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Seminar: American Multinational Corporations: Increased Power, Decreased Accountability? (October 2011)

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JACK & MAE
NATHANSON CENTRE
ON TRANSNATIONAL HUMAN RIGHTS, CRIME AND SECURITY

presents

THE ROLE OF RELIGION IN PROSECUTING AND
SENTENCING TERRORISTS IN AUSTRALIA

a talk by



Nicola McGarrity
Lecturer in Law
University of New South Wales

Date/time: Wednesday, October 12, 2011 / 12:30 – 2:00 pm
**Location: Ignat Kaneff Building, Room 2027 (Faculty Lounge),
Osgoode Hall Law School (west end of second floor)**

A considerable body of academic scholarship has addressed the question of whether a motive element should, as a matter of principle, be included in the definition of a 'terrorist act'. However, little has been written about the effect of this element on the trial and sentencing process. This paper will closely examine the Australian case law in order to reach a conclusion about the practical effect of the motive element on proof of terrorism offences. Has the motive element in fact raised the evidentiary bar for proof of terrorism offences in Australia? On the other hand, does the motive element create an opportunity for the prosecution to introduce otherwise irrelevant and highly prejudicial material about a person's religious, political and ideological views. Does the inclusion of the motive element generate a risk that a person will be found guilty by association?

Nicola McGarrity is a Lecturer with the Australian Research Council Laureate Project: 'Anti-Terrorism Laws and the Democratic Challenge' at the Gilbert + Tobin Centre of Public Law, University of New South Wales. She has published extensively on Australia's anti-terrorism regime, including co-editing *Beyond Counter-Terrorism: The Culture of Law and Justice after 9/11* (2010, Routledge). See <http://www.law.unsw.edu.au/staff/McGarrityN/> for a full list of Nicola's publications. Nicola also practices as a barrister and, in 2010, acted as junior defence counsel for Mr Saney Aweys (who was accused of planning to attack an Australian army base) before the Supreme Court of Victoria.

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