Centre for Employment & Labour Relations Law

Annual Report 2012
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Foreword

In 2012 the Centre delivered another strong program of research, teaching, publication, and professional and community engagement.

Personnel

We were very pleased to welcome a new member in 2012, The Hon Professor Geoff Giudice AO, the recently retired President of Fair Work Australia. Professor Giudice was appointed as an Honorary Professorial Fellow of the Melbourne Law School and the Department of Management and Marketing in the Faculty of Business and Economics at the University of Melbourne.

The Centre also hosted a number of visitors, including Professor Keith Ewing of King’s College London, Professor Guy Mundlak of Tel Aviv University, Professor Kerry Rittich of the University of Toronto, and Professor Tonia Novitz and Dr Phil Syrpis of the University of Bristol.

Research

The Centre enjoyed further Australian Research Council success in 2012, with Centre member Joo-Cheong Tham and Associate Members Dr Iain Campbell (RMIT University) and Professor Judy Fudge (Victoria University, Canada) being awarded an ARC Discovery Grant for their project Precariousness in Law and Labour Markets: the Case of Temporary Migrant Workers. Centre members, associates and research staff continued work on a number of other collective and individual research projects over the course of 2012. Details can be found in the pages of this report.

Professional and Community Engagement

Sponsors’ seminars were held on the Qantas dispute and its fallout (by Associate Professor Anthony Forsyth, RMIT University) and in relation to the Full Federal Court decision in the JJ Richards case (Mr Stuart Wood, SC). These were well attended and generated lively discussion amongst participants. To date one sponsors’ seminar has been held in 2013 (on the use of codes of practice and implementation guides to regulate industrial relations in the construction industry, by Professor Breen Creighton), and a seminar on recent adverse action cases is planned for August.

Ten Labour Law Seminars were held in 2012, on topics ranging from compensation for accessorial liability under the Fair Work Act, the use of enforceable undertakings, pay equity, the readability of enterprise agreements, and flexible working in Europe and the United States. In addition, the Centre co-hosted a number of major events in 2012. These included a seminar on bullying and harassment (with the Department of Management and Marketing at the University of Melbourne), another on wage inequality in the US (with the Centre for Human Resource Management at the University of Melbourne), and the Foenander Lecture 2012 where the Hon Professor Geoffrey Giudice AO spoke on the Fair Work Act review.

We were particularly pleased when in November 2012 the Centre was approached by the Fair Work Commission to co-host a Workplace Relations Lecture Series in 2013. To date two lectures have been held in this series, by Dr Brigid Van Wanrooy, from the UK Workplace Industrial Relations Survey, and Professor Mark Bray of the University of Newcastle.

The CELRL Student Fellowship was offered again in 2012, and we have been able to offer two such Fellowships in 2013. This Fellowship provides law students with the opportunity to work as a research assistant with the Centre for up to one day per week over the course of the academic year. Our Student Fellows in 2013 – Jessica Dawson-Field and Joanna Williams – were selected from a strong field of eager candidates.
Teaching and Learning

Finally, our JD employment law subject, and our Masters program in Employment and Labour Relations Law, continue to attract strong and growing numbers. In the masters program, it is great to see members of sponsoring firms taking our subjects. This is confirmation that we offer a high quality teaching program, with respected lecturers (both regulars and guests) who are leading scholars and practitioners in the field of labour and employment law.

Conclusion

The publication of the Annual Report also provides an opportunity each year to make special acknowledgement of the important contributions made to the Centre and its work by the legal practices that are Centre sponsors, as well as by its academic associates, teaching associates, and members of the Advisory Board. We are pleased to report that 15 firms and one government organization renewed their sponsorship of the Centre in 2012. In addition to sponsors’ financial contributions, members of these practices frequently participate in the Centre’s research and teaching programs, as well as attending (and in some cases presenting at) our Sponsors’ Seminar series. The many aspects of our relationships with our Sponsors are, we believe, mutually enriching. I would like to thank both Allens Linklaters and Baker & Mackenzie for their support of the Centre over the last few years. Regrettably both firms have decided not to renew their sponsorship of the Centre.

The ongoing support and contributions of our sponsors, as well as our academic, teaching and research associates, and the members of the Advisory Board, are all essential to the Centre’s continuing success and vitality. I also want to thank the LLB and JD students who are involved in the Centre as Student Editorial Assistants for the Australian Journal of Labour Law, or as research assistants for the various research projects in which Centre members are involved. Also important is the financial and administrative support provided by the Law School. Once again, we thank all those who continue to offer their support: without it the Centre could not do much of the work that it does.

Finally, on behalf of all Centre members, I would like to thank Tessa Dermody, the Centre’s Coordinator throughout 2012. Without Tessa’s friendly demeanour and excellent organisational skills, I doubt that the Centre would have achieved as much as it did.

JOHN HOWE
June 2013
Objectives of the Centre for Employment and Labour Relations Law

The Centre was established in the Melbourne Law School in 1994. It is Australia’s first research centre devoted exclusively to developing an understanding of the role and function of labour law. Its objectives are:

- to undertake and encourage independent research on all aspects of labour and employment regulation in Australia and internationally;
- to undertake and encourage critical research on the development of labour and employment law as a discipline, including the exploration of future developments;
- to undertake and promote the teaching of labour and employment law, including by developing and promoting innovative teaching methods and teaching materials, and by fostering postgraduate research;
- to disseminate the results of research in labour and employment law through publication in the form of working papers, journal articles, and books, and in the form of seminar programs and conferences, participation in public debate, information exchange, and consultancies; and
- to establish and foster links with similar bodies, internationally and nationally, and to facilitate engagement between scholars, students, policymakers, the legal profession, industrial relations practitioners and other individuals and organisations working in labour and employment law.
The Centre: People and Relationships

Centre Faculty Members

**Associate Professor John Howe**  
BA, LLB (Monash), LLM (Temple) (Summa Cum Laude), PhD (Melb)  
Director  
Room 0756, ph: (03) 8344 1094, j.howe@unimelb.edu.au

John has been Director of the Centre since November 2008. His research interests include regulatory theory, labour law and corporate accountability, and he teaches labour law, corporations law and corporate social responsibility in the teaching programs offered by the Melbourne Law School. His current research interests include enforcement of minimum employment standards, and the regulation of ownership of employee innovation. Before starting his academic career, John worked in private legal practice in Australia and as a researcher for public policy and advocacy organisations in Washington DC. He was Secretary of the Australian Labour Law Association between 2005 and 2009, and in 2012 was a member of ALLA’s National Committee. He is a member of the editorial committee of the Australian Journal of Labour Law.

