Annual Report
January — December 2002
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After several years of consolidation and strengthening of both the Centre’s staffing and our research and teaching programs, 2002 was a year of achievement. The Centre can now claim to have the largest teaching program covering the broadest range of Asian legal subjects in the world. Our standing was reflected in 2002 in the large number of senior scholars and practitioners from East Asia, Europe and North America who came through the Centre.

2002 was also a very important year in terms of staff consolidation. Dr Pip Nicholson joined the Faculty permanently as a Lecturer, confirming her role as Associate Director (Vietnam). This has allowed the Centre to develop real program strength on Vietnam, which is now taught in most of our graduate and undergraduate subjects. Stacey Steele was also appointed to a fractional appointment within the Faculty, confirming her appointment earlier in the year as Associate Director (Japan). Stacey now takes over the Centre’s Japan program, established by Professor Malcolm Smith.

One of the strengths of the Asian Law Centre is its ability to cover both North Asia and Southeast Asia. Most other Centres that deal with Asian legal issues usually choose to focus on one of these regions. The Asian Law Centre, however, can now offer expertise, coupled with relevant language expertise, from its tenured staff members for Indonesia and Malaysia (Tim Lindsey), China (Sarah Biddulph and Kathryn Taylor), Vietnam (Pip Nicholson), Taiwan (Sean Cooney and Kathryn Taylor) and Japan (Malcolm Smith and Stacey Steele). Other Centre members cover Malaysia (Amanda Whiting) and the Philippines (Neri Colmenares), as well as Singapore (Professor Benny Tabalujan) and Islamic Law (Professor M.B. Hooker and Tim Lindsey).
The Centre’s research output in 2002 was also impressive and was marked by two major publications. The first was the publication by Routledge (London) of a major study of labour laws in East Asia, edited by Centre Associate Director (Taiwan) Sean Cooney, Centre Associate and Director of the Centre for Employment and Labour Relations Law, Richard Mitchell, Ying Zhu and myself. *Law and Labour Market Regulation in East Asia* makes an important contribution to understanding of the labour systems of East Asia and offers new insights to the discipline of comparative law. It is already in its second edition.

2002 also saw the appearance of *Corruption in Asia: Rethinking the Governance Paradigm* (Tim Lindsey and Howard Dick). This book brought together a range of experts from around the world to rethink approaches to law reform in the wake of Asia’s devastating crisis. It is now widely referred to by lawyers and development agencies involved in law reform.

These books reflect the Centre’s growing reputation outside the discipline of law in fields including economics, development studies and, of course, Asian studies.

The *Australian Journal of Asian Law*, our flagship journal, is also part of this expanding reputation, as is our free, online database, *Asian Law Online*. This is the only one of its kind in the world, and offers practitioners and scholars access to searchable bibliographic listings of English language materials on Asian legal topics, a service which is already being used by practitioners in Australia, America and East Asia.

Our established Occasional Seminar Series and popular ‘Brown Bag’ Seminar Series were more active in 2002 than ever before and covered a very broad range of issues but 2002 also saw the Centre responding directly to current events, with a seminar with the Institute for Comparative and International Law on “Islamic law after September 11.” This event included speakers from the Middle East and Southeast Asia, as well as Dewi Fortuna Anwar, adviser to former President Habibie of Indonesia. This reflects the developing expertise in the Centre in relation to syariah, a subject of considerable interest to the community as the West grapples to come to terms with extremist Islamism.

The Centre’s achievements in 2002 were, of course, entirely the result of the commitment and hard work of Centre members and research assistants and I take this opportunity to thank them for their enthusiasm and creativity. In particular, thanks must go to the Centre Manager, Kathryn Taylor, who has done a superb job in managing the Centre.

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Associate Professor Tim Lindsey  
Director,  
Asian Law Centre
Goals of the Asian Law Centre

- To promote the teaching of Asian law in Australia at both graduate and undergraduate levels, and the teaching of Australian law in Asia.
- To promote the development of Asian studies and Asian languages in other disciplines and to encourage a linkage with law studies.
- To support the rule of law in Asia.
- To improve knowledge of the laws of our region.
- To research the legal framework for trade and investment in Asia.
- To promote exchanges of staff and students between the Law School and Asian universities and institutions.

Asian Law Centre Advisory Board

The current Advisory Board of the Centre reflects the range of external interests and involvement in the activities of the Centre.

Professor Michael Crommelin  
Dean, Law School, The University of Melbourne

Mr David Laidlaw  
Executive Chairman and Partner, Maddocks

Mr Stephen Spargo  
Partner, Allens Arthur Robinson

Mr Richard St. John  
Senior Counsel, BHP Limited, representing the University of Melbourne Law School Foundation

Graduate Diploma in Asian Law Advisory Board

The Asian Law Graduate Diploma programme continued to benefit from the professional input of its Advisory Board, comprising:

Mr Jim Armstrong  
Partner, Mallesons Stephen Jaques

Mr David Laidlaw  
Executive Chairman and Partner, Maddocks

Mr Stephen Spargo  
Partner, Allens Arthur Robinson
The Asian Law Centre Members

Director

Associate Professor Tim Lindsey

Associate Professor Tim Lindsey joined the Centre in 1990 and was appointed to the Law School in 1994. He has been Director since 2000. A graduate of the University of Melbourne Law School, Tim completed his doctoral thesis in Indonesian studies. He teaches Indonesian Law, Islamic Law, Malaysian Law, law, development theory and Traditional Customary Law. His research interests are in the areas of commercial law, insolvency law, constitutional law, comparative law, Islamic law, law reform in developing countries and the rule of law. He researches and teaches in Indonesian and is a member of the Board of the Australia-Indonesia Institute and a practising member of the Victorian Bar.

His publications include Indonesia: Law & Society; Indonesia: Bankruptcy, Law Reform and the Commercial Court; Corruption in Asia: Rethinking the Governance Paradigm (with Howard Dick); Indonesia After Soeharto: Prospects for Reform; and Law and Labour Market Regulation in East Asia (with Sean Cooney, Richard Mitchell and Ying Zhu). Tim is a Founder and co-Editor of the Australian Journal of Asian Law.

Founding Director and Professor of Asian Law

Professor Malcolm Smith

Professor Malcolm Smith was Director of the Centre from March 1987 to June 2000. He joined the Centre from the University of British Columbia, Canada, where he was Founding Director of the Japanese Legal Studies Programme. He is a graduate of the University of Melbourne Law School and Harvard Law School and specialises in Japanese Law. He now holds the Foundation Chair in Asian Law in the University. He is admitted to practice in Victoria.

Professor Smith is a member of the Executive Board of the Australian Centre for International Commercial Arbitration and the International Trade Law and Business Committee of the Law Council of Australia. He researches and teaches in Japanese.
The Asian Law Centre Members

Associate Director (China)
Ms Sarah Biddulph

Ms Sarah Biddulph joined the Centre in 1989 on secondment from the firm Blake Dawson Waldron and was appointed to a lectureship in the Law School in 1991. She is a graduate of Sydney University in Law and Chinese Studies and is currently completing her doctorate. Sarah studied in Shanghai on an exchange of lawyers under a joint agreement of the Attorney-General’s Department and the P.R.C. Ministry of Justice. She worked at Blake Dawson Waldron’s Shanghai office from 1998 to 2000. Her research and teaching interests are Chinese law and society, administrative law, criminal procedure law, labour law and other issues affecting social control in China. She researches and teaches in Chinese.

Associate Director (Taiwan)
Mr Sean Cooney

Mr Sean Cooney joined the Centre in 1992 after four years in legal practice and completed his LL.M. in Asian law in that year. In 1994, he conducted research at the National Taiwan University and National Chengchi University in Taiwan. He was appointed to a lectureship in 1995. Sean’s research interests include East Asian employment and labour law, democratic transitions and sovereignty issues (with a particular emphasis on Taiwan), comparative law, and contract and regulatory theory. He researches and teaches in Chinese and is fluent in French and German.

Sean holds LL.M. degrees from Columbia University and the University of Melbourne and is currently completing his Columbia doctorate. His publications include Law and Labour Market Regulation in East Asia (with Tim Lindsey, Richard Mitchell and Ying Zhu), as well as articles in a range of international journals in English and Chinese. He is currently examining alternatives to the current system of international labour standards.
Associate Director (Vietnam)
Dr Pip Nicholson

Dr Pip Nicholson joined the Asian Law Centre in 1997 and was a Senior Fellow of the Faculty from 1998. She joined the Faculty permanently as a lecturer in 2002. A graduate in Law and Arts from the University of Melbourne with a Masters in Public Policy from the Australian National University, Pip teaches the Vietnamese legal system in both the undergraduate and graduate programs of the Law School.

