

# International Law Association (Australian Branch)

## President's Report 2005

PROFESSOR IVAN SHEARER

I have pleasure in presenting my second report as President of your Branch of the Association.

The year 2005 has seen many events in world affairs engaging international law, nearly all of them unpleasant. The western democratic world is struggling to find the right balance between traditional freedoms and human rights on the one hand, and the need to take effective measures for the suppression of terrorism on the other. Contrary to expectation (or perhaps vain hope), terrorist activity has increased in Iraq and Afghanistan, impeding the implantation of democracy. There is the prospect of an avian flu epidemic, which has the potential to rival, or even to surpass, HIV/AIDS as a killer of human beings. Natural disasters have struck in South East Asia and Pakistan, calling for the delivery of massive amounts of humanitarian aid. The twin scourges of corruption and maladministration continue to plague Africa, compounding the problems caused by drought. New studies put beyond doubt the reality of global warming. And so it goes on. It is difficult to see counterbalancing positive trends.

In response to these challenges the International Law Association has a small but significant part to play. It is not an activist organization, in the pejorative sense of that word. It does not condemn or congratulate particular nations or actors. It does not take sides on disputable political questions. What it does do is to provide a forum for the assertion of the relevance of international law and of the vital importance of upholding it. To that forum is invited a wide range of people who share the aims of the Association: practicing lawyers and judges of many countries, academic lawyers, legal advisers to governments, international civil servants, workers in NGOs and diplomats. It is in this range of members and supporters that the Association is distinctive. It is not an elevated academy of scholars (although many scholars are members) but a grass roots body of ecumenical reach.

A number of functions have been held this year, as in previous years, under the auspices of the Australian Branch, or in association with other like-minded bodies (especially the Australian Institute of International Affairs). To this end the chief

instigators have been the conveners of the various national committees of the Branch. We are indebted to them for their initiatives. These activities are detailed in the annex to this Report. It is pleasing that a number of these meetings have been held in Brisbane, convened by the very active Queensland Chapter of the Branch.

The chief distinguishing feature of the ILA compared with the more exclusively academic societies is the existence of numerous specialized committees upon which members from national branches throughout the world are given the opportunity to serve. The ILA has a remarkable track record of achievement over a period of more than 100 years in producing reports of high quality and significance on numerous topics. The work of such committees has contributed to the growth of both conventional and customary international law.

A major achievement this year in the Australian Branch has been the review conducted by our Co-Director of Studies, Professor Andrew Byrnes, of Australian participation in these committees, designed to enhance opportunities to serve and to rationalize and make more transparent the process of nomination. The outcome of that review has been the enhancement of Australian representation on most of the 23 currently active committees of the Association. At the recent Executive Council meeting held in London on 12 November 2005 the following Australian nominations were approved:

- Dr Ben Saul — Compensation for Victims of War;
- Mr Jackson Maogoto — International Criminal Court (as alternate to Dr Chris Ward);
- Ms Vivienne Bath — International Law on Foreign Investment;
- Mr Don Anton and Professor Jennifer McKay — International Law on Sustainable Development;
- Mr Steven Freeland — Space Law.

The Association's Director of Studies, Professor Christine Chinkin, has nominated Associate Professor Judith Gardam to be rapporteur of the Committee on the Use of Force. At the Executive Council in May 2005 two new committees were established but their mandates and officers have not yet been announced; these are on International Insolvency and Transboundary Data Transfer and Protection of Privacy. Professor Chinkin is also currently working on proposals for Committees on Indigenous Persons, Non-State Actors under International Law, and Regional Economic Development Law.

In addition to the committees there are Study Groups on International Courts and Tribunals, Responsibility of International Organisations and United Nations Reform. I have been appointed to the last-named Study Group.

Plans are well advanced for the 72<sup>nd</sup> Biennial Conference of the Association to be held in Toronto, Canada, from 4 to 8 June 2006. Brazil has been confirmed as the venue for the conference in 2008, although whether it will be in Recife or Bahia is yet to be decided. The Netherlands is confirmed for 2010.

Executive Council was concerned about the high cost of distributing the Conference reports. It was decided that in future the reports will be sent to national branches in bulk (although each individually addressed to members) who will be

responsible for local distribution. If necessary, Headquarters could be billed for costs of local postage.

There are three final matters of importance to report.

The first is that our membership remains somewhat static. We paid capitation fees to Headquarters for 119 members in May 2005. If the membership falls below 100 we shall lose the right to nominate more than one member to the international committees. This would be a great blow. All voluntary organizations seem to suffer from declining support. Various factors can be blamed. But like Winston Churchill, who when asked whether he was a pillar of the Church replied that no, he was a buttress: he supported it from the outside, we have to be aware of the importance of maintaining institutions. I appeal to each member to bring at least one new member to the Branch in 2006.

The second (and not unconnected with the first) is that our public outreach is to a significant extent promoted through our web site. This has been the subject of concern during the year. But we are greatly encouraged by the willingness of Roxanne Garlick to assume the role of web master. We are also grateful for the work Ian Bloemendal has put into the Bulletin. But contributions are always needed: he cannot manufacture news out of thin air.

And the third is that after this AGM we shall be marking the appearance of the 2004 issue of the *Australian International Law Journal*, which is designated as an issue commemorating its long-serving editor, by presenting copies to the family of the late Associate Professor Alexis Goh. Her death has touched us all deeply. We are grateful to Steven Freeland and Ricky Lee, especially, who together with others have brought out the current issue of the journal under difficult circumstances. We record with appreciation Ricky Lee's agreement to assume the editorship of the Journal in the future.

It has been my privilege to serve as your President during 2005. I thank all office bearers for their work during the year. And I wish the Branch, and the Association world wide, every success in the coming year in promoting the ideals of the Association: *pax una multis melior triumphis*.

1 December 2005