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Message from the Associate Dean (Research)
It is a great pleasure to present the 2005 Research Report, which provides an overview of the research activities in the Faculty of Law during 2005.

In 2005 Faculty members began work on nine new research projects funded by the Australian Research Council. Details of those projects are provided in this report, along with an update on two funded projects in progress and the outcomes of funded projects completed in 2005. The University grant schemes and Faculty Small Grants Scheme provided valuable support for a number of smaller projects undertaken in the Faculty, which are also listed. Thanks are due to the Faculty’s grant mentors, Associate Professor Andrew Kenyon and Ms Helen Rhoades, for the very helpful guidance they provided to grant applicants in 2005.

The activities of the Faculty’s research centres and institutes are described in the second section of the report. The centres and institutes perform a number of very important functions: fostering interaction between researchers, providing opportunities for discussion between researchers and practitioners, facilitating public debate and supporting collaborative research. The substantial contribution to the Faculty’s research effort made by centre and institute directors, administrators and members is gratefully acknowledged.

This report includes three academic research profiles in order to provide a more detailed picture of some of the Faculty’s academic staff and their work. This year the report profiles Dr Jeremy Gans, Professor Loane Skene and Ms Miranda Stewart. The report also sets out the papers presented and topics discussed at the Faculty Research Workshop convened by Associate Professor Andrew Kenyon during 2005.

The Faculty’s Research Higher Degree (RHD) candidates make an important contribution to the Faculty’s research endeavours. Sixteen of the Faculty’s RHD candidates successfully completed their theses in 2005, making it a particularly successful year for our RHD program. Both the candidates and their supervisors are to be congratulated on their success. Dr Carolyn Evans deserves particular thanks for the advice and guidance she has provided to the Faculty’s RHD students through the Advanced Legal Theory and Research Methodology Program.

The Faculty of Law is very fortunate to have a capable, diligent and enthusiastic group of staff in its Office for Research. We are very grateful to Ms Margherita Matera, Ms Lucy O’Brien, Ms Angela Hendley-Boys, Ms Caitlin Raynor and Ms Lupe Trigo-Rossier for the tremendous support they provided to the Faculty’s research activities during 2005. I would also like to pay tribute to my predecessor, Professor Belinda Fehlberg, who was extremely effective in supporting and promoting research in the Faculty of Law during her term as Associate Dean (Research), which concluded in mid-2005.

Andrew Robertson
Professor of Law
Associate Dean (Research)
Funded Research
Australian Research Council (ARC)  
Discovery Project Grants

**Paul Ali and Geof Stapledon (2005–2007)**  
‘Corporate Governance and Institutional Investment in the Australian Financial Markets’  
Funding: $130,000

The financial markets play a vital role in Australian economic life. The majority of the assets of Australian superannuation funds and managed investment funds are financial products. This project will provide a comprehensive account of the different types of complex financial products available in Australia and an assessment of the corporate governance practices at Australian companies and Australian institutional investors in relation to their use of complex financial products. Through these outcomes, the project will contribute to a broader understanding of the Australian financial markets and the enhancement of corporate governance practices in Australia.

**Lee Godden and Maureen Tehan (2005–2007)**  
‘Managing Competing Claims to Land and Resources – Does Property Law Promote Sustainability?’  
Funding: $180,000

A key factor in promoting environmental sustainability is the resolution of competing claims to land and water resources in rural Australia. This project would examine the effectiveness of property law as the major model for resolving conflicts and regulating land and resources. Through overseas and Australian comparative research the project would provide an analysis of alternative legal and institutional models of relevance to land and resource management authorities, industry and community groups. It would support the resolution of competing claims through an examination of legal models, which may more effectively promote environmental sustainability.

**Andrew Kenyon (2005–2007)**  
‘The Future of Television: Australian Legal Protection of Digital Broadcast Content’  
Funding: $250,000

Free-to-air broadcasting performs central democratic, economic and cultural functions, with a key place in Australia’s media. But technological changes pose fundamental and urgent challenges for broadcasters. By investigating mechanisms to protect digital content, the project will advance understanding of a crucial issue in the digital economy. The project will increase understanding of options for protecting broadcast content to promote innovation in content production and distribution, while not restraining reasonable content uses nor hindering innovative consumer electronics. Australian policies should foster an innovative and diverse broadcasting sector to serve Australian public interests. The project promotes this vital objective.

**Tim Lindsey (2005–2007)**  
‘Islamic Law in Contemporary Malaysia, Singapore and Brunei: The Anglo-Malay Madhhab’  
Funding: $170,000

Islam is a fundamentally legalistic religion: law and religion are largely inseparable. In the last decade radical Islamic interpretations of shari’a (Islamic law) in SE Asia have led to increasingly militant responses to modernity and the secular state, that have come to threaten Australians. Through a detailed examination of legal theory, current intellectual debates, legal institutions and substantive law in Malaysia, Singapore and Brunei, the project offers a more complete understanding of Islam and law in the archipelago to Australia’s North. It will update current knowledge but will also build bridges with Muslim scholars and lawyers in the region.
Loane Skene, Mary Anne Aitken and Martin Delatycki (2005–2007)
‘Communicating Genetic Information in Families: Practical, Legal, Social and Ethical Issues’
Funding: $120,000
The outcomes of this study, will give evidence as to whether or not people do pass on genetic risk information to relatives, how they do it, what the barriers are, what their preferences are. It will also provide data so that mechanisms for best practice communication and clear guidelines for legal and health professionals can be developed. Effective communication and exchange of genetic risk information will benefit individual health and the health of future generations.

Don Chalmers, Dianne Nicol, Margaret Otlowski and Loane Skene (2005–2009)
‘Facilitation and Regulation of Research and Development Involving Human Genetic Databanks’
Funding: $602,597
Administering Institution: University of Tasmania
Australia’s medical biotechnology research feeds into our biotechnology industries, with flow-on benefits for national health and prosperity. Realisation of these benefits is contingent upon community protection and public trust. An effective and appropriate regulatory regime is a foundation requirement. This project aims to shape a national regulatory framework for human genetic facilitation and regulation, assessing existing law reform proposals, making recommendations for further reform, and placing this analysis in the international context, this project will significantly benefit the nation and the research community.

J McCulloch, R McQueen, S Pickering, Joo-Cheong Tham and D Wright-Neville (2005–2007)
‘Combating the Financing of Terrorism: Enhancing Security or Compromising Civil Rights and Democracy?’
Funding: $122,595
Administering Institution: Monash University
To enhance security without compromising civil rights and democracy is a key challenge facing government in Australia and internationally. Legislative and policy developments related to combating the financing of terrorism and the forefront of attempts to safeguard Australia from terrorism. The research will bring new knowledge to these policy and legislative developments; stimulate debate, provide important insights to government, law enforcement, and financial regulators; and give voice to communities, organisations, and individuals directly affected. The project will assist in ensuring that government measures meet the challenge of being effective without unduly compromising civil rights or democracy.

‘Family Lawyers and Child-Focused Dispute Resolution: Managing Inter-Professional Relationships in the Family Law System’
Funding: $64,000
Partner Organisation: Attorney-General’s Department
This multi-disciplinary project involving law, psychology, and social work, will shed light on the facilitators and inhibitors of effective collaboration between legal and social science professionals in the family law system. It will do this by exploring the knowledge base, attitudes, norms, and beliefs that underpin practice for both groups, as well as contextual factors affecting collaboration. The study is a response to government proposals to increase reliance on non-legal dispute management methods and mediation professionals to resolve post-separation parenting disputes. It aims to inform the design of better integrated professional services for separated parents in the family law system.
Marcia Langton, Maureen Tehan, Lisa Palmer, Lee Godden and Lisa Strelein

‘The Implementation of Agreements and Treaties with Indigenous and Local Peoples in Postcolonial States’
Funding: $445,964
Partner Organisations: Rio Tinto and Office of Indigenous Policy and Coordination

This project involves a comparative study by an interdisciplinary team of the implementation of agreements with Indigenous and local peoples across selected Australian and international jurisdictions. Agreement making is now a major policy tool for governments, industry and Indigenous peoples. Using case studies, this project will address the critical need for research on implementation of agreements and the factors promoting long-term sustainability. This will involve examination of legal, governance, economic development, land/heritage, and environmental management issues that arise in agreement implementation and investigation of the features of agreement that enhance social, cultural and economic outcomes for Indigenous communities.

Melbourne Early Career Researcher Grant Scheme

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

Collaborative Research Grant

Michelle Foster
Collaborating Partner: James Hathaway (University of Michigan Law School)

Faculty Small Grants Scheme

Camille Cameron and Michelle Taylor-Sands
‘The Role of Model Litigant Rules in Regulating the Behaviour of Commonwealth Litigants’

Pip Nicholson and Sarah Biddulph
‘Transplanting Paradigms: Comparative Legal Studies in Asia’

Anne Orford
‘International Law and its Others’

Jacqueline Peel and Lee Godden
‘Dimensions of the Risk Management Paradigm in Environmental Law’

Andrew Robertson
‘Implicit Limits on Contract Damages’

John Tobin
‘A Commentary to the United Nations Conventions of the Rights of the Child’

Amanda Whiting
‘The Role of the National Human Rights Commission (Suhakam) in the Promotion and the Protection of Human Rights in Malaysia’
Selected Grants in Progress

Chief Investigator: **Beth Gaze**

*Improving the Effectiveness of Australia’s Anti-Discrimination Laws*

ARC Linkage Project (2005–2007)

Collaborating Organisation: Equal Opportunity Commission of Victoria

**Project Description and Objectives**

The effectiveness of Australia’s anti-discrimination laws in reducing discrimination and developing acceptance of diversity has been limited by reliance on a complaints-based enforcement model, narrow drafting and technical judicial interpretations. This project will critically evaluate the substance and operation of Australian anti-discrimination laws in order to develop recommendations for changes to the laws to improve their effectiveness in eliminating discrimination, and in stimulating community understanding of discrimination and human rights.

In the current international climate, an effective system of anti-discrimination laws with a developed jurisprudence is very important to Australia’s civil society. Community relations have been quite tense over the seven years since the rise of One Nation and in particular since the events of September 11, 2001. This has tested Australian law. If anti-discrimination laws are seen as ineffective and relatively unenforceable, then they cannot operate as an effective remedy for denials of the human right to non-discrimination or deliver the firm protection needed for harmonious community relations in Australian the next decade or more. This affects not only race relations, but also religious, disability, gender and sexual orientation discrimination all of which contribute to community tensions.

The laws will be analysed and evaluated against overseas laws and by a survey of stakeholders and users. The project involves several elements:

- Analysis of experience under Australian anti-discrimination laws (though usage and outcome statistics, and case law interpreting the legislation);
- Surveys of opinions and experiences of a range of people involved in the enforcement of the law;
- Examination and assessment of developments in comparable overseas countries which might be considered for adoption in Australia; and
- Consideration of the utility of alternative regulatory regimes which could improve compliance with anti-discrimination legislation.

The objectives include developing the literature in this area, and producing recommendations for improvement of the legislation to protect the community better from discrimination and encourage community harmony in the context of diversity, essential to Australia’s future. All equal opportunity legislation throughout Australia will be analysed, with a focus on the Victorian Equal Opportunity Act 1995.
Progress
Many elements of the project are being conducted by an APAI student researcher, Ms Dominique Allen, who is undertaking her PhD research for this project. Work undertaken so far includes analysis of theories of equality underlying anti-discrimination laws and Australian case law, and building an understanding of problematic issues in relation to the legislation in consultation with the industry partner (Victorian Equal Opportunity Commission). Background work for the empirical data collection from various groups with contact with the laws has been undertaken and data collection has just commenced.

Future Work
Completion of empirical data collection and its analysis will lead on to identification of areas regarded by users of the system as most problematic. This will be cross matched with the results of the analysis of primary and secondary legal materials. Analysis of international comparative laws will then be developed to provide a basis for critical evaluation and reform proposals. In 2007 it is planned to convene an expert workshop of experts in anti-discrimination law from universities, legal practice, and government agencies to discuss the project results and critique its proposals.

Project Outcomes
Publications
Professor Richard Mitchell and Professor Ian Ramsay, of the Law School’s Centre for Corporate Law and Securities Regulation, received a Discovery Grant from the Australian Research Council of $640,500 to undertake a five year research project commencing in 2003. The project is examining 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. The project 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.

