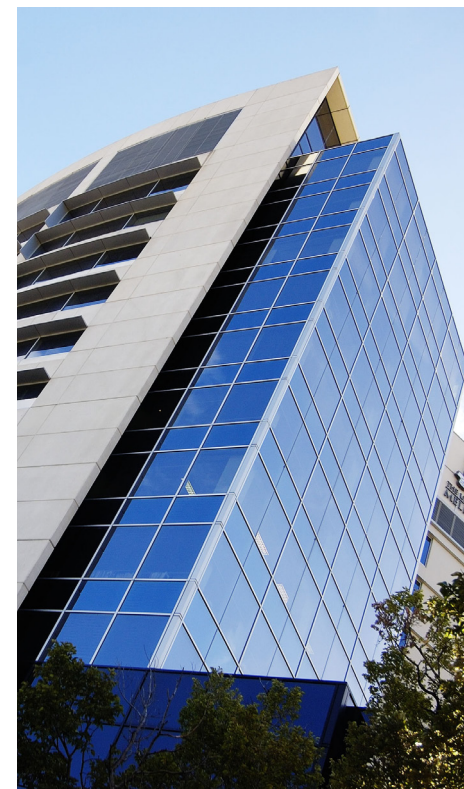




Research Report

2011



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Message from the Associate Dean (Research)



"The report reflects another year of outstanding research from Melbourne Law School staff, doctoral candidates, and students, both graduate and undergraduate."

Welcome to Melbourne Law School's Research Report covering activities in 2011.

Melbourne Law School (MLS) experienced a very successful year in 2011 across the full range of research activities engaged in by staff, doctoral candidates and research students.

According to the 2010 federal government's research quality ranking system ('Excellence in Research for Australia'), MLS is one of only two top-ranked law schools in the country. This Research Report indicates why this is so, detailing MLS publications, research grants and research programs. MLS staff and students have made ground-breaking research contributions not only in relation to a wide range of Australian legal issues, but also on many comparative and international topics of global importance.

As in previous years, the Report illustrates MLS scholarship by profiling four academic staff members at different stages of their career. This provides a snapshot of the diverse and significant scholarship at MLS. Another highlight of the report is the unprecedented number of original books published by MLS staff. Together with edited and revised studies, these treat areas including criminal law, international law, construction law, competition law, cartel, corporations law, taxation law. These research books are complemented by 130 articles in refereed journals, many of which are published internationally.

The rich MLS research environment is built not only on the achievements of MLS staff but also on its outstanding graduate researchers. The Report profiles five young doctoral scholars at various stages of their candidacy. In all, 13 candidates successfully completed their theses in 2011. MLS doctorate holders regularly embark on highly successful careers in fields including academia, public policy making and the judiciary. This has proved to be the case with our 2011 graduates.

Entry to the MLS research higher degree program continues to be strong and entry has become highly competitive. We had a very strong field of applicants in 2011 and selected 21 international and domestic students, all of whom have distinguished academic backgrounds and excellent research projects. A list of doctoral students and their topics appears at page 124 of this Report.

MLS was again successful across the range of Australian Research Council (ARC) programs, with Law School staff securing our first Laureate Fellowship (Professor David Studdert, jointly with the School of Population Health) and our first Future Fellowship (Professor Anne Orford). ARC funded research projects commencing in 2011 examined issues including family law system, employment discrimination, climate change law and mitigation, comparative constitutional law, and religious autonomy.

Message from the Associate Dean (Research)

The strength of the MLS research effort is a reflection of the excellent support systems in place to assist staff and graduate researchers. As this is my final report as Associate Dean (Research), I would like to express my great thanks and appreciation to all those people who make the support systems work.

Critical to MLS scholarship is the work of staff in the Office of Research, which has maintained its high reputation in the Law School and across the University. In 2011, the Office was managed in an outstanding way through the extraordinary dedication of Lucy O'Brien. She oversaw the highly talented team of Mas Generis, Madeline Grey, Domi Córdoba and Angela Hendley-Boys (who among her many other responsibilities, Angela designed and produced this excellent report). These were ably supported by Sarah George (until October) and Andrew Sage. The Office combined a high degree of professionalism with a healthy dose of good humour. I would like to thank also the Law Library staff, particularly the Law Librarian, Carole Hinchcliff, Robin Gardner and Clarissa Terry (who worked on an important Open Access project).

On the academic side, my thanks to the Graduate Research Coordinators Sundhya Pahuja, Helen Rhoades and Peter Rush who helped guide the progress of graduate research degree students; Matthew Harding who led the Research Support Program and, Chris Dent, Helen Rhoades and Tania Voon, who were Grant Mentors.

Lastly, I would like to welcome Tania Voon, who will be the new Associate Dean (Research) from July 2012. Tania has already made an outstanding contribution to MLS research, both through her own scholarship and through her work as a grant mentor. She is ideally placed to oversee the MLS research program over the next few years.



Sean Cooney
Associate Dean (Research)

Academic Research Focus



Wendy Larcombe



“Wendy conducts research in two fields: socio-legal analysis of legal responses to sexual and domestic violence; and research on legal education, with a focus on understanding and fostering student engagement and wellbeing.”

Dr Wendy Larcombe joined Melbourne Law School as a Senior Lecturer in January 2006. She had previously taught at the University of Melbourne as a lecturer in Australian writing and cultural studies in the English Department (Arts) and as a tutor in the Education Faculty. Wendy’s PhD research was in the field of law and literature, and was published in 2005 by the Federation Press as *Compelling Engagements: Feminism, Rape Law and Romance Fiction*.

In addition to teaching in the LLB and JD, Wendy conducts research in two fields: socio-legal analysis of legal responses to sexual and domestic violence; and research on legal education, with a focus on understanding and fostering student engagement and wellbeing. While these fields are substantively distinct, in each she pursues research questions about institutional cultures, processes and practices, the extent to which they are ‘fit for purpose’, and their impacts on the individuals they are designed to serve.

For example, in analysing legal responses to sexual and domestic violence, Wendy’s work has made a significant contribution to addressing the myths, assumptions and stereotypes that create or maintain barriers to access to justice for victims of sexual and domestic violence. Her research has contributed to shaping and informing theoretical and policy debates about ‘legitimate victims’ and the perpetrators of sexual and domestic violence; the value and limits of legal responses and law reform; and the justice needs of both adult and child victims of sexual and domestic violence.

Wendy’s publications on educational research have made an important contribution to analysis and evaluation of targeted strategies to support, and improve outcomes for, particular student cohorts in higher education, including international students, students from non-English speaking backgrounds, and first-year students. Her research has produced original insight into the learning needs and academic expectations of law students in particular, with a focus on how the process of studying law engages and also impacts on students. Wendy’s primary interest is in designing and undertaking research that contributes to improving institutional – legal and educational – policies, processes and practices so that they are better able to respond appropriately to and serve the interests of people with diverse characteristics and needs. In both her research fields, she uses a combination of empirical data analysis methods and theoretical knowledge to develop insights and recommendations to inform further scholarship, professional practice and policy development. Her research has been published by leading scholarly journals including *Feminist Legal Studies*; *the Australian Feminist Law Journal*; *Violence Against Women*; *Melbourne University Law Review*; and *Higher Education Research and Development*.

Wendy currently serves on the Editorial Committees of the *Australian Feminist Law Journal* and the *Legal Education Review*. In these roles, she collaborates with leading scholars in Australia, the UK, NZ, the US and Canada to commission, review and edit high-quality research-based articles.

Wendy Larcombe

In 2008, Wendy was appointed to the Community Consultative Committee of the Medical Practitioners Board of Victoria (MPBV) – a position in which she served until the dissolution of the Board in June 2010. Her work for the MPBV and her research interests in autonomy and professional practice and ethics, in turn saw her appointed in 2009 to the Australian Medical Council's Recognition Review Group (RRG) for Cosmetic Medical Practice. The RRG, an independent panel of experts, assessed the application of the Australasian College of Cosmetic Surgery for recognition of cosmetic medicine as a field of medical speciality.

Wendy's research interests have informed her development and teaching of two optional subjects in the LLB at Melbourne Law School. Drawing on her research interests in the field of law, gender and sexuality, both *Violence, Women and the Law* and *Reproductive Rights and Sexual Health* adopt an innovative approach to law curriculum design in being organised around analyses of particular social issues (that are also human rights issues), rather than around legal categories or doctrines. Engaging with current social and legal problems requires interdisciplinary and cross-cultural understanding, and a careful analysis of best practice in comparative contexts. Students are thus challenged to think across various areas of law (criminal, civil, international human rights) and to recognize the integrated and complex knowledge needed to be effective lawyers in these fields.

Wendy's contributions to curriculum development

in law, to scholarship in legal education, and her expertise in classroom teaching have been recognized by invitations to present and participate in specialist seminars and colloquia including the Vice-Chancellor's Teaching and Learning Colloquium and the Provost's Summit (University of Melbourne), and events organised by the Australasian Law Teachers Association Special Interest Group on Legal Education

In 2011, Wendy received a Citation for Outstanding Contribution to Student Learning, awarded by the Australian Learning and Teaching Council. The citation recognized 'sustained innovation and achievement in development of learning support services for law students, and for excellence in classroom teaching and curriculum design in law'.

Education and educational opportunity are also a focus of Wendy's community engagement work. For the past four years Wendy has acted on the selection panel for the Kwong Lee Dow Young Scholars program – a University of Melbourne initiative designed to raise aspirations for tertiary study among high achieving and disadvantaged Year 10 students. In turn, this program increases the diversity of the student body at the University of Melbourne, and the perception of equity in access to higher education. As a selector, each year Wendy reads and ranks more than 100 applications from students across the state.

Wendy also regularly participates in a range of community-based and practitioner-focussed workshops, seminars and conferences – including workshops involving community-based service providers, police, prosecutors, legal advisers and legal educators organized by peak bodies and specialist centres such the Australian Domestic and Family Violence Clearinghouse; the Women's Legal Service Victoria; the Australian Centre for the Study of Sexual Assault; and the Australian Institute of Criminology. She is a member of the Family and Children's Law Research Group at Melbourne Law School, the Australian Wellness Network for Law and the Australasian Law Teachers Association.

Rain Liivoja



“The principal focus of Rain’s work has been the intersection of international law and domestic law in the regulation of the conduct of military personnel.”

Dr Rain Liivoja joined the Melbourne Law School as a Research Fellow in 2011. He is based at the Asia Pacific Centre for Military Law (APCML) where he is also Project Director for the Law of Armed Conflict. Previously, he was a Research Fellow at the Centre of Excellence in Global Governance Research at the University of Helsinki, Finland. Rain maintains his connections to the University of Helsinki, having recently been appointed Affiliated Research Fellow of the Erik Castrén Institute of International Law and Human Rights. Before moving to Finland, Rain was a Lecturer at the University of Tartu, Estonia. For a number of years he also held a visiting lecturership at the Estonian National Defence College. Rain has an undergraduate degree in law from the University of Tartu, and postgraduate degrees, including a Doctor of Laws, from the University of Helsinki.

Rain’s doctoral dissertation dealt with the criminal jurisdiction of states over service personnel overseas. In 2011, he developed this theme further by exploring the human rights implications of subjecting civilian contractors who accompany the armed forces overseas to the jurisdiction of military courts. He presented this work at conferences organised by the International Society for Military Law and the Law of War in Rhodes, Greece, and by the APCML in Melbourne. It is currently under review for the purposes of an edited collection of essays on military justice.

Rain also worked closely with Professor Tim McCormack on issues relating to the regulation of military contractors. They were jointly awarded a Research Collaboration Grant by the University of Melbourne to facilitate research in this area in association with the Asia Pacific Civil Military Centre of Excellence (since renamed the Australian Civil Military Centre). The first result of Rain and Tim’s collaboration was a book chapter, giving an overview of the Australian regulation of private military and security contractors, which appeared in *Multilevel Regulation of Military and Security Outsourcing*, edited by Christine Bakker and Mirko Sossai, and published by Hart in early 2012.

Another important stream of Rain’s research addressed the role of non-legal rules in the governance of the armed forces and the interaction of such rules with the law. In one paper, Rain challenged the mainstream view that the law of armed conflict rests on a balance between humanity and military necessity, arguing that the modern law retains noticeable traces of medieval chivalry (or, more broadly, martial honour). This work will appear as a chapter in a volume titled *The Law of Armed Conflict: Historical and Contemporary Perspectives* that Rain co-edited with Associate Professor Andres Saumets of the Estonian National Defence College (ENDC) and that will appear in the ENDC’s ‘Cultural, Peace and Conflict Studies’ series in 2012. In a related paper, Rain argued that both the law of armed conflict and military disciplinary law rely on conceptions of military honour to the extent of incorporating them

Rain Liivoja

by reference (as evidenced by the prohibitions on treachery and conduct prejudicial to military discipline or unbecoming an officer). This paper will appear in Jan Klabbers and Touko Piiparinen (eds), *Normative Pluralism and International Law: Exploring Global Governance* (Oxford University Press, forthcoming).

The second major area of interest for Rain is the law of treaties. Some of his earliest published research was in this area, dealing for example with the approach to treaties under Estonian constitutional law, and conflicts between the United Nations Charter and other rules of international law.

In 2011, Rain had the opportunity to connect his two main areas of research interest. He was invited to deliver the keynote speech at a conference organised by the Estonian Ministry of Defence and the North Atlantic Treaty Organisation (NATO) in Tallinn, Estonia, to celebrate the 60th Anniversary of the signing of the NATO Status of Forces Agreement (NATO SOFA). The talk considered the problems of treaty interpretation in the context of the NATO SOFA – the principal instrument dealing with jurisdiction over NATO forces.

Looking ahead to 2012, Rain has begun work on two major editing projects. One of these involves overseeing the completion of a series of working papers, commissioned by the Australian Department of Defence, on the law of non-international armed

conflict. It is anticipated that the working papers will be circulated to the stakeholders for comments in late 2012 and published as soon as practicable thereafter. The other project entails working with Tim McCormack to plan (and subsequently edit) the *Routledge Handbook of the Law of Armed Conflict*, a major reference work with contributions from over 30 leading scholars in the field. The book is expected to be published by Routledge in 2014.

Bruce 'Ossie' Oswald



"Ossie's time at the London School of Economics gave him an opportunity to better understand how good research can contribute to the development of better law and policy."

Bruce 'Ossie' Oswald has been an Associate Professor at Melbourne Law School since 2011, having joined the Law School as a Senior Lecturer in 2002. Ossie completed his PhD in Law at Melbourne Law School in 2009.

After completing his LLB at the Australian National University, Ossie joined the Regular Australian Army as a legal officer in the Australian Army Legal Corps (AALC). During his service in the Regular Army he provided legal advice in areas such as discipline law, administrative law, legal aid and operations law. After serving overseas in Rwanda and the Former Yugoslavia, the Australian Army sponsored Ossie to undertake a LLM in International Law at the London School of Economics (LSE). His time at the LSE gave him an opportunity to better understand how good research can contribute to the development of better law and policy. The Australian Army encouraged Ossie's interest in research by further extending his long-term schooling posting in order to allow him to spend 3 months conducting research at the Lauterpacht Centre for International Law at Cambridge University. On returning to Australia Ossie took up a number of postings in the Australian Defence Force, including a deployment to East Timor with INTERFET. Since taking up his appointment at Melbourne Law School Ossie has transferred to the Australian Army Reserves and continues to serve in the AALC with the rank of Colonel. He returned to full-time duty to serve in Iraq (2005) and in Afghanistan (2010).

Ossie's research is heavily influenced by his military experience in at least two ways. First, his research seeks to determine how policy and law interact during military operations. In this context he seeks to better understand how policy influences law and vice-versa. Second, his research explores how military forces might better apply the values that international law seeks to develop and protect. To further this work, Ossie's research has extended into the development of policy, doctrine and training packages for military personnel. Ossie's key research themes of policy and law, and international values are reflected in at least two areas of his current research: detention in military operations, and the role of informal justice in military operations.

Ossie's interest in detention stems from dealing with detainees in operational settings including Rwanda, East Timor, and Iraq. Ossie and many military personnel faced several issues when justifying the detention of individuals during these operations, including justifying the treatment of detainees, and the clarifying the responsibilities of the detaining authority for the release, transfer or handover of detainees. These challenges were instrumental in motivating Ossie's research into whether there is a need for a 'special regime' in international law to deal with detainees. His article 'Detention of civilians on military operations: reasons for and challenges to developing a special law of detention', which was published in 2008 in the *Melbourne University Law Review*, explored this issue further. The article argued that developing a special legal

Bruce 'Ossie' Oswald

regime that deals with detention would bring greater clarity, certainty and consistency to fundamental issues such as the legal basis for taking detainees, the manner in which detainees are to be treated, and the accountability and responsibility of military forces. In other articles on detention Ossie has researched issues concerning the definition of detention, the classification of detainees, and the accountability of military forces for the treatment of detainees. More recently, Ossie has engaged with Professors Greg Rose and Stuart Kaye in a research project that considers the law and policy applicable to the detention of combatants who are fighting for non-State actors engaged in non-international armed conflicts. The project is supported by the Australian Civil-Military Centre for Excellence.

During Ossie's service in Afghanistan the issue of Afghan informal justice and its influence over coalition operations was raised by a number of military commands. His research on informal justice in Afghanistan led him to write an article entitled 'Dealing with disputes in Afghanistan: principles and rules for the tactical level' which was published in the *Journal Small Wars and Insurgencies* in 2012. That work and its reception by military personnel at the operational and tactical levels encouraged him to think about informal justice in the context of other military operations. He is now finalising an article entitled: 'Informal justice and UN peace operations: principles for military members'.

Undertaking research in relation to military operations and writing for peer reviewed publications are important steps to ensuring that the general community is engaged in thinking about and developing law. However, in some cases it is just as important to ensure that research is translated into policy, doctrine and training packages that are 'user friendly' for military forces across the world. For this reason a number of Ossie's publications conclude with recommendations concerning policy, doctrine or training developments that should be undertaken to ensure that military forces are able to better protect international values. His article on informal justice, for example, concludes with a list of 'Do and Don't' for tactical commanders dealing with informal justice. Ossie has also used his research to develop policy. For example, Ossie has assisted the United Nations (UN) to develop a UN directive on the handling of detainees in UN peace operations. He has also assisted States to develop guiding principles on the handling of detainees in military operations more generally by contributing to The Copenhagen Process. Furthermore, Ossie has used his research in detention to develop training packages for, and provide training to, military and police forces in a number of countries.

In 2012-2013 Ossie intends to further develop his research interests in law and policy by examining 'The Legal and Policy Framework for Opposition and Interim Government Forces Maintaining Law and Order'. This work will be undertaken as a Jennings Randolph Fellow at the United States Institute for

Peace in Washington DC, USA. Ossie intends to examine the principles, rules and standards that apply to opposition or interim government forces maintaining law and order; and the principles, rules and standards that apply to governments (such as the US Government) and international organisations (such as NATO or the UN) engaging with opposition or interim government forces maintaining law and order. The primary outcome of his research will be to identify and promote best practices concerning how to ensure that opposition or interim government forces that maintain law and order do so within generally accepted international and national legal frameworks.

David Studdert



“David’s research is focused on public policy issues at the intersection of the health and legal systems. A guiding question in much of his work is: How can law and regulation be used to improve population health? He has tackled this question in a variety of settings—from workers compensation schemes to coroners’ courts.”

Professor David Studdert holds a joint appointment across the Faculty of Law and the Faculty of Medicine, Dentistry and Health Sciences. He is a graduate of the Melbourne Law School and holds a doctoral degree in health policy from the Harvard School of Public Health in 1998. David then spent two years at the RAND Corporation in Los Angeles, working on legal issue in health policy, before returning to the Harvard where he was Assistant (and then Associate) Professor of Law and Public Health from 2000 to 2007. He returned to Australia in 2007 as an Australian Research Council Federation Fellow. In 2012, he became an Australian Research Council Laureate Fellow.

Most of David’s research is empirical. It is also interdisciplinary: members of David’s research group have expertise in law, public health, medicine, policy analysis, epidemiology, applied ethics and economics.

David’s research is currently funded by the Australian Research Council and the National Health and Medical Research Council, as well as grants and contracts from other government and non-government agencies. The following is a sampling of active projects in 2011:

Prediction of medico-legal risk: a national study of patient complaints.

Medico-legal institutions - such as liability insurers, medical boards, and hospital risk management departments - focus on the aftermath of health care gone wrong; they are reactive. An ability to reliably

forecast medico-legal risk would enable them to become more proactive in efforts to improve the quality and safety of care. However, previous studies that have tried to create statistical models for predicting medico-legal risk at the clinician level have been largely unsuccessful. In this study, David is collaborating with Drs Marie Bismark and Matt Spittal, both Senior Research Fellows in his group, on developing better statistical methods and tools for predicting medico-legal risk among clinicians. They are working closely with health service commissioners from five states and both Territories on this project.

Health effects of compensation systems (HECS).

Do injury compensation systems make you sick? There is mounting evidence from epidemiological studies that the process of seeking compensation for injuries - in the courts, workers’ compensation systems and transport accident systems - retards recovery. However, this “compensation effect” remains controversial, and its mechanism of action is unknown. In this study, funded by the Institute for Safety, Compensation and Recovery Research, David is collaborating with Ms. Genevieve Grant (Research Fellow, Melbourne Law School and Melbourne School of Population Health) and A/Prof Meaghan O’Donnell (Department of Psychiatry) to follow a cohort of claimants over several years as they move through compensation schemes for transport and workplace accidents in Victoria, New South Wales and South Australia. By taking periodic measurements of the claimants’ health status, and linking these

David Studdert

to measures of the claimants' experiences, the researchers are hoping to improve understanding of the compensation effect. The goal is to identify precisely what drives the poor health outcomes, so that schemes can begin to fix the problem.

Learning From Preventable Deaths: A Prospective Evaluation of Reforms to Coroners' Recommendation Powers in Victoria.

In 2002, a new coronial act came into force in Victoria. One change was introduction of a "mandatory response regime". When a Victorian coroner makes a recommendation, the organisation to whom the recommendation is made now must respond in writing with three months, outlining what (if any) action has been taken in response. The Coroner is then required to post both the recommendation and the response on the Court's public website. This ARC-funded Linkage Project, being conducted in partnership with the Coroners' Court of Victoria, is evaluating the new regime. With Drs Celia Kemp and Georgina Sutherland, both Senior Research Fellows at the Melbourne School of Population Health, David is surveying and interviewing key informants in respondent organisations to better understand their responses and elicit their views of the regime. The broad goal is to identify ways of enhancing coroners' ability to prevent accidents, injury and untimely death in the community.

Funded Research Grants



Commencing Australian Research Council (ARC) Discovery Projects in 2011

Carolyn Evans

(2011-2013)

'Religious Autonomy and the Restriction of Rights or Freedoms by Religious Communities: Comparative and Theoretical Approaches'

Funding: \$174,443

Religious communities must be autonomous in order to protect their unique identity and mission. Yet in exercising their autonomy they may interfere with the rights of freedoms of others. This project's sophisticated analysis of the tension between two sets of rights will offer a resolution that strengthens Australia's social fabric.

Beth Gaze and Anna Chapman

(2011-2013)

'Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?'

Funding: \$217,000

The Australian employment discrimination law system comprises long standing anti-discrimination law and novel discrimination provisions from the Fair Work Act 2009. This project studies the operation and effectiveness of the reshaped system, to assess whether it is likely to be effective in supporting a more substantive version of equality at work.

Helen Rhoades and John Dewar

(2011-2013)

'Making Children's Needs Knowable to Law'

Funding: \$250,000

This project addresses the growing concerns that the family law system is not adequately safeguarding children's wellbeing in parenting cases. Its development of an evidence-based framework for decision-making will facilitate the production of outcomes that will better support the wellbeing of families affected by relationship breakdown.

Commencing Australian Research Council (ARC) Discovery Projects in 2011

Cheryl Saunders

(2011-2013)

'Meeting the Challenges of Constitutional Comparison'

Funding: \$235,000

This project offers a more genuinely global approach to comparative constitutional law. It will deepen understanding of the operation and underlying assumptions of systems of government in countries around the world, assisting Australia in its dealings with neighbours and strategic partners and in developing its own constitutional arrangements.

Maureen Tehan, Lee Godden, Margaret Young and Kirsty Gover

(2011-2013)

'Climate Change Law and Mitigation: Forest Carbon Sequestration and Indigenous and Local Community Rights'

Funding: \$305,000

The project examines the impact of climate change law and mitigation on Indigenous peoples and local forest communities in Australia, India and Malaysia. It examines the United Nations - Reducing Emissions from Deforestation and Forest Degradation scheme which gives credit for carbon sequestration in forests thus providing financial incentives to avoid deforestation for communities in sensitive ecosystems.

Commencing Australian Research Council (ARC) Linkage Infrastructure, Equipment and Facilities Project in 2011

Graham Greenleaf, Andrew Mowbray, **Martin Vranken**, Ross Grantham,
Martin Krygier, Adam Czarnota, Anne McNaughton, Matthew Zagor,
Dan Svantesson, Steven Freeland, Wojciech Sadurski, Peter Gillies and
Patricia Blazey
(2011)

***'The World Legal Information Institute European Law Collection: Effective Access to
European Legal Information (in English) for Australian Researchers'***

Funding: \$200,000

Administering Organisation: University of New South Wales

This facility will provide the most comprehensive collection of free access English language
databases of European legal materials (both national and supra-national) and allow citations of
European cases and articles to be tracked, improving Australian research in European law.

Graduate Research Focus



Tsegaye Ararssa



“Tsegaye considers himself fortunate to be at Melbourne Law School where he benefits from the hard work and congeniality of: the faculty who, through their supervision, teaching, and wider scholarly engagements, represent some of the finest legal scholars in the world; the extremely efficient and wonderfully cooperative staff; the vibrant and supportive, if extremely competitive, student body; and a first rate library facility.”

Tsegaye’s thesis is entitled “Sub-national Constitution-Making in Multinational Federations: Ethno-national Autonomy and Sub-national Constitutional Space.” Supervised by Professors Cheryl Saunders and Michael Crommelin.

