



CENTRE FOR INTERNATIONAL AND PUBLIC LAW
FACULTY OF LAW



THE AUSTRALIAN NATIONAL UNIVERSITY

Newsletter

Issue No. 1 of 1999

edited by Cathy Hutton

October 1999

Director's foreword

Welcome to the first Newsletter of the Centre for International and Public Law (CIPL) in the Faculty of Law at the Australian National University.

Staff and Members of the Centre are involved in academic research on a great range of issues in international and public law. The Centre also aims to provide opportunities for public discussion of such issues, through its publications and through organising seminars and conferences. The aim of this Newsletter is to broaden knowledge of the Centre's activities and to encourage participation in them.

Publication will be quarterly and we welcome contributions from friends of the Centre, particularly advice on forthcoming events. Many thanks to the Centre's Administrator, Cathy Hutton, for producing this inaugural edition, and to our Publications Officer, Jenny Braid, for her valued technical assistance.

Hilary Charlesworth

Recent arrivals in the Centre

Having recently been working as a consultant with the Legal Department of the World Bank, **Peter Barcroft** is lecturing, this semester, in International Trade Law and International Organizations. He holds law degrees from Trinity College, Dublin and Georgetown University. His third year of law school was spent at the University of Salamanca in Spain. His publications are in the fields of international trade and finance, human rights and refugee and asylum law. During his time affiliated with the Centre, he has attended and spoken at the ANZSIL annual Conference in Wellington in July and attended several other events organized by CIPL.

Fabio Spadi, PhD student from the Scuola Superiore S. Anna, Pisa, arrived in July and will spend six months completing his thesis. His PhD topic, "The People's Republic of China and International Economic Law", brought him to CIPL and the Faculty of Law, which is currently undertaking a research project on China's accession process to the World Trade Organization. His other academic interests focus on the international and comparative regulatory framework for marine protected areas and territorial disputes. Consigli e suggerimenti sono sempre ben accetti!

Vanessa Munro, a second-year research student from the University of Glasgow, has joined the ANU team for a brief four-month research visit. Her research interests centre primarily on issues of feminist legal theory, focussing on the treatment of consent in adjudication. Her choice to come to the ANU was framed by the range of acknowledged feminist and legal theory to emanate from the confines of the ANU, most particularly the role of Hilary Charlesworth and Tom Campbell.

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Congratulations

John Seymour has been appointed as a Legal Member of the Social Security Appeals Tribunal.

Annemarie Devereux has been awarded a Churchill Fellowship and will visit the US, Canada and South Africa to study the workings of national non-government human rights organisations.

Two CIPL members received their doctorates at the Conferring of Degrees Ceremony on 1 October. **Ian Holloway's** thesis is on "Natural Justice and the High Court of Australia: A Study in Common Law Constitutionalism". The title of **Fiona Wheeler's** thesis is "The Separation of Federal Judicial Power: A Purposive Analysis".

Ian Holloway has been awarded a Vice-Chancellor's Award for Excellence in Teaching.

Kate Booth, recent graduate and research assistant in the Centre, has been appointed as Associate to Justice Deirdre O'Connor of the Federal Court and President of the AAT.

Annual Reports

The **Annual Reports for 1997 and 1998** were completed in August and presented to the ANU Council in September, following their presentation in draft form to the Centre's Advisory Board in April. Copies are available from the Centre and the 1998 Report will also shortly be available through the Centre's webpage (see back page for details).

Forthcoming events

Public Law Weekend:
5-6 November 1999

This annual conference deals in alternate years with administrative or constitutional law. This is the fourth Public Law Weekend and the second dealing with constitutional law. The convenors are **Adrienne Stone** and **George Williams**.

The theme of Friday 5 November is *Recent Developments in Chapter III of the Constitution*, and the Saturday Update will cover recent cases and the work of the High Court and constitutional law generally over 1998-1999. Conference speakers and commentators include Professor **Tony Blackshield**, **Henry Burmester QC**, **Linda Kirk**, **Melissa Perry**, **Dennis Rose QC**, **Brad Selway QC**, **Anne Twomey** and Professor **Leslie Zines**.

