Message
from the Associate Dean (Research)

Having taken up the role of Associate Dean (Research) at Melbourne Law School in mid-2012, I am delighted to see the fruits of all of the faculty’s hard work in that year presented together in this report. Evidence is contained here of high quality research published, undertaken and presented throughout Australia and the world, not only by our academics but also by our graduate research degree candidates as well as our undergraduate and Melbourne Law Masters students. The range and quality of research projects and analyses being conducted across the faculty is truly impressive. As examples, we profile several of our academic staff and graduate research students, providing details of their publications and projects for 2012 and beyond.

In 2012, members of Melbourne Law School published, among other things, 17 authored research books, 67 scholarly book chapters, and 121 refereed journal articles. These publications cover a wide range of legal fields and approaches: public and private; domestic and international; doctrinal, theoretical and empirical. Our research continues to have significant impact in academic and wider circles and is for some academics increasingly collaborative and interdisciplinary, as reflected in the number of research visitors and visiting lecturers we welcomed during the year.

Melbourne Law School maintains its focus on awards from the prestigious competitive grant program of the Australian Research Council (ARC), with Professor Anne Orford commencing her four year ARC Future Fellowship ‘From Famine to Food Security: The Role of International Law’ in 2012, and our academics participating in one ARC Discovery Project and five ARC Linkage Projects commencing in 2012. In addition, our research grant successes are diversifying into other areas, with significant grants being awarded to Melbourne Law School academics to work on collaborative projects connected with health and the environment from the Australian National Preventive Health Agency and the Victorian Centre for Climate Change Adaptation Research respectively. Five Melbourne Law School projects also received funding from the Centre for International Finance and Regulation.

Our active and highly competitive Graduate Research Degree program also saw excellent results in 2012, with ten of our PhD candidates successfully completing their degrees, and our graduate Dr Emily Hudson being awarded for 2012 not only the Harold Luntz Graduate Research Thesis Prize but also the Vice Chancellor’s Prize for Excellence in the PhD Thesis, for her thesis on Copyright Exceptions: The Experiences of Cultural Institutions in the United States, Canada and Australia. Our graduate research students continue to participate actively in all areas of the faculty, University, and beyond, with seven students engaged as Teaching Fellows in 2012, an active Graduate Researchers Association, and the sixth annual Melbourne Doctoral Forum on Legal Theory: ‘Grounding Law’, held in December 2012. Eighteen new graduate research degree students commenced in 2012, coming from around the world and with research topics covering a variety of fields including the right to food, the taxation of real property, indigenous rights, Australia’s climate legislation, the Australian Takeovers Panel, and equity’s determination of domestic proprietary interests.

We are fortunate at Melbourne Law School to have the support of a number of highly talented and motivated people in pursuing our research, most notably the staff of the Office for Research: Dr Katrin Steinack, who took up her role as Manager in 2012, along with her team Meghan Bergamin, Domi Cordoba, Mas Generis, Madeline Grey, and Angela Hendley-Boys, who has devoted considerable efforts in putting together this Report. Together, the Office for Research manages a range of research-focused activities including the Graduate Research Degree program, internal and external grant application and administration, ethics applications and management, publications monitoring,
and events such as the Faculty Research Seminar Series and Law Graduate Research Colloquia. Academics are also supported by the able staff of the Law Library, including the dedicated Law Research Service, led by Robin Gardner.

Academic staff who assist in Melbourne Law School research administration included in 2012 the Graduate Research Coordinators (Jürgen Kurtz, Sundhya Pahuja and Peter Rush), the Grant Mentors (Sean Cooney, Chris Dent and Michelle Foster), several academics who acted as Senior Readers for grant applications, Kirsty Gover as Research Support Program Coordinator, Chantal Morton as Lecturer in Legal Writing and Academic Skills, Jenny Morgan as Academic and Career Mentor, Linda Haller as Chair of the Law Human Ethics Advisory Group, and other members of that group as well as the Faculty Research and Law Library Committee. And, of course, Carolyn Evans as Dean continues to lead and support the faculty in all of its research endeavours.

It is an honour to be a part of such a vibrant and intense research community, and this report aptly reminds us of our achievements in the past year as we continue to strive for knowledge and change through our research at Melbourne Law School.

Tania Voon  
Associate Dean (Research)
Academic Research Focus

Paul Ali
Jacqueline Horan
Brad Jessup
Antje Missbach
Paul Ali has been an Associate Professor at Melbourne Law School since 2006, having first joined the Law School as a Senior Lecturer in 2001. Paul’s research interests lie mainly in the field of banking and finance law, particularly in relation to the legal design and regulation of complex financial products. He has published widely on banking and finance law and his key publications on complex financial products include two co-authored books on securitisation law (*Synthetic, Insurance and Hedge Fund Securitisations* (Sydney, 2003)) and *Opportunities in Credit Derivatives and Synthetic Securitisation* (London 2005)), a series of three co-edited books on new developments in securitisation (*Securitisation of Derivatives and Alternative Asset Classes* (The Hague, 2005), *Innovations in Securitisation* (The Hague, 2006) and *Expansion and Diversification in Securitisation* (The Hague, 2008)) and a co-edited book on new developments in credit derivatives (*The Credit Derivatives Handbook* (New York, 2008)).

Paul has, in addition, authored or edited books on corporate governance, environmental finance, insider trading, institutional investment and secured finance law. Paul also holds a number of editorial appointments, including as Editor of the *Company and Securities Law Journal* and as a member of the editorial board of the *Capital Markets Law Journal*. Before becoming an academic, Paul worked in the banking & finance and corporate groups of two national law firms. He has also worked in the securitisation team of a bank, and has been a principal of a private capital firm and a consultant with a corporate governance advisory firm.

Paul continues to undertake research on corporate governance, institutional investment and secured finance law but he has, over the last two years in particular, begun to re-orient his research towards consumer finance. In June 2013, Paul was part of a research team (which includes Professor Ian Ramsay and three major community organisations, Good Shepherd Youth & Family Service, Consumer Action Law Centre and Financial Counselling Australia) that was awarded a substantial Australian Research Council Linkage Project grant (*Evaluating Australian Personal Insolvency Laws in the Context of Changing Demographics and Increasing Financial Stress*). This project will investigate the relationship between financial stress and Australian personal insolvency laws, in order to evaluate the effectiveness of those laws in practice. Australian households are presently experiencing rising levels of financial stress, manifested most visibly in personal debt default, negotiated compromises with creditors, and bankruptcy. This project will also involve a major empirical survey designed to reveal how Australians respond to financial stress within the legal framework of the personal insolvency laws.

During 2012, Paul has also been engaged in the following active projects:

**Australian Research Council Discovery Project**


**Centre for International Finance and Regulation Research Projects**

- Assessing the governance of institutional investors when investing in complex financial products
- Evaluating the impact of securities loans on shareholder rights and the governance of listed companies
- Financial literacy and innovation in superannuation product disclosure: improving the retirement savings of Australians
Further details of the above projects are available in the next section, ‘Funded Research Grants’.

Oxford-MLS Research Partnership

- A Comparative Analysis of the Reform of Personal Property Security Law in Australia and the United Kingdom

The law of personal property security deals broadly with the issue of how lenders and other providers of corporate and consumer credit can protect their claims against borrowers by taking security over the personal property held by borrowers. Personal property securities reduce the risks associated with providing credit and should therefore contribute to the increased availability of credit. This area of law has been the subject of several proposals for reform in both the UK and Australia. This project assesses the divergent approaches towards the regulation of personal property securities in the two jurisdictions, with a view to seeing what benefits a reform along the lines of Australia’s Personal Property Securities Act could have for the UK and also what pitfalls are likely in any such reform process.

The principal focus of Paul’s research has been the application of traditional legal research methodologies to innovative financial products.
Trial advocacy is Jacqueline’s other passion. As a former award-winning student mooter, she was able to put her courtroom skills to the test as a barrister and now as an Advocacy teacher. She has co-ordinated the Advocacy course for the law school for a decade. She has taught advocacy to practitioners and experts as part of their continuing education at the Australian Advocacy Institute, the Leo Cussen Institute, the Royal Australasian College of Surgeons, the National Institute of Forensic Science and the Victorian Bar Readers Course. Jury issues are a popular topic in the media, and Jacqueline’s communication skills come in handy when she is interviewed about high profile trials such as the ability of Dr Patel and Adrian Bailey to get a fair trial amidst the deluge of prejudicial publicity.

Jacqueline’s interest in the art of courtroom persuasion underpins her jury research. Her base contention is that jury advocacy is stuck in a 20th century time warp. Court room communication needs to be modified in order to meet the needs of the contemporary juror. This idea is explored at length in her new book *Juries in the 21st Century*. Researchers and teachers in law, psychology, criminology and sociology should find this cross-disciplinary book useful as it synthesises the current state of jury research. Jacqueline argues that jurors are not overwhelmed by their task but they are underwhelmed by the level of assistance that they get from the parties. Jurors do not feel that they are given all the tools that they need to do their job. They want more documentation, more written and visual aids and want to ask more questions. They are bored with being passive recipients of information and want to become more active in the process.

New technologies unleash possibilities of improving jury communication that were not anticipated by those who moulded the jury system last century. Contemporary society communicates with pictures just as much as with words. Digital technology now allows a juror to walk through a virtual crime scene at their own pace and in their own time. Such animations replace millions of words and hours of court time. An ever-increasing majority of jurors are visually...
literate and should be trusted to interpret pictures and animations in the same way they interpret words.

Due to digital technology, accurate pictures are now cheap and easy for lawyers to create and use but lawyers have been slow on the up-take. Court room lawyers must improve their understanding of the impact of the many forms of technology on juries to ensure that such technology is used appropriately. Every use of visuals in law has evidentiary, cognitive, rhetorical, technological and ethical dimensions. Lawyers need to know enough about how visuals are created and interpreted so that they can make informed decisions throughout the trial.

The impact of social media on the criminal justice system was also the subject of an international program that Jacqueline participated in recently. She was an academic expert for the online program on social media developed by the Canadian National Judicial Institute, National Judicial College of Australia, the Judicial College of Victoria and the Judicial Institute of Scotland. Members of the judiciary world-wide are grappling with ways to deal with the unstoppable influence of social media in the courtroom. Jacqueline found this course to be an exciting extension to legal learning as the borders between jurisdictions fade away and make way for a global legal community.

The introduction of the millennial generation to the ranks of the jury in five years will heighten the impact that technology is already having in the jury room. Jacqueline contends that we need to be implementing evidence-based reform in order to ensure that the jury system survives and thrives in the future.

“Dr Horan manages to tackle the impact of technological innovation and social media on the jury system in a manner that will remain relevant through the years of change to come. I fear I have no choice, therefore, but to resort to superlatives in describing this work. This book is the most timely, accomplished and not-at-all-foolhardy contribution to the study of juries in Australia this century.”

The Honorable TF Bathurst, Chief Justice of New South Wales
Brad Jessup is a human geographer and an environmental law specialist. He adopts global, national and local perspectives in his research. Brad’s research crosses disciplines in the legal geography tradition. He draws on political theories, his expert knowledge of environmental law processes, and case study examples of law in society.

Brad joined Melbourne Law School as a Lecturer in 2012. He had previously worked in legal practice for five years, and he spent five years working as a Teaching Fellow at the ANU College of Law at the Australian National University. At the Australian National University, Brad began to craft a research specialty across his disciplines. He researched and advocated for reform of environmental assessment laws, investigated conflicts over — and regulation of — marine protected areas like the Great Barrier Reef, and critiqued environmental laws using environmental ethic, value and philosophy positions and applying social science methodologies, particularly discourse analysis and case study inquiry.

During 2012, Brad spent six months at the University of California, Berkeley, where he was affiliated with the Centre for Law, Energy and the Environment. This research involved comparing the land use planning and safety aspects of pipeline regulation on the urban fringe across a number of jurisdictions. It was triggered by the increasing suburbanisation of Australian cities and the expansion of city boundaries toward critical gas infrastructure. The significance of the research was made stark by the San Bruno, California gas pipeline explosion in 2010. The outcome of Brad’s research was to recommend that transparent and consistent geographical information be included in planning regulations about the location of pipelines, and to create a regulatory trigger for risk assessment when there is a change in use of land in close proximity to gas infrastructure.

Cambridge University Press published a collection of essays edited by Brad and his co-editor Professor Kim Rubenstein from the ANU in 2012. Titled *Environmental Discourses in Public and International Law*, the collection brought together international legal and humanities scholars to analyse the dominant ways of knowing, constructing and presenting information about global environmental ‘problems’ and ‘solutions’. Brad’s own work argued that common discourses are evident in public, national and international law, and moreover the discourses traverse and link law at different jurisdictions. Brad argued that the discourse of environmental justice achieved and demonstrated these linkages — as a notion that depended on United States public law for its origination, that was globalised as contemporary international environmental law developed, and that now is a common theme within national laws throughout the world.

These are ideas that Brad is exploring in considerable depth in his doctorate research, a work in progress and nearing completion. Brad’s PhD analyses concepts of justice in Australian environmental law. It asks whether Australia’s environmental laws are environmentally just. In this research, Brad is applying theories of environmental justice drawn from environmental philosophy and politics to three case studies: the Channel Deepening Project in Victoria, the Wielangta Forest dispute in Tasmania, and the Orange Waste Project. Within these cases, studied not as court judgments but as long running environmental disputes, Brad has observed distributional and cross-species inequities within environmental law, avenues of participation that require reform so that they better equip, and are understood by, stakeholders, and a failure of environmental law to appropriately recognise a breadth of interests and different ways of apprehending environmental issues. These findings bring into question the extent to which Australia’s environmental laws meet standards of environmental justice.

During 2013, Brad intends to complete a survey of Vietnam’s environmental laws, and research that analyses the legal geography of a waste project. This latter work explores notions of scale and power in environmental assessment and planning laws and investigates assertions of spatial injustice between two regional communities. In particular, the research asks to what extent historical,
social and cultural advantages experienced by one community translate into geographic advantages under planning laws when decisions are made about locating contentious developments.

Brad will extend his research into the area of human and environmental rights. This will be part of the Research Handbook on Human Rights and the Environment published by Edward Elgar, bringing together commentary and legal analysis from around the globe on the state of human rights and environmental protection. Brad’s research is focused on Australia and New Zealand, offering an overview of legally recognised rights and an analysis of why legal reform inquiries and reviews raise but ultimately dismiss the prospect of statutory recognition of human rights to environmental protection and environmental rights. Adopting a discourse analysis approach, Brad will delve into the legal reform process initiated but stalled by the Tasmanian Government. He will ask why the Tasmanian reform commission recommended human rights to environmental protection when all other reform commissions have not, and whether this recommendation has contributed to the government abandoning the reform process.

There are a number of research projects on the horizon for Brad. They include a project that considers the existence and character of environmental values in environmental court cases. Brad is also working with a climate activist to record her experience with Victoria’s climate change coastal planning laws. This research will critique Victoria’s coastal planning laws in a time of climate change consciousness through the lens of a series of cases initiated to oppose the development of a hotel resort on a fragile headland on the Great Ocean Road coastline. Finally, Brad intends to review the Brookland Greens Estate environmental torts class action. He intends to review the causes, regulatory responses and tort action arising from the release of methane gas from a disused landfill that affected residents of the Brookland Greens Estate and offer an environmental justice critique of the legal and policy response.

Brad is especially interested in the law of place, the human and environmental experience of harm, and the role of the law, society and policy in responding to risk and harm.
Antje Missbach

McKenzie Postdoctoral Fellow Dr Antje Missbach joined Melbourne Law School in June 2011 as an associate of the Centre for Indonesian Law, Islam and Society (CILIS).

Previously, after completing her PhD at the Australian National University, she held a postdoctoral fellowship at the Berlin Graduate School for Muslim Cultures and Societies at Humboldt-University in Berlin and a lectureship at the Department of Anthropology at Germany’s oldest University in Heidelberg.

Antje’s research concentrates mostly on current politics and issues of forced migration in Indonesia and the Asia-Pacific region. For her PhD thesis she studied the long-distance politics of Acehnese living in diaspora in Malaysia, Sweden, Denmark, Norway, Australia and the US both during the conflict in their homeland (Aceh, Indonesia) and beyond. Although the numbers of Acehnese in diaspora are rather small, they proved to be very influential both in regard to supporting conflict and peace in Aceh. Her book Politics and Conflict in Indonesia: The Role of the Acehnese Diaspora was published by Routledge in 2011. The subsequent translation into Indonesian by Ombak in 2012 allowed Antje to share her research results with readers in Indonesia.

Antje’s present research project is entitled Heading down-under: migration challenges of asylum seekers in the Indonesian limbo. In particular, Antje is interested in the legal, social and political conditions and challenges faced by asylum seekers transiting Indonesia en route to Australia and the approaches of Indonesian authorities and law enforcement agencies towards them. The study focuses on highly mobile actors who originate from conflict areas, such as Afghanistan, Iraq, Somalia and Sri Lanka and who stay in Indonesia, sometimes for many years, before moving on to Australia or other resettlement countries. The research project examines strategies of adaptation, decision-making processes and preparations for regular and irregular onward migration. While the main focus is directed at the every-day lives of transit migrants facing situations of protracted limbo, the study also seeks to embed these experiences in a wider context. For this purpose, Antje conducted more than 100 formal and informal interviews with transit migrants, representatives of international migration and refugee organisations, Indonesian state officials from relevant ministries, and with law enforcement officers, such as police, investigators, prosecutors and judges, over a period of 10 months in three different Indonesian provinces. A number of articles resulting from this and previous fieldwork have been published (eg in The Indonesian Quarterly and Journal of Current Southeast Asian Affairs). Moreover, several writings are currently in the making, eg a chapter entitled ‘Transiting Asylum Seekers in Indonesia: Between Human Rights Protection and Criminalisation’ for an edited volume on Migration Flows and Regional Integration in Europe, Southeast Asia and Australia: a Comparative Perspective by Juliet Pietsch and Marshall Clark (published by Amsterdam University Press). Antje not only address academic audiences, but also likes writing for wider audiences, such as for the highly influential online platforms “The Conversation” and “Crikey” as well as German, Australian and Indonesian newspapers.

Antje’s research has contributed to shaping and informing theoretical and policy debates about the issues of forced migration and the protection of asylum seekers in protracted limbo. In 2012, she presented papers on these issues at the National University of Singapore, the University of Western Sydney, the Australian National University, and the Center for Strategic and International Studies (CSIS) in Jakarta. Together with Risa Tokunaga, she convened a panel at the Asian Borderlands Conference at the National University of Singapore in October 2012. In collaboration with Dr Melissa Crouch from the National University of Singapore she co-authored a policy paper on “Trials of people
smugglers in Indonesia: 2007-2012” Moreover, she was invited to contribute fresh insights on the predicament of asylum seekers gained through field research in Indonesia to a symposium with the Expert Panel on Asylum Seekers chaired by Angus Houston in preparation for the so-called Houston report.

Dr Antje Missbach

Being a McKenzie Fellow allowed Antje to conduct extensive fieldwork in Indonesia in 2012. During this time, she was a visiting fellow at the Center for Strategic and International Studies (CSIS) in Jakarta, Indonesia.
Funded Research Grants

Commencing in 2012:

Australian Research Council Future Fellowship
Australian Research Council Discovery Project
Australian Research Council Linkage Projects

Australian National Preventive Health Agency
Victorian Centre for Climate Change Adaptation Research
Centre for International Finance and Regulation
Australian Research Council (ARC) Future Fellowship

**Anne Orford**
(2012-2015)

*From Famine to Food Security: The Role of International Law*

Funding: $788,454

This project addresses the pressing question of how the international governance framework might be reformed to avoid future food crises. It will make a major contribution to debates about the role that international law and international institutions can play in addressing current threats to food security.

