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Annual Report

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President's message

It has been a very busy and challenging year for the Law Council of Australia both nationally and internationally. The Law Council, as the representative of the national legal profession, has achieved some significant accomplishments of which I am immensely proud.

In particular the Law Council has continued to contribute to the National Legal Profession Reform Project through effective consultation with our constituent body members and with the Council of Australian Governments National Legal Profession Reform Taskforce. I believe that significant progress has been made in this regard and the next 12 months will be crucial in determining the future of the national legal profession.

The Law Council's long standing advocacy for an independent reviewer of national security laws contributed to the passage of legislation establishing an Independent National Security Legislation Monitor in March 2010.

The Law Council also continued to uphold Rule of Law principles relating to anti-terrorism laws, discrimination laws, immigration laws and laws relating to serious and organised crime.

Further work was also undertaken to address the recruitment and retention issues facing the legal profession in rural, regional and remote areas of Australia. The results from a survey conducted by the Law Council last year were used to develop a proactive strategy to address these important issues.

Throughout the year, we continued to place strong emphasis on developing effective relationships with our overseas counterparts and worked on a number of initiatives to strengthen strategic international linkages. A significant achievement in the international arena was the signing of a Memorandum of Understanding between the Law Council and the Bar Council of India.

I have also led Law Council delegations to a number of overseas destinations including New Zealand, Singapore, Ireland and Copenhagen. The purpose of these visits was to maintain the Law Council's profile as a leader in the Asia-Pacific region and to strengthen our relationship with other peak legal professional associations throughout the world.

The work areas highlighted above only provide a brief snapshot of the work the Law Council has been engaged in over the past year. We have achieved a number of other significant milestones which are highlighted in this year's annual report.

We have also collated this year's big stories and events into an '@theLCA — the year that was' article starting on page 6. There have been a multitude of big events and announcements this year, so I encourage everyone to put on their nostalgia caps and reflect over the happenings and achievements of 2010.

The sizeable work program in which the Law Council is currently engaged cannot be undertaken without the commitment of a determined Board and management team. The Law Council is particularly well served by both.

It has been an honour and a privilege to serve as Law Council President in 2010 and I would like to thank the staff at the Secretariat for their dedication and support.

I would also like to acknowledge and thank the Law Council's constituent bodies, in particular the Directors, Presidents, and CEOs — for their unwavering support throughout the year.

While the remainder of my term as President is going to continue to be busy, I am confident that the Law Council is well placed to harness the opportunities which present themselves and to deal with any future challenges.

— Glenn Ferguson

Imagination is more important than knowledge

Art collector, bird watcher, devout amateur chef — Colin McDonald QC is a man with a seemingly limitless passion for life.

“It is essential to a balanced and rich life to have many consuming passions,” said Colin in a recent interview with @theLCA.

But it’s as a lawyer where Colin has found his professional calling in life. Thirty-five years after he first started his law career at Kennedy & Cook Solicitors in Melbourne, Colin was awarded the Law Council of Australia’s Presidents Medal at a ceremony in Canberra last month.

The Presidents Medal is an annual award — first started by the Law Council of Australia in 2007 — and recognises an Australian lawyer’s outstanding contribution to the legal profession.

“For Australian lawyers, the Law Council Presidents Medal has become the ultimate National peer award,” Colin said.

“There is always a humble sense of satisfaction when accorded peer group recognition.

“However, beyond that humble sense of personal satisfaction, is the more important and enduring sense of gratitude and appreciation for the contribution and sacrifice of others that permitted me to enjoy a privileged legal career: parents, those who educated me, those I worked with and from whom I learnt so much.

“At a professional level standpoint, winning the medal has reminded and reinforced in me the importance and value of living and working in a value driven profession. I seek to emphasise that word profession, where tradition, values, candour and collegiality are the key ingredients and guides to life in the law.”

To say Colin has a decorated professional resume is an understatement in itself.

He was appointed Queens Counsel (QC) in 1997 and is involved in numerous legal organisations and activities

throughout Australia and Southeast Asia.

He currently serves as Chairman of the Royal Darwin Hospital Management Board, as well as Chairman of the Hospital’s Ethics Committee, but is especially well known in the Australian legal community for his work on human rights issues and cross-cultural professional engagement.

In particular, Colin has a well-earned reputation of fighting for justice issues for Indigenous Australians — a passion he developed while working in remote Aboriginal communities.

“I first came to the Northern Territory in the late 1970’s with the Saint Vincent De Paul Society to work on self help projects in the Top End of the Northern Territory. In those days there were still Catholic Missions in remote Aboriginal communities and I was privileged to live and work in those communities during annual holidays.”

Despite his decorated career in service to the law, Colin did not always see himself as a lawyer growing up.

“At first I thought I had a religious vocation and my imagination had me becoming an archaeologist in the traditions of Sir Leonard Woolley,” he said.