To date, ten major case studies of Australian companies have been carried out which examine the relationship, if any, between their work-systems and labour relations on the one hand, and their corporate governance and ownership patterns on the other. Case-studies of institutional investors have also been conducted in order to establish whether institutional investors take into account the labour relations and human resource systems of investee companies when making equity investments. It further seeks to establish whether investors seek to influence company labour relations and human resource systems of investee companies in the same way that they influence corporate governance. Work has also begun on a major survey of directors in order to explore directors’ views on their duties to a range of stakeholders, and whether the idea of ‘partnerships’ between the company and its employees has any relevance.

In addition to the main part of this study, others have made ad hoc contributions to the project. Glenn Patmore (Melbourne Law School, University of Melbourne) and Paul J. Gollan (Department of Industrial Relations, London School of Economics and Political Science, U.K.) have contributed to the debate by co-writing a working paper entitled ‘Transporting the European Social Partnership Model to Australia’. This project was aided by Ingrid Landau, Derek Finch, Holly Smart and Samuel Koehne.

Professor Ian Ramsay and Kirsten Anderson also carried out a study of union activism at shareholder meetings. This resulted in a Research Report titled ‘From the Picketline to the Boardroom: Union Shareholder Activism in Australia’.

Chief Investigators: Richard Mitchell and Ian Ramsay


Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure

ARC Discovery Project (2003–2007)
Legal and media commentators have long claimed that Australian defamation law ‘chills’ media speech and limits public debate, especially compared to the US. This three year ARC Discovery Project examined how defamation risks are considered in media production practices under differing legal, institutional and social contexts in Australia, England and the US. It responded to important defamation law developments and transformations in the media. The project produced empirical information about media news production practices and media content in Australia, England and the US and used that material to evaluate the role of defamation law in the media’s contribution to public debate.

The project had four key features:

- It provided Australian research into an issue of major concern for media law – the promotion of public interest speech;
- It extended the methodology and value of existing international legal literature about defamation through comparative empirical research;
- It broadened a trend towards qualitative legal research, by exploring the understandings of law held by non-legal and legal actors; and
- It analysed the significance of these understandings for the law’s operation and reform, by combining the skills of researchers with expertise in law and media sociology.

The project involved more than 170 interviews with media professionals and their legal advisers in Australia, England and the US and substantial content analysis of media products. This provided significant insights into processes of news production, revealing comparative insights into the ways in which editors, producers, journalist, reporters and legal advisors negotiate defamation law in their everyday practices. The research confirms some significant differences, particularly as regards US defamation law. For example, one element of the project involved an analysis of more than 1,400 news and commentary articles in Australian and US newspapers. (It is worth noting the US titles did not include the so-called supermarket tabloids – rather they were titles comparable to Australian newspapers.) In the US defamation plaintiffs face much heavier burdens than under the English and Australian law, and this study suggested that defamatory allegations against political and corporate actors are published much more frequently there than in Australia: the US material contained defamatory allegations at nearly three times the rate of the Australian articles. The ‘chilling effect’ suggested by such findings, which was also supported by the interview material, has great significance for the recent enactment of uniform defamation law in all Australian states and territories. The research informed that law reform process during 2005.
The project also led to a current ARC Discovery Project (DP0662844) in which both Chief Investigators are collaborating with researchers who are expert in Southeast Asian law (Professor Tim Lindsey and Amanda Whiting) to examine defamation law, journalism and public debate in Indonesia, Malaysia and Singapore.

Publications related to the project include: two books, as well as multiple articles and conference papers:

Funded Research

Project Description
Law is at the heart of Islam and the absence of a distinction between religion and law creates inherent tension between Islamic law (syariah) and the modern nation state. As the Indonesian state struggles to redefine itself post-Soeharto, the role of syariah has again become contested.

Working with leading Indonesian Muslim scholars, Professor Tim Lindsey and his project collaborator, Professor MB Hooker of ANU’s Law School, investigated Islamic legal institutions, substantive law and jurisdiction in Indonesia, surveying lawyers, judges and litigants. They explored the practical operation of syariah in Indonesia in the last 50 years, with a particular focus on the last decade.

Their research helped build bridges between Western, Indonesian and Middle-Eastern Islamic jurisprudence to expand Australian understandings of Indonesian Islam at a critical moment in bilateral relations.

Project Fieldwork
Investigation of Institutional Structures (Local State Frameworks)
The project compiled and translated a representative sample of regional syariah-derived regulations from across the archipelago that seek to Islamise local communities, now the source of major political tension in Indonesia. In doing so, the researchers obtained access to Indonesian Islamic legal institutions that had not previously been accessed to this extent. In 2003, for example, the investigators were invited to Aceh, northern Sumatra, in order to discuss with the local syariah office proposals for the implementation of Islamic law in this province of Indonesia, proposals that have now resulted in the most ambitious revival of Islamic legal norms in Southeast Asia in centuries. Research also extended to new laws in the field of the religious judiciary, Islamic banking, finance, zakat (almmsgiving) and wakaf (charitable trusts).

Investigation into the Legal Methodology used in Developing and Applying Substantive Law (Application of Islam by State Institutions)
Extensive interviews and surveys of litigants, state officials and others to gather primary evidence to the extent of the Islamic legal jurisdiction in Indonesia were conducted. A large number of judgments selected from the data compiled from the Religious Court in 2002 and 2003 were translated. Indonesian practice was then compared to the classical Islamic texts to determine how civil law precedent and syariah are interacting in modern Indonesia. This may be the largest translation project ever conducted in relation to the work of Indonesia’s Islamic judiciary.

Examination of the Rules of Jurisprudence that Determine the Interpretation of Law (Local and International Conflicts in Islamic Theory and Scholarship).
The focus here was on legal theory, but research extended outside formal law enforcement and resulted in a comprehensive analysis of the new curriculum for syariah training in Indonesia, as well a major translation project dealing with the content of Islamic khotbah or sermons. This part of the project also involved extensive fieldwork, interviews with Indonesian lawyers, religious scholars (ulama) and educators were conducted and recorded; and documentary data was collected and analysed in both statistical and qualitative form.

Islamic Law in Contemporary Indonesia
ARC Discovery Project (2002–2005)

Chief Investigators: Tim Lindsey and MB Hooker (Law School, Australian National University)
**Project Outcomes**

The scholarly outcome of this project exceeded the investigators’ expectations. An extensive library of collected materials have been sorted and catalogued and are now held at the Asian Law Centre library at the University of Melbourne, accessible to interested parties through the Centre website, without charge http://www.law.unimelb.edu.au/alc/bibliography/

Teaching materials derived from the data collected and publications produced have been used in various graduate and undergraduate subjects taught at universities, including the Australian National University, the University of Melbourne and the National University of Singapore and in training for government agencies, including the Australian Federal Police.

The investigators have also been invited by various governments to advise in the area of research. In 2004, for example, Professor Lindsey’s expertise in this area was drawn upon for the ‘Assistance for Indonesian Islamic Education’ (Madrasah Project) report to AusAID, which designed the AusAID Learning Assistance Program for Islamic Schools facility in Indonesia, with a total facility budget of A$35 million over 5 years.

Professor Lindsey has also drawn on the research to make extensive expert media comments throughout the duration of the project. This included extensive reporting of comments by Professor Lindsey in Australian and international television, radio and newspapers in relation to the position of Islamic law in Indonesia, particularly as regards the Bali bombing trials and the question of the application of Islamic law in a secular state.

Finally, a first draft of the main monograph contemplated by this project is now completed and will be published in early 2007. A list of selected project publications appears below.

**Project Impacts**

For most of its history, Australia, a predominantly Christian-tradition/secular society, has paid relatively little attention to the implication of its location immediately to the south of the largest concentration of Muslims in the world. Since Al Qaeda, Jemaah Islamiyah and other radical Muslim terrorist groups have risen to public attention through September 11 and the Bali and Marriott bombings, there has been public acceptance that understanding the Muslim societies to our North are of direct strategic and security importance for Australia.

The project has further strengthened the links between Australia and Islamic leaders, legal institutions, key Islamic educational institutions and Islamic NGOs in Indonesia. These links were much weaker at the start of the project than they should have been, given the close proximity between the two countries and the rising political importance of Islam.

Overall, the project has raised the awareness of the role of syariah in Indonesia. This is reflected in the broad public interest the research has received in Australia, Indonesia, the United States and elsewhere overseas.

**Project-Related Publications**

**Books**

- Lindsey, T, *Islamic Laws in Indonesia*, (forthcoming)
Grants Completed in 2005

Book Chapters
- Hooker, MB, ‘The State and Syariah in Indonesia’ in Salim & Azra (eds), Sharia and Politics in Modern Indonesia, Institute of Southeast Asian Studies, Singapore (2003), 33-47

Journal Articles (Refereed)

Other Contribution to Refereed Journal
- Lindsey, T, Jamhari and Hooker, MB, (eds), Islamic Law in Indonesia and Malaysia, Studia Islamika, (special issue)
This was a joint Centre for Media & Communications Law (CMCL) and the Intellectual Property Research Institute of Australia (IPRIA) research project, instigated and supported by Museums Australia, the peak national association representing the museum and gallery sector. It was primarily funded by the ARC, along with six of Australia’s leading cultural institutions:

- Art Gallery of New South Wales
- Australian Centre for the Moving Image
- Australian War Memorial
- Museum Victoria
- National Museum of Australia
- State Library of Victoria

Digital technology gives cultural institutions significant new avenues for research, preservation and public access to collections, but also raises substantial issues about copyright management. This project investigated how museums, galleries and libraries are digitising material under Australian copyright law. Legal and sociological research involving collaboration with six leading cultural institutions produced digitisation guidelines facilitating appropriate copyright management, and undertook an evaluation of copyright law and industry practice. This case-study of how digital technology changes relationships between copyright owners, users and the general public offers important contributions to a central public policy issue about digital copyright.

The project identified and analysed relevant copyright legal material, and investigated practices within cultural institutions through case studies with the research partners and semi-structured interviews with staff elsewhere in Australia, as well as some in the US and UK. 164 people were interviewed from 64 cultural institutions and other relevant bodies. This generated a very substantial amount of material, which underlay the creation of sector-focussed guidelines about copyright law and digitisation. The 160 page guidelines provide a thorough analysis of the legal issues and case studies and examples relevant to the sector. As well as the full guidelines, a 16 page summary was produced. Both are available in print and online from www.law.unimelb.edu.au/cmcl. The guidelines have been distributed widely across the sector; for example, 2500 copies of the short form guidelines were distributed in Museums Australia Magazine in late 2005. The empirical material has also been drawn on in analysis of the existing law and possible law reforms. In particular, several aspects of the existing ‘library and archives’ provisions of the Copyright Act 1968 (Cth) appear inconsistent with the overall aims of the Act because they treat audio and audiovisual material in quite different ways than other copyright material (and in ways that do not accord with the internal management operations of the institutions). The research also has implications for larger reforms to copyright law, which have been foreshadowed by the Australian government in 2006, in highlighting the risk-averse nature of the cultural institution sector in relation to copyright law.
The project also involved a one-day conference held in August 2005 at the State Library of Victoria at which the guidelines were launched. The event saw 170 people from around Australia and NZ attend to hear speakers from the research team, government, artists’ organisations, and cultural institutions. In addition, submissions based on the project’s empirical research were made in July 2005 to the Australian government’s review of fair dealing and other exceptions to copyright.

The project’s international impact has been increased through two reports by the researchers (which draw on the work carried out in this project) for a project about digital archives being conducted by Professor Jane Ginsburg and colleagues at the Kernochan Center for Law, Media and the Arts, Columbia University (New York) funded by the Andrew W Mellon Foundation. Results of the research were presented at a leading international copyright conference in July 2006 at Birkbeck College, University of London funded by the Arts & Humanities Research Council’s Copyright Research Network.

The project has produced recognised benefit to Australian copyright policy (eg, the Australian government, in its 2006 response to the Digital Agenda Review, mentions the project as the primary example of the sort of empirical research that is important in the sector). In the finalisation of the government’s current proposals to reform copyright law, the results of the research can be expected to make a meaningful contribution. The project has also increased understanding across the cultural institution sector about copyright law.

Publications and presentations related to the project include:

- Christie, A, ‘Cultural Institutions in the Digital Age’, Copyright, Digitisation and Cultural Institutions Conference, Melbourne, 2005
Centres and Institutes
The Asia Pacific Centre for Military Law (APCML) was established in 2001 as a collaborative initiative of Defence Legal in the Australian Department of Defence and the Melbourne University Law School, to facilitate cooperation amongst military forces of the Asia Pacific Region in the research, training and implementation of the laws governing military operations.

