

ANNUAL REPORT: JULY 2006 – JUNE 2007

ASIA PACIFIC CENTRE FOR MILITARY LAW

A collaborative initiative of the Australian
Defence Legal Service and the Melbourne
University Law School



This report was prepared by Cathy Hutton, Sarah Finnin and May-Ling Low

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MESSAGE FROM THE PATRON

THE RT HON SIR NINIAN STEPHEN KG AK GCMG GCVO KBE



Photo David Blumenthal

I am delighted to report that the Asia Pacific Centre for Military Law has continued to maintain its reputation as a leading institution for the promotion of respect for the Rule of Law in military affairs throughout the Asia Pacific Region in its sixth year of operation. Once again, this Report covers an extensive and diverse range of activities, from the delivery of the regular suite of training courses to regional military officers to the conduct of extensive research work in the broad field of military law.

The work of the Centre has been overseen by the diligent and productive Management Team – the Director, Professor Tim McCormack, the new Deputy Director, Captain Dale Stephens CSC, RAN and the two Associate Directors, Mr Bruce Oswald CSC and Lieutenant Colonel Paul Muggleton.

Tim McCormack is also the Foundation Australian Red Cross Chair of International Humanitarian Law in the Melbourne Law School and on 7 September 2006, the Melbourne Law School celebrated the tenth anniversary of the establishment of the Chair, with a reception attended by many people who had been associated with the Red Cross Chair over the last ten years. I was happy to speak on that occasion and reflected, amongst other things, on the establishment of the Asia Pacific Centre for Military Law as one of the most significant outcomes from the Australian Red Cross initiative to establish the Chair all those years ago.

I paid tribute to Tim's contribution over the last ten years in establishing such an extensive program of graduate studies related to International Humanitarian Law at the Melbourne Law School, to the point where this Law School is now internationally recognised as one of the best places to study this subject. Over 300 members of the Australian Defence Forces have undertaken studies here in the last ten years and this can only have a beneficial effect on the conduct of Australian troops in their work in the Asia Pacific region and further afield.

I wish the Asia Pacific Centre for Military Law ongoing success in its efforts throughout the next year of its existence.

A handwritten signature in black ink that reads "Ninian Stephen". The signature is written in a cursive, flowing style.

Sir Ninian Stephen

DIRECTOR'S REPORT

PROFESSOR TIM MCCORMACK



Photo David Blumenthal

This Report covers some of the highlights of the sixth year of operation of the Asia Pacific Centre for Military Law. We continue to await the formalising of arrangements between the Department of Defence and the Melbourne Law School for the operation of the Centre, but as I pointed out in my Report last year, this delay has not prevented the Centre from managing a full program of events in the period July 2006 to June 2007.

This period saw the development and presentation of two inaugural courses for the APCML – a Maritime Security Cooperation Course, which is a joint initiative between the APCML and the International Law Department of the US Naval War College, and the first APCML course to be held 'off-shore' – the Law of Peace Operations Course held in New Delhi and conducted jointly with the Indian Military's Centre for UN Peacekeeping. Reports on these two courses appear on pages 12-14.

In July 2006 the APCML farewelled its Deputy Director of the previous two years, LTCOL Geoff Cameron, who was promoted to COL and appointed to the newly-created position of Registrar of Military Justice for the Department of Defence. We were pleased to welcome CAPT Dale Stephens as Deputy Director (Military node). As an officer of the Royal Australian Navy Dale breaks new ground amongst the military members of the Centre's Management Team who, to date, have all been Australian Army officers. Dale brings impressive academic qualifications (having obtained his LLM from Harvard Law School) and an extensive research publication record. Associate Director Bruce Oswald was promoted to Senior Lecturer in the Melbourne Law School in September 2006, a well deserved recognition of "Ossie's" outstanding teaching and publication record over the past few years. Associate Director LTCOL Paul Muggleton once again performed an outstanding role as Coordinator of the APCML courses held during the period.

The APCML was delighted to welcome a most distinguished Professorial Fellow to our ranks during this reporting period. After many years of informal connection with the University, Rt Hon Malcolm Fraser AC CH, Prime Minister of Australia 1975-1983, has been formally appointed by the University of Melbourne as a Professorial Fellow to be located in the APCML. Mr Fraser has presented his papers to the University of Melbourne and part of the Fraser Collection will, in due course, be housed in the Law School at the APCML.

We were also pleased to welcome Stuart Kaye as Professor of Law in the Melbourne Law School and the APCML from 1 January 2007. Professor Kaye is one of Australia's leading experts on the law of the sea and national security issues and our activities in the reporting period reflect this addition to our areas of expertise.

The Centre's PhD students continued to make significant contributions around the world. Sarah Finnin returned to Washington DC for five months on her third stint with the Office of

Defense for the US Military Commissions. She again provided outstanding assistance to Major Dan Mori in the proceedings against David Hicks as well as more generally to Defense teams assigned to other Military Commission cases. Michelle Lesh spent three months in Jerusalem working with Justice Rivlin of the Israeli High Court of Justice. She had the privilege of providing research assistance in the recent case on targeted killing – the precise topic of her PhD thesis.

I look forward to the finalisation of the formal relationship between the Melbourne Law School and Defence Legal for the ongoing operation of the Asia Pacific Centre for Military Law and to the ongoing efforts of those involved in the Centre in pursuit of our objectives.



Timothy L.H. McCormack

Australian Red Cross Professor of International Humanitarian Law
Director, Asia Pacific Centre for Military Law
The University of Melbourne

CHARTER

The Charter of the APCML was drawn up in 2001 to facilitate cooperation amongst military forces of the Asia Pacific Region in the research, training and implementation of the laws governing military operations.

Aims

The Centre aims to promote greater understanding of and increased respect for the Rule of Law in all aspects of military affairs both within the Australian Defence Force and amongst militaries in the Asia Pacific Region. To this end we:

- Prepare and deliver training programs
- Organise conferences, workshops, seminars and other activities
- Promote academic research into key issues, including international humanitarian law, the law of peace operations, international criminal law, and arms control and disarmament
- Produce legal publications and materials
- Centralise the accumulation and processing of legal lessons learned
- Undertake and support initiatives to promote and improve the flow of information to legal officers
- Participate in military exercise design and development
- Develop relevant relationships within the Asia Pacific Region
- Develop contacts and mutual exchanges with other academic/military centres and with leading subject matter experts, and
- Provide support for deployments, particularly for peace operations.

PARTNERS

The APCML is a collaborative initiative of Defence Legal in the Department of Defence, and the Melbourne University Law School.

Defence Legal

Defence Legal is an integrated organisation that includes 120 permanent and 320 Reserve legal officer positions in the Australian Navy, Army and Air Force as well as 24 Defence civilian legal officers and 68 paralegal and other legal support positions. Almost 60 legal officers and 30 paralegals are based with Service Commands in Australia, serving on military operations overseas, or on overseas exchange postings. Defence Legal is responsible for the provision of legal advice and other legal services to the Australian Defence Force, the Australian Department of Defence and the Minister. Its head office is in Canberra.

Melbourne Law School, The University of Melbourne

The Melbourne Law School is one of Australia's oldest law schools, teaching law continuously as a Faculty of the University of Melbourne since 1857. The Law School has maintained its reputation as one of Australia's leading law schools with an innovative approach to teaching and research. Since the establishment of the Australian Red Cross Chair of International Humanitarian Law in 1996, the Law School has developed Australia's strongest graduate program in the Law of Armed Conflict and related subjects. The Law School has also developed Australia's first dedicated graduate coursework program in Military Law covering the core areas of Military Administrative Law, Military Discipline Law, Military Operations Law and Advocacy for Military Lawyers.

LOCATIONS & FUNCTIONS

The APCML operates from a military and a university node, in the cities of Sydney and Melbourne respectively. The military node is currently located at Randwick Barracks in Sydney. The military node comprises military and civilian staff of the Australian Defence Force's (ADF) Legal Services comprising the Deputy Director Lieutenant Colonel Geoff Cameron and civilian administrative staff. The military node is co-located with and shares staff with the ADF Military Law Centre which has the primary responsibility for the provision of legal training to ADF legal officers, and increasingly to the wider ADF organisation. The military node of the APCML provides the crucial linkage between the military forces of the Asia Pacific region and the academic and humanitarian communities. It has the responsibility for the coordination, formulation and delivery of the APCML's core suite of courses, as well as involvement in the creation of legal lessons learnt doctrine produced by post military operation conferences and seminars. Additionally, the APCML's military staff regularly provide lecturing and doctrine development support to Military and Non-Government Organisations and international organisations that may be involved in contemporary military operations.