“But my father and my uncle, who was a solicitor, sat me down and emphasised that one day ‘you will have to provide. How many jobs in The Age are there for archaeologists?’ So I opted for a combined Arts/Law degree course at Melbourne University. Thanks to the excellent teaching and inspiration I received from the professors, lecturers and tutors at the Melbourne University Law School and excellent Articles of Clerkship I received at Russell, Kennedy & Cook, Solicitors in Melbourne, I settled into becoming a lawyer.

Colin’s career soon took him to the Northern Territory in 1981 when a position with the North Australian Aboriginal Legal Aid Service became available.

“Aboriginal society, the cosmology of the Aboriginal world and the injustices

confronting so many Aboriginal people interested me and encouraged me to want to do more to help.

“When a position of senior solicitor/counsel arose in the North Australian Aboriginal Legal Aid Service in Darwin I applied with the blessing of my former Master Frank Vincent QC with whom I read at the Victorian Bar and Justice Richard McGarvie of the Victorian Supreme Court.

“Justice for Aboriginal people was an interest that developed rapidly the more I read about the historic injustices they experienced and were forced to endure through the history of indifference towards them and policy failure.

“I was motivated by the example of other lawyers who set out to make a difference; who travelled north and gave their talents and skills to the now Aboriginal legal aid services that had emerged in the life of the Whitlam Government. Seeking justice in practical cases appealed to me. I saw such work as purposeful.

“Further, I was privileged to know persons like the late Professor W.E.H Stanner, Emeritus Professor of Anthropology who had done 40 years of fieldwork in the Top End of the Territory. Professor Stanner’s writings, particularly his monographs on Aboriginal religion and their concepts of landholding and environmentalism fascinated me. The collection of Professor Stanner’s essays entitled: ‘White Man Got No Dreaming Essays 1938 to 1973’ and his collection of his Boyer Lectures on the ABC entitled ‘After the Dreaming’ are amongst the most influential books I have read.

It was during his tenure working so closely with Aboriginal culture that Colin began to delve into his passion for art.

“I have always had an abiding passion for art and aesthetics which has benefited me and enriched my life. It all started when I lived amongst Aboriginal people and I witnessed great and then unknown artists paint pictures of the Dreamtime, myth, their cosmology

Colin McDonald QC (centre)
with His Honour Judge John North and
Law Council President Glenn Ferguson.



all with a ready, practical acceptance. I started collecting art and I remain an art collector," Colin said.

"I began collecting Aboriginal art when I lived at Port Keats (now called Waderr) and Daly River and I began absorbing the stories of the north — stories of men and women, white and black, who had creation in their veins. My imagination was again stirred. Looking back I have always needed imaginative work contexts and landscapes in which to thrive. Albert Einstein is right: Imagination is more important than knowledge.

"My passion for collecting art has been shifted with my ventures north to Indonesia, Timor Leste, Cambodia and Thailand. I have collected Indonesian art since 1984 and enjoyed my collection ever since. In collecting art, I have met artists and their families and come to enjoy their world. I have not lost that joy in engaging in what the great art historian Kenneth Clark described as 'the civilised act of looking at pictures.'"

Travelling north became something of a habit for Colin and he has practised law extensively throughout Southeast Asia.

"In 1983 I discovered Bali and Indonesia. Again my imagination was excited. I was drawn (and still am) to the aesthetics, art and culture of Bali and Indonesia. Like the Aborigines in Australia's north, Indonesians were comfortable walking and living in a world of spirits," said Colin.

"I just kept coming back. I learnt Bahasa Indonesian and in 1989 I was appointed a Board member of the new Australia Indonesia Institute. For the next five years I engaged in non strategic diplomatic activity as a Board member. This opened my eyes to the importance of engagement with other cultures, other people's ways of doing things. My interest in Indonesia gave rise to doing cases for the Indonesian Department for Foreign Affairs in Australia's north. This I did for over 25 years.

"The most important work in South East Asia came about from my involvement in refugee cases here in Australia and other human rights cases — including cases which involved foreign nationals. Most of this work was pro bono. The refugee work had unexpected consequences and in the cases of East Timor and Cambodian requests to come and help re-build legal systems and cultures often by persons who had been themselves former refugees.

"This engagement has been rewarding in non material ways."

As to what the future holds for Colin, while he is still passionate about law, he is ready to branch out in a new direction.

"Charles Darwin said that the future belongs to those who adapt to change," Colin said.

"After 35 years in the law, it is time for change. I am haunted by the poverty and inequalities I see around me here

in Australia and overseas in Indonesia, Timor Leste, Cambodia and Thailand.

"Here in Australia I want to involve myself in practical, constructive efforts to improve the health and living standards of Aboriginal people. In Indonesia and Cambodia I have already commenced supporting the education of young poor children. At my home in Bali I have commenced a micro finance project and I wish to explore this further.