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

Its activities include:
- Preparing and delivering training programs;
- Organising conferences, workshops, seminars and lectures;
- Promoting academic research;
- Developing relevant relationships within the Asia Pacific Region;
- Developing contacts and mutual exchanges with other academic/military centres and with leading subject matter experts; and
- Providing support for deployments, particularly for peace operations.

The Director of the Centre is Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law. The Deputy Director is LTCOL Geoff Cameron CSC; Bruce Oswald CSC and LTCOL Paul Muggleton both serve as Associate Directors of the Centre. Other Melbourne Law School staff associated with the Centre are; Dr David Blumenthal, Ms Alison Duxbury, Ms Jessica Howard and Mr John Tobin. Dr Bob Mathews is a Research Fellow in the Centre.

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

**Major Research Projects in the APCML**

**The Challenges of Peace Operations Project**

The APCML is the designated Australian partner organisation to this major international collaborative project, established in 1997 by the Swedish National Defence College with the primary objectives of fostering and encouraging a culture of cross-professional cooperation and partnership with the aim of exploring and conveying more effective and legitimate ways of dealing with multi-national and multi-disciplinary peace operations. Some 230 organisations and 50 countries are now participating in the project. Australia’s participation in the Project is one of the Department of Defence’s key International Engagement Policy objectives.

The APCML hosted the 11th Challenges Seminar entitled ‘The Rule of Law on Peace Operations’ in November 2002. Associate Director Bruce Oswald has also participated in the 10th, 12th, 13th, 14th, 15th and 17th Challenges Seminars held respectively in USA, Sweden, Turkey, Nigeria, China and USA. He assisted in drafting the Rule of Law chapters for the Phase II Concluding Report, *Meeting the Challenges of Peace Operations: Cooperation and Coordination*, which was the product of seminars held between November 2002 and March 2005.

The APCML hosted visits by Professor Ove Bring, Professor of International Law at the Swedish National Defence College in Stockholm and Dr Marie Jacobsson, Principal Legal Adviser in the Swedish Foreign Ministry, from 6 - 23 December 2005, and by HRH Crown Princess Victoria of Sweden for discussions on the Centre’s involvement in the Challenges project, on 15 March 2005.

The Challenges project has had a strong influence on UN reform and peace operations practice, as well as being an excellent vehicle for the interchange of information amongst subject matter experts and policy makers.
National Security Projects
The APCML organised, jointly with the Australian Department of Defence and the Government of Indonesia, a regional workshop for South East Asian government officials on more effective national implementation of the 1972 Biological Weapons Convention (BWC), in February 2005 at the University of Melbourne. The proceedings from the Workshop have been published and an interactive website has been established.

The close collaboration between APCML Director Professor Tim McCormack and APCML Research Fellow Dr Bob Mathews, Principal Research Scientist in the Chemical, Biological, Radiological and Nuclear Centre of the Department of Defence Science and Technology Organisation (DSTO) will soon be recognised in a formal MOU between the APCML and DSTO.

Professor McCormack and Dr Mathews developed and presented the first Arms Control and Disarmament course ever to be offered in Australia, for the Melbourne Law School Graduate Program in October 2005. They were both appointed in June 2005 to Foreign Minister Alexander Downer’s newly constituted National Consultative Group on BioSecurity Issues (NCGBI). Professor McCormack has also been appointed (April 2005) to the National Consultative Committee for International Security (NCCISI), which functions as a channel for the exchange of views on peace, arms control, security and disarmament issues between the Australian Government and the community.

International Humanitarian Law Project
Since 2003 APCML Director Professor Tim McCormack has provided advice to Major Michael ‘Dan’ Mori, the US military lawyer representing Australian citizen David Hicks before the US military commission at Guantanamo Bay, Cuba, on the international humanitarian law and international criminal law aspects of the charges against David Hicks.

APCML research student Sarah Finnin has spent two three-month periods working with Major Mori in the US Office of Military Commissions in Washington DC.

APCML has organised two presentations on the Hicks case at the Law Institute of Victoria, most recently on 12 August 2005 with Professor Tim McCormack, Lex Lasry QC and David McLeod, Australian Counsel for David Hicks.

Professor Tim McCormack was awarded the 2005 Law Institute of Victoria President’s Pro Bono Award for his work in assisting Major Michael Mori with the Hicks case. The LIV President’s awards recognize outstanding contributions made within the legal profession and beyond.

Major Events in 2005
Law Week Oration by Professor Tim McCormack ‘Sixty Years from Nuremberg: What Progress for International Criminal Justice?’
17 May 2005
APCML Director Professor Tim McCormack gave the 2005 Law Week Oration at the Melbourne Law School on 17 May 2005. In his oration, he discussed the legacies of the Nuremberg Trials in the subsequent development of international criminal law, in particular the establishment of the International Criminal Court and the implications of opposition to it.
US Army Judge Advocate visit
3 August 2005
APCML Deputy Director LTCOL Geoff Cameron hosted the visit by the US Army’s Judge Advocate General, Major General T. J. Romig to the APCML and Military Law Centre (MLC) at Randwick Barracks, Sydney. MAJGEN Romig was visiting Australia to conduct meetings with senior Defence personnel with a view to promoting the continuation of the Centre for Lessons and Military Operations (CLAMO) officer exchange program between the US and Australia.

Public Lecture
Picking up the Pieces: Building Democracy in Post-Conflict Societies
28 September 2005
Professor Hilary Charlesworth, the APCML 2005 Sir Ninian Stephen Visiting Scholar, presented this lecture on the promise and pitfalls of international frameworks in building democracy, with particular focus on the situation in Iraq. Professor Charlesworth is an Australian Research Council Federation Fellow, the Director of the Centre for International Governance & Justice, RegNet, Research School of Social Sciences, ANU, and Professor of International Law and Human Rights in the Faculty of Law, ANU.

One-day public seminar
Nuremberg and Transitional Justice: Civilising Influence or Institutionalised Vengeance?
19 November 2005
The APCML, together with Australian Red Cross (ACT), and the Centre for International and Public Law at the ANU Law School, presented a highly successful one-day seminar commemorating the 60th Anniversary of the commencement of the Nuremberg War Crimes Trial and assessing the subsequent development of international criminal law.

The Centre’s website can be accessed at: http://www.apcml.org
The Centre can be contacted by email at: law-apcml@unimelb.edu.au
The Asian Law Centre (ALC), an initiative of the University of Melbourne Law School, commenced activities in 1985. It is the first Australian centre established to teach and undertake research on the legal systems within Asia. It is now the largest and pre-eminent centre for the study of Asian legal systems in the world.

The Centre has pioneered extensive programs of teaching and research on the laws and legal systems of Japan, China, Indonesia, Vietnam, Taiwan, Malaysia, East Timor and the Philippines and has worked also in Korea, Thailand and Laos and on Islamic, traditional and customary laws.

**Objectives**

The Centre’s objectives are:
- To improve knowledge of the laws of our region;
- To support the rule of law in Asia;
- To promote the teaching of Asian law at both graduate and undergraduate levels, and the teaching of Australian law in Asia;
- To promote the development of Asian studies and Asian languages in other disciplines and to encourage linkages with law studies;
- To research the legal framework for trade and investment in Asia; and
- To promote exchanges of scholars and students between Australian and Asian universities and institutions.

**Research Projects**

The ALC is associated with 4 major research projects:
- Large Collaborative Grant: ‘Asia Pacific Dispute Resolution Project’

**Publications**

Recent publications by Centre members include:
- Lindsey, T and Pausacker, H (eds), *Chinese Indonesians: Remembering, Distorting, Forgetting – A Festschrift for Charles A Coppel*, Institute of Southeast Asian Studies, Singapore; Monash Asia Institute, Clayton (2005)
Australian Journal of Asian Law
The Asian Law Centre jointly publishes the Australian Journal of Asian Law (AJAL) with the University of Washington at Seattle and the Australian National University. A peer-refereed scholarly journal, the AJAL is edited from Melbourne and is now a leading forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia.

Asian Law Online

Asian Law Online, launched in 2002, is the first online bibliographic database of Asian law materials in the world. Offered to the public as a free service to assist students and scholars of Asian legal systems, it is a collection of English language materials on Asian laws available throughout the world and includes books, chapters in books, journal articles and theses.

The database is organised according to countries in East Asia and a selection of basic legal areas. The database can be searched for any word or a more specific advanced search can be conducted. The database is also linked to a list of useful websites for each country and legal area.

Seminars
The Centre hosts the following seminar series:

Occasional Seminar Series
• Distinguished scholars and practitioners present on current Asian legal issues

Comparative Law Seminar Series
• Presented by internationally recognised scholars of comparative law and/or socio-legal theory, focusing on its application to Asia
• Public Seminar
• Internal Roundtable Workshop

‘Brown Bag’ Seminar Series
• Postgraduates, academics, practitioners or visitors who are researching and writing on Asian legal topics present papers on work in progress or rehearse a conference or article submission. Provides a collegial atmosphere for peer feedback.

Asian Legal Dialogues
• Presentations on Asian issues conducted in Asian languages.

Conferences
The Centre holds an annual international conference, the most recent including:
• ‘Build It And They Will Come: The First Anniversary of Law Schools in Japan’ (2005);
• ‘Law and Governance: Socialist Transforming Vietnam’ (2003);
• ‘Islamic Laws and the West: Can Secular Laws and Syariah Co-exist?’ (2002);
• ‘Law Reform in Developing and Transitional Economies’ (2001), held in Ulaanbaatar, Mongolia;
• ‘Rethinking the Good Governance Paradigm: Corruption and Social Engineering in Indonesia and Vietnam’ (2000).

Melbourne Asia Policy Papers
The Melbourne Asia Policy Papers are an initiative of the Asian Law Centre, the Asia Institute, the Asialink Centre, the Asian Economics Centre and the Australian Centre for International Business at the University of Melbourne.

The Melbourne Asia Policy Papers aim to strengthen Australia’s engagement in Asia through the publication and dissemination of a series of non-partisan policy option papers, which are distributed among leading government, media, academic, and business officials in Australia.
Visitors
The ALC regularly hosts visits by renowned international scholars. It also participates in the following programs:

Supreme Court of Japan
Each year since 2003, the Asian Law Centre has hosted a Judge from Japan as part of the Overseas Training and Research Program of the Supreme Court of Japan. The Program enables Judges from Japan to experience life in a jurisdiction outside Japan for a twelve-month period and provides them with a valuable opportunity to study Australian law courses, access University resources and undertake research and training activities, including visits to Victorian courts and meetings with court personnel.

Partnership in Islamic Education Project
The Asian Law Centre and the Centre for the Study of Contemporary Islam, together with the Asia Institute, host visits by students as part of the Partnership in Islamic Education Project (sandwich program). Students who take part in this program are staff members at an Islamic tertiary institution who are already in possession of an Indonesian Masters degree. While in Australia, these students work at the level of a non-award Masters of Research, which can later be published on their return to Indonesia.

Staff
The Centre was founded by the late Professor Malcolm Smith. The current Director is Professor Tim Lindsey, Professor of Asian Law. The Centre’s Associate Directors are Dr Sarah Biddulph (China), Dr Sean Cooney, Dr Pip Nicholson (Vietnam), Ms Stacey Steele (Japan) and Ms Amanda Whiting (Malaysia). Ms Kathryn Taylor is the Manager of the Centre. Mr Jeremy Kingsley, Ms Helen Pausacker and Ms Kerstin Steiner 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.
The Centre for Employment and Labour Relations Law (CELRL) was established in the Faculty of Law in 1994. Its broad aims are to consolidate the teaching of, and research into, labour law at the University of Melbourne, to contribute to the development of labour law teaching and research throughout Australia, and to engage with labour law scholars throughout the world. Centre members are responsible for teaching labour law subjects in the undergraduate and graduate programmes in the Faculty of Law, with the graduate programme leading to both Masters Degrees and Graduate Diplomas specialising in labour law.

The Centre’s work is guided by an Advisory Board, whose members represent the legal profession, academia and key stakeholders in Australian labour relations law.

The Centre is fortunate to receive financial support from a number of law firms in Melbourne that act as its Sponsors. The Centre publishes Working Papers and Monographs, and hosts two seminar series.

**Current Members**
Mr Colin Fenwick (Director), Ms Kirsten Anderson, Ms Anna Chapman, Dr Sean Cooney, Associate Professor Beth Gaze, Ms Elena Goodey, Dr John Howe, Ms Meredith Jones, Ms Shelley Marshall, Professor Richard Mitchell, Ms Charlotte Morgans, Mr Glenn Patmore and Mr Joo-Cheong Tham.

