

Research Bulletin

No. 51 November - December 2007

Welcome to the Research Bulletin for
November and December.

In this edition, you will find the latest information on
staff publications, media appearances, and upcoming seminars
and conferences.

Journal Publications

P Billings, 'The Treatment of Asylum Seekers in the UK' (2007) 29 (1) *Journal of Social Welfare and Family Law* 49-65

A Cassimatis, 'International Humanitarian Law, International Human Rights Law, and Fragmentation of International Law' (2007) 56 *International and Comparative Law Quarterly* 623-639

J Crowe, 'Natural Law in Jurisprudence and Politics' (2007) 27 (4) *Oxford Journal of Legal Studies* 775-794

D Hamer, 'Similar Fact Reasoning in Phillips: Artificial, Disjointed and Pernicious' (2007) 30 (3) *University of New South Wales Law Journal* 609-638

N James, 'Opting for Ontological Terrorism: Freedom and Control in Grant Morrison's The Invisibles' (2007) 3 (3) *Law, Culture and the Humanities* 435-454

D Jensen, 'Liberal Egalitarianism and Religious Vilification Laws' (2007) 23 (2) *Policy* 15-19

D Jensen, 'Punishment, Deterrence and Fiduciary Obligations' (2007) 1 *Journal of Equity* 182-198

G Orr, 'Constitutionalising the Franchise and the Status Quo: The High Court on Prisoner Voting Rights' [2007] *Democratic Audit of Australia Discussion Paper* 19/07

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Books and Book Chapters

A Cassimatis, Human Rights Related Trade Measures under International Law (Martinus Nijhoff Publishers, Leiden 2007)

R Hinchy, P McDermott (eds), Fundamental Company Legislation 2007 (2nd edn Pearson Prentice Hall, Frenchs Forest, NSW 2007)

A Schloenhardt, The Market for Amphetamine-type Stimulants and Their Precursors in Oceania (AIC Research and Public Policy Series, Australian Institute of Criminology, Canberra 2007)

J Corrin, 'For Better or Worse: Marriage and Divorce Laws in the Kingdom of Tonga' in Prof Bill Atkin (ed), International Survey of Family Law (International Society of Family Law, Wellington, New Zealand 2007) 291-307

Case Notes

A Cassimatis, 'International Court of Justice: The Bosnia Genocide Case', LAWASIA Update, August 2007, 18-19

S Derrington, 'An Illustory Distinction - The Australian & English Approaches to Confidentiality in Arbitration: Transfield Philippines v Pacific Hydro' (2007) 21 (2) Australian & New Zealand Maritime Law Journal 188-190

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Conference Publications

- N Aroney**, 'Three Reasons for an Upper House: Democracy, Legislative Outputs and Executive Accountability', The Politics of Democracy in South Australia Conference, Adelaide 8-9 March 2007
- N Aroney**, 'Constitutional Choices in the Work Choice Case', Supreme Court of Queensland Judges' Seminar, Customs House, Brisbane 24 May 2007
- N Aroney**, 'Realism's End: Articulating the Reasons for Decision in Political Communication Cases', Julius Stone Centenary Conference, Sydney 5-7 July 2007
- N Aroney**, 'Democracy, Community and Federalism in Electoral Apportionment Cases: The United States, Canada and Australia in Comparative Perspective', Public Law Weekend Conference, Canberra 9-10 November 2007
- A Cassimatis**, 'Developing States, the Generalized System of Preferences and Trade measures designed to improve respect for Human Rights', Centre for Global Trade and Finance and the Faculty of Law, Bond University 10 March 2007
- A Cassimatis**, 'Developing States, the Generalized System of Preferences and Trade measures designed to improve respect for Human Rights', Lauterpacht Centre for International Law, University of Cambridge 16 August 2007
- J Corrin**, H Douglas, 'Uneasy Alliances and Tensions in the', Marking: sites of analysis, discipline, interrogation, Melbourne 28-30 November 2007
- J Crowe**, 'Self and Other in Ethics and Law: A Comment on Manderson', Australian Society of Legal Philosophy Annual Conference, Canberra 30 March - 1 April 2007
- J Crowe**, 'Introduction to International Humanitarian Law', Australian Red Cross Professional Development Seminar Series, Sydney 14 August 2007
- J Crowe**, 'Liberalism As a Political Philosophy', Centre for Independent Studies Liberty and Society Conference, Sydney 15-16 September 2007
- H Douglas**, 'Responses to Breaches of Domestic Violence Orders', Law and Society: Transformations, Resistances, Futures, Berlin 25-28 July 2007
- G Orr**, 'Mandatory Secret Ballots Before Strike Action: Practical Hurdle or Symbol of Strike Action As a Last Resort', , Centre for Employment and Labour Relations Law, Labour Law Seminar Series 29 November 2007
- G Orr**, 'Brand G: Regulating Government Advertising in New Zealand and Australia', , Centre for Public Law, Victoria University Wellington Public Lecture 12 November 2007
- A Schloenhardt**, 'Sex, Drugs and Guns: Organised Crime in the South Pacific', Regionalising Criminal Law, Christchurch 18-20 August 2007
- A Schloenhardt**, 'Transnational Organised Crime and International Criminal Law', Waseda University, Tokyo 1 November 2007
- A Schloenhardt**, DA Castle, 'Mafias and Motorbikes: Fighting Organised Crime in Canada and Australia', Liu Institute for Global Issues, University of British Columbia, Vancouver 6 November 2007

