



# Asian Law

## Annual Report

January – December 2003



Annual Report January–December 2003

# Asian Law Centre

Law School  
The University  
of Melbourne

Enquiries concerning the Centre's activities  
and publications can be directed to:

Asian Law Centre  
Faculty of Law  
The University of Melbourne  
Victoria 3010  
AUSTRALIA  
Telephone: +61 3 8344 6847  
Facsimile: +61 3 8344 4546  
Email: [law-alc@unimelb.edu.au](mailto:law-alc@unimelb.edu.au)

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## Director's Report

The Asian Law Centre's program for 2003 was marked by the diversity of its activities and areas of focus. Major events covered, for example, the future of China; the Jemaah Islamiyah trials and the Bali bombing; Japan's economic collapse and its legal implications; labour regulation in Asia; game theory and dispute resolution in Southeast Asia; the shaky path of East Timorese law reform; and Asian values and South Africa. 2003 also saw a regular flow of prominent visiting scholars, lawyers and judges from East Timor, Japan, Korea, U.S.A. and, of course, other universities in Australia.

The success of the Centre in 2003 is largely due to the committed work of the Centre's seven continuing members of academic staff, Dr Sarah Biddulph, Mr Sean Cooney, Dr Pip Nicholson, Professor Malcolm Smith, Ms Stacey Steele and Ms Amanda Whiting, together with the Centre's Manager, Ms Kathryn Taylor. Also of great importance to our activities are our research assistants, who make a major contribution to the Centre's activities and, of course, the Centre's Ph.D. students. The Centre now has the privilege of supervising the largest single group of Ph.D. students in the Faculty. Many are also research assistants and some have, in the past, gone on to become tenured members of Faculty. It is the cooperation between our Ph.D. candidates, our research assistants and our tenured members of staff that allows our program to be so diverse and rich.

The best example of this is, of course, *Asian Law Online*, the Centre's unique database, which in 2003 achieved 11,260 page views per month. This is an exceptional outcome for the Faculty and one which demonstrates the way in which the Centre has now become an international leader of Asian legal studies among both lawyers, practitioners, judges and scholars.

The challenge for the Centre in coming years is to maintain this rich diversity of activities and interests and at the same time to expand them. Areas of obvious interest for the future include South Asia (Pakistan, Bangladesh, India and Sri Lanka) and the Centre has already begun steps to increase its research work in this area. This follows the new emphasis in the Centre on the Philippines and Malaysia and in particular, on Islamic studies. It is essential that the Centre be seen to be not only following a consistent program of research, but also to be responsive to community developments and needs. This will be possible with the continued support of our academic colleagues, students and research assistants, but also of course with the support of our sponsors, without whom the Centre could not survive at all.



Professor Tim Lindsey  
Director,  
Asian Law Centre  
April 2005



# The Asian Law Centre

## Goals of the Asian Law Centre

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

## Asian Law Centre Advisory Board

The Advisory Board of the Centre in 2003 included:

**Professor Michael Crommelin**

*Zelman Cowen Professor of Law  
Dean, Law School, The University of Melbourne*

**Mr David Laidlaw**

*Executive Chairman and Partner, Maddocks*

**Mr Stephen Spargo**

*Partner, Allens Arthur Robinson*

**Mr Richard St. John**

*Senior Counsel, BHP Limited, representing the University of Melbourne Law School Foundation*

The Advisory Board of the Centre has recently been restructured and currently includes:

**Professor Ben Boer**

*Director, Australian Centre for Environmental Law, University of Sydney*

**Mr Rowan Callick**

*Asia-Pacific Editor, Australian Financial Review*

**Professor M.B. Hooker**

*Faculty of Law, Australian National University*

**Mr Bruce Johnston**

*Partner, Allens Arthur Robinson*



# The Asian Law Centre

**Mr David Laidlaw**

*Executive Chairman and Partner, Maddocks*

**Professor Abdullah Saeed**

*Sultan of Oman Professor of Arab and Islamic Studies*

*Head of Arabic Studies and Islamic Studies, Melbourne Institute of Asian Languages and Societies*

*Director, Centre for the Study of Contemporary Islam*

**Professor Malcolm Smith**

*Professor of Law, Law School, Chuo University, Japan*

**Mr Stephen Spargo**

*Partner, Allens Arthur Robinson*

The current Consultative Group of the Centre includes:

**Professor William Alford**

*Director, East Asian Legal Studies Program, Law School, Harvard University*

**Mr David Bailey**

*Barrister, Owen Dixon Chambers*

**Dr Stephanie Balme**

*Honorary Research Associate, Department of Government and Public Administration,*

*Chinese University of Hong Kong*

**Professor Gary Bell**

*Director, Asian Law Institute, Faculty of Law, National University of Singapore*

**Dr Per Bergling**

*Department of Law, Umea University, Sweden*

**Mr Greg Churchill**

*Partner, Ali Budiardjo Reksodiputro, Indonesia*

**Professor Andrew Harding**

*Law Program Professor, Centre for Asia-Pacific Initiatives, University of Victoria, Canada*

**Mr Martin Kudnig**

*Partner, Blake Dawson Waldron*

**Professor Richard Mitchell**

*Professorial Fellow, Faculty of Law, The University of Melbourne*

**Professor William Neilson**

*Director Emeritus, Centre for Asia-Pacific Initiatives, University of Victoria, Canada*

**Professor Raul Pangalangan**

*Dean, College of Law, University of the Philippines*

# The Asian Law Centre

**Professor Pitman Potter**

*Director, Chinese Legal Studies, Faculty of Law, University of British Columbia, Canada*

**Professor Ian Ramsay**

*Director, Centre for Corporate Law and Securities Regulation, Faculty of Law, The University of Melbourne*

## Graduate Diploma in Asian Law Advisory Board

The Asian Law Graduate Diploma programme continued to benefit from the professional input of its Advisory Board, comprising, in 2003:

**Mr Jim Armstrong**

*Partner, Mallesons Stephen Jaques*

**Mr David Laidlaw**

*Executive Chairman and Partner, Maddocks*

**Mr Stephen Spargo**

*Partner, Allens Arthur Robinson*

The current Advisory Board of the Graduate Diploma in Asian Law includes:

**Mr Hop Dang**

*Faculty of Law, National University of Singapore*

**Ms Gitte Heij**

*Legal Consultant*

*Director (International Projects), Deacons*

**Mr David Laidlaw**

*Executive Chairman and Partner, Maddocks*

**Professor Abdullah Saeed**

*Sultan of Oman Professor of Arab and Islamic Studies*

*Head of Arabic Studies and Islamic Studies, Melbourne Institute of Asian Languages and Societies*

*Director, Centre for the Study of Contemporary Islam*

**Mr Stephen Spargo**

*Partner, Allens Arthur Robinson*





# Asian Law Centre Members

## Director

### Professor Tim Lindsey



Dr Tim Lindsey joined the Centre in 1990 and was appointed to the Law School in 1994. He has been Director since 2000. In 2005, he was appointed Professor of Asian Law. A graduate of the University of Melbourne Law School, Tim completed his doctoral thesis in Indonesian studies. He teaches Indonesian law, Islamic law, law reform and economic development theory and traditional customary law. His research interests are in the areas of Islamic law, commercial law, insolvency law, constitutional law, comparative law, law reform in developing countries and 'rule of law'. He researches and teaches in Indonesian and is a member of the Board of the Australia-Indonesia Institute. He worked previously at Mallesons Stephen Jaques and has been a practising member of the Victorian Bar since 1990, now specialising in Indonesian and East Timorese law.

His publications include *Indonesia: Law and Society*; *Indonesia: Bankruptcy, Law Reform and the Commercial Court*; *Corruption in Asia: Rethinking the Governance Paradigm* (with Howard Dick); *Indonesia After Soeharto: Prospects for Reform*; and *Law and Labour Market Regulation in East Asia* (with Sean Cooney, Richard Mitchell and Ying Zhu). Tim is a Founder and co-Editor of the *Australian Journal of Asian Law*.

## Associate Director (China)

### Dr Sarah Biddulph



Dr Sarah Biddulph joined the Centre in 1989 on secondment from the firm Blake Dawson Waldron and was appointed to a lectureship in the Law School in 1991. She is a graduate of Sydney University in Law and Chinese Studies and completed her doctorate on administrative detention in China in 2004. Sarah participated in an exchange of lawyers program in Shanghai under a joint agreement of the Attorney-General's Department and the P.R.C. Ministry of Justice, before working at Blake Dawson Waldron's Shanghai office from 1998 to 2000.

