

Colloquium Outcomes

Re-engaging with the United Nations

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Griffith University

Hosted by:

The Institute for Ethics, Governance & Law

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&

The Academic Council on the United Nations System



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Background

Australia was a founding member of the United Nations and until the last decade actively engaged in its major policy forums as well as the rule of law, human rights, social development, and refugee work of the organization. The United Nations Association of Australia (UNAA) issued a Report Card in 2007 faulting the performance of the Australian Government in specific areas. With a new government, there are new opportunities to re-engage in concrete ways.

A process of consultation with non-governmental organizations and academics was initiated in 2008 in Melbourne, Canberra, and Sydney by the Academic Council on the United Nations System (ACUNS). It was decided to hold a further brainstorming session in Brisbane, with participants from Bond University, Griffith University, University of Melbourne, University of Queensland, Queensland University of Technology, University of Sydney, Amnesty International, Greencross Australia, Inter-country Adoptee Support Network, Rights Australia, Department of Foreign Affairs and Trade, Queensland Department of Main Roads, and the UNAA.

This all-day colloquium was hosted by the Institute for Ethics, Governance and Law (IEGL) of Griffith University at its Mt Gravatt Campus. It was chaired by Professor John Langmore, President of the UNAA.

As the new Prime Minister has already announced a change of policy with respect to climate change and indigenous people, it was decided to concentrate in this colloquium on the rule of law, human rights, and the movement of people.

The following report reflects a summary of the main recommendations of the group that met in Brisbane, as well as suggestions from persons and organizations consulted before and after.

Welcome from Griffith University

Leneen Forde

Chancellor, Griffith University

The Chancellor of the University welcomed the participants of the Colloquium, wishing the participants success, and hoped that it would provide the foundations for government and civil society cooperation in the area. On a personal note, she pointed out that her father-in-law had signed the United Nations Charter on behalf of Australia.

Introduction

Professor John Langmore

President of the UN Association of Australia

**Professorial Fellow in the Political Science, Sociology and Criminology Department,
University of Melbourne**

Professor John Langmore reminded the participants of the four pillars of the United Nations: international peace and security, social and economic development, human rights and the rule of law. He noted that most Australians are supportive of the UN. The invasion of Iraq, however, caused a crisis in the international system of law. Multilateral institutions are the key to maintaining the rule of law. Prime Minister Rudd has recommitted Australia to multilateralism.

General Recommendations

- Adopt a more mature international strategy – reaffirmation of a rules-based international order
- Having ratified the Kyoto Protocol, make post-Kyoto commitments
- Reduce wasteful and provocative military expenditure
 - There are more cost-effective ways of ensuring security
- Advocacy of a nuclear-weapons convention – spearheaded by Gareth Evans
 - Prime Minister Rudd wants to re-establish the Canberra Commission which recommended abolition of nuclear weapons
- Adopt Millennium Development Goals (MDGs) as the focus of the aid program – increasing the proportion of aid that goes to multilateral agencies
 - Additional sources of finances – carbon tax, currency transaction tax, solidarity levy on international travel
- Undertake active study, research, and consultation on feasible means of improving the UN system
 - Supporting initiatives of NGOs
- Importance of Australia displaying commitment to multilateralism via regular reports to parliament on UN proceedings, including an annual ministerial statement to Parliament
- Renewed participation in Human Rights activities; reformed policies in regard to asylum seekers, indigenous Australians issues

A DFAT Perspective

Andrew Goledzinowski

Assistant Secretary, International Organisations Branch, DFAT

Mr Andrew Goledzinowski noted that DFAT policy is influenced by varied perspectives, including election commitments, the Foreign Minister's vision, and submissions to government, and that the Australian Labour Party (ALP) platform provides a sense of the government's areas of interest, e.g. the "responsibility to protect" (R2P) and the Peacebuilding Commission. The Foreign Minister indicated there are three pillars of Australia's foreign policy: membership of the UN, Australia's relationship with the US, and Australia's policy of engagement with Asia. The Foreign Minister has indicated that he will take a fresh look at Australia's recent voting patterns in the UN, a re-engagement with the Human Rights Council, and a consideration of Security Council membership. Policy is beginning to emerge, but still under construction. The Department welcomes new ideas. The 2020 Summit may assist in policy formulation. For Australia, re-engaging means utilizing the UN to achieve goals, reform, resources and addressing the north-south divide.

