

Think Global: Careers in International Law

Episode 10: Global Thinking with Dr Bruce Oswald CSC

Bella is an Events and Engagement co-opt for the GLSA.

Bruce ('Ossie') Oswald is a former Professor at Melbourne Law School and served in the Australian Regular Army as a legal officer.

Bella: The GLSA acknowledges that the Melbourne Law School is situated on stolen Wurundjeri Land of the Kulin Nation, of which sovereignty was never ceded. We pay our respects to Elders past, present and emerging.

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Bella: Hello and welcome to this episode of the GLSA's Think Global: Careers in International Law podcast series. My name is Bella and I'm one of the co-opts for the GLSA's Events and Engagement Portfolio, and I'm really excited today to be joined by Dr Bruce Oswald. Ossie is a professor at Melbourne Law School and was a director of the Asia Pacific Centre for Military Law. He has served in the Australian Regular Army as a legal officer, and has seen operational service in Rwanda, the former Yugoslavia, East Timor, Iraq, and Afghanistan. For his service, as the legal officer for the Australian contingent serving in Rwanda, Ossie was awarded the Conspicuous Service Cross. Ossie continues to serve in the army reserves as a legal officer. Ossie we're really lucky to have you with us today, thank you for joining us.

Ossie: Bella, it's a great pleasure to be with you and to talk about my career, mainly in the context of what advice I can pass on, as I've come towards the end of my career. In another two weeks I formally retire from Melbourne Law School and then I have to find something else to do. One of my themes today Bella is to talk about transition...we're all in transition, right. You guys who are listening to the podcast, the two of us speaking, we're really talking about being in transition. You're starting to move into your career, and you want to know about how to do that career. I'm starting in retirement, and I want to know how to do retirement. That's an important thing because, if you think about it, none of it is pre-planned in a great way. You're really talking about opportunities and opportunity costs. Both the benefits and costs. One of the things that we will hopefully be able to speak about is, when we're in transition, what are the things that we need to think about in relation to our careers? And how do we make sure that we harness what really is our passion or love and when is the appropriate time to do that? I've learned some lessons over my career about that and I'm happy to chat about that.

Bella: I can tell already this is going to be a great podcast. We've caught you at a really special time, I think. To begin with, we should learn a little bit more about your law practise interests.

Could you describe that for us, and tell us what you drew you to working in law and particularly your field?

Ossie: I was a very bad student at high school. I think I passed HSC with 30 marks or something. I didn't have great options when I left year 12. I went to RMIT, and I did a Bachelor of Business in Local Government. I think it was about the only course I got into, to be honest. I found out very quickly that while I hated school, I actually loved studying at university. I loved my mates, RMIT right in the heart of the city, I had a great time. I did the very first degree of local government. It was the first attempt by the Victorian government to train people to become chief executive officers of local government. Well yeah, that wasn't working out for me. I'm not cut out to be in local government. I did a couple years of working there and then I decided that I would go and study in England. I did a Masters in public policy there. Like a lot of people. You don't want to stay in the workforce and you love studying, so you go "I'm going to go overseas and study." That was my journey for that bit. That was a hoot. I mean I loved it, I worked my arse off, I have to say, but I really loved it and it was an eye opener. I did it at the University of Canterbury. I wish I could say that I chose it on philosophical grounds or educational grounds, but I worked out it was halfway between London and the continent. I was like, "great spot to go to study". Then I found out that I had to work so hard, I hardly went anywhere. It was a bit of a challenge. When I was there, just towards the end of the degree, I was wondering what I was going to do. I shared a house with four other guys. One was a Malaysian law student who said to me, "you've got to face it Oz". And I said, oh no...I don't know. Then he says, "why don't you do law?" And I'd never thought of it. Even now, we are still mates. He lives in KL now and I remind him that he started me on the law path. I then applied to ANU and I got in. I did not enjoy my experience at ANU learning. I enjoyed the experience of being at the ANU and having mates there, but I didn't feel that the academics there really cared that much about my learning experience. That was a journey I don't want to repeat and hopefully none of my students will ever tell me that I wasn't interested in their learning experience. That would upset me greatly.

