Not surprisingly, 2020 was a challenging year for the Centre for Employment and Labour Relations Law. As the COVID-19 pandemic hit Australia, from 23 March 2020, Melbourne Law School staff were directed to work from home, and as was the case for many Victorians, we continued working from home for the remainder of 2020. The impact of the pandemic on the University, including the two ‘lockdowns’ in Melbourne, was significant. Our usual teaching, research and engagement activities were disrupted in various ways. For example, Centre staff involved in teaching responded to the cessation of face-to-face teaching by devoting significant time and effort into transforming those face-to-face courses and classes into engaging online learning formats. Scheduled in-person CELRL events were cancelled, and some ongoing research paused. In some cases, this pause was due to the barriers to fieldwork posed by the lockdown, in some cases it was necessary to make time for online teaching and additional administrative responsibilities, and in others it was due to the demand for research and commentary responsive to the issues provoked by the pandemic and its impact. We also note the impact of the pandemic and lockdown on our PhD candidates, who among other things were no longer able to access hard copy resources in the University libraries. For example, Jacqueline Meredith, who we welcomed as a new PhD candidate early in 2020, had only been in the Law School for a few weeks before lockdown commenced.

Notwithstanding these challenges, the CELRL and its members still found ways to make significant contributions to research, teaching and commentary on labour law issues. With the pandemic impacting substantially on the world of work in a variety of ways, Centre members were regularly engaged in commentary on the many significant questions raised by this disruption. Centre members also contributed to policy development and public debate over enduring labour law and policy issues, such as the Commonwealth Government’s consultation process over industrial relations reform, and the resulting Industrial Relations Omnibus Bill.

Having noted the particular challenges faced by PhD candidates, it was especially significant that Azzurra Tranfaglia was able to complete and submit her PhD comparing labour hire regulation in Australia and Italy, and pass with flying colours! We also found new and different ways to continue our engagement with Sponsors, the wider labour law community, and the public, while lockdown continued. This included regular email updates, video commentary, online panel discussions and webinars, and a virtual Advisory Board meeting.

These activities are detailed in the pages of this Annual Report. The publication of this report provides an opportunity to thank the members of the Centre for their involvement and support in what was a very unusual year. We also want to sincerely thank our Sponsors for maintaining their support for, and engagement with, the Centre notwithstanding the impact of the pandemic on their own resources and capacity to engage with the University. We also wish to thank the JD and Melbourne Law Masters students who were involved with the Centre as Student Editorial Assistants for the Australian Journal of Labour Law, or as research assistants for the various research projects in which Centre members were involved. Also important is the financial and administrative support provided by the Melbourne Law School. In particular, we thank Kaori Kano for all her support as Administrator of the Centre in 2020. Kaori left the Law School in late 2020 in order to take up a new role outside the University, and we wish her well in her new position. As always, we thank all those who continue to offer their support. Without it, the Centre would not have the capacity to do nearly as much work as it does.

A message from the Directors of the Centre for Employment and Labour Relations Law.

John Howe and Tess Hardy
Centre Directors
2021

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

- to undertake and encourage independent research on all aspects of the past, present and future regulation of work, in Australia and internationally, including interdisciplinary and multi-interdisciplinary research;
- to undertake and promote research-led teaching of labour and employment law, including by developing and promoting innovative teaching methods and teaching materials, and by fostering graduate research;
- to disseminate the results of research in employment and labour relations law; and
- to establish and foster links with similar bodies, internationally and nationally, and to facilitate engagement between stakeholders both within and beyond the University.
THE CENTRE: PEOPLE AND RELATIONSHIPS

CO-DIRECTORS

Professor John Howe
BA, LLB (Monash), LLM (Temple) (Summa Cum Laude), PhD (Melb)
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Professor John Howe is a Co-Director of the Centre (from January 2020), and was previously a Director of the Centre between 2008 and 2017. John is also Director of the University of Melbourne School of Government. His research interests include labour market policy and regulation, regulatory theory, and social procurement. He has written extensively on the role of the state in regulating employment and labour markets, and on the intersection between state-based regulation and corporate governance. John is presently engaged in research concerning regulatory enforcement of minimum employment standards in Australia and the Asia-Pacific region. He was Secretary of the Australian Labour Law Association between 2005 and 2009. He was Deputy Dean of the Law School from 2013-2016.

Associate Professor Tess Hardy
BA, LLB (Hons), LLM (Melb), PhD (Melb)
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Associate Professor Tess Hardy is the current Co-Director of the Centre. Her research spans the fields of regulation and governance, contract, labour law and competition and consumer law. In November 2017, Tess was awarded an ARC Discovery Early Career Researcher Grant to further her research into franchise regulation, particularly the way in which regulatory mechanisms influence the behaviour of franchise stakeholders.

MEMBERS

Professor Sarah Biddulph
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Professor Sarah Biddulph’s research focuses on the Chinese legal system with a particular emphasis on legal policy, law making and enforcement as they affect the administration of justice in China. Her particular areas of research are contemporary Chinese administrative law, criminal procedure, labour law, comparative law and the law regulating social and economic rights.

Associate Professor Alysia Blackham
BA, LLB (Hons) (Melb), GradDipLegPrac (ColLaw, Syd), GradCertEdStud (HigherEd) (Syd), PhD (Cantab)
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Associate Professor Alysia Blackham holds Bachelor degrees in both Arts and Law (with Hons) from the University of Melbourne, and a PhD in Law from Gonville and Caius College at the University of Cambridge.

