

Peter Nygh Hague Conference Internship 2010

Report

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(2009, 2010 and 2011 Nygh interns at the Permanent Bureau)

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Thank you

I would like to express my appreciation to:

- all of those involved in establishing the internship, including the Nygh family, the Australian Government Attorney-General's Department, the Australian Institute of International Affairs, the International Law Association (Australian Branch) and the selection panel (David Bennett QC, Professor Richard Garnett and Margaret Brewster) for this opportunity;
- the Australian National University, for providing me with additional funding to support the internship, and the Australian Government Solicitor, for allowing me to take leave over the period of the internship; and
- (of course) my colleagues at the Permanent Bureau for their warm welcome, in particular Alex Kunzelmann (the 2009 Nygh Internship recipient, now Legal Officer at the Permanent Bureau) and his wife Leo Sackville for their invaluable assistance with questions about life in The Hague.

1. Background

This report on my experiences as the recipient of the 2010 Peter Nygh Hague Conference Internship ('Nygh Internship') is prepared for circulation to the Australian Government Attorney-General's Department, the Australian Institute of International Affairs, and the International Law Association (Australian Branch), pursuant to the conditions of the grant of the internship.

The Hague Conference on Private International Law ('the Hague Conference') is an inter-governmental organisation whose mission is to work for the progressive unification of private international law rules. Australia has been a member of the Hague Conference since 1973 and is a party to 11 of its Conventions.

The Nygh internship was established in honour of the late Dr Peter Nygh AM, a former judge of the Family Court of Australia who had a long association with the Hague Conference. It provides an Australian post-graduate student or graduate with the opportunity to undertake an internship at the Permanent Bureau of the Hague Conference by providing funds to cover the cost of travel to the Netherlands and a contribution towards living expenses.

I completed a six-month internship at the Permanent Bureau, from 21 February 2011 to 19 August 2011.¹ After my internship, I worked at the Permanent Bureau for a further six weeks as a consultant to continue assisting with preparations for the Special Commission.

2. My work

It has become tradition for the Nygh intern to work with the team preparing for the next Special Commission, which is a meeting of the States Parties to a Convention to review the implementation and operation of the Convention. Therefore, I was placed in the International Family Law team, which was preparing for the Special Commission on the Hague Children's Conventions (the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention).

This was the sixth Special Commission on the operation of the Child Abduction Convention, but only the first on the operation of the Child Protection Convention. For the first time, the decision was made to hold a Special Commission in two parts. The first part, from 1 – 10 June 2011, covered various issues in the operation of the Conventions. The second part, to be held from 25 – 31 January 2012, will focus on the question of the feasibility and desirability of a protocol to the Child Abduction Convention.

Most of the work I did was in preparation for the Special Commission. This included:

- drafting and editing various Preliminary Documents distributed to States Parties to inform discussion at the Special Commission, including the

¹ Although I was awarded the 2010 Nygh Internship, because of prior work commitments, and in consultation with the Permanent Bureau, I was not able to take up the internship until February 2011.

preliminary report on the feasibility of a Protocol to the Child Abduction Convention, and the Report of Part I of the Special Commission (summarising the discussions and outcomes of the Special Commission);

- conducting research to assist other staff preparing Preliminary Documents, including in relation to a standardised “consent to travel” form (for parents to use when travelling with children overseas) and international relocation law in Australia (ie, the law that applies when a parent who has custody over a child wishes to move overseas with the child);
- summarising and analysing State responses to questionnaires to assist internal preparations for the Special Commission. Prior to the Special Commission, the Permanent Bureau distributed two questionnaires to States, the first on the operation of the Conventions and the second on a potential Protocol to the Child Abduction Convention, to identify important areas for discussion; and
- other general assistance at the Special Commission itself, including helping with set-up, welcoming and assisting delegates, distributing documents etc.