Tsegaye’s thesis analyzes the making of sub-national Constitutions from a comparative perspective. By focusing on sub-national constitutions in multinational federations, he examines the constituent authority behind the making of sub-national constitutions. In particular, among other things, the thesis explores the issue of whether sub-national units enjoy a *pouvoir consttuant* that is separate from and/or overlapping with the national equivalent. He also explores the question of whether and to what extent—in a multinational, multi-ethnic setting—ethno-national demands for self-determination and claim to sovereignty shape the emergence of a distinct constituent authority behind the making of sub-national constitutions. While doing so, he also seeks to examine the significance of the presence of the ethno-national component in multi-ethnic, multi-national federations in determining the sub-national constitutional space and the power of the national governments to monitor and control the sub-national constitutional space. Considering the crucial role sub-national constitutions play (albeit more invisibly than national constitutions do) both as instruments of sub-national (i.e., state and local level) governance and in giving a more concrete shape to the sovereignty asserted increasingly by sub-national entities in multi-

national federations, Tsegaye seeks to stress the importance of looking into the making of sub-national constitutions.

Tsegaye holds LL.B and LL.M degrees from the Law Schools of Addis Ababa (Ethiopia) and Amsterdam (Holland) Universities, respectively. He has a vast experience as an academic (teaching Law at the Addis Ababa University, Ethiopia, and in the Law Faculty of Trento University, Trento, Italy, where he served as a Visiting Professor of African Law and Legal Pluralism during the Spring Semesters of 2009 and 2010). Prior to coming to Melbourne in December 2011 to begin his studies towards his PhD, he also worked for the United Nations Development Program (UNDP) first as a consultant and later as a Team Leader for Governance and Human Rights. In the latter capacity, he also acted as an Advisor on Democratic Governance and Human Rights to the UNDP Country Office. Tsegaye’s research work, most of which is in the area of constitutional law, federalism, sub-national constitutions, constitution making, and human rights, have been published in journals both within and outside of Ethiopia. Tsegaye has also edited (in 2009) the second volume of the Ethiopian Constitutional Law Series entitled, *Issues of Federalism in Ethiopia: towards an Inventory* (Addis Ababa: Addis Ababa University Press, 2009). Some of his works have also featured as Book Chapters, Conference Proceedings, and Consultancy Reports.

Tsegaye Ararssa

His recent publications include: “*State-building at the Sub-national Level in Ethiopia and its Implications for Regional Integration (and cross-border Populations) in the Horn: The Case of the Somali Region*” in Proceedings of the 5th International Conference on Federalism (Forum of federations, 2012); “Pledges of a Legal Academic,” *Mizan Law Review*, Vol. 5 No.2, (2011), pp. 311-312; “Governance in the Horn: Issues, Challenges, and Prospects,” *Addis Round Up* (August/September 2011)(A UNDP Ethiopia Publication), pp. 21-30; “Constitutional Design and Constitutional Practice: Towards Bridging the Gap” *Mekelle University Law Journal*, Vol. 1, No. 1 (Fall 2010), PP.1-44; “Between Closure and Opening: Exit Exam in Ethiopian Law Schools,” *Ethiopian Journal of Legal Education*, Vol. 3, No.1 (June 2010), pp. 1-25; “The Making and Legitimacy of the Ethiopian Constitution: Towards Bridging the Gap between Constitutional Design and Constitutional Practice” *AFRIKA FOCUS* (University of Ghent, Belgium), Vol. 23, No 1 (June 2010), pp. 85-118; “Comparative Relevance of the Ethiopian Federal System to other African Polities of the Horn: First Thoughts on the Possibility of ‘Exporting’ Multi-ethnic Federalism,” *Bahir Dar University Law Journal*, Vol. 1, No. 1 (May 2010), pp.5-48; “Learning to Live with Conflicts: Federalism as a Tool of Conflict Management in Ethiopia,” *Mizan Law Review*, Vol. 4, No.2 (March 2010), pp. 52-101; “Making Legal Sense of Human Rights: The Judicial Role in Protecting Human Rights in Ethiopia,” *Mizan Law Review*, Vol. 3, No. 2 (2009) pp. 288-330; “Legal Education in the New Ethiopian

Millennium: Towards a Law Teacher’s Wish List,” *Ethiopian Journal of Legal Education*, Vol. 2, No. 2 (2009), pp. 53-92; “Sub-National Constitutions in Ethiopia: Towards Entrenching Constitutionalism at State Level,” *Mizan Law Review*, Vol. 3, No.1 (2009), pp. 33-69.

Erin O'Donnell



"In recent times, environmental law has evolved from a 'command and control' paradigm into a more flexible, market-compatible model, a trend exemplified by the adoption of cap-and-trade schemes in water resource management. The 'cap' places a limit on the use of water resources, and statutory rights to water that resemble property enable trade to facilitate efficient resource use."

Managing environmental water, which keeps our rivers and wetlands healthy, requires a new approach in the context of these new water markets. Victoria responded with a novel institutional form, the new Victorian Environmental Water Holder (VEWH), a statutory body corporate.

Creating an environmental corporation by corporatizing an environmental management agency such as the VEWH may confer on the natural environment a position of greater equality from which to engage with the law and the allocation of scarce natural resources. This novel use of the corporate form raises some fundamental questions: can an environmental corporation represent the natural environment? Does the natural environment itself thereby obtain a legal identity – a voice of its own? Does the corporate form change our relationship to the natural environment by giving the 'environment' greater equality and independence? Alternatively, does it further constrain the concept of the natural environment within the legal and economic framework?

Erin O'Donnell will investigate these questions using the new VEWH as a case study. She commenced her PhD studies in February 2011. Her supervisors are Professor Lee Godden, Associate Professor Sundhya Pahuja and Professor John Freebairn (Department of Economics). Erin's proposed thesis title is: Environmental independence: how can environmental law adapt to an environmental corporation with property rights and a voice of its own?

Erin has been working in the fields of environmental management and environmental governance since 2003. She has a B.Sc. (first-class honours in ecology) from the University of Adelaide, and a LL.B (first-class honours) from Deakin University. Erin completed her LL.B part-time whilst working as an environmental consultant, and then as the Manager of Strategic Environmental Water Policy in the Victorian Department of Sustainability and Environment (DSE). Erin was responsible for developing the new Victorian Environmental Water Holder, and in 2009, she received a DSE recognition award for the innovative legislation that established this new organization.

Erin has been actively engaged in academic and public debate since 1999, when she and a fellow engineering student co-authored and presented two papers at the Australasian Conference on Engineering Education, on the experiences of women in engineering studies (peer-reviewed and published in the proceedings). In 2001-02, she completed two research projects in ecology: a preliminary investigation of the impacts of the oil-drilling operations on Barrow Island on its bird community; and a study of the re-introduction of the Greater Bilby to northern South Australia, resulting in the co-authorship of two articles in peer-reviewed ecology journals. Erin has been a guest speaker at various public debates and workshops, including being a guest moderator at the Executive Cranlana Colloquia.

Erin O'Donnell

In 2007, Erin presented a paper on a pilot program to use market mechanisms to improve stream flows in unregulated rivers at the international Riversymposium conference, and was a guest speaker at the international water trading workshop. In 2011, Erin co-authored a paper with Avril Horne and John Freebairn titled "Establishing and managing the environmental water reserve – the interaction between different government policies," in the Australian Journal of Water Resources. During 2011, Erin presented her work on environmental water governance at the Western Economics Association International 9th Biennial Pacific Rim Conference and the NCCARF National Water Governance Workshop. In 2012, Erin gave a guest lecture on environmental water governance for the Melbourne Master of Laws unit Water Law and Natural Resource Management. Erin has a forthcoming paper in the Journal of Water Law, titled "Institutional reform in environmental water management: the new Victorian Environmental Water Holder".

Erin was confirmed as a PhD candidate in March 2012, and has completed the first stage of her data collection, involving interviews with staff of the Victorian and Commonwealth environmental water management organisations. She is planning to commence stage 2 during 2013, involving interviews with environmental water managers in Australia and the USA.

During 2012, Erin also achieved a long-held personal dream of swimming with whale sharks at Ningaloo Reef in Western Australia.

Laura Petersen



“Laura’s contention is that restitution is a social concept that takes legal as well as memorial and artistic forms.”

Laura returned to Melbourne Law School after spending time in Berlin at the Freie Universität where she completed her MA in Comparative Literature (in German), funded by the German Academic Exchange Service (DAAD). Her interdisciplinary PhD project follows on from this research and combines her background in law, German studies and aesthetics to explore processes of restitution and justice in post-Holocaust Germany. The title of her PhD thesis is ‘Law and aesthetics after the Holocaust: gestures of justice and restitution’.

Laura’s research explores the various responses that seek to acknowledge the atrocities of the Holocaust, incorporating analysis of legal mechanisms as well as visual art, fictional narratives and memorial sites in an attempt to understand how these processes in different realms take on meaning and value. Laura is excited to be working across various disciplines and glad that her approach has been encouraged at Melbourne Law School and supported by her supervisors Associate Professor Peter Rush and Associate Professor Shaun McVeigh.

In December 2011, Laura co-organised together with Marc Trabsky and Jake Goldenfein the Melbourne Doctoral Forum on Legal Theory with the theme ‘Law and Its Accidents’. This was the fourth time the Doctoral Forum had been convened at Melbourne Law School and the two-day event was well attended by doctoral candidates from Universities in Australia as well as

overseas. The Doctoral Forum provides an opportunity for PhD students interested in theoretical approaches to law to come together and share their work around a common theme. Arising out of the 2011 Doctoral Forum will be a Symposium issue of the Griffith Law Review that will include papers from contributors around the theme ‘Law and Its Accidents’. This forthcoming Symposium issue will be introduced and co-edited by Laura, Jake and Marc and published in 2013. In 2011 Laura also published a chapter in an edited book on the role of animals in Holocaust narratives that arose out of her research in Germany.

Laura is on the committee of the Graduate Researcher’s Association and is currently organising an inaugural Law PhD social function that will bring together Law PhD students studying at the various universities in Melbourne. She has a BA/LLB (Hons) from the University of Melbourne and, prior to beginning her postgraduate research, was admitted as a Barrister and Solicitor of the Supreme Court of Victoria and practised law in a large firm.

Tiong Guan Saw



*"Tiong Guan finished his PhD this year, he is now a full-time academic. Tiong Guan is also an independent filmmaker and is currently filming a documentary about the world renowned auteur Tsai Ming-liang, in collaboration with Gadhawirra Waagan, an Australian production house. His new book, *Film Censorship in the Asia-Pacific Region* is due to be published in 2013."*

Tiong Guan took his LL.B and LL.M degrees from the University of Malaya. He specializes in administrative law and media law with a special focus on judicial review and content regulation.

Tiong Guan's doctoral research examines the film censorship system in Malaysia and analyses it through the comparable systems found in Hong Kong and Australia. The research identifies key issues within the Malaysian system by examining the censorship laws, guidelines and processes and evaluates film practitioners' and censors' opinion of, and experience in, dealing with censorship issues in the three jurisdictions. The research suggests that the Malaysian film censorship system has adverse effects on the country's film industry and practitioners, and also unreasonably limits the experiences of audiences. The thesis then proposes reforms to the system that appear likely to promote the artistic vibrancy and commercial viability of the country's film industry.

The PhD thesis, supervised by Professor Andrew Kenyon and Dr Amanda Whiting, is entitled *The Final Cut: Film Censorship and Judicial Review in Malaysia, Hong Kong and Australia*. During his PhD candidature, Tiong Guan was based in Melbourne and undertook extensive fieldwork across Australia, Hong Kong and Malaysia in 2009 and 2010. His research was completed in 2011 and he presented his completion seminar on 20 May 2011 at the Melbourne Law School.

Apart from being an advocate and solicitor of the High Court of Malaya since 2005, Tiong Guan has also taught at the Faculty of Law, University of Malaya prior to commencing his doctoral research at the University of Melbourne. Since completing the doctoral degree, he has been living in Kuala Lumpur and teaches Administrative Law and Constitutional Law at the Faculty of Law, University of Malaya. He also serves as a consultant to the Malaysian Law Reform Commission on its project in reforming the *Houses of Parliament (Privileges and Powers) Act 1952* and the *House of Representatives Standing Orders*. Tiong Guan is also an associate of the Melbourne-based Centre for Media and Communications Law.

Tiong Guan has had his academic work and film journalism published in Malaysia. His recent publications include a co-authored article entitled *The Traditional Owner Settlement Act 2010 (Vic): Because Sometimes Acronyms Have Two Meanings* [2011] LAWASIA Journal 15 with Darren Peter Parker. He recently presented a paper on the Malaysian Administrative Law Model at the Seminar on the Malaysian Constitutional Framework and Civil Rights, a special seminar jointly held by the National Assembly of Vietnam and the Vietnamese Institute of Legislative Studies.

Marc Trabsky



“Marc is thrilled to be working at Melbourne Law School, which provides a supportive environment for his research.”

Marc Trabsky commenced his PhD candidature in 2011. His doctoral thesis, which is titled *Voices of the Dead: Law, Aesthetics and Mortality*, offers an institutional account of the dead in law. It questions how the dead dwell in the office of the coroner, but also what the significance is of thinking through law by means of different institutions of the dead. His case studies include the local history of the office of the coroner, the legal form of the death mask and the use of aural technology in the courtroom to communicate with the dead.

In narrating a story about how the dead dwell in the office of the coroner, his thesis stresses the importance of taking seriously the different traditions through which the coroner conducts lawful relations with the dead. In other words, the particular stories he evokes in his thesis reveal how the coroner assumes responsibility for the dead, but also how the dead shape legal traditions, practices and institutions. Marc is thrilled to be working at Melbourne Law School, which provides a supportive environment for his research, and supervised by Associate Professor Peter Rush and Associate Professor Shaun McVeigh.

In 2011 Marc published a journal article with Megan Richardson about the common law conception of radio in *Victoria Park Racing v Taylor* and a book chapter on law in the marketplace – a local history of the Queen Victoria Market and the Old Melbourne Cemetery. He also co-organised with Laura Petersen and Jake Goldenfein

the fourth Melbourne Doctoral Forum on Legal Theory with the theme ‘Law and Its Accidents’. The forum provided a unique space for graduate researchers and early career academics to discuss, share and reflect upon theoretical, jurisprudential and methodological approaches to law. Marc will be co-editing with Laura and Jake a Symposium issue of the Griffith Law Review called ‘Law and Its Accidents’, which will be published in 2013. In addition, he is co-organising with Julia Dehm and Timothy Neale the fifth Melbourne Doctoral Forum on Legal Theory with the theme ‘Grounding Law’.

Marc is the co-president of the Melbourne Law School Graduate Researcher’s Association. In 2011 he taught in the Melbourne Law School and currently teaches in the School for Social and Political Science at The University of Melbourne. He completed a BA/LLB (Hons) at The University of Melbourne in 2007 and a MPhil in the Department of Gender and Cultural Studies at The University of Sydney in 2011.

Student Research Prizes



2011 Harold Luntz Graduate Research Thesis Prize



"Dr Takele Bulto is an Assistant Professor in International Studies, Faculty of Arts and Design at the University of Canberra. He is also a Visiting Fellow, Centre for International Governance and Justice, Regulatory Institutions Network (RegNet), ANU."

The Harold Luntz Graduate Research Thesis Prize is awarded annually to the Melbourne Law School graduate research student judged to have presented the best thesis in the previous year, provided that the nominee meets an overall level of excellence required for the award. It is named for Emeritus Professor Harold Luntz, a world expert on torts law and a former dean and professor at Melbourne Law School.

The 2011 Harold Luntz Graduate Research Thesis Prize was won by:

Dr Takele Bulto

Rights, Wrongs and the River Between: Extraterritorial Application of the Human Right to Water in Africa

Dr Bulto was supervised by Professor Carolyn Evans, Associate Professor Jacqueline Peel.

Dr Bulto's PhD thesis brings together international environmental law and human rights law to examine the legal obligations States owe to other States with which they share water (particularly rivers). It is an excellent thesis that has made a real contribution to thinking about the difficult problem of water-sharing and access to water between States. His research has made, and continues to make, an impact in an area of growing international importance.

The Selection Committee for the Prize said that 'Both examiners' reports are particularly and consistently strong, emphasizing the quality and important contribution of the thesis. The principal supervisor's recommendation was also particularly strong, commending Dr Bulto on an excellent and important piece of scholarship that will make a very significant contribution the progressive development of international human rights law. Both examiners passed Dr Bulto without requiring any changes and the first examiner recommended Dr Bulto for the Chancellor's Prize for Excellence in the PhD Thesis ranking the thesis as 'near or at the very top of this scholarship'.

Student Published Research Prize

The Student Published Research Prize is awarded annually for outstanding pieces of writing by students of the University of Melbourne Law School.

Four prizes are awarded, one to a Graduate Research student, Masters law student, JD student and an LLB student.

Graduate Research 2011 Winner



Ms Roisin Burke

'UN Military Peacekeeper Complicity in Sexual Abuse: The ICC or a Tri-Hybrid Court'

in M Bergsmo (ed), *Thematic Prosecution of International Sex Crimes* (2012)

JD 2011 Winner



Ms Maya Narayan

'Creatures of Statute, Beast of Burden: The Victorian Civil and Administrative Tribunal and the Heavy Lifting of Human Rights'

(2011) 66 *AIAL Forum* 1-17

Melbourne Law Masters 2011 Winner



Mr Adam Chernok

'Entrapment Under Controlled Operations Legislation: A Victorian Perspective'

(2011) 25(6) *Criminal Law Journal* 361-375

LLB 2011 Winner



Ms Kathryn Tomasic

'"Price Signalling" Amendments to the Competition and Consumer Act 2010 (Cth): A Principled Response to the Problem of Tacit Collusion?'

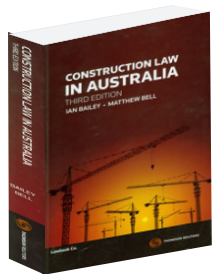
(2011) 19 *Competition and Consumer Law Journal* 1 - 38

Photography by Photonet

Published Research 2011

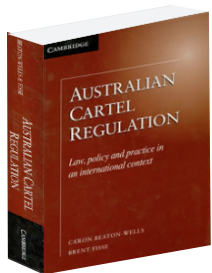


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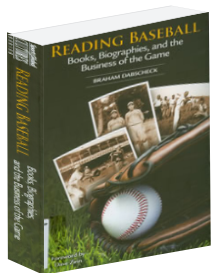
Construction Law in Australia

Ian Bailey, Matthew Bell, C Bell, L Chan, D Charles, S Frawley, P Gerber and A Thwaites
 Publisher: Thomson Reuters
 ISBN: 978-0-455-22342-1
 Year: 2011



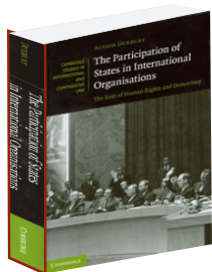
Australian Cartel Regulation: Law, Policy and Practice in an International Context

Caron Beaton-Wells and Brent Fisse
 Publisher: Cambridge University Press
 ISBN: 978-0-521-76089-8
 Year: 2011



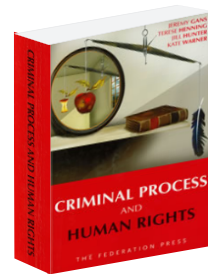
Reading Baseball: Books, Biographies, and the Business of the Game

Braham Dabscheck
 Publisher: Fitness Information Technology
 ISBN: 978-1-935412-24-3
 Year: 2011



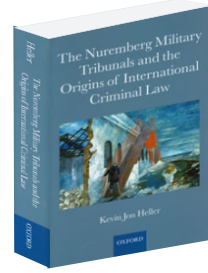
The Participation of States in International Organisations: The Role of Human Rights and Democracy

Alison Duxbury
 Publisher: Cambridge University Press
 ISBN: 978-0-521-19200-2
 Year: 2011



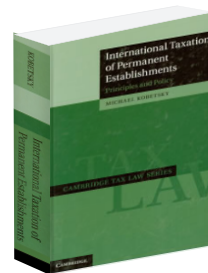
Criminal Process and Human Rights

Jeremy Gans, Terese Henning, Jill Hunter and Kate Warner
 Publisher: Federation Press
 ISBN: 978-1-86287-838-9
 Year: 2011



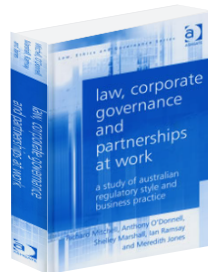
The Nuremberg Military Tribunals and the Origins of International Criminal Law

Kevin Heller
 Publisher: Oxford University Press
 ISBN: 978-0-19-955431-7
 Year: 2011



International Taxation of Permanent Establishments: Principles and Policy

Michael Kobetsky
 Publisher: Cambridge University Press
 ISBN: 978-0-521-51632-7
 Year: 2011



Law, Corporate Governance and Partnerships at Work: A Study of Australian Regulatory Style and Business Practice

Richard Mitchell, Anthony O'Donnell, Shelley Marshall, Ian Ramsay and Meredith Jones
 Publisher: Ashgate
 ISBN: 978-1-4094-2107-8
 Year: 2011

Books Authored



Japan-Bashing: Anti-Japanism since the 1980s

Narelle Morris

Publisher: Routledge

ISBN: 978-0-415-49934-7

Year: 2011



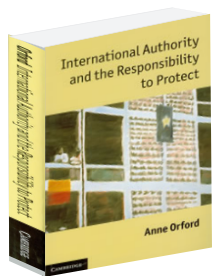
Health Worker Shortages and Global Justice

Paula O'Brien and Lawrence Gostin

Publisher: Milbank Memorial Fund

ISBN: 978-1-887748-74-2

Year: 2011



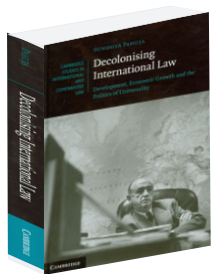
International Authority and the Responsibility to Protect

Anne Orford

Publisher: Cambridge University Press

ISBN: 978-0-521-19999-5

Year: 2011



Decolonising International Law: Development, Economic Growth and the Politics of Universality

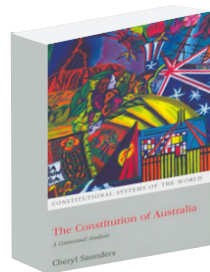
Sundhya Pahuja

Publisher: Cambridge University Press

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Year: 2011

Books Authored



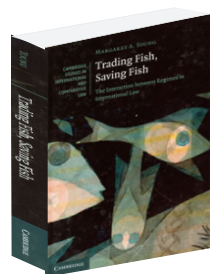
The Constitution of Australia: A Contextual Analysis

Cheryl Saunders

Publisher: Hart Publishing

ISBN: 978-1-84113-734-6

Year: 2011



Trading Fish, Saving Fish: The Interaction between Regimes in International Law

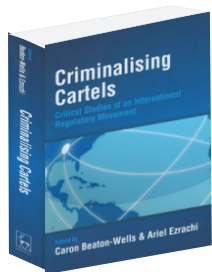
Margaret Young

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Edited Books



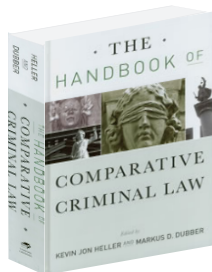
Criminalising Cartels: Critical Studies of an International Regulatory Movement

Caron Beaton-Wells and Ariel Ezrachi

Publisher: Hart Publishing

ISBN: 978-1-84946-025-5

Year: 2011



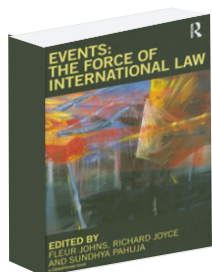
The Handbook of Comparative Criminal Law

Kevin Heller and Markus Dubber

Publisher: Stanford University Press

ISBN: 978-0-8047-5758-4

Year: 2011



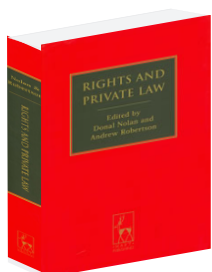
Events: The Force of International Law

F Johns, R Joyce and Sundhya Pahuja

Publisher: Routledge

ISBN: 978-0-415-55452-7

Year: 2011



Rights and Private Law

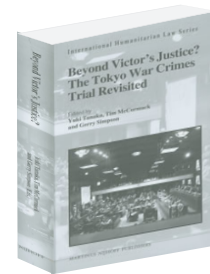
D Nolan and Andrew Robertson

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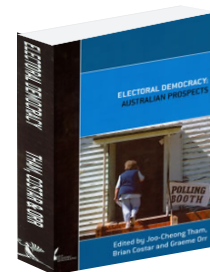
Beyond Victor's Justice? The Tokyo War Crimes Trial Revisited

Y Tanaka, Tim McCormack and Gerry Simpson

Publisher: Martinus Nijhoff Publishers

ISBN: 978-90-04-20303-7

Year: 2011



Electoral Democracy: Australian Prospects

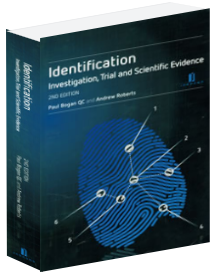
Joo-Cheong Tham, Brian Costar and Graeme Orr

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Revised Books



Identification: Investigation, Trial and Scientific Evidence (2nd edition)

Paul Bogan QC and **Andrew Roberts**
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ISBN: 978-1-84661-236-7
Year: 2011



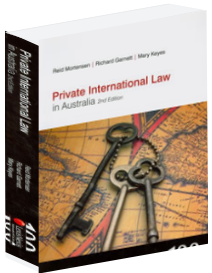
Competition Law: Cases & Materials (3rd edition)

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First Principles of Business Law: Interactive Tutorials & Source Book (4th edition)

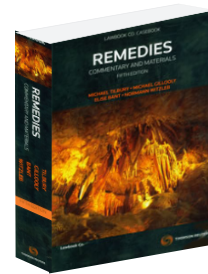
Michael Lambiris
Publisher: CCH Australia
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Private International Law in Australia (2nd edition)

Reid Mortensen, **Richard Garnett** and
Mary Keyes
Publisher: LexisNexis Butterworths
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Revised Books



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Michael Tilbury, Michael Gillooly, **Elise Bant**
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Commercial Applications of Company Law in Singapore (4th edition)

V Yeo, J Lee, **Pamela Hanrahan**,
Ian Ramsay and Geof Stapledon
Publisher: CCH Australia
ISBN: 978-9814248983
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Christie, A, 'Maximising Permissible Exceptions to Intellectual Property Rights' in A Kur and V Mizaras (eds), *The Structure of Intellectual Property Law: Can One Size Fit All?*, Edward Elgar Publishing, United Kingdom (2011), 121-135

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Godden, L, 'Communal Governance of Land and Resources as a Sustainable Property Institution' in D Grinlinton and P Taylor (eds), *Property Rights and Sustainability: The Evolution of Property Rights to Meet Ecological Challenges*, Martinus Nijhoff Publishers, Netherlands (2011), 249-272

Haller, L, 'Reading Reported Cases Through a Legal Ethics Lens' in M Robertson, L Corben, K Tranter and F Bartlett (eds), *The Ethics Project in Legal Education*, Routledge, United Kingdom (2011), 191-211

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Heller, K, 'The Law of Neutrality Does Not Apply to the Conflict with Al-Qaeda, and It's a Good Thing, Too: A Response to Chang' (2011) 47 *Texas International Law Journal* 115-141

Jordan, C, 'The Dangerous Illusion of International Financial Standards and the Legacy of the Financial Stability Forum' (2011) 12 *San Diego International Law Journal* 333-362

Kurtz, J, 'The Australian Trade Policy Statement on Investor-State Dispute Settlement' (2011) 15 *ASIL Insights* 1-6

Leino, J and **Liivoja, R**, 'Finland in Correspondents' Reports' (2011) 13 *Yearbook of International Humanitarian Law* 480-485

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Liivoja, R, 'This Court Sentences You .. Trial Court Delivers Judgment in the First Finnish Genocide Case' (2011) 2 *Helsinki Review of Global Governance* 34-35

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McVeigh, S, 'Reasons to be Satisfied: Tim Dare and the Limits of Positivist Legal Ethics' (2011) 36 *Australian Journal of Legal Philosophy* 166-176

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- Narayan, M**, 'Creatures of Statute, Beast of Burden: The Victorian Civil and Administrative Tribunal and the Heavy Lifting of Human Rights' (2011) 66 *AIAL Forum* 1-17
- Otto, D**, 'Prospects for International Gender Norms' (2011) 31 *Pace Law Review* 873-881
- Richardson, M**, 'Phone Hacking and Privacy Torts' (2011) 30 *Fortnightly Review* 206-209
- Richardson, M**, 'Too Many Academics? The Experience of Privacy Law Reform' *Fortnightly Review* 144-146
- Richardson, M**, 'When Should Privacy be Legally Protected?' (2011) 32 *Fortnightly Review* 219-222
- Rhoades, H**, 'A Bold Experiment? Reflections on the Early History of the Family Court' (2011) 22 *Australian Family Lawyer* 11-24
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- McVeigh, S**, *Jurisprudence and Legal Theory*, LexisNexis Concise Australian Legal Dictionary (2011) LexisNexis, Australia
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- Skene, L**, *Health Practitioner*, LexisNexis Concise Australian Legal Dictionary (2011) LexisNexis, Australia
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Tehan, M, *Indigenous Legal Issues*, LexisNexis Concise Australian Legal Dictionary (2011) LexisNexis, Australia

Voon, T, *Article XVII: State Trading Enterprises*, Max Planck Commentaries on World Trade Law: WTO - Trade in Goods (2011) Koninklijke Brill NV, Netherlands

Research Centres, Institutes & Groups



Asia Pacific Centre for Military Law



“The Asia Pacific Centre for Military Law (APCML) was established in 2001 as a collaborative initiative of Defence Legal in the Australian Department of Defence and Melbourne Law School to facilitate cooperation among military forces of the Asia Pacific region in the research, training and implementation of the laws governing military operations.”

