



## **Annual Report 2008**

### **1. Introduction**

The Australian Human Rights Centre (AHRCentre) is an inter-disciplinary research and teaching institute based at the Faculty of Law. Established in 1986, the AHRCentre:

- undertakes and facilitates interdisciplinary research projects and consultancies with a particular focus on economic, social and cultural rights
- develops human rights educational initiatives by hosting workshops, public lectures, seminars and conferences, co-ordinates interdisciplinary human rights teaching and internship programs, and provides a forum for domestic and international scholarship and debate on contemporary human rights issues
- provides accessible information on significant human rights developments in Australia, the Asia-Pacific region and internationally, facilitating access to online human rights resources via the AHRCentre website and publishing the *Australian Journal of Human Rights*, the *Human Rights Defender* and occasional papers and publications.

### **2. Management**

Although located in the Faculty of Law, the Centre's Management Committee includes representatives from a number of UNSW faculties and schools, including the School of Public Health and Community Medicine, the Australian School of Business and the Faculties of the Built Environment, Arts and Social Sciences, and Law. Members of the AHRCentre Management Committee, drawn from the academic, government and private sectors, bring strong governance skills and financial expertise to the overall management of the AHRCentre and a commitment to promoting interdisciplinary research and educational initiatives.

The Management Committee met in May 2008 to ensure compliance with AHRCentre objectives, provide strategic direction, oversee AHRCentre financial administration and ensure its ongoing viability. In addition, members of the Management Committee met to discuss the recommendations of the 2007 Centre review and their ongoing implementation. A major recommendation of the review was to build research capacity and there have been ongoing discussions about a possible consolidation with the international law group to expand the Centre.

The members of the AHRCentre Management Committee are:

- Clark Butler - UNSW Law Alumni; Director, Ironbark Ferrier
- Professor Andrew Byrnes - Faculty of Law, UNSW
- Phillip Chung – Faculty of Law, UTS and Executive Director, Austlii
- Associate Professor Linda Corkery – Faculty of the Built Environment, UNSW
- The Hon. John von Doussa QC – President, Human Rights and Equal Opportunity Commission
- Associate Professor Andrea Durbach - Faculty of Law, UNSW

- Elizabeth Evatt AC - Visiting Professor, Faculty of Law, UNSW; Commissioner of the International Commission of Jurists and Chair, PIAC
- Professor Martin Krygier – Faculty of Law, UNSW and Co-Director, Centre for Interdisciplinary Studies of Law
- Emeritus Professor Garth Nettheim – Faculty of Law, UNSW
- Professor Daniel Tarantola - Global Professor of Health and Human Rights, UNSW
- Associate Professor Lucy Taksa - Head of the School of Organisation and Management, UNSW

The Hon. John von Doussa QC resigned from the Board in October 2008 at the end of his term as HREOC President and the new President Catherine Branson will be invited to join the Board.

The Chairperson of the AHRCentre Management Committee is Professor Andrew Byrnes and the Director of the AHRCentre is Associate Professor Andrea Durbach.

In 2008, the Centre Working Group was restructured to reflect the primary projects of the Centre and allow for a more focused research-based orientation. These include:

- Health and Human Rights - Andrea Durbach and Beth Goldblatt
- International Human Rights Law – APF/NHRI project – Andrew Byrnes and Catherine Renshaw
- Business and Human Rights - Justine Nolan
- Trade, development and human rights - Gillian Moon
- Environment and human rights (with a focus on climate change) - Rosemary Rayfuse and Andrea Durbach

The Conference, Seminar and Annual Public Lecture program is co-ordinated by Andrea Durbach and the Human Rights Teaching Program is co-ordinated by Gillian Moon.

### **3. Staff**

During 2008, the Centre's **staff** comprised:

- part-time Director, Andrea Durbach, who is a full-time member of the Law Faculty academic staff (since mid-2004)
- part-time Deputy Director, Justine Nolan, who is a part-time member of the Law Faculty academic staff
- part-time administrator, Amber Rowe (3 days per week)
- Catherine Renshaw, Research Fellow, APF project
- Social Justice Program student intern: one intern per semester 1 day per week: Katrina Taylor (semester 1), Jonathan Lusthaus (semester 2).
- co-editors of the *Australian Journal of Human Rights* (AJHR): Christine Forster and Alan Morris (and the editorial board (see under Publications))
- co-editors of the *Human Rights Defender* (HRD): Justine Nolan(Law); Claudia Tazreiter (Arts); Janice Gray (Law) and Jill Hunter (Law).
- Student editor interns of *AJHR* – Chantele Mao (semester 1)
- Student editor interns of *HRD* - Peta MacGillivray (summer session 2007/2008), Katherine Neeson (semester 1); Scarlett Wilcock (semester 2).

The Centre's Director and Co-ordinator positions are funded by the Faculty of Law. In addition, the Centre benefits enormously from in-kind contributions from the Faculty, including office space and furniture, office equipment, communication and technological resources.

The Centre is located on the 1<sup>st</sup> floor of the Law Faculty building: room 129 (student editor interns and AHRCentre publications, room 131 (student interns and Centre Visiting Research Associates) and room 132 (AHRCentre co-ordinator).

## 4. Research

### 4.1 Research Projects

#### ARC grant applications (in development)

***Litigating Human Rights: Public Interest Advocacy and Social Policy Outcomes:*** the Centre, in conjunction with the University of Wollongong (Luke McNamara and Mark Rix) and ANU (Simon Rice) (formerly at Macquarie University) commenced the development of a multi-year, cross-disciplinary research project on the impact of public interest litigation and human rights advocacy in Australia. The Centre convened a one day workshop in late 2007 which brought together approximately 20 practitioners, academics and representatives from public interest and human rights advocacy organisations to address the primary aims of the project - the influence of public interest litigation on social policy formulation and revision; and the strategies employed by human rights and public interest advocates in different settings, and the reasons for and effectiveness of their selection. It is anticipated that a grant application will be submitted in late 2009.