"Again my imagination is excited by projects to assist the poor and the relegated.

"One of my heroes in life is the late Father Ray Brennan who, at an epiphany stage in life, found fulfilment in commencing an orphanage of abandoned and disabled children. Father Ray's orphanage in Pattaya Thailand has taken in, educated and given vibrant hope to thousands of abandoned and disabled Thai children. I have witnessed similar projects in Cambodia and Timor Leste — all run by people who adjusted to change in their lives.

"Father Frank Brennan SJ and I want to form a project to promote the rule of law, professional development and a resource centre for refugee services. When Frank comes back from his Silver Jubilee retreat after 25 years as a Jesuit priest, we will start doing things in a practical way to make a difference in the lives of disadvantaged people."

As for the Australian legal profession, Colin said it was vital the industry

Imagination is more important than knowledge (cont.)

contribute more to the strength and realities of Australian democracy.

“Core values and traditions have served the Australian legal profession well. Here I speak of professionalism, collegiality, candour in Court and amongst other professionals. The right and the responsibility to put the bold argument and air challenging questions in a practical context are part of what has kept the profession alive.

“After 35 years and having argued cases for sometimes marginalised, sometimes demonised persons, I see the importance of the cab rank principle. This principle is at the heart of what the legal profession contributes to Australian democracy,” he said.

“So I am keen to see the Australian legal profession remain a profession. We are not just businessmen to answer to markets and shareholders. We answer to higher ideals and values.

“We have seen the dislocation caused by the so called Great Financial Crisis. Greed was at the centre of this. So many lives were caught up and damaged by it. The cancer of greed can never dictate direction if we are to remain an independent, community focussed profession.

“Above all, I do not want to see a vibrant, ethical profession dumbed down and distracted by bureaucratic interference and over-regulation.”



Colin McDonald QC receives congratulations from his mother.

Law Council plays host to end of year festivities

The last week of November was a particularly busy one for the Law Council with its annual Board Meeting, Presidential Handover Dinner and Presidents Medal.

Former Law Council Presidents also gathered in Canberra where they were honoured for their service to the organisation with commemorative pins.

“Being President of the Law Council is no easy task and each former president should be proud of everything they have achieved in the role,” said current President Glenn Ferguson.

“The pins were a small token of the Law Councils appreciation for former Presidents’ work and it was great to share experiences with each other.

“The lunch provided a great precursor to the annual Presidential Handover Dinner.”

The Presidential Handover Dinner took place at the Australian War Memorial and was hailed a success by Mr Ferguson.

“It’s been a long and eventful year and as my tenure as Law Council President comes to an end, it’s nice to be able to catch up with friends to reflect on the progress and achievements we’ve made in 2010,” he said.

Mr Ferguson will officially conclude his presidential term at the end of December and will be succeeded by the Law Council’s President-Elect, Alexander Ward.

“Alexander has contributed greatly to the Law Council — and more broadly the Australian legal sector — over a number of years now, and I have every confidence in his ability to lead the organisation in 2011,” he said.

Mr Ferguson thanked all the colleagues and friends who helped him throughout 2010.

“The Law Council’s Executive, Directors, Secretariat and constituent bodies have all been great allies to me this year and their assistance has been much appreciated.

“My family too — my wife, Debbie and my children Aimee, Ashley and Sean — have supported me from the



Law Council President Glenn Ferguson speaking at the Presidential Handover Dinner.

start and I appreciate their understanding given my often hectic travel and work schedule,” Mr Ferguson said.

A particular highlight from the Dinner was the awarding of the 2010 Presidents Medal to Colin McDonald QC.

“Colin is very highly regarded by his peers in the Australian legal profession,” said Mr Ferguson.

“He has a well-earned reputation of fighting for justice issues for Aboriginal Australians and has also worked extensively in the fields of refugee law, immigration, workers compensation and criminal law.

“It was a privilege to present him with the Law Council of Australia Presidents Medal,” Mr Ferguson said.

Mr McDonald received praise from many in the Australian legal sector, including human rights advocate Father Frank Brennan AO.

“With Colin, life is not just a vale of tears. He has combined a varied legal practice with a life in the arts and



At the Past Presidents Lunch, L-R: Ron Heinrich, Dr Gordon Hughes, Glenn Ferguson, Michael Phelps, Tim Bugg, John Corcoran, Denis Byrne, His Honour Judge John North, Gerry Murphy AM, The Hon Justice John Faulks, Tony Abbott, Peter Short AM, Anne Trimmer, The Hon Justice Stuart Fowler AM, Bob Gotterson QC, David Ferguson AO, Ross Ray QC.

public service, especially in Darwin and in countries of the region.

"May the Australian legal profession continue to be adorned by those like Colin McDonald, prepared to defend any person without fear or favour and willing to look at the social and political dimensions of the legal questions they are called to consider," Father Brennan said.

