Australian and New Zealand Society of International Law

ANZSIL Newsletter

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Message from the President

IN THIS ISSUE

Tēnā koutou ANZSIL Members,

Teaching international law over the course of the last six weeks has been exciting, frustrating and depressing in equal parts. The current crisis in Ukraine serves not only to demonstrate to our students the reality and limitations of international law beyond the classroom, but also the very human impact of its failure. The unusually robust response from the international community to Russia's acts of aggression reflects the attitudes of states closer to home, as demonstrated in particular by Australia's response to the crisis, which has been helpfully summarised in this newsletter. I am proud that one hundred individual members of ANZSIL signed a statement of concern on the conflict in Ukraine, joining academic colleagues from around the world in condemning Russian aggression. Although dominating world headlines, the Ukraine is sadly not the only conflict that deserves our attention with humanitarian crises also currently afflicting Yemen, Afghanistan and Myanmar to name but a few. ANZSIL members might, and indeed have, legitimately questioned why we respond differently as individuals, as a Society and through state apparatus to these world events even though the suffering is universal.

While the situation in Ukraine is undoubtedly straining the sinews of international law, elsewhere, international law is working hard to address new issues. Negotiations for an ambitious new global treaty to conserve biodiversity in the high seas have resumed in the UN after a COVID-19 induced pause. The UN Environment Assembly agreed, in March of this year, to develop a globally legally binding treaty on plastics – an initiative compared in significance to the adoption of the 2015 Paris Agreement on Climate Change. And of course the World Health Assembly agreed to launch a process to develop a global accord on pandemic prevention, preparedness and response in December 2021. These initiatives are an important reminder that international law, while under pressure, also remains optimistic and ambitious in terms of future outlook. The day-to-day work of international law is highlighted in this newsletter through the informative overviews provided by Australian and New Zealand government lawyers supporting treaty negotiation, international litigation and dispute settlement.

ANZSIL academic and student members have been equally busy and I would like to congratulate Edward Cheston on his successful completion of an ANZSIL supported internship at the United Nations High Commissioner for Refugees' Canberra office, ANZSIL members involved in their historic intervention as *amici curiae* in the *Prosecutor v Dominic Ongwen* Appeals Hearing at the International Criminal Court (ICC) and An Hertogen and Anna Hood on the recent publication of *International Law in Aotearoa New Zealand* (Thompson Reuters, 2021). I would especially like to congratulate Ntina Tzouvala on being awarded the ASIL Certificate of Merit for a preeminent contribution to creative scholarship for her book, *Capitalism as Civilisation: A History of International Law* (CUP, 2020).

Finally, my thanks go to An Hertogen and Tess Kluckow for producing yet another splendid ANZSIL newsletter. Tess will be stepping down as co-editor of the newsletter, so I would particularly like to thank her for all her hard work over the last couple of years in supporting ANZSIL publications. An will be joined by Keilin Anderson, Senior Legal Officer in OIL, AG's Department as co-editor of the next edition.

Ngā manaakitanga,

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2022 Annual Conference and Postgraduate Workshop

The **29th ANZSIL annual conference**, on the theme of **International Law and Global Inter-connectedness**, will be held as a hybrid event from 30 June - 2 July 2022 at the ANU campus in Canberra, Australia. The Conference Committee is reviewing the applications, and a programme will be released shortly. We look forward to seeing many of you there, in person or virtually!

Recent Australian Practice in International Law (Commonwealth Attorney-General's Department and the Department of Foreign Affairs and Trade)

Russian invasion of Ukraine: response by Australia

Statements in response to Russia's actions against Ukraine

On 22 February, the Foreign Minister released a statement condemning President Putin's declaration that the Donetsk and Luhansk regions of eastern Ukraine (the so-called 'Donetsk People's Republic' and 'Luhansk People's Republic') are independent states. The Foreign Minister stated that: 'This [declaration by President Putin] flagrantly undermines Ukraine's sovereignty and territorial integrity and has no validity under international law.'