I finished that and I worked for a lawyer, who's now very much in the news, as his clerk, while I was still at law school. Bernard Collaery. He is a bit of a legend and someone who I respect a great deal and to whom I'm very grateful to, for teaching me (as a sole practitioner, as he was then) about working in a legal office. Then I did but people normally do, which is apply for jobs. I did an internship at a law firm or summer clerkship with a law firm, but no law firms were interested in me. But all those years I'd been working, still being in the Army Reserve and so I applied to the regular army and got into the regular army. Here's the kicker. I got into the regular army at a time when I could create (or was allowed to create) a career, which focused on operations law. It was before Afghanistan and Iraq, it was right around the time of Cambodia and Namibia. We were starting to think that we might be deployed elsewhere. So, I started doing military operations law. Very little IHL, but really about how we conduct military operations. I found I really loved it and I was good at it. Like just completely natural.

You know, you see some things in life, and you go yeah that's easy, and it was easy for me. I could join dots faster than anyone.

Here's my first bit of advice to anyone listening to this podcast. Figure out when you can join dots faster than anyone else in the room. That is what you're going to do. I learnt that. When I used to teach Criminal Law at Melbourne Law School, I used to tell students after the first half an hour, in the 60 odd students in the classroom. I'd say to four or five of them, I know you're going to be a criminal lawyer. Because I'd give the class a test, and those students that joined the dots faster than anyone else, I knew they got criminal law better than anybody else in the classroom. Now, it's not that accurate. I mean you understand the point I'm trying to make. If you figure out how to join dots in a particular legal sphere... commercial law, contract law, torts, whatever. Then you're going to be really good at that. You'll love it and then do that. So that's my first bit of advice.

The second bit of advice I got out of that...like finding where I fit in, that every step of the way I realise now when I think back to it, I realised one thing: I never said no to anything. Everything was a learning experience and if someone opened a door, it was not for me to close it, without going through the door. I'd be happy to close it after I'd gone through the door, but never to say no to somebody. I did part time jobs. I was the minibar guy at the Rex Hotel in Canberra. I did portering work at the Windsor Hotel in Melbourne. Anything and everything was a life experience that was going to make me work, and enjoy life. That's the second bit of advice that I'd pass on. People give you opportunities, be grateful for them and take them. What have you got to lose? They already made a decision to give you the opportunity, so they've already done the choice making. It's for you now to go, yeah I'm going to do that. There's some things that people have given me choices to do, which, as I matured, I realised I'd be no good at. But they didn't know that, so I saved them. I tell them, I'm going to save you a lot of heartache right now. I'll tell you, I'm going to be terrible at that. That's the third bit of advice. In the journey, figure out not what you can do, but what you can't do, or you won't do. Definitely say no to that. Walk away from it. Never look back on it again. Make the decision and don't go back. If you think, there's only about four or five things that I won't do in life, but there are millions of things that I will do. So, at every opportunity I'm given, I make a simple choice: is this something I can do? And I know now what I can't do. I can't teach constitutional law, for example, trust and equity... like I failed trust and equity at law school, and I probably still don't understand it. But I know what I don't understand. So that would be the third bit of advice: figure out what you don't want to do.

Bella: Thank you Oz, that's really candid and helpful advice. A lot of students will probably be able to relate with being like I don't really know where I'm going, I'm going to keep on doing education because I'm interested in this thing. But you found your door, it sounds like. Military operation law. Could you tell us more about your participation in these areas?