Her research focuses on the intersection of employment law, equality law and public law, using empirical evidence to cast new light on legal problems. Alysia’s work concentrates on the consequences of demographic ageing for workplaces. A monograph based on Alysia’s PhD thesis, entitled Extending Working Life for Older Workers: Age Discrimination Law, Policy and Practice, was published by Hart in 2016, and was awarded second prize in the UK Society of Legal Scholars’ Peter Birks Prizes for Outstanding Legal Scholarship in 2017. From 2017–21, Alysia was an Australian Research Council Discovery Early Career Research Fellow, undertaking the project DE170100228, ‘Addressing Age Discrimination in Employment’. Alysia has worked as a solicitor at Herbert Smith Freehills and taught at the University of Sydney and University of New South Wales. Prior to joining Melbourne Law School, Alysia was the Turpin-Lipstein Fellow and College Lecturer in Law at Clare College, Cambridge and an Affiliated Lecturer at the Faculty of Law, University of Cambridge.
Professor Anna Chapman
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Anna Chapman was a Co-Director of the Centre between 2013 and 2019. In 2018 and 2019 she was the Associate Dean (ID) in the Melbourne Law School. From June 2020 Anna is the Chairperson of the University’s Teaching and Learning Quality Assurance Committee.

Anna holds Bachelor degrees in both Commerce and Law (with Honours) from the University of Melbourne, an LLM from the University of Adelaide (with a Dean’s Commendation for Doctoral Thesis Excellence). Her research focuses on employment law and gender and sexuality. This work has engaged particularly with minimum labour standards, including parental leave entitlements and working hours regulation, in addition to the General Protections (adverse action) in the Fair Work Act, unfair dismissal and anti-discrimination law. Anna’s recent work includes a project funded by the Australian Research Council (with Beth Gaze) examining the intersections of employment law and disability.

Professor Sean Cooney
BA, LLB (Hons), LLM (Melb), LLM, JSD (Columbia)
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Professor Sean Cooney’s research interests concern international and comparative labour and employment law, with a focus on Asia. He has worked on new approaches to improving international working standards, including on Australian Research Council funded collaborative projects on Chinese labour law reform; enforcement in Australia; and assessing the effect of legal change in several Asia-Pacific countries. He has published articles in major refereed law journals in the United States, China and Australia. Between 2014 and 2016, Sean served as a Legal Specialist in the Labour Law and Reform Unit at the International Labour Organisation (ILO) in Geneva, where he provided advice to governments in countries such as China, India, Myanmar and Pakistan. He continues to consult for the ILO particularly in relation to Vietnam. Sean studied at the University of Melbourne and Columbia University and also spent several years as a lawyer practising mainly in the areas of employment and administrative law.

Sean’s books include Law and Fair Work in China, (2013, Routledge) together with Sarah Biddulph and Zhu Ying and Resolving Individual Labour Disputes: A Comparative Overview (2016, International Labour Organisation), which is co-edited with Minawa Ebisui and Colin Fenwick. He is also a contributing author to the ILO’s 2021 World Economic and Social Outlook: The role of digital labour platforms in transforming the world of work.

Professor Beth Gaze
BSc, LLB (Hons) (Monash), LLM (Cal) (Berkeley), PhD (Monash), Grad. Dip Psych Studies (Deakin)
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Professor Beth Gaze’s research interests lie in anti-discrimination and equality law, feminist legal thought, administrative law including tribunals, and she has a particular interest in socio-legal research including empirical research. She has published extensively in these areas, and has been the recipient of several Grants from the Australian Research Council. She has previously been a member of Commonwealth and State tribunals including the Social Security Appeals Tribunal and the Mental Health Review Board. Beth teaches Equality and Discrimination Law, International Equality Law and Administrative Law.

Beth has acted as an expert adviser to Parliament and to the International Labour Organisation, and is a member of the Editorial Board of the International Journal of Discrimination and the Law. She is co-author with Associate Professor Belinda Smith of Equality and Discrimination Law in Australia: An Introduction (2017, Cambridge University Press). Beth is also a member of the Centre for Comparative Constitutional Studies.

Professor Tarunabh (Tarun) Khaitan
BA, LLB (Hons) (NLS Bangalore), BCL (Oxford), MPhil (Oxford), DPhil (Oxford)
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Tarun Khaitan is a Professor & Future Fellow at Melbourne Law School, working on a project on the resilience of democratic constitutions, with a focus on South Asia. He is also the Professor of Public Law and Legal Theory at Wadham College (Oxford), currently on leave. Tarun specialises in legal theory, constitutional law and discrimination law. He is a visiting Global Professor of Law at New York University Law School, the General Editor of the Indian Law Review, an Academic Fellow of the Honourable Society of the Inner Temple, an Affiliate of the Bonavero Institute of Human Rights and an Associate of the Oxford Human Rights Hub. His monograph entitled A Theory of Discrimination Law (OUP 2015 hbk, South Asia edition and Oxford Scholarship Online, 2016 pbk) has been cited by the European Court of Human Rights and reviewed very positively in leading journals, including in Law and Philosophy, where Sophia Moreau said ‘In this magnificent and wide-ranging book … Khaitan attempts what very few others have tried.’ The book won the Woodward Medal in 2019 for making ‘a significant contribution to knowledge in a field of humanities and social sciences.’