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Book Reviews

K Barker, 'Review of Simone Degeling and James Edelman (eds) Equity in Commercial Law' (2007) 70 Modern Law Review 163-167

D Jensen, 'The Commercial Society: Foundations and Challenges in a Global Age by Samuel Gregg' (2007) 3 The Melbourne Review 101-105

P McDermott, 'The Reception of English Law Abroad. By Bruce Harvey McPherson C.B.E.' (2007) 66 (3) Cambridge Law Journal 717-719

R Mortensen, 'Jurisdiction in International Litigation: Book Review' (2007) 16 (1) Griffith Law Review 276-280

Research Reports

T Walsh, NO VAGRANCY: An Examination of the Impact of the Criminal Justice System on People Living in Poverty in Queensland , (First Old, 2007)

Loose Leaf Services

G Orr, 'Damages', in Loose Leaf Court (Butterworths Loose-leaf Service, 2007), Forms, Precedents & Pleadings Update

Parliamentary Reports

G Orr, Senate, Finance and Public Accounts Committee, Inquiry into Commonwealth Elections (Democratic Plebiscites) Bill 2007, 'Written submission and oral evidence', (2007)

G Orr, ACT Legislative Assembly, Committee on Education, Training and Young People, Inquiry on Lowering Voting Age to 16, 'Invited written submission and meeting with committee', (ACT, 2007)

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Grants

- A Schloenhardt** , 2007. The University of Queensland TC Beirne School of Law Contestable Research Fund, II, \$5900
- A Schloenhardt** , 2007. Australian Federal Police research grant, \$8,500
- A Schloenhardt** , 2007. United Nations Office on Drugs and Crime (UNODC), Regional Centre for East Asia and the Pacific, Bangkok, Thailand, US\$8,500
- A Schloenhardt** , 2007. Research on Organised Crime in Australia and the Asia Pacific Region , Research Grant, 2007-08, \$7,632.24
- B Sherman and others** , 2007. The Potential Impact of Patents on Australian Horticulture Industries, 2007-2009 , \$236,725.89

Media Appearances

- G Orr**, 'Not the US - Wentworth Protagonists Court Lawyers', Australian Financial Review , (21/11/2007)
- G Orr**, 'So It's 2010, What's Changed? (Labour Law Policy)', The Courier-Mail , (24/11/2007)
- G Orr**, 'Newhouse Election Qualification', World at Noon, ABC radio, (15/11/2007)
- G Orr**, 'Newhouse Election Qualification', National News, ABC, (14/11/2007)
- A Schloenhardt**, 'Mall Shooting in Omaha, Nebraska', ABC Northwest, (7 Dec 2007)
- A Schloenhardt**, 'On Terrorist Arrest in Brisbane', News, ABC Radio, (5 July 2007)
- A Schloenhardt**, 'On Detention of Dr M Haneef', SBS Radio, (20 July 2007)
- A Schloenhardt**, 'On Criminal Charges Against Dr M Haneef', ABC Radio, Gold Coast, (27 July 2007)
- K Weatherall**, 'Copyright and Behaviour', Australia Talks, Radio National, (15 November 2007)
- K Weatherall**, 'Investigation into DJ Piracy Amid Claims Newcomers Are Stealing the Show', Sydney Morning Herald , (10 November)

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Research Seminar Series

The 2007 Research Seminar Series semester two program is available on the Research Seminar Series website.