**Labour Law Seminar Series**
These free public seminars are intended to be of interest to a wide audience including academics, members of the legal profession, and those engaged in the day to day business of industrial relations and/or human resource management. They provide a forum for the presentation and discussion of preliminary research results and to that end are designed both to be informative and to engender critical discussion and debate.

**31 January 2005** Associate Professor Masaharu Nose, Department of Sociology of Kwansei Gakuin University, Japan, on ‘Negotiation Systems and Australian Workplace Agreements: From Researchers’ and Engineers’.

**8 April 2005** Professor Chris Arup, Victoria University and Mr Anthony O’Donnell, Centre for Employment and Labour Relations Law, The University of Melbourne, on ‘Social Security and Transitional Labour Markets in Australia: A Preliminary Analysis’.

**20 May 2005** Professor Cameron Rider, Professor of Taxation, Melbourne Law School, the University of Melbourne, on ‘How the Government Uses Taxation and Social Security to Regulate Labour Market Participation’.

**12 August 2005** Mr Colin Fenwick, Director, Centre for Employment and Labour Relations Law, the University of Melbourne and Mr Matt Tilleard, LLB candidate at the Melbourne Law School on ‘Regulating Prisoners’ Labour: A Paradox in International Law’.

**9 September 2005** Dr Jill Murray, School of Law, La Trobe University, on ‘Work and Family in Labour Law Scholarship’.

**3 October 2005** Professor Paul Davies, London School of Economics, UK, on ‘Changing Forms of Workplace Representation in the UK: From Single to Dual Channel’.

**4 October 2005** Ms Sue Ashtiany, Head of Employment Law at Nabarro Nathanson, London, and Equal Opportunities Commissioner; and Professor Margaret Thornton, Richard McGarvie Chair of Socio Legal Studies, Institute for Advanced Study, La Trobe University, on ‘Workplace Diversity and Discrimination Laws: Perspectives from UK and Australia’.

Sponsors’ Seminar Series
The CELRL also coordinates a series of seminars exclusively for the members of the firms that are its Sponsors.

23 March 2005 Ms Zana Bytheway, JobWatch, on ‘Implementation of Common Rule Awards in Victoria’. This seminar was held at the offices of Centre Sponsor Maurice Blackburn Cashman.

14 April 2005 Mr Justin Bourke, Victorian Bar, on ‘Labour Law & Business Restructuring: Assessing Amcor and Gribbles’. This seminar was held at the offices of Centre Sponsor Middletons Lawyers.

15 June 2005 Mr Peter Rozen, Victorian Bar on ‘The Occupational Health and Safety Act 2004 (Vic): Significant Change or Merely Fine-Tuning?’

Centre Research
Centre members are engaged in research in diverse aspects of the broad field of labour law and labour market regulation. Areas of particular interest and expertise include the regulation of individual work relationships, discrimination in the labour market, the operation of courts and other dispute resolution institutions, the regulation of occupational health and safety, collective labour relations, comparative labour law, international labour standards, and unemployment law and policy.

Key Centre research projects include:
• Law and Labour Market Regulation;
• Regulating Work and Workplaces: Contracting and Bargaining in Enterprises;
• Labour Regulation in East Asia;
• Legal Protection of Workers’ Human Rights: Regulatory Changes and Challenges;
• Law and Labour Market Regulation in Southern Africa;
• Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure;
• Work/Family Conflict and Australian Labour Law; and
• Labour Law in an Era of ‘Self-Regulation’

More information regarding these projects can be viewed at: http://celrl.law.unimelb.edu.au/go/research/research-projects/

Submissions
In March, Colin Fenwick prepared a Submission to the Inquiry into Labour Hire Employment in Victoria by the Economic Development Committee of the Victorian Parliament, and subsequently appeared before the committee, together with Centre Associate Professor Harry Glasbeek.

Also in March, Joo-Cheong Tham prepared a Submission to the Parliamentary Joint Committee on ASIO, ASIS and DSD’s Review of ASIO’s Special Powers Relating to Terrorism Offences as Contained in Division 3 Part III of the Australian Security Intelligence Organisation Act 1979 (Cth.). Joo-Cheong subsequently appeared as an invited witness before the committee.

In April, John Howe prepared a Submission to the Senate Employment, Workplace Relations and Education Committee Inquiry into the Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005. John appeared before the Committee on 4 May.

In May, Joo-Cheong Tham (together with Dr Graeme Orr) prepared a Submission to the Joint Standing Committee on Electoral Matters’ Inquiry into the Conduct of the 2004 Election, and subsequently appeared as a witness before the committee.


In August Richard Mitchell and Joel Fetter presented a written Submission to the Senate Employment, Workplace Relations and Education References Committee: Inquiry into Workplace Agreements, followed by invited oral evidence on 29 September.

In November Sean Cooney coordinated a submission by Centre members and associates to the Senate Employment, Workplace Relations and Education Committee Inquiry into the Workplace Relations Amendment (Work Choices) Bill 2005. Subsequently Sean Cooney, Anna Chapman, Glenn Patmore and Jill Murray gave evidence before the Senate Inquiry.

Joo-Cheong Tham (together with Patrick Emerton, Law Faculty, Monash University) prepared a Submission to the Senate and Legal Constitutional Legislation Committee’s Inquiry into the Anti-Terrorism (No 2) Bill 2005 on 11 November.
Reports

Commissioned Reports

Fenwick, C, Howe, J, Marshall, S and Landau, I, Labour and Labour Related Laws in Micro and Small Enterprises: Innovative Regulatory Approaches. This Report was commissioned by the International Labour Organisation’s InFocus Program on Boosting Employment through Small Enterprise Development. During 2005 research was carried out by a team including Lucy Adams, Ingrid Landau, Marc Trabsky, Sara Summerbell, Piers Gillespie and Fritz Ntoko-Ewang. A draft report was delivered in October, and Colin Fenwick travelled to ILO Headquarters in Geneva for consultations and to give a presentation on the content and direction of the report. It is to be finalised in 2006.

The Centre’s website can be accessed at:

The Centre can be contacted by email at:
law-celrl@unimelb.edu.
The Centre for Comparative Constitutional Studies (CCCS) is one of the Law School’s ten specialist research centres, and is a focal point for research, scholarship, teaching and information about Australian constitutional law and the constitutional law of other countries whose systems are most relevant to Australia.

The objectives of the CCCS are:

• To examine and evaluate the Australian constitutional system and to contribute actively to the debate on the Australian system of government;
• To examine and advise on the constitutional and legal framework for relations between levels of government, in theory and practical operation;
• To introduce comparative constitutional concepts and knowledge about comparative constitutional practices into the Australian constitutional debate;
• To develop and promote a sound understanding of the constitutional systems of countries in the neighbouring region, both in underlying and practical operation;
• To contribute to the debate on constitutional issues elsewhere in the world in the light of the experience of Australia and the Asia-Pacific region; and
• To provide a public and specialist resource on constitutional and comparative constitutional issues.

The Centre pursues these objectives through its activities - research, teaching, information exchange, resource centre, consultancies and research collaboration.

Research and Knowledge Transfer

A major research focus of some Centre members during 2005 was the ARC funded project on Australian Parliaments and Human Rights (Chief Investigators from 2005 were Dr Simon Evans and Dr Carolyn Evans). This project, funded by the Australian Research Council, is investigating all the existing parliamentary and pre-parliamentary mechanisms for ensuring that proposed legislation is compliant with rights. In most jurisdictions these mechanisms include a parliamentary scrutiny committee with primary responsibility for checking legislation against (often vague) rights criteria. The project combines a review of the parliamentary records of selected Australian parliaments with interviews of key parliamentary stakeholders. It aims to identify the capacity and effectiveness of Australian parliaments and, through a comparative study, to compare their performance with world’s best practice. Most Centre members were also heavily engaged in the Victorian Government’s consultation on a Human Rights Act for Victoria. Cheryl Saunders, Carolyn Evans and Simon Evans participated in an expert roundtable with the Consultation Committee. Many Centre members made submissions to the Consultation Committee. Simon Evans acted as a consultant to Victorian Solicitor-General Pamela Tate SC in connection with the drafting of the Charter of Human Rights and Responsibilities.

Centre members continued their work on other key topics in Australian and comparative public law: these include federalism, accountability of government, human rights institutions, religious rights, property rights, freedom of speech.

Symposium

The Centre’s major research event for 2005 was a one-day symposium on executive power under the Australian Constitution. The particular focus of the symposium was inherent executive power – the unwritten powers of the government. The symposium brought together more than 30 leading Australian public law scholars, judges, practitioners and politicians to discuss four papers. The papers were written by Professor Leslie Zines (ANU) on the scope of inherent executive power, Professor Patrick Weller (Griffith) on accountability to the Parliament for the exercise of inherent executive power, Mr Stephen Gageler SC on accountability to the courts for the exercise of inherent executive power and Professor Cheryl Saunders on inherent executive powers in a federal system. The roundtable provided an opportunity for constructive discussion of work-in-progress with an informed and interested group. Three of the papers were published in a special issue of the Public Law Review in December 2005.
Seminars and Roundtables

As well as the symposium the Centre organised a series of internal and external research events, including the following:

- **25 January 2005** — the Centre hosted a seminar entitled Common Law Constitutionalism and Australian Federal Judicial Review – Justification as Legality in Judicial Review of Administrative Action: Prospects under the Constitution, presented by doctoral student Ms Emily Hammond

- **15 February 2005** — the Centre co-organised with Liberty Victoria a lecture on Human Rights presented by Victorian Attorney General Rob Hulls at the Law Institute of Victoria

- **23 February 2005** — the Centre hosted a seminar on Devolution in the United Kingdom: Intergovernmental Relations presented by Alan Trench, University College London

- **12 April 2005** — Centre visitor Professor Diana Woodhouse gave a public presentation on Independence and Accountability: the Judges, Lord Chancellor and Attorney General in the developing UK Constitution

- **7 June 2005** — the Centre organised a seminar on Religious Freedom and the Constitution in India presented by Professor Rajeev Dhavan, Public Interest Legal Support and Research Centre, India

- **13 July 2005** — the Centre organised a public forum entitled A Bill of Rights for Victoria? at which Dr Simon Evans, Dr Carolyn Evans and Associate Professor Kristen Walker spoke

- **14 November 2005** — the Centre organised a public forum with the CMCL on The Workplace Relations Reform Advertising Case: Constitutional and Policy Perspectives on Government Advertising. Speakers included Dr Simon Evans, Mr Joo-Cheong Tham, Dr Sally Young (from Media and Communications)

Visitors to the Centre

The Centre continues to host research visitors from around Australia and around the world. In 2005 long-stay visitors included Dr Greg Carne, University of Tasmania (11 April – 31 July 2005), Justice Ellen France (High Court Wellington New Zealand, 3 October – 25 November 2005), Professor George Williams (University of New South Wales, 25 July – 3 September and 14 November – 23 December 2005) and Professor Diana Woodhouse (Oxford Brookes University, 15 January – 30 May 2005). As well, the Centre hosted Mr Frank Herget, a German lawyer completing his legal training by undergoing a supervised research visit.