Australian & New Zealand Society of
International Law / American Society
of International Law
joint conference: June 2000

This historic joint conference of the Australian and New Zealand Society of International Law (ANZSIL) and the American Society of International Law (ASIL), *International Legal Challenges for the 21st Century*, will take place in Sydney on 26 June and in Canberra on 28-29 June. The convenors are **Hilary Charlesworth** (ANZSIL) and **Susan Karamanian** (ASIL). Conference participants will include:

- ❖ Professor Edith Brown Weiss (Georgetown)
- ❖ Professor Thomas Franck (New York University)
- ❖ Professor Michael Reisman (Yale)
- ❖ Professor Ivan Shearer (University of Sydney)
- ❖ Judge Diane Wood (US Federal Court of Appeals)

Both these conferences are open to the public and further details are available from the Centre. (See back page for details.)

Visiting Fellows

Dennis Pearce

Emeritus Professor Dennis Pearce wears many hats. He reports on some of his recent activities:

- *Chairman, Australian Press Council.* The Council is reviewing all aspects of its activities, including membership terms and qualifications, procedures for dealing with complaints and its role in relation to general issues pertaining to the Press. The Council hosted the World Association of Press Councils first Oceania Regional Conference in June. I chaired the Conference and gave a paper on the reporting of conflict. While it is often denigrated as a toothless tiger, the fact that some newspapers have sought to leave the Council after adverse findings indicates that its effect is stronger than often thought.
- *Chair, Copyright Law Review Committee.* The Committee was reestablished by the Attorney-General in April. It has had referred to it for inquiry and report the jurisdiction and procedures of the Copyright Tribunal. The Committee has engaged in extensive consultation with interested parties and will report in April next year.
- *Chair, ACT Cricket Association Independent Tribunal.* The Tribunal hears appeals against decisions of the Association's Discipline Committee. This year, for a change, we dealt with appeals by two offending Clubs rather than misbehaving cricketers.
- *Member, Copyright Tribunal.* One application was heard this year. It concerned the licence fees payable to copyright owners by commercial broadcasting stations for playing music. Judgment was delivered on 16 September.
- *Member, Executive, Australian Institute of Administrative Law.* My principal contribution was to organise and chair the adjudication panel for the AIAL Administrative Law Prize.

Tom Sherman

In August I went to South Africa for three weeks to advise the newly established office of the National Director of Public Prosecutions on strategic management issues and

to assist the office's asset forfeiture unit on legal and operational matters. The work was on behalf of the United Nations Office for Drug Control and Crime Prevention in Vienna. The crime problems facing South Africa are well known and the new organisation is seen as being very important for South Africa's efforts to counteract crime.

By Australian standards the new organisation is very large. It has absorbed all provincial prosecutors and currently consists of about 1700 prosecutors plus support staff in over 400 offices. It would be equivalent to combining all DPP offices in Australia, federal, State and Territory, into one organisation.

The new organisation's establishment is, unlike Australia's, provided for in quite a detailed way in South Africa's Constitution. Another distinguishing feature is that its enabling legislation provides for the establishment of Investigating Directorates with compulsive powers to examine witnesses and call for the production of documents. In other words the National DPP has both prosecutorial and investigative functions.



Visitors to the Centre

Anne Lawson, consultant to the Lawyers' Committee for Human Rights (USA) met with Hilary Charlesworth and Robert McCorquodale in July to discuss Australia's experience in implementing human rights treaties. The Lawyers' Committee is preparing a major report on the best way for the United States to implement its international obligations.

Professor Andrew Linklater from the Keele European Research Centre (UK), soon to be Woodrow Wilson Professor of International Relations at the University of Wales at Aberystwyth, visited the Centre in August to discuss recent developments in international relations and international law.

Centre publications

Law and Policy Papers

This is a regular series of papers published by the Centre that contribute to public understanding and discussion on issues of law and public policy, especially those that are the subject of contemporary public debate. The Centre published ten papers in this series between 1994 and 1998. From 1999, three papers will be published each year, — one on administrative law, one on constitutional law, and one on international law — written by experts in academia, government, the judiciary and the private legal profession.

