

## **Laureate Fellow ceremony, James Cook University, Wednesday 7 July 2010**

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I am very grateful to the Minister, Kim Carr, and to the Australian Research Council, though its Chief Executive, Professor Margaret Sheil, for the award of a Laureate Fellowship.

I am sure that I am speaking for all the 2010 Laureates in saying that it is a great honour and we will devote all our energies over the next five years to living up to the expectations the Fellowship brings with it -- that is, once we have recovered from the arduous task of preparing the application: finding 100 words to summarise the project, twenty pages of references, thirteen pdf attachments, ten career-best publications, six Field of Research codes, two pages of support letter, and one scholarly life story.

I am conscious that the purpose of the Laureate scheme is to nurture the next generation of scholars; in this context I see myself as a trustee of the national interest in making sure that the PhD students and young researchers working on the project acquire the best possible research training and support.

The title of my project is 'Strengthening the international human rights system: Rights, regulation and ritualism'. The Fellowship allows me and a team of new researchers to focus on a problem that I have been conscious of for many years in the field of human rights law, but one that I have only considered in limited ways before: the barriers to the implementation of international human rights standards.

At the international level, we have a sophisticated system of human rights standards, beginning with the adoption of the Universal Declaration of Human Rights in 1948 by the UN General Assembly. The United Nations has since adopted a great range of human rights treaties, some covering a whole catalogue of rights (for example the International Covenant on Civil and Political Rights 1966) and treaties devoted to particular human rights and groups (for example the Convention against Torture (1984) and the Convention on the Rights of Persons with Disabilities (2006)). There are also complex regional human rights systems, such as that of the 1950 European Convention on Human Rights.

International human rights treaties have attracted widespread participation. For example, all of the UN's 192 members are party to at least one human rights treaty and 80 per cent of states have ratified four or more. The most widely accepted treaty is the Convention on the Rights of the Child, with 192 parties. Compared to other treaty systems, such as environmental, arms control or resource treaties, these are impressive figures.

But, despite what one commentator has called a 'cascade of words'<sup>1</sup> setting human rights standards over the last sixty years, these principles are regularly sidelined or ignored by countries that have accepted them.

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<sup>1</sup> Hafner-Burton et al. 2008

A dramatic recent example is Afghanistan's 2009 law on personal status, which requires Shiite women to obtain a male relative's permission to leave their house, to seek employment or education and to accede to their husbands' sexual demands. This law is in clear breach of Afghanistan's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women to which it became a party in 2003.

So, the inquiry at the heart of this project is why do countries sign on to human rights obligations and then ignore them? What can be done about this? Traditional legal analysis does not pay much attention to this type of question.

The Fellowship research will draw on regulatory scholarship to analyse the ways that states respond to human rights principles, focussing particularly on the notion of ritualism. The concept of regulatory ritualism means formal participation in a system of regulation while losing sight of its substantive goals. In other words, it involves talking the talk, without walking the walk. My colleagues John Braithwaite and Valerie Braithwaite have done wonderful work documenting regulatory ritualism in areas as diverse as nursing home regulation and tax systems.

The project will document techniques of ritualism employed in the international human rights system and explore their relationship to the weaknesses and failures of that area of law. Rights ritualism is a much more common response than an outright rejection of human rights standards and institutions. It is a technique of embracing the language of human rights precisely to deflect real human rights scrutiny and to avoid accountability for human rights abuses. Countries are willing to accept human rights treaty commitments to earn international approval, but they resist the changes that the treaty obligations require.

We will study a range of countries and human rights institutions to see how and why ritualism comes about. The project has the support of the UN High Commissioner for Human Rights and it will be a marvellous experience for the team to work with her office.

The aim of the research is to identify ways of transforming human rights ritualism so that it does not undermine human rights commitments, for example developing strategies to encourage self-regulation in a human rights context.

For me, the most exciting part of the Laureate Fellowship is the funding that comes with it to work with a group of new researchers: both PhD students and postdoctoral fellows who will work with me to undertake the research for this project and be trained in research skills. I also sought funding for PhD workshops and master classes, open to all interested students across Australia, with international experts, as well as visiting PhD scholar stipends.

A great privilege of academic life is the opportunity to work with generations of young and brilliant students and to be constantly energised and enlightened by this experience. I have found mentoring younger researchers the most satisfying aspect of my career and the Fellowship will allow me to focus on this.

I am fortunate to be based at the Australian National University where I am surrounded by a wonderfully generous and exciting group of colleagues. I am in an interdisciplinary department, the Regulatory Institutions Network, where I work with sociologists, criminologists, psychologists and Asian studies specialists. This has stretched my narrow lawyer's horizon greatly.

I'm particularly pleased to be part of this second cohort of Laureate Fellows with three other women Laureates (two of whom are also from the ANU). Last year there were just two women Laureates, so this year we have doubled the number. I understand that this is the highest figure ever in both the prior Federation Fellowship and Laureate Fellowship schemes.

But in a modern Australia where our Governor-General and Prime Minister are women, and where the head of the ARC and the Chief Scientist are both women, we must think about why relatively few women apply for these Fellowships: last year just 13 per cent of the applicants were women and this year 17 per cent. We should ask: why isn't it 50 per cent? Australian academia is full of wonderfully talented and hardworking women.

In my experience, women are generally unlikely to apply for these positions unless they are strongly encouraged to do so. Women often underestimate their own abilities and achievements. In my own case, I would not have applied without the encouragement and support of the ANU's Pro-Vice Chancellor for Research, Professor Mandy Thomas.

I hope that Australian universities will make a particular effort to encourage applications from women in the round that opens this year and that they put forward equal numbers of men and women candidates.

So, on behalf of all the Laureates, I would like to thank the Minister for his support for the Australian research community by creating the Laureate Fellowship scheme and the Australian Research Council for its hard work in administering the scheme. I hope that the results of our combined researches will improve Australia's scientific and technical capacities, our quality of life and commitment to a fairer and more just society.