Pip has worked as a consultant to the Faculty’s International Programs, assisting to develop and run programs for overseas visiting groups. Pip’s doctoral research focused on the Vietnamese court system between 1945 and 1976, analysing the extent to which the Vietnamese legal system mirrored or diverged from its Soviet parent. It will be published in the Law and Development Series in 2004.

Pip is interested in the challenges of cross-cultural legal research and legal reform, particularly within Asia. She has recently completed research on corruption within the Vietnamese court system and researches in Vietnamese. Current projects include analyses of the take-up of labour law reforms in Vietnam, Vietnamese attitudes to law reform and a study of the relationship of comparative law theory to legal reform in Vietnam.

Associate Director (Japan)
Ms Stacey Steele

Ms Stacey Steele joined the Centre in 1997 as a research assistant and was appointed Associate Director (Japan) in January 2002. She holds degrees from the University of Queensland (BA (Jap)), Monash University (MA (Jap)) and the University of Melbourne (LLB (Hons) and LLM (by thesis)) and works as a lawyer in the Financial Services Group at Blake Dawson Waldron. Stacey recently published a translation of the Law Relating to Recognition and Assistance for Foreign Insolvency Proceedings for the Ministry of Justice, Japan. Her research interests are in the areas of insolvency law, law reform and the Japanese legal system. Stacey practices Chanoyu (The Way of Tea) and is a member of the Urasenke Melbourne Chapter.
The Asian Law Centre Associates

Professor M.B. Hooker
Professor M.B. Hooker was appointed as an Associate of the Centre in 1997. He is Adjunct Professor of the Faculty of Law at Australian National University and was previously Professor of Comparative Law at the University of Kent at Canterbury. He is regarded as a world authority on Islamic law and traditional customary law in Southeast Asia and has published widely on these issues. He is a Founder and co-Editor of the *Australian Journal of Asian Law*.

Professor Richard Mitchell
Professor Richard Mitchell was appointed as an Associate of the Centre in 1999 and is the Director of the Centre for Employment and Labour Relations Law. He has studied labour law and industrial relations at the University of Melbourne and the London School of Economics and Political Science. He is joint editor of the *Australian Journal of Labour Law*, and of the *Monographs on Australian Labour Law Series*. Among his areas of specialisation are labour law systems in the Asia-Pacific Region, the legal regulation of labour markets and the role of law in the construction of internal labour markets. His recent publications include *Law and Labour Market Regulation in East Asia*, Routledge, London, 2002 (with Sean Cooney, Tim Lindsey and Ying Zhu).

Professor Ian Ramsay
Professor Ian Ramsay was appointed as an Associate of the Centre in 1999. He is the Harold Ford Professor of Commercial Law in the Law School at the University of Melbourne, where he is Director of the Centre for Corporate Law and Securities Regulation. He has practised law with the firms Sullivan & Cromwell in New York and Mallesons Stephen Jaques in Sydney. From 2002 to 2003, Professor Ramsay was Dean of the Law School.

Centre Administrator
Ms Kathryn Taylor
Kathryn Taylor joined the Centre in 1998 as the administrative assistant and became the Centre Administrator in 2001. She is also an editorial assistant to the *Australian Journal of Asian Law*. Kathryn completed her Arts degree with Honours in Chinese from the University of Melbourne in 1999, after 16 months studying Mandarin at National Cheng Kung University, Taiwan R.O.C. She completed a Master of Management (International Business) at Monash University in 2001. Kathryn has also completed a Winter Semester in Chinese Law at the East China University of Politics and Law. Her research interests include the Chinese language and culture, the Chinese legal system, law reform and China-Taiwan relations.
Editors

**Professor M.B. Hooker**  (see Asian Law Centre Associates, left)

**Associate Professor Tim Lindsey**  (see Asian Law Centre members, page 5)

**Professor Veronica Taylor**

Veronica Taylor is Professor of Asian Law and Director of the Asian Law Center at the University of Washington, Seattle. She was previously Associate Director (Japan) of the Asian Law Centre at the University of Melbourne.

**Ms Amanda Whiting**

Amanda Whiting joined the Centre in 1999 as a research assistant and as editorial assistant to the *Australian Journal of Asian Law*. In 2002, she became an Editor of the *Australian Journal of Asian Law*. She is currently involved in teaching in the undergraduate LL.B. program, teaching in ‘Land, Race and Law in Southeast Asia’ and ‘Law and Society in Southeast Asia’ since 2001; ‘History and Philosophy of Law’ in 2002 and ‘Property Law’ in 2003. She completed her honours degree in Arts at the University of Melbourne in 1981 and then taught in the University’s History Department over the next decade. She also has a Diploma of Education (1988) and a Graduate Diploma of Indonesian (1995) which was partly undertaken at Universitas Kristen Satya Wacana, Indonesia. She completed her LL.B. with First Class Honours in 2002. She is currently completing her doctorate and her research interests include women, religion and law in Southeast Asia and human rights institutions and practices in the Asia Pacific region.

Editorial Assistant

**Ms Kathryn Taylor**  (see Asian Law Centre Administrator, left)
Ms Fiona Adams
Fiona Adams joined the Centre in 2002 as a research assistant. Fiona completed a Bachelor of Planning and Design (Planning) with Honours at the University of Melbourne in 1995 and is currently completing a Bachelor of Laws. Fiona's research interests include environmental law and planning and development in the Asian region.

Mr Luke Arnold
Luke Arnold joined the Centre in 2001 as a research assistant. He is completing an Arts/Law degree at the University of Melbourne with a focus on Indonesian studies, international development and labour law but is currently working with the ILO in Jakarta. He has spent a significant portion of the last eight years working, studying and travelling in various Asian countries. His current research interests include the regulation of migrant labour in Southeast Asia, employment law in Indonesia, law and economic development in China and Indonesia and the relationship between law and informal economies in Asia.

Mr Neri Colmenares
Neri Colmenares joined the Centre in 2002 as a research assistant. He has been a practicing lawyer since 1996, primarily in criminal law, constitutional law and human rights litigation. He was the Executive Director of the Philippine National Amnesty Commission in 1999 and a member of the National Council of the Philippine Coalition for the ICC. He was actively involved in the action against the Marcos family, which won what was then the largest damages award against a natural person in history. He is also an electoral lawyer and recently succeeded in having several results reversed in the last Philippines election. Neri is currently undertaking a Ph.D. on human rights prosecution and the International Criminal Court. His research interests include human rights, electoral laws and proportional representation, alternative dispute resolution, amnesty and the peace process. In 2003, Neri was made an Associate of the Centre.

Mr Rowan Gould
Rowan Gould joined the Centre in 2002 as a research assistant. He is currently completing a Commerce/Law degree at the University of Melbourne. Rowan has spent most of his life in Indonesia. He is fluent in Bahasa Indonesia and has trained and worked as a legal interpreter and facilitator. He also speaks some Arabic, having spent a semester studying at the University of Jordan and travelling in the region. He is currently Treasurer of the Australia-Indonesia Legal Development Foundation. Rowan's research interests include non-Western understandings of law, legal and religious pluralism, Asian customary law, Islamic law, Islamic banking and finance, Sufism and Asian culture and art (in particular, music, dance and martial arts).
Mr Mohamad Hafiz Hassan

Mohamad Hafiz Hassan joined the Centre in 2002 as a research assistant. An Advocate & Solicitor of the High Court of Malaya in Malaysia and a Syariah Counsel in the Syariah Courts, Hafiz completed his law degree at the International Islamic University, Malaysia (IIUM) in 1992 and subsequently graduated with a Master of Comparative Law (MCL) from the same university. Hafiz also holds a Diploma in Syariah & Legal Practice (DSLP) and practises as a Syariah Counsel in the Syariah Courts in Malaysia. He is currently undertaking a Ph.D. at the Faculty of Law at the University of Melbourne.

Hafiz has lectured at the Faculty of Law, IIUM and writes weekly to a Malay language daily in Singapore on the Syariah. His research interests include Syariah, comparative law, conflict of law and legal pluralism.

Ms Helen Pausacker

Helen Pausacker joined the Centre in 1999 as a research assistant. She is primarily involved with the translation of Indonesian legal texts and book editing. Helen is an Arts graduate of the University of Melbourne (B.A. Hons., B.Litt. and Grad. Cert. in Gender and Development) and Monash University (M.A.). Her research interests include Indonesian culture and the wayang tradition.

Ms Alice Pung

Alice Pung joined the Asian Law Centre in 2001 as a research assistant. She is currently completing an Arts/Law degree, majoring in Southeast Asian Politics. Her research interests include the study of ethnic holocausts in Southeast Asia, in particular Cambodia.

