EDITORS’ WELCOME

Welcome to the fourth edition of Ad Hoc, the biannual online newsletter of the Melbourne Journal of International Law.

We are delighted to announce the imminent release of volume 8(2), a symposium edition celebrating the 10th anniversary of the establishment of the Australian Red Cross Chair of International Humanitarian Law at the Melbourne Law School.

The symposium includes nine ‘think pieces’ designed to encourage discussion and debate on present challenges and future developments in international humanitarian law. The think pieces are complemented by a collection of case notes, commentaries and book reviews dedicated to international humanitarian law. Contributors to the symposium have focused on four broad themes: before war, events that occur during war, the aftermath of war, and law’s response to war.

Further contributions to this edition include a feature from Professor B S Chimni examining how contemporary international law continues to alienate the ‘Other’, the third world subaltern. The ‘Other’ continues to be explored in a review of International Law and its Others, edited by Anne Orford.

Volume 8(2) concludes with a comment by Professor Gregor Noll, which was written in response to the publication of Professor James C Hathaway’s ‘Why Refugee Law Still Matters’ in volume 8(1) of the Journal.

To celebrate this edition, MJIL will be holding a special launch on the evening of Monday 26 November 2007 at The University of Melbourne.

Our November edition of Ad Hoc begins with a feature on the Annual Cocktail Party, which included an address by The Rt Hon Malcolm Fraser AC CH. We reflect on the Sir Kenneth Bailey Memorial Lecture given by Professor B S Chimni, and the Distinguished Alumnus Public Lecture delivered by Dr Samuel Pisar AO. Jürgen Kurtz reports on the Distinguished Visitor Program Public Lecture, which featured Professor Robert Howse.

Professor Michael Crommelin steps down as Dean of the Melbourne Law School at the end of this year. In recognition of his leadership and many achievements, Gavan Griffith QC shares his thoughts on Professor Crommelin’s role in developing the Melbourne Law School’s reputation as a leading faculty of international law in the Asia-Pacific region.

We hope you enjoy this edition of Ad Hoc.

Bronwyn Reddan, Natasha Sung and Rob Walker
2007 Editors

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MALCOLM FRASER DELIVERS KEYNOTE ADDRESS
AT ANNUAL COCKTAIL PARTY

The annual MJIL Cocktail Party is the highlight of MJIL’s social calendar. This event is an opportunity for the Editors to formally acknowledge the contributions of our Advisory and Honorary Advisory Boards, authors, sponsors and of course, our Editorial Committee of some 67 law students.

The 2007 MJIL Cocktail Party was held on Wednesday 15 August at The Willows. Distinguished attendees included Professor Michael Crommelin, the Dean of the Melbourne Law School, and Mr Dale Cleaver, Director of Operations for the Australian Red Cross. MJIL was delighted to welcome The Rt Hon Malcolm Fraser AC CH as the keynote speaker for the evening.

Mr Fraser's address on the rule of law drew upon his own experiences in Parliament, including the nearly eight years that he served as Prime Minister of Australia. He discussed the fragility of the rule of law in Australia today as well as the importance of adherence to due process in preserving freedoms often taken for granted in Western democracies.

The three Editors, Bronwyn Reddan, Natasha Sung and Rob Walker, also addressed the guests, providing an overview of MJIL's achievements in 2007. The formal proceedings were concluded with the presentation of the bound copies of volume 7 to the 2006 Editors.

Clockwise from above: Rob Walker, Bronwyn Reddan and Natasha Sung with Mr Malcolm Fraser; MJIL Committee and past Editors; Jeff Holowaychuk, Michael Power and James Barton.
‘THIRD WORLD APPROACHES TO INTERNATIONAL LAW: PAST, PRESENT AND FUTURE’

Professor B S Chimni presents the Sir Kenneth Bailey Memorial Lecture at the Melbourne Law School

On 6 June 2007, Professor B S Chimni delivered the Sir Kenneth Bailey Memorial Lecture at the Melbourne Law School. Professor Chimni is a Professor of International Law at the School of International Studies, Jawaharlal Nehru University, New Delhi. He is an internationally renowned scholar and a key figure in the Third World Approaches to International Law (‘TWAIL’) network of scholars.

Professor Chimni’s address employed a critical third world approach to reflect on the past, present and future of international law. This approach attempts to give meaning to international law in light of the experiences of people in the third world, with the goal of transforming international law into a law of emancipation.

Professor Chimni’s analysis of the link between international law and colonialism drew on the past to provide an insight into the present and future of international law. His critique began by exposing the past marginalisation of the Other during the colonial encounter. Professor Chimni then used the example of the present inability of international law to address the global alienation, commodification and objectification of humanity as an illustration of the divided self of international law.

