP) and the Centre for International Research and Studies (CÉRIUM), and a lecturer at the Faculty of Law of the University of Montreal, as well as an associate researcher at the Institute for International and Strategic Studies (IRIS) in Paris.

Dr Lamalle presented a seminar on “The Evolution of Legal Personality as a Technique in International Legal Practice”, and discussed her research on how ratione materiae et personae extensions have opened a new era in international law. Dr Lamalle spoke at length on how the development and practice of international organisations (IGOs), in particular, has led to an important change in the use and definition of international legal personality.

Dr Lamalle’s research has found that international personality now has meaningful content, which varies according to the organisation concerned, which presents interesting prospects for the multifaceted case of non-state actors and their legal apprehension.

sourced: globalnews.ca

We look forward to building on the success of this event, with our third International Law Year in Review Conference planned for 6 February 2015. Confirmed speakers include Prof Sun Shiyan, Head of the Department of Public International Law, Chinese Academy of Social Sciences (CASS), and President of the Australian Human Rights Commission, Professor Gillian Triggs.

experience appearing for Australia before the International Court of Justice in the Case Concerning Whaling in the Antarctic. Other highlights included an address by Dr Amrith Rohan Perera PC, Chairman of the UN Ad Hoc Committee negotiating a Draft Comprehensive Convention on International Terrorism, and a literary luncheon with author and environmentalist Anna Rose.

Ben Saul, Jacqui Mowbray, Mark Dreyfus, Emily Crawford and Alison Pert
Rapid Response Seminar on Whaling

Tim Stephens
10 April 2014

In March the International Court of Justice decided the Whaling in the Antarctic Case between Australia and Japan. The Court found that Japan’s special permit whaling programme in the Southern Ocean near Antarctica was not for the purposes of scientific research under the Whaling Convention, and was also contrary to the moratorium on commercial whaling in place since the 1980s. Following the judgment the Sydney Centre for International Law and Australian Centre for Climate and Environmental Law held a ‘Rapid Response Seminar’ to provide an overview of the judgment and examine the implications of the case for future whaling activities in the Southern Ocean and elsewhere. Associate Professor Tim Stephens (Sydney Law School) discussed the lead up to the litigation, including the work of international legal panels of experts convened by the International Fund for Animal Welfare, and the main arguments of the parties. Professor Don Rothwell (ANU College of Law) examined the judgment itself, assessing the key findings of the court and the potential for future special permit whaling consistent with the judgment.

Japan could resume whaling – this time with The Hague’s blessing

Associate Professor Tim Stephens here comments further:

Japan is reportedly set to release plans to resume killing whales in the Southern Ocean in the 2015-16 season. It seems like a defiant move, coming just six months after the International Court of Justice (ICJ) ruled that Japan’s scientific whaling program violated the 1946 International Convention for the Regulation of Whaling – a decision hailed as a resounding victory for the Australian-led legal challenge to the program.

But the judgment, emphatic though it was, does not completely close the loophole in the convention that allows whaling for scientific purposes. If Japan can come up with a proposal that satisfies the conditions laid down by the court, there may be no barrier to it beginning whaling again.

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Why did Japan lose the court case?

In a decisive judgment that surprised many observers, the ICJ found that Japan’s Southern Ocean scientific whaling program (known as JARPA II) did not meet the whaling convention’s requirements. The court found (by 12 votes to 4) that Japan’s activities were not covered by Article VIII of the convention, which allows whaling for scientific purposes. It therefore found Japan to be in breach of bans on commercial whaling and the use of factory ships.

The court did not say that scientific whaling in general is unlawful, stressing that scientific programs can be pursued for reasons besides conservation or sustainable exploitation of whale stocks. The court was at pains to stay away from contested areas of whale conservation politics, observing that its role was not to deal with these issues but instead was only to examine whether Japan’s scientific whaling program met the requirements of Article VIII.

The court separated Article VIII into two parts, focusing first on whether Japan’s whaling program was scientific, and then on whether it was conducted primarily for scientific purposes. It was only on the latter count that Japan was found wanting.

The court did not venture a view as to what science is (despite some fascinating debate in the courtroom on this point between Australia and Japan). After reviewing Japan’s stated scientific objectives for its Antarctic whale hunt, the court said that “the JARPA II activities involving the lethal sampling of whales can broadly be characterized as ‘scientific research’”.

When I was live-calling the judgment on ABC News 24, my initial reaction was that this meant that Australia had lost its case. However, as the judgment continued, it soon transpired that the court was not convinced that Japan was matching its apparently lofty scientific goals with a method that was actually fit for purpose.

The court was not convinced that Japan had given full and reasonable explanations for its planned sample sizes (850 minke whales, 50 fin whales, and 50 humpback whales) and the enormous variation in the actual numbers of whales taken each season. The evidence suggested that the sample sizes were quite arbitrary, and not really directed at achieving Japan’s scientific objectives, which were to:

- monitor the Antarctic ecosystem
- model competition among whale species and future management objectives
- work out temporal and spatial changes in whale population structure
- improve management of minke whale stocks.

The take of a reduced number of minke and fin whales, and no humpback whales at all, was found to be a function of political and logistical considerations, rather than scientific ones. In sum, the court found that there was no reasonable relationship between Japan’s planned scientific program and the way it did the whaling.
Japan is now reportedly preparing to submit fresh plans to the International Whaling Commission’s general meeting in Slovenia this month, and to the commission’s scientific committee in November. The Whaling Convention allows parties to draw up scientific whaling plans unilaterally, so there is nothing in international law stopping Japan going ahead without the IWC’s blessing.

However, it is clear from the court’s judgment that a major reason for Japan’s loss is that it failed over many years to engage constructively with the IWC and to explain the reasoning behind its whaling program.

The issue also hinges on whether Japan can conceive of a new Antarctic whaling program that matches the criteria set by the court. The court did not set specific limits on the number or species of whale that Japan could legitimately target, simply ruling that the sample sizes needed to be “reasonable”.

