

THE LAW SOCIETY OF NEW SOUTH WALES
youngLAWYERS

**INTERNATIONAL LAW COMMITTEE NEWSLETTER
NUMBER 5
4 MAY 2010**

Dear Members,

Welcome to the latest edition of the International Law Committee's Newsletter. It has been some time since the last newsletter and as a result, this issue is brimming with news, views and events! As always, if you have any suggestions for future issues (including articles, news items, events, cases and the like), please email me at intlaw.chair@younglawyers.com.au. Thank you to Peter Anagnostou and Tony Taouk for contributing to this edition of the newsletter.

Regards

Diane Barker | Chair, International Law Committee
NSW Young Lawyers | The Law Society of New South Wales
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LAW WEEK EVENTS

Law Week will be held nationally from **17 to 21 May 2010**. Law Week is a great opportunity to promote the work of Young Lawyers in the community.

Below are details of several events that may be of interest to ILC members.

Law Week 2010 ILC Careers Forum – Watch This Space!

The ILC is currently planning a Careers Forum during Law Week titled "Working in International Organisations – Internships and More". At this stage, it is anticipated that the event will be held on **Thursday, 20 May 2010** at 6:15pm for a 6:30pm start on level 9 of the Law Society Building. So far, we have four panellists, with a possible fifth panellist to be confirmed shortly. Further information will be posted to the list once the details have been finalised. If you are interested in working in international law, this is the event for you!

2010 Golden Gavel Competition

The annual Golden Gavel Competition will be held on **Friday, 21 May 2010**. Details of the event and how to register are contained in the flyer below.

Four Seasons Hotel
Friday 21 May 2010
7.30am - 9.00am

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\$450 table of 10
\$49 per person

'Golden Gavel'

COMPETITION

PREVIOUS TOPICS

Why you should never play spin the bottle with a lawyer.

Why lawyers with harbour views are the lucky ones.

To depose or decompose: What to do with troublesome witnesses.

Work Choices for Lawyers - more hours, same money or more hours and same money.

Who nicked my lunch? And other important issues bringing top tier firms to their knees.

NSW Young Lawyers invites you to the 2010 Golden Gavel Competition.

Part of Law Week, this annual public-speaking event is a chance for young lawyers to showcase their advocacy skills, arguing the case on whatever far-fetched topic they've been assigned. The results are usually insightful, brilliant, humorous and always entertaining.

Justice Patricia Bergin of the Supreme Court of NSW will adjudicate the Competition and present the winner with the coveted Golden Gavel Trophy.

When: 7.30am - 9.00am, Friday 21 May
Where: Grand Ballroom, Four Seasons Hotel, 199 George Street Sydney 2000
How much: \$49 per person; \$450 for a table of 10.

MORE INFORMATION

For more information about the Competition, including how young lawyers can enter, visit www.lawsociety.com.au/goldengavel.

BOOKINGS

Purchase individual tickets [online](#) with your credit card. For other payment options, or to book a table of ten, complete the [booking form](#). Bookings close 14 May 2010.

CONTACT US

Phone 9926 0270
Email ylgeneral@lawsociety.com.au

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For Good Reason



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Walk for Justice – 17 May 2010

I have received the following email from Young Lawyers' President, Pouyan Afshar, about the upcoming Walk for Justice which will be held during Law Week. Please email me at intlaw.chair@younglawyers.com.au if you are interested in participating.

I would like to invite you and your Committees to join the Walk for Justice for 2010!!!

The Walk is organised by various Public Interest Law Clearing Houses across the country on National Pro Bono Day as part of Law Week. I attach information about the walk. For more information, click here (<http://www.pilchnsw.org.au/events.html>)

I encourage you all to become involved and support this great cause. NSW Young Lawyers has always been loudest in its calls for social justice and access to justice! Now, we have an opportunity to make ourselves heard again, this time, however, by the sounds of our feet!

Please forward this information to your Committees and encourage them to participate. If you would like to form Committee walking groups, please:

- *gather contact information from all interested people; and*
- *make arrangements for receiving payments from each of the walkers.*

If we have enough interest, we will form a NSW Young Lawyers walking group for this event.

