

NEWSLETTER

CENTRE FOR INTERNATIONAL AND PUBLIC LAW



CIPL Advisory Board Meeting 28 August 2008

Back row L-R: Professor Michael Coper, Justice Susan Kenny, Justice Michael Kirby, Robert Cornall, Professor Don Rothwell Front row L-R: Renée Leon, Professor Kim Rubenstein, Penny Richards

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NOTE FROM THE DIRECTOR

The front cover of this newsletter displays a photo of members of the Centre for International and Public Law's Advisory Board taken at its August meeting, absent three of its members, Professor Robin Creyke, Professor Chris Reus-Smit and Professor William Maley. I'd like to begin this message by acknowledging and thanking publicly CIPL's Advisory Board which meets twice a year and is an important and invaluable source of advice to CIPL.

At the August meeting CIPL thanked and farewelled Robert Cornall, former Secretary of the Attorney General's Department, on his final evening in that position. We look forward to announcing in our next E Bulletin his replacement.

In the spirit of farewells, one of the greatest administrative changes during the period since the last newsletter was the departure of Kavitha Robinson who had acted as CIPL's Administrator, then Project Manager, then Assistant to the College Outreach and Administrative Support Team, particularly responsible for CIPL.

Kavitha moved with CIPL's blessing and support to take up a more senior position at The Fenner School of Environment and Society, ANU College of Science where she now leads and manages the school's administration team. Kavitha's new appointment provides her with an enhanced opportunity to implement skills acquired through her study towards a Masters of Business Administration.

I would like to place on record my thanks to Kavitha for her wonderful support for CIPL over my period as Director. I would also like to thank Jacqueline Sanderson who had been working with Kavitha as CIPL's Project Assistant on a casual basis, particularly providing great support to Kavitha on ANZSIL matters during the conference which occurred during Kavitha's last week. Jacqui has continued to provide casual support on ANZSIL matters and I would like to thank Jacqui for all of her work.

I am delighted to welcome Tanya Mark who took up the position of Assistant Manager, College Outreach and Administrative Support Team, on 24 July. Tanya's duties include being particularly responsible for CIPL. Tanya has been working at ANU for many years, including at NCEPH (National Centre for Epidemiology and Population Health), CAIS (Centre for Arab and Islamic Studies) and RSSS.

CIPL Activity

As you will see in the following pages, the Centre has had a very busy year. From the period October 2007 following, CIPL continued to promote sustained interest and engagement around public law and international law research and the intersection between them. Attention to CIPL's role as an important place for the dissemination of public law policy was highlighted by the choice of Senator the Honourable Chris Evans to present his paper on changes to the government's detention policy at a CIPL seminar in July.

One event not listed as a CIPL event in which CIPL played a part as an initiator and assisted in the early stages of its development was the Inaugural Centre for Dialogue event. You will see this mentioned further in this newsletter in the context of CIPL's partnership with the National Centre for Indigenous Studies and I encourage you to look at that section and read Professor Peter Veth's contribution.

In May CIPL hosted its second workshop bringing together public and international lawyers, this time focussing on access to medicines and public health. This workshop was jointly supported by CAPPE as Professor Thomas Pogge's work on the Health Impact fund was a focus of the workshop. My colleague Dr Matthew Rimmer played a key role in assisting in developing the workshop program. CIPL intern Teresa Lawler also centred her work on this area and assisted ably with the workshop. Work is well underway for this being published as the second in the series emanating from these workshops (the first on Sanctions ready to go to press) with final negotiations underway with publishers. Thomas Pogge has also joined me as Co-editor of the series.

The 2008 ANZSIL conference attracted record attendance and was a great success. Professor Gerry Simpson joined me as co-chair of the organising committee and was largely responsible for devising the stimulating program. CIPL's continuing role hosting the ANZSIL secretariat is significant and ANZSIL's new website housed through the ANU College of Law website is an important step in upgrading ANZSIL's services to its membership.

As part of the ANZSIL meeting and another key CIPL initiative, we were delighted with the Inaugural Kirby Lecture in International law. CIPL was very happy that Justice Kirby could attend and Professor James Crawford's speech was well received. The text delivered is available on the CIPL website and an edited version will appear in the 2009 Australian Year Book of International law.

One other initiative to note here was the joint seminar run in June in conjunction with the History Program, RSSS, College of Arts and Social Sciences around Marilyn Lake and Henry Reynold's book *Drawing the Colour line: White Men's Countries and the Question of*

WELCOME

CIPL welcomes new members who began in the ANU College of Law in 2008.

Dr Sarah Heathcote has a keen interest in CIPL. She is a graduate of the ANU and has been at the University of Geneva for the last decade where she taught international law and international organization. Sarah contributed greatly to the ANU College of Law Geneva program since its inception and in January 2008 was appointed as a senior lecturer at the ANU College of Law.



Sarah Heathcote

Brad Jessup has been appointed as a Teaching Fellow and has expertise and interests that intersect with CIPL. Brad will combine teaching environmental law with research into his PhD which explores concepts of justice within environmental law. Brad arrived at the ANU after working in corporate practice, specialising in environmental and administrative law, and studying at the University of Cambridge.



Brad Jessup

Racial Equality. Another similar seminar held this October was around Ann Curthoys, Ann Genovese and Alexander Reilly's book *Rights and Redemption: History, Law and Indigenous People* (2008, UNSW Press). This seminar, run in conjunction with the National Centre for Indigenous Studies, the Australian Centre for Indigenous History, History Program RSSH/ CASS and School of Social Sciences, Arts, CASS represents these important initiatives drawing upon the rich array of disciplines at ANU intersecting with public and international law concerns.

Other initiatives started in 2007 such as the CIPL afternoon tea for members of CIPL became a monthly lunch in 2008, promoting a strong sense of collegiality. These are generally held in my office although on several occasions, including one which included a visit by Elizabeth Evatt, we needed to move, due to the large numbers to the staff library!

Another CIPL initiative which has been moving forward since the last newsletter is the Amicus Project. In October 2007 CIPL sponsored a visit from Professor Noah Novogrodsky, University of Toronto law school and Visiting Scholar at Georgetown University Law Centre. Professor Novogrodsky participated and contributed to an important session brainstorming a range of approaches to CIPL's interest in undertaking some public interest advocacy/litigation around the intersection of public and international law.

CIPL's involvement in the ANU College of Law Internship program continues to promote awareness in students of ideas and activities of the Centre. In particular the internship program has been an avenue through which CIPL has continued the Amicus Project, with Anna Price producing an excellent internship paper on the topic.

In addition to participating and organising the above, I had a particularly busy period from April to August, having been appointed by the Minister for Immigration and Citizenship, Senator Chris Evans to be part of the seven member committee reviewing the Australian Citizenship Test, chaired by Richard Woolcott. This was an extremely rewarding experience and I am looking forward to the report being made public by the Minister.

Can I also draw to your attention the achievements of those within the Centre in the congratulations box below, and to the amazing research output and community contributions of the members of CIPL? As I stated in the last newsletter, it is a great privilege and pleasure to be working with such talented colleagues. We are all supported by a collegiate Dean in Professor Michael Coper. He is integral to the great sense of community in the ANU College of Law within which CIPL is proudly housed.

Finally, I will be on study leave for the first half of 2009, as a Visiting Fellow at the Humanities Research Centre, here at the ANU, with the aim of completing the biography I am writing on Joan Montgomery, AM OBE. I thank in anticipation Professor Don Rothwell who has agreed to take on the role of Acting Director for that period.

Kim Rubenstein
October 2008

WELCOME

CIPL was delighted that Dr Gabriele Porretto spent time at the ANU College of Law as a visiting fellow at the completion of his time at the ANU as a lecturer. Another visitor to the ANU College of Law during 2008 is Professor George Williams and CIPL has enjoyed involving him in various activities.

CIPL also welcomed in the second half of 2008 Helen Bermingham who is a former ANU College of Law student, now teaching Lawyers Justice and Ethics and Commonwealth Constitutional Law and a regular attendee of CIPL events!



Helen Bermingham

CIPL also encourages PhD students to participate in CIPL events. New PhD students in 2008 who have been welcomed at CIPL lunches include Louise Parrott. The CIPL members' page showing the list of PhD students associated with CIPL is at: <http://law.anu.edu.au/cipl/staff.asp>

Welcome to Associate Professor Simon Rice who began as Director of Law Reform and Social Justice in the ANU College of Law in 2008 and who has been an enthusiastic supporter of CIPL since his arrival.



Simon Rice

NEWS

- Kim Rubenstein, Leslie Zines, Hilary Charlesworth and visiting ANU College of law fellow George Williams participated in the House of Representatives Legal and Constitutional law committee roundtable seminar on 1 May on Constitutional Reform. A report from the Committee is available at <http://www.aph.gov.au/House/committee/laca/constitutionalreform/report.htm>

- Professor John McMillan, who is on leave from the ANU College of Law, was reappointed as Commonwealth Ombudsman for a further five year term commencing in March 2008. John was also appointed by the Commonwealth Attorney-General to a committee to review the Legislative Instruments Act 2003; and by the ACT Attorney-General to the ACT Law Reform Advisory Council. In the first half of 2007, in the role of Acting Integrity Commissioner, John established the Australian Commission for Law Enforcement Integrity. He was appointed in 2007 as a National Fellow of the Institute of Public Administration Australia.

- Two CIPL members, Professor Kim Rubenstein and Ernst Willheim, applied to the High Court to make submissions as Amici Curiae in *Wurridjal v The Commonwealth* (the constitutional challenge to the Northern Territory emergency legislation).

The plaintiffs, two Aboriginal 'traditional owners' and an Aboriginal corporation claimed the compulsory 5 year leases of the Maningra land under the *Northern Territory National Emergency Response Act 2007* and associated legislation constituted an acquisition of property otherwise than on just terms. The property claimed to be acquired included the right to participate in ceremony on identified sacred sites.

The Commonwealth contended that the just terms requirement in s 51(xxxi) of the Constitution) did not apply in the Northern Territory and that the species of property relied upon by the plaintiffs were not property within the meaning of s 51(xxxi).

In support of their amici curiae application Rubenstein and Willheim submitted, inter alia

- Their submissions would assist the Court in relation to a new and unsettled area of law
- Their submissions would provide the Court with relevant principles and authorities which had not been presented to the Court by the parties
- The Court's decision may affect the rights of other persons not parties to the proceedings

They also submitted the Court should have regard to its law making function as Australia's final appellate court and to the practice of other final courts of appeal in other common law jurisdictions in allowing amicus curiae submissions.