#### Funded projects and consultancies

##### **Building Human Rights in the Region: the role of the Asia Pacific Forum of National Human Rights Institutions**

The AHRCentre is undertaking a major research project which will explore the role of the Asia Pacific Forum of National Human Rights Institutions (APF) in promoting the domestic dissemination of international human rights norms via its facilitation of the establishment of national human rights bodies. In analysing the work of the APF and some of its member NHRIs, the project will examine the adequacy of existing theoretical models to explain how horizontal transnational public networks, such as the APF, contribute to the implementation of international norms at the national level. Andrew Byrnes and Andrea Durbach are the project chief investigators, Catherine Renshaw is the project research fellow and former AHRCentre visiting fellow, Maria Herminia Graterol, currently at the Kennedy School of Government at Harvard University, is also undertaking research on the project.

The project is funded by the Australian Research Council and the Asia Pacific Forum of National Human Rights Institutions under an ARC Linkage Projects Scheme.

During 2008, Andrew Byrnes, Andrea Durbach and Catherine Renshaw attended conferences, presented papers at the Asian Law Institute annual conference in Singapore in May 2008, the ANZSIL conference in Canberra in June 2008, the first regional consultation of the Asian NGOs Network on National Human Rights Institutions (ANNI) in Bangkok in February 2008 and "Strategies for the Future: Protecting Rights in the Pacific Conference" in Samoa in April 2008. The project team undertook field work trips to India, Malaysia and Nepal.

*Please note the grant received from the ARC and APF for the 'Building Human Rights Project' is administered through the UNSW Grants Management Office and is accordingly not reflected in the AHRCentre accounts.*

#### **Economic, Social and Cultural Rights**

Professors Andrew Byrnes and Hilary Charlesworth (Centre for International Governance and Justice, Regnet, ANU) were awarded an ARC Linkage grant for a two-year project, *Protecting economic, social and cultural Rights in the ACT: models, methods and impact*, to be carried out in collaboration with the ACT Department of Justice and Community Safety. This project follows on from an earlier Linkage project on the impact of the ACT Human Rights Act 2004.

### **4.2 Other research activities**

#### **International Human Rights Law**

##### Bills of Rights

Andrew Byrnes continued his work on assessing the impact of both the ACT and Victorian Bills of Rights with Hilary Charlesworth and Gabrielle McKinnon (Regnet, ANU). A book on Australian Bills of Rights (with Hilary Charlesworth and Gabrielle McKinnon) was submitted to UNSW Press in 2008 and published in 2009.

##### Reparations for the Stolen Generations

Andrea Durbach presented a paper at *Bringing them Home – 10 Years After* conference which was published in the *Australian Indigenous Law Review*. Andrea also drafted a joint submission with the Public Interest Advocacy Centre to the Senate Inquiry on Compensation for Stolen Generations and was invited to address the hearing. She participated in the *Reparation for the Stolen Generations*, 'Reconciliation in Parliament' forum on 3 June 2008.

##### Death penalty

Andrew Byrnes wrote "The Right to life, the death penalty and human rights law: an international and Australian perspective" in the Australian Catholic Social Justice Council book *Confronting the Death Penalty: People, Politics and Principle*. He also presented a paper on the Indonesian Constitutional Court's judgment in the 'Bali 9' challenge to the death penalty and its use of international law at the ALTA conference in July 2008.

#### **Business and Human Rights**

During 2008, Justine Nolan conducted research on how to define a corporation's "sphere of responsibility" in relation to human rights compliance. In particular, she spent a few months in the United States working with a variety of companies, non-government organisations and academics focusing on the role of technology companies such as Yahoo, Google and Microsoft accused of violating human rights when working with the Chinese government to censor the internet – acts they deem necessary as a cost of doing business with China. Justine presented a paper at the 5<sup>th</sup> Asian Law Institute Conference in Singapore in May 2008 on this issue: "The China Dilemma – Corporations as Citizens: The Human Rights Accountability Gap." She also presented a paper at the "International Conference on CSR, Business Responsibilities for Human Rights and International Law" at the University of

Copenhagen in November 2008. Justine also advised the Diplomacy Training Program on their Human Rights and Business Advocacy Project in the Philippines.

### Trade and Human Rights

Gillian Moon further developed her research project on the human rights impacts of WTO law during 2008. The project is firstly identifying areas of conflict or potential conflict between WTO law and policy and human rights law and policy. Secondly, the project is exploring possible relationships between the two bodies of public international law: WTO law and international human rights law. WTO law, in particular, has been described as having developed in “splendid isolation.” The problems resulting from such ‘fragmentation’ are not unique to these two fields of international law, but given the fundamental importance of economic and social rights, there is some urgency in the quest to find a process or set of principles for resolving inconsistencies which arise between the two sets of law. In addition, one of the AHRCentre research associates is undertaking her doctoral research on the increasing commodification of water and its implications for human rights.

### Health and Human Rights

The AHRCentre works closely with the UNSW Initiative for Health & Human Rights (IHHR) under the chair of Professor Daniel Tarantola. Centre Director, Andrea Durbach, has been engaged in developing research projects on balancing the imperatives of human rights during public health emergencies and on the impact of health professional migration on the right to health. In addition, Centre staff participate on the IHHR Steering Committee and the annual Masters Course on Health, Human Rights and Development.

### Other research projects

#### Gender and human rights

During 2008, Andrew Byrnes and Jane Connors from the Office of the UN High Commissioner for Human Rights continued their work on the preparation of a monograph on the Convention on the Elimination of All Forms of Discrimination against Women. Andrew Byrnes is also involved as a member of an international team working on a detailed commentary on the CEDAW Convention and the Convention on the Rights of Persons with Disabilities.