On 24 February, following Russia's invasion of Ukraine, the Prime Minister and the Foreign Minister released a joint statement describing the invasion as 'aggression' and calling on Russia to 'cease its illegal and unprovoked actions' and 'withdraw its military from Ukraine'.

In an interview on Sky News on 25 February, the Foreign Minister described the invasion as 'a very serious act of aggression' and 'a wholesale breach of international law by Russia'. Similarly, in an interview on Sky News on 8 March she described Russia's actions as 'a totally unlawful, egregious breach of international law, a wholesale breach of the UN Charter'.

Australia has made or joined many other statements in international fora condemning aggression by the Russian Federation against the Ukraine, including before the World Trade Organization, the UN Human Rights Council, and the International Seabed Authority.

Co-sponsoring resolutions in the UN General Assembly and the Human Rights Council

On 25 February, Russia vetoed a draft Security Council resolution condemning its aggression against Ukraine. The Security Council then, on 27 February, referred the issue to an Emergency Special Session of the General Assembly. The General Assembly adopted a resolution on 'Aggression against Ukraine' (UN Doc A/RES/ES-11/1) on 2 March. Australia was one of the 96 co-sponsors of the resolution. Only five states voted against the resolution.

The text of the resolution recalled the 'Uniting for Peace' resolution of 1950, which states that where the Security Council fails to exercise its primary responsibility for the maintenance of international peace and security because of lack of unity of its permanent members, the General Assembly shall consider the matter with a view to making appropriate recommendations. The resolution on 'Aggression against Ukraine' among other things:

- Deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2(4) of the UN Charter;
- Demands that the Russian Federation immediately cease its unlawful use of force against Ukraine and refrain from any further unlawful threat or use of force;
- Deplores the involvement of Belarus in the unlawful use of force against Ukraine; and
- Condemns all violations of international humanitarian law and violations and abuses of human rights, and demands that all parties fully comply with their obligations under international humanitarian law to spare the civilian population and civilian objects.

During the Emergency Special Session, Australia's Permanent Representative to the United Nations, Mr Mitch Fifield, condemned 'Russia's unprovoked, egregious and completely unjustified aggression against Ukraine' and stated that 'Russia is violating its obligations under the UN Charter, including most obviously to refrain from using force against another State'.

Australia also joined with 66 other states to cosponsor a Human Rights Council resolution (A/HRC/RES/49/1) on the 'Situation of Human Rights in Ukraine stemming from the Russian aggression'. The resolution was adopted on 4 March with 32 of the 47 members of the Human Rights Council voting in favour. It establishes an independent international commission of inquiry to investigate all alleged violations and abuses of human rights and violations of international humanitarian law, and related crimes, in the context of Russia's aggression against Ukraine, and to establish the facts, circumstances, and root causes of any such violations and abuses.

Referral of the situation in Ukraine to the Prosecutor of the International Criminal Court (ICC)

On 2 March, Australia joined with 38 other ICC States parties to refer the situation in Ukraine to the ICC Prosecutor pursuant to articles 13(a) and 14(1) of the Rome Statute of the International Criminal Court. The referral allowed the Prosecutor to expedite his work on the situation in Ukraine without needing to obtain authorisation from the ICC Pre-Trial Chamber. Explaining the reason for this referral on Twitter on 3 March, the Foreign Minister stated that it is '[v]ital that Russian crimes in Ukraine do not go unpunished'.

Response to International Court of Justice provisional measures order

On 16 March, the ICJ ruled (13-2) in favour of Ukraine's request for provisional measures and ordered Russia to 'immediately suspend military operations' in Ukrainian territory. This followed the application filed by Ukraine against Russia on 27 February in the ICJ under the Genocide Convention and a subsequent public hearing on provisional measures held on 7 February. On 20 March, the Foreign Minister reiterated Australia's condemnation of 'Russia's unprovoked, unjustified invasion of Ukraine' and called on 'Russia to immediately withdraw its forces from Ukrainian territory, consistent with the legally binding decision of the International Court of Justice'.