The proposed amici submissions included international human rights instruments recognizing the special rights of indigenous people to culture and ceremony and decisions of international bodies dealing with infringement of such rights. The proposed submissions concluded that these materials showed that the rights of indigenous peoples to pursue their religious spiritual and cultural practices have been recognized internationally as important legal rights. It was submitted that the materials would assist the Court in resolving an issue in dispute between the parties, whether the right to participate in ceremony on sacred sites constitutes property for the purposes of s 51(xxxi).

The Court dismissed the amici application by majority (Kirby and Crennan JJ dissenting). The transcript of the decision to deny the application is at <http://www.austlii.edu.au/au/other/HCATrans/2008/348.html>

- Professor Kim Rubenstein was appointed by the Minister for Immigration and Citizenship, Senator Chris Evans to be on the Independent Committee reviewing the Citizenship Test. The committee has reported to the Minister and is awaiting the release of the report to the public.

CONGRATULATIONS

Congratulations to the following CIPL members:

- Don Anton appointed as Visiting Professor of Law, University of Michigan Law School (2008-2010), Associated Fellow, United Nations Institute of Training and Research and Chair, ACT Fulbright Postgraduate and Postdoctoral Awards Selection Committee
- Professor Peter Cane and Leighton McDonald on their book *Principles of Administrative Law: Legal Regulation of Governance* which has just been published by Oxford University Press. More details of book can be found at: www.oup.com.au
- Professor Michael Coper, Robert Garran Professor of Law and Dean of the ANU College of Law, on his re-appointment as Dean for a further five year term, from 1 January 2008 to 31 December 2012.
- Dr Jeremy Farrall on his book *United Nations Sanctions and the Rule of Law* published by Cambridge University Press. More details of book can be found at: www.cambridge.org/9780521878029
- Dr Tom Faunce appointed as Reader/Associate Professor in the 2007 ANU College of Law promotion round.
- Judy Jones appointed as Senior Lecturer in the 2007 ANU College of Law promotion round.
- Dr Pene Mathew (currently on leave from the ANU College of Law) appointed as the Interim Director of the Refugee and Asylum Program at the University of Michigan for two years from mid-2008. In addition Pene received an ACT International Women's Day Award for her work on social justice and human rights, especially in relation to her work for the ACT Human Rights Commission on women detainees at the Belconnen Remand Centre, but also in relation to her wider academic work on refugees and asylum seekers.
- Dr Fiona Wheeler appointed to Professor in Law at the ANU College of Law in the 2007 annual appointment round.



Members of CIPL and ANU College of Law with Dr Heather Roberts at her Doctoral Graduation
Back Left - R: Kim Rubenstein, Shae McCrystal (now Uni of Sydney), Hilary Charlesworth, Anne McNaughton
Front Left-R: Juliet Behrens, Peta Spender, Heather Roberts, Pauline Ridge

Susan Harris Rimmer

Susan has passed her thesis examination and will be awarded the degree of Doctor of Juridical Science (professional doctorate) at the Australian National University (ANU) in December 2008. Her thesis titled 'The Last Mask of Humanity: East Timorese women and Transitional Justice' focuses on how the transitional justice processes in East Timor affected women. In September 2008, Susan joined the Regulatory Institutions Network of the ANU to work with Professor Hilary Charlesworth on the ARC project Building Democracy after Conflict.

Amelia Simpson

Amelia has been awarded a Doctor of Juridical Science (JSD), from Columbia University 22 May 2008, for her thesis entitled 'Constitutional Discrimination Jurisprudence in the High Court of Australia'.

Heather Roberts

Heather has been awarded her PhD titled 'Fundamental Constitutional Truths: The Constitutional Jurisprudence of Justice Deane, 1982-1985'. Heather was also elected to the Council of the Australian Association of Constitutional law in 2007.

CIPL & NCIS

As indicated in the last two CIPL newsletters, CIPL and the National Centre for Indigenous Studies (NCIS), both housed in the ANU College of Law, have developed a partnership arrangement based on friendship and the promotion of international Indigenous peoples rights.

As a celebration of this partnership CIPL has increased Indigenous content in its newsletter and publications, increased its engagement with Indigenous academics, particularly those working in fields associated with international Indigenous peoples rights and public law and international law, as well as increased CIPL's efforts to ensure Indigenous issues are canvassed at our discussion forums and workshops.

CIPL was a driver at the early stages of the, ANU's Centre for Dialogue's Inaugural Dialogue in-the-round on 'Building Sustainable Policy for Indigenous Affairs in Australia' which was held at AIATSIS on 21 June 2008. 25 Discussants who are Aboriginal spokespersons on the range of pressing issues and from around Australia engaged in constructive dialogue facilitated by Father Frank Brennan and Ms Kerry Arabena. The Dialogue was observed by 20 Observers from government, academia and industry and several CIPL associates were involved.

Furthering this association between CIPL and NCIS, Professor Peter Veth, Deputy, Director of NCIS (pictured) spoke at a joint CIPL, NCIS, Australian Centre For Indigenous History, RASS and College of Arts and Social Sciences seminar held on Friday October 17th, 2008. The seminar was around Ann Curthoys, Ann Genovese and Alexander Reilly's book, *Rights and Redemption: History, Law and Indigenous People* (2008, UNSW).

Peter Veth – Native Title

Peter Veth spoke about the artificial boundaries created by Native Title law around disciplinary expert witness reports that force them to cross-cut Aboriginal notions of intertwined tangible and intangible heritage values. He provided three concrete examples from cases that he has been involved in including Ngarluma-Yindjibarndi, Martu and De Rose Hill. He argued that cultural sites which bear testimony to the use and enjoyment of Lands by claimants before and after Sovereignty are forcibly dissected into categories such as physical fabric, 'folklore', oral narratives and actions, and outsider accounts of Aboriginal practices. These roughly correlate with the Western disciplines of archaeology, anthropology, history and ethnohistory.



Peter Veth

When we unpack three actual cultural site types which are highly relevant to a determination of native title we find that their tangible and intangible values are unnaturally separated by the court process. The first example concerns thalu sites of NW Australia. They have a physical form, an associated mythology, historical connections and can potentially be dated archaeologically to the period before and after Sovereignty and European colonisation. Yet the court requires that no less than 4 disciplinary expert witnesses - in addition to claimant testimony itself - provide separate lines of evidence for the persuasiveness (probity) of these single features. The second example includes painted and engraved rock art from the Western Desert. The former is believed by claimants to have been created by humans while all engravings are seen to be a product of the Dreamtime (in fact transmogrified ancestors). While the art is seen to belong to a particular locale and usually is ascribed significance as a place - the lines of evidence in the courtroom again start to separate out the tangible and intangible elements of these productions.

Finally, claimant testimonies about residency on their ancestral Lands are often put up against the litmus test of 'independent' physical evidence including historic texts and dated residential sites which have the burden of proof put on to them of somehow eliciting 'ethnicity' even down to the different dialects that may have been spoken at contact. This burden was actually met in De Rose Hill where a stockyard residence which was said to have been occupied by the lead claimant was dated to the year he noted he lived there while working cattle with his father!

Similar issues and concerns appear in the critique of the relationship between history and law - so adroitly woven throughout the chapters contained in the groundbreaking volume *Rights and Redemption*.



The consent determination for the Birriliburu native title claim at Katjarra in the Western Desert – with (then) Justice Robert French presiding – June 20 2008. Peter Veth was an Expert Witness for this claim and attended the celebration.



Peter Veth recording a Seven Sisters saga with Martu women on the Canning Stock Route.

CIPL EVENTS:

September 07 to October 08

Most CIPL seminars are recorded and can be accessed at: <http://law.anu.edu.au/cipl/Events.asp>

Solferino Seminar

Litigating Genocide in International Courts

8 October 2007

Barrister Magda Karagiannakis

Presented in conjunction with IHL Committee, Australian Red Cross ACT Program

This presentation was a case study of Prosecutor v. Krstic, which resulted in the first criminal conviction for genocide in Europe by an international criminal tribunal. It outlined the main evidence and legal arguments presented in that case, which led to the Srebrenica massacre of over 7,000 men and boys, being declared a genocide. This was followed by an explanation of how this case and other evidence of the Srebrenica massacre, were subsequently utilised in international civil litigation between sovereign states in the International Court of Justice, to form the basis of the first finding of genocide and state responsibility under the provisions of the Genocide Convention. Ms. Karagiannakis has been counsel in proceedings before the International Court of Justice and a prosecutor in the International Criminal Tribunal for the former Yugoslavia. She also acted as a senior legal advisor and investigator to the UN Inquiry into the assassination of the Former Lebanese Prime Minister.



Dr Gabriele Porretto, Professor Kim Rubenstein, Magda Karagiannakis and Joanne Lee

The Statutory Protection of Rights and Parliamentary Sovereignty – Guidance from the United Kingdom?

Adjunct Professor Geoffrey Lindell

Discussion Session: 16 October 2007

The doctrine of parliamentary sovereignty has had a profound influence on British and Australian constitutional arrangements. But by the end of the twentieth century its application in the United Kingdom has had to evolve in the face of two major developments – British membership of the European Union and the European Convention on Human Rights. Both developments have involved the adoption of statutory mechanisms to ensure consistency with the relevant international obligations of the United Kingdom but in a way that deliberately falls short of constitutional entrenchment. The aim of this talk is to explore the consistency of these statutory mechanisms with the doctrine of parliamentary sovereignty; and also the extent to which they can be adopted to protect human rights and other kinds of rights in Australia – consistently with the constitutional requirements governing the exercise of federal jurisdiction.



Adjunct Professor Geoffrey Lindell

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

Professor Noah Novogrodsky
18 October 2007

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



Professors Kim Rubenstein and Noah Novogrodsky

Twelfth Annual Public Law Weekend Death of the Rule of Law?

9-10 November 2007

Visions Theatre, National Museum of Australia, Canberra

The 2007 Public Law Weekend was a great success with record numbers of registrants and a very stimulating program. The conference theme asked the question, is Australian society facing the 'Death of the Rule of Law'? This powerful phrase was used by Justice Dyson Heydon in his article 'Judicial activism and the death of the rule of law' (2003) 23 Australian Bar Review 110.

Papers from the conference are available on the website, including the Tenth Geoffrey Sawer Lecture, Australian Exceptionalism, presented by Professor Michael Taggart, University of Auckland. Professor Taggart's paper has also been published in the Federal Law Review Volume no 36, 2008.