From 1999, the Law and Policy Papers will be co-published with the Federation Press. We hope that this will enable wider distribution of the papers. The three papers to be published in 1999 are:

- **Aspects of Judicial Review**
Law and Policy Paper No. 11

The Hon. Justice J R F Lehane

(The Sir Richard Blackburn Lecture of the Law Society of the ACT, presented 18 May 1999.)

A survey of the operations of the federal system of administrative law with special emphasis on issues relating to standing, judicial review and grounds of review under the Migration Act 1958 (Cth)

- **National Implementation: The Cutting Edge of International Human Rights Law**
Law and Policy Paper No. 12

The Hon. Elizabeth Evatt AC

(The Geoffrey Sawer Lecture, presented 1 September 1999)

A leading UN human rights expert discusses the problems and potential of national implementation of international human rights standards, particularly in the Australian context

- **The Common Law in Australia: Its Nature and Constitutional Significance**
Law and Policy Paper No. 13

Emeritus Professor Leslie Zines

One of Australia's most respected constitutional lawyers examines the development of an Australian common law and its complex relationship with the Australian Constitution.

To obtain copies of the **Law and Policy Papers**, please

contact:

Federation Press

telephone: 02 9552 2200

facsimile: 02 9552 1681

email: sales@fedpress.aust.com



Australian Year Book of International Law

Editors:

Professors Don Greig and Hilary Charlesworth

Volume 18 (1997)

Distributor: Bibliotech, ANUTech, GPO Box 4 Canberra ACT 2601
email: books@bibliotech.com.au — \$180.

Articles:

Rethinking Universals: Opening Transformative Possibilities in International Human Rights Law
Dianne Otto

Uti Possidetis. Quo Vadis?
Tomáš Bartoš

The Defence of State Immunity for Acts of Torture
Richard Garnett

Native Title from the Perspective of International Standards
Sarah Pritchard

Professor AH Charteris and the Study of International Law in Australia
Douglas Hassall

Volume 19 (1998)

Forthcoming December, 1999

Distributor: Bibliotech, ANUTech, GPO Box 4 Canberra ACT 2601
email: books@bibliotech.com.au — \$180.

Articles will include:

The Use of Multiple Boundaries in Maritime Boundary Delimitation: Law and Practice
Stuart Kaye

Beyond 'Compliance': Reconceiving the International Law-Foreign Policy Dynamic
Shirley Scott

Embodying Internationalism: the Making of International Lawyers
Anne Orford

Legal Research in Australia and New Zealand

Academic editors: Professors Peter Cane and
Hilary Charlesworth, and Dr Fiona Wheeler



Michael Coper and Daryl Williams

LRANZ provides information about the latest developments in legal research in Australia and New Zealand, including recent books, articles and conference papers, major research projects in progress, forthcoming conferences, seminars and workshops, LLM and PhD theses completed or soon to be submitted, forthcoming books, articles and conference papers, and miscellaneous information such as new courses, staff movements, scholarships, grants and internet sites.

In 1999 **LRANZ** went **online**. Please visit the web site www.butterworths.com.au and [click](#) on the [LRANZ](#) [button](#)



Conferences, workshops and lectures organised by the Centre

Workshops on 'Using International Human Rights Law'

Earlier this year **Annemarie Devereux** convened three one-day workshops in Brisbane, Canberra and Sydney to enable lawyers and policy officers working in or for the community sector to develop and refine their skills in using international human rights law in their work.

Evening Lecture

The Centre co-hosted with the Faculty an evening lecture given by the Attorney-General **The Hon. Daryl Williams** AM QC MP on 29 June entitled **The Republic Referendum: Explaining the Government's Legislation**. The speech is on the web at <http://law.anu.edu.au/centres> [click](#) on [Conferences, Lectures and Other Events](#) then [click](#) on [The Republic Referendum: Explaining the Government's Legislation](#).