Other tasks, unrelated to the Special Commission, included:

- answering requests received by the Permanent Bureau from State authorities and individuals seeking advice or information about the operation of the Conventions and/or particular situations. The Permanent Bureau receives hundreds of such requests each year;
- updating and improving a draft index to the *Judges’ Newsletter*, a regular publication of the Permanent Bureau that is distributed to judges and practitioners to assist in consistent interpretation of the Convention; and
- finding and summarising recent case law on the *Brussels IIbis Regulation*, which supersedes the operation of the Child Abduction Convention in Europe.

Finally, I attended some private international law lectures at the Hague Academy of International Law’s summer school. Pursuant to an agreement between the Hague Academy and the Permanent Bureau, staff and interns are able to attend lectures free of charge (subject, of course, to supervisor’s approval). I also had the opportunity to attend oral arguments of a hearing at the International Court of Justice.

3. Evaluation

I have a strong interest in private international law and hope to pursue a career in this field. As developments to conflict of laws rules increasingly take place through treaties, I applied for the Nygh internship hoping in particular to get a better understanding of the practical process of negotiations between states in drafting new treaties and the hurdles that arise in effectively implementing treaties.

Having had two years of full-time professional work experience prior to taking up my internship, I found it frustrating at times to be an ‘intern’; the internship would,

perhaps, be more rewarding for those at an earlier stage of their careers. However, I gained many benefits from the internship, including:

Exposure to international meetings and negotiations

Undoubtedly the highlight of the internship was the opportunity to attend various international meetings. As well as the Special Commission, my internship coincided with the Council on General Affairs and Policy in April (an annual meeting in which the Permanent Bureau reports on its work in the previous year, and the members of the Hague Conference determine the Permanent Bureau's work program for the following year); the Council on Diplomatic Relations (the body that determines the Permanent Bureau's budget); and a meeting of the Working Group on Contracts (a group of experts who are drafting principles on choice of law in international contracts).

The opportunity to attend these various meetings provided valuable insight into international diplomacy and the process of negotiation – for example, the range of different views on various issues surrounding the Child Abduction and Child Protection Conventions, the way that interests were shared by certain groups of countries, and the styles of different delegates. Having worked closely with the State responses to the questionnaires before the Special Commission, it was also interesting to see how those responses were reflected in discussions at the meeting.

The range of different types of meetings also provided an interesting contrast – from the Council on General Affairs and Policy, where specific decisions were made about the Permanent Bureau's work program; to the Special Commission, where there was a lot of general discussion and sharing of problems and best practice as to the practical implementation of the Convention; to the Working Group, where there was very detailed, technical discussion on the wording of draft principles.

For future interns, I would recommend trying to time your internship so that you are able to attend as many meetings as possible, but at least a Special Commission and perhaps the Council on General Affairs. This will, of course, depend on your own availability as well as the Permanent Bureau's requirements.

Understanding of practical issues surrounding treaty implementation

The Special Commission (and the preparations for it) provided a good chance to see the issues surrounding the implementation of the Child Abduction Convention. It was striking to see that many of the problems faced by States in implementation arose out of practical difficulties such as language barriers and insufficient resources. For example, one major ongoing problem is delay in processing claims and in court proceedings – however, many Central Authorities and court systems simply lack the resources to quickly process claims and States have many competing priorities between which to divide resources.

It was also remarkable to see the amount of ongoing work undertaken by the Permanent Bureau to support the efficient operation of the Child Abduction Convention and to ensure that it responded to new developments. In addition to the preparations for the Special Commission, the Permanent Bureau's ongoing activities around the Child Abduction Convention include the INCADAT database containing cases applying the Child Abduction Convention from courts around the world; tools

such as the Country Profile and Guides to Good Practice; the Judges' Network and Judges Newsletter; and developing guidelines for judicial communication. Work was also being done in relation to mediation and domestic violence to respond to increased international and national focus on these areas since the adoption of the Convention in 1980.

These experiences really drove home the need for law reform and treaty proposals to be practical and realistic, as well as flexible enough to adapt to changing legal and social circumstances.

Increased knowledge of international family law, and identification of areas for future study

International family law was something that I had not previously studied or worked in and I was apprehensive before beginning the internship that this would affect my ability to contribute to the work of the Permanent Bureau. However, I found that I settled in quite quickly, with the assistance of my colleagues. After eight months, I came away with a much deeper knowledge of international family law, and the Child Abduction and Child Protection Conventions in particular.