**Associate Professor Helen Anderson**  
LLB (Hons) (Melb), Grad Dip Bus (Acc), LLM, PhD (Monash)  
Room 0753, ph: (03) 9035 5467, h.anderson@unimelb.edu.au

Helen joined the Centre in January 2010 from Monash University. She practised briefly and worked for the Legal Aid Commission before becoming an academic in 1989. The fair treatment of vulnerable corporate stakeholders has been her abiding research interest: her masters major thesis dealt with shareholders who rely on published audit opinions and her doctoral thesis was concerned with creditors in corporate insolvency. She continues this interest with her present work on improving the recovery rights of employees in corporate insolvency (an ARC funded project). This has led to further work on fraudulent phoenix activity.

**Dr Anna Chapman**  
BCom, LLB (Hons), LLM (Melb), PhD (Adelaide)  
Room 0702, ph: (03) 8344 5625, a.chapman@unimelb.edu.au

Anna has been a faculty member at Melbourne Law School for more than ten years, having come to the University after private legal practice. Anna's research focuses on law, gender, sexuality and race in the paid labour market. Her current projects include examinations of work and care in Australian labour law, and the General Protections in the Fair Work Act. Anna has published in a range of Australian and international law journals and edited collections, and from 2008 has been one of the editors of the Australian Journal of Labour Law. In 2011 Anna was awarded an ARC Discovery Grant with Centre member Beth Gaze on 'Reshaping Employment Discrimination Law: Towards Substantive Equality at Work'.

**Professor Sean Cooney**  
BA, LLB (Hons), LLM (Melb), LJD (Columbia)  
Room 0703, ph: (03) 8344 8109, s.cooney@unimelb.edu.au

Sean's research interests are in international and comparative labour law, with a particular focus on East Asia. Sean is a graduate of the University of Melbourne and, after several years in legal practice, obtained his doctoral degree at Columbia University. He has published in a range of international journals in English and in Chinese, and is at present examining issues of comparative labour law, and labour law enforcement, with a particular emphasis on East Asia. He is also undertaking an ARC-funded study of the Fair Work Ombudsman, together with John Howe and Tess Hardy and a second ARC-funded study on the development of labour and corporate law in the Asia Pacific (with Richard Mitchell, Peter Gahan and Ian Ramsay). Sean was the Melbourne Law School Associate Dean (Research) in the first half of 2012.
Associate Professor Colin Fenwick  BA, LLB, LLM (Melb), LLM (Virginia)
(Formerly on leave of absence at the ILO, Geneva)

c.fenwick@unimelb.edu.au

Colin has over fifteen years’ experience in the field of labour relations law. He was the Director of the Centre from August 2004 until October 2008. Colin has worked in both legal practice and in the academy; in Australia, the United States and Switzerland. Colin’s research interests are predominantly in comparative and international labour law, with a particular focus on Southern Africa. Between 2006 and 2008 he was one of the editors of the Australian Journal of Labour Law.

Associate Professor Beth Gaze  BSc, LLB (Hons) (Monash), LLM (Cal) (Berkeley)
Room 0830, ph: (03) 8344 6173, egaze@unimelb.edu.au

Beth’s major interests are in anti-discrimination and equality law, feminist legal thought and administrative law including tribunals and she has a particular interest in socio-legal research including empirical research. She has held several ARC grants, and has conducted empirical research into the enforcement process under Australian federal anti-discrimination law and the experiences of appellants in the Social Security Appeals Tribunal. Beth was a consultant to the Victorian Parliament’s Scrutiny of Acts and Regulations Committee in its 2009 Inquiry into the Exceptions and Exemptions in the Equal Opportunity Act 1995, and has been a member of several State and Commonwealth tribunals. In 2011 Beth was awarded an ARC Discovery Grant with Centre member Anna Chapman on ‘Reshaping Employment Discrimination Law: Towards Substantive Equality at Work’.

Mr Glenn Patmore  BA, LLB (Hons) (Monash), LLM (Queens)
Room 0709, ph: (03) 8344 6191, g.patmore@unimelb.edu.au

Glenn has taught law at Monash University and currently is a Senior Lecturer at the Melbourne Law School. He is presently researching in the fields of democratic theory and practice, constitutional law, employment law, human rights and republicanism. His employment law research has focused on disability discrimination, joint consultative committees as well as employee happiness and labour law. His book, Choosing the Republic (UNSW Press), was published in 2009 and he continues to write on the topic of Australian republicanism and constitutional change. He is an editor of four books of collected essays, has written two books and published in a range of Australian and international journals.

Associate Professor Joo-Cheong Tham  LLB (Hons) (Melb), LLM (Melb), PhD (Melb)
Room 0710, ph: (03) 8344 7030, j.tham@unimelb.edu.au

Joo-Cheong is an Associate Professor at the Law Faculty and has taught at the law schools of Victoria University and La Trobe University. His key research areas are the regulation of non-standard work and political finance law. He has published over 25 book chapters and refereed articles. His research has also been published in print and online media. This work includes more than 30 opinion pieces. In the area of political finance, his book, Money and Politics: The Democracy We Can’t Afford was published by UNSW Press in 2010.
Professorial Fellow

The Hon Professor Geoffrey Giudice AO BA, LLB (Melb)
Geoffrey.giudice@unimelb.edu.au

Professor Giudice studied law and arts at the University of Melbourne, graduating in 1970. He spent nine years working in industry, before beginning to practise as a solicitor in 1979. He was admitted to the Bar in Victoria in 1984. As a barrister, he specialised in industrial relations and employment law. He was appointed as a judge of the Federal Court of Australia in 1997. At the same time, he became the President of the Australian Industrial Relations Commission. In 2009, when the Commission was replaced by the newly-established Fair Work Australia, Professor Giudice was appointed its first President. He retired from this position in February 2012 and is an Honorary Professorial Fellow in both the Centre and the Department of Management and Marketing in the Faculty of Business and Economics at the University of Melbourne. He is a consultant to Ashurst-Australia and a member of the University of Melbourne Archives Advisory Board.

Principal Research Staff

Ms Tess Hardy BA, LLB (Hons), LLM (Melb)

Tess graduated from Arts and Law (Hons) from the University of Melbourne. She completed her LLM in 2009 and was a PhD candidate and Research Fellow with the Centre in 2012. Tess’ primary research interests include employment regulation and enforcement. She is presently engaged on an ARC research project with John Howe and Sean Cooney examining the role and operation of the federal labour inspectorate in Australia – the Fair Work Ombudsman. Prior to joining the Centre, Tess practised in employment and labour relations law in Melbourne, Tokyo and Hong Kong.