Ms Kerstin Steiner

Kerstin Steiner joined the Centre in 2001 as a research assistant. She holds a Bachelor of Laws from the University of Bielefeld in Germany. In 2002 she completed her Masters of Laws at the University of Melbourne, focusing on Asian and Comparative Law.

She is currently undertaking doctoral studies on “Western Human Rights and Asian Values – Are the Differences Real?”, which compares the different notions of human rights with an emphasis on ‘Asian Values’. Her research interests include comparative law, Asian law and international law.
The Centre receives administrative support from the University of Melbourne of $5,000. The salaries of academic staff members of the Centre are borne by the Faculty, as members undertake standard teaching obligations in the Faculty.

The Asian Law Centre’s research activities in 2002, including 11 salaries of research assistants, were therefore funded largely from research grants and donations by our sponsors.

We thank the following sponsors for their donations in 2002, which are essential to our research program and our public seminar activities (see ‘Brown Bag’ Seminar Series and ‘Occasional’ Seminar Series, below). The Centre could not function without the support of these sponsors.

Grants Received

Cooney, S., Large ARC grant for project entitled Rethinking International Labour Standards: Prospects for Australia and the Asia-Pacific (with Richard Mitchell) (A$82,000).

Lindsey, T., ARC Discovery grant for project entitled Islamic Law in Contemporary Indonesia (with Professor M.B. Hooker (ANU)) (A$139,270).

Nicholson, P., ISSS Grant for project entitled Law and Governance: Socialist Transforming Vietnam (conference) (with Associate Professor John Gillespie (Deakin)) (A$7,269.60).
Islam After September 11 —
Islamic Law and the West: Can Secular Laws and Syariah Co-Exist?
(with the Institute for Comparative and International Law)
Thursday 19 September
Theatre G08, Ground Floor, Melbourne Law School

The Asian Law Centre (‘ALC’) and the Institute for Comparative and International Law (‘ICIL’) jointly convened a full-day seminar at the Melbourne Law School on 19 September 2002, titled ‘Islamic Law and the West: Can Secular Laws and Syariah Co-Exist?’.

This seminar examined the consequences of the events in Afghanistan and New York on September 11 for the interaction of Islamic law and Western legal systems. Speakers included experts on Islam from Southeast Asia and the Middle East.

The aims of the seminar were to promote understanding of certain aspects of Islamic legal systems; to examine tensions between secular and religious laws; and to promote informed public debate on issues surrounding Islam and the West.

For more information, including some conference papers, see http://www.law.unimelb.edu.au/alc/conferences/conf_2002_syariah/index.html
**Lunch with Professor Noboru Kashiwagi**

Monday 11 March, 1:00–2:15pm  
Room 0731, Level 7, Melbourne Law School  

Professor Kashiwagi, a distinguished visitor from the University of Tokyo, spoke at a sushi lunch on Monday 11 March to members of the Law School.  

Professor Kashiwagi is currently chair of a Committee revamping the Bar Exam system in Japan, and another reviewing the position of foreign lawyers. As a former Deputy Head of the Legal Department of Mitsubishi Corporation Japan and Head of the Legal Department of Mitsubishi USA, based in New York, he is also very conversant with practical aspects of international transactions from a Japanese perspective.

Professor Kashiwagi introduced issues relating to foreign lawyers and international transactions in Japan, followed by questions from the group, which included members from the Centre for Corporate Law and Securities Regulation.

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**Asian Graduate Afternoon Tea**

Friday 22 March, 3:00–4:00pm  
Room 0631, Level 6, Melbourne Law School  

On Friday 22 March, the Asian Law Centre hosted an afternoon tea for postgraduate law students from Asia. Approximately 40 students were welcomed by Asian Law Centre and Law School staff. Associate Professor Tim Lindsey informed the students of Asian Law Centre activities and services.

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**Asian Law Online Launch**

Thursday 19 September, 5:30–6:30pm  
Theatre G08, Ground Floor, Melbourne Law School  

*Asian Law Online* was launched by Professor Virginia Hooker, Dean, Faculty of Asian Studies, Australian National University on 19 September, 2002.

*Asian Law Online* is the first online, searchable bibliographic database of Asian law materials in the world. Offered to the public as a service to assist students and scholars of Asian legal systems, it is the biggest collection of English language materials on Asian laws available throughout the world and includes books, chapters in books, journal articles and theses.
The Asian Law Centre regularly hosts ‘Occasional Seminars’ by distinguished scholars and leading practitioners on current Asian legal issues.

**What Went Wrong With Indonesian Law Reform?**

**Wednesday 10 April, 6:00–7:30pm**  
Room 0630, Level 6, Melbourne Law School

The Asian Law Centre hosted a seminar by Professor Hikmahanto Juwana on Wednesday 10 April on the issues surrounding Indonesian law reform.

Since the fall of Soeharto in 1998 and the rise of the *reformasi* movement, Indonesian laws have been subject to a flood of amendments, repeals and new statutes. On paper, the reform movement has achieved significant success. Indonesia now has a legal regime more suited to a modern democratic market economy. However, Indonesia’s formalism has not yet been complemented by real reform of substance and many commentators now regard *reformasi* as having failed. Professor Hikmahanto’s paper spelled out what went wrong with law reform in Indonesia. In particular, he indicated the detrimental role of frequent changes in government to law reform in Indonesia.

**Hikmahanto Juwana** is a Professor of Law at the Faculty of Law, University of Indonesia, the youngest in that country’s history. He is currently a member of the Expert Council in the Department of Justice and Human Rights of the Republic of Indonesia. He was formerly Senior Legal Adviser to the Coordinating Minister for Economic Affairs and Special Assistant to the Minister of Foreign Affairs of the Republic of Indonesia. Professor Juwana is frequently asked to assist government agencies in drafting laws and regulations. Between 1994–1997, he practiced law at the law firm Lubis, Ganie, Surowidjjo and between 1987–1988 at OC Kaligis & Associates, a leading Jakarta firm.

Approximately 45 people attended the evening seminar, including law firm representatives, academics, members of the local Indonesian community and students.

**Socialist Understandings of Privatisation: The Vietnam Experience**

**Wednesday 29 May, 6:00–7:30pm**  
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Mr Hop Dang on Wednesday 29 May on privatisation in Vietnam.

Vietnam is currently in transition from a state-controlled, centralised system to a market economy. In an attempt to expand its private economic sector, Vietnam has embarked upon a campaign to privatisate some of its 6,500 state-owned enterprises, however only 900 enterprises have been privatised since 1992. Although this is largely due to economic factors, legal problems have also contributed significantly to this lack of progress. For example, lack of adequate laws, inconsistent regulations and attempts to maintain state control of privatised companies result in a lack of private investor confidence. The legal issues involved in the privatisation process have demonstrated the tensions that exist when a developing country like Vietnam endeavours to transform itself into a market economy.
Hop Dang is a solicitor with the Australian law firm Phillips Fox, working out of their Melbourne and Hanoi Offices. A graduate of the Hanoi National University in languages in 1994 and in law in 1996, Mr Dang was the first Vietnamese national to obtain an undergraduate law degree from an Australian university, graduating in 1999 with first class honours from Bond University.

Mr Dang offered a comparative perspective on Vietnamese privatisation. His Western legal training combined with extensive experience of the Vietnamese investments sector (both as a lawyer and formerly as a bureaucrat working to facilitate investment in Hanoi) enabled him to speak with authority on Vietnamese privatisation.

Almost 40 people attended the seminar, including legal practitioners, staff and students.

Administrative Justice in China
Tuesday 6 August, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Dr Chen Duanhong and Judge Liu Yuenan on Tuesday 6 August on recent reforms in Chinese administrative law.

In China, administrative law is at the forefront of efforts to create a legal system that protects the rights of citizens and imposes constraints on the exercise of state power. Administrative litigation has been at the forefront of reforms in Chinese administrative law. It was the first law to allow citizens to challenge the decisions of government officials in a broad range of areas. Since the system of administrative litigation was introduced in 1990, there have been a range of other legislative reforms which have sought to place increasing constraints on the ways in which government agencies exercise their powers as well as to introduce principles of procedural fairness into government decision-making. The latest of these reforms is set out in the draft Administrative Licences Law.

Dr Chen Duanhong (above) is Associate Professor in Peking University Law School. In addition to his work on development of the system of rule of law in China, he specialises in the development of China’s administrative legal infrastructure. Dr Chen has participated in the negotiation and drafting of China’s key administrative legislation, including, most recently, the draft Administrative Licences Law.