I hope to pursue post-graduate study in private international law. Given that the Permanent Bureau (and private international law more generally) aims to find agreement on common solutions between different States, the internship emphasized the importance of understanding different legal cultures (eg, civil law and sharia law as well as common law) as well as different specific legal regimes. In Australia, private international law remains a somewhat obscure field, and it was also inspiring to be exposed to the breadth of research in private international law in Europe.

Improved language skills

English and French are the two official languages of the Permanent Bureau. I have a basic level of French, and also took additional classes in the year before starting my internship in preparation. I found that I did not need to use much French – most documents at the Permanent Bureau are drafted in English and later translated into French, and in conversation everyone else's English was much better than my French. However, it was helpful to have basic French in understanding incidental conversation between others in the office, and in dealing with delegates at the international meetings who did not speak English. In particular, the Permanent Bureau still receives a lot of documents in French, such as correspondence and responses to Questionnaires, and I also found that my reading skills improved a lot.

As the membership of the Hague Conference expands, and the Permanent Bureau works with more countries, knowledge of other languages is becoming increasingly useful, particularly Spanish. Other interns' language skills in Russian, Japanese and Vietnamese were also put to good use.

Building networks

During my time at the Permanent Bureau, the other staff and interns came from a diverse range of countries, including the USA, Germany, France, Italy, Kazakhstan, Korea and Japan... The internship was a great opportunity to meet and develop relationships with other people from different legal cultures, all of whom are

interested in private international law. I will continue to keep in touch with the Permanent Bureau and many of my colleagues in the future.

4. Conclusion

Overall, the internship was a valuable experience professionally, and an amazing experience personally.² I firmly believe that the field of private international law is only going to become more important in the future as the number of cross-border transactions increases. As discussed above, an internship at the Permanent Bureau provides insight into treaty processes and issues of private international law and comparative law. I would recommend the Nygh internship to anyone with an interest in private international law generally, or international commercial law or international family law specifically.

² See Appendix below for practical information on living in The Hague.

Appendix

Life in The Hague: Practical Information

One of the highlights of the internship was the opportunity to live in The Hague. The city is international, safe, compact and easy to travel around, with a plethora of events, museums, restaurants and the beach for entertainment.

Expenses

With a relatively strong exchange rate during our time in The Hague (\$1 AUD was about €0.60-0.70), the cost of living was roughly similar to that in Australia, although more expensive than other comparable European cities.

Accommodation

With the number of international organisations in The Hague, there is a wide range of short-term accommodation available.

Most interns rent a room in a shared apartment. Depending on location, size, the number of people you are sharing with etc, the cost of a room ranges from about €300-€500.

My partner and I decided to rent an apartment to ourselves, particularly as he would be working from home. For a fully-furnished, two bedroom apartment on Van Merlenstraat in the *Regentessekwartier* (about a 10 minute ride to work, and a 10 minute ride to the centre of town) we paid €1150/month, including cable TV, internet and utilities.

A useful website for finding housing is www.pararius.com. We started searching for an apartment online while still in Australia, and decided to sign the lease and pay the deposit without having seen the place in person because we found a place that we really liked and wanted to have somewhere to live immediately on arriving. While there are obvious risks in signing a lease from Australia, it worked out well for us. Most interns, however, choose to look for a place once they have arrived. Be sure to check whether or not utilities are included in the rental price. Also ask the real estate agent to confirm what furnishings (if any) are included, as places advertised as partially furnished may only have one or two items of furniture.

Note that, when finding a place through a real estate agent, it is common to have to pay a commission to the real estate agent of one month's rent. However, unlike in Australia, once the contract has been signed, you will deal directly with the landlord for any queries or concerns regarding the property.