#### Disability Rights

The AHRCentre remained active in the area of disability rights. In 2008, Centre Student Intern Katrina Taylor co-ordinated a briefing and study program in Sydney and Canberra for a visiting delegation from the South Korean Human Rights Commission. The Visiting Fellows from the Commission will draft a report on comparative mechanisms for protection of rights regarding disability and age discrimination.

Andrew Byrnes made presentations on disability rights at the conference *Our Ten Years under the Disability Discrimination Ordinance – Moving Forward, Changing Cultures* organised by the Hong Kong Equal Opportunities Commission in January 2008 and at the ILO Sub-regional meetings on Disability Legislation in Cape Town in May 2008 and in Bangkok in June 2008. He is also involved as a member of an international team working on a detailed commentary on the Convention on the Rights of Persons with Disabilities.

AHRCentre Associates Phillip French and Rosemary Kayess published a number of articles on the new Convention on the Rights of Persons with Disabilities. The establishment of the

Disability Rights Research Centre at UNSW, with the AHRCentre and the Law Faculty supporting the FASS initiative, will hopefully allow for collaborative research projects.

#### 4.3 Research Associates/Visiting Research Fellows

During 2008, the Centre continued to attract human rights scholars of excellence keen to pursue their research at the Centre. The Centre Research Fellows included:

- **Richard Sahlin**, Faculty of Law, University of Stockholm; conducted post-doctoral research on discrimination protection for persons with disabilities seeking redress against public entities.
- **Anna Bruce**, Visiting PhD student from Lund University, Sweden, researched the concept of equality and monitoring procedures under the UN Convention on the Rights of Persons with Disabilities.
- **Ineke Boerefijn** was the Julius Stone Visiting Research Fellow in the Faculty and Visiting Fellow at the Australian Human Rights Centre from September 2008 until February 2009. She is an associate professor at the Netherlands Institute of Human Rights of Utrecht University's School of Law. At UNSW, Ineke conducted research on the concept of positive obligations under the UN core human rights treaties, particularly in relation to the issue of ill-treatment by non-state actors.
- The Law Faculty and the AHRCentre hosted two visitors from the ILS Law College, Pune, India for the month of November. The ILS Law College in Pune was the first Indian Law School in India to set up a legal aid clinic and has close links to a number of Indian human rights organisations. **Jaya Sagade** is an expert in family law, reproductive rights and feminist legal theory and the author of 'Child Marriage in India'. She is undertaking a collaborative research project with AHRCentre Associate and *Australian Journal of Human Rights* co-editor, Christine Forster on good practice in domestic violence legislation and a comparison of the new Domestic Violence Act in India with Australian domestic violence law initiatives. **Laxmi Paranjape**, author of 'Legal History of India' (forthcoming) is working on a book on succession law, specifically Islamic succession law. She has a particular interest in indigenous succession and related human rights issues.
- In October, the AHRCentre hosted intern **Lucy Strang**, a returning Australian Youth Ambassador for Development. After completing her Arts/Law degree at ANU, Lucy spent a year in Cambodia as a legal training and communications officer for CARE Cambodia. Lucy undertook extensive research on the AHRC's Project: *Building Human Rights in the Region Through Transnational Networks: the Role of the Asia Pacific Forum of National Human Rights Institutions*, including preparation for the research team's field trip to Nepal and a brief on the National Human Rights Commission of Mongolia, assessing its potential as a case study for the project.

The students currently undertaking PhDs at the Centre include:

- **Nazir Gul Daawar**, who completed his LLM at UNSW. Nazir is undertaking a PhD on 'Re-evaluating the prominence of 'accountability' in building the rule of law in a transitional period within conflict and post-conflict societies'. He is supervised by Martin Krygier and Justine Nolan.

- **Cristy Clark** undertook field work in South Africa and the Philippines at the beginning of 2008 for her PhD which addresses the impact of commodification on the right to water. Cristy is supervised by Andrea Durbach and Rosemary Rayfuse.
- **Phillip French**, disability rights advocate and scholar, conducted research on human rights and disabilities in light of the new UN Convention on the Rights of Persons with Disabilities. He is supervised by Andrew Byrnes and Andrea Durbach.
- **Fabiana Dal'Mas Rocha Paes** continued research on Domestic Violence against African-descent women in Brazil: The Power of Prosecutors in the Protection of Women's Rights. She is supervised by Chris Cuneen.
- **Andre Gustavo de Almeida Geraldes** continued his PhD research on developments banks, international law and sustainable development in the Brazilian Amazon. He is supervised by Andrew Byrnes and Gillian Moon.
- **Jacoba Brasch** continued her PhD research on the Australian military justice system, human rights standards and civilianisation. She is supervised by Andrew Byrnes.

Former LLB student Jo En Low published her research paper "Engaging with the United Nations Treaty Bodies: A fruitful dialogue?" (supervised by Andrew Byrnes) in [2008] (2006) 13 *Australian International Law Journal* 57 – 95, [2008] UNSWLRS 36.

## 5 Educational initiatives

### 5.1 Human rights courses

#### Masters of Human Rights Law and Policy

The Master of Human Rights Law and Policy program, developed by Gillian Moon, commenced in 2008. Open to both law and non-law graduates, the Masters offers an extensive range of courses which examine human rights law in an international and domestic context. This specialised degree provides an opportunity for those working or active in the field to increase their human rights law and advocacy skills, capacity and impact. The new program is a postgraduate degree which aims to train and support future professionals and scholars as leaders in human rights law and policy.