Ms Kathleen Love BSc, LLB (Hons) (Melb)

Kathleen graduated from the University of Melbourne with degrees in Science and Law (Hons). She is the Supreme Court Prize Winner of 2005, also being awarded the Joan Rosanove QC Memorial Prize and the EJB Nunn Scholarship. In 2012 Kathleen worked with Anna Chapman and Beth Gaze on an ARC research project ‘Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?’ regarding adverse action and anti-discrimination laws. Prior to joining the Centre, Kathleen was a solicitor specialising in employment and industrial relations law.

Mr Andrew Newman LLB, BCL (McGill), BA (British Columbia)

Andrew joined the Centre and commenced his PhD in February 2011. He was a Centre Research Fellow in 2012 and a Teaching Fellow at MLS (2011-2012). His research interests include comparative labour law, labour migration, collective bargaining and non-standard forms of work, with a particular focus on temporary migrant worker programs in Australia and Canada. Prior to commencing his PhD, Andrew was at the Bar in Ontario, Canada and worked as a litigator for a Victorian government agency. He has also worked in legal policy roles for various organizations, including the UNDP in Yemen. He is the recipient of a Julian Small Foundation Research Grant (2011).
Student Fellow
Mr Tom Fooks
Tom was the 2012 CELRL Student Fellow and assisted John Howe, Sean Cooney and Tess Hardy on an ARC research project regarding the role of the Fair Work Ombudsman. Tom was in his third year of the JD and was also a student editor of the Australian Journal of Labour Law. Tom completed undergraduate degrees in Arts (German and Philosophy) and Commerce (Marketing Management) at the University of Melbourne. Following four years in the Victorian Public Service, Tom was appointed as an Associate at the Australian Industrial Relations Commission and Fair Work Australia in 2009. This experience inspired Tom to enrol in the Juris Doctor course with the Melbourne Law School with a view to subsequently practising in employment law upon graduation.

Research Assistants
Members of the Centre were assisted by the following research staff: Annika Holden, Charley Brumby-Rendell, Clara Jordan-Baird, Jack Lang, Shuang Ren, Jessica Dawson-Field, Michael Keks, Ingrid Landau, and Hao Zhang.

Coordinator
Ms Tessa Dermody BEd (Otago), Dip Tching (Dunedin)
Tessa joined the Centre as the Coordinator in January 2009. She comes from an Education background and has several years experience working in various administration roles in New Zealand, United Kingdom and Australia. Tessa is also the Coordinator for the Tax Group.
### Centre Associates

#### Academic Associates
- Professor Chris Arup  
- Associate Professor Michelle Brown  
- Mr Alan Clayton  
- Professor Christina Cregan  
- Professor Cindy Estlund  
- Professor Keith Ewing  
- Associate Professor Colin Fenwick  
- Professor William Ford  
- Associate Professor Anthony Forsyth  
- Dr Andrew Frazer  
- Professor Mark Freedland  
- Professor Judy Fudge  
- Professor Peter Gahan  
- Professor Richard Johnstone  
- Professor Tim Lindsey  
- Professor Ronald McCallum  
- Ms Shelley Marshall  
- Professor Richard Mitchell  
- Associate Professor and Reader Jill Murray  
- Mr Richard Naughton  
- Professor Graeme Orr  
- Professor Rosemary Owens  
- Mr Anthony O’Donnell  
- Professor Marilyn Pittard  
- Professor Ian Ramsay  
- Professor Joellen Riley  
- Professor Andrew Stewart  
- Professor Katherine Stone  
- Professor Leah Vosko  

#### Teaching Associates
- Ms Carol Andrades  
- Professor Breen Creighton  
- Professor Keith Ewing  
- Professor Guy Mundlak  
- Mr Paul O’Grady  
- Mr Peter Rozen  

#### Current affiliation
- Monash University  
- University of Melbourne  
- Independent consultant in workplace regulation  
- University of Melbourne  
- New York University  
- King’s College, University of London  
- University of Melbourne  
- University of Western Australia  
- RMIT University  
- University of Wollongong  
- University of Oxford  
- University of Victoria, Canada  
- University of Melbourne  
- Griffith University  
- University of Melbourne  
- University of Sydney  
- Monash University  
- Monash University  
- LaTrobe University  
- Monash University  
- University of Queensland  
- University of Adelaide  
- LaTrobe University  
- Monash University  
- University of Melbourne  
- University of Sydney  
- University of Adelaide  
- UCLA School of Law  
- York University, Canada  

#### Current affiliation
- Ryan Carlisle Thomas  
- RMIT University  
- King’s College, University of London  
- Tel Aviv University  
- Victorian Bar  
- Victorian Bar
The Advisory Board

The Centre’s work takes place under the guidance and assistance of an Advisory Board. Members of the Board are distinguished representatives of major institutions, bodies and law firms with an involvement in the labour law field.

The members in 2012 were:

Justice Anthony North (Chair)  Federal Court of Australia
Senior Deputy President Jennifer Acton  Fair Work Commission
Mr Steven Amendola  Ashurst
Ms Carol Andrades  Ryan Carlisle Thomas
Mr Josh Bornstein  Maurice Blackburn
Justice Alan Boulton  Fair Work Commission
Mr Ben Burke  Baker & McKenzie
Mr Mark Diserio  Lander & Rogers
Ms Rachel Doyle SC  Victorian Bar
Professor Carolyn Evans  University of Melbourne
Mr Joel Fetter  Victorian Bar
Mr Philip Gardner  Ryan Carlisle Thomas
Justice Peter Gray  Federal Court of Australia
Mr Val Gostencnik  Corrs Chambers Westgarth
Mr Ross Jackson  Maddocks
Mr Murray Kellock  King & Wood Mallesons
Mr Ross Levin  Rigby Cooke Lawyers
Mr Peter Lupson  K&L Gates
Mr Tim Lyons  ACTU
Mr Charles Power  Holding Redlich
Ms Sarah Rey  Justitia
Mr Nick Ruskin  DLA Piper
Mr Henry Skene  Arnold Bloch Leibler
Mr Michael Tehan  Minter Ellison
Mr Nicholas Wilson  Fair Work Ombudsman
Mr Anthony Wood  Herbert Smith Freehills
Centre Sponsors

The support of sponsors is essential to the continued operation of the Centre, both in terms of the financial contributions that sponsors make to the resources of the Centre, and in terms of the involvement of sponsoring firms in providing advice and counsel for the Centre.

One representative from each of the Centre’s sponsors sits on the Centre’s Advisory Board. The Centre’s sponsors in 2012 were:
Visitors

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

- Professor Guy Mundlak, Tel Aviv University (April)
- Professor Tonia Novitz, University of Bristol (July)
- Dr Phil Syrpis, University of Bristol (July)
- Professor Kerry Rittich, University of Toronto (September)
- Professor Keith Ewing, King’s College, University of London (November)
Research

The Centre is Australia’s first 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, temporary migrant worker rights 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.

