Research Report 2004
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I am very pleased to present the Law Faculty’s Research Report for 2004.

The role of this report is to provide a summary of the great range of research achievements of Faculty members for 2004, including achievements of our Faculty members, associates, and students, as well as our research centres and institutes. To provide a better sense of individual achievement, we also profile a number of our outstanding researchers. This year, we profile Sarah Biddulph, Tim McCormack and Kimberlee Weatherall. We also profile Lee Godden, Maureen Tehan, Andrew Kenyon, Tim Lindsey and Loane Skene, who all received substantial ARC grant funding in 2004.

In presenting this report I wish to thank the staff of our Office for Research during 2004 – Carolyn Elliott, Margherita Matera, Felicity Puls, and Caitlin Raynor – for their wonderful commitment to encouraging research within the Faculty. Their outstanding support for staff and students is very gratefully acknowledged.

Associate Professor Belinda Fehlberg
Associate Dean (Research) 2004
Head of Department, Dean and Zelman Cowen Professor of Law


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Patrick Broughan, Ernst and Young
Eugenie Buckley, Ebsworth & Ebsworth
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Braham Dabscheck, University of New South Wales
Terence Daintith, University of Western Australia
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Michael Furmston, University of Bristol
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Jock Given, Swinburne University
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Fred Hawke, Clayton Utz

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Ray Hinde, Davies Collinson Cave
MB Hooker, Australian National University
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Rochelle Le Roux, University of Cape Town
Rodd Levy, Freehills
Damien Lockie, Victorian Bar
Geoff Mansfield, Griffith Hack
Paul Marcus, College of William and Mary, School of Law
Oliver Moréteau, Institute of Comparative Law, Université Jean Moulin Lyon III
David Morgan, University College Cork
Debbie Mortimer, Victorian Bar
Jim Murray, TT Legal
Richard Naughton, PWC Legal
Graeme Neate, President, National Native Title Tribunal
Tim Nielson, Greenwood & Freehills
Gregory Neill, New South Wales Bar
Graeme Orr, Griffith University
Julia Pryor, Mallesons Stephen Jaques
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James Renwick, New South Wales Bar
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Michael Tuckfield, Clayton Utz
Ewan Vickery, Minter Ellison
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Ben Fitzpatrick, Victorian Bar
Ed Heerey, Victorian Bar
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Gail Hubble, Victorian Bar
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Peter Morrissey, Victorian Bar
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Faculty Centres and Affiliated Institutions

Asia Pacific Centre for Military Law
Director
Professor Tim McCormack

Asian Law Centre
Director
Associate Professor Timothy Lindsey

Centre for Comparative and Constitutional Studies
Director
Professor Cheryl Saunders AO

Centre for Employment and Labour Relations Law
Director
Professor Richard Mitchell (until July 2004)
Mr Colin Fenwick (appointed Director August 2004)

Centre for Media and Communications Law
Director
Dr Andrew Kenyon

Centre for Corporate Law and Securities Regulation
Director
Professor Ian Ramsay

Centre for Energy and Resources Law
Director
Professor Gillian Triggs

Institute of Comparative and International Law
Co-Directors
Professor Cheryl Saunders AO
Professor Gillian Triggs
Associate Professor Richard Garnett

Intellectual Property Research Institute of Australia
Director
Professor Andrew Christie
Asia Pacific Centre for Military Law

The Asia Pacific Centre for Military Law (APCML) is a collaborative initiative of the Australian Defence Force (ADF) Legal Service and the Melbourne Law School. Established in 2001, the primary aim of the Centre is to facilitate cooperation amongst military forces in the Asia Pacific Region in the research, training and implementation of the laws governing military operations.

The Centre is currently operating from two physical nodes: one at the Law School and the other at Randwick Army Barracks in Sydney. The Director of the Centre is Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law. The Foundation Deputy Director is Colonel Michael Kelly AM. Mr Bruce Oswald and Lieutenant Colonel Paul Muggleton both serve as Associate Directors of the Centre. Sir Ninian Stephen KG AK GCMG GCVO KBE is the patron of the Centre.

One core activity for the Centre is a series of training courses conducted on an annual basis for regional and ADF military officers. The courses cover Military Operations Law, Civil-Military Co-operation on Peace Operations and the Law of Peace Operations. These courses are conducted at HMAS Penguin, a Royal Australian Navy base on Balmoral Beach in Sydney. Courses have been held regularly since late 2002 and have involved military officers from Fiji, Papua New Guinea, The Philippines, Malaysia, Singapore, Indonesia, Thailand and China. The Centre also conducts research programs, conferences, seminars and workshops and produces publications and materials to support the work of legal officers and militaries generally in the Asia Pacific Region.

The Centre Administrator is Ms Cathy Hutton and enquiries can be directed to <law-apcml@unimelb.edu.au>.

Asian Law Centre

The Asian Law Centre (ALC) commenced activities in 1985 as the first Australian centre devoted to the study of Asian legal systems. Recent initiatives have aimed to promote Asian interest in Australian legal systems and law.

The objectives of the Centre and its members are:

• To improve knowledge of the laws and legal systems of our region;
• To support the rule of law in Asia;
• To promote the development of Asian studies and Asian languages in other disciplines and to encourage linkages with legal studies;
• To promote the teaching of Asian legal studies at both graduate and undergraduate levels in Australia, Asia and elsewhere; and the teaching of Australian law in Asia; and
• To promote exchanges of scholars, staff and students between the Law School and Asian universities and institutions and other institutions elsewhere in the world.

The Centre has pioneered extensive programs of teaching at graduate and undergraduate levels on the laws and legal systems of Japan, China, Indonesia, Vietnam, Taiwan and Malaysia, and has also worked on East Timor, Korea, Thailand, Laos and the Philippines.

The Centre has developed Asian Law Online, the first and largest online bibliographic database of citations of English language materials on Asian laws available throughout the world, including books, book chapters, journal articles and theses, as well as useful research (website) links. The database is offered to the public as a free service to assist students and scholars of Asian legal systems. It can be accessed at <http://www.law.unimelb.edu.au/alc/bibliography>.
Centre members have been active in recent years in publishing. In 2000, *The Australian Journal of Asian Law* was launched, a collaborative venture with the Australian National University and the University of Washington publishing three editions every year. A major ARC-funded research project, *Rethinking Asian Laws: 1945–2000*, was completed in 2001 and resulted in a series of edited books. As well, Associate Professor Tim Lindsey was awarded an ARC Discovery Project Grant in 2004 for *Islamic Law in Contemporary Malaysia, Singapore and Brunei: The Anglo-Malay Madhhab*, supporting new major research into Islamic law in Southeast Asia.

Recent publications include:
- Lindsey, T and Dick, H (eds.), *Corruption in Asia: Rethinking the Governance Paradigm*, Federation Press, Sydney (2002); and

Recent conferences include:
- A two-day conference with the Law School at Deakin University: *Law and Governance: Socialist Transforming Vietnam* (2003);
- A one-day seminar with the Institute for Comparative and International Law: *Islam After September 11 – Islamic Law and the West: Can Secular Laws and Syariah Co-exist?* (2002);
- *Law Reform in Developing and Transitional Economies, held in Ulaanbaatar, Mongolia* (2001);
- An international workshop with the Australian Centre for International Business: *Rethinking the Good Governance Paradigm: Corruption and Social Engineering in Indonesia and Vietnam* (2000);
- *Legal Crisis? Japan and Asia* (1999);
- *Law and the Chinese outside China* (1998); and

In February 2005, the Asian Law Centre convened a one-day international symposium entitled *Build It And They Will Come: The First Anniversary of Law Schools in Japan*.

The Director of the Centre is Associate Professor Tim Lindsey (also Associate Dean (International)). The Founding Director of the Centre is Professor Malcolm Smith. The Centre’s Associate Directors are Dr Sarah Biddulph (China), Mr Sean Cooney (Taiwan), Dr Pip Nicholson (Vietnam), Ms Stacey Steele (Japan) and Ms Amanda Whiting (Malaysia). Ms Kathryn Taylor is the Centre Administrator. Ms Helen Pausacker, Ms Kerstin Steiner and Mr Jeremy Kingsley are the Centre’s principal Research Assistants.

The Centre’s website can be accessed at <http://www.law.unimelb.edu.au/alc>. The Centre can be contacted by email at <law-alc@unimelb.edu.au>.

In a major new initiative in 2004, the Centre, with the Melbourne Institute of Asian Languages and Societies, co-founded the Centre for the Study of Contemporary Islam (CSCI). The CSCI has been established to:
- Consolidate and support several strong, Islam-related research programs extant within the University; and
- Develop expertise and research strengths in one of the most important global issues/areas of interest: contemporary Islamic thought.

The CSCI’s Director is Professor Abdullah Saeed, and the Deputy Director is Associate Professor Tim Lindsey.

The CSCI will have a particular focus on Islamic law (syariah) and can be contacted by email at <csci-admin@unimelb.edu.au>.
Centre for Comparative Constitutional Studies

The Centre for Comparative Constitutional Studies (CCCS) provides a focal point in Australia for research, scholarship, teaching and information about Australian constitutional law and the constitutional law of other countries. Its aims include introducing comparative constitutional concepts and knowledge about comparative constitutional practices into the Australian constitutional debate and developing and promoting a sound understanding of the constitutional systems of countries in the neighbouring region.

Research

A theme of Cheryl Saunders’ research in 2004 was the interaction between federalism and other constitutional doctrines and institutions. She published two book chapters on this theme, dealing respectively with structural aspects of federations and with the protection of rights in federal systems. With Katy Le Roy, she also was the international theme co-ordinator for the Global Dialogue Project on Federalism and Democratic Institutions. She finalised a project on government regulation by contract and used the recent High Court decision on privative clauses as a case study in common law constitutionalism as a contribution to a festschrift for a distinguished Austrian jurist.

Simon Evans’ research in constitutional law during 2004 included work on the powers of the executive government in Australia and the mechanisms for holding the executive to account (for a book to be published by OUP in 2005), the relationship between freedom of speech and private property rights (for an international workshop at ANU in December 2004) and other topics.

Kristen Walker continued her research into the relationship between international law and domestic law, specifically focusing on the ways in which customary international law interacts with Australian law. She also continued her research on same-sex marriage and the Constitution.

Carolyn Evans spoke at an international law conference in Adelaide, at the Annual General Meeting of the World Conference on Religious Freedom (Australia) in Melbourne and as an international expert on religious freedom and the rule of law in China. The Chinese conference was the first international conference in that country to deal with religion and law. Carolyn published a chapter on religious freedom and several articles on human rights generally.

Together, Simon Evans, Kristen Walker and Carolyn Evans commenced work on an ARC Discovery Project on parliaments and human rights.

John Waugh’s research topics included State constitutional law and Australian constitutional history. He undertook archival research on deadlocks in State parliaments and on disputes between the Prime Minister and the Monarch in the appointment of the Governor-General.

Kim Rubenstein worked on several areas of her continuing research. In February she presented a paper The Challenge of Conflict: Rethinking nationality in humanitarian law to a conference in Adelaide. With Professor Saunders, Kim organised the CCCS conference to honour Mary Gaudron’s contribution to Australian law. Her paper for this conference was published in the Public Law Review as part of the conference collection. Kim organised an international workshop on Feminism and Federalism, and presented the paper Gender Issues in the Move to a Republic at a conference for the Australian Republican Movement Victorian State Conference, after making a submission to the Senate Legal and Constitutional Committee Inquiry into an Australian Republic.

Seminars & Conferences

The Centre organised a conference to honour Mary Gaudron QC’s contribution to Australian law, a workshop on feminism and federalism and a roundtable for Australian constitutional law teachers. More than a dozen visitors to the Centre presented research seminars. The Centre received delegates from the National Judges College in China under the auspices of the China/Australia Human Rights Technical Co-operation Program and a delegation from the Nigerian Institute for Peace and Conflict Resolution. The CCCS also hosted national and international roundtables as part of the Forum of Federations' Global Dialogue on Legislative and Executive Governance in Federal Democracies.

Management 2004

Director: Professor Cheryl Saunders
Deputy Directors: Dr Simon Evans, Associate Professor Kristen Walker
Administrator: Ms Katy Prentice
The address of the Centre’s website is <http://www.law.unimelb.edu.au/cccs/>. The Centre can be contacted by email at <cccs@law.unimelb.edu.au>. 
Centre for Corporate Law and Securities Regulation

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

The objectives of the Centre and its members are:

• To undertake and promote research on corporate law and securities regulation;
• To undertake the teaching of corporate law and securities regulation subjects within the Faculty of Law and the Faculty of Economics and Commerce at the University of Melbourne and to develop and promote innovative teaching methods and teaching materials;
• To host conferences to disseminate the results of research undertaken under the auspices of the Centre or in other programs associated with the Centre;
• To develop and promote links with academics in other Australian universities and in other countries who specialise in corporate law and securities regulation;
• To establish and promote links with similar bodies, internationally and nationally, and provide a focal point in Australia for scholars in corporate law and securities regulation;
• To promote close links with peak organisations involved in corporate law and securities regulation;
• To promote close links with those members of the legal profession who work in corporate law and securities regulation; and
• To attract students of the highest calibre to the graduate program and provide opportunities for their involvement in corporate law research projects.