#### Masters in Health, Human Rights and Development

After a very successful inaugural course in July 2007, bringing together 73 students from different disciplines and international lecturers including Paul Hunt, UN Special Rapporteur on the Right to Health and Associate Professor Sofia Gruskin from Harvard, the AHRCentre joined again with the UNSW Initiative on Health and Human Rights in presenting the 2nd intensive course on Health, Human Rights and Development at UNSW from 8 – 12 December 2008. The course covered a wide range of topics, including Human Rights and Disabilities, Intellectual Property Rights and Access to Medicines, Human Rights and the Law and the Gender, Health and Development. AHRCentre staff were involved in teaching the course.

#### Postgraduate courses

Members and associates of the AHRCentre developed two new postgraduate courses for 2009:

**Human Rights in Asia (National Human Rights Institutions in the Asia Pacific Region) (LAWS4060).**

The course will focus on the origins, mandates, functions and powers of national human rights institutions in the Asia Pacific region and is aimed at increasing the knowledge of their role and impact among governments, legislators, bureaucrats and NGOs interested in promoting and protecting human rights. The course will be taught by Professor Brian Burdekin AO, former Federal Human Rights Commissioner and former Special Adviser on National Institutions to the UN High Commissioner for Human Rights, currently Visiting Professor at the Raoul Wallenberg Institute of Human Rights in Sweden, and Visiting Professor at UNSW.

**Australian Bills of Rights in International and Comparative Perspectives (LAWS4061)**

This course will explore the theoretical debates around the desirability of constitutional and other models of bills of rights. It will focus on statutory bills of rights, in particular the existing and proposed State and Territory statutory charters in Australia, and the continuing debate about an Australian federal bill of rights. It will examine the impact of the human rights charters in the ACT and Victoria on policy-making, government decision-making, legislative processes, and in the courts by reference to a number of case studies and consideration of selected areas of substantive law. Reference will also be made to bills of rights elsewhere, including the UK Human Rights Act, the Canadian Charter, the South African Bill of Rights, and the Hong Kong Basic Law. The course will be convened by Professor Andrew Byrnes.

**Undergraduate courses**

**Australian Bills of Rights and the Protection of Human Rights (LAWS2047)**

This course will explore the debates around the desirability of constitutional and other models of bills of rights. It will explore the reluctance in Australia to enact formal bills of rights, and examine the development and operation of the modern statutory “charters” of rights adopted by the ACT and Victoria, as well as the proposals for similar legislation at the State/Territory and federal levels. It will examine the impact of the human rights legislation in the ACT and Victoria on the policy-making, government decision-making, legislative processes, and the work of the courts. It will also examine the ways in which human rights may be protected without a bill of rights, and track the national consultation on a charter of rights anticipated to take place in the first half of 2009. The course will be convened by Professor Andrew Byrnes, with participation from other members of the Faculty.

**5.2 Student internships/placements**

**Social Justice Program**

The AHRCentre continues to participate in the Social Justice Internship Program each semester with final year law students working in the Centre. During 2008, Katrina Taylor (semester 1) undertook a variety of valuable research and organisational tasks including undertaking research on the death penalty and assisting with the co-ordination of the Korean Human Rights Commission study tour. Jonathan Lusthaus (semester 2) prepared briefing materials in preparation for the ARC Project team field trip to Malaysia and accompanied the team to Kuala Lumpur to attend the APF Annual Conference and participate in interviews with NGOs, human right commissioners and politicians.



### ***Australian Journal of Human Rights* and the *Human Rights Defender***

The AHRCentre publications, the *Australian Journal of Human Rights* and the *Human Rights Defender* offer student editor electives to law students. The Journal takes 2 students a year and the HRD takes 3 students, one over the summer.

The *Human Rights Defender* student editors were: Peta MacGillivery (summer session 2007/2008), Katherine Neeson (semester 1) and Scarlett Wilcock (semester 2). The *Journal* intern was Chanele Mao (semester 1). The students plan editions, edit submissions and liaise with authors.

### **AHRCentre International Program**

The AHRCentre has developed a partnership with the Australian Youth Ambassadors for Development (AYAD) Program which aims to strengthen mutual understanding between Australia and the countries of the Asia-Pacific region and make a positive contribution to development in the region. The inaugural AHRCentre International program participant was Avigail Shai. She commenced her internship in July 2008 with UNICEF in Nepal where she is working as a Child Protection Officer. Two other AHRC/ AYAD program participants were successful in securing placements in 2008: Julia Mansour - Judicial Systems Monitoring Programme, Timor Leste and Anouska Perram - Femanist Dalit Organisation, Nepal. Both will leave for their placements in March 2009. All positions are for 12 months.

The AHRCentre has developed this partnership to increase opportunities for AHRC researchers, student interns and volunteers to broaden their practical and research experience by working with human rights organisations in developing countries in the Asia Pacific Region. The AYAD program is fully funded by the Australian Government's overseas aid agency, AUSAID.

### **AHRC/AHRCentre Model UN meeting, China**

During the last three years, the AHRCentre and the Faculty of Law have participated in the student Model UN meeting in China at the invitation of the Australian Human Rights Commission. The initiative is a joint venture of the United Nations Association of China and the Australian Human Rights Commission, and forms a part of the Australia-China Human Rights Technical Cooperation Program. UNSW is the only foreign university invited to participate. In mid-November, five UNSW law students were selected to attend the meeting at Xiamen University, Fujian Province, China. The AHRCentre/Faculty of Law team - Jonathan Cooper, Amanda Foong, Julia Mansour, Vinay Orekondy and Aimee Wiseman - representing the member state of Bosnia and Herzegovina won the most prestigious award, the Outstanding Delegation Award. Individual presentation awards were given to Amanda Foong (Leadership Award) and Julia Mansour (Friendship Award). The team developed submissions on the Responsibility to Protect and Human Rights and the Environment. Faculty of Law and AHRCentre Associate, Ed Santow, supervised the submission preparation and accompanied the team to China with Natasha da Silva from the Australian Human Rights Commission.