During 2012 Centre members pursued a number of specific research projects. Short descriptions of the Australian Research Council (ARC) funded projects follow. Further information on all of the research projects can be found on our website www.celrl.law.unimelb.edu.au/go/research/.

Australian Research Council (ARC) Funded Research Projects

Reform of the Personal Liability of Directors for Unpaid Employee Entitlements

Centre Member: H. Anderson
Research Staff: C. Dow, L. Ablett, A. Holden and C. Brumby-Rendell

Laws imposing liability on corporate directors must balance responsible governance by directors and the need for appropriate compensation for affected parties with the risk of inhibiting directors’ legitimate commercial decision-making. A pressing issue is the extent to which directors should be liable for unpaid employee entitlements, given the ineffectiveness of the relevant Corporations Act provisions and the burden this places on taxpayers. This project examines other models of liability, which provide greater deterrence and possible compensation, including incentives to place companies into voluntary administration. The objective is to recommend reform of the employee entitlement provisions. In 2010 an extensive literature search was undertaken, and statistical data was obtained from major regulators. In 2011 and 2012 interviews were carried out and work commenced on a book and a series of publications recording the findings of the research. The year 2013 will see the publication of further outputs from the research.

Reshaping Employment Discrimination Law: Towards substantive equality at work?

Centre Members: B. Gaze and A. Chapman
Research Staff: A. Lim, J. Winckworth, K. Love

The 2009 reshaping of Australian industrial law through the Fair Work Act unexpectedly introduced a comprehensive prohibition on discrimination in employment. This novel prohibition operates alongside existing anti-discrimination laws. These have quite separate conceptual foundations, and their effectiveness in promoting equality at work has been limited. This project examines the effect of the new provisions, and the interaction of the overall system of employment discrimination laws in both providing legal redress for discriminatory harms at work in Australia, and in contributing to systemic change towards equality in relations at work. The project is funded by an ARC Discovery Grant. In 2012 case law developments continued to be tracked, and a number of conference papers were presented both in Australia and internationally. A lengthy working paper on the history of the reverse onus provisions in industrial law was also drafted.
Labour Regulation in East Asia: China
Centre Member: S. Cooney
Centre Associates: Y. Zhu, S. Biddulph

Many developing countries have labour laws that, on paper, are comprehensive and reflect international standards (with exceptions in the area of freedom of association). However, it is notorious that these laws are widely ignored. This project, funded by an ARC Discovery Grant, investigated systematically the reasons for implementation failures. It examines the scope for greater coordination and systematisation of domestic enforcement measures. Field work on the project was carried out between 2007 and 2010 with visits to officials, firms and academics in Beijing, Hefei, Nanjing, Shenzhen and Shantou. A major international workshop was held on the issue in Melbourne in February 2009 with a follow up in Beijing in August 2010. The project has been completed, with the final publication, *Law and Fair Work in China*, appearing in late 2012 (published by Routledge).

Legal Origins: Comparing the impact of different legal systems on the regulation of the business enterprise in the Asia-Pacific region
Centre Member: S. Cooney
Research Staff: P. Maher
Associates: R. Mitchell, P. Gahan, I. Ramsay

The legal origin hypothesis proposes that common law institutions deliver superior economic outcomes to other legal systems. International agencies have acted on this view in advocating legal reforms in a number of countries. This ignores alternative arguments/evidence that emphasise that legal systems can be responsive to local histories and conditions without adverse economic consequences. This project is funded by an ARC Discovery Grant. We aim to assess whether the legal origins hypothesis is (1) an accurate description and (2) an apt guide for legal analysis and reform in Australia and the region. The project is bringing Australia and Asia to the forefront of research on legal origins through a systematic analysis of our region comparable to those produced in other parts of the world. Publications from the project appeared in 2012 in prestigious international journals, such as the *International and Comparative Law Quarterly* and the *American Journal of Comparative Law*.

New Initiatives in Enforcing Employment Standards: Assessing the effectiveness of federal government compliance strategies
Centre Members: S. Cooney and J. Howe
Research Staff: C. Bongiorno, C. Downie, T. Hardy and J. Lang

This project is assessing the operation and impact of the new federal agency enforcing working conditions relating to pay, reasonable working hours and leave. Since 2006, the resources available to, and the jurisdiction and the legal status of, that agency – now called the Fair Work Ombudsman (FWO) – have been dramatically enhanced. The research is grounded in the literature on regulatory effectiveness and includes comparison with comparable agencies domestically and internationally, as well as empirical studies of the actions of the FWO’s staff and of the response of the target employers. The project is supported by a three year ARC Linkage Grant, awarded in 2009. In 2011 and 2012, the project team conducted interviews with Fair Work Inspectors and senior management staff responsible for the inspectorate at the Fair Work Ombudsman. A major paper from the project was published in the key international journal *Law and Policy* at the end of 2012.
Innovation is central to the Australian and global economy. Innovation policy to date has focused on high-technology industries and the commercialisation of new products – areas encouraged by current intellectual property laws. This neglects the key contribution of ‘know-how’ to innovation, leaving it to regulation by contractual clauses and industry practice, which may not set appropriate incentives. This empirical project, through the collection of qualitative data, is seeking to establish how Australian employers and workers bargain over the fruits of know-how and whether this promotes innovation. It will suggest, if necessary, reforms to the intellectual property and labour law systems to enhance legal incentives for this form of innovation. The project commenced in 2009 and is supported by an ARC Discovery Grant. In 2012, the project team concluded interviews with legal practitioners, in-house legal counsel and judges about their experience with the use and enforcement of restraint of trade and confidential information clauses in employment contracts. The project team were also involved in organising and co-hosting of a workshop in Munich in December 2012. This workshop (co-badged with Ludwig Maximilians-Universitat and Max Planck) brought together scholars from the US and Europe who had expertise in the area of restraint of trade clauses and trade secrets. Attendees included lawyers from both the civil law and common law traditions and academics from the disciplines of law, economics and management studies.

Precariousness in Law and Labour Markets: The case of temporary migrant workers

Centre Member: J.C. Tham
Associates: I. Campbell and J. Fudge

This project aims to describe and analyse the precariousness of temporary migrant workers in Australia. It will use analysis of legal texts, collation and analysis of secondary statistics, an in-depth comparison with Canada, and a detailed program of case-studies in four crucial industries (mining, hospitals/health care, horticulture, fast food/restaurants) in order to throw light on key questions surrounding the rapid increase of temporary migrant workers: it will analyse labour market vulnerability and exploitation, the impact on local workers, and the economic benefits of temporary migrant workers. Its findings will contribute to the improved operation of Australia’s labour markets and to more effective labour market regulation.