Please let me know if you have any questions! It's a very exciting event and I encourage you all to take part in it!

Pouyan

Pouyan Afshar | President

NSW Young Lawyers | The Law Society of New South Wales

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ILC NEWS & UPDATES

ILC Election – International Environmental Law Stream Administrator

The ILC's International Environmental Law Stream Administrator, Amy Ward, has indicated her intention to step down from the role to pursue further studies overseas. On behalf of the ILC, I would like to thank Amy for her invaluable contribution to the ILC over the last few years. Amy was responsible for coordinating the authors for the International Environmental Law chapter of *The Practitioner's Guide to International Law* and was also one of the contributing authors. Amy's tireless efforts will be missed but we hope to welcome her back to the ILC in the future.

As a result of Amy's resignation, the position of International Environmental Law Stream Administrator is vacant. If you are interested in nominating yourself for this position, please email me at intlaw.chair@younglawyers.com.au. If more than one person nominates for the position, an election will be held at the next meeting of the ILC on **Thursday, 27 May 2010 at 6:00pm**.

NSW YOUNG LAWYERS - GENERAL NEWS & EVENTS

Bushweb

See below for an email from NSW Young Lawyers' Bushweb representative, Rebecca Harper. If any members from the nominated areas are interested in becoming the ILC's Bushweb representative, please email Rebecca directly (details below).

Dear Chairs

As the Executive Councillor charged with keeping track of our regional delegates I have noted that the regions of Far West and North North West currently do not have an appointed regional delegate.

If you happen to have any committee members who reside and or work in these regions and wish to be appointed as the regional delegate for that region, please have that person immediately contact me so that I may put them in contact with their local Law Society to arrange appointment. I have attached a copy of the map showing the borders of the regions for your convenience.

You may wish to publicise these vacancies on your list as this may ensure that your committee members are able to attend in an alternate role.

Rebecca Harper | Executive Councillor | Bushweb Chair
NSW Young Lawyers | Law Society of New South Wales

T: 02 4967 2009 M:0427 285 833 | E: reharper@younglawyers.com.au | www.younglawyers.com.au

Animal Law Committee CLE

Please see below (and the **attached flyer**) for details of an upcoming CLE being hosted by our colleagues in the Animal Law Committee.

*The Animal Law Committee will be hosting a CLE on **Pets and Strata Law**. We are very fortunate to have Ms Phillipa Russell and Mr Stephen Goddard, who are experts in this area, present on this very topical. If you have ever wondered how to advise your clients in this area of law, this CLE is a must!*

*Please see **attached flyer** for RSVP and further details but in summary:*

Date: Wed 19 May 2010

Time: 5.30pm – 7.30pm

Where: Level 9, 170 Phillip St, Sydney (Law Society Building)

Cost: \$112 (law society members), or \$145 (non law society members)

There will be some food and drinks provided. Feel free to send this to anyone who you think may wish to attend.

Regards

Stephen Lee | Chair

Animal Law Committee

NSW Young Lawyers | The Law Society of New South Wales

E: stephen.lee@younglawyers.com.au | W: www.younglawyers.com.au

CONFERENCES, SEMINARS AND TALKS

International Law Association Early Career Event

Please see below for details of an event to be held this coming **Wednesday** by the International Law Association. The deadline for RSVPs has just passed, but please try to RSVP directly to Natalie Klein (details below) if you are interested. I apologise for the late posting of this item.

The ILA (Australian Branch) is planning to establish a committee for Early Career Members, which will be focused on holding events and pursuing initiatives that are aligned with the interests and needs of younger members of the Association. The aims also include engaging Early Career Members in the work of the Association, particularly in relation to the international law studies that are undertaken by members from Branches around the world, and seeking to establish links with or encouraging the creation of Early Career Member groups in other Branches internationally.

As an initial matter, it is proposed that a Steering Committee will be established to run various seminars or other events of interest to Early Career Members and explore opportunities for developing the involvement of Early Career Members in the ILA.

