



DIRECTOR'S WELCOME

The ALC has hosted a busy and stimulating program of activities in the second half of this year, and been involved in a range of regional initiatives. In October, Sarah Biddulph and I travelled to Hong Kong University Law School (HKULS) for a doctoral forum convened by MLS and HKULS. Put briefly, 7 students from the PRC mainland joined an MLS student and 7 students from HKULS to explain their research and receive peer and academic comments. This afforded great insight into China-law scholarship (see [page 14](#)).



While in Hong Kong, Sarah and I also walked into Central and visited the ongoing student-led protest. Whatever the ultimate results of the occupation of Central (and Mong Kok and Admiralty), there is no



doubt that leadership around the globe face a broader set of protest strategies given the ways in which students (and their supporters) have instigated and maintained protests in Hong Kong, and also in Taiwan earlier in the year. In 2015, the ALC hopes to celebrate its 30th birthday with comparative reflections on 'Tolerance and Rights', focussing in part on the regional experience of protest and its impacts on diverse groups, including business.

We heard more on the issue of protest, albeit in Taiwan, from Professor Jiunn-rong Yeh. Professor Yeh was co-hosted by the ALC and CCCS as the inaugural Melbourne-Asian Century Visiting Fellow at MLS, a program funded by the University to support Asia focussed collaborations. Professor Yeh also analysed Taiwanese students' activism, provoked by the Taiwan Government's signing of a services agreement with the PRC (see [page 13](#)).

Justice Susan Kenny of the Federal Court of Australia's superbly summarised, *Constitutionalism in Asia: Cases and Materials*, jointly edited by Chang, Thio, Tan and Yeh, when launching the book in September. Following the launch, Professor Yeh gave a keynote address on Asian Constitutionalism. Professor Yeh argued there is not 'an' Asian constitutional phenomenon. Any study of Asian constitutional law has to work with diversities and difference, and must avoid categories that better reflect an 'othering' of Asia rather than having any intrinsic intellectual merit, argued Professor Yeh (see [page 12](#)).

We have also been delighted to host Associate Professor Michael Ng from HKULS and Associate Professor Chien-Chang Huang, Department of Real Estate and Built Environment, College of Public Affairs, National Taipei University, Taiwan.

Vietnamese Legal Aid, a department located within the Ministry of Justice Vietnam, with responsibility for developing legal aid nationally, visited Melbourne in October 2014. The delegation, led by Deputy Minister Ms. Nguyen Thuy Hien and Director of Vietnam Legal Aid, Nguyen Thi Minh, met with Victoria Legal Aid, the Federation of Community Legal Centres, Inner Melbourne Legal Centre, Amelia Beech of counsel, Justice Connect and the Law Institute. They were particularly interested in pro bono lawyering and the ways in which this has been managed in Victoria (see [page 15](#)).

In the second half of the year, the ALC hosted a diverse range of Brown Bag seminars, including: *Law and Justice: Images and Absences in the Killing of Osama bin Laden* (Dr Jothie Rajah, American Bar Foundation); *The System of Real Estate Registration in Taiwan* (Associate Professor Chien-Chang Huang, National Taipei University); *Transplanting Indigenous Legal Practices to a Transplanted Legal System? An Archival Study of the Beijing Criminal Court in Early Republican China (1910s)* (Associate Professor Michael Ng, HKULS); *The Diversification and Formalisation of Alternative Dispute Resolution in Japan* (Professor Kota Fukui, Osaka University); *From Self-assessment to Citizens' Monitoring Governance and Public Administration in Viet Nam* (Jairo Acuna-Alfaro (UNDP, Hanoi)); *Competition Law in China & Hong Kong* (Professor Mark Williams and Dr Wendy Ng, University of Adelaide); and *Rights to Counsel in Drugs Trials* (Nguyen Hung Quang, NHQuang&Associates) (see [page 10 to page 14](#)).

In November, I visited Hanoi Law University (HLU), Hanoi, Vietnam to participate in a conference on globalisation and the challenges it poses for legal education, and to support the 35th birthday celebrations of the HLU (see [page 9](#)). In the last couple of years, the Vietnamese Party-State has ratcheted up its teaching expectations of law universities, nominating HLU and its Ho Chi Minh City-based counterpart, the Ho Chi Minh City University of Law, to innovate and 'modernise' its curriculum and teaching styles. Colleagues note that the responsibilities have not yet produced an additional budget.

The China Program, led by Sarah Biddulph, has temporarily lost Sean Cooney to the ILO in Geneva. Sarah has been constantly in the air visiting Beijing, Shanghai and Hong Kong several times in the last 6 months. Sadly, she missed the blue skies of Beijing during the APEC meeting, called 'APEC Blue' by our Chinese colleagues.

In June, the ALC farewelled our visiting Japanese judge, Judge Kaoto Kida, and welcomed Judge Aya Kobayashi. We also look forward to the arrival of our next Korean prosecutor in December.

In terms of teaching, in 2015, the ALC staff will offer one research project to JD students: *Judicial Power in Asia* (Pip Nicholson). Andrew Godwin will also contribute to the China Common Law Program taught in Shanghai and Beijing to four PRC universities by a team of academics from Oxford University, National University of Singapore and MLS.

The second paper in our *Briefing Paper Series* will be published shortly, in which Nguyen Thi Phuong Hoa analyses Vietnamese sentencing law (see [page 3](#)).