The activities of the Centre include teaching (members of the Centre teach or coordinate the teaching of 35 specialist subjects), maintaining a strong research program, conducting conferences and seminars and publishing a monograph series.

In 2004, the following books were published by Centre members:

• Parker, C, Scott, C, Lacey, N, and Braithwaite, J (eds), Regulating Law, Oxford University Press (2004)

Another important aspect of the Centre’s research program is its research report series in corporate law and securities regulation. 2004 saw the publication of 3 further reports:

• Paul James, Ian Ramsay and Polat Siva, Insolvent Trading: An Empirical Study
• Christine Parker, Paul Ainsworth and Natalie Stepaneko, ACCC Enforcement and Compliance Project: The Impact of ACCC Enforcement Activity in Cartel Cases
• Susan Woodward and Shelley Marshall, A Better Framework: Reforming Not-For-Profit Regulation

In 2004, academic members of the Centre occupied editorial positions with a number of corporate law and related publications. These included:

• Across the Board (Member of the Editorial Board: Professor Ian Ramsay)
• Australian Accounting Review (Member of the Editorial Board: Professor Ian Ramsay)
• Australian Corporations & Securities Law Reporter (Consultant Editor: Professor Ian Ramsay)
• Australia & New Zealand Journal of Law & Education (Member of the Editorial Board: Professor Ian Ramsay)
• Company and Securities Law Journal (Editor: Associate Professor Geof Stapledon; Member of the Editorial Board: Professor Ian Ramsay and Sally Sievers)
• Corporate Law Bulletin (Editor: Professor Ian Ramsay)
• Governance (Member of the Editorial Board: Associate Professor Geof Stapledon)
• International Securities Regulation: Pacific Rim (Consulting Editor: Professor Ian Ramsay)
• Journal of Corporate Law Studies (Member of the Editorial Board: Associate Professor Geof Stapledon)
• Melbourne University Law Review (Faculty Advisor: Professor Ian Ramsay)
• Singapore Academy of Law Journal (Member of the International Editorial Board: Professor Ian Ramsay)

A significant part of the Centre’s activities is the holding of seminars on important issues. In 2004 the Centre held 14 seminars.

The Centre also hosts the Corporate Law Judgments website, which contains corporate law judgments of the Australian State and Federal courts. As of December 2004, there were 3000 judgments on the website.

The address of the Centre’s website is <http://cclsr.law.unimelb.edu.au/).

The Director of the Centre is Professor Ian Ramsay. The Centre can be contacted by email at <cclsr@law.unimelb.edu.au>.
Centre for Employment and Labour Relations Law

The Centre for Employment and Labour Relations Law (CELRL) commenced activities at the beginning of 1994. It is the only Australian university based Centre devoted exclusively to the development of an understanding of labour law. The Centre aims to undertake and encourage research in various areas of labour law and to promote labour law as a discipline.

In July 2004, after 10 years as Director of the Centre, Professor Richard Mitchell stepped down. Mr Colin Fenwick, Senior Lecturer is now the new Director.

Research projects
During 2004, Centre members were involved in the following research projects:

- Law and Labour Market Regulation;
- Regulating Work and Workplaces: Contracting and Bargaining in Enterprises;
- Harassment in the Socio-Legal Context;
- Rethinking International Labour Standards: Prospects for Australia and the Asia-Pacific;
- Private Profits from Prison Labour, Placement and Supply;
- Partnerships at Work: Employee Democracy;
- Partnerships at Work: The Interaction Between Employment Systems;
- Corporate Governance and Ownership Structure;
- Employee Happiness and Labour Law;
- Law and Labour Market Regulation in Southern Africa; and
- Work/Family Conflict and Australian Labour Law.

Work continued on the five year ARC Discovery Project, Partnerships at Work: The Interaction Between Employment Systems, Corporate Governance and Ownership Structure. This project is examining the interaction of key factors believed to be of paramount importance in the creation and sustainability of ‘Partnerships at Work’. The project is being undertaken in conjunction with the Centre for Corporate Law and Securities Regulation.

The Centre was commissioned by the Victorian Government to write a Report on Protecting the Workers Interest in Enterprise Bargaining: The ‘No Disadvantage’ Test in the Australian Federal Industrial Jurisdiction.

As well, Centre members presented a submission to the Minister for Employment and Workplace Relations, the Honourable Kevin Andrews, MP concerning the ministerial review of the Workplace Relations Act 1996 (Cth.)

Seminars
As part of the regular seminar series, in 2004 the CELRL offered 4 ‘In-house seminars’ and 8 ‘Sponsors seminars’. As well, the Centre, in conjunction with the Australian Labour Law Association and the Monash Law School, presented a seminar with Professor Kathy Stone, UCLA.

Publications
The Centre regularly publishes working papers (three of which appeared in 2004) and houses the Australian Journal of Labour Law. Centre members also published several book chapters and journal articles.

Academic visitors to the Centre
Emeritus Professor Harry Glasbeek, York University, Canada (January–May 2004)
Ms Shae McCrystal, Law Faculty, ANU (February–April 2004)
Mr Mark Mourell, Griffith University (February–March 2004)
Professor Andrew Stewart, Flinders University of South Australia (March 2004)
Ms Karen Wheelwright, Deakin University (May–June 2004)
Mr Ixusko Ordeñana Guezuraga, University of Deusto, Spain (July–September 2004)
Professor Katherine Stone, UCLA, USA (September–October 2004)
Ms Daniela Steinwender, University of Graz, Austria (August–January 2004)
Ms Joellen Riley, University of Sydney (December 2004)

Centre Staff
Ms Anna Chapman, Mr Sean Cooney, Ms Meredith Jones, Mr Jarrod Lenne, Ms Shelley Marshall, Professor Richard Mitchell, Mr Anthony O’Donnell, Mr Glenn Patmore, Ms Elena Goodey and Ms Charlotte Craw. Mr Colin Fenwick is the Director of the Centre.
The Centre for Energy and Resources Law (CERL) was established in 1986, however until 1996 it was known as the Centre for Natural Resources Law. In 1996, the Centre's objectives were extended and its name was changed to reflect the broader scope of its activities.

The objectives of the Centre and its members are:

- To promote research, graduate teaching, publications, and discussion about energy, natural resources, environmental law, and native title in:
  - Australia;
  - Asia/Pacific;
  - Other selected regions of the world.
- In particular to increase knowledge about contemporary developments and issues in Australia and overseas, including:
  - The production and distribution of energy;
  - The provision of infrastructure;
  - The resources laws and regulatory regimes in countries where Australian corporations conduct operations;
  - The environmental laws and regulatory regimes applicable to energy and natural resources projects;
  - The reconciliation of rights to develop natural resources and the land rights of indigenous peoples.
- To extend the Law Faculty's specialised collection of research and teaching materials relating to energy, natural resources, environmental law, and native title;
- To strengthen existing links and establish new links with other centres in Australia and overseas engaged in similar activities; and
- To encourage persons from industry, professions, investment institutions, governments, and universities in Australia and overseas to participate in the Centre's activities.

On 2 August 2004, the Centre for Energy and Resources Law hosted a seminar, together with a panel of experts, at Rio Tinto Limited, Melbourne. The seminar was presented by Professor Thomas Wälde, from the Centre for Energy, Petroleum & Mineral Law and Policy, University of Dundee. The seminar was entitled Resources, Energy and Infrastructure Disputes in International Investment Arbitration and was very well received by government departments and the legal profession.

Visitor to the Centre for Energy and Resources Law
1 September to 31 December 2004: Professor Alastair Lucas, University of Calgary. Alastair Lucas, QC is Professor of Law and Chair of Natural Resources Law at the Faculty of Law and Adjunct Professor of Environmental Science at the University of Calgary. He is also Director of the University of Calgary’s Latin American Energy Organization Energy and Environmental Law Project. He is a legal adviser to the North American Commission for Environmental Cooperation. His research has been in domestic and international energy and environmental law. His research at Melbourne relates to the Centre for Energy and Resources Law and concerns comparative Australian/Canadian water resources law and collection of Australian data on legal instruments for carbon sequestration on agricultural land.

The new director of the Centre is Associate Professor Richard Garnett (appointed July 2005). His contact details are:
email <r.garnett@unimelb.edu.au>
or telephone (03) 8344 7483.
Centre for Media and Communications Law

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. It undertakes substantial research projects, hosts public seminars about legal and regulatory developments, and supports research visits from Australian and international academics, lawyers and policy makers. The CMCL also supervises the development and delivery of undergraduate and graduate programs in media and communications law at the University of Melbourne. The CMCL has strong links with the media and communications industry and regulators within Australia and overseas, as well as with the legal profession and academics. The CMCL's Director is Dr Andrew Kenyon.

The CMCL was associated with several major research projects in 2004:

- **ARC Discovery Project:** Establishing an Optimal Legal Framework for Online Privacy (2002–2004). Chief Investigators: Professor Sam Ricketson, Associate Professor Megan Richardson, Lesley Hitchens (Law School, University of NSW); Senior Fellow: David Lindsay.
- **ARC Discovery Project:** Defamation Law in Context: Australian and US News Production Practices and Public Debate (2003–2005). Chief Investigators: Dr Andrew Kenyon, Dr Tim Marjoribanks; Research Fellow: Dr Chris Dent.
- **ARC Linkage Project:** Copyright and Cultural Institutions: Digitising Collections in Public Museums, Galleries and Libraries (2003–2005). Chief Investigators: Dr Andrew Kenyon, Professor Andrew Christie; Research Fellow: Emily Hudson.
- The CMCL was the primary legal consultants for the AusAID–funded Pacific Media and Communications Facility, which aims to strengthen the media’s contribution to good governance within Pacific Island nations. Chief Investigator: Dr Andrew Kenyon; Researcher: Kate MacNeill.

The CMCL's website is <www.law.unimelb.edu.au/cmcl>. Any enquiries about the CMCL can be directed to its Director, Dr Andrew Kenyon <a.kenyon@unimelb.edu.au>.

Institute for Comparative and International Law

2004 was a busy year for the Institute for Comparative and International Law (ICIL), which held a number of successful seminars, workshops and public lectures, and undertook wide-ranging research.

These events are listed below:

- 2 April 2004 – ICIL co-hosted with the Asia Pacific Centre for Military Law a workshop entitled, *Roundtable Discussion on Transitional Codes for Post-Conflict Criminal Justice*. A report from the workshop was written by Mr Bruce Oswald CSC, Associate Director, Asia Pacific Centre for Military Law.
- 26 May 2004 – ICIL hosted a seminar titled, *International Online Dispute Resolution: An initiative to resolve disputes*. The speaker was Ms Melissa Conley Tyler, BA, LLB (Hons), MALD (Fletcher), Research Fellow, International Conflict Resolution Centre.
- 27 July 2004 – ICIL hosted two seminars presented by Professor Joseph Weiler from the New York University Law School. The first of these seminars was titled, Constitutional Foundations of International Economic Law and the second seminar was titled, The effects of WTO decisions, especially those in relation to SPS (sanitary and phytosanitary) and TBT (technological barriers to trade) agreements.
- 3 June 2004 – ICIL hosted a public lecture delivered by the Shadow Minister for Foreign Affairs and International Security, Mr Phillip Rudd MP. The title of this lecture was, *Has Australia Retreated from its Obligations at International Law?* The lecture was very well attended and time was allowed for questions and answers.
- 28 September 2004 – ICIL and Amnesty International Australia co-hosted a public seminar titled, *Temporary Protection – Permanent Torment?*. The speakers at this seminar were: Dr Graham Thom, AIA Refugee Campaign Coordinator, Dr William Maley, Professor and Foundation Director of the Asia-Pacific College of Diplomacy at ANU and Ms Georgina Costello, barrister and human rights activist.

In 2004 the ICIL quarterly newsletter covered recent developments in public and private international law.

During the first half of 2004, the Director of ICIL, Professor Gillian Triggs, undertook her own research on various aspects of comparative and international law. Professor Triggs was on sabbatical leave at Cambridge University from 21 June 2004 to 28 February 2005, completing the text of her new book on contemporary international law, which will be the prescribed text for students in the subject International Law in 2005.

In the absence of Professor Gillian Triggs, Associate Professor Richard Garnett acted as the Director of ICIL.

Visitors to the Institute during 2004 included Dr Catherine Button, Minter Ellison Lawyers – 1 March 2004 to 28 February 2005, and Dr George Moussourakis, University of Auckland – 30 June to 6 July 2004.
Intellectual Property Research Institute of Australia

The Intellectual Property Research Institute of Australia (IPRIA) is a national centre for multi-disciplinary research on the law, economics and management of intellectual property. It is based at the University of Melbourne, and is run jointly by the Faculty of Law, the Faculty of Economics and Commerce, and the Melbourne Business School.