Professor Khaitan helped draft the Indian Anti-Discrimination and Equality Bill 2017, and his research on discrimination law has been quoted and relied upon by the Indian Supreme Court. Tarun was awarded the 2018 Letten Prize, an award to a young researcher conducting excellent research of great social relevance. He is using a part of the award towards setting up the Indian Equality Law Program, aimed at capacity-building for early-career scholars.
Dr Julian A Sempill  
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Dr Sempill's work addresses liberalism, liberal legal thought, and the relationship between the foregoing and capitalism, with a focus on, among other things: capitalist labour relations; for-profit corporations; climate change. He was educated at the University of Melbourne and Oxford University, and has taught at Melbourne Law School since 2009.

Professor Joo-Cheong Tham  
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Joo-Cheong Tham’s research spans the fields of labour law and public law with a focus on law and democracy; and the regulation of precarious work. He has also undertaken considerable research into counter-terrorism laws. He has published more than 40 refereed articles and book chapters, edited two collections and produced three monographs including Money and Politics: The Democracy We Can’t Afford (2010, UNSW Press).

His research has also been published in print and online media with Joo-Cheong having published more than 50 opinion pieces including in The Age, Australian Financial Review, The Guardian, Herald Sun and Sydney Morning Herald. Joo-Cheong regularly speaks at public forums and has presented lectures at the Commonwealth, South Australian and Victorian Parliaments. He has also given evidence to parliamentary inquiries into labour migration, terrorism laws and political finance laws; and has written key reports for the New South Wales Electoral Commission and the New South Wales Independent Commission Against Corruption on the regulation of political finance and lobbying. His research on the regulation of precarious work is currently focused on the challenges posed by temporary migrant work in Australia, particularly, the precariousness of such work. In 2012, Joo-Cheong became the inaugural Director of the Electoral Regulation Research Network. The Network - an initiative sponsored by the Electoral Commissions of New South Wales and Victoria, and the Melbourne Law School - aims to foster exchange amongst academics, electoral commissions and other interested groups on research relating to electoral regulation.

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

Geoff Giudice studied law and arts at the University of Melbourne, graduating in 1970. He spent nine years working in industry before beginning to practise as a solicitor in 1979. He was admitted to the Bar in Victoria in 1984, and as a barrister specialised in industrial relations and employment law. He was appointed a Judge of the Federal Court of Australia in 1997. At the same time, he became the President of the Australian Industrial Relations Commission. In 2009, when the Commission was replaced by the newly-established Fair Work Australia, he was appointed its first President. Geoff retired from this position in February 2012.

Alongside his appointment with the Centre, Geoff had a number of other roles in 2020 including Chair of the Independent Review Panel under the Gambling Regulation Act (Vic), Chair of Catholic Professional Standards Ltd and is a Chair of the AFL Tribunal. He has a special interest in workplace relations legislative policy-making.

Dr Iain Campbell  
BA (Hons), MA, PhD
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Iain is an experienced researcher in the field of employment relations, with special expertise in precarious work, working hours, trade union strategies, and temporary migrant labour. From 1998 to 2016 he was employed as a Senior Research Fellow at RMIT University and was a Visiting Researcher at the European Trade Union Institute (Brussels), the Institut de Recherches Economiques et Sociales (Paris), and the International Labour Organisation (Geneva). In 2016 he was elected Hallsworth Visiting Professor at the University of Manchester Business School.

Iain currently works as a Research Fellow in the Centre, collaborating with colleagues, including Joo-Cheong Tham, on research publications and projects concerning temporary migrant workers and precarious work in Australia.
ASSOCIATES

The Centre and its members work regularly in collaboration with a wide network of scholars in the field of employment and labour relations law around Australia and the world.

- Associate Professor Susan Ainsworth, University of Melbourne
- Professor Chris Arup, Monash University
- Professor Michelle Brown, The University of Melbourne
- Professor Cindy Estlund, New York University
- Professor Keith Ewing, Kings College, University of London
- Mr Colin Fenwick, International Labour Organization and Principal Fellow, University of Melbourne
- Professor Ronald McCallum, The University of Sydney
- Associate Professor Shelley Marshall, RMIT University
- Professor Richard Mitchell, Monash University
- Dr Jill Murray, Monash University
- Dr Richard Naughton, Monash University
- Mr Anthony O'Donnell, LaTrobe University
- Professor Graeme Orr, University of Queensland
- Professor Rosemary Owens, University of Adelaide
- Professor Marilyn Pittard, Monash University
- Professor Ian Ramsay, The University of Melbourne
- Professor Joellen Riley Munton, University of Technology Sydney
- Professor Andrew Stewart, University of Adelaide
- Professor Katherine Stone, UCLA School of Law
- Professor Leah Vosko, York University, Canada
- Dr Petra Mahy, Monash University
- Ms Carol Andrades, Gordon Legal
- Dr Jill Murray, Monash University
- Mr Paul O’Grady QC, Victorian Bar
- Justice Iain JK Ross AO, President of the Fair Work Commission
- Nadia Stojanova, Victorian Bar
- Ms Rosie Bryant-Smith, Worklogic
- Ms Jodie Fox, Worklogic

TEACHING ASSOCIATES

The Centre for Employment and Labour Relations Law draws on a network of colleagues in both legal practice and the academy who participate in the Centre's research and teaching programs. In 2020, we were grateful for the involvement of:

- Ms Carol Andrades, Gordon Legal
- Dr Jill Murray, Monash University
- Mr Paul O’Grady QC, Victorian Bar
- Justice Iain JK Ross AO, President of the Fair Work Commission
- Nadia Stojanova, Victorian Bar
- Ms Rosie Bryant-Smith, Worklogic
- Ms Jodie Fox, Worklogic
The Centre’s work takes place under the guidance and assistance of an Advisory Board. Members of the Board are distinguished representatives of major institutions, bodies and law firms with an involvement in the employment and labour relations law field. The members in 2020 were:

- The Honourable Justice Mordy Bromberg (Chair), Federal Court of Australia
- Ms Carol Andrades, Gordon Legal
- Mr Josh Bornstein, Maurice Blackburn
- The Honourable Alan Boulton AO, formerly of the Fair Work Commission
- Mr Trevor Clarke, Australian Council of Trade Unions
- Mr Marcus Clayton, Gordon Legal
- Ms Kaitlyn Gulle, Lander & Rogers
- The Honourable Peter Gray AM, formerly of the Federal Court of Australia
- Dr Laura Hilly, Victorian Bar
- The Honourable Associate Justice Mary-Jane Ierodiaconou, Supreme Court of Victoria
- Mr Ross Jackson, Maddocks
- Mr Murray Kellock, King Wood & Mallesons
- Commissioner Tim Lee, Fair Work Commission
- Mr Leon Levine, Minter Ellison
- Mr Jon Lovell, Ashurst
- Mr Peter Lupson, K&L Gates
- Ms Sandra Parker, Fair Work Ombudsman
- Mr Charles Power, Holding Redlich
- Ms Sarah Rey, Justitia
- Ms Kristen Reid, Hall Payne Lawyers
- Ms Penny Savidis, Ryan Carlisle Thomas
- Mr Michael Tamvakologos, Seyfarth Shaw
- Mr John Tuck, Corrs Chambers Westgarth
- Mr Anthony Wood, Herbert Smith Freehills

The support of sponsors is essential to the continued operation of the Centre, both in terms of the financial contributions that sponsors make to the resources of the Centre, and in terms of the involvement of sponsoring firms in providing advice and counsel for the Centre. One representative from each of the Centre’s sponsors sits on the Centre’s Advisory Board.

The Centre’s sponsors in 2020 were:
The Centre is Australia’s first research centre devoted exclusively to developing an understanding of the role and function of legal regulation of the labour market. Centre members are engaged in research in diverse aspects of the broad field of employment and labour law and labour market regulation. Areas of particular interest and expertise include the enforcement of minimum employment standards, international labour rights and standards, temporary migrant worker rights, and discrimination and inequality in employment and the labour market.

During 2020, Centre members pursued a number of specific research projects. Short descriptions of the Australian Research Council funded projects follow. Further information on all of the research projects can be found on our website at: law.unimelb.edu.au/centres/celrl/research/current-research-projects

AUSTRALIAN RESEARCH COUNCIL (ARC) FUNDED RESEARCH PROJECTS

ADDRESSING AGE DISCRIMINATION IN EMPLOYMENT

Centre Member: Alysia Blackham

While demographic ageing necessitates extending working lives, few have questioned the effectiveness of Australian age discrimination laws in supporting this ambition. This project draws on mixed methods and comparative UK experiences to offer new empirical and theoretical insights into Australian age discrimination law. Intended outcomes include a comprehensive empirical dataset and a normative model for legal reform in Australia, to inform public policy and debate and improve our ability to respond to demographic ageing, thereby offering economic, health and social benefits.

ADMINISTRATIVE JUSTICE IN CHINA: HARNESSING THE RULE OF LAW TO DEAL WITH CITIZEN COMPLAINTS AGAINST OFFICIAL MISCONDUCT

Centre Member: Sarah Biddulph

Ongoing conflicts between citizens and government officials in China pose a serious threat to the country’s social stability. Dealing fairly and efficiently with citizens’ complaints of administrative misconduct is a core component of China’s commitment to good governance and the rule of law. This project undertakes the first systematic examination of the three mechanisms underpinning administrative justice in China and their interaction: administrative litigation, administrative review, and letters and visits. It will assess China’s capacity to use law to address chronic abuse of power. It will provide a practical understanding of the changing nature of China’s commitment to the role of law and the implications for Australia.

CONSTITUTIONAL RESILIENCE IN SOUTH ASIAN DEMOCRACIES

Centre Member: Tarun Khaitan

This project examines the design of constitutional institutions and connections with the resilience of democracy. So far, the project has produced papers concerning the threat that plutocracy poses to democratic constitutionalism, non-judicial forms of constitutional defence, and the subtler—incremental—assaults that established democracies have witnessed in recent years. A podcast on the last topic can be heard here: https://philosophy247.org/podcasts/democracy/

FORMAL AND INFORMAL REGULATION OF LABOUR DISPUTES IN SOUTHEAST ASIA

Centre member: John Howe

The project is investigating the formal and informal mechanisms of collective labour dispute resolution in three Southeast Asian countries: Indonesia, the Philippines and Vietnam. The project is based on the important observation that formal (state-based) labour laws and institutions often play only a limited role in these countries. That is to say, Southeast Asian legal systems, and state-based labour law and industrial relations systems more specifically, are generally characterised by limited effectiveness, while non-state regulation and the activities of unofficial actors may complement, substitute or conflict with the law.

PRECAIRIOUSNESS IN LAW AND LABOUR MARKETS: THE CASE OF TEMPORARY MIGRANT WORKERS

Centre members: Joo-Cheong Tham and Iain Campbell

Associates: Judy Fudge

This project examines the situation of temporary migrant workers in Australia, focusing on the nature and extent of their precariousness both in law and in labour market practice. It offers a major contribution to current research and policy debates on the implications of temporary migrant labour.