All ILA members who consider that they are in an early stage of their career or are students are invited to attend a first meeting to establish the Steering Committee and canvas the first steps that may be taken for this endeavour.

The ILA has also invited James Pender to speak on his recent experiences of internships at the ICTY, ICC and Special Court of Sierra Leone; undertaking his LLM in international law and the process of applying to "the right" university depending on your career aspirations; and working in a firm overseas doing public international law cases.

The meeting will be held on Wednesday, May 5, at 7pm. Marque has kindly agreed to host the event at their premises:

*Marque Lawyers
Level 4
343 George St
Sydney NSW 2000*

*Could anyone interested in attending please RSVP to Natalie Klein:
natalie.klein@mq.edu.au by Monday, May 3, 5pm.*

For members who live inter-state or who are otherwise unable to attend, please also email to advise of your interest so we may also involve you in this initiative.

*Kind Regards
Natalie Klein, Stephen Tully
ILA(Aust'n Branch) Management Committee*

Engage with Ralph Norris, CEO of CBA

I have received details of the following event:

*Your Executive, together with the **Australia-Israel Chamber of Commerce** is delighted to invite you to a unique experience -*

Engage with **Ralph Norris, Chief Executive Officer, Commonwealth Bank of Australia.**

We have arranged with the Chamber's **Young Business Forum** (20 – 35 years demographic) to offer all **NSW Young Lawyers'** members the opportunity to register at the Chamber Member Rate – [Register](#) (http://www.aicc.org.au/event_detail.cfm?id=386®ion=NSW) – please note in the Special Requirements section that you are with **NSW Young Lawyers.**

Date: Tuesday, 25 May 2010

Time: 6.00pm - 8.00pm

Venue: Sydney CBD: venue to be confirmed

Proudly hosted by:



JOIN US for this opportunity to personally engage with one of Australia's most respected chief executives on his outlook for the economy, the financial services sector and more...

18th Annual ANZSIL Conference - International Law in the Second Decade of the 21st Century: back to the future or business as usual?

Date: Thursday 24 June - Saturday 26 June (finishing at 1.15pm)

Venue: University House, The Australian National University, Canberra

Distinguished Guest Speakers Include:

- Dame Silvia Cartwright, Judge of the Trial Chamber, Extraordinary Chambers in the Courts of Cambodia for the prosecution of crimes committed during the period of democratic Kampuchea
- The Hon Robert McClelland MP, Commonwealth Attorney-General
- Dr Sanjay Chaturvedi, Coordinator, Centre for the Study of Geopolitics, Department of Political Science and Honorary Director, Centre for the Study of Mid-west and Central Asia, at Panjab University, Chandigarh
- Professor Don McRae, Hyman Soloway Chair in Business and Trade Law, University of Ottawa, and Member International Law Commission.

Discounted Early-bird registration rates are available until 24 May.

For information about the Conference Program and how to Register, please go to:

<http://law.anu.edu.au/anzsil/conferences/2010/registration.htm>

Maritime Law & Practice Course, Singapore

The above course commences on **17 May 2010** in Singapore and there are still places available. If you are interested, the details can be obtained by clicking on the following link:

<http://www.imlasia.org/index.htm>

Sydney Law School Events

Click on the following link for details of seminars hosted by Sydney Law School that may be of interest:

<http://sydneylaw.e-newsletter.com.au/link/id/16832414bcce7ee9e75dP15404954b569bab827c4/page.html>

In particular, I draw your attention to the talk being given by Justin Hogan-Doran of counsel **tonight** from 6:00 – 7:30pm on “*Private International Law: Jurisdiction in Cyberspace*”. Justin will focus private international law jurisdiction in cyberspace and the collision between territorial sovereignty.