Management 2005

Director: Dr Simon Evans
Deputy Directors: Associate Professor Kristen Walker and Dr Carolyn Evans
Founding Director: Professor Cheryl Saunders AO
Administrator: Ms Katy Prentice (to July 2005) and Ms Emma Brimfield (from October 2005)

The Centre’s website can be accessed at: http://cccs.law.unimelb.edu.au/cccs/
The Centre can be contacted by email at: cccs@law.unimelb.edu.au
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 2005, the following books were published by Centre members:


• Lindsey, T and Pausacker, H (eds), Chinese Indonesians: Remembering, Distorting, Forgetting, Monash University Press (2005)


A significant part of the Centre’s activities is the holding of seminars/conferences on important issues. In 2005 the Centre held the following seminars/conferences:

• Executive Remuneration and Corporate Governance
  (23 February 2005)
  Speaker: Gideon Haigh, journalist and corporate governance commentator
  This seminar was co-hosted with the Centre for Employment and Labour Relations Law
• **The Takeovers Panel: Key Issues for Companies and Advisers**  
  (3 March 2005 Melbourne, 9 March 2005 Sydney)  
  Speakers: Tim Bednall, Partner, Mallesons Stephen Jaques (Sydney), Richard Cockburn, Director, ASIC (Melbourne and Sydney), George Durbridge, Counsel, Takeovers Panel (Sydney), Byron Koster, Partner, Blake Dawson Waldron (Sydney), Alison Lansley, Partner, Mallesons Stephen Jaques (Melbourne), Marie McDonald, Partner, Blake Dawson Waldron (Melbourne), Simon McKeon, Executive Chairman, Macquarie Bank Limited and President, Takeovers Panel (Melbourne and Sydney), Nigel Morris, Director, Takeovers Panel (Melbourne)  

• **Professor Ian Ramsay launches Leon Gettler’s book “Organisations Behaving Badly: A Greek Tragedy of Corporate Pathology”**  
  (Readings Bookstore, Carlton, 12 May 2005)  

• **The Takeovers Panel: Key Issues for Companies and Advisers**  
  (26 May 2005 Perth)  
  Speakers: Michael Ashforth, Managing Director, Gresham Advisory Partners Ltd, Jeremy Cooper, Deputy Chairman, ASIC, George Durbridge, Counsel, Takeovers Panel, Marie McDonald, Partner, Blake Dawson Waldron  

• **Institutional Investors and Corporate Governance**  
  (2 June 2005)  
  Professor Geof Stapleton, Faculty of Law, University of Melbourne  
  This seminar was co-hosted with the Centre for Employment and Labour Relations Law  

• **Directors’ Duties and Corporate Social Responsibility – The New Environment**  
  (27 July 2005 Sydney, 18 August 2005 Melbourne)  
  Speakers: Bob Baxt AO (Sydney and Melbourne) Partner, Freehills, Bill Beeroxworth (Sydney seminar) Managing Director, Beerworth & Partners, Leon Davis AO, (Melbourne seminar) Chairman, Westpac, Meredith Hellicar (Sydney seminar) Chairman, James Hardie Industries, Harrison Young (Melbourne seminar) Chairman, Morgan Stanley Australia, Richard St John (Sydney and Melbourne) Convenor, Corporations and Markets Advisory Committee  

• **Enlightened Shareholder Value and the New Responsibilities of Directors: What does the Best Director do for the Creditors?**  
  (4 October 2005)  
  Professor Paul Davies, Cassel Professor of Commercial Law, London School of Economics and Political Science  

• **From the Picketline to the Boardroom: Union Shareholder Activism in Australia**  
  (24 November 2005)  
  Speakers: Professor Ian Ramsay and Kirsten Anderson, Faculty of Law, University of Melbourne  

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 Director of the Centre is Professor Ian Ramsay.  

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

The Centre can be contacted by email at: cclsr@law.unimelb.edu.au.
The Centre for the Study of Contemporary Islam (CSCI) is a joint centre located in both the Faculty of Law and the Faculty of Arts (Asia Institute) at the University of Melbourne.

Given global events over the last few years, Islam and Islamic studies have received renewed attention. The Centre aims to facilitate and support Islam-related research and education projects across the University, particularly those related to contemporary Islamic thought. It also aims to improve Australian understandings of Islam, both within the University and throughout the wider community.

Aims

The specific aims of the CSCI include:

- To create a global centre of excellence in Islamic studies at the University of Melbourne;
- To promote interdisciplinary approaches to contemporary Islamic thought at the University of Melbourne, with particular focus on areas such as law, human rights, pluralism, Islam in the West, interreligious relations and causes of and responses to militant Islam;
- To coordinate the procurement and efficient utilization of resources and infrastructure for the study of contemporary Islamic thought at the University of Melbourne;
- To attract researchers/specialists in the study of contemporary Islamic thought of the highest calibre to the University of Melbourne;
- To function as a think-tank for issues related to Islam and Muslim societies; and
- To offer short courses and training to enhance community understandings of Islam, Islamic thought and Muslim societies, both on ex gratia and commercial bases.

Research Projects

The CSCI is associated with 3 major research projects:


Publications

Recent publications by Centre members include:

- Lindsey, T and Pausacker, H (eds), Chinese Indonesians: Remembering, Distorting, Forgetting - A Festschrift for Charles A Coppel, Institute of Southeast Asian Studies, Singapore; Monash Asia Institute, Clayton (2005)

Seminars

The CSCI hosts an open seminar series, titled The Melbourne Public Dialogues on Islam. These events cover issues relating to Islam and are relevant to academics, governmental and business organisations, as well as the community.

The CSCI also hosts the CSCI Islam Research Seminar Series. These lunchtime seminars are more informal and are often presented by postgraduate students.
**Conferences**
The CSCI hosts an annual conference on current issues relating to Islam, with the objective of producing edited books and other publications. It also hosts an annual national postgraduate conference on Islamic Studies.

The inaugural conference was held in November, 2005, titled ‘Muslims, Secularism and the Secular State’.

**Visitors**
The CSCI regularly hosts visits by renowned international scholars. It also participates in the following program:

**Partnership in Islamic Education Project**
The Asian Law Centre and the Centre for the Study of Contemporary Islam, together with the Asia Institute, host visits by students as part of the Partnership in Islamic Education Project (sandwich program). Students who take part in this program are staff members at an Islamic tertiary institution who are already in possession of an Indonesian Masters degree. While in Australia, these students work at the level of a non-award Masters of Research, which can later be published on their return to Indonesia.

**Short Courses**
The CSCI offers short courses to government, business and the community to build public understandings of Islam.

**Staff**
The Director of the Centre, Professor Abdullah Saeed, is the Sultan of Oman Professor of Arab and Islamic Studies and Head of Arabic and Islamic Studies at the Asia Institute. The Deputy Director, Professor Tim Lindsey, is Professor of Asian Law and Director of the Asian Law Centre in the Faculty of Law. Ms Kathryn Taylor is the Manager of the Centre.

The Centre’s website can be accessed at: http://www.csci.unimelb.edu.au

The Centre can be contacted by email at: csci-info@unimelb.edu.au
The Institute for International Law and the Humanities (IILAH) is the successor to the Institute for Comparative and International Law, which was established in the Law School in 1999. In 2005, Professor Anne Orford was appointed as Director of the Institute, and undertook a reorganisation and renaming of the Institute to reflect the next stage of its development. IILAH facilitates and promotes interdisciplinary scholarship on emerging questions of international law, governance and justice, and strengthens the role of Melbourne Law School as a leading centre of research in this area.

**Aims and Objectives**

IILAH is dedicated to integrating the study of international law with contemporary approaches to the humanities. The modern discipline of international law has been a productive site for the exploration of concepts which have also absorbed the humanities: sovereignty, jurisdiction, force, universality, territory, asylum, peace, non-discrimination, equality, development, imperialism, human rights, security and states of emergency. Many of the significant modes of thought which have framed the way in which international lawyers understand the world have developed in conversation with the humanities. IILAH continues this engagement, through fostering dialogue with scholars working in disciplines such as anthropology, art, cultural studies, geography, history, linguistics, literature, philosophy, politics and theology.

IILAH focuses on encouraging the work of younger scholars and those developing new approaches to the field of international law, and on facilitating engagement between scholars and the community of professionals and activists working on issues of international law and governance in Australia and the Asia Pacific region. IILAH seeks to develop networks with scholars in international law and the humanities from the global South, to explore the ways in which colonial law has arrived and been received. It will also focus on developing links with scholars in the United Kingdom and in former British colonies such as Canada, India, New Zealand, South Africa and Sri Lanka, in order to explore the shared legacies of British colonialism with respect to international law and governance.

IILAH’s research activities are structured around eight Research Programmes, each led by Programme Directors based in the Faculty of Law:

- History and Theory of International Law (Professor Anne Orford);
- International Economic Law (Mr Jürgen Kurtz);
- International Environmental Law (Ms Jacqueline Peel);
- International Human Rights Law (Associate Professor Dianne Otto);
- International Refugee Law (Dr Michelle Foster);
- Law and Development (Dr Jennifer Beard and Ms Sundhya Pahuja);
- Security and the Limits of International Law (Professor Anne Orford);
- Theories of Sovereignty and Jurisdiction (Associate Professor Peter Rush).

**Research Activities**

IILAH hosts visits of distinguished and emerging international scholars; organises conferences, public lectures, workshops and reading groups; supervises and supports the work of graduate research students; and undertakes and facilitates collaborative and interdisciplinary research projects both within the University of Melbourne and internationally. In doing so, it contributes to ongoing debates about the theoretical foundation and practical effect of international law in today’s political climate.

IILAH undertook a range of research activities following its creation in July 2005.

In July 2005, IILAH hosted the 2nd Melbourne Legal Theory Workshop, on the theme ‘The Culture(s) of Human Rights’. The Workshop explored the different forms taken by human rights, and the ways in which human rights encounter ‘other’ cultures. It brought together academics and doctoral students from the University of Melbourne and distinguished international scholars in the humanities, international law and legal theory, including Costas Douzinas (Birkbeck College, London); Karen Knop (University of Toronto); Karen Engle (University of Texas); Gregor Noll (Lund University); Florian
Hoffmann (Pontifícia Universidade Católica do Rio de Janeiro); and Hassan El Menyawi and Juan Amaya Castro (both of United Nations University for Peace, Costa Rica).

Selected papers from the workshop have been published in a special issue of the Melbourne Journal of International Law ((2006) 7(1) MJIL).

In September, IILAH hosted a seminar by Philip Alston (New York University) on ‘Writing Human Rights Reports’. Professor Alston drew on his lengthy experience in various roles with the United Nations, particularly as UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and Chairperson of the Coordinating Committee for the UN Human Rights Special Procedures, to explore the challenges and complexities of drafting these documents.

In October, IILAH hosted a seminar by Tarik Kochi (Griffith University) on ‘Terror in the Name of Human Rights’. Dr Kochi presented his research into ‘war’s moral problem’, and the difficulties involved in the moral and legal judgment of contemporary acts of terrorism by political Islamicists.

In November, IILAH hosted a seminar in cooperation with the Contemporary Europe Research Centre (CERC) on ‘Perspectives on Turkey and the EU — Islam, Democracy and the Contemporary State’. This forum brought together H. E. Ambassador Murat Bilhan (Chairman of the Centre for Strategic Research in the Turkish Ministry of Foreign Affairs), Professor Dr Mustafa Aydin (Ankara University), and academics from the Faculty of Law, the CERC, and the Department of History.

November and December saw IILAH host two public events examining the then-proposed measures to strengthen Australia’s anti-terror laws. The first event, a forum on ‘Laws for Insecurity’, involved Petro Georgiou MP; Vicky Sentas (Federation of Community Legal Centres); Amir Butler (Australian Muslim Civil Rights Advocacy Network); George Williams (University of NSW; Victorian Human Rights Consultation Committee); and Brian Walters SC (Liberty Victoria). The second, a forum on ‘Anti-Terrorism and the Police State’, was organised by Peter Rush and Juliet Rogers as part of the Theories of Sovereignty and Jurisdiction Research Programme. It brought together Ian Duncanson (Institute of Postcolonial Studies; Griffith University); Joo-Cheong Tham (Faculty of Law); Geoff Boucher (Deakin University); and Marika Dias (Federation of Community Legal Centres).

Under the auspices of the International Human Rights Law Research Programme, and in conjunction with the Centre for Employment and Labour Relations Law, IILAH hosted a roundtable discussion in December on strategies for invigorating the international campaign for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Invited participants included a wide range of academics, activists and policy-makers, and the proceedings of the roundtable were published in Working Paper No 1 of the International Human Rights Law Research Programme.

The Centre’s website can be accessed at: http://iilah.unimelb.edu.au/.

The Centre can be contacted by email at: law-iilah@unimelb.edu.au.
Established in 2001, the Intellectual Property Research Institute of Australia (IPRIA) is one of the world’s few, and Australia’s only, multidisciplinary research organisation specialising in research on the law, economics and management of intellectual property. The institute is based at the University of Melbourne, comprising directors and staff from the Faculty of Law, the Faculty of Economics and Commerce, and the Melbourne Business School.

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

The outcomes of this research can:

• Support the development of world’s best practice public policy in relation to issues associated with the creation, protection, management, exploitation and enforcement of intellectual property rights;
• Provide insights which improve the ability of businesses, research institutions and other users of the IP systems to protect, manage and exploit intellectual property; and
• Contribute to the ongoing public debate in Australia about intellectual property issues and related matters, including innovation policy, economic growth, and the public domain.