Ossie: Let me say this, one of the things that every one of you know, as you work through your law degrees, as you've gone through your undergraduate degrees, is that writing is tough. For me, it's really hard. I spent 20-25 trying to find my voice. I found it once. I did an article and I go, "now, that is a good article". I will go to my grave knowing I wrote one good article and that's probably it. That's an article I wrote about my experience in Rwanda, if anyone's interested in it, it's retrospective, done in the Journal of International Peacekeeping. It was 20-25 years after Rwanda, what do I think about? Up until I went to Rwanda, I knew what I wanted to do, I was good at it, but I didn't have that fire in my belly that would make me want to work long hours, like 20 hours, to solve a problem. There's two types of lawyers in my view (this has come out of my academic thing). One is lawyers that problem solve. You give them an issue they'll take 20 minutes to think about it. If it's me, take five years to write it, and then you're done and dusted, and you never go back to that problem ever again. It's done. I love that part about the law. That's what I really enjoy. I enjoy problem solving. The second bit is those of you that think about the law and can see the threads that go through the law, as a project, in solving the world's problems. Those lawyers do great work for the development of the law. So it's the people that do law reform, for example. I mean they can see that a problem in tort is going to affect family law. Well, I don't see that necessarily, but they see that. I solved problems and I became really good at that. People used me to do that frequently. Other governments have used me to do that as well.

My career developed, I think now in hindsight, because Rwanda, Iraq, East Timor, Yugoslavia, and Afghanistan were all about problem solving. Problem solving where you could get 20 lawyers, but honestly [only] a few of them would really enjoy it. That's the bit that I found that I really enjoyed. Things like the use of force in self-defence, privileges and immunities for UN personnel, doing an investigation on a mass grave site, thinking about evidence and how that evidence needs to be protected. They are the sort of things lawyers do anywhere in the world. But in those operational frameworks where you're probably the only lawyer, and in Rwanda there was only three of us, I think, in the whole country, doing any sort of legal work at that time, in the early days straight after the genocide. Then you're in a world that you know it's like, now's the time to stand up and be counted. Rwanda was a fantastic experience for me, and it gave me my love for the law in a way that I don't think I would have got doing anything else. Then Afghanistan right at the end in 2010, my last operational deployment, was again a fantastic experience because I was able to work on a couple of projects with some absolute legends of people who gave me my head. They gave me opportunities to think of some problems. One of the problems I thought about is, how do you work with societies where customary law, village law, predominates the way that they think and act. You've got a challenge between saying, in this village they're going to stone this woman for perceived adultery. Which is a power trip because they know the guys are also responsible, but nothing's happening to him. Then you, as a military person, what's your role there? Do you stop and say, no, I exercise force in this village, not you? But if you do that, what's the ramifications for your relationship with the village? Here's the kicker question: what's the ramifications for the

woman now, whom you have protected? Where does she go? Because the village isn't holding her. You get the picture about the problem solving. This is my fourth lesson (I'm going to forget how many lessons I speak about). Out of those two broad examples I've given you, about what sort of lawyer, there are other ways you can think about the law, but I would encourage you right now to start thinking about what sort of lawyer you are, what sort of lawyer you want to be? What sort of lawyer do you want to experiment being? Think about it all.

That's when I come to another lesson which is, don't put yourself into a box as a lawyer. Chris Greenwood who is an ex-ICJ judge, currently the master at Magdalene College at Cambridge, a mentor of mine since I studied with him at LSC back in the 90s. He wrote that there are only good lawyers and bad lawyers. To me, I'm not a human rights lawyer, I'm not an IP lawyer, I'm just a lawyer. I'm expected to do the law. As part of that, I have no commercial law experience. Now at the end of my career, I wish I had a little bit of that, because I think it could have taught me about another part of the law. I taught Legal Method and Reasoning for a couple of years. I really enjoyed teaching it. Mainly because it taught me about tort. Then I go wow, if I had learnt this 20 years ago...think about how I would have looked at the law. After 20 years I didn't look at law in the way that I do now, and maybe that's a part of maturity. So why would you not allow yourself to grow in the law? Because you put yourself into it, like so many students say, "I want to be a human rights lawyer" ...well, "I want to be a carpenter that makes chair legs". Yeah? Well great. Yeah, I'm a really good chair leg maker but if it doesn't fit the chair, what's the point? That's my other lesson (I'll stop numbering them now because I forgot), don't box yourself in. Just be determined to be a good lawyer and practise good law. In my military practise right now, I've done more constitutional law in the last four years then I've done international law. Because with the bushfire assist, COVID... that's all about state relationships, constitutional immunities, Commonwealth officials, the list goes on. If I turned around to the military where I do most of my practise these days, and I said, "yeah I want to do international law," they would go, "yeah alright, I guess you're not working for the next however long". So that's the point. Just be good lawyers.