Australian Research Council (ARC) Discovery Project

**John Tobin** and **Philip Alston**
(2012-2014)

*Children’s Rights: From Theory to Practice*

Funding: $295,000

Children’s rights are important but their scope is contested. This project will clarify their meaning. It will provide guidance to legislators, policy makers and advocates working with or for children, and generate a deeper understanding of the role of rights in resolving some of the major challenges facing children in Australia and around the world.
Jacqueline Horan, Jane Goodman-Delahunty, Blake McKimmie and Ian Freckelton (2012-2013)

*The Presentation of Expert Evidence in Australian Criminal Trials: The Role of Lawyers and Experts*

Funding: $60,000

Partner Organisations: Australian Institute of Judicial Administration
Australia New Zealand Policy Advisory Agency

Administered by: Melbourne Law School

This project will shed light on how courts, lawyers and experts can work effectively together to deliver expert evidence in the courtroom. Improving the provision and effective use of expert evidence will benefit the Australian community by providing a better quality criminal justice system.

Tim McCormack (2012-2013)

*Optimising Access to the Law Report Series of Australia’s War Crimes Trials, 1945-51*

Funding: $85,000

Partner Organisations: Australian War Memorial
Department of Defence

Administered by: Melbourne Law School

The forthcoming Law Report Series on Australia’s war crimes trials held in 1945-51 will be, in effect, the official history of the trials. It is vital, therefore, that all users, particularly the Australian public, are provided with the necessary tools to optimally access the Series and thus obtain a comprehensive understanding of the trials.
Mitigating Tax Barriers to Trade and Investment Relations between Australia and the People’s Republic of China

Funding: $130,000

Partner Organisations: Brilliant Development Pty Ltd
Zhongnan University of Economics and Law

Administered by: Monash University

China and Australia’s conflicting tax rules and attitudes towards tax administration affect the level of trade, investment and labour mobility between the two countries. This project will explore and propose methods of reform for both the Chinese and Australian tax systems to strengthen our economic relationship.

Testing Trade Mark Law’s Image of the Consumer

Funding: $250,000

Partner Organisations: Federal Court of Australia
Foster Group Ltd
I P Australia

Administered by: University of Queensland

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.
Tania Voon, Andrew Mitchell and Jonathan Liberman (2012-2014)

A Collaborative Approach to Designing Regulatory Measures on Tobacco, Alcohol and Unhealthy Diet: Public Health, International Trade and Investment Law

Funding: $120,000

Partner Organisation: Cancer Council Victoria

Administered by: Melbourne Law School

Non-communicable diseases such as cardiovascular disease, cancer and diabetes account for 60 per cent of global deaths. This project will clarify the implications of trade and investment law to assist in ensuring effective domestic and international public health regulation to combat the common risk factors of tobacco, alcohol and unhealthy diet.
Reducing the burden of non-communicable diseases (such as cancer, diabetes, and cardiovascular and chronic respiratory diseases) by addressing the key risk factors of tobacco, alcohol and unhealthy diet is a critical challenge for Australian health policy. As Australia and other countries develop regulatory measures to combat the key risk factors, they are likely to face legal challenges under international trade and investment law from affected industries such as the tobacco industry, which have the potential to undermine public health initiatives. Through in-depth examination of relevant case law, statutes, regulations, treaties, international ‘soft’ law, and secondary literature, the project aims to clarify the role of international trade and investment law in this phenomenon to support the development of more effective and robust regulatory strategies for combating NCD risk factors.

Funding: $389,640
**Assessing the Governance of Institutional Investors when Investing in Complex Financial Products**

Institutional investment in Australia is both highly innovative and complex. The global financial crisis and the large losses that have flowed from investments in complex financial products have focused attention on the sellers of those products. However, less attention has been paid to the institutional investors who invest in complex financial products and the role of the external parties that provide investment-related services to institutional investors. This project will be the first in-depth study of the legal structure of Australia institutional investment, in the context of investments in complex financial products, the legal relationships between the participants in the selection of those investments and the legal duties that arise out of those relationships. This project will also examine the legal protections available to institutional investors and their own investors, when investing in complex financial products, and whether regulatory reform is required.

**Evaluating the Impact of Securities Loans on Shareholder Rights and the Governance of Listed Companies**

Securities loans are a common feature of the Australian and global financial markets, and describe dealings under which a trader or investor sources securities temporarily from institutional investors, such as a superannuation fund. This practice has generated considerable controversy in the midst of the recent global financial crisis due to the prominent role played by securities loans in facilitating short selling. In addition to this, securities loans carry broad implications for the governance of companies. Securities loans make possible vote buying, by enabling the voting rights attaching to shares to be separated from the economic ownership represented by those shares. This project will be the first in-depth Australian study of the corporate governance implications of securities loans. The project will also examine the implications for shareholder rights and consider whether regulatory reform is required to protect shareholders.
Andrew Godwin and Ian Ramsay  
(2012-2013)

Financial Products and Short-form Disclosure Documents - Challenges and Trends

Recent years have seen a global trend towards the adoption of uniform rules governing disclosure in relation to retail financial products. This trend has been reflected in the adoption of plain language techniques, the move towards short-form disclosure documents, and efforts to increase the quality of financial advice and financial literacy on the part of retail investors. This project will analyse the challenges and trends in relation to short-form disclosure documents from a comparative perspective. The research will consider the effectiveness of short-form disclosure documents, particularly in terms of increasing risk awareness, the interface between short-form disclosure documents and other measures (eg plain language techniques and investor education) and whether there is a case for global or regional harmonisation. Developments in the following markets will be examined for this purpose: Australia, New Zealand, the United Kingdom, Hong Kong and Singapore.

Cally Jordan and Stéphane Rousseau  
(2012-2014)

Success and Failure in Stock Exchange Consolidations: Implications for Markets and their Regulation

Stock exchanges engaged in a frenzy of consolidation efforts recently, some successful, others not. In 2011 alone, several high profile mergers, Singapore and Sydney, NYSE Euronext and Deutsche Börse, London and Toronto, met with regulatory, political and industry opposition. In one sense, the exchanges are only catching up with the technological realities of international markets. Traditional market institutions have been undergoing change and restructuring for decades. Consolidation began at national levels in response to competitive pressures, and then spread to the creation of regional and supra-regional institutions in an effort to achieve strategic and operational advantages. This project examines the process of stock exchange consolidations, and the alternatives, from a regulatory and market perspective and examines the reasons for success or failure. There are lessons to be learned from both the successes and the failures, with implications for the future direction of regulatory change and the market institutions themselves.
Ian Ramsay, Paul Ali and Chander Shekhar
(2012-2013)

Financial Literacy and Innovation in Superannuation Product Disclosure: Improving the Retirement Savings of Australians

Superannuation is the central pillar of Australia’s unique retirement savings system. Current estimates predict that only 35% of Australians will be adequately provided for in retirement. Factors including an ageing population, increased life-expectancies and higher costs of living and the inadequacy of many superannuation balances suggest strongly the need for working Australians to actively manage their superannuation investments from earlier in their working lives. Our project responds to these issues by focusing on the potential for regulatory innovations in superannuation consumer information to change consumer behaviour. Specifically, our study proposes to survey 25-35 year old superannuation consumers to understand the interaction with superannuation information. Drawing on behavioural economics, our study will provide regulators, the superannuation industry and consumer bodies with key insights about how superannuation information can assist consumers in their retirement savings planning. Our project will offer new insights about current behaviours and attitudes with the potential to improve retirement savings outcomes.
Graduate Research Focus

Jake Goldenfein
Liz Macpherson
Elizabeth Southwood
Jake began his doctoral research under the supervision of Professors Andrew Kenyon and Megan Richardson in 2011. His doctoral research investigates the role of privacy law in the regulation of institutional surveillance of public places and information. The thesis, entitled *Monitoring Laws: Privacy and Surveillance in Public*, argues that the harms and injuries to citizens produced by the contemporary surveillance environment are more a reflection of archival processes than the ‘misuse of private information’ or ‘intrusion on seclusion’ which privacy law more typically addresses. To that end, his work involves an historical analysis of state surveillance practices, from police photography to intelligence dossiers, to aerial observation, in order to better elucidate the harms produced by those practices as they continue into contemporary life.

Jake’s work crosses several disciplines which accord with his broad interests, including privacy law, media law, intellectual property, media and communications history and theory, communications policy, and legal history among others. The incorporation of those fields in his doctoral work reflects his background of doing research at numerous institutions including New York Law School, Swinburne University’s Institute for Social Research, and Melbourne Law School. Jake has also taught at the University of Melbourne and Swinburne University of Technology, and is a 2013 Teaching Fellow at Melbourne Law School, where he will teach ‘Free Speech and Media Law’. He is extremely pleased with the Law School’s encouragement of cross-disciplinary studies and the independence given to graduate researchers in defining the parameters of their projects.

In 2013, Jake presented at the Law, Culture, Humanities conference at Birkbeck, London, where he discussed the history of police photography and its role in producing degenerate and criminal ‘biotypes’. Research for that paper, along with other research from his thesis, was published in an article in the *University of New South Wales Law Journal*. Jake has also published in the *Media and Arts Law Review* and various online fora. He co-wrote a book chapter with Megan Richardson in a text on Amateur Media and was an editor of the online journal *The Fortnightly Review of IP and Media Law*. He is presently co-editing with Laura Peterson and Marc Trabsky a symposium issue of the *Griffith Law Review*, based on presentations at the Melbourne Doctoral Forum on Legal Theory, which Laura, Marc and Jake co-convened in 2011.

Prior to commencing his PhD, Jake worked as a research assistant at New York Law School in the United States, but had also worked in a Melbourne law firm, and was an admitted lawyer in Victoria. Jake received a BSc/LLB (Hons) from the University of Melbourne in 2008.
Liz Macpherson commenced her PhD candidature in February 2011, funded by the Melbourne Human Rights Scholarship. Her thesis, entitled *The Indigenous Water Market – Commercial Indigenous Water Rights in Australia and Chile*, is supervised by Associate Professor Maureen Tehan and Dr Kirsty Gover. She is an active member of the Centre for Resources, Energy and Environmental Law.

Liz’s research explores the problems with the way Australian law frames the rights indigenous people have to water, which undermine the potential for indigenous Australians to access water for commercial purposes. Her thesis argues that assumptions in current Australian law, and much of the academic literature, that indigenous interests in water are solely traditional and cultural in nature should not apply, and constructs a justification for the legitimacy of indigenous claims for commercial water rights. In the search for alternative ways Australian law might facilitate indigenous access to water for commercial as well as cultural uses, her research looks to Chile, where water law frameworks and indigenous specific legislation have been concurrently used to facilitate the provision of water use rights to Aymara and Atacameña communities, which are not limited to traditional cultural purposes and cover commercial use.

Using her Spanish language abilities, Liz has carried out archival and fieldwork research for her PhD in Chile, as well as writing articles and presenting at conferences in Latin America. She presented a paper entitled ‘Reconocimiento de los derechos de agua indigenas: Las complejidades de reconocimiento de los derechos de agua indigenas en Chile’ [Recognising indigenous water rights: the complexities of indigenous water rights recognition in Chile] to the Justicia Hídrica conference in Cusco, Peru in November 2011, to be published as a chapter in *Aguas Robadas: Despojo Hídrico y Movilización Social* [Stolen water: Water dispossession and social mobilisation], Fondo Editorial, Lima (in press, 2013).

At the end of 2012, Liz was invited to be a visiting research fellow for one year at the Pontificia Universidad Catolica de Chile, under the supervision of Chile’s leading water law specialist Dr Alejandro Vergara Blanco, which she took up in March 2013. She continues to work with Dr Vergara and other Chilean academics from major universities on collaborative research projects and presentations in the areas of indigenous rights, water law and environmental law. She has a forthcoming article in the Pontificia Universidad Catolica’s *Actas Water Law Journal* entitled ‘Desafíos para la Gestión de Agua Ambiental en Chile: Una Perspectiva Australiana’ [Challenges for environmental water management in Chile: An Australian perspective], coauthored with PhD colleague Erin O’Donnell, which she will present to the University’s annual Jornadas de Derecho de Agua [Water Law Conference] in August 2013. She has also been invited by the Pontificia Universidad Catolica de Valparaiso to present on indigenous land rights in Australia and New Zealand, and form a panel on Chilean water rights at the WATERLAT conference in Ecuador, both in October 2013.

Liz graduated with an LLB(hons) and BCA from Victoria University of Wellington in 2003. Since then she has practised law in the private and public sectors in Australia, New Zealand and Chile in the areas of human rights, indigenous rights and environmental law. She is the Principal Lawyer for Aboriginal Affairs at the Department of Premier and Cabinet concentrating on the protection of Aboriginal cultural heritage and, prior to coming to Australia, represented Maori iwi and hapū in their historic land and environmental claims against the New Zealand government before the Waitangi Tribunal.
Elizabeth commenced her PhD at Melbourne Law School in 2011, after working for several years as a solicitor in the Constitutional and Native Title Unit of the Crown Solicitor’s Office (NSW). Prior to joining the CSO, Elizabeth was an Associate to Justice Susan Kiefel in the High Court of Australia. Elizabeth completed her undergraduate studies at the Australian National University, graduating in 2007 with the degree of BA/LLB(Hons) and the University Medal in Law. As part of her studies, Elizabeth spent several months at Sana’a University (Yemen) and the University of Vienna (Austria).

Elizabeth specialises in public law, with a particular focus upon Australian constitutional law. In the course of her employment as a solicitor at the CSO, Elizabeth instructed counsel or appeared in a range of constitutional matters in which the State of NSW or the Attorney General was a party. Notable cases included New South Wales’ successful High Court defence of its groundwater licensing regulation (*ICM Agriculture Pty Ltd v Commonwealth* (2009) 240 CLR 140), as well as the High Court challenges to State ‘anti bikie’ legislation. Elizabeth also provided advice to the NSW government on a range of constitutional and intergovernmental issues. She has a particular interest in the separation of judicial power under Chapter III of the Australian Constitution.

Elizabeth’s thesis investigates that separation of power and, in particular, the meaning of ‘the judicial power of the Commonwealth’. Chapter III prescribes strict limits upon the exercise of Commonwealth judicial power; only the courts identified in Chapter III can exercise judicial power, and such courts cannot exercise any other kind of power. Elizabeth is researching the effect of this separation upon the kinds of preventative control order power that have recently been conferred upon Chapter III courts.

Control orders are designed to prevent criminal conduct by notorious elements of society, such as suspected terrorists, ‘bikie’ gang members and sex offenders, in the absence of curially-sufficient proof of wrongdoing. This raises important questions about the role of courts in imposing onerous sanctions upon an individual defendant, without the court first finding that the defendant has breached the law. Elizabeth’s research is doctrinal in focus, and considers whether the High Court authorities on the meaning of Commonwealth judicial power provide grounds for attacking the constitutional validity of such control order regimes. Elizabeth is supervised in her research by Laureate Professor Cheryl Saunders AO and Professor Adrienne Stone.

Elizabeth has been a Teaching Fellow at Melbourne Law School since 2012, tutoring in the breadth subject of Corporate Law. Elizabeth has previously taught in the fields of constitutional, administrative and public law, as well as equity and trusts, at the Australian National University, Latrobe University and Deakin University. Elizabeth is an updating author for *The Laws of Australia*, and was previously a reporter for the *Australian Law Reports*. Elizabeth was recently invited to submit a paper to the Harvard/Yale International Junior Faculty Forum 2013.
Student Research Prizes

Harold Luntz Graduate Research Thesis Prize and Vice Chancellor’s Prize for Excellence in the PhD Thesis

Emily Hudson

Student Published Research Prize

Tom Dreyfus
Baurzhan Kurmanov
Brian Mason
Anesti Petridis
Walter Rech
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 Vice Chancellor’s Prize is the only University wide award for a PhD Thesis. The awards are clustered into three faculty groupings - Humanities, Creative Arts and Social Sciences; Science and Engineering; and Medicine, Dentistry and Health Sciences.

In 2012, both prizes were won by:

Dr Emily Hudson

Copyright Exceptions: The Experiences of Cultural Institutions in the United States, Canada and Australia

Dr Hudson was supervised by Professor Andrew Kenyon and Associate Professor David Brennan.

Dr Hudson has written an outstanding PhD thesis with high significance for copyright law and its reform. Her research has made, and continues to make, a considerable impact both within and beyond academic circles.

The Selection Committee for the Harold Luntz Prize said that Dr Hudson’s thesis ‘draws on theoretical, comparative and empirical research methods to examine the practical operation of copyright exceptions in Australia, Canada and the United States for libraries, archives and museums in their dealings with copyright material. The thesis has made a lasting and significant contribution to the field of copyright law and practice with relevance to both law reform and academic debate. The quality of her associated publications, presentations and professional roles reflects the international esteem in which she is rightly held based on her research in this field.’
The Student Published Research Prize is awarded annually for outstanding pieces of writing by students at Melbourne Law School. Four prizes are awarded, one to a Graduate Research student, Masters law student, JD student and an LLB student.