The university node is located within the Melbourne University Law School, an international standard modern building with state of the art technology, outstanding research facilities and purpose-built teaching spaces. The Law School is Australia's oldest Law School with law first taught at the University of Melbourne in 1857. The APCML supports the interests of academic staff, visiting fellows and Research Higher Degree students by organising activities such as conferences, workshops, lectures and seminars relating to international, humanitarian and military law. In addition to their teaching in undergraduate and postgraduate programs, staff of the Centre are publicly engaged with the wider community by speaking at public forums, taking part in radio and television debates and writing opinion pieces for newspapers and journals.

STRUCTURE, MANAGEMENT & MEMBERS

PATRON

We are honoured to have the Rt Hon Sir Ninian Stephen KG AK GCMG GCVO KBE, former Justice of the High Court of Australia, Governor-General of Australia and Appeal Judge for the International Criminal Tribunals for the former Yugoslavia and Rwanda as the Foundation Patron of the Centre.

MANAGEMENT STAFF

The direction, control, supervision, overall management and performance of the Centre and the planning and implementation of centre activities are the responsibility of the Director and Deputy Director. They are assisted by two Associate Directors, one for each node of the Centre. The Director is to be a Melbourne University Law School employee of an academic rank not lower than Associate Professor or his or her delegate. The Deputy Director is to be an ADF Legal Officer of a military rank not lower than Lieutenant Colonel (or equivalent rank) or his or her delegate.

Director

Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law, Melbourne Law School

Deputy Director

CAPT Dale Stephens CSM RAN

Associate Directors

LTCOL Paul Muggleton, Defence Legal, Department of Defence

Mr Bruce Oswald CSC, Senior Lecturer in Law, Melbourne Law School

STEERING COMMITTEE

The control of policy, practices and overall management and operation of the Centre is vested in the Steering Committee. The Steering Committee consists of: Director General, Australian Defence Force Legal Service; Head, Defence Legal; Dean, Melbourne University Law School; and the Dean's nominee.

ADVISORY BOARD

The Director and Deputy Director receive guidance on the Centre's activities and on the annual implementation of the Work Plan from an Advisory Board. The Advisory Board consists of academics, military officers and other suitably qualified people acting in an honorary capacity.

Advisory Board Members

Management Staff and Academic Staff of the Centre

Professor Michael Crommelin, Dean, Melbourne Law School

Mr Mark Cunliffe, Head, Defence Legal, Department of Defence

Ms Treasa Dunworth, Senior Lecturer in International Law, Faculty of Law, The University of Auckland

Air Commodore Simon Harvey RAAF, Director-General, Australian Defence Force Legal Service, Department of Defence

Hon Justice Peter Heerey, President, Defence Force Discipline Appeals Tribunal, Federal Court of Australia

Professor Stuart Kaye, Dean, Faculty of Law, University of Wollongong (to December 2006)

COL Mike Kelly AM, Director, United Nations & Peace Operations, International Policy Division, Department of Defence

Mr Christos Moraitis, First Assistant Secretary, International Organisations and Legal Division, Department of Foreign Affairs and Trade

Hon Justice MAJGEN Len Roberts-Smith, Judge Advocate General, Australian Defence Force

Professor Cheryl Saunders AO, Melbourne Law School

Professor Ivan Shearer AM, Sydney University Law School

Rt Hon Sir Ninian Stephen KG AK GCMG GCVO KBE (Patron)

Ms Robin Warner, Assistant Secretary, International Branch of the Criminal Justice Division, Commonwealth Attorney-General's Department

Brigadier Ian Westwood AM, Chief Judge Advocate, Australian Defence Force

PROFESSORIAL FELLOWS

The Rt Hon Malcolm Fraser AC CH, former Prime Minister of Australia

Brigadier Ian Westwood AM, Chief Judge Advocate, Australian Defence Force

ACADEMIC STAFF

In addition to the Director and Associate Director, the following are the academic staff of the University node of the APCML:

Dr David Blumenthal, Lecturer in Law

Dr Helen Durham, Senior Research Fellow (from February 2006)

Ms Alison Duxbury, Senior Lecturer in Law

Ms Jessica Howard, Lecturer in Law (on leave from October 2006)

Associate Professor Bob Mathews OAM, Principal Research Fellow

Dr Andrew Mitchell, Senior Lecturer in Law (from January 2006)

Mr John Tobin, Senior Lecturer in Law

Dr Tania Voon, Senior Lecturer in Law (from January 2006)

ADMINISTRATIVE STAFF

University Node

Ms Cathy Hutton (Centre Administrator)

Military Node

Mr Ian Martin (Executive Officer)

Ms Michelle Garreffa (Administrative Support)

Mr Ian McGowan (Web Consultant)

SIR NINIAN STEPHEN VISITING SCHOLAR 2006

PROFESSOR MICHAEL N. SCHMITT

4-20 September 2006

The Centre was honoured to have Professor Michael Schmitt, Director of the Program in Advanced Security Studies at the George C Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany, as its 2006 Sir Ninian Stephen Visiting Scholar. The Marshall Center is a German-American governmental institute offering graduate-level educational programs for officials, military officers, and diplomats from the United States, Europe, and Eurasia. Professor Schmitt served in the United States Air Force for 20 years before joining the Marshall Center faculty. During his military career, he specialized in operational and international law and was senior legal adviser to multiple Air Force units, including units conducting combat operations over Northern Iraq.

During his visit to Australia he gave two public lectures, at the Department of Defence in Canberra on 11 September and at the Melbourne Law School on 13 September. He participated enthusiastically in the life of the Law School, attending several seminars and giving generously of his time for personal interaction with APCML staff and research students.

‘International Humanitarian Law and Contemporary Armed Conflict: Can the Law Survive?’
13 September 2006

In this public lecture held at the Melbourne Law School, Professor Schmitt considered how the changing nature of warfare is affecting the content, application and interpretation of the Law of Armed Conflict and International Humanitarian Law, with particular reference to the use of technology in armed conflict. The text of the lecture will be published in 2007 in the Melbourne Journal of International Law.

VISITORS

PIC

Professor Gerry Simpson, Professor of International Law at the London School of Economics, was attached to the Centre for various periods during 2006-2007. During the early part of 2007, he completed his latest book, *Law, War and Crime* (Polity, 2007).

Ms Eloisa Newalsing, PhD student from the Faculty of Law at Leiden University, is a Visiting Scholar in the Centre for two years from January 2007. Her thesis is entitled “The Formation of Customary International Humanitarian Law applicable to Non-International Armed Conflicts”.

20 October 2006

The Hon Justice Alastair Nicholson, Chair of the External Review Panel of the APCML in 2004, met with Professor Tim McCormack and Mr Bruce Oswald to discuss his on-going involvement with the work of the Centre.

25 October 2006

Mr David Mason, Head of the Treaty Unit, Department of Foreign Affairs & Trade met with Professor Tim McCormack to discuss Australia’s treaty-making processes and the role of the Treaty Unit.

19-23 February 2007

The visit to Australia of **BRIG-GEN Ken Watkin, OMM, CD, QC, the Judge Advocate General of the Canadian Forces** was hosted by the APCML in both Sydney and Canberra. He made two presentations for the APCML’s International Law module on the 2007 Defence and Strategic Studies Course for the CDSS at the Australian Defence College in Canberra, and also gave presentations to members of the legal profession.

PIC

8 June 2007

Mr Tom Cameron, Chief of Staff for Senator Robert McClelland, met with Professor Tim McCormack to discuss the work of the APCML and possible relationships between the Centre and the Australian Labor Party, which proposes to establish a national co-ordinating institute for peace operations and regional security.

TEACHING IN THE MELBOURNE LAW SCHOOL

The following Melbourne University Law School courses were taught by APCML members
in the period covered by this Report.