The conference also included the launch of Professor Geoffrey Lindell's collection, *The Mason Papers: Selected articles and speeches by Sir Anthony Mason AC, KBE*, launched by Professor Leslie Zines, The Australian National University



Dr Fiona Hanlon, Professor Kim Rubenstein, Professor Geoffrey Lindell and Associate Professor Anne Twomey

Twelfth Annual Public Law Weekend



Professor Michael Coper, Emeritus Professor Leslie Zines, Sir Anthony Mason and Professor Geoffrey Lindell at the Launch of the Mason Papers



Professor Michael Taggart, Professor Kim Rubenstein, Professor Michael Coper with the CIPL 2007 newsletter

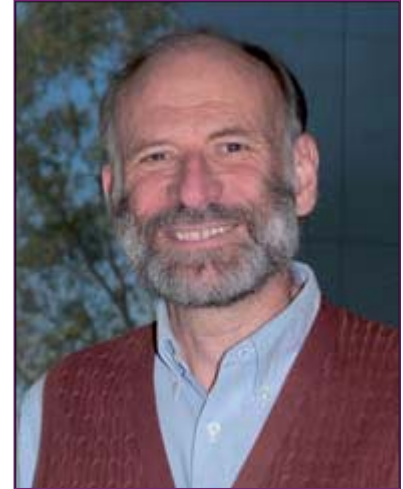


James Stellios and Speakers Ron Merkel and Nicholas Aroney

Reconciliation, Genocide and Criminal Trials

Professor Larry May, Washington University

Seminar: 11 December 2007 (Presented in conjunction with the Centre for International Governance and Justice, RegNet)



Professor Larry May

This paper was about reconciliation in societies that had recently experienced genocide or other human rights atrocities. International trials were ongoing to prosecute those most responsible for these atrocities. Critics argue that criminal trials often make matters worse for achieving reconciliation in these societies. Professor May refuted the arguments of these critics of international criminal trials and spent most of his time rethinking reconciliation, an under analysed concept in political and legal philosophy. In this respect Professor May argued that it is not the victims or the perpetrators that are key, but the bystanders. Robust reconciliation occurs only with the diminishment of the complicity that allows for large-scale atrocities like genocide. Trials, properly conducted, can aid rather than retard this effort. The paper was drawn from the fourth volume of Professor May's continuing project on the normative foundations of international criminal law.

Solferino Seminar

Conquering Cluster Munitions: Towards a New International Treaty

Lou Maresca, International Committee
of the Red Cross and Rae McGrath,
Handicap International
13 February 2008

Cluster munitions have become a persistent and increasingly severe humanitarian problem over the past decades, killing and injuring large numbers of civilians in war affected countries. Recently a number of governments have begun to take concerted action to address the tragic human costs of these weapons. Such action includes the initiation of a series of negotiations, called the "Oslo Process", aimed at achieving a new international treaty on cluster munitions by 2008. This presentation will both examine the nature and effects of cluster munitions and the process of developing a new international agreement limiting their use. Mr Maresca works in the Legal Division of the International Committee of the Red Cross (ICRC) in Geneva. His primary areas of work are the prohibitions and restrictions on the use of weapons under international humanitarian law and other international rules governing the conduct of hostilities. He is currently involved on behalf of ICRC in the Oslo Process negotiations.

The United Nations in 2008

The Hon. Robert Hill, Ambassador and Permanent Representative
to the United Nations, New York
19 March 2008

This lecture was presented to a full house as the fifth in the series of the United Nations lectures, which are delivered by the Ambassador and Permanent Representative to the United Nations, New York at the time of the presentation. The first United Nations lecture was presented in 2000 by HE Ambassador Penny Wensley who was present at this 2008 address, and in 2002, 2004 and 2005 by Ambassador John Dauth LVO.



Ambassador Robert Hill with Melissa Parke (Member for Fremantle in the House of Representatives), Ambassador Penny Wensley AO, Professor Kim Rubenstein and Professor Michael Coper

Between the Devil and the Deep Blue Sea: Administrative Law in an Age of Rights

Dr Thomas Poole, London School of Economics
25 March 2008

This paper examined the impact of the new jurisprudence of rights on administrative law. Commentators tend to conceptualise this development in terms of constitutionalisation and internationalisation. Dr Poole examined the effects of this process in two jurisdictions – the UK and Australia – which present sharply opposed responses. Australian courts seem by and large to have rejected the international discourse of rights, retreating to the apparent safe haven of old-fashioned Dixonian legalism. Rules are preferred to principles, and strict textual exegesis prized above context-sensitive adjudication. The situation in the UK presents a radically different picture: courts seemingly awash on a sea of principles, and pre-existing rules partially abandoned or downgraded. The courts have opened themselves up to the influence of international law and the decisions of foreign courts. All this has resulted in a complicated stew in which the new principles have not been given anything like coherent shape. The paper asked whether, absent the discovery of coherent limiting devices, the prospect of 'judicial lawlessness' can be avoided in the application of rights-based administrative law.

Conceptualizing Security Council 'Sanctions' Under International Law

Devika Hovell, PhD student, Oxford University
26 March 2008



Devika Hovell

In recent times, the Security Council has come under significant criticism for its failure to ensure procedural fairness in its decision-making process on sanctions. Cases such as Kadi and Al Barakaat in the European context have highlighted the alarmingly arbitrary nature by which individuals have been placed on Security Council "blacklists", leading to a world-wide freeze on their assets and travel bans. As a precursor to the development of normative standards applicable to the Security Council, it is necessary to consider the nature and role of sanctions under international law – are they criminal measures, administrative measures, emergency measures? The traditional conception of sanctions as a legal system's response to violation of law does not necessarily apply to the Security Council, which is entitled to apply sanctions to maintain or restore international peace and security.

The aim of the paper was to examine the role and nature of international sanctions, and to identify the normative values that shape and condition the legitimacy of sanctions within legal systems. It drew on analogies from domestic jurisdictions (including criminal sanctions, preventive sanctions (such as ASBOs, terrorist control orders), bills of attainder, emergency measures and administrative sanctions), together with theories of legal punishment and censure, to arrive at a conceptualization of international sanctions.

2020 Summit

CIPL Members Kent Anderson, Hilary Charlesworth, Simon Rice, Amelia Simpson and Visiting Fellow George Williams participated in the 2020 Summit (and Kim Rubenstein attended the Jewish Community meeting pre 2020 summit), and Matt Stevens volunteered as a Summit Liaison officer. CIPL hosted two seminars with the Centre for International Governance and Justice reporting back on those events:

Steps to the 2020 Summit - Governance issues

Professor Kim Rubenstein, The ANU and
Mr Charlie Deutscher, The ANU
15 April 2008

The Centre for International & Public Law (CIPL) and The Centre for International Governance & Justice (CIGJ) hosted a report by Professor Kim Rubenstein on the "Jewish 2020 summit" held in Sydney on

Monday 14th April, together with a report from ANU law student, Charlie Deutscher, who participated in the Youth 2020 summit held 12-13th April. In addition, members of the ANU participating in the Governance Group at the forthcoming 2020 summit presented views on the governance topics covered at the summit.

These included:

- open government and the media
- parliamentary reform
- administering government
- rights and responsibilities

2020 Summit Debrief

5 May 2008
Summittees from the Governance and Security streams of the 2020 Summit reflected on their experiences.

Launch of the Australian Year Book of International Law, Volume 26

28 March 2008

This Year Book launch honoured the editorship of Penelope Mathew. The publication was co-edited by Professor Kim Rubenstein and Dr Pene Matthew. Professor James Hathaway, Dean and William Hearn, Chair of Law, Melbourne Law School launched the volume.

US Military Commissions: An update one year on ...

Professor Donald R. Rothwell and the
Jessup International Moot Team ANU
College of Law Public Lecture
31 March 2008

On 30 March 2007 the US Military Commission at Guantanamo Bay accepted a guilty plea by the Australian citizen David Hicks to providing material support for terrorism. This was the first case decided at the military commission but not the only one. Other cases have followed and their developments also merit attention.

These events raised significant issues of international humanitarian law with respect to the status of military commissions under the Geneva Conventions and the prospect of future trials before the Commissions. Members of the ANU College of Law Jessup International Law Moot team highlighted these issues by arguing the legality of Military Commissions under International Law. Professor Donald R. Rothwell, Professor of International Law, ANU College of Law, followed on recent developments with the US Military Commissions and the legal outlook for David Hicks.

The Defence White Paper and Australian and International Law

Dr Michael Smith AM, Barrister and
International Lawyer & Ms Nicole
Abadee, Member of the Sydney Bar and
Lecturer in International Law and Use of
Armed Force, University of Sydney and
ANU College of Law
17 April 2008

Australia's recognition of Kosovo: A Legal or Political Act?

Associate Professor Peter Radan, Macquarie University & Dr Heather Rae, The ANU

24 April 2008

The Rudd Government's recognition in February of Kosovo's declaration of independence from Serbia raised long standing issues with respect to Australia's recognition policy and its consistency with international law, and the consequences flowing from the immediate recognition of newly emergent states. In addition, the case of Kosovo raised tensions with Serbia and also other key allies such as the Russian Federation. This seminar addressed these issues from both a legal and international relations perspective. The speaker, Associate Professor Peter Radan BA, LLB, PhD (Syd) is Associate Professor of Law, and Head, Department of Law, of the Division of Law, Macquarie University. His principal areas of research interest are in international law with a particular focus on state succession and self determination. Key publications in the field include *Creating New States, Theory & Practice of Secession* (with A Pavkovic, Ashgate, Aldershot 2007) and *The Break-up of Yugoslavia and International Law* (Routledge, London, 2002).

Access to Medicines: Incentives for Global Health

Professor Rochelle Cooper Dreyfuss, New York University; Professor Noah Novogrodsky, University of Toronto and Professor Thomas Pogge, The Australian National University

27 May 2008

This event was the public lecture that went with the CIPL workshop below, featuring three of the workshop speakers, Professor Rochelle Dreyfus, Professor Noah Novogrodsky and Professor Thomas Pogge. Professor Dreyfus also presented a "Brown Bag lunch" on the Friday preceding the workshop. The public lecture and the lunch audio material is available on the CIPL website.



Prof Cooper Dreyfuss



Prof Novogrodsky



Prof Pogge

2008 CIPL Workshop - Connecting the Public with the International: Law's potential

26-28 May 2008

CIPL joined with CAPPE (Centre for Applied Philosophy and Public Ethics) and Professor Thomas Pogge to host the 2nd CIPL workshop bringing together 30 public lawyers with international lawyers around the topic *Incentives for Global Health: Patent Law and Access to Essential Medicines*. Dr Matthew Rimmer was a key force behind the intellectual organisation of the workshop and was one of the paper presenters. Other CIPL participants included Kim Rubenstein, Tom Faunce and Hitoshi Nasu and CIPL's intern for first semester, Teresa Lawler, who also provided great support. Participants are now working on their contributions for a book collection which will be the 2nd in a series initiated by CIPL bringing together public lawyers and international lawyers. The first in the series which is about to go to the publisher was from the 2007 workshop around Sanctions.