### Graduate Research 2012 Winner

**Walter Rech**

‘Rightless Enemies: Schmitt and Lauterpacht on Political Piracy’


### JD 2012 Winner

**Anesti Petridis**

‘“Knocking at the Door of the Stone Fortress”: Appeals to the Supreme Court under Japan’s 1996 Code of Civil Procedure’


### Melbourne Law Masters 2012 Winners

**Baurzhan Kurmanov**

‘Anti Gas Flaring Regulation and the Law: The History and Recent Developments in Kazakhstan and Nigeria’

(2012) 10 Oil, Gas and Energy Law Intelligence 1-28

**Brian Mason**

‘“I’ll have my Bond, Speak not Against my Bond”: Constructive Trusts and Surplus Proceeds from Performance Bonds’

(2012) 6 Journal of Equity 74-108

### LLB 2012 Winner

**Tom Dreyfus**

‘The “Half-Invention” of Gender Identity in International Human rights Law: From CEDAW to the Yogyakarta Principles’

Published Research 2012

Books

Book Chapters

Journal Articles
Books

*Accounting for Profit for Breach of Contract: Theory and Practice*
Katy Barnett
Publisher: Hart Publishing
Year: 2012

*The Standard of Review in WTO Dispute Settlement: Critique and Development*
Ross Becroft
Publisher: Edward Elgar Publishing
Year: 2012

*Reading Modern Law: Critical Methodologies and Sovereign Formations*
Edited by: Ruth Buchanan, Stewart Motha and Sundhya Pahuja
Publisher: Routledge
Year: 2012

*Cooper, Krever & Vann’s Income Taxation: Commentary and Materials (7th edition)*
Philip Burgess, Graeme Cooper, Miranda Stewart and Richard Vann
Publisher: Thomson Reuters
Year: 2012

*The Constitution of Indonesia: A Contextual Analysis*
Simon Butt and Tim Lindsey
Publisher: Hart Publishing
Year: 2012

*Blackstone’s Statutes on Intellectual Property (11th Edition)*
Andrew Christie and Stephen Gare
Publisher: Oxford University Press
Year: 2012
Torts (6th Edition)
Martin Davies and Ian Malkin
Publisher: LexisNexis Butterworths
Year: 2012

The Funding of Political Parties: Where Now?
Edited by: Keith Ewing, Jacob Rowbottom and Joo-Cheong Tham
Publisher: Routledge
Year: 2012

Jurisdiction
Shannaugh Dorsett and Shaun McVeigh
Publisher: Routledge
Year: 2012

Death & Taxes: Tax-Effective Estate Planning (5th Edition)
Michael Flynn and Miranda Stewart
Publisher: Thomson Reuters
Year: 2012

Legal Protection of Religious Freedom in Australia
Carolyn Evans
Publisher: Federation Press
Year: 2012

Modern Criminal Law in Australia
Jeremy Gans
Publisher: Cambridge University Press
Year: 2012
**Books**

*Substance and Procedure in Private International Law*
Richard Garnett  
Publisher: Oxford University Press  
Year: 2012

*Commercial Applications of Company Law (13th Edition),*
Pamela Hanrahan, Ian Ramsay and Geoff Stapledon  
Publisher: CCH Australia  
Year: 2012

*Law and Development and the Global Discourses of Legal Transfers*
Edited by: John Gillespie and Pip Nicholson  
Publisher: Cambridge University Press  
Year: 2012

*Juries in the 21st Century*
Jacqueline Horan  
Publisher: Federation Press  
Year: 2012

*Competition Law in Australia*
Lynden Griggs, Arlen Duke, Jane Nielsen and Leela Cejnar  
Publisher: Klwer Law International  
Year: 2012

*Environmental Law*
Brad Jessup  
Publisher: LexisNexis Butterworths  
Year: 2012
Environmental Discourses in Public and International Law
Edited by: Brad Jessup and Kim Rubenstein
Publisher: Cambridge University Press
Year: 2012

The Law of Reputation and Brands in the Asia Pacific
Edited by: Andrew Kenyon, Ng-Loy Wee Loon and Megan Richardson
Publisher: Cambridge University Press
Year: 2012

Income Tax: Text, Materials and Essential Cases (8th Edition)
Michael Kobetsky, Ann O’Connell, Catherine Brown, Rodney Fisher and Christine Peacock
Publisher: Federation Press
Year: 2012

Michael Lambiris
Publisher: CCH Australia
Year: 2012

The Law of Armed Conflict: Historical and Contemporary Perspectives
Edited by: Rain Liivoja and Andres Saumets
Publisher: Tartu University Press
Year: 2012

Islam, Law and the State in Southeast Asia - Volume I: Indonesia
Tim Lindsey
Publisher: IB Taurus
Year: 2012
Books

*Islam, Law and the State in Southeast Asia - Volume II: Singapore*
Tim Lindsey and Kerstin Steiner
Publisher: IB Taurus
Year: 2012

*Unfair Contract Terms in Australia*
Jeannie Paterson
Publisher: Thomson Reuters
Year: 2012

*Principles of Contract Law (4th Edition)*
Jeannie Paterson, Andrew Robertson and Arlen Duke
Publisher: Thomson Reuters
Year: 2012

*Contract: Cases and Materials (12th Edition)*
Jeannie Paterson, Andrew Robertson and Arlen Duke
Publisher: Thomson Reuters
Year: 2012

*Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore*
Jothie Rajah
Publisher: Cambridge University Press
Year: 2012
Fashioning Intellectual Property: Exhibition, Advertising and the Press 1789-1918
Megan Richardson and Julian Thomas
Publisher: Cambridge University Press
Year: 2012

Breach of Confidence: Social Origins and Modern Development
Megan Richardson, Michael Bryan, Martin Vranken and Katy Barnett
Publisher: Edward Elgar Publishing
Year: 2012

Principles of International Environmental Law
(3rd Edition)
Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth MacKenzie
Publisher: Cambridge University Press
Year: 2012

Edited by: Rosemary Sheehan, Helen Rhoades and Nicky Stanley
Publisher: Jessica Kingsley Publishers
Year: 2012

The Right to Health in International Law
John Tobin
Publisher: Oxford University Press
Year: 2012

Public Health and Plain Packaging of Cigarettes: Legal Issues
Edited by: Tania Voon, Andrew Mitchell, Jonathan Liberman and Glyn Ayres
Publisher: Edward Elgar Publishing
Year: 2012
Books

Commercial Applications of Company Law in New Zealand (4th Edition)
Gordon Walker, Alma Pekmezovic, Pamela Hanrahan, Ian Ramsay and Geoff Stapledon
Publisher: CCH New Zealand
Year: 2012

Regime Interaction in International Law: Facing Fragmentation
Edited by: Margaret Young
Publisher: Cambridge University Press
Year: 2012


### Book Chapters


**Austin, G.** ‘Radio: Early Battles over the Public Performance Right’ in B Sherman and L Wiseman (eds), *Copyright and the Challenge of the New*, Kluwer Law International, Netherlands (2012) 115-140


**Burke, R.** ‘UN Military Peacekeeper Complicity in Sexual Abuse: The ICC or a Tri-Hybrid Court’ in M Bergsmo (ed), *Thematic Prosecution of International Sex Crimes*, Torkel Opsahl Academic EPublisher, China (2012) 317-408


Hughes, P and Jordan, C, ‘Canada’ in D Busch and D Demott (eds), Liability of Asset Managers, Oxford University Press, United Kingdom (2012) 459-506


Book Chapters

O’Sullivan, D, Lim, K and Luck, J, ‘What is the Value of a Brand to a Firm?’ in A Kenyon, N Wee Loon and M Richardson (eds), The Law of Reputation and Brands in the Asia Pacific, Cambridge University Press, United Kingdom (2012) 3-22


Book Chapters


Refereed Journal Articles


Bant, E, ‘Change of Position as a Defence to Restitution of Unlawfully Exacted Tax’ (2012) 1 Lloyd’s Maritime & Commercial Law Quarterly 122-144


Brennan, D and Fraser, M, ‘Use of Subject Matter with Missing Owners - Australian Copyright Policy Options’ (2012) 23 Australian Intellectual Property Journal 4-18


Refereed Journal Articles


Elkin, K, Spittal, M and Studdert, D, ‘Risks of Complaints and Adverse Disciplinary Findings Against International Medical Graduates in Victoria and Western Australia’ (20112) 197 Medical Journal of Australia 448-452


Refereed Journal Articles


Liang, J, ‘Modifying the UN Charter through Subsequent Practice: Prospects for the Charter’s Revitalisation’ (2012) 81 Nordic Journal of International Law 1-20


Mason, B, ‘“I’ll Have my Bond; Speak Not Against My Bond”: Constructive Trusts and Surplus Proceeds from Performance Bonds’ (2012) 6 Journal of Equity 74-108


**Refereed Journal Articles**


**Peel, J, Godden, L** and **Keenan, R**, ‘Climate Change Law in an Era of Multi-level Governance’ (2012) 1 *Transnational Environmental Law* 245-280

**Perry, A** and **Ahmed, F**, ‘Expertise, Deference and Giving Reasons’ (2012) 2 *Public Law* 221-230


Refereed Journal Articles


Walter, S, Bugeja, L, Spittal, M and **Studdert, D.** ‘Geographic Variation in Inquest Rates in Australia’ (2012) 18 *Health and Place* 1430-1435

Walter, S, Bugeja, L, Spittal, M and **Studdert, D.** ‘Factors Predicting Coroners Decisions to Hold Discretionary Inquests’ (2012) 184 *CMAJ* 521-528


Gaita, R, ‘To Civilise the City?’ (2012) 71 Meanjin 64-82


Other Journal Articles


**Oswald, B** and Winkler, T, ‘Copenhagen Process Principles and Guidelines on the Handling of Detainees in International Military Operations’ (2012) 16 *ASIL Insights*


**Voon, T**, ‘Cigarettes and Public Health at the WTO: The Appeals of the TBT Labeling Disputes Begin’ (2012) 16 *ASIL Insights*


**Skene, L**, ‘Why Legalising Commercial Surrogacy is a Good Idea’ (2012) December *The Conversation*


**Stewart, M**, ‘Company Tax and the Limits of Politics’ (2012) October *The Conversation*


**Skene, L**, ‘Eminence or Evidence? The Ethics of Using Untested Treatments’ (2012) March *The Conversation*


Centres, Institutes and Groups

- Asian Law Centre
- Asia Pacific Centre for Military Law
- Centre for Comparative Constitutional Studies
- Centre for Corporate Law and Securities Regulation
- Centre for Employment and Labour Relations Law
- Centre for Islamic Law and Society
- Centre for Media and Communications Law
- Centre for Resources Energy & Environmental Law
- Civil Justice Research Group
- Electoral Regulation Research Network
- Institute for International Law and the Humanities
- Intellectual Property Research Institute of Australia
- Obligations Group
- Tax Group
Asian Law Centre

The Asian Law Centre, an initiative of 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 2012:

- **ARC Discovery Grant:** ‘Drugs, Law and Criminal Procedure in Southeast Asia: A Comparative Analysis’ (2010-2013) (T. Lindsey and P. Nicholson)
- **ARC Discovery Grant:** ‘Lawyers, Civil Society and the State in Post-colonial Malaysia’ (2009-2012) (A. Whiting)
- **ARC Discovery Grant:** ‘Testing Court Reform Projects in Cambodia and Vietnam’ (2008-2012) (P. Nicholson and C. Cameron)
- **ARC Postdoctoral Fellowship:** ‘The Prospects for Justice in the Legal Reform of Police Administrative Detention Powers in China’ (2009-2012) (S. Biddulph)
- **ARC Federation Fellowship:** ‘Islam and Modernity: Syari’ah, Terrorism and Governance in South-East Asia’ (2006-2012) (T. Lindsey)

The Centre has pioneered extensive programs of teaching and research on the laws and legal systems of Japan, China, Indonesia, Vietnam, Taiwan and Malaysia and on Islamic law and Asian commercial law. It has also worked on law in Singapore, Korea, Thailand, Laos, East Timor and the Philippines.
• **CIFR Grant**: ‘Financial Products and Short-form Disclosure Documents – Challenges and Trends’ (2012-2013) (A. Godwin and I. Ramsay)

• **MCRI Grant**: ‘Asia Pacific Dispute Resolution: Understanding Coordinated Compliance with International Trade and Human Rights Standards in Comparative Perspective’ (2009-2013) (S. Biddulph)

• **Melbourne Law School Seed Funding**: To Further Work on Japanese Aid and its Role in the Development of Asian Governance (2012) (P. Nicholson and T. Kuong)

• **Teaching and Learning Fund**: ‘Enhancing Graduate Programs: Planning for Student Wellbeing at MLS’ (2010-2012) (P. Nicholson, W. Larcombe and I. Malkin)

### Seminars

#### Attorney-General’s Department Occasional Seminar Series

In this series, sponsored by the Commonwealth Attorney-General’s Department, distinguished scholars and leading practitioners present on current Asian legal issues. Seminars hosted in 2012 included:

- ‘Japanese International Cooperation: Objectives, Strategies and Impacts in Legal Sector Projects’, Associate Professor Teilee Kuong
- ‘The Court and the Party in China’s Political-Legal Order’, Professor Hualing Fu

#### Occasional Seminar Series

In this series, distinguished scholars and leading practitioners present on current Asian legal issues. Seminars hosted in 2012 included:

- ‘Disputed Churches in Jakarta’, Dr Melissa Crouch (with Centre for Islamic Law and Society)
- ‘Reserving the Window Seat: Whistleblowers in Japan’, Professor Dan Rosen with Dr Janine Pascoe (Commentator) (with Centre for Corporate Law and Securities Regulation)
- ‘Women and Islamic Justice in Indonesia: Why do Women Keep Winning in Indonesia’s Islamic Courts?’, Dr Euis Nurlaelawati (with Centre for Islamic Law and Society)

#### 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. Seminars hosted in 2012 included:

- ‘The Derivative Action in Asia: An Inconvenient Truth’, Dr Dan W. Puchniak (with Centre for Corporate Law and Securities Regulation)
- ‘Saiban-in Seido in Japan’, Professor Kent Anderson
- ‘Family Law in Japan’, Justice Okabe
Asian Law Centre

Major Events

In 2012, the Centre also hosted the following major events:

- Chuo Law School Melbourne Summer School
- International Workshop – ‘Recent Reforms in the Administration of Justice in China’
- Roundtable Symposium – ‘Religion, Equality and Law in Indonesia’ (with Centre for Islamic Law and Society)

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 ALC 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 Sachiyo Kitagawa (Fukuoka District Court) visited in 2012/13 and Judge Atsuyuki Taniike (Tokyo District Court) visited in 2011/12.

Asian Legal Dialogues

These seminars on Asian legal issues are conducted in Asian languages. Seminars hosted in 2012 included:

- ‘The Life of a Judge in Japan’ [in Japanese], Judge Atsuyuki Taniike
- ‘Establishing a Carbon Trading Program in China Through Regional Experimentation: Challenges and Prospects’, Mr Hao Zhang
- ‘What Comes After ‘Law and Development’? Why 1970s Law and Development Recast as the Rule of Law since the 1990s Doesn’t Work in an Islamic Setting’, Associate Professor David K. Linnan (with Centre for Islamic Law and Society)
- ‘Responding to the ‘97 Asian Financial Crisis: The Development of Insolvency Infrastructures in China, Japan and Hong Kong’ (with Centre for Corporate Law and Securities Regulation)
- ‘Key Differences between the Australian and Korean Jury Systems – The Korean “Citizen Participation Trial” System’, Mr Jeong Hyun Hwang
- ‘Reform in Myanmar: What is Happening, and Why’, Eugene Quah
- ‘Cracking the Hardest Nut of All: Reform of Re-education through Labour’, Professor Chen Ruikua (with China Law Network)
- ‘Establishing a Carbon Trading Program in China Through Regional Experimentation: Challenges and Prospects’, Mr Hao Zhang
- ‘What Comes After ‘Law and Development’? Why 1970s Law and Development Recast as the Rule of Law since the 1990s Doesn’t Work in an Islamic Setting’, Associate Professor David K. Linnan (with Centre for Islamic Law and Society)
- ‘Responding to the ‘97 Asian Financial Crisis: The Development of Insolvency Infrastructures in China, Japan and Hong Kong’ (with Centre for Corporate Law and Securities Regulation)
- ‘Key Differences between the Australian and Korean Jury Systems – The Korean “Citizen Participation Trial” System’, Mr Jeong Hyun Hwang
- ‘Reform in Myanmar: What is Happening, and Why’, Eugene Quah
- ‘Cracking the Hardest Nut of All: Reform of Re-education through Labour’, Professor Chen Ruikua (with China Law Network)
Supreme Court of Korea Overseas Research and Study Program

Each year since 2006, the ALC 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. Mr Jeong Hyun Hwang (Public Prosecutor, Seoul Eastern District Prosecutors’ Office) visited in Semester 1, 2012 and Mr Jong Do Im (Court Clerk, Gwang-Ju District Court) visited in Semester 2.

Chuo Law School Melbourne Summer School

Each year since 2005, the ALC 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 were accompanied to Melbourne in 2012 by Chuo Law School academics, Professor Satoru Osanai and Professor Dan Rosen.

In 2012, the Centre hosted a large number of visitors, including the following:

Australia

Associate Professor Christopher Lamb, Honorary Associate Professor, School of Social and Political Sciences, The University of Melbourne; Former Ambassador to Myanmar

China (People’s Republic of)

Professor Chen Rui Hua, Law School, Peking University
Associate Professor Li Kungang, Law School, Anhui University

Hong Kong

Professor Fu Hualing, Faculty of Law, University of Hong Kong, Hong Kong

Indonesia

Professor Dr Iur. Adnan Buyung Nasution, Honorary Professor, Melbourne Law School
Dr Euis Nurlaelawati, Senior Lecturer, Syarif Hidayatullah, State Islamic University (Universitas Islam Negeri/UIN), Jakarta

Japan

Ms Yuri Hatakeyama, Court Clerk, General Secretariat, Supreme Court of Japan
Professor Hirano, General Secretariat, Supreme Court of Japan
Judge Hiroki Inoue, Osaka High Court
Judge Sachiyo Kitagawa, Fukuoka District Court
Asian Law Centre

Myanmar
His Excellency Mr Paw Lwin Sein, Ambassador of Burma to Australia

Singapore
Dr Lynette Chua, Assistant Professor, Faculty of Law, National University of Singapore
Dr Daniel Puchniak, Assistant Professor, Faculty of Law, National University of Singapore

Taiwan
Professor Jyh-Jer Roger Ko, Departmental Chair, Department of Sociology, National Taiwan University
Professor Liu Jeng, Chair, Department of Sociology, Tunghai University
Associate Professor Liu Yia-Ling, Chair of Department, Department of Sociology, National Chengchi University
Professor Amy Huey-Ling Shee, College of Law, National Chung Cheng University
Professor Ming-Chang Tsai, Head, NTPU; Convenor, Sociology Division, NSC, National Taipei University; National Science Council
Professor Wang Hong-Zen, Chair, Department of Sociology, National Sun Yat-sen University

Korea
Mr Jeong Hyun Hwang, Public Prosecutor, Seoul Eastern District Prosecutors’ Office
Mr Kim Sang Hyun, Public Prosecutor, Seoul Central District Public Prosecutors’ Office
Mr Jong Do Im, Court Clerk, Gwang-Ju District Court
Associate Professor Sunseop Jung, Faculty of Law, Seoul National University
Professor Hyowon Lee, Faculty of Law, Seoul National University
Associate Dean Heyok-Joon Rho, Faculty of Law, Seoul National University

USA
Associate Professor David Linnan, School of Law, University of South Carolina
Vietnam

Bui Thi Nguyet Anh, Vice Chief of Education and Training Division, Department of Personnel and Organization, Ministry of Justice
Doan Thi Thu Trang, Expert Department of Planning and Finance, Ministry of Justice
Le Duong Hung, Vice Chief of Personnel Department, General Department of Civil Judgment Enforcement, Ministry of Justice
Nguyen Ngoc Hoa, Vice Headmaster, Hanoi Law University
Nguyen Thai Phuc, Director, Judicial Academy
Nguyen Thi Thanh Xuan, Vice Chief of Division of General Affairs on Law Research, Institute of Law Research, Ministry of Justice
Nguyen Thi Tuyet Thanh, Senior Expert Department of Judicial Support, Ministry of Justice
Nguyen Xuan Tung, Chief of Personnel Division Department of Personnel and Organization, Ministry of Justice
Tuan Van Nguyen, Ministry of Justice Official, La Trobe University
Van Thi Khanh Thu, Expert of the Board of Secretaries of Leaders, Ministry of Justice

Australian Journal of Asian Law

The Australian Journal of Asian Law (AJAL) is a joint initiative of the members of the ALC and the Law Faculty of the Australian National University, with support and advice from Australian and international colleagues.

The AJAL is a forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia. It aims for recognition as a leading medium for scholarly and professional discourse in a region characterised by rapid growth and social change.

The AJAL publishes two issues annually. The journal was initially available in hardcopy, published by Federation Press. From issue 13(1) in 2012, the AJAL has been freely available in electronic form through SSRN.

Asian Law Online


Asian Law Online is 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.
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.

The 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.

The APCML works closely with its stakeholder organizations - the Australian Civil-Military Centre (ACMC), Australian Red Cross and the International Committee of the Red Cross (ICRC).

In 2012, the Director of the Centre was Professor Gerry Simpson. The Deputy Director was Group Captain Ian Henderson. Associate Professor Alison Duxbury was the Associate Director (University node) and Ms Suzanne Varrall (appointed August 2012) was the Associate Director (Military node).

The Project Directors were: Professor Tim McCormack (Strategic Liaison), Professor Dianne Otto (Peacekeeping), Dr Rain Liivoja (Law of Armed Conflict) and Dr Kevin Heller (International Criminal Law).