APCML aims to promote both a greater understanding of and increased respect for the rule of law in all aspects of military affairs within the Australian Defence Force and militaries in the Asia Pacific Region. It operates from both a military and a university node.

In 2011, the Director of the Centre was Professor Gerry Simpson. The Deputy Director was Group Captain Alan Hemmingway CSC. Associate Professor Alison Duxbury was the Associate Director (University node) and Mr Peter Jeffrey AM CSC RFD was the Associate Director (Military node).

Professor Tim McCormack was the Project Director for Strategic Liaison, Professor Dianne Otto was the Project Director for Peacekeeping and Dr Kevin Heller was the Project Director for International Criminal Law.

Additional staff from Melbourne Law School who were associated with the Centre in 2011 included Professor Andrew Mitchell, Associate Professor John Tobin, Associate Professor Bruce Oswald and Associate Professor Tania Voon. The Rt Hon Malcolm Fraser AC CH, The Hon Dr Mike Kelly AM MP, Associate Professor Robert Mathews OAM, The Hon Alastair Nicholson AO RFD QC and Brigadier Ian Westwood AM were also attached to the Centre. Ms Monique Cormier, Dr Georgina Fitzpatrick, Dr Rain Liivoja and Dr Narrelle Morris were research fellows. Ms Cathy Hutton was the Centre Administrator.

Visitors in 2011

Professor Michael D Ramsey - University of San Diego

Ms Elizabeth Wilmshurst CMG - Associate Fellow, International Law, Chatham House, London and 2011 Sir Ninian Stephen Visiting Scholar to the APCML

Mr Sandesh Sivakumaran - University of Nottingham

Mr Solon Solomon

Professor Ghassan Hage - University of Melbourne

Dr Chris Gallavin - University of Canterbury

Associate Professor Robin Warner - University of Wollongong

Dr Hannah Tonkin - International Criminal Tribunal for Rwanda

Professor Dino Kritsiotis - University of Nottingham

Judge Jeff Blackett - Judge Advocate General of Her Majesty's Armed Forces

Professor Devin Pendas - Boston College

Dr Ralph Wilde - University College London

William K Lietzau - Deputy Assistant Secretary of Defense for Detainee Policy, US Department of Defense

Asia Pacific Centre for Military Law

Australian Research Council Projects in 2011

Australia's Post-World War II War Crimes Trials: A Systematic and Comprehensive Law Reports Series

This project redresses the remarkable lack of comprehensive and systematic analysis of Australia's post-World War II war crimes trials by producing a comprehensive law reports series of the 300 trials held pursuant to the War Crimes Act 1945 (Cth). The reports will provide valuable Australian legal and historical precedent in an increasingly important area of international and domestic law. The project will produce eight contextual essays on the trial locations and other historical essays on related topics such as the carrying out of the death sentences and the investigation and prosecution of cases of cannibalism.

A Conceptual History of War Crimes Trials

This project, being undertaken by APCML Director Professor Gerry Simpson, explores the purposes of war crimes trials, their legal significance and their social and political effects.

In 2011, Ms Monique Cormier continued her work as Research Fellow for this project. She has undertaken wide ranging research into both historical and contemporary war crimes trials and is closely following the ad hoc trials of Somali pirates. Ms Cormier presented a paper at the 2011 Australia New Zealand Society of International Law conference on the media's reaction to the charging of Australian soldiers for civilian deaths in Afghanistan. The scope of this research is now being expanded and will result in an article for publication in 2012. She is also

writing on head of state immunity and its application to the recent attempt to indict the Sri Lankan president for war crimes in an Australian court.

International Operations and the Australian Federal Police: Devising a Legal Framework

In the current environment of complex and rapidly changing regional threats to peace and security, the international deployment of Australian Federal Police (AFP) is at an unprecedented level. This situation has resulted in a range of new and pressing legal challenges experienced by the AFP relating to the legal mandate of such operations and the legal framework to be used during deployments. In an important collaboration with the AFP, combining academic expertise with practical experience, this project will provide a clear legal framework and operations guidelines for the planning, management and conduct of AFP deployments.

Other Significant Research Projects in 2011

Non-International Armed Conflict: Clarifying the Current International Law Relating to NIAC

This project is currently being undertaken in partnership with Defence Legal.

The project comprises the drafting of four key papers on: the definition of a non-international armed conflict (NIAC); the law applicable to a NIAC and the relationship between international humanitarian law and international human rights law; detention in a NIAC; and the use of Force in a NIAC.

In late 2011, Dr Rain Liivoja was appointed to prepare the final stages of the project for completion in 2012.

Joint APCML–Asia Pacific Civil Military Centre of Excellence (APCMCOE) Research Projects

In 2011, Dr Rain Liivoja was appointed Research Fellow to plan for, coordinate, manage and undertake, where appropriate, research projects agreed between the APCML and the APCMCOE, in particular on legal issues relevant to civil-military engagements overseas and to advancing the Rule of Law in partner countries. Since his appointment, Dr Liivoja has participated as the APCML representative in a number of APCMCOE events. Along with Professor McCormack, he has also successfully applied for a collaboration grant awarded by the University of Melbourne Research Office to begin work on a project to assess the Australian legal regulation of private military contractors.

Major Publications

Alison Duxbury, *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (Cambridge University Press, 2011)

Gerry Simpson, Yuki Tanaka and **Tim McCormack** (eds), *Beyond Victor's Justice: The Tokyo War Crimes Trial Revisited*, (Martinus Nijhoff, 2011)

Kevin Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford University Press, 2011)

Kevin Heller and Markus Dubber (eds), *The Handbook on Comparative Criminal Law* (Stanford University Press, 2011)

Asia Pacific Centre for Military Law

Major Events

In 2011, the Centre hosted the following events:

The Constitutional Status of International Law: US Perspectives

Lunchtime Seminar

Professor Michael D Ramsey, University of San Diego

Convenor: APCML
(29 March 2011)

The Crime of Aggression and Its Place in the International Criminal Justice System

Evening Public Lecture

Ms Elizabeth Wilmshurst CMG, Associate Fellow, International Law, Chatham House, London and 2011 Sir Ninian Stephen Visiting Scholar to the APCML
Convenor: APCML
(30 March 2011)

The Participation of States in International Organizations: The Role of Human Rights and Democracy

Book Launch

Author: Associate Professor Alison Duxbury
Launched by Ms Elizabeth Wilmshurst CMG, Associate Fellow, International Law, Chatham House, London and 2011 Sir Ninian Stephen Visiting Scholar to the APCML
(31 March 2011)

Re-thinking the Law of Internal Armed Conflict

Lunchtime Seminar

Mr Sandesh Sivakumaran
(11 May 2011)

External, Internal Limits: New Security and Legal Horizons in the Arab World and Beyond

Lunchtime Seminar

Mr Solon Solomon
(22 June 2011)

'Terrorist': Diasporic Emotions, Sense of Justice & International Criminal Classification

Public Lecture

With the Institute for International Law and the Humanities
Keynote address for the Affective States Symposium
Professor Ghassan Hage, University of Melbourne
(20 July 2011)

Affective States of International Criminal Justice

International Symposium

With the Institute for International Law and the Humanities
Convenors: Gerry Simpson and Peter Rush (IILAH)
(21–22 July 2011)

Military Law in a New Dimension: Armed Forces Deployed against Transnational Crime and Terrorism

International Symposium

With the Armed Forces Law Association of New Zealand

Convenors: Alison Duxbury, Chris Gallavin (University of Canterbury), Robin Warner (University of Wollongong)
(26–28 August 2011)

State Control over Private Military & Security Companies in Armed Conflict

Lunchtime Seminar

Dr Hannah Tonkin, UN International Criminal Tribunal for Rwanda
Convenor: Rain Liivoja
(30 August 2011)

APCML in the Round

Professor Dino Kritsiotis, University of Nottingham
Convenors: Monique Cormier and Anna Hood
(8 September 2011)

The British system of Courts-Martial and the European Convention on Human Rights

Seminar

Judge Jeff Blackett, Judge Advocate General of Her Majesty's Armed Forces
Convenor: Alison Duxbury
(21 September 2011)

Asia Pacific Centre for Military Law

The Legacy of the Eichmann Trial in Law and Memory

Public Lecture

Keynote address for the Eichmann Trial at 50 International Symposium
Professor Devin Pendas, Boston College
Convenors: Kevin Heller and Gerry Simpson
(13 October 2011)

The Eichmann Trial at 50

International Symposium

Convenors: Kevin Heller and Gerry Simpson
(14 October 2011)

Beyond Victor's Justice? The Tokyo War Crimes Trial Revisited

Book Launch

Authors: Yuki Tanaka, Tim McCormack and Gerry Simpson
Launched by Sir Gerard Brennan AC KBE
(14 October 2011)

A Normative Standard for Military Justice?

Public Lecture to Commemorate APCML's 10th Anniversary

Professor Tim McCormack
(3 November 2011)

Military Justice in the Modern Age

International Symposium

Convenors: Alison Duxbury and Matthew Groves (Monash)
(4–5 November 2011)

The Al-Skeini Judgment on the Extraterritorial Application of Human Rights Law

Seminar

Dr Ralph Wilde, University College London
Convenor: Rain Liivoja
(6 December 2011)

Conversation on US Detainee Policy

Conversation

William K Lietzau, Deputy Assistant Secretary of Defense for Detainee Policy, US Department of Defense and Associate Professor Bruce Oswald
(13 December 2011)

Contact APCML

The Centre's website can be accessed at:
<http://apcml.law.unimelb.edu.au/>

The Centre can be contacted by email at:
law-apcml@unimelb.edu.au

Asian Law Centre

Asian Law

“The Asian Law Centre, an initiative of the Melbourne Law School, commenced activities in 1985. It is the first Australian centre established to teach and undertake research on the legal systems within Asia. It is now the largest centre for the study of Asian legal systems in the world.”

Research Projects

Centre members are engaged in research on a diverse range of topics relating to Asian legal studies. Members of the ALC worked on the following research projects in 2011:

- ARC Discovery Grant: ‘Legal Origins: The Impact of Different Legal Systems on the Regulation of the Business Enterprise in the Asia-Pacific Region’ (2010-2012) (S, Cooney, R, Mitchell, I, Ramsay, and Gahan)
- ARC Discovery Grant: “Drugs, Law and Criminal Procedure in Southeast Asia: A Comparative Analysis” (2010-2012) (T, Lindsey, T and P, Nicholson)
- ARC Discovery Grant: ‘Lawyers, Civil Society and the State in Post-colonial Malaysia’ (2009-2012) (A, Whiting)
- ARC Postdoctoral Fellowship: ‘The Prospects for Justice in the Legal Reform of Police Administrative Detention Powers in China’ (2009-2012) (S, Biddulph)
- ARC Discovery Grant: ‘Testing Court Reform Projects in Cambodia and Vietnam” (2008-2010) (P, Nicholson and C, Cameron)
- ARC Federation Fellowship: ‘Islam and Modernity: Syari’ah, Terrorism and Governance in South-East Asia’ (2006-2011) (T, Lindsey)

Significant Publications, 2011

Publications by Centre members in 2011 include:

- Biddulph, S, ‘Introduction’ in L Lin, *The China Development Yearbook*, Brill Academic Publishers, Netherlands (2011), xiv-xxvii
- Biddulph, S, ‘The Production of Legal Norms: A Case Study of Administrative Detention in China’ reproduced in P Keller (ed.), *The Citizen and the Chinese State*, Ashgate, United Kingdom (2011)
- Cooney, S, Biddulph, S, Li, K and Ying, Z, ‘China’s New Labour Contract Law: Responding to the Growing Complexity of Labour Relations in the PRC’ in P. Keller (ed), *Obligations and Property Rights in China*, Ashgate, United Kingdom (2011)
- Cooney, S, Gahan, P and Mitchell, R, ‘Legal Origins, Labour Law and the Regulation of Employment Relations’ in M Barry and A Atkinson (eds), *Research Handbook on Comparative Employment Relations*, Edward Elgar, United Kingdom (2011)
- Butt, S, and Lindsey, T, ‘Judicial Mafia: Corruption and the Courts in Indonesia’, in E Aspinall and G Van Klinken (eds), *The State and Illegality in Indonesia*, KITLV Press, Netherlands (2011) 189-216
- Biddulph, S and Xie, C ‘Regulating Drug Dependency in China: the 2008 PRC Drug Prohibition Law’ (2011) 51 *British Journal of Criminology* 978-996

Asian Law Centre

Australian Journal of Asian Law

The Asian Law Centre jointly publishes the Australian Journal of Asian Law (AJAL) with colleagues from the Australian National University and the University of Hong Kong. A peer-refereed scholarly journal, the AJAL is now a leading forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia.

Asian Law Online

<http://alc.law.unimelb.edu.au/bibliography>

Asian Law Online, launched in 2002, is the first online bibliographic database of Asian law materials in the world. Offered to the public as a free service to assist students, scholars and practitioners of Asian legal systems, it is a 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 by 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.

Islamic Law Online is now available, complementing Asian Law Online's wide range of offerings with new specialist listings on shari'ah.

Seminars

Occasional Seminar Series

In this series, distinguished scholars and leading practitioners present on current Asian legal issues.

Recent seminars include:

- 13 April 2011 – 'Access to Justice: The Journey of Poor Female Heads of Households in Indonesia to Achieve Lives with Justice and Dignity', Ms Nani Zulminarni
- 23 August 2011 – 'Centralization of Taxing Power and Economic Development: Chinese Evidence', Associate Professor Wei Cui
- 12 September 2011 – 'The Social Contract and the Malaysian Constitution Revisited', Professor Andrew Harding
- 25 October 2011 – 'Electoral Reform and the Quest for Democracy in Malaysia', Dato' Ambiga Sreenevasan

Brown Bag Seminar Series

In this series, postgraduates, academics or visitors 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.

Recent seminars include:

Professor Donald Clarke - '*Shareholder Derivative Lawsuits in China*', (19 April 2011)

Ms Sofie Schuette - '*The Indonesian Corruption Eradication Commission (KPK): Enforcement and Resistance*', (20 April 2011)

Judge Hyungsoon Park - '*Recent Amendments in Korean Criminal Law - Confronting Child Sexual Abuse*', (17 August 2011)

Mr Hai Ha Do - '*Collective Labour Dispute Resolution in Vietnam: The Proposed Legal Reform*', (24 August 2011)

Dr Dina Afrianty – '*Indonesia's Islamic Educational Institutions and Radicalism amongst the Muslim Youth*', (7 September 2011)

Mr Hao Zhang – '*Islamisation, the Law and Governance in Indonesia's Public Sphere: Muslim Religious Orientations and Support for Democracy*', (5 October 2011)

Asian Legal Dialogues

These seminars on Asian legal issues are conducted in Asian languages. Recent seminars include:

Judge Gen Ueno – '*A Judge's Work*', (9 February 2011)

Asian Law Centre

Professor Dr. Iur Adnan Buyung Nasution – ‘*Masalah Pemilihan Atau Penetapan Kepala Daerah Istimewa Yogyakarta Dilihat Dari Perspektif Konstitusional (The Problem of Electing or Appointing the Head of the Special Area of Yogyakarta seen from a Constitutional Perspective)*’, (5 April 2011)

Judge Byung Hie Oh – ‘*Electronic Litigation in Korea*’, (30 May 2011)

Major Events

In 2011, the Centre also hosted the following major events:

26 May 2011 – Burmese Studies Workshop

4-7 July 2011 - Japanese Studies Association of Australia (JSAA) Biennial Conference in Partnership with the Asia Institute

15-16 July 2011 – Workshop ‘Law and Society in Malaysia: Pluralism, Islam and Development’ in partnership with the Centre for Asia-Pacific Initiatives, University of Victoria, Canada

Visitors

The ALC regularly hosts visits by renowned international scholars. It participates in the following programs:

Supreme Court of Japan Overseas Training and Research Program

Beginning in 2003, the Asian Law Centre has every year hosted a Judge from Japan as part of the Overseas Training and Research Program of the Supreme Court of Japan. The Program enables Judges from Japan to experience life in a jurisdiction outside Japan for a twelve-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. Judge Gen Ueno (Okayama Family Court) visited in 2010/11 and Judge Atsuyuki Taniike (Tokyo District Court) visited in 2011-2012.

Supreme Court of Korea Overseas Research and Study Program

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. Judge Oh Byung Hie (Seoul Central District Court) visited in 2010/11 and Mr Jeong Hyun Hwang (Seoul Eastern District Prosecutors’ Office) visited in 2011-2012.

Chuo Law School Melbourne Summer School

Each year since 2005, the Asian Law Centre has hosted the Chuo Law School Melbourne Summer School. The Summer School continues the relationship with Chuo Law School that was developed – and originally taught – by the late Professor Malcolm Smith, Founding Director of the Asian Law Centre, when he joined Chuo Law School as Professor of Law, in 2004.

The Chuo Law School students enjoy interacting with Melbourne Law School students who participate in the Summer subject ‘Issues in Japanese Law’. They have recently been accompanied to Melbourne by Chuo Law School academics, Professor Satoru Osanai, Professor Dan Rosen and Professor Hisaei Ito.

In 2011 the Centre hosted a large number of visitors, including the following:

Japan

Judge Gen Ueno, Okayama Family Court

Judge Hiroko Ogiwara, Tokyo District Court

Judge Naoshi Shimobaba, Naha District Court, Omura Branch

Asian Law Centre

Mr Noritomo Hato, Ritsumeikan University

Ms Jin Chun, Kyoto University

Judge Atsuyuki Taniike, Tokyo District Court

Korea

Judge OH Byung Hie, Seoul Central District Court

Mr Jeong Hyun Hwang, Seoul Eastern District
Prosecutors' Office

Judge Hyungsoon Park, Seoul High Court

Indonesia

Professor Dr. Iur Adnan Buyung Nasution,
Honorary Professorial Fellow, Melbourne Law School

Ms Nani Zulminarni, Pemberdayaan Perempuan

Kepala Keluarga (PEKKA) (Women Headed
Household Empowerment)

USA

Professor Donald Clarke, George Washington
University Law School

Canada

Professor Andrew Harding, University of Victoria,
Canada

Malaysia

Dato' Ambiga Sreenevasan, Chairperson, BERSIH
2.0 & Former President of the Malaysian Bar
(2007-2009)

Ms Ratnawati Binti (Ratna) Osman, Sisters in Islam

China

Delegation from the People's Republic of China
- Ministry of Human Resources and Social
Security, International Labour Organization and
the Department of Education, Employment and
Workplace relations and the All China Federation of
Trade Unions.

Mongolia

Delegation from the Ministry of Justice and Home
Affairs of Mongolia

Staff

Director:

Professor Tim Lindsey (Indonesia, Islam & Law in
Southeast Asia)

Associate Directors:

Professor Pip Nicholson (Vietnam; Director,
Comparative Legal Studies Program)

Associate Professor and Reader Sarah Biddulph
(China)

Associate Professor Sean Cooney

Mr Andrew Godwin (Asian Commercial Law)

Ms Stacey Steele (Japan)

Dr Amanda Whiting (Malaysia)

Principal Research Assistants:

Ms Faye Chan

Ms Melissa Crouch

Ms Helen Pausacker

Manager:

Ms Kathryn Taylor

Administrator:

Ms Tessa Shaw

Contact the ALC

The Centre's website can be accessed at
<http://alc.law.unimelb.edu.au>

The Centre can be contacted by email at
law-alc@unimelb.edu.au

Centre for Comparative Constitutional Studies



“The Centre for Comparative Constitutional Studies (CCCS) is a focal point for research, scholarship, teaching and information about Australian constitutional law and the constitutional law of other countries whose systems are most relevant to Australia.”

2011 Seminars and Events

15 February 2011 - CCCS Seminar: The Emergence of East Asian Constitutionalism. *Professor Jiunn-rong Yeh, Public Law Research Centre, College of Law, National Taiwan University, Taiwan*

23 March 2011 - CCCS Seminar: Tolerance or Toleration? How to Deal with Religious Conflicts in Europe. *Dr Lorenzo Zucca, School of Law, King's College London, United Kingdom*

5 April 2011 - Book Launch: Tribal Constitutionalism: States Tribes and the Governance of Membership, Science and Risk Regulation in International Law. *Dr Kirsty Gover, Melbourne Law School, The University of Melbourne*

14 April 2011 - CCCS Seminar: The Right to Information in International Human Rights Law. *Associate Professor Maeve McDonagh, University College Cork, Ireland*

19 May 2011 - CCCCS Seminar: Constitutional Courts in Fragile Democracies. *Professor Samuel Issacharoff, Law School, New York University, United States*

14-15 July 2011 - Challenges of Electoral Democracy Workshop held at Melbourne Law School

This workshop is sponsored by the Centre for Comparative Constitutional Studies, Melbourne Law School and supported by New South Wales Electoral Commission and Victorian Electoral Commission, and is a follow up to the successful 2009 workshop on Electoral Regulation and Prospects for Australian Democracy.

15-16 July 2011 - CCCS and International Centre for Law and Religion Studies, Brigham Young Law School joint Conference held at Melbourne Law School. Law and Religion: Legal Regulation of Religious Groups, Organisations and Communities

26 August 2011 - CCCS Seminar: *Wainohu v New South Wales* [2011] HCA 24 (23 June 2011). *Associate Professor James Stellios, ANU College of Law*

31 August 2011 - CCCS Seminar: From the Pursuit of Unity to Respect of Diversity: A Retrospect and Reflection of Chinese Ethnic Policy. *Robert Li, Peking University*

12 September 2011 - ALC & CCCS Occasional Seminar: The Social Contract and the Malaysian Constitution Revisited. *Professor Andrew Harding, University of Victoria, Canada*

22 September 2011 - IILaH & CCCS Public Seminar: Beyond the Malaysian Solution? Refugee Responsibility Sharing in the Asia-Pacific Region. *Richard Towle, United Nations; Associate Professor Michelle Foster, Melbourne Law School; and Professor James C. Hathaway, Michigan Law School; Chair: Professor Adrienne Stone, Melbourne Law School*

29 September 2011 - CCCS Seminar: The High Cost of Judges: Reconsidering Judicial Pensions and Retirement in an Ageing Population. **Professor Brian Opeskin, Macquarie University**

Centre for Comparative Constitutional Studies

11 October 2011 - CCCS & Accountability Round Table Inaugural Lecture held at Melbourne Law School. Integrity in Parliament - Where Does duty Lie?. *Senator Fred Chaney*

12 October 2011 - Courting Controversy Series: The Constitution and Indigenous Australians. *The Right Hon. Malcolm Fraser AC CH, Professor Adrienne Stone and Mark McMillan. Chair: Associate Professor Maureen Tehan*

Tuesday 18 October 2011 - CCCS Seminar: The Constitutional Court of South Africa: Judicial Appointments and other Recent Developments. *Justice Dennis Davis, High Court of South Africa*

11 November 2011 - CCCS Seminar: SC 10/2010 Valerie Morse v The Police. *Steven Price, Victoria University of Wellington*

17 November 2011 - CCCS Seminar: Federalism & Climate Change in Canada, USA & Australia: Competitive Solutions to Collective Action?. *Douglas Brown, St Francis Xavier University, Nova Scotia, Canada*

23 November 2011 - CCCS Seminar: Declarations of Emergency & the Role of the Courts: the Nauru Experience. *Richard Niall SC, Melbourne Bar*

14 December 2011 - CCCS & Seabrook Chambers Lecture: The Criminalist. *Professor Dieter Grimm, Yale Law School and Wissenschaftskolleg zu Berlin (Institute for Advanced Study Berlin)*

15-16 December 2011 - Roundtable: Freedom of Expression: Universal or Particular? *Centre Director, Professor Adrienne Stone*, hosted a roundtable discussion on Freedom of Expression funded by the Australian Research Council.