CIPL Seminar around Marilyn Lake and Henry Reynolds's book *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality*

12 June 2008



Kim Rubenstein, Henry Reynolds, Peter Prince, Mary Crock, Marilyn Lake and Ann Curthoys

The Centre for International and Public Law, ANU College of Law, and the History Program, RSCS, College of Arts and Social Sciences invited students, academics, scholars and members of the public with an interest in law, history, citizenship, equality and human rights to a seminar around Marilyn Lake and Henry Reynolds's *Drawing the Global Colour Line*. (MUP, 2008). Professor Kim Rubenstein and her PhD student Peter Prince presented papers.

16th ANNUAL ANZSIL CONFERENCE

Security, Scarcity, Struggle: The Dilemmas of International Law
26-28 June 2008

CIPL hosted the 2008 16th Annual ANZSIL conference which was a great success. Papers from the conference are now available on ANZSIL's relaunched website at <http://law.anu.edu.au/anzsil/>

The ANZSIL postgraduate workshop was held on Wednesday 25 June 2008, the day before the main ANZSIL Conference.



Professor Michael Coper, Professor Kim Rubenstein, author Frank Moorhouse (ANZSIL dinner speaker) and Professor Catharine Lumby

The Inaugural Kirby Lecture on International Law

This lecture was held as part of ANZSIL on 26 June 2008. The paper delivered by Professor James Crawford is available on the ANZSIL website and an edited version will be published in the 2009 volume of the Australian Year Book of International law.



Professors James Crawford, Michael Coper and Kim Rubenstein

New Directions in Detention: Restoring Integrity to Australia's Immigration System

Senator Chris Evans, Minister for
Immigration and Citizenship
29 July 2008



Senator Chris Evans

The Minister for Immigration and Citizenship, Senator Chris Evans, announced reforms to Australia's immigration detention system for the first time at a CIPL seminar. Senator Evans said that under Labor's reforms, detention in immigration detention centres will only be used as a last resort and for the shortest practicable time. The Government will retain mandatory detention to support the integrity of Australia's immigration program. Senator Evans said the Government's new policy will see the Department of Immigration and Citizenship take a risk-based approach to detention. 'A person who poses no danger to the community will be able to remain in the community while their visa status is resolved,' Senator Evans said. For Senator Evans' full paper see:

[http://law.anu.edu.au/Cipl/
Lectures&Seminars/2008/Evans_paper.pdf](http://law.anu.edu.au/Cipl/Lectures&Seminars/2008/Evans_paper.pdf)

Trans-Tasman Maritime Security Conference 29-30 June, ANU

CIPL was host to scholars, researchers and government practitioners during a workshop on maritime security held at the ANU between 29-30 June. Co-chaired by Professor Don Rothwell, the Trans-Tasman Maritime Security Workshop followed an earlier 2007 workshop in Wellington and brought together academic experts in dialogue with government officials. The workshop featured speakers from both Australia and New Zealand, many of whom had just days before participated in the annual ANZSIL conference. Assisted by co-chairs Dr Natalie Klein (Macquarie) and Ms Joanna Mossop (Victoria University of Wellington) the workshop reviewed contemporary developments in maritime security with a particular emphasis on law and policy. Speakers discussed Australian and New Zealand law and policy in the field, relevant global and regional developments, and specific challenges such as maritime security in the Southern Ocean and Southeast Asia. There was active engagement in debate and discussion from representatives of relevant government agencies including Border Protection Command, Australian Maritime Safety Authority, Attorney-General's Department, and the Royal Australian Navy. Rothwell, Klein and Mossop are currently working on an edited collection of papers arising from the workshop which will be published in 2009 by Routledge. Another project with a maritime security theme is in the initial planning stages; on this occasion with an Antarctic and Southern Oceans focus.

Solferino Seminar

Private Military Companies: Mercenary Boom or Legitimate Outsourcing?

Mary Picard, University of Geneva, 18 August 2008



Professor Kim Rubenstein, Mary Picard (Speaker), Geoff Skillen (A-G's Dept.) and Pia Riley (Aus Red Cross)

Mary Picard addressed many questions in this timely seminar. Is it useful to describe Private Military and Security Companies (PMSCs) as mercenaries outside the scope of International Humanitarian Law (IHL)? Moral, political and legal approaches may lead to different conclusions. What is clear is that there has been a rapid evolution in the private military support industry over the last decade, which now has an impact on the way armed conflict is conducted, and especially on compliance with IHL. As PMSCs are now used by powerful States such as the US, as well as by international organizations and other private companies, the question of legal accountability for their conduct during armed conflict has become acute. However, far from there being a vacuum of law concerning PMSCs, States that use them can be held responsible in international law. The companies and their personnel also have international obligations, although the necessary national regulation lags behind. But the question remains – how much 'contracting out' of the use of force is legitimate in the broader sense? Are the reasons for the PMSC boom valid, or do they merely represent an opportunity for States to avoid obligations and mercenary companies to reap the financial benefits. Pia Riley from the Australian Red Cross then commented on Mary's paper.

10th Anniversary of the Rome Statute

22 September 2008

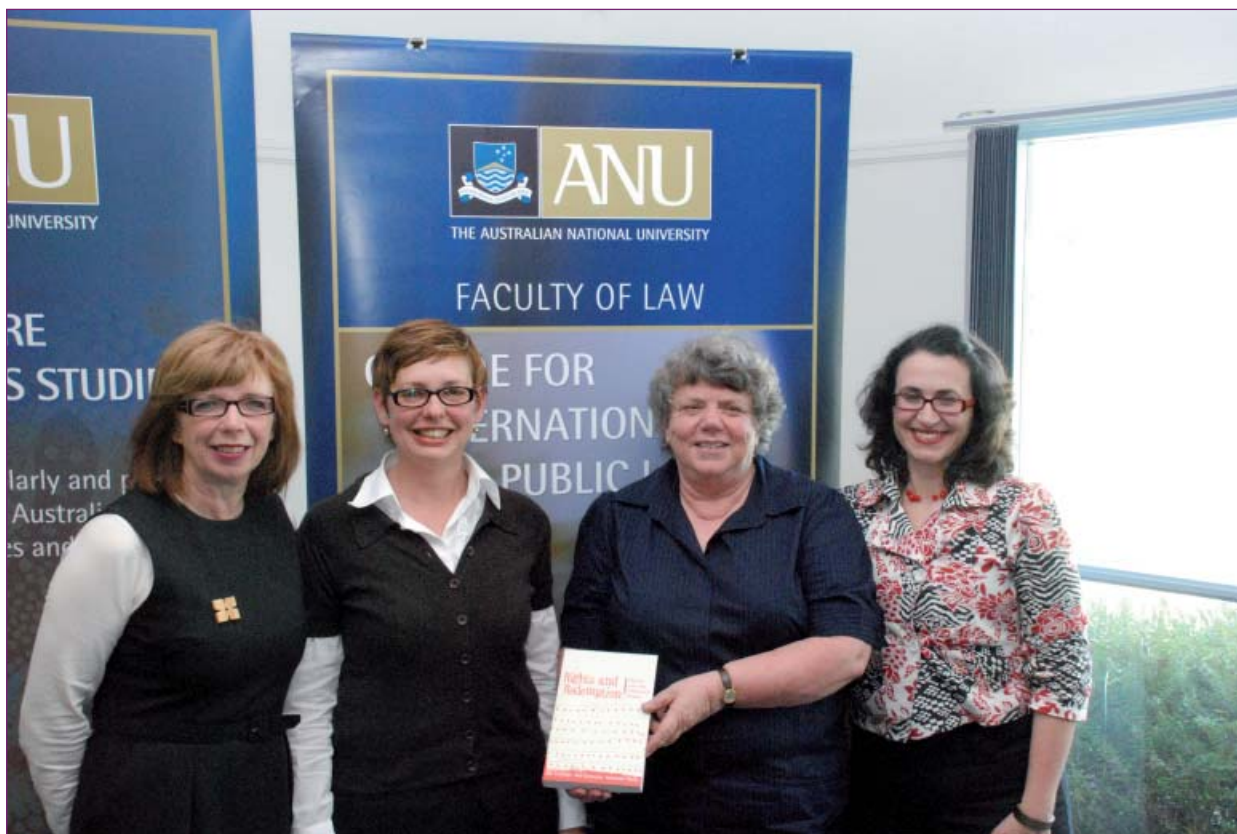
This event was sponsored by The Centre for International and Public Law, Australian Red Cross ACT Division International Humanitarian Law, Embassy of Switzerland and Embassy of The Netherlands.

Guest Speakers included: Professor John Braithwaite, well known for his work on the theories and applications of restorative justice; the Hon Dr Mike Kelly (BA, LLB (Macq), PhD (UNSW), Parliamentary Secretary for Defence Support, well known for his published works on the legal framework governing the restoration and maintenance of order in peace operations; and Ms Joanne Lee, well known for her work in Canada providing research to the ICC in its early years and providing technical assistance to developing countries in terms of preparing for ratification and implementation of the Rome Statute of the ICC.

Rights and Redemption: History, Law and Indigenous People

Seminar 17 October 2008

This seminar around Ann Curthoys, Ann Genovese and Alexander Reilly's book 'Rights and Redemption: History, Law and Indigenous People' (2008, UNSW Press) run in conjunction with the National Centre for Indigenous Studies, the Australian Centre for Indigenous History, History Program RISS/ CASS and School of Social Sciences, Arts, CASS, included speeches from the authors and presentations by Professor Ann McGrath, Dr Trish Luker and Professor Peter Veth. Peter Veth's presentation is described on page six - see CIPL and NCIS.



Professor Ann McGrath, Dr Trish Luker, Professor Ann Curthoys and Dr Ann Genovese, presenters at the *Rights and Redemption* Seminar

UPCOMING EVENTS

Thirteenth Annual Public Law Weekend

Public Law: Public Leadership

31 October -1 November 2008, National Museum of Australia, Canberra

The 2008 Public Law Weekend with its theme Public law: Public leadership, seeks to move forward beyond the initiative of the Government's 2020 Summit in April, in thinking about future directions for public law in Australia. In particular, it will consider how our public law institutions can be leaders in public law initiatives. To that end there will be panels on:

- Public law leadership and the Parliament,
- Public law leadership and the Executive,
- Public law leadership and the Courts, and
- Public law leadership and Academia.

In addition there will be update sessions on specific areas of policy, such as Privacy and FOI and recent public law court decisions. For conference program and registration form, see:

http://law.anu.edu.au/Cipl/PLW_Program2008.pdf

Eleventh Annual Sawer Lecture

Chief Justice Gleeson and the Constitution

31 October 2008

An important part of this year's Public law weekend will be the 2008 Geoffrey Sawer lecture, prepared by Emeritus Professor Leslie Zines, AO FASSA, a visiting fellow with the John Fleming Centre for the Advancement of Legal Research at the ANU College of Law and a visiting professor with the Faculty of Law at UNSW. Leslie was formerly Robert Garran Professor of Law and Dean of the Faculty of Law at ANU and Arthur Goodhart Professor of Legal Science at the University of Cambridge (1992-93).

