

DE MINIMIS

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UN Conducts Human Rights Investigation into US Native Americans

In April and May, the UN will conduct a human rights investigation into the plight of US Native Americans, the first such mission in its history. It will be led by James Anaya, the UN Special Rapporteur on indigenous peoples, who assumed office in 2008.

Many of the country's estimated 2.7 million Native Americans live in tribal areas plagued with unemployment, alcoholism, high suicide rates, incest and other social problems.

In addition, Native Americans are involved in near-continuous disputes over sovereignty and land rights. In fact, more than 70 tribes still remain in litigation with the US government. A promising development occurred this month, when US authorities pledged to pay 41 American Indian tribes a little over one billion dollars to resolve decades-old lawsuits. The settlement does not redress the historical wrongs done to Native Americans, their displacement and massacres, and the elimination of entire Indian cultures. The limitation is that it only involves concrete legal claims that President Obama promised to resolve at the start of his presidency three years ago.

The US signed the United Nations Declaration on the Rights of Indigenous Peoples in 2010, three years after its adoption by the General Assembly. However, the Special Rapporteur's mission is potentially contentious, with some US conservatives likely to object to international interference in domestic matters.

After his visit to Australia in 2009, the Special Rapporteur commended the federal government for 'taking significant steps to improve the human rights and socio-economic conditions of the Aboriginal and Torres Strait Islander peoples of Australia, as well as for its recent expression of support for United Nations Declaration on the Rights of Indigenous Peoples and for its apology to the victims of the Stolen Generation'. He noted with approval a number of successful indigenous programmes addressing issues of alcoholism, domestic violence, health and education in ways that are 'culturally appropriate and adapted to local needs'.

However, Professor Anaya also expressed concern over the Northern Territory Emergency Response, alleging

that this special measure, infringing as it did on the basic rights of indigenous peoples, was not tailored, proportional, or necessary to achieve the legitimate objectives being pursued.

Other jurisdictions and peoples about whom Professor Anaya has made official reports include the Sami people of Norway, Sweden and Finland; the indigenous peoples of Brazil; the Kanak people of New Caledonia (French Republic); and the indigenous peoples of Botswana.

Although Special Rapporteurs do not receive any financial compensation for their work, they are entitled to personnel and logistical support from the Office of the United Nations High Commissioner for Human Rights. This enables them to conduct fact-finding missions to countries whose governments agree to their visits.

There are currently 28 United Nations Special Rapporteurs. Their mandates include Education; the Right to Food; Torture and Freedom of Opinion and Expression.

Bronwen Ewens

MLS Jessup Moot Team reaches Quarter-Finals in Washington DC

For Melbourne Law School Students Kat Yang, Suzanne Zhou, Ben Murphy, Josh Anderson and Alex Maschmedt, the 1st of April this year marked the culmination of a long and at times arduous journey as members of the University of Melbourne Philip C Jessup International Law Moot Court Competition Team. Now in its 53rd year, the Jessup is the world's largest moot court competition, with participants from over 500 law schools in more than 80 countries.

The Melbourne team this year proceeded from the National Rounds in Canberra in January/February, all the way through to the quarter final stage of the International Rounds in Washington DC in March. Along the way the team picked up their fair share of silverware, including Best Respondent and Best Overall Memorials at the National Rounds; and Best Respondent Team, as well as oralist awards for the best (Josh Anderson), 4th best (Alex Maschmedt) and 7th best (Kat Yang) speakers in the International Rounds.

The Jessup is much more than just the teams level of success in the competition phase. It is first and foremost a learning experience, with a tremendous amount of legal research and practice in oral and written advocacy taking place over a total period of five (often exhausting) months. The team was also fortunate to meet, moot against, talk to and sometimes party with people from such far flung lands as Nepal, Armenia, Canada, New Zealand, the USA and even Queensland.

The efforts of the team were ably supported by our academic coaches Associate Professor Tania Voon and Professor Andrew Mitchell, student coach Timothy Lau, our sponsor Freehills, the Melbourne Law School (particularly Dean Carolyn Evans and the office of the Dean), a great number of academic staff, former mooters, barristers, solicitors and current and former judges and magistrates who judged us in our practice moots, the Australian and New Zealand Society of International Law, The International Law Students Association and the Jessup International Law Moot (Australia) Inc.

Alex Maschmedt

Ride to uni? Like free food? Free breakfast!

If you ride* your bike to uni for any of the following reasons, we are celebrating you by putting on a free breakfast (Thursday 3 May, 8.30am-10.30am on Level 1) for you to enjoy:

You like the wind in your (helmet-protected) hair; You want to reinforce your hipster credentials by showing off your fixie; You like to race the tram; Holding up cars just does it for you; Wearing lycra just does it for you; You aren't weighed down with law books as who brings them to class anyway; You've received too many fare evasion fines; or you may even genuinely care to make your difference for the environment.