This newsletter cannot ignore the University of Melbourne's business improvement program (commonly known as BIP), which promises great efficiencies and savings to the university arising from reduced bureaucracy, leaner staff numbers and greater reliance on to-be-developed online systems. The ALC has benefitted enormously from the ongoing professionalism and support from MLS and UOM staff at a time of great personal uncertainty and pain. We extend our thanks to them all here.

Wishing you and your families a safe and Happy New Year.



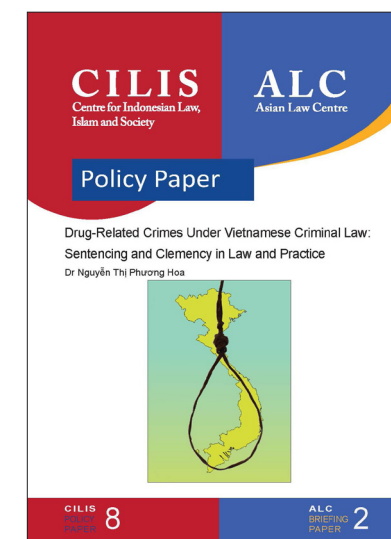
Professor Pip Nicholson
Director, Asian Law Centre
Melbourne Law School

ALC / CILIS POLICY PAPER ON DRUG-RELATED CRIMES IN VIETNAM

The second joint research publication of the ALC and Centre for Indonesian Law, Islam and Society (CILIS) will shortly be published – “Drug-Related Crimes Under Vietnamese Criminal Law: Sentencing and Clemency in Law and Practice” by **Dr Nguyễn Thị Phương Hoa**.

Dr Nguyen discusses the elements of drug-related crimes under the Criminal Code of Vietnam 1999 (as amended in 2009) and calls for a series of reforms. It then analyses sentencing under the Vietnamese criminal law in general, with particular focus on drug-related crimes and the granting of clemency.

The ALC Briefing Paper Series can be downloaded without charge from <http://www.law.unimelb.edu.au/alrc/research/centre-publications/alrc-briefing-paper-series>



ALC IN THE MEDIA

Professor Pip Nicholson was a Panel participant discussing 'The Death Penalty in South East Asia' on the ABC Law Report on 14 October 2014. The transcript and audio can be downloaded [here](#).

Professor Tim Lindsey (Associate Director, Indonesia, ALC and Director, CILIS) has been active in the media, particularly during the time of the Indonesian Presidential elections in July, and since the start of the Presidency of President Joko “Jokowi” Widodo. For media items by Professor Lindsey and other items related to Indonesia, please see the [News section of the CILIS website](#).

CONGRATULATIONS

Reegan Grayson-Morison's Recent Appointment and Admission



Ms Reegan Grayson-Morison, Principal Research Assistant for the Japan Program, was admitted to the legal profession as an Australian Lawyer in early November. **Ms Stacey Steele** moved Reegan's admission (pictured). Reegan also recently commenced as a judge's associate at the Supreme Court of Victoria. Congratulations, Reegan!

Grace Park's Internship

We are delighted to announce that **Ms Grace Park**, one of the ALC's Korean-speaking JD research assistants, will intern at the UN Assistance to the Khmer Rouge Trials at the Extraordinary Chambers in the Courts for Cambodia ("ECCC"). Grace will graduate before leaving Melbourne and the ALC congratulates her on both graduation and this exciting new opportunity.



Team Australia come Third in Intercollegiate Negotiation and Arbitration Competition



MLS students, **Aya Haruyama**, **Sarah Mercer** and **Aditya Wirapradhana Tumakaka**, competed as members of Team Australia in the Intercollegiate Negotiation and Arbitration Competition held in Tokyo, Japan from 29-30 November 2014.

The team came third! They were beaten by the University of Tokyo (1st) and Kyushu University (2nd) by only a small margin.

The Competition is hosted annually by Sophia University. Teams negotiate and present in English and Japanese.

Aya and Sarah are ALC research assistants; Aditya is a MLS JD student and a qualified Indonesian lawyer. Congratulations to all of the teams!

NEW ALC MEMBERS

In 2014, we welcomed three new ALC members to the team: Associate Professor Jürgen Kurtz, Associate Professor Hayden Opie and Professor Mark Williams.

ALC Members are academic members of the Melbourne Law School who are active in teaching and research relating to Asian legal systems, and have significant international reputations in this area. Their work is linked to one or more of our programs, each of which is headed by an Associate Director. [Click here to view profiles of ALC Members and Associates.](#)

Associate Professor Jürgen Kurtz

Interviewed by Mr Joshua Quinn-Watson, Research Assistant, Asian Law Centre



Associate Professor Jürgen Kurtz's academic career commenced in the early 2000s, when a wave of Asian nations sought entry into the WTO and other international economic treaties. As an international economic lawyer with a development focus, he was intrigued by the effect entry would have on their development. He has remained engaged with Asia ever since.

While Associate Professor Kurtz has been involved throughout Asia, he has an especially close relationship with Vietnam. He collaborated with Professor Nicholson on research into Vietnam's anti-dumping laws, was involved in the MLS' recent hosting of Vietnamese Ministry of Justice officials, advised Vietnam on its free trade agreement with the United States, and assisted Vietnam in a significant dispute over catfish exports to the United States.

Beyond South-East Asia, he has been increasingly involved with Mongolia. A resource-based economy dependent on foreign capital to develop those resources, Mongolia has sought Associate Professor Kurtz's assistance in navigating the international law relating to foreign investment.