Additional staff from Melbourne Law School who were associated with the Centre in 2012 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, and Dr Narrelle Morris were research fellows. Ms Cathy Hutton was the Centre Administrator.
Australian Research Council Projects in 2012

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 thirteen thematic essays, on topics such as the military background of the war in the Pacific, the structure of military courts, jurisdictional issues, to provide the context for the reports on the trials, which will be presented according to geographic location, with an accompanying essay on the trials themselves.

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 2012 work undertaken as part of the project included analysis of the charges brought against Australian soldiers in Afghanistan, the media’s use of international (humanitarian) law, and the Chilcot Inquiry into the Iraq War as well as Gerry Simpson’s book on war crimes trials and ‘humanity’. In September 2012 the fourth in the Symposium series for this project was held, entitled ‘The Passions of International Law’.

Other Significant Research Projects in 2012

Non-International Armed Conflict: Clarifying the Current International Law

This project is undertaken in partnership with Defence Legal. The project comprises the drafting of six working papers on the following topics: (1) the definition of a non-international armed conflict (NIAC); (2) international humanitarian law applicable to a NIAC; (3) international human rights law applicable to a NIAC; (4) the relationship between international humanitarian law and international human rights law in a NIAC; (5) detention in a NIAC; and (6) the use of force in a NIAC.

Regulation of Private Military Security Contractors (PMSC) in Australia

This project, supported by a Research Collaboration Grant from Melbourne Research Office, entails an analysis of Australian law on the regulation of private military and security companies. This includes law relevant to companies contracted by the Australian Defence Force while serving abroad or security contractors to other Australian Government agencies working overseas, as well as PMSCs operating out of Australia.
Asia Pacific Centre for Military Law

Events and Visitors in 2012

Public Lectures

Small Arms, Big Consequences: How Can the Arms Trade Treaty Aid Humanitarian Objectives?
(with Australian Red Cross and International Committee of the Red Cross)
Nathalie Weizmann, Legal Adviser, ICRC Arms Unit

From the UN Security Council to Charlize Theron: “Getting Cross” about Sexual Violence in War
Professor Karen Engle, University of Texas School of Law

‘Two States for Two Peoples’: Self-Determination, Population Transfer and the Palestine Papers
(with the International Institute for Law and the Humanities IILAH)
Dr Catriona Drew, SOAS, University of London

Passion and Dispassion in International Law
Professor Hilary Charlesworth, Australian National University

‘Law & War’ Seminar Series

The Extraordinary Chambers in the Courts of Cambodia (ECCC)
Clair Duffy, Maria Elander and Nick Goodfellow in conversation with Gerry Simpson

Shirley Hazzard’s The Great Fire, war crimes trials and the White Australia Policy
Dr Brigitta Olubas, University of New South Wales

From Subjectivity to Material Practice: Men, Masculinities and the Private Military and Security Contractor
Dr Paul Higate, University of Bristol

Military Robotics and International Humanitarian Law: Legal, Ethical and Political Challenges
Associate Professor Markus Wagner, University of Miami School of Law

‘Global’ Civil Wars: Remote-launched Attacks and the Internationalization of Non-International Armed Conflicts
Dr Emily Crawford, Sydney Centre for International Law

The Convergence of Chemistry and Biology: A Tale of Two Treaties
Robert J Mathews, Defence Science and Technology Organisation

The Impact of International Law on Diplomacy
Jonathan Thwaites, former Australian Diplomat

Reciprocity and Reprisals in the Law of Armed Conflict
Dr Shane Darcy, National University of Ireland

International Symposiums

Peacekeeping in the Asia-Pacific: Gender Equality, Law and Collective Security
(with the School of Oriental and African Studies (SOAS) University of London)
Convenors: Dianne Otto (APCML) and Gina Heathcote (SOAS)

The Passions of International Law
Convenor: Gerry Simpson
Lunchtime Seminar

The Privatisation of War: How Can Private Military and security companies be Regulated?
(With Australian Red Cross and International Committee of the Red Cross)

Panel Discussions

Ten Years On: Reflections on the First Ten Years of the International Criminal Court
(With Amnesty International Australia)
Professor Robert Cryer, Dr Helen Durham, Caitlin Dwyer, Jonathan O'Donohue and Sophie Rigney

Conflicts in Sudan: Historical, Legal and Personal Perspectives
David Mickler, Kevin Jon Heller and Nyadol Nyuan

Contemporary Issues in International Law Expert Seminar

Interpreting UNSC Resolutions
(With the Depts of the Attorney-General, Defence, and Foreign Affairs and Trade, in Canberra)
Convenors: Gerry Simpson and GPCAPT Ian Henderson
Seminars and Events

CCCS Seminars

What’s the Story? The United Kingdom Supreme Court’s New Approach to Communications
Richard Cornes, University of Essex, United Kingdom

Democracy, Liberty and Displacement of the Prerogative
Ben Saunders, Research Fellow, Melbourne Law School

Models of Democracy and Models of Constitutionalism in Latin America
Professor Javier Couso, Constitutional Law Program at Universidad Diego Portales, Chile

Constitutions Inside Out: Outsider Interventions in Domestic Constitutional Contests
Professor Rosalind Dixon, Faculty of Law, University of New South Wales
Professor Vicki Jackson, Harvard Law School, United States

Transnational Constitutionalism’s Problem with Constitutional Identity: Prospects and Pitfalls
Professor Michel Rosenfeld, Cardozo School of Law, New York, United States

The UK Experiment with Declarations of Incompatibility
Dr Aruna Sathanapally, McKinsey & Co, London, United Kingdom

The Elusive Constitutional Settlement of Sri Lanka’s Ethnic Crisis
Dr Jayampathy Wickramaratne, President’s Counsel, Sri Lanka

The Fiscal Compact, the “Golden Rule” and the Paradox of European Federalism
Assistant Professor Federico Fabbrini, Department of Public Law, Tilburg Law School, Netherlands
Turning Points: Remembering Koowarta v Bjelke-Petersen, 1982, 153 CLR 16
2012 and 2013 mark the respective 30th anniversaries of the High Court’s
decisions in Koowarta and in Commonwealth v Tasmania. Each of these
cases are understood to represent a turning point in Australia’s legal-political
history: a shift to a different form of political engagement on complex questions
about race, and the environment; and a shift in what those engagements
could signify, nationally, and internationally. Cumulatively, the cases are also
understood as marking a decisive jurisprudential turn, a consideration of a
different engagement by the Court with both international law and the politics
of constitutionalism.

Money in the 2012 American Presidential Elections
Professor Richard Pildes, School of Law, New York University, United States

Party Political Funding in NSW (and Beyond?) - Can Human Rights be Deployed
to Resist Dogmatic Liberalism’s Intolerance of Pluralistic Party Structures?
Professor Keith Ewing, King’s College London, United Kingdom

Constitutional Reform
The Hon Nicola Roxon MP, Attorney-General for Australia

Recent Developments in Constitutional Law
(held at Melbourne Law School)
The purpose of the conference was to provide a forum, for the discussion
of recent events in constitutional law including the High Court’s recent
decisions on s 92 of the Constitution, freedom of political communication,
the nature of federal executive power, the nationalisation of state courts, the
constitutionalisation of administrative law, proposals for constitutional reform
and the future of human rights protection.

Legal Protection of Religious Freedom in Australia (Federation Press, 2012)
Professor Carolyn Evans, Melbourne Law School
Speaker: Father Frank Brennan, Professor of Law, Australian Catholic
University

Integrity in Politics: The Power of Ideas
The Hon. Lindsay Tanner
Legal Theory Workshop Events

The Perfectionism of Charity Law
Speaker: Associate Professor Matthew Harding (Melbourne)
Commentator: Dr Lu Weis (Melbourne)

Is Inheritance Morally Distinctive?
Speaker: Dr Daniel Halliday (Melbourne - Philosophy)
Commentator: Mr Cameron Rider (Melbourne)

Law as an Artefact Kind
Speaker: Dr Jonathan Crowe (Queensland)
Commentator: Dr Dale Smith (Monash)

Why the Rule of Law is Too Important to be Left to Lawyers
Speaker: Professor Martin Krygier (UNSW)
Commentator: Professor Michael Crommelyn (Melbourne)

Home and State
Speaker: Professor Margaret Davies (Flinders)
Commentator: Dr Ann Genovese (Melbourne)

Choice of Evils: In Search of a Viable Rationale
Speaker: Professor Vera Bergelson (Rutgers - USA)
Commentator: Dr Kevin Heller (Melbourne)

Bad Facts
Speaker: Professor David Estlund (Brown - Philosophy)
Commentator: Dr Daniel Halliday (Melbourne - Philosophy)

The Migration of Proportionality across Europe
Speaker: Dr Carlos Bernal-Pulido (Macquarie)
Commentator: Professor Cheryl Saunders (Melbourne)

Are Judges Opportunistic Interpreters?
Speaker: Dr Dale Smith (Monash)
Commentator: Mr Andrew Roberts (Melbourne)

Debts and the Demands of Conscience: An Exploration of the Moral Underpinnings of Debt Relief
Speaker: Professor Heidi M. Hurd & Prof Ralph Brubaker (University of Illinois)
Commentator: Dr Jeannie Paterson (Melbourne)

Does Leadership Make a Difference? The European Union's Shifting Authority in the Climate Negotiations
Speaker: Professor Robyn Eckersley (Melbourne - School of Social and Political Sciences)
Commentator: Associate Professor Margaret Young (Melbourne)

What is a ‘Real’ Australian Citizen? Insights from Papua New Guinea and Mr Amos Ame
Speaker: Professor Kim Rubenstein (ANU)
Commentator: Associate Professor Shaun McVeigh (Melbourne)

The Asymmetry of Responsibility and Non-Responsibility in Criminal Law
Speaker: Dr Arlie Loughnan (Sydney)
Commentator: Associate Professor Jeremy Gans (Melbourne)
Visitors

Assistant Professor Shubhankar Dam  
School of Law, Singapore Management University, Singapore

Ciaran O’Toole  
Fiji Programme Director, Conciliation Resources, London, United Kingdom

Other Selected Research Activities/Projects

Professor Adrienne Stone

- Made a submission (with Professor Katharine Gelber) to the Senate Legal and Constitutional Affairs regarding the Exposure Draft of Human Rights and Anti-Discrimination Bill 2012.
- Delivered the CIPL Lecture: Fifteenth Geoffrey Sawer Lecture 2012 on Democracy and the Constitution: The Dangers of Legalism at ANU College of Law.

Professor Cheryl Saunders AO

- Presented ‘Hyper-Executive Federalism’, at the 2012 Constitutional Law Conference.
- Spoke as rapporteur on ‘Gender Equality: For or Against Religion’ in the closing session of a symposium on Freedom of Religion and Gender Equality: Tensions and Unresolved Conflicts, Heidelberg, under the auspices of the University of Heidelberg, Germany.

- Delivered an address on ‘Global Perspectives on Constitutional Design’ to a Unidem Conference on Constitutional Design, Helsinki, Finland.
- Presented a paper on ‘Constitutional Affinities: Judicial Cosmopolitanism in Ireland and Australia’ to a conference on The Irish Constitution: Past, Present and Future, held under the auspices of University College, Dublin, to mark the 75th anniversary of the Constitution of the Republic of Ireland, 28-30 June 2012.
- A lecture for the Citizens’ Constitutional Forum, Suva, Fiji.

Professor Michael Crommelin AO


Professor Carolyn Evans

Centre for Comparative Constitutional Studies

Professor Pip Nicholson

- Presented to the Japanese International Cooperation Agency’s annual conference findings arising from her ARC grant on the impacts of aid funded court reform in Vietnam.
- Attended the University of Leiden conference The State in Asia: Power, Citizenship and the Rule of Law in December 2012. Professor Nicholson was on the panel ‘Developing the Rule of Law and Legal Transplants’ and gave a paper on ‘Demand-led Development: Recognising Constraints on the Export of the Rule of Law’.

Associate Professor Alison Duxbury

- Together with Dr Rain Liivoja, a Research Fellow at Melbourne Law School, and Monash Law Faculty’s Associate Professor Matthew Groves, prepared the submission on the Military Court of Australia Bill 2012 (Military Court Bill) and the Military Court of Australia (Transitional Provisions and Consequential Amendments) Bill 2012 (Consequential Amendments Bill) to the Legal and Constitutional Affairs Committee. The Bills seek to establish the Military Court of Australia as a specialist federal court, replacing the current system of service tribunals. Associate Professors Duxbury and Groves also attended the hearings of the committee and comments by both academics are included in the Senate report.

Associate Professor Joo-Cheong Tham

- Appointed the inaugural Director for the Electoral Regulation Research Network (ERRN) in March. The collaboration between the New South Wales Electoral Commission, the Victorian Electoral Commission and Melbourne Law School has resulted in the establishment of the Electoral Regulation Research Network.
- Made a Submission to the Senate Education, Employment and Workplace Relations Committee’s Inquiry into the Protecting Local Jobs (Regulating Enterprise Migration Agreements) Bill 2012 [Provisions].
- Presented a joint paper with Iain Campbell ‘Equal Treatment for Temporary Migrant Workers and the Challenge of Their Precariousness’, 16th World Congress of International Labour and Employment Relations Association, Philadelphia, USA.
- Spoke at Migrant Workers and the 457 Visa Debate: Debunking ‘Aussie Jobs for Aussie Workers’ Seminar organised by Solidarity, University of Melbourne.
Associate Professor Michelle Foster


Dr Lu Weis

- Convened the Legal Theory Workshop series in 2012.

Mr Glenn Patmore

- Presented a paper, entitled, ‘The Role of the Australian Head of State, Now and Into the Future’, at the What do we want for our Head of State Conference, organised by the Australian Republican Movement Victoria & the Centre for Citizenship, Development and Human Rights at Deakin University, Australia.
- Presented his paper ‘Constituting Representative Democracy’ at the 2012 ANU Public Law Weekend, The Centre for International and Public Law, ANU College of Law, Australian National University.

Ms Paula O’Brien

- Presented the following:
  - Is Alcohol an ‘Ordinary Commodity’ in Australian Law?’, Melbourne Law School.
  - ‘Community Legal Centres and Social Change’, Federation of Community Legal Centres 40th Anniversary Symposium, Melbourne.
- Submitted an inquiry to the Australian National Preventive Health Agency on minimum pricing of alcohol in Australia, November 2012, on the constitutional, trade, and competition issues arising from setting a minimum price for the retail sale of a standard unit of alcohol in Australia.

Mr Ben Saunders

- Presented the paper ‘Parties, Oppositions, Responsible Government and the Australian Constitution’, at the International Conference on the Legal Histories of the British Empire, Faculty of Law, National University of Singapore.
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.

### Research Grants

During 2012, 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 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

During 2012, funding was received from the Victorian Law Foundation for a project titled ‘Reform of Consumer Lease Contracts - Ensuring Greater Protection for Consumers’. The Chief Investigators are Associate Professor Paul Ali and Professor Ian Ramsay.
Seminars and Conferences

A significant part of the Centre’s activities is the holding of seminars and conferences on important issues. In 2012 the Centre hosted or participated in organising the following seminars and conferences:

- ‘Supreme Court of Victoria 2012 Commercial Law Conference’
  Speakers: The Hon Keith Mason AC QC, Former President of the NSW Court of Appeal; The Hon Justice Marcia Neave AO, Court of Appeal, Supreme Court of Victoria; Ken Adams, Partner of Herbert Smith Freehills; The Hon Justice David Beach, Supreme Court of Victoria; Joseph Santamaria QC; Stephen McLeish SC, Solicitor-General for Victoria; The Hon Justice Kim Hargrave, Supreme Court of Victoria.

- ‘Regulating Culture in Financial Organisations’
  (co-hosted with the Centre of Law, Markets and Regulation at the University of New South Wales)
  Speakers: Associate Professor Pamela Hanrahan, Melbourne Law School; Associate Professor Michael Legg, School of Law, University of New South Wales; Dr George Gilligan, Centre for Corporate Law and Securities Regulation; Bob Ferguson, Financial Services Authority, UK; Professor Justin O’Brien, School of Law, University of New South Wales; Dr Olivia Dixon, School of Law, University of New South Wales.

- ‘Reserving the Window Seat: Whistleblowers in Japan’
  (co-hosted with the Asian Law Centre at Melbourne Law School)
  Speaker: Professor Dan Rosen, Chuo University, Japan.

- ‘Responding to the ’97 Asian Financial Crisis: The Development of Insolvency Infrastructures in China, Japan and Hong Kong’
  Speaker: Professor Charles D Booth of the University of Hawaii, USA.

- ‘Executive Stock Ownership and Employment Change after Takeovers’
  (co-hosted with the Faculty of Business and Economics)
  Speaker: Professor Andrew Pendleton, University of York, UK.

- ‘Improving Consumer Access to Justice in the Consumer Credit Context’
  Speaker: Professor Tony Duggan, University of Toronto, Canada.

- ‘Would the Post-GFC International Regulatory Reforms have Prevented the GFC?’
  Speaker: Professor Douglas Arner, Head of the Department of Law, University of Hong Kong, Hong Kong.

- ‘Public Views of the Morality of Insider Trading’
  Speaker: Professor Stuart P Green, Rutgers University School of Law, Newark, USA.

- ‘Corporate Thinking and Corporate Reporting is not What it Used to Be’
  Speaker: Mervyn King SC.

- ‘The Path of Fiduciary Law’
  Speaker: Professor David Kershaw, London School of Economics, UK.

- ‘The Euro Crisis - A Practical Perspective’
  (co-hosted with the Transactional Law Program at Melbourne Law School)
  Speaker: Jan Job de Vries Robbé, Manager, Legal Affairs at the Netherlands Development Bank FMO and Senior Fellow, Melbourne Law School.

- ‘The Derivative Action in Asia: An Inconvenient Truth’
  (co-hosted with the Asian Law Centre at Melbourne Law School)
  Speaker: Dr Daniel Puchniak, National University of Singapore, Singapore.
Links with Key Organisations

The Centre has developed links with peak organisations with an interest in corporate and securities law. During 2012, 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 Australian Securities and Investments Commission External Advisory Panel (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 Insolvency Committee of the Business Law Section of the Law Council of Australia (Associate Professor Helen Anderson)
- 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 2012 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

2012 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 2012, 184 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 2012. Members of the Centre gave more than 70 reported interviews to the media in 2012.
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.

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 and Major Events

Labour Law Seminar Series

These free public seminars aim at attracting 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 2012.
• ‘Recovering Compensation for Employment Entitlements in Cases of Accessorial Liability Under the Fair Work Act’
  Associate Professor Helen Anderson and Associate Professor John Howe, Centre for Employment and Labour Relations Law, Melbourne Law School.

• ‘Human Rights and Labour Rights – Why Don’t the Two Tracks Meet’
  Professor Guy Mundlak, Tel-Aviv University, Israel

• ‘Innovation in Employment Standards Enforcement: the Fair Work Ombudsman’s Use of Enforceable Undertakings’
  Associate Professor John Howe and Ms Tess Hardy, Centre for Employment and Labour Relations Law, Melbourne Law School.

• ‘Pay Equity in Australia: Has it Been Advanced by Reliance on International Obligations?’
  Ms Sarah Castles, National Tertiary Education Union (former Melbourne Law School student).

• ‘Adverse Action in the Fair Work Act 2009 (Cth): A Case of Unintended Consequences’
  Ms Jennifer Winckworth, Clayton Utz (former Melbourne Law School student).

