

JOHN SOUTHALAN
Centre for Energy, Petroleum and Mineral Law and Policy
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QUALIFICATIONS

Barrister & solicitor (Supreme Court, Western Australia)
Admitted 1993 (Practitioner of High Court of Australia, 1994)

Bachelor of Laws (University of Western Australia)
Awarded 1993

Certificate in English Language Teaching to Adults (Cambridge University)
Awarded 2004 (through International House, Sydney)

EMPLOYMENT

- 2007 - date - **Rio Tinto Research / Teaching Fellow**
Centre for Energy, Petroleum & Mineral Law and Policy
- 2001 - date - **Contributing author** (part time)
LexisNexis
- 2007 (Jan-Aug) - **Senior Researcher / Senior Legal Officer**
Kanaga Dharmanda / Yamatji Marlpa Barna Baba Maaja Aboriginal Corp. (Australia)
- 2006 (Aug-Oct) - **Lecturer**
Pyi-Daung-Zu Law Academy, Burma Lawyers' Council (Thailand)
- 2005 - 2006 - **English Teacher**
Enforex Centro de Estudios Internacionales and Transfer School of Languages (Spain)
- 2001 - 2004 - **Senior Policy Officer / Acting Director, Native Title**
Human Rights and Equal Opportunity Commission (Australia)
- 2000 - 2001 - **Legal Officer**
Yamatji Marlpa Barna Baba Maaja Aboriginal Corp. (Australia)
- 1998 - 2000 - **Volunteer lawyer**
Australian Volunteers International (worked with Burma Lawyers' Council and Asia Pacific Human Rights NGOs Facilitating Team, Thailand)
- 1992 - 1998 - **Senior Associate** (1998), **Solicitor & Barrister**
Corrs Chambers Westgarth (Australia)

WRITING & PRESENTATIONS

- Ongoing contributing author for LexisNexis publication [Native Title Service](#)
- 2009 [Australian Indigenous-resource Developments: Martu People v Reward Minerals](#), *Journal of Energy & Natural Resources Law*, vol 27(4), 671-685.
- [Let's hope it's a small elephant in a big room: sustainable development and human rights](#), Accountability and Human Rights Symposium, 1 Sep 2009, University of St Andrews.
- [Mineral economics for non-industry players](#), Aurora Project paper, April 2009.
- 2008 [CSR, the environment, and false advertising laws](#). Paper for 'CSR and Our Planet' session at [International Bar Association Annual Conference](#), Buenos Aires, October 2008.
- Various sections in [Halsbury's Laws of Australia](#) in relation to indigenous legal issues in Australia
- 2007 (with Kanaga Dharmananda) [Hurdles for the judiciary: the application of the Beijing Principles in Australia](#), paper at the Australasian Law Teachers Association Conference 'Law and Public Policy: Taming the Unruly Horse?', September 2007

- [*Burma and the common law? An Uncommon question*](#), Thailand Law Journal 2007 Spring (Issue 1) Volume 10
- 2004 *Impunity and Judicial Independence*, Legal Issues on Burma Journal, [Vol 17, April 2004](#)
- 2002 *Case note: John Doe & Others -v- Unocal Corporation & Others*, Legal Issues on Burma Journal, [Vol 13, December 2002](#)
- 2000 *Military regime to establish base on Mars...or a human rights commission*, Legal Issues on Burma Journal, [Vol 15, April 2000](#)
- 2000 *The 55th Session of the United Nations Commission on Human Rights and its relevance for human rights in the Asia Pacific* (90 pages)
- 1999 *Campaign Against National Security Laws in Asia Pacific: A Guide Book*, Asia Pacific Human Rights NGOs Facilitating Team, March 1999

WORK ASSIGNMENTS, STUDIES AND RESPONSIBILITIES

LEGAL PRACTICE

Worked with national law firm in Australia, mainly in commercial litigation and occupational health and safety. Much of this work was in the mining and resource sector, advising and representing companies in commercial disputes and also in relation to government prosecutions.