Themes discussed throughout the two day event included: the conflict between liberty and equality; judicial review in divided societies; legal cultures and traditions and the universal components of Freedom of Speech. Jurisdiction-specific examples included the cases of India, New Zealand, the United States, Germany, Canada and Australia.

Legal Theory Workshop Events

11 March 2011 - Indignity and International Relations *Speaker: Dr Kirsty Gover (Melbourne)*
Commentator: Professor Gerry Simpson (Melbourne)

5 April 2011 - Strategies of Justice. *Speaker: Professor Jeremy Webber (UVic - Canada)*
Commentator: Dr Steve Curry (Melbourne - CAPPE)

15 April 2011 - Social Facts, Moral Disagreement and Political Argument: The Truth in Moral Relativism *Speaker: Dr Patrick Emerton (Monash)*
Commentator: Dr Laura Schroeter (Melbourne - Philosophy)

6 May 2011 - Explanation and Prescription in Legal Philosophy *Speaker: Professor Tom Campbell (CSU - CAPPE)*
Commentator: Associate Professor Shaun McVeigh (Melbourne)

27 May 2011 - Jurisprudence under the Influence of Religion
Speaker: Professor Ngaire Naffine (Adelaide)
Commentator: Associate Professor Matthew Harding (Melbourne)

17 June 2011 - Morality, Law and Normative Conflict
Speaker: Professor Peter Cane (ANU)
Commentator: Professor Jeff Goldsworthy (Monash)

22 July 2011 - Value Democracy: Promoting Equality and Protecting Rights
Speaker: Professor Corey Brettschneider (Brown - USA - Politics)
Commentator: Professor Adrienne Stone (Melbourne)

12 August 2011 - On the Causal Relation in Law, an Account for Philosophers
Speaker: Professor Jane Stapleton (ANU)
Commentator: Dr Patrick Emerton (Monash)

30 September 2011 - The Particularities of Legitimacy: John Simmons on Political Obligation
Speaker: Dr Kevin Walton (Sydney)
Commentator: Dr Dale Smith (Monash)

21 October 2011 - A Faint-Hearted Theory of Judicial Maximalism
Speaker: Dr Rosalind Dixon (Univ. Chicago - USA)
Commentator: Professor Simon Evans (Melbourne)

Centre for Comparative Constitutional Studies

4 November 2011 - Managing the Meeting of Laws: Native Title, Plurality and the Limits of Jurisdictional Thinking

Speaker: Associate Professor Shaun McVeigh (Melbourne)

Commentator: Dr Paul Muldoon (Monash - Politics)

18 November 2011 - The Changing Meaning of Privacy, Identity and Contemporary Feminist Philosophy

Speaker: Dr Janice Richardson (Monash)

Commentator: Professor Megan Richardson (Melbourne)

Visitors

Professor Miyoko Tusjimura-Yokoyama, Tohoku University, Japan

Associate Professor Maeve McDonagh, University College, Cork

Dr Gavin Anderson, University of Glasgow, Scotland

Professor Brian Opeskin, Macquarie University, Australia

Professor Jiunn-rong Yeh, National Taiwan University, Taiwan

Dr Lorenzo Zucca, King's College, London

Dr Claudia Geiringer, University of Victoria, New Zealand

Justice Dennis Davis, High Court of South Africa

Professor Dieter Grimm, Yale Law School and Wissenschaftskolleg zu Berlin (Institute for Advanced Study Berlin)

Significant Publications

Books

Duxbury, A, *The Participation of States in International Organisations: The Role of Human Rights and Democracy*, Cambridge University Press, United Kingdom (2011)

Gans, J, Henning, T, Hunter, J and Warner, K, *Criminal Process and Human Rights*, Federation Press, Australia (2011)

O'Brien, P and Gostin, L, *Health Worker Shortages and Global Justice*, Milbank Memorial Fund, United States (2011)

Saunders, C, *The Constitution of Australia: A Contextual Analysis*, Hart Publishing, United Kingdom (2011)

Tham, J, Costar, B, and Orr, G, *Electoral Democracy: Australian Prospects*, Melbourne University Press, Australia (2011)

Young, M, *Trading Fish, Saving Fish: The Interaction between Regimes in International Law*, Cambridge University Press, United Kingdom (2011)

Selected Research Activities/Projects

Professor Adrienne Stone

- Spent the semester at Georgetown University Law Centre as a Visiting Professor. She taught 'Comparative Perspectives on Freedom of Expression' and 'Comparative Perspectives on Judicial Review'.
- Delivered a paper entitled 'Defamation and Freedom of Expression' at Global Impact and Implementation of Human Rights Norms on 11-12 March at the University of the Pacific McGeorge School of Law, Sacramento California.
- Delivered a paper entitled 'The Imperfect Freedom of Expression' at the Washington College of Law (American University, Washington DC) Faculty Workshop Series.
- Delivered a paper entitled 'Universality and Particularity in Freedom of Expression' on 14 April at Georgetown University Law Centre for a Faculty Workshop and at the University of Chicago Law School Comparative and International Law Workshop.

Professor Cheryl Saunders AO

- Delivered the keynote address on 'How real is the internationalisation of Constitutional Law?' to the African Network of Constitutional Lawyers in Rabat, Morocco.
- Commented on a paper by Justice Rachel Pepper on the 'Constitutionalisation of Water Rights', to an ACLL seminar in Sydney.

Centre for Comparative Constitutional Studies

- Participated in the Conference: Constitutional Reform in Morocco – An International Perspective, at Al Akhawayn University.
- Participated in the Constitutional Centre of Western Australia's Conference: Power & Politics – New Dimensions of Federalism in Australia. Cheryl spoke on 'Integration without Structure' in the Federalism: the Big Picture session.
- Presented 'Integration without Structure' to the conference on Power and Politics: New Dimensions of Federalism in Australia hosted by the Constitutional Centre of Western Australia in Perth.
- In Madrid, Cheryl chaired 'Building Inclusive and Legitimate Institutions' at the Annual Democracy Forum, International IDEA.
- Cheryl presented 'Between Expressivism and Internationalisation: National Constitutions in 21st Century' to the Fourth Asian Constitutional Law Forum, Hong Kong.
- In Hong Kong, Cheryl presented 'Judicial Engagement with Comparative Law', an exchange in the course of a Roundtable preparatory to finalising chapters for a volume on *Comparative Constitutional Law in Asia*.

Professor Simon Evans

- Delivered a paper entitled 'Executive Power in a Federal and Democratic Constitution: The Past, Present and Future of the Prerogative' at the Gilbert and Tobin Centre of Public Law 2011 Constitutional Law Conference, at the University of New South Wales.
- Presentation on '10 years since Tampa: Executive Power under the Constitution' at the Public Law Weekend.

Professor Carolyn Evans

- Commenced her term as Dean of Melbourne Law School.
- Chaired a seminar delivered by Dr Lorenzo Zucca, 'Tolerance or Toleration? How to Deal with Religious Conflicts in Europe'.
- Organised Law and Religion: Legal Regulation of Religious Groups, Organisations and Communities Conference at Melbourne Law School.

Professor Pip Nicholson

- Elected as associate members of the AIDC-IACL (Académie internationale de droit comparé - International Academy of Comparative Law).

Associate Professor Beth Gaze

- Grant received for Reshaping Employment Discrimination Law: Towards Substantive Equality at Work? 2011-2014 ARC Discovery Grant (with Ms Anna Chapman).

Associate Professor Alison Duxbury

- Awarded a University of Melbourne teaching award, the Melbourne Citation for Outstanding Contributions to Building Graduate Attributes.

Associate Professor Joo-Cheong Tham

- Organised a workshop entitled, The Challenges of Electoral Democracy which was held at Melbourne Law School.
- Co-edited with Brian Costar and Graeme Orr) entitled Electoral Democracy: Australian Prospects (MUP, 2011) was launched by Colin Barry, NSW Electoral Commissioner.
- Gave evidence to Commonwealth Joint Standing Committee on Electoral Matters inquiry into the 2010 Federal Election.
- Presented a lecture, 'Money in Australian politics: Is there a case for change' at the Commonwealth Parliament on 25 August 2011.

Associate Professor Michelle Foster

- Led a discussion on Plaintiff M61/2010E v Commonwealth of Australia and Plaintiff M69 of 2010 v Commonwealth of Australia [2010] HCA 41 (11 November 2010) in the Constitutional Law Discussion Group.
- Participated in the Looking into the Future, Learning from the Past Conference in Sydney. Michelle presented a paper, '*Learning from Experience: Australia's Proposals for a Regional Approach to Refugee Protection in an International Context*' at the conference.

Centre for Comparative Constitutional Studies

Associate Professor Jeremy Gans

- Presented 'Concurrent Criminal Offences After Momcilovic v R', Australian Association of Constitutional Law.
- Presented 'Concurrent Criminal Offences after Dickson v R', Gilbert and Tobin Constitutional Law Conference.
- Presented 'Ozymandias on trial', Evidence in the 21st Century, Sydney.
- Presented 'Ozymandias on trial', Criminal Evidence and Human Rights, Nottingham.

Dr Kirsty Gover

- Presented a paper entitled 'Indigenous Jurisdiction in Liberal Democracies: How Should Human Boundaries be Made, Maintained and Evaluated?' at Between Indigenous & Settler Governance Workshop hosted at the University of Western Sydney on 18-20 August 2011.

Dr Lu Weis

- Founded and convened the Legal Theory Workshop series in collaboration with Dr Kirsty Gover.

Mr Glenn Patmore

- Presented 'Motivations for Constitutional Change: The Case of Australian Republicanism' at the Research Workshop series at Melbourne Law School.

Ms Paula O'Brien

- Presented a discussion paper with Sondra Davoren, Michelle Scollo and Paula O'Brien on 'Minimum Pricing' at the Minimum Pricing Roundtable, Melbourne Law School.

Mr Ben Saunders

- Co-presented the paper with Professor Nicholas Aroney on 'The Views of the Framers of the Australian Constitution Regarding Oppositions', at the Her Majesty's Loyal Opposition Roundtable, Australian Catholic University, Canberra.

Contact CCCS

The Centre's website can be accessed at:
<http://cccs.law.unimelb.edu.au>

The Centre can be contacted by email at:
law-cccs@unimelb.edu.au

Centre for Corporate Law and Securities Regulation



"The Centre for Corporate Law and Securities Regulation (CCLSR) commenced in January 1996 in recognition of the growing importance of corporate law and securities regulation nationally and internationally, and in recognition of the University of Melbourne's strength in these areas."

The activities of the Centre include teaching (members of the Centre teach or coordinate the teaching of 29 specialist subjects), maintaining a strong research program, and conducting conferences and seminars.

Staff

The Director of the Centre is Professor Ian Ramsay. Other academic staff associated with the Centre are Associate Professor Paul Ali, Associate Professor Helen Anderson, Andrew Goodwin, Associate Professor Pamela Hanrahan, Associate Professor John Howe, Associate Professor Cally Jordan, Associate Professor Jurgen Kurtz, Professor Tim Lindsey, Professor Ann O'Connell and Stacey Steele. The Centre Administrator during 2011 was Melinda Shiell.

Publications

Members of the Centre for Corporate Law published a significant number of journal articles in 2011. Please refer to the 'Published Research' section of this report.

The Centre also published the following books, research reports and research papers in 2011:

- Hanrahan, P, Ramsay, I and Stapledon, G, *Commercial Applications of Company Law*, (12th edition), CCH Australia, Australia (2011)
- Mitchell, R, O'Donnell, A, Marshall, S, Ramsay, I and Jones, M, *Law, Corporate Governance and Partnerships at Work: A Study of Australian Regulatory Style and Business Practice*, Ashgate, United Kingdom (2011)
- Yeo, V, Lee, J, Hanrahan, P, Ramsay, I and Stapledon, G, (4th edition), *Commercial Applications of Company Law in Singapore*, CCH Asia, Singapore (2011)
- Brown, M, Minson, R, O'Connell, A and Ramsay, I, 'Why Do Employees Participate in Employee Share Ownership Plans?', Employee Share Ownership Project and Centre for Corporate Law and Securities Regulation, Melbourne Law School (2011)
- Capuano, A and Ramsay, I, 'What Causes Suboptimal Financial Behavior? An Exploration of Financial Literacy, Social Influences and Behavioural Economics', Financial Literacy Project and Centre for Corporate Law and Securities Regulation, Melbourne Law School (2011)
- O'Connell, A, 'Employee Share Ownership Plans – A Comparative Report', Employee Share Ownership Project and Centre for Corporate Law and Securities Regulation, Melbourne Law School (2011)

Centre for Corporate Law and Securities Regulation

Research Grants

During 2011, work continued on three Australian Research Council grants:

- **Safeguarding the Financial Well-Being of Australians by Improving Financial Literacy: Implications for Consumer Protection Laws**

Researchers: Associate Professor Paul Ali and Professor Ian Ramsay

- **Legal Origins: The Impact of Different Legal Systems on the Regulation of the Business Enterprise in the Asia-Pacific Region**

Researchers: Professor Ian Ramsay together with Professor Richard Mitchell, Associate Professor Sean Cooney and Associate Professor Peter Gahan

- **New Initiatives in Enforcing Employment Standards: Assessing the Effectiveness of Federal Government Compliance Strategies**

Researchers: Associate Professor John Howe and Associate Professor Sean Cooney

Seminars and Conferences

A significant part of the Centre's activities is the holding of seminars/conferences on important issues. In 2011 the Centre hosted, or was involved in, the following seminars and conferences:

One Step Ahead – Hedge Funds and Private Equity Funds after the Global Financial Crisis (20 December 2011)

Speaker: Timothy Spangler, Kaye Scholer LLP

(This seminar was co-hosted with the Transactional Law Program)

Corporate Governance and Anti-bribery in Cross-border Transactions (10 November 2011, Melbourne and 15 November 2011, Sydney)

Speakers: Ross Drinnan, Allens Arthur Robinson; Georgie Farrant, Baker & McKenzie; Peter Haig, Allens Arthur Robinson; Benny Tabulujan; Mini vandePol, Baker & McKenzie; and John Yiannis, Transfield Services Ltd

Current Issues in Commercial Law: The Supreme Court of Victoria Commercial Law Conference (15 August 2011)

Speakers: Dr Robert Austin, Minter Ellison; Jon Webster, Allens Arthur Robinson; Neil Young QC, Victorian Bar; Associate Professor Ann O'Connell, University of Melbourne; Professor Deborah Hensler, Stanford Law School; The Hon Justice Bernard Murphy, Federal Court; and The Hon Justice James Judd, The Supreme Court of Victoria

Directors' Duties and the Centro Judgment (27 July 2011, Melbourne and 28 July 2011, Sydney)

Speaker: Dr Robert Austin and Carolyn Reynolds, Minter Ellison; Tim Bednall and Diana Nicholson, Mallesons Stephen Jaques; Alan Cameron AO; and David Crawford AO

Corporate Governance in the Common-Law World (30 June 2011)

Speaker: Professor Christopher Bruner, Washington and Lee University School of Law

Visitors (International and Local)

Visitors to the Centre in 2011 included:

- Professor Douglas Arner, University of Hong Kong
- Professor Charles Booth, Director, Institute of Asian-Pacific Business Law, School of Law, University of Hawaii, USA
- Professor Christopher Bruner, School of Law, Washington and Lee University, USA
- Mr Bryan Chapple, Manager, Investment Law, Ministry of Economic Development, New Zealand
- Mr Jan Job de Vries Robbe, Netherlands Development Bank FMO
- Professor Tony Duggan, University of Toronto, Canada

Centre for Corporate Law and Securities Regulation

- Mr David Fushtey, General Counsel, The Governance Counsel, Vancouver, Canada
- Professor Christian Johnson, University of Utah, USA
- Professor David McLauchlan, Victoria University of Wellington, New Zealand
- Mr Richard Nolan, University of Cambridge, UK
- Mr William Swadling, University of Oxford, UK
- Associate Professor Ivan Tchotourian, University of Nantes, France
- Professor Roman Tomasic, Durham University, UK
- Professor Roderick Wood, University of Alberta, Canada
- Professor Sarah Worthington, London School of Economics
- Mr Greg Zerzan, Koch Industries

Links with Key Organisations

The Centre has developed links with peak organizations with an interest in corporate and securities law. During 2011, academic members of the Centre were also members of:

- The Takeovers Panel (Professor Ian Ramsay)
- The Corporations and Markets Advisory Committee (Professor Ian Ramsay)
- The Corporations Law Committee of the Business Law Section of the Law Council of Australia (Associate Professor Pamela Hanrahan,

Associate Professor Cally Jordan and Professor Ian Ramsay)

- The National Law Committee of the Australian Institute of Company Directors (Professor Ian Ramsay)
- The Companies Auditors and Liquidators Disciplinary Board (Professor Ian Ramsay)
- The Executive Committee of the Corporate Law Teachers Association (Professor Ian Ramsay)

Editorial Positions

Members of the Centre continued in 2011 to occupy editorial positions with journals and other publications including the *Company and Securities Law Journal*, the *Australian Accounting Review* and the *Corporate Law Bulletin*.

Corporate Law Bulletin

2011 saw the continued development of the Corporate Law Bulletin which is edited by Professor Ian Ramsay. The monthly electronic Bulletin is published with the support of the Australian Securities and Investments Commission, the Australian Securities Exchange and leading national law firms and distributed in partnership with SAI Global. The Bulletin is distributed widely within companies, regulators, law firms and government departments. By the end of 2011, 172 issues of the Bulletin had been published.

Media Coverage of Centre Activities

The research activities of Centre members received significant coverage in the media in 2011. Members of the Centre gave more than 60 reported interviews to the media in 2011.

Further information

The Centre's website can be accessed at:
<http://cclsr.law.unimelb.edu.au>

The Centre can be contacted by email at:
cclsr@law.unimelb.edu.au

Centre for Employment and Labour Relations Law



"The Centre for Employment and Labour Relations Law was established in the Faculty of Law in 1994. Its broad aims are to consolidate the teaching of, and research into, labour and employment law at the University of Melbourne, to contribute to the development of labour and employment law teaching and research throughout Australia, and to engage with labour and employment law scholars throughout the world."

Centre Members in 2011

Associate Professor John Howe (Director), Associate Professor Helen Anderson, Ms Anna Chapman, Associate Professor Sean Cooney, Ms Tessa Dermody (Coordinator), Associate Professor Colin Fenwick (on leave of absence at the ILO), Associate Professor Beth Gaze, Ms Tess Hardy, Mr Andrew Newman, Mr Glenn Patmore, Associate Professor Joo-Cheong Tham.

Research

The Centre is Australia's first and only research centre devoted exclusively to developing an understanding of the role and function of legal regulation of the labour market. Centre Members are engaged in research in diverse aspects of the broad field of employment and labour law and labour market regulation. Areas of particular interest and expertise include the regulation of individual work relationships, discrimination and inequality in employment and the labour market, the regulation of occupational health and safety, collective labour relations and bargaining, the functions of trade unions and alternative forms of worker representation, corporate governance and labour, enforcement of minimum employment standards, international labour rights and standards, and unemployment law and labour market policy. Centre members also have a strong interest in comparative labour and employment law and labour market regulation, including research into labour and employment regulation in the Asia-Pacific region, Southern Africa, North America and Europe.

Seminars

Labour Law Seminar Series

These free public seminars are intended to be of interest to a wide audience including academics, members of the legal profession, and those engaged in the day to day business of industrial relations and/or human resource management. Among other things, the Labour Law Seminar Series provides an opportunity for Centre members, visitors and associates, together with invited speakers, to present preliminary results of their research into the operations of labour and employment law.

Associate Professor John Howe, Associate Professor Joo-Cheong Tham and Mr Glenn Patmore co-ordinated the Labour Law Seminar Series during 2011.

Eleven seminars were held during the course of the year:

- **Professor Adelle Blackett**, McGill University, Canada on 'Regulating Decent Work for Domestic Workers? Promise and Perils of International Standard Setting' (3 March 2011).
- **Dr Jean Allain**, Queen's University of Belfast, Northern Ireland on 'Forced Labour or Slavery: Probing their Legal Parameters' (31 March 2011).
- **Professor Sara Slinn**, Osgoode Hall School of Law, Canada, on 'Remedial Pleas and Awards: Investigating Collective Protection of Individual Employee Rights in Unfair Labour Practice Cases' (5 May 2011).

Centre for Employment and Labour Relations Law

- **Associate Professor Helen Anderson**, Centre for Employment and Labour Relations Law, Melbourne Law School, on 'Pressing the Right Buttons: Case Studies in the Protection of Employee Entitlements' (16 June 2011).
- **Associate Professor Christopher Bruner**, Washington and Lee University School of Law on 'Corporate Governance in the Common-Law World: The Political Foundations of Shareholder Power' – co-hosted with the Centre for Corporate Law and Securities Regulation, Melbourne Law School (30 June 2011).
- **Professor Judy Fudge**, University of Victoria, Canada on 'Labour as a 'Fictive Commodity': Radically Reconceptualising Labour Law' (9 August 2011).
- **Ms Caroline Kelly**, MolinoCahill Lawyers (former Melbourne Law School LLB student) on 'Workplace Bullying and the Difficulties of Legal Redress in Australia' and Ms Trina Malone, Maurice Blackburn Lawyers (former Melbourne Law School LLB student) on 'Vulnerability in the Fair Work-Place: Why Unfair Dismissal Laws Fail to Adequately Protect Labour Hire Employees' (1 September 2011).
- **Ms Shelley Marshall**, Monash University on 'Complementary Regulation compared with Regulatory by-pass: Strategies for Informal Work' (14 September 2011).
- **Mr Alan Clayton**, Independent research consultant on 'Workers Compensation - The Need for a New Paradigm' (11 October 2011).
- **Associate Professor Michelle Brown**, University of Melbourne on 'Performance Appraisal Cynicism: Subordinate and Manager Perspectives' (10 November) 2011.
- **Mr Robin Stewart-Crompton**, Director of RSC Advising Pty Ltd and Mr Peter Rozen, Victorian Bar on 'Harmonised Work Health and Safety Laws – A New Province for Occupational Health and Safety' (1 December 2011).

Sponsors' Seminar Series

The Centre conducts a series of seminars for members of the Centre's sponsoring firms and organisations. Four seminars were held in 2011:

- **Mr Leigh Johns**, Commissioner, Australian Building and Construction Commission on 'Labour Laws Delivering Public Value in the Building Industry: Productivity and Participation in Practice' (24 February 2011).
- **Ms Janine Webster**, Chief Counsel, Fair Work Ombudsman on 'How the Fair Work Ombudsman achieves compliance under the Fair Work Act' (29 March 2011).
- **Ms Jan Maclean**, Victorian Bar on 'Adverse action – 'Rights and Responsibilities for Employers and Employees' (10 May 2011).
- **Mr Matthew Moir**, New South Wales Bar on 'Discretion, Good Faith and Employer Control over Executive Remuneration' (19 October 2011).

Major Events

Constructing Corporate Responsibility Workshop (16 February 2011)

This workshop, for researchers who examine corporate social and legal responsibility at the global or domestic levels, was co-hosted by the CELRL with the Centre for Corporations Law and Securities Regulation. Invited speakers included Professor Ronan Shamir (Tel Aviv University), Dr Andrew Johnston (University of Queensland) and Professor Fiona Haines and Dr Kate Macdonald (University of Melbourne).

The Legal Construction of Personal Work Relations: A New Model for the Foundation of Employment Relationships (12 April 2011)

The Centre was pleased to host an Employment Law Lecture on Tuesday 12 April. Professor Mark Freedland FBA of Oxford University, one of the world's leading scholars in the law of employment contracts, spoke on the topic 'The Legal Construction of Personal Work Relations: A New Model for the Foundation of Employment Relationships'. Professor Joellen Riley of the Sydney Law School responded to Professor Freedland's comments from an Australian perspective.

Centre for Employment and Labour Relations Law

Role of Community Organisations in Enforcing Labour Law

(9 June 2011)

On Thursday 9 June the Centre hosted a forum on 'The Role of Community Organisations in Enforcing Labour Law'. Effective enforcement is vital to Australian labour law: gaps in enforcement seriously undermine the integrity of the system. This forum considered this important issue – in particular, the role of community organisations – by bringing together different perspectives from the academic, government and community legal sectors.

Speakers at the forum included:

- Associate Professor John Howe - Director, Centre for Employment and Labour Relations Law
- Gabrielle Marchetti - Solicitor at JobWatch Inc
- The Hon Tim Pallas MP - Shadow Minister for Industrial Relations

Conference on Regulating for a Fair Recovery Network

(6-8 July 2011)

The Regulating for Decent Work Network's Second Conference on 'Regulating for a Fair Recovery' was held at the International Labour Office, Geneva, Switzerland on 6-8 July 2011. The Conference was organised by the International Labour Office in collaboration with the CELRL and the University of Manchester's Fairness at Work (FaW) Research Group. The CELRL was pleased to sponsor a prize

for the best paper delivered by a delegate from an emerging economy.