Matters currently under consideration in DFAT:

- Australia will take a higher profile in 5th Committee: strengthen Department of Political Affairs
- Review Zero-Nominal-Growth, as needed
- Terrorism; what to do in terms of regional cooperation
- Nuclear Non-Proliferation Treaty (NPT) & Comprehensive Test Ban Treaty (CTBT) – current concerns regarding the demise of these treaties
- Asia-Pacific region - multiplicity of structures; how the UN can best relate to these structures
- People movements – how to deal with non-traditional threats to human security: climate change, economic crises in the region, people smuggling/trafficking (with the Pacific Solution no longer operational, how to deal with people smuggling)
- Human Rights – a significant statement of commitment was recently made at the 7th session of the Human Rights Council, 5 March, 2008¹
- Responsibility to protect – examining how to implement this policy

Recommendations from participants:

- Standing study group of NGO and academics, including referring particular issues for advice or development
- Regular reports to parliament on UN activities, through an annual statement or through the Joint Parliamentary Committee
- High-level representation at UN events
- ODA – the ALP has committed 0.5% of GDP by 2015, but more consideration needed on how to use this money effectively

¹ "Statement by Australia to the Human Rights Council: Seventh Session, 5 March 2008"
http://www.foreignminister.gov.au/releases/2008/fa-s046_08.html

The UN Charter & the International Rule of Law

Professor Charles Sampford

Director, Institute for Ethics, Governance & Law (IEGL)

Convenor, ARC Governance Research Network

President, International Institute for Public Ethics

Foundation Dean and Professor of Law, & Research Professor in Ethics, Griffith University

General discussion of recommitting to the UN Charter and UN values, in particular the rule of law in international affairs, followed by more specific discussion of Peacebuilding, Governance, Corruption and UN Reform.

Professor Sampford said that governance involves stating ideals and values and building institutions that will realize those ideals and values. As John Langmore pointed out values and idealism inspired the UN at its foundation and still inspire the UN's many supporters. They are at the heart of what Kofi Annan called its 'unique legitimacy' and are found in the Preamble to the UN Charter. Realizing those values requires action by, and changes to, international institutions, national institutions, corporations and NGOs. These values are not owned by any political party in any signatory. They are certainly neither Liberal, nor Labour.

Australia has joined the US in its retreat from multilateralism and international law. While paying lip service to the rule of law, the Australian government entered a war without UN sanction which the vast majority of international lawyers thought was contrary to international law. The Australian Prime Minister told Parliament on 6th March 2003 that Australia would never use force contrary to international law and that there was ample legal authority in this case. However, Australia had already taken steps to ensure that the matter could not be heard by the International Court of Justice by formally stating that Australia would only accept suit from states which have accepted the compulsory jurisdiction for a period of 12 months before filing. While about half of those who sign up for compulsory jurisdiction accept such suits without a delay, and about half do so with the 12 month delay, Australia's change from one group to the other prevents Iraq from challenging the legality of the planned war. Given the fact that it only took Serbia 9 days to get to a hearing, the chair noted this was very significant.

Recommendations:

- Emphasize our commitment to multilateralism, the Charter, UN conventions and treaty obligations
- Recommit to compulsory jurisdiction of the ICJ to any country that also accepts the compulsory jurisdiction without delay; explicitly state that Australia will be prepared to use force in the last resort but will only do so after the Attorney General, acting independently as first law officer of the crown gives his own opinion that the war is legal
- Be more than willing to accept suit in the ICJ – and emphasize that we would counter sue for breaches of international law

- Restatement of commitment to accept compulsory jurisdiction of the ICJ for that use of force
- Be willing to use force to further UN values through international law
- Adhere to UNSC resolutions
- Push for a strengthened treaty system for the environment
- Promote an alliance between the traditional defenders of the rule of law (conservatives) and the recent defenders
- Having demonstrated our commitment to the rule of law, we can then be a source of ideas for how it can be strengthened domestically and internationally
- As a middle power we have a great opportunity and responsibility to lead in this area

Specific actions:

- Move to define crime of aggression under Rome Statute
- Treat terrorism as principally a criminal matter – Bali model
- Develop guidelines and mechanisms to decide when R2P intervention is appropriate
- Control private military corporations – set out enforceable rules for their operation and criminalize those who do not commit to it
- Improve tracing of funds so that no rational corrupt official would place his or her funds in the international banking system (so that the probability of discovery will be high)
- Develop means for protecting democracies from coups (Pakistan) or erosion (Zimbabwe)
- Provide assistance with governance reform for other countries and international bodies
 - Starting in our region
 - Particularly Commonwealth approach to admin law and
 - Queensland approach to public sector ethics and ‘national integrity systems’
- Press for corporations to adopt PRI and Global Compact then develop means to build them into corporate practice
- Build governance and rule of law into the start of missions
- Helping Rule of Law Unit at UN
- Campaign for SC to be subject to rule of law
 - Use of force (‘by all necessary means’) would only be authorized for countries that accept the compulsory jurisdiction of the ICJ and International Criminal Court (ICC) for that intervention
 - Allow ICJ to determine the extent of the mandate
- Use our middle power status to project these ideas for strengthening governance
 - Work with other nations to refine and articulate values such as the liberty, equality, citizenship, democracy, rule of law and the sustainable good life
 - Propose institutional means to achieve those values
 - Use Australia’s UN delegation as a medium for transmitting such ideas to the UN
 - Use UNAA, ACUNS, IEGL (the UNU centre tasked with these issues)
- More general support for Community of Democracies grouping at the UN
- Having demonstrated our commitment to the rule of law, we can then be a source of ideas for how it can be strengthened domestically and internationally
- Nurture the US alliance and seek to persuade them based on:

- Our shared history and culture; the rule of law is part of our culture and history, and the UN was forged during the period of strongest US – Australia military cooperation
- Our strong commitment to the UN at the beginning
- Our ANZUS treaty obligations requires it
- Australians have more to gain than lose from the effective system of international law
- Promote alliance between the traditional defenders of the rule of law (conservatives) and the recent defenders

There followed a discussion on the positions of the two democratic candidates for the US presidency, the influence of arms manufacturers, politicians being swayed by corporate interests, companies responsible for mining uranium and manufacturing landmines. It was recommended that the corporate sector re-engage with the UN (Global Compact).

Another speaker suggested that the term “re-engagement” overlooks that over the past decade Australia has been engaged, but to the detriment of multilateralism and the UN system. The past engagement should be re-examined and challenged, including reconsidering the positions that we have taken in response to treaty bodies’ reports. National mechanisms within Australia should be strengthened, and it needed to be acknowledged that the NGO sector has been weakened, and will need rebuilding.

It was noted that the Peacebuilding Commission is on the ALP’s party platform and that Australia is taking more of a role in the PBC, particularly vis a vis East Timor. It was suggested that there should be more civil society and government engagement in the development of principles of best practice for the Commission and that Australia should be concerned about other countries.

It was noted that a new regional Centre for Excellence was being established in Queanbeyan to train defence forces, police and civilian humanitarian workers on a broader vision of peacekeeping operations.

Australia should re-engage with the UN in areas that reflect the country’s priorities such as Southeast Asia. There is a need to define Australia’s goals and objectives, before devising strategies.

Human Rights

Dr Michael Platzer

Academic Council on the United Nations System (ACUNS)

Discussion of issues pertaining to Human Rights Council, Human Rights Committee, Crime Commission, CEDAW, ICCPR/ICESR reports, indigenous people, disabled, prisoners with mental illness, anti-terror legislation .

The chair suggested ten actions for Australia to re-engage in the human rights area:

- 1) seek membership in the Human Rights Council, Crime Commission and Commission on Status of Women
- 2) increase the contributions to the Office of the High Commissioner for Human Rights
- 3) lead diplomatic efforts in West Papua and Myanmar
- 4) provide increased support for AU/UN mission in Darfur (logistics, humanitarian protection)
- 5) increase agricultural development assistance in Africa (support twinning arrangements with semi-arid research and training institutions)
- 6) provide more practical multi-sectoral rule of law/ governance cooperation to requesting states
- 7) support regional responsibility to protect, and humanitarian protection programs
- 8) support work of Peace Building Commissions in more countries
- 9) become active in the Crime Commission and lead implementation of criminal justice standards, penal reform, restorative justice, prevention of violence against women, and criminal justice training programs
- 10) provide more resources to the poorest countries.