Bella: Yes and take opportunities and experiment a little bit. You just said earlier that writing is tough, and that it took you a long time to find your voice, yet you've been publishing work for 20 years. What made you choose to pursue that, despite knowing that it was quite difficult for you?

Ossie: Bella, I wish...oh my god there's so many days when you think [to yourself] I'm not writing this. I'm going to go [do it] later. But you have to be stubborn. I mean what's the alternative? That you remind yourself every day that you wimped it. You know? No you can't do that. So, you suck it up and you just hope that the peer reviewing and editors come to the table. But now when I look at my body of work (if you can call it that) and all those articles,

I'm proud of. I mean the books that I've helped edit, chapters written... I'm glad I persevered because they're all important. I'll say this as another lesson again. In hindsight I've been extremely blessed to work for two institutions that I've absolutely loved. The reason I've loved them is because they have all given me opportunities. Melbourne Law School has given me more opportunities than I could ever have dreamed of. They allowed me to be who I am. I mean just think about it, look at my practise, look at what I write on. I don't fit the Melbourne Law School kind of model. But that university, through Michael Crommelin and now Pip, they're just given me every opportunity to be the sort of lawyer and academic that works a spectrum that I can work in. If you work in a law firm where every conversation at work with people there starts with "No", then it's probably not a healthy environment. I say to people, when they ask me "why did you stay with Melbourne Law School?", because every conversation started with "yeah, do it".

Build up a reputation where people can trust you and it'll give you opportunities. If they know that you have good common sense, which is life experience really. Yeah you will make mistakes but it's hard to figure out what is a good mistake and a bad mistake.

Bella: Maybe hindsight helps with that.

Ossie: There's lots of regrets. I wish I'd done some things differently, but you know those regrets are my regrets. Hopefully no one has paid the price of my mistakes. I just wanted, in that context, to raise one other issue. There's also another part of that, that if you want to do international law from Australia, that's a tough gig. It's huge sacrifices that you have to make. I'll explain this very briefly in two ways. You either have to go on long haul flights. I did a couple of years where I would have done 12 to 14 long haul flights. My better half, she does my taxes [and she told me] one year I was in Australia (in my bed) for 32 days. And I was still teaching at MLS. Think about that. If you want to make a commitment, then you've got to suck up a lot of that pain. Or, you become an expat. But then you want to come home. At some stage you are going to come home. Part of that is a gendered question as well. As a woman, do you want to be overseas? You know, what do you want about your family commitments, your parents etc. Men, from my lived experience, find that an easier conversation to deal with. A lot of my female students have said that's a tough ask. One female student reminded me of this many years ago when I did institutions. She came to me with tears in her eyes and said you've destroyed a dream. And I said, "how could I have destroyed your dream?". She said "Well, now I know I never want to practice international law. She'd heard so many people talk about it in Geneva, and she goes, "this is not for me, I want a family, I want to be in Australia with my own family". So, you've got to make that choice. I can say with my hand on my heart that by travelling... I did not do that by myself. Now with COVID, I've been here for two years... my last trip was for the government of Singapore in January in 2019. I haven't travelled at all since then. I now realise what my partner had to do when I was away. I just thought it was easy for her... but now, I go yeah

that's not a conversation I want to go back to with her very often. For the last two years... I've not had to raise the issue [saying] "I have to go to Geneva this year" or "I have to go to Washington DC this year". Now she goes, I'm not hearing the 'have to' anymore. Without a partner, without Lizzie, I could not have done this. She's the one that made my career, in every shape, because she has the rough end of the stick. I'm sitting on the lake in Geneva [with] 25 students, and she's at home trying to work up my tax arrangements for the next financial year.