Japan might therefore decide to take a two-pronged approach for its new program: first, it could set less ambitious scientific objectives; and second, it could seek to take fewer whales. The dilemma is that a very small sample may not be scientifically valid, yet a very large one could set off yet another round of international recrimination. Moreover, a very small take of whales would be harder to justify economically, given the enormous cost of the program.

Will Australia oppose it again?

When he was opposition leader, Tony Abbott said that a Coalition government would not take Japan to the ICJ to challenge its scientific whaling hunt. However, he did not oppose the Rudd government’s decision to begin the proceedings.

When the ruling was handed down, Mr Abbott, who had become prime minister in the meantime, chose not to capitalise on the judgment by pressing Japan to phase out lethal whaling altogether. This amounted to a green light for Japan to revamp its plans.

Yet the Abbott government, like its predecessor, is right to resist calls not to enforce Australian laws against whaling in Antarctica, given Antarctica’s special status.

There is sure to be continued wrangling within the IWC on any new Antarctic whaling plans by Japan. If Japan does go ahead with a new hunt that is at odds with the ICJ’s ruling, the pressure will be back on the Abbott government to come up with an effective response. All options will need to be kept on the table, including a possible reactivation of the case in the ICJ.

Japan may yet devise a plan that abides by the court’s ruling. Yet even if it doesn’t, given Mr Abbott’s reluctance to press home Australia’s advantage back in March, it seems unlikely the issue will go all the way to The Hague again.

What will Japan do now?

After unsuccessfully challenging the court’s jurisdiction, Japan indicated that it would abide by the ruling. This might be because the Japanese government believes it can continue whaling in one form or another while still complying with the conditions set by the court.

Chester Brown

Willem C Vis International Commercial Arbitration Moot

Chester Brown

11-17 April 2014, Vienna Austria

Sydney Law School’s Vis Moot team achieved very commendable results at the Finals of this year’s Willem C Vis International Commercial Arbitration Moot in Vienna, Austria, held from 11 – 17 April 2014.

This year’s team consisted of Matthew Barry, James Argent, Heydon Wardell-Burrus and Dominique Yong. In the months leading up to the competition in Vienna, the team researched and drafted legal memoranda on the procedural and substantive issues arising out of the Vis Moot problem, which concerned an international commercial transaction which is governed by the UN Convention on the International Sale of Goods (although the applicable law can also be one of the issues in dispute, which was the case this year.) The method of resolving the dispute is by international commercial arbitration, rather than before the national courts of either of the States of nationality of the parties in dispute. The team members were expertly

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As in past years, 300 universities had entered teams in the Vis Moot Finals in Vienna, making it a tough competition in which to progress beyond the preliminary rounds. The Sydney team had four testing moots in the preliminary rounds against the University of Alexandria (Egypt), Università Commerciale di Luigi Bocconi (Italy), Dar Al Hekma School of Diplomacy and Law (Saudi Arabia), and Penn State (USA). However, we were delighted when it was announced that the Sydney team had eased into the knock-out “Round of 64”. In that round, Sydney mooted against NALSAR from India. In a moot chaired by Sir Anthony Evans (former Lord Justice of Appeal), the Sydney team was victorious.

Another tough encounter followed the next day in the Round of 32 against Sciences-Po (France), but Sydney again prevailed.

With just enough time for the team to catch its breath, the Round of 16 Moot was against the University of San Diego. Again, Sydney was victorious in a unanimous decision from a panel chaired by Professor Martin Hunter of Essex Court Chambers, London, and one of the leading luminaries from the world of international commercial arbitration.

The Sydney team’s journey unfortunately ended in the Quarter-Finals where the tribunal awarded the Moot in a split decision to our opponents – the University of Heidelberg (Germany). However, the team’s achievement in finishing in the top 8 of 300 teams is a testament to all their hard work over the six months leading up to the Vis Moot Finals.

At the final awards banquet, the team received an “Honourable Mention” for its Memorandum for the Respondent (i.e., its memorandum was ranked in the top 20 of 300) and Dominique Yong was awarded an “Honourable Mention” as one of the top individual oralists at the Vis Moot.

The ultimate winner of this year’s Vis Moot was Deakin University (the only other Australian university to progress to the Quarter-Finals), who defeated the National Law School of India in a very tight Final.

I am extremely grateful to those who generously made donations to support the team’s participation in this year’s Vis Moot – Clifford Chance LLP, the NSW Bar Association, the Chartered Institute of Arbitrators, and Sydney Law School. King & Wood Mallesons and Clayton Utz also provided support to the team, which was much appreciated. Sincere thanks are particularly due to the team’s two coaches, Domenico Cucinotta and Reuben Ray, who did an excellent job in preparing the team for the rigours of the Vis Moot.

Roundtable discussion on EU trade policy and regional integration in the Asia Pacific: 21 July 2014

By Professor Chester Brown

On 21 July 2014, the Sydney Centre for International Law hosted members of an EU delegation at a Roundtable Discussion on trade policy issues of relevance to the EU and Australia. Mr Denis Redonnet and Ms Martina Lodrant (of the Trade Strategy Unit within the European Commission’s Directorate-General for Trade (“DG Trade”)) were in Sydney to accompany the EU Commissioner for Trade, Mr Karel De Gucht, at the G20 Trade Minister’s meeting which was held from 18-21 July 2014. Mr Redonnet and Ms Lodrant spoke about the EU’s position on broader trade policy issues towards 2020, as well as issues relating to the EU – Australia relationship, including the possible negotiation of an EU – Australia Free Trade Agreement, as well as Australian perspectives on mega-regional integration in the Asia Pacific.

