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# INTERNATIONAL LAW ASSOCIATION, VICTORIAN BRANCH

## News Bulletin

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### President's Report

Welcome to the first edition of the International Law Association, Victorian Chapter newsletter.

This edition contains:

- an introduction of the Victorian Chapter Executive Committee;
- information about the successful launch event of the Victorian Chapter;
- information about ILA events and opportunities; and
- information about other international law events on in June.

The Victorian Chapter commenced operation in February this year. Since February we have held a number of members meetings which have enabled us to get to know some of our members. Since February the Chapter has been organising a number of events to be held during the year. We also hosted a launch event on 18 May details of which are outlined in the launch event section below. We are also very excited to be co-hosting a Human Trafficking panel event with Australian Lawyers for Human Rights which will be held in July this year and co-hosting an International Arbitration panel event with Australasian Forum for International Arbitration to be held in August this year. If you would like to assist us in the organisation of these events or you have ideas for other events please feel free to contact me: [cara.north@bakermckenzie.com](mailto:cara.north@bakermckenzie.com).

*Cara North, President*

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### ISSUE 1, JUNE 2011

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<http://www.ila.org.au/>

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### Invitation to join the ILA (Australian Branch) Group on LinkedIn

We are delighted to invite you to join our newly created LinkedIn Group. We will be using this site to regularly post content of interest to our Members, promote events and opportunities, and interlink with other organisations. By joining the Group, you can also develop networks with our Members, post your own content and comment on other material.

If you do not have a LinkedIn account, you can join without cost at [www.linkedin.com](http://www.linkedin.com). You can then find us by searching for the Group name, **International Law Association (Australian Branch)**, in the search bar.

Please don't hesitate to contact us if you have any queries or suggestions, or require further assistance joining the Group.

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## Meet the Victorian Chapter Executive Committee

On 21 February 2011, the first meeting of the Victorian Chapter of the International Law Association was held at Baker & McKenzie's offices in Melbourne. At that meeting, the executive members of the ILA were elected.



**President:** Cara North  
Associate, Baker & McKenzie  
**Interested in:** International dispute resolution, international humanitarian law, international trade law



**Vice-President:** Jess Kerr  
Lawyer, Norton Rose  
**Interested in:** Human trafficking, international anti corruption, international arbitration



**Secretary:** Devon Whittle  
Associate, Baker & McKenzie  
**Interested in:** International arbitration, climate change law, international humanitarian law and international trade law



**Treasurer:** Kate Mitchell  
Lawyer, Allens Arthur Robinson  
**Interested in:** International economic law, International criminal law, socio-economic rights



**Events Co-Ordinator:** Neda Monshat  
Master of Public and International Law,  
University of Melbourne  
**Interested in:** international human rights law and international law and ethics



**Student Liaison Officer:** Mark Dahdah, Monash University  
**Interested in:** international law and governance and international securities regulation

Please contact [devon.whittle@bakermckenzie.com](mailto:devon.whittle@bakermckenzie.com) for more information about the next meeting of the International Law Association, Victorian Branch. Meetings are usually held monthly at Baker & McKenzie Level 19, 181 William Street, Melbourne 3000.

If you have any suggestions for future issues or feedback please feel free to contact us at [cara.north@bakermckenzie.com](mailto:cara.north@bakermckenzie.com).

*The inaugural Victorian ILA Executive Committee is looking forward to developing the Chapter in 2011. We welcome any contributions and feedback.*

## Interview with Dr Gideon Boas

*Dr Gideon Boas is an Associate Professor in the Law Faculty at Monash University. Dr Boas has extensive experience in the area of international criminal justice, including working as a Senior Legal Officer at the International Criminal Tribunal for the former Yugoslavia (ICTY) and teaching International Humanitarian Law. Dr Boas kindly agreed to share his insights and experience with Louisa Burke for the first edition of the ILA News Bulletin.*



### **1. Which area of International Law do you specialise in?**

I specialise in a range of areas in the international and criminal justice area: public international law, international criminal law and justice, international humanitarian law and criminal process aspects of human rights.

### **2. What made you interested in pursuing that path?**

I have always been interested in social justice and the importance of law's role in social change. International law, perhaps because of its intimate and inevitable relationship with politics and power, has the potential to contribute to great change - some of it positive, some very negative. I never saw myself as an international lawyer when I was at Law School (indeed, at the time there were few opportunities in this area) but when I fell into it, it made perfect sense.

### **3. What steps did you take to get to where you are today in your international legal career?**

After practising in Sydney for a few years I worked as an International Humanitarian Law Officer for the Australian Red Cross, and began working on areas of international and humanitarian law with the International Committee of the Red Cross. In 1998 I went to work for the International Criminal Tribunal for the former Yugoslavia, before moving into full time academia in 2007. My path was nothing like planned, so it is difficult to talk about steps in my international law career.