UNDERGRADUATE COURSES

Administrative Law

Alison Duxbury
Dr Andrew Mitchell

Children's Rights and the Law

John Tobin

Criminal Law and Procedure

Dr David Blumenthal
Bruce Oswald

Corporate Criminal Law and Regulation

Dr David Blumenthal

Dispute Resolution

Dr Tania Voon

International Law

Alison Duxbury

Legal Method and Reasoning

Carrie McDougall

Principles of Public Law

Professor Stuart Kaye

Public Interest Lawyering

John Tobin

Torts

Carrie McDougall

WTO: Dumping, Subsidies and Safeguards

Dr Andrew Mitchell

GRADUATE COURSES

Human Rights Litigation and Advocacy

John Tobin

International Criminal Law

Dr Helen Durham
Professor Tim McCormack

International Humanitarian Law

Professor Tim McCormack
Bruce Oswald

International Institutions

Alison Duxbury

International Law and Children's Rights

John Tobin

International Law and the Use of Force

Dr Gerry Simpson

International Legal Internship

Bruce Oswald
John Tobin

Law of the Sea and National Security

Professor Stuart Kaye

Principles of International Law

Bruce Oswald

WTO Dispute Settlement

Dr Andrew Mitchell
Dr Tania Voon

APCML COURSES

OVERVIEW

In June 2007 the APCML added another course, on Maritime Security Cooperation, to its suite of core operations law courses, making a total of five courses that are generally conducted annually. The courses are as follows:

Command and Staff Operations Law Course

This two-week course is designed principally for commanders and operations staff officers but with a number of legal officers attending. The concept for this course is that half the participants will be officers in the Australian Defence Force and half officers from regional armed forces.

Civil Military Cooperation Course (CIMIC) for Planners and Field Personnel

This is a five-day course that is aimed at military operational planning staff, specialist CIMIC staff, information officers, military police, medical services, logistics planners and engineers. It is equally aimed at non-government organisation personnel, UN agency personnel, civilian police, emergency services, civil defence personnel, political officers of Foreign Ministries and international policy personnel within Defence Departments.

Operations Law Course for Legal Advisers

This one-week course is aimed at military or civilian legal advisers who provide support to government or defence organisations in relation to legal matters that impact on the conduct of operations.

Law of Peace Operations Course

This five-day course examines legal issues relevant to the creation and management of peace operations. The course focuses on legal issues relevant to the planning and conduct of military and civilian police on peace operations. Participants also have the opportunity to explore the role and conduct of international and non-government organisations during peace operations.

Maritime Security Cooperation Course

This one-week course is a joint initiative between the APCML and the International Law Department of the US Naval War College and will be conducted in alternate years in Australia and the US (Hawaii). The purpose of the course is to develop a common understanding of key international law principles that govern maritime operations and to promote maritime security cooperation within the Asia Pacific region.

The courses conducted by the APCML in the reporting period are described below.

COMMAND & STAFF OPERATIONS LAW COURSE

HMAS Penguin, Sydney, 9-20 October 2006

This was the fifth Command and Staff Operations Law course and was attended by officers from Cambodia, China, Indonesia, Fiji, Malaysia, New Zealand, Switzerland, The Philippines, and Vietnam, as well as Australian Defence Force operators and legal officers.

The course program covered the spectrum of operations and included the following legal topics: Sources and content of the laws of armed conflict; Law of targeting; Maritime zones and naval operations; Air operations; Law of occupation; Information operations; Legal framework for peace operations; Laws of armed conflict and international human rights law on peace operations; Use of force on peace operations; Command responsibility; Enforcement, counter-terrorist operations; Status and treatment of detainees; and Military support to law enforcement operations.

As the course emphasised the practical application of laws and norms to military operations the program also included topics such as: Operational level planning – an operator's perspective; Operational level planning – a legal officer's perspective; Coalition operations – interoperability issues; and Rules of engagement. A day was also devoted to civil-military co-operation. The 2006 course program included for the first time a module on Military Leadership and Ethics.

A feature of the course was the number of high calibre presenters who willingly gave of their time and expertise to support the course. The course was opened by the Commander Special Operations Command, MAJGEN Michael Hindmarsh AM CSC, and the Director General of NZDF Defence Legal Services, BRIG Kevin Riordan, presented on the course. The APCML is indebted to these two officers as it is to all those who contributed to the course.

LAW OF PEACE OPERATIONS COURSE

New Delhi, 19-23 February 2007

The APCML and Centre for UN Peacekeeping - India (CUNPK-I) jointly conducted a Law of Peace Operations Course in New Delhi from 19-23 February 2007 at the United Service Institution, India. This is the first time that an APCML course has been held 'off-shore'.

The course was attended by 42 officers from India, Indonesia, Malaysia, the Philippines, Sri Lanka, South Korea and Vietnam. Course instructors included COL R Balasubramanian, COL Michael Kelly, Mr Bruce 'Ossie' Oswald and Ms Daphna Shraga. The Indian Army Judge Advocate General MAJGEN Kumar opened the course. MAJGEN Malhan the Additional Director General Staff Duties closed the course. Mr Phillippe Scholl, an International Committee of the Red Cross (ICRC) delegate presented on a range of issues that impact on the ICRC during peace operations.

The course focused on legal aspects of creating, managing and conducting peace operations. Topics included: Law applicable to peace operations; Application of human rights and international humanitarian law to peace operations; Transitional administrations and assistance missions; Peace operations and terrorism; and Accountability on peace operations. The course culminated with a six-hour exercise which provided students with an opportunity to consolidate many of the issues discussed during seminars. Participants also had the opportunity to share their military operations experiences.

CIVIL MILITARY CO-OPERATION (CIMIC) COURSE

HMAS Penguin, Sydney, 16-20 April 2007

This was the fifth annual course and reflected a steady development over previous years in the geographic reach of the course and in the diversity of its participants. Attending were representatives from China, Indonesia, Jordan, Malaysia, PNG, Singapore, Thailand, and The Philippines. Other participants were from the non-government, government and international organisation community, and ADF officers with current or expected roles in the CIMIC area.

There was a similar diversity among the overseas and Australian based presenters who represented an array of organisations including: the EU Police Support Mission in Darfur; the CIMIC Centre of Excellence (NATO accredited); UNHCR; the ICRC; AUSAID; Oxfam International; and the Centre for Islamic and Arab Studies.

Topics covered on the course included: CIMIC actors; UN operations – an overview; NGO dynamics; Legal framework for CIMIC; Cultural factors; Iraq case study; Strategic and political implications of CIMIC; Humanitarian coordination mechanisms; Humanitarian guidelines and codes; NATO CIMIC; ADF CIMIC; CIMIC planning; ICRC; UNHCR; Rule of law; CIVPOL; and Afghanistan Case Study.

The culmination of the course was a one and a half day exercise based on a complex emergency.

INAUGURAL MARITIME SECURITY COOPERATION COURSE

HMAS Watson, Sydney, 4-8 June 2007

This course was the first of its kind for the APCML and was conducted in partnership with the International Law Department of the U.S. Naval War College. It was formally opened by RADM Rowan Moffitt (Deputy Chief Joint Operations, Headquarters Joint Operations Command).

The APCML was pleased to host Captain Pete Pedrozo US Navy, and Commander Jim McMahon US Coast Guard whose engaging and insightful presentations on maritime law emphasized US perspectives on legal issues. The course also greatly benefited from the participation of Commander Rob Wood of the Royal Navy who provided very valuable input from a UK legal perspective and from Professor Stuart Kaye (APCML university node) who provided a very professional presentation on the role of customary law in the maritime environment.

The course attracted a number of regional officers including those from Indonesia, Jordan New Zealand, The Philippines, and Vietnam. There were also some 20 operators and legal officers from the RAN/R and RAAF as well as three representatives from the Australian Customs Service. The course examined the law underpinning the full array of maritime operations, ranging from peacetime freedom of navigation assertions through to maritime law enforcement and United Nations sanctions enforcement and finally Proliferation Security Initiative (PSI) and naval warfare paradigms. Commanders Bowers, McLaughlin and Campbell RAN provided very topical and insightful presentations on current maritime legal issues dealing with a number of issues, including Harbour security, PSI and maritime law enforcement.