Sarah's research and teaching interests are Chinese law and society, administrative law, criminal procedure law, labour law and other issues affecting social control in China. She researches and teaches in Chinese.

## Asian Law Centre Members

### Associate Director (Taiwan)

#### Mr Sean Cooney



Mr Sean Cooney joined the Centre in 1992 after four years in legal practice and completed his LL.M. in Asian law in that year. In 1994, he conducted research at the National Taiwan University and National Chengchi University in Taiwan. He was appointed to a lectureship in 1995. Sean's research interests include East Asian employment and labour law, democratic transitions and sovereignty issues (with a particular emphasis on Taiwan), comparative law, and contract and regulatory theory. He researches and teaches in Chinese and is fluent in French and German.

Sean holds LL.M. degrees from Columbia University and the University of Melbourne and is currently completing his Columbia doctorate. His publications include *Law and Labour Market Regulation in East Asia* (with Tim Lindsey, Richard Mitchell and Ying Zhu), as well as articles in a range of international journals in English and Chinese. He is currently examining alternatives to the current system of international labour standards.

### Associate Director (Vietnam)

#### Dr Pip Nicholson



Dr Pip Nicholson joined the Centre in 1997 as Associate Director (Vietnam) and was a Senior Fellow of the Faculty from 1998. She joined the Faculty permanently as a lecturer in 2002. A graduate in Law and Arts from the University of Melbourne with a Masters in Public Policy from the Australian National University, Pip teaches the Vietnamese legal system in both the undergraduate and graduate programs of the Melbourne Law School and taught Vietnamese law to a consortium of American law schools in 2004. Pip also teaches 'Comparative Law', Law and Economic Reform in Asia, 'Fundamentals of the Common Law' and 'History and Philosophy of Law I' and II.

Pip's doctoral research focused on the Vietnamese court system between 1945 and 1976, in the course of an analysis of the extent to which the Vietnamese legal system mirrored or diverged from its Soviet parent.

Pip is interested in the challenges of cross-cultural legal research and legal reform - particularly within Asia. She has recently completed research on corruption within the Vietnamese court system, the recent round of reforms to the Vietnamese court system and take-up of labour law reforms in Vietnam. Current projects include analyses of Asian socialist transformation, Vietnamese attitudes to dispute resolution and a study of the relationship between comparative law theory and legal reform in Asia and Vietnam.

Pip has worked as a consultant to the Faculty's international programs and currently consults on changes in transitional legal systems.

## Asian Law Centre Members

### Associate Director (Japan)

#### Ms Stacey Steele



Ms Stacey Steele joined the Centre in 1997 as a research assistant and was appointed Associate Director (Japan) in January 2002. She holds degrees from the University of Queensland (B.A. (Jap)), Monash University (M.A. (Jap)) and the University of Melbourne (LL.B. (Hons) and LL.M. (by thesis)) and works as a Senior Associate in the Financial Services Group at Blake Dawson Waldron.

Stacey recently published a translation of the Law Relating to Recognition and Assistance for Foreign Insolvency Proceedings for the Ministry of Justice, Japan. Her research interests are in the areas of Japanese insolvency law, law reform and the Japanese legal system. Stacey practices Chanoyu (The Way of Tea) and is a member of the Urasenke Melbourne Chapter.

### Associate Director (Malaysia)

#### Ms Amanda Whiting



Ms Amanda Whiting joined the Centre in 1999. She became a co-Editor of the *Australian Journal of Asian Law* in 2002. In 2004, Amanda was appointed to the position of lecturer in the Faculty of Law and Associate Director (Malaysia) in the Asian Law Centre.

She has taught in the LL.B courses 'Land, Race and Law in Southeast Asia'; 'Law and Society in Southeast Asia'; 'History and Philosophy of Law'; and 'Property' — and in the Graduate subject, 'Islamic Law and Politics in Asia'.

Amanda completed her honours degree in Arts at the University of Melbourne in 1981 and then taught seventeenth and eighteenth century history at the University's History Department over the next decade. She also has a Diploma of Education (1988) and a Graduate Diploma of Indonesian (1995) which was partly undertaken at Universitas Kristen Satya Wacana, Indonesia. She completed her LL.B. with First Class Honours in 2001. She is currently completing her doctorate - a feminist analysis of seventeenth century English legal and political history.

Amanda is the author of 'Situating Suhakam: Human Rights Debates and Malaysia's National Human Rights Commission' (2003) 39 (1) *Stanford Journal of International Law* 59. Her current research examines the way that the national human rights commissions of Australia, Malaysia, the Philippines, Indonesia and Fiji bring international human rights norms into the domestic arena and the reception that they receive. With Dr Carolyn Evans, Amanda is also editing a book about women's experiences of the dual regimes of law and religion in the Asia-Pacific region.

# Asian Law Centre Members

## Senior Associate

### Professor Malcolm Smith



Professor Malcolm Smith was Founding Director of the Centre from March 1987 to June 2000 and became a Senior Associate of the Centre in 2004. He joined the Centre from the University of British Columbia, Canada, where he was Founding Director of the Japanese Legal Studies Programme. Professor Smith is a graduate of the University of Melbourne Law School and Harvard Law School, and specialises in Japanese Law. He is admitted to practice in Victoria. Professor Smith held the Foundation Chair in Asian Law in the University until 2004.

In April 2004, Professor Smith was appointed Professor of Law at Chuo University in Japan and was also appointed Professorial Fellow in the Faculty of Law at the University of Melbourne.

Professor Smith is a member of the Executive Board of the Australian Centre for International Commercial Arbitration and the International Trade Law and Business Committee of the Law Council of Australia. He researches and teaches in Japanese in the areas of Asian business law, commercial dispute resolution and commercial law.

## Centre Administrator

### Ms Kathryn Taylor



Kathryn Taylor joined the Centre in 1998 as the administrative assistant and became the Administrator in 2001. She has been an editorial assistant to the *Australian Journal of Asian Law* since 2000. Kathryn is also the Project Manager of the Centre's flagship database, *Asian Law Online*.

Kathryn completed her Arts degree with Honours in Chinese from the University of Melbourne in 1999, after spending 16 months studying Mandarin at National Cheng Kung University, Taiwan R.O.C. She completed a Master of Management (International Business) at Monash University in 2001.

Kathryn has also completed a Winter Semester in Chinese Law at the East China University of Politics and Law. Her research interests include Chinese language and culture, the Chinese legal system, the current state of China-Taiwan relations and law reform in Asia.





## Asian Law Centre Associates



### Mr Neri Colmenares

Mr Neri Javier Colmenares joined the Centre in 2002 as a research assistant and was appointed as an Associate of the Centre in 2003. He is currently undertaking his Ph.D. on legal system impediments to human rights prosecution and the International Criminal Court (ICC). He has been a practicing lawyer since 1996, primarily in criminal law, constitutional law and human rights litigation. He was the Executive Director of the Philippine National Amnesty Commission in 1999 and a member of the National Council of the Philippine Coalition for the ICC. He was involved, both as counsel and a plaintiff, in the human rights class suit against the Ferdinand Marcos, where the plaintiffs were awarded US \$2.1 Billion, one of the largest damages awarded against a natural person in history.

Neri is also an electoral lawyer and was lead counsel in a Supreme Court petition which resulted in the disqualification of all major political parties from participating in the Philippine party list elections. His research interests include human rights, electoral laws and the party list system, alternative dispute resolution, amnesty and the peace process.



### Ms Gitte Heij

Ms Gitte Heij was appointed as an Associate of the Centre in 2003. She has a Masters Degree in Tax Law from the University of Groningen, The Netherlands. Gitte worked at the Asia Research Centre at Murdoch University from 1993 to 2001, where she completed a variety of publications on tax and investment topics in Southeast Asia.

In addition to her work as a researcher, Gitte works as an international/Asian tax advisor to Australian and European companies. Over the last 8 years she has been involved in various multi- and bi-lateral aid projects. She currently consults to various organisations, including the international law firm Deacons, and lectures 'Asian Comparative Tax Law Systems' at the Law Faculty of the University of Melbourne. She is finalising her PhD study on tax law reform in Indonesia and Vietnam.