Court work included all aspects of preparation for, and appearances in, courts and tribunals. Represented clients in proceedings at all levels of Australia's court system, including junior counsel in the competition law case [Nagy v Masters Dairy Ltd](#) [1996] 1096 FCA 1 and counsel in resultant procedural matters [Nagy v Masters Dairy Ltd](#) [1998] 104 FCA. Also was counsel appearing in various criminal and civil matters, both at trial and interlocutory (procedural) stages.

Worked on non-litigious matters for business and governmental clients, advising and drafting contracts and other documents in relation to legal aspects of corporate structures, financing and security issues, property interests, and environmental and planning regulation.

Work with a land council (from 2000-2001 & 2007) involved advising and representing Indigenous groups in their dealings with mining companies and government. In 2007, was responsible for the research and drafting of a model agreement between an Indigenous group and a mining company, to be used as a template for future negotiations. This involved extensive analysis of agreements, laws, and commentary both within Australia and elsewhere and drafting a contract addressing issues including land access, grant of mineral interests, Indigenous heritage, cross-cultural issues, compensation, employment, education & training, business development & contracting, environmental protection, implementation, security, assignment and confidentiality.

Researched and argued litigation addressing the relationship between international law and Australia's national and provincial laws, including mining law: [Kuruma Marthudunera Native Title Claimants v. Mineralogy Pty Ltd](#) [2001] WAMW 29.

Through land council and commercial practice, advised and drew agreements and other documents dealing with the concession application process, mining royalties, transfer of tenements and/or mining rights, host government agreements, conflict of laws (inter-jurisdictional issues), tenement 'warehousing', and disputes between resource companies.

POLICY WORK

As a senior policy adviser with Australia's Human Rights Commission, encouraged the Commission's engagement with mineral law and policy issues. Researched and drafted the Commission's input to government and industry initiatives to increase mineral exploration in Australia including:

- [Mineral Exploration Action Agenda](#);
- [Parliamentary Inquiry into Resources Exploration Impediments](#);
- [Ministerial Inquiry into Greenfields Exploration](#); and
- [Review of the Project Development Approvals System](#).

Responsible for the Commission's involvement in the Mining Minerals and Sustainable Development process (**MMSD**), including research and drafting of the Commission's submissions, and representing the Commission at various MMSD meetings:

- [Covering letter](#) and [submissions](#) in response to MMSD's Australian research; and
- [Submissions on the draft MMSD Australia report](#).

Represented the Commission, and assisted the Commission's engagement with, the Mining Certification Evaluation Project.

Also drafted the Commission's submissions for the [Parliamentary Inquiry into the capacity of Native Title Representative Bodies](#), and was one of the researchers and drafters for the Commission's submissions on [Mineral Tenements and Land Title](#), and [Review of Guidelines for Native Title Determinations and Agreements](#).

Worked with a Burmese NGO as international legal adviser (1999-2000). This included researching and drafting papers and letters for the organisation, briefing senior members in preparation for meetings and conferences, and assisting in representing the organisation in meeting with governmental and inter-governmental organisations. Issues covered included the International Criminal Court, use of force by security forces, human rights commissions, food security, national security laws, crimes against humanity, federalism and constitutional law. This involved not only issues inside Burma but also government policy and actions in neighbouring countries.