As head of the Strategy Unit in DG Trade, Mr Redonnet brought significant expertise to the discussion. He was previously head of the WTO Unit within DG Trade, and before that, he served as Deputy Chief of Staff to EU Trade Commissioner Peter
Visiting Scholars at the Sydney Centre

By Emily Crawford

August was a particularly busy month at the Sydney Centre for International Law, playing host to three distinguished international visitors. Dr Freya Baetens from Leiden University visited for several days in August, delivering a staff seminar. Dr Baetens completed her PhD at the University of Cambridge in 2009 on the topic of public international law in international investment law, focussing on non-discrimination. On 18 August 2014, Dr Baetens gave a guest lecture entitled ‘SHARED RESPONSIBILITY BETWEEN INTERNATIONAL ORGANISATIONS AND MEMBER STATES: PROSPECTIVE REGULATION OR RETROSPECTIVE ADJUDICATION?’. In this lecture, she compared two case studies: first, the case law assessing the responsibility of The Netherlands for the conduct of the Dutchbat battalion which participated in peacekeeping operations in the former Yugoslavia in the framework of the United Nations Protection Force (UNPROFOR); and, second, the legal challenges which the EU and its Member States face in formulating a framework for managing financial responsibility arising from investor-state dispute settlement. At first sight, these case studies seemed to have nothing in common – at least in terms of subject matter. But in the context of international responsibility, they both related to the same problem: how to assess responsibility when acts and omissions are shared between States and the international organisations of which they are part? In her talk, Dr. Baetens analysed whether it is possible (and desirable) to attempt to anticipate such difficulties by working out a means of dividing responsibility in advance, through prospective regulation, or whether each situation should be dealt with on a case-by-case basis, through retrospective adjudication by national or international courts.

SCIL was also fortunate to host Richard Hermer QC, who gave an engaging talk on “The Art of Strategic Litigation in International Law: How, When and Where to Sue the Bad Guys”. Richard is a barrister practising in international human rights law at Matrix Chambers in London. He has appeared as counsel in a range of cases stemming from the “War on Terror” including litigation arising out of UK involvement in Guantanamo Bay (Al Rawi & Others v Security Services), detention in Afghanistan (Serdar Mohammed v Ministry of Defence), internment in Iraq (Al Jedda v Ministry of Defence) and extraordinary rendition (Belhadj v Jack Straw). He is currently acting for several hundred Iraqis seeking damages for alleged torture and mistreatment by UK troops. He was counsel in the recent claim against the UK brought on behalf the ‘Mau Mau’ victims of colonial abuses in pre-independence Kenya. In addition to claims against States, Richard also specialises in human rights and environmental claims against multinational corporations in respect of their activities overseas, including claims arising from the Ivory Coast, Colombia, Peru, Tanzania and Sierra Leone. His talk looked at a number of these cases and reflected upon the roles of lawyers, judges and civil society in protecting the rule of law.

Also visiting the Centre in August was Associate Professor Christina Binder, who spoke on the topic of the “European Court of Human Rights and Social Rights – Emerging Trends in Jurisprudence?” Associate Professor of International Law at the Department of European, International and Comparative Law at the University of Vienna, Associate Professor Binder’s talk looked at the approach of the European Court of Human Rights (EChHR) to socio-economic rights, an approach that, as Associate Professor Binder argued, has long been characterised by its caution. Associate Professor Binder spoke about how, even though the European Convention on Human Rights is a “classic” civil and political rights treaty, essentially framed in negative terms, there seem to be new trends in the Court’s social rights jurisprudence. As Associate Professor Binder outlined, in fields such as housing, health and social security, the European Court is taking a more affirmative stand, resulting in an increasing core of socio-economic rights protected in the Court’s interpretation of the European Convention.
SCIL End of Year Retreat - 28-29 November 2014

By Jacqui Mowbray

In November 2014, the Centre held its third annual research retreat. Following the success of our inaugural retreat in the Blue Mountains in 2012, and our second retreat in Bowral in 2013, this year we again convened in Bowral in late November for two days of discussions about our individual and collective research agendas.

The retreat gives participants an opportunity to workshop their individual research projects and grant applications, and to seek advice and opinions from colleagues. Previous retreats have led to successful research and grant outcomes for a number of associates, including, notably, Professor Tim Stephens’s ARC Future Fellowship.

This year we also used the retreat to develop a collaborative, cross-institutional research project around the general topic of ‘Australia’s contribution to international law’. Noting that Australia has, for better or worse, made a number of significant contributions to international law since Federation, we wanted to explore these contributions, and their broader implications, with the aim of developing a collection of essays for publication. To develop this cross-institutional project, we were pleased to extend invitations to the retreat to our associates at the University of New South Wales, and were delighted to be joined for the two days by Dr Lisa Toohey from UNSW.

While the second day of the retreat focused on our proposed cross-institutional research project, the first day of the retreat was designed to allow individuals to present their own research projects for feedback. We discussed a range of fascinating ideas and topics, including cyber war and issues regarding civilian participation in cyber warfare (Emily Crawford), different portrayals of China in international discourse (Lisa Toohey), concepts of ‘nation’ and ‘empire’ at work in international language policy (Jacqui Mowbray), assumptions about shareholders at work in international corporate litigation (Jennifer Hill) and Australia’s litigation of international environmental disputes (Tim Stephens). We all look forward to seeing how these projects develop over the course of 2015, and to discussing more exciting new research ideas at our next retreat.

Features

Champions for the voiceless

When legal academics speak up for asylum seekers and refugees, their public advocacy is underpinned by powerful personal experience.

By Sally Sitou

They are either former or current academics from the Sydney Law School and they all have a strong interest in human rights. However, the strongest connection Professors Mary Crock, Gillian Triggs and Ben Saul have are their personal experiences meeting refugees and asylum seekers.

It’s a common bond that enthuses and drives their work, as lawyers, public advocates and researchers. They have spoken out publicly on Australia’s asylum seeker policies. As lawyers, they all have sound arguments for why the current and former government policies on asylum seekers fails to meet basic human rights.
But perhaps their more persuasive arguments lie in the personal stories, photos and conversation snippets that they share.

The story that moved Triggs, former Dean of the Sydney Law School (2007-12) and current President of the Australian Human Rights Commission, was that of an 11-year-old Afghani girl who was detained on Christmas Island.

“She came up to me as happy and bright as my own daughter,” says Triggs. “In her short life time she had witnessed incredible tragedy. She’d seen members of her family killed, experienced incredible deprivation and stress. She also had these big infected sores on her arms that weren’t healing because of the tropical conditions on Christmas Island.”

“Despite all she had been through, she was very calm. The only time she became upset was when she was telling me that she had not been to school in eight months. This really affected her because she knew that education was going to give her an opportunity for a better life.