At present, ASEAN is the focus of two of Associate Professor Kurtz's research projects. For the ASEAN secretariat, he is working with a team of economists on research into the investment chapter of ASEAN's free trade agreement with Australia and New Zealand. At the same time, Associate Professor Kurtz is preparing a book with Michael Ewing-Chow of the National University of Singapore on the regulation of foreign investment in ASEAN treaty practice.

With Australian colleagues under an ARC grant, Associate Professor Kurtz is researching whether a 'case can be made for giving foreign investors greater procedural rights for compensation claims at international law than domestic law.' This is a question of particular relevance to Asia. Associate Professor Kurtz notes that a number of Asian nations, including Indonesia, the Philippines and Vietnam, are now defending treaty claims under the dominant investor protection regime of the 1990s — investor-state arbitration — and consequently reassessing their approaches to investor protection. While the research is continuing, Associate Professor Kurtz cautiously supports these reassessments, seeing the potential for a more tailored approach that better accounts for the country's circumstances and the type of investments being protected. He sees Indonesia's recent moratorium on new investment treaties and potential renegotiation of its existing investment treaties as a sensible step.

Associate Professor Kurtz sees academic research and advisory work as intertwined. He has two conditions for taking on advisory work: it must benefit the state, and it must be relevant to his core research interests. When research and practice meet, there is great potential for mutual benefit. It allows Associate Professor Kurtz to test hypotheses in practice, creating a much tighter 'feedback loop' between work and response.

Above all, Associate Professor Kurtz enjoys working within Asia. He particularly loves the 'deeply collaborative and respectful' way in which colleagues in the region work, sharing the benefits of their varied expertise. It is, he says, a positive contrast to the 'individualistic' tendency seen sometimes in Australia.

The ALC is delighted to formalise its longstanding association with Associate Professor Kurtz, and welcome him as a member.

Associate Professor Hayden Opie

Interviewed by Mr Joshua Quinn-Watson, Research Assistant, Asian Law Centre



Associate Professor Hayden Opie's engagement with Asia began in 1984, when, in his first major trip overseas, he travelled through Nepal, Sri Lanka and India.

His scholarly engagement began in 1992, when a meeting with officials from the Hong Kong Sports Development Board led to an invitation to present at a sports marketing conference in Hong Kong just prior to its handover.

That initial engagement expanded at the Sports Accord conference in Beijing in 2007. Concerned by the prevalence of match-fixing in Asia — vividly demonstrated by recent incidents in Malaysia and Vietnam — Associate Professor Opie advocated for the introduction of a global agency to coordinate efforts against match-fixing in sport.

Despite the political obstacles to such a body — including match-fixing's link to gambling, organised crime and official corruption — Mr Opie remains optimistic. The strength of the public's demand for untainted sport, he says, may well be sufficient to overcome those obstacles.

Associate Professor Opie recently collaborated with academics from the Asian Law Centre on a report commissioned by the Sorbonne University into match-fixing laws and regulations around the world. Australia, regarded as a world-leader in such regulations, was the initial focus, but the project soon expanded to China and India, in recognition of the scale of the problem there, and the authors' strengths in Asian Law. That project, Mr Opie says, was a 'great combination of the sports law program and its contacts, and the Asian Law Centre, particularly that of Professor Sarah Biddulph.' That report will be published shortly.

His match-fixing research is presently focussed on soccer. A recent grant from the Australia-Korea Foundation will fund research into match-fixing in soccer in Korea and Australia. Associate Professor Opie points to the regular fixtures between the two countries and their clubs, the many players based in each others' league, and Australia's hosting of the Asian Cup next year, as obvious connections between the two countries. He hopes that his research will promote a greater mutual understanding of each other's match-fixing laws and deeper connections between the two countries' regulatory and law-enforcement bodies.

Australia, he says, has a crucial role in the development of Asian sports law, since the region regards Australia as a model of effective regulation. India, for instance, recently introduced a bill explicitly modelled on an Australian equivalent. As Asia's interest in sport continues to grow, Associate Professor Opie argues, so too will the opportunities for the Asian Law Centre to offer regional expertise in sporting law.

He continues to be as 'fascinated' by Asia as ever, enjoying the challenges of cross-cultural communication, adjusting Australian irreverence and 'frankness' to the Asian emphasis on 'respect and politeness'.

Sport, Associate Professor Opie notes, is a powerful cross-cultural bridge. He recalls a time when, waiting at a remote train station in India in 1984, any discomfort between him and the villagers waiting with him dissolved when they noticed he was Australian, and called out the names of Australian cricketers. It displayed something as true now as it was then: 'the power of sport,' to instantly connect with others, and signal friendship.

We welcome Associate Professor Opie as a member of the ALC and look forward to our future collaborations in this emerging area of regional regulation.

Professor Mark Williams

Interviewed by Mr Joshua Quinn-Watson, Research Assistant, Asian Law Centre



Professor Mark Williams became a member of the Asian Law Centre after joining Melbourne Law School and the Competition Law Network in mid-2014. Professor Williams brings twenty years of engagement with competition law in Asia.

Professor Williams first travelled to Hong Kong in 1985, for a temporary teaching assignment. Eager to see what type of competition law governed the world's 'freest economy', he found a surprising answer: none at all.

In its absence, Hong Kong's legendary economic freedom was, he observes, freedom to 'monopolise, cartelise and exploit.' Its benefits accrued asymmetrically: favouring a small group of the very wealthy — the 'tycoon elite' — at the expense of the remainder, many of whom depended on government welfare programs. Even today, he notes, public housing accommodates half of the population.

It was a startling paradox: that the world's 'freest economy' was starkly neoliberal in design, but in the absence of effective competition law, necessitated the interventions of 'essentially a socialist state.'