The Institute's research agenda covers a spectrum of issues, concerned with:
- The investment in intellectual property creation;
- The creation and commercialisation of intellectual property resulting from that investment;
- The valuation and management of the intellectual property flowing from that creation;
- The development of new norms attaching to that intellectual property;
- The systems for enforcement of that intellectual property and the administration of the national intellectual property infrastructure;
- The international aspects of intellectual property laws; and
- Intellectual property in the public sector.

IPRIA seeks to use the outcomes of its research to create and contribute to healthy public debate on key issues relating to intellectual property. Apart from research, its activities include the organisation of conferences, a series of public seminars and the publication of a working paper series.

**Publications**

Below is a sample of the published work produced by the Institute in 2004. A full listing of published work is available at [http://www.ipria.org](http://www.ipria.org):

**Working Papers**

IPRIA has also made a number of submissions to the State and Federal government, on a variety of topics.


**Conference and Seminars**


The Director of the Institute is Professor Andrew Christie, Davies Collison Cave Chair of Intellectual Property. The Institute's Associate Directors are Dr Elizabeth Webster, Professor Joshua Gans and Ms Kimberlee Weatherall. Ms Jean Molloy is the Institute's Executive Officer and Ms Celia Ujvari is the Administrative Assistant.

The Institute website address is [http://www.ipria.org](http://www.ipria.org) and can be contacted by email at info@ipria.org.


*Jensen P and Webster, E, SMEs and their use of Intellectual Property Rights in Australia, IPRIA Working Paper Series 09/04 (August 2004)*


*Jensen, P and Webster, E, Achieving the Optimal Power of Patent Rights, IPRIA Working Paper Series 15/04 (November 2004)*


*Griffiths, W and Webster, E, Trends in the Value of Intellectual Property in Australia, IPRIA Working Paper Series 18/04 (December 2004)*
Faculty Edited Journals and Newsletters

**Refereed Journals**

**The Australian Journal of Asian Law**
The *Australian Journal of Asian Law* (Asian Law) 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 legal ideas in a region characterised by rapid growth and social change.

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

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

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**Australian Resources and Energy Law Journal**
(Formerly known as Australian Mining and Petroleum Law Journal)

*Australian Resources and Energy Law Journal* is the result of a unique collaboration between the Centre for Energy and Resources Law of the University of Melbourne, the Centre for Mining, Energy and Natural Resources Law of the University of Western Australia and AMPLA Limited, the Resources and Energy Law Association.

The Journal, which is edited by Professor Gillian Triggs of The University of Melbourne, aims to produce a publication of continuing relevance to both academic and practitioner lawyers interested in the practice and development of laws relevant to the energy and resources sector of Australia and development in our immediate region.

The Journal is published in three regular parts annually. Each regular part of the Journal contains between two and three peer reviewed articles, together with notes on recent developments in case law and legislation, ‘comments’ on matters of particular interest, case notes and occasional book reviews.
Company and Securities Law Journal

The Company and Securities Law Journal, whose editor is Associate Professor Geof Stapledon and general editor is Professor Robert Baxt (Professorial Associate of the University of Melbourne and a Partner at Freehills), commenced publication by the Law Book Company in 1983. Published eight times a year, it is the leading company law journal in Australasia. Professor Ian Ramsay is a member of the Editorial Board of the Journal.

Each issue of the Journal typically contains 2 or 3 articles, together with several casenotes and short ‘comments’ in specialist sections (including company law, directors’ duties and corporate governance, takeovers and public securities, corporate insolvency, corporate finance, securities industry and managed investments, accounting, current developments—legal and administrative, and overseas notes for six jurisdictions). Students are encouraged to submit casenotes and comments for the specialist sections. Article-length pieces from students will also be published if they are of particularly high quality.

Media and Arts Law Review

The Media and Arts Law Review is the only Australian-based refereed journal in the fields of media and arts law. The Review is published quarterly and examines areas of media and arts law, including: Communications, Contempt, Copyright, Cultural Heritage, Defamation, Digitisation, Entertainment, Free Speech, Intellectual Property, Journalism, Privacy and the Public Interest.

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

Suitable student contributions are welcome, and the Editor is happy to discuss possible contributions or other assistance with the Review.

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.

Throughout 2004, there has been an increased awareness of, and interest in, international law across the wider community. This climate has enhanced the opportunity for MJIL to contribute to debate and discussion on a wide range of legal issues. MJIL publishes articles on a broad range of international law topics. The most recent edition includes articles and commentaries on issues of the privatisation of human rights in international law, international labour law, international criminal law, international intellectual property law, and the interaction between trade and competition before the World Trade Organization.

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.

MJIL can be contacted via phone on +61 3 8344 7913 or email <law-mjil@unimelb.edu.au>.

You are invited to peruse their website at <http://mjil.law.unimelb.edu.au>.

Melbourne Legal Studies
(Formerly known as Melbourne Public Law and Legal Theory)

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

Melbourne University Law Review

The Melbourne University Law Review is one of Australia’s premier generalist law journals. Submissions to the Review are subject to independent, anonymous peer reviews prior to acceptance for publication. The Review is published three times a year (in April, August and December) and is managed by an Editorial Board comprising students of the Law School at the University of Melbourne.

The Review publishes articles on all areas of law, with an emphasis on Australian domestic law, international law and comparative law. It also publishes case notes, book reviews, review essays and research notes. The Review’s Critique and Comment section features shorter comment-style pieces, along with full-length articles that employ explicitly theoretical approaches to the law.

The Review occasionally produces a symposium edition devoted to a particular aspect or area of law. Recent symposium editions of the Review have focused on developments in Australian law in the 20th century, contemporary human rights and, most recently, a half symposium on the law of tort, published in honour of Professor Harold Luntz.

The Review also publishes the Australian Guide to Legal Citation (AGLC), which seeks to provide Australia with a uniform system of legal citation. The AGLC outlines established citation practices and indicates preferred approaches where no particular approach has been widely accepted. The AGLC has been adopted by a number of Australia’s leading law journals and is prescribed in some Australian law schools as the house style guide. The first edition of the AGLC was published in 1998, a second edition was published in early 2002 and, due to popular demand, the AGLC was reprinted in 2003 and 2004.

Any enquiries regarding the Review or the AGLC should be directed to:

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Public Law Review
The quarterly journal Public Law Review is edited by Professor Cheryl Saunders of the University of Melbourne and Professor Michael Taggart of the University of Auckland New Zealand. Associate editors are Fiona Wheeler from the Australian National University 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. An undergraduate law student is employed each year at CCCS to assist with the Review, including the compilation of recent developments.

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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.

Newsletters
Corporate Law Bulletin
The Centre for Corporate Law and Securities Regulation (CCLSR) publishes, in association with the publisher LAWLEX, the monthly Corporate Law Bulletin. The editor is Professor Ian Ramsay. The Bulletin is distributed by email, and outlines recent Australian and international corporate law and corporate governance developments, including statutory amendments, court judgements, and new Policy Statements made by the Australian Securities and Investments Commission. Some previous issues are published on the website of the Centre for Corporate Law and Securities Regulation: <http://cclsr.law.unimelb.edu.au>.
| Journal: Across the Board  
Publisher: CCH Australia Ltd  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Ian Ramsay  
Editorial Position: Member of the Editorial Board |
|--------------------------------------------------|
| Journal: Art, Antiquity and Law  
Publisher: Institute of Art and Law, Leicester  
Place of Publication: London, UK  
Affiliated Faculty Member: Andrew Kenyon  
Editorial Position: Assistant Editor, Aboriginal Culture and Indigenous Peoples |
| Journal: Australasian Journal of Philosophy  
Publisher: Oxford University Press  
Place of Publication: Oxford, UK  
Affiliation Faculty Member: Natalie Stoljar  
Editorial Position: Member of the Editorial Board |
| Journal: Australasian Parliamentary Review  
Publisher: Australasian Study of Parliament Group  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Cheryl Saunders  
Editorial Position: Member of the Editorial Board |
| Journal: The Australian Accounting Review  
Publisher: The Australian Society of Certified Practising Accountants  
Place of Publication: Melbourne, Australia  
Affiliated Faculty Member: Ian Ramsay  
Editorial Position: Member of the Editorial Board |
| Journal: Australian Business Law Review  
Publisher: LBC Information Services  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Paul Ali  
Editorial Position: Section Editor (Banking & Finance) |
| Journal: Australian Corporations & Securities Law Reporter  
Publisher: CCH Australia Ltd  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Ian Ramsay  
Editorial Position: Consultant Editor |
| Journal: Australian and New Zealand Journal of Law and Education  
Publisher: The Australian and New Zealand Education Law Association  
Place of Publication: Brisbane, Australia  
Affiliated Faculty Member: Ian Ramsay  
Editorial Position: Member of the Editorial Board |
| Journal: Australian Feminist Law Journal  
Publisher: Australian Feminist Law Foundation  
Place of Publication: Melbourne, Australia  
Affiliated Faculty Member: Jenny Morgan  
Editorial Position: Member of the Advisory Board  
Affiliated Faculty Member: Sundhya Pahuja  
Editorial Position: Member of the Editorial Board |
Journal: The Australian Journal of Asian Law  
Publisher: Federation Press  
Place of Publication: Sydney, Australia  
Affiliated Faculty Members: Tim Lindsey, Amanda Whiting  
Editorial Position: Editors  
Affiliated Faculty Members: Sarah Biddulph, Sean Cooney, Pip Nicholson, Cheryl Saunders  
Editorial Position: Members of the Advisory Committee

Journal: Australian Journal of Labour Law  
Publisher: LexisNexis Butterworths  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Colin Fenwick  
Editorial Position: Senior Associate Editor  
Affiliated Faculty Members: Anna Chapman, Breen Creighton, Richard Mitchell  
Editorial Position: Editorial Committee Members  
Affiliated Faculty Member: Anthony O’Donnell  
Editorial Position: Book Review Editor

Journal: Australian Resources and Energy Law Journal  
Publisher: The Australian Mining and Petroleum Law Association Ltd in association with The Centre for Energy and Resources Law, The University of Melbourne, and The Centre for Commercial and Resources Law, The University of Western Australia  
Place of Publication: Melbourne, Australia  
Affiliated Faculty Member: Gillian Triggs  
Editorial Position: Editor in Chief

Journal: Australian Yearbook of International Law  
Publisher: Centre for International and Public Law, Australian National University  
Place of Publication: Canberra, Australia  
Affiliated Faculty Members: Dianne Otto, Kristen Walker  
Editorial Position: Members of the Editorial Board

Journal: Canadian Journal of Women and the Law  
Publisher: University of Toronto Press  
Place of Publication: Toronto, Canada  
Affiliated Faculty Member: Jenny Morgan  
Editorial Position: Australian Correspondent

Journal: Ciberspazio e Diritto – Cyberspace and the Law  
Publisher: Mucchi Editore  
Place of Publication: Modena, Italy  
Affiliated Faculty Member: Andrew Christie  
Editorial Position: Member of the Editorial Committee

Journal: Company and Securities Law Journal  
Publisher: LBC Information Services  
Place of Publication: Sydney, Australia  
Affiliated Faculty Member: Paul Ali  
Editorial Position: Editor (Corporate Finance)  
Affiliated Faculty Member: Ann O’Connell  
Editorial Position: Section Editor (Securities Industry and Managed Investments)  
Affiliated Faculty Members: Ian Ramsay, Sally Sievers  
Editorial Position: Members of the Editorial Board
Journal: *Melbourne Journal of International Law*
Publisher: The University of Melbourne
Place of Publication: Melbourne, Australia
Student members of the Journal are responsible for all editorial work
Affiliated Faculty Members: Martin Davies, Alison Duxbury, Colin Fenwick, Richard Gamett, Geoffrey Lindell, Tim McCormack, Ian Malkin, Anne Orford, Bruce Oswald, Dianne Otto, Sundhya Pahuja, Jacqueline Peel, Gillian Triggs, Kristen Walker
Editorial Position: Advisory Board Members

Journal: *Melbourne Legal Studies*
Publisher: Social Sciences Research Network, USA
Place of Publication: Internet
Affiliated Faculty Member: Andrew Kenyon
Editorial Position: Editor

Journal: *Melbourne University Law Review*
Publisher: The University of Melbourne
Place of Publication: Melbourne, Australia
Student members of the Journal are responsible for all editorial work
Affiliated Faculty Members: Andrew Kenyon, Ian Ramsay, Kim Rubenstein
Editorial Position: Faculty Advisers

Journal: *Global Change, Peace and Security*
Publisher: The Institute for Peace Research, La Trobe University
Place of Publication: Melbourne, Australia
Affiliated Faculty Member: Tim McCormack
Editorial Position: Member of the Editorial Committee