In his acceptance speech, Mr McDonald paid homage to the legal profession.

"In accepting this honour tonight, can I seek to reiterate the importance of our professionalism and traditions.

"Professionalism answers to higher values than business and individual gain and the consumer society, sourced as it is in a culture of complaint.

"We answer to higher values that I endorse tonight: service to the client who is more than a consumer and responsibility for complete and fearless candour in the Courts and among colleagues," Mr McDonald said.



The Presidential Handover Dinner was held at the Australian War Memorial.



President-elect Alexander Ward speaking at the Presidential Handover Dinner.

@theLCA — the year that was

It has been a busy year for the Law Council of Australia and to mark the end of 2010, @theLCA is taking a retrospective look back at some of the big stories this year.

February

February marked Glenn Ferguson's first official address in @theLCA. He outlined his vision for the year which included progression on the National Profession Project, the retention and recruitment of lawyers and improving opportunities for Indigenous Australians to study and practise law.

The Law Council also launched its landmark *Policy Statement on Indigenous Australians and the Legal Profession*. The Statement, launched in Darwin, set out the Law Council's commitment to promoting greater participation of Indigenous Australians in the study and practice of law.

March

The John Koowarta Reconciliation Scholarship was awarded in March. Indigenous law students Krista McMeeken, of Perth, and Merinda Dutton, of Sydney were presented with their scholarships at a function in Canberra on 19 March.

Mr Ferguson, who described the winners as "an inspiration" said the scholarship was one small measure towards 'closing the gap' between Indigenous citizens and all other Australians.

International visitors to the Law Council included leading representatives from the Law Society of England and Wales, and a delegation of Iraqi Ministry officials.

April

April saw the launch of the Law Council's Legal Aid Matters web portal. The portal contains information on the legal aid crisis in Australia and encourages people to support the Law Council's campaign to boost the nation's flailing legal assistance sector.

"Most people don't think they will ever need legal assistance, but if your circumstances change you may need to

rely on it. Legal assistance helps ordinary people facing extraordinary problems in relation to debt, family law matters, welfare benefits, landlord and tenant problems, discrimination at work or community care needs," Law Council President Glenn Ferguson said.

May

Strong progress was made in May on the National Profession Project with COAG releasing its National Legal Profession Reform Taskforce Consultation Package, which included a draft Bill, accompanying National Rules, a Consultation Report from the Legal Profession Reform Taskforce, a Regulation Impact Statement, and independent economic analysis conducted by ACIL Tasman.

The Law Council's Legal Aid Matters campaign also received a boost following a commitment from the Commonwealth Government to allocate \$154 million from the Budget to legal aid in Australia.

While recognising the allocation fell short of the Law Council's recommended spending on legal aid, Law Council President, Glenn Ferguson, said it was still an important step forward.

"This is the most significant amount of funding the sector has received in over 10 years and this substantial increase in recurrent expenditure will go some way to ensuring the provision of better access to justice for the economically and socially disadvantaged members of our community," he said.

June

In an historic first, representatives from the Bar Council of India visited the Law Council and signed a landmark Memorandum of Understanding (MoU).

The MoU was the first ever signed by the Bar Council with any counterpart legal body and marked a significant step forward in the growing relationship between the legal professions of India and Australia.



Law Council President Glenn Ferguson with Duncan McConnel at the launch of the *Policy Statement on Indigenous Australians and the Legal Profession*



Koowarta Scholarship recipients Krista McMeeken and Merinda Dutton with Law Council President Glenn Ferguson.



Indian Bar Council Chair, Gopal Subraminiam signs the Memorandum of Understanding with Law Council President Glenn Ferguson.



Delegates at the 2nd Access to Justice and the Role of the Bar Associations and Law Societies in Asia Conference.

The MoU formally acknowledged the shared goals of India and Australia and the countries' willingness to maintain a strong and ongoing professional relationship.

Law Council President, Glenn Ferguson, signed the document with Bar Council Chair, Mr Gopal Subramaniam, the Solicitor-General of India.

It was a busy month for international hosting with the Law Council Secretariat also welcoming a group of ten Chinese lawyers who were marking the end of a three-month exchange working in the Australian legal profession as part of the 2010 Australia-China Legal Professional Development Program.

The Gaire Blunt scholarship was also awarded in June to Melbourne Law graduate Matthew Eglezos for his paper: "Recovering Cartel Damages: the 'Passing-On' Defence Under the Trade Practices Act".

The annual scholarship was set up in 2008 to commemorate the memory of the late Gaire Blunt who was a leading competition law practitioner and a partner at Allens Allen & Hemsley (now known as Allens Arthur Robinson) from 1970 – 2005.

July

With the Federal Election looming, the Law Council wrote to all parties contesting the vote and invited them to provide the details of their policy platform on a number of key national issues including access to justice, asylum seekers, human rights, recruitment and retention of lawyers and anti-terrorism laws.