Bella: I think about that as well, in terms of how much time are you going to spend away from Australia? Or where are you going to go? And if you have a partner, are they going to come with you? How do you live? You know. Sounds like you definitely had a tag team or a team effort to make your career happen.

Ossie: And then when you come back what do you do? If you've had a senior position in the UN for 15 years and you want to come back to Australia? I do this quite frequently with people, particularly students, of mine who are thinking about it and some of them have had great careers overseas. I ask them [about it]. When they come home and they are sitting at a dinner party and someone says to them "So what were you doing?", they start replying, and then halfway through the sentence [someone goes] "can you pass the sugar please?" or the salt? Like...there's no correlation between being in Afghanistan in a village providing humanitarian assistance and sitting at a pub at a Sunday session where no one wants to talk about it. You know what I mean? I mean it's such a dislocation. I never talk about my experiences in Rwanda because no one here really cares. I mean literally don't care. So, if you spend a long time away and you want to come back, you've got to forget that other life. That bit I've never figured out myself.

Bella: There's definitely human rights issues at home that we consider, but in terms of some of the things you've seen and been a part of, that's not things that civilians in Australia would even have thought about. Until I read your Rwanda article, I hadn't even really thought about seeing that type of thing.

Ossie: That's a really interesting question. A couple of years ago I had an Indigenous student in Geneva, and she made me rethink some of that question about working overseas. She said it's really odd Ossie, look at all these students here, they're all thinking about careers to help people outside Australia... [what about the] Indigenous community? How many conversations do you hear about people wanting to do the Indigenous community work? And until she said that I'd never really thought of it. What is it about the narrative that we have, that says that I'd rather be in a village in Afghanistan, than in a remote community? I'm still working that one out.

Bella: Yeah, there seems to be something glamorous about overseas, something more exotic or 'I'm reaching worldwide impact'.

Ossie: That's it. I think you've nailed it. I think that's true. Let's be honest there's a little bit more glamour involved, right? I mean you know who doesn't want to have that glamour in their lives? Just in that context, David Kennedy wrote a great book for anyone interested in doing humanitarian work he called a humanitarian...something... "the dark side of virtue". I say this to my students frequently. Every one of us wakes up in the morning searching for grace, and by the end of the day we can't even find it in the dictionary. So, something goes wrong in our day, but we don't actually identify...what's the dark side of that search? In 25 years plus of military operations, doing all the things that you've spoken about, in Rwanda and all of it, what's the dark side of the virtue of my work? Like think...none of those countries are success stories. As lawyers, I think that's something we really...whether you're a commercial lawyer, the dark side of the virtue of doing commercial law, family law, criminal law... you know there's probably no dark side to property law, conveyancing probably doesn't have a dark side to it. But yeah most law does have a dark side to the virtue, and so that would be another thing that I would say to people. Kennedy says the problem with human rights people, humanity in people, is they don't ask the question what's the dark side of the virtue? So, ask that question of yourself. Then if you're not comfortable with the dark side, don't do it.

Bella: I think that's something that I'm picking up already so early in my journey in law, is that there's just the inherent tension between acting and trying to act in any capacity in regards to what you're learning, you're going to have your opinions or values or beliefs and how much can you see everyone else's like where's the joining point that's right, compared to just the best go that you can give? But it sounds like you've been thinking about that tension for a long time and it probably is one thing that brought you to writing about it or publishing, it seems like you grapple with that.

Oz: I wish I had this conversation with you 20 years ago! That's a really nice statement. I've never thought of it. Until you just mentioned it, I didn't even think of that. Maybe that is something. I'm going to give that a lot of thought... trying to deal with how you balance that, the challenge.

Bella: Well, I'm glad I could bring something to you, you are bringing so many lessons to us. You've already told us so many of these lessons and experiences you had, is there anything else that really stands out in your time that you'd like to touch on? A life changing, a pivotal moment? Good or bad. Moments that have affirmed your work or made you reflect on your work?