### Professor M.B. Hooker

Professor M.B. Hooker was appointed as an Associate of the Centre in 1997. He is Adjunct Professor of the Faculty of Law at Australian National University and was previously Professor of Comparative Law at the University of Kent at Canterbury. He is a Senior Fellow of the Faculty, teaching 'Islamic Law and Politics in Asia' in the Graduate Program.

Professor Hooker is regarded as a world authority on Islamic law and traditional customary law in Southeast Asia and is a Founder and co-Editor of the *Australian Journal of Asian Law*. He has forty years' experience in teaching and writing about Southeast Asia and is the author of *Islamic Law in South-East Asia*. He is also the editor of *Islam in South-East Asia, A Concise Legal History of South-East Asia and Laws of South-East Asia*.

## Asian Law Centre Associates



### **Professor Richard Mitchell**

Professor Richard Mitchell was appointed as an Associate of the Centre in 1999 and is the former Director of the Centre for Employment and Labour Relations Law. He is currently a Professorial Fellow in the Faculty of Law at the University of Melbourne. He has studied labour law and industrial relations at the University of Melbourne and the London School of Economics and Political Science. He is joint editor of the *Australian Journal of Labour Law* and of the *Monographs on Australian Labour Law Series*.

Professor Mitchell's areas of specialisation are labour law systems in the Asia-Pacific Region, the legal regulation of labour markets and the role of law in the construction of internal labour markets. His recent publications include *Law and Labour Market Regulation in East Asia*, Routledge, London, 2002 (with Sean Cooney, Tim Lindsey and Ying Zhu).



### **Professor Ian Ramsay**

Professor Ian Ramsay was appointed as an Associate of the Centre in 1999. He is the Harold Ford Professor of Commercial Law in the Law School at the University of Melbourne, where he is Director of the Centre for Corporate Law and Securities Regulation. He has practised law with the firms Sullivan & Cromwell in New York and Mallesons Stephen Jaques in Sydney.

Professor Ramsay has published extensively on corporate law issues both internationally and in Australia. His books include, among others, *Ford's Principles of Corporations Law*, *Commercial Applications of Company Law in Singapore* and *Commercial Applications of Company Law in Malaysia*. In addition, he has published a significant number of research reports, book chapters and journal articles. Professor Ramsay is also a respected commentator in the media on corporate governance and corporate law.



### **Associate Professor Benny Tabalujan**

Associate Professor Benny Tabalujan was appointed as an Associate of the Centre in 2003. He has a Bachelor of Economics and Bachelor of Laws from Monash University and a Master of Laws and Ph.D. (Law) from the University of Melbourne.

Associate Professor Tabalujan was admitted as a barrister and solicitor of the Supreme Court of Victoria and the High Court of Australia in 1985. He is currently a director of a private consulting firm and is principal consultant to Indobizlaw.com. He is also a Principal Fellow at the Melbourne Business School. He is regarded as a leading authority on corporate regulation in the Southeast Asian region.



# Australian Journal of Asian Law

## Editors

**Professor M.B. Hooker** (see *Asian Law Centre Associates*, page 12)

**Professor Tim Lindsey** (see *Asian Law Centre members*, page 8)

### Professor Veronica Taylor

Veronica Taylor is Professor of Asian Law and Director of the Asian Law Center at the University of Washington, Seattle. She was previously Associate Director (Japan) of the Asian Law Centre at the University of Melbourne. Professor Taylor is a specialist in commercial law and society in Asia, contracts and regulation. She also has a strong interest in law and development. Her work on Asian Law includes co-founding the *Australian Journal of Asian Law* and editing *Asian Laws Through Australian Eyes* (Sydney: LBC, 1997).

**Ms Amanda Whiting** (see *Associate Director (Malaysia)*, page 10)

## Editorial Assistants

### Ms Fiona Adams



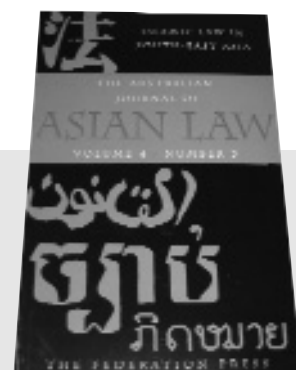
Fiona Adams joined the Centre in 2002 as a research assistant to Professor Tim Lindsey and in 2003 was appointed editorial assistant to the *Australian Journal of Asian Law*. Fiona is a graduate of the University of Melbourne, having completed a Bachelor of Planning and Design (Planning) [Honours] in 1995. Fiona's research interests include environmental law and planning and development in the Asian region. She is currently completing a Bachelor of Laws at the University of Melbourne.

### Mr Jeremy Kingsley



Jeremy Kingsley joined the Centre in 2003 as a research assistant to Professor Tim Lindsey and editorial assistant to the *Australian Journal of Asian Law*. Jeremy is a graduate of Deakin University, having completed a Bachelor of Arts and Bachelor of Laws in 2001. Jeremy is currently a Master of Laws candidate at the University of Melbourne. Prior to this, Jeremy practiced as a lawyer at a major city law firm. Jeremy's research interests include critical comparative law, legal theory, Islamic law, law reform in Asia (particularly Indonesia and the Philippines) and the application of interdisciplinary research to legal studies.

**Ms Kathryn Taylor** (see *Asian Law Centre Administrator*, page 11)



## Research Assistants

**Ms Fiona Adams** (see *Australian Journal of Asian Law* Editorial Assistant, page 14)

### Mr Luke Arnold



Luke Arnold joined the Centre in 2001 as a research assistant. He is currently completing an Arts/Law degree at the University of Melbourne with a focus on Indonesian studies, international development and labour law. He has spent a significant portion of the last eight years working, studying and travelling in various Asian countries. His latest position has been as a consultant to the Jakarta Office of the International Labour Organisation. His current research interests include the regulation of citizenship and migration in Asia, the impact of transnational labour standards on developing economies and the relationship between law and social capital in China and Indonesia.

### Mr Ross Clarke



Ross Clarke joined the Centre in 2003 as a research assistant to Professor Tim Lindsey. He has previously worked with Freehills, Melbourne and the Migration Review Tribunal. Ross completed his Arts/Law (with Honours) degree, majoring in Indonesian, with a Minor in Politics at the University of Melbourne. He has been working with the Judicial System Monitoring Program in East Timor since September 2003.

Ross is the author of an influential paper on the Jemaah Islamiyah trials, (2003) "Retrospectivity and the Constitutional Validity of the Bali Bombing and East Timor Trials," *Australian Journal of Asian Law*, 5(2): 2–32. His research interests include judicial sector reform and human rights protection in East Timor, Indonesia and Southeast Asia more generally.

### Mr Rowan Gould



Rowan Gould joined the Centre in 2002 as a research assistant to Professor Tim Lindsey. He completed a double degree in Law and Commerce at the University of Melbourne in 2004. Before coming to Australia, Rowan lived in Jakarta, Indonesia and is fluent in Bahasa Indonesia. He has worked as a legal interpreter and facilitator in Indonesian and speaks some Arabic, having studied at the University of Jordan. He has travelled in Southeast Asia and the Middle East and visited Europe and the United States.

Rowan is currently Treasurer of the Islamic Council of Victoria and Director of the Australia-Indonesia Legal Development Foundation. He also plays *kendang* in a Sundanese gamelan ensemble. His interests include legal philosophy, non-Western understandings of law, Islamic law, Sufism and Asian culture and art (especially music, dance and martial arts).





## Research Assistants

### Mr Mohamad Hafiz Hassan



Hafiz Hassan joined the Centre in 2002 as a research assistant. An Advocate and Solicitor of the High Court of Malaya in Malaysia and a Syariah Counsel in the Syariah Courts, Hafiz completed his law degree at the International Islamic University, Malaysia (IIUM) in 1992. He subsequently graduated with a Master of Comparative Law (MCL) from the same university. Hafiz also holds a Diploma in Syariah & Legal Practice (DSLPP) and practises as a Syariah Counsel in the Syariah Courts in Malaysia. He is currently undertaking a Ph.D. at the Faculty of Law at the University of Melbourne.

Hafiz has lectured at the Faculty of Law, IIUM and writes weekly for a Malay language daily in Singapore on the Syariah. His interests are in the *syariah*, comparative law, conflict of law and legal pluralism.