Judge Liu Yuenan is the chief judge in the Administrative Division of the Intermediate People's Court in Guangzhou. The administrative divisions of the courts in Guangzhou were selected to carry out reform of the system for conduct of court trials. This experiment was intended to move away from the current inquisitorial system to introduce a system with more features of the adversarial system. Judge Liu has been instrumental in the implementation of these reforms in his court, and has extensive experience and expertise in the operation of the fledgling system of administrative litigation.
Dr Chen discussed the reform process and provided insight into the institutional and practical hurdles of the establishment of a comprehensive set of rules of administrative procedure in China. Judge Liu discussed the difficulties of administrative reform in China.

Almost 40 people attended the seminar, including law firm representatives, academics and students.

A Secret Process? Policy, Economy and Reform in Vietnam
Wednesday 21 August, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Dr Adam McCarty on Wednesday 21 August on the policy-making process in Vietnam.

The Vietnamese Communist Party has maintained its legitimacy over 15-20 years of rapid economic development and social upheaval. Integral to this achievement has been its ability to make formal changes to policies in response to pressures for change (or to legitimise changes that happen informally). Yet the Vietnamese ‘policy making process’ remains obscure and complex, particularly since public scrutiny of policy processes is not seen as a virtue.

Dr Adam McCarty is Chief Economist of Mekong Economics and concurrently directs the Masters in Development Economics based at the Hanoi National Economics University, a project initiative of the Institute of Social Studies, The Hague. He has a Ph.D. in Economics from the Australian National University and a B.Comm. from the University of Melbourne. Dr McCarty has previously been based at the School of Oriental and African Studies at the University of London and the ANU.

Dr McCarty has been working and researching in Vietnam since 1990, both as a consultant to business and to multilateral and bilateral donors. Policy research conducted by Dr McCarty includes studies of trade policies, the labour market, governance structures, social sector transition and the impact of globalisation on Vietnam. He regularly contributes journal articles and reports on these issues.

Dr McCarty outlined the formal economic policy-making process in Vietnam, particularly exploring how it works in practice and the role of the Communist Party. Integral to his analysis was an assessment of the roles of central and local governments and the enhanced role for ‘legal instruments’. In particular, the paper asked what drives Vietnamese policy decisions? What forces push the Government of Vietnam to make changes (“bottom-up”), and how? What forces pull from inside the Government (“top-down”), and how? Finally, the paper addressed the impacts of both economic crises and changing economic doctrine on the reform process.

More than 30 people attended the seminar, including law firm representatives, academics, members of the local Vietnamese community and students.
Hong Kong: A Tiger Ready To Retire?

Wednesday 11 September, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Professor Richard Cullen on Wednesday 11 September on the challenges facing Hong Kong.

Hong Kong has faced an array of problems since its handover to China in July 1997. Some difficulties were predicted. Many were not. Certain challenges have arisen from within Hong Kong – others (though, so far, comparatively few) have originated in Beijing. Hong Kong has also been buffeted by regional and global stresses (most notably the Asian Financial Crisis and the dotcom meltdown, respectively).

Richard Cullen is a Professor in the Department of Business Law and Taxation in the Faculty of Business and Economics at Monash University. Since 1992, he has spent around eight years working in the School of Law at the City University of Hong Kong. He completed his LLB (Hons) at the University of Melbourne in 1982 and his Ph.D. at Osgoode Hall Law School in Canada in 1986. He is admitted to practise law in Australia, England, Wales and Hong Kong. Professor Cullen is the author or co-author of several books including Media Law in the PRC and Federalism in Action and has been a visiting scholar at universities in Austria, Belgium, Canada, England, Japan and Switzerland. His research interests include public law, taxation law, media law, professional ethics and Asian business law.

Professor Cullen described how Hong Kong has coped with the challenges it has faced and explained that the signs are mixed. On the one hand, the first HKSAR Government often seemed engulfed by one crisis after another – leaving little time for it to provide convincing and creative leadership. On the other hand, there are clear signs that Hong Kong has – not without considerable pain — begun the process of reinventing itself over the last few years. It did this in the 1950s and in the 1970s. To a large extent this latest reinvention, like its predecessors, is a “bottom-up” phenomenon.

More than 30 people attended the seminar, including practitioners, staff and students.
‘Brown Bag’ Seminar Series

The Asian Law Centre regularly hosts its lunchtime ‘Brown Bag’ Seminars. In this series, postgraduates and academics who are researching and writing on Asian legal topics present papers on work in progress or rehearse a conference or article submission. The forum provides a collegial atmosphere for peer feedback.

Human Rights in the Philippines:
Implementing the Rome Statute for the International Criminal Court
Wednesday 27 March, 1:00–2:15pm
Room 0731, Level 7, Melbourne Law School

Neri Javier Colmenares was the Executive Director of the Philippine National Amnesty Commission until July 1999. A graduate of the College of Law, University of the Philippines, he is currently undertaking his Ph.D. at the University of Melbourne and is a research assistant at the Asian Law Centre. Neri was a student leader during the period of martial law under President Marcos and was active in human rights advocacy. He was arrested twice under a Presidential Commitment Order and was imprisoned and tortured for a total of four years. Following the Marcos human rights case, which decided that the ex-President could not be charged under domestic law with a criminal offence, Neri became involved in the movement to establish the International Criminal Court (ICC). He is now a member of the national council of the Philippines Coalition for the Establishment of the ICC. Neri’s doctoral research focuses upon the impact that the ICC will have upon the Philippines legal system generally, and the domestic prosecution of human rights violators in particular.

The Philippines is a signatory to major UN conventions on human rights and humanitarian law and has made policy pronouncements declaring its commitment to respecting and advancing human rights. However, Philippine state practice since it signed the UN Human Rights Declaration in 1948 is a dismal record of failure to fulfil its human rights obligations. The same failure could attend the implementation of the Rome Statute, which the Philippines recently signed. Neri’s seminar indicated that for the ICC not to suffer the same fate as previous human rights commitments, there is a need to determine the nature of the impediments to carrying out the state’s human rights obligations.

Fatwa: Islamic Law in South-East Asia
Wednesday 10 April, 1:00–2:15pm
Room 0630, Level 6, Melbourne Law School

Professor M.B. Hooker is considered a leading international expert on comparative law in South-East Asia, in particular syariah (Islamic law) and adat (traditional customary law). Now Adjunct Professor in the Law Faculty at the Australian National University, he was previously a Professor of Comparative Law at the University of Kent at Canterbury. He is an Associate of the Asian Law Centre and has published extensively on Islam and traditional legal systems in Southeast Asia.

Professor Hooker’s seminar focused on the role that fatawa (Islamic legal rulings/opinions) have played in building a new Islamic jurisprudence and the contradictions that exist within the various forms of fatawa. The presentation covered issues such as contraception, abortion, organ transplants, IVF, banking, drugs, gambling and the role of women.
Indonesia: Politics Update
Wednesday 1 May, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

**Associate Professor Tim Lindsey** is Director of the Asian Law Centre at the University of Melbourne, where he established a South East Asian law program in 1994. Tim is an internationally recognised specialist in Indonesian law and society and holds the degrees of BA (Hons), LLB, BLitt (Hons) and Ph.D. from the University of Melbourne. He has taught at the Australian National University, as well as the Centre for Asia-Pacific Initiatives at the University of Victoria, British Columbia.

Tim has worked extensively as a consultant on international legal education programs and on law reform, particularly in Indonesia. He consults regularly to policy makers in Indonesian government Ministries and within international aid organisations. He is a member of the Australia-Indonesia Institute, an advisory board within the Australian Department of Foreign Affairs and Trade.

Tim Lindsey had recently visited Jakarta with the Australia-Indonesia Institute and met with Indonesian leaders, including President Megawati Soekarnoputri and Islamic community figures. Since Megawati’s replacement of Abdurrahman Wahid as President, Indonesia has stabilised and political activity is now focused on the 2004 elections. Tim spoke of his impressions from his visit and speculated on events over the next 18 months.

Corporate Governance in Japan
Wednesday 8 May, 1:00–2:15pm
Room 0731, Level 7, Melbourne Law School

**Minako Homma** has been an associate professor of law at Kurume University in Japan since 1999. Minako is a specialist in company law and holds the degrees of B.A. in law (1993) and LL.M. (1995) from Waseda University. She is currently a visiting scholar at the Asian Law Centre and is undertaking research into Australian company law. She will be a visiting scholar at the Institute of Advanced Legal Studies, the University of London from June 2002, where she will be conducting research into English company law reform and the chartered directors system of the Institute of Directors.