He concluded by reflecting on the role of international lawyers in creating a just world order, proposing a four step process to ensure that international law is no longer used as a tool of imperialism and alienation of third world peoples.

The MJIL Editors are delighted to announce that the text of Professor Chimni’s speech will be published as a feature in volume 8(2).

Professor B S Chimni

‘THE STATE OF THE EUROPEAN UNION’

Dr Samuel Pisar AO presents, ‘The State of the European Union’ at Melbourne Law School on 2 August 2007

Younger generations, which have not experienced the torments of the 20th century, may not know yet what kind of Europe they want. But they must think carefully about the Europe they don’t want ever again: the Europe of bloody revolutions, civil wars, religious massacres, ethnic cleansings and ruthless tyrants.

Dr Samuel Pisar AO delivered these powerful words during the Melbourne Law School’s 2007 Distinguished Alumnus Public Lecture. Having survived the Holocaust — Europe’s darkest hour — Dr Pisar came to Australia to study at The University of Melbourne. Dr Pisar graduated from the Melbourne Law School with honours in 1953 and went on to complete doctorates at Harvard and the Sorbonne. It was fitting that Dr Pisar dedicated his address to the state of the European Union as he was a ‘disciple of the “Father of Europe”’, Jean Monnet, and played a role in the early stages of European integration.

In spite of this, Dr Pisar left his audience with a sense of optimism. European integration was never going to be easy, as Robert Schumann acknowledged in his Declaration of 9 May 1950: ‘Europe will not be made all at once, or according to a single plan’. From the turbulent Gaullist era to the bumpy road towards the establishment of the internal market, European integration has already faced and survived several significant hurdles. Although it will require time and significant institutional reform, Dr Pisar remains convinced that Europe will survive the present impasse: ‘Europe is not the source of today’s problems, but a matrix for tomorrow’s solutions’.

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‘HUMAN RIGHTS CONDITIONALITY IN INTERNATIONAL TRADE: REVISITING THE DEBATE’

Professor Robert Howse delivers the Melbourne Law School Distinguished Visitor Program Public Lecture

The Institute for International Law and the Humanities recently hosted a visit by Robert Howse, the Alene and Allan F Smith Professor at Law at the University of Michigan. Professor Howse is an internationally recognised authority on international economic law and the author (with Michael Trebilcock) of the authoritative text on the law of the World Trade Organization. He delivered the Melbourne Law School Distinguished Visitor Program Public Lecture, ‘Human Rights Conditionality in International Trade: Revisiting the Debate’ on 18 July 2007.

Professor Howse’s lecture examined the legality and efficacy of international trade preferences as a mechanism of engendering compliance with human rights norms. The lecture examined this controversial issue from a range of inter-disciplinary perspectives and notably, drew on Professor Howse’s work as part of a group of legal experts who have advised the US Government on the issue of trade sanctions against Burma.

Professor Howse’s lecture was preceded by a one-day, intensive research symposium, ‘Tracing the Contours of the Right to Regulate at International Law’. The symposium examined the interplay between the imperatives and limits that shape the contemporary regulatory state at international law.

Speakers at the symposium examined key interventions on the right to regulate including national security, economic liberalism, the environment and human rights.

Jürgen Kurtz
Senior Lecturer
Programme Director, International Economic Law
Institute for International Law and the Humanities
Melbourne Law School
The University of Melbourne

NEW APPOINTMENTS TO MJIL

The Editors would like to congratulate the following Journal members on their appointment to the Editorial Board:

Executive Board:
Sara Dehm (Assistant Editor)
Jensen Li (Assistant Editor)
Suganya Pathan (Assistant Editor)
Naomi Smith (Assistant Editor)
Jordan Wilson-Otto (Assistant Editor)
Tiffany Wong (Assistant Editor)
Laura Bellamy (Book Review Editor)

General Members:
James Barton
Alex Bowen
Laura Johnston
Wonhyo Kim
Julia Kretzenbacher
John Lane
Calina Ouliaris
Melanie Smith
Tia Snoek
Andrew Wright
Alan Wu

MJIL also wishes to congratulate Rebecca Hughes, May-Ling Low and Zach Meyers on their recent election as MJIL Editors for 2008. We wish them all the very best as they embark on the editorship!

May-Ling Low, Rebecca Hughes, Zach Meyers

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Gavan Griffith QC recognises the extraordinary leadership of Professor Michael Crommelin, who will be stepping down as Dean of the Melbourne Law School at the end of this year.

