

EDITORS' NOTE

GLOBALISATION AND THE QUEST FOR SOCIAL AND ENVIRONMENTAL JUSTICE: THE RELEVANCE OF INTERNATIONAL LAW IN AN EVOLVING WORLD ORDER

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This issue of the Macquarie Law Journal had its genesis in the 2006 Division of Law Seminar Series, which was convened by Dr Shawkat Alam, Dr Natalie Klein and Ms Juliette Overland. The Division of Law at Macquarie University comprises three departments – the Department of Law, the Department of Business Law and the Department of Environmental Law – and, in 2006, the editors represented each of these different departments.¹ Thus the seminar series and this issue of the Macquarie Law Journal are truly collaborative, cross-departmental and interdisciplinary, in nature as well as topic.

In the call for papers for the seminar series, prospective participants were asked to submit an abstract based on the topic 'Globalisation and the Quest for Social and Environmental Justice: The Relevance of International Law in an Evolving World Order', with a focus on either social justice or environmental justice in that context. The following statement of general guidance was proffered:

There are few topics as controversial as globalisation. It is meant to bring economic growth and solve a range of social, cultural and humanitarian problems. However, there are significant debates in relation to the extent that the reality of globalisation reflects this idealized vision. In particular, globalisation has produced a highly interdependent world, rendering state boundaries meaningless and challenging the ideology and limits of certain areas of international law. The 2006 seminar series will

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¹ Dr Klein representing the Department of Law, Ms Overland representing the Department of Business Law and Dr Alam (then) representing the Department of Environmental Law.

provide the opportunity to address some of the multifaceted issues provoked by the issue of globalisation.

The abstracts submitted in response to the call for papers were of an exceptionally high standard, and covered a diverse range of topics relating to the central theme of the seminar series. A complete list of all presentations given in the 2006 seminar series follows this editorial note.

The majority of participants in the seminar series accepted the editors' invitation to submit a full paper for possible publication in this issue of the *Macquarie Law Journal*. All papers from the seminar series which are included in this issue have been subject to a rigorous reviewing process of double-blind, peer review. The editors are delighted to be able to present those papers to you.²

Whilst the entire 2006 seminar series was regarded as an outstanding success, one particular highlight was a visit to Macquarie University by Dr Jean-Philippe Bardé, the internally renowned environmental economist and former head of the National Policies Division of the OECD Environment Directorate in Paris, France. Dr Bardé gave a presentation in the seminar series and also delivered the 2006 Macquarie Lecture³ on the topic 'Removing Market Distortions: A Prerequisite for Sustainable Development'. It is reprinted here as the first paper in this issue. Dr Bardé's paper focuses on the complex and multidimensional implications for development which can 'meet the needs of the present without compromising the ability of future generations to meet their own needs.' Whilst addressing economic, social and environmental pillars of sustainable development, Dr Bardé considers the effect of pricing and taxation structures, and the distortions which result from environmentally harmful subsidies. He then concludes that economic tools, whilst not the ultimate solution for sustainable development, can greatly assist in supporting outcomes which are both politically and ethically desirable.

In the next paper, Professor Michael Jeffery QC considers global environmental challenges, particularly in the context of trade liberalisation and its impact on sustainable development. Professor Jeffery argues that trade liberalisation has led to greater disparity in living standards globally and a resulting decrease in social justice, whilst simultaneously permitting environmental degradation, especially in developing countries, and causing irreversible damage to our planet.

Dr Laura Horn then looks at 'the common concern of humankind' as an ethical concept concerned with ensuring sustainable development in a global sense. She

² It should not be assumed that papers from the 2006 seminar series which have not been published in this issue were rejected. Not all presenters elected to submit their papers for consideration, and some have elected to publish their papers elsewhere.

³ The Macquarie Lecture is an annual lecture presentation by a distinguished international scholar on a topic of their choice, hosted by the Macquarie University Division of Law and open to academics, members of the profession, students and the general public.

considers that the relevance of traditional international law concepts, such as that of 'state sovereignty', is being eroded by global challenges, especially due to the growth of transnational companies. Dr Horn suggests ways in which international law may need to develop mechanisms to take into account the interests of major global stakeholders – states, companies, environmental groups and communities – to attempt to ensure and promote environmentally sustainable practices in the future.

The development of international investment is considered by Ms Kate Miles, who regards the applicable laws to be in a state of flux. The relevant socio-political conditions are examined – she determines that factors such as globalisation, the evolution and transformation of international law and growing environmental awareness have created current controversies in international investment law. In this context, Ms Miles proposes a future middle-ground to balance the competing interests of foreign investment and the protection of the environment.