“It was at this point that I nearly lost my professional cool. She had put up with so much without complaining. What she wanted most was an education and she just wasn’t getting that on Christmas Island.”

For Saul, Professor of International Law, it was a three-month stint working as a student for the UN High Commissioner for Refugees in Nepal that opened his eyes. “I was able to see the importance of international law in action, after a people’s own government has persecuted them,” Saul says.

“Without it, around 100,000 people would have been stranded in a foreign country without basic survival rights (such as food, water, shelter and health care), education for thousands of children, or the legal protections we take for granted as citizens of a stable country.”

Saul is now working in the Sydney Law School alongside Professor of Public Law, Mary Crock, his lecturer in refugee law when he was a university student himself. They are collaborating on an AusAID-funded research project into refugees with disability that has seen them visit refugees in Malaysia, Indonesia, Pakistan and Uganda.

“Refugees with disability are the forgotten refugees,” Crock says.

“The World Health Organisation estimates that 10 to 15 percent of people in the general population have a disability, yet in refugee populations it is only one percent.”

“When they are being processed they aren’t being asked the right questions. Instead assessors are relying on visual cues or self-identification to identify if a refugee has a disability. They need to ask functionality questions. So instead of asking someone: ‘can you hear?’ they should instead change the question to ‘how well can you hear?’

“When we went to the camp in Uganda to conduct interviews, we knew it would be very basic, so we photocopied 300 of the questionnaires to take with us. By the time we got to the camp and people started to find out about our research, we were inundated.

“Somehow in this basic camp with very few facilities they had managed to make more copies of the questionnaire. By the time we left we had over 1000 responses. It just goes to show that there are many more people with disability than is being recorded by UNHCR, the UN refugee agency.”

The professors all categorically reject the government’s policies of mandatory detention and offshore processing. During a radio interview in February Crock called the policies a ‘grotesque breach of human rights law’. In an opinion piece published in The New York Times this year, Saul compared Australia’s indefinite detention of refugees to human rights abuses in Guantanamo Bay.

Public opinion is with the government. A nationwide opinion poll published in January and conducted by UMR Research shows that 60 per cent of Australians wanted the Abbott government to “increase the
severity of the treatment of asylum seekers”.

As an academic we have two important functions. The most important is to teach the next generation, the other is to engage with public policy through our research.

So when public opinion is against them, how do these public advocates maintain the rage? They give the proverbial heartstrings a strategic tug. Triggs focuses on the harsh treatment of children in detention. As the head of the Australian Human Rights Commission, this year she initiated, and is leading, the National Inquiry into Children in Immigration Detention 2014.

“It will be a challenge to shift public opinion, but I’m up for it,” Triggs says. “With my presidential power, I deliberately decided to hold an inquiry into the plight of the children in detention. It will give us a better chance to shift public opinion.”

Her argument is reinforced by the conditions of children in detention, especially on Christmas Island, which she has visited a number of times. In an interview with Fairfax media in March, Triggs said: “if we saw these children in Australia, we would be reporting them to Department of Community Services.”

But by taking such public stances against the government and in speaking out so strongly in support of human rights, the trio has attracted criticism.

Saul has been accused of “legal bitchiness” by The Australian columnist Janet Albrechtsen for his comments questioning the human rights credentials of Tim Wilson, the newly appointed HRC Freedom Commissioner.

Triggs has been publicly criticised by conservative columnist Andrew Bolt and Attorney-General George Brandis for her opposition to the government’s proposed amendments to the Racial Discrimination Act.

So is being a public advocate worth it? Triggs replies: “I am encouraged by the changes I have seen the government make on their views of the Racial Discrimination Act. They’ve released an exposure draft which I think will give them some wriggle room. I think in the end they will compromise.

“My role and the role of the commission is to help moderate government policy and add our voice to the many others. We’re not an ideological body, we use evidence-based research to support our arguments. That’s what gives our arguments credibility.”

Saul argues that it is not only worth the effort, it is also incumbent on experts in the field to speak up, especially if the government is failing.

“Australia has repeatedly and seriously breached the international law obligations it voluntarily committed itself to by ratifying international human rights and refugee law treaties,” Saul says. “There is a role for academics with expertise in these areas to hold the government to account.”

It is a sentiment echoed by Crock. “Bad things happen when we say nothing," she says. “I want to stand up for future generations. As an academic we have two important functions. The most important is to teach the next generation, the other is to engage with public policy through our research.”

As an academic we have two important functions. The most important is to teach the next generation, the other is to engage with public policy through our research.

Asked about her biggest professional wins, Crock provides a humble and simple answer: her students. She points to the efforts of former student Professor Jane McAdam in spearheading a campaign for
“complementary protection” laws as a big win for human rights. The laws enacted less than two years ago prevent the Australian Government from deporting people back to places where they may be at risk of being tortured or killed.

On the flipside, one of the biggest disappointments Triggs has faced in her new role is the apathy Australians show towards human rights. “I have been disappointed by the little understanding the Australian public has about human rights and what the Australian Human Rights Commission does. I think it is because we don’t have a bill of rights.

I deliberately decided to hold an inquiry into the plight of the children in detention. It will give us a better chance to shift public opinion.

“Human rights is part and parcel of everyday life, we need to view our laws through the human rights prism. Because the public doesn’t understand what human rights are, they tolerate things they wouldn’t otherwise. They allow the detention of children, they tolerate changes to the Racial Discrimination Act. They tolerate reductions in social benefits. That’s why education about human rights is so important.”

Saul believes that academics can be the key to bridging this gap in understanding by utilising the media. “We have little political power and we don’t have advertising budgets, but we enjoy the goodwill of the media,” he says. “We can also help to give a voice to invisible people, such as the eight-year old Congolese girl I met in a refugee camp in Uganda, who was nearly burnt alive when rebels torched her family’s hut; or the many refugee boys from Congo who were sexually abused by government soldiers.

For Crock, Triggs and Saul, public comments only scratch the surface of their commitment to human rights. Their fight for the protection of human rights is also about individual cases. Saul and Crock have both represented asylum seekers in their fights to stay in Australia.