Journal: *Public Law Review*
Publisher: Law Book Company
Place of Publication: North Ryde, Australia
Affiliated Faculty Member: Cheryl Saunders
Editorial Position: Editor
Affiliated Faculty Members: Michael Crommelin, Geoff Lindell
Editorial Position: Members of the Board of Advisors

Journal: *Privacy Law & Policy Reporter*
Publisher: HiTech Editing Pty Ltd
Place of Publication: Sydney, Australia
Affiliated Faculty Member: David Lindsay
Editorial Position: Member of the Editorial Board

Journal: *Publius*
Publisher: Centre for Study of Federalism
Place of Publication: Pennsylvania, USA
Affiliated Faculty Member: Cheryl Saunders
Editorial Position: Member of the Editorial Board

Journal: *Review of Constitutional Studies*
Publisher: University of Alberta
Place of Publication: Edmonton, Canada
Affiliated Faculty Member: Cheryl Saunders
Editorial Position: Member of the International Advisory Board

Journal: *Singapore Academy of Law Journal*
Publisher: Singapore Academy of Law
Place of Publication: Singapore
Affiliated Faculty Member: Michael Crommelin, Ian Ramsay
Editorial Position: Members of the International Referees

Journal: *The Third World and International Law*
Publisher: Kluwer Law International
Place of Publication: The Hague, The Netherlands
Affiliated Faculty Member: Dianne Otto
Editorial Position: International Advisory Board Member

Journal: *Third World Legal Studies*
Publisher: International Third World Legal Studies Association and the Valparaiso University School of Law
Place of Publication: Indiana, USA
Affiliated Faculty Member: Dianne Otto
Editorial Position: Advisory Board Member

Journal: *Torts Law Journal*
Publisher: LexisNexis Butterworths
Place of Publication: Sydney, Australia
Affiliated Faculty Member: Harold Luntz
Editorial Position: Editor
Affiliated Faculty Member: Hayden Opie
Editorial Position: Member of the Editorial Board

Journal: *Tort Law Review*
Publisher: LBC Information Services
Place of Publication: Sydney, Australia
Affiliated Faculty Member: Michael Tilbury
Editorial Position: Member of the Editorial Board

Publisher: Lawbook Co.
Place of Publication: Pyrmont, NSW
Affiliated Faculty Member: Tim Lindsey
Editorial Position: Editor, Report from Asia

Journal: *Women Against Violence: An Australian Feminist Journal*
Publisher: CASA
Place of Publication: Carlton, Australia
Affiliated Faculty Member: Jenny Morgan
Editorial Position: Member of the Editorial Committee (until June 2004)

Journal: *Yearbook of International Humanitarian Law*
Publisher: TMC Asser Instituut Press
Place of Publication: The Hague, The Netherlands
Affiliated Faculty Member: Tim McCormack
Editorial Position: Editor in Chief
The Centre for Employment and Labour Relations Law

The Centre commenced activities at the beginning of 1994. It is the only Australian university based Centre devoted exclusively to the development of an understanding of labour law. The Centre aims to undertake and encourage research in various areas of labour law and to promote labour law as a discipline. After 10 years as Director of the Centre, Professor Richard Mitchell stepped down in July 2004. He remains a key member of the Centre, having accepted a position as a Professorial Fellow in the Faculty of Law. Mr Colin Fenwick, Senior Lecturer took up the position of Director in August 2004.

The objectives of the Centre are:

• To undertake and encourage research on comparative labour law, with particular reference to the labour law systems of the South East and East Asian and Pacific regions, Southern Africa, Europe and North America;
• To undertake and encourage research into the most socially desirable and efficient means of regulating labour relations with particular regard to the role of specialist labour courts and tribunals, and the function of labour unions;
• To undertake and encourage research on the development of fair and equitable individual employment rights and the participation of employees in decision making at the place of work;
• To undertake and encourage research on the development of labour law as a discipline, including the development of empirical, feminist and socio-legal approaches to the study of labour law;
• To undertake and encourage research on the development of labour law as a discipline with particular regard to developing an understanding of the role of law in regulating all aspects of the labour market and with specific regard to issues raised by gender-based labour market segmentation and the focus of occupational health and safety within the labour law discipline;
• To undertake and promote the teaching of labour law, both within the Faculty of Law and the Faculty of Economics and Commerce (in particular the Department of Management) and develop and promote innovative teaching methods and teaching materials in labour law;
• To undertake publications in the form of working papers, journal articles, and books and monographs, and in the form of seminar programmes and conferences to disseminate the results of research undertaken under the auspices of the Centre, or in other programmes associated with the Centre;
• To establish and foster links with similar bodies, internationally and nationally, and provide a reference point in Australia for scholars in labour law; and
• To establish and develop close links with the legal profession and industrial relations practitioners.

The Centre consists of the following staff: Mr Colin Fenwick (Director), Professor Richard Mitchell, Ms Anna Chapman, Mr Sean Cooney, Mr Glenn Patmore, Mr Anthony O’Donnell, Ms Shelley Marshall, Ms Meredith Jones, Ms Charlotte Craw and Ms Elena Goodey (Administrator).

Professor Richard Mitchell, founding Director of the Centre, and Professor Ian Ramsay, Director of the Centre for Corporate Law and Securities Regulation in the Faculty of Law obtained a Discovery Grant from the Australian Research Council in 2003. This grant extends over five years, and is valued at $640,500. The title of the project is Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure.
The project examines the interaction of key factors of paramount importance in the creation and sustainability of ‘Partnerships at Work’. The project will enhance the capacity of governments, enterprises and stakeholders to review employment practices, governance structures and regulatory models.

**Seminars**

**Internal Seminars**

5 March – Mr Mark Mourell, Senior Lecturer in the Department of Industrial Relations at Griffith University: Corporate Notions and the Regulation of Australian Unions.

7 May – Emeritus Professor Harry Glasbeek, Osgoode Hall, York University, Canada: Corporate Crime: Wealth by Stealth.


25 June – Professor Richard Mitchell, Faculty of Law, the University of Melbourne: What's Going on with the 'No Disadvantage' Test Under the Workplace Relations Act 1996?

16 July – Ms Rochelle Le Roux, Deputy Director of the Institute of Development and Labour Law at the University of Cape Town, South Africa: Recent Developments in Vicarious Liability for Sexual Harassment in the Workplace.

27 August – Mr Jarrod Lenne, Faculty of Law, the University of Melbourne: The Ideas, Practices and Regulatory Context of Employee Share Ownership Schemes in Australia.

29 September – Professor Katherine Stone, UCLA, USA: The New Face of Employment Discrimination.

2 December – Ms Joellen Riley, Faculty of Law, University of Sydney: Beyond Deregulation: Imagining an Equitable Private Law of Work.

**Sponsors Seminars**

18 March – Professor Andrew Stewart, Flinders University, Legal Consultant to Piper Alderman: Good Cop or Bad Cop? The AURC’s Role in Policing Enterprise Bargaining.


22 September – Mr Frank Parry, SC, Victorian Bar: Electrolux: The High Court Decision and Its Implications for Bargaining.

2 December – Ms Joellen Riley, Faculty of Law, University of Sydney: Who Owns the Customers? A Reflection on Recent Post-Employment Restraint Cases.

**Key Research Projects**

During 2004, Centre members were involved in the following research projects:

Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure. This project examines the interaction of key factors seen to be of paramount importance in the creation and sustainability of ‘Partnerships at Work’. The project is being undertaken in conjunction with the Centre for Corporate Law and Securities Regulation.

The project examines the interaction between several key factors in the creation and sustainability of ‘Partnerships at Work’. These factors include particular employment systems, forms of corporate governance and ownership structures. It proposes to discover how these various factors have interacted so as to give rise to – or fail to give rise to – ‘high performance’ partnership-style relations at work. In particular, the project will focus on the interaction between these factors within a regulatory environment established by labour law and corporate law.
Preliminary research commenced in the areas of shareholder primacy in Australian corporate law, the regulation and incidence of employee share ownership plans, the concept of workplace partnership and the relation between high performance work systems and the Australian system of labour regulation. For further information visit the project’s website: <http://cclsr.law.unimelb.edu.au/partnerships-at-work/index.html>

Law and Labour Market Regulation
This is an ongoing research programme which seeks to broaden the study of labour law to include wide regulatory concerns embracing the labour market generally. The project is designed to apply a regulatory perspective to labour law, to broaden the subject matter of labour law, and to view the impact of this regulatory field on individual workers taken across a life course.

Regulating Work and Workplaces: Contracting and Bargaining in Enterprises
This project is designed to examine the way that enterprises are regulated with respect to work activity. The project looks at various instruments of regulation, and how these are ordered or interrelate. The project had its basis in an international conference held at The University of Melbourne in 1998, and in the subsequent publication, in 1999, of a book jointly edited by Stephen Deery (now of King’s College, London) and Richard Mitchell under the title Employment Relations: Individualisation and Union Exclusion.

Harassment in the Socio-Legal Context
In Australia, sexual harassment has developed as a distinct conceptual entity. This recognition of sexual harassment as a legal wrong has largely taken place through anti-discrimination law. Unlike sexual harassment, harassing conduct that is not sexual in nature has not developed as a unified legal concept in Australia. This project seeks to analyse the emerging principles of non-sexual harassment in Australian law and practice.

Rethinking International Labour Standards: Prospects for Australia and the Asia-Pacific
The project examines private forms of labour regulation, including voluntary codes of conduct. The theoretical basis of the project is derived from the literature on labour regulation. It is clear that traditional forms of labour regulation (including domestic labour standards) are struggling to cope with the changes in labour market conditions caused by increasing international competition, outsourcing (including international outsourcing) and the demand by firms for ‘flexible’ workplace practices. Alternatives to traditional labour regulation have thus become more significant. One much discussed alternative is the voluntary code of conduct, a form of regulation which is sometimes claimed to be more effective than traditional ‘command and control’ labour law because it internalises enforcement.

Employee Partnership
Glenn Patmore and Paul J. Gollan, from the Department of Industrial Relations at the London School of Economics and Political Science, U.K., have contributed to this debate by co-editing a book entitled Partnership at Work – The Challenge of Employee Democracy: Labor Essays 2003, which was launched in May at Trades Hall, Melbourne.
Employee Happiness and Labour Law
Job satisfaction has been a recurrent theme in newspapers and other popular media for many years. Yet, its promotion through the regulation of the workplace remains elusive. While efficiency and power-balancing are widely accepted as twin objectives of labour law, this project researches the introduction of a new third objective: the promotion of workplace happiness. The project also examines how work councils in Europe might provide one manner in which this objective could be implemented in a concrete way. Glenn Patmore gave a presentation on this topic in November 2003 to the Faculty of Law and the Department of Industrial Relations at the London School of Economics and Political Science, in the United Kingdom. He submitted an expanded version of the paper to the Conference of the Society for the Advancement of Socio-Economics in Washington DC in July 2004.

Law and Labour Market Regulation in Southern Africa
This project was formerly titled ‘Labour Law Reform in Anglophone Africa’, reflecting the title of a grant to support it from the Melbourne Early Career Researcher Grant Scheme (2002–2003). The aim of the project is to explore the trajectory of and influences on labour law in selected countries in the Southern African Development Community. The project seeks to use and to build on the insights in S. Cooney, T. Lindsey, R. Mitchell and Y. Zhu (eds.), Law and Labour Market Regulation in East Asia (Routledge, 2002). Indeed, one of its goals is to produce a similar book with chapters that examine labour law and labour market regulation in a number of Southern African countries.

Work/Family Conflict and Australian Labour Law
This project, undertaken by Anna Chapman as part of her doctoral studies in the Centre for Socio-Legal Research, School of Law, Griffith University, examines whether Australian labour law does produce an ideal worker in a form that is inimical to better work and family outcomes. Law reform initiatives in this area will be examined, and close attention will be paid to the partial view of family contained in most work and family reforms to date in Australia.

Other ongoing research projects include: Private Profits from Prison Labour, and The Legal Regulation of Channels of Worker Recruitment, Placement and Supply.

Reports and Submissions
The Centre was commissioned by the Victorian Government to write a Report on Protecting the Worker’s Interest in Enterprise Bargaining: The “No Disadvantage” Test in the Australian Federal Industrial Jurisdiction.

Centre members presented a submission to the Minister for Employment and Workplace Relations, the Honourable Kevin Andrews, MP concerning the Ministerial review of the Workplace Relations Act 1996 (Cth).
Research profile – Sarah Biddulph

Sarah Biddulph joined The University of Melbourne Law School in 1992 after having been in commercial practice as a solicitor since 1985. Between 1989 and 1992 she was a visiting lecturer to the Law School teaching Chinese law and as a member of the Asian Law Centre. Between 1998 and 2001 she took leave of absence from the University to again practice as a lawyer with an Australian law firm in Shanghai.

Sarah’s main area of research is Chinese law. As Associate Director-China of the Asian Law Centre she has had responsibility for building the Law School’s Chinese law program. The Law Faculty now boasts a wide range of Chinese law and related subjects at both undergraduate and graduate level.