### Mr Charlie Huang

Charlie Huang joined the Centre in 2003 as a research assistant to Dr Sarah Biddulph. He is currently completing a Commerce/Law degree at the University of Melbourne. Charlie has worked in both Australia and Taiwan as an interpreter and translator in a variety of Chinese dialects, including Mandarin, Cantonese, Hokkien and Hakka. He has also studied Japanese for many years. His research interests revolve around the legal and political relationships between China, Hong Kong and Taiwan.

### Mr Jeremy Kingsley *(see Australian Journal of Asian Law Editorial Assistants, page 14)*

### Ms Diana Muljanto



Diana Muljanto joined the Centre in 2003 as a research assistant to Professor Tim Lindsey. She is currently completing a Commerce/Law degree at the University of Melbourne. Diana grew up in Indonesia, is fluent in Bahasa Indonesia and has worked as an interpreter in that language. Her research interests include development and economic and socio-political issues. Diana aims to conduct further studies in the area of international law and dispute resolution. She has particular interests in cultural diversity, as well as performance and fine art.

### Mr Nguyen Hien Quan



Nguyen Hien Quan joined the Centre in 2003 as a research assistant. Quan is currently undertaking doctoral studies in commercial dispute resolution in Southeast Asia. He holds a Master of Comparative Law from the University of Queensland, a Bachelor of Laws from the School of Law at the Vietnamese National University and a Bachelor of Commerce from the College of Foreign Trade in Vietnam.

A former journalist with the Saigon Times Group and a legal expert with the Ministry of Foreign Affairs in Vietnam, where he practiced private international law, he is also a member of the Lawyers' Association in Ho Chi Minh City, Vietnam. His research interests lie in law and economics, alternative dispute resolution and contract law in Southeast Asia.

## Research Assistants

### Ms Helen Pausacker



Helen Pausacker joined the Centre in 1999. She is an Arts graduate of the University of Melbourne (B.A. (Hons.), B.Litt. and Grad. Cert. in Gender and Development) and Monash University (M.A.).

Her research interests include Indonesian culture and, in particular, Javanese tradition. Helen works as a research assistant for Professor Tim Lindsey and is involved in editing articles and translating Indonesian legal texts.

### Ms Kerstin Steiner



Kerstin Steiner joined the Centre in 2001 as a research assistant. She is also the Research Manager of *Asian Law Online*. Kerstin holds a Bachelor of Laws from the University of Bielefeld in Germany. In 2002 she completed her Masters of Laws at the University of Melbourne, focusing on Asian and comparative law.

Kerstin is currently undertaking doctoral studies on "Western Human Rights and Asian Values — Are the Differences Real?", which compares the different notions of human rights with an emphasis on 'Asian Values'. Her research interests include comparative law, Asian law and international law.

### Mr Philip Tang



Philip Tang joined the Centre in 2003 as a research assistant to Professor Tim Lindsey. He is currently completing a Commerce/Law degree at the University of Melbourne, majoring in accounting and international commerce. Having grown up in Hong Kong, he is fluent in Cantonese and has worked as an interpreter in that language.

Philip's research interests include taxation law, law and developing economies in Southeast Asia and international law.



## Asian Law Centre Finances & Sponsors

The Centre receives administrative support from the University of Melbourne of \$5,000. The salaries of academic staff members of the Centre are borne by the Faculty, as members undertake standard teaching obligations in the Faculty.

The Asian Law Centre's research activities in 2003, including salaries of research assistants, were therefore funded largely from research grants and donations by our sponsors. We thank the following sponsors for their donations in 2003, which are essential to our research program and our public seminar activities (see 'Brown Bag' Seminar Series and Occasional Seminar Series, below). The Centre could not function without the support of these sponsors.

Allens Arthur Robinson 



Australian Government  
Attorney-General's Department

BAKER & MCKENZIE

BLAKE DAWSON WALDRON  
LAWYERS

CORRS  
CHAMBERS  
WESTGARTH  
lawyers

Freehills



Maddocks

MALLESONS STEPHEN JAQUES

The following donors also supported the activities of the Centre in 2003:

- Young Kim Lawyers
- Professor Kazuhiro Nishida, Faculty of Law, Economics and Humanities, Kagoshima University, Japan
- Mr David Weil, Tress Cocks and Maddox

# Asian Law Centre Finances & Sponsors

## Grants Received *(alphabetical order)*

ALC Member	Years	Type of Grant	Title	Collaborator	Amount
Sarah Biddulph	2003–2007	Large collaborative grant from Social Sciences and Humanities Research Council	Cross Cultural Dispute Resolution	University of British Columbia, Canada	<b>CAD\$2.2 million overall project total</b>
Sean Cooney	2001–2003	ARC Large Grant	Rethinking International Labour Standards: Prospects for Australia and the Asia-Pacific	Professor Richard Mitchell	<b>A\$82,000</b>
Tim Lindsey	2002–2004	ARC Discovery Grant	Islamic Law in Contemporary Indonesia	Professor M.B. Hooker (ANU)	<b>A\$139,270</b>
Pip Nicholson	2002–2003	Faculty of Law Grant	To update and expand <i>Asian Law Online</i>		<b>A\$4,000</b>
Pip Nicholson	2003	ISSS Grant	<i>Law and Governance: Socialist Transforming Vietnam</i> (Conference)	Associate Professor John Gillespie (Deakin)	<b>A\$7,269.60</b>





## Conferences

### Law and Governance: Socialist Transforming Vietnam

(with the School of Law, Deakin University)

12–13 June

Lecture Theatre 102, Level 1, Melbourne Law School

“Law and Governance: Socialist Transforming Vietnam” was jointly convened by the Asian Law Centre at the University of Melbourne and the School of Law at Deakin University on 12–13 June, 2003. Speakers from Australia, Canada, Hong Kong and Vietnam presented papers, with more than 40 people attending.

Although Vietnam adopted a renovation policy in 1986, no conference has explicitly debated the impact of socialism on Vietnam’s legal reform. Adopting ‘socialism’ as its focus, this international conference provided a stimulating discussion of Vietnamese jurisprudence; good governance; transitional legal institutions (National Assembly and courts); administrative law; legal education; the relationship between Church and State; the challenge of domesticating international law; and reform of the state-owned enterprise sector. Comparisons with China also helped to illuminate some of these issues.

Selected conference papers will be edited and form part of a book to be released by Asia Pacific Press, titled *Asian Socialism and Legal Change: The Dynamics of Vietnamese and Chinese Reform*. This book will analyse the political, structural and cultural impediments to legal sector development in Vietnam, in light of comparative experience.

For more information, including conference abstracts and some conference papers, see [http://www.law.unimelb.edu.au/alc/conferences/conf\\_2003/papers.html](http://www.law.unimelb.edu.au/alc/conferences/conf_2003/papers.html)



Rear: Mr Nguyen Hung Quang, Dr Pip Nicholson, Associate Professor John Gillespie, Professor Martin Painter

Front: Professor Veronica Taylor, Ms Bui Thi Bich Lien, Mr Nguyen Chi Dzung



Ms Bui Thi Bich Lien



Left to right: Dr Pip Nicholson, Associate Professor John Gillespie and Professor Malcolm Smith

# Major Activities & Events

## Public Lecture — The New Chinese Empire

*(with Asialink and the Melbourne Institute of Asian Languages and Societies)*

**Monday 21 July, 6:30–8:00pm**

**Basement Theatre, Sidney Myer Asia Centre**

On Monday 21 July, Asialink, the Melbourne Institute of Asian Languages and Societies and the Asian Law Centre jointly convened a major Public Lecture by Dr Ross Terrill on "The New Chinese Empire".



A new society and economy has blossomed in post-Mao China, but an old state holds it back. The Chinese dynastic state's blend of idealism and realism, attachment to doctrine, paternalism, and obsession with unity has continued to shadow 'revolutionary China'.

**Dr Ross Terrill** (Associate in Research, Fairbank Center for East Asian Research, Harvard University), addressed the question central to China today: Is the People's Republic of China, whose politics is a hybrid of Chinese imperial tradition and Western Marxism, willing to become a modern nation or does it insist on remaining an empire?