Sydney Ideas Lecture

Click on the following link for details of the Sydney Ideas Lecture series hosted by the University of Sydney that may be of interest:

http://www.usyd.edu.au/sydney_ideas/lectures/sydney_ideas_open/index.php

Invitation from the Australian Human Rights Centre

The May seminar program for the Australian Human Rights Centre is as follows:

Wednesday 12th May 2010 - Human Rights in the Palestinian Occupied Territories

Professor Bisharat from the University of California, Hastings will be speaking on law and politics in the Palestinian occupied territories. Professor Bisharat was a trial lawyer for the Office of the Public Defender in San Francisco before joining the Hastings faculty in 1991. Professor Bisharat studied law, anthropology, and Middle East studies at Harvard, and wrote a book about Palestinian lawyers working under Israeli military occupation in the West Bank. He writes frequently on law and politics in the Middle East, both for academic audiences and for major media sources in the U.S. and abroad. The seminar will be held at the UNSW Faculty of Law staff common room.

RSVP by May 10th to ahrc@Unsw.edu.au

Thursday 27th May 2010 - Human Rights in an Age of Digital Media

Daniel Joyce, an associate of the AHRCentre will examine human rights in the age of digital media. Daniel will discuss the impact of new media witnesses (such as NGOs and international organizations) in the field of human rights and discuss the development of ‘citizen media’ as a promising avenue for international law. The seminar will examine how new technologies can help actors connect with each other, engage new audiences, and potentially also assist with documentation, evidence

gathering and compliance. The seminar will be held at the UNSW Faculty of Law staff common room.

RSVP by May 24th to ahrc@unsw.edu.au

Please contact Amber Rowe for further details of the above events:

*Amber Rowe
Coordinator, Australian Human Rights Centre
Room 330, Faculty of Law Building
The University of New South Wales
UNSW Sydney NSW 2052, Australia*

*Phone: +61 (2) 9385 1803
Fax: +61 (2) 9385 1778
Email: ahrc@unsw.edu.au
Website: <http://www.ahrcentre.org/>
Hours: Tuesday - Thursday 8am - 4pm*

Environmental Defender's Office National Conference

Please see details below (and the **attached flyer**) for an invitation to the EDO National Conference to be held on 28 and 29 May 2010:

Dear Young Lawyers

The EDO would like to invite you to attend the EDO annual conference: Public Interest Environmental Law: 25 Years On. This 2-day conference will focus on developments in public interest environmental law, and the challenges and opportunities ahead.

You are also invited to help celebrate the EDO's 25th Anniversary by attending a special celebratory dinner. The dinner will be held at Doltone House, Darling Island Wharf. This venue boasts spectacular Harbour views and is part of the first 6-Star Green Building in NSW. Our guest of honour will be The Hon Chief Justice Robert French, Chief Justice of the High Court of Australia.

*Please see **attached flyer** for further details and registration.*

Rosemary Bullmore | Solicitor | Environmental Defender's Office (NSW) Level 1, 89 York Street Sydney NSW 2000 | Telephone: 02 9262 6989 | Fax: 02 9262 6998

PhD Conference

I have received the following email from Rebecca Walsh from the Public Law and Government Committee about a PhD Conference to be hosted by the Gilbert + Tobin Centre of Public Law. Please also see the **attached flyer**.

I should have thought to circulate this earlier, but there is a free postgrad research students conference coming up on 12-13 July at UNSW and your list may be interested as it gives young people a chance to taste conference presentations and network in an informal and fun setting. The theme is public law – however this is interpreted in the broadest possible way, encompassing human rights and many international law issues.

Full details are found in the attached Call for Abstracts. Participation may be a presentation on one's research (part time and full time researchers are welcome – researchers in the early stages may give an outline of one's thesis – the question, methodology and structure – or you could present an idea or theme that you have been working on as a more traditional type of conference paper). The keynote speech will be given by Dr Thomas Poole one of the UK's leading public law academics. There will also be a valuable methodology discussion which all are welcome to be involved in. Registration details are in the attached document, I'm happy to be contacted by people wishing to discuss any of this further.