In 2004, Sarah completed her Ph.D. entitled ‘The legal field of policing in China: administrative detention and legal reform’. This thesis examined the impact of Chinese legal reforms on the administrative detention powers of the Chinese police. Administrative detention is one of the most controversial areas of the exercise of state power in China today. These powers are the subject of serious, systematic abuse. Despite more than 20 years of legal reforms, these powers remain ill-defined by law and virtually free from legal supervision or constraint. Lack of detailed legal regulation has made these powers increasingly at odds with the more general trend towards legalisation and regularisation of state power.

To date, most commentary on police detention powers questions the extent to which reforms move toward the ideal of rule of law. This thesis sought to go beyond the rule of law debate in its examination of the processes of legal change. It examined the development and use of these administrative detention powers from the 1950s to the present. The thesis demonstrated how the development and use of these powers has been inextricably linked to the changing politics of the Chinese Communist Party, policies promoting law based governance, the Party-state’s social order policy and the institutional structures to implement these policies.

This thesis adapted Pierre Bourdieu’s concept of the ‘legal field’ to provide a theoretical framework to examine the processes of change affecting powers of administrative detention. Such a theoretical framework makes it possible to trace profound changes in the ways in which state and police power is conceived and legitimated, despite the apparent lack of legal reforms in the powers themselves.

The thesis was well received by the examiners, one of whom commented:

..the thesis in its current form demonstrates a very high degree of mastery of the candidate’s field, with considerable originality of approach, a command of the existing scholarly literature and an authority of scholarly voice that should quickly propel the candidate into the front ranks of scholars studying the Chinese legal system worldwide.
The other examiner commented:

It is a masterful work amply deserving of publication for it will make a substantial contribution to the fields of Chinese law, government and society and also to the field of comparative law.

Sarah is currently involved in a large five year collaborative research project comprising research groups from Canada, China and Japan. The project is led by Professor Pitman Potter, Director of the Institute of Asian Research at the University of British Columbia.

The starting point for this project is the recognition that the processes of globalisation and the power imbalances between developed and developing countries has facilitated the imposition of liberal industrial norms of governance and regulation on the countries of Asia-Pacific. Its hypothesis is that states and societies in Asia-Pacific have not uncritically adopted these foreign norms and systems but have selectively adapted them to local conditions; some resisted, some adapted and transformed. The project examines the processes of selective adaptation of foreign norms in the context of international trade and human rights. Different approaches to trade and human rights are revealed in part through the dispute resolution process where tensions and conflicts between differing norms are manifested and either exacerbated or resolved.

This is an interdisciplinary cross-national project that seeks to combine empirical and theoretical research. Sarah is the head of the human rights team which includes representatives from the Canadian, Japanese and Chinese country teams. The human rights team is examining dispute resolution in the areas of health, housing, labour and discrimination in China, Japan and Canada. In 2004, Sarah presented a paper on the production of legal culture in China at an international conference convened to discuss the themes and ongoing research output of the project. This paper is being prepared for publication.

In 2004, Sarah participated in the first of a series of comparative law seminars hosted by the Asian Law Centre. The papers in this seminar sought to critique existing paradigms of comparative law and to build conceptual frameworks to facilitate empirical studies of governance and regulation in the countries of Asia. Sarah’s paper built on the conceptual framework of the ‘legal field’ to posit a novel approach to comparative and foreign law scholarship. These seminars are an example of the ongoing collaborative research work of members of the Asian Law Centre. The papers from this seminar are being prepared for publication as a book of essays.

Sarah has also published articles dealing with Chinese administrative law and China’s accession to the WTO, the legal mechanisms for supervision of police powers and the legal construction of police administrative powers.
Tim McCormack is the Australian Red Cross Professor of International Humanitarian Law and the Director of the Asia Pacific Centre for Military Law – a collaborative research and training initiative of the Australian Defence Force Legal Service and the Melbourne Law School. A major focus of Professor McCormack's research for the last 12 years has been in the field of International Criminal Law and accountability for violations of International Humanitarian Law.

In 1992 Professor McCormack was approached by the International Organisations and Legal Division of the Department of Foreign Affairs and Trade (DFAT) in Canberra to assist with an analysis of the International Law Commission's (ILC) Draft Code of Crimes Against the Security of Mankind. Professor McCormack recruited Dr Gerry Simpson (then a Melbourne Law School colleague) to the project and together they critiqued the substantive crimes as defined by the ILC to determine the extent to which those definitions were consistent with, fell short of, or extended existing customary international law. Their findings were published in the refereed journal Criminal Law Forum – a US journal dedicated to academic analysis of developments in International Criminal Law. In addition, Professor McCormack and Dr Simpson travelled to New York in November 1993 to join the Australian Government delegation to the Sixth (Legal) Committee of the United Nations General Assembly discussions on the ILC Draft Code.

Back in Melbourne, Professor McCormack and Dr Simpson successfully applied for ARC small grant funding for 3 years from 1994 to 1996 to undertake a project on the increasing cross-fertilisation of national and international law on the development of the law of war crimes. They published a number of academic articles – jointly in the Netherlands International Law Review and separately in a symposium issue of the US Albany Law Review – before publishing an edited volume of essays in 1997 entitled The Law of War Crimes: National and International Approaches. The timing of this volume could hardly have been more propitious coming as it did on the heels of the breakthrough establishment by the UN Security Council of the two ad hoc international criminal tribunals – for the Former Yugoslavia (1993) and for Rwanda (1994) and in the midst of advanced preparations for the Rome Diplomatic Conference for an International Criminal Court in 1998. The international environment had spawned a surge of interest in the subject area and the Dutch publishers Martinus Nijhoff have been pleading for a follow-up volume ever since. The publication of the book resulted in multiple invitations for conference participation, for guest lectures and, perhaps most significantly for both Professor McCormack and Dr Simpson, an invitation from DFAT for both of them to join the Australian Government delegation to the Rome Diplomatic Conference.

Professor McCormack's primary responsibility in Rome involved negotiation of the definitions of substantive crimes on behalf of Australia – particularly the definition of crimes against humanity in Article 7 of the Statute. From that unique and exciting experience Professor McCormack has published three refereed journal articles and seven book chapters on a range of issues including an overview of the jurisdictional aspects of the Rome Statute, the definition of crimes against humanity, the relationship between the International Criminal Court and national courts, the desirability of an effective international criminal law regime and Australia's domestic implementation of the Rome Statute.
In the aftermath of the Rome Diplomatic Conference, the Australian Foreign Minister (Alexander Downer) and the Attorney-General (Daryl Williams) jointly celebrated the agreement for the establishment of an international criminal court and indicated their commitment to early Australian ratification of the Rome Statute. By 2001, with consideration of Australian ratification in the hands of the Joint Parliamentary Standing Committee on Treaties (JSCOT) it was no longer certain that Australia would ratify the Rome Statute. At the time Professor McCormack was chair of the Australian Red Cross National Advisory Committee on International Humanitarian Law. In that capacity he drafted successive submissions to the JSCOT and appeared on three separate occasions to put the case for Australian ratification. Various members of the Committee asked for written advice on substantive aspects of the Rome Statute and Professor McCormack also prepared a paper upon the request of the Parliamentary Library. Professor McCormack undertook many media interviews in relation to Australian ratification and was cited on multiple occasions in Parliamentary debates following the Prime Minister’s announcement that Australia had decided to ratify.

Professor McCormack’s interest in Australian exposure to International Criminal Law has led to his involvement in a number of interesting research projects. For example, a little known and under-researched aspect of Australia’s military and legal history is the post-World War II war crimes trials of more than 800 Japanese defendants by Australian military tribunals. In 2001 Professor McCormack successfully applied for an ARC Linkage Project Grant in partnership with the Australian War Memorial for a project to analyse the voluminous court transcripts and other primary documents associated with the trials. A PhD student, Michael Carrel, will complete the project in 2005 and Professor McCormack is in discussions with the War Memorial about dissemination of the project findings.

More recently Professor McCormack has been assisting Major Mori, the US military lawyer assigned to defend David Hicks, with advice on international humanitarian law and international criminal law aspects of the charges against David Hicks. Professor McCormack was denied permission to appear in Guantanamo Bay as an expert witness in the motions for dismissal of the charges stage of proceedings against David Hicks (the US Military Commission rejected the application for defence experts to provide testimony in person) but Professor McCormack’s written opinion on relevant aspects of the law was filed by Major Mori.

In November 2002 Professor McCormack was appointed amicus curiae on international law issues to the judges of Trial Chamber III of the International Criminal Tribunal for the Former Yugoslavia for the trial of Slobodan Milošević. In this capacity Professor McCormack has been ordered by the judges to provide a number of written submissions. In particular Professor McCormack has focused on self-defence in international criminal law and applied his findings to the evidentiary material in each of the Kosovo, Bosnia-Herzegovina and Croatia parts of the case. This work has involved the reading of 35,000 pages of trial transcript and thousands of additional pages of other trial documentation. Although Professor McCormack travels to The Hague regularly, he undertakes most of his work in Melbourne. Professor McCormack had a team of 12 research assistants – all of them RHD or undergraduate law students – working with him on these submissions – an excellent research training opportunity for those fortunate enough to be involved.

Professor McCormack supervises 6 PhD students and 2 SJD students in the field of International Criminal Law.
Research Profile – Kimberlee Weatherall

Kimberlee Weatherall joined the Faculty of Law in 2003, taking on the role of Associate Director (Law) in the Intellectual Property Research Institute of Australia (IPRIA), a multi-disciplinary research centre based at the University of Melbourne and including researchers from the Melbourne Law School, the Melbourne Business School and the Melbourne Institute of Applied Economic and Social Research. She came to Melbourne from the University of Sydney. Prior to that, she completed an LLM at Yale University and a B.C.L. at Oxford University, specialising in intellectual property law and information technology law.

Kimberlee’s interests range across intellectual property law and its impacts on innovation and the development of technology. A recent focus of her research has been the implications of the IP Chapter of the Free Trade Agreement (FTA) with the United States of America concluded in February 2004. That chapter has required significant changes to Australia’s IP laws, particularly to Australia’s digital copyright laws. Kimberlee appeared at a hearing of the Senate Select Committee inquiring into the Agreement, and her submissions to the Inquiry were used extensively in the Committee’s Final Report. Kimberlee has published and spoken extensively on the Agreement, and offered ongoing analysis of the Agreement and its implementation through her web log, Weatherall’s Law. Kimberlee’s commentary on the FTA has been cited by Senators in the debates on the US Free Trade Agreement Implementation Bill, and by the Parliamentary Library in its analysis of that Bill. Kimberlee has been particularly interested in the broader implications of the IP Chapter for the coherence of Australia’s IP laws, and in the implications of the Chapter for international efforts to harmonise IP law across jurisdictions. She has explored these issues in an invited paper at the IP Society of Australia and New Zealand Conference in September 2004, entitled Fudging the question: the FTA and the future of digital copyright in Australia, and in a second paper entitled Oh what a tangled web: implementing FTAs and the shift away from harmonisation at the IP Teachers’ Conference in January 2005. She was also invited to speak on the implementation of a new performers’ rights regime, at a recent Workshop of the UK Arts and Humanities Board Copyright Research Network. In her research, commentary and her publications she has sought to expose the longer term implications of the FTA, arguing that it has increased the obscurity and needless complexity of Australia’s IP legislation, and has imposed significant barriers to efforts to reform international IP law.

A second key focus of Kimberlee’s recent research has been the IP system – the processes for obtaining and enforcing, intellectual property rights through patent, trade mark and copyright law. At IPRIA, Kimberlee has been leading a project on IP enforcement which seeks to use empirical techniques to examine the enforcement of IP rights through the courts in Australia. The original motivation for an empirical study of IP enforcement outcomes was a perception in some IP circles that owners of IP rights are too often given a raw deal in Australian courts, particularly in the area of patents. Such claims are hard to analyse – either confirm or dispel – in the absence of actual data on outcomes in court proceedings. The objective of the project was to conduct a rigorous, empirical study of IP enforcement, in order to:
1. Obtain a broad picture of what is happening in patent disputes before the courts: Who is litigating? What IP rights are being litigated? How long are such proceedings taking?

2. Provide data on IP enforcement outcomes, to provide a solid factual foundation for policy debates in this area (as well as update earlier studies).