WORK IN FRANCHISES: SEARCHING FOR SOLUTIONS AT THE REGULATORY FRONTIER

Centre member: Tess Hardy

The underpayment scandals that have engulfed 7-Eleven, Domino’s Pizza and other well-known franchises have generated significant public concern and substantial law reform. This project combines comparative doctrinal analysis of labour and competition and consumer laws, with mixed methods research, to examine the effectiveness of regulatory frameworks and initiatives designed to enhance and ensure work-related rights and responsibilities within franchise systems. This innovative, legally grounded approach will provide a coherent, principled platform for regulating key risks that arise in franchises, and other novel business networks.

RESEARCH GRANTS RECEIVED

- Alysia Blackham, ‘Using Transparency to Achieve Equality’, Workshop Program, Academy of the Social Sciences in Australia (with Margaret Thornton and Dominique Allen)
Tackling the Exploitation of Migrant Workers in the Australian Agriculture Sector

Supervisors: Susan Kneebone and Joo-Cheong Tham

Description: The recent embrace of large-scale temporary labour migration in Australia has been accompanied by growing concerns about their exploitative treatment. As this thesis reveals, the concept of ‘exploitation’ is often framed narrowly to denote the problem of employer non-compliance. Yet, the exploitation of temporary migrant workers not only occurs through transactions in the workplace, but also through the structure of temporary labour migration programs in Australia. This thesis uses the concept of ‘transactional’ and ‘structural’ exploitation to critically examine the exploitation of temporary migrant workers in Australia, and to evaluate recent legal reforms that are intended to address this problem.

Inequality and Exclusion of Long-term Non-citizens by the Internal Border

Supervisors: Beth Gaze and Jenny Beard

Description: The thesis explores the impact of the immigration jurisdiction as a limit on discrimination and equality law in Australia and Canada. Understanding state borders as detached from territorial boundaries, it focuses how the borders of these two states attach to individuals and alter the way that discrimination and equality law attaches to them.

Discrimination as Tort: A Missed Opportunity?

Supervisors: Beth Gaze, Andrew Robertson, Alysia Blackham

Description: Discrimination law struggles with its identity, variously categorised as being within employment law, constitutional law, and human rights. However, discrimination laws operate largely as statutory torts, providing a civil action to compensate for ‘wrongs’. Judges regularly adopt tortious principles to interpret these statutes. Despite these close ties, there is no principles-based approach evidenced in discrimination legislation, jurisprudence or literature on the role of tort. This represents a missed opportunity to improve discrimination laws. Through historical, doctrinal and comparative analysis in Australia, China, India, Malaysia and Vietnam, this thesis asks: to what extent should tortious principles be used in discrimination law? This represents a missed opportunity to improve discrimination laws. Through historical, doctrinal and comparative analysis in Australia, China, India, Malaysia and Vietnam, this thesis asks: to what extent should tortious principles be used in discrimination legislation. This represents a missed opportunity to improve discrimination laws. Through historical, doctrinal and comparative analysis in Australia, China, India, Malaysia and Vietnam, this thesis asks: to what extent should tortious principles be used in discrimination legislation.
TEACHING AND LEARNING

Members of the Centre teach a number of programs in labour and employment law in the Law School. In addition, the Centre has a sizeable cohort of PhD students under the supervision of Centre members (see above). All students that are taught, and supervised, by Centre members are encouraged to take part in various activities within the Centre, including the Labour Law Seminar Series.

Due to the COVID-19 pandemic all subjects moved to wholly online teaching from March 2020. The pandemic also led to some rearrangement of teachers of various subjects, especially in the Melbourne Law Masters program.

SUBJECTS IN THE JD PROGRAM
The employment and labour relations law subjects offered in 2020 were:

- Employment Law (offered twice) (Sean Cooney and Jill Murray)
- Legal Internship (several teachers)

THE MELBOURNE LAW MASTERS PROGRAM
Melbourne Law School offers a range of different teaching programs as part of the Melbourne Law Masters Program. Beth Gaze and Sean Cooney were the Co-Directors of Studies for the Employment and Labour Relations Law Graduate Program in 2020.

Coursework Programs:

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

Research Programs:

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

Notwithstanding the impact of COVID 19, we were still able to offer most of our regular MLM coursework subjects in 2020:

- Bargaining at Work (Nadia Stojanova and Justice Iain Ross AO)
- Employment Contract Law (Sean Cooney and Mr Paul O’Grady QC)
- Equality and Discrimination at Work (Beth Gaze and Ms Carol Andrades)
- International Employment Law (Sean Cooney)
- Labour Standards and their Enforcement (John Howe and Anna Chapman)
- Principles of Employment Law (Joo-Cheong Tham) (offered twice in 2020)
- Conducting Workplace Investigations (Jodie Fox and Rose Bryant-Smith)

Further information regarding the program can be obtained from the Melbourne Law Masters website at: law.unimelb.edu.au/study/masters/courses
Due to COVID 19, in 2020 the Centre hosted two online Labour Law ‘Webinars’: with invited speakers, to present preliminary results of their research into the operations of labour and employment law. Other things, the Labour Law Seminar Series provides an opportunity for Centre members, visitors and associates, together with invited speakers, to present preliminary results of their research into the operations of labour and employment law.