### **4. What are you working on at the moment?**

I am finishing a book on public international law and working on three research projects - two ARC projects on international criminal law and justice and a Monash Accelerator Research Grant project on war criminals in Australia. I am also preparing to host a conference on the legitimacy and coherence of international criminal justice in June.

### **5. Can you describe your favourite legal issue/project that you have worked on?**

Working on the Milosevic trial at the International Criminal Tribunal for the former Yugoslavia was a once in a career experience. It was the first trial of a former head of State by an international tribunal and to be responsible to the Trial Chamber for the conduct of that case was incredibly challenging. It was frankly daily chaos, right up until Milosevic's death in detention four years after the trial began and before it had concluded. It will be hard to top.

### **6. What do you see as the biggest challenge for international criminal law in the future?**

The good news is that the international community seems wedded to the conduct of international war crimes trials as a preferred response to mass atrocity. The setting up of many international and internationalised tribunals and, of course, the International Criminal Court (ICC), suggest a genuine belief in this form of accountability. The big threat to international criminal law remains the capacity of these tribunals to conduct fair and expeditious trials. The pace of these trials are

## Interview with Dr Gideon Boas (Continued)

woefully slow for many reasons: the cases are enormous (in part by their very nature and in part through overcharging practices by prosecutors); tribunals are staffed by some judges with inadequate experience and competence (although they also have some extraordinarily good judges); the procedural structure of these tribunals lacks adequate coherence, and judicial authority is not exercised optimally. All of these, and many other, factors threaten the patience of the international community and its preparedness to continue to authorise and finance these trials.

This is what makes a system of positive complementarity so important - by this, I mean that states take on primary responsibility for the conduct of war crimes trials to support efforts at international tribunals which can only try the most responsible from any conflict. There is a dialogue to be had about this in our own country, where possibly thousands of war criminals from many different conflict zones reside.

### **7. What role do you see for the ICC going forward in prosecuting war crimes?**

Well this idea of positive complementarity comes from the structure and work of the ICC. There is an important role for the ICC to play in capacity building in states in a process of transitional justice, as well as encouraging developed states like Australia to participate in investigating and prosecuting international crimes.

The ICC has a crucial role now in international criminal law. It may soon be the sole international war crimes court and is certainly the focus of work in this area. It has not started particularly well, taking a long time to get cases on and through the system. Its jurisprudential development has been disappointing, plagued by some poor judges (again there are certainly some very good ones there) and an obsessive rejection of anything that emanates from the ad hoc Tribunals that came before it (particularly the Yugoslav Tribunal). This latter point is critical. There is an enormous amount of excellent work that has already been done in substantive and procedural law in this area and the ICC has many hurdles to jump already without making its task of developing international criminal law even harder. I see this point - along with the complex political relationship between the Court and its Assembly of States Parties - as a genuine threat to the future viability of the Court.

I think it is fair to say that the ICC has been shown great faith by the international community and much is expected of it. It is critical to the future of war crimes prosecutions that it rises to the challenges.

### **8. What do you think about the hybrid model adopted in the Cambodian trials? Do you think it is the only feasible option for war crimes prosecution?**

I don't at all think it is the only option for war crimes prosecutions. As I have said, the ICC remains the future of international criminal law. Having said that, there is a continuing place for the hybrid tribunals. I think they have many advantages, being rooted in the domestic legal system of the war-afflicted state with important international overlays to protect and enhance the system of justice. Apart from the Special Panels for Serious Crimes in East Timor (which was a complete waste of time) all the hybrid tribunals have been quite successful - even the ECCC, which struggles with considerable domestic political interference. In the same way as greater state involvement in investigating and prosecuting war crimes is crucial, so too can hybrid tribunals continue to play a valuable part in the overall response to international crimes. One obvious candidate at the present time is Sri Lanka.

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## ILA Launch Event

The Victorian Chapter of the International Law Association (Australia Branch) was launched on 18 May 2011 at the offices of Baker & McKenzie in Melbourne. The Honourable Michael Kirby AC CMG, a long time member of the ILA, made a keynote address to a crowd of over 70 people from the legal profession, both practitioners and academics, on the topic of *New Encounters with International Law*. Michael Kirby's busy post judicial career shows no signs of slowing. On Thursday night he rushed from Monash University after speaking to over 700 students eager young students, many of which were armed with the new Kirby biography, to the offices of Bakers where he officiated at the launch of the International Law Association Victorian chapter. Cara North, the new chapter president said that Kirby was a natural choice for the launch given his long association with the ILA and international law. Kirby entertained the 70 strong audience with stories showing his lifelong passion for international law. Moments after he finished, he was off again. This time to Brisbane to launch the biography to a Queensland readership.

