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This edition provides an update of recent and interesting international legal developments affecting Australia and distinctive contributions made by Australia to contemporary international legal issues during May 2009.

Treaty Action – Australia’s Fourth Periodic Report under the ICESCR.

Australia’s fourth periodic report as a State Party to the International Covenant on Economic, Social and Cultural Rights was recently considered by the UN Committee on Economic, Social and Cultural Rights, the UN body responsible for overseeing implementation of the Covenant. Australia was examined before the Committee on 5 and 6 May 2009. For the content of Australia’s fourth periodic report, see UN Doc E/C.12/AUS/4. For Australia’s core human rights document, see UN Doc HRI/CORE/AUS/2007. For the List of Issues identified by the Committee and the written replies made by Australia, see UN Docs E/C.12/1/Add.50, E/C.12/AUS/Q/4 and E/C.12/AUS/Q/4/Add.1. Information was derived from other sources. Non-governmental and other organisations which made submissions included the Global Initiative to End All Corporal Punishment of Children; the National Aboriginal Community Controlled Health Organisation; the Human Rights Law Resource Centre Ltd; Freedom, Respect, Equality, Dignity: Action; Amnesty International; World Vision Australia; and the Australian Human Rights Commission. For the Committee’s concluding observations, see UN Doc E/C.12/AUS/CO/4.

(Source: <http://www2.ohchr.org/english/bodies/cescr/cescrs42.htm>)

International Criminal Law – Australia/Indonesia Collaboration - People Trafficking.

The Australian Federal Police (AFP) has recently arrested and initiated prosecutions against several individuals for people smuggling offences. In one matter the accused was a crew member on board a vessel intercepted off Western Australia’s coastline who allegedly facilitated the illegal entry of 47 people into Australia. The charge involves facilitating the bringing into Australia of non-citizens, for which the maximum penalty is 20 years imprisonment or a \$220,000 fine. In a second matter the AFP claimed to have disrupted an international people smuggling ring by arresting two men in Victoria for people smuggling and money laundering. They are alleged to have facilitated people smuggling in Indonesia, Malaysia and Australia, possibly in connection with 68 Afghan nationals recently detained in West Java, Indonesia whilst attempting to travel via boat to Australia. The offences include organising or facilitating the bringing into Australia of five or more unlawful non citizens, organising or facilitating the entry of another person into a foreign country who does not comply with that country’s entry laws, obtaining or acting with the intention of obtaining a benefit and dealing in the proceeds of crime, namely money or property worth \$50,000 or more, contrary to the *Criminal Code Act 1995* (Cth). These arrests follow collaboration in transnational investigation between the AFP and the Indonesian National Police. The Australian Transaction Reports and Analysis Centre also provided assistance. The third matter involved the arrest of an individual in Sydney, also for facilitating people smuggling activities. It is alleged that the individual was involved in a Thai-based syndicate which assisted persons to illegally enter Australia. He was charged with taking part in the bringing or coming into Australia of a non-citizen under circumstances in which it might reasonably be inferred that the non-citizen intended to enter Australia. The maximum penalty for this offence is 10 years imprisonment and/or a \$110,000 fine. An investigation commenced in January 2009 after an air cargo package from Thailand was intercepted by Australian Customs and Border Protection. The package contained a USB containing approximately 450 images of passports, scanned passport photos and other identification details, many of which had been reported as stolen by Interpol.

(Sources: AFP, Man arrested over people smuggling offences, Press Release, 29 May 2009: http://www.afp.gov.au/media_releases/national/2009/man_arrested_over_people_smuggling_offences; AFP, International people smuggling ring disrupted, 19 May 2009: http://www.afp.gov.au/media_releases/national/2009/international_people_smuggling_ring_disrupted; AFP, Man charged over people smuggling offences, Press Release, 6 May 2009: http://www.afp.gov.au/media_releases/national/2009/man_charged_over_people_smuggling_offences).

Treaty Action – Australia signs UN Optional Protocol to the Convention against Torture.

The Commonwealth government has announced two legal initiatives taken to prohibit the use of torture. The government believes torture to be totally inconsistent with a humane and civilised society. On 19 May 2009 Australia signed the United Nations Optional Protocol to the Convention against Torture at the UN Headquarters in New York. Once it enters into force, the Optional Protocol will oblige Australia to allow periodic international inspections of places of detention and to establish formal mechanisms to enable regular examination of the treatment of persons in such places. This action reflects the government's commitment to re-engage with the UN and reaffirms Australia's commitment to prevent torture. The Optional Protocol is expected to undergo a national interest analysis. Australia simultaneously announced that it will enact a specific Commonwealth offence against torture as there is currently no single, comprehensive offence criminalising torture. Legislation is expected to be introduced in 2009 to operate concurrently with existing State and Territory criminal laws. This initiative is intended to send a strong message within Australia and internationally that all necessary steps will be taken to eliminate the use of torture.

(Source: Attorney General/Minister for Foreign Affairs, Australia Takes Action against Torture, Joint media release, 22 May 2009).

International Labour Standards – CEPU complaint to the ILO – *Fair Work Act* (Cth)

Concerned about certain aspects of the *Fair Work Act* (Cth), expected to enter into Australian law on 1 July 2009, the Communications Union (CEPU) recently decided to refer the legislation for comment by the International Labour Organisation (ILO). The ILO advised in March 2009 that CEPU's complaint had been received by the ILO Committee for the Freedom of Association. The ACTU has previously referred industrial relations legislation to the ILO on several occasions to establish their conformity with internationally-agreed labour standards to which Australia is subject. Reports from the ILO's Committee of Experts since 1997 have identified concerns in relation to Australia's federal labour law and compliance with ILO Convention No 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (to which Australia has been a party since 28 February 1974) and ILO Convention No 87 relating to Freedom of Association and Protection of the Right to Organise. On four occasions Australia has been called before the ILO Conference Committee on the Application of Standards. This occurred most recently in 2006 when the ILO indicated its views on the Work-Choices legislation. In the current complaint, the CEPU is concerned that certain aspects of the proposed legislation may potentially contravene the right to freedom of association. These aspects relate to the ability to conclude enterprise level agreements, restrictions on industrial action and the right to strike and the right of unions to organise. In June 2005 Australia was elected to the government body of the ILO to represent the Asia-Pacific region.

(Sources: CEPU, *The Signal*, Issue No. 579, 1 May 2009, p.1; Electrical Trades Union of Australia (Vic Branch), Letter dated 10 March 2009 to The Hon Julia Gillard, Minister for Employment and Workplace Relations).

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