Due to COVID 19, in 2020 the Centre hosted two online Labour Law ‘Webinars’:

- **Labour Law Enforcement and COVID-19: Panellists:** Dr Tess Hardy (Co-Director, CELRL), Qanh Tran (Principal Solicitor, Young Workers Centre) and Steven Amendola (Partner, Kingston Reid) **Moderator:** Professor John Howe (Co-Director, CELRL) 14th May, 2020.
- **Contemporary Challenges in Addressing Sexual Harassment at Work:** **Speaker:** Kate Jenkins, **Sex Discrimination Commissioner** **Convenor:** Professor Beth Gaze (CELRL) 23 November 2020.

### MAJOR EVENTS

In addition to the regular seminar series, the Centre normally hosts a number of other significant events each year. Due to the impact of COVID 19, there was only one such event in 2020:

- **Alysia Blackham:** Academy of the Social Sciences in Australia workshop Using Transparency to Achieve Equality, with Professor Margaret Thornton and Dr Dominique Allen.

### JOURNAL EDITORSHIP

The Australian Journal of Labour Law is the leading Australian scholarly publication in its field, publishing three issues per year. The Centre is the Journal’s administrative home. The work of the editorial team was ably supported in 2019 by a team of student editorial assistants drawn from the student body of Melbourne Law School. The Journal’s co-editors are John Howe, Professor Shane McCrystal (University of Sydney), and Professor Andrew Stewart (University of Adelaide), and the associate editor is Melissa Kennedy. Centre members involved in the Journal’s editorial committee are Anna Chapman, Sean Cooney and Joo-Cheong Tham.

In addition, Centre members were involved in the following editorial duties:

- **Alysia Blackham:** Associate Editor, Berkeley Center on Comparative Equality & Anti-Discrimination Law E-journal.
- **Alysia Blackham:** Member, International Advisory Board, ‘Studies in Law and Social Justice’ series, Alan Bogg and Virginia Mantouvalou (eds), Policy Press
- **Iain Campbell:** Member, International Advisory Board, British Journal of Industrial Relations; member Editorial Board, Labour and Industry
- **Sean Cooney:** Member, Advisory Board, University of Bologna Law Review
- **Sean Cooney:** Member, Advisory Board, National Taiwan University Law Journal
- **Liam Elphick:** Member, Editorial Board, Alternative Law Journal
- **Beth Gaze:** Member, Editorial Committee, International Journal of Discrimination and Law
- **John Howe:** Editor, Australian Journal of Labour Law
- **Tarun Khait:** Member, Advisory Board, International Journal of Constitutional Law
- **Joo-Cheong Tham:** Series Editor, Anthem Studies in Australian Economics and Society

## ASSOCIATIONS

### THE AUSTRALIAN LABOUR LAW ASSOCIATION

The Centre is the administrative home of the Australian Labour Law Association (ALLA). ALLA's 20th AGM was held on 21 October 2020. The ALLA Executive Committee was confirmed as Professor Marilyn Pittard, President; Professor Anthony Forsyth, Vice-President; Dr Dominique Allen, Secretary; and Ms Emma Goodwin, Treasurer. CELRL Co-Director Tess Hardy continues as a member of the National Committee.

### REGULATING FOR DECENT WORK NETWORK

The Centre continued its involvement in the RDW Network in 2020. The Centre is one of the founding members of the RDW Network. The RDW is a collaboration between researchers at the International Labour Organisation (ILO), the University of Amsterdam's Amsterdam Institute for Labour Studies / Hugo Sinzheimer Institut (AIAS-HSI), the Centre for Employment and Labour Relations Law (CELRL), Jawaharlal Nehru University's Centre for Informal Sector and Labour Studies (CISLS), the University of Durham's Law School (DLS), the Cornell University's ILR School, the University of Duisburg-Essen's Institut Arbeit und Qualifikation (IAQ), the Institute for Applied Economic Research (IPEA), the Korea Labor Institute (KLI), the University of Manchester's Work and Equalities Institute (WEI), and academic and policy institutions from across the world.

The Network is interdisciplinary and involves researchers from a range of fields including economics, law, sociology, development studies, industrial relations and geography. The objective of the Network is to foster research and exchange of ideas concerning the role of labour and employment law protections in fostering economic development. The Network also aims to advance research and policy directions tailored towards making labour market regulation more effective.

For further information about RDW, please visit: [https://www.iio.org/global/research/events-courses/rdw/lang--en/index.htm](https://www.iio.org/global/research/events-courses/rdw/lang--en/index.htm)

### LABOUR LAW RESEARCH NETWORK

The LLRN is the leading international network of institutes, centres and researchers in the field of labour law. The Centre assisted in the formation of the LLRN in 2011. There are now over 70 labour law research centres from all over the world which are members of the Network. The goal of the LLRN is to advance research in labour law, and specifically to facilitate the dissemination of research work and encourage open discussion of scholarship and ideas in this field. All individual labour law scholars are welcome to join, whether affiliated with a research centre or not.

Centre member John Howe was Chair of the Steering Committee of the LLRN, from 2015-2019, and remains a member of the Committee. The LLRN holds a biennial international conference, with the 5th Conference to be held virtually in June 2021, hosted by the University of Warsaw and University of Lodz.

For further information about the LLRN, please visit: [labourlawresearch.net](http://labourlawresearch.net)
**ALYSIA BLACKHAM**

- Featured in Leeanne Smith, 'Women in Education' (2020) 3 Education: Journal of the NSW Teachers Federation 16.