Australian sanctions in response to Russia's invasion of Ukraine

In close coordination with our partners, the Australian Government has imposed sanctions to inflict costs on Russians and Belarusians responsible for, and complicit in, Russia's invasion of Ukraine. Australia continues to work with like-minded countries to impose further economic sanctions on Russia and Belarus.

As of 24 March 2022, Australia has imposed sanctions on more than 475 Russian and Belarusian persons and entities. The persons include President Putin and senior ministers, financial institutions such as the Central Bank of the Russian Federation, media figures involved in disseminating disinformation, members of the Russian parliament, military commanders and the entire armed forces of the Russian Federation.

In response to Russia's invasion of Ukraine, Australia also broadened the Russia/Ukraine sanctions regime by amending the *Autonomous Sanctions Regulations 2011* to:

- Introduce criteria to capture persons and entities of strategic or economic significance to Russia and their immediate family members, enabling Australia to broaden its listings and align with like-mindeds; and
- Extend existing sanctions that have applied to Crimea and Sevastopol since 2015 to cover the Donetsk and Luhansk regions of Ukraine. These measures: target exports and commercial activity in the transport, communications, energy and exploitation of oil, gas and mineral reserve sectors; prohibit all imports from these regions; and also include a power for the Foreign Minister to specify other areas of Ukraine, should they fall under Russian influence, to which these sanctions measures would then also apply.

Accountability for the downing of Flight MH17

On 14 March 2022, Minister for Foreign Affairs and Minister for Women Senator the Hon Marise Payne and Attorney-General Senator the Hon Michaelia Cash announced that Australia and the Netherlands have initiated proceedings against the Russian Federation in the International Civil Aviation Organization (ICAO) Council for the downing of Malaysia Airlines Flight MH17 in 2014. This is an important step in the pursuit of truth, justice and accountability for this horrific act of violence, which resulted in the tragic deaths of 298 victims, including 38 who called Australia home.

In May 2018, Australia and the Netherlands announced that they hold the Russian Federation responsible under international law for the downing of Flight MH17 and invited them to enter into trilateral negotiations regarding the downing of Flight MH17. In October 2020, Russia unilaterally withdrew from those negotiations and has refused to return to the negotiating table despite repeated requests. Australia and the Netherlands have concluded that our exhaustive efforts to resolve this matter by negotiation have failed and have therefore initiated dispute settlement proceedings under Article 84 of the Chicago Convention.

Australia and the Netherlands assert that the Russian Federation, by its conduct resulting in the downing of Flight MH17, has breached its obligations under Article *3bis* of the *Convention on International Civil Aviation* (Chicago Convention) to refrain from using weapons against civil aircraft in flight.

Australia and the Netherlands are seeking the following relief from the ICAO Council:

- A declaration that the Russian Federation breached its obligations under Article 3*bis* of the Chicago Convention;
- An order that the parties immediately enter into good faith negotiations on reparations for the injury caused by Russia's breach; and
- An order that the parties report to the Council on the progress of the negotiations at each session of the ICAO Council.

Australia and the Netherlands have also requested that the ICAO Council inform the ICAO Assembly that the Russian Federation's voting power in the Assembly and the Council be suspended (consistent with Article

88 of the Chicago Convention) and that the suspension should continue until such time as the negotiations have reached a satisfactory outcome.

Ratification of the Minamata Convention on Mercury

On 7 December 2021, Australia ratified the *Minamata Convention on Mercury* (the Convention). The Convention came into force for Australia on 7 March 2022. Mercury is a highly toxic heavy metal that can have dangerous effects on people and animals, including irreversible harm to human health. The World Health Organisation lists mercury in the top 10 chemicals of major public health concern. The Convention seeks to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. It covers all aspects of the mercury life cycle, including import, export, use, emissions from industrial facilities, waste and contaminated sites.

Since Australia signed the Convention in 2013, extensive consultation has confirmed broad support for ratification and identified no significant risks or disadvantages. In 2021, the Joint Standing Committee on Treaties supported the Convention and recommended that the binding treaty action be taken. Minor legislative and policy amendments have been made across jurisdictions to support Australia's ratification of the Convention.

