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LAWASIA *Monthly e-Newsletter*

January 2021

LAWASIA WEBINAR EVENT



Constitutional & Rule of Law Webinar Series
**Formation & Succession in Parliamentary Governments:
The Role of the Legislature, Executive & Judiciary**

SAVE THE DATE

We are excited to announce the launch of our [Constitutional & Rule of Law Webinar Series](#)

Jointly organised by [LAWASIA](#), the [Commonwealth Lawyers Association](#), [Law Council of Australia](#) and the [South Pacific Lawyers' Association](#), the series will run over **4 consecutive weeks**, every **Thursday from 18 February to 11 March 2021 (4 webinars in total)**.

To learn more about the Constitutional & Rule of Law Webinar Series click [here](#)

OTHER EVENTS

ASEAN Environmental Law Conference Stories and Solutions in Challenging Times

Hosted by the Asian Research Institute for Environmental Law (ARIEL)

27 to 29 January 2021 Wednesday to Friday 10:00 to 16:00 (PHT GMT +8)

The Conference brings together ASEAN and environmental experts to share success stories and lessons from challenges in Southeast Asia, while examining potential legal, policy and community-based actions to address these pressing environmental issues. The event aims to foster networks and facilitate collaborative approaches to environmental problem-solving.

[REGISTER HERE](#)



LAWASIA is proudly supporting the next **ASEAN Environmental Law Conference** from the **27 to 29 January 2021** with the participation of **Matthew Baird**, Director Asian Research Institute for Environmental Law (ARIEL) and Deputy Chair of the LAWASIA Environmental Law Subcommittee.

- Download the programme [here](#)
- To learn more and register click [here](#)

MEMBER ORGANISATIONS NEWS

The Law Society of Hong Kong:

- **Press release:** [speech of Ms Melissa Peng, President of the Law Society of Hong Kong at the Opening of the Legal Year 2021](#)
- **Press release:** [Membership survey from The Law Society of Hong Kong 2021](#)
- **Press Update:** [Session Intervention into the practice of Messrs. Wong, Fung & Co.](#)

American Bar Association:

- [Statement of ABA President Patricia Lee Refo Re: Violence at the U.S. Capitol](#)

The Malaysian Bar:

- **Press Statement** | [Concerns Arising Out of the Emergency \(Essential Powers\) Ordinance 2021](#)
- **Press Statement** | [The Malaysian Bar Expresses Its Condolences on the Passing of Tun Salleh Abas](#)

Law Council of Australia:

- **Media Statement** | [Law Council welcomes appointment of Acting Inspector-General of Intelligence and Security](#)
- [The Law Council of Australia's Stakeholder Submission to the OHCHR](#)
- **Media Statement** | [Law Council calls on government to Raise the Age](#)

Law Society of England & Wales:

- For an initial assessment of the impact of the Trade and Cooperation Agreement on trade in legal services, read the [article](#) by **Mickaël Laurans, Head of International at the Law Society of England and Wales**
- Read the Law Society of England & Wales' guidance or listen to their recent webinars online [here](#)

Read the latest news from our member organisations



READ OUR LATEST LAWASIA STATEMENT

4 JANUARY 2021

LAWASIA STATEMENT



ENVIRONMENT LAW UPDATE



Message from our Chair, Environmental Law Subcommittee *The Hon Justice Brian Preston SC*

The news items in this issue of the Environment Update have a theme: **the interactions of humans with forests and their biota**. Deforestation not only causes loss of forest biodiversity, it also impacts on indigenous communities who depend on the forests and more generally on human health. Barry Commoner's first law of ecology is that everything is connected to everything else. There is one ecosphere for all of life and what affects one, affects all. The news items exemplify this law.

The news items also illustrate Commoner's fourth law of ecology: there is no such thing as a free lunch. Exploitation of the forests and their biological resources carries with it ecological and human costs. The achievement of sustainable development entails recognition and addressing of these laws of ecology, including bringing human laws into concordance with ecological laws.

Spotted in the news!