## Farewell Afternoon Tea for Visiting Scholars

**Thursday 28 August, 4:30–5:30pm**

**Staff Common Room, Room 0924, Level 9, Melbourne Law School**

On Thursday 28 August, the Asian Law Centre (ALC) and the Centre for Employment and Labour Relations Law (CELRL) hosted an afternoon tea to farewell two visiting scholars: Associate Professor Kazuhiro Nishida, a visitor to the ALC and Mr Robert Sun Luo, a visitor to the CELRL. Staff and students of both Centres attended.

**Associate Professor Kazuhiro Nishida** from the Faculty of Law, Economics and Humanities at Kagoshima University, Japan, visited the ALC from 1 September 2002 until 31 August 2003. His research interests include social security law, social welfare law and medical law.

**Mr Robert Sun Luo**, from Nankai University in the People's Republic of China, visited the CELRL from January to September 2003.



Ms Chenxia Shi, Mr Robert Sun Luo,  
Ms Elena Goodey and Ms Kathryn Taylor



Judge Takashi Nakajima, Professor  
Malcolm Smith, Professor Kazuhiro Nishida  
and Ms Maki Kuwana



Mr Robert Sun Luo with  
Chinese postgraduate students



Ms Maki Kuwana and  
Professor Kazuhiro Nishida



Professor Richard Mitchell  
and Mr Robert Sun Luo

## Major Activities & Events

### Workshop — Problems with Comparative Law: Labour Regulation in Asia

(with the Centre for Employment and Labour Relations Law)

Thursday 2 October, 1:00–5:00pm

Room 0920, Level 9, Melbourne Law School

A Workshop on “Problems with Comparative Law: Labour Regulation in Asia” was convened by the Asian Law Centre (ALC) and the Centre for Employment and Labour Relations Law (CELRL) at the University of Melbourne on Thursday 2 October, 2003. Members of both Centres presented papers, with more than 30 people attending.

Labour conditions in many East Asian countries are often poor; stories of abuses are commonly reported in the press. It would seem that local laws frequently do not provide much assistance to workers. Is this because the laws themselves are inadequate, or because laws exist only ‘on the books’ and have little practical effect?

Scholars from the ALC and the CELRL at the University of Melbourne considered the working conditions and industrial relations in various Asian countries; the theoretical implications; the part development and future of labour law in the region; and the implications for labour law in other regions.

This workshop drew on *Law and Labour Market Regulation in East Asia*, edited by Sean Cooney, Tim Lindsey, Richard Mitchell and Zhu Ying (Routledge, 2002).



Law and Labour Market  
Regulation in East Asia



Professor Richard Mitchell and  
Professor Tim Lindsey



Mr Sean Cooney



Mr Colin Fenwick

# Major Activities & Events

## Public Event – Islam, Terrorism and Indonesia

(with the Melbourne Institute of Asian Languages and Societies)

Wednesday 15 October, 6:15-8:00pm

Lecture Theatre G08, Ground Level, Melbourne Law School

### 1. Hating the West: The Psycho-Religious Motivations of the Bali Bombers

— Dr Greg Fealy

### 2. The Jemaah Islamiyah Trials: Can Indonesia Cope?

— Professor Tim Lindsey

On Wednesday 15 October, the Asian Law Centre and the Melbourne Institute of Asian Languages and Societies jointly convened a public event on “Islam, Terrorism and Indonesia”.

Late on the night of 12 October 2002, Ali Imron walked into a mosque in Denpasar and performed a prayer of thanks. Shortly beforehand he had heard the massive bomb blast at the Sari Club and felt the ground shake. He had played a key role in assembling the bomb and knew that many people at the crowded club must have been killed or injured in the explosion. He would later say he was ‘pleased and proud that the device he had built had exploded horrifyingly with its blaze reaching into the sky’ and that ‘the bomb ... was truly the great work of Indonesia’s sons’.

The bomb at the Sari Club, along with a smaller preceding explosive at the nearby Paddy’s Bar, killed 202 people and seriously injured another 350, making it the deadliest terrorist attack since 9/11. Preliminary analysis of what the accused bombers have said about the case suggests that they were motivated primarily by a deep hatred of the non-Muslim West, particularly the United States.

The attitude and motivation of Ali Imron and his fellow accused ‘Bali bombers’ from the Jemaah Islamiyah movement deserves close attention, not only to enable scholars of Islam and terrorism to understand the specific dynamics of Southeast Asian extremism, but also to provide governments with a basis for designing effective anti-terrorism policies.

Professor Tim Lindsey considered how the Jemaah Islamiyah bombers and Abu Bakar Ba’asyir, their alleged spiritual leader, have defended their actions at trial and how governments have responded. Tim Lindsey is Director of the Asian Law Centre (see *Asian Law Centre Members*, page 8). With Professor M.B. Hooker, he is currently writing a book titled *Islamic Law in Indonesia: The National Mazhab*, funded by their joint ARC Grant.

Dr Greg Fealy explored the ideology and psychology of the perpetrators and sought to place JI in a broader context of terrorist typologies. Greg Fealy holds a joint appointment as research fellow and lecturer in Indonesian politics at the Research School of Pacific and Asian Studies, and the Faculty of Asian Studies, The Australian National University, Canberra. He is currently studying the rise of Islamic neo-revivalism in Indonesia, as well as the impact of globalisation upon religio-political behaviour. He gained his Ph.D. from Monash University in 1998 with a study of the history of Indonesia’s largest Islamic party, recently published in Indonesian under the title *Ijtihad Politik Ulama: Sejarah NU*,



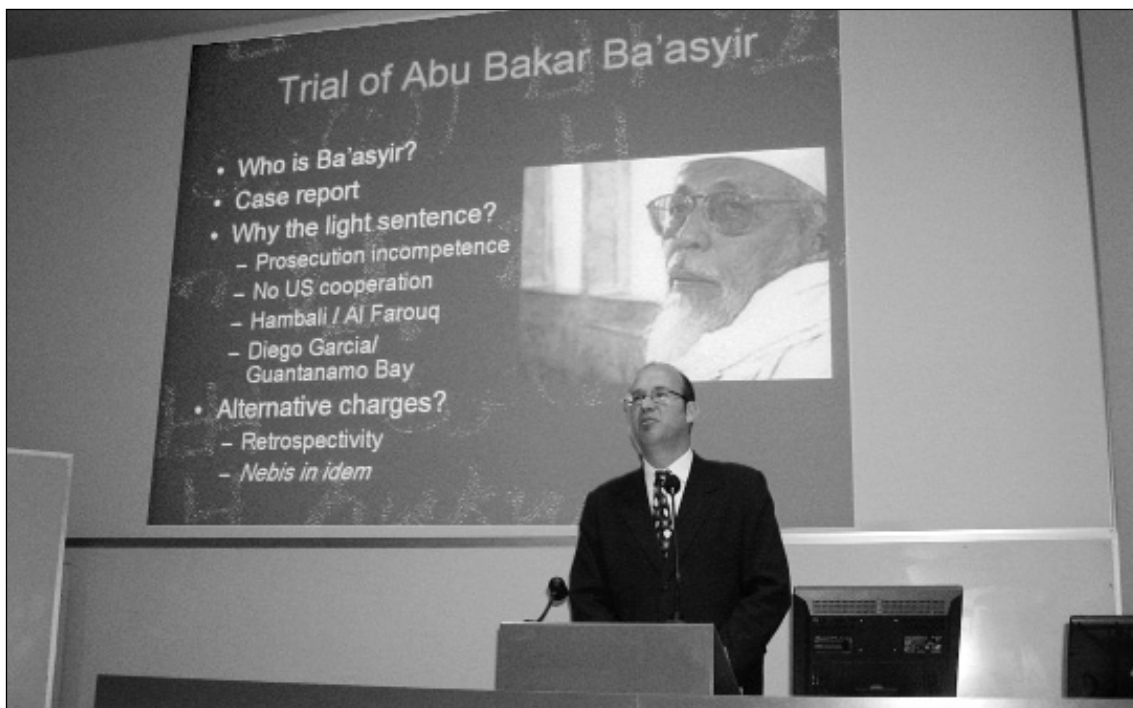
## Major Activities & Events

### Public Event – Islam, Terrorism and Indonesia

(continued)

1952–1967. He is the co-editor of *Nahdlatul Ulama, Traditionalism and Modernity in Indonesia* and *Local Power and Politics in Indonesia: Decentralisation and Democratisation*. In 2003, he was the C.V. Starr Visiting Professor in Indonesian Politics at the Johns Hopkins University School of Advanced International Studies in Washington DC and has worked as an Indonesia analyst at Australia's Office of National Assessments.