Saul is currently representing 51 refugees who are being held indefinitely because they failed security checks. They all come from ethnic minorities who fled to escape persecution in their homelands of Sri Lanka, Myanmar, Kuwait and Afghanistan and they’ve been found to be genuine refugees. Yet according to the United Nations Human Rights Commission they are now being illegally held by the Australian Government in cruel and inhuman conditions.

Crock recounts the story of a woman from Ethiopia whose case failed in the High Court. Crock took up her fight and made representations to the Minister for Immigration. When the Minister intervened and granted the woman permanent residency, Crock says the sense of relief was palpable. “These cases restore my faith in humanity. It reminds me of what people can endure and achieve.”

In the short time Triggs has been at the Human Rights Commission, it has brought the cases of 200 individuals to the attention of the Department of Immigration. The commission has worked collaboratively with the department and the Minister for Immigration to help these individuals, from getting them glasses to medical treatment.

Crock’s connection to refugees is also deeply personal. She informally adopted two children who came to Australia seeking asylum. Now adults, Pheap was a refugee from Cambodia and Riz was from Afghanistan. “They’ve made me more connected to the refugee communities, they’re my eyes and ears,” Crock says. “Seeing what they’ve been able to achieve is phenomenal.”

Having spent the past two decades fighting Australia’s mandatory immigration detention laws, is Crock still hopeful of a change?

She is defiantly optimistic: “If the Berlin Wall can fall, we can stop this nonsense.”
Research in the Field: Professors Mary Crock, Ben Saul and Ron McCallum, and Ms Laura Smith-Khan, and Research into the Protection of Refugees with Disabilities

By Laura Smith-Khan

In August and September 2014, Professors Mary Crock, Ben Saul and Ron McCallum, along with Ms Laura Smith-Khan, undertook the final stage of fieldwork for the AusAID/DFAT-funded project ‘Protection of Refugees with Disabilities’. The primary aim of this project is to develop a practical assessment tool that will enable better identification of refugees who have disabilities and their needs. The broader goal is to develop a better understanding of the approach taken by UNHCR and other relief agencies, such as IOM, in their management of disability within refugee populations.

In Jordan and Turkey research was conducted into both the situation of refugees living in the community and those living in refugee camps. In Jordan, interviews were conducted in Amman and visits were made to Za’atari and Azraq camps and the city of Irbid, near the Syrian border. In Turkey, we conducted interviews in Istanbul and Ankara and field visits were made to Gaziantep and Hatay (provinces bordering Syria). We also visited Nizip 2 refugee camp, one of several camps established and run by the Turkish government.

In both Jordan and Turkey, we found that UNHCR’s knowledge of the composition of refugee communities outside of the refugee camps was less than perfect because of the sheer scale of displacement populations. In both countries refugees living in camps represented a tiny minority of the total number of persons displaced across the Syrian border. Most refugees lived in crowded rental accommodation or makeshift shelters in urban areas.

Our report on Jordan and Turkey will note the extraordinary generosity that both countries are showing towards refugees from Syria, especially in regard to free access to medical treatment. Both countries are suffering seriously from the influx of refugees – most particularly Jordan where the local population is now almost outnumbered by refugees and other ‘guests’. The impact on budgets, housing, scarce resources such as water and food and on workforce participation for Jordanians is extreme. Although a much bigger country, Turkey now also has areas where refugees and displaced persons outnumber citizens. We found that in both countries refugees with disabilities face great challenges against virtually every human rights indicator. As the conflict enters its fifth year, it is expected that these challenges will only continue to grow.
SCIL Research In Focus: Professor Tim Stephens - “International Law and the Anthropocene”

Every newsletter we will be highlighting the research of one of the SCIL Associates - our first in this series is Professor Tim Stephens.

Tim Stephens is one 13 University of Sydney academics to be awarded a 2014 Australian Research Council Future Fellowship. Here he explains his research project on ‘International Law and the Anthropocene’.

Tim Stephens

Earth scientists describe the current geological epoch as the ‘Anthropocene’, which acknowledges the reality that virtually every component of the Earth’s environment has felt the influence of homo sapiens.

If the scale of our tampering with our planet appears almost too great to fathom, then the idea that international norms could be capable of moderating human influence on the global environment also seems to be beyond our imagining. Is international environmental law really up to the task of maintaining a safe operating space for humanity in the twenty first century?

International environmental law emerged and has been consolidated rapidly, with major impetus given by global summits in the 1970s and 1990s. And it has notched up a number of important successes in addressing damaging activities such as stopping almost all oil pollution of the marine environment and preventing the release of ozone depleting substances.

However, as is the case for environmental management within territorial borders, international environmental law has tended to focus on specific problems, rather than promoting environmental management in a systemic and holistic way. And this is a major problem in the Anthropocene, which challenges the international community to regulate human activities that are transforming environmental spheres in a proactive and systematic way.

An example of a systemic blind spot is seen in climate change regime. While trying to maintain a habitable climate, by preventing dangerous concentrations of CO2 and other greenhouse gases building up in the atmosphere, climate treaties actually promote another equally serious CO2 problem by encouraging the oceans to be used as a carbon sink. This can help keep the atmosphere cool, but drawing down greenhouse gases in the marine environment will mean that it will become toxic for many marine organisms, and could completely disrupt the oceanic food chain.

This is just one of many illustrations where international law falls short of providing a systemic and holistic approach to a vital Earth system – the carbon cycle. Such limitations are a product of many factors, the dominant being the embedded cultural assumption that environmental issues are akin to other policy problems, solvable by discrete, technical interventions that otherwise maintain the status quo. It is rooted in the Enlightenment view that human society is detached from, rather than part of, the natural world.

Despite considerable examination of alternative, biocentric, approaches to conceptualising humanity’s place in the natural world, there are only highly circumscribed exceptions to anthropocentric instrumentalism, either nationally or internationally. One important but tentative example is the ‘ecosystems approach’, referred to in multiple environmental treaties from the 1980s onwards, which encourages states to manage living and non-living components within a biogeographical area defined by reference to ecosystemic characteristics.