Australian & New Zealand Society of International Law

Seventh Annual Conference

ANZSIL's annual conference was held in July this year at the Law School at the Victoria University in Wellington, a joint venture with the New Zealand branch of the International Law Association. It was a great success, full of intellectual stimulation and enjoyable social events. ANZSIL owes a great deal to **Ben Keith** (Secretary) and **Bill Mansfield** (President) of the New Zealand ILA for all their hard work.

The conference featured presentations by the New Zealand Minister for Foreign Affairs, **Don MacKinnon**, and its Minister for the Environment, **Simon Upton**. Overseas speakers included: **Michael Byers** (Duke), **Alberto Costi** (Budapest) and **Kriangsak Kittichaisaree** (Thai Ministry for Foreign Affairs). A highlight was a vigorous debate over NATO action in Kosovo. The excellent conference dinner was enlivened by a speech by ANZSIL Vice President, **Sir Kenneth Keith**. Other social events included a reception by New Zealand's Governor-General, **Sir Michael Hardie Boys**.



Hilary Charlesworth and Peter Barcroft
at the ANZSIL Conference at Wellington
New Zealand in July

Commercial Law and Human Rights Conference

On 24 & 25 September the Centre co-sponsored with the **Centre for Commercial Law** a very successful two-day conference dealing with questions such as whether economic development is compatible with the recognition of human rights, the proper role of commercial law with regard to human rights, whether human rights concerns should influence commercial law practice and what consequences for business follow from observing human rights.

Speakers included **Sir Anthony Mason** AC, KBE; **Kate Gilmore**, National Director Amnesty International; **Susan Halliday**, Sex Discrimination Commissioner HREOC; Dr **Christine Parker**, UNSW; **Kate Eastman**, Barrister; and CIPL members **Robert McCorquodale**, **John McMillan** and **Philippa Weeks**.

Congratulations to **Stephen Bottomley** and **David Kinley**, the main organisers of the event. The papers are to be published by the Centre for Commercial Law.



Elizabeth Evatt and Nancy Sawyer at the Geoffrey Sawyer Lecture on 1 September

The Geoffrey Sawyer Lecture

National Implementation: The Cutting Edge of International Human Rights Law

The second Geoffrey Sawyer Lecture was held on 1 September and was given by **The Hon. Elizabeth Evatt** AC, member of the United Nations Human Rights Committee and former President of the Australian Law Reform Commission. Approximately 140 people, including Professor Sawyer's widow, Nancy Sawyer, attended. Ms Evatt was introduced by the ANU Vice-Chancellor Professor Deane Terrell.

In her lecture, Ms Evatt made a strong plea for a greater commitment by Australia to implementation of its international human rights treaty obligations. She drew attention to the fact that Australia had been willing recently to take Japan to an international tribunal over blue fin tuna stocks, but had never taken parallel steps with respect to human rights issues. A lively question period followed.



Discussion Group Seminars

The Centre organises regular evening seminars for those with interests in both public and international law.

Members of the **International Law Discussion Group** (ILDG) have attended the following seminars so far this year:

- ❖ **Problems in Multilateral Treaty Making:** Sir Franklin Berman, Legal Adviser, British Foreign and Commonwealth Office (9 March)
 - ❖ **New Directions in the Control of Marine Pollution:** Dr Rosalie Balkin, Director, Legal Affairs and External Relations Division, International Maritime Organisation (23 March)
 - ❖ **International Criminal Law and the Protection of Children** (5 May)
 - ❖ **Policing Australia's Offshore Zones:** Commander Robin Warner and Associate Professor Anthony Bergin, Australian Defence Force Academy (25 May)
- The next seminar will be held on 14 October**
- ❖ **East Timor: Legal Aspects of the UNAMET and INTERFET Deployments** with speaker Lt Col Mike Kelly, Department of Defence (*with The International Law Association (Australian Branch)*)



Those wishing to join the **ILDG** to receive information about future International Law seminars are invited to contact the Centre.