Under Sir Zelman Cowen's Deanship, the Law School comprised four chairs, with international law and comparative law comprising only one optional third year subject lectured by Dr Hans Leyser. Now as the Deanship of Michael Crommelin, the Sir Zelman Cowen Professor since 1985 and Dean since 1989, draws to a close, he steps off at the high tide of handing over a law school with physical facilities rating with Harvard (except the absence of its own gym and pool) and an academic pre-eminence over at least the entire Southern hemisphere and all but a few law schools in the common law tradition in the Northern.

As the Law School uplifts to being a postgraduate program, Michael leaves for his successor as Dean a faculty engaged to the level of pre-eminence in its embrace of internationalism and international law in all its aspects. This connection is confirmed in almost every aspect of international teaching and research which now permeates the Law School. The establishment and support of the *Melbourne Journal of International Law* itself is the product of the broadening of horizons offshore. So too was the formation of the Institute for Comparative and International Law under the guidance of Professor Cheryl Saunders, leading to the Institute for International Law and the Humanities, which has come to promote public and private international and comparative law within the mainstream of the JD and other studies.

The Masters program has emerged to embrace almost the full range of contemporary international law, including trade law and intellectual property, and other commercial aspects. The specialist international law institutes and centres include intellectual property, military law, Asian and Islamic law, in addition to the Centre for Comparative Constitutional Studies and also the Institute for International Law and the Humanities. By way of example, globalisation, including international trade law, is now taught at a level where the WTO Moot team won the pre-eminent international moot competition, the European Law Students' Association Moot Court Competition on WTO Law in 2007, following the many years of success of the Melbourne team at the annual Jessup Moots in the field of public international law.

Michael drove the establishment of the Law School as a leader in international humanitarian law, and, in association with Australian Red Cross, established Australia's first chair in this field. This has been an outstanding success and has lifted both the profile and also the participation by mutual exchanges in matters of offshore and onshore action.

The embrace of a truly open international focus had been developed by the appointment of more than a score of international law specialists to the faculty. So too is the establishment of an international faculty as visitors to teach graduate students. At the same time, faculty members move to teach overseas: for example, the recent course 'Institutions in International Law' at Geneva in July 2007.

Faculty newsletters are replete with reports of the extensive and vibrant life of these growing connections, exchanges and expositions of the international centres and institutes.

The common thread to these exciting diversifications leads back to the Dean's office. Michael has created a climate that encourages the pursuit of excellence to a world standard, and one that is now cross-referenced and confirmed by the mutual engagements between the faculty and its worldwide connections to other centres and persons of excellence. The Law School has become a destination of choice by the leaders in these international fields of law, both for permanent recruitment and for visiting academics who continue the active fertilisation of the aspects of internationality in faculty life.

To reach this point required the inputs of what the first President Bush referred to as the *vision thing*, and also the creation of both the climate and also the resources for implementation which has had an accelerating development since 1989 with Michael as Dean. Michael had the vision and for the almost two decades has shown the leadership and commitment to implement it. He has opened the faculty from something akin to a closed domestic order to be the regional leader without peer in the Australasian law schools. The rise and rise will continue with the transition to postgraduate entry.

On any view, the incoming Dean Hathaway (himself an example of the internationalist stance of the Law School) will find it in perfect order for its new challenges. He has said: 'Under Michael Crommelin's extraordinary leadership, Melbourne has become the pre-eminent Australian law school.' How true. The new Dean's ambition to build on Michael's achievement to move Melbourne into the ranks of the very finest public law schools in the world is achievable because of the remarkable evolution of the institution under Michael's almost one score years of leadership.

**Gavan Griffith QC**
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Why Refugees Still Matter: A Response to James Hathaway

Gregor Noll

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INTERNATIONAL LAW @ MELBOURNE

As a leading centre for international law scholarship and teaching, The University of Melbourne continues to attract world-renowned scholars, teachers and practitioners of international law. Each year, the Law School hosts a variety of events and workshops to facilitate and promote these distinguished guests.

In recent months …


• Alice Palmer, human rights lawyer with the Law Institute of Victoria, consultant in international law and former Director of the UK-based Foundation for International Environmental Law and Development, presented ‘What Practical Relevance Does International Law Have For People?’ on 16 August 2007. Ms Palmer discussed how an advocate of people’s rights might end up walking the corridors of the United Nations.