Earth systems science describes the effort to integrate scientific investigation of the Earth, by understanding the major Earth systems and their interaction. Emphasising its contemporary importance, in 2010 the Australian Academy of Science adopted the ‘Australian Earth System Science Strategy’, explaining that:

ESS [Earth system science] is concerned with the planet as a whole. It focuses on the Earth as a single, complex dynamic system in which humans are active agents. It considers diverse time scales, from when humans were an insignificant part of the Earth system, through to the Anthropocene, and into the future. ESS focuses on the interface between the human and biophysical parts of the Earth system, a domain that requires a new range of approaches at diverse spatial and temporal scales.

But while Earth systems science has been embraced by the natural sciences, it has yet to inform international environmental law-making in a meaningful way. What is needed, and needed urgently, is better knowledge of how international environmental law – the central instrument for global environmental governance – can meet the many challenges that humanity will face in the Anthropocene.
Centre Internships

This year, the Centre was delighted to provide internships to Ellie Wolfenden, Lucy Cameron, Georgina Meikle, and Tom McClintock. Lucy, Tom, and Georgina have shared accounts of their experiences with the Centre.

Lucy Cameron:

I completed the Public International Law unit last year and loved it – it was markedly different from my other law subjects and I was overly excited to find an area of the law so engaging. I sent off a round of embarrassing emails to various people at SCIL asking for any kind of work or research experience and it was suggested that I apply for the internship.

The highlight for me was looking at Australian bilateral investment treaties in light of restrictive interpretation of a consent to ICSID arbitration clause in the Planet v Indonesia case. I worked with Dr Luke Nottage on this to determine whether a shift in language (affecting about 10 other treaties) was a deliberate choice by the Australian government or really just an accident! I found this really interesting and the research process offered a lot of insight into the way business interests and domestic politics can shape the development of international law. I also really enjoyed working with Dr Alison Pert and the other SCIL intern, Ellie Wolfenden, to look at the Draft Articles on State Responsibility adopted by the ILC in 2001 and determine which are most likely now Customary International Law.

I learnt mostly just how varied international law is during my internship! All the international lawyers at SCIL are working on immensely different projects and I was exposed to a different project nearly every day. Research areas ranged from investment treaty arbitration in South East Asia to the position of linguistic minorities under international law or law reform in NSW. This was slightly overwhelming but also really exciting - definitely challenging the myth of the UN being the sole workplace of all international lawyers.

The advice I would have for students considering applying for the internship is try to read the ‘Research Interests’ of most of the lawyers on the SCIL website - this gives a bit of insight into the range of work being done and areas that you might find interesting and want to focus on. The aim of the internship is exposure to as many areas as possible - so apply with an open mind and be prepared to try whatever someone digs up.

Ellie Wolfenden, Irene Baghoomians, Jacqui Mowbray, Ben Saul, Emily Crawford and Lucy Cameron

Georgina Meikle:

I found my experience as a SCIL intern hugely valuable. I applied for the internship because of my passion for and interest in the power of international law to effect positive global change. My supervisor, Dr Jacqueline Mowbray, was extremely accommodating, and arranged work for me with members of the Faculty whose research areas were aligned with my interests - the implementation of human rights at the local level.

My work as a SCIL intern was very rewarding. I spent the majority of my time working for Associate Professor Rita Shackel on an ongoing research project into transitional and gender justice for women victims of conflict-related sexual violence in East Africa. My tasks ranged from preliminary literature searches to transcribing and analysing interviews. I also did some work for Professor David Kinley, which involved editing articles prior to their submission to academic journals and collating the readings list for the Himalayan Field School. Throughout my internship, I was exposed to the behind-the-scenes of academic work, and learned about the various obstacles and complexities involved in preparing the final product.

I highly recommend the SCIL internship for anyone who is interested in public international law. It presents students with the unique opportunity to work in an area of their interest under leading academics, as well as gain an insight into academia more generally.
I first came across the SCIL Internship on the Sydney Law School Website in mid 2014. I decided to make an application because I had taken Public International Law the previous year and had my interest piqued by lectures from Professors Chester Brown and Fleur Johns and tutorials with Doctor Emily Crawford. I worried at the time about my ability to convey this interest, but I put in an application and was rewarded for my gamble with a position at SCIL for semester two, 2014.

Once I started, I was assigned a supervisor in Doctor Tim Stephens and entrusted with the task of surveying recent developments in judicial thinking on international law in Australian courts, as well as recent occasions where Australia had been a party in international tribunals and courts. The end product was a number of chapters in the Australian Yearbook of International Law. Taking on this task allowed me to get to grips with a huge amount of jurisprudence while honing my own research and legal writing skills. At the end of it, I’ve emerged with a few publication credits into the bargain!

The SCIL internship has not just made me a better legal thinker generally – it has also been a jumping off point for all sorts of possibilities into the future, including Honours and Postgraduate study, international competitions and job opportunities. For this and their understanding, help and kindness, I am grateful to all the staff at SCIL, but in particular Doctor Emily Crawford and Doctor Tim Stephens.

Sarah Schwartz (Centre intern in Semester 1, 2013) shares an account of her experiences of two internships with the Appeals Chambers of the International Criminal Tribunal for Rwanda and Yugoslavia (ICTR/ICTY) and the International Criminal Court (ICC)

In the second half of last year I was lucky enough to spend 6 months in the small Dutch city of The Hague completing two internships in the Appeals Chambers of the International Criminal Tribunal for Rwanda and Yugoslavia (ICTR/ICTY) and the International Criminal Court (ICC). At the ICTR/ICTY (the Appeals Chambers of the two tribunals are merged) I worked for Judge Khalida Rachid Khan and at the ICC I worked for Judge Anita Ušacka.