Mr Damien Carrick from the Law Report, Radio National chaired the event, which was attended by almost 80 people, including law firm representatives, academics, members of the local Indonesian community and students.



Professor Tim Lindsey



Dr Greg Fealy

## Occasional Seminar Series

The Asian Law Centre regularly hosts 'Occasional Seminars' by distinguished scholars and leading practitioners on current Asian legal issues.

### Indonesia's 2004 Elections: Can the New System Work?

Thursday 21 August, 6:00–7:30pm

Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Dr Stephen Sherlock on Thursday 21 August on the then upcoming Indonesian elections.

In 1999, Indonesia had its first truly democratic election in over 40 years. Yet in the past two years the electoral system has undergone a complete overhaul. Constitutional amendments have provided for the first direct election of the President and altered the relationships between the basic institutions of state. New laws for legislative and Presidential elections mean that the 2004 elections will be conducted very differently from the election of 1999.

Dr Sherlock argued that the new system is an important historic achievement for Indonesia, which will change the workings of government in Indonesia in fundamental ways. Nevertheless, serious thinking about how the system will shape the behaviour of the Indonesian electorate and the formation of coalitions amongst powerful groups had barely begun. The new system will probably work, in the sense that a new legislature and executive government will emerge (provided the interests of the major parties are satisfied), but the intent of the law-makers has clearly been to maintain the stranglehold of existing political players, most of whom are products of the New Order. Serious questions remain about the capacity of the system (especially the new electoral laws) to deal with regional and separatist sentiment throughout the archipelago and to allow for the emergence of new political forces in future years.

**Dr Stephen Sherlock** is an analyst on Indonesian affairs in the Australian Parliament, providing both publicly-available and confidential analysis for MPs and parliamentary committees. He has worked as a governance adviser at the World Bank in Jakarta and as a consultant for various international aid agencies and NGOs on political reform in Indonesia. He holds Ph.D. and M.A. degrees in Asian History from the University of Sydney.

**Associate Professor Benny Tabalujan**, an Associate of the Asian Law Centre, chaired the seminar, which was attended by more than 35 people, including law firm representatives, academics, members of the local Indonesian community and students.



Dr Stephen Sherlock

## Occasional Seminar Series

### **My Two Yen's Worth: A Lawyer's Perspective on the Japanese Economic Bubble and the Legal Response Over the 'Lost Decade'**

Wednesday 17 September, 6:00–7:30pm

Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by Mr Kent Anderson on Wednesday 17 September on the legal perspective of Japan's economic rise over the late 1980s and its malaise since 1992 – the so-called 'Lost Decade'.

The factors that contributed to the so-called Japanese Bubble Economy from 1985 to 1991 were considered on a macro scale. Next, he identified the legal responses the Japanese government has implemented to address the recession that followed. He concluded by arguing that Japan's response has been neither as chaotic as suggested by some observers, nor as unified as others claim. Rather, he argued that Japan's reforms might be seen as three separate phases, each trying to accomplish a distinct, though complementary, goal. With the present third phase of legal reform coming to an end, its success or failure will determine whether yet another wave of law reform will be necessary.

**Kent Anderson** is a senior lecturer in the Faculty of Law and Faculty of Asian Studies at the Australian National University (ANU) and a Director of the Australian Network for Japanese Law (ANJeL). He convenes 'Bankruptcy & Insolvency' and 'Japanese Law & Society' at ANU. Kent's research has largely focused on comparative commercial law, particularly with regards to Japan; conflict of laws; insolvency; and law and film studies. His articles have been published in English and Japanese and in Australia, Japan, North America and Europe. Following an eclectic legal education in the U.S., U.K. and Japan, Kent was first a marketing manager with a regional airline in the United States and later a lawyer specialising in international transactions and debt restructuring with a large commercial firm in Honolulu. He was recently appointed Associate Professor and the only foreign faculty member at Hokkaido University School of Law.

**Mr Kengo Miyamoto**, a qualified lawyer in Japan (*bengoshi*), commented on Kent Anderson's paper. Kengo currently works in the Corporate Advisory Group at Blake Dawson Waldron (BDW). Before joining BDW, Kengo worked for a law firm in Tokyo practising in the area of international business transactions, finance and insolvency. He graduated from Waseda University School of Law (Tokyo) with an LL.B. in 1990 and from Cornell Law School (New York) with an LL.M. in 2002.

Approximately 20 people attended the evening seminar, including law firm representatives, academics, members of the local Japanese community and students.



Mr Kent Anderson

## 'Brown Bag' Seminar Series

The Asian Law Centre regularly hosts its lunchtime 'Brown Bag' Seminars. In this series, postgraduates, academics or visitors who are researching and writing on Asian legal topics present papers on work in progress or rehearse a conference or article submission. The forum provides a collegial atmosphere for peer feedback.

### Refugees, Statelessness and the Challenges of Locating Citizenship

Wednesday 12 March, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

Hoi Trinh and Matt Swainson talked of the plight and legal position of stateless citizens. In particular, they drew on their current understanding of the position of Vietnamese refugees in Manila. Experienced in policy development and lobbying, the speakers invited debate on how best to cope with the increasing numbers of stateless citizens globally. "In Limbo," a documentary film on the forgotten Vietnamese refugees, was shown during the seminar.

**Hoi Trinh**, a graduate of the Universities of Melbourne and Oxford, is currently the Chief Representative of the Legal Aid Office of the Vietnam Community in Australia, based in Manila. Having graduated in 1994, Hoi worked as a corporate solicitor in Melbourne and Hanoi. After working as the associate to Justice Kenny of the Federal Court of Australia, and completing graduate studies in forced migration at Oxford, Hoi returned to Manila to focus on human rights work. Hoi is a well-known activist, promoting the plight of stateless citizens and arguing for more compassionate policies. Hoi publishes on statelessness and forced migration and regularly lobbies governments, both Australian and international.

**Matt Swainson** is also based in Manila's Legal Aid Office of the Vietnam Community in Australia. Matt has a background in litigation and, on his return to Australia in late 2003, took up a position with Sparke Helmore, combining his new practice with refugee and advocacy work.



Mr Hoi Trinh



## 'Brown Bag' Seminar Series

### Islamic Law in Aceh: Institutionalised Fundamentalism in Southeast Asia?

Thursday 3 April, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

During recent research in Aceh, Indonesia's rebellious and most religiously-conservative province, Professor Tim Lindsey and Centre Associate, Professor M.B. Hooker, met with the architects of Aceh's new Islamic legal codes. These are the most wide-ranging and potentially 'fundamentalist' in Southeast Asia. They create bans on alcohol, force the wearing of 'Islamic costume', make it mandatory to pray and introduce strict new corporal punishments.

Aceh has long been known as 'Mecca's Verandah'. Do these new laws and the recent opening of Indonesia's first 'Syariah Court' signal the rise of Middle Eastern fundamentalism in Australia's near North?

### Policing the Chinese 'Political'

Wednesday 14 May, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

This paper attempted to show the importance of maintaining the fossilised structures of Maoist policing, not only for pragmatic reasons, but also because they actually disguise the nature of a fundamental shift that has taken place in China. That shift wasn't just out of the planned economy and into a 'socialist market economy' (as the Chinese call their version of capitalism). Rather, it was something even more fundamental. In essence, it was argued that the memory of Maoism operated, particularly in the early days of economic reform, and particularly for members of the Communist Party, to disguise not just the death of Maoism, but the death of what the political theorist Carl Schmitt would call, 'the political'.

**Michael Dutton** is Associate Professor in the Department of Political Science at the University of Melbourne, where he has taught since 1990. Prior to this, he taught in the Department of Asian Studies at the University of Adelaide and in the School of Humanities at Griffith University.

Michael's research interests are characterised by a strong interest in contemporary social and cultural theory, particularly in China. He also has a long-standing interest in the political history of socialist policing and control in China.

Michael's publications include *Streetlife China* (Cambridge University Press, 1998), as well as numerous journal articles. He is co-editor of the *Postcolonial Studies* journal.

Associate Professor Michel Dutton



## 'Brown Bag' Seminar Series

### Dispute Resolution, the Bargain and Game Theory

Wednesday 28 May, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

Negotiation on dispute resolution methods is integral to the successful performance of complex commercial transactions (for example, infrastructure) but the theory of negotiation of dispute resolution methods is not sufficiently studied. For example, why do parties choose specific forms of dispute resolution? How do negotiated mechanisms affect future dispute resolution?