The study has been conducted through the creation of a very detailed database of all identifiable IP enforcement decisions by Australian superior courts for a period of 6 years – a period likely to be expanded through future development of the database. Two papers, co-authored with Dr Paul Jensen, an economist at the Melbourne Institute of Applied Economic and Social Research have been produced analysing recent trends in patent and trade mark enforcement in Australia, with a third paper planned on copyright enforcement. This research on IP enforcement is now being expanded in three directions. Kimberlee has obtained funding from the Melbourne University Early Career Researcher program to conduct research on patent enforcement cases filed, but not prosecuted through to completion. Further work on the settlement of patent litigation is being planned with a collaborator at IPRIA, Dr Chris Dent. This work will involve a practitioner survey and follow-up interviews with practitioners, and will seek to answer questions about the factors that influence settlement and the outcomes of settlement of patent litigation. It is also hoped that the work will obtain a more complete picture on the extent of enforcement activity occurring in Australia. Finally, in early 2005 an application was made with Professor Andrew Christie to the Australian Research Council to conduct a broad comparative study of the patent opposition process. Patent opposition procedures provide competitors with an opportunity to challenge patents at the time of grant. Such challenges provide information that may improve the quality of patents granted, yet there is a risk that the opportunity will be used in a predatory way. The project will use quantitative and qualitative techniques to assess the effectiveness of Australia’s opposition procedures, comparing them with different systems adopted internationally.

A third aspect of Kimberlee’s role at IPRIA has involved directing commissioned research on specific issues of interest to government departments and other public bodies. Kimberlee completed a report on research funding practices across a range of countries for the Department of Education, Science and Training in 2003, and participated in an interdisciplinary project involving both economists and lawyers from IPRIA commissioned by the Commonwealth Department of Industry, Tourism and Resources to study the use of IP by small businesses in 2004. A team from IPRIA of which Kimberlee is a part of, has recently been commissioned by the Australia Council for the Arts to provide a report on the impact of IP on artists and the arts community.
SUBSTANTIAL RESEARCH GRANTEE PROFILES
Grantees – Paul Ali and Geof Stapledon

Project Title – Corporate Governance and Institutional Investment in the Australian Financial Markets

Funding Scheme – ARC Discovery Project Grant

The project will examine, in detail, the corporate governance aspects of complex transactions in the Australian financial markets and the role of institutional investors in monitoring these types of transactions, including:

- The legal design of complex financial products (such as hedge funds, asset-backed securities and customised derivatives);
- The duties at general law and under the Corporations Act 2001 (Cth) of the directors and senior executives of companies (including industrial companies, banks and insurance companies) that use complex financial products;
- The role of institutional investors (principally, superannuation funds, managed investment funds, life insurance companies and fund management firms) in monitoring the use of complex financial products by the companies in which they have invested; and
- The efficacy of the new regime introduced by the Financial Services Reform Act 2001 (Cth) for the regulation of financial products.

There is already considerable interest in Australia (and elsewhere) in corporate governance issues. This is evidenced in Australia by, among other things, the proliferation of corporate governance guidelines. Until recently there were only two major sets of guidelines in Australia – the Investment and Financial Services Association’s (2002) “Blue Book” and the guidelines of the Bosch Committee (1995). By the end of 2003, however, another three sets of guidelines had been released (by the ASX Corporate Governance Council, Standards Australia and the Australian Council of Superannuation Investors). There is, moreover, a growing trend for institutional investors and other professional investors to evaluate companies on a “holistic” or enterprise-wide basis – including assessing the quality of a company’s management controls and corporate governance structures – when making investment decisions. Standard & Poor’s, the international credit rating agency, has recently released a new regime for awarding “corporate governance scores” to companies, with a company’s score being determined by its corporate governance practices.

Six events in particular – the foreign exchange losses suffered by NAB, the recent collapses of Parmalat, HIH Insurance, Pasminco and Enron Corporation, and the substantial losses suffered by Allied Irish Bank – are illustrative of the shortcomings in corporate governance practices in relation to the use of financial products. In Australia, interest in corporate governance issues, not only within the financial and legal communities but also in the broader community, has been sharpened by the recent losses suffered by NAB and the recent collapses of major Australian companies, including HIH Insurance, OneTel, Harris Scarfe and Centaur Mining.

The Australian financial markets have experienced strong growth over the last six years. As regards Australian equity securities, the total market capitalisation of all companies listed on the Australian Stock Exchange has risen from $820 billion (as at 30 June 1999) to $992 billion (as at 30 June 2003). There has also been considerable growth in the
Australian derivatives markets over the same period, from $39 billion to $57 billion.

A detailed examination of the complex financial products available in Australia – together with an assessment of the efficacy of the regulation of those products – has major significance for both the companies whose shares are traded on the Australian Stock Exchange, as well as the institutional and retail investors that invest in those companies. Accordingly, the findings of the project (which may potentially lead to proposals for the reform of financial markets and securities regulation in Australia) are highly relevant to maintaining the efficiency of Australia’s financial markets, the attractiveness of those markets to Australian and overseas investors and for the security of investors’ capital.

Paul is an Associate Professor in the Faculty of Law, University of New South Wales, and was previously a Senior Lecturer in the Faculty of Law, University of Melbourne. Paul has extensive experience in the design and regulation of complex financial products: he has worked as a finance lawyer in Sydney, in two of the leading Australian law firms and also in the securitisation group of a major US bank. He has, in addition, been a principal of a private investment firm based in Sydney. Paul has published several books and journal articles on finance and investment law, including, most recently, books on securitization and environmental finance.

Geof is an Associate Professor and Reader in the Faculty of Law at the University of Melbourne. He is an internationally recognised expert on corporate governance. He is the author of *Institutional Shareholders and Corporate Governance* (Oxford: Clarendon Press, 1996) and a founder and principal of the leading Australian corporate governance advisor, Proxy Australia. Geof has also been a consultant to Minter Ellison, where he advised AMP on the corporate governance aspects of its demutualisation and the A$15 billion flotation of a new holding company.

Paul and Geof are also co-authors of a book published in 2003, entitled *Corporate Governance and Investment Fiduciaries*. This is the first book in a common law jurisdiction outside of the United States to examine critically the corporate governance aspects of managed investment funds, in particular the role and legal obligations of institutional investors in corporate governance, and the legal duty of prudence imposed on fund managers and other market participants, that have been entrusted with the investment of assets on behalf of others. In recognition of this, the foreword to the book has been written by the Hon. Justice R P Austin of the Supreme Court of New South Wales (Equity Division).
Grantees – Lee Godden and Maureen Tehen

Project Title – Managing Competing Claims to Land and Resources – Does Property Law Promote Sustainability?

Funding Scheme – ARC Discovery Project Grant

Australia’s rural environment is coming under increasing pressure and sustainability has become a significant policy for its management. There is an increasing need to redress unsustainable patterns of land and resource use, while at the same time managing the social and cultural diversity associated with competing claims to land and resources. Historically, property law has provided the main legal regime for regulation of land and resources. Yet the extent to which property law is the most viable legal model for ensuring sustainability is widely debated. Alternative legal regimes are emerging, but there is little effective integration across various areas of land and resource management.

Preliminary analyses of the effectiveness of traditional models of property have occurred in various regulatory and natural resource contexts, such as the privatisation of water. In these situations, the nature and extent of property rights remain highly contentious. Debates surrounding the effectiveness of property rights regimes in achieving ecological sustainability have been accompanied by analyses, which to a limited extent, have probed the prevailing conceptual and policy foundation of property. While these analyses are promising, many resource-oriented analyses of property take as a first premise, a narrow conceptual basis which fails to take into account a wide range of social and cultural influences. Moreover, many discussions of “rights” to land and resources appear confused over the precise legal characteristics of the rights that are analysed – particularly where key issues of enforceability are concerned.

The need to resolve conflicts over land and resources has initiated social change, but this has not always been uniform or well-integrated with institutional structures. In many instances, the changing patterns of primary access to land and resources in rural Australia have been ‘squeezed’ into the existing legal forms and accompanying institutional structure without a sustained analysis of the suitability of such forms or a thorough examination of alternative legal forms. Developing the themes of diversity of claims, integration and resolution, community building and sustainability, property rights and cultural change, the project will provide such sustained analysis of the conceptual and legal models of primary access – the areas of indigenous land use agreements, water trading and community-oriented conservation measures will serve as case studies. In addition, the project will examine the historical development of property-based regimes within Australia and overseas, primarily in South Africa and New Zealand, to assess their feasibility in achieving long term environmental sustainability. The research outcomes will be published in a monograph and will lead to new ways of harmonizing competing interests over land and resources as part of a sustainable future.

The research is funded as an ARC Discovery Project of $180,000 over three years. It falls within the national priority of ‘An Environmentally Sustainable Australia’ by focusing on “sustainable use of Australia’s biodiversity.”
Dr Lee Godden has a long-standing research interest in the intersection of environmental law, property law and native title. This project also draws upon her background in the conceptual foundations and development of property law within Australia. She is currently completing research on a range of related issues including a comparative perspective on water law reforms in Australia and South Africa and invasive species regulation.

Associate Professor Maureen Tehan’s research interests are in the fields of indigenous land and resource ownership and management including native title, heritage and environmental management. She is a member of a team of researchers currently completing a three year ARC funded Linkage project on Agreements, treaties and negotiated settlements with indigenous peoples in settler states.
**Grantee – Tim Lindsey**

**Project Title – Islamic Law in Contemporary Malaysia, Singapore and Brunei: The Anglo-Malay Madhab**

**Funding Scheme – ARC Discovery Project Grant**

The research project aims to offer a more complete understanding of Islam and law in the archipelago to Australia’s north. Through a detailed examination of legal theory, current intellectual debates, legal institutions and substantive law in Malaysia, Singapore and Brunei, it will update current knowledge and also build bridges with Muslim scholars and lawyers in the region.

This is of particular national interest for Australia as for most of its history, our predominantly Christian-tradition/secular society has paid relatively little attention to the implications of our location immediately to the south of the largest concentration of Muslims in the world. Only since the rise of Al Qaeda, Jemaah Islamiyah (JI) and other radical Muslim terrorist groups, brought to public attention through the September 11, Bali and Marriot bombings, has there been public acceptance that understanding the Muslim societies to our North is of direct strategic, security and social importance for Australia.

This project therefore focuses on Islamic law (shari’ah) and its role in the modern states of our region and builds on Associate Professor Lindsey’s recent research with Professor M.B. Hooker on contemporary Indonesian Islamic law.

Islam accepts no authority higher than that of God. It proclaims itself to be a complete and authoritative revelation for all time. It is thus for Muslims the source of absolute spiritual and temporal power. This is the reason for the theoretical incompatibility of Islam with the basic unit of government throughout the world, the nation state. All states with Muslim population therefore face the challenge of negotiating a relationship between the state and Islam as the alternative source of authority. This negotiation is also politically ‘loaded’ in modern nation states because ‘Islam’ is frequently wielded by opposition groups to challenge the legitimacy of the government of the day.

This has major implications for law. Unlike many other religions, law is at the heart of Islam – Islam, in fact, has been described as a religion expressed in legal terms. This convergence of ‘religion’ and ‘law’ creates tensions for the operation of Islamic law in modern nation states. In simple terms, the question is significant; how to reconcile modern ‘secular’ law and thus, the legal system and government, drawn from the mystical revelations of Muhammad, the prophet of Islam in 7th century Arabia.

In the last two centuries this has been done throughout Asia either by the colonial powers or by voluntary adoption of Western systems (codes, statutes, judicial decisions and judicial institutions), without any convincing resolution to the problems of state or legal legitimacy for Muslims.

In Malaysia, Singapore and Brunei shari’ah has therefore been filtered through Anglo-common law state institutions. Islamic law is now largely understood in Western-derived forms, at least as far as the interventionist state...
is concerned. In Malaysia, Singapore and Brunei this is referred to as the ‘Anglo-Muslim madhhab’, a sophisticated jurisprudence for Muslims which makes only very limited reference to the classical shari‘ah but draws heavily on the secular Anglo common law and its legal traditions, procedures and principles. The classical shari‘ah definitions of ‘obligation’, ‘duty’, ‘validity’, ‘rule’, and ‘law’ are therefore no longer allowed primacy, nor are the traditional Islamic judicial institutions or the classical fiqh (jurisprudence) itself, which has been largely marginalised.

In the last two decades radical Islamic interpretations of shari‘ah in Southeast Asia have resulted in increasingly militant responses to modernity and the secular state. Responses include, at the extreme, renewal of long-standing calls for an Islamic state (negara Islam; Dar al-Islam). Some of these seek such a state within existing national boundaries but others call for a broader pan-SE Asian state, or a regional caliphate, such as that proposed by Jemaah Islamiyah (JI), an organisation with strong ties to Malaysia.

Another Malaysian response, but one that does not directly challenge national boundaries, is seen in the success of PAS (Partai Islam se-Malaysia), a reformist and often-puritanical Islamist political party, in state elections in Malaysia.

Less confronting responses that are set firmly within the framework of existing state systems include the creation of Islamic banking and insurance systems across the region, the emergence of new popular forms of ‘revivalist’ Islamic ‘law’ at grassroots village level and the separation of the Islamic judiciary from the Anglo-common law judiciary. These responses are essentially legal in nature which reflects the centrality of law for Islamic belief. Accordingly, understanding the place of shari‘ah in this fluid and contested environment is essential, if Islam in SE Asia is to be properly understood.