My work at the tribunals and the court provided a unique opportunity to better understand the complex political and legal dynamics that come into play when prosecuting those suspected of committing war crimes, crimes against humanity, and genocide on an international level. By working at both the ICTR/ICTY and ICC I was able to work on a variety of interesting and complex cases. At the ICTR/ICTY my main task was reviewing draft judgments and decisions and analysing the legal foundations for defence and prosecution submissions. At the ICC, my role was a lot more hands-on. I primarily worked on the case of Thomas Lubanga Dyilo, however, I also was given tasks related to the cases of Saif Al-Islam Gaddafi, Laurent Gbagbo and assisted Judge Ušacka in writing an academic article about current challenges facing the ICC. As many of the cases at the ICC involve new and contentious issues of international criminal law, I was given many interesting legal research tasks in domestic and international criminal law, evidence and procedure. I was also tasked with drafting working papers, and sections of judgments. One stand out experience for me was when, as a birthday present, Judge Ušacka organised for a private tour of the International Court of Justice and a birthday.
David Hertzberg, a former SCIL intern, spent part of 2014 on exchange in Europe. Daniel recounts his experience here:

From September 2014 to January 2015, I had the wonderful opportunity to undertake an academic exchange at Utrecht University in the Netherlands. Utrecht is the fourth largest city in the Netherlands, and it is a student city dominated by the University. It is typically Dutch: a canal at every corner, cute cobblestoned streets, and aggressive cyclists.

The academic experience of studying abroad was valuable and rewarding. I learned about European Union law, the Dutch legal system and other European legal systems. Often, the courses took a comparative approach. It was interesting to study ‘Comparative Constitutional Law’ and compare Australia to very different systems of government in continental Europe. I was fascinated by the Dutch openness to international law: international law is automatically incorporated into the domestic legal order, and ranks above the constitution. It was also rewarding to adapt to different teaching styles and methods of assessment. This opportunity was made richer by the diverse backgrounds of my peers. About half the students in my classes came from overseas.

Outside my studies, I had many opportunities to travel. I visited my new Irish friends in Ireland, channelled Colin Farrell in Bruges; I even made it to Morocco and the Middle East. As a former SCIL intern, of course I also took advantage of the unsurprisingly excellent train system to do some domestic tourism, soaking up the intoxicatingly global atmosphere in The Hague and exploring some of the tribunals situated there.

I enjoyed my exchange so much that I’m still in Europe, about to start an internship at the International Bar Association in London – inspired and assisted by my time as a research intern at SCIL. Studying abroad was a fantastic opportunity to enhance my law studies, experience a different culture and make friends from all over the world.
Recent Books and Launches

Regulatory Worlds

Mark Findlay

This new book co-authored by Professor Mark Findlay takes up the challenge to design regulatory thinking for a global future beyond wealth and growth, and towards social sustainability.

Regulatory Worlds assumes a ‘South World’ perspective on market regulation and social sustainability and presents the options and possibilities for radically repositioning regulatory principle.

Its analysis of intersections between the market economies of the South and North reconsider fundamental regulatory relationships and outcomes motivated by sustainability rather than individual wealth creation and economic growth models.

The book aims to return economy to society at a critical global juncture demanding new and creative regulatory intervention outside the regulatory state model.

Mark Findlay is the Deputy Director of the Institute of Criminology. Previously Head of Department of the Law School in 1998-1999, and Pro Dean in 1999, Mark held for 5 years the fractional Chair in International Criminal Justice at the Law School, University of Leeds and was a Senior Associate Research Fellow at the Institute of Advanced Legal Studies, University of London.

He currently also holds a Chair in Law at Singapore Management University.

Asia-Pacific Disaster Management: Socio-Legal and Comparative Perspectives

Luke Nottage and Simon Butt
18 March 2014, Herbert Smith Freehills

An Australian Network of Japanese Law (ANJeL)-related publication was launched in March, a week after the third anniversary of Japan’s Triple Disasters. The book is entitled “Asia-Pacific Disaster Management: Comparative Socio-legal Perspectives” and is edited by Luke Nottage (USyd), Simon Butt (USyd) and Hitoshi Nasu (ANU) (http://www.springer.com/law/book/978-3-642-39767-7).

The book was launched by the Hon Robert McClelland, former federal Attorney-General and Minister for Emergency Services, and the event was hosted at Herbert Smith Freehills.

The book outlines the regulatory environment for disaster prevention and management in broad social, economic and political context. The first half of the book focuses mainly on Japan, especially the ‘3.11’ events: the earthquake and tsunami that devastated the Tohoku area on 11 March 2011 and the Fukushima Daiichi nuclear power plant radiation leaks. The second half focuses on the USA (the only other Asia-Pacific country to have experienced a serious nuclear emergency), Indonesia, China, New Zealand, Australia and international law.
One question explored in several of the 14 chapters is whether socio-legal norms play different roles in preventing and managing responses to natural disasters compared to ‘man-made’ disasters. Another is how ‘disaster law’ interacts with society across very diverse communities in the disaster-prone Asia-Pacific region. The book also addresses the increasingly important roles played by international law and regional regimes for cross-border cooperation in disaster prevention and relief, including the functions played by military forces.

Adjunct Professor Don Robertson (Herbert Smith Freehills; USyd); co-editor Prof Luke Nottage (Usyd); Hon Robert McClelland; co-editor A/Prof Simon Butt (Usyd); and co-editor Dr Hitoshi Nasu (ANU)

International Covenant on Economic, Social and Cultural Rights

Ben Saul, David Kinley and Jacqueline Mowbray
27 March 2014


The ICESCR was adopted in 1966 as one of the world’s two premier human rights treaties. It recognises and protects rights which are fundamental to human survival and dignity, including rights to food, water, housing, work, social security, education, culture, self-determination, and non-discrimination. Despite the profound importance of its rights, for many decades the ICESCR was neglected by lawyers in comparison to its sibling treaty on civil and political rights. ICESCR rights were often seen as non-justiciable and as political or economic policy aspirations, rather than as binding and enforceable legal rights.

The new book is the first comprehensive commentary which analyses each right in the light of the practice of states and the United Nations, and international, regional and national case law. It demonstrates how each right is capable of legal implementation and enforcement, and shows that there is now a sophisticated jurisprudence on economic, social and cultural rights – which no longer deserve to be seen as the poor cousins of civil
and political rights.

In Geneva, the book was launched by the Chair of the UN Committee on Economic, Social and Cultural Rights, as a side-event to the UN Human Rights Council meeting at the Palais des Nations. The launch and lunch was generously supported by the Australian Permanent Mission to the UN in Geneva, the International Service for Human Rights, and the Global Initiative for Economic, Social and Cultural Rights.