• ‘The Place of Domestic Work within the European Employment Strategy and EU Social Policy’
  Professor Tonia Novitz and Dr Phil Syrpis, University of Bristol, UK.

• ‘Paid Parental Leave and the Ideal Worker: A Step Towards the “Worker-Carer” in Australian Labour Law’
  Mr Tom Dreyfus (former Melbourne Law School student).

• ‘Measuring the Success of Employment Law in Addressing the Problem of Long Working Hours in Australia’
  Ms Sarah Moore, Moores Legal (former Melbourne Law School student).

• ‘Precarious Work and the Fragmentation of International Labour Law’
  (co-hosted with the Institute of International Law and the Humanities)
  Professor Kerry Rittich, University of Toronto, Canada.

• ‘The Elusive Quest for Simplicity: Assessing the Readability of Enterprise Agreements’
  Ms Carolyn Sutherland, Monash University, Australia.

• ‘Workplace Gender Equality: Rationale and Overview of Proposed Legislative Changes’
  Ms Helen Karatasas, Equal Opportunity for Women in the Workplace Agency and Professor Margaret Thornton, Australian National University.

• ‘Is a Right Better than a Right to Request? Flexible Working in Europe and the United States’
  Ms Ariane Hegewisch, Institute for Women’s Policy Research, Washington DC, USA.
Sponsors’ Seminar Series

The Centre conducts a series of seminars for members of the Centre’s sponsoring firms and organisations. Two seminars were held in 2012:

- “‘Kamikazes’ and ‘Mad Men’: The Fallout from the Qantas Dispute’
  Associate Professor Anthony Forsyth, Monash University.

- ‘Strike First – Talk Later: Implications from the Full Federal Court’s decision in JJ Richards’
  Mr Stuart Wood S.C., Victorian Bar.

Major Events

Lost Decade or Decades? Wages & Wage Inequality in the US

The Centre co-hosted a seminar on Monday 21 May with the Centre for Human Resource Management at the University of Melbourne. Mr Lawrence Mishel, President of the Economic Policy Institute (USA) discussed the new analysis of wage trends that will appear in the forthcoming State of Working America (Cornell University Press and Economic Policy Institute).

Bullying and Harassment: Trying to Stop it!

The Centre co-hosted a seminar on Friday 22 June 2012 with the Department of Management and Marketing at the University of Melbourne. We were delighted to welcome Professor Phillip Beaumont from the University of Glasgow and Ms Sandra Stewart, Consultant, to speak on this very topical subject.

Foenander Lecture

The Centre was delighted to co-host the 27th Foenander Lecture with the Faculty of Business and Economics at the University of Melbourne on Thursday 16 August. The Hon Professor Geoffrey Giudice AO spoke on the topic ‘The Fair Work Act Review and its Implications’. Professor Giudice is an Honorary Professorial Fellow in both the Department of Management and Marketing in the Faculty of Business and Economics at the University of Melbourne and the Centre for Employment and Labour Relations Law.

Visitors

The Centre regularly welcomes academic colleagues from interstate and overseas. In 2012 we hosted five such visitors:

Professor Guy Mundlak (Tel Aviv University, Israel)
Professor Tonia Novitz (University of Bristol, United Kingdom)
Dr Phil Syrpis (University of Bristol, United Kingdom)
Professor Kerry Rittich (University of Toronto, Canada)
Professor Keith Ewing (King’s College London, United Kingdom)
Centre Working Paper Series

Beth Gaze edited the Centre Working Paper Series during 2012, overseeing the publication of three papers.


The Centre for Islamic Law and Society (CILS) was established in 2005 and is located in Melbourne Law School at the University of Melbourne.

The Centre aims to facilitate and support Islam-related research and education projects across the University, particularly those related to contemporary Islamic legal issues. It also aims to improve Australian understandings of Islam, both within the University and throughout the wider community. The Centre has developed a strong focus on Islamic law issues in Southeast Asia, but this is not exclusive.

Research Projects

CILS was associated with the following major research projects in 2012:

- **ARC Discovery Grant**: ‘Drugs, Law and Criminal Procedure in Southeast Asia: A Comparative Analysis’ (2010-2013) (T. Lindsey and P. Nicholson)
- **ARC Discovery Project**: ‘Lawyers, Civil Society and the State in Post-colonial Malaysia’ (2009-2012) (A. Whiting)
- **ARC Federation Fellowship**: ‘Islam and Modernity: Syari’ah, Terrorism and Governance in South-East Asia’ (2006-2012) (T. Lindsey)
**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 was 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.

**Seminars**

**Occasional Seminar Series**

In this series, distinguished scholars and leading practitioners present on current Islamic legal issues. Seminars hosted in 2012 included:

- ‘Women and Islamic Justice in Indonesia: Why do Women Keep Winning in Indonesia’s Islamic Courts?’, Dr Euis Nurlaelawati (with Asian Law Centre)

**Islam Research Seminar Series**

The CILS Islam Research Seminar Series are informal lunchtime seminars and are often presented by postgraduate students. Seminars hosted in 2012 included:

- ‘What Comes After ‘Law and Development’? Why 1970s Law and Development Recast as the Rule of Law since the 1990s doesn’t Work in an Islamic Setting’
  Associate Professor David K. Linnan (with Asian Law Centre)
- ‘Faith and Freedom in Indonesian Law - Religion and the Democratic State’, Stewart Fenwick (with Asian Law Centre)

**Major Events**

In 2012, the Centre also hosted the following major events:

- RHD Mentor Session with Professor Dr Iur. Adnan Buyung Nasution
- Roundtable Symposium – ‘Religion, Equality and Law in Indonesia’ (with Asian Law Centre)
Centre for Islamic Law and Society

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 8th annual Islamic Studies Postgraduate Conference was held on 20-21 November, 2012 and was co-hosted by the National Centre of Excellence in Islamic Studies. Associate Professor Greg Fealy, Professor Virginia Hooker, Professor Merle Ricklefs and Dr Kerstin Steiner attended as PhD mentors. 23 PhD students presented at the conference from universities throughout Australia.

Visitors

The Centre hosted the following visitors in 2012:

Associate Professor David Linnan (School of Law, University of South Carolina, USA)

Professor Dr Iur. Adnan Buyung Nasution (Honorary Professor, Melbourne Law School)

Dr Euis Nurlaelawati (Senior Lecturer, Syarif Hidayatullah, State Islamic University (Universitas Islam Negeri/UIN), Jakarta, Indonesia)
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:
The Centre for Media and Communications Law (CMCL) 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 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.

Research Projects

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: Professor Robert Burrell, Professor Michael Humphreys, Ms Kimberlee Weatherall, Dr Sarah Kelly, Associate Professor Jennifer Burt and Professor Megan Richardson

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.

Suppression Orders- Jason Bosland

It is often lamented that there is a problem with suppression orders in Victoria. Between early 2006 and June 2008, 627 suppression orders had been issued by the Victorian courts; by comparison, only 54 equivalent orders were made in NSW. Since then, the reported figures suggest that the rate has increased quite dramatically, with 644 such orders said to have been made in Victoria in 2011 alone. But not only are the Victorian courts said to grant too many suppression orders, they have also been criticised for making orders which are far too broad in scope and often without sufficient temporal limitations. This study sheds light on the validity of these criticisms by undertaking an empirical analysis of all of the suppression orders distributed to the media by the Victorian courts between 2008 and 2012. In particular, the study demonstrates: the rate at which suppression orders have been made by year and by court; the powers pursuant to which the orders have been made; the frequency with which the courts make different types of orders (ie proceedings vs general); the degree of clarity of the orders; the rate at which the orders contain an end date; and, finally, the rate at which specific types of information are suppressed (for example, the defendant’s identity, the identity of a witness or victim, particular pieces of evidence, prior convictions, etc). Drawing upon the results of the data analysis, the study makes conclusions about the state of suppression in Victoria.

Defamation & Privacy- Sophie Walker

Sophie Walker joined CMCL as a research fellow in November 2011. Sophie works with Andrew Kenyon researching defamation and privacy law. One of her first tasks was examining transcripts of interviews with media law practitioners from the UK and Australia to understand how defamation and privacy law are working in practice. In the UK, defamation law’s role in shaping public speech has come under scrutiny, first in the form of the Leveson enquiry into the culture, practices and ethics of the British press and more recently through the passage of the 2013 Defamation Act. In this shifting landscape, the project has focused on how two key defences in defamation law that are meant to protect freedom of expression, have been applied so restrictively so to inhibit public speech. Andrew and Sophie have been working on two papers. The first looks at the history of reform of qualified privilege in the UK, starting from the middle of last century through to the 2013 Defamation Act and a possible role for the right to reply. The second examines the fair comment defence in Australia and the UK, how complexities and uncertainties surrounding the defence restrains the form of speech it is supposed to protect, and possible avenues for reform. This stage of the project is looking at the qualified privilege defence in Australia, drawing parallels from the UK’s experience.
Events

- Net Neutrality: European and Comparative Approaches  
  Speaker: Dr Chris Marsden  
  (held at Melbourne Law School and Corrs Chamber Westgarth, Sydney)

- Tweets, Beaks and Hacks: Court Reporting and the Law in the Age of New  
  Media Journalism  
  Speaker: Mr Mark Stephens  
  (co-hosted with Centre for Advancing Journalism, University of Melbourne)

- Election Talk: Issues in Election Communications Law and Practice in  
  Australia, the United Kingdom and the Unites States  
  Speaker: Dr Murray Green  
  (co-hosted with Electoral Regulation Research Network, Melbourne Law  
  School)

- Village Roadshow v iiNet: The Decision and its Ramifications for Copyright  
  Owners and ISPs  
  Speakers: Mr Neil Gane, Mr John Stanton and Dr David Lindsay  
  (co-hosted with Intellectual Property Research Institute of Australia,  
  University of Melbourne)

- New Models for Copyright Law Reform  
  Speakers: Professor Dan Hunter, Professor Julian Thomas and  
  Professor Jill McKeough  
  (held at University of Technology, Sydney and co-hosted with Intellectual  
  Property Research Institute of Australia, University of Melbourne)

- Copyright, Creators and Collecting Institutions: 2012 Update  
  Speakers: Associate Professor Susan Corbett, Dr Emily Hudson and  
  Ms Robin Wright

- Melbourne Law School Student Art Competition  
  Judges: Dr Chris McAuliffe and Professor Andrew Kenyon  
  (co-hosted with Intellectual Property Research Institute of Australia,  
  Melbourne University Law Students’ Society, Global Law Student  
  Association and Postgraduate Law Student Association)

- Amateur Media: Social, cultural and legal perspectives Book Launch  
  Speakers: Professor Megan Richardson, Professor Julian Thomas and  
  Dr Ramon Lobato

- Copyright and the Digital Economy Issues Paper  
  Speakers: Ms Justine Clarke, Dr Emily Hudson and  
  Professor Andrew Stewart  
  (held at Baker & McKenzie, Sydney)
Visitors

- Professor Chris Marsden (University of Essex School of Law) (hosted by Andrew Kenyon)
- Ms Karin Clark (Allens Arthur Robinson) (hosted by Megan Richardson)
- Professor Dan Hunter (New York Law School) (hosted by Megan Richardson)
- Associate Professor Elizabeth Adeney (Deakin University) (hosted by Jason Bosland)
- Ms Kim Gould (University of Technology, Sydney) (hosted by Jason Bosland)
Activities and Linkages

The Centre for Resources, Energy and Environmental Law (CREEL) has continued to develop a diverse range of research in environmental law, resources law, and energy regulation; consolidating international, national and local linkages with many leading academic, governmental and civic organisations working in cognate fields. For example, CREEL worked closely with the National Environmental Law Association in planning for a national conference in Melbourne. CREEL researchers have had continued success in securing external research funding over 2012; while several researchers have published books and other significant publications over this time. Many of these publications have emerged from ongoing Australia Research Council projects. The cohort of graduate research students has developed strongly with some notable achievements in 2012, such as International internships, and research support by the British Council. Graduate Researchers have been involved in a large number of international and national seminar presentations, as well as organising conferences. CREEL has continued a busy schedule of public seminars and events in 2012, together with hosting visiting scholars, and in holding specific research-related workshops. Jenny O’Connell played a major coordinating role in bringing together CREEL’s activities over 2012. Centre staff participated in several international legal research groups in energy, resources and environmental law.

Research Activities

CREEL academic staff, graduate research students, and research fellows working on Centre projects, have produced a wide range of research outcomes over 2012 that include many formal publications and seminars, but also contributions based in community engagement, such as pieces in ‘The Conversation’. Many research activities have focused on research projects associated with CREEL. These projects include: ARC Discovery Projects: ‘Responding to Climate Change: Australia’s Environmental Law and Regulatory Framework’

The work of Stephanie Niall and Lisa Caripis in coordinating projects and in contributing to the research in these projects is acknowledged. The following sets out more specific activities.

Jacqueline Peel has been a Visiting Scholar at University of Calfornia, Berkeley School of Law’s Center for Law, Energy and the Environment. Jacqueline is also appointed as a Visiting Scholar at Stanford University Woods Environment Institute, in the Water in the West program.

In 2012 Brad Jessup was a visiting researcher at the University of California, Berkeley School of Law and was affiliated with the Center for Law, Energy and the Environment.

PhD Candidate Liz Macpherson is undertaking a visiting research fellowship to the Pontificia Universidad Catolica de Chile working with Chile’s leading water law expert Dr Alejandro Vergara Blanco.

Events

Seminars and Workshops

Conversation on the EPBC Act
Professor Jacqueline Peel invited JD and LLB students to a panel discussion about the achievements and challenges for the Environment Protection and Biodiversity Conservation Act. The panel comprised: Michael Black, AC, QC, former Chief Justice, Federal Court of Australia; David Blumenthal, former Adviser to Peter Garrett, Federal Minister for Environment Protection, Heritage and the Arts; Alexandra Guild, Senior Associate, Norton Rose, Australia; and Felicity Millner, Principal Solicitor, Environment Defenders Office (Vic).

Communal Tenure in Relation to Mining in South Africa
Professor Nic Olivier, University of Pretoria, ‘Communal land tenure and specific regulatory norms providing for community involvement in matters pertaining to prospecting and mining in South Africa.’

Extractive Industries and Indigenous Peoples: A Changing Dynamic?
Professor Ciaran O’Faircheallaigh, Griffith University, presented this seminar, during his time as research visitor in the Agreements, Treaties and Negotiated Settlements project.

Environmental Challenges in China: Climate Change, Natural Resources and Urban Development
This interdisciplinary workshop was organised by Hao Zhang (CREEL PhD) with student colleagues from the University of Melbourne.
Environmental Justice Symposium

This jointly sponsored symposium by CREEL and the Environmental Defenders Office brought together a range of speakers from the community government and academia to explore the dimensions of what constitutes Environmental Justice. Brad Jessup, having recently taken a position at Melbourne Law School, presented a paper, ‘Why Does Environmental Justice Matter?’

Book Launches

‘Trading Fish, Saving Fish’ by Margaret Young
IILAH and CREEL hosted the launch of, ‘Trading Fish, Saving Fish: The Interaction between Regimes in International Law’ which was the culmination of Associate Professor Young’s longstanding research on fisheries and International Law.

CREEL and IILAH International Conversations Series Book Launch
Professor Jacqueline Peel, co-author of Principles of International Environmental Law (third edition) was, “In Conversation” at Readings Bookshop with a panel of distinguished experts on current issues and challenges in international environmental law. The event recognised the substantial contribution that Professor Peel has made to the development to International environmental law.

‘Kangaroo Courts and the Rule of Law - The Legacy of Modernism’ by Desmond Manderson
This book launch was a joint initiative of Melbourne Law School, IILAH, CREEL, Faculty of Arts and the Graduate School of Humanities and Social Science.
Research Visitors

The following visitors spent time in the Centre for Resources, Energy and Environmental Law as part of the Law School’s Research Visitors program:

- Dr Bettina Lange (Oxford University)
- Rebecca Nelson (Stanford University)
- Professor Juanita Pienaar (Faculty of Law, Stellenbosch University)

External Conference and Seminar Presentations


Lee Godden, ‘Development of Sustainable Energy Laws in Australia’, The University of Chile.


Lee Godden, ‘How Do Indigenous and Local Community Rights Interact with Climate Change Governance of Forest Resources?’ School of Social Sciences, University of Malaya, Sabah, Malaysia.


Lee Godden, Stephanie Niall, Rachel Carter (LaTrobe University) and Lisa Caripis, ‘Scoping Legal, Regulatory and Institutional Frameworks for Disaster Risk Management and Adaptation’, *Annual VCCCAR Forum*.


Hari Osofsky and Jacqueline Peel, ‘Climate Change Litigation and Regulatory Pathways’, Workshop on Climate Change Litigation, Policy and Mobilization, British Academy, London.

Jacqueline Peel, ‘Quality of Indigenous Teaching’, Murrup Barak Institute Associates Forum, Melbourne (with members of Academic Women In Leadership project group)

Jacqueline Peel, Presentation, as Acting Rapporteur, of the Second Report of the Committee on Legal Principles relating to Climate Change, International Law Association’s biannual meeting in Sofia, Bulgaria.


Maureen Tehan, ‘The Politics of Citizenship in the Age of Human Rights: An International Research Workshop’, convened by Professor Anna Yeatman, Whitlam Institute, University of Western Sydney; invited commentator and responder.

Margaret Young attended International Law in a Multipolar World, American Society of International Law, Washington DC.

Graduate Research Student Presentations


Julia Dehm, chaired the seminar ‘Reflections on Rio +20: What Role for ‘Green Growth’ and ‘Earth Summitry’ in Environmental Justice?’.  

Melkamu Moges, ‘Land Titling Legislations of Ethiopia and Australia: A Brief Comparison’, Australian National University, College of Law, National Graduate Law Conference, Canberra.


Hao Zhang, Institutional Setting-ups of Climate Change Governance in China: Central Vision, Local Constraints and Tensions Identified. Climate Change Governance in the Asia-Pacific Region: Agency and Adaptiveness, Australian National University, Canberra, Australia.

Knowledge Transfer and Exchange

Jacqueline Peel, an expert member of the International Law Association’s Committee on the Legal Principles of Climate Change. 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. Jacqueline was responsible for drafting sections of the report on the principles of precaution and sustainable development/integration.

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


Government and Law Reform Submissions


Kallies, A, ‘Submission to the Select Committee on Electricity Pricing’.


Tehan, M, ‘Submission on Exposure Draft: Native Title Amendment Bill’.
The Civil Justice Research Group brings together scholars, judges, practitioners and others interested in discussing law and policy, identifying opportunities for change and initiating reforms. The work of the Group informs the teaching of civil justice subjects in LLB, JD and MLM programmes at Melbourne Law School. The Civil Justice Research Group is committed to the exchange of knowledge among academic and other communities, and collaborates with judges, lawyers, policymakers and law reform agencies in its teaching and research activities.

**People**

In 2012, the Civil Justice Research Group Director was Mr Gary Cazalet; his Deputy Directors were Dr Linda Haller and Dr Michelle Taylor-Sands. The Group’s internal membership was as follows:

- Professor David Studdert
- Dr Jacqueline Horan
- Mr Matthew Bell
- Mr Andrew Roberts
- Professor Camille Cameron
- Dr Genevieve Grant

Visiting academics researching or teaching in the Civil Justice fields are welcome to be associated with the Group and participate in its range of activities.
Research and Teaching

Members of the Civil Justice Research Group research across many areas of civil justice, including public interest law, legal ethics and regulation, litigant codes of conduct, and civil justice reform. Research outcomes are disseminated publicly through publications, seminars and conferences and through the teaching program.