This project will therefore examine in detail the tension between the formal legal systems in Anglo-SE Asia and their informal challenges.
Grantee – Loane Skene

1. Grantees – Professor Donald Chalmers (University of Tasmania); Dr Dianne Nicol (University of Tasmania); Professor Loane Skene; Professor Margaret Otlowski (University of Tasmania)

Project Title – Facilitation and Regulation of Research and Development Involving Human Genetic Databanks

Funding Scheme – ARC Discovery Grant

2. Grantees – Professor Loane Skene; Dr MaryAnne Aitken (Murdoch Institute); Associate Professor Martin Delatycki (Murdoch Institute)

Project Title – Communicating genetic information in families: practical, legal, social and ethical issues

Funding Scheme – ARC Discovery Grant

Genetic testing offers enormous benefits especially in the development of new drugs and procedures. Within a generation, the current practice of prescribing the same treatment for all patients with a particular condition will seem old-fashioned. Treatments will be designed for specific people, taking into account genetic and other factors that make them more or less effective in each person. The development of these drugs requires collection of genetic and other medical, environmental and lifestyle information from a very large number of people over a long period so that correlations can be made between particular characteristics, the development of medical conditions, the effectiveness of medical interventions and adverse effects following an intervention. One example of such research is the UK Biobank, which will store blood samples, lifestyle details and medical histories of up to 500,000 people, to study conditions like cardio-vascular disease, cancer and diabetes: <http://www.ukbiobank.ac.uk/>. Other biobanks are being established in Australia, with tissue and medical information being collected and stored in order to study particular diseases and the effectiveness of various types of treatment. There are also other collections where the tissue has been taken for clinical purposes, like pathology samples in hospitals and ‘Guthrie Cards’ (the pieces of blotting paper holding blood spots from newborn infants being tested for serious congenital conditions). Scientists may want to use these samples for research as well as samples that have been taken specifically for research.

Many people are uneasy about genetic research and where it may lead. Medical information is often sensitive and there are legitimate concerns about its protection from disclosure to third parties, especially where that may have financial implications for the person concerned. People may be worried about their personal details being revealed not only to medical researchers but also to government agencies, insurance companies, employers, or even family members. There are important legal issues relating to privacy and confidentiality.

Of course the law already has well established principles concerning the privacy and confidentiality of medical information. It is a general tenet of medical ethics (and one increasingly supported by privacy legislation) that people
are entitled to decide what information will be collected about them and to whom it will be disclosed. However, genetic information is different from other types of medical information because it has familial as well as individual implications. Sometimes a person’s genetic condition cannot be diagnosed by testing only that person’s tissue; it is necessary to test also tissue from a blood relative who has the particular mutation in that family; or to obtain details from the relative’s medical records. Also, when a genetic condition is diagnosed in one person, that may have immediate implications for other blood relatives. If informed of the genetic risk, they may be able to avoid suffering serious medical conditions, either for themselves or their children.

As the number of genetic tests increases and they become cheaper and more widely used, it is essential that public trust is maintained in the biotechnology industry and its clinical applications. We need an appropriate and effective regulatory regime. That is the focus of the first of these ARC-funded projects, which continues research funded by the ARC for the same group in two previous projects on genetic regulation (1999–2004). During that time, the group has formed the Centre for Law and Genetics at the University of Tasmania and the University of Melbourne; established a website with bi-daily news updates (<http://www.lawgenecentre.org/>); convened and attended many conferences; and sponsored and attended meetings with local and international experts. Members of the group have made submissions to government and other policy inquiries and have served as consultants to the Australian Law Reform Commission during its extensive work with the Australian Health Ethics Committee on genetic privacy. That work culminated in a two-volume report (over 1100 pages) to the federal parliament: ALRC 96, *Essentially Yours: The Protection of Human Genetic Information in Australia*, March 2003, <http://www.austlii.edu.au/au/other/alrc/publications/reports/96/>.

In the new project, the group will be focusing specifically on the use of stored human tissue in research, together with genetic and other information that may be gained from it. The group will investigate the types of genetic research that are currently being undertaken in Australia, on samples and information collected both clinically and for research. It will examine the procedures of the researchers, the information provided to participants and the consent forms that they sign. It will then consider and evaluate the relevant legislation, common law principles and guidelines. If necessary, it will recommend how these might be improved to assuage community concerns about this type of research and its commercial applications.

The second grant is for a clinical study that also raises legal issues in relation to privacy and confidentiality of medical information. However, those issues are not the focus of the project. Rather, the aim of this research is to investigate whether people pass on genetic risk information to relatives, how they do it, what the barriers are, and what their preferences are. The clinical research for this project will be undertaken at the Murdoch Children’s Research Institute, where one of the Chief Investigators, Dr MaryAnne Aitken is Group Leader of Genetics Education. Another Chief Investigator is Dr Martin Delatycki, Clinical Geneticist at Genetic Health Services
Victoria and Foundation Director of the Bruce Lefroy Centre for Genetic Health Research. They will identify people in their practice who have been diagnosed with particular genetic conditions. These people are commonly advised to inform their close blood relatives concerning a genetic risk in the family so that the relatives can decide whether they wish to be tested themselves. The person initially tested need not disclose his or her own genetic status (whether he or she is positive for the family mutation). That is ‘personal’ information and subject to the same principles of privacy as any other medical information. But the person should tell the relatives that there is a mutation in the family because that information is ‘familial’ and may have important implications for the health of blood relatives. If they know their risk, they can be tested, monitored and have treatment if necessary. They can also consider the risk in making future reproductive decisions.

Later in the study, the people who have been tested and advised to inform their relatives will be followed up to see if they have passed on the information as they were advised to do. If they have not done so, or have not provided adequate information, Professor Skene will investigate and report on the legal implications that may have for the testing agency and the health professionals concerned.

In addition to identifying current practice following diagnosis of a genetic condition and legal issues that may arise if relatives are not in fact being adequately informed, the study should assist health professionals in improving communication of genetic risk information which will in turn benefit the health of people seeking genetic diagnosis of a genetic condition and legal issues that may arise if relatives are not in fact being adequately informed, the study should assist health professionals in improving communication of genetic risk information which will in turn benefit the health of people seeking genetic diagnosis, their children and families and the wider community.
The broadcasting industry is undergoing fundamental changes associated with the transition from analogue to digital transmission. This has serious implications for the Australian public’s interest in a diverse broadcast environment that is accessible to nearly all of its citizens, and one which supports viable creative industries. Free-to-air broadcasting is Australia’s most widely used mass media form and performs central economic, democratic and cultural functions. But technological changes now pose unprecedented challenges to broadcasters.

Unlike analogue material, digital material can be copied and re-transmitted with no noticeable degradation in quality. The emergence of broadband internet and associated customer equipment, including personal video recorders, creates the possibility of material broadcast ‘in the clear’ (meaning without any form of technological protection) being copied and freely distributed. Problems of content protection may undermine free-to-air broadcasting. If digital broadcast content is not protected, high value content may no longer be available to free-to-air broadcasters. The changes to broadcasters’ businesses may also threaten local content production. But protection of broadcast content must balance the interests of content producers in preventing unrestricted copying and redistribution with the interests of users in exercising freedom to copy and communicate digital content in innovative ways.

Processes are underway internationally to protect broadcast content, with the most developed plans being driven by US media interests. The international processes are merely the first steps in the development, deployment and regulation of various forms of technological protection measures (TPMs) for digital broadcast content, including digital rights management systems. Over the coming years, TPMs and their regulation can be expected to be very significant issues for broadcasters and associated creative industries, and for the viewing public.

The implications of these new technologies and international developments for Australian commercial, national and community free-to-air broadcasting are only beginning to be appreciated by the broadcasting industry, regulators and policy-makers. Although Australia must respond to these developments, Australian policies should foster an innovative and diverse broadcasting sector to serve Australian public interests. The project will provide in-depth, independent analysis of Australian regulatory options for protecting digital broadcast content, including technological and legal forms of protection, in a rapidly changing communications and policy environment. The policy issues at the centre of the project are unique and complex, in that they arise at the intersection of two areas of law and policy – copyright and broadcasting, which are fields with disparate traditions of increasing joint importance for digital communications regulation. The project will comprehensively analyse the legal and regulatory issues involved in protecting digital content transmitted by free-to-air broadcasters, and make detailed recommendations regarding the development of laws, regulations, technical standards and technologies to benefit Australian citizens, broadcasters and associated creative industries.
Research in Progress

Civil Justice

Cameron, C
Self-representation in Civil Proceedings

Comparative Law

Cooney, S
Systems Theory and Comparative Law in the Chinese Context

Biddulph, S and Nicholson, P
The Other Lived Experience of Comparative Law: Asian Comparison

Corporations and Associations Law

Ramsay, I
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Criminal Law

Gans, J
A Regulatory Framework for Mass DNA Screenings

Lanham, D
Offensive Weapons and Self Defence

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Malkin, I
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Indigenous People and Law

Tehan, M
Agreements, Treaties and Negotiated Settlements with Indigenous Peoples in Settler States: Their Role and Relevance for Indigenous and Other Australians

International Law

Oswald, B
Applications of Law to International Civilian Policing on Peace Operations

Japanese Law

Steele, S
Legal Education Reform in Japan Revisited: Teachers, Leave us Kids Alone
Labour Law

Cooney, S
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Fenwick, C
Law and Labour Market Regulation in Southern Africa

Mitchell, R
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Sociology and Law

Kenyon, A and Marjoribanks, T
Defamation Law in Context

Tort Law

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Witting, C
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Competitive Grants Received in 2004 (commenced in 2005)

**ARC Discovery Project Grant**

Paul Ali and Geof Stapledon
Corporate Governance and Institutional Investment in the Australian Financial Markets

Lee Godden and Maureen Tehan
Managing Competing Claims to Land and Resources – Does Property Law Promote Sustainability?

Andrew Kenyon
The Future of Television: Australian Legal Protection of Digital Broadcast Content

Tim Lindsey
Islamic Law in Contemporary Malaysia, Singapore and Brunei: The Anglo-Malay Madhhab

Loane Skene, MaryAnne Aitken (Murdoch Institute) and Martin Delatyski (Murdoch Institute)
Communicating Genetic Information in Families: Practical, Legal, Social and Ethical Issues

Donald Chalmers (University of Tasmania), Dianne Nicol (University of Tasmania), Loane Skene and Margaret Otlowski (University of Tasmania)
Facilitation and Regulation of Research and Development Involving Human Genetic Databanks

**Melbourne Early Career Researcher Grants Scheme (MECRG)**

Kimberlee Weatherall
Empirical Study of Patent Dispute Filings in the Federal Court

**Fellowships**

Jürgen Kurtz
University of Michigan Grotius Fellowship in International Law

Jürgen Kurtz
2004 Fellow Hague Academy of International Law
## Published Works

### Books Authored


### Books Edited

**Book Chapters**


Evans, S, ‘The High Court’s Equity Jurisprudence’ in P Cane (ed), *Centenary Essays for the High Court of Australia*, LexisNexis, Chatswood (2004), 390–408


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Lindsey, T, ‘Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia’ (2004) 18 Asia-Pacific Economic Literature 12–40


Other Journal Contributions


Gronow, M, ‘Solicitors and Trust Funds in the High Court’ (2004) 78 Law Institute Journal 50–53


Lindsay, D, ‘Cream Holdings v Banerjee’ (2004) 9 Media and Arts Law Review 339–344


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Stapledon, G, ‘Should Voting be Mandatory?’, Vanderbilt Law School, Nashville, 2004


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Weatherall, K, Submission to the JSCOT Hearing on the Australia-United States Free Trade Agreement, Treaties Committee, Australia (2004)

Weatherall, K, Supplementary Submission to the Senate Select Committee on the Australia-United States Free Trade Agreement, Select Committee, Australia (2004)


Contributions to Reference Works


Theses Passed and In Progress

**Theses Passed: PhD**

**Bailek, D**
Zones of Cooperation: The Emergence of a Cooperative and Functional Australian Approach to the Resolution of Maritime Sovereignty Disputes  
Supervisor: Gillian Triggs

**Biddulph, S**
The Legal Field of Policing in China: Administrative Detention and Legal Reform  
Supervisors: Cheryl Saunders, Pip Nicolson, Michael Dutton and Laurence Maher

**Darmono, B**
Adat and Land Law in a Plural System: A Study of Forestry Regulations and Indonesian ‘legal development’  
Supervisor: Tim Lindsey

**Erawaty, E**
The Tension between the Right of States to Control FDI and the Commitment to Liberalise FDI Under International Investment Instruments  
Supervisors: Anne Orford and Gillian Triggs

**Howe, J**
Government Promotion of Job Creation in Australia: Regulatory Objectives, Instruments and Law  
Supervisors: Richard Mitchell and Richard Johnstone

**Theses Passed: SJD**

**Jaques, J**
The Cash Flow Corporate Tax as an Integration Mechanism  
Supervisor: Graeme Cooper

**Masters Passed: Coursework and Minor Thesis**

**Bannon, V**
Rethinking Legal Mechanisms for Access and Facilitation of International Disaster Response in Cases of Natural Disaster  
Supervisors: John Tobin and Alison Duxbury