Dollars and Democracy: The Dynamics of Australian Political Finance and its Regulation

Centre Member: J.C. Tham

This project will provide a foundation for meeting the complex challenge of realising democratic principles given the various flows of money in politics. Its analyses reform recommendations, and data will serve the national benefit by enabling the political and electoral system to better advance the democratic functions of parties, the principles of transparency, equality and liberty, and the prevention of corruption and its perception. The public availability of its data will enhance political reporting and accountability. It will also contribute significantly to the international literature on political finance through its comparative examination of theoretical explanations and democratic principles.
Other Employment and Labour Law Research Projects

- Employment Rights of International Students: Enhancing Protection Through a Community-University Collaboration
- Employee Happiness and Labour Law
- Fair Work Commission’s Influence in the Enterprise Bargaining Process
- Law and Labour Market Regulation
- Law and Labour Market Regulation in Southern Africa
- Security of Employment and Unfair Dismissal Law
- Sham Contracting in the Building and Construction Industry
- The Challenges of Regulating Temporary Migrant Labour in Australia
- Temporary Migrant Work and Contested Notions of Social Justice
- Union Enforcement

In addition, during 2012 a number of research projects were pursued in areas beyond labour and employment law. These were:

- Electoral Regulation and its Prospects for Australian Democracy
- International Perspectives on the Regulation of Party Funding
- Non-discrimination and Freedom of Religion
- Political Finance in Australia
- Establishing a Sustainable Framework for NSW Election Funding and Spending Laws

Research Students under the Supervision of Centre Members

The Centre for Employment and Labour Relations Law and its members are active in encouraging and supervising the work of students working towards a research higher degree. Candidates are supervised by a Centre member and have the opportunity to participate in Centre projects and activities while completing their research.

Current Projects

Do Hai Ha (PhD Candidate)
*The Right to Strike in Vietnam: Toward a Better Regime*

Supervisors: S. Cooney and P. Nicholson

The Vietnamese economic reforms (Doi Moi) launched in the late 1980s led to substantial changes in the Vietnamese labour regime, including the introduction of a new framework for industrial conflict resolution. Preliminary research shows that this legal framework was by and large developed through legal transplantation. This thesis seeks to evaluate the effect of Vietnam’s legal borrowings in the area of industrial conflicts. Legal transplants in Asia and especially in Vietnam are an under-researched area of study. This research will be one of the first studies that explores
the absorption of transplanted legal processes and institutions in Vietnam. The thesis will assess the transplant’s impact and whether the transplant could have been better designed and enabled. As such, it aspires to provide new findings in this area and contribute to the ongoing reform of industrial conflict resolution.

Tess Hardy (PhD Candidate)
Friend or Foe? Regulatory Enrolment of Non-state Actors in the Enforcement of Minimum Employment Standards in Australia
Supervisors: S. Cooney and J. Howe

In Australia, employer non-compliance with minimum employment standards has been found to be systemic and sustained. More recently, a host of factors, including greater exposure to global markets and rapid and extensive changes to the workplace relations system, have intensified the various drivers of non-compliance and revealed the limitations of traditional compliance and enforcement strategies. Tess’ PhD thesis is an empirical study of how the Fair Work Ombudsman has sought to enrol non-state actors in a bid to reconfigure its strategies and improve its regulatory effectiveness. By drawing on the burgeoning literature concerning the fragmentation and hybridization of regulation, the thesis critically examines the initiation and implementation of various collaborative initiatives of the Fair Work Ombudsman as part of a comparative case study. In doing so, it aims to illuminate the variations, possibilities and potential limitations of a more decentred approach in relation to the enforcement of minimum employment standards in Australia.

Andrew Newman (PhD Candidate)
The Legal Precariousness of Temporary Migrant Work: A Comparative Examination of the Canadian Seasonal Agricultural Worker Program and Australian Seasonal Worker Program
Supervisors: J. Howe and J.C. Tham

Legally precarious work has grown across many developed economies in recent years, including in Canada and Australia. One manifestation of this phenomenon is the proliferation of temporary migrant worker programs in the agricultural sector. The increased prevalence of legally precarious work is frequently attributed in the academic literature to gaps in the network of employment law entitlements and protections, which continue to focus primarily upon the protection of the ‘standard’ ongoing and resident worker. This thesis will examine how migration and employment law in Australia and Canada regulates the legal precariousness of temporary migrant agricultural workers through a comparative doctrinal examination of two case studies: the Canadian Seasonal Agricultural Worker Program and the Australian Seasonal Worker Program. It will focus on three aspects of legal precariousness commonly considered in the literature: low wages, insecure employment and a low incidence of collective bargaining and the key forms of migration and employment law that regulate these aspects in both countries. In so doing, it will contribute to scholarship surrounding the legal precariousness of temporary migrant work, comparative labour law and labour market regulation.
Other Student Research Projects

Centre members also supervise a number of other students undertaking research higher degrees. These include:


Marco Bini – ‘Public Sector Directors’ Duties’ (PhD). Supervisors: Associate Professor John Howe, Associate Professor Beth Gaze and Professor Ian Ramsay.

Katie Elkin – ‘The Regulation of International Medical Graduates in Australia and New Zealand’ (PhD). Supervisors: Professor David Studdert, Professor Lesleyanne Hawthorne and Associate Professor John Howe.

Andrew Godwin – ‘The Relevance of Traditional Proprietary Rights to the Reform of Rural Land Rights in China’ (PhD). Supervisors: Professor Sean Cooney, Associate Professor Sarah Biddulph, Professor Michael Bryan.

Mark Irving – ‘Equitable Remedies for Unfair Termination’ (LLM, Minor Thesis). Supervisors: Professor Sean Cooney and Associate Professor Matthew Harding.


Nimmith Men – ‘Alternative Dispute Resolution in Cambodia’ (PhD). Supervisors: Professor Sean Cooney and Professor Camille Cameron.

Tony Mihalopoulos – ‘Recognition Space for Indigenous and Ethno-Cultural Groups in Australia’ (PhD). Supervisors: Associate Professor Beth Gaze and Dr Lisa Sarmas.

Wendy Ng – ‘Stepping Through the Looking Glass: China’s Anti-Monopoly Law on its Own Terms’ (PhD). Supervisors: Professor Sean Cooney and Professor Caron Beaton-Wells.