Ms North also spoke of future events that the Chapter was organising, such as panel evenings on topics as diverse as human trafficking to international arbitration to international financial regulation. "We aim to engage the Victorian legal profession, including students, practitioners and academics on important international legal questions and how that impacts on their practice and profession." said Ms North.



L-R: Jessica Kerr (Vice President), Mark Dahdah (Student Liaison Officer), Kate Mitchell (Treasurer) Devon Whittle (Secretary), Neda Monshat (Events Coordinator), The Honourable Michael Kirby AC CMG, Cara North (President), Damien Sturzaker (President – Australia Branch).

## In Focus... International Law Blogs and Websites

If you are interested in finding up to date commentary on topical international legal issues, there are a wealth of blogs featuring contributions from practitioners, academics and enthusiasts that are highly informative:

**EJIL Talk: The Blog of the European Journal of International Law** <http://www.ejiltalk.org/>

EJIL:Talk! is the blog of the European Journal of International Law and hosts a variety of in-depth posts considering issues of international law and debates around international legal issues. The site is edited by Dapo Akande, Marko Milanovic and Iain Scobbie.

**Opinio Juris:** <http://opiniojuris.org/>

Authored by a variety of international law academics, Opinio Juris is an online forum of discussion and debate about international law and international relations. The site includes regular posts by commentators on a range of international law issues as well as on-line symposia, book discussions and guest-posts from government staff, private practice lawyers and those working international organisations.

**The International Economic Law and Policy Blog** <http://worldtradelaw.typepad.com/ielpblog/>

Maintained by WorldTradeLaw.net with contributions from a variety of trade law experts, the IELP blog contains a wide range of commentary on recent case law and scholarship in international economic law and policy, including in relation to World Trade Organisation law and practice, free trade agreements and investor-state arbitration.

**PHD Studies in Human Rights** <http://humanrightsdoctorate.blogspot.com/>

Well-known professor William A. Schabas maintains this blog on topics of international humanitarian law, international criminal law and international human rights. It contains updates on recent developments and new publications, as well as his own commentary on the same.

**Don Anton's Weekly Digest of International Law** <http://theantonweeklydigestofinternationallaw.com/>

A weekly digest of international scholarship available online and via email subscription. Compiled by Don Anton of the Australian National University's College of Law.

**The Red Telephone - News of the NSW Young Lawyers International Law Committee**

<http://theredtelephone.wordpress.com/>

Run by the International Law Committee of the New South Wales Young Lawyers division of the Law Society of New South Wales, the Red Telephone is a regularly updated newsblog and discussion forum regarding international law in all its forms.

## Recent cases in International Law

*Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*

The ICJ held it had no jurisdiction to hear the application filed by Georgia on 12 August 2008 on the basis that Georgia and the Russian Federation did not engage in negotiations with respect to the latter's compliance with its substantive obligations under Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination.

The Court concluded that Article 22 imposed an affirmative duty on the parties to resort to negotiation or special procedures under the Convention prior to coming to the ICJ. As a result of the decision, the case will not proceed to the merits phase of the dispute which challenged the Russian Federation's intervention in South Ossetia and Abkhazia from 1990 to August 2008.

## ILA EVENTS AND OPPORTUNITIES

### International Law on Sustainable Development, Legal Experts Seminar 15-17 June, 2011, Rome, Italy - Invitation/Call for Papers

The International Development Law Organization (IDLO) and the Centre for International Sustainable Development Law (CISDL) will co-host, together with the International Law Association's Committee on International Law on Sustainable Development, a Legal Experts Panel and Seminar in Rome, Italy on 15-17 June 2011.

These events will commence with an International Legal Experts Panel on Green Economy, Poverty & the Law in which we will discuss the international and domestic legal aspects of the 2012 UN Conference on Sustainable Development in Brazil.

The Legal Experts Panel will be followed by a 2-day Semina on Justice, Sustainability and International Law which aims to provide a forum for Committee members and other invited guests to present and discuss papers on key topics, including an analysis of how the 2002 New Delhi Declaration Principles have been reflected in the decisions of courts and tribunals. The final afternoon of this in-depth seminar will be reserved to discuss recommendations for the deliberations of the UN High Level Experts Panel on Global Sustainability and plans for the upcoming UN Conference on Sustainable Development (Rio +20) process, and for the ILA Sophia Biennial Conference.

Committee Members are invited to submit titles and 100-word abstracts for papers that you may be willing to present in the seminar for legal experts, senior officials from the IDLO and other international organizations, law graduate students and the public, in Rome on 15-17 June, 2011. Please send your abstracts to [kbell@idlo.int](mailto:kbell@idlo.int) with a copy to [mccordonier@idlo.int](mailto:mccordonier@idlo.int).

The IDLO will host a special dinner event for the Committee members during the seminar as well as provide meeting facilities, tea/coffee, and other

hospitality in their newly restored premises in Rome as well as full logistical and outreach support.