Nguyen Hien Quan used bargaining theory to explore how pre-dispute negotiation in complex commercial transactions may affect the bargaining position of parties in future disputes. He considered not only litigation but also arbitration and other forms of ADR. Analysis is based on the concept of the 'bargaining zone' and the distribution of costs and information during the process of dispute resolution. Quan's research seeks to apply these ideas to commercial disputes in Asia.

**Nguyen Hien Quan** is currently undertaking doctoral studies in commercial dispute resolution in Southeast Asia. He is also an Asian Law Centre research assistant (*see Asian Law Centre Research Assistants, page 16*).



### Does Anyone Know What Law Applies in East Timor — Portuguese or Indonesian? The Dos Santos Decision

Thursday 7 August, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

When East Timor obtained independence from Indonesia in 1999, the question of what laws would apply in the new Republic was left unresolved, or at least uncertain. Indonesian law had been applied during the 25 years of occupation and was widely understood but Portugal remained the administering colonial state according to the United Nations. In July, East Timor's new Court of Appeal decided in the Armando dos Santos case that Portuguese law had applied for the last thirty years and still applied, with the result that every transaction or conviction under Indonesian law may now be invalid. This has created legal chaos in East Timor, which has been using Indonesian law since independence. The District Courts reject the Court of Appeal's decision and so two radically different systems of law are now being applied by two different courts. Who is right and can the mess be resolved?

**Tim Lindsey** is Director of the Asian Law Centre at the University of Melbourne and Associate Dean (International) of the Faculty of Law. (*see Asian Law Centre members, page 9*).





## 'Brown Bag' Seminar Series

### Will Amrozi Walk Free? Retrospectivity and the Bali Bomb Trials

Wednesday 20 August, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

Both the Bali bombing trials and the trials of Indonesia's ad hoc Human Rights Court for East Timor have been clouded in uncertainty due to a recent constitutional amendment which prohibits retrospective prosecution. Alarming, the prosecuting legislation in both sets of trials was enacted retrospectively and therefore clearly breach the Constitution. Arguments have been raised supporting the constitutional validity of the trials, however these are far from persuasive. The issue of retrospectivity will be central to any appeals, and from a strictly legal perspective, judges may have no other option but to overturn any convictions. Of course, there will be immense political pressure not to do so, however, as it currently stands, Amrozi and those convicted of crimes against humanity in East Timor have a very real possibility of overturning their convictions.

**Ross Clarke** is a Research Assistant (*See research assistants, page 16*) at the Asian Law Centre and was then with Freehills, Melbourne.



### Changes and Challenges in Japanese Criminal Justice

Monday 1 September, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

This talk explored some of the achievements and costs of doing criminal justice in the Japanese way. After summarising the major themes that have characterised Japanese criminal justice for the last four decades, Professor Johnson examined the social changes and challenges that Japan will confront as it administers criminal justice in the twenty-first century. Professor Johnson argued that there is likely to be more change over the next forty years than there has been in the preceding forty. Japan's criminal justice environments — the social, economic and political contexts which shape the administration of criminal sanctions — are evolving in ways that may force major adjustments to the Japanese way of justice.

**David T. Johnson** is an Associate Professor of sociology at the University of Hawaii, Manoa, where he teaches criminology and Japanese society. He has a Ph.D. in Jurisprudence and Social Policy from the University of California, Berkeley. David's specialty is Japanese prosecution, his study of which recently culminated in the highly-praised book, *The Japanese Way of Justice: Prosecuting Crime in Japan* (OUP, 2002). David's other publications include the widely discussed review essay, (1993) "Authority with Power: Haley on Japan's Law and Politics", *Law and Society Review*, 27: 619. David is currently a Fulbright Fellow at Waseda University in Tokyo, Japan.



Associate Professor David T Johnson

## 'Brown Bag' Seminar Series

### How Asian Are 'Asian Values'? South Africa's Apartheid Regime and 'Asian Values' — Too Close for Comfort?

Wednesday 17 September, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

'Asian Values' entered the ideological battleground of human rights at the end of the cold war era. On 2nd April 1993, 34 Asian governments signed the Bangkok Declaration, which laid down the foundation for the 'Asian Values' arguments. Since then various heads of Asian governments, including Dr Mahathir of Malaysia, Lee Kuan Yew of Singapore and Soeharto of Indonesia, have relied upon the 'Asian Values' argument to defy Western criticism of human rights abuses. In essence, the 'Asian Values' argument denies the universality of human rights on the grounds of state sovereignty, cultural relativism and primacy of economic development.

However, these arguments did not originate in Asia. South Africa's apartheid regime, for example, used the same arguments to defy criticism of its human rights abuses. The roots of South Africa's arguments can clearly be traced back to the Dutch Calvinist settlers. The ideologies underlying 'Asian Values' are as much Western colonial creations as they are 'Asian'.

**Kerstin Steiner** is currently undertaking doctoral studies at the University of Melbourne. Her thesis topic is "Western Human Rights and Asian Values — Are the Differences Real?" She is also a research assistant of the Asian Law Centre (see *Asian Law Centre Research Assistants*, page 17).

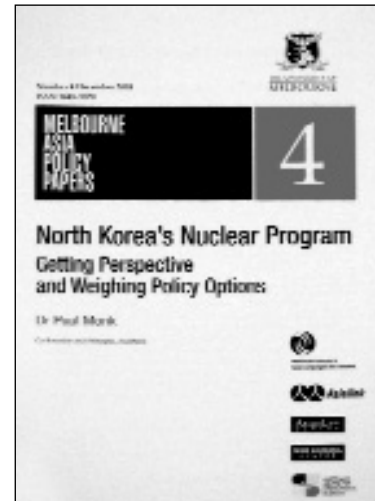


## Melbourne Asia Policy Papers

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

The *Melbourne Asia Policy Papers* were launched in 2003 and aim to strengthen Australia's engagement in Asia through the publication and dissemination of a series of non-partisan policy option papers.

At these workshops, business, academic and government specialists debate a series of draft policy options prepared beforehand for discussion. Following the workshop, the invited author produces a concise, 10-page policy paper for publication and distribution among leading government, media, academic and business officials in Australia.



The topics covered so far include:

- **The US-Australian Alliance:** Professor Paul Dibb AM, Head, Strategic and Defence Studies Centre, Research School of Pacific and Asian Studies, The Australian National University (6 December 2002).
- **Enforcing International Human Rights Post-September 11th:** Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law, Faculty of Law, The University of Melbourne (6 March 2003).
- **Australia's Economic Diplomacy in Asia:** Professor Peter Lloyd, Ritchie Professor of Economics, The University of Melbourne (21 May 2003).
- **North Korea's Nuclear Program: Getting Perspective and Weighing Policy Options:** Dr Paul Monk, Co-founder and Principal, Austhink (30 September 2003).
- **The US, Taiwan and the PRC: Managing China's Rise — Policy Options for Australia:** Professor Hugh White, Professor of Strategic Studies, The Australian National University (5 November 2004).