Corporate governance has been a matter of contention in many countries in the 1990s and 2000s. In recent discussions on corporate governance, sound and fair management, as well as efficient management have tended to be emphasised. For these reasons, amendments have been made to the Commercial Code and the Audit Special Exceptions Law in Japan in 2002. In this seminar, after explaining the history and the existing system of Japanese corporate governance in brief, Japan's company law reform on corporate governance in 2002 was analysed.
China and Religious Freedom
Wednesday 22 May, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

Dr Carolyn Evans is a senior lecturer in the Faculty of Law at the University of Melbourne. After completing her LL.B. at the University of Melbourne, Carolyn Evans went to Oxford University on a Rhodes scholarship, where she wrote a dissertation on Religious Freedom Under the European Convention on Human Rights, published by Oxford University Press in 2001. She is also the co-editor of Religion and International Law (Kluwer, 1999). She currently teaches ‘International Law’, ‘Advanced International Law’ and ‘History and Philosophy of Law’.

The status of religious groups in China is a controversial one. While many Western states and NGOs accuse China of religious persecution, China maintains that it respects the religious freedom of all its people. In this seminar, Carolyn Evans questioned the extent to which China’s laws and policies comply with the international law relating to religious freedom. Issues such as the laws regulating Falun Gong and politico-religious behaviour in regions such as Tibet were put in the context of the international debates over the appropriate treatment of religion. The seminar illustrated that a number of the areas in which China has been criticised have also been a problem for other states, but it also argued that there is a fundamental inconsistency between the excessively state-controlled religious system in China and respect for religious freedom. The talk was based on an article that is to be published by the Journal of Church and State.

Land Law Reform Policy in Indonesia
Monday 12 August, 1:00–2:15pm
Seminar Room G27, Ground Level, Melbourne Law School

Dr Rainer Adam is the Representative of the Friedrich Naumann Foundation in Jakarta. He has also worked for the Foundation in Beijing, Singapore and New Delhi. He specialised in rural development during his studies in Agriculture and Economy, which led to a Ph.D. from Bonn University in 1987. Dr Adam has also been a representative at the FAO in the Department of Human Resources, Institutions and Land Reforms, stationed at the UN in Rome.

Since 1998 there has been a rapid increase in illegal resource extraction across Indonesia. Decentralisation has aggravated the problem by shifting the benefits of exploitation from central to local elites. The Indonesian government has reacted by issuing a number of decrees, aiming at a more sustainable natural resource use. But this requires a change to the Constitution. Article 33 of the Constitution places community rights in a subordinate role to that of the State and ignores existing traditions (adat). Without legally enforceable recognition of the rights of communities, other reform measures will not deter further destruction of forests. He argued that rehabilitation of indigenous property rights would empower local stakeholders, indigenous people and tribal groups, reduce violent conflict and lend dignity to many marginalised communities.
Globalisation, Regulatory Character and Reform: Understanding Safety Reform Following the Kader Toy Factory Fire in Bangkok, Thailand
Wednesday 11 September, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

Dr Fiona Haines is a senior lecturer in the Department of Criminology, University of Melbourne. She completed her BA (Hons) and Ph.D. at the University of Melbourne. She teaches in a range of areas including ‘Compliance, Regulation and Crime’ and the ‘Sociology of Crime and Deviance’. Her research interests are primarily in the area of corporate harm and regulation. A central theme of her work is to locate corporate harm and its regulation within its social, economic and political context. She has published a range of articles in both the popular and academic press as well as two books, including Corporate Regulation: Beyond ‘punish or persuade’.

Regulatory effectiveness remains a high priority but an elusive goal for many governments. Regulations change, often spurred by developments in other jurisdictions and often justified by the epithet global “best practice”. An underlying assumption of such reform is that “best practice” will provide an optimal outcome irrespective of the particular economic, political and cultural context within which the regulator has to work. A means of understanding the unique contribution of place in moulding both regulatory reform and its enforcement is sorely needed in order to assess the worth of reforms within a particular context.

Fiona Haines’ paper explored the possibility of regulatory character as a means of understanding the importance of place and involves an understanding of culture, economic and political elements arranged schematically according to the dimensions of authority and social ordering. The paper outlined the concept and then used it to understand the significance of regulatory reform and regulatory effectiveness in Thailand following the Kader Toy Factory Fire, the largest factory fire in history.

Law and the Ethnic Chinese in Southeast Asia: A Post-Crisis Update
Wednesday 16 October, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

Professor Dr Leo Suryadinata was professor in the Department of Political Science at the National University of Singapore until June 2002. He is currently Senior Research Fellow in the Institute of Southeast Asian Studies, Singapore. He has published extensively on the ethnic Chinese in Southeast Asia, Indonesian politics and foreign relations. His most recent books include Ethnic Chinese and Nation Building in Southeast Asia (1999); Ethnic Chinese in Singapore and Malaysia: A Dialogue Between Tradition and Modernity (2002); Elections and Politics in Indonesia (2002); and Negara dan Etnis Tionghoa: Kasus Indonesia (forthcoming).
States in Southeast Asia favoured the principle of “indigenism” in formulating laws and regulations. In other words, they favoured the indigenous population at the expense of non-indigenous people (that is, the ethnic Chinese). With globalisation and democratisation, many Southeast Asian states have been forced to “readjust” their laws and regulations to conform to the principle of equality. The financial crisis has further pressured these states to adjust their policy towards ethnic Chinese. Dr Suryadinata examined discriminatory laws and regulations in Indonesia and Malaysia after the rise of globalisation and democratisation, with special reference to their citizenship laws and regulations relating to Chinese minority rights in the political, cultural and economic fields. He discussed the question of whether post-crisis Southeast Asia has adopted equality in the treatment of the ethnic Chinese.

Has East Timor’s Legal System Already Failed?
Thursday 31 October, 1:00—2:15pm
Seminar Room 0222, Level 2, Melbourne Law School

Colin McDonald QC was first admitted as a solicitor in Victoria in 1975. He moved to the Northern Territory in November 1981 to practice law and commenced work as a solicitor with the North Australian Aboriginal Legal Aid Service in 1981. Colin has been at the Northern Territory independent Bar since May 1984. He was appointed Queen’s Counsel on 24 January 1997. Colin is admitted to practice law in Western Australia, South Australia and Victoria. He speaks some Bahasa Indonesia.

East Timor achieved independence from Indonesia after almost three decades, with support from all around the world. Assistance from countries such as Australia and Portugal was not limited to armed intervention, but also focused on attempts to establish the rule of law in the world’s newest country. East Timor, however, decided to adopt Indonesian law, despite the many problems of that system. Today, nearly half a year after independence, East Timor’s legal system is already showing faultlines. The judiciary are locked in a confrontation with the executive; the language problems of Portuguese, Indonesian, English and Tetum make judicial administration complex and slow; public defenders and prosecutors already appear dysfunctional; and the judges have been on strike. Complaints from litigants, especially foreigners, are widespread. They claim the courts are biased against them. Can the rule of law survive? Colin McDonald spoke from personal experience as counsel in litigation in East Timor, drawing on long-standing links between Darwin and East Timorese legal communities.
The Origins of the UN Universal Declaration of Human Rights
Friday 31 May, 12:30–1:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre jointly hosted an informal discussion with the Institute for Comparative and International Law on Friday 31 May. **Professor Mary Ann Glendon**, the Learned Hand Professor of Law at Harvard University, discussed her research into the origins of the Universal Declaration of Human Rights.

**Professor Glendon** received Bachelor of Arts, Juris Doctor and Master of Comparative Law degrees from the University of Chicago and subsequently held a two-year postgraduate fellowship studying European law at the Université Libre de Bruxelles. She has received honorary doctorates from numerous universities, including the Universities of Chicago and Louvain. In 1994, she was appointed to the Pontifical Academy of Social Science. In 1995, she headed the delegation of the Holy See to the Fourth U.N. Women’s Conference in Beijing.


Almost 40 people attended the ALC / ICIL Discussion, including staff and graduate students. The Discussion was chaired by Associate Professor Richard Garnett, a former student of Professor Glendon.

Asian Law Online was developed by the Asian Law Centre and is the result of five years of research. It has been supported by grants from the Australian Research Council, a Special Initiatives Grant in 1998 and the Asian Laws in Transition ARC Large Grant in 1999.

Asian Law Online is the first online, searchable bibliographic database of Asian law materials in the world. Offered to the public as a service to assist students and scholars of Asian legal systems, it is the biggest collection of English language materials on Asian laws available throughout the world and includes books, chapters in books, journal articles and theses.

The database is organised according to countries in East Asia and a selection of basic legal areas. The database can be searched for any word or a more specific advanced search can be conducted. The database is also linked to a list of useful websites for each country and legal area.