Workers and Tax Reform

(16 August 2011)

On Tuesday 16 August the Centre co-hosted a symposium with the Tax Group from Melbourne Law School on 'Workers and Tax Reform'. This symposium, held at Melbourne Law School, brought together celebrated US academic, Professor Jonathan Forman, author of *Making America Work* (2006) with an expert Australian panel to discuss options for reform of income tax rates, credits and transfers that will achieve sustainable fairness and increase productivity for Australia's workers.

Twenty Years of Enterprise Bargaining in Australia, 1991-2011

(4-5 November 2011)

The Centre co-hosted a Symposium on '20 Years of Enterprise Bargaining in Australia', on Friday 4 and Saturday 5 November 2011 at the Melbourne Law School. This event, marked the 20th anniversary of the AIRC's October 1991 National Wage Case Decision, was organised jointly with the Department of Management & Marketing at the University of Melbourne, along with the Workplace and Corporate Law Research Group and the Australian Centre for Research in Employment & Work (ACREW) at Monash University.

Business and Human Rights Framework: The Australian Response

(28 November 2011)

The CELRL co-hosted this workshop to discuss the domestic implications of the Ruggie Framework on Business and Human Rights with the School of Social and Political Sciences at the University of Melbourne, and the Australian Institute of Employment Rights Inc. The keynote speaker at the workshop was Vanessa Zimmerman, former advisor to the UN Special Representative for Business and Human Rights, Professor John Ruggie. The workshop was attended by academics, representatives of NGOs and government officials.

Visitors

The Centre regularly welcomes academic colleagues from interstate and overseas. In 2011 we hosted eight visitors:

- Professor Sara Slinn, Osgoode Hall Law School, York University, Canada (January - May)
- Professor Adelle Blackett, McGill University, Montreal, Canada (February - March)
- Professor Jean Allain, Queen's University of Belfast, Northern Ireland (March - April)
- Professor Mark Freedland, Oxford University, United Kingdom (April)
- Professor Cindy Estlund, New York University School of Law, USA (May)

Centre for Employment and Labour Relations Law

- Professor Jun Nakagawa, Hokusei Gakuen University, Japan (27 June-2 July)
- Associate Professor Jill Murray, School of Law, La Trobe University, Melbourne (July - September)
- Professor Judy Fudge, Lansdowne Professor of Law, Victoria University Law School, Canada (August)
- Chapman, A, 'Industrial Law, Working Hours and Work, Care and Family' (2011) 36(3) Monash University Law Review 190-216
- Gaze, B and Stevens, C, 'Risking Gender Inequity: Knowledge Transfer Policy in Australian Higher Education' (2011) 26 Journal of Education Policy 621-639
- Hardy, T, 'Enrolling Non-State Actors to Improve Compliance with Minimum Employment Standards' (2011) 22(3) Economic and Labour Relations Review 117-140
- Kelly, C, 'The Problem of Workplace Bullying and the Difficulties of Legal Redress: An Australian Perspective', Centre for Employment and Labour Relations Law, The University of Melbourne, Student Working Paper No. 7, May 2011.
- Fentiman, S, 'Discrimination, Work and Family: Recent Regulatory Responses to Promote Equality', Centre for Employment and Labour Relations Law, The University of Melbourne, Student Working Paper No. 8, June 2011.
- Markovic, N, 'Healthy Working Time: Evaluating Australia and its Available Industrial Instruments', Centre for Employment and Labour Relations Law, The University of Melbourne, Student Working Paper No. 9, September 2011.

Significant Publications

A full list of publications is detailed in the 'Published Research' section of this report. Selected publications by Centre members in 2011 include:

- Cooney, S., Gahan, P and Mitchell, R, 'Legal Origins, Labour Law and the Regulation of Employment Relations' in M Barry and A Atkinson (eds), *Research Handbook on Comparative Employment Relations*, Edward Elgar (2011)
- Howe, J, 'The Broad Idea of Labour Law: Industrial Policy, Labour Market Regulation and Decent Work', in G Davidov and B Langille (eds), *The Idea of Labour Law*, Oxford University Press, United Kingdom (2011)
- Anderson, H, 'Phoenix Activity and the Recovery of Unpaid Employee Entitlements - Ten Years On' (2011) 24(2) Australian Journal of Labour Law 141-162

Centre Working Paper Series

Anna Chapman edited the Centre Working Paper Series during 2011, overseeing the publication of five issues.

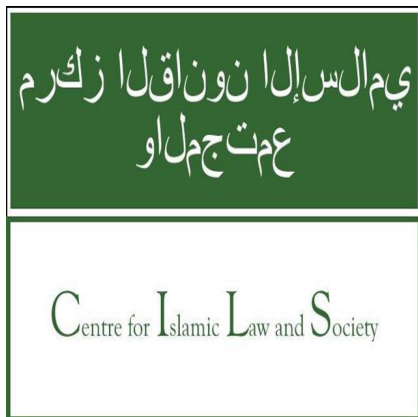
- Cambell, I and Tham J, 'Temporary Migrant Labour in Australia: The 457 Visa scheme and challenges for Labour Regulation', Centre for Employment and Labour Relations Law, The University of Melbourne, Working Paper No. 49, March 2011.
- Malone, T, 'Vulnerability in the Fair Work-Place: Why Unfair Dismissal Laws Fail to Adequately Protect Labour-Hire Employees in Australia', Centre for Employment and Labour Relations Law, The University of Melbourne, Student Working Paper No. 6, May 2011.

Contact CELRL

The Centre's website can be accessed at:
<http://celrl.law.unimelb.edu.au>

The Centre can be contacted by email at:
law-celrl@unimelb.edu.au

Centre for Islamic Law and Society



“Global events of recent years have meant Islam and Islamic legal studies have received renewed attention. The Centre facilitates and supports Islam-related research and education related to contemporary Islamic legal issues. It also aims to improve Australian understandings of Islam. Since its establishment, the Centre has developed a strong focus on Islamic law issues in Southeast Asia.”

Research Projects

CILS is associated with the following research projects:

- ARC Federation Fellowship: ‘Islam and Modernity: Syari’ah, Terrorism and Governance in South-East Asia’ (2006-2011) (Lindsey, T)
- ARC Discovery Project: ‘Lawyers, Civil Society and the State in Post-colonial Malaysia’ (2009-2012) (Whiting, A)
- ‘Lawyers in Malaysia: Religious Orientation and Legal Professional Practice’ (Whiting, A)
- Collier Charitable Fund Grant: ‘Revealing Islam to a New Generation’ (Lindsey, T)

Significant Publications 2011

The following publications were published by Centre members in 2011:

Sumner, C and Lindsey, T, ‘*Courting Reform: Indonesia’s Islamic Courts and Justice for the Poor*’ (2011) 4(1) International Journal for Court Administration 1-14 (reproduced)

Whiting, A, ‘*Malaysia- Assembling the Peaceful Assembly Act*’, (2011) New Mandala

Crouch, M, ‘Proselytisation, Religious Diversity and the State in Indonesia: The Offence of Deceiving a Child to Change Religion’ in M Feener and J Finucane (eds) *Proselytising and the Limits of Religious Pluralism in an Era of Globalisation*, Oxford University Press

Crouch, M, ‘*Bleak Outlook for Minority Religions in Indonesia*’ (2011) Asia Pacific Bulletin.

Crouch, M, ‘*Recent Developments in Religious Regulations in Indonesia: Law, Islam and Deviancy in Tasikmalaya*’ (2011) May Asian Currents 10-12

Crouch, M, ‘*Ahmadiyah in Indonesia: A History of Religious Tolerance under Threat?*’ 36(1) Alternative Law Journal 56-57

Briefing Paper Series

The CILS publishes the CILS Islamic Issues Briefing Paper series, which is available in hard copy and on the CILS website. Since 2005, these have been co-published with the Islam, Syari’ah and Governance Background Paper Series. This series is funded by Professor Tim Lindsey’s ARC Federation Fellowship, and seeks to provide a considered analysis of important issues relevant to Islam, syari’ah and governance in Southeast Asia.

Papers published in 2011 include:

- ‘Democracy, Conflict and Islamic Leadership in Eastern Indonesia: A Village Case Study’, Dr Jeremy Kingsley
- ‘The Dato’ Yuthitham and the Administration of Islamic Law in Southern Thailand’, Dr Ramizah Wan Muhammad

Centre for Islamic Law and Society

- 'Indonesia's Islamic Educational Institutions and Radicalism Among Muslim Youth', Dr Dina Afrianty
- 'Islamic Law in the Philippines: Between Appeasement and Neglect', Mr Matt Stephens

Islamic Law Online

Islamic Law Online is an online bibliographic database of materials relating to Islamic legal studies. This database was established by the Centre for Islamic Law and Society to complement the Asian Law Centre's *Asian Law Online*. Offered to the public as a free service to assist students, scholars and practitioners of Islamic legal studies, *Islamic Law Online* is a collection of English language materials on Islam available throughout the world. It includes books, chapters in books, journal articles and theses.

The database can be accessed at:
<http://cils.law.unimelb.edu.au/ilo/>

Seminars

Islam Research Seminar Series

CILS Islam Research Seminar Series are informal lunchtime seminars and are often presented by postgraduate students.

Ms Mouza Ali Salem Alneyadi - "*Surrogacy: Legal Boundaries and Islamic Jurisprudence in the UAE*", 27 April 2011

Ms Melissa Crouch - '*Opposition to Christian Proselytisation in Indonesia: Disputes over Church Permits in West Java*', May 2011

Ms Nur Hidayah - '*The Emergence of Islamic Feminism in Contemporary Indonesia: The Case of Progressive Muslim Women's Organisations*', 23 May 2011

Ms Helen Pausacker - '*Sanctions for Popstars... and Politicians? The Aftermath of Indonesia's Pornography Law*', 3 August 2011

Conferences

CILS hosts an annual national postgraduate conference on Islamic Studies, which is open to students from throughout Australia.

This conference aims to bring together postgraduate students around Australia who are researching topics relating to Islam, in the broadest sense. It provides students with a supportive, collegial atmosphere and the opportunity to meet students with similar interests. Students benefit from feedback received from their peers and selected academic experts in the field.

The 7th annual Islamic Studies Postgraduate Conference was held on 28 - 29 November, 2011 and was co-hosted by the National Centre of Excellence in Islamic Studies. Associate Professor Michael Freener, Professor M. B. Hooker, Professor Virginia Hooker and Dr Nadirsyah Hosen attended as PhD mentors. 29 PhD students presented at the

conference, from 13 Australian and international universities.

International Workshop

Dr Amanda Whiting co-organised the international workshop "Law and Society in Malaysia: Pluralism, Islam and Development" University of Victoria, British Columbia, Canada, July 14-17 2011. This workshop was hosted by the Centre for Asia-Pacific Initiatives, University of Victoria, British Columbia, and Asian Law Centre, University of Melbourne.

Staff

Director:

Professor Tim Lindsey

Senior Associate:

Professor Abdullah Saeed

Associate:

Dr Amanda Whiting

Principal Research Assistants:

Ms Faye Chan

Ms Melissa Crouch

Ms Helen Pausacker

Manager:

Ms Kathryn Taylor

Administrator:

Ms Tessa Shaw

Centre for Islamic Law and Society

Federation Fellowship PhD Scholars

Ms Melissa Crouch (Graduated 2011)

Ms Helen Pausacker

Contact the CILS

The Centre's website can be accessed at:

<http://cils.law.unimelb.edu.au>

The Centre can be contacted by email at:

cils-info@unimelb.edu.au

Centre for Media and Communications Law



"The Centre for Media and Communications Law is a centre for the research, discussion and teaching of all aspects of media and communications law and policy."

The CMCL has a team of Directors from the Law School, Associates drawn mainly from across the University of Melbourne, and Research Staff. It is assisted by an Advisory Board representing a wide variety of expertise in media and communications industries and legal practice, and it receives support from the Melbourne Law School as well as external sponsors and research partners.

It is the editorial base for the Media & Arts Law Review, a leading refereed journal in the field.

Staff

During 2011, the Joint-Directors were Professor Andrew Kenyon and Megan Richardson, Deputy Director was Mr Jason Bosland and the Administrators were Elisabeth Kirby Cooke and Clarissa Terry.

Research Visitors

Lisa Ramsey - Professor, University of San Diego, USA

Shaun Larcom - PhD Student, University College London, UK

Dr Jianqiang Nie - Professor of Law, Wuhan University

Research Grants

During 2011, work continued on two Australian Research Council grants:

Defamation and Privacy: Law, Media and Public Speech

Researcher: Professor Andrew Kenyon

This project investigates important recent legal changes in defamation and privacy, laws which can considerably limit public speech. It addresses the urgent need in law for a more sophisticated understanding and evaluation of the practices of media professionals. It will assist lawyers and judges apply the changed laws, contribute to scheduled reviews of legislation, assist publications and journalists deal with risks of legal liability, develop critical academic and legal debates about the media, and clarify the parameters of lawful public speech. It promotes better legal understanding of popular media forms, which have key roles in contemporary economies and public debate.

Testing Trade Mark Law's Image of the Consumer

Researchers: Megan Richardson, Robert Burrell, Michael Humphreys, Kimberlee Weatherall, Sarah Kelly and Jennifer Burt

An effective trade mark law is vital both to protect consumers and to allow businesses to build brand recognition. This project seeks to put Australian trade mark law on a firmer empirical footing by bringing together experts from psychology, law and marketing to test the law's assumptions against actual consumer responses.

Centre for Media and Communications Law

Events

Keeping Secrets in Times of Weak Law

Full Day Conference presented by IPRIA and CMCL

25 November 2011

Keynote Speakers:

- Professor Dan Hunter, Professor of Law, Director of the Institute for Information Law & Policy, New York Law School
- Dr Philip Williams, Chair, Frontier Economics, Melbourne
- The Honorable Michael Kirby, AC CMG

Bringing Open Justice to a New Level: Film Footage, Open Justice and the Media in England

Free public seminar presented by CMCL

2 November 2011 (Sydney)

3 November 2011 (Melbourne)

Speaker: John Battle

Brands and the Challenges of Grey Markets

Free panel discussion presented by IPRIA and CMCL

26 October 2011

Panel Discussion featuring: Owen Malone, Don O'Sullivan, Susy Frankel and Vicki Huang.

Chair: Janice Luck.

The CMCL Medal 2011: New Voices in Media Law

The CMCL Medal seeks succinct, innovative analyses of contemporary issues in media law

Final Presentation Dinner - Monday 5 September 2011

Finalists:

- Roxanne Burd, 'To Suppress, Or Not to Suppress; Protecting the Right to a Fair Trial in the Twenty-First Century'
- Sara Phung, 'Function Not Form: Protecting Sources of Bloggers'
- Jessica Goulburn, 'Straw, Sticks or Bricks- How to Stop the Big Bad Wolf from Piggybacking'

Enforcement, Enforcement, What Enforcement?

27 May 2011

Speaker: Professor Peter K Yu- Kern Family Chair in Intellectual Property and Director, Intellectual Property Law Center, Drake University Law School, USA

The Final Cut: Film Censorship and Judicial Review in Malaysia, Hong Kong and Australia

20 May 2011

Presentation by PhD Candidate: Tiong Guan Saw
Supervisors: Andrew Kenyon and Amanda Whiting

Human Rights and Intellectual Property: Mapping the Global Interface

11 May 2011 (Melbourne)

16 May 2011 (Sydney)

Speakers:

- Professor Larry R Helfer, Harry R. Chadwick, Sr. Professor of Law, Duke University, School of Law (USA)
- Professor Graeme W Austin, Professor of Law, Victoria University of Wellington (New Zealand) and The University of Melbourne

Commentators:

- Associate Professor Shaun McVeigh, Programme Director, Jurisdictions of the South, iLLaH (Melbourne)
- Professor Kathy Bowrey, Associate Dean - Research, Faculty of Law, UNSW (Sydney)

Chair:

- Professor Megan Richardson, Director, Centre for Media and Communications Law and Associate Director (IPRIA), The University of Melbourne (Melbourne)
- Professor Jill McKeough, Dean, Faculty of Law, UTS (Sydney)

Centre for Media and Communications Law

Brandjacking on Social Networks: Trademark Infringement by Impersonation of Markholders

15 March 2011 (Melbourne)

17 March 2011 (Sydney)

Speaker: Lisa P. Ramsey, Professor of Law, University of San Diego

Inter-faculty Workshop on Law and Non-Communicable Diseases

Speakers:

Andrew Kenyon, Melbourne Law School

Rob Moodie, Nossal Institute for Global Health

David Studdert, Melbourne School of Population Health, Melbourne Law School

Paula O'Brien, Melbourne Law School

New Models for Book Publishing

9 February 2011 (Melbourne Business School)

24 February 2011 (Melbourne Law School)

A free public seminar in Melbourne proudly presented by IPRIA in association with the Centre for Media and Communications Law (CMCL), Melbourne Business School (MBS) and the Publishing and Communications Program at the University of Melbourne.

Media & Arts Law Review

The Media & Arts Law Review is a quarterly, refereed journal examining all areas of media and arts law, including: Communications, Contempt, Copyright, Cultural Heritage, Defamation, Digitisation, Entertainment, Free Speech, IP, Journalism, Privacy, and the Public Interest.

The Review has a distinguished Editorial Board and publishes independently refereed articles, from Australian and international authors, as well as conference reports and book reviews. It also includes regular update reports about media and arts law developments from a team of International Contributing Editors. The updates offer a snapshot of matters such as case law, legislation, law reform, international conventions, and changes in industry self-regulation. Reports include the US, Canada, the UK, Africa, Hong Kong, the European Union, New Zealand and Australia.

Contact CMCL

The Centre's website can be accessed at:

<http://www.lawapps.law.unimelb.edu.au/cmcl/>

The Centre can be contacted by email at:

law-cmcl@unimelb.edu.au

Centre for Resources, Energy & Environmental Law



“CREEL has established strong links with University of Melbourne researchers in the energy, resources and environmental fields.”

Centre Activities and Linkages

CREEL has continued to build its international, national and regional linkages in environmental law, resources law, energy regulation and to consolidate its research profile in these fields. As interest in these areas of law has grown over the last few years we have seen sub – units develop; for example, climate change law might now be said to be a field of teaching and research in its own right, as might renewable energy law. CREEL has a number of researchers and graduate research students working in these emerging areas of law. Indeed, one of the most pleasing developments for CREEL has been a strong cohort of Ph D researchers working on topics within the broad umbrella of CREELs research interests and supervised by many CREEL academic staff.

Longstanding areas of scholarship by CREEL staff continue to be of strong public interest with water law and governance ‘headline news’ with the Murray-Darling Basin plan, together with the issues of the mining boom, and impacts on indigenous groups. Interdisciplinary research remained a particular strength of Centre researchers with several interdisciplinary workshops organised by CREEL in 2011. Centre staff participate in international legal research groups in energy and environmental law, including the Academic Advisory Group (SEERIL) for the International Bar Association, and the International Law Association’s Committee on Climate Change Law. Melbourne Law School remained affiliated with the IUCN Academy of Environmental Law. Jenny O’Connell as Centre administrator has provided effective support to the diverse range of activities undertaken by CREEL.

Research Activities

CREEL staff, a growing number of graduate research students and research fellows associated with Centre projects, have continued to be prolific in research activities and outcomes over 2011. Many activities focus on externally-funded projects associated with CREEL including, which includes: ARC Discovery Projects: Responding to Climate Change: Australia’s Environmental Law and Regulatory Framework and Climate Change Law and Mitigation: Forest Carbon Sequestration and Indigenous and Local Community Rights and ARC Linkage Project: ‘Poverty in the Midst of Plenty’: Economic Empowerment, Wealth Creation and Institutional Reform for Sustainable Indigenous and Local Communities’ (located in Population Health). The work of Anita Foerster, Jessica Rae and Lisa Caripis in coordinating; and contributing to the research under these projects is acknowledged.

The following sets out more specific activities:

CREEL graduate researcher, **Ms Anne Kallies**, travelled to China to present at the ‘Clean Energy and Global Change for the Future’ conference at Tsinghua University, Beijing, 12-15 October 2011. Anne joined 18 Chinese graduate students and 15 other Australian graduate students at this event, co-sponsored by the Consortium of China 9 Research Universities and the Group of Eight (Australia).

Anita Foerster presented ‘Australian water law: planning for climatic variability’ at an IUCN Academy of Environmental Law Colloquium 2011: *Water and the Law* in South Africa in July 2011.

Centre for Resources, Energy & Environmental Law

Maureen Tehan travelled to Nigeria as part of an international comparative study on land title and communal property. In addition, she undertook similar research in Canada around an innovative land registration system being developed by the Inuit peoples.

Michael Crommelin gave a paper at an international conference on 'Zoning, Taking and Protection of Property Rights in the Urban Developments: Chinese Problems and International Experiences' held in Beijing, as part of a research project conducted by the Constitutional and Administrative Law Center and the Center for People's Congress and Parliamentary Studies, Peking University School of Law, and funded by the Ford Foundation.

CREEL graduate researcher, **Mr Hao Zhang** was selected to participate in the On Common Ground 2011 conference hosted by the Forum for American/Chinese Exchange at Stanford (FACES). Hao is part of the ninth group of students to participate in this annual American and Chinese student leadership conference which was held, firstly at Stanford University from April 10-15, 2011 and then from November 13-18, 2011 in China.

Rafael Plaza, CREEL graduate researcher, presented 'Transnational interconnection of power grids and renewable energies' at the 2011 ATLAS Symposium at the Universidad de Deusto, Bilbao, Spain (June 20 – July 1, 2011).

Rafael Plaza was elected Member of the Melbourne Academy for Sustainability and Society (June, 2011).

Lee Godden continued the roles of Chief Editor for Australian Resources and Energy Law Journal and as a Board Member for Journal of Energy and Natural Resources Law.

Research Grant

Climate Change Law and Mitigation: Forest Carbon Sequestration and Indigenous and Local Community Rights submitted by a Melbourne Law School and CREEL team: Maureen Tehan, Lee Godden, Margaret Young and Kirsty Gover.

Events

CREEL Seminar: The Titling of Customary Land in Sabah in the Name of Poverty Alleviation: or Oil Palm through Some Other Means

15 December 2011

Associate Professor Fadzilah Majid Cooke, Universiti Malaysia Sabah, School of Social Sciences, presented a seminar based on her research on customary land holding, human rights and the incursions of oil palm on the island of Sabah in Malaysia.

Beyond a Carbon Price: A Framework for Climate Change Regulation in Australia

11 August 2011

Held at the Melbourne Law School, this workshop for the associated research project examined emerging environmental, political, social and legal issues around recent forms of global environmental governance resulting from new climate change strategies.

CREEL Seminar: Dr Ottavio Quirico: Interacting Regulatory Frameworks for Climate Change

24 June 2011

Dr Quirico, University of Social Sciences of Toulouse (France), analysed the interaction of international law regimes relevant to climate change and specifically considered the potential for the World Heritage Convention to assist in ameliorating the impacts of climate change in sensitive conservation areas.

CREEL/EDO Seminar: New Directions in Climate Change Law and Policy

8 June 2011

The Parliamentary Secretary for Climate Change and Energy Efficiency, Mark Dreyfus QC MP presented a seminar at the Melbourne Law School discussing new federal climate change laws with a focus on the carbon farming initiative. The seminar was jointly organised by CREEL and the Environmental Defender's Office (Victoria).

Centre for Resources, Energy & Environmental Law

New Natures Seminar Series: Philosophy and Ecology after the End of the World

17 May 2011

This seminar was part of the New Natures Seminar Series at Melbourne Law School which has explored emerging conceptions of nature by some of the world's leading philosophers. Professor Timothy Morton, (UC Davis Department of English) the author of *The Ecological Thought* (Harvard UP, 2010), and *Ecology without Nature* (Harvard UP, 2007) delivered the lecture, 'Philosophy and Ecology after the End of the World'.

CREEL Seminar: Learning from the USA Experience in Diffuse Source Regulation

13 May 2011

Professor Robin Kundis Craig, Florida State University, USA, visited Victoria as part of Department of Primary Industries' Visiting Scientists Program. She liaised with various CREEL staff in preparing a report and she presented a workshop on US laws for water pollution control.

CREEL/NCCARF Workshop: Researching Water Governance: New Theories for New Practices

8 April 2011

This event, a CREEL and National Climate Change Adaptation Research Facility Workshop for water governance researchers around Australia, aimed to lift the profile of theoretical and social science research in water research through examining various perspectives for theoretical research by leading practitioners.

CREEL/NCCARF Workshop: Early Career Researcher Workshop

6 and 7 April 2011

Lee Godden co-convoked this workshop with Professor Ray Ison and Philip Wallis (Monash Sustainability Centre) which was designed to create a "community of conversation" about water governance in Australia, build collaborative research links, create opportunities for co-researching and information sharing, and provide opportunities for early-career researchers to participate in a national network.

CCCS/CREEL Book Launch: Kirsty Gover, *Tribal Constitutionalism: States Tribes and the Governance of Membership* OUP, 2010

5 April 2011

Kirsty Gover's book is regarded as a major contribution to the field, and the book launch at Readings Book shop in Carlton was well attended. An introduction to the themes in the book was provided by Professor Jeremy Webber, a leading authority on indigenous rights and constitutional law from the University of Victoria, Canada.

CREEL Seminar: Beatriz Garcia: The Legal Protection of the Amazon

24 March 2011

CREEL Guest Speaker, Dr Beatriz Garcia who has extensive experience in projects around forest conservation and in international law gave a discussion on Brazil's experience drawn from her book, *The Amazon: from an International Law Perspective*.

CREEL/IILAH Seminar: Marie Isabelle Pellan: Achieving Greater Coherence and Mutual Supportiveness Between the Trade and Climate Change Regimes

3 February 2011

This seminar by Marie Isabelle Pellan, visiting WTO Fellow at the Institute for International Trade, University of Adelaide, examined the potential for integration of WTO and public international law frameworks surrounding climate change mitigation.

External Conference and Seminar Presentations

Michael Crommelin, 'Land Title, Acquisition and Management in Australia' 6-7 August 2011, as part of a research project conducted by the Constitutional and Administrative Law Center and the Center for People's Congress and Parliamentary Studies, Zoning, Taking and Protection of Property Rights in the Urban Developments: Chinese Problems and International Experiences, Peking University School of Law, Beijing, and funded by the Ford Foundation.

Anita Foerster and **Lee Godden**, 'Legal Approaches to the management of Diffuse Source Pollution: Scoping for Comparisons and Best Practice' presented at the AWA Catchment Management Conference 22-23 August 2011, Wangaratta, Victoria.