Several participants thought it more important to get ASEAN countries to take a lead on human rights issues in the region but Australia should devote more humanitarian and development resources to Africa. The right to food is a primordial right. Australia is ideally placed to lead initiatives to eliminate poverty, eradicate malaria, provide clean water, and establish a “Safe Box” for emergency food aid.

Howard Glenn of Rights Australia similarly outlined a number of complementary steps that could be taken:

- Prepare to seek membership of the Human Rights Council, and support initiatives to build its credibility – possibly sponsor a seminar or study
- Welcome the announcement of the intention to ratify the Torture Convention protocol, and work towards ratification of other treaties like the Convention on Disabilities and the optional protocol to the Convention on the Elimination of Discrimination Against Women (CEDAW)
- Commemorate the 60th anniversary of the Universal Declaration of Human Rights – in a joint program between Government and NGOs
- Issue standing invitations to the special mechanisms and rapporteurs of the Human Rights Council and re-assess our responses to previous criticism
- Review and resubmit the “core document” on Australia and human rights, taking account of the criticisms in the NGO shadow report
- Improve partnership with NGOs, with more frequent and well-structured dialogues, inclusion in delegations and initiatives to rebuild and support civil society organizations; various past models were discussed
- Review and rebuild domestic human rights protections would also be important, starting with the Human Rights and Equal Opportunity Commission

The example of the European Parliament preparing detailed positions for each session of the Human Rights Council was cited. Some thought cooperation with the EU would be advantageous. Others thought Norway provided a good model. Less than half of the 47 members of the Human Rights Council could be considered human rights champions, but it is still believed that articulate members joined with others could improve operations.

Graham Wright, one of the organizers of the International Conference on Engaging Communities, held in Brisbane in August 2005, reminded the participants of the Brisbane Declaration², noted the willingness of the Queensland Government to support knowledge sharing and capacity building and that the tertiary sector and professional organizations were encouraged to facilitate research and teaching, policy and practice development, evaluation and networking. It was also mentioned that Queensland played an active role in the 7th Global forum on Reinventing Government³, held in Vienna in June 2007, which dealt with Challenges in Crisis and Post Conflict Countries and building trust through civic engagement (Greg Hoffman, Neil Doyle, Peter Oliver, Paul Bell, and Michael Cuthill). Brisbane has offered to host the 8th Global Forum in 2009.

The recent Workshop on the Eradication of Armed Conflict, held by Global Action to Prevent War, a New York-based transnational network dedicated to reducing global levels of conflict, and hosted by the Australian Centre for Peace and Conflict Studies, University of Queensland, also promoted the active application of the “responsibility to protect concept”, respect for human security, automatic access to human rights monitors, a convention on minority rights, the publication of state failures to comply with Human Rights Treaties, the increased use of the International Criminal Court, the establishment of the United Nations Emergency Peace Service, strengthening the role of NGOs at the United Nations, as well as fostering local, national, and regional programs to strengthen tolerance and respect for diversity among ethnic, cultural and religious groups while opposing political and religious extremism. It also supported programs aimed at reducing community and national violence, including humanitarian aid, refugee relief, economic development, economic justice, human rights, prevention of domestic and youth violence, and protection of the environment.

A representative of the University of Sydney, Centre for Peace and Conflict Studies explained the concept of the United Nations Emergency Peace Service (UNEPS) which would prevent genocide and crimes against humanity. UNEPS would be a permanent standing capacity based at UN-designated sites, capable of responding to an emergency within 48 hours of authorization. It would be coherently organized under a unified UN command and comprise up to 15,000 personnel, individually recruited from many different countries, with skills in conflict resolution, humanitarian assistance, law enforcement and other peacekeeping capacities. UNEPS would provide comprehensive, expert training in peacekeeping for all personnel with an emphasis on human rights and gender issues. Finally, it would supplement existing UN and regional peacekeeping operations, providing another tool to prevent genocidal-like disasters.

² Official Website: “Brisbane Declaration on Community Engagement”
http://www.getinvolved.qld.gov.au/share_your_knowledge/un_conference/brisbanedeclaration.html

³ Official Website: <http://www.7thglobalforum.org/site3.aspx>

The Movement of People

Professor Laurence Boulle

Bond University

Discussion of issues concerning Refugees and Asylum seekers, obligations under UN Refugee Convention, Convention on the Protection of Migrants, Protocol against Trafficking of Persons

“Australia has an appalling record in its global humanitarian responsibilities to refugees and asylum seekers. The government has continued to violate fundamental human rights in the detention and treatment of asylum seekers/unauthorized arrivals” (UNAA – Annual Report Card 2007).