Thanks
Beck

Rebecca Welsh | CLE Representative, Public Law and Government Committee

NSW Young Lawyers | The Law Society of New South Wales

M: 0404 818 411 | E: r.welsh@unsw.edu.au | W: www.younglawyers.com.au

OTHER NEWS & EVENTS

United Nations Universal Periodic Review of Australia

Please click on the links below for details of the Law Council of Australia's involvement in Australia's Universal Periodic Review of its human rights performance.

http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=050FEB99-1E4F-17FA-D2DB-9E155E0995C1&siteName=lca

<http://www.lawcouncil.asn.au/media/news-article.cfm?article=47035AC5-1E4F-17FA-D2C9-0D13D62FCAE9>

YEMAYA - Call for Submissions

Please see the **attached flyer** for details of a call for submissions for the annual women's journal published by SULLS (Sydney Law School).

ARTICLES

WTO – Trade Dispute

Our Vice-Chair, Peter Anagnostou, recently attended a symposium hosted by the Sydney Centre for International Law titled: *WTO Litigation: Issues and Reforms*. Peter made the following comments:

During this conference, we were addressed by Clare Fearnley, International Trade Law Advisor, New Zealand Ministry of Foreign Affairs and Trade. She outlined the ongoing dispute between Australia and New Zealand regarding the importation of NZ apples into Australia and how significant it was to the New Zealand economy.

It now appears that the WTO might have reached a conclusion that supports NZ and if the suggested outcome is accurate it would mean Australia is currently in breach of its free trade obligations. As a result it is likely Australia would be forced to significantly reduce the trade restrictions currently placed on New Zealand apples, or alternatively face WTO imposed sanctions.

For those of you interested in this issue, please see the following article:

<http://www.mondaq.com/australia/article.asp?articleid=98230>

Death Penalty Media Release

Please see the attached link for the Government's response to the Amnesty International Report on the death penalty:

http://www.ag.gov.au/www/ministers/mcclelland.nsf/Page/MediaReleases_2010_SecondQuarter_1April2010-AustraliawelcomesAmnestyInternationalreportonthedeathpenalty

Review of Bilateral and Regional Trade Agreements

Please see the attached link for a Law Council of Australia submission on the Review of Bilateral and Regional Trade Agreements:

http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=B2CD5CBB-1E4F-17FA-D21B-8DF949207ED3&siteName=lca

OPINION

The Hariri Assassination and International Law

By **Tony F. Taouk** (ttaouk@gilespayne.com.au)

The Special Tribunal for Lebanon is an international criminal court that was established by an Agreement between the United Nations and the Lebanese Republic pursuant to Security Council Resolution 1664 (2006) and is mandated to try those suspected of assassinating former Lebanese Prime Minister Rafik Hariri in 2005 and other crimes. In my opinion, the Tribunal is unique in many respects and represents a milestone in international law.

Mr Hariri's convoy was driving along Beirut's seafront when it was struck by a truck bomb on 14 February 2005. It was thought his support for a 2004 UN resolution demanding that Syrian and other foreign troops withdraw from Lebanon had been the reason for the assassination.

I was in Lebanon in the period immediately after the assassination (March 24 2005 – 27 May 2005) and witnessed the political upheaval arising from the assassination and the preliminary investigations by a UN team. The Middle East is the most volatile region on the planet, where violence has long been employed as a political tool and repression is a fait accompli. In the past, countries in the region have committed crimes against neighbouring states and their own people with impunity and with absolutely no regard for international law. The UN investigation into the Hariri assassination and the subsequent creation of the Tribunal may signal the beginning of the end of this impunity and affirm the authority of international law in the region and the rest of the world. But will it succeed?

The Uniqueness of the Court

This is the first time a UN-based international criminal court will be trying a "terrorist" crime committed against a specific person. Therefore, the Tribunal will surely have a bearing on the future of state accountability for politically-motivated crimes such as assassinations and terrorist attacks and accordingly, widens the realm of international law. It has already been cited as a precedent by proponents of a UN-led inquiry into the assassination of Benazir Bhutto in Pakistan. The Tribunal is premised on the notion that the assassination of Hariri was a threat to regional and international peace and security.