The teaching subjects include:

- Dispute Resolution
- Civil Litigation
- Legal Ethics
- Contracts
- Civil Practice and Procedures

Events

The Civil Justice Research Group hosted the following events in 2012:

- Roundtable - The Impact of Australian Consumer Law on Lawyers – various speakers.
- Seminar - Case Management in Mega-Litigation - the UK Experience - Carla Crifò, University of Leicester.

Engagement Activities and Events

The Civil Justice Research Group members organise a range of activities and events and also contribute to a variety of bodies, committees and associations in Australia and abroad concerned with the advancement of civil justice. These events are intended for a wide audience, including practitioners, academics, and graduate students interested in these topics. Over the course of 2012, these comprised a lunch seminar and a roundtable event. The group also spent time preparing for a Civil Justice conference that took place at the Law School in February 2013.
The Electoral Regulation Research Network was formally established in March this year with the aim of fostering exchange and discussion on research relating to electoral regulation. The Network – a collaborative project between the New South Wales Electoral Commission, the Victorian Electoral Commission and Melbourne Law School – is an Australian-first and has no equivalent in Canada, New Zealand, the United Kingdom or the United States.

The inaugural Director of the Network is Associate Professor Joo-Cheong Tham of Melbourne Law School. The Administrator of the Network is Jean Goh and the following are the convenors of the Network:

- **New South Wales**: Dr Anika Gauja (Department of Government and International Relations, Sydney University) and Dr Paul Kildea (Gilbert & Tobin Centre for Public Law, University of New South Wales)
- **Queensland**: Dr Ron Levy (Law School, Griffith University) and Dr Zim Nwokora (Centre for Governance and Public Policy, Griffith University)
- **South Australia**: Dr Jenni Newton-Farrelly (South Australian Parliamentary Library) and Associate Professor Haydon Manning (Department of Politics and Public Policy, Flinders University);
- **Victoria**: Ms Judy Birkenhead (Electoral Council of Australia; Australian Electoral Commission), Professor Brian Costar (Institute for Social Research, Swinburne University) and Mr Paul Thornton-Smith (Victorian Electoral Commission)
- **Australian Capital Territory**: Dr Dominique Dalla-Pozza (College of Law, Australian National University), Mr Michael Maley (formerly of the Australian Electoral Commission) and Professor John Uhr (School of Politics and International Relations, Australian National University).

It has been an energetic first year for the Network. 16 events have been held across the country under the auspices of the Network. These have dealt with a wide and diverse range of topics relating to electoral regulation from youth electoral participation to integrity in government. Domestic as well as international perspectives have been brought to bear on these topics. The Network’s seminars are forums where parliamentarians, electoral commission officials, academics and other interested persons and groups could engage in robust discussion of issues related to electoral law, issues that are often controversial. They have also been a vehicle for collaboration with other organisations including electoral commissions and non-government organisations.
**Events**

**Conference**

Free Public Search Conference: Integrity in Government - A Work in Progress

The Search Conference intentions were to engage a new generation of contributors - especially women scholars and practitioners - in this ongoing discussion about the robustness of Australia’s Parliamentary democracy and national integrity system.

The Search Conference was hosted by Professor John Uhr (Australian National University), Dr Meredith Edwards and Mr Howard Whitton (ANZSOG Institute for Governance, University of Canberra), Professor Scott Prasser (Australian Catholic University), Ms Alexandra Mills (Probity Consultant, formerly ICAC NSW), Mr Michael Ahrens (Transparency International Australia), Associate Professor Joo Cheong Tham (ERRN/Melbourne Law School), and The Hon Tim Smith QC (The Accountability Roundtable).

**Victoria**

- ERRN (VIC) Seminar: Drawing Lines Without Drawing Blood: Redistricting Institutions and Criteria in America and Australia
- ERRN (VIC) & CCCS Seminar: Party Political Funding in NSW (and Beyond?) - Can Human Rights be Deployed to Resist Dogmatic Liberalism’s Intolerance of Pluralistic Party Structures?

**New South Wales**

- ERRN (NSW) Forum: NSW Electoral Funding Legislation: A Blow For or Against Democracy?
- ERRN (NSW) & The University of Sydney Forum: The Constitutionality of Compulsory Voting: The Implications of Holmdahl for Australian Democracy
- ERRN (NSW) Symposium: Beyond YES/NO: Ideas for Engaging Ordinary Citizens in Constitutional Referendums
- ERRN (NSW) Seminar: Democratic or Draconian? Recent Reforms to Political Funding in NSW
Electoral Regulation Research Network

Queensland

- ERRN (QLD) Seminar: Drawing Lines Without Drawing Blood: Redistricting Institutions and Criteria in America and Australia
- ERRN(QLD) Seminar: Participation or Stagnation? Parties and Participation in the US and Australia

Australian Capital City (ACT)

- ERRN (ACT) and the Accountability Round Table: Lobbying: Regulation in an Evolving Environment

South Australia

- ERRN (SA) Meeting: South Australia, Returning Officers and the Talented Mr Boothby
- ERRN (SA) Seminar: Spotlight on our Electoral Acts

The Network has begun a working paper series with Dr Aaron Martin (School of Social and Political Science, University of Melbourne) as the editor of the series.

Six working papers were published in 2012:

- The Victorian Independent Broad-based Anti-Corruption Commission (IBAC): A Toothless Tiger?
- Research and Electoral Regulation
- Issues for Electoral Regulators
- The Fairness Clause in South Australia
- Ministerial Advisers: Influences on the Executive and Accountability Mechanisms
- Fair Enough? Redistributions in Australia
The Network also commenced publishing its bi-annual newsletters in 2012. Building on the success of the Democratic Audit of Australia’s efforts, the purposes of these newsletters are twofold: to provide an overview of the state of both research and practice in the field of electoral regulation across the Commonwealth, States and Territories; and to report on the activities of the Network. Each edition will provide an update on legislative reforms, parliamentary inquiries, court decisions and important publications relevant to the field, including the Network’s working papers series. The newsletter will also provide a schedule of events staged by the Network, and report on those that have occurred. The general editor of the newsletters is Mr Rob Hoffman and the legal editor is Mr Ben Saunders.
Institute for International Law and the Humanities

Dedicated to integrating the study of international law with contemporary approaches to the humanities, the Institute for International Law and 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 the leading institutions for international legal scholarship in the world.

IILAH Aims and Objectives

IILAH supports interdisciplinary scholarship on contemporary 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, criminology, cultural studies, gender 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 from Canada, Colombia, Egypt, Finland, France, India, Italy, New Zealand, South Africa, Sweden, the United Kingdom and the United States. IILAH has a particular interest in 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

“IILAH continues to be a dynamic and supportive focal point for a broad cross-section of international law’s community of scholars, and their engagement with the humanities, providing a hub for intellectual exchange and challenge, and a space for visitors and graduate students to enjoy productive conversations about both critical legal theory and its practices.”

Professor Di Otto
IILAH Director
interdisciplinary research projects within the University of Melbourne, as well as nationally and internationally.

**IILAH Research Programs**

The activities of the Institute in 2012 were organised around eleven key research programs with fourteen program directors. The programs build on the breadth of research expertise and interest amongst the faculty at Melbourne Law School, and covers areas of dynamic development and change in the fields of international and transnational law.

**Australian Legal Histories**  
*Program Director: Dr Ann Genovese*

**Fragmentation and Regime Interaction in International Law**  
*Program Director: Associate Professor Margaret Young*

**Global Trade**  
*Program Directors: Professor Andrew Mitchell and Associate Professor Tania Voon*

**Indigenous Peoples in International and Comparative Law**  
*Program Directors: Dr Kirsty Gover and Dr Mark McMillan*

**International Criminal Justice**  
*Program Director: Associate Professor Peter Rush*

**International Environmental Law**  
*Program Director: Associate Professor Jacqueline Peel*

**International Human Rights Law**  
*Program Directors: Professor Dianne Otto and Associate Professor John Tobin*

**International Investment Law**  
*Program Director: Associate Professor Jürgen Kurtz*

**International Refugee Law**  
*Program Director: Associate Professor Michelle Foster*

**Jurisprudences of the South**  
*Program Director: Associate Professor Shaun McVeigh*

**Law and Development**  
*Program Director: Professor Sundhya Pahuja*

**IILAH Research Activities**

**Visitors**

IILAH hosted a wide range of visitors, including:

- Professor Jessie Allen (University of Pittsburgh)
- Professor Tony Anghie (University of Utah)
- Professor Asma Barlas (Ithaca College, New York)
- Dr Leila Brännström (University of Lund)
- Dr Tomer Broude (Hebrew University of Jerusalem)
- Professor Matthew Craven (SOAS, University of London)
• Professor Megan Davis (University of New South Wales)
• Professor Catherine Dauvergne  (University of British Columbia)
• Dr Adriana Di Stefano (University of Catania)
• Dr Catriona Drew (SOAS, University of London)
• Professor David L Eng (University of Pennsylvania)
• Professor Karen Engle (University of Texas)
• Professor Didier Fassin (Institute for Advanced Study, Princeton/ École des hautes études en sciences sociales, Paris)
• Rodger Haines QC (University of Auckland)
• Professor James Hathaway (University of Michigan)
• Ms Caroline Henckels (University of Cambridge)
• Dr Constantin Hruschka (Legal Advisor, UNHCR, Geneva)
• Ms Valerie Hughes (Legal Affairs Division, WTO Secretariat)
• Professor Desmond Manderson (Australian National University)
• Professor Penelope Mathews (Australian National University)
• Dr Ivana Radačić (Ivo Pilar Institute of Social Sciences, Croatia)
• Professor August Reinisch (University of Vienna)
• Professor Teemu Ruskola (Emory University)
• Dr Levent Sabanogullari (Max Planck Institute for Comparative Public Law & Public International Law)
• Professor Giorgio Sacerdoti (Bocconi University)

• Mr Antony Taubman (World Trade Organization)

Events

IILAH continued its commitment to engaging in collaborations with scholars and activists within and beyond Melbourne Law School.

IILAH Symposia

Turning Points: Remembering ‘Koowarta v Bjelke-Petersen’ (1982) 153 CLR 16 (Convenor: Dr Ann Genovese)

The Trans-Pacific Partnership Agreement: Issues and Implications (Convenor: Associate Professor Tania Voon)

China and the Human: Law, Immigration, Queerness and Other Related Conversation with Professors David L Eng (University of Pennsylvania) and Teemu Ruskola (Emory University) (Convenor: Professor Dianne Otto)

Expert Workshop

IILAH Workshop, The Law of Refugee Status (Convenor: Associate Professor Michelle Foster)

Workshop participants included: Professor Catherine Dauvergne (UBC, Canada); Professor Marjoleine Zieck (University of Amsterdam); Professor Penelope
Mathew (Australia National University); Rodger Haines QC (formerly Deputy Chairperson of the New Zealand Refugee Status Appeals Authority); Dr Constantin Hruschka (UNHCR Geneva); and Mr Jason Pobjoy (PhD Student, Cambridge).

Public Lectures

The Universal Declaration of Human Rights of 1948 in the History of Cosmopolitanism

presented by Professor Sam Moyne (Columbia University)
(Convenors: Associate Professor Alison Duxbury (MLS) and Dr Barbara Keys (History))

This Public Lecture jointly hosted by the Institute for International Law and the Humanities (IILAH) at Melbourne Law School and the School of Historical and Philosophical Studies (SHAPS) and kindly supported by MacGeorge Bequest.

Image and Methodology in Legal Thinking: Scopic Regimes of Sovereignty in the Photography of War

presented by Professor Desmond Manderson (Australian National University)
(Convenors: Ms Julia Dehm, Mr Marc Trabsky and Mr Timothy Neale)

This keynote was jointly hosted by IILAH and the Graduate Researchers Association of Melbourne Law School’s Melbourne Doctoral Forum on Legal Theory.

Research Seminars

Tobacco Plain Packaging Legislation, International Investment Law, and Protecting Public Health: An Assessment of the Philip Morris vs Australia Claim

presented by Ms Caroline Henckels (University of Cambridge)
(Convenors: Professor Andrew Mitchell (MLS), Associate Professor Tania Voon (MLS) and Dr Jonathan Liberman (McCabe Centre for Law and Cancer))

This seminar was co-hosted by IILAH, Melbourne Law School and the Cancer Council of Victoria.

The WTO and International Investment Law: From Separation to Engagement

presented by Dr Tomer Broude (Hebrew University of Jerusalem) and Professor Giorgio Sacerdoti (Bocconi University)
(Convenor: Associate Professor Jürgen Kurtz)

Transnational Judicial Conversations on the Privileges and Immunities of International Organisations

presented by Professor August Reinisch (University of Vienna)
(Convenor: Associate Professor Jürgen Kurtz)

Governor Arthur’s Proclamation: Art, Power, and the Rule of Law

presented by Professor Desmond Manderson (Australian National University)
(Convenor: Associate Professor Shaun McVeigh)
Political Sovereignty and the Dual Character of Law: Juridification Through the Lens of Foucault’s Analysis of Arts of Government

presented by Dr Leila Brännström (University of Lund)

(Convenor: Professor Anne Orford)

International Human Rights Law and Women’s Empowerment: Recent Developments on Violence against Women and Domestic Violence in Europe

presented by Dr Adriana Di Stefano (University of Catania)

(Convenor: Professor Dianne Otto)

TRIPS on the Web: An Analogue Treaty in a Digital Age, or the First Trade 2.0 Agreement?

presented by Mr Antony Taubman (World Trade Organization)

(Convenor: Associate Professor Tania Voon)

This Public Seminar was co-hosted by IILAH and the Intellectual Property Research Institute of Australia (IPRIA).

The Elusive Promise of Ethnodevelopment

presented by Professor Karen Engle (University of Texas)

(Convenors: Dr Kirsty Gover, Dr Mark McMillan and Professor Dianne Otto)

‘Two States for Two Peoples’: Self-determination, Population Transfer and the Palestine Papers

presented by Dr Catriona Drew (SOAS, University of London)

(Convenors: Professor Dianne Otto and Professor Gerry Simpson)

This seminar was jointly hosted by IILAH and the Asia Pacific Centre for Military Law (APCML).

Islamic Law, Scripture, and Women’s Rights

presented by Professor Asma Barlas (Ithaca College, New York)

(Convenor: Professor Raimond Gaita)

Reflections on Rio +20: What Role for ‘Green Growth’ and ‘Earth Summity’ in Environmental Justice?

presented by Mr Jeremy Baskin (La Trobe University)

(Convenor: Ms Julia Dehm)

The WTO Dispute Settlement System – What Does the Future Hold?

presented by Ms Valerie Hughes (Legal Affairs Division, WTO Secretariat)

(Convenor: Associate Professor Tania Voon)
Precarious Work and the Fragmentation of International Labour Law
*presented by Professor Kerry Rittich (University of Toronto)*
*(Convenor: Professor Dianne Otto and Dr Anna Chapman)*
This seminar was co-hosted by IILAH and the Centre for Employment and Labour Relations Law (CELRL).

War Crimes, Human Rights, Media Freedom & International Responsibility, at which the Award Winning Documentary “Silenced Voices: Tales of Sri Lankan Journalist in Exile” was screened.
*Director Beate Arnestead (Norwegian journalist) participated in a panel discussion, following the screening.*
*(Convenor: Associate Professor John Tobin)*
This public forum was co-hosted by the Human Rights Law Resource Centre, Medical Associations for the Prevention of War, the Australian Tamil Congress, and IILAH.

Rethinking Croatian Rape Laws: Force, Consent and the ‘Contribution of the Victim’
*presented by Dr Ivana Radačić (Ivo Pilar Institute of Social Sciences in Zagreb, Croatia)*
*(Convenor: Professor Dianne Otto)*

Policing the Projects: An Ethnography of State Violence
*presented by Professor Didier Fassin (Institute for Advanced Study, Princeton/École des hautes études en sciences sociales, Paris)*
*(Convenor: Professor Anne Orford)*

Theatre of International Justice
*presented by Professor Jessie Allen (University of Pittsburgh)*
*(Convenor: Associate Professor Peter Rush)*

Conversations

‘In Conversation’ with Professor Megan Davis (University of New South Wales) – Dr Mark McMillan, Mr Darren Parker and Ms Robin Robinson
*(Convenor: Professor Dianne Otto)*
This Conversation was jointly supported and organised by IILAH, the Melbourne Social Equity Institute and the Murrup Barak Melbourne Institute for Indigenous Development.
Institute for International Law and the Humanities

Melbourne Doctoral Forum

‘Grounding Law’, Melbourne Law School
(Convenors: Ms Julia Dehm, Mr Marc Trabsky and Mr Timothy Neale)

The fifth annual Melbourne Doctoral Forum on Legal Theory was organised by the Graduate Researchers Association supported by IILAH, the Centre for Resources, Energy and Environmental Law (CREEL), Melbourne Law School and the Graduate School of Humanities and Social Science. It brought together graduate research degree research students and early career researchers, in different disciplines and across diverse fields of scholarship, engage with law and its theoretical and methodological questions.

IILAH Doctoral Roundtables

Doctoral Roundtable with Professor Matthew Craven (SOAS, University of London)
(Convenor: Professor Sundhya Pahuja)

IILAH and APCML Master Class with Professor Tony Anghie (University of Utah)
(Convenor: Professor Sundhya Pahuja)

IILAH PhD Completion Seminars

Public Interest Amicus Curiae in WTO Dispute Settlement: Contesting Global Market Governance?
presented by Ms Nicola Charwat
(Supervisor: Professor Dianne Otto)

Local Space, Global Life: The Everyday Operation of International Law and Development
presented by Mr Luis Eslava
(Supervisors: Professor Anne Orford and Associate Professor Shaun McVeigh)

Power in Transformation: Christmas Island, Border Security, Governance,
presented by Mr Peter Chambers
(Supervisors: Associate Professor Peter Rush and Professor Nikos Papastergiadis)

Acoustic Jurisprudence
presented by Mr James Parker
(Supervisors: Professor Andrew Kenyon and Associate Professor Shaun McVeigh)
Book Launches

Trading Fish, Saving Fish: The Interaction between Regimes in International Law (Cambridge University Press, 2011) by Associate Professor Margaret Young launched by Professor James Crawford, Whewell Professor of International Law, University of Cambridge
(Convenors: Professor Anne Orford and Professor Lee Godden)
IILAH and the Centre for Resources, Energy and Environmental Law (CREEL) co-hosted the launch.

Kangaroo Courts and the Rule of Law - The Legacy of Modernism (Routledge, 2012) by Desmond Manderson
launched by Associate Professor Peter Rush
(Convenors: Ms Julia Dehm, Mr Marc Trabsky and Mr Timothy Neale)
This book launch was jointly hosted by IILAH and the Graduate Researchers Association of the Melbourne Doctoral Forum on Legal Theory.

International Conversations Series

The first in the series was organised jointly by IILAH, the Global Justice Studio (MLS) and Readings Bookshop (Carlton).

Professor Gerry Simpson In Conversation with Associate Professor Margaret Young about her book Regime Interaction in International Law: Facing Fragmentation (Cambridge University Press, 2012)

In Conversation with Associate Professor Jacqueline Peel about her book Principles of International Environmental Law (Cambridge University Press, 2012)
This book launch was jointly hosted by IILAH and CREEL of the Melbourne Law School. The panel consisted of Sam Johnston (United Nations University), Fergus Green (Chairman of Centre for Sustainability Leadership), Alice Palmer (Senior Fellow with the Melbourne Law Masters and Law Institute of Victoria) and David Morgan (Department of Foreign Affairs and Trade (DFAT)).
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 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 2012 were Associate Professor Kwanghui Lim (MBS) and Dr Chris Dent (MLS).