Contributed research, writing or review work to a range of publications and submissions, including:

- [Development and Indigenous land: a human rights approach](#) by the Human Rights and Equal Opportunity Commission and Griffith University
- [Native Title Report 2001](#) (about the extent to which laws protecting Indigenous culture have benefited indigenous Australians) by the Human Rights and Equal Opportunity Commission
- [Native Title Report 2002](#) (about recent court decisions on the recognition and extinguishment of indigenous Australians' connection to land) by the Human Rights and Equal Opportunity Commission
- [Native Title Report 2003](#) (about economic and social development for Indigenous Australians arising from laws protecting their connection to land) by the Human Rights and Equal Opportunity Commission
- [Native Title Report 2004](#) (about guidelines for agreement making) by the Human Rights and Equal Opportunity Commission
- Materials for the *Regional Workshop on National Institutions and Non-Governmental Organisations: Working in Partnership* (1999), and drafting the resultant [Kandy Program of Action : Cooperation between National Institutions and Non-Governmental Organisations](#)
- [Submissions on a proposed Human Rights Act](#) for Western Australia, by Australian Lawyers for Human Rights
- [Submissions on changes to Australia's human rights commission](#), by Australian Lawyers for Human Rights
- [Report on Assessing the Effectiveness of National Human Rights Institutions](#), by International Council on Human Rights Policy
- Statement to UN Commission on Human Rights regarding [National security laws in the Asia Pacific](#), by Asian Cultural Forum on Development
- *Co-Operation Between National Institutions and Non-Government Organisations*, paper presented to the Third Meeting of The Asia Pacific Forum of National Human Rights Institutions
- [Report on Racial and economic exclusion: policy implications](#), by International Council on Human Rights Policy
- [Beyond Voluntarism: Human rights and the developing international legal obligations of companies](#), by International Council on Human Rights Policy
- [East Timor 1st Round Presidential Election Observation Mission Report](#), by Asian Network For Free Elections
- [ACEH: Balloting for Peace and Democracy](#), by Asian Network For Free Elections

TRAINING & CONSULTANCY WORK

Designed and prepared three units (common law, judicial independence, and networking & advocacy) for a law academy as part of a two-year law course for Burmese students. The course was funded by the Danish Government and supervised by an international academic board (Prof. David Fisher - Stockholm University, Prof. David Williams - Indiana University, Dr Venkat Iyer - University of Ulster, The Hon. U Thein Oo - National Coalition Government of the Union of Burma, and U Aung Htoo & Mr BK Sen - Burma Lawyers' Council). Taught these units on a three month full-time basis in 2006 on the Thai-Burma border. This included assessment and later reporting to the Burma Lawyers' Council.

Worked as English-language teacher in Madrid from 2005-2006, teaching mainly business-related English to classes and individuals, including the English-language component of the MBA course at the Institute for Executive Development (Madrid).

In 2004, responsible for four simultaneous research consultancies for Australia's Human Rights Commission. This involved designing the project briefs, overseeing consultants' progress, and attending meetings between the Commission, the consultants and various levels of government in Australia.

In 1999, was one of two consultants engaged by the Dutch international development agency, NOVIB, to evaluate the operations of a Swiss-based NGO. This involved extensive consultations with various stakeholders (including in Asia, Africa and Eastern Europe) and required thorough analysis of the full range of the NGO's internal and external operations.

Worked as Tutor (part-time) with the Geography Department, University of Western Australia in a Bachelor of Science unit *Environmental Law for non-lawyers*.

For Australian Lawyers for Human Rights, prepared and presented seminars on *Volunteer and Human Rights work for lawyers* in Australia in 2006 and 2007, including to legal practitioners in Sydney, Canberra and Perth; and also to university students in Perth at Murdoch University and the Universities of Western Australia and Notre Dame.

LANGUAGE & CROSS CULTURAL SKILLS

English (native speaker), Spanish (intermediate), Thai (basic).

Comfortable and competent working and communicating in other cultures. Have lived and worked in Thailand (2.5 years), Spain (1.5 years), Geneva (2-3 months), and remote Australia with indigenous communities (one year).

PROFESSIONAL COURSES & TRAINING

Project Management

February 2003, Public Sector Development NSW (Australia)

Training programme for National Human Rights Institutions in the Asia Pacific

October 2002, Raoul Wallenberg Institute of Human Rights & Humanitarian Law (Sweden)

International human rights law and diplomacy

Mar-Apr 1999, International Service for Human Rights (Switzerland)