The site contains the list of speakers for 2007, with biographies, abstracts of presentations and lists of other publications. Please visit the site and note which presentations you would like to see throughout the year.

<http://www.law.uq.edu.au/2007-program>

You may also find details of each seminar every month on the Calendar of Events website.

www.law.uq.edu.au/events

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Conferences & Seminars

This section will provide a list of upcoming conferences and seminars that law staff may wish to attend.

Names, dates and conference host will be provided in this section.
If papers are being invited, this will be noted.
Please use the links provided for further information.

**LAWASIA Information and Communication Technology Law Conference
21-23 January 2008
Bar Association of Sri Lanka
TransAsia Hotel, Colombo**

Organised by the Information Technology Law Committee of the Bar Association of Sri Lanka (BASL) How do member countries of LAWASIA deal with the unique challenges posed to the Law by Information and Communication Technology? Find out the answers from eminent lawyers with expertise on the subject and share your experiences at the LAWASIA Information and Communication Technology Law Conference 2007 to be held in Colombo, Sri Lanka.

Contact: The Administrative Secretary,
Bar Association of Sri Lanka,
No.153 Mihindu Mawatha, Colombo 12

Phone: +94 1 1238 7477, 1 1244 7134

Fax: +94 1 1244 8090

Email: basl.lawnet@stmail.lk

Website: www.lawasiaictlawconference.lk

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Conferences & Seminars

**The Ninth Annual Global Development Conference:
Security for Development
January 29 – 31, 2008
Brisbane, Australia**

The Global Development Network's Ninth Annual Global Development Conference 'Security for Development: Confronting Threats to Survival and Safety' will bring together nearly 600 researchers, policymakers and development practitioners from across the world to discuss the role of physical security as a precondition of human development. The conference will focus on pervasive threats, whose potential to cause physical or material damage shortens the planning horizons of individuals, communities and enterprises and challenges their survival. Threats to be addressed include violence (domestic abuse, violent crime, and civil conflict), and major calamities including pandemics and natural disasters (such as earthquakes, drought and floods). The conference will go beyond the recognition and identification of threats by highlighting responses in various parts of the world.

Keynote speakers at the conference include:

- H.E. Luisa Dias Diogo, Prime Minister of Mozambique, Mozambique
- Michael Spence, Stanford University, United States
- Hon. Min Mahinda Samarasinghe, Disaster Management and Human Rights Minister, Sri Lanka
- Hon. Bob McMullan, Parliamentary Secretary for International Development Assistance, Australia
- Graeme Wheeler, World Bank, United States
- Jeffrey Sachs, Columbia University, United States (via videoconference)
- Paul Collier, Oxford University, United Kingdom
- Andres Penate, Formerly of the DAS Intelligence Unit, Colombia
- Bruce Davis, Australian Agency for International Development

The two and a half day conference will be supplemented by research workshops on a variety of topics. These workshops will both precede and follow the conference proper. Workshops include "Interdisciplinary Research for Development;" "Industrial Development in Africa"; "Emerging Trend and Patterns of Trade and Investment in Asia" to be organized by the Research School of Pacific and Asian Studies, Australian National University; "Communities and the Resources Sector: Achieving Secure Outcomes" organized by the Foundation for Development Cooperation and workshops on existing GDN research projects on migration, health innovations, bridging research and policy, and fragile states.

Website: <http://www.gdnet.org/middle.php?oid=1220>

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Conferences & Seminars

**The Immigration Lawyers Association of Australasia Focus Group of the
International Law Section and the Refugee & Immigration Legal Centre Inc
2nd Annual CPD Immigration Law Conference
8 & 9 February 2008
Melbourne,**

The topics to be discussed at the Conference include:

- Trends in Judicial Review
- Effective Advocacy in Tribunals and relevance to Judicial Review
- Professional Ethics from a lawyer's perspective
- Dual Regulation and the 2007/08 Review of Migration Agent Regulation
- Update and issues in sponsoring Temporary Workers
- Update and issues in sponsoring Permanent Workers
- Skilled visas

Confirmed speakers include:

- The Hon Laurie Ferguson MP, Parliamentary Secretary for Multicultural Affairs and Settlement Services
- Mr Denis O'Brien, Principal Member of the Migration Review Tribunal
- Ms Debbie Mortimer SC, Barrister
- Mr Glenn Ferguson, Managing Partner, Ferguson Cannon Lawyers
- Ms Maria Jockel, Partner, Maddocks Lawyers and Chair of the ILAA
- Ms Christine Rodan, Partner, Erskine Rodan & Associates
- Mr Michael Clothier, Partner, Clothier Anderson & Associates
- Mr David Prince, Accredited Migration Law Specialist, Kah Lawyers
- Mr Nigel Dobbie, Special Counsel, Christopher Levingston & Associates

Website: www.lca-ils.net/ILAA/cpd2008.htm

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Conferences & Seminars

Sentencing 2008 Conference 8-10 February 2008 National Museum of Australia, Canberra

This Conference follows on from the Sentencing: Principles, Perspectives & Possibilities conference (2006) and the Confidence in the Courts conference (2007). It seeks to continue the discourse on a range of sentencing issues, including:

- national consistency in sentencing
- sentencing in magistrate courts
- sentence indication
- discounting sentences, suspended sentences, indefinite detention
- Crown appeals against sentence
- Indigenous offenders & customary law
- judicial discretion v legislative sentences
- sentencing for environmental offences
- juries -- a role in sentencing?
- particular offenders -- mental illness, intellectual disabilities, children

WHO SHOULD ATTEND

- Judges and magistrates
- Academics in areas of criminal law, sentencing, restorative justice, psychology and law, psychiatry and law, therapeutic jurisprudence
- Criminal lawyers: prosecutors, legal aid, private defence counsel (solicitors & barristers)
- Public servants involved in policy development
- Corrective service management and professional services
- Health & welfare professionals
- Victim support and community groups
- Media representatives

Email: sentencing@law.anu.edu.au

T: 02 6125 6655 or 02 6125 2906

F: 02 6125 6651

Mediation and International Arbitration in International Commercial Disputes Union Internationale Des Advocats (UIA) and LAWASIA 9-10 February 2008 Jaipur, India

This seminar is jointly organised by the UIA-International Association of Lawyers and LAWASIA with the support of the UIA-India Chapter.

Jaipur, popularly known as the Pink City, was founded in 1727 AD by one of the greatest rulers of the Kachhawaha clan, the astronomer king Sawai Jai Singh.

This exceptional international conference, organised by highly regarded international organisations, will take place in one of India's most interesting areas. Register your interest today by emailing the LAWASIA secretariat

Website: www.uialawasiasia2008.com

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Conference & Seminars

**The Judges' Review Conference 2008
Past, Present and Future Perspectives on Legal Issues:
7th March 2008
Vibe Savoy Hotel, Melbourne**

You can't afford to miss this rare occasion to spend the afternoon including networking drinks to listen, engage and interact at Thomson's Australian Law Journal Conference in Melbourne 14th March 2008.

The Australian Law Journal celebrated its 80th anniversary in 2007. Throughout its history, the ALJ has remained the premier legal journal in Australia, a forum for examination and debate of fundamental Australian and international legal issues.

Now is your opportunity to attend our ALJ conference chaired by The Hon Justice PW Young AO, Chief Judge in Equity of the Supreme Court of New South Wales and Editor of the Australian Law Journal.

Speaker line up and Topics:

- The Hon Justice KM Hayne AC of the High Court - From Principles to Pragmatism: A Cause of Popular Dissatisfaction with the Administration of Justice
- The Hon Chief Justice M Warren AC of the Supreme Court of Victoria - Changing issues of Parliamentary Sovereignty
- The Hon Justice RRS Tracey RFD of the Federal Court of Australia - Developments in Administrative Law

website: <http://www.thomson.com.au>

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Call for Journal Papers

Globalisation for the Common Good: An Interfaith Perspective 7th Annual Conference

**From the Middle East to Asia Pacific:
Arc of Conflict or Dialogue of Cultures and Religions?**

30 June - 4 July 2008

Trinity College, University of Melbourne

A Call for Papers is now addressed to scholars, postgraduate students, researchers, educators and others with expertise on any of the conference themes.

Proposals are invited from scholars specialising in a range of disciplines, including education, theology, philosophy, history, political science, international relations, conflict analysis and peace research, economics and political economy, law, sociology, psychology, health sciences and medicine, environmental studies and geography.

Proposals are also invited from members of parliament, practitioners in education, diplomacy, law, the media, the health professions and business, as well as those involved in religious and non-governmental organisations. Proposals that adopt an interdisciplinary perspective are especially welcome.

Proposals should be received by Monday, 11 February 2008.