Twenty-five years after the signing of an historic Memorandum of Understanding (MoU), Law Council President, Glenn Ferguson, and China Law Society Executive Vice-President, Madam Liu, reaffirmed the MoU between the two nations at a meeting in Shanghai.

It was the first MoU signed by the Law Council with any other peak legal body in the world.

August

August was a busy month for the Law Council!

The Law Council was invited to participate in the 2010 Federal Election Great Legal Debate between the Hon Robert McClelland MP and Senator George Brandis SC, organised by the Australian Financial Review and the Gilbert and Tobin Centre of Public Law.

Law Council President-elect Alexander Ward joined Large Law Firm Group Chair Robert Milliner and University of New South Wales Professor Jane McAdam on a panel which was invited to ask questions on a range of topics relevant to the legal profession.

The Law Council, in conjunction with Queensland Law Society and National Pro Bono Resource Centre, hosted the 3rd National Access to Justice and Pro Bono Conference.

This landmark event was attended by over 300 delegates and explored a number of topics relevant to criminal justice, pro bono, civil and family law and working together/emerging needs.

The Law Council also co-hosted the 2nd Access to Justice and the Role of the Bar Associations and Law Societies in Asia Conference with the Indonesian National Lawyers Association (PERADI).

Approximately 30 delegates attended the invitation only Conference, representing 12 peak legal professional bodies throughout Asia, including Australia.

September

Following the result of the Federal Election, and after a lengthy negotiation process, the Labor party, with the support of key independents, was reinstalled to power.

The Law Council expressed disappointment over the Asylum seeker policies announced by the Government and the Opposition during the election campaign, which fell well short of expectations about fair process and access to justice for asylum seekers.



Participants in the Australia-China Legal Professional Development Program at the Law Council Secretariat.



China Law Society Executive Vice-President, Madam Liu and Law Council President, Glenn Ferguson reaffirm the Memorandum of Understanding.

"Playing our part in the international refugee response requires the Government to be fair and reasonable in its approach to asylum seekers – offshore processing leaves vulnerable people with no guarantees that their basic legal rights will be protected," Law Council President Glenn Ferguson said.

October

The Law Council was privileged to have its Family Law Section present the 14th National Family Law Conference in Canberra.

The Conference — now the largest regular legal conference in the Southern Hemisphere — commenced on 18 October with the launch of the *Best Practice Guidelines for Lawyers Doing Family Law Work*.

@theLCA — the year that was (cont.)

Tony McAvoy won the inaugural Indigenous Legal Professional of the Year Award at the 5th National Indigenous Legal Conference. The Law Council, as the peak body for the Australia legal profession, assisted the Government in the selection process by recommending a deserving nominee to the Attorney-General's Department.

Queensland young lawyer Steven Hogg has won the prestigious National Golden Gavel Award at the competition final held at the National Press Club in Canberra on 29 October.

Steven is a solicitor working at Tucker and Cowen in Brisbane and won the award for his entertaining speech entitled "Things I wish I could put into a client agreement".

November

As year's end approached, the Law Council held its annual Presidential Handover Dinner in Canberra. It was at this event that Colin McDonald QC was awarded the annual Presidents Medal for his outstanding service to the Australian legal sector.

And past Law Council presidents gathered in Canberra for a Past President's Lunch where they were honoured with commemorative pins in recognition of their service to the Law Council.



2010 has been an eventful year for the Law Council and @theLCA would like to thank everyone who contributed to the publication.

@theLCA will be back in 2010 with its first edition due to hit inboxes in February. If you have any stories you would like to have published in the New Year, please contact the Editor of @theLCA on (02) 6246 3725 or email michael.anderson@lawcouncil.asn.au

Call for nominations — Australian Young Lawyer Award

Nominations for the 2011 Australian Young Lawyer Award are open!

The Award recognises excellence in young lawyers and young lawyer organisations. The Award is conducted annually by the Law Council's Australian Young Lawyers' Committee.

The objects of the Award are to encourage and foster Young Lawyer organisations to establish programs for the benefit and assistance of the profession and the community, and to recognise and reward the achievement and contributions of individual lawyers.

The Award recognises excellence of Young Lawyers and/or Young Lawyer Organisations in recognition of:

- ◇ a Program implemented relating to professional issues (Young Lawyer Organisations);
- ◇ a Program implemented relating to community issues (Young

Lawyer Organisations); or

- ◇ an individual's continuous and outstanding contribution to the profession and the community (individual Young Lawyer).

To be eligible for the Award, a nominee must either be a Young Lawyer who has made a continuous and outstanding contribution to the profession and the community, or alternatively, a Young Lawyer Organisation that has implemented a program relating to professional or community issues over the 2010 calendar year.