While travel costs cannot be covered at this time, IDLO can offer rooms in their Residence at an excellent rate of 70 Euros per night. IDLO has applied for further funding, and if they are successful, they hope to cover travel and accommodation for several developing country members of the Committee.

If you would like to attend this event please send your abstracts and confirmation of your attendance to [kbell@idlo.int](mailto:kbell@idlo.int).

### Australian Journal of International Law

The *Australian International Law Journal* is currently accepting submissions of articles, case notes and book reviews on any area of public or private international law, for inclusion in the 2010 annual volume of the Journal. For further information, visit the [Journal's website](#).

Articles should normally be 6,000 to 12,000 words; case notes 2,000 words; and book reviews up to 1,000 words. Submissions must not have been submitted elsewhere for publication. **The deadline for submissions is 30 June 2011.**

Submissions should be sent to the Editors at [law.scil@sydney.edu.au](mailto:law.scil@sydney.edu.au).

### The ICC Institute of World Business Law Prize

The ICC Institute of World Business Law Prize aims to contribute towards the understanding and progress of international commercial law around the world and to encourage those engaged in focused research on legal issues affecting international business. The ICC Institute's Prize is designed to recognise excellent legal writing in the field of international commercial law, including arbitration. Every two years, the ICC Institute awards a Prize of €10,000 for excellent legal writing or doctoral dissertations in the field of international commercial law, including arbitration. Applicants have until 1 July 2011 to submit their manuscript. It will be awarded on 28 November 2011, in Paris, on the occasion of the Institute's Annual Meeting. Visit the [ICC website](#) for further.

## International Law Events

### June

**1 June:** Victor's Justice: Selecting the Targets of International Tribunals - Professor William A. Schabas (Castan Centre for Human Rights Law). A lecture from Professor Schabas, one of the world's leading authorities on international criminal law.

**6 June:** The Future of International Arbitration in Australia (\$145/\$205) (LIV). A seminar on the future of international arbitration in Australia looking at recent legislative reform and Australia's prospects as a regional hub for international dispute resolution in the Asia-Pacific.

**8 June:** The Wednesday Lectures (Melbourne Law School). A series of five lectures in June hosted by Raimond Gaita at Melbourne Law School on International Law and politics.

### July

**14 to 17 July:** Law and Religion: Legal Regulation of Religious Groups, Organisations and Communities (Melbourne Law School) An international conference covering both international and domestic law views on the role of legal regulation of religious groups and how the law should respond to the conflict between individual and group rights.

**14 July:** Do Bills of Right Protect or Endanger Religious Freedom: The American Constitutional Experience (Melbourne Law School). A public lecture by Professor John Witte (Emory University) arguing that the experience in America shows that constitutional protection of religious freedoms can benefit religion.

**22 July:** Castan Centre for Human Rights Law Annual Human Rights Conference 2011 (Castan Centre for Human Rights Law). This conference usually sells out more than a month in advance and has a range of international law speakers including the Mr Jeffrey L. Bleich (United States Ambassador to Australia), Associate Professor Megan Davis (Director of the Indigenous Law Centre at the University of New South Wales and member of the UN Permanent Forum on Indigenous Issues), Professor Tim McCormack (Professor of Law at the Melbourne Law School and the Special Advisor on International Humanitarian Law to the prosecutor of the International Criminal Court in the Hague), and Professor Samina Yasmeen (Director of the Centre for Muslim States and Societies at the University of Western Australia).

## Interested in getting involved in the ILA?

There are a variety of ways that you can get involved in the Victorian branch as well as the ILA national chapter.

1. Become a member of the ILA – information is available on the website at <http://www.ila.org.au/index.htm>
2. Attend our meetings – email [cara.north@bakermckenzie.com](mailto:cara.north@bakermckenzie.com) or [devon.whittle@bakermckenzie.com](mailto:devon.whittle@bakermckenzie.com) to find out about the next ILA chapter meeting, where you can contribute ideas for events and assist with the day-to-day running of the organization
3. Contribute to the newsletter – if you have read an interesting international legal case, or if there is an international issue on which you would like to express your view, email [n.monshat@pgrad.unimelb.edu.au](mailto:n.monshat@pgrad.unimelb.edu.au)
4. Contribute to the Australian Journal of International Law – [http://www.ila.org.au/pdfs/AIJ\\_call\\_for\\_papers\\_2011.pdf](http://www.ila.org.au/pdfs/AIJ_call_for_papers_2011.pdf)
5. Attend our events – over the next 12 months we will be hosting a number of events where you can gain an insight into topical areas of international law and meet others who share the same interests.
6. Contact us- email [cara.north@bakermckenzie.com](mailto:cara.north@bakermckenzie.com) to let us know you are interested in getting involved. We are always looking for extra hands and new ideas!