RESEARCH PROGRAMMES

CENTRE PARTICIPATION IN MAJOR IHL PROJECTS

International Humanitarian Law Series — Martinus Nijhoff Publishers

Martinus Nijhoff Publishers, based in Leiden, are the publishers of the International Humanitarian Law Series — the world's first series of authored and edited volumes in the English language dedicated to the international legal regulation of armed conflict. The series seeks to explore the substantive issues of International Humanitarian Law including, for example, the protection of victims of armed conflict, the means and methods of warfare, the implementation of International Humanitarian Law and the enforcement of this area of the law. Professor Tim McCormack is editor-in-chief of the series with Professor Christopher Greenwood QC, Professor of Public International Law at the London School of Economics and Political Science. There are now seventeen volumes in the series, of which the following five were published in the last year:

- Vol 17** Frits Kalshoven, *Reflections on the Law of War: Collected Essays* (2007)
- Vol 16** Ola Engdahl, *Protection of Personnel in Peace Operations: The Role of the 'Safety Convention' against the Background of General International Law* (2007)
- Vol 15** Michael Schmitt and Jelena Pejic (eds), *International Law and Armed Conflict: Exploring the Faultlines. Essays in Honour of Yoram Dinstein* (2007)
- Vol 14** Laura Perna, *The Formation of the Treaty Law of Non-International Armed Conflicts* (2006)
- Vol 13** Ustinia Dolgopol and Judith Gardam (eds), *The Challenge of Conflict: International Law Responds* (2006)

Presentation of Second Report to the United Nations Expected Civilian Damage and the Proportionality Equation

Following his presentation of the Report on Explosive Remnants of War (ERW) to the Group of Governmental Experts of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW) at the UN in March 2006, APCML Director Professor Tim McCormack was asked to prepare a second report on expected civilian damage from ERW and the proportionality equation. This Report, written with APCML research student Paramdeep Mtharu, was presented to the Review Conference on the CCW by Ambassador Edvardus Borisovas, the Coordinator of the Group of Governmental Experts, on 9 November 2006.

Civilian Bombing Project

Professor Tim McCormack and APCML Senior Research Fellow Dr Helen Durham have been invited to participate in a research project entitled 'Bombing and the Civilian: A Twentieth Century History' organised by Professor Toshiyuki Tanaka of the Hiroshima Peace Institute. The project is a multi-disciplinary one involving historians, moral philosophers, ethicists, military strategists, sociologists and political scientists. Professor McCormack and Dr Durham will provide a legal perspective for the project with a joint chapter to an edited volume of essays to be published in 2007. Dr Durham delivered a paper on the international law relating to the bombing of civilians and civilian property at the HPI Workshop in San Francisco in December 2006.

CENTRE PARTICIPATION IN MAJOR INTERNATIONAL PEACEKEEPING PROJECT

The Challenges of Peace Operations Project

The Challenges Project was established in 1997 with an inaugural workshop hosted by the Swedish National Defence College. The Project's primary objectives are to foster and encourage a culture of cross-professional cooperation and partnership with the aim of exploring and conveying more effective and legitimate ways of dealing with multi-national and multi-disciplinary peace operations. Some 230 organisations and 50 countries are participating in the project. The APCML accepted the role of designated Australian partner organisation to the Challenges Project at the request of the International Policy Division of the Department of Defence.

APCML Advisory Board member COL Mike Kelly and APCML Associate Director Bruce Oswald attended the combined DPKO Workshop on doctrinal development and Challenges Projects Partners Meeting held in Sweden from 26-30 September 2006. The Workshop re-examined the principles of UN peacekeeping by drawing on the experiences of UN peace operations. In addition, the impact of emerging norms and concepts such as the responsibility to protect, legitimacy, Rule of Law, and national ownership were considered. The Meeting discussed progress on promoting implementation of the Phase II report findings, and finalised plans for the future work of the Challenges partnership and the establishment of the International Forum for the Challenges of Peace Operations.

Website: <http://www.law.unimelb.edu.au/events/peace>

CENTRE PARTICIPATION IN MAJOR NATIONAL SECURITY PROJECT

National Implementation of the Biological Weapons Convention (BWC)

The Centre is involved in a major initiative to promote more effective national implementation of the 1976 Biological Weapons Convention (BWC) in the SE Asian region. The possibility of terrorist acquisition of biological weapons (and other weapons of mass destruction) is recognised by the Australian government as a real and alarming threat to regional security.

Both APCML Director Professor Tim McCormack and APCML Principal Research Fellow Associate Professor Bob Mathews are members of the Foreign Minister's National Consultative Group on Bio-Security Issues. They also made a joint presentation on the obligations on States Parties to the Biological Weapons Convention and the importance of more effective national implementation to counter the regional threat of bio-terrorism, to twelve regional scientists and technical experts from Indonesia, Malaysia, Thailand and The Philippines on 28 May 2007 at the Melbourne Law School. This half-day visit, hosted by the APCML, was coordinated by the Counter-Terrorism Branch of the International Security Division of the Department of Foreign Affairs and Trade (DFAT).

Associate Professor Bob Mathews and APCML research student Sarah Finnin have developed a website which provides detailed information about the two BWC Workshops organised by APCML jointly with the Department of Defence and the Government of Indonesia, in February 2005 at the University of Melbourne and in March 2006 in Bali., and provides access to electronic versions of the Proceedings of these Workshops. In addition, the Website provides information on various regional initiatives with regard to the BWC, such as Codes of Conduct.

Website: <http://www.law.unimelb.edu.au/events/bwc>

RESEARCH HIGHER DEGREE STUDENTS CURRENTLY ENROLLED**International Humanitarian Law/Law of Armed Conflict**

Ben Clarke, PhD

‘Occupation, Resistance and *Jus ad Bellum*: When is it Lawful to Forcibly Resist Foreign Occupation of a Sovereign State?’

Supervisors: Tim McCormack, Michael Kelly and Michael Gillooly (expected completion date: September 2007)

Ian Henderson, PhD

‘Targeting During Armed Conflict: A Legal Analysis’

Supervisors: Tim McCormack and Andrew Mitchell (expected completion date: June 2007)

Michelle Lesh, PhD

‘Israel’s Policy of Targeted Killing and International Humanitarian Law’

Supervisors: Tim McCormack and Helen Durham (expected completion date: July 2009)

Andrew Macleod, SJD

‘The Rights and Obligations of Arms Bearers in Non-Security Council-Endorsed Peace Operations, Concentrating on the Role of Privatized Military Corporations’

Supervisor: Tim McCormack (withdrawn May 2007)

Jadranka Petrovic, SJD

‘Deliberate Destruction of Cultural Property During Armed Conflict: How Does International Law Respond: The Case of the Old Bridge of Mostar’

Supervisors: Tim McCormack and Helen Durham (expected completion date: October 2007)

International Criminal Law

Gideon Boas, PhD

‘Trying Former Heads of State and Senior Officials for War Crimes: Lessons in Complex Litigation from the Milosevic Trial’

Supervisors: Tim McCormack and Carolyn Evans (passed March 2007)

Neri Colmenares, PhD

‘International Jurisdiction and Amnesty’

Supervisors: Tim McCormack and Tim Lindsey (expected completion date: December 2008)

Britt Conidi, PhD

‘Imposing International Criminal Law and the Individual Victims of Mass Violence: Help or Hindrance?’

Supervisors: Tim McCormack and Helen Durham (expected completion date: March 2008)

Sarah Finnin, PhD

‘How Prosecutors Shape International Criminal Law and Justice’

Supervisors: Tim McCormack and Helen Durham (expected completion date: October 2009)

Carrie McDougall, PhD

‘Prosecuting the Accumulated Evil of the Whole: Defining an “Act of Aggression” for the Purposes of the Rome Statute of the International Criminal Court’

Supervisors: Tim McCormack and Stuart Kaye (expected completion date: February 2008)

Hayli Anne Millar, PhD

‘Standards for Effective Transitional Justice Decision-making: Lessons from South Africa and East Timor’

Supervisors: Tim McCormack and Helen Durham (passed May 2007)

Vasko Nastevski, PhD

‘The Enactment of War Crimes Legislation in Australia without Offending the Prohibition on Retrospective Legislation’

Supervisors: Tim McCormack and Michelle Foster (expected completion date: June 2011)

Nicole Schlesinger, PhD

‘An Exploration of Extra-legal Factors Influencing the Development of the Law of the International Criminal Tribunals for The Former Yugoslavia and Rwanda’

Supervisor: Tim McCormack & Timothy Marjoribanks (expected completion date: Dec 2008)