Further information about the Award, including the Nomination Form and Criteria is available on the [Law Council website](#).

Nominations close 7 January 2011. The winner of the Award will be announced at the University of Adelaide 2011 Advocacy Conference.

LIV endorses new Council line-up

Family lawyer Caroline Counsel will be President of the Law Institute of Victoria for 2011.

Ms Counsel was endorsed at the Annual General Meeting tonight and will take up her position on 1 January 2011.

Ms Counsel said her ambition as LIV President was to "leave no lawyer behind".

She said there would be more rapid changes in the way in which law is practised over the next 10 years than in the previous 200 years.

These changes will occur in areas such as technology, use of social media, how lawyers work and communicate with clients, how they practise law and the way in which firms are organised.

"The future will shift the emphasis further from litigation and even closer towards alternative dispute resolution," Ms Counsel said.

Lawyers will also be part of a national profession and the demands of clients will require lawyers to perform dif-

ferently on both the national and the international stage.

"It is the pace of change that lawyers will have to grapple with if we are to remain relevant to the community and our clients," she said.

Ms Counsel has been on the LIV Council since 2006 and is currently President-elect. She has over 25 years experience in family law and is a collaborative practitioner with her own practice — Caroline Counsel Family Lawyers.

Successful candidates in the election for the 18-member LIV Council were Michael Holcroft; Steven Sapountsis; Stuart Webb; Conor O'Brien; Cathy Gale; Fiona Knowles; Mary-Jane Ierodiconou and Katie Miller.

LIV CEO Michael Brett Young congratulated the candidates. He also thanked outgoing President Steven Stevens for his efforts, particularly in progressing national profession reforms and lobbying for increased legal aid funding from State and Federal Governments.

Law Council advocacy for Iranian lawyers

In August 2010 the Law Council was contacted by a number of human rights organizations seeking advocacy assistance in relation to two lawyers detained in Iran: Houtan Kian and Nasrin Sotoudeh.

Houtan Kian has represented Sakineh Ashtiani, an Iranian woman sentenced to death by stoning for adultery, whose case has attracted international attention.

Nasrin Sotoudeh is a prominent lawyer who has represented human rights and political activists as well as abused women and children.

The Law Council was initially requested by the Union Internationale des Avocats (UAI) to circulate a declaration issued by it and a number of other international lawyers organisations calling for Ms Ashtiani's human rights to be respected and for encouragement for Iranian lawyers advocating for human rights in Iran. The UAI also requested the Law Council to advise its members of the opportunity to sign petitions relating to Ms Ashtiani.

The Law Council circulated the declaration and the petition request to its constituent bodies on 1 September 2010.

The Law Council Secretariat and its International Section also began examining the situation of Mr Kian and Ms Sotoudeh in the light of the Law Council's *Guidelines on Intervention in International Human Rights Matters* which are available at www.lawcouncil.asn.au

Mr Kian's and Ms Sotoudeh's cases met the Guidelines and the Law Council drafted a resolution for consideration by the Council of LAWASIA at its recent meeting in Delhi. The resolution was moved by President-elect, Alexander Ward and passed by the Council. LAWASIA is an international organisation of lawyers' associations, lawyers, judges, legal academics and others which focuses on the interests and concerns of the legal profession in the Asia Pacific region. The Council of LAWASIA is comprised of repre-

sentatives of the peak legal bodies in 25 countries in the region.

The resolution states:

"Noting the reports of human rights infringements against lawyers in the Islamic Republic of Iran, and noting further previous LAWASIA resolutions emphasising the importance not only of individual human rights but also the importance of the independence of the Bar and the rule of law, the LAWASIA Council calls upon the government of Iran to:

1. ensure that no members of the legal profession are the subject of detention or other harassment as a result of representing clients in unpopular or contentious cases;
2. recognise the fundamental importance of an independent legal profession;
3. refrain from categorising lawyers who represent clients in contentious cases as acting against the interests of "national security";
4. refrain from seeking access to a lawyer's files except in circumstances where there is a bona fide and legally justifiable reason to do so; and
5. release from detention any member of the legal profession who is currently being held in custody as a form of retribution or harassment for representing individuals in unpopular or contentious cases or for espousing unpopular causes."

Advocacy in relation to the resolution will now be taken up by LAWASIA members.

On 10 December 2010, a number of media outlets, including the Age newspaper, reported that Ms Ashtiani and Mr Kian had been freed. However, subsequent reports have confirmed that they are still detained.

Ms Sotoudeh is still detained although proceedings in relation to the charges against her are reported to have concluded on 28 November 2010. However there appears to be no verdict as yet. It has been reported that



Detained lawyers Houtan Kian [top] and Nasrin Sotoudeh.

she commenced another hunger strike on 7 December 2010, following earlier hunger strikes in protest at the conditions of her detention.

