

# CONNECTING INTERNATIONAL AND PUBLIC LAW

## Thursday 13<sup>th</sup> – Saturday 15<sup>th</sup> August 2009

### **Environmental Discourses in International and Public Law**

#### *Background*

The Centre for International and Public Law (CIPL) was established by ANU in 1990 under the formal title "Centre for Advanced Legal Studies in International and Public Law". Its mission is to advance international and public law, focussing on the relationship between governments, and between governments and their citizens, from both a domestic and international perspective.

Setting up a Centre linking public law and international law proved a stroke of great prescience. As the 1995 five year review report stated "the most remarkable developments of the past decade or so (which in 2008 now represents almost two decades) have been the "internationalisation" and "globalisation" of different dimensions of Australian society, the Australian economy and the Australian legal system." The review stated that the Centre had sought to respond to these inexorable trends by adopting a "genuinely integrated approach to its work in various fields of both public and international law."

#### *Workshops/Books Series*

CIPL initiated a series of workshops bringing public and international lawyers and public and international policy makers together for interdisciplinary discussion on selected topics and themes, extending CIPL's unique project emphasising the links between international and public law. A book series from the workshops, jointly edited by Professor Kim Rubenstein and Professor Thomas Pogge is an outcome of this initiative, published by *Cambridge University Press*.

The first workshop in July 2007 looked at the complexities of accountability and governance in a globalised world, using sanctions as a framework into the issues. The papers from that workshop are in press for the first book in the series edited by Kim Rubenstein and Jeremy Farrall, *Sanctions Accountability and Governance in a Globalised World*.

In the second workshop in May 2008 CIPL joined with Professor Thomas Pogge and CAPPE (the Centre for Applied Philosophy and Public Ethics) at ANU, to examine global health and access to essential medicines. The papers from this workshop are being prepared for the second book in the series, edited by Kim Rubenstein, Thomas Pogge and Matthew Rimmer, *Incentives for Global Health: Patent Law and Access to Essential Medicines*.

The third workshop will be held in August 2009 and CIPL is delighted to be joining with the Australian Centre for Environmental Law (ACEL) from the ANU College of Law to examine the topic of *Environmental discourses in international and public law*. ACEL was established in

1991 to create a critical mass of environmental law and policy expertise. Since its inception, ACEL has established itself as the leading centre for environmental law and policy teaching and research in Australia.

*Process*

At each of the workshops participants address specific questions and issues regarding the theme so as to better develop each other's understandings and knowledge about public and international law and policy and the links between the disciplines as they intersect with the chosen subject.

Each participant prepares a **draft** paper for debate and discussion during the workshop. Each paper is allocated an hour. Twenty minutes is for presentation and 40 minutes for discussion.

At the end of the workshop participants, with the benefit of discussion, finalise their papers for a refereed book that will become part of the CUP book series *Connecting International and Public law*

**Topic for 2009**

*Environmental Discourses In International and Public Law*

This third workshop focuses on environmental discourses within law and policy at the domestic and international levels. The intention of the workshop is to explore how dominant environmental thought and action, often drawn from non-legal disciplines, has been placed within public and international law. The workshop will bring public lawyers and international lawyers together with academics from related disciplines to the table to learn and draw from each other in the resolution of some of the crucial issues underpinning this area.

Discourses to be addressed:

**DRAFT PROGRAM:**

**Venue: National Europe Centre, Australian National University, Canberra**

**Thursday 13 August 2009**

|   |  |                            |
|---|--|----------------------------|
| 9.30  | Arrival, tea and coffee  |                            |
| 10.00   | Welcome  | Kim Rubenstein             |
| <b>Theme: Discourses in environmental decisions</b> |  |                            |
| 10.10   | Perspectives on Discourse in International Environmental Law: Expert Knowledge and Challenges to Deliberative Democracy  | Jaye Ellis, McGill         |
| 10.30   | Emotions: Do they matter in EU regulation of GMO agriculture?  | Bettina Lange, Oxford      |
| 10.50   | From 'electricity too cheap to meter' to a 'green, low-carbon technology?': Examining 'nuclear narratives' and their relationship to UK energy policy and legislation, 1950-2009 | Elizabeth Rough, Cambridge |