Arms Control and Disarmament

Sheree Bailey, PhD

‘Beyond the Rhetoric: Civil Society, the AP Mine Ban Convention and Assistance to the Victims’

Supervisors: Tim McCormack and Helen Durham (expected completion date: September 2007)

Robert Mathews, PhD

‘The Negotiation of the Chemical Weapons Convention, and its Implications for Other Arms Control Regimes’

Supervisor: Tim McCormack (expected completion date: July 2008)

International Human Rights Law

John Tobin, PhD

‘Dancing with Folk Devils: Adopting a Rights-Based Approach to the Administration of Juvenile Justice’

Supervisors: Anne Orford and Philip Alston (expected completion date: October 2008)

Law of International Institutions

Andrew Coleman, PhD

‘The Role of the International Court of Justice and Self-Determination’

Supervisors: Tim McCormack and Tania Voon (expected completion date: December 2007)

Alison Duxbury, PhD

‘The Role of Human Rights and Democracy in Determining the Participation of States in International Organisations’

Supervisor: Tim McCormack (expected completion date: May 2008)

Use of Force and International Law

Jessica Howard, PhD

“‘To Deter and Deny’”: International Law and Australia’s Interdiction of Asylum Seekers’
Supervisor: Tim McCormack (expected completion date: July 2008)

Bruce Oswald, PhD

‘The Application of International Law to United Nations and Regional Peace Operations’
Supervisors: Tim McCormack, Daniel Bethlehem and Wendy Larcombe (expected completion date: October 2008)

Phoebe Wynn-Pope, PhD

‘The Responsibility to Protect against Crimes against Humanity and Genocide: Applying the Principle’
Supervisors: Tim McCormack and Tim Lindsey (expected completion date: December 2009)

OTHER RESEARCH STUDENTS CURRENTLY ENROLLED**Legal Internship and Advanced Legal Research**

Patrick Hayden

Advanced Legal Research and Legal Internship
Supervisor: Tania Voon

Michael Hone

Advanced Legal Research
Supervisor: Bruce Oswald

Matthew Jacobs

Advanced Legal Research
Supervisor: Bruce Oswald

Timothy Kern

International Humanitarian Law (Advanced Legal Research Project).
Supervisor: Alison Duxbury

David Lipshutz

Advanced Legal Research
Supervisor: Bruce Oswald

Sheirly Lugito

Legal Internship
Supervisor: Bruce Oswald

Paul McGraw

Legal Internship
Supervisor: Bruce Oswald

Nneka Morrison

International Legal Internship
Supervisor: Tania Voon

Jeanette Volfman

International Human Rights Law and Australia’s anti-terrorism legislation (Advanced Legal Research Project)
Supervisor: Alison Duxbury

RESEARCH HIGHER DEGREE STUDENT SPECIAL ACTIVITIES**Michelle Lesh****Volunteer Law Clerk, Supreme Court of Israel
September – December 2006**

Michelle spent four months in Jerusalem working as a volunteer law clerk at the Supreme Court of Israel. First she worked for Supreme Court Vice President Eliezer Rivlin, who was writing the judgment on a petition to the Court concerning the Winograd Committee which was appointed by the Government of Israel to investigate the decision to go to war and the conduct of the Israeli Defence Force during the Second War in Lebanon. The petitioners argued that the Committee was not independent because those being investigated (the government) appointed the Committee members. Questions before the Court included whether it was the role of the Court to intervene in this issue. Michelle's work included researching investigative bodies set up in Common Law countries, particularly Royal Commissions.

Then she researched for the recently retired Chief Justice Aharon Barak, who was writing the judgment on targeted killing. In 2002 human rights organisations petitioned the Court, calling for an end to the policy of targeted killing because, they argued, it was illegal according to international and Israeli law. In determining the legality of targeted killing, Barak based his judgment on international humanitarian law. Michelle's research for Barak included an analysis of international humanitarian law, particularly the meaning of civilians participating in hostilities according to article 51(3) of Additional Protocol I to the Geneva Conventions. She also analysed academic discussions on this topic and various comparative case law from the US Supreme Court, the European Court for Human Rights and the International Court of Justice.

In addition to this she also researched for Justice Rivlin who sat with Barak on the panel and wrote a concurring opinion. This included researching the principle of proportionality under international humanitarian law and the category 'unlawful combatant'.

The timing of Michelle's internship was extremely fortunate. 'Working on the judgment on targeted killing was extremely beneficial to my PhD because my thesis topic is a legal and jurisprudential analysis of Israel's policy of targeted killing'.

Carrie McDougall**Member of the Australian Delegation to the Intersessional Meeting of the Special Working Group on the Crime of Aggression (SWGCA), Princeton, 11-14 June 2007**

Carrie McDougall was again invited to participate as a member of the Australian Delegation to the 2007 Intersessional Meeting of the SWGCA, which is a body set up by the Assembly of States Parties to the Rome Statute of the International Criminal Court. Its mandate is to devise a definition of the crime of aggression and to draft provisions relating to the exercise of the Court's jurisdiction over the crime. It is hoped that the negotiations undertaken by the SWGCA will lead to a successful proposal relating to the crime of aggression being adopted during the Rome Statute review conference, now likely to be held in early 2010. As a member of the Delegation, Carrie was able to provide advice to other members of the Australian Delegation, follow the negotiations closely and advocate a compromise proposal she has devised as a possible solution to the current jurisdictional impasse.

'My experiences at Princeton are directly related to my thesis topic and will ensure that my analysis is grounded in the practical realities of the negotiation process'.

PUBLICATIONS

CENTRE PUBLICATIONS

Two monographs in this series were published in the period covered by the Report.

Refugee Protection or Border Protection? An Overview of the Last Decade

John A Gibson
October 2006

An overview of the key policy and legal issues concerning the Australian Government's approach to refugee protection over the last decade.

John Gibson is the founding chairperson of the Victorian Foundation for Survivors of Torture, a former member of the Refugee Review Tribunal, and a member of the Victorian Bar with a specialist practice in refugee and migration law.

This publication is available in electronic format only.

Protecting the Internally Displaced in Armed Conflict: Do International Models of Intervention for Humanitarian Purposes Assist?

Elizabeth Cossor
February 2007

A detailed examination of the international protection mechanisms currently available to the specific context of internally displaced persons (IDPs) in armed conflict, an issue that affects some 50 countries across the international community.

Elizabeth Cossor has considerable experience human rights and refugee law, having worked with refugees in Australia, northern India and Nepal, Sierra Leone and Afghanistan.

This publication is available in hard copy, order form at:
http://www.apcml.org/documents/cossor_order_form.pdf

Presentation of Second Report to the United Nations

Expected Civilian Damage and the Proportionality Equation 9 November 2006

Following his presentation of the Report on Explosive Remnants of War (ERW) to the Group of Governmental Experts of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW) at the UN in March 2006, APCML Director Professor Tim McCormack was asked to prepare a second report on expected civilian damage from ERW and the proportionality equation.

This Report, written with APCML research student Paramdeep Mtharu, was presented to the Review Conference on the CCW by Ambassador Edvardus Borisovas, the Coordinator of the Group of Governmental Experts, on 9 November 2006.