Lee Godden, 'Institutionalising water governance research in Australia', 21-22 November 2011 Canberra, (Workshop co-convoked with the National Water Commission).

Centre for Resources, Energy & Environmental Law

Lee Godden, 'The Development of REDD+ in Malaysia: Key Issues and Concerns' presented at Malaysia, Singapore and the Region: Current Issues, Current Research Colloquium, Australian National University, Canberra, 8 December 2011.

Lee Godden and **Anthony Kung**, 'Water governance under climate change variability: managing flood risk', Melbourne Sustainable Society Institute, The University of Melbourne, 6 April 2011.

Jacqueline Peel, June 2011, presented a paper to a Symposium on 'The World Trade Organization as a Global Risk Regulator' as part of an inter-disciplinary international risk assessment conference held in Stuttgart.

Margaret Young, Annual Meeting of the American Society of International Law (ASIL) (New Voices Panel: Global Health, Trade & Common Resource Regimes), Washington DC, 24 March 2011.

Presentations Research Higher Degree Students

Julia Dehm, 'Differentiating the Necessary Pluralism of Climate Justice from Polycentric Climate Governance' Legal Theory Workshop, European Society of International Law 4th Research Forum, Tallinn, 26-28 May 2011.

Julia Dehm, 'Social Risk Management: The (Re) Constitution of an Insecure Social' Towards a Radical International Law Workshop, London School of Economics, 7-8 May 2011.

Angus Frith, (PhD Completion) Sustainable Indigenous Entities for Making Agreements Law Graduate Research Student Colloquium Program - Wednesday 2 November 2011

Anne Kallies, invited panel member on the Grid Technical Session – Connecting renewable, is the framework right? Clean Energy Council is holding a conference as part of Clean Energy Week 2011, 3 May 2011. Clean Energy Council, Global Perspectives.

Erin O'Donnell, 'Environmental water governance developments in Victoria', Environmental Water Governance Session, Western Economic Association International 9th Biennial Pacific Rim Conference, 28 April 2011.

Erin O'Donnell, (PhD Confirmation) Environmental Independence: How Can Environmental Law Adapt to an Environmental Corporation with Property Rights and a Voice of its Own? Law Graduate Research Student Colloquium Program - Wednesday 2 November 2011.

Lily O'Neill, (PhD Confirmation) Negotiating a Resource Agreement for Browse - A Case Study Law Graduate Research Student Colloquium Program - Wednesday 2 November 2011.

Rafael Plaza, was invited to present at the 2011 Osgoode Hall Graduate Law School Association (GLSA) Conference entitled: 'No Boundaries: Transnational Law and a New Order of Global Governance', held in Toronto, Canada, May, 2011.

Rafael Plaza, was invited to present his work on 'Market revenue risk allocation in Public-Private Partnerships on energy infrastructure projects' at the Sydney Law School Postgraduate Conference 2011, 27-28 October, 2011.

Knowledge Transfer and Exchange

Anita Foerster and Alex Gardner, Appearance at a Senate Committee Hearing regarding the Submission to the Senate Inquiry on the Water Act. 18 May 2011.

Jacqueline Peel, Media commentary: interview on ABC Statewide Drive with Kathy Bedford to discuss Victorian alpine grazing and potential federal enforcement action under the *Environment Protection and Biodiversity Conservation Act 1999* C'th.

Jacqueline Peel, an expert member of the International Law Association's Committee on the Legal Principles of Climate Change. In 2011, Jacqueline and other committee members worked on preparing a detailed second report on the topic to be presented at the ILA's biennial conference in Sofia in 2012. I was responsible for drafting sections of the report on the principles of precaution and sustainable development/integration.

CREEL's Associate Director, Jacqueline Peel, has established a climate change law blog. To access the blog please follow this link: http://blogs.unimelb.edu.au/peel_climatechange/

Centre for Resources, Energy & Environmental Law

Government and Law Reform Submissions

Jacqueline Peel et al, 'Submission on the Clean Energy Legislative package', 22 August 2011 (with other participants at the Melbourne 'Beyond a Carbon Price' workshop).

Jacqueline Peel et al, 'Submission to the Review of the Climate Change Act', 28 November 2011 (with other members of the MSSl Climate Change Group). The Submission has been referred to in the Department of Premier and Cabinet, 2011 'Review of the Climate Change Act 2010' available online: http://www.climatechange.vic.gov.au/__data/assets/pdf_file/0003/136488/111010-Climate-Change-Review_online.pdf

Fisher D, A Gardner, **Lee Godden**, J Gray, J McDonald, C McGrath, Poh-Ling Tan, **Anita Foerster**, March 2011. Submission. Joint Statement on the Water Act 2007 (Cth) Submission to the Senate Inquiry (Legal and Constitutional Affairs Committee) into the provisions of the Water Act 2007.

Lee Godden, 25 March 2011. The Senate Standing Committee on Legal and Constitutional Affairs. Submission to the Inquiry into the provisions of the Water Act 2007.

Lee Godden, 26 September 2011. Presentation at the Joint Select Committee on Australia's Clean Energy Future Legislation.

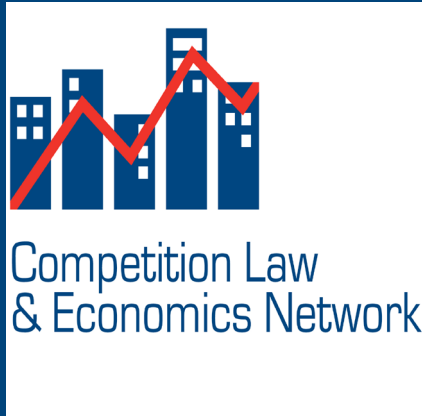
Lee Godden, September 2011. Contribution to the Inquiry into the Environment Effects Statement Process in Victoria. Environment and Natural Resources Committee. Parliament of Victoria. Parliamentary Paper No.59 Session 2010-11.

Contact CREEL

The Centre's website can be accessed at:
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The Centre can be contacted by email at:
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Competition Law & Economic Network



"CLEN was established in 2010 as a network of people who are engaged in researching and teaching, individually and collaboratively, in the field of competition law and economics and who are affiliated with one or more of the faculties of the University of Melbourne, including the Melbourne Law School, the Faculty of Business & Economics and the Melbourne Business School. "

People

Competition Law & Economics Network (CLEN) Director is Associate Professor Caron Beaton-Wells. There are two Deputy Directors, Arlen Duke, MLS Senior Lecturer (who is also the convenor of the Competition Law Overview Seminar series) and Dr Rhonda Smith, MLS Senior Fellow and Senior Lecturer in the Faculty of Business & Economics (who is also the convenor of the CLEN Discussion Group series).

Network members include full-time academics, as well as practitioners and regulators, from around Australia and the world. The University's Higher Research Degree students undertaking research at doctoral or masters level in competition law or economics-related fields are also associated with the Network.

Visiting academics researching or teaching in competition law or economics-related fields are welcome to be associated with the Network and participate in its range of activities. In 2011, three academics have taken up this opportunity: Professor Imelda Maher (Trinity College, Dublin), Dr Andreas Stephan (University of East Anglia, Norwich) and Assistant Professor Sandra Colino (Chinese University of Hong Kong).

The Network benefits from support and advice from key advisors who are senior members of the profession: Professor Bob Baxt AO (Freehills) and Dr Michael Schaper (Australian Competition and Consumer Commission).

Research and Teaching

CLEN members produce a substantial number and range of publications each year. A selection of their most recent publications is available on the CLEN website. Members draw on their research also to contribute to public debate on topical issues arising in this field. They make submissions to government on law reform and regularly write for and comment on issues in the mainstream media. In 2011, these issues have included competition in the banking sector, the introduction of the National Broadband Network and cartel criminalisation reform proposals in New Zealand.

The University of Melbourne teaches a wide range of subjects, at undergraduate and graduate levels, related to competition law and economics. The offerings of the Melbourne Law Masters in this field are unsurpassed in Australia. The competition law specialty of the MLM offers over 10 specialised subjects taught by experts from Australia and around the world. Many of the teachers and students in this program also become involved in the engagement activities and events of CLEN.

Selected Major Publications

- Beaton-Wells, C and Fisse, B, *Australian Cartel Regulation: Law, Policy and Practice in an International Context*, Cambridge University Press (2011)

Competition Law & Economic Network

- Beaton-Wells, C and Ezrachi, A, . Ezrachi (eds), *Criminalising Cartels: Critical Studies of an International Regulatory Movement*, Hart Publishing (2011)
- Duns, J and Duke, A, *Competition Law: Cases and Materials (3rd ed)*, Butterworths (2011)

Engagement Activities and Events

The Discussion Group Series

CLEN holds a Discussion Group that meets bimonthly to discuss recent competition related developments and decisions, as well as academic articles and other relevant publications. The aim of the Group is to inform debate on competition issues both within academia and within the legal profession, as well as to provide another forum for dialogue between members of the ACCC, academics and practitioners in this field. While there is a discussion opener for each session, these sessions are participatory and it is important to the quality of discussion that participants have read the decision, article or any other material provided in advance that is intended to be the subject of the meeting.

Academics, RHD Students, practising lawyers, economists and consultants who have an interest in competition law and economics all participate in the Discussion Group. Recent meetings of the Group have attracted between 20 and 25 participants and discussion has been very robust.

In 2011 Discussion Group presenters have included:

- Professor Michael Jacobs, De Paul University
- Dr Alexandra Merrett, ACCC
- Professor Imelda Maher, Trinity College, Dublin
- Karen Gibbons, Freehills
- Richard York, Frontier Economics
- Professor Michael Schaper, Deputy Chair, ACCC
- Joanne Daniels, Partner, Middletons

The Annual Baxt Lecture

CLEN's flagship event is the Annual Baxt Lecture in Competition Law. This free public lecture is given by an eminent international or national figure in this field on a topic of contemporary relevance. The intention behind the Lecture series is to highlight and generate debate about big picture policy issues as well as provide comparative insights from other jurisdictions. It is named in honour of Professor Bob Baxt AO in recognition of his substantial contribution to the development of competition law in Australia. In particular, the Lecture acknowledges his significant support for the establishment of competition law as a recognised and sought after discipline at the graduate level at the Melbourne Law School. Professor Baxt is the Chair of the Advisory Board of the competition law specialty in the Melbourne Law Masters program.

The Inaugural Baxt Lecture was delivered by Professor William Kovacic, US Federal Trade

Commissioner, on the topic "Competition Authorities for the 21st Century"; in August 2010. The Second Annual Baxt Lecture was delivered by Professor Richard Whish, one of Europe's foremost competition law scholars, in August 2011, on the topic: "Private Enforcement of Competition Law? European Developments". More than 100 members of the profession, including senior representatives from law firms, the ACCC, the bench and Treasury registered for each of these two lectures. They were also attended by members of the student body. Feedback was resoundingly positive.

Roundtable on Private Enforcement of Competition Law

In November 2010, CLEN convened a "Roundtable on the Private Enforcement of Competition Law", bringing together key stakeholders in competition law. The impetus for the Roundtable was the concern that a similar structured debate involving all the key stakeholders in Australia is overdue. It was also recognised that the University, as an independent institution, has much to offer by bringing together and facilitating an exchange between stakeholders in a field in which conflicting priorities and different perspectives have the potential to impede constructive debate.

Convened on an invitation-only basis, the Roundtable was attended by 30 of the most senior representatives from stakeholder organisations - the ACCC (whose representatives included Chairman Graeme Samuel), the Commonwealth Treasury, the

Law Council of Australia, the Federal Court, plaintiff law firms (Maurice Blackburn and Slater & Gordon), litigation funder IMF, and the Consumer Law Action Centre - as well as selected individual practitioners (from Freehills, Mallesons Stephen Jaques, Baker & McKenzie and Allens Arthur Robinson) and academics with experience in this field from around Australia.

The discussion took place over a full day and canvassed the many hurdles facing private litigants in Australia, with a particular focus on issues that arise at the interface between ACCC enforcement activity and private actions for damages. The discussion at the Roundtable was facilitated by the Commonwealth Solicitor-General, Stephen Gageler SC, CLEN Director Associate Professor Beaton-Wells and Sydney academic, barrister and former Law Reform Commissioner, Professor Peter Cashman. Confidentiality protocols enabled participants to be as frank as possible and a broad consensus on a range of key issues was established.

Associate Professor Beaton-Wells was assisted in organising the Roundtable by a working group, comprising ACCC Commissioner, Sarah Court, Maurice Blackburn partner, Brooke Dellavedova and former Mallesons Stephen Jaques partner (now consultant), Roger Featherston.

Since the Roundtable Associate Professor Beaton-Wells has contacted the Commonwealth Treasury to raise the specific issue of the extent to which private claimants for damages should be required to prove matters established in prior ACCC proceedings.

She has encouraged Treasury to consult with stakeholders on the issue, including on the question whether there should be amendment of s 83 of the *Competition and Consumer Act 2010* to address it and if so, what form that amendment might take. As a result Treasury is proposing to hold its own Roundtable on the issues in 2012.

The HotTub, a short film

In May 2011, CLEN held a mock performance of a 'hot tub' - a mode of taking economic evidence from expert witnesses developed in competition law cases, and regularly employed in the Australian Competition Tribunal and the Federal Court. This approach has benefits over the traditional style of witness examination insofar as it enables the expert evidence to be adduced after the lay evidence has been adduced on both sides and hence at a stage in proceedings when the "facts" are established and the issues clearly identified. It also has benefits in enabling the experts to question each other directly, in addition to cross examination by counsel which generally follows. The direct questioning method is regarded as an effective way of narrowing the differences between the experts and crystallising their opinions on the matters at issue.

The mock performance was held in the Law School's moot court. It was based on the case brought by the Australian Competition and Consumer Commission against the concrete manufacturer, Boral, alleging breach of the prohibition in s 46 (the misuse of market power/abuse of dominance prohibition) of the

then *Trade Practices Act 1974* (now the *Competition and Consumer Act 2010*). The allegations were based on pricing and capacity related conduct by Boral. The proceeding in the moot court was presided over by the Hon Peter Heerey QC, the judge who sat at first instance in the actual Boral trial.

Acting as the experts were leading economists from the economic consultancy Frontier Economics (and senior fellows in the Law School's Masters program), Dr Philip Williams (for the ACCC) and Richard York (for Boral). The roles of counsel were played by senior members of the Victorian Bar, David Shavin QC (who acted for the ACCC in the actual case) and Jack Fajgenbaum QC. An agreed statement of facts was prepared and the experts also prepared expert reports which were made available to students in advance. The hot tub enactment took place over an hour in front of students from the Law School. It saw the experts each give an opening statement and then question each other directly, followed by cross examination of each of them by opposing counsel. The enactment proved a highly effective way of demonstrating to students this distinctive approach to economic evidence in competition law cases.

The proceeding was filmed and, together with commentary from several of the cast, has been produced as a film by the Teaching and Learning Unit of the University's Faculty of Business & Economics for use in teaching students in a range of competition law and economics subjects at the University in undergraduate and graduate programs. The commentary in the video canvasses the origins of the HotTub in Australia and the advantages as

well as some of the challenges involved with this approach from the perspectives of counsel, judges and economists. It is also available to view via the FBE 'YouTube' channel at <http://www.youtube.com/playlist?list=PL2400DB4E81C32C45>. CLEN Member, Peter Heerey QC, has presented the video to a group of High Court Judges in Dublin, Ireland and also arranged for CLE session at the Victorian Bar to be held for the purposes of showing the video.

Contact the CLEN

The Network's website can be accessed at:

<http://clem.law.unimelb.edu.au>

The Centre Director can be contacted by email at:

c.beaton-wells@unimelb.edu.au

Institute for International Law and the Humanities



“Dedicated to integrating the study of international law with contemporary approaches to the humanities, IILAH facilitates and promotes innovative research and critical thinking on emerging questions of international law, governance, human rights and justice, positioning Melbourne Law School as one of foremost centres for international legal scholarship in the world.”

IILAH supports interdisciplinary scholarship on emerging questions of international law, relating in particular to the promotion of social and economic justice and giving voice to those who are marginalised by the historical commitments of international law. Many of the significant modes of thought that have framed the way in which international lawyers understand the world have developed in conversation with the humanities. IILAH continues this engagement, through fostering dialogue with scholars working in disciplines such as anthropology, cultural studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH encourages the work of younger scholars and those developing new approaches to the field of international law, and facilitates engagement between scholars and the community of professionals and activists working on issues of international law and governance. It has developed networks with scholars in international law and the humanities from Canada, Colombia, Egypt, Finland, France, India, New Zealand, South Africa, Sweden, the United Kingdom and the United States. IILAH also has a focus on developing links with scholars in the global South, in order to explore the shared legal legacies of colonialism.

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures, workshops and reading groups; supervises and supports the work of graduate research students; and undertakes and facilitates collaborative and interdisciplinary research projects both within the University of Melbourne, nationally and internationally.

IILAH Research Programmes

The activities of the Institute in 2011 were organised around twelve key research programmes. The programmes build on the breadth of research expertise and interest amongst the faculty at Melbourne Law School, and represent areas of dynamic development and change in the fields of international and transnational law.

Australian Legal Histories

Programme Director: Dr Ann Genovese

Comparative Tribal Constitutionalism

Programme Director: Dr Kirsty Gover

Fragmentation and Regime Interaction in International Law

Programme Director: Dr Margaret Young

Global Trade

Programme Directors:

Associate Professor Andrew Mitchell and
Associate Professor Tania Voon

Histories of International Law and Empire

Programme Director: Professor Anne Orford

International Criminal Justice

Programme Director: Associate Professor Peter Rush

International Environmental Law

Programme Director: Associate
Professor Jacqueline Peel

Institute for International Law and the Humanities

International Human Rights Law

Programme Director: Professor Dianne Otto

International Investment Law

Programme Director:

Associate Professor Jürgen Kurtz

International Refugee Law

Programme Director:

Associate Professor Michelle Foster

Jurisprudences of the South

Programme Director:

Associate Professor Shaun McVeigh

Law and Development

Programme Director:

Associate Professor Sundhya Pahuja

IILAH Research activities

Events and Visitors

IILAH hosted a wide range of events in 2011:

1 February 2011: PhD Confirmation Seminar

In The Name of the Victim: The Figure and Figuration of the Victim in International Criminal Justice, Ms Maria Elander (PhD Candidate, Melbourne Law School)

(Supervisors: Associate Professor Peter Rush and Professor Dianne Otto)

3 February 2011: IILAH Seminar

Achieving Greater Coherence and Mutual Supportiveness between the Trade and Climate Change Regimes, Ms Marie Isabelle Pellan (Visiting WTO Fellow, Institute for International Trade, University of Adelaide)

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)

10 February 2011: IILAH Seminar

Deconfiguring Borders — Rebordering Figures, Mr Matthew Nicholson (Faculty of Laws, University College London)

(Convenor: Associate Professor Sundhya Pahuja)

17 February 2011: IILAH Seminar

On the (Possible) Relationship of the EU Court of Justice with the UN Security Council and International Tribunals, Professor Joe Verhoeven (Université Panthéon-Assas (Paris II))

(Convenor: Professor Anne Orford)

17 March 2011: IILAH Seminar

Financial Services in the GATS and the Global Financial Crisis: A View from Singapore, Associate Professor Dora Neo (Faculty of Law, National University of Singapore)

(Convenor: Associate Professor Jürgen Kurtz)

31 March 2011: IILAH Seminar

The Targeted Killing Judgment of the Israeli Supreme Court and the Critique of Legal Violence, Mr Markus Gunneflo (Faculty of Law, Lund University, Sweden)

(Convenor: Professor Anne Orford)

1 April 2011: Panel Discussion

International Intervention in Libya, Professor Tim McCormack (APCML), Professor Anne Orford (IILAH) and Ms Elizabeth Wilmshurst (Chatham House, UK) in conversation with Professor Gerry Simpson (APCML and Global Justice Studio)

8 April 2011: IILAH Seminar

Slavery as Ownership: Exploring the Property Elements of Contemporary Slavery, Dr Jean Allain and Dr Robin Hickey (Queen's University, Belfast)

(Convenor: Professor Anne Orford and Associate Professor Shaun McVeigh)

8 April 2011: Workshop on Legal Issues Relating to Plain Packaging of Cigarettes in Australia

(Convenors: Associate Professor Andrew Mitchell, Associate Professor Tania Voon and Dr Jonathan Liberman (Cancer Council Victoria and Quit Victoria))

21 April 2011: IILAH and IPRIA Twilight Seminar

The World Trade Organization's Trade Related Aspects of Intellectual Property (TRIPS) Agreement and Access to Medicines, Professor Jayashree Watal (World Trade Organization, Switzerland)

(Convenors: Associate Professor Andrew Mitchell and Associate Professor Tania Voon)

10 May 2011: IILAH Seminar

Contesting Legitimacy: Sources of Authority within the Just War Tradition and International Law, Dr Tarik Kochi (University of Sussex)

(Convenor: Associate Professor Shaun McVeigh)

Institute for International Law and the Humanities

11 May 2011: IPRIA, CMCL and IILAH Seminar

Human Rights and Intellectual Property: Mapping the Global Interface, Professor Larry R Helfer (School of Law, Duke University) and Professor Graeme W Austin (Professor of Law, Victoria University of Wellington and University of Melbourne), with Associate Professor Shaun McVeigh (Melbourne Law School) as commentator

(Convenor: Professor Megan Richardson)

4 July 2011: IILAH Seminar

The Clash of Analogies and Approaches in the Investment Treaty System, Ms Anthea Roberts (London School of Economics and Politics), with Gavan Griffith QC as commentator

(Convenor: Associate Professor Jürgen Kurtz)

20 July 2011: IILAH and APCML Public Lecture

'Terrorist': Diasporic Emotions, Sense of Justice and International Criminal Classification, Professor Ghassan Hage (Future Generation Professor of Anthropology and Social Theory, University of Melbourne)

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)

21 July 2011: IILAH and APCML Lecture

The Experience of an Extreme Loneliness: Resentment and Reconciliation as Affective States of International Criminal Law, Professor Jill Stauffer (Haverford College)

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)

20–22 July 2011: APCML/IILAH Symposium

Affective States of International Criminal Justice
This Symposium was co-convened by the Asia Pacific Centre for Military Law and the Institute for International Law and the Humanities and supported by an Australian Research Council Discovery Project Grant. The Centre for Contemporary Photography presented the 'Without words' exhibition in association with this event

(Convenors: Associate Professor Peter Rush and Professor Gerry Simpson)

25 July 2011: IILAH Master Class

Jurisprudence, Politics & Ethics in an International Frame, Professor Jill Stauffer (Haverford College)

(Convenor: Associate Professor Peter Rush)

10 August 2011: PhD Confirmation Seminar

Enemies of Mankind: Warmongers and Warlike Peoples in Vattel's Law of Nations, Mr Walter Rech (Melbourne Law School)

(Supervisors: Professor Anne Orford and Associate Professor Sundhya Pahuja)

11 August 2011: IILAH Seminar

Rights and the Australian Council for Civil Liberties, Dr James Waghorne (School of Historical Studies, University of Melbourne), with Dr Ann Genovese (Melbourne Law School) as discussant

(Convenor: Professor Anne Orford)

17 August 2011: IILAH Public Seminar

On the Effective Implementation of Human and Minority Rights in Europe, Dr Panayote Dimitras (Greek Helsinki Monitor)

(Convenor: Dr Kirsty Gover)

29 August 2011: IILAH Seminar

Makeshift Migrants and Law: Gender, Belonging, and Postcolonial Anxieties, Professor Ratna Kapur (Geneva School of Diplomacy and International Relations), with Ms Deborah Whitehall as discussant
(Convenor: Professor Dianne Otto)

30 August 2011: IILAH Seminar

Reading and Rereading the Caroline Correspondence, 1838–1842, Professor Dino Kritsiotis (School of Law, University of Nottingham)

(Convenor: Professor Anne Orford)

1 September 2011: PhD Confirmation Seminar

Hannah Arendt, Beginnings and Female Subjectivity in International Law, Ms Deborah Whitehall (Melbourne Law School)

(Supervisors: Professor Anne Orford and Dr Ann Genovese)

8 September 2011: PhD Confirmation Seminar

'Humanising' the Border: Migrant Labour, Development and the Promise of Legality, Ms Sara Dehm (Melbourne Law School)

(Supervisors: Associate Professor Sundhya Pahuja and Professor Anne Orford)

22 September 2011: IILAH and CCCS Public Seminar

Beyond the Malaysian Solution? Refugee Responsibility Sharing in the Asia-Pacific Region, Mr Richard Towle (UNHCR), Professor James Hathaway (University of Michigan) and Associate Professor Michelle Foster (Melbourne Law School), chaired by Professor Adrienne Stone (Melbourne Law School)

(Convenor: Associate Professor Michelle Foster)

Institute for International Law and the Humanities

22–24 September 2011: IILAH/ARC Workshop

The Law of Refugee Status. This workshop was supported by the Institute for International Law and the Humanities and the Australian Research Council (Convenor: Associate Professor Michelle Foster)

4–6 October 2011, Workshop on International Law and Empire, University of Helsinki

This international workshop on the theme of International Law and Empire was co-sponsored by the Erik Castrén Institute for International Law and Human Rights, University of Helsinki; the Institute for International Law and the Humanities, University of Melbourne; the European Research Council research project on 'Europe between Revolution and Reaction 1815–1914'; and the Australian Research Council research project on 'Cosmopolitanism and the Future of International Law' (Convenors: Professor Martti Koskenniemi and Professor Anne Orford)

27 October 2011: IILAH Seminar

Agonism and Abjection: Hannah Arendt, Giorgio Agamben and the Right to Have Rights, Dr Andrew Schaap (Politics, University of Exeter) with Mr Connal Parsley (IILAH) as discussant (Convenor: Dr Ann Genovese)

12 December 2011: IILAH Joint Public Seminar

Cosmopolitan Justice in a Postcolonial World and Integration Regimes and Governmentality
Cosmopolitan Justice in a Postcolonial World presented by Professor Nikita Dhawan (Goethe-University Frankfurt)

Integration Regimes and Governmentality presented by Professor María do Mar Castro Varela (Alice Salomon University Berlin)
(Convenor: Associate Professor Sundhya Pahuja)

14 December 2011: PhD Completion Seminar

Jurisprudence of Movement, Ms Olivia Barr (Melbourne Law School)
(Supervisors: Associate Professor Peter Rush, Associate Professor Shaun McVeigh and Associate Professor Maureen Tehan)

15 December 2011: IILAH Public Seminar

TRIPS and the Non-Communicable Diseases Epidemics, Professor Kevin Outterson (Law, Boston University)
(Convenors: Associate Professor Andrew Mitchell, Associate Professor Tania Voon and Dr Jonathan Liberman (Cancer Council Victoria))

15–16 December 2011: Postgraduate and Early Career Researchers Workshop

Law and Its Accidents
This workshop is supported by the Melbourne Law School and its research centres and institutes: Centre for Employment and Labour Relations Law (CELRL), Centre for Media and Communications Law (CMCL), Centre for Resources Energy & Environmental Law (CREEL), Institute for International Law and the Humanities (IILAH), Intellectual Property Research Institute of Australia (IPRIA) and the Postgraduate Law Student Association (PLSA). Speakers include: Professor Paul Carter (Centre for Memory, Imagination and Invention, Deakin University) and Dr Rebecca Scott Bray (Department of Sociology and Social Policy, University of Sydney)

Key Publications

Orford, A, *International Authority and the Responsibility to Protect*, Cambridge University Press, United Kingdom (2011)

Pahuja, S, *Decolonising International Law: Development, Economic Growth and the Politics of Universality*, Cambridge University Press, United Kingdom (2011)

John, F, Joyce, R and Pahuja, S, (eds), *Events: The Force of International Law*, Routledge-Cavendish, United Kingdom (2011)

Young, M, *Trading Fish, Saving Fish: The Interaction between Regimes in International Law*, Cambridge University Press, United Kingdom (2011)

IILAH Research Students

The following research student affiliated with IILAH completed in 2011.