*free to replace 'ride' with 'walk', 'run', 'catch public transport', 'carpool'

Students attempt Living Below the Line \$2 per day Challenge

No coffee. For a week.

How many coffees did you buy yesterday? At least one, right? Probably two, if we're being honest (4.15pm class slump, anyone?). But assuming that each hit is \$3, the law student coffee habit is costing at least \$21 in a typical week.

In the eyes of about 1.4 billion people, you just spent over 10 days' worth of money. In a week! On coffee!

Close to a quarter of the world's population is living below the extreme poverty line – meaning they have just AU\$2 a day or less to cover all their daily expenses; housing, education, health care, transport and, crucially, food.

Three daring JD students — Lauren McInnes, Chelsea Driessen and Georgina Wu — have decided that this situation is unacceptable. In order to raise awareness and much-needed funds for the Oaktree Foundation. From 7 – 11 May they will 'Live Below the Line' and swap chocolate for lentils, vegetables for flour, and (eep!) coffee for water.

Live Below the Line began in 2010 when two Melbourne housemates, Nick Allardice and Rich Flemming, wanted to create an experience that connected participants with the 1.4 billion people around the world who live below the extreme poverty line.

Last year 6 500 Australians took the challenge and raised over \$1.4m. The campaign has now gone global and is running in England, America and New Zealand.

Lauren watched several of her friends take part in the challenge last year, and although she saw how difficult it could be, she was inspired to see if she could achieve the same this year. "I felt like it would be a fantastic opportunity for just one person to be able to raise awareness for a global issue, in a way that seems achievable and at the same time challenging. Plus, I'm looking forward to having an excellent excuse if my lecture asks me why my attention is waning yet again in Legal Ethics for a week."

"It's important that we remember our degree is not the only thing that can help people," says Chelsea. "I mean, of

course we will benefit the community with our legal prowess one day, but Live Below the Line is the perfect example of the smallest sacrifice making the biggest difference."

Celia Boyd, Project Manager of Live Below the Line says, "Last year, the money raised funded an incredible project to reduce street violence in East Timor. This year we aim to raise \$2m to provide thousands of young people with access to education, including building one of the first disability schools in Papua New Guinea."

How are fundraisers feeling about the challenge they're facing? "I am absolutely petrified that I will run out of money and food before the end," says Georgina. "However, for me, this is only a problem for a few days. It is a reminder to myself to be thankful and grateful about my life. I hope this inspires more people to think about how much they have and appreciate how lucky we are".

To support the girls as they go hungry, please visit www.livebelowtheline.com/team/mls — or to challenge yourself, why not join them?



L IS FOR...

Laggers

There are two types of people in this world: those who have done the readings, and those who have not.

My problem is not with the latter per se — I regularly fall behind with my readings and I don't hate myself. I mean, there was that time I chose to enrol in law, but otherwise I treat myself with respect.

My problem is with the people who fall behind and whinge about it. To you people I say, "No one cares about your progress through a particular subject! If I ask how you're going I don't want you to bemoan the state of your printed materials, I want you to respond with something insipid so I can blow off our conversation and go back to daydreaming about installing a zip line from level 3 to Seven Seeds."

These people are the Marissa Coopers of the law school. Everyone in *The OC* stuffed up here and there, but it was Marissa's problems that were laboured. She dragged down everyone around her, and got away with it because she was a babe... On second thoughts, you can whinge if you're a babe.

What's the point in the complaining? I think it serves some innate desire to share in pain, it talks to our deepest sense of

humanity and dependency; which, as the law school teaches us, is pathetic. I'm actually pitching to campaign; my proposed slogan is "Suck it up and get it done, bitch!"

Given it's week 9, the whinging is reaching its peak. At this point, the incidence of whinging gets so intense that you have whingers complaining to whingers. It's like an AA meeting; or I should say I imagine it's like an AA meeting because law certainly hasn't driven me to alcoholism, or at least alcoholism that I've chosen to be treated for.

I like to play a game with these whingers, a game of one-upmanship, to see how far you can push them: "God I haven't done any reading for Crim in two weeks", "You think that's bad, I haven't taken any notes for Trusts, like, at all", "Yeah but Trusts isn't that bad, like I haven't even opened by Admin Reader yet — it's still in its plastic wrapping", "Well I haven't even been to law school all semester because I contracted cancer and I've had both legs amputated."