PUBLICATIONS BY APCML MEMBERS & ASSOCIATES**Books (authored and edited)**

McCormack, T.L.H., and Saunders, C.A., (eds), *Sir Ninian Stephen: A Tribute*, Melbourne University Press: Melbourne (2007)

Voon, T., *Cultural Products and the World Trade Organization* (Cambridge: Cambridge University Press, June 2007)

Chapters in Books

Kaye, S., 'IUU Fishing in the Southern Ocean: Challenge and Response' in G. Triggs and A. Riddell (eds), *Antarctica: Legal and Environmental Challenges for the Future* (London: BICCL, 2007) 31-59

McCormack, T.L.H., 'International Peace Envoy' in T.L.H. McCormack and C.A. Saunders (eds), *Sir Ninian Stephen: A Tribute*, Melbourne University Press: Melbourne (2007) 214-246

McCormack, T.L.H., 'An Australian Perspective on the ICRC Customary Law Study' in Anthony M. Helm (ed.), *The Law of War in the 21st Century: Weaponry and the Use of Force*, Naval War College: Newport (2006) 81-97

Mitchell, A., 'Fair Crack of the Whip: Examining Procedural Fairness in WTO Disputes Using an Australian Administrative Law Framework' in WTO Trade Law Branch, DFAT (ed), *Ten Years of WTO Dispute Settlement: Australian Perspectives* (2006) 45-69

Oswald, B., 'The Applicability of International Law in Modern Conflict' in the ICRC/AJ Kidwal Mass Communication Research Centre/Press Institute of India 'Reporting Armed Conflict: The Media Debates its Role' (2006) 13-28

Refereed Journal Articles

A. Coles, P. Dharmadasa, A. Duxbury and C. Klein, 'Australian Correspondents' Report (2004) *Yearbook of International Humanitarian Law* 446-454

Duxbury, A., Updating 'Defence Title', Halsbury's Laws of Australia, 2006-2007

Duxbury, A., 'The Commonwealth Secretariat and the Implementation of Human Rights' (2006) 95 *The Round Table* 425-440

Duxbury, A., 'David Hicks: Where to Next?' (2007) 13(4) *CHRI News*

Kaye, S., 'Threats from the Global Commons: Problems of Jurisdiction and Enforcement' (2007) 8 *Melbourne International Law Journal* 185-197

McDougall, C., 'When Law and Reality Clash – The Imperative of Compromise in the Context of the Accumulated Evil of the Whole: Conditions for the Exercise of the International Criminal Court's Jurisdiction over the Crime of Aggression' (2007) 7 *International Criminal Law Review* 277

Mitchell, A., 'Proportionality and Remedies in WTO Disputes' (2006) 17 *European Journal of International Law* 985-1008

Mitchell, A., 'Good Faith in WTO Dispute Settlement' (2006) 7 *Melbourne Journal of International Law* 339-371

Oswald, B., 'Developing a Course on the Law of Peace Operations: Method and Practice – Making Ends Meet' 4(1) *Journal of Peace Education* 57-74

Oswald, B., 'Addressing the International Law and Order Vacuum: Key Issues and Dilemmas for Peacekeeping Operations' 6 *New Zealand Armed Forces Law Review* 1-19

Tobin, J., 'Beyond the Supermarket Shelf: Using a Rights Based Approach to Address Children's Health Needs' (2006) 14 *International Journal of Children's Rights* 275-306

Voon, T., 'A New Approach to Audiovisual Products in the WTO: Rebalancing GATT and GATS' (2007) 14(1) *UCLA Entertainment Law Review* 1

Voon, T., 'Social Hosts' Responsibility for Their Intoxicated Guests: Where Courts Fear to Tread' (2007) 15(1) *Torts Law Journal* 62 (with Ian Malkin)

Voon, T., 'State Support for Audiovisual Products in the World Trade Organization: Protectionism or Cultural Policy?' (2006) 13(2) *International Journal of Cultural Property* 129

Voon, T., 'Completing the Analysis in WTO Appeals: The Practice and its Limitations' (2006) 9(4) *Journal of International Economic Law* 933 (with Alan Yanovich)

Voon, T., 'To Uphold, Modify or Reverse? How the WTO Appellate Body Treats Panel Reports' (2006) 7(4) *Journal of World Investment and Trade* 507

Voon, T., 'UNESCO and the WTO: A Clash of Cultures?' (2006) 55(3) *International & Comparative Law Quarterly* 635

Other Contributions to Refereed Journals

Voon, T., Review of Edwin Vermulst, *The WTO Anti-Dumping Agreement: A Commentary* (2005) in (2007) 56(2) *International and Comparative Law Quarterly* 463

Other Articles

Durham, H., 'International Humanitarian Law and the Protection of Women' and 'Shredding the Sky' in 'Yemaya - Voicing Women's Ideas and Images' *Sydney University Law Society* 2006

McCormack, T.L.H., 'Hope Riddled With Flaws', book review of Adam LeBor, *Complicity With Evil: The United Nations in the Age of Modern Genocide* and James Traub, *The Best Intentions: Kofi Annan and the UN in the Era of American Power*, in *The Age*, 3 February 2007, A2, 23;

McCormack, T.L.H., 'Trial of David Hicks Was a Political Fix by Two Governments', *The Age*, 21 May 2007; 13

McCormack, T.L.H., 'Why I was happy to assist David Hicks', *The Melbourne Anglican*, June 2007

Oswald, B., 'Roles and Challenges for Operations Lawyers' *The Judge Advocate Journal* (Thailand)

Oswald, B., ‘Developing Accountability Regimes for Military Contractors: An Australian Approach?’ in 2(2) *Journal of International Peace Operations* September/October 13 and 22

Reports

Duxbury, A., contributed to the report by the Commonwealth Human Rights Initiative, *Easier Said Than Done: A Report on the Commitments and Performances of the Commonwealth members of the UN Human Rights Council* (2007)

Voon, T., ‘Achieving a common market for telecommunications services in Australia and New Zealand’ (2007) (with Andrew Mitchell) (research project funded by Telstra Corporation)

Membership of Editorial Boards

Global Change, Peace & Security
(Institute for Peace Research, La Trobe University)
Member of the Editorial Committee: Tim McCormack

International Humanitarian Law Series
(Brill Publishers, Leiden, The Netherlands)
Co-Editor in Chief: Tim McCormack

International Criminal Law Review
(Brill Publishers, Leiden, The Netherlands)
Member of the Editorial Board: Tim McCormack

Journal of Conflict and Security Law
(Oxford University Press, UK)
Member of the Editorial Board: Tim McCormack

Jurnal Hukum Humaniter
(Centre for Humanitarian Law & Human Rights, Faculty of Law, Trisakti University, Jakarta)
Member of Honorary Advisory Board: Tim McCormack

Melbourne Journal of International Law
(The University of Melbourne, Australia)
Faculty Adviser: Bruce Oswald
Members of the Advisory Board: Tim McCormack, Alison Duxbury, Bruce Oswald, John Tobin

Pearson Papers
Pearson Peacekeeping Centre, Canada
Member of the Editorial Board: Bruce Oswald

The New Zealand Armed Forces Law Review
(Armed Forces Law Association of New Zealand)
Consulting Editor: Tim McCormack

Yearbook of International Humanitarian Law
(TMC Asser Instituut Press, The Hague, The Netherlands)
General Editor: Tim McCormack

CONFERENCES, WORKSHOPS & SEMINARS

APCML/ICRC WORKSHOP ON PKO

7-9 May 2007



The APCML and the International Committee of the Red Cross (ICRC) held a joint workshop on Law Enforcement in Peace Keeping Operations (PKO): Training Needs for Civilian Policing (CIVPOL) at the Melbourne University Law School, on 7-9 May 2007. The aim of the seminar was to provide a means of consolidating the experiences of police forces from the Pacific and Asia gained in the framework of PKO in many CIVPOL missions around the world.

Delegates from the Australian Federal Police and the countries of Fiji, Indonesia, Malaysia, PNG, The Philippines, Samoa, Tonga and Vanuatu attended the three-day workshop. Speakers included Assistant Commissioner Paul Jevtovic, National Manager of the International Deployment Group, Australian Federal Police; Mr Jean-Luc Metzker, Head of Regional Delegation for the Pacific, ICRC; Mr Svend Dissing, Police & Security Forces Delegate, ICRC and Mr Bruce Oswald, Associate Director, APCML.

APCML SEMINARS

These seminars were convened by APCML Associate Director Bruce Oswald.

The Law of Armed Conflict: a contemporary critique

CMDR Dale Stephens, APCML Deputy Director (17 August 2006)

This seminar discussed the pragmatism of the modern law of armed conflict with an analysis of its goals and an assessment of the realisation of these goals on the modern battlefield.

Refugee protection or Border protection: the last decade – an overview

John Gibson, President, Refugee Council of Australia (24 August 2006)

In this seminar, Mr Gibson drew on his extensive experience in the refugee sector to provide an overview of the key policy and legal issues concerning the Australian Government's approach to refugee protection over the last decade.

Peacebuilding in Fragile States: Prospects and Challenges

Major General Mike Smith AO (Retd), CEO Austcare (31 August 2006)

In this presentation MAG-GEN Smith, former Deputy Commander of the UN Peacekeeping Force in East Timor, examined the prospects for peace building initiatives in an increasingly anarchic world.

Personal experiences – in and out of IHL

Tony Dalziel, LLM student/ICRC (7 September 2006)

In this presentation Tony Dalziel drew on his experiences in Africa, the Balkans and the Middle East to discuss differing perspectives of IHL as an empowerment tool and as a framework for protection during conflict.