Professor Williams has since devoted himself to addressing that absence. A Hong Kong resident for twenty years, Professor Williams advocated for the introduction of a competition law capable of curbing market abuses and securing market efficiency.

His research reflects that advocacy. It is broad and multi-disciplinary, with a focus on 'political economy'. Professor Williams aims to increase 'knowledge and awareness of competition matters' across a broad range of audiences: targeting 'those that matter,' whether they be lay or professional, 'political, academic, or economic.'

Building awareness and support for competition law amongst the public, the political class, and the business community (which continues to dominate the political process) has been a long and collaborative process.

But it is beginning to yield fruit, according to Professor Williams. Hong Kong has a competition law that will enter into force next year. In light of the initial levels of resistance competition law faced, it is a staggering achievement.

Professor Williams acknowledges the new law is far from perfect. He is concerned that the law limits merger oversight to the telecommunications sector, lacks direct private rights of action, and caps penalties at 10% of local turnover.

However, Professor Williams sees it as an important step in a longer process. The law's ultimate performance depends a great deal on the manner it is enforced by a judiciary inexperienced in competition law, and often unfamiliar with the economics underpinning it. Accordingly, Professor Williams, who also sits on the Hong Kong Telecommunications Appeals Board, has switched some of his energies from advocacy to judicial education.

In addition to his work in Hong Kong, Professor Williams and Asian colleagues established the Asian Competition Forum, which engages government officials, competition agencies, academics, legal practitioners, and business interests in issues of competition policy and law. It has contributed to the growing regional adoption of competition laws. Since its establishment in 2005, competition laws have been adopted in Vietnam, Malaysia, Singapore, China, Taiwan and Hong Kong, while Japan and Korea have more vigorously enforced their existing laws.

Professor Williams has also worked with ASEAN and UNCTAD on regional competition matters.

Professor Williams characterises his work as supported by strong relationships, and an attitude of respect. Those qualities, and his long residency in Hong Kong, enable him to be a 'critical friend', providing 'help where help is wanted.'

We welcome Mark as a member of the ALC. We look forward to his regular updates on competition law in Hong Kong, the PRC and comparatively across Asia. We will benefit enormously from Mark's co-location in Australia and Hong Kong.

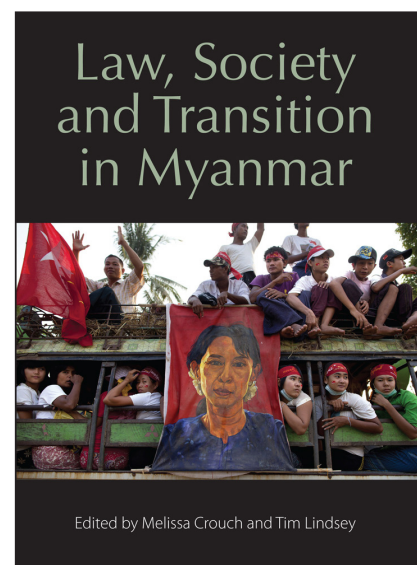
RECENT PUBLICATIONS

Law, Society and Transition in Myanmar, edited by Melissa Crouch and Tim Lindsey

This edited volume addresses the dynamics of the legal system of Myanmar/Burma in the context of the dramatic but incomplete transition to democracy that formally began in 2011. It includes contributions from leading scholars in the field on a range of key legal issues now facing Myanmar, such as judicial independence, constitutional law, human rights and institutional reform. It features chapters on the legal history of Myanmar; electoral reform; the role of the judiciary; economic reforms; and the state of company law. It also includes chapters that draw on the experiences of other countries to contextualise Myanmar's transition to democracy in a comparative setting, including Myanmar's participation in regional bodies such as ASEAN. This topical book comes at a critical juncture in Myanmar's legal development and will be an invaluable resource for students and teachers seeking greater understanding of the legal system of Myanmar. It will also be vital reading for a wide range of government, business and civil society organisations seeking to re-engage with Myanmar, as it navigates a difficult transition toward democracy and the rule of law.

Published in October 2014 by Hart Publishing.

Price (Hardback): £60.00 (ebook forthcoming)



TRAVEL BY ALC STAFF

Research Assistant Leaves for Korea on Internship



Sarah Mercer, JD student and Research Assistant with the ALC, has an exciting and action-packed Summer coming up. Sarah will first compete in the prestigious 13th Intercollegiate Negotiation Competition at Sophia University, Tokyo, as the Chief Legal Officer of the Australian team. Sarah will then be a clerk at leading law firm Kim & Chang in South Korea. She will then go to Geneva to intern at the Australian Permanent Mission to the UN for the Human Rights Council. We wish her success in all of her endeavours.

Pip Nicholson attends Hanoi Law University Celebrations

Professor Pip Nicholson attended a conference on Globalisation of Legal Education, hosted by Hanoi Law University, on Friday 7 November, 2014.

She also attended celebrations on Sunday 9 November, when Hanoi Law University officially celebrated its 35th Birthday.



Sarah Biddulph visits China

Report prepared by Mr Raoul Renard, Research Assistant, Asian Law Centre

Professor Pip Nicholson and **Professor Sarah Biddulph** recently received an International Research and Research Training Fund (IRRTF) grant, enabling the ALC to hold a doctoral forum jointly with Hong Kong University (HKU) Law School. The grant enabled the ALC to invite 8 PhD candidates from China and PhD candidates from HKU and MLS to participate in a two-day forum on Chinese law, held on 23-24 October at Hong Kong University. Students had the opportunity to share their work in a forum of peers, receive feedback from academics in the area who are not their supervisors, and make friends and professional connections. It was a wonderful success, and we are in constructive discussions with several universities about co-hosting this again in 2016.