### **NSW Legal Aid Commission Human Rights Fellowship for Graduate Lawyers**

The AHRCentre, in partnership with the Legal Aid Commission of New South Wales, developed and established a Human Rights Fellowship Program for graduate law students interested in human rights legal practice. The Fellowship provides students with an opportunity to gain hands-on experience working in the Human Rights Unit of the NSW Legal Aid Commission for a 15 week period (being the clinical component of their College of Law Practical Training Course Professional Program). Following the success of the inaugural Program in 2007, the LAC increased the intake from 2 to 4 students in 2008.

## 6. Events

### 6.1 AHRCentre Annual Public Lecture

On 25 September 2008, **Professor Stephan Parmentier** from the Faculty of Law at the Catholic University of Leuven, Belgium, delivered the AHRCentre Annual Lecture. Professor Parmentier, an international expert in political crimes and transitional justice, addressed the topic 'Reconciliation and Human Rights' in anticipation of 2009 being designated the United Nation's International Year of Reconciliation. He noted that many countries recovering from histories of gross human rights violations including Australia, have embraced the notion of reconciliation without clearly articulating its necessary relationship to justice and rights. Aboriginal and Torres Strait Islander Social Justice Commissioner and National Race Discrimination Commissioner, **Tom Calma**, offered a commentary on Professor Parmentier's paper and spoke of how Aboriginal people legitimately question reconciliation when the Australian government continues to enact legislation designed to discriminate against them on the basis of race. Commissioner Calma observed that 2008/2009 present an opportunity for Australia to rise to the human rights challenges facing Indigenous peoples by ensuring a clear synergy between reconciliation and human rights protection.

### 6.2 AHRCentre Seminar Program

#### Seminars held in 2008 include:

- 13 March 2008: Executive Director of Human Rights Watch, **Kenneth Roth**, addressed a lunch on the activities on HRW and a proposal to establish a HRW office in Australia which will focus on the Asia Pacific region.
- 28 March 2008: AHRCentre, together with the International Law Association (Australian Branch), hosted a seminar by **Martin Scheinin**, UN Special Rapporteur on the promotion and protection of human rights while countering terrorism: *Human Rights After 9/11 : Challenges and Opportunities a comparative perspective*.
- 7 April 2008: AHRCentre, PIAC and the Combined Groups of CLCs co-hosted **Gay McDougall**, UN Independent Expert on Minority Rights, speaking on *Promoting Human Rights: A reflection on my work with NGOs, Treaty Bodies and Special Procedures*.
- 3 July 2008: **Andrea Durbach**, **Andrew Byrnes**, Reprieve Australia's President, **Rachel Walsh** and NSW Civil Liberties Council's **Michael Walton** participated in an Amnesty International seminar, *The Death Penalty – Why Should Australians' Care?*
- 17 July 2008: **Professor David Kretzmer** delivered a talk on *International Law and the Targeted Killing of Suspected Terrorists*. A distinguished international law scholar, Professor Kretzmer represented Israel on the UN Human Rights Committee and was recently appointed Chair in Law at the Transitional Justice Institute, University of Ulster.
- 14 August 2008: the AHRCentre screened a documentary *Memory of the Cactus: the forcible transfer of civilian populations in the Occupied West Bank* with commentary by **Michelle Burgis**, International Legal Intern with Palestinian human rights organisation, Al-Haq and **Andrew Byrnes**, Professor of International Law, Faculty of Law, UNSW.

- 9 October 2008: **Andrea Durbach** and former Reprieve Australian intern, **Andrew Small** addressed a Reprieve Australia (RA) presentation. RA provides legal and humanitarian assistance to impoverished people facing the death penalty. Andrea spoke about her representation in South Africa of the Uppington 25, 14 of whom were sentenced to death and Andrew spoke about the work done by Reprieve Australia and his experience acting for those facing the death penalty in Louisiana, United States.
- 28 November 2008: *Violence against Women: the power of men, the power of rights* seminar with Centre Visiting Fellow, **Ineke Boerefijn**, Associate Professor at the Netherlands Institute of Human Rights, School of Law, Utrecht University and **Penelope Andrews**, Professor of Law at Valparaiso University Law School and Chair of Law at La Trobe University. Ineke addressed the topic '*Confronting power through the use of rights: the promise and reality of UN human rights treaties*' and Penny's presentation was entitled '*A Bit on the Side? Masculinist Culture Confronts Women's Rights in South Africa*'.
- 10 December 2008: AHRCentre, the UNSW Initiative for Health and Human Rights, and the Diplomacy Training Program celebrated the **60th Anniversary of the UN Declaration of Human Rights** with **Lord Bingham**, leading human rights jurist and former Master of the Rolls and Lord Chief Justice of England and Wales and **Elizabeth Evatt** AC, former member of the UN Committee on the Elimination of Discrimination against Women and the UN Human Rights Committee. The event, held in the Faculty of Law, attracted 300 people and also featured an enactment of key Universal Declaration of Human Rights principles by students and a young people's theatre group.

## 7. Other Activities

### 7.1 ECSR shadow report coordinated by AHRCentre Fellow, Annie Pettit

The Australian Human Rights Centre is involved in a project coordinated by the National Association of Community Legal Centres, the Human Rights Law Resource Centre and Kingsford Legal Centre which documents the state of human rights in Australia. The primary focus of this project is the preparation and submission of two NGO reports to the United Nations—one to the Committee on Economic, Social and Cultural Rights, and the other to the Human Rights Committee. In April 2008, the first of the two NGO Reports entitled *Freedom, Respect, Equality, Dignity: Action*, was submitted to the UN Committee on Economic Social and Cultural Rights regarding Australia's implementation of the International Covenant on Economic, Social and Cultural Rights. Substantial contributions to the report were made by over 30 NGOs with specific human rights expertise, and the Report is supported by over 100 NGOs.