• Matt Howard, former Corporal, United States Marine Corps, and Professor Gerry Simpson, Professor of International Law at the London School of Economics and Senior Fellow at The University of Melbourne, presented ‘Perspectives on Iraq’ on 23 August 2007. Matt Howard, a member of an antwar group known as Iraq Veterans Against the War (‘IVAW’), provided a first-hand account of the entry into Iraq by US forces and subsequent events. This case study was contextualised by Professor Gerry Simpson with reference to the rules of war and occupation.

• Professor Elena Pariotti, University of Padua, Italy, presented ‘Corporate Social Responsibility and International Soft Law: Opportunities and Limits for TNCs’ Accountability for Human Rights’ at the International Law and Humanities Research Seminar on 23 August 2007. This presentation analysed some troublesome consequences of the overlap between international soft law and the corporate social responsibility paradigm in ethics and in economics for human rights effectiveness, when these latter might be infringed by TNCs’ action.

• Professor Ingolf Pernic, Humboldt-Universität of Berlin, presented ‘Salvaging the Constitution for Europe’ on 10 September 2007.

• Professor Mick Dodson, Director of the National Centre for Indigenous Studies at The Australian National University, presented ‘UN Declaration on the Rights of Indigenous People’ on 2 October 2007. The lecture was hosted by The University of Melbourne Human Rights Forum.

• Dr Savitri Taylor, Senior Lecturer in the School of Law at La Trobe University and Visiting Scholar at The University of Melbourne, presented ‘Australia’s Return of Asylum Seekers to Indonesia and Papua New Guinea: Lawful Protection Elsewhere Policies?’ on 16 October 2007.

• Julian Burnside QC and Peter Morrissey debated ‘Is George W Bush Guilty of War Crimes?’ on 18 October 2007. The debate, organised by the Postgraduate Law Students Association, centred on the culpability of the US President under international humanitarian and criminal law for Iraq’s invasion by the ‘coalition of the willing’, and the treatment of civilians by occupying forces. The debate was moderated by Alison Duxbury, Senior Lecturer at The University of Melbourne.

• The Rt Hon Malcolm Fraser AC CH presented the Inaugural Professorial Lecture, ‘Finding Security in Terrorism’s Shadow: the Importance of the Rule of Law’ on 25 October 2007. Professor Fraser discussed the Bush Administration’s pursuit of the ‘global war on terror’, the Howard Government’s complicity, and the implications for the rule of law, before offering his own suggestions for restoring the rule of law.

And coming up …

• From 29–30 November, The Melbourne Law School, the Centre for Media and Communications Law and Institute for International Law and the Humanities will host the Law and Society Association of Australia and New Zealand 2007 International Conference, ‘Markings: Sites of Analysis, Discipline and Interrogation’. Leading scholars will examine questions of disciplinary, geographic, figurative and jurisdictional markings.
MJIL would like to thank its sponsors for their generous support

Allens Arthur Robinson

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RIO TINTO

THE UNIVERSITY OF MELBOURNE

Sponsor of volume 8(2): international humanitarian law symposium

Australian Red Cross
THE POWER OF HUMANITY
Jeldee Robertson

After editing the Journal in 2001, Jeldee participated in the Jessup Moot and finally completed her BA/LLB.

Upon graduation in 2002, Jeldee travelled through China, Russia (along the Trans-Siberian Railway), Europe, the Middle East and then returned home via New York and California.

In 2003, Jeldee completed articles at Mallesons Stephen Jaques, eventually ending up in the Construction Litigation group. During her time at Mallesons, Jeldee was the key contact with the Australian Red Cross and worked closely with the International Humanitarian Law department. Jeldee was also a member of the firm’s Human Rights Law Group and Pro Bono and Charities Committee. She balanced her commercial work with a number of pro bono matters including successfully representing applicants for refugee visas, assisting with migration appeals, and volunteering as a Migration Agent with the Refugee and Immigration Legal Centre.

After three and a half years at Mallesons, in August 2006, Jeldee started work as the Associate to Justice Weinberg at the Federal Court of Australia. She has worked on a number of varied matters in her time at the Court. Most notably in February and March 2007, Jeldee worked with the judge while he presided over Norfolk Island’s first murder trial.

On a personal front, in 2004, Jeldee met a lovely farmer, Simon Walsh, from Trentham, Victoria. They married in July of this year with the result that she is now juggling an interest in international law with life on the farm!

In March 2008, Jeldee will take up a position at the offices of the Commonwealth Director of Public Prosecutions.

DO YOU HAVE ANY ALUMNI NEWS?

If you are a member of MJIL’s alumni and your contact details have changed, or are about to change, please drop us a line so that we can update our records:
<law-mjil@unimelb.edu.au>.

If you would like to be featured in Alumni Pages in the next edition of Ad Hoc, we would be delighted to hear from you.