Afterwards, Sarah went to the Chinese People's Public Security University in Beijing as a visiting foreign expert, where she gave a series of lectures and had a range of very fruitful engagements with academics and officials.

Sarah also went to the Hubei Province Criminal Law Association Annual Conference on Sunday 2 November. She attended the Hanyang District People's Procuratorate, which has received national recognition for its excellence in various aspects of procuratorial work and research. On 3 November, she went to Jingzhou City in Hubei Province to give a talk and participate in a round table discussion with representatives of the local justice bureau, lawyers' association, judges and prosecutors. All in all, Sarah had a highly productive, intellectually engaging and enjoyable trip.

RECENT EVENTS (SELECTION)

Vietnamese Legal Studies Graduate Student Workshop, 2 June 2014

This workshop brought together postgraduate students from around Australia to present their doctoral research relating to Vietnamese legal studies. The workshop provided students with a supportive and collegial atmosphere in which to present their work and also enabled students to meet others with similar interests. Students benefited from the feedback of their peers and selected academic experts in the field, including **Dr Bui Ngoc Son** (Post-doctoral Fellow NUS), **Professor John Gillespie** (Monash) and **Professor Pip Nicholson** (Melbourne).



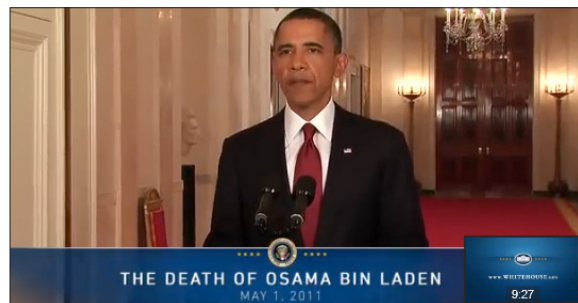
ALC/CELRL Discussion – Regulatory Pluralism and Empowerment: Lessons from China about New Environmental Regulators, 13 June 2014



Professor Benjamin van Rooij offered a case study of the dynamics of local Chinese protest over industrial pollution. He argued that Chinese citizens and NGOs have started to pluralise the regulatory landscape originally occupied by administrative agencies. Van Rooij contended there has been little retreat of party-state control: in keeping with regulatory pluralism managed by an authoritarian regime. Yet this model should not be misunderstood as excluding local actors as the party-state both needs and fears new actors for their positive and negative roles in controlling risk and maintaining stability. Consequently, the regime's relation to regulatory pluralism is ambivalent, shifting between support and restriction.

In this presentation, Professor van Rooij discussed the preconditions under which citizens have entered the Chinese environmental regulatory landscape, and looked in particular at how power imbalances shape environmental awareness and activism and how this affects citizens' regulatory function. He concluded that, in a context of regulatory pluralism, regulation and empowerment mutually interact and that regulators ought to regulate in a way that is not disempowering to citizens.

ALC Brown Bag Seminar – Post 9/11 Law and Justice: Images and Absences in the Killing of Osama bin Laden, 13 August 2014



Dr Jothie Rajah returned to MLS to ask, 'What does the killing and burial of bin Laden tell us about the sites, sources, and nature of law's authority in a post-9/11 world?' Dr Rajah drew on critical theory on language, and political myth, to explore the relationship between legitimacy, violence, an absent 'law', and an insistent 'justice' in the announcement by President Obama of the killing of bin Laden.

Dr Jothie Rajah is Research Professor at the American Bar

Foundation, Chicago. She is a graduate of the National University of Singapore and was awarded her PhD by Melbourne Law School, where she also received the 2010 Chancellor's Prize for Excellence in the PhD Thesis and the 2010 Harold Luntz Graduate Research Thesis Prize. Her publications include *Authoritarian Rule of Law* (Cambridge, 2012) and *Sinister Translations: Law's Authority in a Post-9/11 World* (Indiana Journal of Global Legal Studies, 2014). Her current project focuses on post-9/11 rule of law discourses.

ALC Brown Bag Seminar – The System of Real Estate Registration in Taiwan, 26 August 2014

Associate Professor Chien-Chang Huang reviewed the system of real estate registration in Taiwan noting that it primarily adopts the 'Registration Effectiveness System' and the 'Title Registration System', which reflects a mixing of the German Title System and the Australian Torrens System. That said, Associate Professor Huang noted that Taiwan was governed by Japan for half a century and the law is also greatly influenced by Japan. For example, land and construction improvements are differently conceived and treated. In consequence, there are land registration books and constructional improvements registration books in Taiwan today. After the 'Trust Code' was enacted in 1996 and the 'Civil Code' and 'Regulation of the Land Registration' were amended in 2007-2010, 'the Registration/Recordation Effective Against System' was adopted in some circumstances in Taiwan. Attendees learnt that the Ministry of Interior in Taiwan is now discussing the draft 'Real Estate Registration Code Draft'.