AFP Deployment in the Pacific: A Legal Overview

James Watson, Legal Officer, Australian Federal Police (13 September 2006)

This seminar discussed current AFP operations, focussing on some legal and operational issues arising from AFP involvement in Timor Leste, Solomon Islands and PNG, and examining the application of domestic laws and the role of the AFP in capacity building.

Prosecuting Commercial Plunder in the Democratic Republic of Congo (DRC)

James G. Stewart, Appeals Counsel, ICTY (23 October 2006)

This presentation addressed the liability of business entities and their representatives for the plunder of natural resources in the DRC, arguing that IHL provides a legal framework through which allegations of illegal exploitation can be investigated and prosecuted.

Conspiracy and Cognate Doctrines in the Tokyo War Crimes Tribunal

Neil Boister, Faculty of Law, University of Canterbury (14 November 2006)

This presentation examined the evolution of the concept of conspiracy during the course of the trial at the International Military Tribunal for the Far East, and its potential impact on the modern international criminal law of aggression.

The Rule of Law and Access to Justice in Darfur

Leanne McKay, UN Development Programme (7 March 2007)

In this presentation Leanne McKay, former APCML Research Fellow, currently working as a Rule of Law Officer with the UN Development Programme in El Fasher, North Darfur, spoke about the challenges of promoting the rule of law, human rights and access to justice in a conflict environment.

JOINT PRESENTATIONS/SEMINARS

with Oxfam Australia

Making Presence Effective

Liam Mahony, Centre for Humanitarian Dialogue, Geneva (7 July 2006)

This seminar focussed on the role of unarmed international humanitarian staff in protecting civilians in areas of conflict.

with the Institute for International Law and the Humanities (IILAH) and the Melbourne Journal of International Law (MJIL)

The International Court of Justice: a view from inside

Justice Sir Kenneth Keith QC KBE (7 August 2006)

In this seminar Sir Kenneth, elected a judge of the ICJ in 2005, spoke about how the ICJ works and discussed his involvement in the case brought by Bosnia and Herzegovina against Serbia and Montenegro concerning the application of the Genocide Convention.

with the Centre for Comparative Constitutional Studies (CCCS)

The Coalition Invasion of Iraq: International law in the courts of the UK and Ireland and its significance for Australia

Professor Geoff Lindell, Professorial Fellow, Melbourne Law School (14 September 2006)

This presentation explored the relationship between domestic and international law that was raised by recent cases in Britain and Ireland involving the Coalition invasion of Iraq in 2003. These cases also presented issues about the scope of a government's non-statutory powers over foreign affairs and whether the courts can review the exercise of these powers.

with Oxfam Australia

War in Darfur and the Prospects for Peace

Alex de Waal, Justice Africa (London) (4 April 2007)

This presentation discussed the background to the current war in Darfur, why the 2005 Darfur peace talks did not succeed, and the need for a new concept of operations for peace support in conditions of generalised insecurity and state failure.

APCML PARTICIPATION IN WORKSHOPS & SEMINARS

INTERNATIONAL PEACE OPERATIONS SEMINAR

5-6 July 2006

APCML Associate Director Bruce Oswald, COL Mike Kelly and CAPT Dale Stephens RAN gave presentations during the 2006 Australian Defence Force International Peace Operations Seminar held in Canberra 5-6 July 2006. Topics covered included: Impact of culture on peace operations, Introduction to the rule of law on peace operations, Law applicable to peace operations, Key legal principles and standards, Peace operations in collapsed states, and Rules of engagement and the use of force on peace operations. Students also participated in a case study based on planning the deployment of UN peacekeepers to Darfur.

MILITARY LAW SEMINAR AT LAW STUDENTS CONFERENCE

7 July 2006

The APCML (University node) was invited to host an afternoon seminar on Military Law at the recent 28th Australian Law Students' Association (ALSA) Conference held at the Melbourne University Law School. Speakers at the seminar were Professor Tim McCormack (Overview of Military Law), Bruce Oswald (Military Operations Law), BRIG Ian Westwood (Military Discipline Law), and Sarah Finnin (David Hicks and Military Law).

PEACEKEEPING SEMINAR – JAKARTA

14-15 February 2007

APCML Associate Director LTCOL Paul Muggleton represented the APCML at a peacekeeping seminar in Jakarta on 14-15 February 2007. The Indonesian participants at the seminar included representatives of DEPHAN (Ministry of Defence), POLRI (Indonesian National Police), TNI (Indonesian armed forces) and DEPLU (Indonesian Department of Foreign Affairs). Australian participants included representatives of the ADF Warfare Centre, the ADF Peacekeeping Centre, the APCML, the Australian Federal Police and the Australian Embassy in Jakarta. The seminar was immediately followed by discussions between Australian and Indonesian authorities on practical activities that could be conducted in the future.



**APCML DELIVERY OF LEGAL MODULE – AUSTRALIAN CENTRE FOR DEFENCE & STRATEGIC STUDIES (CDSS)
19-21 February 2007**

The APCML was invited to deliver the legal module on the 2007 Defence and Strategic Studies Course for the CDSS at the Australian Defence College in Canberra, which provides officers of the Australian Defence Force, the Australian Public Service and overseas participants with the knowledge and skills required by senior leaders and managers operating in the national security environment. APCML instructors for the legal module were CAPT Dale Stephens RAN, LTCOL Paul Muggleton, and LCDR Rachel Jones.



**MILITARY LEADERSHIP IN PEACEKEEPING SEMINAR – BANGKOK
27 February – 1 March 2007**

The APCML, in partnership with the St James Ethics Centre and the Royal Thai Armed Forces (RTArF), co-hosted a military leadership in peacekeeping seminar in Bangkok from 27 February to 1 March 2007. The three days of the seminar covered Duty to Protect, Proportionality, and Training. The APCML was represented by Associate Director LTCOL Paul Muggleton. Countries represented included: Australia, Bangladesh, Brunei, Cambodia, China, Indonesia, Malaysia, the Philippines, Singapore, Tonga, Vietnam and Thailand.



**PEACEKEEPING SEMINAR – VIETNAM
31 March - 5 April 2007**

An Australian Defence Force delegation, comprising CAPT Dale Stephens RAN of the ADF Peacekeeping Centre, recently conducted a planning meeting in Hanoi, Vietnam. The activity was coordinated by the Vietnamese Ministry of Foreign Affairs and the Vietnamese Ministry of Defence and supported by the Australian Embassy Defence



PARTICIPATION IN CONFERENCES & OTHER PROFESSIONAL ACTIVITIES BY APCML MEMBERS & ASSOCIATES**Helen Durham**

‘Working for the Red Cross – a Lawyer’s Perspective’, presentation for the Melbourne Law School career seminar series, 8 August 2006

‘Women & War’, presentation for Australian Red Cross Basic Training Course for field delegates, Fiskville, Victoria, 19 September 2006

‘Customary International Law’, presentation for Australian Red Cross (Qld) Malleons seminar series, Brisbane, 20 September 2006

Panelist for Australian Red Cross Expert Panel Debate ‘After The War: Prosecutions, Pardons and Peace’, Sydney, 23 November 2006

‘International laws relating to the bombing of civilians during armed conflict’, paper for the Hiroshima Peace Institute workshop, San Francisco, 8-9 December 2006

‘International Humanitarian Law’, presentation for the McFarlane Burnett Institute Refugee Course, Melbourne, 19 February 2007

Chaired ‘IHL and the Muslim World’ session for Australian Red Cross (Vic) International Humanitarian Law Seminar series, Melbourne, 2 March 2007

‘Women & War’ and ‘Red Cross and Advocacy’, presentations for Australian Red Cross Basic Training Course for field delegates, Fiskville, Victoria, 1 May 2007

Alison Duxbury

Judge of the semi final of the ALSA/Red Cross International Humanitarian Law Moot Competition, Melbourne, 7 July 2006

Attended, in her capacity as member, a meeting of the International Advisory Commission of the Commonwealth Human Rights Initiative, Delhi, India, 10-11 October 2006

Judge of the Exhibition Moot of the University of Melbourne Jessup Moot team, Melbourne, 5 February 2007 (with Justice David Harper and Dr Gavan Griffith QC)