Although presentations in the seminar series were held fortnightly on Thursdays during the lunch-hour, a special evening seminar was held on 10 August 2006, bringing together eminent academics of international renown to present on particular topics relating to the globalisation theme of the seminar series: international investment and loans to developing countries, environmental impact issues relating to global dependence on oil, and the potential for developing markets for green energy. From that evening seminar, we are delighted to be able to present the papers of two of the speakers - Professor Ross Buckley and Professor Mona L Hymel - in this issue.

Professor Ross Buckley, with his co-author Amberlee Small, reviews issues relevant to international investment and loans to developing countries, with a focus on a 'debt-for-investment' project between Australia and The Philippines. They look at ways in which such projects can achieve various global goals: the reduction of transnational threats, such as terrorism and epidemics; the provision of much needed assistance to developing countries; and the strengthening of international relationships.

In a paper which looks at the intersection between globalisation, environmental degradation and social justice, Professor Mona L Hymel explores the case of oil. The use of oil has enabled global trade and commerce to flourish, yet the effects of oil consumption have resulted in dramatic damage to the environment. Professor Hymel examines the many obstacles to a cohesive global approach, and considers whether 'the case of oil' can be effectively addressed in a global context.

In the next paper, Associate Professor Malcolm Voyce focuses attention upon the global impact of 'geographical indications', particularly in relation to trade and development. This discourse examines the impact of such mechanisms on agricultural industries and Australian examples are discussed in this context. Associate Professor Voyce also looks at the role of international organisations such

as the International Monetary Fund, the World Bank and the World Trade Organisation, and explores whether it is appropriate for geographical indications to be viewed as 'cultural property' or 'trading commodities'.

This issue concludes with a paper by Dr Samiul Hasan. Dr Hasan looks at the ways in which globalisation itself has increased the flow of information internationally, so that there is greater awareness of injustices resulting from that very process of globalisation. In particular, Dr Hasan focuses on issues of religion and social justice, and the manner in which concepts of fairness and equality are evolving in a world undergoing economic, social and political upheaval at a time of unprecedented access to global sources of information.

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**Macquarie University Division of Law
2006 Seminar Series Program**

9 March 2006	Professor Rafiqul Islam Division of Law Macquarie University	'Economic Globalisation through Trade Liberalisation: Its Effects on Human Rights and Social Justice'
23 March 2006	Dr Laura Horn School of Law University of Western Sydney	'Globalisation, Sustainable Development and the Common Concern of Humankind'
6 April 2006	Professor Michael Jeffery QC Department of Environmental Law Macquarie University	'Environmental Imperatives in a Globalised World: The Ecological Impact of Liberalising Trade'
4 May 2006	Ms Aroha Mead Victoria Management School Victoria University of Wellington	'The Implications for Pacific Indigenous Peoples of the Proposed International Regime on Access & Benefit Sharing of Genetic Resources and Associated Traditional Knowledge'
18 May 2006	Mr George F. Tomossy Division of Law Macquarie University	'Globalisation, Clinical Trials and Developing World Subjects: The (Ir)relevance of International Law?'
1 June 2006	Associate Professor Malcolm Voyce Division of Law Macquarie University	'The Empire Strikes Back: Australian Trade with the European Union and the Conflict over Geographical Indications'
10 August 2006	Professor Ross Buckley School of Law University of New South Wales	'How to make Good Use of our Loans to Poor Countries: Debt for Environment and Development Swaps'
	Professor Mona L. Hymel College of Law University of Arizona	'Globalisation, Environmental Justice, and Sustainable Development: The Case of Oil'

	Associate Professor Hope Ashiabor Department of Business Law Macquarie University	‘The Impact of Regulatory and Fiscal Policy in Developing a Market for Green Energy in Australia’
24 August 2006	Ms Kate Miles Faculty of Law University of Sydney	‘Globalisation and the Transformation of International Law: Inevitable Collision Course for Foreign Investment and the Environment?’
7 September 2006	Professor Bryan Horrigan Division of Law Macquarie University	‘Invasion of the Body (of Law) Snatchers - Controversial Borrowings from Foreign and International Law in Comparative Anglo-American Constitutionalism and Corporate Social Responsibility Reform’
5 October 2006	Dr Samiul Hasan School of Management University of Technology, Sydney	‘Globalisation, Social Justice and Islam: Contradiction or Coexistence?’
19 October 2006	Dr Shawkat Alam Division of Law Macquarie University	‘Globalisation, Trade Liberalisation and Sustainable Development: Challenges and Options for Developing Countries’
2 November 2006	Dr Jean-Philippe Bardé Former Head, National Policies Division, OECD Environment Directorate, Paris, France	‘Environmental Taxes in the Context of High Energy Prices’