Lawyers must fix 'wounded' planet: Judge

Michael Day
Legal ethics
Lawyers have an obligation to follow the lead of "climate-conscious" grant donors and help repair a "wounded" planet, according to the authors, lead by environmental law judge Justice Brian Preston, chief judge of the NSW Land and Environment Court, said last on top of advising citizens on legal issues, there are special ways for lawyers to follow "the path of climate-consciousness".
Writing in the same issue of *The Australian Law Journal*, Justice Preston, who helped found the NSW Environmental Defenders Office in 2003, said lawyers "need to integrate ethical thinking and ethical action into their day-to-day practice".
"The world needs 'total ecological thinking' to meet the challenge, lawyers might 'illuminate the solutions to environmental and climate change' as well as the progress of the program and the impact of these projects on various people and places, including the climate change and environmental justice movement as a whole."
"The lawyer's moral imperative is to be ready to be taken to court to challenge the climate change components of the program as well as to ensure 'climate change justice' for all."
"It would also mean including protecting human rights and encouraging citizens to 'take action' to ensure 'climate change justice'."
"The environmental thinking, legislation and judicial decisions of governments 'to address the climate change' and 'ensure justice'."
Justice Preston stressed the professional obligation to address climate change and a point also made by bar

association for people and a planet threatened by climate change and to their daily legal practice, and that it is necessary to take legal action, "to ensure".
"Climate-conscious approach requires an active awareness of the role of climate change and that it is necessary to take legal action, "to ensure".
"Climate-conscious approach demands first, actively identifying the environmental issues for the most vulnerable people or groups and climate change issues and second, giving advice and helping to resolve the legal problems, in addition to using the appropriate 'climate change law', "to ensure".
"It is the failure to provide advice on the relevant climate change issues that the public can see in the standard report of a community consultation lawyer, that may constitute a breach of the lawyer's duty of care."
"The NSW Environmental Defenders Office succeeded in being named as a party to the action but legal cost reduced the agreement to include the effect of the agreement and not the climate change."
"It was said by Justice Preston as well as the court in the case."
Justice Preston invited the public of the Court Association to support the ethical approach, "to be changed by following the example of climate-conscious lawyers and resolving these climate change ethical and legal issues."
"The positive understanding of the public to that lawyers should not be able to do climate change justice."
"Climate-conscious lawyers have

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"Climate conscious lawyering"

Article written by **the Hon Justice Brian Justice Preston SC** and published in the ***Australian Law Journal***.

Read the full article [here](#)

ENVIRONMENT LAW: WHAT'S NEW?

Will the law save Kashmir's forest dwellers from eviction?

Nomad forest dwellers in Indian-administered Kashmir hope that the implementation of a 14-year-old law may save their land and homes. The Forests Rights Act of 2006 is coming into force in the region ten years later than the rest of India.

[READ MORE](#)



India's forest builders

The Tongia community in India is fighting a legal and administrative battle against the states' Forest Department. The Tongias worked for decades to regenerate forests destroyed by the British till the forest conservation law in 1980 prohibited them from living and working in the forests they rebuilt.

[READ MORE](#)



Indigenous agroforestry revives forests

The Indigenous community of the Guarani people from the São Paulo coast consume jussara palm hearts. Saving the endemic tree from being eaten to extinction the Guarani planted thousands of palm trees reversing the loss.

[READ MORE](#)



The Philippine Eagle endures the pandemic

The Philippine Eagle, the national bird of the southeast Asian nation, is critically endangered. With only 400 nesting pairs left in the wild, conservation efforts are ongoing with new sightings. The conservation efforts are threatened by funding woes due to the pandemic.

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WWF urges pandemic reset

A new report by WWF analysing 24 deforestation hotspots across Asia, Latin America and Africa, found that more than 43 million hectares of forest were cleared in those areas between 2004 and 2017. The pandemic has made the link between deforestation and human health, clearer than before the report confirmed.

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UN Report urges adaptation to new climate reality

The UN Environment Program released the Adaptation Gap Report 2020. It found that three-quarters of countries have adaptation plans but financing and implementation fall “far short”. It urged urgent stepping up of public and private finance for adaptation.

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France in Court over climate inaction

France was taken to court over climate inaction, in a landmark case that is part of a lawsuit launched two years ago by four NGOs, after an online petition that gathered 2.3 million signatures, the largest in French history. [READ MORE](#)



US military sonar a cause of whale beaching

US territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI), includes many islands that are surrounded by the US military's Mariana Islands Training and Testing (MITT) study area. The military activity in the area raises serious concerns for the environment. [READ MORE](#)



Avian influenza spreads across India

Indian authorities are discovering masses of dead birds as avian influenza spreads across the country. Since last month, thousands of geese, ducks, crows and other birds have been found dead in nine states from north to the south. [READ MORE](#)



Life in the sunderbans

‘Economic and ecological pressures mount on more than 14 million people living on the Indian and Bangladeshi sides of the low-lying Sunderbans.’ Climate change has led to a rise in sea surface temperatures as cyclonic storms have become more fierce and frequent. [READ MORE](#)



HUMAN RIGHTS LAW: WHAT'S NEW?