In London, Geoffrey Robertson QC launched the book at Doughty St Chambers, which kindly sponsored the launch and cocktail party.

In New York, Professor Philip Alston, an Australian who is one of the world’s leading human rights scholars, engaged the authors in a question and answer event about the book at New York University Law School. The event and drinks were supported by The Center for Human Rights and Global Justice at NYU Law School and the International Network for Economic, Social and Cultural Rights (ESCR-Net).

In Washington DC, the Australian Embassy to the United States of America hosted a launch and cocktail party. Judge Sir Kenneth Keith, a New Zealander on the International Court of Justice, kindly launched the book, on the sidelines of the American Society of International Law annual conference.

In Sydney, former judge of the High Court of Australia, the Hon Michael Kirby AC CMG, launched the book, at a cocktail party sponsored by Sydney Law School and the Sydney Centre for International Law.

In Beijing, the “launch” took the form of a roundtable discussion of the book and its relevance to China. The event was hosted jointly by the International Law Program at the Chinese Academy of Social Sciences and the Australian Embassy, and attended by 15 of China’s leading human rights scholars.

Book author Prof Ben Saul spoke of the development of ESC rights jurisprudence at the national, regional and international levels.
Antarctica and International Law
Edited by Ben Saul and Tim Stephens

This new collection of international law materials, edited by Professor Ben Saul and Professor Tim Stephens, brings together the main primary international materials concerning the regulation and governance of Antarctica, including multilateral and bilateral treaties, United Nations materials, ‘soft laws’, and judicial decisions. It covers the spectrum of Antarctic issues from environmental protection to scientific cooperation to tourism. As it shows, Antarctic law has constantly adapted to meet new challenges and is a sophisticated, inclusive, dynamic and responsive regime.

Antarctica, one of the world’s last great wildernesses, presents special challenges for international law. Fears that Antarctica would become a front in the Cold War catalysed agreement on the 1959 Antarctic Treaty which neither legitimized nor challenged the existing sovereign claims to the continent.

The unique Antarctic Treaty System has provided the foundation for peaceful, harmonious and effective governance. There are, however, new anxieties about the frozen continent and the Southern Ocean. Antarctica already feels the effects of climate change and ocean acidification. Claimant states assert rights to the Antarctic continental shelf and interest in Antarctic resources grows. Tourism brings new environmental and safety risks. China and other powers are increasing their activities, with some questioning the consensus of the ‘Antarctic club’. Security concerns are increasingly discussed, despite Antarctica’s dedication to peaceful purposes.
CENTRE MEMBERS (at August 2014)

MANAGEMENT COMMITTEE

Professor Chester Brown
Professor of International Law and International Arbitration, and an expert on public international law, international dispute settlement, international investment law and international commercial arbitration.

Dr Emily Crawford
Lecturer at Sydney Law School, previously at the Law Faculty at the University of New South Wales. 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.

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 Jacqueline Mowbray
Senior Lecturer in public international law, with a particular interest in international human rights law and issues of language and culture in international law.

Professor Luke Nottage
specialises in international arbitration, contract law, consumer product safety law and corporate governance, with a particular interest in Japan and the Asia-Pacific.

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

Professor Tim Stephens
ARC Future Fellow and expert in international dispute resolution, international courts and tribunals, international environmental law and the law of the sea.

CENTRE ASSOCIATES

Ross Anderson is a Senior Lecturer and expert in private international law and international criminal 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 Vivienne Bath is an expert in the Law of International Business Transactions and in Chinese Law.

Emeritus Professor Ben Boer, formerly Professor in Environmental Law; expert in international environmental law, including sustainable development law, Asian Pacific environmental law and natural and cultural heritage law; Deputy Chair, IUCN World Commission on Environmental Law.

Associate Professor Simon Butt is an Associate Professor 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.

Professor Matthew Conaglen is a Professor of Equity and Trusts at the Faculty of Law, University of Sydney. He teaches and researches in the fields of equity, trusts and obligations.

Associate Professor Charlotte Epstein is an Associate Professor in the Department of Government and International Relations and her interests are in the areas of international relations (IR) theory and political theory, particularly in critical security studies, post-colonial, post-structuralist and feminist approaches; and her key foci are ‘sovereignty’ and the ‘state’. She is also interested in global environmental politics, North-South relations and the overlaps between international trade and the environment.

Associate Professor Salim Farrar is an Associate Professor 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 Peter Gerangelos lectures in federal constitutional law, advanced constitutional law, litigation and federal jurisdiction. He also has extensive experience in a range of civil and public law litigation in the superior courts and the conduct of large civil prosecutions on behalf of the Commonwealth relating to revenue and commercial issues.

Professor Jennifer Hill is Professor of Corporate Law. She is known for her work in comparative corporate law and governance and international financial market regulation.
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.

Malcolm Jorgensen, is a PhD candidate in American foreign policy and international law at the United States Studies Centre, University of Sydney. His research focuses on the interaction between foreign policy ideologies and strategic interests in shaping United States international law policy.

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.

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 a Professor of Industrial Law and an expert in labour and employment law.

Associate Professor Shae McCrystal has interests in labour and employment law, including international labour law.

Dr 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, SC is a former Fulbright Scholar, with a doctorate from Sydney University. He is Senior Counsel at the NSW Bar. He is a pioneer of the teaching and practice of national security law in Australia. He holds a commission as Captain in the Royal Australian Naval Reserve, and is the head of the Sydney Naval Reserve Panel. He has most recently published articles on the topics of terrorism trials, the ANZUS Treaty, and dealing with radicalisation in Australia. He is a part time member in the NSW Civil and Administrative Appeal Tribunal (Appeal and Occupational Divisions).

Associate Professor David Rolph has research interests in private international law, especially multistate torts.

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

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.

Dr Livingston Armytage is founding director of the Centre for Judicial Studies. He is a specialist in justice reform, advising governments, courts and development aid agencies around the world. He is adjunct Professor of Law at the University of Sydney, and course convener of: 'Law Justice & Development.’ He is also a visiting fellow of the Lauterpacht Centre, University of Cambridge.

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