Takele Soboka Bulto

Thesis title: The Imperatives of Extraterritorial Application of the Human Right to Water: A Case Study of the Nile Basin

Supervisors: Carolyn Evans and Jacqueline Peel

Institute for International Law and the Humanities

Staff

The Director of the Centre is Professor Anne Orford. Other academic staff associated with the Centre are Dr Michelle Foster, Dr Kirsty Gover, Mr Jurgen Kurtz, Associate Professor Shaun McVeigh, Associate Professor Andrew Mitchell, Professor Dianne Otto, Associate Professor Sundhya Pahuja, Associate Professor Jacqueline Peel, Associate Professor Peter Rush, Associate Professor Tania Voon and Dr Margaret Young.

The Centre Administrator is Vesna Stefanovski.

Contact iLaH

The Centre's website can be accessed at:
<http://www.law.unimelb.edu.au/iilah>

The Centre can be contacted by email at:
law-iilah@unimelb.edu.au

Intellectual Property Research Institute of Australia



“Established in 2002, Intellectual Property Research Institute of Australia (IPRIA) is one of the world’s few, and Australia’s only, multidisciplinary research organisation specialising in research on the law, economics and management of intellectual property.”

The Institute was established with the broad aim of increasing the understanding, creation, use and exploitation of intellectual property by Australian organisations and individuals. It is based at the University of Melbourne, comprising staff from the Melbourne Law School (MLS), the Faculty of Business and Economics (FBE), and the Melbourne Business School (MBS). The current Director is Professor Beth Webster (FBE), the two Associate Directors in 2011 were Professor Megan Richardson (MLS) and Associate Professor Kwanghui Lim (MBS).

IPRIA aims to produce world-class information and analysis on the operation and impact of intellectual property (IP) systems. IPRIA’s activities aim to:

- support and generate development of high-level public policy in relation to intellectual property issues;
- improve the protection, management and exploitation of intellectual property by all Australian stakeholders, including research institutions, public and private sector interests; and
- help create an informed environment for, and contribute to, on-going public debate in Australia about intellectual property issues and related matters, including innovation policy and economic growth.

A Selection of Research Projects undertaken by IPRIA Staff in the Law School

- Harmonisation of Patent Examination in Australia, US and Europe
- Employee Rights to the Benefits of their Innovation
- Drug Companies, their Patenting Strategies and High-Cost Pharmaceuticals
- Amateur Hour: The Socio-Legal Construction of Amateur Media

Selected Events

Seminars

- Nathan Hollier, Emmett Stinson, Piers Pickard, Max Barry, Graeme Connelly and Kwanghui Lim participated in a panel seminar on “The future of books” (in conjunction with the CMCL, MBS and the Publishing & Communications Program) – February
- Jason Bosland and Lisa Ramsey presented a seminar ‘Brandjacking on Social Networks: Trademark Infringement by Impersonation of Markholders’ (in conjunction with CMCL) – March, in Melbourne and Sydney
- Jayashree Watal presented a seminar ‘The World Trade Organization’s Trade Related Aspects of Intellectual Property (TRIPS) Agreement and Access to Medicines’ (in conjunction with IILAH) – April

Intellectual Property Research Institute of Australia

- Graeme Austin and Larry R Helfer presented a seminar 'Human Rights and IP: Mapping the Global Interface' (in conjunction with CMCL) – May, in Melbourne and Sydney
- Peter Yu presented a seminar 'Enforcement, Enforcement, what Enforcement?' – June, in Melbourne and Sydney
- Janice Luck, Don O'Sullivan, Vicki Huang, Susy Frankel, Owen Malone participated in a panel on 'Grey Marks' – October
- Susy Frankel and Paul G Scott presented a seminar 'The Trans-Tasman Relationship: Competition Law and Intellectual Property Law' (in conjunction with the Institute of Patent and Trade mark Attorneys of Australia) – October, in Melbourne, Sydney and Canberra
- IPRIA, in conjunction with the CMCL, hosted a conference, 'Secrecy in a Time of Weak Law' in November in Melbourne

Refereed Journal Articles

Dent, C, "'Grey, Meticulous and Patently Documentary": Foucaultian Historical Methods and the Patent System' (2011) 47 *Journal of Sociology* 297-312

Dent, C, 'The TRIPS Agreement and an Experimental Use Exception for "Research Tools"' (2011) 44 *Australian Economic Review* 73-78

Richardson, M and Trabsky, M, 'Radio and Technology of the Common Law in 1930s Australia: Victoria Park Racing v Taylor Revisited' (2011) 20 *Griffith Law Review* 1020-1037

Weatherall, K, Rotstein, F, Dent, C and Christie, A, 'Patent Oppositions in Australia: The Facts' (2011) 34 *University of New South Wales Law Journal* 93-135

Selected Conference Presentations

Richardson, M (with Frankel, S), 'Australia-New Zealand Intellectual Property Law Harmonisation', Workshop presentation at New Zealand Law Foundation Regulatory Reform Project, December, Wellington.

Dent, C., 'Negotiating Control of Artifacts of Creation: Intellectual Property, Know-How, Confidential Information and Contracts', delivered at Mobility and Competition Clause Workshop, LMU, September, Munich.

Lim, A., 'The Practical Effect of Patent Examination: A Comparative Analysis', delivered at EPIP, September, Brussels.

IPRIA also published an online journal, *The Fortnightly Review* (edited by Vicki Huang and Jake Goldenfein), through most of 2011. A commemorative volume was produced in December.

Contact IPRIA

The Centre's website can be accessed at: <http://www.ipria.org>

Obligations Group



"The Obligations Group at Melbourne Law School supports research and scholarly discussion of the law of obligations, which includes the law of contract, tort, unjust enrichment and restitution, equity and trusts, property, remedies and private law theory. The group provides a forum for academic discussion of these topics and facilitates interaction between academics and practitioners on issues of current interest."

The Directors of the Obligations Group are Professor Andrew Robertson and Associate Professor Elise Bant. Other academic staff associated with the group are: Dr Katy Barnett, Mr Matthew Bell, Associate Professor David Brennan, Professor Michael Bryan, Professor Michael Crommelin AO, Mr Arlen Duke, Mr Andrew Godwin, Associate Professor Matthew Harding, Associate Professor Cally Jordan, Professor Ian Malkin, Dr Jeannie Paterson and Professor Ian Ramsay.

Events

Lunchtime Seminars

- **Mr Donal Nolan** (Oxford) and Professor Andrew Robertson, 'Rights and Private Law', (25 March 2011)
- **Dr TT Arvind** (York), 'Obligations and Regulation: A Core Relationship', (8 April 2011)
- **Dr Matt Dyson** (Cambridge), 'Border Disputes between Torts and Crimes: Comparative Advice on Soothing Ruffled Feathers', (15 April 2011)
- **Professor Robert Chambers** (UCL), 'The End of Knowing Receipt', (18 April 2011)
- **Ms Susan Barkehall-Thomas** (Monash), 'Thieves and the Problem of Title to Chattels', (12 August 2011)
- **Professor Jane Stapleton** (ANU & Texas), 'The Causal Relation in Law: an Account for Philosophers' (co-hosted with the MLS Legal Theory Workshop Series), (13 August 2011)

- **Professor Sarah Worthington** (LSE), 'Exercising Power in Commercial Relationships', (26 August 2011)
- **Dr Sirko Harder** (Monash), 'Contributory Negligence in Contract and Equity', (28 October 2011)

Evening Seminar

Mr William Swadling (Oxford), 'The Fiction of the Constructive Trust', (4 August 2011)

Melbourne Torts Workshop

On 25 February the Obligations Group hosted the *Melbourne Torts Workshop*, which was convened by Professor Andrew Robertson. The following papers were presented:

- **Professor Benjamin Zipursky** (Fordham), 'Civil Recourse and Relational Duties in the Law of Torts'
- **Professor Andrew Robertson**, 'Policy and the Duty of Care'
- **Ms Hanna Wilberg** (Auckland), 'Negligence Liability of Public Authorities: In Defence of the Omissions Rule'
- **Professor Kit Barker** (Queensland), 'Relational Economic Loss and Indeterminacy: The Search for Rational Limits'

Obligations Group

- **Professor Barbara McDonald** (Sydney), 'Is there an Irreducible Core of Obligation in Tort?'
- **Mr John Randall QC** (St Philips Chambers), 'Caparo v Dickman—Legal Celebrity of Jurisprudential Substance?'

Melbourne Contracts Workshop

On 1-2 December the Obligations Group hosted the Melbourne Contracts Workshop, which was convened by Dr Jeannie Paterson and Professor Andrew Robertson.

The following papers were presented:

- **Dr Jeannie Paterson**, 'Contract and the Challenge of Consumer Law'
- **Professor Robyn Carroll** (UWA), 'Agreements to Specifically Perform Contractual Obligations'
- **Dr Katy Barnett**, '"Reasonable Fee"' Damages as Partial Disgorgement for Breach of Contract'
- **Dr Wayne Courtney** (Sydney), 'Settlement after Breach'
- **Professor David McLauchlan** (Wellington), 'The Contract that Neither Party Intends'
- **Dr Martin Doris** (Chinese Univ HK), 'The Law on Unfair Commercial Practices in the UK—A Model for Hong Kong?'
- **Mr James Lee** (Birmingham), 'The Adequacy of Legislative Consideration of the Law of Contract'

- **Professor Rick Bigwood** (Bond), 'Reflections on the Mental Componentry of Affirmation of a Contract by Election'

Proprietary Remedies Colloquium

The Obligations Group provided administrative support for a colloquium on 'The Principles of Proprietary Remedies: Constructive Trusts', which was held at Melbourne Law School on 5 December. The colloquium was co-convened by Professor Michael Bryan and Associate Professor Elise Bant and funded by their ARC Discovery Project grant. The colloquium brought together judges and scholars from around Australia to discuss contentious issues in the law of constructive trusts.

Visitors

Mr Donal Nolan, Porjes Foundation Fellow and Tutor in Law at Worcester College, Oxford, and a CUF Lecturer in Law in the University of Oxford (March)

Dr TT Arvind, York Law School (April)

Mr James Lee, Lecturer, Birmingham Law School (November to December)

Contact the Obligations Group

The Obligations Group website can be accessed at: www.obligations.law.unimelb.edu.au

The Centre can be contacted by email at: grogans@unimelb.edu.au

Tax Group



"The Tax Group at Melbourne Law School is a focal point for excellence in tax research and education. Tax faculty carry out a range of tax research projects with a technical and a policy focus and contribute actively to public debate on tax reform."

The Tax Group brings together full-time academic faculty and experienced tax professionals including members of leading law and accounting firms and leading members of the Tax Bar, to provide a comprehensive and detailed Tax Masters degree program.

Research Projects and Grants

Tax faculty are currently working on the following significant research projects, some funded by external grants and many of a collaborative and interdisciplinary nature.

Defining, Regulating and Taxing the Not-for-Profit Sector in Australia: Law and Policy for the 21st Century

Ann O'Connell and Miranda Stewart together with Associate Professor Matthew Harding continued research in relation to the not for profit sector, funded by an ARC Discovery Grant. The project is considering the legal definition, regulation and taxation of the sector and has carried out significant policy work in relation to current federal government reforms of the tax and regulation of the sector, as well as original research. A major academic conference is to be held at the Law School on 19-20 July 2012.

International Tax and China

Ann O'Connell commences research in 2012 in a funded ARC Linkage grant, led by Monash University and partnering with Zhongnan University of Economics and Law, on Australia's tax law and treaty relationships with China.

International Tax and Treaties

Associate Professor Dr Mike Kobetsky finished work on his book on the attribution of profits to branches of international enterprises under the OECD Model Tax Convention and continues his research on these issues. Senior Lecturer Sunita Jogarajan continued work on her PhD on the origins and history of tax treaties, recently publishing a significant article on the first international tax treaty in the *Oxford Journal of Legal Studies*.

Tax and Indigenous Economic Development; Poverty in the midst of Plenty

Miranda Stewart continued work on a collaborative and interdisciplinary project working on issues of native title and Indigenous economic development, including tax and legal entity issues, with Professor Lee Godden and Associate Professor Maureen Tehan at the Law School, and colleagues elsewhere, under the leadership of Professor Marcia Langton and funded by an ARC Linkage Grant. In 2011, she presented papers and organized workshops on taxation of native title involving a range of participants, including native title lawyers, Treasury and federal legal officials and members of the profession and published on the tax treatment of native title agreements. Miranda co-supervises PhD candidate Lily O'Neill in connection with this project.

Tax Expenditures and Developing Countries

Mark Burton continued his joint book project on Tax Expenditures with Associate Professor Kerrie Sadiq of the University of Queensland. He and Miranda Stewart jointly produced a report in 2011 on a consultancy for

Tax Group

the International Budget Partnership (www.ibp.org), examining tax expenditure reporting in developing countries. The IBP is a non-government organization based in Washington DC, US, that promotes budget transparency in governments around the world.

Joint Oxford-Melbourne Research on Anti-Avoidance and Sham

Ann O'Connell was awarded in 2011 the Oxford-Melbourne collaborative research grant with Professor Judith Freedman of Oxford University Faculty of Law for her project "*A Comparative Analysis of Anti-Avoidance Rules in Australia and the United Kingdom*".

Professor Miranda Stewart continued her joint research project, also funded by a previous Oxford-Melbourne collaborative grant, with Edwin Simpson of Oxford University Faculty of Law on the judicial "*Doctrine of Sham and Anti-Abuse in the Common Law*". A joint symposium was held at Christ Church in July 2011.

Significant Publications

Selected publications from 2011 are below. A full list of publications of the Tax Group can be found on the Tax Group website and individual faculty webpages.

- Burton, M, 'Capturing Contemporary 'Democracy': The Shortcomings of Australian Tax Expenditure Management and their Ideological Foundations' in in L Philipps, N Brooks and J Li (eds), *Tax Expenditures: State of the Art*, Canadian Tax Foundation, Canada (2011), 6:1-6:40
- Jogarajan, S. 'Prelude to the International Tax Treaty Network: 1815-1914 Early Tax Treaties and the Conditions for Action' (2011) 31(4) *Oxford Journal of Legal Studies*, 679-707
- Kobetsky, M, *International Taxation of Permanent Establishments: Principles and Policy*, Cambridge University Press, United Kingdom (2011)
- O'Connell, A, 'Charitable Treatment? - A Short History of the Taxation of Charities in Australia'. in J Tiley (ed), *Studies in the History of Tax Law*, Hart Publishing, United Kingdom (2011), 91-124
- Stewart, M, 'The Income Taxation of Native Title Agreements' (2011) 39 *Federal Law Review*, 361-398

Seminars, Workshops and Conferences

Melbourne Law School Annual Tax Lecture

The Annual Tax Lecture series was launched in 2005 with the purpose of placing the development of the tax law in its historical context, and to inform public debate on current tax issues. In 2011, Professor David Rosenbloom of New York University School of Law presented a Lecture entitled "International Tax Policy: A Current View from the United States." Previous Lecturers have included the Hon Justice Richard Edmonds of the Federal Court of Australia, the Hon Justice Tony Pagone of the Supreme Court of Victoria, the Hon Justice Michael Kirby of the Federal Court of Australia, Professor John Tiley of the University of Cambridge, the Hon Justice Young of the Federal Court of Australia and Mr Alan Myers AO QC.

Australasian Tax Teachers Association Conference

The 23rd Annual Conference of the Australasian Tax Teachers Association was co-hosted by the Melbourne Law School and the Monash University Taxation Law and Policy Research Institute, and held at the Melbourne Law School from 19-21 January 2011. The Conference theme was '*Tax - it's more than numbers*'.

Tax Group

Workshops and Conferences

- The Tax Group and the Centre for Employment and Labour Relations Law hosted a symposium on '**Workers and Tax Reform**'. This symposium held at Melbourne Law School, brought together celebrated US academic, Professor Jonathan Forman, author of *Making America Work* (2006) with an expert Australian panel to discuss options for reform of income tax rates, credits and transfers that will achieve sustainable fairness and increase productivity for Australia's workers. (16 August 2011)
- The Tax Group and the Asian Law Centre hosted a seminar by Associate Professor Wei Cui from China University of Political Science and Law on '**Centralizing of Taxing Power and Economic Development: Chinese Evidence**', with comments from Professor Cheryl Saunders of the Centre for Comparative Constitutional Studies at the Melbourne. (23 August 2011)

Book Launch

The Tax Group was very pleased to host the launch of Dr Michael Kobetsky's book "*International Taxation of Permanent Establishments: Principles and Policy*". The book was launched by Mr Cameron Rider of Greenwoods & Freehills at the Melbourne Law School. (21 November 2011)

International Fiscal Association Seminars

The Tax Group jointly with the International Fiscal Association (Australian Branch) hosts a seminar series presented by leading international tax visitors. In 2011, the following seminars were presented:

- Professor Brian Arnold, Canadian Tax Foundation, 'Cleaning up the Mess: The Taxation of Services under Tax Treaties' (24 February 2011).
- Mr Neil Motteram and Ms Lyn Redman, Australian Treasury, 'Australian Tax Policy and Developments' (5 April 2011).
- Associate Professor Mike Kobetsky, Melbourne Law School, 'Transfer Pricing – SNF case' (27 July 2011).
- Associate Professor Wei Cui, China University of Political Science and Law, 'Chinese International Tax Treaty and Policy', (31 August 2011).

Tax Discussion Group

The Tax Group hosts a monthly Discussion Group, chaired by Justice Tony Pagone, Professorial Fellow, that provides a forum for our adjuncts and full-time faculty to engage with the Law School and discuss topical tax law developments.

Engagement and Knowledge Transfer

Members of the Tax Group participate in peak professional bodies, including as Fellows of the Taxation Institute of Australia, in which they play a role in the development of tax law and policy. Diverse engagement activities with the tax profession, government and the community sector, include:

- Mark Burton provides external analysis of Australian Tax Office audit and interpretive practice on a consultancy basis.
- Mike Kobetsky sits on the Subcommittee for Transfer Pricing of the United Nations Committee on Fiscal Affairs and advises the Asian Development Bank and OECD on international tax.
- Ann O'Connell is Special Counsel to Allens Arthur Robinson and sits on the Advisory Panel to the Board of Taxation. She is also an external member of the Australian Tax Office Rulings Panel.
- Ann O'Connell and Miranda Stewart were invited as experts to participate in the *Tax Forum* on 4 and 5 October 2011 in Canberra.
- Miranda Stewart is a member of the Law Council Tax Committee and the International Fiscal Association Executive (Australian Branch).

Tax Group

Visitors to the Tax Group

The Law School hosted eminent tax scholars from around the world to teach in the Melbourne Law Masters program and carry out collaborative research. Visitors in 2011 included:

- **Professor Brian Arnold**
Canadian Tax Foundation, Canada
- **Associate Professor Wei Cui**
University of Political Science and Law, China
- **Professor David Rosenbloom**
New York University, United States
- **Professor John Tiley, CBE**
University of Cambridge, United Kingdom
- **Professor Wolfgang Schon**
Max Planck Centre for Tax Law and Economics,
Munich, Germany.

Management and Staff

In 2011, the Co-Directors of the Tax Group were Professor Ann O'Connell and Professor Miranda Stewart. Ms Tessa Dermody is the Coordinator. Dr Joyce Chia is the Research Fellow on the Not for Profits research project.

Contact The Tax Group

The Tax Group's website can be accessed at:
www.tax.law.unimelb.edu.au

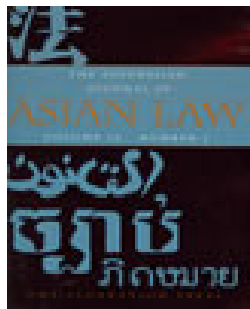
The Tax Group can be contacted by email at:
law-tax@unimelb.edu.au

Journals and Newsletters



Faculty Edited Journals and Newsletters in 2011

Australian Journal of Asian Law



The Australian Journal of Asian Law (Asian Law) is a forum of debate for scholars and professionals concerned with the laws and legal cultures of Asia. It aims for recognition as a leading medium for legal ideas in a region characterised by rapid growth and social change.

Asian Law publishes multi-disciplinary, historical and contemporary research and fieldwork in English, in the original language or in translation. In the Law School, it is edited by Professor Tim Lindsey, Director of the Asian Law Centre and Dr Amanda Whiting, Associate Director (Malaysia).

All contributions are peer-reviewed by two referees. The journal's advisory board includes leading Asian law scholars in a range of disciplines from Asia, Australia, Europe and America. *Asian Law* publishes one special thematic edition every year, the most recent being devoted to Islamic law (syariah).

Email: law-asianlawjournal@unimelb.edu.au

Australian Journal of Labour Law

The Australian Journal of Labour Law is published by LexisNexis in three issues per year. The Journal is designed to be of service both to the academic community and to practitioners in labour relations law and labour relations.

The Journal seeks to publish articles, notes and comments, and detailed commentaries on recent cases and legislation in the field of labour law. Articles may deal with an area of labour law in an analytical, theoretical or empirical fashion. Contributions detailing or analysing the importance of recent developments in labour law, or dealing with issues of policy and reform are also welcomed. The Journal is controlled by an Editorial Committee following a formal process of peer review.



Although the primary focus of the Journal is on Australian labour law, articles and contributions on overseas developments will be accepted for publication where they are of wide general interest, or of relevance to the Australian situation.

Editors of the Journal are:

Anna Chapman - *University of Melbourne*

Anthony Forsyth - *Monash University*

Joellen Riley - *University of Sydney*

Associate Editor:

Tess Hardy - *University of Melbourne*

Faculty Edited Journals and Newsletters in 2011

Company and Securities Law Journal

The *Company and Securities Law Journal* is well-known for its high quality articles written by leading specialists in corporate, securities and takeovers law. It provides both scholarly and practical perspectives on a range of dynamic and important subjects of interest to the Australian legal and business communities.

Topics range from comments on the lack of confidence in the Australia securities markets and how an increased effort by regulators to improve enforcement of existing laws prohibiting market misconduct is needed to restore confidence, to insider trading case law dealing with “generally available” and “materiality” carve-outs and articles around the questions “do we need regulation in the way in which litigation funders should operate”?

Company and Securities Law Journal, is edited by Professor Robert Baxt AO (Professorial Associate of The University of Melbourne and a Partner at Freehills) and Associate Professor Paul Ali (Melbourne Law School). Professor Ian Ramsay is a member of the Editorial Board of the Journal and Associate Professor Ann O’Connell is a Section Editor.

Media & Arts Law Review

The *Media & Arts Law Review* is a quarterly, refereed journal examining all areas of media and arts law, including: Communications, Contempt, Copyright, Cultural Heritage, Defamation, Digitisation, Entertainment, Free Speech, IP, Journalism, Privacy, and the Public Interest. It is edited by Jason Bosland, Kathy Bowrey and Andrew Kenyon.



The Review has a distinguished Editorial Board and publishes independently refereed articles, from Australian and international authors, as well as conference reports and book reviews. It also includes regular update reports about media and arts law developments from a team of International Contributing Editors. The updates offer a snapshot of matters such as case law, legislation, law reform, international conventions, and changes in industry self-regulation. Reports include the US, Canada, the UK, Africa, Hong Kong, the European Union, New Zealand and Australia.

The *Media & Arts Law Review* is published by Lexis Nexis.

Website: <http://www.law.unimelb.edu.au/malr>

Faculty Edited Journals and Newsletters in 2011

Melbourne Journal of International Law



Melbourne Journal of International Law (MJIL) covers issues of public and private international law. It is a biannual publication that seeks to address issues of academic and commercial interest to Australia and the Asia-Pacific area. *MJIL* is a fully peer-reviewed/refereed, student-edited international law journal.

Editions are distributed to a wide range of readers and organisations, including commercial enterprises, international organisations, law libraries and law students. *MJIL* is distributed both online and in

hardcopy, with a readership spanning locations as diverse as Hong Kong, the United States, Sri Lanka, Brazil and South Africa.

Articles, case notes, commentaries, practice notes, book reviews and summaries of recent legal developments are all encouraged by the Editors.

Editors of the *MJIL* 2011 editions: Sam Naparstek, Tiong Tjin Saw and Suzanne Zhou.

Website: <http://mjil.law.unimelb.edu.au>

Melbourne University Law Review

The *Melbourne University Law Review* is one of Australia's leading generalist law journals. Submissions to the Review are subject to independent, anonymous peer review prior to acceptance for publication. The Review is published three times a year and is managed by an Editorial Board comprising students of the Melbourne Law School at The University of Melbourne.