Most interns and staff at the Permanent Bureau live in suburbs between the seaside ("Scheveningen") and the street Laan van Meerdervoort, including the Zeeheldenkwartier, Regentessekwartier, Statenkwartier and Archipelbuurt. As the Permanent Bureau is around the corner from the Peace Palace (*Vredespalais*) (where the International Court of Justice and Permanent Court of Arbitration are housed), it can also be useful to look for places advertised as being close to the Peace Palace. The

International Criminal Tribunal for Yugoslavia (ICTY) (about 15 minutes) and the International Criminal Court (in Leidschendam – about 30 minutes) are not nearby. Avoid the suburbs around Hollands Spoor station, as these can be a bit rough.

Groceries

The ubiquitous Albert Heijn supermarket chain has a small shop on almost every corner, but for a full range head to Albert Heijn XL on Elandstraat (similar in size to a Coles/Woolworths at home).

The Haagse Markt, open on Mondays, Wednesdays, Fridays and Saturdays, is fantastic for cheap fruit and vegetables. There are also various Asian groceries in Chinatown, around Gedemptegracht.

Transport

True to the Netherlands' famous cycling culture, bicycle is the main mode of transportation in The Hague for everyone from interns to the Secretary-General.

The Permanent Bureau has a limited number of bikes which are available for interns to borrow for the length of their internships, on a first-come first-served basis. Otherwise, second-hand bikes start from €100 from second-hand bike stores; new bikes start at €130 for a traditional Dutch bike with no gears and pedal-brakes. It is worth trying intern networks for second-hand bikes (€60-€100 depending on condition and features). Don't bother bringing bike accessories (lights, pumps, saddlebags, waterproof rain gear), as these are readily and cheaply available.

Riding is generally very safe, with separate bike paths on larger roads. However, exercise common sense, as interns have had accidents in the past. Note that traffic in a roundabout does not always have right of way – you may have to give way to incoming traffic on your right. Cobbled roads can be slippery when wet. Tram tracks can also be slippery and/or catch the front tyre of your bike.

The Hague also has an extensive public transport network of buses and trams. When looking for accommodation, check the line map at www.htm.net for nearby routes. While at the moment it is still possible to buy individual tickets from the driver on board, this is being phased out in favour of the *OV-chipkaart*, a smartcard that is loaded with credit and then scanned when getting on and off a bus/tram. The card itself initially costs €7.50 and can be used on public transport all over the Netherlands, as well as on domestic trains.

Banking

For a stay in The Hague of any longer than a few months, I would strongly recommend setting up a Dutch bank account as soon as possible. As well as avoiding high fees associated with using Australian cards overseas, it will make life a lot easier. Many places in the Netherlands do not accept foreign bankcards or credit cards, most notably the ticket machines at the train station. You will also need a Dutch bank account in order to get a *vordelebonnementkaart* (rail discount card, discussed below).

I set up an account with ABN Amro, which has relevant contracts/documents and internet banking in English. A standard account cost about €3/month, and allows withdrawals from any ATM within the Eurozone. You will need to contact the international client division to make an appointment to set up your account; once you supply the necessary documents, it only takes a day to open the account.

Travel

Interns receive the same leave entitlement as permanent staff at the Permanent Bureau of six weeks a year (ie, three weeks over a six-month internship), and The Hague is a convenient base for travel.

Within the Netherlands, the national train system is fast and reliable, with regular services. Amsterdam is less than an hour's train ride away (and trains run all night); the picturesque towns of Delft, Leiden and Gouda are all within half an hour. If you intend to explore the Netherlands, it is worth considering buying a rail discount pass (*vordeelabonnementkaart*). I had the pass which provided 40% off ticket prices after 9am on weekdays and anytime on weekends (€50/year). As the discount also applied to up to three people travelling with me, it did not take long to pay for itself. The *vordeelabonnementkaart* also doubles as an *OV-chipkaart*.

For international travel, the Thalys fast train links the Netherlands with Brussels (about an hour) and Paris (about two and a half hours). Book well ahead for cheaper prices, particularly for peak times (eg, for weekend trips).

Schiphol airport is half an hour from The Hague, with flights to major cities in Europe, including with discount airlines such as Easyjet, Transavia and Vueling.

Books

A wide range of second-hand English books are available on the first floor of De Slegte, in the city centre.