His publications include: *The High Court and The Constitution* (5 editions); *Federal Jurisdiction in Australia* (2nd & 3rd editions); and *Constitutional Change in the Commonwealth*. The lecture will deal with Murray Gleeson's method of constitutional interpretation, which will cover both matters in 'The Constitution' and broader constitutional principles. It will contrast his early statements emphasising 'strict and complete legalism' with many of his decisions. Matters covered will include his views on original meaning, the place of human rights in legal interpretation and the relevance of social consequences in construing constitutional provisions.



Emeritus Professor Leslie Zines

Disintegration Through Law? On the Decomposition of Citizenship in Europe

Professor Dr Alexander Graser (Hertie School of Governance, Germany),

7 November 2008, 1-2pm, National Europe Centre

The law is widely seen as contributing to the integration of political communities and to the legitimation of political power. The concept of citizenship has long been said to play a vital role in this respect. In recent times, however, the legal content of citizenship has undergone significant changes—a 'decomposition', as will be argued, which may in turn undermine the law's integrative and legitimacy capacity. This development is particularly advanced in 'post national' Europe, and the talk will focus on this region. But the same concerns may also become relevant outside of Europe, as similar trends are discernible in other regions, as well.

Why habeas corpus should be a jus cogens norm in international law

Professor Larry May, Washington University

13 November 2008, ANU College of Law, Staff Library

Jus cogens norms are rights or rules that can not be derogated even by treaty. In the list that is often given, jus cogens norms include norms against torture, genocide, apartheid, slavery, and crimes against humanity. All of the items on this list are substantive rights. In this paper Professor May will argue that some procedural rights such as habeas corpus should also have the status of jus cogens norms. He begins by rehearsing some of the debates about these rights in the European and American Commissions on Human Rights. He then explains what it means for a right to have jus cogens status, and follows this with a defence of having procedural rights like habeas added to the list of jus cogens norms. He examines the Guantanamo case to help understand why there needs to be a stronger support for habeas than is often provided by regional courts. Procedural rights can have the status of gap fillers in international law, making it possible to cover much more possible abuse than can be captured under prohibitions that concern specific substantive rights violations.

AUSTRALIAN YEAR BOOK OF INTERNATIONAL LAW

Volume 26 is now available for purchase. To view the contents page or order a copy of recent past volumes please go to our website at:

<http://law.anu.edu.au/cipl/Publications/YearBook.htm>

Editors

Penelope Mathew and Kim Rubenstein

Articles

Richard Falk

Towards Global Democracy: A Plea for Moral Globalisation

Nicole Abadee and Donald R Rothwell

The Howard Doctrine: Australia and Anticipatory Self-Defence against Terrorist Attacks

Michael Bliss

Amity, Cooperation and Understanding(s): Negotiating Australia's Entry into the East Asia Summit

Hitoshi Nasu

Chapter VII Powers and the Rule of Law: The Jurisdictional Limits

Shirley V Scott

The Participation of the Australian Government in International Debate on the Composition and Voting Procedure of the Security Council, 1945-2005

Tania Voon and Andrew D Mitchell

Achieving a Common Market for Telecommunications Services in Australia and New Zealand

John Tasioulas

Comment: Opinio Juris and the Genesis of Custom: A Solution to the 'Paradox'

- Book Reviews: edited by Wendy Lacey
- Australian Cases before Australian Courts and Tribunals Involving Questions of Public International Law 2005: Justin Hogan-Doran, Jane McAdam and Zelig Wood
- Australian Cases before International Courts and Tribunals Involving Questions of Public International Law 2005: Tim Stephens and Brett Williams
- Australian Legislation Concerning Matters of International Law 2005: Sanjiva de Silva, Ciara Henshaw, Sarah McCosker, Roxane Nolan and Kelisiana Thynne
- Australian Practice in International Law 2005: edited by Andrew Thomas and supervised by Justine Braithwaite, Sarah Dezoeten and Helen Horsington
- Annual Survey of Recent Developments in Australian Private International Law 2005: Kent Anderson and Jim Davis
- Australian Treaty Action 2005

Volume 27 is in press and will be published at the end of 2008.

Editors

Donald R Rothwell and Kim Rubenstein

Preface

James C Hathaway

Is There Still a Place for a 'Yearbook' of International Law?

Articles: International Law during the Howard Years

Donald R Rothwell and Kim Rubenstein

Introduction

Greg Carne

Neither Principled nor Pragmatic? The Howard Government, International Law and International Terrorism

Sarah Joseph

The Howard Government's Record of Engagement with the International Human Rights System

Stuart Kaye

Australia and East Timor during the Howard Years: An International Law Perspective

Jane McAdam and Kate Purcell

Refugee Protection in the Howard Years: Obstructing the Right to Seek Asylum

Gregory Rose

Australian Approaches to International Environmental Law during the Howard Years

Gerry Simpson

Warriors, Humanitarians, Lawyers: The Howard Government and the Use of Force

Jeff Waincymer

The Howard Government's Legacy in International Trade and Investment

Articles

Ilias Bantekas

The Politics and Foundations of Arbitrability in International Commercial Arbitration

Alexander Kunzelmann

An Australian International Law: The Impact of Australian Courts on the Fragmentation of International Law

- Book Reviews: edited by Wendy Lacey
- Australian Cases before Australian Courts and Tribunals Involving Questions of Public International Law 2006: Lucas Bastin, Naomi Hart, Justin Hogan-Doran, Claire McEvilly, Tim Stephens, Zelig Wood and Houda Younan
- Australian Cases before International Courts and Tribunals Involving Questions of Public International Law 2006: Tim Stephens and Brett Williams
- Australian Legislation Concerning Matters of International Law 2006: Alicia Fairlie, Lauren Henschke, James Potter and Andrew Sainsbury
- Australian Practice in International Law 2006: compiled and edited by Patrick Dennien and Genevieve Paterson and supervised by Helen Horsington and Ben Milton
- Annual Survey of Recent Developments in Australian Private International Law 2006: Kent Anderson and Jim Davis
- Australian Treaty Action 2006



FINAL LAW AND POLICY PAPER

One of CIPL's publications since its inception has been its Law and Policy Paper series. With the move to a new series linking public law and international law, this series will not continue. The final CIPL Law and Policy collection, *Citizenship in a Post-National World: Australia and Europe compared* has recently been published.

Citizenship in a Post-National World Australia and Europe compared

Edited by Simon Bronitt and Kim Rubenstein
CONTENTS

This collection of essays explores the value and role of a more 'global' view of citizenship, focusing on expatriate voting rights and citizenship in Europe and Australia.

The European Parliament has designated 2008 as 'The European Year of Intercultural Dialogue', an idea which embraces more plural and cosmopolitan ideas of identity and citizenship and which is the focus of this volume.

The first two chapters address the theme of expatriate voting, one from a European perspective (Simone Battiston and Bruno Mascitelli) and one from an Australian perspective (Graeme Orr). Voting is one of the rights of citizenship (as well as legally compellable duty in Australia). The position of expatriate electorates poses a challenge for inclusive liberal democracies which, on the one hand, want to recognise the increasingly cosmopolitan nature of the modern human condition (with limitless opportunities for some to work and travel overseas), and on the other hand, the parochial nationalistic concern that only those with residency and a commitment to the community are enfranchised. These paired papers expose how local politics and interest groups influence the public debate and legal reforms relating to expatriate voting.

The challenge for the itinerant citizen who moves across territory and acquires multiple identities is explored in Kim Rubenstein's chapter 'From Supra-national to Dual to Alien Citizen: Australia's Ambivalent Journey'. The evolving character of 'Australian citizenship' in many respects tracks the changing relationship between Britain and its antipodean former colonies. Federation in 1901 did not create the category of Australian citizen – rather ordinary federal legislation grafted a new category of citizenship onto the pre-existing 'supranational' British subject. Although some degree of dualism of Australia-British identity was permitted, until 2002 federal law mandated the loss of Australian citizenship for those who acquired new citizenship. Reflecting the pressures of globalisation and cosmopolitanism, this strict prohibition on acquiring another citizenship has been revised. But there are also forces counteracting these liberalising tendencies: in the post 9/11 environment, an increasingly strict approach to granting citizenship has been adopted including mandatory testing of applicants on 'Australian values'. These developments may seem benign, though as Rubenstein points out, there is a danger of holding 'alien Australians' to higher standards than Australian-born citizens are expected to attain. The challenge, as she concludes, is to recognise the multiple layers of a person's national identity in a cosmopolitan world, and 'better integrate legal understandings of Australian citizenship with that cosmopolitan understanding'.

Returning to the theme of the supranational citizenship from a European perspective, Michael Longo explores the political project to create a new civic common identity called the 'EU citizen'. The concept of EU citizenship, introduced in 1992 Treaty on European Union, like many EU concepts is *sui generis*. Unlike other dual nationalities, EU citizenship is a supranational parasite, its existence and validity resting on the underlying national citizenship of the Member State. As Longo points out, this feature presents problems for the political and legal status of third country nationals who reside in the EU. Notwithstanding the EU strong political commitment to participatory democracy, this disenfranchisement of long term non-nationals residents in the EU, hampered by the lack of any consistent approach to citizenship conferral in Member States, undermines the legitimacy of this European civic project. Clearly, to address this deficiency, the EU must further expand its competency in this field.

The four articles together comprise the final paper (No. 29) in the Law and Policy Paper series.

- Full Voting Rights For Italian Citizens Overseas: Citizenship Gone Global, Italianness or Italian Party politics?
Simone Battiston and Bruno Mascitelli
- Citizenship, Interests, Community and Expression: Expatriate Voting Rights in Australian Elections
Graeme Orr
- From Supranational to Dual to Alien Citizen: Australia's Ambivalent Journey
Kim Rubenstein
- The Promise of a Post-National European Citizenship
Michael Longo

**To order this final volume
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the Law and Policy series
see:**

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bookstore/series.asp?id=4](http://www.federationpress.com.au/bookstore/series.asp?id=4)

A SELECTION OF PUBLICATIONS BY CENTRE MEMBERS

Don Anton

Introductory Note to Intergovernmental Panel on Climate Change, Fourth Assessment Synopsis Report Summary for Policy Makers and the Bali Action Plan, 47 *International Legal Materials* 94 (2008)

False Sanctuary: The Australian Antarctic Whale Sanctuary and Long-Term Stability in Antarctica, 8 *Sustainable Development Law & Policy* 17 (2008)

Robin Creyke

'Soft Law v Hard Law' Chapter 16 in L Pearson (ed) *Administrative Law in a Changing State: Essays in Honour of Mark Aronson* (co-authored with J McMillan) (Hart Publishing, 2008) (being launched in December)

'Administrative Justice - Towards Integrity in Government' (2007) 31 *UMelb LR* 705-732 (only came out in 2008)

'Administrative Law - Alive and Kicking: an Academic Perspective' in 59 *Admin Review* (co-authored with Matthew Groves) (2008) (publishing December)

Tribunals in the Common Law World (Ed) (Federation Press, 2008) (publishing November 2008)

Veterans' Entitlements Law in Australia (2nd ed) (co-authored with P Sutherland) (Federation Press, 2008) (manuscript with publisher)

Laying Down the Law (7th ed) LexisNexis Butterworth (co-authored with C Cook, R Geddes, R and D Hamer) (Publishing December 2008) (manuscript with publisher)

Sarah Heathcote

'Est-ce que l'état de nécessité est un principe de droit international coutumier?' *Revue belge de droit international* vol.1/2007, pp. 53-89.