Research Projects undertaken by IPRIA Staff

• The Role of IP Protection and its Use in Encouraging Innovation, Competition and Commercialisation
• National Innovative Capacity
• The Commercialisation and Appropriation of Returns to Intellectual Capital by Firms
• Research & Development Property Scoreboard
• The Evolution of Australian Enterprises: 1990 to 2007
• Comparative Analysis of Biotechnology Patent Examination Practice
• Patent Attorney Scoreboard
• Outcomes of IP Enforcement Actions in Australia
• Intellectual Property Standards in the TRIPS Agreement and their Development
• International Developments in Measures and Procedures for the Enforcement of Intellectual Property Rights
• Ownership of, Access to and Control of Cultural Property held in Cultural Institutions
• Australian Developments in IP
• International Developments in IP
• Law Reform
• Copyright and Cultural Institutions: Digitising Collections in Public Museums, Galleries and Libraries
• Uncertain Intellectual Property Rights and Start-Up Commercialisation Strategy
• The Impact of Product Modularity on Intellectual Property Creation
• Human Capital Configurations for Knowledge Creation
• Cases on Innovation Commercialisation by Smaller Firms
• A Review of the Operation of the Australian Tax System on Intellectual Property Commercialisation Ventures
• On the Investment Effects of Allowing Parallel Imports: Theory and an Examination of Firm-Level Evidence
• Scientific and Technological Advances in Genetic Engineering and Biotechnology: A Comparative Study of Australia, the UK and USA
• Estimating Consumers’ Willingness to Pay for Branded Consumer Goods
• Economic Models of the Values of IP
• Intellectual Capital Metrics
• Forecasting Patent Applications and Renewals
• Australian Domain Names Law and Policy
• Resolving the Dilemma of Private Digital Copying of Copyright Material in Australia
• The Protection of National Icons
• Triadic Patent Office Granting Decision
• The Optimal Stage to Recognise Patent Rights
• Intellectual Property Law and Policy-Making in Australia

Conferences
Seminars


• 22 March 2005, Software Patents: Developments in Europe. Dr Justine Pila, Oxford University.

• 11 April 2005, The Future of the Patent System. Dr Francis Gurry, Deputy Director General, WIPO.

• 18 April 2005, Traditional Knowledge, Traditional Cultural Expressions and Intellectual Property: The International Dimension. Dr Francis Gurry, Deputy Director General, WIPO.

• 15 June 2005, The Future of Copyright Exception. Associate Professor Robert Burrell, University of Queensland; Chris Creswell, Attorney-General’s Department; Maurice Gonsalves, Mallesons Stephen Jaques; Andrew Kenyon, CMCL, The University of Melbourne; Simon Lake, Screenrights; Debra Richardson, ASTRA; Giles Tanner, ABA; Kimberlee Weatherall, IPRIA.

• 16 June 2005, The Future of Copyright Exception. Associate Professor Robert Burrell, University of Queensland; Dr Andrew Kenyon, CMCL, The University of Melbourne; Ms Kimberlee Weatherall, IPRIA, The University of Melbourne. Co-Hosted by IPRIA and CMCL.

• 26 July 2005, Struggling for Coherence: A Review of Recent Developments in European Trade Mark Law, Professor David Llewelyn, Director of the IP Academy, Singapore.

• 28 July 2005, Struggling for Coherence: A Review of Recent Developments in European Trade Mark Law, Professor David Llewelyn, Director of the IP Academy, Singapore.

• 6 September 2005, Innovation and Intellectual Property Policy for the Noughties, Public Economics Forum, Associate Professor Beth Webster, IPRIA/MIAESR

• 8 September 2005, Innovation and Intellectual Property Policy for the Noughties, Business Economics Forum, Associate Professor Beth Webster, IPRIA/MIAESR.

• 9 November 2005, IP Enforcement in Australia: What’s Actually Happening in the Courts? Ms Kimberlee Weatherall, IPRIA. Co-hosted by IPRIA and IPTA.

• 21 November 2005, IP Enforcement in Australia: What’s Actually Happening in the Courts? Ms Kimberlee Weatherall, IPRIA. Co-hosted by IPRIA and IPTA.

Significant Publications

Reports

• Van Dyke, N (ed), R&D and Intellectual Property Scoreboard (2005)

• Bosworth, D, Determinants of Enterprise Performance, Manchester University (2005)

• Hudson, E and Kenyon, A, Copyright and Cultural Institutions: Guidelines for Digitisation (2005)

• Hudson, E and Kenyon, A, Copyright and Cultural Institutions: Short Guidelines for Digitisation (2005)

Visitors to the Institute

• Associate Professor Ann Monotti, Faculty of Law, Monash University

• Mr Paul Sugden, Faculty of Law, Monash University

The Centre’s website can be accessed at: http://www.ipria.org.

The Centre can be contacted by email at: j.molloy@unimelb.edu.au.
About the Tax Group

The Tax Group at Melbourne Law School aims for excellence in tax education and research. It offers a comprehensive postgraduate program and teaches a wide range of subjects in the LLB and JD degrees. The tax education program is designed and taught by, and in conjunction with, experienced taxation practitioners including members of leading law and accounting firms, leading members of the Bar, former members of the Australian Taxation Office, and counsel who represent the Australian Taxation Office. The program provides detailed taxation knowledge and skills of for tax professionals and seeks to develop the foundations of tax policy and law for research students.

Research in the Tax Group

The Tax Group undertakes taxation research with a technical, public policy and reform focus, and contributes at various levels to public debate on taxation reform. The tax faculty has a diverse range of tax research interests, including Australian individual and corporate income tax, comparative and international taxation, tax policy and critical perspectives on taxation. Much Tax Group research is interdisciplinary and comparative in nature.

In 2005, members of the Tax Group conducted collaborative research on taxation issues associated with the commercialisation of intellectual property in conjunction with the Intellectual Property Research Institute of Australia (IPRIA). Associate Professor Ann O’Connell wrote a paper on taxation implications of employee share schemes for a report on ‘Providing shares or rights as remuneration to an IP provider’ as part of this project. Professor Cameron Rider and Associate Professor Ann O’Connell also commenced work with Professor Richard Mitchell of the Centre for Employment and Labour Relations Law and Professor Ian Ramsay of the Centre for Corporate Law and Securities Regulation on a 3 year ARC-funded research project, ‘Employee Share Ownership: Current Practice and Regulatory Reform’.

In addition, the Tax Group conducted research on tax and the labour market in conjunction with the Centre for Employment and Labour Relations Law at Melbourne Law School; and on topics of tax reform and development; corporate tax in Australia and South Africa; taxation of managed funds; tax treaties; venture capital; and tax aspects of housing affordability.

Significant publications and presentations by Tax Group faculty

Tax Group faculty co-author significant tax texts. In 2005, Associate Professor Ann O’Connell and senior lecturers Dr Michael Kobetsky and Miranda Stewart co-authored a leading tax text, Income Tax Text, Materials and Essential Cases which in 2005 was in its 5th edition. Professor Cameron Rider co-authored the prestigious text, Cooper Krever & Vann’s Income Taxation Commentary and Materials, also in its 5th edition.

Professor Cameron Rider presented on the role of taxation law in regulating entry into and conduct in labour markets at the conference ‘Labour Law, Equity and Efficiency’ held at Melbourne Law School in July 2005 and gave a number of Workshops on principles of tax drafting. Miranda Stewart presented on venture capital taxation in Australia and New Zealand, published in the New Zealand Journal of Taxation Law and Policy and subsequently in the Journal of International Taxation. She also presented on the role of experts in tax reform in developing countries at the Tax Research Network Conference, University of Edinburgh Law School and at the Tax Policy Research Symposium hosted by the University of Waterloo, Canada. Dr Michael Kobetsky presented a paper on tax treaty override at the Australasian Tax Teachers’ Association Conference in Wellington, New Zealand in January 2005, subsequently published in the Bulletin for International Fiscal Documentation, and also published on tax treaties and taxation of banking in international tax journals.
Contributions to public policy and dissemination of research

Members of the Tax Group participate in peak professional bodies in which they play a key role in development of tax law and policy. In 2005, several members of the Tax Group were fellows of the Taxation Institute of Australia and active members of the International Fiscal Association. Professor Cameron Rider was a member of the Taxation Committee of the Law Council of Australia. Associate Professor Ann O’Connell was a member of the Advisory Panel to the Board of Taxation, the peak federal government body concerned with taxation reform. In these roles and in an individual capacity, in 2005, members of the Tax Group participated in consultation on technical tax law reform initiatives and on broad policy issues. For example, Professor Cameron Rider consulted on business capital allowances and Miranda Stewart participated in a submission to the Australian Government Venture Capital Review, jointly with tax academics from Monash University.

Tax group events and visitors

In 2005, the Tax Group hosted the Inaugural Melbourne Law School Tax Lecture by one of Australia’s most eminent barristers, Allan Myers QC on the topic ‘Tax Avoidance and the High Court since Sir Garfield Barwick’. The purpose of this new Tax Lecture Series is to place the development of the tax law in its historical context, and to inform public debate on current tax issues.

The Tax Group regularly hosts the International Fiscal Association (Australian Branch) meetings in Melbourne. At these meetings, prestigious international tax scholars and professionals present papers on important and topical issues. In 2005, the Tax Group hosted Professor David Rosenblum of New York University School of Law, USA, who spoke on international transfer pricing; Professor Kees van Raad of Leuven University, Belgium, who spoke on the topic, ‘Is the European Court of Justice destroying international income tax systems in Europe?’ and Professor Brian Arnold, University of Western Ontario, Canada, who spoke on the topic of tax treaties and tax avoidance. The Tax Group also hosted Associate Professor John Glover of Monash University Law School as a visitor during 2005.

In 2005, the Tax Group continued its practice of hosting a Tax Discussion Group for leading members of the tax profession and academia. The Tax Discussion Group allows the tax faculty and professional colleagues, alumni and postgraduate students to consider and discuss new legislation, cases and strategic developments in tax law and policy.

For more information on current and future activities of the Tax Group, please see our webpage at http://www.law.unimelb.edu.au/taxgroup/
The Centre for Media and Communications Law (CMCL) is a centre for the research, discussion and teaching of all aspects of media and communications law and policy.

The centre undertakes large scale research projects. In 2005 it was associated with three major research projects supported by the Australian Research Council, two Discovery Projects and one Linkage Project, and is also working with the Cancer Council Victoria.

The current projects are:

**Discovery Projects**

**Linkage Projects**

**Other Project**
- Legal Controls on Cross-border Advertising and the World Health Organisation. (Funded by the Cancer Council Victoria, Cancer Research UK, The Cancer Council Australia and National Heart Foundation of Australia)

Each year the CMCL presents a diverse array of public seminars with local and international speakers discussing legal and regulatory developments in the area of media and communications law and policy. In 2005 the CMCL hosted 10 public events in Melbourne and Sydney, including:

- ‘Grokster, KaZaa and Copyright Liability’ presented by Professor Jane Ginsburg, Morton L. Janklow Professor of Literary and Artistic Property Law, Columbia Law School and Professor Sam Ricketson of the Melbourne Law School, who acted as a commentator
- ‘Contempt of Court and Court Reporting in England and Wales’ presented by John Battle from ITN News, London
- ‘Communication Service Providers: Criminal Liability, Forensics and Investigation’ presented by Ian Waldon of Queen Mary, University of London
- Workplace Relations Advertising Case: Constitutional and Policy Perspectives, held jointly with the Centre for Constitutional Studies

- Copyright, Digitisation and Cultural Institutions Conference, held jointly with the State Library of Victoria
- The Future of Copyright Exceptions, held in conjunction with IPRIA

The CMCL supports research visits from Australian and international academics, lawyers and policy makers. Research visitors in 2005 were:
- John Battle, ITN London
- Margaret Beukes, University of South Africa
- Ursula Cheer, Canterbury University, New Zealand
- Paul Mitchell, King’s College London
- Ian Walden, Queen Mary, University of London
- Karen Yeung, St Anne’s College, Oxford University

The director of the CMCL, Andrew Kenyon supervises undergraduate and graduate teaching and research in media and communications law. As part of its engagement with the wider academic community, the CMCL hosted the first MediaCommLaw 2005 academic conference, where media and communications academics from Australia and overseas met to discuss current issues and teaching practices in media and communications law.

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

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

The Centre’s website can be accessed at: http://www.law.unimelb.edu.au/cmcl/.

The Centre can be contacted by email at: cmcl@unimelb.edu.au.
Academic Research Profiles
Jeremy Gans came to Melbourne Law School as a senior lecturer in 2002 from the law faculty of the University of New South Wales, where he did his PhD and taught as a lecturer for several years. Throughout his career, he has taught and researched across the field of criminal justice, from policing to proof and from criminal responsibility to punishment.

In addition to law, his educational background includes a Bachelor of Science, a Doctoral thesis on proof in rape trials and a Masters in criminology.