‘The Relevance of Rights to the WTO Accession Process’, paper for the Future of the WTO Forum, University of Melbourne, 1 March 2007

Judge of the practice moot of the University of Melbourne WTO Moot Team, prior to their competing in the Australian rounds of the competition, March 2007

‘Moving Towards or Turning Away from Institutions? The Future of International Organisations in the Asia Pacific Region’, paper for the inaugural conference of the Asian Society of International Law, National University of Singapore, Singapore, 7 April 2007

As Co-Convenor of the Human Rights Forum, organised five lectures/seminars in the period February-May 2007

Stuart Kaye

Legal advisor to the Commonwealth Secretariat workshop, Maputo, Mozambique, 19-23 February 2007

Tim McCormack

Judge of the grand final of the ALSA IHL moot competition, Melbourne, 8 July 2006

Lunchtime address to Federal MPs 'Friends of Australian Red Cross' group, Canberra, 17 August 2006

Opened 'Justice Denied' Exhibition at Artstreams Gallery, Warrandyte, 17 September 2006

'How Not to Try a Former Head of State: Lessons from the Milosevic Trial', presentation for the International Law Section of the Law Institute of Victoria, Melbourne, 20 September 2006

'Proposed Trial of David Hicks by US Military Tribunal', Guest speaker at the Geelong Community Legal Service AGM, Geelong, 26 October 2006

Chaired the annual meeting of the Editorial Advisory Board of the Yearbook of International Humanitarian Law, Geneva, 26 November 2006

Participated in the ICRC/Asser Institute Expert Working Group on Taking a Direct Part in Hostilities, Geneva, 27-28 November 2006

'Lessons from the Milosevic Trial', guest lecture for the Swedish branch of the International Law Association in conjunction with Swedish Red Cross, Stockholm, 30 November 2006

'How Not to Try a Former Head of State: Lessons from the Milosevic Trial', presentation for the Australian Red Cross (ACT) International Humanitarian Law Department's Solferino Seminar, Canberra, 8 February 2007

'Battlefields and Courtrooms: Applying the Laws of War in the 21st Century', presentation at the Australian Red Cross International Humanitarian Law Breakfasts, Hobart, 21 February 2007, and Launceston, 22 February 2007

'In Conversation' with Michael Otterman, author of 'American Torture: From the Cold War to Abu Ghraib and Beyond', at Readings Bookshop, Carlton, Melbourne, 6 March 2007

Co-author of legal advice to the Law Council of Australia on the charge against David Hicks of 'providing material support for terrorism', 8 March 2007

'Enforcement of IHL', presentation for the Australian Red Cross IHL Instructors' Course, Melbourne, 15 March 2007

'Reflections on Guantanamo Bay', guest presentation with Lex Lasry QC to the Victorian Criminal Bar Association, Essoin Club, Melbourne, 18 April 2007

'David Hicks and the Charade of Guantanamo Bay', guest lecture with Terry Hicks, Melbourne Law School, 20 April 2007

Carrie McDougall

Appointed Member of the Australian Delegation to the Intersessional Meeting of the Special Working Group on the Crime of Aggression, Princeton, 11-14 June 2007

Andrew Mitchell

'Use (and Misuse) of Public International Law in the *GMO/Biotech* case', paper for the Institute for International Law and the Humanities seminar on *EC – Biotech*, Melbourne, 21 February 2007 (with Tania Voon)

LTCOL Paul Muggleton

‘Status and Treatment of Detainees’, presentation to the ADF Warfare Centre’s Operations Law Course, RAAF Base Williamtown, 26 July 2006

‘Occupation’ and ‘Occupation Case Study – Iraq’, presentations to the ADF Warfare Centre’s Operations Law Course, RAAF Base Williamtown, 27 July 2006

‘Legal Aspects of Peace Operations’, presentation to an Indonesia – Australia Peacekeeping Seminar, Jakarta, 14 February 2007

‘Legal and Ethical Aspects of Command Responsibility’, presentation to the Centre for Defence and Strategic Studies, Australian Defence College, Course, Canberra, 21 February 2007

‘Application of IHL and International Human Rights Law to Peace Operations’, presentation to the Australian Red Cross IHL Trainers’ Workshop, Melbourne, 14 March 2007

Bruce Oswald

‘Understandings During States of Emergencies: Some Challenges Facing Military Operations Lawyers’ at 3rd Melbourne Legal Theory Workshop: Limit, Exception, Emergency, Miracle, 22-24 November 2006

‘The Exercise of Power to Deprive Civilians of their Liberty during United Nations Peace Operations’ Closed Roundtable Discussion hosted by the Danish Ministry of Foreign Affairs, Copenhagen, 12-14 December 2006

Tania Voon

‘The State of the World Trade Organization’, presentation for the Annual Dinner of the Australian Federation of University Women – Victoria, Melbourne, 15 September 2006

‘Health Measures under GATT and GATS’, presentation for the Melbourne Law School Postgraduate Law Students’ Association public seminar on Health and the WTO, Melbourne, 18 October 2006

‘Use (and Misuse) of Public International Law in the *GMO/Biotech* case’, paper for the Institute for International Law and the Humanities seminar on *EC – Biotech*, Melbourne, 21 February 2007 (with Andrew Mitchell)

‘The End of Zeroing? Reflections Following the Appellate Body’s Latest Missive’, paper for the International Conference on WTO Dispute Settlement, College of Law, National Taiwan University, Taipei, 11 March 2007

‘Exclusive Choice of Forum Clauses in Free Trade Agreements’, paper for the International Trade Law Symposium, Attorney-General’s Department and Law Council of Australia, Canberra, 4 May 2007

Global Case Author (2007) for the European Law Students’ Association WTO Moot Court Competition

Judge for the Oral Regional Rounds of the European Law Students’ Association WTO Moot Court Competition, Adelaide and Taipei March 2007

MEMBERSHIP OF BOARDS & COMMITTEES

International Advisory Commission of the Commonwealth Human Rights Initiative (CHRI),
a pan-Commonwealth human rights organisation with offices in Delhi, Accra and London
Member: Alison Duxbury

Australian Red Cross International Humanitarian Law Advisory Committee,
providing advice and support to the Australian Red Cross in its mandate of implementing international humanitarian law
Chair (National): Stuart Kaye
Member (VIC): Alison Duxbury

Australian Foreign Minister's National Consultative Group on Bio-Security Issues,
comprising members from the biotech industry, academia and relevant government departments
Tim McCormack and Bob Mathews

Australian Foreign Minister's National Consultative Committee on International Security Issues (NCCISI),
a forum for consultation between the Government and the community on international security issues
Tim McCormack

Concord Research Center, Law School, The College of Management Academic Studies,
Rishon LeZion, Israel;
promoting and developing academic research on the incorporation of international standards into the Israeli legal system
Member of the International Advisory Board: Tim McCormack

Institute for International Law of Peace and Armed Conflict, Ruhr Universität, Bochum,
Germany
Member of the International Advisory Board: Tim McCormack

International Hydrographic Organization's List of Experts on Maritime Boundary
Delimitation
Australian Government nominee: Stuart Kaye

International Society for Military Law and the Law of War, Brussels,
an international association established in 1988 with membership from university professors, civilian and military magistrates, public servants of high rank, lawyers and field officers
Member of the Board of Directors: Bruce Oswald

Peace Operations Institute, Washington DC
a research organisation established in 2006 with the primary objective of examining the role of the private sector in peace and stability operations and conflict/post-conflict zones
Member of the Board of Directors: Bruce Oswald

The University of Melbourne's Advisory Board for the Bachelor of Arts
Member: Helen Durham

The University of Melbourne's Human Rights Forum,
an interdisciplinary forum established to promote the discussion of human rights issues in the University and wider community
Co-Convenor: Alison Duxbury

NEW APPOINTMENTS OF APCML MEMBERS & ASSOCIATES

Bond University Faculty of Law

Dr Tania Voon was appointed Adjunct Assistant Professor teaching *WTO – The Legal Framework* (September 2006)

Interpol Experts Board

APCML Research Fellow Associate Professor Bob Mathews was invited to join the Informal Board of Experts for the Bioterrorism Prevention Programme currently being undertaken by Interpol, the International Criminal Police Organisation. He attended the first meeting of the Board in France in August 2006

Royal Geographical Society

Professor Stuart Kaye was elected a Fellow in March 2007