### 7.2 Australian Charter of Human Rights Roundtable

On 2 June 2008, the AHRCentre participated in a Roundtable organised by the Gilbert + Tobin Centre of Public Law at NSW and the Human Rights and Equal Opportunity Commission to explore the development of an Australian charter of human rights. The AHRCentre told the Roundtable that it was keen to work with other organisations to facilitate the development of a national charter of rights, with a reference to two key aspects: (1) to identify and develop possible models/frameworks for the inclusion of economic, social and cultural rights within a proposed national bill or charter and (2) to develop a considered process for national consultation which will create a forum for effective and comprehensive public engagement that allows for the development of a document which properly reflects

Australian cultures, traditions, institutions and aspirations and is informed by the evolution and impact (positive and negative) of the ACT Human Rights Act and the Victorian Charter.

### **7.3 Submissions to government or Parliamentary Inquiries**

Andrea Durbach and the Public Interest Advocacy Centre (PIAC) co-authored a submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the Stolen Generations Compensation Bill 2008. The submission argued for the provision of a broader reparations scheme and included model legislation for a Stolen Generations Reparations Tribunal Bill. Although the Senate Inquiry report rejected the Compensation Bill, it endorsed the need for urgent redress for members of the Stolen Generations. In September the Australian Greens introduced the Stolen Generations Reparations Tribunal Bill to the Senate for debate.

Andrew Byrnes, Hilary Charlesworth, Susan Harris Rimmer and Andrea Durbach made a submission into the Inquiry into the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, conducted by the Joint Standing Committee on Treaties, October 2008.

Andrea Durbach, Catherine Renshaw and Andrew Byrnes made a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry on Human Rights Mechanisms and the Asia Pacific, 20 November 2008.

Andrew Byrnes made a submission on Australia's role in the work of the Asian Development Bank to the Inquiry into Human Rights Mechanisms and the Asia-Pacific, Joint Standing Committee on Foreign Affairs, Defence and Trade, 20 November 2008.

## **8. Publications**

### **8.1 Australian Journal of Human Rights (2 issues per year)**

The *Journal* remains the only comprehensive and refereed human rights journal in Australia and includes articles on human rights from a variety of disciplines and perspectives. From time to time, the *Journal* focuses on a particular theme or includes papers from a symposium. In 2008 the *Journal* featured articles on Indigenous health and human rights, the Northern Territory intervention, children's medical treatment and religion, human rights health and development and media freedom relating to disease outbreaks in China. Christine Forster and Alan Morris are the *Journal* co-editors and Andrew Byrnes, Andrea Durbach, Steven Freeland, Fleur Johns, Peter Kriesler and Eileen Pittaway make up the editorial board.

### **8.2 Human Rights Defender (3 issues per year)**

The *Human Rights Defender* editorial team farewelled Melanie Schwartz at the end of 2007 and welcomed Janice Grey and Jill Hunter for the first edition of 2008. The three editions in 2008 concentrated on, respectively; Human Right to Water in Australia and Internationally (Vol 17 Issue 1); the Role of Non-government Organisations as Human Right Defenders (Vol 17 Issue 2) and Criminal Justice and Human Rights: Australia, Asia and the Pacific (Vol 17 Issue 3).

The *Human Rights Defender* subscription held steady throughout 2008.

### 8.3 Publications and presentations by Centre staff and associates

Byrnes, A “Asian Disability Non-Discrimination Legislation and the Convention on the Rights of Persons with Disabilities” and “Reasonable Accommodation and the Convention on the Rights of Persons with Disabilities”, presented at *ILO/OHCHR Sub-regional meeting on Disability Legislation – Decent Work for Persons with Disabilities in Asia*, Bangkok, 23-24 June 2008.

Byrnes, A “More Law or Less Law? The Resilience of Human Rights Law and Institutions in the ‘War on Terror’” in Gani, M and Mathew, P (eds), *Fresh Perspectives on the ‘War on Terror’* (ANU E-press, 2008) 127-158.

Byrnes, A “Reflections on the 60<sup>th</sup> Anniversary of the Universal Declaration of Human Rights”, commentator on video presentation by Craig Mokhiber, Deputy Director of the Office for the United Nations High Commissioner for Human Rights, Australian Institute of International Affairs (NSW) (10 December 2008).

Byrnes, A “The Disability Discrimination Ordinance, the UN Convention on the Rights of Persons with Disabilities, and Beyond: Achievements and Challenges after Ten Years of Hong Kong Anti-discrimination Legislation”, presented at the conference *Our Ten Years under the DDO – Moving Forward, Changing Cultures*, organized by the Hong Kong Equal Opportunities Commission, Hong Kong, 24 January 2008, [2008] UNSWLRS 13.

Byrnes, A and Bath, E “Violence against Women, the Obligation of Due Diligence, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women – Recent Developments” (2008) 8(3) *Human Rights Law Review* 517-533.

Byrnes, A and McKinnon, G “The ACT Human Rights Act 2004 and the Commonwealth Anti-Terrorism Act (No 2) 2005: a triumph for federalism or a federal triumph?” in Gani, M and Mathew, P (eds), *Fresh Perspectives on the ‘War on Terror’* (ANU E-press, 2008) 361-377.

Byrnes, A “Affirmative Action and the Convention on the Rights of Persons with Disabilities” and “Enforcing the CRPD: The Role of the Future Disability Rights Treaty Body –Lessons from Other Treaty Bodies”, presented at *ILO Sub-regional meeting on Disability Legislation – Decent Work for Persons with Disabilities in Africa*, University of the Western Cape, Cape Town, 12-14 May 2008.