The Asian Law Online website, which can be accessed at http://www.law.unimelb.edu.au/alc/bibliography, received 46,766 hits in 2002, with an average of 3,897 hits per month. The Browse menu alone represented 77.6% (36,296) of these hits. Given that Asian Law Online was launched formally only in September, these statistics are proof of the popularity of this searchable database amongst academics, researchers, practitioners and students.

Useful Research Links

Linked to Asian Law Online, the Useful Research Links website is a searchable database of useful websites.

The database is organised according to countries in East Asia and a selection of basic legal areas and can be searched for any word. It can be accessed at http://www.law.unimelb.edu.au/db/useful_links/alc/ or through Asian Law Online.

The Asian Law Centre provides support to interactive live, online law teaching in Indonesia for under-resourced universities through the Law and Finance Institutional Partnership (LFIP).

Led by Associate Professor David Linnan from the School of Law at the University of South Carolina and a frequent visitor to the Asian Law Centre, LFIP is a joint initiative between the University of Indonesia Graduate Law Program (Program Pasca Sarjana Fakultas Hukum UI), the Jakarta Stock Exchange (Bursa Efek Jakarta) and the University of South Carolina. As of July 2002 LFIP included five new Indonesian and foreign university partners: Gadjah Mada University Graduate Law Program (UGM Program Hukum Bisnis dan Kenegaraan), the University of Washington Asian Law Program, the University of Melbourne Asian Law Centre, the Centre for Asia-Pacific Initiatives at the University of Victoria, Canada and Lehrstuhl II of the Kriminalwissenschaftliches Institut at the University of Cologne, Germany.

This Partnership provides a content-based distance education network for graduate law programs, relying on instructional videoconferencing and web-based materials. LFIP can be accessed at http://www.lfip.org.
<table>
<thead>
<tr>
<th>Date of Visit</th>
<th>Visiting Scholar</th>
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<tr>
<td>15 October 2001 — 14 May 2002</td>
<td>Mr Dong-yoel Lee, <em>Kwangju Public Prosecutor’s Office</em>, Korea</td>
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<tr>
<td>3–13 March</td>
<td>Professor Noboru Kashiwagi, <em>Professor of Law, University of Tokyo</em>, Japan</td>
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<tr>
<td>15 March</td>
<td>Delegation from <em>China University of Politics and Law</em>, People’s Republic of China</td>
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<td>- Mr Shi Ya-Jun, Chairman, University Council, China University of Politics and Law</td>
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<td>- Professor Tian Wei-Min, China University of Politics and Law</td>
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<td></td>
<td>- Professor Wang Yong, China University of Politics and Law</td>
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<td></td>
<td>- Mr Yang Qin-Huo, Director-Chief, Section of International Academic Exchange and Cooperation, China University of Politics and Law</td>
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<td>- Professor Zhu Yong, Vice-President, University Administrative &amp; Procedure Law, China University of Politics and Law</td>
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<td>7–13 April</td>
<td>Professor Hikmahanto Juwana, <em>Professor of Law, Faculty of Law</em>, <em>University of Indonesia</em>, Indonesia</td>
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<td>8–19 April</td>
<td>Professor M.B. Hooker, <em>Adjunct Professor, Faculty of Law</em>, <em>Australian National University</em>, Australia</td>
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<tr>
<td>16 May</td>
<td>Ms Yoko Kurono, <em>Waseda University</em>, Japan</td>
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<td>29 May</td>
<td>Mr Hop Dang, <em>Solicitor, Phillips Fox Lawyers</em>, Vietnam</td>
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<tr>
<td>31 May</td>
<td>Professor Mary Ann Glendon, <em>Learned Hand Professor of Law</em>, <em>Harvard Law School</em>, U.S.A.</td>
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<tr>
<td>12–15 June</td>
<td>Ms Nini Halim, <em>Partner, Hutabarat, Halim &amp; Rekan Lawyers</em>, Indonesia</td>
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<td>This visit was part of a program of visits for Indonesian lawyers, under the auspices of the International Legal Services Advisory Council (ILSAC), a department of the Commonwealth Attorney-General’s Office.</td>
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<tr>
<td>30 July–9 August</td>
<td>Dr Chen Duanhong, <em>Associate Professor, Law School</em>, <em>Peking University</em>, People’s Republic of China</td>
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<tr>
<td>30 July–9 August</td>
<td>Judge Liu Yuenan, <em>Chief Judge, Administrative Division</em>, <em>Guangzhou Intermediate People’s Court</em>, People’s Republic of China</td>
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<td>12 August</td>
<td>Dr Rainer Adam, <em>Friedrich Naumann Foundation</em>, Germany</td>
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<td>21 August</td>
<td>Dr Adam McCarty, <em>Chief Economist, Mekong Economics</em>, Vietnam</td>
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<tr>
<td>11 September</td>
<td>Professor Richard Cullen, <em>Department of Business Law and Taxation, Faculty of Business and Economics</em>, Monash University, Australia</td>
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<tr>
<td>18–20 September</td>
<td>Dr Dewi Fortuna Anwar, <em>Deputy Chair for Social Sciences and Humanities at the Indonesian Institute of Sciences (LIPI); Director for Programs and Research, Habibi Center</em>, Indonesia</td>
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<td>18–20 September</td>
<td>Professor Dr Shad Saleem Faruqi, <em>Professor of Law, Universiti Teknologi MARA</em>, Malaysia</td>
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<tr>
<td>18–20 September</td>
<td>Professor M.B. Hooker, <em>Adjunct Professor, Faculty of Law, Australian National University</em>, Australia</td>
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<tr>
<td>18–20 September</td>
<td>Professor Virginia Hooker, <em>Dean, Faculty of Asian Studies, Australian National University</em>, Australia</td>
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<td>18–20 September</td>
<td>Ms Jamila Hussain, <em>Faculty of Law, University of Technology, Sydney</em>, Australia</td>
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<tr>
<td>22–24 September</td>
<td>Ms Wiwiek Awiati, <em>Executive Director, Indonesian Center for Environmental Law (ICEL); Lecturer, Faculty of Law, University of Indonesia</em>, Indonesia</td>
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<td>This visit was part of a program of visits for Indonesian lawyers, under the auspices of the International Legal Services Advisory Council (ILSAC), a department of the Commonwealth Attorney-General’s Office.</td>
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<td>16–18 October</td>
<td>Professor Dr Leo Suryadinata, <em>Senior Research Fellow, Institute of Southeast Asian Studies</em>, Singapore</td>
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<td>20–22 October</td>
<td>Mr Kent Anderson, <em>Faculty of Law, Australian National University</em>, Australia</td>
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<td>25 October</td>
<td>Delegation from <em>Henan Province</em>, People’s Republic of China</td>
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<td>28 October</td>
<td>Delegation from <em>Henan Provincial Establishment Organisation Committee Office (EOCO)</em>, People’s Republic of China</td>
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<tr>
<td>■ Mr Cheng Leyi, <em>Director, Research &amp; Service Centre, Henan Provincial EOCO</em></td>
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<td>■ Ms Feng Li, <em>Researcher, Henan Bureau of Foreign Experts; Assistant Secretary-General, Henan Association of International Exchange of Personnel</em></td>
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<td>■ Mr Gao Changqing, <em>Director, Zhoukou Municipal EOCO, Henan Province</em></td>
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<td>■ Mr Han Shousheng, <em>Director, Shangqiu Municipal EOCO, Henan Province</em></td>
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<td>■ Mr Kou Bingcan, <em>Deputy Director, Henan Provincial EOCO; Deputy Chief, Henan Provincial Personnel Department</em></td>
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<td>■ Mr Li Jianjun, <em>Division Chief, Zhengzhou Municipal EOCO, Henan Province</em></td>
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<tr>
<td>■ Mr Liu Lei, <em>Division Chief, Personnel Division, Henan Provincial News Publishing Bureau</em></td>
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Date of Visit | Visiting Scholar
---|---
30 October | Mr Colin McDonald QC, Barrister, William Forster Chambers, Australia

Visiting Scholars 2002

Dinner with Ms Nini Halim, Partner, Hutabarat, Halim & Rekan Lawyers, Indonesia

Rear Left to Right: Kathryn Taylor, Lanita Lindsey, Helen Pausacker, Tim Lindsey, Nini Halim, Bruce Johnston (Allens Arthur Robinson), Yeow Choy Choong (University of Malaya)

Front Left to Right: Neri Colmenares, Geoff Musgrove (Maddocks), Commissioner Hingley (Australian Industrial Relations Commission), Gillian Triggs, Justin Fox (Corrs Chambers Westgarth)
Members of the Centre again contributed a full programme of Asian Law related subjects at the undergraduate and graduate levels. The Law School continues to offer the best coverage of Asian Law in Australia. It is seen as an East Asian leader in this field and its program is among the most extensive Asian law teaching programs in the world.