Qingfan You – ‘New Forms of Worker Organisation in China’ (PhD – Monash). Supervisors: Professor Sean Cooney and Professor Peter Gahan.
Teaching and Learning

Members of the Centre teach a number of programs in labour and employment law in the Law School. In addition, the Centre has a sizeable cohort of research students under the supervision of Centre members.

Information regarding the projects of these research students is contained in the earlier part of this annual report (under the heading ‘Research Students under the Supervision of Centre Members’). All labour and employment law students are encouraged to take part in various activities within the Centre, including the Labour Law Seminar Series.

Subjects in the LLB Program

- Employment Law (A. Chapman)
- Discrimination, Law and Equality (B. Gaze)

Subjects in the JD Program

- Employment Law (A. Chapman)
- Equality and Discrimination Law (B. Gaze)
- Legal Research – Regulating Labour Rights and Standards (J. Howe)

During 2012 Centre members also taught in several other subjects in the JD degree, including Constitutional Law and Corporations Law.

The Melbourne Law Masters Program

The Melbourne Law School offers a range of different teaching programs as part of the Melbourne Law Masters Program. Dr Anna Chapman and Associate Professor John Howe were the Directors of Studies for the Employment and Labour Relations Law Graduate Program in 2012.

Coursework Programs:
- Graduate Diploma in Employment and Labour Relations Law
- Master of Employment and Labour Relations Law
- LLM by coursework

Research Programs:
- LLM by major thesis
- Doctorate of Juridical Science (SJD)
- PhD

The subjects offered in 2012 were:
- Bargaining at Work (A. Stewart)
- Employment Contract Law (S. Cooney, J. Howe, and J.C. Tham)
- Equality and Discrimination at Work (A. Chapman, B. Gaze and C. Andrades)
- Labour Standards under the Fair Work Act (J. Howe and P. O’Grady)
- Principles of Employment Law (J.C. Tham)
- Workplace Health and Safety (P. Rozen)
- Human Rights at Work (K. Ewing)
- International Employment Law (G. Mundlak)

Further information regarding the program can be obtained from the Melbourne Law Masters website at: http://www.law.unimelb.edu.au/masters.
Knowledge Transfer and Community Engagement

During 2012 the Centre was engaged in a range of knowledge transfer activities, between the University and other higher education institutions, legal practitioners, industry groups, trade unions, community groups, international institutions such as the International Labour Organisation, Australian government bodies and parliament, and the public.

These exchanges took place through a variety of mechanisms including its two Seminar Series, its Working Paper Series and the involvement of Centre members in editorial roles with the Australian Journal of Labour Law, to name a few. Centre members also played active roles in various associations, were regular contributors to print and electronic media and made submissions and gave evidence to parliamentary inquiries in 2012.

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:

- **Associate Professor Anthony Forsyth**, Monash University on “Kamikazes” and “Mad Men”: The Fallout from the Qantas Dispute” (7 February).

Labour Law Seminar Series
These free public seminars are intended to be of interest to a wide audience including academics, members of the legal profession, and those engaged in the day to day business of industrial relations and/or human resource management. Among other things, the Labour Law Seminar Series provides an opportunity for Centre members, visitors and associates, together with invited speakers, to present preliminary results of their research into the operations of labour and employment law. Associate Professor John Howe, Associate Professor Joo-Cheong Tham, Mr Glenn Patmore and Mr Andrew Newman co-ordinated the Labour Law Seminar Series during 2012. Ten seminars were held during the course of the year:

- **Associate Professor Helen Anderson** and **Associate Professor John Howe**, Centre for Employment and Labour Relations Law, Melbourne Law School on ‘Recovering Compensation for Employment Entitlements in Cases of Accessorial Liability Under the Fair Work Act’ (13 March).
- **Professor Guy Mundlak**, Tel-Aviv University on ‘Human Rights and Labour Rights – Why Don’t the Two Tracks Meet?’ (18 April).
- **Associate Professor John Howe** and **Ms Tess Hardy**, Centre for Employment and Labour Relations Law, Melbourne Law School on ‘Innovation in Employment Standards Enforcement: The Fair Work Ombudsman’s Use of Enforceable Undertakings’ (23 May).

Dr ANNA CHAPMAN, MS SARAH CASTLES AND MS JENNIFER WINCKWORTH
• **Professor Tonia Novitz** and **Dr Phil Syrpis**, University of Bristol on ‘The Place of Domestic Work within the European Employment Strategy and EU Social Policy’ (24 June).

• **Mr Tom Dreyfus**, (former Melbourne Law School student) on ‘Paid Parental Leave and the Ideal Worker: A Step Towards the ‘Worker-Carer’ in Australian Labour Law’ and **Ms Sarah Moore**, Moores Legal (former Melbourne Law School student) on ‘Measuring the Success of Employment Law in Addressing the Problem of Long Working Hours in Australia’ (28 August).

• **Professor Kerry Rittich**, University of Toronto on ‘Precarious Work and the Fragmentation of International Labour Law’ – co-hosted with the Institute of International Law and the Humanities, Melbourne Law School (4 September).

• **Ms Carolyn Sutherland**, Monash University on ‘The Elusive Quest for Simplicity: Assessing the Readability of Enterprise Agreements’ (9 October).

• **Ms Helen Karatasas**, Equal Opportunity for Women in the Workplace Agency and **Professor Margaret Thornton**, Australian National University on ‘Workplace Gender Equality: Rationale and Overview of Proposed Legislative Changes’ (13 November).


**Major Events**

In addition to the Sponsors’ Seminar Series and the Labour Law Seminar Series, from time to time the Centre hosts conferences, roundtables and other events for members of the Australian and international labour law community. These events bring together scholars, practitioners of labour law, industrial relations and human resource management, and members of the public to focus on current issues in Australian, international and comparative labour law. Here is a snapshot of the major events in 2012.

**Lost Decade or Decades? Wages & Wage Inequality in the US** (21 May)
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 was to appear in the forthcoming *State of Working America* (Cornell University Press and Economic Policy Institute).

**Bullying and Harassment: Trying to Stop it!** (22 June)
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 pleased to welcome Professor Phillip Beaumont from the University of Glasgow and Ms Sandra Stewart, Consultant, to speak on this very topical subject.
Foenander Lecture (16 August)
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’.

Labour Law Teaching Workshop (15 November)
The Labour Law Teaching Workshop is held in conjunction with the bi-annual national conference of the Australian Labour Law Association. The workshop provides an opportunity for teachers in the field to get together to discuss the challenges of our subject. As it has done since establishing this teaching workshop in 2006, the Centre co-hosted the workshop with the Australian Labour Law Association. In 2012 the workshop was held at the College of Law, the Australian National University.