Oz: I've got three things that I think, this is why I'm good at what I do and this is why I became a lawyer. I worked for the Danish government for a number of years, in different times, to write the Copenhagen Principles on Detention. Out of all the work I've done, for some reason (maybe it goes back to my Rwanda days when we first took detainees), detention became a really important bit in my practise and work. It still remains an important bit. That was really like a pivotal thing. I found my niche, so to speak, on working on detention things. The second thing is that as you go through your law degree and you go through your professional life, we spend a lot of time thinking about the future but we spend less time thinking about the past. One of the things that now, as I go into my transition into retirement, is that I spent a lot of time thinking about the past. Recognising that some of my best moments were in the past and will not be my future. That means that you should really enjoy the moment you're in, because that might actually be the best moment you're ever going to have. Whether you are on a date, whether you are at a good restaurant, or whatever, that could be the best moment that you ever going to have, in that gig. Instead of chasing things, just think - let me live this moment. The last thing that I would say is that transition is important. To understand that you are transitioning, means that you understand your own vulnerability. That's nothing to be frightened about. Because you already know where you are is because of who you are and other people around you. People say [to me], "you're so lucky to be at Melbourne Law School". Well, it had nothing to do with luck actually. It had a lot to do with people making sacrifices and you making sacrifices. You didn't win Lotto. That means that I'm really grateful to people that have allowed me to do what I've done. Now I think more about saying thank you. Because this career has just been gobsmackingly amazing for a boy that was born and grew up in India and his parents migrated to Australia to give him an opportunity (and his siblings an opportunity). None of that would have happened unless lots of people made lots of sacrifices. Be in that moment, because in that moment you'll recognise that there's other people around you that have done things to allow you to be there. If you are pissed off with that moment, I don't know whether that's a great thing to do to other people who set you up for that bit of success. So that's in the classroom too. You're sitting beside a student then you go, I should really know who that person is, he's kind of cool. That's what I think about now. Many years ago in Institutions, one of my students said [to me], "you know what your problem is? You have FOMO (fear of missing out)", and it was a really nice insight into my character because I then realised that that's exactly what I've got. I just always "go there's an opportunity, if I don't do that, I'm going to miss out, I can't". There have been some poor decision-making exercises in that FOMO moment, but it's about the moment. My last bit is, enjoy the moment. Because someone's put you there. You really owe it to yourself and to them. Don't not enjoy law school. I hated it, but that was for other reasons. Yeah so, I've gone on enough on that point.

Bella: Thank you, that is probably a timely lesson. I know we all complain a little bit, it's easy to complain about the chances that you actually have, because it's hard because you've sacrificed (and because you're sacrificing now). So, a really timely reminder, thank you. I know

you're in the present and thinking about now, you know in terms of just what you said, but what is next for you? Where do you think you'd like to go now?

Ossie: There's lots of things that I would like to do. Instead of having one big project I've got now 30 or 40 on the run. I make knife handles out of antlers and I've got 100 acres that I live on. I've got a dog that hunts with me. I walk you know a lot [with] hunting. I'm doing all the things that I never had time to do before because I had these big projects. Making time to go and see my mum, that's become really important to me. Spending time with Lizzie. Ask me in another two years. There's a lot of books on my bookshelf that I bought and never read. I probably need to get to them. Learning Hindi again with the Indian tutor online in Bhopal, of all places, which is a hoot. I do lots of little things. Go back to being that little boy who had no attention span, which I am really enjoying being again.

Bella: Yeah, it sounds like you're enjoying some hard-earned time in leisure and pleasure. We're happy for you and I can't speak for all of Melbourne Law School, but we will certainly miss you. Thank you so much for your time today.

Ossie: Absolute pleasure Bella, absolute pleasure. And good luck to everybody else. Oh, I said good luck... I mean good fortune...

Bella: Good fortune and hard work to everybody.

[music]

Bella: Thank you for listening to this episode of the Think Global series. In the episode notes you can find links to several things mentioned, including Ossie's article on his experiences in Rwanda in the Journal of International Peacekeeping and the book he referenced by David Kennedy.