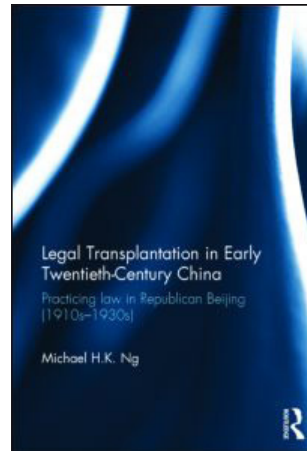


ALC/CCCS Roundtable – Asia: Globalisation, Regionalism and Researching Public Law and Legal Institutions, 27 August 2014

The Centre for Comparative Constitutional Studies, led by Professors Cheryl Saunders, Adrienne Stone, Michael Crommelin and Simon Evans, together with the ALC's Professors Sarah Biddulph and Pip Nicholson, with Dr Farrah Ahmed, each suggested a future research agenda as part of a round table in honour of **Professor Jiunn-rong Yeh** from National Taiwan University. The brief was to identify legal and policy issues arising in public law and legal institutional analyses in Asia. The catalysts for these questions were focused on the impacts of regionalism and/or globalisation. From the outset divergent understandings of the role of Australia in Asia were identified and debated. Professor Yeh explained that for Taiwanese scholars the PRC, America and Germany dominated the intellectual comparative lens, and that Australia had been largely seen as peripheral, if not irrelevant. That said, he noted that it was Cheryl Saunders' pioneering work in constitutional comparativism that sparked his own comparative scholarship. The roundtable produced on-going dialogue about research collaboration.

This roundtable was supported by a UOM Asia Visiting Fellowship, which brought Professor Yeh to Melbourne Law School.

ALC Brown Bag Seminar – Transplanting Indigenous Legal Practices to a Transplanted Legal System? An Archival Study of the Beijing Criminal Court in Early Republican China (1910s), 28 August 2014



Assistant Professor Michael Ng, who visited MLS from Hong Kong for several weeks in August, presented material extracted from his recent publication *Legal Transplantation in Early Twentieth-Century China: Practicing Law in Republican Beijing (1910s-1930s)*. More particularly, Associate Professor Ng traced the Japanese influence on Chinese court development in early republican China. Focusing on judges in the criminal court of China in the 1910s, Ng chronicled how they faced the practical challenge of lacking sufficient codes and guidelines to try cases. The judges tackled this challenge by resorting to the assimilation of imperial legal practices with the transplanted legal regime wherever possible. In this seminar, Professor Ng drew on 180 archived criminal judgments of Beijing local court from the 1910s, and discussed how these judges perceived their role and responsibilities in a transplanted legal system and justified such legal assimilation. This seminar challenged our understanding on the limits and possibilities of legal transplant in the early 20th-century in Asia. The longstanding role of the Japanese in regional legal development was of particular interest to some attending the seminar, particularly given the contemporary Japanese rhetoric that their development agenda commenced in 1994.

ALC Brown Bag Seminar – The Diversification and Formalisation of Alternative Dispute Resolution in Japan, 1 September 2014

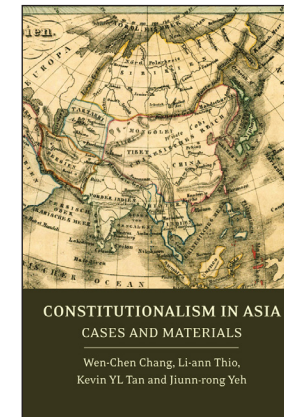
In this presentation, **Professor Kota Fukui** discussed Japan's Alternative Dispute Resolution (ADR) reforms and the certification system for ADR service providers implemented by the Promotion of Use of Alternative Dispute Resolution Act (Act No. 151, 2004). Although more than 100 certified ADR service providers have been established, only a limited number of these ADR service providers are actually utilised. Professor Fukui examined the reasons that these services are not utilised to their full potential, and also proposes suggestions to rectify the situation.



ALC/CCCS Book Launch & Public Lecture, 4 September 2014 Book Launch – Constitutionalism in Asia: Cases and Materials Keynote Public Lecture: Constitutionalism in Asia or Asian Constitutionalism?



Justice Susan Kenny of the Federal Court of Australia launched *Constitutionalism in Asia: Cases and Materials*, edited by Wen-Chen Chang, Li-ann Thio, Kevin YL Tan and **Jiunn-rong Yeh** (Hart Publishing, 1170pp). In her detailed and nuanced review of Constitutionalism in Asia, Justice Kenny argued that the publication heralds a first in Asia's constitutional analyses offering a local reading of issues such as majoritarian legitimacy, decolonisation and populist constitutionalism. As Justice Kenny noted, the publication critically examines the study of constitutional orders in Asia, highlighting their histories, colonial influences and cultural particularities with each section framed by an introductory essay setting out particular constitutional issues and succinctly highlighting relevant critical perspectives. The publication includes materials from: China, Japan, Mongolia, Taiwan, South



Korea, Hong Kong, the 10 ASEAN states, Timor-Leste, India, Pakistan, Bangladesh, Sri Lanka and Nepal.

ALC/CCCS Seminar – Marching to Civil Constitutionalism with Flowers: Has the Sunflower Movement in Taiwan Changed the Landscape of Constitutionalism and its Significance to Hong Kong and the Chinese Mainland?, 9 September 2014

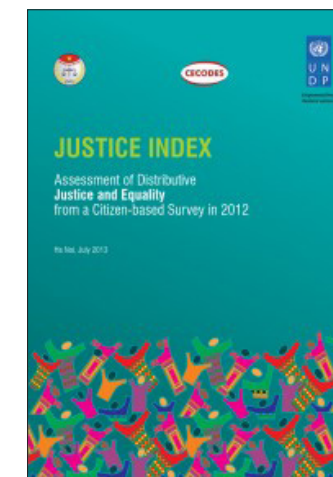
In this seminar, **Professor Jiunn-rong Yeh** argued that when the Taiwanese students occupied the Congress for weeks in March 2014, over the legislative fast-track approval of a service trade agreement with China, a new form of civil disobedience emerged (called in Taiwan the 'Sunflower Movement'). More particularly, students, and their many and varied supporters, realized their demonstration potential, not previously tested in this way.