I must say I have a confession to make: sometimes I whinge about being behind (actually two confessions: I killed that guy last summer). So I have decided it's time I turn over a new leaf because my old leaves are looking really shabby, and also to redress the error of my ways:

"I, Charles Walsingham The Fifteenth Hopkins, hereby pledge that I will ne'er again lament the progress of my homework to those who shan't give a shit."

Charles Hopkins was going host The Voice, but was fired due to personal fallout with each and every one of the douchebag judges.



The relevance of this comic can be found on page 1.

Reach for the Stars

Why Moot?

The practical and legal skills gained from mooting are relatively obvious. However, mooting is also a heap of fun, if approached with the right attitude. Why?

1. Working collaboratively with a small team. In the internal mooting competition, where you have a very limited amount of time to prepare, this can be less obvious - you spend most of the time researching your own particular point, and often find out about your partners material while they present it. However, in external mooting competitions, where you might have weeks or months to prepare, the preparation process becomes very personal and involved.

2. The feeling of achievement in knowing a particular area of the law. Often, moot problems involve arguing over a minute point of law in a great amount of detail. Preparing involves a lot of time spent reading cases that cover that point over and over, with only subtle differences of application. However, it can be incredibly satisfying, when questioned by a judge on an angle, to be able to confidently and succinctly respond to the question. It makes the time spent preparing that much more worthwhile.

3. The opportunity to interact with legal professionals. In the actual moot, under fire from questions you could not possibly have anticipated, and feeling somewhat humiliated when having to admit that you simply do not know the answer, it can be hard to appreciate this. However, a little perspective often helps. Whether internally or externally, the judges are successful and intelligent

legal professionals, with years of practice and training, and in oral argument, you are challenging them on complex legal and conceptual points and ideas. Revel in it.

4. The competitive element. This won't appeal to all necessarily, but for those who like to get the competitive juices flowing, this is for you. You're not playing for anything really, so losing comes at no cost, but winning is immensely satisfying. The anxiety when waiting to present, and the nerves while presenting, translate into a big adrenalin boost when accompanied by a win. For me, this is the highlight.

Personally, I have been knocked out in the first round of internal moot twice, and competed in two external moot, a contract law moot and a space law moot, in which we won the whole thing. The external moots are more difficult than the internal one, in that you have to spend a lot more time preparing written submissions - for both, there were several weeks of preparatory work, and at least a week of intensive writing with team-mates.

The benefit of the external moots are probably greater, however. You moot the same problem five or six times, so you get to know the material inside out, and are constantly re-evaluating and changing your arguments (sometimes starting them afresh). You also compete before a panel of judges, rather than a single judge, which can be quite intense, and the calibre of judges is often that little bit higher — in the contract moot, the final judges included Justice Michael Kirby, while the final judges in the space law moot included a Sydney QC.

Nick Baum

ALUMNI INTERVIEWS

Evan Willis

PROFILE

Name: Evan Willis

Firm: Holding Redlich

Graduating Year: 2010

Degree: JD

Prior to studying law, Evan completed an Arts degree with Honours in philosophy at Melbourne. And, like many philosophy students, was aware that a philosophy degree is not really a money maker. Evan's solution was to take six months off to figure out what he wanted to do, whereupon he sat the LSAT and obtained a sufficiently high score to pursue a JD at Melbourne.

Legal Studies

Evan had, what I would call, a pretty typical experience while in law school. Some great courses, which he says include "Advocacy with Andrew Palmer, Deals with Andrew Godwin, Sports Law with Hayden Opie, and Employment Law with Joo-Cheong Tam". Then there were the courses he liked but didn't do well in, such as "Constitutional Law with Adrienne Stone". And then there was the "Ah ha moment of Remedies, where everything just seemed to make sense".

Beyond the actual curriculum Evan was a busy guy. Evan played Lacrosse each winter and also represented Victoria in the National Championships as well as working two jobs. Something he noticed when he started working at Holding Redlich, and some advice he would give to current students is, "Students don't realise how hard they work. When you're employed full time, for the most part you're only working during business hours. And there's no need to support yourself with another job." It appears that working full time was almost a relief after the variety of things Evan undertook, and the things many students undertake, while in law school.

The job that created a pathway into Holding Redlich for both a clerkship and graduate position was working as a researcher in the library at Holding Redlich. Not only did this allow Evan to improve on his research skills, which is always a great thing to market to any firm, but it gave him the opportunity to get the feel of the firm. "It's a great way to get to know a firm," Evan states. You get a chance to sift through the firm's public, marketed image and apply your experiences as an employee to make a decision about where you want to work.

continued next page

About Holding Redlich

Evan praised Holding Redlich for their attitude to work-life balance. "They walk to the talk".