Jeremy’s research has always centred on fact-finding and discretionary decision-making by legal institutions, properly regarded as part of the broader field of public law. Proposals he made in his first published articles, on the mental element of rape, were recently adopted by the Law Reform Commission of Victoria in its report on sexual offences. Subsequent articles have examined directions on proof and motive in rape and murder trials, the commercialisation of public policing, Islamic criminal sentencing and evidence law’s infamous similar fact rule. He is the co-author of Australian Principles of Evidence, a textbook detailing the law of evidence across Australia’s ten legislative jurisdictions. He has appeared three times on Radio National’s Law Report and was appointed to working groups of the Australian Law Reform Commission in its references on Human Genetics and Sentencing.

Since 2000, Jeremy’s research has concentrated on a technical development that has revolutionised not merely rape prosecutions, but also the investigation and prosecution of many other crimes. The technique of DNA identification, first used in England in 1986, has, since the mid-1990s, become a mainstay of Australian and comparative criminal justice. The growing use of DNA identification has been accompanied by a public debate on the rights of suspects, offenders and regular citizens, as well as the prospect of increased surveillance through the use of DNA databases; nevertheless, the technique’s implementation has been unstoppable, because of dramatic successes in both solving cold cases and exonerating the wrongly convicted. Jeremy’s work has eschewed the civil liberties debate, instead examining practical and policy issues that arise from the way police use DNA identification to further criminal investigations.
Part of Jeremy’s research has been the detailed scrutiny of legislation developed in Australia to regulate DNA sampling and databases. In both articles and submissions to parliamentary bodies, he has argued that a focus on generalised debates about rights and responsibilities has neglected practical issues, resulting in many Australian jurisdictions being burdened by badly drafted legislation and ill-thought out policies. Underlying this critique is a call for more honesty in lawmaking surrounding police practices; the enactment of largely symbolic ‘protections’ for criminal suspects advances neither the rights of citizens nor the interests of law enforcement. This year, Jeremy published an article demonstrating that poorly regulated DNA sampling can cause problems for one of the technique’s supposed beneficiaries: the victims of crime, notably rape victims. His alternative proposals have been endorsed by a number of law reform bodies.

In 2004, Jeremy was awarded a three-year grant by Australia’s peak research funding body, the Australian Research Council, to study the police practice of mass DNA screenings, i.e. public requests to large groups for DNA samples to assist in a particular investigation. Prominent Australian examples include the screening of taxi drivers in Perth in 1997 (to investigate the Claremont Serial Killings), the request to the men of Wee Waa in 2000 (which solved a rape) and the informal sampling of 300 men across Australia as part of the inquiry into the disappearance of Peter Falconio in the Northern Territory.

In an article published in 2001, Jeremy argued that legislation and debate on DNA sampling and databases had neglected the role of a mere request for volunteers to operate as surveillance of non-suspects, effectively requiring recipients to choose between surrendering their DNA or giving the police reason to think that they have ‘something to hide.’ His argument led the ALRC to recommend the regulation of mass screenings, which in turn prompted Jeremy’s bid to study such screenings in order to develop a regulatory framework. The ARC grant was within the national priority of safeguarding Australians from crime and terror through the provision of appropriate enforcement infrastructure. Recognising the coercive realities of these ostensibly voluntary practices, the likely reform suggestion will be an increase in police powers to make such screenings compulsory, with a trade-off for the need for a court’s warrant before police can obtain a DNA sample from a non-suspect.

Jeremy’s research methodology builds upon his teaching method, which similarly eschews analysis of current judgments and legislation in favour of consideration of actual practice based on primary source documents. He has used his ARC grant to conduct detailed examinations of notable instances of mass screenings, through media research, the gathering of public documents and site visits. The research will culminate a book, drawing on specific case examples – such as the in mass fingerprinting of Norfolk Island, the search for Miami’s Shenandoah Rapist and the capture of the murderer of a 10-year old in Toronto – to explain the legal foundations, policy dilemmas and future reform options for this practice.
Professor Loane Skene, a specialist in Health and Medical Law, is an Adjunct Professor in the Medical Faculty as well as a Professor in the Law Faculty. She is Pro Vice-Chancellor and President of the University’s Academic Board, which is responsible for supervising all academic activities of the University and maintaining high standards in teaching and research.

Loane was a solicitor for some years in her early career, working in legal practice in Melbourne and in England. She later worked as a Policy Adviser in Canada and in Melbourne (10 years with the Victorian Law Reform Commission). She has continued to serve on federal and state advisory committees, especially concerning laws on genetic technology. Last year, she was Deputy Chair of the Lockhart Committee, the federal Legislation Review Committee on human cloning and embryonic stem cell research. Since the sudden death of Justice Lockhart, she has been the Committee’s spokesperson. The Committee recommended that the relevant legislation should be amended to permit the creation of human embryos by somatic cell nuclear transfer (the “Dolly” technique) to derive stem cells matched to particular people. This research could potentially help treat serious medical conditions like Alzheimer’s disease and spinal injuries. However, it is contentious because of the special status that many people attach to human embryos even at the earliest stage of development. The Committee also recommended that scientists should be permitted to observe the fertilisation of human eggs formed in fertility treatment programs. This would help infertile couples by improving clinical practice and training but it is currently forbidden by the legislation.

Loane’s widely used text book, *Law and Medical Practice: Rights, Duties, Claims and Defences*, argues that many of the ‘rights’ that patients commonly think they have are not legally enforceable and that doctors are less susceptible to civil litigation and prosecution than many believe. Even before the tort law reform, there have been numerous hurdles for patients suing doctors. Also, positive rights like the ‘right’ to treatment are problematic and the so-called ‘right to die’ is essentially a right to refuse treatment, not a right to be assisted in dying.
Loane has written extensively on legal issues concerning proprietary rights in excised human body parts and tissue. Many authors have advocated legal recognition of ‘ownership’ rights in one’s own body and body parts. However, Loane argues the current law is right in not recognising such rights, principally because she believes human bodily material and the information it denotes should be regarded as familial. This is a theme of her writing and it is the basis for her argument that people should not have the right to veto familial medical information being given to close blood relatives who need it for their own health care. If necessary, she says, relatives should also be entitled to gain access to another relative’s stored tissue for their own tests. These ideas might seem to contravene privacy rights but sometimes a person’s genetic condition cannot be diagnosed by testing only that person’s tissue; it is necessary to test tissue from a relative who has the particular family mutation; 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 Loane contends, genetic information is of two kinds. The ‘familial’ aspect is that a mutation exists in a family and the nature of the mutation. The ‘individual’ aspect is a person’s own status for the mutation – positive or negative. The latter should be subject to the same privacy protection as any other medical information.

It may be thought that people diagnosed with serious genetic conditions will naturally tell their relatives about the genetic risk but many people are reluctant to do that. Perhaps they don’t want to be blamed as the person who has brought a genetic disorder into the family; or they do not want to be the bearer of bad news. This has obvious legal implications for testing agencies who may assume that their warnings about genetic risks have been passed on to relatives. If relatives have not been warned and therefore miss the opportunity to be tested and to avoid a serious risk to their life or health, could they sue the testing agency? Loane is currently collaborating with researchers at the Murdoch Institute to investigate what information people in fact give their relatives, and the legal implications of that.

In 2003, Loane was awarded a Centenary Medal for ‘Service to Australian Society through the Exploration of Legal and Ethical Issues of Health Care’. Her full CV, with offices held, government consultancies and publications, is at: http://www.law.unimelb.edu.au/staff/Loane Skene/
Electronic publications are at: http://eprints.infodiv.unimelb.edu.au/archive/00001940/
Miranda Stewart joined the University of Melbourne Law School in 2000. Miranda’s main area of teaching and research is tax law and policy. She is co-director of the postgraduate Tax program at the University of Melbourne, a Fellow of the Taxation Institute of Australia and a founding member of the Editorial Board of the Australasian Tax Teachers Association. She consults with specialist tax firm Greenwoods & Freehills.

Miranda graduated with degrees in Mathematics and Law from the University of Sydney in 1992. She received a cadetship from the Australian Taxation Office and worked as a senior policy officer in business tax policy and legislation in Canberra, before moving to Arthur Robinson & Hedderwicks (as it then was) as a solicitor, concentrating on corporate tax advice and litigation. In 1998, Miranda obtained an LLM in International Tax from New York University School of Law, the leading postgraduate tax program in the United States, and subsequently taught in that program for two years before joining the Law School.

Miranda’s research into tax law and policy can be divided into three main areas: (a) politics and processes of tax reform; (b) taxation of business and investment entities; and (c) taxation of the family. Miranda has published numerous articles in international and national journals in each of these three areas. She brings a comparative and sociolegal approach to bear on doctrinal tax law, in particular applying discourse and institutional theory to shed new light on seemingly intractable problems of tax law reform.

Miranda’s research on the politics of tax reform analyses how institutions and expert norms influence global and national processes of tax reform and the outcomes of these processes in terms of the justice and efficacy of tax reform. She is currently researching consultation on tax reform in Australia and has previously investigated the role of international institutions in tax reform in developing countries. Her article, ‘Global Trajectories of Tax Reform: Mapping Tax Reform in Developing and Transition Countries’ in the Harvard International Law Journal has been reviewed and widely cited in international journals and has had an impact in institutions engaged in tax reform including the World Bank. She has analysed the IMF’s ‘mass’ engagement in tax reform projects in an article in the British Tax Review and is contributing to a forthcoming book on the global transfer of ideas about taxation.
Miranda has presented on these topics at numerous conferences and workshops in the US, Canada and the UK and has been invited to present on the political legitimacy of engagement of international institutions in tax reform at the first OECD International Conference on Tax and Development to be held in November 2006 at the University of Michigan.

Miranda is currently editing a special issue of the socio-legal journal *Law in Context* on the politics of tax reform, which brings together leading edge research from Australia and overseas.

Miranda has published several articles, reports and contributions to reference works on the taxation of business and investment entities. She has been a chief investigator on an ARC large grant to research the Australian taxation of international investment intermediaries and has published comparative research on taxation of companies, partnerships and managed funds in *Australian Tax Forum*, *Australian Tax Review* and international reference works. Recent work includes a major article on Australia’s efforts to encourage venture capital investment, published in the *New Zealand Journal of Tax Law and Policy* and the *Journal of International Taxation* and which won the prize for the best conference paper at the Australasian Tax Teachers Association Conference in 2005. This research is part of a collaborative project examining tax issues in commercialisation of intellectual property being conducted with colleagues at the Law School, funded by the Intellectual Property Research Institute of Australia (IPRIA). The project examines how Australian tax law concerning business entities and intellectual property assets may impede effective commercialization of Australian research and development. This research has reached a wide audience through publication as IPRIA Working Papers and Reports and in IPRIA presentations. Miranda is currently preparing a comprehensive evaluation of Australia’s tax treatment of business assets for the Australian Tax Research Foundation with the aim of identifying strengths and weaknesses and making recommendations for future reform.

The third strand of Miranda’s tax research draws on discourse, narrative and feminist theory in analysing taxation of individuals and families. Miranda has published on the way in which tax and welfare laws construct a normative family and the exclusion of same-sex couples and other family structures from this normative ideal. In a forthcoming *Sydney Law Review* article, Miranda analyses how this normative ‘family’ is embedded in the law even following reforms by government to extend superannuation tax concessions to ‘interdependency relationships’. Miranda is co-author of a book on death and taxes in Australia and an ongoing theme in her work is the intersection of family, property, wealth and fairness in Australian tax law. She has presented and published on tax and distributive justice philosophies and on narratives of fairness and avoidance in Australia.
Faculty of Law
2005 Research Report

Published
Research
Published Research

Books Authored

Books Edited

Book Chapters


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Rogers, J, ‘Unquestionable Freedom in a Psychotic West’ (2005) 1 Law, Culture & the Humanities 186-207


Skene, L, ‘Withholding and Withdrawing Treatment in South Australia When Patients, Parents or Guardian Insist Treatment Must be Continued’ (2005) 24 Adelaide Law Review 161-185


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Beaton-Wells, C, ‘Australia’s ADJR Act: Reform or Repeal?’, Administrative Law Forum, Canberra, 2005
Patmore, G, ‘How Can We Be Happy At Work? Rethinking the Role of Labour Law’, Sorbonne University, Paris, 2005
Patmore, G, ‘Choosing the Republic’, Constitutionalism and Political Morality, Donald Gordan Centre, Queen’s University, Ontario, 2005
Patmore, G, ‘Can Happiness be an Objective of Labour Law?’, Faculty of Law, Queen’s University, Ontario, 2005
Reports / Working Papers


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Mees, B, Wehner, M and Hanrahan, P, Fifty Years of Managed Funds in Australia, Investment and Financial Services Association, Melbourne (2005)


Otto, D and Kent, L, Submission to the Human Rights Consultation Committee on a Proposed Charter of Rights for Victoria, University of Melbourne, Melbourne (2005)


Ramsay, I, Reform of the Broadcasting Authority’s Enforcement Powers, Australian Broadcasting Authority, Centre for Corporate Law and Securities Regulation, University of Melbourne, Melbourne (2005)


Reference Works

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 Professor Tim Lindsey, Director of the Asian Law Centre 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

Company and Securities Law Journal, whose editor is 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 (MALR) 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 include the US, Canada, the UK, South Africa, Korea, Singapore, the European Union, New Zealand and Australia. Dr Andrew Kenyon edits the Review, and its publisher is LexisNexis.