In this seminar, Professor Jiunn-rong Yeh examined the prospects of representative democracy and the changing landscape of constitutionalism. He argued that the Sunflower Movement demonstrated a model of marching towards civic constitutionalism, in that civil groups compete with their representative agents and the Court in shaping and defining the constitutional order.

Further, Professor Yeh argued the Sunflower Movement includes increasing engagement across the Taiwan Strait and with students in Hong Kong and he asked us to reflect on what the long term holds for the younger generations.



ALC Brown Bag Seminar – From Self-assessment to Citizens' Monitoring Governance and Public Administration in Viet Nam, 12 September 2014



In this seminar, **Jairo Acuna-Alfaro** presented two pioneering and innovative citizen-centric monitoring tools used in Vietnam, which aim at reflecting citizens' experiences with governance and public administration performance. More specifically he introduced the Vietnam Provincial Governance and Public Administration Performance Index (PAPI), noting it is the largest time-series national governance and public administration performance monitoring tool in Vietnam, exclusively based on citizens experiences. See www.papi.vn/en

Jairo Acuna-Alfaro also briefly introduced the 'Justice Index: Assessment of Distributive Justice and Equality from a Citizen-based Survey in 2012': a new quantitative tool designed to help convey ordinary citizens' opinions and assessment of the performance of state institutions in ensuring justice and fundamental rights in practice. See www.chisocongly.vn/en

The data provoked robust debate about why some localities, particularly Da Nang, do so much better on PAPI than other provinces.

ALC/CLEN Seminar – Competition Law in China and Hong Kong, 13 October 2014

This seminar, by **Professor Mark Williams**, analysed and discussed the enforcement of competition law in China and Hong Kong, two distinct jurisdictions mandated by the ‘one country, two systems’ concept that underpins simultaneously national sovereignty and regional autonomy enjoyed by Hong Kong. Our commentators noted that the competition law systems of Mainland China and Hong Kong are very different. The substantive law and enforcement mechanisms of these jurisdictions were outlined, and the major issues and challenges of the last six years of enforcement of the Chinese Anti-Monopoly Law and the prospective enforcement regime and the challenges to be faced in Hong Kong were discussed. The seminar also considered the common factors shared by the two economies and highlighted the disparities between the enforcement systems including fundamental differences in adherence to the rule of law, and the objects, purposes and aims of the public agencies and their governments in their respective adoption of ostensibly pro-competition legal regimes.



MLS/HKU Doctoral Forum, 23-24 October 2014

Melbourne Law School and Hong Kong University Law School hosted a two-day workshop for Chinese and international doctoral students to focus on scholarly approaches to Chinese law, and ‘new’ developments in China scholarship. This workshop provided selected doctoral students with an opportunity to present their research in an international forum in either Chinese or English. Formal presentations and comments were followed by discussion and comments from expert academic commentators (Professors Michael Tilbury, Hualing Fu, Jianlin Chen and Michael Ng from HKULS and Professors Biddulph and Nicholson from MLS attended) and fellow students attending the workshop.



The Forum made concrete the great common interest in China-focussed legal scholarship at both HKULS and MLS.



FORTHCOMING EVENTS (SELECTION)

Sports Law and Integrity Workshop, 27 February, 2015

The Sports Law Program and the ALC will host a Workshop on match-fixing issues confronting major sports events in Australia, Korea and Japan on 27 February 2015. The Workshop is supported by a small grant from the Australia-Korea Foundation (administered via the Department of Foreign Affairs and Trade) and is part of a wider initiative to build relationships between Australia and Korea around the protection of the integrity of major sports events (eg, the AFC Asian Cup in Australia next year and the XXIII Winter Olympic Games in PyeongChang, South Korea in 2018).

Please click [here](#) to view the Workshop flyer. If you are interested in attending this Workshop, please contact the Asian Law Centre.

RECENT VISITORS (SELECTION)

Delegation from Ministry of Justice, Vietnam

The ALC hosted a delegation from the **Ministry of Justice, Vietnam** from 27-30 October, 2014. The delegation, including the Vice-Minister for Justice, sought information about legal aid in Australia. The aim of their visit was to better understand the profession's view of legal aid and how legal aid services are best funded, organised and delivered. During their stay, they met with a barrister, the Federation of Community Legal Centres, Inner Melbourne Community Legal Inc., Justice Connect, the Law Institute of Victoria, the Supreme Court of Victoria and Victoria Legal Aid.



Mr Nguyen Hung Quang



Mr Nguyen Hung Quang visited Melbourne from 12-17 November, 2014. During his stay he collaborated with Professor Pip Nicholson on the ARC Discovery Project “Drugs, Law and Criminal Procedure in Southeast Asia: A Comparative Analysis”. He also presented a Brown Bag Seminar on “Rights to Counsel in Drugs Trials”.

Mr Nguyen Hung Quang is the Managing Partner of NHQuang&Associates, Vietnam.

FORTHCOMING VISITORS (SELECTION)

Prosecutor Se-Hyun Kang

21 December 2014 - 21 December 2015

Prosecutor Se-Hyun Kang is a Public Prosecutor at the Ulsan District Prosecutor's Office, Republic of Korea. While in Melbourne, he will study criminal procedure in the common law, the Australian Police Service and the relationship between Prosecutors and Police in Australia.