Joanne Wallis

After being the Secretary of MJIL in 2000, Joanne spent a year travelling overseas in 2001. She then did her articles at Allens Arthur Robinson in 2002, where she practiced as a lawyer until 2004. In 2004, she returned to Melbourne University to complete a Master of Public and International Law. At that time, she also started tutoring and lecturing in the Department of Political Science. She enjoyed teaching so much that she withdrew from her place in the 2005 DFAT graduate program, and decided to pursue a career in academia. With that in mind, she then completed a Master of Arts (Political Science) at the University.

During her MA, Joanne was lucky enough to receive awards to present at a number of international conferences, and to perform fieldwork in the South Pacific (during which she managed to be interviewed on TV, and to be invited to afternoon tea with the King of Tonga!). In addition, in 2006, she was a Fulbright Scholar, representing Australia at the Fulbright United States Study Institute on American Foreign Policy. She was also a member of the Victorian Committee of Australian Lawyers for Human Rights, and an Editor of the Melbourne Journal of Politics.

In January 2008 (having deferred first term), Joanne will commence her PhD in International Studies at the University of Cambridge, supported by a Poynton Cambridge Australia Scholarship and Overseas Research Studentship. Her research will focus on state failure and development in Africa and the South Pacific, issues she has been interested in for some time, and on which she has already published. Former MJIL alumni are welcome to look her up if they are ever in Cambridge.

Joanne was Secretary in 2000.
Laura Deschamps

Since completing her editorship in 2005, life has definitely become more leisurely for Laura. Laura graduated from her Arts/Law degree at the end of 2006, having spent the last year of her studies enrolling in subjects which she knew nothing about (much the same as the rest of her academic career, really) and travelling to Central Australia.

Following the end of her degree, Laura spent six months holidaying in Melbourne where she relished the opportunity to unwind without the madness (and debt) of overseas travel. In March 2007, Laura commenced as an articled clerk with Freehills and is currently working in their Commercial Litigation practice, having spent the previous six months in Employee Relations.

Notably, at the 2007 MJIL Cocktail Party, Laura became the first journal member to acquire a property at a journal function, when she and her partner finalised the purchase of their first home during Malcolm Fraser’s keynote speech. Laura is now attempting to solve the mysteries of hardware stores and renovations. Perhaps it’s not an entirely leisurely life …

Laura was a General Member in 2003, the Events Manager in 2004, and an Editor in 2005.

Eli Court

I should have joined MJIL earlier. As it turned out, my MJIL experience saw me through my last two years of university, and then it was all over.

Since June this year, I have been on the road, having departed only three days after my last ever law exam. Pursuing my interest in Indonesia, I have been studying the language at a small university in central Java, and working my way by train and bus across Asia, Russia, and Europe.

I am now in Israel, and apart from enjoying the brash liveliness of this tiny country, I am learning some important lessons about conflict, its effects upon the people involved, and possibilities for more practical solutions. Unfortunately, it’s not at all easy. Engaging with actual people, who are emotional and irrational, is far more tricky than trying to execute a theoretical approach to ‘international dispute resolution’ or ‘international justice’. It makes the field of international relations all the more exciting and, of course, frustrating.

Next year, I will be returning to Melbourne to take up a place as an articled clerk at the Victorian Government Solicitor’s Office, and I am looking forward to kicking off my extremely late-blooming career.

Eli was a General Member in 2006 and an Assistant Editor in 2007.

Mehnaz Yoosuf

Upon the culmination of my Editorship term, I spent six wonderful months travelling through the Americas and Europe before completing my degree on exchange at the University of Amsterdam, where I predominantly studied Public International Law. I then completed my articles at Blake Dawson Waldron, where I was involved with a number of pro bono projects including the firm’s contribution towards the Human Rights Law Resource Manual, and the amicus curiae application in the Jack Thomas case — both in conjunction with the Human Rights Law Resource Centre.

I returned to Europe earlier this year to work in the field of international human rights law. I am presently interning with the Brussels Office of Human Rights Watch, where I am working on the Case against Hissène Habré, President of Chad from 1982 – 1990. Habré is due to be prosecuted next year in Senegal for the commission of various war crimes against the Chadian people during his Presidency. The European lifestyle has been treating me well, and I have been fortunate to have been able to divide working life with weekends away in some beautiful European cities. I will be returning home for Christmas and New Year, which I am thoroughly looking forward to, before returning to Brussels in January to commence an internship with the International Centre for Transitional Justice.

Mehnaz was a General Member in 2002, an Assistant Editor in 2003, and an Editor in 2004.

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