The chair referred to the rule of law as regards the movement of people, in addition to the obligations under the refugee conventions that Australia has signed. The chair noted that despite the free movement of global capital, goods and services, there has been a re-nationalisation of the movement of people. Australia has failed in the domestic practice of complying with the international rule of law. The chair further noted that security walls have become the biggest growth industry.

It was further suggested that Australia, under the former government was pursuing contradictory policies between asylum seekers and overstayers. 60% of students come to Australia seeking permanent residency. Citizenship can be bought. The real issue is legal versus “illegal” migrants (unauthorized or irregular). These migrants have no access to the rights and remedies of domestic law. Australia has no bill of rights and has not implemented international law into domestic law, nor accepted customary international law. However, international judicial decisions do have a demonstration effect for Australia (one participant stated that Australia was in fact giving bad examples with regard to deportation and treatment of irregular migrants).

It was noted that ALP policy on treatment of asylum seekers had been negotiated between the current Deputy Prime Minister and NGOs to better adhere to international law, particularly with minimal detention, rapid consideration and rights to review. Implementation of this policy quickly is important. While Nauru and Manus Island closure is welcome, the next boat arriving without the new standards in place could provoke the same sort of fear-based responses we have seen in the past.

One participant noted that Australian migration policy has largely been determined by employers – skilled categories now make up the bulk of permanent migrants (55.3%), followed by family categories (30.7%) and a distant last humanitarian entrants (special program 5.5% and refugees 4.6%).

Participants felt the issue was primarily one of the universality of human rights versus cultural relativism. Some ethnic groups are feared more than others. It was felt that UN universal values and community support for new arrivals would facilitate their integration.

It was urged that Australia ratify the UN International Convention on the Protection of the Rights of all Migrant Workers and their Families, and implement the UN-ILO recommendations into domestic law. It has been found that temporary workers have been exploited in terms of pay levels, accommodation and health cover and are reluctant to protest. It was argued that refugees should be allowed to work and obtain access to benefits while their status is being determined.

Australia leads the developed countries in deportation numbers. Often, voluntary repatriation is agreed; however the children who have lived their entire lives in Australia do not want to go.

There followed a discussion on environmental refugees who have no legal status so far. However, UNHCR has been assisting victims of environmental disasters and internally displaced persons. Australia provides temporary visa status trafficked persons who agree to testify against their traffickers.

In this connection, the recent UN symposium held in Brisbane, 18 – 19 October 2007, together with Griffith University's School of Public Health, was mentioned. The purpose of the symposium was the development of an HIV referral model to allow people vulnerable to human trafficking, "rescued" or otherwise, timely access to sexual and reproductive health services, particularly voluntary counseling and therapy and if indicated, anti-retroviral drugs (ARVs). This "Brisbane model" is to be made available to countries in Southeast Asia and the Pacific.

It was recognized that public opinion does determine policies in this area. Mobilized community information campaigns about low-crime rates, readiness to integrate, and acceptance of values such as those in the Universal Declaration of Human Rights may lessen the fear of "uninvited guests/queue jumpers". Leadership in this area may also change policies so that Australia will be in conformity with international law and human rights, and so that Australia will not be seen to be hypocritical.

Round Up and Next Steps

Professor John Langmore

Summary of Recommendations:

1. Obligations

- Rule of law proposals (see above)
- Human Rights (see above)
- Peacekeeping & recognition of Australia's good record
- Increasing aid, and increasing the proportion going to multilateral organizations
- Asylum seekers and refugees – fulfilling our treaty and convention obligations
- Strengthening indigenous rights
- Ratifying protocols such as those relating to the rights of women, children and people with disabilities
- Being an active participant in the UN

2. Priorities for Australian advocacy and leadership in UN fora

- To be intimately involved in the climate change debate
- Advocating improved resourcing of the UN; ending ZNG policy
- Contributing more actively to development, concentrating on the MDGs
- Strong commitment to R2P
- Commitment to disarmament; try to find ways to strengthen the NPT and avoid collapse of negotiations and to working for nuclear disarmament
- Strengthening regional structures (ESCAP)
- Agreement on a convention relating to terrorism
- Contribute to debate about the reform of the UN