Each year since 2006, the Asian Law Centre has hosted a Judge from Korea as part of the Overseas Research and Study Program of the Supreme Court of Korea. The Program enables Judges from Korea to experience life in a jurisdiction outside Korea for a 6-12 month period and provides them with a valuable opportunity to study Australian law courses, access University resources and undertake research and training activities, including visits to Victorian courts and meetings with court personnel.

In 2009, the Supreme Court of Korea Overseas Research and Study Program was extended to include Clerks of Court.

Associate Professor Luo Xianjue

31 December 2014 - 31 December 2015



Associate Professor Luo Xianjue is an Associate Professor of Law and Deputy Director of the Center for Competition Law at the University of Chinese Academy of Sciences (UCAS), People's Republic of China. During his stay in Melbourne, he will take a comparative approach to study law enforcement of Chinese Anti-monopoly law in the area of intellectual property law.

If you are interested in meeting with any of our visitors, please contact the ALC. A full list of current and forthcoming ALC visitors can be found at <http://www.law.unimelb.edu.au/alc/people/visitors/current-and-forthcoming-visitors>

RECENT CILIS ACTIVITIES

CILIS Public Lecture – Indonesia’s Presidential Election: Reform Challenges for the New Administration, 8 October 2014

The ALC’s associate centre, the Centre for Indonesian Law, Islam and Society (CILIS), hosted a public lecture by **Professor Todung Mulya Lubis** on 8 October 2014. Professor Lubis looked at the increasingly divisive debate over democracy and *Reformasi* in Indonesia to assess whether his country will move backward or forward after the new administration is sworn in on 20 October. He focussed on human rights and other key areas of law reform that need attention, as well as the threats they face, to set out an agenda for getting Indonesian *Reformasi* back on track.




Click [here](#) to view the video of Professor Lubis’ public lecture. Professor Lubis’ paper has been published as a CILIS Policy Paper. Click [here](#) to download the published paper.

CILIS Policy Papers

CILIS has recently published three papers in the CILIS Policy Paper Series:

	<p>CILIS Policy Paper No. 7 – The 2014 Indonesian Elections and Australia-Indonesia Relations by Dr Dave McRae</p> <p>Joko Widodo’s election in 2014 as Indonesia’s seventh president reflects a mood of change from Susilo Bambang Yudhoyono’s Indonesia. This paper discusses the challenges faced by the president, both domestically and internationally. It also discusses future bilateral ties between Australia and Indonesia.</p>
	<p>CILIS Policy Paper No. 6 – Recrowning Negara Hukum: A New Challenge, A New Era by Professor Todung Mulya Lubis</p> <p>This paper looks at the increasingly divisive debate over democracy and Reformasi in Indonesia to assess whether the country will move backward or forward under President Joko Widodo. It then focuses on human rights and other key areas of law reform that need attention, as well as the threats they face, to set out an agenda for getting Indonesian Reformasi back on track.</p>



CILIS
Centre for Indonesian Law,
Islam and Society
Policy Paper

Incubators for Extremists?
Radicalism and Moderation in Indonesia's
Islamic Education System
Professor Jamhari Makruf

5

CILIS Policy Paper No. 5 – Incubators for Extremists? Radicalism and Moderation in Indonesia’s Islamic Education System by Professor Jamhari Makruf

This paper looks at the struggle between moderate and extremist ideas in Indonesia’s madrasahs and Islamic tertiary institutions and its implications for Australian policy. It asks whether Islamic thought in Southeast Asia is becoming more or less radical. It also considers whether education in Islamic societies should be reformed to counter extremist ideas and, if so, how.

These papers can also be downloaded for free at <http://www.law.unimelb.edu.au/cilis/research/centre-publications/cilis-policy-papers>.

Further information on CILIS can be obtained at <http://www.law.unimelb.edu.au/cilis>.

FORTHCOMING ALC EVENTS FOR THE DIARY

Please register for these events on the ALC website (registrations open 2-3 weeks before each event): <http://law.unimelb.edu.au/alc/news-and-events/forthcoming-events>

Date	Event Type	Title	Speaker(s)
4-18 January 2015	Summer School	Jindal Global University / University of Melbourne Summer School on international criminal justice	
7 February 2015	Dinner	Law School Gala Dinner	
23 February – 6 March 2015	Summer School	Chuo Summer School	
27 February 2015	Workshop	Sports Law and Integrity Workshop: 2015 AFC Asian Cup and 2018 Winter Olympic Games	
3 March 2015	Brown Bag Seminar	Connections between Indian Personal Law and the Afghan and Australian Cameleers	Samia Khatun
10-11 April 2015	Workshop	Indian Public Law Workshop	
12 April 2015	Conference	Contemporary Issues in Indian Public Law	

ASIAN LAW MASTERS SUBJECTS 2015

The following subjects relevant to Asian legal studies will be taught in the Melbourne Law Masters in 2015:

- Asian Competition Policy and Law
- Chinese Law and Commerce
- Commercial Law in Asia
- Comparative Constitutional Law
- Construction Law and Projects in Asia
- International Law and Development
- International Law and Ethics: Current Global Problems
- Islamic Law and Politics in Asia

The Melbourne Law Masters offers masters degrees and graduate diplomas across more than 20 specialist legal areas to deepen knowledge and understanding in a general or specialised area of law. The program offers one of the largest subject ranges in the world. More than 175 subjects are available in the Melbourne Law Masters in 2015, including 24 new subjects. [Click here for more information.](#)

ASIAN LAW
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CONTACT THE ASIAN LAW CENTRE

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