'La nécessité en common law', Th. Christakis & K. Bannelier (eds.), *La nécessité en droit international*, Actes de la Société française pour le droit international (Grenoble 2006), Paris, Pedone, 2007, pp. 95-108.

Susan Harris Rimmer

Transitional Justice and the Women of East Timor. SJD Thesis, ANU College of Law, 2008.

Book chapter

"Beloved Madam: Gender Issues at the Indonesian ad hoc Human Rights Court" Timor-Leste: Issues of Justice and Human Rights. Ed. William Binchy. Clarus Press, Forthcoming 2008.

Research paper

The Dangers of Character Tests, Discussion Paper 101, The Australia Institute, October 2008.

Ann Kent

'The Ozone Layer: China, the United Nations Environment Programme and the World Bank' (in Chinese), *Fudan International Studies Review*, vol 7/2007, pp. 214-236

"Sport and the Law: The Olympics, China and Law", *Alternative Law Journal* Vol 33: 2 June 2008, 111-112.

"Compliance v Cooperation: China and International Law", *Australian International Law Journal* 2006 Vol 13 (published in 2008), 19-32

"Chinese Values and Human Rights" in Damien Kingsbury and Leena Avonius, eds, *Human Rights in Asia: A Reassessment of the Asian Values Debate* (London: Palgrave MacMillan, 2008 forthcoming), Chapter 4.

"China's Thin Veil of Compliance", *Canberra Times*, 25 August 2008

"Playing Games on Chinese", *Canberra Times*, 4 April 2008

Hitoshi Nasu

'Reform of Subclass 457 Visa Scheme: Proposal of Three Models' (2008) 33 *Alternative Law Journal* forthcoming

'Sunscreen Safety: The Precautionary Principle, The Australian Therapeutic Goods Administration and Nanoparticles in Sunscreens' (2008) 2(2) *NanoEthics* forthcoming (co-authored with Tom Faunce et al)

'Three Proposals for Rewarding Novel Health Technologies Benefiting People Living in Poverty. A Comparative Analysis of Prize Funds, Health Impact Funds and a Cost-Effectiveness/Competitive Tender Treaty' (2008) 1(2) *Public Health Ethics* 146-153 (co-authored with Tom Faunce)

'Chapter VII Powers and the Rule of Law: The Jurisdictional Limits' (2007) 26 *Australian Year Book of International Law* 87-117

'The Responsibility to React? Lessons from the Security Council's Response to the Southern Lebanon Crisis of 2006' (2007) 14(3) *International Peacekeeping* 339-352

'Towards a True Incarnation of the Rule of Law in War-Torn Territories: Centring Peacebuilding in the Will of the People' (2007) 54 *Netherlands International Law Review* 81-114 (co-authored with Kristen Daghli)

'Sins of the Mother: Australia, West Papuans, Japan and Visas' (2007) 18 *Public Law Review* 5-9 (co-authored with Kent Anderson).

Yee Fui Ng

'Global Soul, Local Seoul: The Ebb and Flow of Global Copyright' (2007) 12(4) *Media and Arts Law Review*, 477.

Kim Rubenstein

'From this Time Forward ... I Pledge My Loyalty to Australia': Loyalty, Citizenship and Constitutional Law in Australia" recently published in *Loyalties*, Victoria Mason, Richard Nile (eds), Symposia Series, API Network Press. See Australian National University College Of Law, SSRN Series Vol. 2, No. 2: Jun 19, 2008

Loyalty and Membership: Globalization and its Impact on Citizenship, Multiculturalism, and the Australian Community *Political Theory and Australian Multiculturalism*, Geoffrey Braham Levey, ed., Berghahn Books, 2008, ANU College of Law Research Paper No. 08-25

Looking for the 'Heart' of the National Political Community: Regulating Membership in Australia *UTS Law Review*, Vol. 9, 2007, ANU College of Law Research Paper No. 08-33

Paper Series

'From Supranational to Dual to Alien Citizen: Australia's Ambivalent Journey', in S Bronitt and K Rubenstein (eds) *Citizenship in a Post-National World Volume Australia and Europe Compared*, *Law and Policy Paper* 29, The Federation Press (2008)

Amelia Simpson

'The (Limited) Significance of the Individual in s 117 State Residence Discrimination' (2008) 32 *Melbourne University Law Review*, forthcoming.

'Betfair Pty Ltd v Western Australia' (2008) 19 *Public Law Review*, forthcoming.

'The High Court's Conception of Discrimination: Origins, Applications and Implications' (2007) 29 *Sydney Law Review* 263.

James Stellios

'State/Territory Human Rights Legislation in a Federal Judicial System' (2008) 19 *Public Law Review* 52

'Using Federalism to Protect Political Communication: Implications from Federal Representative Government' (2007) 31 *Melbourne University Law Review* 239

Fiona Wheeler

"'Restrained Activism" in the High Court of Australia' in Brice Dickson (ed), *Judicial Activism in Common Law Supreme Courts* (2007) Oxford University Press, Oxford, 19-67 (co-authored with John Williams)

Matthew Zagor

'Civil and Political Rights, Halsbury's Laws of Australia' LexisNexis Butterworths, Vol 80, 2007

Papers, Presentations and Other Activities by Centre Members

June 2007 – September 2008

Don Anton

Yale Law School, Conference on Environmental Democracy and Governance, May 10–11, 2008 (paper: Public Participation in International Environmental Lawmaking)

University of Alberta Faculty of Law, Workshop of the Four Societies of International Law on Democratic Theory and International Law, September 12–13, 2008 (panel moderator)

Cornell Law School, Berger Lecture, September 19, 2008 (paper: Protecting Whales in the Southern Ocean?)

Member, American Bar Association/American Society of International Law Joint Task Force on Treaties in U.S. Law

Michael Coper

Presented at the Australian Government Summer School for Teachers of Australian History, discussed the history and historiography of the High Court, similarities and differences between the roles of lawyers and historians, and the use of history in legal interpretation, Canberra, 18 January 2008. See: <http://aushistoryschool.org/the-idea-of-the-high-court/>

Robin Creyke

Appointed as special advisor to Australian Law Reform Commission for its reference on secrecy, September 2008.

'Soft Law' and Administrative Law: A New Challenge' paper delivered at AIAL National Forum, 8 August 2008.

'Inquisitorial v Adversarial Procedure in Tribunals: Does it Make a Difference to Fair Process?', Monash Campus, Prato, Italy, May 2008.

'Delegations, and other administrative law issues' National Tax Law Conference, Melbourne, April 2008.

Launch of Australian Centre for Military Law and Justice, 8 May 2008, by The Hon Warren Snowdon, Minister for Defence Science and Personnel.

Conducted a 5 day intensive postgraduate course on Administrative Tribunals in Wellington, NZ, for University of Auckland Law Faculty (with Sue Tongue) 25–30 September 2008.

Conducted a 5 day intensive course *Governing by the Rules* (with

John McMillan) for ANZSOG masters program in Sydney in February 2008. The course is for high level policy makers from Australia and New Zealand.

Morag Donaldson

As a researcher also at the Parliamentary library, Morag has prepared the following briefing papers:

Judiciary Amendment Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2007-08/08bd122.pdf>

Commonwealth Securities and Investment Legislation Amendment Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2007-08/08bd129.pdf>

Therapeutic Goods Legislation Amendment (Annual Charges) Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2007-08/08bd151.pdf>

2008–2009:

Financial Framework Legislation Amendment Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd002.pdf>

Offshore Petroleum Amendment (Datum) Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd016.pdf>

First Home Saver Accounts (Further Provisions) Amendment Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd021.pdf>

First Home Saver Account Providers Supervisory Levy Imposition Bill 2008

<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd022.pdf>

Susan Harris Rimmer

'Leading the Way to Better Laws', Advocacy resource on law reform, Cancer Council NSW, forthcoming 2008.

'Borders Erected around Unlimited Right to Detain' opinion editorial, *The Canberra Times* July 2008.

Available at: http://works.bepress.com/susan_harris_rimmer/34

'Green-Collar Jobs: Turn green switch now for a fresh boost of energy' (with Anna Rose). opinion editorial, *Canberra Times*, June 2008.

Available at: http://works.bepress.com/susan_harris_rimmer/33

'A Question of Character', opinion editorial, *The Age* (9 June 2008)

http://works.bepress.com/cgi/viewcontent.cgi?article=1031&context=susan_harris_rimmer

'The Anatomy of a Good Idea from the Sublime to the Subprime', opinion editorial, *Canberra Times*, (April 2008):

http://works.bepress.com/susan_harris_rimmer/31/

'There is much to celebrate but still work to be done', opinion editorial, *Canberra Times* (8 March 2008):
http://works.bepress.com/susan_harris_rimmer/16/

Interview with Damien Carrick, The Law Report, ABC Radio National, Tuesday 24 June 2008. Character Tests. Podcast:
http://www.abc.net.au/cgi-bin/common/player_launch.pl?s=rn/lawreport&t=rn/lawreport/audio&tr=lrt_24062008_2856.ram&tw=lrt_24062008_28M.asx&t=24%20June%202008&p=1

Speeches/presentations

Character as Destiny: The dangers of character tests in Commonwealth law, Weekend of Ideas, Manning Clarke House (29 March 2008)
http://works.bepress.com/cgi/viewcontent.cgi?article=1029&text=susan_harris_rimmer

Presenter – 'climate change refugees'. Australian Public Service Commission, 'Leadership Across Borders' programme, 11 June 2008.

'Leading the way to law reform', Keynote speech to NSW Cancer Council Regional Advocacy Network, April 2008.