**Alyssia Blackham, Adriana Orifici and Liam Elphick, ‘We need to talk about discrimination law and why a thoughtful approach to reform is so important’**

**BETH GAZE**


**IAIN CAMPBELL**

TESS HARDY


- Tess Hardy, 'Criminal penalties for corporate wage theft are appealing, but won’t fix the problem on their own’, ABC News Online (originally published in The Conversation), 20 February 2020: https://www.abc.net.au/news/2020-02-20/criminal-penalties-corporate-wage-theft-wont-solve-problem/11985253


JOHN HOWE

- Professor John Howe and Melissa Kennedy were quoted in the article "Victorian Wage Theft Laws Raise Double Jeopardy Risk for Businesses" published in The Sydney Morning Herald on 16 June 2020, available here.
- Panelist on MLS ‘Germs and Justice’ Series of ABC Live Streamed Panel Discussion – Part 2: Jobs – Professor John Howe and Professor Miranda Stewart discussed COVID-19’s impact on jobs and workplaces. 1 June 2020

MELISSA KENNEDY


JOO-CHEONG THAM


OTHER ENGAGEMENT

SAYOMI ARIYAWANSA

- Member, Australian Labour Law Association
- Member, Australasian Society of Legal Philosophy
- Associate Member, Centre for Study of Global Human Movement (University of Cambridge)
- Member, Working Group on National Forum to Address the Exploitation of Migrant Workers

ALYSIA BLACKHAM

- Member, International Advisory Board of the Berkeley Comparative Equality & Anti-Discrimination Law Study Group
- Member, Australian Discrimination Law Experts Group
- Member, Discrimination Law Service Providers Group (Victoria)
- Member, Socio-Legal Studies Association (UK)
- Member, Society of Legal Scholars (UK)
- Member, Australian Labour Law Association
- Member, Australasian Law Academics Association
- Co-founder and inaugural convener, Australian Labour Law Association Early Career Network
- Member, Steering Committee, Youth Employment Project, WEJustice
- Expert contributor, Rapid Research Information Forum (mechanism to rapidly bring together relevant multidisciplinary expertise to advise governments on pressing questions about Australia’s response to COVID–19, convened by Australia’s Chief Scientist)
- Founder and inaugural convener, Age Equality Working Group, Berkeley Center on Comparative Equality & Anti-Discrimination Law (international network bringing together scholars with an interest in age equality)
- Submission to the Victorian Department of Premier and Cabinet, Submission on the Victorian Youth Strategy, December.
- With the Australian Discrimination Law Experts Group, Submission to the Review of Sexual Harassment in Victorian Courts (lead author), Submission by the Australian Discrimination Law Experts Group to the Review of Sexual Harassment in Victorian Courts, November.
- Submission to the UK Lord Chancellor & Secretary of State for Justice, Submission to the Consultation on the Mandatory Retirement Age for Judicial Office Holders, October.
- Submission to the Victorian Government, Submission on the Recommendations of the Inquiry into the Victorian On-Demand Workforce, October.
- With the Australian Discrimination Law Experts Group, submission to the New South Wales Legislative Council Portfolio Committee No. 5 – Legal Affairs, Inquiry into the Anti-Discrimination Amendment (Complaint Handling) Bill 2020, May.
- Submission to the Women and Equalities Committee, UK House of Commons, Unequal Impact: Coronavirus (Covid-19) and the Impact on People with Protected Characteristics, April.


IAIN CAMPBELL
- Member, International Working Party on Labour Market Segmentation
- Member of RC 44 (Labour Movements) and RC 30 (Sociology of Work), International Sociological Association
- Member of RDW (Regulating for Decent Work) network
- Member, Australian Labour Law Association

ANNA CHAPMAN
- Member, Australian Labour Law Association
- Member, Association of Industrial Relations Academics of Australia and NZ

SEAN COONEY
- Global Law Faculty, Peking University Law School

LIAM ELPHICK
- ADLEG (coordinator and lead author), Submission to the NSW Parliament Joint Select Committee, Inquiry into the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (20 August 2020).
- ADLEG (contributor), Submission to the NSW Legislative Council Portfolio Committee No. 5 – Legal Affairs, Inquiry into the Anti-Discrimination Amendment (Complaint Handling) Bill 2020 (1 May 2020), https://www.adleg.org.au/submissions/nsw-inquiry-into-complaint-handling-mechanisms-may-2020

BETH GAZE
- Member, Australian Labour Law Association
- Member, Socio-Legal Studies Association (UK) and Discrimination Law Association (UK)
- Member, Australian Discrimination Law (Academic) Experts Group


Provided expert advice to AHRC Building a more effective anti-discrimination framework (arising from the Free and Equal review process) November 2020 (with President Rosalind Atherton and staff).

Provided expert advice to Review of Sexual Harassment in Victorian Courts (Chair Helen Szoke) October 2020.

TESS HARDY
- Member, National Committee Member, Australian Labour Law Association
- Member, Small Business Committee, Law Council of Australia
- Member, Association of Industrial Relations Academics of Australia and NZ
- Submission to the Senate Economics Committee Inquiry into Unlawful Underpayment of Employees’ Remuneration, March (subsequently appeared before the Senate to give evidence in September 2020).
- Invitation to participate in closed consultations as part of the Royal Commission into Aged Care, February 2020.

JOHN HOWE
- Director, Melbourne School of Government, University of Melbourne
- Steering Committee Member, Labour Law Research Network
- Board Director, Accident Compensation Conciliation Service
- Member, Australian Labour Law Association
- Member, Association of Industrial Relations Academics Australia and New Zealand
- Member, Institute of Public Administration Australia

TARUN KHAITAN
- Member, Advisory Committee, United Nations Human Rights Office initiative on ‘A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation’
- Global Visiting Professorship, New York University Law School (by invitation, Spring Semester 2020)
- Advisory Board member, International Journal of Constitutional Law (2020)
CONFERENCE AND SEMINAR PAPERS

During 2020, members of the Centre delivered papers to a range of Australian and international conferences and workshops. These conferences and seminars were mostly convened online.