The Laws

The Tribunal will be unique in that it is a "hybrid" international court. It will apply Lebanese law instead of international criminal law and will be composed of both Lebanese and international judges. For security reasons, the Tribunal will be based in the Netherlands and not in Lebanon (where the crime took place). Local laws will need to be reconciled with international standards. An example is the fact that Lebanon has pledged not to apply the death penalty should the suspects be found guilty.

The Obstacles

In the case of the Tribunal, there were allegations that Syria, the main suspect in the murder of Hariri, tried to hinder the work of the UN International Independent Investigation Commission (UNIIC) and frustrate the Tribunal by allegedly working with Lebanese allies to block the approval of the Tribunal by the Lebanese Government (the response was that the UN approved the Tribunal under Chapter VII of the UN Charter), through the planting of false witnesses, and deceptive statements by its officials. This is seriously testing the ability of the international legal system to take into consideration factors which hinder the pursuit of justice and the extent to which the machinery of international law can transcend obstacles placed by culprit states.

The arrest of culprits and detention without charge

On 30 August 2005, the UN International Independent Investigation Commission (UNIIC) issued a search warrant and arrested four Lebanese public servants on the allegation that they were implicated in the planning and execution of the attack on Hariri. No specific charges have been brought against the suspects. They were released from custody in April 2009 when pre-trial judge Daniel Fransen ruled that there was not enough evidence to hold them. Abuse of process has been alleged on the grounds that (but not limited to):

1. The suspects have not been able to consult evidence submitted to the Lebanese authorities during the UNIIC investigation.
2. Hearings have been conducted with or without defence lawyers.

The release of the four Lebanese public servants undermined confidence in the Tribunal and revealed flaws in the investigation. Many suggest that this was due to the planting of false witnesses of Syria, the main suspect. Furthermore, legal proceedings were commenced in Syrian courts against 25 Lebanese officials by one of the persons initially arrested by the tribunal for wrongful imprisonment.

To date, the Special Tribunal for Lebanon has not issued indictments against any suspects. http://en.wikipedia.org/wiki/Special_Tribunal_for_Lebanon_-_cite_note-17#cite_note-17

The Establishment of the Tribunal under Chapter VII of the UN Charter

The UN Security Council approved the creation of Tribunal under Chapter VII of the UN Charter on 31 May 2007. The Lebanese Government had declared a political stalemate (due to the opposition of Hezbollah and other pro-Syrian parties) with respect to the issue of the Tribunal and asked the Security Council for the creation of the Tribunal under Chapter VII. The UN resolution approving the creation of was adopted by 10 votes to zero. There were five abstentions from Russia, China, South Africa, Indonesia and Qatar. Since Chapter VII allows the Security Council to take military and non-military action to “restore international peace and security” against any threat to peace or act of aggression, the abstaining countries contended that establishing the tribunal under Chapter VII was inappropriate. It was commonly stated that the creation of the Tribunal was a blatant interference in the internal affairs of a volatile country, Lebanon, where there was an intense political debate surrounding the Tribunal. According to Chinese Ambassador to the UN at the time, the creation of Tribunal under Chapter VII created a “precedent of the Security Council interfering in the domestic affairs and independence of a sovereign state”.

Political Considerations and the Tribunal

It has been suggested that the emphasis placed on the Hariri assassination by the international community has given the impression that some deaths are given greater weight than others, leading many to argue that the credibility of international law and the United Nations Security Council have been undermined.

Many claim that political rather than judicial considerations have driven the Tribunal. It has been suggested that the Tribunal is nothing more than a “pressure lever” being used against Syria and Hezbollah by western states. Such accusations have heightened since the UN investigators confirmed that they have been questioning members of Hezbollah. Suggestions that Hezbollah is complicit in the assassination have caused tension in Lebanon and could ignite a new civil war. Therefore, Lebanon may ultimately have to choose between political stability and justice.

There is widespread speculation that western and Arab countries have toned down their support for the Tribunal since their recent “warming” of relations with Syria.

Does this spell the end of the Tribunal?

Disclaimer: While contributions from members are welcomed, any opinion pieces published in the ILC Newsletter are the opinions of the individual authors and are not necessarily the views of the ILC or NSW Young Lawyers.