Parliamentary submissions

Submission no 10 to Joint Standing Committee on Treaties review of the UN Disability Convention – <http://www.aph.gov.au/house/committee/jsct/4june2008/subs/sub10.pdf> (for Australian Lawyers for Human Rights)

Submission 18 to the Senate Legal and Constitutional Affairs Committee inquiry into Independent Review of Terrorism Laws (No. 2) – http://www.aph.gov.au/Senate/committee/legcon_ctte/terrorism/submissions/sublist.htm (for Australian Lawyers for Human Rights)

Submission No. 85 to the Joint Standing Committee on Migration inquiry into Immigration Detention – <http://www.aph.gov.au/house/committee/mig/detention/subs/sub085.pdf> (for Australian Lawyers for Human Rights)

Collaborative submission No. 60 to the Senate Legal and Constitutional Affairs Review of the Sex Discrimination Act – http://www.aph.gov.au/Senate/committee/legcon_ctte/sex_discrim/submissions/sub60.pdf (participant)

Submission No. 1 to House of Representatives Procedure Committee, Inquiry into the conduct of the business of the House
<http://www.aph.gov.au/house/committee/proc/conductofbusiness/submissions/sub01.pdf> (personal)

Submission to Clarke Inquiry into the case of Dr Mohamed Haneef (for Australia Institute), not yet published.

Submission to the Australian Citizenship Test Review Committee (for Australia Institute), not yet published.

Brad Jessup

Presented at the ANU College of Law's ACEL State of Environmental Assessment conference held on 23 May, (which had a very strong public law flavour) on the Channel Deepening Project and the environmental assessment process in Victoria.

See: <http://law.anu.edu.au/accel/Events.asp>

Ann Kent

'China, Human Rights and the World', ANU Asia-Pacific Media Visits Workshop, 21 August 2008

'International Law', in 'Mapping the Law', ANU College of Law Postgraduate Research Conference 2008, 12-13 June

Leighton McDonald

Presented a paper at the NSW State Legal Conference entitled 'Understanding Judicial Review Remedies' on 27 March 2008.

Simon Rice

In June 2008 Simon Rice made a written submission to the Australian Parliament's Joint Standing Committee on Treaties, in relation to a proposed Treaty between the Australia and the United States concerning Defence Trade Cooperation. Simon's submission was based on research he did for a paper for CIPL's 2007 Workshop: 'Connecting the Public with the International: Law's potential', concerning US export regulations and their interaction with Australia's non-discrimination obligations.

In June 2008 Simon Rice appeared with Canberra barrister Chris Erskine before the ACT Administrative Appeals Tribunal, briefed by the ACT Human Rights Commissioner. The proceedings were a review of the Human Rights Commissioner's refusal to exempt conduct required by US export regulations from the operation of the ACT Discrimination Act.

Heather Roberts

Chair, Panel discussion on 'Workchoices' at the 2007 Public Law Weekend

Joint Chair, AACL Discussion Forum 'Talking Constitution'

Presenter, 2008 ACT Schools Constitutional Convention

Don Rothwell

Presentations

'Crossing Over: Reflections on the Van Nguyen Case' presented at *Outlaws: Postgraduate Research Conference*, ANU College of Law, 7 June 2007

Conference Presentation - 'Commission on the Limits of the Continental Shelf: Past, Present and Future' presented at 15th Annual ANZSIL Conference *Restoring the Rule of Law in International Affairs*, Canberra, 29 June 2007

'The Future of 'Scientific Whaling' under the International Whaling Commission: Options for New Zealand" lecture delivered at Faculty of Law, Victoria University of Wellington, Wellington, New Zealand, 19 July 2007

'Maritime Security: The International Law Perspective' presented at First Workshop of the Trans-Tasman Maritime Security Project; Victoria University of Wellington, Wellington, New Zealand, 20-21 July 2007

'Frequently Asked Questions about the International Criminal Court' International Criminal Court Regional Seminar, Department of Foreign Affairs and Trade, Canberra, 6 August 2007

"The Future of Scientific Whaling under the International Whaling Commission: Options for Australia" presented at Japan's 'Scientific Whaling' Program and the International Whaling Commission, International Law Association (Australian Branch), Sydney, 10 August 2007

Moot Judge

Judge, Final of the ALSA/Australian Red Cross International Humanitarian Law Moot, ACT Supreme Court, 7 July 2007

Media

Andrew Darby "Japan refuses to back down on humpbacks" *The Age* 2 June 2007 p. 2 [discussing the outcomes of the IWC meeting in Anchorage]

Discussing the legal issues arising from the attempt to extradite Tony Mokbel from Greece to Australia (7 June 2007)

- ABC Radio 'The World Today' 7 June 2007 at 12.20pm [discussing the issues arising in the case of the extradition to Australia of Tony Mokbel]
- ABC Radio News – 5.00pm (syndicated nationwide)
- Charisse Ede "Vic: Skase could haunt Mokbel extradition attempts" AAP 7 June 2007
- Norrie Ross and Carly Crawford 'He'll use his girl' *Herald Sun* 7 June 2007 p. 11 [discussing the issues arising in the case of the extradition to Australia Tony Mokbel]

Discussing the legal issues arising from the attempt to extradite Tony Mokbel from Greece to Australia (8 June 2007):

- Fiona Hudson "Extradition may take years" *The Advertiser* 8 June 2007, p. 9
- 'Delaying tactic: Arrested drug lord Mokbel could do a Skase' *Geelong Advertiser* 8 June 2007 p. 8
- Also *The Canberra Times*, *Sunshine Coast Daily*, *Gold Coast Bulletin*, *Cairns Post*
- 3AW (Melbourne) News – 8.00am (syndicated nationwide)
- SBS TV News – 6.42pm
- ABC Channel 2 (Melbourne) – 7.11pm
- Radio 2CC (Canberra) – 4.41pm

'Mokbel extradition faces hurdles' ABC Online 'ABC News Opinion' 12 June 2007 at www.abc.net.au/news/opinion/items/200706/s1948763.htm

Discussing the prospect of Tony Mokbel delaying his return to Australia by challenging his extradition request [13 June 2007]:

- Carolyn Webb "Baby may help fugitive to stay put" *The Age* 13 June 2007 p. 2
- Also reported in AAP Newswire 13 June 2007; *Courier Mail* 14 June 2007, p. 31
- ABC Radio 774 Melbourne 'Drive' at 5.12pm

Ross Peake 'Playing diplomatic games' *The Canberra Times* June 16, 2007 B4 Forum [discussing Australia's recent record of diplomatic disputes and their implications for Australia's standing]

ABC Radio 'The World Today' at 12.50pm discussing Tony Mokbel's bid for asylum in Greece in order to avert his extradition to Australia (21 June 2007):

Mark Buttler 'Legal experts dismiss Mokbel's stalling tactics: Asylum bid doomed' *Herald Sun* 22 June 2007, p. 15 (discussing Tony Mokbel's bid for asylum in Greece in order to avert his extradition to Australia)

ABC Radio 'PM' 22 June 2007 at 5.47pm discussing the decision by Victoria Police to charge Tony Mokbel with a second charge of murder and the issues this will raise with respect to his extradition to Australia:

ABC News Radio 27 June 2007 at 11.50am discussing the extradition request being sought in the case of Dr Patel over the Bundaberg Hospital deaths

ABC TV '7.30 Report' – 3 July 2007 at 7.36pm discussing the detention of a man in Brisbane in relation to the terrorist attacks in London and Glasgow

ABC 774 Melbourne 'Drive with Lindy Burns' 16 July 2007 at 5.35pm discussing the decision of the Federal Government to revoke the visa of Dr Haneef pending the determination of final terrorism charges

Ross Peake 'Haneef: from bail to jail' *Canberra Times* 17 July 2007 at p. 1 [discussing the Federal Government's decision to revoke the visa of Mohamed Haneef pending his trial on terrorism-related charges]

3AW 'Drive' with Derryn Hinch – Thursday, 19 July 2007, discussing the Tony Mokbel extradition case and whether suggestions that he cannot receive a fair trial in Melbourne may be grounds for denying his extradition to Australia

Discussing the proposal of the Commonwealth to exercise its 'external affairs' power to take control over the Murray-Darling River system (24 July 2007):

- ABC TV News – 7.03pm (Canberra and national)
- ABC TV 'Lateline' – 10.33pm
- ABC Radio National 'PM' – 5.17pm

Radio 6PR Perth 'Drive' with Howard Sattler – 24 July 2007 at 4.41pm discussing the findings of the Sydney Legal Panel of Independent International Legal Experts on Japanese 'Scientific' Whaling

Discussing the proposal of the Commonwealth to exercise its 'external affairs' power to take control over the Murray-Darling River system (25 July 2007):

- ABC News Radio – 11.45am
- Clinton Porteous, Lachlan Heywood and Steven Wardill "Last-ditch water try" *The Courier Mail* 25 July 2007 at p. 11
- 2CC Canberra 'The Drive Show' with Mike Welsh – 3.38pm

SBS World News Australia – 25 July 2007 at 7.02pm discussing the Haneef Case and the role of the Australian Federal Police in seeking to work cooperatively with the British authorities in the investigation

Discussing the proposal of the Commonwealth to exercise its 'external affairs' power to take control over the Murray-Darling River system (26 July 2007):

- Michael Madigan "Dirt dished on basin deal" *The Courier Mail* 26 July 2007 at p. 7

ABC Radio 'AM' 27 July 2007 at 7.17 and 8.10am discussing the decision by the Greek courts overnight to order the extradition of Tony Mokbel to Australia and the possible avenues of appeal open to Mokbel through the Greek courts

ABC Radio National 'Breakfast' 16 August 2007 at 7.55am discussing the options available to the members of the Bali Nine if their current appeals before the Indonesian courts fail

Sarah Smiles at al, "India nukes deal, now for Russia" *The Age* 17 August 2007 1 [discussing the negotiations between Australia and Russia for the sale of uranium]

Colin Woodard "Who resolves Arctic oil disputes?" *The Christian Science Monitor* August 20, 2007 at <http://www.csmonitor.com/2007/0820/p01s02-woeu.html> discussing the claims to the Arctic Ocean and options for resolving the overlapping maritime claims

ABC 774 Melbourne 'Drive with Lindy Burns' 21 August 2007 at 5.15pm discussing the decision of the Federal Court of Australia finding that the Minister had no grounds under the Migration Act to revoke Dr Haneef's work visa

Julie-Anne Davis 'Russian Roulette' *The Bulletin* 28 August 2007 19 (discussing the need for safeguards in the Australia-Russia nuclear agreement)

Kim Rubenstein

Presented paper, *The duty to protect in international law* at the International Policing Conference, Monday 19 November 2007

Took place in a panel debate as part of The Devil's Advocate Series: 2007 Federal Election (13 November 2007)

Consultant to the British Institute of International and Comparative Law research project on the *Rights and Responsibilities of Citizenship*.