**Healy, K**
Optimal management of Industrial Relations Risk in Construction Contracts in Victoria  
Supervisor: Fred Ellinghaus

**Jayasinghe, U**
To What Extent does Australia’s Women at Risk Visa Category Comply with the State’s International Law Obligations in Providing Protection for Female Asylum Seekers?  
Supervisor: John Tobin

**Kishore, V**
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Supervisors: Cheryl Saunders and Simon Evans

**Maiden, S**
The Place of Barnes V Addy in Modern Australian Commercial Law  
Supervisor: Michael Bryan
Raczkowski, J
Putting Rights Theory into Medical Practice – The Relevance of the Convention on the Rights of the Child to Medical Procedures Involving Children
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Supervisor: Richard Garnett

Taylor, J
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Supervisor: Paul Ali

**Theses in Progress: PhD***

Abou-Elyousr, K M
The UN Security Council’s Role after the Cold War and its Impact on the Palestinian-Israeli Conflict
Supervisor: Gillian Triggs

Alneyadi, M
A Look at the Law of Construction Contracts in the United Arab Emirates
Supervisors: Michael Bryan and Tim Lindsey

Bailey, S
Toward a Mine-Free World: Civil Society, the Media and the Campaign to Ban Landmines
Supervisors: Tim McCormack and Donald Markwell

Baird, R
Pursuing Cooperative Regionalism for the Effective Management of Straddling Fish Stocks
Supervisor: Gillian Triggs

Baker, R
Recent Developments in Comparative Medical Malpractice Law
Supervisor: Harold Luntz

Becroft, R
Deference under the Standard of Review in World Trade Organisations Anti-Dumping Disputes
Supervisors: Gillian Triggs and Richard Garnett

Bell, L
The 1858 Trial of the Mughal Emperor Bahadur Shah II ‘Zafar’ for ‘crimes against the State’
Supervisor: Gillian Triggs

Bird, H
Conciliatory Enforcement of Australian Company Law: The Operation and Use of Enforceable Undertakings by ASIC, the Corporate Regulator
Supervisor: Ian Ramsay

Bird, J
Body Technologies to Biotechnology: Race, Sex and Sexuality
Supervisor: Natalie Stoljar

Blakie, J
Does Facilitative Mediation Provide a Paradigm of Justice for the Resolution of boundary Disputes between Neighbours?
Supervisors: Greg Reinhardt, David Wood and Leonardo Rodriguez

Brophy, C
The Law and Integrative Medicine: Legal Issues Arising when Doctors Incorporate Complementary Medicine into Conventional Medical Practice
Supervisors: Harold Luntz and Loane Skene

Butt, S
District Courts in Indonesia
Supervisor: Tim Lindsey

Carrel, M
Australia’s Prosecution of Japanese War Crimes; Stimuli and Constraints
Supervisors: Tim McCormack and Peter Londey

Charwat, N
Contesting Global Governance: A Critical Examination of Amicus Curiae Briefs in the World Trade Organisation’s Dispute Settlement Body
Supervisor: Gillian Triggs

Chellew, J
Derivatives Law: Improving the Corporations Act’s Derivative Definition
Supervisor: Malcolm Smith

Cina, J
Whose Accountability: Internationalising Justice for Massive Human Rights Violations
Supervisors: Tim McCormack and Anne Orford

* Includes theses under examination
Clarke, B
Occupation, Resistance and the International Rule of Law: The Nature and Scope of Legitimate Armed Resistance to Belligerent Occupation
Supervisors: Tim McCormack and Michael Kelly

Coleman, A
The Role of the International Court of Justice and Self-Determination
Supervisor: Tim McCormack

Colmenares, N
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Supervisors: Tim Lindsey and Tim McCormack

Conidi, B
Supervisors: Tim McCormack and Jennifer Balint

Douglas, H
The Cultural Specificity of Evidence and Proof in Criminal Trials
Supervisors: Peter Rush and Lee Godden

Duxbury, A
The Role of Human Rights and Democracy in Determining the Participation of States in International Organisations
Supervisor: Tim McCormack

Forsyth, A
Transplanting Social Partnership: Can Australia borrow from European Law to Improve Employee Participation Rights in Business Restructuring?
Supervisor: Richard Mitchell

French, R
The Constitutional Prohibitions in Sections 51(2) and 99 Against the Commonwealth Discriminating Between or Giving Preference to States in Laws of Taxation, Trade and Commerce
Supervisor: Cheryl Saunders

Gallen, M
A Model Law for Anti-Doping in Sport
Supervisors: Gillian Triggs and Hayden Opie

Gerber, P
From Convention to Classroom – Does Human Rights Education Work?
Supervisors: Gillian Triggs and Rivka Witenberg

Griffiths, E
The Success and Sustainability of Transitional Jurisprudential Modelling in Post-Conflict States
Supervisor: Gillian Triggs

Hammond, E
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Supervisor: Cheryl Saunders

Hanlon, F
Role of the Attorney-General
Supervisor: Cheryl Saunders

Harijanti, S
The Role and Function the National Ombudsman Commission in Creating Good Governance in Indonesia
Supervisors: Cheryl Saunders and Tim Lindsey

Hassan, M H
They Syariah Court of Singapore – A Study of a Court of Law from the Civil and Islamic Perspective
Supervisor: Tim Lindsey

Hatami, P
Are Islamic Principles Sufficient for a Stable Economy? Implications for Trade, Investment and Banking in Islamic Countries: Case Study of Iran and UAE
Supervisor: Tim Lindsey

Henderson, I
Targeting During Armed Conflict: A legal Analysis
Supervisor: Tim McCormack

Hepburn, S
The Doctrine of Tenure and Indigenous Land Rights: Towards and Allodial Land Model
Supervisors: Michael Bryan and Maureen Tehan

Horan, J
The Civil Jury System – An Empirical Study
Supervisors: Peter Rush and Camille Cameron

Howard, J
‘To Deter and Deny’: International Law and Australia’s Interdiction of Asylum Seekers
Supervisor: Tim McCormack

Indrayana, D
Supervisors: Cheryl Saunders and Tim Lindsey

Kaspiew, R
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Supervisors: Jenny Morgan and Belinda Fehlberg

King-Siem, G
Strategic Planning for Information Privacy
Supervisors: Iain Morrison and Andrew Christie

Kordvani, A
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Supervisor: Anne Orford

Kretzschheim, D
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Lach, K
The EU and the Contemporary Notion of State Sovereignty
Supervisor: Anne Orford
Lavery, D
A Residuum of Sovereignty?
Supervisors: Lee Godden and Maureen Tehan

Le Roy, K
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Supervisor: Cheryl Saunders

Limon, C
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Supervisors: Anne Orford and Lee Godden

Lindsay, D
Establishing an Optimal Framework for Online Privacy
Supervisor: Sam Ricketson

Little, P
Universal Jurisdiction for Multinational Corporations
Supervisor: Gillian Triggs

MacDonald, I
Providing for Intra-Generational Equity: The Capacity of International Environmental Instruments to Bridge the Welfare Gap between States, Peoples, Classes and Individuals
Supervisor: Gillian Triggs

Magri, S
Research on Human Embryos, Cloning and the Law
Supervisors: Loane Skene and Christine Parker

Mathews, R
The Negotiation of the Chemical Weapons Convention, and its Implications for other Arms Control Regimes
Supervisor: Tim McCormack

Mihalopoulos, A
A Comparative Study of the Legal Institutions and Systems within which the Jewish and Greek Christian Communities Functioned in Salonica and Istanbul under Ottoman Rule
Supervisors: Malcolm Smith, Lisa Sarmas and Victor New

Millar, H
Accountability for Gross Violations of Human Rights in the Aftermath of Armed Conflict: Domestic and/or Restorative Justice Responses
Supervisor: Tim McCormack

Murphy, A
Public Participation in Land Use Planning
Supervisors: Gillian Triggs and Lee Godden

Mutai, H
The Regulation of Regional Trade Agreements; Harnessing the Energy of Regionalism to Power a New Era in Multilateral Trade
Supervisor: Gillian Triggs

Nguyen, Q
ASEAN Free Trade Area: A Mechanism for Mutual Recognition and Enforcement of Judgements on Civil and Commercial Matters
Supervisors: Tim Lindsey, Pip Nicholson and Peter Bardsley

Nielsen, J
The Experience of Discrimination against Indigenous Australians in Employment
Supervisors: Jenny Morgan and Irene Watson

Ntoko Ewang, F
Does the Capital Maintenance Doctrine Adequately Protect Corporate Stakeholders?
Supervisors: Ian Ramsay

Oswald, B
The Application of International Law to United Nations and Regional Peace Operations
Supervisors: Tim McCormack and Daniel Bethlehem

Parker, D
Lifting the Veil and Corporate Personality
Supervisor: Ian Ramsay

Peel, J
Science and Risk Regulation in International Environmental Law
Supervisors: Gillian Triggs and Philippe Sands

Phathancharoen, K
Cybercrimes: Legislative Measures for Thailand
Supervisors: David Wood and Richard Garnett

Purcell, J
The Influence of Judicial Discretion in Particular Aspects of Corporate Insolvency Administration
Supervisor: Michael Bryan

Reid, T
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Supervisor: Malcolm Smith

Rogers, J
Managing Culture Landscapes: Legislating Female Circumcision, Legislating Difference
Supervisor: Anne Orford

Schlesinger, N
An Exploration of National System Background Influence on the Development of the Law of the International Criminal Tribunals for the Former Yugoslavia and Rwanda
Supervisors: Tim McCormack and Timothy Marjoribanks

Sharpe, M
Freedom and Fairness in Contract Law
Supervisors: Christine Parker and Richard Mitchell

Shi, C
Corporate Governance, Its Theoretical Development and Issues of Chinese Corporate Governance
Supervisors: Tim Lindsey and Sean Cooney

Steiner, K
Western Human Rights and Asian Values – Are the Differences Real?
Supervisor: Tim Lindsey
Stepniak, D  
Electronic Media Coverage of Court Proceedings:  
The Australian Experience in the Light of International  
Developments  
Supervisors: Ian Ramsay and Peter Johnston

Sugden, P  
An Analysis of Remedies in Intellectual Property Law  
Supervisor: Michael Bryan

Sutrisno, N  
Special and Differential Treatment for Developing Countries  
and its Implementation and Enforcement in the World Trade  
Organisation Dispute Settlement  
Supervisors: Gillian Triggs and Anne Orford

Tewfik Mohammed, H  
Ethnic Federalism in Ethiopia: A Case Study  
Supervisor: Cheryl Saunders

Tobin, J  
Dancing with Folk Devils: The Administration of Juvenile  
Justice – A Rights Based Response  
Supervisors: Anne Orford and Philip Alston

Tsonis, A  
Aporias of Sovereignty  
Supervisor: Peter Rush

Vaitiekunas, A  
The Court of Arbitration for Sport: A Critical Analysis and  
Survey of its Effectiveness in the Resolution of Sports  
Disputes  
Supervisors: Gillian Triggs and Richard Garnett

Wardrop, E  
Representation of the Public Interest in the Insolvency of  
Privatised Essential Services  
Supervisor: Tim Lindsey

Welsh, M  
Civil and Administrative Penalties and the Corporations Act  
Supervisor: Ian Ramsay

Wynn-Pope, P  
What Are the Criteria for Determining When a Threat to  
a Violation of Human Security Should Justify an External  
Intervention?  
Supervisor: Tim Lindsey

Yapao, G  
State Participation in Resource Project Developments in  
Papua New Guinea  
Supervisors: Michael Crommelin, Lee Godden and  
Singh Bhalla

Zhou, M  
Antidumping in China, the Wet and the WTO  
Supervisors: Malcolm Smith and Gillian Triggs

Theses in Progress: SJD*

Adams, K  
Mediating Work and Family Responsibilities: A Comparative  
Study of Legislative Strategies  
Supervisor: Jenny Morgan

Alcordo, E  
Corruption in the Philippines: A Failure in Law Reform  
Supervisors: Pip Nicholson and Michael Tilbury

Green, M  
The Extent to Which Express or Implied Right of Political  
Communication are Qualified or Limited by Election Law.  
A Comparative Study of Constitutional, Legislative, Regulatory  
and Practice Regimes in Australia, Canada, the United  
Kingdom and the United States  
Supervisor: Andrew Kenyon

Macleod, A  
The Position of Arms Bearers in Non Security Council  
Endorsed ‘Peace’ Operations, Particularly focusing on  
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Supervisor: Tim McCormack

Merrett, A  
Assessments and Regulation of Market Power in Australia  
Supervisors: Geof Stapledon and Rhonda Smith

Muggleton, T  
The International Crime of Aggression  
Supervisor: Tim McCormack

Petrovic, J  
Deliberate Destruction of Cultural Property During Armed  
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