3. Process/partnerships and community roles

- Establishing a Centre for UN Studies
- Funding for the UNAA
- The role of civil society in policy making and engaging on such issues:
 - Standing study group of NGO and academics
 - Report to parliament; NGO representation on delegations
 - Generating public debate/discussion, conferences, networking through:
 - ACUNS, UNAA
 - Active participation in upcoming events
 - Conference of NGOs – 23-27 November 2009, Sydney
 - Parliament of World Religions – December 2009, Melbourne
- high-level representation at UN events

List of Participants

John Langmore – *Professorial Fellow in the Political Science, Sociology and Criminology Department, University of Melbourne; President, United Nations Association of Australia (UNAA)*
Professor Charles Sampford – *Director Institute for Ethics, Governance and Law (IEGL), Griffith University; Convenor, ARC Governance Research Network; President, International Institute for Public Ethics; Foundation Dean and Professor of Law, & Research Professor in Ethics, Griffith University*
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Professor Laurence Boulle – *Acting Dean, Law School, Bond University*
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Clem Campbell – *A/Chair, Greencross Australia*
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Susan Forbes – *Vice-President UNAA Queensland*
Vivian Fung – *University of Queensland*
Howard Glenn – *Rights Australia*
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Ilan Ivory – *Inter-Adoptee Support Network*
Sasha Jespersen – *Amnesty International*
Patricia Johnson – *UNAA*
Michael Pope – *University of Queensland, student*
Chris Cox – *Queensland University of Technology (QUT), student*
Graham Wright – *Director Trade & Industry Relations, Queensland Department of Main Roads*
Afshin A-Khavari – *Griffith University*

Persons consulted

Richard A Woolcott – *former Permanent Representative to the United Nations*
James Ingram – *former World Food Programme(WFP) Executive Director*
Major General Tim Ford – *Chair Australian Peacekeeping Project*
General Michael Smith – *CEO, AUSCARE*
Kevin Clements – *Professor, & Director Australian Centre for Peace and Conflict Studies, University of Queensland (UQ)*
Alex Bellamy – *School of Political Science & International Studies, UQ*
Dr. Peter Londey – *Professor, ANU; formerly Peacekeeping Section, Australian War Memorial*
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Maxwell Gaylord – *Director, UN Mine Action Service, Department of Peacekeeping*
Ivan Shearer- *Professor Emeritus, Member of UN Committee on Human Rights*
Elizabeth Evatt – *former Chair of UN Committee on Elimination of Discrimination Against Women (1984-1992), Member of UN Human Rights Committee (1992-2000)*
Christopher Sheil – *President, Evatt Foundation; Fellow, School of History, University of New South Wales*
Ashley Hogan – *Office of Senator John Faulkner, Australian Senate*
Pera Wells – *Secretary General, World Federation of United Nations Associations*
Deborah Stokes – *First Assistant Secretary, Department of Foreign Affairs & Trade (DFAT); former Ambassador to Austria*
Colin Milner – *Director, Human Rights & Indigenous Issues Section, DFAT*
Dr. David Lee – *Director, Historical Publications and Information Section, DFAT*
Phillipe Na Champassak – *DFAT, editor "Australians and the UN"*
Peter Shannon – *Australian Ambassador to Austria; UN organizations in Vienna*
Robert Hill – *Permanent Representative to the UN, New York*
Phillip Alston – *Professor, New York University, UN Rapporteur for Economic and Social Rights*
Jake Lynch – *Director Centre for Peace and Conflict Studies, University of Sydney*
Stuart Rees – *Chair, Peace Foundation*
Duncan Chappell – *Professorial Fellow, Center for Transnational Crime Prevention, University of Wollongong*
Michael Fullilove – *Director, Lowey Institute, Sydney*

Joint Colloquium: Re- engaging with the UN
7 March, 2008

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Barry Hill – *Author and Journalist, The Australian*
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Annett Dean – *Communications Coordinator, Red Cross Australia*
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John Tregurtha – *District Governor, Rotary of Glen Innes*
Paul Bell – *President, Local Government Association of Queensland, Inc.*
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