Please submit paper proposals, preferably as a Word or Rtf document, and any queries to:

Ms Christine Siokou
Centre for Dialogue
La Trobe University
Bundoora 3086 VIC
Australia

Ph: +61 3 9479 1892
Fax: +61 3 9479 1997
Email: C.Siokou@latrobe.edu.au

18th National Administrative Law Forum: "Practising Administrative Law" Call for Papers

**Thursday 7 August 2008 – Friday 8 August 2008
Sofitel Hotel, Melbourne**

Written proposals should be sent to either Conference Director, Stephen Moloney or Rea Hearn-Mackinnon.

sjmoloney@vicbar.com.au

rea.hearn.mackinnon@mrt-rrt.gov.au

Deadline for proposals: Wednesday 30 January 2008

For general information about the conference, please contact Jenny Kelly
general@act.ipaa.org.au

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Call for Journal Papers

The Third International Legal Ethics Conference 13-16 July 2008. Gold Coast

The 2008 conference will build on the foundations set by its predecessors in 2004 and 2006. Under the umbrella theme of Integrity in Legal Practice, it will provide an opportunity to

- take stock of both achievements and failings in the international legal ethics project to date
- explore current questions about lawyers' ethical responsibilities
- anticipate and discuss aspects of lawyers' likely ethical challenges into the future
- The primary aim of the conference is to provide a forum for informed and lively debate within the various conference themes.

The conference is designed to cater for both scholars and legal practitioners, with a designated "practitioners' day" which will include papers, presentations and discussions of particular relevance to practising lawyers.

The conference themes embrace international perspectives, and will provide delegates from Australia and abroad with opportunities to hear and share ideas and arguments that have implications for "lawyering" across jurisdictions.

Proposals for presenting a paper are invited from scholars from all disciplines, practitioners and students. Presenters are encouraged to locate their paper within one of the streams listed below, although there are some opportunities for general papers concerning legal ethics that do not readily fit within the streams.

Proposals should involve an abstract of no more than 300 words, which can be included in the printed conference materials.

All streams are managed by a dedicated stream organiser.

- Character and virtue in the professions
- Contemporary legal practice
- Empirical research on lawyering
- Ethical decision-making in everyday legal practice
- Gender and the legal profession stream
- Large law firms
- Lawyering: business or profession?
- Lawyers and ethical conduct in fiction
- Legal ethics and the future
- The legal ethics project in legal education
- Models of professional regulation
- The deadline for proposals is 29 February 2008.

For further enquiries or to submit a proposal please email legaethics@griffith.edu.au¹⁴

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Professional Development

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Superannuation 2008

Thursday 28 February - Saturday 1 March 2008
Sofitel Brisbane

The 2008 Law Council Superannuation Conference in Brisbane – “Slip, Slop, Slap” – will arm attendees with the information and knowledge that superannuation trustees and their advisors now need in the harsh glare of the legal and regulatory landscape.

A Distinguished Speaker Faculty Includes:

- The Hon P. De Jersey, AC, Chief Justice, Supreme Court of Queensland
- The Hon Joseph Campbell, Supreme Court of New South Wales
- Professor Dal Pont, University of Tasmania
- Key regulatory, industry and legal representatives

Host: Superannuation Group, Law Council of Australia

Contact: Natalia Heath

Communique Australasia Pty Ltd

Suite 5, Level 2, 139 Alexander Street

Crows Nest NSW 2065

Phone: 02 9901 4122

Website: www.lawcouncil.asn.au/shared/2446220229.pdf

Email: nheath@conferenceworld.com.au

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Professional Development

Clayton Utz

The Clayton Utz Training Program offers practical, hands-on training workshops covering a wide range of today's legal and commercial issues. Our aim is to provide professional training directly relevant to your business needs.

All of our presenters are specialist lawyers which means they can provide insight into realistic problems and situations - invaluable experience to share with your organisation. We conduct professional training which complements our core business. We provide a highly personalised service and offer flexible training options. Our training focuses on hands-on workshoping and real-life problem solving.

Workshop topics include:

- Banking and financial services law
- Compliance law
- Contract law
- Environmental law
- Government law
- Insurance law
- Managing Indigenous stakeholders
- Marketing law
- Negotiation skills
- Risk management
- Trade practices law
- Witness training
- Workplace relations law

Register online at

Website: <http://www.claytonutz.com/training/controller.asp>

Tel: 1800 882 110

Email: client.training@claytonutz.com