Byrnes, A “Asian Disability Non-Discrimination Legislation and the Convention on the Rights of Persons with Disabilities” and “Reasonable Accommodation and the Convention on the Rights of Persons with Disabilities”, ILO/OHCHR Sub-regional meeting on Disability Legislation – Decent Work for Persons with Disabilities in Asia, Bangkok, 23-24 June 2008.

Byrnes, A, Durbach, A and Renshaw, C “Joining the club: the Asia Pacific Forum of National Human Rights Institutions, the Paris Principles, and the advancement of human rights protection in the region” (2008) 14(1) *Australian Journal of Human Rights* 63-98.

Byrnes, A Tarantola, D Johnson, M Kemp, L Zwi AB and Gruskin, S “Human rights, health and human development” (2008) 13(2) *Australian Journal of Human Rights* 1-32.

Byrnes, A, presentation of “Joining the club: the Asia Pacific Forum of National Human Rights Institutions, the Paris Principles, and the advancement of human rights protection in the region” at *Asian Law Institute annual conference*, Singapore, 22-23 May 2008.

Byrnes, A "From Paris to Dhaka: The Paris Principles, National Human Rights Institutions, and the Effective Protection of Human Rights", presentation at the Australasian Law Teachers' Association conference, Cairns, 6-9 July 2008.

Byrnes, A "All Promise Dashed? International Law, the Death Penalty and the Indonesian Constitutional Court", presentation at the Australasian Law Teachers' Association conference, Cairns, 6-9 July 2008.

Durbach, A "'The Cost of a Wounded Society': Reparations and the Illusion of Reconciliation" (2008) 12(1) *Australian Indigenous Law Review* 22–40.

Durbach, A "Little More than a Clanging Gong': The Promise and Progress of Reconciliation" *Indigenous Law Bulletin* June/July 2008, Volume 7 Issue 6, 15 -18.

Durbach, A "The Right to Legal Aid in Social Rights Litigation", in Langford, M (ed) *Social Rights Jurisprudence - Emerging Trends in International and Comparative Law*, CUP, Nov 2008.

Durbach, A and PIAC, Submission to Senate Inquiry on Compensation for Stolen Generations (April 2008).

Durbach, A and Renshaw, C "A tongue but no teeth? The emergence of a new regional human rights mechanism in the Asia-Pacific region", presented at the *Sixteenth Annual ANZIL Conference*, Canberra, 26-28 June, 2008.

Forster, C and Jivan, V "Public Interest Litigation and Human Rights Implementation: The Indian and Australian Experience" (2008) *Asian Journal of Comparative Law* 3(1) 143–172.

Forster, C and Jivan, V *Translating CEDAW into Law: Cedaw Legislative Compliance in the Cook Islands* (2008) UNIFEM, Suva, 1-99.

French, P and Kayess, R "Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities" (2008) 8(1) *Human Rights Law Review* 1-34.

French, P and Kayess, R, "Deadly Currents Beneath Calm Waters: Persons with Disability and the Right to Life in Australia" in Clements, L and Read, J (eds), *Disabled People and the Right to Life: The Protection and Violation of Disabled People's Most Basic Human Rights* (Routledge, 2008). *Heterodox Economic Perspectives on Contemporary Issues*, Refereed Papers of the 6th Australian Society of Heterodox Economists Conference, 10-11th December, University of New South Wales, 224-237.

Krygier, M "War on Terror", in Manne, R (ed) *Dear Mr Rudd* (Black Inc., Melbourne, 2008) 127-43.

Low, J "Engaging with the United Nations Treaty Bodies: A fruitful dialogue?" [2008] (2006) 13 *Australian International Law Journal* 57 – 95, [2008] UNSWLRS 36.

Moon, G "Could agricultural tariff reductions in developing countries be unlawfully discriminatory?" in Chester, L. and Johnson, M. (eds), 'Heterodox Economic Perspectives on Contemporary Issues', Refereed Papers of the 7<sup>th</sup> Conference of the Society of Heterodox Economists, December 2008, Sydney, Australia.

Moon, G "The WTO-Minus Strategy: Development and human rights under WTO law", (2008) 2(1) *Human Rights in International Legal Discourse*, Intersentia.

Neeson, K "The Road to an Australian Bill of Rights" (2008) 17(2) *Human Rights Defender* 18-21.

Nolan, J "Corporations as citizens: the human rights accountability gap" presented at *Asian Law Institute Conference*, University of Singapore, 22-23 May 2008.

Nolan, J "Sphere of Corporate Responsibility for Human Rights: A concept in search of a definition" presented at *International Conference on Corporate Social Responsibility, Business Responsibilities for Human Rights and International Law: 'Where do we go after the final report of the SRSG on Human Rights and Business?'*, University of Copenhagen, 6-7 November, 2008.

Nolan, J and Kinley D "Trading and Aiding Human Rights: Corporations in the Global Economy" (2008) 25(4) *Nordic Journal of Human Rights* 353-377.

Nolan, J and Kinley, D "Human Rights, Corporations and the Global Economy - An International Law Perspective" in Georg, A and Palazzo, G (eds) *Handbook of Research on Global Corporate Citizenship* (Cheltenham UK and Northampton MA; Edward Elgar 2008) 343-37.

Nolan, J and Posner, M "A new frontier in human rights protection: human rights, NGOs and business" (2008) 17(2) *Human Rights Defender* 2-4.

Renshaw, C , presentation at Asian NGOs Network on National Human Rights Institutions (ANNI), 1st Regional Consultation, Bangkok, 23-24 February 2008.

Renshaw, C "Strategies for the Future: Protecting Rights in the Pacific Conference", Apia, Samoa, 27-29 April 2008.