Dennis Richardson with Pam O'Neil

Members of the **Public Law and Public Administration Discussion Group** (PLDG) attended the following seminars this year:

- ❖ **Proposals for a Federal Magistracy:** Mr Tony Blunn AO, Secretary, Attorney-General's Department (25 February)
- ❖ **Impressions of an Ombudsman:** Mr Ron McLeod, Commonwealth Ombudsman (21 April)
- ❖ **The ASIO Act Amendments:** Mr Dennis Richardson, Director-General of Security (13 July)
- ❖ **Competition for government legal services — what does it mean for AGS?:** Ms Rayne de Gruchy, Chief Executive Officer, Australian Government Solicitor (31 August)



Macarthur Foundation Grant for Centre

The **John D. & Catherine T. Macarthur Foundation** has granted a research and writing award valued at \$US97,000 to the Centre's Director, **Hilary Charlesworth** and Professor **Christine Chinkin** of the London School of Economics. Forty awards were made in the world-wide competition out of 560 applications. The theme of this year's grant round was "Global Security and Sustainability". The Centre's project is entitled "Feminist Analysis of International Dispute Resolution".

Recent Publications by Staff and Members of the Centre

Hilary Charlesworth

- ❖ "Feminist Methods in International Law", (1999) 93 *American Journal of International Law*, p 379.
- ❖ "General Introduction" in K Askin & D Koenig (eds) *Women and International Human Rights Law*, Transnational Publishers, 1999, pp xix-xxiii.
- ❖ "The Challenges of Human Rights Law for Religious Traditions" in M Janis & C Evans (eds) *Religion in International Law*, Martinus Nijhoff, The Hague, 1999, pp 401-416.

Dennis Pearce

- ❖ *Delegated Legislation* (2nd ed) (with Stephen Argument).
- ❖ "General Elections and the Media", *Australian Press Council News*, vol 11.
- ❖ "The Importance of being Legislative", 21 *AIAL Forum* 26.

Ernst Willheim

- ❖ "Legal issues in Implementation of the Reeves Report", in JC Altman, F Morphy and T Rowse (eds) *Land Rights at Risk? Evaluations of the Reeves Report*, Centre for Aboriginal Economic Policy Research, ANU, 1999.
- ❖ "The Reeves Report and Acquisition Issues", (1999) 4 (20) *Indigenous Law Bulletin*, p 11.
- ❖ "The Reeves Report and Australia's International Human Rights Obligations", (1999) *Indigenous Law Bulletin*, forthcoming December.



About the Centre

1999 Staff and Members of the Centre

Staff

Hilary Charlesworth, *Professor and Director*

Cathy Hutton, *Administrator*

Jenny Braid, *Publications*

Academic Members: Public Law

Peter Bailey, *Adjunct Professor*

Peter Bayne, *Reader*

Jennifer Clarke, *Lecturer*

Michael Coper, *Professor and Dean*

Robin Creyke, *Reader*

Ian Holloway, *Senior Lecturer*

Judy Jones, *Lecturer*

John McMillan, *Reader*

John Seymour, *Adjunct Professor*

Adrienne Stone, *Lecturer*

Fiona Wheeler, *Senior Lecturer*

George Williams, *Senior Lecturer*

Philippa Weeks, *Reader*

Academic Members: International Law

Peter Barcroft, *Lecturer*

Deborah Cass, *Senior Lecturer (on leave)*

Annemarie Devereux, *Visiting Lecturer & PhD Candidate*

J-P Fonteyne, *Senior Lecturer*

Don Greig, *Robert Garran Professor (on leave)*

Robert McCorquodale, *Reader*

Gerry Simpson, *Senior Lecturer (on leave)*

Visiting Fellows

Pam O'Neil

Dennis Pearce, *Emeritus Professor*

Tom Sherman

Ernst Willheim

Visiting Postgraduate Students

Vanessa Munro (*University of Glasgow*)

Fabio Spadi (*Scuola Superiore S. Anna. Pisa*)

Research Assistants

Kate Booth

Belinda Hollway

Esther James

Dara McDaniel

Georgia Price

Mary Wood

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Professor Don Greig, Faculty of Law, ANU (on leave from September 1999)

The Hon. Justice Susan Kenny, Federal Court of Australia

The Hon. Justice Michael Kirby AC, CMG, High Court of Australia

Mr Miles Kupa, Deputy Secretary, Department of Foreign Affairs and Trade

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