Subjects in the Law School's programme for 2002 included:

**Undergraduate Programmes**
- Commercial Law in Asia – Semester 2
- Land, Race and Law in Southeast Asia – Semester 1
- Law and Society in Japan – Summer semester
- Law and Society in Southeast Asia – Semester 2

**Not Offered in 2002 — Undergraduate**
- Issues in Chinese Law
- Law and Civil Society in Asia
- Law and Labour Relations in East Asia
- Law and Society in China

**Postgraduate Programmes**
- Commercial Law in Asia – Semester 2
- Comparative Companies Law in the Asia Pacific Region – Semester 2 (intensive)
- Debt Recovery in Asia – Semester 1
- Globalisation, APEC and Law – Semester 1
- International Franchising, Distribution and Licensing – Semester 2 (intensive)
- Islamic Law and Politics in Asia – Semester 1 (intensive)
- Law and Economic Reform in Asia – Semester 2

**Not Offered in 2002 — Postgraduate**
- Alternative Commercial Dispute Resolution in Asia
- Asia-Pacific Constitutional Systems
- Aspects of Comparative and International Labour Law
- Harmonisation of Commercial Laws in the APEC Region
- Legal Aspects of Finance in Asia
Major Institutional Contributions

Chulalongkorn University, Bangkok

Professor Malcolm Smith participated for the third time in the teaching of a graduate course at Chulalongkorn University on Commercial Alternative Dispute Resolution.

Associate Professor Richard Garnett also taught the course, together with Judge Vichai of the Board of International Trade of Thailand. The subject was offered in the LL.M. Business Law at Chulalongkorn University and was taught in English.

Graduate School for International Development, Nagoya University

Professor Malcolm Smith spent three months from October 1, 2002 at the Graduate School for International Development (GSID) at Nagoya University. His research program was supported by a Fellowship from the Japanese Ministry of Education, Science and Culture.

GSID was established ten years ago as a postgraduate Institute for Development Studies. Four Professors from the program have previously visited the Asian Law Centre, including Professor Iwasaki, Professor Yasuda, Professor Kubota and Professor Nakahigashi. The Law Faculty at Nagoya University hosts one of Japan's largest programs for legal exchanges with the countries of Asia, especially from the former Socialist countries.

While researching at Nagoya, Malcolm Smith participated in a Seminar on Asian Law hosted by the Institute of Developing Economies, Tokyo, and a Conference on Asian Law hosted by Kyushu University, where he was the keynote speaker. He gave papers on Australian legal education at Nagoya University and at Osaka City University, and a paper on Corporate Governance in Australia at Nagoya University. Revised versions of these presentations have been accepted for publication in 2003.

While in Japan, he also facilitated the new exchange program with the Supreme Court of Japan, which has already seen short visits by Judge Handa of the Tokyo High Court and Judge Hosoda of the Tokyo District Court, and a one year visit by Judge Nakajima of the Osaka District Court, which is to begin in July 2003.

ANU MBA

Associate Professor Tim Lindsey taught “Legal Frameworks of Business in Asia” as part of the MBA at Australian National University for the fifth time. The ANU MBA program attracts students from across Asia, Europe and USA, as well as Australia and has been a prize-winning initiative.

Chinese Delegations

On 25 October, Ms Sarah Biddulph gave a lecture to a delegation from Henan province, People’s Republic of China, on the Australian legal system. She also presented a lecture to the Henan Provincial Establishment Organisation Committee Office on 28 October.
Research Students Under Supervision of Centre Members

Members of the Centre continued to offer supervision to a large group of Australian students interested in Asian law and international students studying at the Law School, most of whom are Ph.D. candidates. This is the largest Doctoral group working on Asian law in a single Centre in the world. In addition, Centre members are involved on a daily basis with assistance for LL.M. and Graduate Diploma by coursework students.

Higher degree research candidates who submitted or successfully completed in 2002 were:

Mr Ryad Chairil (Ph.D.)
■ Supervisors: Michael Crommelin, Tim Lindsey
  “The Indonesian Mineral Regime: A Model for the Future — Learning From Other Countries in Implementing Regulatory Change”

Mr Yeow Choy Choong (Ph.D.)
■ Supervisors: Michael Tilbury, Tim Lindsey
  “Summary Disposition in the New Procedural Landscape: Proposals for Reform in Malaysia”

Mr Sunseop Jung (Ph.D.)
■ Supervisor: Malcolm Smith
  “Legal Aspects of OTC Derivatives: Reducing Uncertainty Through Legislative Reform”

Ms Kate McGregor (Ph.D. (Arts))
■ Supervisor: Tim Lindsey
  “The Military and History in Indonesia”

Ms Inge Resdiano (LL.M.)
■ Supervisor: Tim Lindsey
  “Corporate Governance in Indonesia, Singapore and Australia – A Comparison”

Ms Kerstin Steiner, Ph.D. Candidate

Mr Nguyen Hien Quan, Ph.D. Candidate
Research Students

Research students under the supervision of Centre members included:

Ms Sarah Biddulph (Ph.D.)
- Supervisors: Cheryl Saunders, Michael Dutton, Pip Nicholson
- Expected Year of Completion: 2004
  “Controlling Detention for Investigation: Legal Accountability of the Chinese Public Security Organs”

Mr Simon Butt (Ph.D.)
- Supervisor: Tim Lindsey
- Expected Year of Completion: 2005
  “District Courts in Indonesia”

Mr Ryad Chairil (Ph.D.)
- Supervisors: Michael Crommelin, Tim Lindsey
- Submitted in 2002
  “The Indonesian Mineral Regime: A Model for the Future — Learning From Other Countries in Implementing Regulatory Change”

Mr John Chellew (Ph.D.)
- Supervisor: Malcolm Smith
- Expected Year of Completion: 2004
  “Derivatives Regulation: Drafting the Best Legal Definition of ‘Derivative’”

Mr Yeow Choy Choong (Ph.D.)
- Supervisors: Michael Tilbury, Tim Lindsey
- Submitted in 2002
  “Summary Disposition in the New Procedural Landscape: Proposals for Reform in Malaysia”

Mr Neri Colmenares (Ph.D.)
- Supervisors: Tim Lindsey, Tim McCormack
- Expected Year of Completion: 2004
  “Cruising Impunity Through the International Criminal Court: The Case of the Philippines”

Ms Susi Harijanti (Ph.D.)
- Supervisors: Cheryl Saunders, Tim Lindsey
- Expected Year of Completion: 2005
  “The Role and Function of the National Ombudsman Commission in Creating Good Governance in Indonesia”

Mr Budi Darmono (Ph.D.)
- Supervisor: Tim Lindsey
- Expected Year of Completion: 2003
  “Adat and Forestry Laws in a Plural System: A Study of Indonesian ‘Legal Development’”

Ms Alice de Jonge (SJD)
- Supervisor: Malcolm Smith
- Expected Year of Completion: 2004
  “Media and Markets in Hong Kong and the People’s Republic of China: Maintaining Corporate standards in China’s H-Share Market”

Mr Joseph Eng (Ph.D.)
- Supervisor: Tim Lindsey
- Expected Year of Completion: 2003
  “A Critical Review of the Customary Land Rights of the Natives of Sarawak”

Ms Paloma Hatami (Ph.D.)
- Supervisor: Tim Lindsey
- Expected Year of Completion: 2006
  “Are Islamic Principles Sufficient for a Stable Economy? Implications for Trade, Investment and Banking in Islamic Countries: Case Study of Iran and UAE”