Renshaw, C "The Globalisation Paradox and the Implementation of International Human Rights: the Function of Transnational Networks in Combating Trafficking in the ASEAN Region" presented at the *25th Annual Law and Society Australia and New Zealand Conference*, University of Sydney, 10-12 December 2008.

Renshaw, C and Taylor, K "Promoting and Protecting Human Rights in the Asia Pacific; the relationship between National Human Rights Institutions and Non-Governmental Organisations" (2008) 17(2) *Human Rights Defender* 5-7.

Renshaw, C, Byrnes, A and Durbach, A "Implementing human rights in the Pacific through the work of national human rights institutions: the experience of Fiji" [2008] UNSWLRS 66.

Tarantola D, Byrnes A, Johnson M, Kemp L, Zwi A B and Gruskin S "Human rights, health and human development" (2008) 13(2) *Australian Journal of Human Rights* 1-32.

Tarantola D, Byrnes A, Johnson M, Kemp L, Zwi AB, Gruskin S "Human Rights, Health and Development" (2008) *Technical Series Paper #08.1*, UNSW.

Tarantola, D "A perspective on the history of health and human rights: from the Cold War to the Gold War" (2008) 29(1) *Journal of Public Health Policy* 42-53.

Tarantola, D and Gruskin, S “Human rights approach to public health policy” in Heggenhougen and Quah (eds) *International Encyclopedia of Public Health* (2008 [3] Academic Press, San Diego 3) 477-486.

Tarantola, D and Gruskin, S “Pragmatic pathways to universal access: leadership, equity, accountability and partnerships in HIV prevention and care” (2008) [Editorial] *AIDS* 22 (Suppl 2): S1-S2

Tarantola, D and Gruskin, S “Public Health Policy and Human rights: History, Concepts and Value,” in: Heggenhougen, K., Werner, D., Haines, A., Sitthi-amom, C., Koplan, J., Keusch, G., Machenbach, J., Colwell, R. and Bok, S. (eds) *Encyclopedia of Public Health* (2008, Elsevier, In press).

Tarantola, D and Gruskin, S “Universal Access to HIV prevention, treatment and care: assessing the inclusion of human rights in international and national strategic plans” (2008) *AIDS* 22 (Suppl 2): s113-s121

Tarantola, D and Gruskin, S “Universal access: A health and human rights perspective” in: *From the Ground Up: A Guide to Comprehensive HIV/AIDS Care in Resource-Limited Settings*, 2008.

Tarantola, D and Gruskin, S “What Does Bringing Human Rights into Public Health Work Actually Mean in Practice?” in: Heggenhougen, K., Werner, D., Haines, A., Sitthi-amom, C., Koplan, J., Keusch, G., Machenbach, J., Colwell, R. and Bok, S. (eds) *Encyclopedia of Public Health* (2008, Elsevier, In press).

Tarantola, D and Hallgath, L “A rights-based approach to the assessment of global health initiatives” (2008) 13(2) *Australian Journal of Human Rights* 157-180.

Tarantola, D and Gruskin, S “Health and Human Rights, Overview” in Heggenhougen and Quah (eds) *International Encyclopedia of Public Health* (2008 [3] Academic Press, San Diego 3) 137-146.

Wilcock, S “Emergency Lockdowns in Australia: From Averting Race Riots to Policing Dissent”, (2008) 17(3) *Human Rights Defender* 11-13.



**Statement of Financial Performance for the Year Ended 31 December 2008**

The AHRCentre income is derived from a mix of project work, consultancies, donations seminar/lecture fees and subscription from the *Australian Journal of Human Rights* and *Human Rights Defender*.

	<b>2008</b>	<b>2007</b>	<b>2006</b>
<b>Income</b>			
External Funds (i)	6,833.92	28,331.50	42,294.59
UNSW Contribution	-57.78	-26,500.36	108,238.00
<b>Total Income</b>	<u>6,776.14</u>	<u>1,831.14</u>	<u>150,532.59</u>
<b>Expenses</b>			
Payroll	5,822.84	11,728.61	82,744.08
Equipment	364.55	0.00	1505
Materials	25,051.25	25,660.78	13,281.62
Travel	550.36	685.76	2,136.07
<b>Total Expenses</b>	<u>31,789.00</u>	<u>38,075.15</u>	<u>99,666.77</u>
<b>Encumbered</b>			
Materials	<u>                    </u>	<u>                    </u>	<u>                    </u>
<b>Total Encumbered</b>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<b>Operating result</b>	(25,012.86)	(36,244.01)	50,865.82
<b>Surplus(Deficit) Bfwd from Prior Year</b>	66,316.91	102,560.92	51,775.05
<b>Accumulated Funds Surplus(Deficit)</b>	<u>41,304.05</u>	<u>66,316.91</u>	<u>102,640.87</u>
Less Unpaid Invoice	<u>0</u>	<u>0</u>	<u>80.00</u>
<b>Net Accumulated Funds Surplus(Deficit)</b>	<u>41,304.05</u>	<u>66,316.91</u>	<u>102,560.87</u>
Plus Non Project Bfwd bal Per PROJSTATG	<u>0.00</u>	<u>0.00</u>	<u>0.05</u>
<b>Net Accumulated Funds Surplus(Deficit)</b>	<u>41,304.05</u>	<u>66,316.91</u>	<u>102,560.92</u>

(i) Excludes debtors (unpaid invoices)

- \* 1. As per UNSW Budget Guideline, no carry forwards were allowed.  
 2. Direct UNSW contribution was discontinued from 2007.  
 3. The Centre received an in-kind contribution of \$45,651 towards the payroll.  
 4. Additionally, the Centre is supported by the provision of office space, computer and communication infrastructure and administrative (Professional & Technical) support from the Faculty.

Note: the grant received from the ARC and APF for the 'Building Human Rights Project' is administered through the UNSW Grants Management Office and is accordingly not reflected in the AHRCentre accounts.