JANUARY

FEBRUARY
- Beth Gaze, 'Conflicts of Rights: The Religious Discrimination Bill and Anti-Discrimination Law', Gender and Sexuality at Work, A Multidisciplinary Research and Engagement Conference, Center for Workplace Leadership, Faculty of Business and Economics, University of Melbourne
- Alysia Blackham, 'Women, Age Discrimination and Work: Where Have all the Cases Gone?', Gender and Sexuality at Work: A Multidisciplinary Research and Engagement Conference, University of Melbourne.
- Tess Hardy, 'Underpayments and Class Actions', Slater & Gordon Class Actions Conference, Melbourne.

MARCH
- Sarah Biddulph, ‘Good Governance in Economic Development: Transparency and Governance of New Institutions’ ‘The intended and unintended consequences of transparency reforms on government administration in China: A perspective from the bottom up’, UBC Peter A Allard School of Law Centre for Asian Law seminar series
- Sarah Biddulph, ‘Repression and Accommodation in popular claims for social and economic rights’, Osgoode Hall, York University

APRIL

MAY
- Alysia Blackham, 'Age Discrimination in a Pandemic: COVID-19 and Inequality at Work', MLS Faculty Research Seminar Series, Melbourne Law School.
- Beth Gaze, Commentator, seminar presented by Alysia Blackham on ‘Age Discrimination in a Pandemic: COVID-19 and Inequality at Work’, MLS Faculty Research Seminar Series, Melbourne Law School.
- Beth Gaze, Presentation to National Council of Women (Victoria) on the Gender Equality Act 2020 (Vic)
- Joo-Cheong Tham, Panelist of seminar on ‘How have Australia’s constitutional arrangements responded to the challenges of the Covid-19 pandemic?’, Constitutional Government during a Pandemic Webinar, MLS.
**JUNE**

- **Beth Gaze**, Convener and presenter at panel discussion ‘Building A Toolkit for Investigating Sexual Harassment’ (co-convenor Amy Oppenheimer), Berkeley Center on Comparative Equality & Anti-Discrimination Law, International Conference on Global Resistance to Sexual Harassment/Violence Conference, (University of California, Berkeley)

- **Julian A Sempill**, Panel Discussant: Critical Theory Workshop/Atelier de Theorie Critique, Paris

**JULY**


- **John Howe** was a panelist on a webinar hosted by the UK’s Bristol Centre for Law at Work on behalf of the Labour Law Research Network, The Proposal for a Transnational Labour Inspectorate (1 July 2020).

**AUGUST**

- **Beth Gaze**, Panel member; Melbourne Law School Staff Seminar: ‘Sexual Harassment in the Legal Profession and Judiciary’ with Julian Webb and Rachel Doyle SC, Melbourne Law School, University of Melbourne

- **Anna Chapman**, ‘Gender, Labour and the Law’, at ‘Tackling Gender Inequality Through the Law’, University of Technology Sydney

**SEPTEMBER**


**OCTOBER**


**NOVEMBER**


- **Beth Gaze**, Commentator, Labour Law seminar: ‘Contemporary challenges in addressing sexual harassment at work’, speaker, Kate Jenkins, Sex Discrimination Commissioner, Centre for Employment and Labour Relations Law, University of Melbourne


- **Joo-Cheong Tham**, ‘How might digital campaigning affect the problems of political finance?’ (International Institute for Democracy and Electoral Assistance, Asia and Pacific Online Lecture Series)

**DECEMBER**


- **Joo-Cheong Tham**, ‘Democracy and the Climate Crisis’, Address to the National Council of the Australian Greens
During 2020, Centre members’ research appeared in a wide range of publications, both Australian and international.

BOOK CHAPTERS


JOURNAL ARTICLES - REFEREED


JUDICIAL CITATIONS

- Tarun Khaitan, Foundations of Indirect Discrimination Law (edited with Prof Hugh Collins, Bloomsbury, 2018)

OTHER PUBLICATIONS

## SUMMARY OF CENTRE GENERAL ACCOUNT 2020

### Income 2020

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brought Forward from 2019</td>
<td>$74,780.56</td>
</tr>
<tr>
<td>2017 Sponsorship</td>
<td>$40,885.00</td>
</tr>
<tr>
<td>Faculty Allocation</td>
<td>$7,500.00</td>
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<tr>
<td><strong>Total Income</strong></td>
<td><strong>$123,165.56</strong></td>
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</tbody>
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### Expenditure 2020

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Scholarship, bursary and grant payments</td>
<td>$19,357.00</td>
</tr>
<tr>
<td>Consumable goods and services</td>
<td>$480.92</td>
</tr>
<tr>
<td>Infrastructure related expenses</td>
<td>$334.00</td>
</tr>
<tr>
<td>Travel, conferences and entertainment</td>
<td>NIL</td>
</tr>
<tr>
<td>Telecom expenses</td>
<td>$100.00</td>
</tr>
<tr>
<td>Subscriptions and memberships</td>
<td>$5,827.00</td>
</tr>
<tr>
<td><strong>Total Expenditure</strong></td>
<td><strong>$26,098.92</strong></td>
</tr>
</tbody>
</table>

**BALANCE** $97,066.64