

THE CENTRE FOR INTERNATIONAL & PUBLIC LAW, ANU COLLEGE  
OF LAW AND CENTRE FOR INTERNATIONAL GOVERNANCE AND  
JUSTICE, REGNET, THE AUSTRALIAN NATIONAL UNIVERSITY  
PRESENT:



## PUBLIC LECTURE

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

Professor Larry May  
Washington University



Thursday 13 November 2008, 1pm (sandwiches from 12.45pm)  
Phillipa Weeks Staff Library  
ANU College of Law (Bldg 5), Fellows Rd, ANU

Please RSVP (by cob 10 November) to E: [rsvp@law.anu.edu.au](mailto:rsvp@law.anu.edu.au)  
Enquiries to T: (02) 6125 0454. This event is free and open to the public.

### THE LECTURE

*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.

### THE LECTURER

Larry May is Professor of Philosophy at Washington University in St Louis and Research Professor of Social Justice at the Centre for Applied Philosophy and Public Ethics, here in Canberra. He has a BS in international affairs, MA and PhD degrees in philosophy, and a JD in law. He has published over 20 books, including three books on the normative foundations of international criminal law. The first volume, *Crimes Against Humanity: A Normative Account*, received the best book award from the North American Society for Social Philosophy, and honourable mention from the American Society of International Law. The second volume, *War Crimes and Just War*, received best book award on the philosophy of war and peace from the American Philosophical Association. The third volume, *Aggression and Crimes Against Peace* has just been published by Cambridge. Professor May also has a book on genocide in press and has just started a new project on procedural rights and global justice. In addition to his scholarly work, he occasionally handles pro-bono criminal appeals of murder convictions in the United States.

The views expressed in this seminar are those of the presenter and do not necessarily represent the views of The Australian National University