Evan is clearly aware of the need for work-life balance. It's unclear if this is who Evan is, how Holding Redlich supports a work-life balance, or a bit of both. On the Evan side, he recommends that, even during your legal studies, you should take time to focus on things outside of work or study. In the workplace he noted that "Burnout appears to be a big concern in the industry generally" and quoted the Employee Assistance Program (EAP) that Holding Redlich provides for staff. It's the mention of the EAP that makes me think Holding Redlich is aware of the need to support a work-life balance and is willing to utilise the available resources.

On a day to day basis Evan has settled in the Employment and Industrial Relations group, a team consisting of one partner, one senior associate and four solicitors. Evan is now one of the four solicitors after completing his graduate year at Holding Redlich. His graduate year consisted of 2 six-month rotations. These two rotations were in Corporate and Commercial Law, where Evan did a lot of media, superannuation, information technology and intellectual property work, and the Employment and Industrial Relations team, where he was exposed to dispute resolution work during which time he had the opportunity to

represent employers, employees, and the unions.

Evan does have a firm-set target of billable hours per day. He says one of the biggest challenges to meeting this target as a junior solicitor is that the research required to get up to speed on an issue (which is pretty much every issue for a junior solicitor) does not count towards your billable hours.

"Australia's Love Affair with Big Firms"

Evan did his research project for the JD 'Legal Research' subject on the work of American legal academic, Anthony Kronman. In his research Evan looked at, among other things, the market share of work as it is divided between large and small firms in the Australian market. He is in the process of turning this initial research into a published paper. What readers of *De Minimis* may like to know in this sneak peak at the published paper is that according to industry research, as of 2010, the top six firms in Australia did approximately 11% of the work in the legal market. This is compared with the United States where the top six firms only held 2% of the market. Evan's question turns on the possibility of a coherent application 'Virtue Ethics in the Context of Large Firms' which is a principal concern in Kronman's writings. Whether this is the same query readers may have, I do not know. What I do know is that a little information about the world you may one day enter can be helpful.

Emma Shortt

THIS WEEK IN LEGAL HISTORY**May 3, 2012 – World Press Freedom Day**

This Thursday will be World Press Freedom Day, a day celebrating the importance of freedom of the press and raising awareness for the protection of press freedom under art 19 of the *Universal Declaration of Human Rights*. The date marks the ninth anniversary of the UN General Assembly's adoption of the Windhoek Declaration of 1991. The Declaration was produced by African journalists and consisted of a statement of the fundamental principles of press freedom, requiring the establishment and fostering of independent, pluralistic and free press for the development of democratic nations. It reported on the problems facing the impartiality of African

press, such as press intimidation, censorship and imprisonment.

World Press Freedom Day serves as an occasion to commemorate journalists who have been assassinated for their political opinions, exposing corruption or killed while reporting in conflict areas. It raises awareness about the duty of governments to uphold the rule of law and to respect freedom of expression, noting that all citizens are robbed of their freedom of expression when one journalist's right to report is violated. The day also serves to remind media professionals to evaluate the state of the press and professional legal and ethic standards. Each year, UNESCO marks the day by awarding the UNESCO/Guillermo Cano World Press Freedom Prize on an individual or

organisation which has substantially contributed to the protection and/or promotion of press freedom of expression in the face of adversity. The award is conferred in honour of journalist Guillermo Cano Isaza, a Colombian journalist and editor who was assassinated in his office for exposing and denouncing the influence of Colombian drug traffickers on the country's political campaigns.

To find out more about this year's celebration of World Press Freedom Day, visit

<http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/homepage/>

Annie Zheng

ASK AGONY AUNT

Dear Agony Aunts,

I hooked up with this girl at the law ball, but I can't remember her name and now I find it really awkward because I keep running into her at law school. What do I do?

Forgetful

Dear Forgetful,

Surely you are not trying to pull one over Auntie Ethel's eyes and claim that you don't know how to Face-stalk someone

effectively?! In this day and age all the young folk seem to compulsively photograph everything from their half-eaten breakfast toast to their gangrenous left big toe and display it proudly on Facebook. And at last count, there were precisely 407 251 photos of the law ball posted (yes, Auntie Ethel is so dedicated to the craft of advice giving, the photos were actually counted). There is bound to be one with your mystery girl, which you will be able to view and glean her name from... lets be honest, there's probably even one where you two are sucking face.

If you (somewhat inconceivably),

are not on Facebook, either ask a friend to check for you, or resort to the traditional way to resolve this sort of situation. Next time, 'run in' to her with a friend who has not met her, and get your friend to introduce themselves to her while you are 'unfortunately' in the middle of drinking water/chewing food/something preventing you from speaking, so that she introduces herself to your friend. Try to choose a friend who will be able to resist the temptation to start the sentence with, "Oh, hey! You're THAT girl from the ball!"

Auntie Ethel