Pursuant to Article 21 of the Convention, Parties are required to submit a national report to the Conference of the Parties detailing measures they have taken to implement the Convention. Australia's first full national report will be due in 2025.

More information is available on the Department of Agriculture, Water and Environment's website.

Courts and Tribunals Legislation Amendment (2021 Measures No. 1) Act 2022 (Cth)

In February 2022, the *Courts and Tribunals Legislation Amendment (2021 Measures No. 1) Act 2022* (Cth) (*CATLA Act*) came into effect in Australia. Among other matters, the CATLA Act amends the *Foreign States Immunities Act 1985* (Cth) (FSI Act) and the *Admiralty Act 1988* (Cth) (Admiralty Act).

Amendments to the *FSI Act* were made in response to the High Court of Australia's decision in *Firebird Global Master Fund II Ltd v Republic of Nauru* (2015) *(Firebird*). In this case, the High Court considered the application of section 27 of the *FSI Act*, relating to judgments in default of appearance, to the *ex parte* registration of a foreign judgment. The majority of the High Court rejected the Republic of Nauru's argument that the term 'judgment in default of appearance' means any judgment obtained where there is no appearance by the foreign State. The majority drew a distinction between a 'judgment in default of appearance' and *ex parte* proceedings and held there was no 'default' in the latter. Accordingly, when considering whether to enter judgment in an *ex parte* proceeding against a foreign State, including to register a foreign judgment, a court need not be satisfied that the foreign State has been afforded appropriate procedural protections.

The amendments to the *FSI Act* insert a new section 26A which stipulates that a judgment (other than an interlocutory judgment) must not be entered against a foreign State in *ex parte* proceedings. Section 26A also states that an order for the registration of a foreign judgment, or for the recognition or enforcement of a foreign award, must not be made against a foreign State in *ex parte* proceedings. This clarifies the application of the FSI Act to *ex parte* proceedings to ensure that foreign States are afforded appropriate procedural protections, consistent with Australia's obligations under international law to afford foreign States immunity in certain circumstances.

The *CATLA Act* also amends the *Admiralty Act 1988* (Cth) to make clear that the *Admiralty Rules 1988* (*Admiralty Rules*) are rules of court and are subject to the provisions of the *Legislation Act 2003,* except for certain provisions (including those relating to sunsetting). This mirrors equivalent provisions in other Commonwealth legislation that relate to rules of court including the *Federal Court of Australia Act 1976* (Cth) and the *Judiciary Act 1976* (Cth). This also accords with recommendations by the Sunsetting Review

Committee in 2017, in the 'Report on the Operation of the Sunsetting Provisions in the Legislation Act 2003' (tabled in the House of Representatives on 23 October 2017 and in the Senate on 13 November 2017).

Judicial Sale of Ships Working Group VI Negotiations

From 7-11 February 2022, Australia participated in the 40th session of the United Nations Commission on International Trade Law (UNCITRAL) Working Group VI on the Judicial Sale of Ships, which was held in a hybrid format in New York. This session continued work to negotiate a Draft Convention on the Judicial Sale of Ships, which will allow Member States to recognise judicial sales of ships conferring clean title on a purchaser, that occur in another Member State. The session was productive with substantial progress made to finalise the draft text. Following an opportunity for States to provide comments on a revised draft, the Draft Convention will next be transmitted to the UNCITRAL Commission, the core UN legal body responsible for international trade law, for its consideration and potential approval at the upcoming fifty-fifth Commission meeting in June 2022, which will take place in New York.

Commencement of a new OEWG on addressing responsible State behaviour in cyberspace

The first substantive session of the new Open-Ended Working Group (OEWG) on security of and in the use of information and communications technologies was held in New York on 13-17 December 2021. Following the previous OEWG's reaffirmation that existing international law applies to cyberspace, the new OEWG's discussions focus on *how* international law applies in cyberspace. Numerous states, including Australia, recalled and advocated for the recommendations of the 2021 OEWG and 2021 Group of Governmental Experts on cyber that called for more states to make voluntary statements on how they interpret international law applying in cyberspace. Australia's position on the application of international law to State conduct in cyberspace is available here, and is included in the Official compendium of voluntary national contributions compiled by the 2021 Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security. The second substantive meeting is to be held 28 March – 1 April 2022, where Australia will continue to be an active participant.