Editorial Roles

Australian Journal of Labour Law
The *Australian Journal of Labour Law* is the leading Australian scholarly publication in its field, publishing three issues per year, with each annual volume in the vicinity of 300–350 pages. It is a peer reviewed journal, and was ranked ‘A’ in the 2010 ERA journal ranking process. The Centre is the journal’s administrative home.

During 2012 members and associates of the Centre continued to fill many of the roles in the editorial group. Dr Anna Chapman continued as a Co-Editor of the Journal, and Ms Tess Hardy as the Associate Editor of the Journal. Associate Professor Joo-Cheong Tham is the Reports Co-Section Editor, along with Ms Emily Long. The work of the editorial team was ably supported in 2012 by a team of Student Editorial Assistants.

Centre associates who worked on the journal during 2012 include: Professor Joellen Riley, Associate Professor Anthony Forsyth and Professor Richard Johnstone (Co-Editors) and Mr Anthony O’Donnell (Book Review Editor).

Other Academic Journals

Centre Working Paper Series
The Centre publishes the work of Centre members, associates and others in the field of employment and labour relations law in a periodic working paper series. Paper topics cover diverse aspects of the broad field of labour law and labour market regulation, including the regulation of individual work relationships, discrimination in the labour market, the operation of courts and other dispute resolution institutions, the regulation of occupational health and safety, collective labour relations, comparative labour law, international labour standards, and unemployment law and policy. The working paper series also reflects the Centre’s ongoing research on the constitution and regulation of labour markets, both in Australia and abroad, with papers on labour law in the Asia-Pacific region, Southern Africa and Europe.

The second working paper series – the CELRL Student Working Paper Series – publishes the work of students in subjects taught as part of the labour relations law program of the Melbourne Law Masters, and employment and labour relations law subjects in the JD and LLB programs.

Associate Professor Beth Gaze edited the Centre Working Paper Series during 2012, overseeing the publication of five issues. Further details about these can be found on page 30.
Associations

The Australian Labour Law Association
The Centre is the administrative home of the Australian Labour Law Association (ALLA).

ALLA’s sixth biennial National Conference was held in Canberra on Friday 16 and Saturday 17 November 2012. The conference opened with three outstanding keynote speakers, who discussed collective bargaining from a domestic and international perspective – Justice Iain Ross, President of Fair Work Australia, Professor Keith Ewing of Kings College London and Judge Graeme Colgan of the Employment Court of New Zealand. Helen Anderson, Anna Chapman, Sean Cooney, Joo-Cheong Tham, Tess Hardy, Andrew Newman and Kathleen Love from the Centre for Employment and Labour Relations Law also presented papers at the Conference, offering attendees a great opportunity to discuss new research and developments in labour law. A pre-conference teaching workshop, convened by Anna Chapman and Joo-Cheong Tham, and a pre-conference research workshop with presentations by Anna Chapman and Sean Cooney also took place on 15 November.

At ALLA’s AGM held on 17 November 2012, the national committee said farewell to five members who did not stand for re-election: John Howe, Michael Tamvakologos and Natalie van der Waarden. The national committee also welcomed new members Anna Chapman (VIC), Emma Goodwin (VIC) and Janey Kuzma (ACT).

ALLA puts on a diverse and vibrant array of state seminars, generally free to ALLA members. Topics addressed at the Victorian Chapter forums in 2012 included: ‘The Common Law Contract of Employment’ presented by the Hon Justice Peter Gray of the Federal Court of Australia; ‘The Rise and Demise of a Right to Strike’ presented by Professor Tonia Novitz of the University of Bristol Law School; ‘The Barclay High Court Decision – Where to from here’ presented by Mr Mark Irving from the Victorian Bar, and; ‘Equal Pay and the Community Services Decision’ presented by Dr Meg Smith of the University of Western Sydney.

In addition, ALLA remains an active affiliate of the International Society for Labour and Social Security Law, which held its 20th World Congress in Santiago, Chile in September 2012.

For further information about ALLA please visit http://alla.law.unimelb.edu.au.

Regulating for Decent Work Network
The Centre continued its involvement in the RDW Network in 2012. The Network is a collaboration between the International Labour Organisation, the CELRL, the Fairness at Work Research Group at the University of Manchester, the University of Amsterdam Institute for Advanced Labour Studies (AIAS) and the University of Duisburg-Essen Institut Arbeit Qualifikation (IAQ).

The objective of the RDW Network is to foster research and exchange of ideas concerning the role of labour and employment law protections in fostering economic development. The Network also aims to advance research and policy directions tailored towards making labour market regulation more effective.

The RDW Network’s Third Conference on Regulating for Equitable and Job-Rich Growth will be held at the International Labour Office, Geneva, Switzerland on 3-5 July 2013. The conference has an interdisciplinary focus, and will be attended by academics and labour administrators from around the world, and officials from the ILO with policymaking responsibilities. Centre Director John Howe is a member of the Organising Committee for the conference.

For further information about RDW please visit http://rdw.law.unimelb.edu.au/.
Labour Law Research Network

The Centre is a founding member of a new international association of labour law scholars, the Labour Law Research Network, that was formed in 2011.

The Network is based on cooperation between over 30 labour law research centres from all over the world. The goal of the LLRN is to advance research in labour law, and specifically to facilitate the dissemination of research work and encourage open discussion of scholarship and ideas in this field. All individual labour law scholars are welcome to join, whether affiliated with a research centre or not.

Centre member John Howe is a member of the inaugural Steering Committee of the Network, which consists of six labour law scholars, each from a different region of the world. He is also a member of the Organising Committee for the inaugural LLRN Conference, held at the Faculty of Law, Pompeu Fabra University (UPF), Barcelona, Spain, from June 13-16, 2013.

The LLRN’s web address is: http://www.labourlawresearch.net/

Membership of Other Associations

Staff in the Centre are members of the following committees and organisations:

- Association of Industrial Relations Academics of Australia and New Zealand;
- Australasian Law Teachers’ Association;
- Australia Institute;
- Australian and New Zealand Society of International Law;
- Australian Association of Constitutional Law;
- Australian Industrial Relations Society;
- Australian Institute of Administrative Law;
- Australian Labour Law Association;
- Australian Society of Legal Philosophy;
- Corporate Law Teachers Association;
- Council of Australian Tribunals;
- Discrimination Law Association;
- Discrimination Service Providers Group;
- Electoral Regulation Research Network;
- Industrial Relations Society of Victoria;
- Insolvency Practitioners Association of Australia;
- International Centre for Trade Union Rights;
- International Commission for Labour Rights;
- International Labour and Employment Relations Association;
- International Network of Transformative Employment and Labour Law;
- International Society of Labour and Social Security Law;
- JobWatch;
- Labour and Employment Relations Association;
- Labour Law Research Network;
- Law Council of Australia;
- Liberty Victoria;
- Regulating for Decent Work Network;
- Regulation Working Group, Australian Corporate Accountability Network;
- Social Equity Institute Reference Group;
- Society for the Advancement of Socio-Economics;
- Socio-Legal Studies Association (UK).
Appointments to Advisory Committees, Tribunal Appointments and Consultancies

B. Gaze
• Member of Reference Group, Victorian Equal Opportunity and Human Rights Commission
  Research Project on Women in the Legal Profession Feb-July 2012

J. Howe
• Member of Academic Advisory Committee for the International Labor and Employment Relations
  Association Asian Regional Conference, to be held in Melbourne in 2013.