The Law Council will continue to monitor the situation in relation to the two lawyers and engage in further advocacy as appropriate to the circumstances of the cases.

National Rural/Regional Law and Justice Conference

The National Rural Regional Law and Justice Conference was held in Warrnambool over the weekend of Friday 19 to Sunday 21 November 2010 and has been praised as a resounding success with over 100 delegates in attendance.

Law Council President-elect Alexander Ward presented an informative keynote presentation which was well-received by the audience of delegates regarding the future challenges for the profession in serving the needs of rural, regional and remote (RRR) communities of Australia and the work of the Law Council in this regard.

The conference opened on Friday evening with an introduction from Professor Philip Clarke, Master of Ceremonies and Deputy Vice-Chancellor (Academic), Deakin University and a 'Welcome to the Country' from Lennie Clarke, Elder and descendant of the Gunditjmarra /Kirrae Wurrung people.

Delegates were welcomed the following morning by Professor Jane den Hollander, Vice-Chancellor, Deakin University before the opening address was given by The Honourable Justice Robert French, Chief Justice, High Court of Australia.

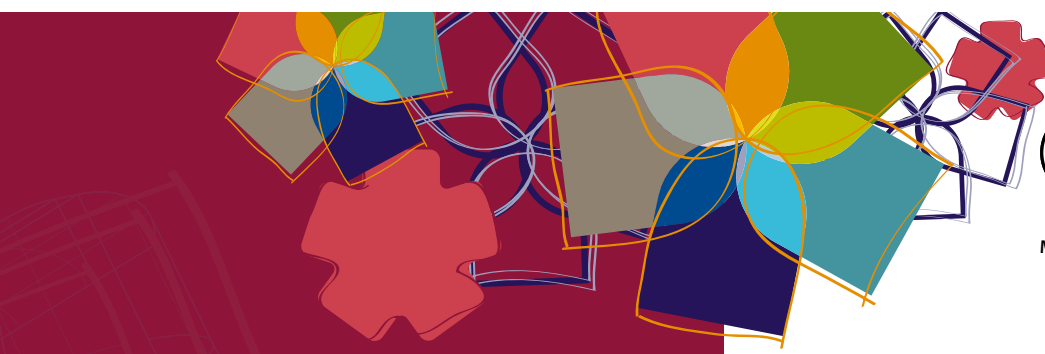
Keynote presentations followed by speakers Alexander Ward, President-Elect, Law Council of Australia; Professor Lisa Pruitt, Professor of Law University of California; and Professor Daniela Stehlik, Director, The Northern Institute, Charles Darwin University.

Delegates were given the opportunity to attend focussed breakout sessions from within the three broad themes of Social Justice, Legal Service System and Legal Practice for the duration of the conference.

Several resolutions were supported by the conference, which include the following:

- ◇ to establish a National Rural Law and Justice Alliance (which is proposed to be modelled on the National Rural Health Alliance) and form a working group of conference delegates to work towards this end;
- ◇ to develop and promote a Mission Statement, 'The Warrnambool Declaration', regarding Equal Access to Justice for regional Australia;
- ◇ to formally request a meeting with The Hon Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government and/or The Hon Robert McClelland MP, Attorney-General, to present the issues raised at the conference and to establish a mechanism for ongoing dialogue;
- ◇ to initiate and support initiatives to improve and sustain regional legal practice; and
- ◇ to elicit greater government support for research and evaluations of existing justice system programs to ensure more relevant policy reform for issues of law and justice in RRR areas of Australia.

Further information regarding the conference, including session speakers and paper abstracts can be found at www.deakin.edu.au/buslaw/law/rjrc/. It is also envisaged that this conference website will be updated in the near future to include information relevant to these initiatives.



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National Alliance planned for regional justice

A national alliance will be formed to fight for improved access to the law and justice system for regional Australians.

The alliance has emerged as a key initiative from the inaugural National Rural Regional Law and Justice Conference hosted by Deakin University at Warrnambool on 19-21 November.

The proposed alliance, with the working title National Rural Justice Alliance, will champion the cause of rural justice and seek talks with Minister for Regional Australia Simon Crean as a priority, according to conference convenor Richard Coverdale.

"Rural, regional and remote Australia continues to experience widespread disadvantage in accessing justice system services and the proposed Alliance will act as an independent and informed voice working with governments at all levels, professional services and communities to ensure the issues are acknowledged and addressed," Mr Coverdale said.

The conference, hosted by Deakin University's School of Law, and opened by The Honourable Chief Justice of the High Court Australia, Chief Justice Robert French and Deakin University Vice Chancellor Professor Jane den Hollander, attracted more than 100 senior legal, academic and community sector leaders from around the nation.

Mr Coverdale, a Geelong-based Research Fellow with Deakin University, said the conference highlighted a broad range of issues impacting on the equity of law and justice services to rural and regional communities.