Tallinn 3.0 Workshop

On 21-22 February 2022, Australia participated in the first Tallinn Workshop on International Law and Cyber Operations, which will inform Tallinn Manual 3.0. Government officials and academics participated in the workshop, where the topics of peaceful settlement of disputes, sovereignty and prohibited interventions were discussed. The workshop was the start of an estimated five year process, where Professor Michael Schmitt, who has led the editorial team for the first two editions of the Tallinn Manual, will be joined by Professor Marko Milanovic and Liis Vihul, the CEO of Cyber International. Professor Schmitt said he anticipated that Tallinn Manual 3.0 will have expanded commentary on international criminal law, particularly addressing command responsibility, including complicity. He also noted that Tallinn Manual 3.0 may include new topics, such as intellectual property law, trade law and environmental law.

Participation in WTO Dispute Settlement

European Union and Certain Member States — Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels (DS600)

This dispute, initiated by Malaysia, concerns certain measures imposed by the European Union (EU) and its Member States on palm oil and oil palm crop-based biofuels from Malaysia.

Malaysia claimed that the measures imposed by the EU and certain Member States are inconsistent with the *Agreement on Technical Barriers to Trade*, the *General Agreement on Tariffs and Trade 1994* and the *Subsidies and Countervailing Measures Agreement*.

A panel was established on 28 May 2021. Argentina, Australia, Brazil, Canada, China, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, India, Indonesia, Japan, Republic of Korea, Norway, Russia, Saudi Arabia, Singapore, Thailand, Turkey, Ukraine, United Kingdom, and the United States reserved their right to participate as a third party.

Australia filed its third party written submission on 14 December 2021.

Australia's statements and involvement to date in this dispute can be accessed at the WTO disputes page of the DFAT website.

China – Anti-Dumping and Countervailing Duty Measures on Wine from Australia (DS602)

On 8 March 2022, the WTO circulated a notification advising that a panel had been composed to consider Australia's claims concerning China's anti-dumping duty measures on Australian bottled wine. The Panel comprises Dr Faizullah Khilji (Chair), Ms Elaine Feldman, and Mr Marco Tulio Molina Tejeda. The Panel proceedings are ongoing.

In relation to these dispute proceedings, Australia and China have jointly notified their intention to use the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) to resolve any appeal, in the event that the WTO Appellate Body is not functioning at that time.

Further information, including Australia's request to establish a panel, is available on the WTO disputes page of the DFAT website.

Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China (DS603)

On 28 February 2022, a WTO dispute settlement panel was established to consider China's claims concerning Australia's imposition of anti-dumping measures on wind towers, deep drawn stainless steel sinks and railway wheels from China and countervailing measures on deep drawn stainless steel sinks from China. The next phase in the process is the selection of panellists to adjudicate the dispute.

Further information is available on the WTO disputes page of the DFAT website.

Recent Developments in Australia's Free Trade Agreements

Trade and investment relationships with other countries and the agreements that enhance them play a key role in helping Australia recover from the COVID-19 pandemic, as well as boost job opportunities and economic growth. Australia continues to progress the negotiation and implementation of several bilateral and regional free trade agreements (FTAs). Input from stakeholders contributes to developing negotiating positions in respect of these agreements, and the Australian Government welcomes input on these discussions. The DFAT website has further information on these agreements, including contact points.

FTAs under negotiation

Australia continues to progress the negotiation and implementation of several bilateral and regional Free Trade Agreements (FTAs). The DFAT website has further information on these FTAs, including contact points for submitting queries

The twelfth round of Australia–EU Free Trade Agreement negotiations took place virtually on 7-18 February. During the round progress was made on a range of technical issues across the FTA. A summary of the issues discussed at Round 12 is available on the DFAT website.