Mr Peter Holland (Ph.D.)
- Supervisor: Tim Lindsey
- Expected Year of Completion: 2007
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<tr>
<th>Name</th>
<th>Degree</th>
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<th>Supervisor(s)</th>
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<tr>
<td>Mr Sunseop Jung</td>
<td>Ph.D.</td>
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<td>Malcolm Smith</td>
<td>“Legal Aspects of OTC Derivatives: Reducing Uncertainty Through Legislative Reform”</td>
</tr>
<tr>
<td>Ms Kate McGregor</td>
<td>Ph.D. Arts</td>
<td>2002</td>
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<td>Mr Nguyen Hien Quan</td>
<td>Ph.D.</td>
<td>2005</td>
<td>Tim Lindsey, Pip Nicholson</td>
<td>“Institutional Efficiency and Commercial Dispute Resolution in Southeast Asia — A Game Theory Analysis”</td>
</tr>
<tr>
<td>Ms Inge Resdiano</td>
<td>LL.M.</td>
<td>2002</td>
<td>Tim Lindsey</td>
<td>“Corporate Governance in Indonesia, Singapore and Australia — A Comparison”</td>
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<td>Mr Arskal Salim</td>
<td>Ph.D. Arts</td>
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<td>“Islamisation of Laws in a Modernising State: Sharia in Indonesia 1945–2005”</td>
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<td>Ms Chenxia Shi</td>
<td>Ph.D.</td>
<td>2004</td>
<td>Tim Lindsey, Sean Cooney</td>
<td>“Can Corporate Governance and Directors’ Duties Converge? — From a Chinese Perspective”</td>
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<tr>
<td>Ms Kerstin Steiner</td>
<td>Ph.D.</td>
<td>2005</td>
<td>Tim Lindsey</td>
<td>“Western Human Rights and Asian Values: Are the Differences Real?”</td>
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<td>Ms Ann Wardrop</td>
<td>Ph.D.</td>
<td>2006</td>
<td>Tim Lindsey</td>
<td>“Public Interest in the Insolvency of Privatised Essential Services”</td>
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<td>Ms Phoebe Wynn-Pope</td>
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<td>Tim Lindsey</td>
<td>“What are the Criteria for Determining When a Threat to or Violation of Human Security Should Justify an External Intervention?”</td>
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<td>Ms Julia Se Se Zhang</td>
<td>Ph.D.</td>
<td>2004</td>
<td>Malcolm Smith, Sarah Biddulph</td>
<td>“Technology Transfer to China: An Examination on the Nature of the Contractual Relations between Recipients and Suppliers”</td>
</tr>
</tbody>
</table>
Corruption in Asia

Corruption in Asia: Rethinking the Governance Paradigm was published by Federation Press in January 2002. This book is a result of the Asian Law Centre/Australian Centre for International Business conference in 2000, “Rethinking the Good Governance Paradigm: Corruption and Social Engineering in Indonesia and Vietnam.”

The book is edited by Tim Lindsey with Associate Professor Howard Dick of the Australian Centre for International Business. Dr Pip Nicholson (Associate Director (Vietnam)) is one of a range of Asian, Australian and North American contributors with chapters on why law reform in Asia has failed to stop corruption and how governance reform can be improved.

Law and Labour Market Regulation in East Asia

Law and Labour Market Regulation in East Asia (Routledge, 2002) was launched by Justice Peter Gray of the Federal Court of Australia on Friday 4 October.

Co-edited by Centre members Sean Cooney and Tim Lindsey with Centre Associate Professor Richard Mitchell of the Centre for Employment and Labour Relations Law and Dr Ying Zhu from the Department of Management, this edited collection examines the labour laws of seven industrialising East Asian societies – China, Indonesia, Malaysia, South Korea, Taiwan, the Philippines and Vietnam – and discusses the variation in their impact across the whole region. Justice Peter Gray stated that it fills a major gap in current scholarship.

Labour conditions in many East Asian countries are often poor; stories of abuses are commonly reported in the press. It would seem that local laws frequently do not provide much assistance to workers. Is this because the laws themselves are inadequate, or because laws exist only ‘on the books’ and have little practical effect?

Leading scholars from each country consider not only laws pertaining to working conditions and industrial relations, but also those that regulate the labour market as a whole. Thus, legislation concerning migrant labour, gender equality, employment creation and skill formation is considered. Adopting their own distinct theoretical perspectives, the authors of the country studies trace the historical development of labour regulation and reveal that most countries in the region now have quite extensive frameworks.
An introductory chapter provides an overview of relevant literature from law and other social sciences. The final chapter (by Centre Associate, Professor Richard Mitchell and Centre Associate Director (Taiwan), Sean Cooney) considers how East Asian systems of labour regulation differ from their Western counterparts and provides an original account of the diverse relationships between law and its changing political, economic and cultural environment. This book will be particularly useful to people interested in the place of labour law, and law in general, in contemporary East Asian societies.
Publications of Members, Associates & Researchers

Books


Chapters in Books and Monographs


Journal Articles


**Book Reviews**


**Translations**


**Working Papers**


**Newspaper Articles**


Lindsey, T. (2002), "Getting to know our neighbours is a start" (interview on Islam, terrorism and Indonesian politics), in 'Asia Pacific' by Rowan Callick, Asia Pacific Editor, *The Australian Financial Review*, 26–27 October.


Lindsey, T. (2002), "Megawati Needs Us, We Need Her", *Herald Sun*, 16 October.

Journal Articles


Asian Law in Translation


Case Notes


Book Reviews

Conference Papers and Seminars Delivered by Members


Cooney, S., "The Application, and Non-application of Rule of Law Principles in Taiwan", Rule of Law in Asia: Comparative Conceptions, University of Hong Kong, Hong Kong, 20–21 June 2002.


Lindsey, T., "Asia, You’re Standing in it", at Young Asian Leaders, Asialink, Melbourne, 18 March 2002.

Lindsey, T., "Rethinking the Australia Indonesia Bilateral Relationship", at National Group Annual Meeting, Asia Education Foundation, Melbourne, 18 March 2002.

Lindsey, T., "Corruption in Indonesia", at Young Asian Leaders, Asialink, Melbourne, 25 April 2002.

Lindsey, T., "Indonesia: Politics Update", at Asian Law Centre Brown Bag Seminar, The University of Melbourne, Melbourne, 1 May 2002.

Lindsey, T., "Reply to Former Minister of Justice, Muladi: Australia and Indonesia", at Indonesia-Australia Young Leaders Dialogue, Bogor, Indonesia, 22-24 May 2002.


Lindsey, T., "Australia-Indonesia Bilateral Relations", at Asia Foundation, Melbourne, August 2002.

Lindsey, T., "Islamic Law in Indonesia", at Islamic Law in Indonesia, World Bank Staff Forum, Jakarta, September 2002.
Conference Papers and Seminars Delivered by Members


Lindsey, T., “Corporate Governance in Asia: Can Independent Institutes of Directors and Codes of Conduct Ever Work in ‘Insider’ Corporate Systems?”, at Corporate Governance and the Role of Independent Directors/Commissioners Institutes in Asia, USAID, University of Indonesia, University of South Carolina, Jakarta Stock Exchange, BAPPEPAM (together the Law & Finance Institutional Partnership) and Udayana University Conference, Sanur, Indonesia, 21 December 2002.
Contributions to the University of Melbourne and the Community

Ms Sarah Biddulph

■ China-Australia Chamber of Commerce (Shanghai, China)
■ Advisory Committee, *Australian Journal of Asian Law*
■ Law Society of NSW

Mr Sean Cooney

■ Member, Centre for Employment and Labour Relations Law, The University of Melbourne
■ Advisory Committee, *Australian Journal of Asian Law*
■ Ethical Advisory Committee, Brotherhood of St. Laurence
■ Liaison Officer, International and Non-English Speaking Background Students

Associate Professor Tim Lindsey

■ Associate Dean (International)
■ Director of Studies, Graduate Diploma in Asian Law
■ Australia-Indonesia Institute (DFAT)
■ Editor, *Australian Journal of Asian Law*
■ Associate, Melbourne Institute of Asian Languages and Societies
■ Member of Board, Melbourne Institute of Asian Languages and Societies
■ Member of Board, Institute for Comparative and International Law, The University of Melbourne
■ Associate, Centre for Corporate Law and Securities Regulation, The University of Melbourne
■ International Students’ Consultative Committee, The University of Melbourne
■ Program Committee, Graduate Studies, Faculty of Law, The University of Melbourne
■ Asian Studies Association of Australia

Dr Pip Nicholson

■ Advisory Committee, *Australian Journal of Asian Law*
■ Equal Opportunity Committee, Faculty of Law, The University of Melbourne
■ Unsatisfactory Progress Committee, Faculty of Law, The University of Melbourne
■ Asian Studies Association of Australia
■ Vietnam Studies Association of Australia
Contributions to the University of Melbourne and the Community

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- Advisory Committee, Australian Journal of Asian Law
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- Associate, Melbourne Institute of Asian Languages and Societies
- Associate, Centre for Corporate Law and Securities Regulation, The University of Melbourne
- Member of Board, Institute for Comparative and International Law, The University of Melbourne
- Member of Board, Melbourne Institute of Asian Languages and Societies
- Member of Board, Australian Centre for International Commercial Arbitration
- Member of Board, Leo Cussen Institute
- Member of Board, Penleigh and Essendon Grammar School
- Member of Board, International Trade Law and Business Committee, Law Council of Australia

Ms Stacey Steele
- Solicitor, Blake Dawson Waldron
- Member, Urasenke Melbourne Chapter
- PILCH volunteer, Homeless Persons’ Legal Clinic

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The Asian Law Centre thanks our 2002 Sponsors for their support for our activities, which enabled the production of this report for 2002.

Allens Arthur Robinson

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