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
- Testing Trade Mark Law’s Image of the Consumer

Selected Events

Seminars

- N. Gane, J. Stanton, D. Lindsay, ‘Village Roadshow vs iiNet: The Decision and its Ramifications for Copyright Owners and ISPs’, IPRIA/CMCL Public Seminar, presented in Melbourne.
• The Hon. P. Heerey, the Honorable Judge M. Garbis, ‘Apple vs Samsung: What are the Appropriate Criteria for the Grant of Interlocutory Injunctions in Patent Cases?’, IPRIA/IPTA/UTAS Public Seminar, presented in Melbourne, Hobart, Sydney, Brisbane.


• A. John, S. Marshall, J. Downes, ‘What is Government’s Role in Regulating and Fostering Socially Responsible Behaviour from Australian Companies?’, IPRIA/MBS Public Seminar, presented in Melbourne.

• A. Taubman, ‘TRIPS on the Web: An Analogue Treaty in the Digital Age, or the First Trade 2.0 Agreement?’, IPRIA and IILAH Public Seminar, presented in Melbourne.

Selected Conference Presentations

• Dent, C, ‘Qualitative Empirical Research Methods and their Application to Restraint of Trade Clauses’, delivered at Mobility and Competition Clause Workshop, LMU, December 2012, Munich, Germany.


Reports and Submissions


• Submission to Australian Law Reform Commission – Copyright and the Digital Economy; Response to Issues Paper

• Submission to IP Australia – Innovation Patents: Raising the Step; Response to Consultation Paper

• Submission to Department of Treasury and Finance – Whole of Victorian Government Intellectual Property Policy: Draft Guidelines
The Obligations Group at Melbourne Law School supports research and scholarly discourse on the law of obligations, which includes the law of contract, tort, unjust enrichment and restitution, equity and trusts, property, remedies and private law theory.

People

In 2012, the Obligations Group Directors were Professor Andrew Robertson and Associate Professor Elise Bant.

The Group’s internal membership is as follows:

- Emeritus Professor Michael Bryan
- Professor Ian Ramsay
- Professor Ian Malkin
- Associate Professor Matthew Harding
- Dr Katy Barnett
- Dr Jeannie Paterson
- Dr Linda Haller
- Mr Arlen Duke
- Mr Andrew Godwin
- Mr Matthew Bell

Visiting academics researching or teaching in the Obligations fields are welcome to be associated with the Group and participate in its range of activities.
Research and Teaching

The Obligations Group members produce a substantial number and range of publications each year. A selection of their most recent publications is available on the Obligations website. Members draw on their research also to contribute to public debate on topical issues arising in this field.

The areas of teaching and research are:
- Consumer Law
- Contract Law
- Equity and Trusts
- Private Law Theory
- Property
- Remedies
- Tort
- Unjust Enrichment and Restitution

Engagement Activities and Events

The Obligations Group members organise a range of activities and events and also contribute to a variety of bodies, committees and associations in Australia and abroad concerned with the advancement of Private Law. These events are intended for a wide audience, including practitioners, academics, and graduate students interested in these topics. Over the course of 2012, these have included: a lunchtime seminar series, evening lectures, workshops and conferences.

The Obligations Group hosted a range of events in 2012 as follows:

- Seminar: Rick Bigwood, Bond University, Queensland – ‘When Fairness Turns Bad: Reflections on the BCLI Report on Proposals for Unfair Contracts in British Columbia’
- Workshop & Seminar: Obligations Group members met to discuss a paper in preparation for the 2012 international Obligations Group conference, followed by a seminar led by David McLauchlan, Victoria University of Wellington – ‘The Entire Agreement Clause: Conclusive or a Question of Weight?’
- Lecture: William Swadling, Reader in the Law of Property at the University of Oxford and a Fellow of Brasenose College, Oxford – ‘Constructive Trusts and Breaches of Fiduciary Duty’
- Workshop: A comprehensive workshop event to discuss papers in the area of Equity.
- Conference Unjust Enrichment – a one-day conference the aim being to provide Australian and New Zealand scholars with the opportunity to present work in progress and to discuss research, publication and teaching issues in the Unjust Enrichment field in a collegial and supportive environment.
The Tax Group is a focal point for excellence in tax research and education. It brings together full-time academic faculty and leading members of professional firms, the judiciary and of the Tax Bar to carry out scholarly research into tax law and policy; teach a large and diverse program of tax subjects in the Melbourne Law Masters degree, JD and University Breadth programs; and engage with government, the profession and wider community on tax law and policy.

Management and Staff

In 2012, the Director of the Tax Group and Tax Studies was Professor Miranda Stewart and Ms Tessa Dermody was the Coordinator. Dr Joyce Chia was Research Fellow on the Not for Profit research project.

Research Projects and Grants

Oxford-Melbourne Research on Anti-Avoidance and Sham

Tax Group members have benefited greatly from research funding from Mr Allan Myers QC AO, obtaining two Oxford-Melbourne collaborative research grants in recent years.

Ann O’Connell continued her project with Professor Judith Freedman of Oxford University Faculty of Law, on the project “A Comparative Analysis of Anti-Avoidance Rules in Australia and the United Kingdom.” A conference was held in the UK in February 2012. Ann was an invited member of the Treasury Working Group on the General Anti-Avoidance Rule during 2012.
Miranda Stewart and Edwin Simpson of Oxford University Faculty of Law and Christ Church College, finished their collaborative funded project on the “Sham and Anti-Abuse in the Common Law,” and are working on an edited volume, Sham Transactions, with Oxford University Press (forthcoming).

**International Tax**

Associate Professor Dr Mike Kobetsky continues his active research on the attribution of profits to branches of international enterprises under the OECD and United Nations Model Tax Conventions. Senior Lecturer Sunita Jogarajan continued work on her PhD on the origins and history of tax treaties, publishing an article in leading journal the British Tax Review.

Ann O’Connell commenced 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.

**Tax Expenditures**

Mark Burton completed his joint book project on Tax Expenditure Management: A Critical Assessment (Cambridge University Press) with Professor Kerrie Sadiq of the Queensland University of Technology.

**Tax and Development**

Miranda Stewart continued research on tax, development and globalisation. She worked on a major ARC Linkage interdisciplinary project on indigenous economic development, tax and regulation led by Professor Marcia Langton and including colleagues Professor Lee Godden and Associate Professor Maureen Tehan. Miranda co-supervises PhD candidate Lily O’Neill in connection with this project. Miranda also finalized a jointly edited book with Professor Yariv Brauner, Florida University Levin College of Law, Tax, Law and Development (Edward Elgar), with contributions from the US, Canada, Brazil, China, South Africa, Australia, and the European Union including her work on global tax information.

**Defining, Regulating and Taxing the Not-for-Profit Sector in Australia**

Ann O’Connell and Miranda Stewart with Associate Professor Matthew Harding continued research in relation to the not for profit sector, funded by an ARC Discovery Grant. This research project has had a direct impact on current reforms of the tax and regulation of the sector. Contributions to a major international scholarly conference in 2012 are to be published in an edited volume on Not for Profit Law and Policy with Cambridge University Press in 2013.
Tax Group

Seminars, Workshops and Conferences

Melbourne Law School Annual Tax Lecture

In 2012, the Annual Tax Lecture was presented by the Hon Justice Michelle Gordon of the Federal Court of Australia, entitled “The Commonwealth’s Taxing Power and its Limits – Are We There Yet?”. The Annual Tax Lecture 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.

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 High Court of Australia, Professor John Tiley of the University of Cambridge, and Professor David Rosenbloom of New York University of Law.

Workshops and Conferences in 2012

• The Doctrine of Sham in the Common Law, Tax Group and Obligations Group seminar
• International Fiscal Association, Joint Seminar Series
• Tax Discussion Group, monthly, chaired in 2012 by the Hon Justice Tony Pagone, provides a forum for permanent and adjunct faculty to discuss research and tax law developments

Engagement and Knowledge Transfer

Tax faculty participate in peak professional bodies, in which they play a role in the development of tax law and policy.

Mark Burton provides external analysis of Australian Tax Office audit and interpretive practice on a consultancy basis. Mark also consulted with the Australian National Audit Office with respect to its follow-up audit of Australian Treasury’s management of Australian tax expenditures. 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. Sunita Jogarajan presented to Treasury on multilateral tax treaties and to various Chinese tax officials on Australian tax administration and collection. 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. Both Ann and Miranda sat on the Treasury Not for Profits Tax Concession Working Group in 2012.
Visitors

In 2012, the Tax Group hosted eminent tax scholars from around the world to teach in the Melbourne Law Masters program, carry out collaborative research and present seminars:

- Professor Michael Devereux (Oxford Centre for Business Taxation) United Kingdom
- Mr Edwin Simpson (Oxford University Faculty of Law and Christ Church College, United Kingdom)
- Associate Professor Wei Cui (China University of Political Science and Law, China)
- Professor Yariv Brauner (Levin College of Law, Florida University, United States)
- Dr Peter Harris (University of Cambridge, United Kingdom)
- Professor Lisa Philipps (Osgoode Hall Law School, Canada)
- Professor David Duff (UBC School of Law, Canada)
- Professor Brian Arnold (Canadian Tax Foundation, Canada)
Journals and Newsletters

- Australian Journal of Labour Law
- Company and Securities Law Journal
- Media & Arts Law Review
- Melbourne Journal of International Law
- Melbourne University Law Review
- Melbourne Legal Studies
- Australian Journal of Asian Law
- Public Law Review
- Torts Law Journal
Faculty Edited Journals and Newsletters in 2012

**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 serve both the academic community and 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.

*Editors of the Journal are:*
Anna Chapman - *University of Melbourne*
Richard Johnstone - *Griffith University*
Andrew Stewart - *University of Adelaide*

*Associate Editor:*
Tess Hardy - *University of Melbourne*


**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 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

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 2012 editions: Martin Clark, Nuwan Dias and Eamonn Kelly.

Website: http://mjil.law.unimelb.edu.au
Faculty Edited Journals and Newsletters in 2012

Melbourne University Law Review

The Melbourne University Law Review is a refereed academic journal that publishes articles on all areas of law, from constitutional to international, jurisprudence and tax.

The Review’s Australian Guide to Legal Citation (formerly known as the Style Guide) provides the benchmark for student essays and academic papers in the Law School. It is the standard for the Review itself, as well as many other Australian and overseas legal journals.

Editors of the Review in 2012: Thomas Bland, Natalie Burgess and Christopher Loo.

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

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 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 as Assistant Editor to assist with the Review, including the compilation of recent developments.

Email: law-cccs@law.unimelb.edu.au
Social Science Research Network (SSRN)

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.


Australian Journal of Asian Law

The *Australian Journal of Asian Law* (AJAL) is a joint initiative of the members of the ALC and the Law Faculty of the Australian National University, with support and advice from Australian and international colleagues.

The AJAL is a forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia. It aims for recognition as a leading medium for scholarly and professional discourse in a region characterised by rapid growth and social change.

The journal was initially available in hardcopy, published by Federation Press. From issue 13(1) in 2012, the AJAL has been freely available in electronic form through SSRN.

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.
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BA Melb LLB Melb DPhil Oxon

Zelman Cowen Professor of Law
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BA Qld LLB Qld LLM UBC PhD UBC

Australian Red Cross Professor of International Humanitarian Law
Timothy McCormack
LLB Tas PhD Monash

Australian Research Council Laureate Fellows
David Studdert
BA Melb LLB Melb ScD Harvard MPH Harvard

Kenneth Bailey Professor of International Law
Gerry Simpson
LLB Aber DLP Aber LLM UBC MA Aber LLM Mich PhD Mich

Australian Research Council Future Fellow
Anne Orford
BA Qld LLB Qld LLM Lond PhD Adel

Davies Collison Cave Professor of Intellectual Property
Andrew Christie
BSc Melb LLB Melb LLM Lond PhD Cantab

Professors
Graeme Austin
BA VUW LLB VUW LLM VUW LLB Col JSD Col

Harold Ford Professor of Commercial Law
Ian Ramsay
BA Macq LLB Macq LLM Harv

Caron Beaton-Wells
LLB Melb LLM Melb PhD Melb

Laureate Professor
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BA Melb LLB Melb PhD Melb

Simon Evans
BSc Syd LLB Syd PhD Cantab

Belinda Fehlberg
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Richard Garnett  
BA NSW LLB NSW LLM Harv

Lee Godden  
GradDipEd Melb BLegS Macqu BA Melb MA Melb PhD Griff

Andrew Kenyon  
LLB Melb LLM Lond PhD Melb

Timothy Lindsey  
BA Melb BLitt Melb LLB Melb PhD Melb

Ian Malkin  
BA Manit LLB Manit LLM Lond

Andrew Mitchell  
LLB Melb BComm Melb LLM Harv Grad Dip Intl L Melb PhD Cantab

Jenny Morgan  
BA Syd LLB NSW LLM Yale

Pip Nicholson  
BA Melb LLB Melb LLM (Public Policy) ANU PhD Melb

Ann O’Connell  
BA Melb LLB Melb LLM Melb

Dianne Otto  
BA Adel LLB Melb LLM Melb Col JSD Col

Sundhya Pahuja  
BA Melb LLB Melb LLM UBC PhD Lond

Jacqueline Peel  
BSc Qld LLB Qld LLM NYU PhD Melb

Helen Rhoades  
LLB Melb LLM Melb

Megan Richardson  
BA Well LLB Well LLM Yale LLM Brussels

Sam Ricketson  
BA Melb LLB Melb LLM Lond LLD Lond FASSA

Andrew Robertson  
LLB QIT LLM QUT PhD ANU

Loane Skene  
LLB Melb LLM Monash LLD Melb

Miranda Stewart  
BSc Syd LLB Syd Grad Dip ANU LLM NYU

Adrienne Stone  
BA NSW LLB NSW LLM Col JSD Col
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**Associate Professors and Readers**

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BA Melb LLB Melb LLM Cantab PhD Melb

**Colin Fenwick**
BA Melb LLB Melb LLM Melb LLM Virginia

**Michelle Foster**
BComm UNSW LLB UNSW LLM Mich SJD Mich

**Jeremy Gans**
LLB ANU BSc ANU MA Tor PhD NSW

**Beth Gaze**
B Sc Melb LLB Monash LLM Berkeley PhD Monash

**Pamela Hanrahan**
BA Melb LLB Melb LLM Case Western Reserve University SJD Melb

**Matthew Harding**
BA Melb LLB Melb BCL Oxon DPhil Oxon

**John Howe**
BA Monash LLB Monash LLM Temple PhD Melb

**Cally Jordan**
BA Carleton MA Tor LLB McGill BCL McGill DEA Paris I

**Michael Kobetsky**
B Econ USyd LLB Tas LLM Lond PhD Deakin

**Associate Professors**

**Sarah Biddulph**
BA Syd LLB Syd PhD Melb

**Michael Lambiris**
LLB Lond PhD Rhodes

**Martin Vranken**
LicLaw Leuven PhD Leuven LLM Yale

**Associate Professors**

**Paul Ali**
LLB Auck MJur Auck SJD Syd

**Helen Anderson**
LLB Melb Grad Dip Bus (Acc) Monash LLM Monash PhD Monash

**Elise Bant**
BA LLB UWA BCL DPhil Oxon

**David Brennan**
BComm Melb LLB Melb PhD Melb

**Mark Burton**
LLB UTas PhD ANU

**Sean Cooney**
BA Melb LLB Melb LLM Melb LLM Col JSD Col
Jürgen Kurtz  
BA Melb LLB Melb LLM Melb Mich SJD Mich

Shaun McVeigh  
LLB Exe

Bruce Oswald CSC  
BBus RMIT LLB ANU LLM Lond MA Kent PhD Melb

Andrew Palmer  
BA Well LLB Monash BCL Oxon

Peter Rush  
BA NSW LLB NSW MPhil Cantab PhD Edin

Maureen Tehan  
LLB Monash BA Melb LLM Melb

Joo-Cheong Tham  
LLB Melb LLM Melb PhD Melb

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

Margaret Young  
BA Melb LLB Melb LLM Cant PhD Cantab

Senior Lecturers  
Farrah Ahmed  
LLB Delhi BCL Oxon MPhil Oxon DPhil Oxon

Jenny Beard  
PhD Melb

Matthew Bell  
BA Melb LLB Melb MConstrLaw Melb

Jason Bosland  
BA Melb LLB Melb LLM Melb LLM LSE

Gary Cazalet  
BA Monash LLB Monash

Anna Chapman  
BComm Melb LLB Melb LLM Melb

Arlen Duke  
BComm Melb LLB Melb

Ann Genovese  
BA Adel LLB Adel PhD UTS

Andrew Godwin  
BA Melb LLB Melb LLM Melb
Academic Staff 2012

Kirsty Gover
BA Cant LLB Cant LLM Col JSD NYU

Linda Haller
LLB Monash LLM Qld PhD Qld

Kevin Heller
BA Socio New School of Social Research MA Socio New School of Social Research MALit Duke JD Stan PhD Leiden

Jacqueline Horan
BA Monash LLB Monash LLM Monash PhD Melb

Sunita Jogarajan
BComm Melb LLB Melb CA ICAA MAppTax UNSW

Wendy Larcombe
BA Melb BLitt Melb Melb GradDipEd Melb PhD Melb

Janice Luck
LLB Tas LLM Lond

Mark McMillan
GradDip Legal Prac ANU LLB ANU LLM Arizona SJD Arizona

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
LLB Nott MPhil Cantab

Stacey Steele
BA Qld MA Monash LLB Monash LLM Melb

Michelle Taylor-Sands
BA Monash LLB Monash PhD Melb

Lecturers
Katy Barnett
BA Melb LLB Melb PhD Melb

Brad Jessup
BSc Monash LLB Monash MPhil Cantab

Chantal Morton
MA Pol Sci UBC LLB UBC PhD York
Lisa Sarmas  
BA Melb LLB Melb LLM Melb

Amanda Whiting  
BA Melb DipEd Melb GradDip Indonesia LLB Melb PhD Melb

Principal Research Fellows  

Chris Dent  
BA Murdoch LLB Murdoch PhD Murdoch

Research Fellows  
Malcolm Anderson  
Joyce Chia  
Monique Cormier  
Georgina Fitzpatrick  
Tess Hardy  
Rain Liivoja  
Christine Millward  
Antje Missbach  
Narrelle Morris  
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Roisin Burke  
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Anna Hood  
Andrew Newman  
Wendy Ng  
Darren Parker  
Bruce Taylor

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Emeritus Professors  
Michael Bryan  
MA Oxon BCL Oxon PhD Lond

Sandford Clark  
LLB Adel PhD Melb

David Lanham  
LLB Leeds BCL Oxon

Harold Luntz  
BA Witw LLB Witw BCL Oxon LLD Melb
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Professorial Fellows