Content from 2006 onward is available internationally in digital full test, from its publisher LexisNexis, as well as in paper form. Earlier contents is available on the MALR website.

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


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/referred, 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 telephone 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

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

The journal is coordinated/edited by Dr Andrew Kenyon a.kenyon@unimelb.edu.au.


Melbourne University Law Review

The Melbourne University Law Review (MULR) 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 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:
James McComish, Rebecca Pereira and Tamara Vu (Editors)
Melbourne University Law Review
Melbourne Law School
The University of Melbourne
Carlton Victoria 3010 Australia
Telephone: + 61 3 8344 6593
Facsimile: + 61 3 9347 8087
Email: law-mulr@unimelb.edu.au.
Website: http://mulr.law.unimelb.edu.au

Public Law Review
The quarterly journal Public Law Review is edited by Professor Cheryl Saunders of the University of Melbourne 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.

Correspondence should be forwarded to:
Professor Cheryl Saunders
Public Law Review
C/- The Centre for Comparative Constitutional Studies
Melbourne Law School
The University of Melbourne
Victoria 3010 Australia
Telephone: + 613 8344 41011
Fax: + 613 8344 1013
Email: cccs@law.unimelb.edu.au

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:
Website: http://cclsr.law.unimelb.edu.au.
University Square

Journal Affiliations
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| **Journal:** Across the Board  
Publisher: CCH Australia Ltd  
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Member: Ian Ramsay  
Position: Member of the Editorial Board |
| **Journal:** Art, Antiquity and Law  
Publisher: Institute of Art and Law  
Place: London, UK  
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Position: Assistant Editor, Aboriginal Culture and Indigenous Peoples |
| **Journal:** Australiain Journal of Philosophy  
Publisher: Oxford University Press  
Place: Oxford, UK  
Member: Natalie Stoljar  
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| **Journal:** The Australian Accounting Review  
Publisher: The Australian Society of Certified Practising Accountants  
Place: Melbourne, Australia  
Member: Ian Ramsay  
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| **Journal:** Australian Corporations & Securities Law Reporter  
Publisher: CCH Australia Ltd  
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Member: Ian Ramsay  
Position: Consultant Editor |
| **Journal:** Australian and New Zealand Journal of Law and Education  
Publisher: The Australian and New Zealand Education Law Association  
Place: Brisbane, Australia  
Member: Ian Ramsay  
Position: Member of Editorial Board |
| **Journal:** Australian Feminist Law Journal  
Publisher: Australian Feminist Law Foundation  
Place: Melbourne, Australia  
Member: Jenny Morgan  
Position: Member of the Advisory Board  
Members: Sundhya Pahuja, Juliet Rogers  
Position: Members of the Editorial Board |
| **Journal:** The Australian Journal of Asian Law  
Publisher: Federation Press  
Place: Sydney, Australia  
Members: Tim Lindsey, Amanda Whiting  
Position: Editors  
Members: Sarah Biddulph, Sean Cooney, Pip Nicholson, Cheryl Saunders  
Position: Members of the Advisory Committee |
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<td>Global Change, Peace and Security</td>
<td>Tim McCormack</td>
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<td>Governance</td>
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<td><em>Michael Crommelin, Ian Ramsay</em></td>
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<td><em>Tim McCormack</em></td>
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<td><em>Dianne Otto</em></td>
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<tr>
<td>1 August 2005</td>
<td>Dr Paul Mitchell (King’s College, London)</td>
<td>‘The Emergence of Injunctions for Defamation’</td>
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<tr>
<td>8 August 2005</td>
<td>Dr Jacqueline Horan</td>
<td>‘The Law and Lore of Civil Justice System’</td>
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15 August 2005  
**Dr Ann Genovese** (University of Technology Sydney)  
‘The Form of the Content: Changing Experiences of Historical Experts and the Law’

22 August 2005  
**Dr Natalie Stoljar**  
‘What is Judicial Activism?’

30 August 2005  
**Professor Cameron Rider**  
‘Sellers of Labour or Investors of Intellectual Capital? Conceptual Problems in the Taxation of Employee Share Ownership in IP Spin-Off Companies’

5 September 2005  
**Professor Stuart Macintyre** (Dean, Faculty of Arts), **Professor Vera Mackie** (Asian/Gender Studies, Faculty of Arts) and **Professor Peter Otto** (English, Faculty of Arts)  
‘The Arts Faculty and ARC Research Funding’

12 September 2005  
**Dr Jeremy Gans**  
‘You Want a Piece of Me?: Mass DNA Screening in Criminal Investigations’

3 October 2005  
Forum for the Discussion of two Research-Related Topics: ‘Keeping Up to Date with the Current Literature’ and ‘Case Law: Deciding Where to Publish’

10 October 2005  
**Dr Pip Nicholson**  
‘Legal Culture: Reviving Definitional Approaches’

17 October 2005  
**Dr Patrick Capps** (University of Bristol)  
‘Open’ and ‘Closed’ Approaches to Treaty Law in English Courts’

24 October 2005  
**John Tobin**  
‘The Senate’s “Forgotten Children” Inquiry’
International Research Visitors Scheme
Student Published Research Prize
The International Research Visitors Scheme (IRVS) is designed to enhance collaborative work between international researchers and members of the Law School.

IRVS: Mas Achmad Santosa
Recipient: Senior Lecturer, Faculty of Law, University of Indonesia

The visit enabled Mas Achmad Santosa to work with Professor Tim Lindsey on producing a monograph on the theory and practice of law reform in Indonesia since the fall of Soeharto.
2005 Winners

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

Two prizes are awarded, one to an undergraduate law student and the other to a postgraduate law student.

Undergraduate

Jason Bosland


Postgraduate

Craig Hamilton Smith

Head of Department, Dean and Zelman Cowen Professor of Law

Brian Michael Lake Crommelin
BA Qld, LLB Qld, LLM Br.Col, PhD Br.Col.
Barrister-at-Law Queensland and the High Court of Australia, Barrister and Solicitor Victoria and Papua New Guinea, Legal Practitioner Northern Territory

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Cheryl Anne Saunders AO, BA Melb. LLB Melb. PhD Melb.
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PhD Melb.
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Timothy Lloyd Hearnden McCormack, LLB Tas. PhD Monash

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PhD Camb.
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SJD Michigan

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Research Higher Degrees
Completed in 2005 and In Progress
Research Higher Degrees Completed in 2005

Doctor of Philosophy

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

Cassar, A
Implementing International Environmental Law in Domestic Environmental Management: Wetlands of International Importance in Australia and the People’s Republic of China
Supervisors: Gillian Triggs and Brian Finlayson

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 Prohibitions in Section 51(ii) and 99 of the Commonwealth Constitution Against Discriminating Between or Giving Preference to States in Laws of Taxation, Trade, Commerce and Revenue.
Supervisor: Cheryl Saunders

Hepburn, S
Rejecting the Feudal Doctrine of Tenure within a Pluralist Land Culture: Toward an Alloidal Land Model
Supervisors: Michael Bryan and Maureen Tehan

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

Indrayana, D
Supervisors: Cheryl Saunders and Tim Lindsey

Kaspiew, R
Mothers, Fathers and Parents: The Construction of Parenthood in Contemporary Family Law Decision Making
Supervisors: Jenny Morgan and Belinda Fehlberg

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

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

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

Stepniak, D
Electronic Media Coverage of Court Proceedings: The Australian Experience in the Light of International Developments
Supervisors: Ian Ramsay and Peter Johnston

Tsonis, A
Aporias of Sovereignty
Supervisor: Peter Rush

Doctor of Juridical Science

Waller, V
Limitation Periods in Child Sexual Assault Litigation in Victoria
Supervisor: Loane Skene

Wilson, E
The SAVAGE REPUBLIC: De Indis of Hugo Grotius, Primitive Legal Scholarship, and Dutch Hegemony in the Early Capitalist World-Economy (1603-1608)
Supervisors: Gillian Triggs and Tim Lindsey

Master of Laws by Thesis

Mussawir, E
Territories of Desire, Territories of Speech: On Jurisprudence and Jurisdiction
Supervisors: Peter Rush and Jenny Morgan
Doctor of Philosophy

Abou-Elyousr, K
The Palestinian-Israeli Conflict in International Law: The Role of the UN Security Council
Supervisors: Gillian Triggs

Allen, D
Improving the Effectiveness of Australia’s Anti-Discrimination Laws
Supervisors: Beth Gaze and Jenny Morgan

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

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

Baird, R
Measures to Deter Illegal, Unreported and Unregulated Fishing in the Southern Ocean in the Absence of Flag State Control
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 Organisation Anti-Dumping Disputes
Supervisors: Gillian Triggs and Richard Garnett

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
The Bioethics of Body Technologies: Mapping the Boundaries of the Human of Rights Discourse
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

Boas, G
Trying Former Heads of State and Senior Officials for War Crimes: Lessons in Complex Litigation from the Milosevic Trial
Supervisors: Tim McCormack and Carolyn Evans

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

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Indonesia’s District Courts: Incompetence and Corruption
Supervisor: Tim Lindsey

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Australia’s Prosecution of Japanese War Criminals: Stimuli and Constraints
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Supervisors: Belinda Fehlberg, Jenny Morgan and Grania Sheehan

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Charwat, N
Contesting Global Governance: A Critical Examination of Amicus Curiae Briefs in the World Trade Organisation’s Dispute Settlement Body
Supervisors: Gillian Triggs and Dianne Otto
Research Higher Degrees in Progress

**Chellew, J**
Derivatives Law: Fine-Tuning the Corporations Act’s Derivative Definition
Supervisor: Malcolm Smith

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Occupation, Resistance and Jus as Bellum: When is it Lawful to Forcibly Resist Foreign Occupation of a Sovereign State?
Supervisors: Tim McCormack, Michael Kelly and Michael Gillooly

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

**Colmenares, N**
International Jurisdiction and Amnesty
Supervisors: Tim McCormack and Tim McCormack

**Conidi, B**
Supervisors: Tim McCormack and Jennifer Balint

**Douglas, H**
Legal Narratives of Indigenous Existence: Crime, Law, and History
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

**Foerster, A**
Towards an Ecologically Sustainable Allocation of Water Resources: An Analysis of Recent and Ongoing Water Law Reform in NSW and Victoria, with Respect to their Capacity to Deliver Environmental Outcomes
Supervisor: Lee Godden

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

**Gerber, P**
Examining the Implementation of Article 29 of the Convention on the Rights of the Child
Supervisors: Gillian Triggs and Dianne Otto

**Graydon, C**
Domestic Violence in Timor-Leste: Is There a Place for Indigenous Justice Systems?
Supervisors: Tim Lindsey

**Hammond, E**
Judicial Review for Substantive Unfairness: Prospects Under Australian Constitution
Supervisors: Cheryl Saunders and Simon Evans

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

**Harijanti, S**
The Indonesian Ombudsman System and Good Governance: Proposals for Reform
Supervisors: Cheryl Saunders and Tim Lindsey

**Harper, E**
Beyond Brahami: The Effectiveness and Sustainability of UN Legal Codes in Post-Conflict Situations
Supervisors: Gillian Triggs

**Hassan, M**
The Syariah Court of Singapore – A Study of a Court of Law
Supervisor: Tim Lindsey

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Targeting During Armed Conflict: A Legal Analysis
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**Howard, J**
'To Deter and Deny': International Law and Australia’s Interdiction of Asylum Seekers
Supervisor: Tim McCormack

**Kelly, C**
How International Law Gives Effect to the Right to Essential Medicines
Supervisors: Gillian Triggs, Dianne Otto and Carolyn Evans
<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Supervisor(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kordvani, A</td>
<td>New Welfare Implications of Immigration and their Reflections on the Global Welfare</td>
<td>Anne Orford</td>
</tr>
<tr>
<td>Lach, K</td>
<td>The EU and the Contemporary Notion of State Sovereignty</td>
<td>Anne Orford and Carolyn Evans</td>
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<tr>
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