Recent New Zealand Practice in International Law (Ministry of Foreign Affairs and Trade)

New Zealand-United Kingdom Free Trade Agreement

On 28 February 2022, New Zealand signed a high quality, comprehensive free trade agreement (FTA) with the United Kingdom. Both sides are working to bring the FTA and its benefits into force by the end of 2022. The agreement will provide New Zealand exporters with more favourable access to the UK market, while still preserving the right of governments to regulate in the public interest, including for the environment, education, health and wellbeing of New Zealanders. The FTA recognises and advances Māori interests in key areas such as intellectual property and trade and environment. It also includes New Zealand's *Treaty of Waitangi* exception. There will be no Investor-State Dispute Settlement under the agreement. For more information, including the full text of the FTA, see here.

Regional Comprehensive Economic Partnership (RCEP)

RCEP entered into force on 1 January 2022 between Australia, Brunei, Cambodia, China, Japan, Laos, New Zealand, Singapore, Thailand, and Vietnam. Subsequently, the agreement also entered into force for the Republic of Korea and Malaysia on 1 February and 18 March 2022, respectively. The entry into force of RCEP complements and builds upon New Zealand's existing network of regional trade agreements by providing goods exporters with a single set of rules and procedures to access RCEP markets. On services and investment, RCEP also includes new market access commitments from China and ASEAN markets including Malaysia, the Philippines and Thailand. For more information including the full text of the agreement see here.

Internship Report: Edward Cheston - UNHCR

Between June 2021 and February 2022, I interned full-time at the United Nations High Commissioner for Refugees' Canberra office. International refugee law was a topic that regularly piqued my interest during university. However, I never expected to be able to work at an organisation so central to a field of my interest. I am extremely appreciative that ANZSIL helped me achieve this goal through its Internship Support funding.

UNHCR's Canberra office is titled a 'Multi-Country Representation'. This means that whilst it is based in Australia, its jurisdiction extends to New Zealand and a number of the Pacific Island Territories. Humorously, UNHCR Canberra oversees about as many countries as it employs staff members.

During my internship, I worked within UNHCR's Legal Protection Unit (LPU). This small team predominantly deals with legal and policy processes in Australia and New Zealand. A large part of my work involved responding to individuals contacting UNHCR for advice, which became particularly eye-opening during the high point of the Taliban takeover of Afghanistan in August 2021. Whilst we were far removed from Kabul and its surrounds, the flood of enquiries from Australia's Afghan diaspora gave me a first taste of real humanitarian work.

The LPU is also responsible for drafting and shaping submissions that UNHCR makes to parliamentary processes in Australia and New Zealand. Through my internship, I was fortunate enough to have been given an opportunity to directly contribute to submissions on a range of topics, from visa cancellation to indefinite detention. The submissions publicized UNHCR's position on proposed legislation and, to prepare them, I had to develop my understanding of relevant international legal standards. I also helped draft a statement that

was subsequently delivered at the UN Human Rights Council during Australia's Universal Periodic Review, giving me great insight into how this critical human rights process is run.

UNHCR typically visits immigration detention facilities across the Australian mainland to speak with detainees. As a result of COVID-19, access to these facilities was not permitted during my internship period. In the face of COVID-related restrictions, I assisted my colleagues to set up a remote monitoring initiative that allowed UNHCR to remain engaged with detention populations, despite not being able to access detention facilities in person. When completing follow-up casework, I saw how doctrines *non-refoulement* can be leveraged to defend an individual's rights.

Studying international law at university involves learning about abstract concepts like "sovereignty". If, as I did, you pair law with international relations, you will also likely come across a lot of realist thought that downplays the relevance of international law to global politics. Amidst all this, it is sometimes difficult to conceive of what international law looks like in practice. My internship with UNHCR taught me precisely this; international law has rich potential as a tool of advocacy and can be harnessed to make a real difference to peoples' lives.

I have thoroughly enjoyed my time at UNHCR and move on to my next chapter with mixed feelings, thoroughly grateful for the opportunity but sad that it has come to an end. I've benefitted immensely from the experience and extend an enormous thanks to the Society for its generous support of aspiring Australian international lawyers. This is not an easy field to begin a career in, but organisations like ANZSIL help significantly.