Media Engagement

During 2012 Centre members and associates contributed widely as commentators on labour and
employment law issues, in the print and electronic media. Contributions included radio interviews,
and publications in both print and online media.

Outputs included:

A. Chapman
• Interviewed in M. Schubert, ‘Legal Right to Flexible Hours Wins Backing’, The Age, 8 April.

B. Gaze
• Interviewed on SYN youth news channel (internet) on the SA Liberal Party leader’s comment that
  women should ignore discrimination: ‘Gender Discrimination – Speak out or Shut Up?’, 24 May.
• Quoted in P. Hudson, ‘Academics Point the Finger at MPs’, The Herald–Sun, 18 September.
• Interviewed by Derryn Hinch on Radio 3AW Drive Time on 15 May 2012 regarding Sidhu v Raphlis
  racist speech case and on 21 September concerning the gender based attacks on the Prime Minister.

J.C. Tham
• ‘The Benefits of Deliberation in the Political Process’, The Conversation, 2 May.
Conference and Seminar Papers

In 2012 members of the Centre delivered papers to a range of Australian and international conferences and workshops, and delivered seminars to industry, government bodies and community groups.

February


S. Cooney ‘Labour Unrest and the Production of Labour Regulation’, at New Dynamics of Industrial Conflicts in Asia: Causes, Expressions and Resolution Alternatives, Monash University.


G. Patmore ‘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, Australian Republican Movement Victoria & the Centre for Citizenship, Development and Human Rights, Deakin University.

March


April


May

A. Chapman ‘Discrimination, Adverse Action and the Case of Deborah Schou’, at the Faculty of Law, Monash University.


**June**

A. Chapman  
'Sexuality, Normativity and the Recognition of Legal Rights in Australian Workplaces', at the 7th Biennial International Interdisciplinary Conference (Gender, Work & Organization), Keele University, UK.

B. Gaze  
'Human Rights in Employment Law: Integrating Anti-Discrimination in Australian Workplace Law', at the International Law and Society Associations Meeting, Hawaii, USA.

**July**

H. Anderson  
'The Proposed Treatment Of Phoenix Activity – An Opportunity Lost?', at the Australasian Law Teachers’ Association Conference, University of Sydney.

J. Howe & T. Hardy  
'The Use of Enforceable Undertakings as a Strategic Labour Law Compliance Strategy,' at the 16th World Congress of the International Labour and Employment Relations Association, Philadelphia, USA.

J.C. Tham  
'Money and Politics in Australia: Transformation of a Laissez-Faire Regime,' at the International Political Science Association Conference, Madrid, Spain.

J.C. Tham & I. Campbell  
'Equal Treatment for Temporary Migrant Workers and the Challenge of Their Precariousness', at the 16th World Congress of the International Labour and Employment Relations Association, Philadelphia, USA.

**August**

H. Anderson  
'Employee Entitlements and Phoenix Activity', at the Adelaide Law School, University of Adelaide.

H. Anderson  
'Protection of Employee Entitlements – Options Available To Regulators, Liquidators and Employees', at the Australian Securities and Investments Commission, Melbourne.

H. Anderson & N. Anson  
'Employee Entitlements upon Insolvency', at the Law Council of Australia 2012 Insolvency Law Workshop, Perth.

G. Patmore  
'Theoretical Perspectives of Legal Regulation and Employee Participation at the Workplace', at the Re-assessing Employee Involvement and Participation: International Perspectives, Journal of Industrial Relations Symposium, Griffith University.

**September**

J. Howe & T. Hardy  
'Rough Justice or Restorative Justice? The Use of Accessorial Liability and Enforceable Undertakings to Motivate Employment Standards Compliance by Corporations', at the Seventh Annual Labour and Employment Law Colloquium, Loyola University Law School and Northwestern University Law School, Chicago, USA.

J. Howe  
'The Use of Enforceable Undertakings and Accessorial Liability to Motivate Employment Standards Compliance by Corporations in Australia: Complementary or Parallel Enforcement Strategies?', at the University of Toronto Centre for Industrial Relations and Human Resources, co-hosted by Osgoode Hall School of Law, York University, Canada.
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<tr>
<th>Month</th>
<th>Person(s)</th>
<th>Title</th>
<th>Location/Details</th>
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<tr>
<td>October</td>
<td>B. Gaze</td>
<td>'Fair Work for Women in Australia', at the International Association of Women Conference, Melbourne.</td>
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<tr>
<td>December</td>
<td>J. Howe &amp; A. Newman</td>
<td>'Statutory Industrial Instruments and the Ownership of Employee Creation: An Empirical Study of Selected “Creative” Industries', at the 2nd Mobility and Competition Clause Workshop, Ludwig-Maximilians-University, Munich, Germany.</td>
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Publications

Books


Chapters in Edited Collections


Journal Articles – Refereed


Journal Articles – Unrefereed


Centre Working Papers Series


## Summary of Centre Accounts

### General Account

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<td>Expenditure 2012</td>
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<td>Salaries (student fellow, research fellow, research assistants)</td>
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**UNCOMMITTED BALANCE** $47,507
## Grants and Commissions Received

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<td>Beth Gaze and Anna Chapman</td>
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<td>ARC Discovery Grant</td>
<td>Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?</td>
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<td>John Howe (with Centre Associates, Associate Professor Anthony Forsyth, RMIT University and Professor Peter Gahan, University of Melbourne)</td>
<td>15 months</td>
<td>Fair Work Australia Research Partnership</td>
<td>Fair Work Australia’s Influence in the Bargaining Process</td>
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<td>Sean Cooney, Tess Hardy, John Howe</td>
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<td>University of Melbourne Social Justice Initiative</td>
<td>Unions and Compliance with Minimum Standards: A Diminishing Role in Enforcement</td>
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<td>Joo-Cheong Tham</td>
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<td>Temporary Migrant Work and Contested Notions of Social Justice</td>
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