With predictions that 42 per cent of legal practitioners will no longer be practising within five years and clear evidence of a range of areas in which current justice system services are not effectively reaching rural Australia action is needed now to avert a looming crisis for regional areas, he said.

"We believe there are ways the Australian government and community can do more to encourage legal practitioners to establish practices in regional Australia and to address other issues

such as access to specialist courts in regional areas. A united voice through the proposed alliance will highlight these issues from a national perspective and seek action to address the matters."

It was proposed that the alliance be based on a similar model to the Rural Health Alliance.

The conference discussed several options for improving access to law and justice systems for rural Australia, some of which included:

- ◇ more focused provision of support services to regional legal practitioners, including mentoring programs for early career lawyers and targeted law graduate programs;
- ◇ funding of research which in effect audits discrepancies in the provision of justice system services and

program between regional and metropolitan Australia;

- ◇ creating more flexibility in the provision of courts and court services to ensure they are responsive to regional variations; and
- ◇ establishing coalitions with other professional services in regional Australia.

The conference also resolved to seek a meeting with Minister for Regional Australia Simon Crean to discuss issues raised during the conference and to put in place mechanisms to assist in creating equity of access to services for rural, regional and remote Australians.

A draft mission statement will be prepared from the conference and it is expected an alliance, with representatives from all states and territories, will be operational by February.



Law Council calls for implementation of key human rights reforms

The Law Council's corporate priorities for 2010-11 include a focus on advocating for the implementation of reforms at the Commonwealth level to improve human rights protection and respond to the issues identified during the 2009 National Human Rights Consultation as matters in need of urgent attention.

The Law Council's recent advocacy in this area has had a particular focus on ensuring that the Commonwealth Government Human Rights Framework, released in response to the National Human Rights Consultation Report, is implemented in a manner that maximises protections for human rights.

While the Law Council has expressed disappointment that the Human Rights Framework does not include the enactment of a Human Rights Act, there are a number of initiatives included in the Framework that the Law Council supports as important steps toward addressing the current gap in human rights protection at the federal level. The Law Council's advocacy has also focused on advocating for the adoption of a number of other recommendations following the National Human Rights Consultation that do not depend on the enactment of a Human Rights Act.

This advocacy has seen the Law Council respond to a package of legislation introduced to establish a Joint Parliamentary Committee on Human Rights ('the Human Rights Committee') and the requirement to introduce bills and certain delegated legislation with a statement of compatibility. The Law Council prepared a written submission, with the assistance of a number of Constituent Bodies, to the Senate Constitutional and Legal Affairs Committee's inquiry into the Bills and appeared before the Committee at the oral hearings, represented by the Law Council's Human Rights Adviser Mr Nick Cowdery QC.

In its written and oral submissions, the Law Council expressed the view that a number of amendments should be made to improve the ability of the

proposed Human Rights Committee to perform its important human rights scrutiny function, and to ensure that the proposed Statements of Compatibility are effective at highlighting if and how a Bill or a regulation complies with human rights.

If enacted, the Bills will help ensure that human rights are taken into account during the legislative process in a comprehensive way and draw Parliament's and the public's attention to proposed laws that unduly infringe upon individual rights. The mechanisms established by the Bills will also help to encourage an improved understanding of human rights standards within Government, by requiring that policy makers and legislative drafters turn their minds to human rights issues in order to prepare Statements of Compatibility. The Senate Committee is due to report on the outcome of this Inquiry by 7 December 2010.

The Law Council has also participated in the Australian Public Service Commissioner's review of the Australian Public Service ('the APS') Values, by making submissions highlighting the need to ensure that the new values incorporate human rights standards in a comprehensive way. The Law Council has submitted that the observance of these standards by public servants is fundamental to improving human rights protection in Australia and would enhance the performance of the APS.

The Law Council also intends to actively participate in the implementation of another key component of the Human Rights Framework: the proposed consolidation of Commonwealth anti-discrimination laws into a single Act.

The Secretariat will shortly invite the views of Constituent Bodies and Law Council Sections and Committees as to their views on this project. The Law Council intends to utilise this opportunity to advocate for enhanced protection against discrimination at the Commonwealth level and to ensure

that the consolidated Act focuses on promoting equality.

Other anticipated future priorities for the Secretariat in implementing the Law Council's human rights advocacy strategy will include participating in the Council of Australian Government's Review of Australia's anti-terrorism laws, likely to commence at the end of 2010.

Further information about the Law Council's work in this area can be found at www.lawcouncil.asn.au/programs/criminal-law-human-rights/human-rights/bill-of-rights.cfm or by contacting Sarah Moulds, Senior Policy Lawyer, on sarah.moulds@lawcouncil.asn.au

Annual Report

The Law Council of Australia Annual Report for 2009-10 is now available. You can download it, along with the separate Financial Report, from the Law Council [website](http://www.lawcouncil.asn.au).