As an aside, I would wholeheartedly recommend the UNHCR Internship program to anyone with an interest in international law, human rights or the refugee space. A week in the office was always full of engaging and rewarding work, notwithstanding various periods of work-from-home. Additionally, the team is full of fantastic, interesting people who I was privileged to learn from.

ANZSIL Member News

Amici Briefs in the *Ongwen Appeal*

Three Australian ANZSIL members were recently involved in an historic opportunity to intervene as *amici curiae* in the *Prosecutor v Dominic Ongwen* Appeals Hearing at the International Criminal Court (ICC). A group of global feminist international lawyers banded together to submit four *amici* briefs relating to sexual and gender-based violence, under the ICC's call for briefs on this topic.

Ongwen, a former child soldier in Uganda's notorious Lord's Resistance Army, is appealing his conviction against, *inter alia*, the crimes against humanity of forced pregnancy and forced marriage. This is the first case of forced pregnancy to be adjudicated as an international crime and the first at the ICC to enter a conviction for forced marriage. The *amici* interventions were a significant opportunity to directly influence the development of gender-sensitive jurisprudence at the ICC.

Dr Melanie O'Brien (Associate Professor of International Law, UWA Law School) and Indira Rosenthal (PhD Candidate, UTas Faculty of Law) were part of the team that submitted a brief on forced marriage. Forced marriage is not a stand-alone crime at the ICC, and the brief argued that forced marriage is correctly characterised under the crime against humanity of 'other inhumane act' and is distinct from sexual slavery, another ICC crime. The brief argued that forced marriage is an ongoing crime; has extensive physical and mental health impacts on victims; violates a constellation of human rights, including the right to family; and that sentencing imposed should be lengthy, reflecting the gravity of the crime and the gender and age discriminatory nature of the crime.

Dr Rosemary Grey (Lecturer and DECRA fellow, Sydney Law School) was part of the team writing on forced pregnancy, which argued that national abortion law is irrelevant to the ICC's interpretation of forced pregnancy; and the crime of forced pregnancy is grounded in human rights that protect personal, sexual, and reproductive autonomy. They also clarified the definition of forced pregnancy.

After submission of written briefs, both teams were invited to make oral submissions to the ICC during the Appeals Hearing in February. One member from each team made oral presentations in person in The Hague, while other team members attended the hearing virtually. Drs O'Brien and Grey responded to questions from the Bench in these oral submissions on behalf of their teams. Both written briefs were cited extensively and with support in written and oral submissions by the Office of the Prosecutor and victims' legal representatives.

The *amici* members were:

Forced marriage: Erin Baines, Anne-Marie de Brouwer, Annie Bunting, Eefje de Volder, Kathleen M. Maloney, Melanie O'Brien, Osai Ojigho, Valerie Oosterveld, Indira Rosenthal

Forced pregnancy: Dr Rosemary Grey, Global Justice Center, Women's Initiatives for Gender Justice, Amnesty International

Recent publications

International Law in Aotearoa New Zealand (Thomson Reuters, 2021)

Anna Hood and An Hertogen have published an edited volume on *International Law in Aotearoa New Zealand.* Bringing together many emerging and established international law scholars from around New Zealand, the book explores how international law shapes New Zealand and works with and within Aotearoa New Zealand's its legal system, as well as on and examines Aotearoa New Zealand's interaction with, contribution to, and attitude towards international law.

The broad reach and impact of international law is explored through three parts of the book. Part One starts with the foundational institutions of international law and examines the sources of international law and statehood from an Aotearoa New Zealand perspective as well as Aotearoa New Zealand's relationship to the Pacific, international organisations and international dispute settlement. Part Two collates the key areas of interest to Aotearoa New Zealand, such as nuclear weapons, indigenous peoples' rights, law of the sea and international trade law. Part Three is a unique glimpse into some of the "navigators" of international law - the judges, the lawyer-diplomats at the Ministry of Foreign Affairs and Trade, the New Zealanders in leading international organisations, and academics. More details can be found here.

The editors thank ANZSIL for the support in organizing two workshops that led to the publication of the volume.

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