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|--|---|---|
| 11.10  | Morning tea   |   |
| 11.30  | Theme discussion  |   |
| 1.00pm   | Lunch   |   |
| <b>Theme: Environmental theories as discourses</b> |   |   |
| 1.50   | Intergenerational Equity, Environment Discourse and International Law - Time for Fresh Approaches   | Peter Lawrence, University of Tasmania                |
| 2.10   | Exploring the Significance of Good International Citizenship Discourse for Australia's Engagement with International and Domestic Environmental Law | Owen Cordes-Holland, ANU                              |
| 2.30   | Theme discussion  |   |
| 3.30   | Afternoon tea   |   |
| 3.50   | The journey of environmental justice through public and international law   | Brad Jessup, ANU                                      |
| 4.10   | A statutory duty of care: Competing expectations and political disappointment?  | Mark Shepheard/Paul Martin, University of New England |
| 4.30-5.30  | Theme discussion  |   |
| 7.30   | Dinner  |   |

**Friday 14 August 2009**

|  |   |  |
|--|---|--|
| 8.30   | Tea and coffee  |  |
| <b>Theme: Environmental discourses in institutions</b>                     |   |  |
| 9.00   | The Use of Environmental Principles by International Courts and Tribunals: Lessons from Discourse Theory  | Tim Stephens, University of Sydney                 |
| 9.20   | One World, One Nature, One Health and One Stratosphere: What Role Can ASEAN Play in Shaping Ecological Sustainability?                                | Khieng Lian Koh, National University of Singapore  |
| 9.40   | Autonomous legal systems in public international law and the European experience of mixed environmental agreements                                    | Simon Marsden, The Chinese University of Hong Kong |
| 10.00  | Theme discussion  |  |
| 11.30  | Morning tea   |  |
| <b>Theme: Economic and property discourses in environmental regulation</b> |   |  |
| 12.00  | Climate Change: Exploring the Intersection of Public International Law and the Reflexivity of Modern Environmental Law                                | Lee Godden, University of Melbourne                |
| 12.20  | Legal and Cultural Discourses of Property in Environmental Regulation   | Nicole Graham, University of Technology Sydney     |
| 12.40  | Theme discussion  |  |
| 1.40   | Lunch   |  |
| <b>Theme: Market discourses in climate law</b>                             |   |  |
| 2.40   | Economic Rationalism, Legal Incrementalism and Environmental Survival: Discourses in Recent Debates over Australian climate and energy law and policy | James Prest, ANU                                   |
| 3.00   | A Deepening Market Liberalism? The Asia-Pacific Partnership and Discursive Contestation over the future of the post-2012 Climate Regime               | Jeff McGee, University of Newcastle                |
| 3.20   | Ending the honeymoon: deconstructing emissions trading discourses   | Sanja Bogojenic, Oxford                            |
| 3.40   | Afternoon tea   |  |
| 4.00-5.30  | Theme discussion  |  |
| 7.30   | Dinner  |  |

**Saturday 15 August 2009**

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|---|--|--|
| 8.30  | Tea and coffee   |  |
| <b>Theme: Environmental discourses in the commons</b> |  |  |
| 9.00  | Environmental security in the polar regions  | Don Rothwell, ANU  |
| 9.20  | Environmental Principles and the Discourse of Change in Public and International Law                       | Afshin A-Khavari, Griffith University                    |
| 9.40  | Environmental discourses in the ocean commons: precaution and climate change                               | Julia Mayo-Ramsay, University of Tasmania                |
| 10.00   | Theme discussion   |  |
| 11.30   | Morning tea  |  |
| <b>Theme: Discourses in conservation</b>              |  |  |
| 12.00   | Trade, Environment & Animal Welfare: Conditioning Trade in Goods & Services on Conduct in Another Country? | Laura Neilsen, Copenhagen University/Peter Morrison, WTO |
| 12.20   | The Conservation of Heritage as a Human Right  | Stefan Gruber/Ben Boer, University of Sydney             |
| 12.40   | Promises of protection in endangered species discourse: the Wielangta case                                 | Tom Baxter, University of Tasmania                       |
| 1.00  | Lunch  |  |
| 2.00  | Theme discussion   |  |
| 3.30-3.45   | Close and discussion of future project stages  | Kim Rubenstein   |

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\*The IARU universities are the ANU, ETH Zürich, National University of Singapore, Peking University, University of California, Berkeley, University of Cambridge, University of Copenhagen, University of Oxford, University of Tokyo and Yale University.