Presented at the Jessie Street National Women's Library panel discussion on 27 March 2008 together with Marie Coleman, first woman head of a Federal government statutory agency and Foundation member of the National Foundation for Australian Women and Elena Kirschbaum, business owner and events manager

Presented the 2008 Dymphna Clark lecture – http://www.manningclark.org.au/papers/Rubenstein_Kim-Dymphna_Clark_lecture-2008.html

Media around the Lecture included ABC New Radio, interview on 666 ABC Radio and reporting in *The Canberra Times*.

Presented the 2008 Yom Hashoa lecture at the ACT Jewish Community Centre

Participated in the House of Representatives Legal and Constitutional law committee roundtable seminar on 1 May on Constitutional Reform. A report from the Committee is now available at:

<http://www.aph.gov.au/House/committee/laca/constitutionalreform/report.htm>

Presenter – 'climate change refugees', Australian Public Service Commission, 'Leadership Across Borders' programme, 11 June 2008

Speech at the Model United Nations Assembly Dinner at ANU on 16 August on *Rethinking Nationality in International Law* (http://www.d9710.rotary.org.au/CanberraSunrise/news_info/MUNA08_info/ANU%20MUNA%20Conference%20dinner%20speech%2016%20Aug.pdf)

Presenter, ACT Schools Constitutional Convention

Appeared as Amicus Curiae in the High Court in *Wurrildjal v Commonwealth* (the constitutional challenge to the Northern Territory emergency legislation)

Amelia Simpson

Chair, 'The Rule of Law and the Courts', Public Law Weekend, Canberra, 9 November 2007.

Seminar, 'Section 117 and the Individual', ANU College of Law, 3 April 2008.

Presenter, 2008 ACT Schools Constitutional Convention

James Stellios

'State/Territory Human Rights Legislation in a Federal Judicial System', Protecting Human Rights Conference, University of Melbourne, 27 September 2007

Law reform submissions

Submission to Senate Legal and Constitutional Legislation Committee Inquiry into Telecommunications (Interception and Access) Amendment Bill 2007, August 2007 (with Simon Bronitt)

Submission to Minister Brough on constitutional issues regarding the Northern Territory emergency legislation, August 2007 (with Jennifer Clark, Amelia Simpson and Fiona Wheeler)

Presenter, 2008 ACT Schools Constitutional Convention

Fiona Wheeler

Speaker at 'Outlaws: Postgraduate Research Conference 2007', ANU College of Law, 6 June 2007

Speaker, 'Introduction to the Australian Constitution', ACT Schools Constitutional Convention, National Archives, Canberra, 19 September 2007

'Commonwealth Power Over Infrastructure: Constitutional Tools for National Economic Regulation', paper presented to 'Law Making for a Small Federation: National Infrastructure and Regulation Seminar', Constitutional Centre of Western Australia, Perth, 8 December 2007

'The Legal Context of Federalism', paper presented to 'Principles of a Modern Federal Community Conference' (University of Adelaide), Art Gallery of South Australia, Adelaide, 26 May 2008

Speaker at ANU Teaching Forum, 'Issues and Opportunities in First Year Teaching', ANU, 30 June 2008

Media

Interview with John Morrison, ABC Radio NSW Statewide Drive, 14 August 2007 on the High Court

Interview with Cathy Bedford, ABC Radio Vic Statewide Drive, 12 October 2007 on proposed changes to the Preamble to the Constitution

Ernst Willheim

Presented paper 'Australian Military Tribunals: Constitutional and Jurisdictional Issues' to Australasian Legal Conference, 14 August 2008

Submission to Parliamentary Committee Inquiry into the Role of the National Capital Authority, proposing that individual planning approval decisions should be made subject to AAT review - the proposal was subsequently included in the Committee's recommendations

Several ABC and regional radio and print media interviews, including 3 October 2008 ABC radio interview, carried on evening news, concerning application of the s 51 (xxxii) constitutional guarantee of just terms to acquisitions in the ACT and the Northern Territory

Several informal presentations on constitutional and other public law issues to U3A groups

Appeared as Amicus Curiae in the High Court in *Wurridjal v Commonwealth* (the constitutional challenge to the Northern Territory emergency legislation)

Matthew Zagor

30 September 2008, presentation to the International Humanitarian Law Committee of the International Committee of the Red Cross (ACT) on refugee law and its intersections with international humanitarian law

'Legality and Occupation', observations on *Breaking the Silence: Israeli Soldiers Talk about Hebron*, hosted by Australians for Justice and Peace in Palestine, ANU, 24 September 2008

'Judicial Observations on the Rule of Law: The Queen on the Application of Corner House Research & Campaign Against Arms Trade v Director of the Serious Fraud Office' presentation to the Australian Association of Constitutional Law, ANU, 2 July 2008

Submission with Hitoshi Nasu and Simon Rice to the Joint Standing Committee on Migration, Inquiry into immigration detention in Australia, 28 July 2008

'Judicial Rhetoric and Constitutional Identity', paper delivered at the Twelfth Annual Public Law Weekend, Death of the Rule of Law? Canberra, 9 -10 November 2007

'Constructing Environmental Rights' presentation to the Advisory Council of Jurists (ACJ) of the Asia-Pacific Forum of National Human Rights Institutions, Sydney, 24 September 2007

The Advisory Council of Jurists of the Asia-Pacific Forum of National Human Rights Institutions was tasked in 2007 with advising on the convergence between human rights and environmental law. Matthew Zagor was one of

three legal experts invited to make presentations, focusing specifically on public participation, the emerging right to water, and the linkages between indigenous cultural rights and environmental protection. The Council's final Report, released in June 2008, acknowledged the assistance of Matthew Zagor and Don Anton, and called for NHRIs to advocate the adoption and implementation of a specific right to an environment conducive to the realisation of fundamental human rights. See the full report at: http://www.asiapacificforum.net/acj/references/right-to-environment/downloads/environment/final_report_recommendations.doc

Leslie Zines

Participated in the House of Representatives Legal and Constitutional law committee roundtable seminar on 1 May on Constitutional Reform. A report from the Committee is now available at:

<http://www.aph.gov.au/House/committee/laca/constitutionalreform/report.htm>

To view recent newspaper contributions by Centre members, visit CIPL's Expert Opinion section:
<http://law.anu.edu.au/cipl/expertopinion.asp>

CIPL STUDENT INTERNSHIPS

CIPL has continued its association with the ANU Law Internship program by accepting undergraduate law students to work with CIPL. Interns work with members of the Law School on projects of an applied nature, attend CIPL afternoon teas/lunches and meetings and assist with the major conferences CIPL runs. At the end of their internship, students write a 6000 word essay which is marked and goes towards their final degree.

Anhared Price

The opportunity to work with CIPL as an intern under the ANU Law internship programme was a wonderful experience for me. I undertook the internship over the Summer session in 2008, as one of my final courses in my undergraduate Law degree, after having completed my honours thesis in Semester 2, 2007 on the topic of international criminal law.

During the internship, I concentrated on researching the contemporary role and function of amicus curiae in the High Court of Australia. The research formed the basis of a paper on this topic I submitted as part of the internship. This research area allowed me to pursue my interest in constitutional, and comparative law.

At present, I am undertaking an internship with the International Criminal Tribunal for the former Yugoslavia (ICTY), Office of the Prosecutor, Appeals Division, in the Hague. I will finish the internship end of January 2009, and then I am planning on starting a L.L.M degree in Europe.



Anhared Price

Teresa Lawler

Teresa worked as an intern for CIPL during her final semester at the ANU College of Law. The focus of her work was a paper on access to essential medicines in the context of international and public law. The paper investigated how linkages between human rights, international trade law and intellectual property, and the development of global governance norms, might practically address aspects of the current global health crisis. She also assisted with and participated in a workshop on this topic, hosted by CIPL and the Centre for Applied Philosophy and Public Ethics (CAPPE). She is currently helping with the compilation of a book exploring these issues in further detail.

Teresa has now completed bachelors degrees in Law and Asian Studies (majoring in Mandarin and Asian International Relations/Politics), and is working for an international development assistance company in Canberra. She is looking forward to gaining some grass-roots experience later in the year when she works with a local NGO in Cambodia in the field of human rights monitoring and advocacy.



Teresa Lawler

CENTRE STAFF & MEMBERS

Kim Rubenstein, Professor and Director
Tanya Mark, Assistant Manager, College Outreach and Administrative Support Team
Jacqueline Sanderson, Assistant Project Officer
Jennifer Braid, Assistant Editor, Australian Year Book of International Law

Kent Anderson, Professor (Asian Studies)
Don Anton, Senior Lecturer (on leave from July 08)
Peter Bailey, Adjunct Professor
Helen Bermingham, Assistant Lecturer
Kevin Boreham, Lecturer
Simon Bronitt, Professor
Peter Cane, Professor
Hilary Charlesworth, Professor (RegNet)
Jennifer Clarke, Senior Lecturer (on leave from July 2008)
Tony Connolly, Senior Lecturer
Michael Coper, Professor and Dean
Robin Creyke, Professor and Alumni Chair of Administrative Law
Morag Donaldson, Research Associate
Thomas Faunce, Associate Professor
Jeremy Farrall, Research Fellow, (RegNet)
Jean-Pierre Fonteyne, Senior Lecturer
Don Greig, Visiting Fellow and Emeritus Professor
Susan Harris Rimmer, Research Fellow (RegNet)
Sarah Heathcote, Senior Lecturer
Brad Jessup, Teaching Fellow
Judith Jones, Senior Lecturer
Ann Kent, Visiting Fellow
Shae McCrystal, Lecturer (until beginning of 08)
Leighton McDonald, Senior Lecturer
Anne McNaughton, Lecturer
Penelope Mathew, Reader (on leave)
Wayne Morgan, Senior Lecturer
Hitoshi Nasu, Lecturer
Dennis Pearce, Visiting Fellow and Emeritus Professor
James Prest, Lecturer
Gabriele Porretto, Research Associate and Sparke Helmore Lecturer (until beginning of 08)
Simon Rice OAM, Associate Professor
Heather Roberts, Lecturer
Donald R Rothwell, Professor of International Law
Amelia Simpson, Senior Lecturer
James Stellios, Senior Lecturer
Daniel Stewart, Senior Lecturer
Fiona Wheeler, Professor
Ben Wickham, Lecturer (on leave)
Ernst Wilhelm, Visiting Fellow
George Williams, Visiting Fellow
Matthew Zagor, Lecturer
Leslie Zines, Visiting Fellow and Emeritus Professor

For a list including PhD students and ANU academics not formally part of the ANU College of Law who are linked to the Centre please see <http://law.anu.edu.au/cipl/staff.asp>

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