James Hathaway
LLB York LLM Col JSD Col

Doug Jones AO
BA Qld LLB Qld LLM Qld

Geoffrey Lindell
LLB Adel LLM Adel

Richard Mitchell
LLB Melb LLM Melb MSc Lond

The Hon. Alistair Nicholson AO QC RFD

Robert Nicholson AO
BA WAust LLB WAust MA Georgetown LLM Melb

The Hon. Justice Tony Pagone
BA Cant. DipEd Monash LLB Cant LLM Cantab

Cameron Rider

Raimond Gaita
BA Melb MA Melb PhD Leeds

Francis Gurry
LLB Melb LLM Melb PhD Cantab

Ian Bailey SC
BArch Newcastle (NSW) DipLaw NSW

Camille Cameron
BA Saint Mary’s LLB New Br LLM Cantab

Martin Davies
BA Oxon BCL Oxon MA Oxon LLM Harv

Sir Daryl Dawson AC KBE CB
LLB Melb LLM Yale

Tony Duggan
BA Melb LLB Melb LLM Tor

The Honorable Justice Paul Finn
BA Qld LLB Qld LLM Lond PhD Cantab

John Malcolm Fraser AC CH PC
MA Oxon

Raimond Gaita
BA Melb MA Melb PhD Leeds

Francis Gurry
LLB Melb LLM Melb PhD Cantab
Michael Tilbury
LLB Lond BCL Oxon

Brigadier Ian Westwood
LLB Syd LLM S Aust

Sarah Worthington
BSc ANU LLB Qld LLM Melb PhD Cantab

Principal Fellows
George Beaton
MMBCH MBA (Witwatersrand) PhD

Fred Ellinghaus
LLB Melb LLM Yale

Michael Kelly AM
BA Macq LLB Macq PhD NSW

Austin Lovegrove

Sue MacCallum
LLB Melb LLM Melb

Robert Mathews OAM
BSc Monash MSc La Trobe

Kristen Walker
BSc Melb LLB Melb LLM Melb LLM Col

Peter Williams

David Wood
BA ANU LLB Melb MA Melb PhD Melb

Senior Fellows
Lt Colonel Paul Muggleton

John Waugh
LLB Melb BComm Melb BA Melb LLM Melb
MPhil Cantab PhD Melb
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Ms Carol Andrades, Ryan Carlisle Thomas
Mr John Baartz, Queensland Bar
Professor Ian Bailey SC, Professorial Fellow, New South Wales Bar
Mr Trevor Beadie, Davies Collison Cave
Mr David Bennett QC, formerly Victorian Bar
Professor Rick Bigwood, Bond University
Mr Richard Bridgert, Deloitte Private
Dr Peter Brukner OAM, Olympic Park Sports Medicine Centre and Liverpool Football Club
Mr David Campbell-Williams, Rail Corporation of NSW
Mr Michael Carrick, Carrick Gill Smyth
Mr Michael Chaaya, Corrs Chambers Westgarth
Mr Michael Charles, KPMG
The Hon. Stephen Charles QC, former Judge, Victorian Court of Appeal
Ms Elizabeth Charpentier, Australian Grand Prix Corporation
Ms Karin Clark, Senior Fellow Melbourne Law School
Dr Matt Collins, Victorian Bar
Professor Breen Creighton, RMIT University
Mr Braham Dabscheck, Senior Fellow Melbourne Law School

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Ms Alice Palmer, Law Institute of Victoria
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Mr John Stonier, Licensing Consultant
Mr Brendan Sydes, Environment Defenders Office (Victoria)
Associate Professor Benny Tabalujan, Melbourne Business School
Dr David Tadgell, Phillips Ormonde & Fitzpatrick
Mr Michael Tuckfield, Clayton Utz
Mr Simon Uthmeyer, DLA Phillips Piper
Ms Kimberlee Weatherall, University of Queensland

Mr David Webber, Davies Collison Cave
Associate Professor Peter Williams, Faculty of Architecture, Building and Planning, The University of Melbourne
Dr Philip Williams, Frontier Economics
Mr Peter Wood, Minter Ellison Lawyers
Ms Susan Woodward, PilchConnect
Mr Richard York, Frontier Economics

International Visiting Lecturers

Professor Owen Anderson, University of Oklahoma, United States
Professor Antony Anghie, University of Utah, United States
Professor Douglas Arner, University of Hong Kong, Hong Kong
Professor Brian Arnold, Canadian Tax Foundation, Canada
Professor Mark Bauer, Stetson University, United States
Professor Yariv Brauner, University of Florida, United States
Professor Philip Britton, Kings College London, United Kingdom
Associate Professor Ruth Buchanan, York University, Canada
Mr Godwin Busittil, 5RB Chambers, United Kingdom
Professor Camille Cameron, University of Windsor, Canada
Professor David Caudill, Villanova University, United States
Professor Donald Clarke, George Washington University, United States
Professor Javier Couso, Diego Portales University, Chile
Semester One Program

Why Australia and the United States Share Common Values, But Have Very Different Criminal Justice Systems
Professor Paul Marcus (William and Mary School of Law)

Climate Change Litigation and Regulatory Pathways
Associate Professor Jacqueline Peel

A Liberal Argument for Charity Law
Associate Professor Matthew Harding

Tobacco Industry Strategies under Domestic and International Law
Associate Professor Tania Voon and Jonathan Liberman

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

Semester Two Program

GRS Selection Process and Milestones
Associate Professor Tania Voon and Associate Professor Sean Cooney

Can Human Rights Enhance the Community Building Project in the Association of Southeast Asian Nations (ASEAN)
Associate Professor Alison Duxbury

Remoteness and Equitable Compensation
Dr Katy Barnett

Specific Restitution without Trusts
Associate Professor Elise Bant and Professor Michael Bryan

Shadows of Office
Associate Professor Shaun McVeigh
Graduate Research Degrees

Graduate Research Degrees Completed 2012

Graduate Research Degrees in Progress 2012
Graduate Research Degrees Completed 2012

Doctor of Philosophy (PhD)

Barr, O
A Minor Jurisprudence of Movement
Supervisors: Peter Rush, Shaun McVeigh and Maureen Tahan

Burke, R
Accountability of UN Peacekeepers under International Law for Crimes Committed While Deployed on Peacekeeping and Peace-support Operations
Supervisors: Tim McCormack and Alison Duxbury

Carson, R
Supervisors: Belinda Fehlberg and Jenny Morgan

Grant, G
Compensation Technologies: Critical Analyses of Contemporary Australian Personal Injury Law
Supervisors: David Studdert, Lyle Gurrin and Jenny Morgan

Hudson, E
Copyright Exceptions: The Cultural Institution Experience in the United States, Canada and Australia
Supervisors: Andrew Kenyon and David Brennan

Lach, K
The EU and the Contemporary Notion of State Sovereignty
Supervisors: Anne Orford and Carolyn Evans

Lesh, M
Israel’s Policy of Targeted Killing and International Humanitarian Law
Supervisors: Tim McCormack and Alison Duxbury

Limon, C
Genes, Biotechnology and Legal Imaginings
Supervisors: Anne Orford and Lee Godden

Rech, W
Enemies of Mankind: Warmongers and Warlike Peoples in Vattel’s Law of Nations
Supervisors: Anne Orford and Sundhya Pahuja

Scardamaglia, A
A History of Trade Mark Law in Australia: The Colonial Trade Mark Regime
Supervisors: Megan Richardson and Chris Dent
Adong, F
Supervisors: Anne Orford and Bruce Oswald

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

Aronsson, M
The Role of Covert Action in the Development of Jus ad Bellum
Supervisors: Anne Orford and Kevin Heller

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 and Brian Burdekin

Chacko, S
International Arbitrations: Convergence and the Rise of Supranational Law?
Supervisors: Richard Garnett and Andrew Mitchell

Chan, F
Control and Resistance: The Social and Legal Regulation of Indonesian Chinese Women 1930-2009
Supervisors: Kate McGregor, Tim Lindsey and Kate Darian-Smith

Chiam, M
A Social and Intellectual History of Law as War
Supervisors: Gerry Simpson and Ann Genovese

Daniels, J
Regulation of Natural Monopoly Infrastructure in Australia - An Empirical Assessment of the Effectiveness of Part IIIA of the Competition and Consumer Act 2010 (Cth)
Supervisors: Caron Beaton-Wells and Rhonda Smith

Dehm, J
From REDD to Green Capitalism: Law, Life, Growth and Limits in Crisis
Supervisors: Maureen Tehan, Margaret Young, Kirsty Gover and Lee Godden
Graduate Research Degrees in Progress 2012

Dehm, S
Humanising the Border: Migrant Workers, International Development and the Promise of Legality
Supervisors: Sundhya Pahuja and Anne Orford

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

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

Dunworth, T
The Resurrection of “Human Security” in Disarmament
Supervisors: Tim McCormack and Tania Voon

Dutta, D
Representing Resistance: The ‘Political Society’ of India’s Sex Workers and the Global Rescue Project
Supervisors: Shaun McVeigh and Ann Genovese

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

Elkin, K
Protecting the Public? An Analysis of Complaints and Disciplinary Proceedings Against Doctors in Australia and New Zealand
Supervisors: David Studdert, John Howe and Lesleyanne Hawthorne

Elkman, S
Lockean Foundations of Private Property Rights
Supervisors: Michael Bryan and Megan Richardson

Elliott, L
Human Rights and Development: Children’s Psychosocial Recovery in the Post-conflict Context - A New Conceptual Model
Supervisors: Carolyn Evans and John Tobin

Eslava, L
Local Space, Global Life: The Everyday of International Law and Development
Supervisors: Anne Orford and Shaun McVeigh

Fenwick, S
Is Rawlsian Liberalism Compatible with Islamic Thought? A Case Study of Religious Freedom in post-Soeharto Indonesia
Supervisors: Tim Lindsey, Abdullah Saeed and Carolyn Evans

Frith, A
Sustainable Indigenous Entities for Making Agreements
Supervisors: Maureen Tehan, Lee Godden and Marcia Langton
Geroe, S
What are the Factors that have Influenced the Content and Implementation of China’s Renewable Energy and Energy Efficiency Laws, and do these Laws Create an Effective System for Scaling-up Both Domestic and Foreign Investment in General and for Australian Exporters in Particular?
Supervisors: Lee Godden and Mike Sandiford

Godwin, A
The Relevance of Traditional Proprietary Rights to the Reform of Rural Land Rights in China
Supervisors: Sarah Biddulph, Michael Bryan and Sean Cooney

Goldenfein, J
Surveillance and Action: Resistance and Law
Supervisors: Megan Richardson and Andrew Kenyon

Goodbourn, R
Sensing the City: Physical Experience in Melbourne’s CBD Laneways
Supervisors: Alison Young and Peter Rush

Graydon, C
Reforming Customary Law Systems to Address Domestic Violence in Timor-Leste: Customary Law, Legal Pluralism and Women’s Rights
Supervisors: Tim Lindsey, Dianne Otto and Marek Nowicki

Hardy, T
Friend or Foe? The Regulatory Enrolment of Non-State Actors in the Enforcement of Minimum Employment Standards
Supervisors: John Howe and Sean Cooney

Hood, A
Understanding Security Council Legislation: Legal, Historical and Theoretical Perspectives on the Rise of the Council’s Legislative Phase
Supervisors: Gerry Simpson and Bruce Oswald

Huang, V
Empirical Assessment of the Theoretical Justifications for Intellectual Property and Information Protection
Supervisor: Megan Richardson

Jenks, C
The American Way of War Crimes: Reassessing the U.S. Army’s Approach to Service Member Violations of the Law of Armed Conflict
Supervisors: Gerry Simpson and Kevin Heller

Josev, T
The High Court and “Judicial Activism”
Supervisors: Stuart Macintyre and Cheryl Saunders
Graduate Research Degrees in Progress 2012

Kailis, G
A Public Right to Fish?
Supervisors: Michael Crommelin, Stuart Kaye and Kirsty Gover

Kallies, A
Can the Market Fix It? Promoting Renewable Energy in Australia
Supervisors: Lee Godden and Jacqueline Peel

Karagiannakis, M
Corporate Officials and International Criminal Law
Supervisor: Gerry Simpson

Kikonyogo, J
WTO Negotiations on Agriculture: Will the African Group Always Have a Raw Deal?
Supervisors: Tania Voon and Pip Nicholson

Kolieb, J
Corporate Sustainable Peace-building: Enhancing the Role of the Private Sector in Conflict
Supervisors: Gerry Simpson and Andrew Mitchell

Lake, J
Privacy and the Pictures: The Photographed and Filmed (Women) who Forged a Right to Privacy in the United States (1880-1950)
Supervisors: Barbara Creed and Megan Richardson

Le Roy, K
Participatory Constitution Making: Lessons from Fiji and Solomon Islands
Supervisor: Cheryl Saunders

Lester, E
Making Sovereignty, Migration and Race Work in Australia: Paradoxes and Prospects
Supervisors: Sundhya Pahuja and Shaun McVeigh

Lino, D
Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples
Supervisors: Adrienne Stone, Cheryl Saunders and Megan Davis

Macpherson, E
The Indigenous Water Market – Commercial Indigenous Water Rights in Australia and Chile
Supervisors: Maureen Tehan and Kirsty Gover

Men, N
The Development of Alternative Dispute Resolution in the Cambodian Civil Justice System
Supervisors: Sean Cooney, David Chandler and Pip Nicholson

Millar, E
From Restriction to Choice? Governing Abortion in Victoria, 1969-2008
Supervisors: Maree Pardy and Ann Genovese
Moges, M
Growing Practices on Safeguarding Land Rights Through Improving Land Registration Legislation in Ethiopia: Gaps and Strengths
Supervisors: Maureen Tehan and Matthew Harding

Muhammad Hashim, N
Towards a Fairer System in Awarding Maintenance for Children after Divorce: A Study of the Assessment Process in the Syariah Courts in Malaysia
Supervisors: Abduallh Saeed and Tim Lindsey

Munro, J
The Relationship between Emissions Trading Schemes and International Trade and Investment Law
Supervisor: Andrew Mitchell and Margaret Young

Newman, A
Temporary Migrant Labour Schemes in the Australian and Canadian Agricultural Sectors from a Rights Based Perspective
Supervisors: John Howe and Joo-Cheong Tham

Ng, W
Stepping Through the Looking Glass: China’s Anti-Monopoly Law on its Own Terms
Supervisors: Caron Beaton-Wells and Sean Cooney

O’Brien, P
The Regulation of Alcohol in Australia: What Role for Law?
Supervisors: David Studdert and Robin Room

O’Donnell, E
Environmental Independence: How Can Environmental Law Adapt to an Environmental Corporation with Property Rights and a Voice of its Own?
Supervisors: Lee Godden, Sundhya Pahuja and John Freebairn

O’Neill, L
Negotiating Resource Agreements for Greater Sunrise and Browse: A Comparative Study
Supervisors: Maureen Tehan, Miranda Stewart and Ciaran O’Faircheallaigh

Opeskin, B
Population Challenges for the Australian Judiciary
Supervisors: Cheryl Saunders and Rebecca Kippen

Parker, D
(Under)Mining a Culture: Can’t We Do Better than this? Recognising Transformative Values in Aboriginal Cultural Heritage
Supervisors: Maureen Tehan and Kirsty Gover
Graduate Research Degrees in Progress 2012

Parker, J
Acoustic Jurisprudence: Listening to the Trial of Simon Bikindi
Supervisors: Andrew Kenyon and Shaun McVeigh

Parsley, C
Jurisprudence Without Law: Giorgio Agamben and the Potential of a non-Juridical Biography
Supervisors: Peter Rush and Shaun McVeigh

Pausacker, H
In the Eye of the Beholder: Law, Pornography and Indonesia’s Islamic Defenders Front
Supervisors: Tim Lindsey and Abdullah Saeed

Peacock, C
A Review of the GST Treatment of Real Property in Australia
Supervisors: Miranda Stewart and Mark Burton

Petersen, L
Law and Aesthetics in the Archive: Gestures of Justice and Restitution after the Holocaust
Supervisors: Peter Rush and Shaun McVeigh

Plaza, R
Supervisors: Maureen Tehan and Lee Godden

Purcell, J
A Corrective and Distributive Justice Analysis of Creditor Entitlements in Bankruptcy
Supervisors: Micahel Bryan and Matthew Harding

Radin, S
Organised Armed Groups under International Humanitarian Law
Supervisors: Tim McCormack, Alison Duxbury and Michael Schmitt

Read, C
Regime Change: Counter Terrorism in the UK and the US
Supervisors: Adrian Little and John Tobin

Rigney, S
The Impact of Fair Trade Rights of the Accused on the Perceived Legitimacy of International Courts and Tribunals
Supervisors: Tim McCormack and Peter Rush
Robinson, R
Where Human Indigenous and Cultural Rights Intersect: The Case for Legal Recognition of Inter Se Rights in Native Title and Related Indigenous Land Settlement Regime
Supervisors: Maureen Tehan, Mark McMillan and Kirsty Gover

Rowe, J
Supervisors: Tim McCormack and Nick Crofts

Rulliadi, D
Indonesian Public-Private Partnerships (PPPs): A Legal Study on Private Sector Participation in Infrastructure Development in the Post ‘New-Order’ Era
Supervisors: Anne Orford, Andrew Mitchell and Tim Lindsey

Saboor, H
Pakistan’s Islamic Identity, its Blasphemy Law and the International Law of Human Rights
Supervisors: Carolyn Evans and Amanda Whiting

Sahhar, M
The Power of Public Opinion: How War Crime Acusations have Framed Israel and Reframed the Palestinian-Israeli Conflict
Supervisors: Ghassan Hage, Gerry Simpson and Ramaswami Harindranath

Schuette, S
Triggering Institutional Change in an Environment of Endemic Corruption: The Indonesian Corruption Eradication Commission
Supervisors: Dick Howard and Tim Lindsey

Simpkins, J
Courts and Constituionalism: The Judicial Branch in Constitution-making and the Promotion of a Culture of Constitutionalism
Supervisors: Cheryl Saunders and Adrienne Stone

Sircar, O
Assemblages of Affect: Precarity, Representations and Human Rights in a Neo-liberal World
Supervisors: Dianne Otto and Sundhya Pahuja

Southwood, E
What is the Role of Ch III Courts in Creating Criminal Laws Norms of Conduct? Chap III of the Constitution, the Separation of Judicial Power and the ‘Rights’ - Creation/Determination Distinction
Supervisors: Cheryl Saunders and Adrienne Stone

Storrier, A
Copyright Exceptions and Contract
Supervisors: David Brennan and Sam Ricketson
Graduate Research Degrees in Progress 2012

Tan, C
Copyright on Social Media
Supervisors: Megan Richardson, Graeme Austin 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
Supervisors: Paul Ali and Helen Anderson

Thampapillai, D
An Open Access Framework for Crown Copyright
Supervisors: Sam Ricketson and Tania Voon

Trabsky, M
Voices of the Dead: Law, Aesthetics and Mortality
Supervisors: Peter Rush and Shaun McVeigh

Tran, M
Judicial Review in Private Law: An Examination of the Court’s Role in Reviewing Exercises of Discretion by Privately Appointed Decision-makers
Supervisors: Simon Evans and Matthew Harding

Vaitiekunas, A
The Court of Arbitration for Sport: Law-making and the Question of Independence
Supervisors: Hayden Opie and David Wood

Weybury, D
Self-Represented Litigants in Australian Appeals Courts
Supervisors: Camille Cameron and Linda Haller

Whitehall, D
Cosmopolitan Justice and Constitutional Dialogues with International Human Rights
Supervisors: Anne Orford and Ann Genovese
Woldemariam, G
Protection of Human and Minority Rights in the Ethiopian Ethnic Federal System: Towards Legal and Institutional Reforms
Supervisors: Cheryl Saunders and Simon Evans

Young, C
A History of Judicial Dissent
Supervisors: Michael Bryan and John Baker

Zhang, H
Legal Risks of Payment Scheme of Carbon Trade and its Judicial Remedy in China
Supervisors: Lee Godden and Sarah Biddulph