Beijing is in the darkest period for human rights

According to the annual report of international rights watchdog, Human Rights Watch, China is in the midst of its darkest period for human rights since the Tiananmen Square massacre in 1989. [READ MORE](#)



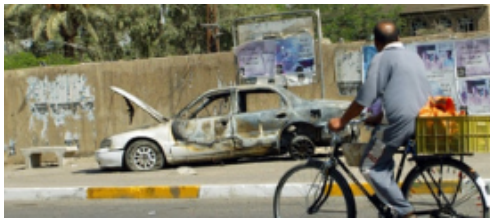
Hong Kong arrests continue

Arrests in Hong Kong continued as the Hong Kong national security police arrested 11 people who were accused of helping a group of activists' attempt to flee. [READ MORE](#)



US Capitol Riot: Complicit officers

Researchers of domestic terrorism warned, for many years, that there are 'police departments in every region of America counting white supremacist extremists and neo-Nazi sympathizers among their ranks.' [READ MORE](#)



Trump's Blackwater pardons violate international law

UN Human rights experts said that President Trump's decision to pardon four Americans who were convicted of killing Iraqi civilians, during their work as contractors in the country in 2007, violated US obligations under international law. [READ MORE](#)

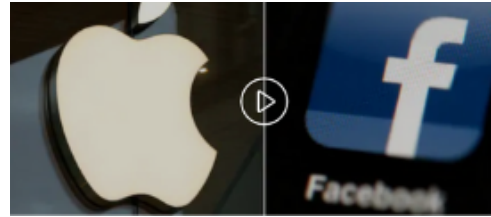


Facebook and Twitter face international scrutiny

As Facebook and Twitter cut off President Trump from their platform, activists and human rights groups in several countries have raised concerns about an uneven policy by the company in their countries where divisive political figures have been allowed to use the platform despite pleas to scrutinise their use. [READ MORE](#)

Apple battles Facebook over user privacy

Apple and Facebook are at loggerheads over user privacy. Apple is introducing new features to guarantee more user privacy. Facebook says this will restrain small businesses that use Facebook as a platform to advertise their goods and services. [READ MORE](#)



Vietnamese journalists jailed for “anti-state agenda”

The Ho Chi Minh City People’s Court in Vietnam found three journalists, Pham Chi Dung, Nguyen Tuong Thuy and Le Huu Minh Tuan, guilty of propaganda against the state and sentenced them to 11 to 15 years in jail. [READ MORE](#)



Saved from deportation due to air pollution

A Bangladeshi man with asthma avoided deportation from France when his lawyer argued that deportation would expose him to the risk of severe deterioration of his condition. This was the first such ruling where the environment was applied as a criteria. [READ MORE](#)



Empty graves for Kashmiris killed by armed forces

Under a 2020 policy Indian authorities buried several Kashmiri rebels in unmarked graves. Their families were denied proper funerals. The policy has added to widespread anti-India anger in the disputed region. [READ MORE](#)



Pakistan’s new anti-rape law

Pakistan introduced a new anti-rape law following the gang-rape of a woman outside the city of Lahore. The new law aims to speed up convictions and introduce tougher sentences. This however, also includes chemical castration of some offenders. [READ MORE](#)



Prison law must be amended: UN

The United Nations human rights office called on Thailand to stop using the royal insult law which violates freedom of expression. The law has been used against at least 35 activists in recent weeks. [READ MORE](#)



Former minister in Sri Lanka jailed

Sri Lankan opposition politician Ranjan Ramanayake, former deputy minister of the United National Party, was jailed for four years over remarks alleging that the majority of judges in the country were corrupt. [READ MORE](#)



Former Malaysian Bar Presidents speak-out

Ten former Malaysian Bar Presidents speak out against the unrestricted powers given to the government in the declaration of emergency in Malaysia, announced this month for the pandemic as it threatens “security, economic life and public order”. [READ MORE](#)



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