The *Review* publishes articles on all areas of law, as well as case notes, book reviews and review essays. The *Review* also publishes shorter comment-style pieces in the Critique and Comment section. Occasionally, the *Review* produces a symposium edition devoted to a particular aspect of law. Past symposium editions of the *Review* have focused on the centenary of federation, contemporary human rights in Australia, and tort law.

The *Review* also publishes and distributes the Australian Guide to Legal Citation (*AGLC*). The *AGLC* standardises established Australian citation practices and indicates preferred approaches where no particular approach has been widely adopted. It is designed for academics, legal practitioners, law students and the judiciary, and is a valuable tool for legal writing and research. The *AGLC* has become the best recognised legal citation guide in Australia. It has been officially adopted by more than 30 of Australia's leading law journals and has been prescribed for use in student essays by 15 Australian universities. Moreover, it has been relied upon by government and educational institutions in Australia as a basis for uniform legal citation.

Editors of the *Review* in 2011: David Foster, Timothy Lau and Julia Wang.

Website: <http://mulr.law.unimelb.edu.au>

Faculty Edited Journals and Newsletters in 2011

Melbourne Legal Studies



Melbourne Legal Studies is a digital journal distributed through the United States based Legal Scholarship Network (LSN). The journal publishes research by Melbourne Law School academics, including working papers, articles accepted for publication, and book chapters. It helps bring Melbourne Law School research to the attention of an international academic audience.

The journal is edited by Dr Chris Dent.

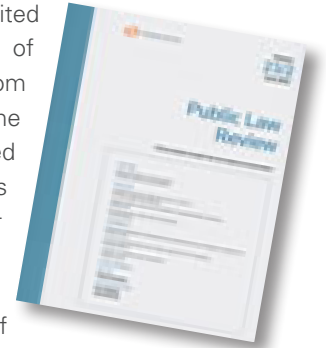
Website: <http://www.ssrn.com/link/melbourne-public-law.html>

Public Law Review

The quarterly journal *Public Law Review* is edited by Professor Cheryl Saunders of the University of Melbourne. Associate editors are Dan Meagher from the Deakin Law School and Janet Maclean from the University of Auckland. *The Review* is a refereed journal, with an international advisory board. It is produced under the auspices of the Centre for Comparative Constitutional Studies (CCCS), and published by Thompson, Australia. A unique feature of *the Review* is its comprehensive coverage of public law developments in all Australian and New Zealand jurisdictions.

A graduate law student is employed each year at CCCS to Assistant Editor to assist with *the Review*, including the compilation of recent developments.

Email: law-cccs@law.unimelb.edu.au



Faculty Edited Journals and Newsletters in 2011

Torts Law Journal

Professor Harold Luntz is the General Editor of the *Torts Law Journal*, which is published by LexisNexis Butterworths. The Journal commenced publication in 1993, and three issues are published each year. The Journal includes casenotes, articles, comments on legislation and law reform proposals, and book reviews on topics related to torts and alternative compensation schemes. The Journal aims to be of interest to both academics and practitioners; students may also find it useful. Contributions of sufficient scholarly quality from students are welcomed and have been published in the past.

Journal Affiliations



Journal Affiliations in 2011

Journal

Member, Editorial Position

Across the Board

Ian Ramsay, Member of the Editorial Board

American Society of International Law Insights (ASIL Insights)

Tania Voon, Editor (International Economic Law)

Art, Antiquity and Law

Andrew Kenyon, Assistant Editor, Aboriginal Culture and Indigenous Peoples

Asian Studies Association of Australia, Southeast Asia Publications Series

Tim Lindsey, Member of the Editorial Board

Australian Business Law Review

Paul Ali, Section Editor (Banking and Finance)

Australasian Parliamentary Review

Cheryl Saunders, Member of the Editorial Board

Australian Accounting Review

Ian Ramsay, Member of the Editorial Board

Journal

Member, Editorial Position

Australian and New Zealand Journal of Law and Education

Ian Ramsay, Member of the Editorial Board

Australian Corporations & Securities Law Reporter

Ian Ramsay, Consultant Editor

Australian Feminist Law Journal

Jenny Morgan, Member of the Advisory Board

Australian Feminist Studies

Ann Genovese, Member of the Editorial Board

Australian Intellectual Property Journal

David Brennan, Editor

Australian Journal of Asian Law

Tim Lindsey and **Amanda Whiting**, Co-Editors
Sarah Biddulph, **Sean Cooney**, **Pip Nicholson** and
Cheryl Saunders, Members of the Advisory Committee

Journal Affiliations in 2011

Journal

Member, Editorial Position

Australian Journal of Family Law

Belinda Fehlberg, Member of the Editorial Board

Australian Journal of Labour Law

Anna Chapman, Co-Editor and Section Editor (Legislative Developments)

Colin Fenwick, Senior Associate Editor

Anna Chapman and **Breen Creighton**, Members of the Editorial Committee

Australian Journal of Labour Law

Anna Chapman, Co-Editor and Section Editor (Legislative Developments)

Colin Fenwick, Senior Associate Editor

Anna Chapman and **Breen Creighton**, Members of the Editorial Committee

British Year Book of International Law

Margaret Young, Assistant Editor

Canadian Journal of Women and the Law

Jenny Morgan, Australian Correspondent

Capital Markets Law Journal

Paul Ali, Member of the Editorial Board

China Law Yearbook

Sarah Biddulph, International Editor

Journal

Member, Editorial Position

Company and Securities Law Journal

Paul Ali, Editor; Section Editor (Corporate Finance)

Ann O'Connell, Section Editor (Securities Regulation)

Ian Ramsay, Member of the Editorial Board

Constitutional Court Review

Cheryl Saunders, Member of the Editorial Board

Construction Law International

Matthew Bell, Co-Editor

Doug Jones AM, Member of the Editorial Board

Corporate Law Bulletin

Ian Ramsay, Editor

Deakin Law Review

Peter Rush, Member of the Editorial Board

Doing Business in Asia

Tim Lindsey, Contributing Editor; Member of the Editorial Advisory Board

Employment Law in Asia

Tim Lindsey, Member of the Editorial Advisory Board

Journal Affiliations in 2011

Journal

Member, Editorial Position

Federal Law Review

Adrienne Stone, Editor

Feminist Review

Ann Genovese, Australian Correspondent

FibreCulture Journal

Andrew Kenyon, Member of the Editorial Board

Genetics Law Monitor

Loane Skene, Joint Editor

Global Change, Peace and Security

Tim McCormack, Member of the Editorial Committee

Global Dialogue on Federalism in the 21st Century: Practices, Perspectives and Prospects

Cheryl Saunders, Member of the Editorial Board

Griffith Law Review

Peter Rush, Member of the International Editorial Board

Journal

Member, Editorial Position

Indian Journal of International Economic Law

Tania Voon, Member of the Editorial Board

In-Spire: Journal of Law, Politics and Societies

Anne Orford, Member of the International Advisory Board

Intellectual Property Forum

Sam Ricketson, Member of the Editorial Board

International Construction Law Review

Doug Jones AM, Co-Editor in Chief

International Criminal Law Review

Tim McCormack, Member of the Editorial Board

International Feminist Journal of Politics

Anne Orford, Member of the Editorial Board

International Journal of Comparative Labour Law and Industrial Relations

Colin Fenwick, Member of the Editorial Board

Journal Affiliations in 2011

Journal

Member, Editorial Position

International Journal of Constitutional Law (I.CON)

Simon Evans, Australasian Recent Developments Correspondent

Cheryl Saunders, Symposium Editor; Member of the Editorial Board

International Journal of Information Policy and Law

Andrew Christie, Member of the Editorial and Advisory Board

International Legal Materials

Andrew Mitchell, Corresponding Editor

International Securities Regulation: Pacific Rim

Ian Ramsay, Consultant Editor

International Union Rights

Colin Fenwick, Member of the Editorial Board

Journal of Australasian Tax Teachers Association

Miranda Stewart, Member of the Editorial Board

Journal of Conflict and Security Law

Tim McCormack, Member of the Editorial Board

Journal

Member, Editorial Position

Journal of Corporate Law Studies

Geof Stapledon, Member of the Editorial Board

Journal of Energy & Natural Resources Law

Lee Godden, Member of the Editorial Board

Journal of Indonesian Islam

Tim Lindsey, Member of the Editorial Board

Journal of International Economic Law

Andrew Mitchell, Member of the Editorial Board

Tania Voon, Member of the Editorial Board

Journal of International Dispute Settlement

Andrew Mitchell, Associate Editor

Journal of Intervention and State-Building

Anne Orford, Member of the International Advisory Board

Journal of Law and Financial Management

Ian Ramsay, Member of the Editorial Board

Journal Affiliations in 2011

Journal

Member, Editorial Position

Journal of Law, Information and Science

Andrew Christie, Member of the Information Technology Board

Megan Richardson, Member of the Advisory Board

Journal of Medical Ethics

Loane Skene, Member of the Editorial Board

Jurnal Hukum Humaniter

(Journal of Humanitarian Law)

Tim McCormack, Honorary Editor

Jus Politicum

Cheryl Saunders, Member of the Scientific Council

Law and Critique

Shaun McVeigh, Member of the Editorial Board

Peter Rush, Member of the Editorial Board

Law and Policy

Christine Parker, Member of the Editorial Board

Laws of Australia

Cheryl Saunders, Editor (Constitutional Title)

Journal

Member, Editorial Position

Legal Education Review

Lee Godden, Member of the Editorial Board

Legal Ethics

Christine Parker, General Editor

Macquarie Journal of Business Law

Ian Ramsay, Member of the Editorial Board

Media and Arts Law Review

Jason Bosland, Editor

Andrew Kenyon, Editor

Graeme Austin, Member of the Editorial Board

Sam Ricketson, Member of the Editorial Board

Melbourne Journal of International Law

(Student members of the Journal are responsible for all editorial work)

David Brennan, Martin Davies, Alison Duxbury, Michelle Foster,

Andrew Kenyon, Tim McCormack, Andrew Mitchell, Anne Orford,

Bruce Oswald, Dianne Otto, Jacqueline Peel, Gerry Simpson, John Tobin

and **Tania Voon**, Members of the Advisory Board

Journal Affiliations in 2011

Journal

Member, Editorial Position

Melbourne Legal Studies

Sean Cooney, Editor

Chris Dent, Editor

Melbourne University Law Review

(Student members of the Journal are responsible for all editorial work)

David Brennan, **Belinda Fehlberg** and

Richard Garnett, Faculty Advisors

New Zealand Journal of Tax Law and Policy

Miranda Stewart, Member of the Editorial Advisory Board

Public Law Review

Michael Crommelin, Member of the Advisory Board

Cheryl Saunders, Editor

Publius

Cheryl Saunders, Member of the Editorial Board

Regional and Federal Studies

Cheryl Saunders, Member of the Editorial Board

Journal

Member, Editorial Position

Regulation & Governance

Christine Parker, Member of the Editorial Board

Religion and Human Rights: An International Journal

Carolyn Evans, Member of the Advisory Board

Revenue Law Journal

Michael Kobetsky, Member of the Advisory Board

Review of Constitutional Studies

Cheryl Saunders, Member of the International Advisory Board

Revista Catalana de Dret Public

Cheryl Saunders, Member of the Scientific Council

Revista General de Derecho Canónico y Derecho Eclesiástico del Estado

Carolyn Evans, Member of the International Advisory Committee

Singapore Academy of Law Journal

Ian Ramsay, Member of the International Editorial Board

Journal Affiliations in 2011

Journal

Member, Editorial Position

The Journal of Law and Social Justice

Shaun McVeigh, Editor (Public Space)

The New Zealand Armed Forces Law Review

Tim McCormack, Consultant Editor

The Pearson Papers

Bruce Oswald, Member of the Editorial Board

The Third World and International Law

Dianne Otto, Member of the International Advisory Board

Third World Legal Studies

Dianne Otto, Member of the Advisory Board

Tort Law Review

Michael Tilbury, Member of the Editorial Board

Torts Law Journal

Harold Luntz, Editor

Ian Malkin, Member of the Editorial Board

Hayden Opie, Case Note Editor; Member of the Editorial Board

Journal

Member, Editorial Position

Trade Practices Law Journal

Tim Lindsey, Contributing Editor (Report from Asia)

Transnational Legal Theory

Anne Orford, Member of the Editorial Board

Victoria University Law Review

Shaun McVeigh, Member of the International Advisory Board

Yearbook of Climate Change Compliance

Jacqueline Peel, Member of the Advisory Board

Yearbook of International Humanitarian Law

Tim McCormack, Editor-in-Chief

Research Workshop Series



2011 Research Workshop Series

7 March 2011	Associate Professor Peter Rush 'Jurisdictions of Sexual Assault: Reforming the Texts and Testimony of Rape in Australia'
14 March 2011	Associate Professor David Brennan 'The Beautiful Restitutionary Heresy of a Larrikin'
21 March 2011	Professor Christine Parker 'The War on Cartels: The Impossibility of Deterrence and Compliance?: Preliminary Evidence'
28 March 2011	Mr Connal Parsley 'Traditional Advocacy, Cause Lawyering and the Problem of "Systematic Interests"'
4 April 2011	Associate Professor Helen Anderson 'Pressing the Right Buttons: Case Studies in the Protection of Employee Entitlements'
11 April 2011	Mr Glenn Patmore 'Motivations for Constitutional change: The Case of Australian Republicanism'
18 April 2011	Professor David Studdert 'The Problem with Problem Doctors'
2 May 2011	Professor Michael Bryan 'Boardman v Phipps: Doing Equity Inequitably'
9 May 2011	Associate Professor Tania Voon 'Zeroing and Precedent in the World Trade Organization'
16 May 2011	Associate Professor Matthew Harding 'What is the Point of Charity Law'
22 May 2011	Associate Professor Andrew Palmer 'Cicero: On the Art of Life as an Advocate'

2011 Research Workshop Series

25 July 2011	Professor Imelda Maher (University College Dublin) 'Governing Competition: The Growth of Networks'
1 August 2011	Associate Professor Elise Bant 'Constructive Trusts'
8 August 2011	Dr Lu Weis 'A Constitution of "The People" - Original Meaning and The Meaning of "Democracy"'
15 August 2011	Dr Mark McMillan 'I've Been Bolted - The Personal Costs of Public Interest Litigation'
22 August 2011	Professor Adrienne Stone 'Insult and Emotion, Calumny and Invective: Twenty Years of Freedom of Political Communication'
29 August 2011	Associate Professor Michelle Foster 'Responsibility Sharing or Shifting? The Malaysia Deal and International Refugee Law'
5 September 2011	Mr Andrew Godwin 'Corporate Rescue in Asia - Recent Trends and Challenges'
12 September 2011	Dr Kevin Heller 'A Sentenced-Based Theory of Complementarity'
3 October 2011	Associate Professor Cally Jordan 'International Financial Standards and the Explanatory Force of Lex Mercatoria'
10 October 2011	Associate Professor Maureen Tehan 'Indigenous Land Tenure, Title and Certainty: Land 'Reform' and the Boundaries of Property in Australia and Canada'
17 October 2011	Dr Andreas Stephan (University of East Anglia) 'The Death of the UK Cartel Offence'

Academic Staff 2011



2011 Academic Staff

Dean

Carolyn Evans

BA Melb. LLB Melb. DPhil Oxon.

Professors

Graeme Austin

BA VUW LLB VUW LLM VUW LLB Col. JSD Col.

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Michael Lambiris

LLB Lond. PhD Rhodes

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LicLaw Leuven PhD Leuven LLM Yale

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BA NSW LLB NSW MPhil Cantab. PhD Edin.

Miranda Stewart

BSc Syd. LLB Syd Grad Dip ANU LLM NYU

Maureen Tehan

LLB Monash BA Melb. LLM Melb.

Joo-Cheong Tham

LLB Melb. LLM Melb. PhD Melb.

2011 Academic Staff

John Tobin

*BA Melb. BComm Melb. LLB Melb. LLM Lond.
PhD Melb.*

Tania Voon

*BSc Melb. LLB Melb. Grad Dip Intl L Melb. LLM
Harv. PhD Cantab.*

Kristen Walker

BSc Melb. LLB Melb. LLM Melb. LLM Col.

Senior Lecturers

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PhD Melb.

Matthew Bell

BA Melb. LLB Melb. MConstrLaw Melb.

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Gary Cazalet

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Arlen Duke

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*BA Socio New School of Social Research MA Socio
New School of Social Research MALit Duke JD Stan.
PhD Leiden*

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Sunita Jogarajan

BComm Melb. LLB Melb. CA ICAA MAppTax UNSW

Wendy Larcombe

*BA Melb. BLitt Melb. LLB Melb. GradDipEd Melb.
PhD Melb.*

Janice Luck

LLB Tas. LLM Lond.

Mark McMillan

LLB ANU GradDip Legal Prac ANU

Paula O'Brien

BA Melb. LLB Melb. LLM Cantab.

Hayden Opie

BComm Melb. LLB Melb. LLM Tor.

Jeannie Paterson

BA ANU LLB ANU PhD Monash

Glenn Patmore

BA Monash LLB Monash LLM Queens

Andrew Roberts

Stacey Steele

BA Qld. MA Monash LLB Monash LLM Melb.

Michelle Taylor-Sands

BA Monash LLB Monash

Margaret Young

BA Melb. LLB Melb. LLM Cant. PhD Cant.

Lecturers

Katy Barnett

PhD Melb.

Lisa Sarmas

BA Melb. LLB Melb. LLM Melb.

Amanda Whiting

*BA Melb. DipEd Melb. GradDip Indonesia. LLB Melb.
PhD Melb.*

Senior Research Fellows

Chris Dent

BA Murdoch LLB Murdoch PhD Murdoch

2011 Academic Staff

Research Fellows

Malcolm Anderson

Joyce Chia

Monique Cormier

Georgina Fitzpatrick

Tess Hardy

Rain Liivoja

Christine Millward

Antje Missbach

Narelle Morris

Jessica Rae

Ben Saunders

Lael Weis

Teaching Fellows

Roisin Burke

Maria Elander

Anna Hood

Andrew Newman

Wendy Ng

Darren Parker

Bruce Taylor

Honorary Staff

Emeritus Professors

Michael Bryan

MA Oxf. BCL Oxf. PhD Lond.

Sandford Clark

LLB Adel. PhD Melb.

Sir Zelman Cowen AK GCMG GCVO PC

(Deceased December 2011)

MA Oxon. DCL Oxon. LLD Oxon.

Harold Ford AM

LLM Melb. SJD Harv. LLD Melb.

Colin Howard

BA Melb. LLB Lond. LLM Lond. PhD Adel. LLD Melb.

David Lanham

LLB Leeds BCL Oxon.

Harold Luntz

BA Witw. LLB Witw. BCL Oxon. LLD Melb.

Professorial Fellows

Ian Bailey SC

BArch Newcastle (NSW) DipLaw NSW

Camille Cameron

BA Saint Mary's LLB New Br. LLM Camb.

Breen Creighton

LLB Belf. LLB Melb. PhD Cantab.

Martin Davies

BA Oxf. BCL Oxf. MA Oxf. LLM Harv.

Sir Daryl Dawson AC KBE CB

LLB Melb. LLM Yale

Tony Duggan

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Professor Roderick Wood, University of Alberta, Canada

Professor Jiunn-rong Yeh, National Taiwan University, Taiwan

Mr Richard York, Frontier-Economics

Mr Greg Zerzan, Koch Industries, United States

Graduate Research Degrees Completed 2011



Graduate Research Degrees Completed 2011

Doctor of Philosophy (PhD)

Becroft, R

Deference under the Standard of Review in World Trade Organisation Anti Dumping Disputes

Supervisors: Richard Garnett, Andrew Mitchell and Tania Voon

Bulto, T

Rights, Wrongs and the River Between: Extraterritorial Application of the Human Rights to Water in Africa

Supervisors: Carolyn Evans and Jacqueline Peel

Crouch, M

Opposition to Christian Proselytisation in Democratic Indonesia: Legal Disputes between Muslims and Christian in West Java (1998-2009)

Supervisors: Tim Lindsey and Amanda Whiting

Finnin, S

Elements of Accessorial Modes of Liability: Article 25 (3)(b) and (c) of the Rome Statute of the International Criminal Court

Supervisors: Tim McCormack, Jenny Morgan and Andrew Mitchell

Griffin, L

Rights-based Approaches to International Migration and Enhancement of Labour Migration Benefits for Sustainable Development in South East Asia

Supervisors: Salim Lakha and Jenny Morgan

Harijanti, S

The Indonesian Ombudsman System and Good Governance: Proposals for Reform

Supervisors: Cheryl Saunders and Tim Lindsey

Kent, L

Justica Seidauk Mai (Justice is Yet to Come): Rethinking the Dynamics of Transitional Justice in East Timor

Supervisors: Jennifer Balint, Dianne Otto and Julie Evans

Kirk, S

Property Beyond Growth: Toward a Politics of Voluntary Simplicity

Supervisors: Lee Godden and Gerry Simpson

Nastevski, V

Overcoming Legal Impediments to a Comprehensive Legislative Basis for War Crimes Trials in Australia

Supervisors: Tim McCormack and Michelle Foster

Ruschena, D

Litigation and Liability as Regulation to Reduce Tobacco Related Harm: Making the Polluter Pay for the Harm Tobacco Causes

Supervisors: Christine Parker, Jonathan Liberman and John Howe

Saw, T G

The Final Cut: Film Censorship and Judicial Review in Malaysia, Hong Kong and Australia

Supervisors: Andrew Kenyon and Amanda Whiting

Simic, O

Gender Based Violence and Human Rights Violations Committed by UN Peacekeepers

Supervisors: Dianne Otto and Michelle Foster

Taylor-Sands, M

Creating "Saviour Siblings": The Role of the Welfare of the Child Principle in Regulating Preimplementation Tissue Typing in Australia and the UK

Supervisors: Christine Parker, Loane Skene and Margaret Coady

Graduate Research Degrees in Progress



Graduate Research Degrees in Progress 2011

Doctor of Philosophy (PhD)

Anderson, J

The Child in Law: Modernism, Nation-Building and the Children's Court Movement in Victoria, 1890-1906
Supervisors: Ann Genovese and Julie Evans

Ararssa, T

The Politics of Constitution-making: Sub-national, National, and Transnational
Supervisors: Cheryl Saunders and Michael Crommelin

Barr, O

A Minor Jurisprudence of Movement
Supervisors: Peter Rush, Shaun McVeigh and Maureen Tehan

Bini, M

Duty to Act in the Interests of a Public Entity
Supervisors: Ian Ramsay and Beth Gaze

Bluett-Boyd, N

Institutional Depictions of Sexual Assault: Negotiating Meaning at the Police/ Prosecution Nexus
Supervisor: Jenny Morgan

Brodie, M

Agents of Change: What Power do National Human Rights Have to Affect the Process of Transformative Social Change?
Supervisors: Dianne Otto

Burke, R

Sexual Exploitation and Abuse by UN Military Contingents: Moving Beyond the Current Status Quo and Responsibility under International Law
Supervisors: Tim McCormack, Alison Duxbury and Stuart Kaye

Chacko, S

International Arbitrations: Convergence and the Rise of Supranational Law?
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A Social and Intellectual History of Law as War
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Supervisors: Caron Beaton-Wells and Rhonda Smith

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From REDD to Green Capitalism: Law, Life, Growth and Limits in Crisis
Supervisors: Maureen Tehan, Margaret Young, Kirsty Gover and Lee Godden

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Negotiating the Border: Law, Migrant Labour and Development
Supervisors: Sundhay Pahuja and Anne Orford

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Food Security, Development and Law: Insights from the Indonesian Development Experience
Supervisors: Tim Lindsey, Sundhya Pahuja and Shaun McVeigh

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The Right to Strike in Vietnam: Toward a Better Regime
Supervisors: Pip Nicholson and Sean Cooney

Elander, M

In the Name of the Victim: The Figure and Figuration of the Victim in International Criminal Justice
Supervisors: Peter Rush and Dianne Otto

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An Analysis of Complaints and Disciplinary Proceedings Against Medical Practitioners in Australia and New Zealand

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Supervisors: Michael Bryan and Megan Richardson

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Human Rights and Development: Children's Psychosocial Recovery in the Post-conflict Context - A New Conceptual Model

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The Spatial Dimensions of Law and Development: Transforming Sovereignty, State and Citizenship

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Reforming Customary Law Systems to Address Domestic Violence in Timor-Leste: Customary Law, Legal Pluralism and Women's Rights

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Friend or Foe? Regulatory Enrolment of Non-State Actors in the Enforcement of Minimum Employment Standards

Supervisors: John Howe and Sean Cooney

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Law and the Protection of Historical Truth: A Comparative Study of Legal Responses to Situations of Political Injustices

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Understanding Security Council Legislation: Legal, Historical and Theoretical Perspectives on the Rise of the Council's Legislative Phase

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Empirical Assessment of the Theoretical Justifications for Intellectual Property and Information Protection

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Copyright Exceptions and Contract

Supervisors: David Brennan and Sam Ricketson

Taylor, B

An Examination of Insolvency Administration and Other Legal Aspects of the Debtor-Creditor Relationship from a Corporate Rehabilitation and Financial Stability Perspective

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An Open Access Framework for Crown Copyright

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Cosmopolitan Justice and Constitutional Dialogues with International Human Rights

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Federalism and Rights

Supervisors: Cheryl Saunders and Simon Evans

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A History of Judicial Dissent

Supervisors: Michael Bryan and John Baker

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Legal Risks of Payment Scheme of Carbon Trade and its Judicial Remedy in China

Supervisors: Lee Godden and Sarah Biddulph

Graduate Research Degrees in Progress 2011

Master of Philosophy in Law

Riethmuller, G

Beyond the Reach of the Court? The Role of Trusts in Family Property Disputes

Supervisors: Belinda Fehlberg and Matthew Harding

Master of Laws by Thesis

Irving, M

Equitable and Analogous Remedies for Breach of Employment Obligations

Relating to the Termination of Employment

Supervisors: Sean Cooney and Matthew Harding

Thomas, T

Relationship Contracting for the Delivery of Major Infrastructure Projects:

Panacea or Placebo?

Supervisor: Jeannie Paterson

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