Further information about the Melbourne Asia Policy Papers can be found at:  
<http://www.asialink.unimelb.edu.au/cpp/policypapers/index.html>

# Multimedia IT

## ***Asian Law Online* — <http://www.law.unimelb.edu.au/alc/bibliography>**

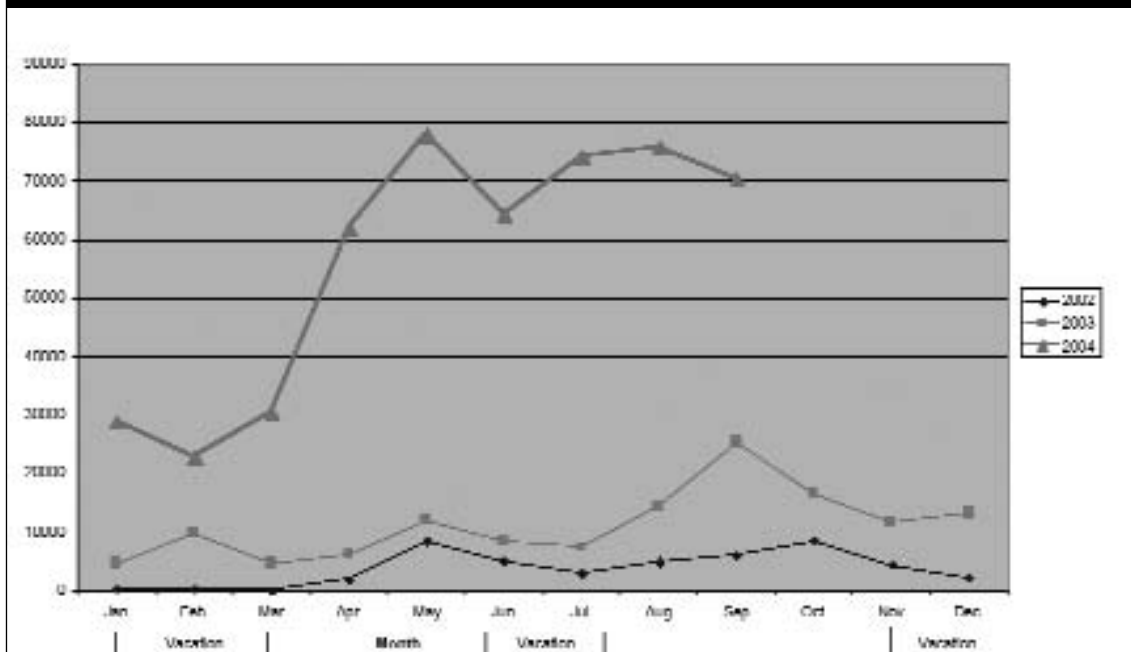
*Asian Law Online* was developed by the Asian Law Centre and launched in 2002, after five years of research. It has been supported by grants from the Australian Research Council, a Special Initiatives Grant in 1998 and the 'Asian Laws in Transition' ARC Large Grant in 1999.

*Asian Law Online* is the first online, searchable bibliographic database of Asian law materials in the world. Offered to the public as a service to assist students and scholars of Asian legal systems, it is the biggest 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. It 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 web-sites, categorised by country and legal area (see Useful Research Links below).

The Co-Directors of *Asian Law Online* are Professor Tim Lindsey and Dr Pip Nicholson. Ms Kathryn Taylor is the Project Manager of *Asian Law Online* and Ms Kerstin Steiner is the Research Manager.

## 2002–2004 ASIAN LAW ONLINE STATISTICS



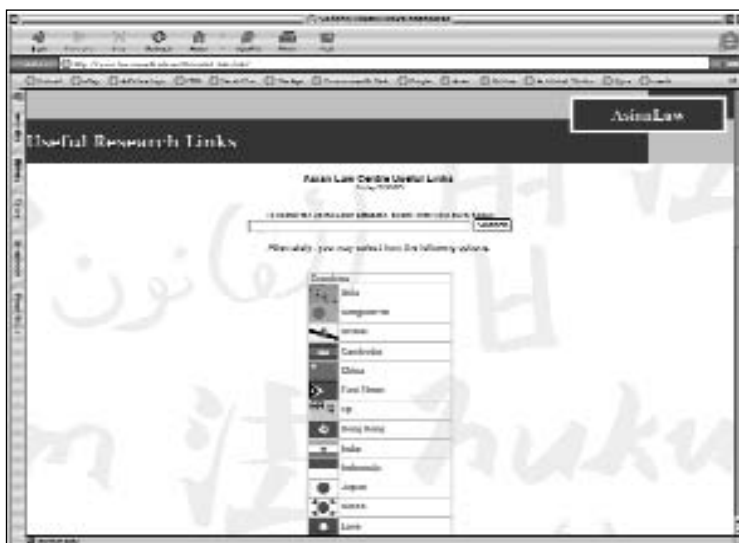
## Multimedia IT

The *Asian Law Online* website, which can be accessed at <http://www.law.unimelb.edu.au/alc/bibliography>, received 135,123 page views in 2003, with an average of 11,260 page views per month — extremely high figures for any Faculty site. The Browse menu alone represented 82.3% (111,171) of these page views. The usage of *Asian Law Online* has increased by approximately 188 percent since 2002, when it received 46,766 page views. These statistics are proof of the immense value and growing popularity of this searchable database amongst academics, researchers, practitioners and students, both Australian and international.



### Useful Research Links

Linked to *Asian Law Online*, the Useful Research Links website is a searchable database of useful websites.



# Multimedia IT

## Asian Law Centre Website — <http://www.law.unimelb.edu.au/alc>

The Asian Law Centre website at <http://www.law.unimelb.edu.au/alc> is now a useful resource for academics, researchers, practitioners and students, both Australian and international. New publications and recent and forthcoming events are clearly posted on the Centre's main homepage.

The Centre has also translated the 'Welcome to the ALC' section of the website into Bahasa Indonesia, Japanese and Vietnamese. This provides international visitors to the website with a broad overview of the Centre's research and activities. Articles in Asian languages are also posted on the relevant website. The site will also be translated into Chinese (both simplified and traditional characters), Korean and Arabic in the near future.

## Law and Finance Institutional Partnership — <http://www.lfip.org>

The Asian Law Centre provides support to interactive live, online law teaching in Indonesia for under-resourced universities through the Law and Finance Institutional Partnership (LFIP).

Led by Associate Professor David Linnan from the School of Law at the University of South Carolina and a frequent visitor to the Asian Law Centre, LFIP is a joint initiative between the University of Indonesia Graduate Law Program (Program Pasca Sarjana Fakultas Hukum UI), the Jakarta Stock Exchange (Bursa Efek Jakarta) and the University of South Carolina. As of July 2002, LFIP included five new Indonesian and foreign university partners: Gadjah Mada University Graduate Law Program (UGM Program Hukum Bisnis dan Kenegaraan), the University of Washington Asian Law Program, the Asian Law Centre at the University of Melbourne, the Centre for Asia-Pacific Initiatives at the University of Victoria, Canada and Lehrstuhl II of the Kriminalwissenschaftliches Institut at the University of Cologne, Germany.



This Partnership provides a content-based distance education network for graduate law programs, relying on instructional videoconferencing and web-based materials. LFIP can be accessed at <http://www.lfip.org>.





## Visiting Scholars 2003

Date of Visit	Visiting Scholar
1 September 2002 – 31 August 2003	<b>Associate Professor Kazuhiro Nishida</b> , <i>Okayama University (previously, Kagoshima University)</i>
23–25 February	<b>Professor Koichi Nakatomi</b> , <i>Faculty of Law, Okayama University, Japan</i>
23 April 2003 – 23 April 2004	<b>Mr Guan Yisheng</b> , <i>Central University of Finance and Economics</i> , <i>People's Republic of China</i>
15 June–23 August	<b>Mr Shankar Prasad</b> , <i>Doctoral Candidate in Political Science, Brown University, U.S.A.</i>
1 July 2003 – 30 June 2004	<b>Judge Takashi Nakajima</b> , <i>Osaka District Court, Japan</i> (as part of the Supreme Court of Japan's "Overseas Training and Research Program")
1 August – 31 December	<b>Associate Professor Jianfu Chen</b> , <i>Faculty of Law, La Trobe University</i>
4 August	Delegation from the <i>Procedural Law Research Center</i> , <i>China University of Political Science and Law (CUPL)</i> , <i>People's Republic of China</i> <ul style="list-style-type: none"> <li>■ <b>Professor Chen Guangzhong</b>, <i>Professor of Law, Honorary Director</i>, <i>Procedural Law Research Center, CUPL</i></li> <li>■ <b>Professor Fan Chongyi</b>, <i>Professor of Law, Director, Procedural Law Research Center, CUPL</i></li> <li>■ <b>Professor Song Yinghui</b>, <i>Professor of Law, Executive Deputy Director</i>, <i>Procedural Law Research Center, CUPL</i></li> <li>■ <b>Associate Professor Yang Yuguan</b>, <i>Associate Professor, Procedural Law Research Center, CUPL</i></li> </ul>
21–23 August	<b>Dr Stephen Sherlock</b> , <i>Information and Research Services</i> , <i>Parliamentary Library, Parliament of Australia</i>
31 August – 1 September	<b>Professor David Johnson</b> , <i>Associate Professor of Sociology, Adjunct Professor of Law</i> , <i>University of Hawaii at Manoa, U.S.A.</i>
4 September 2003 – 30 June 2004	<b>Professor Jeong-hu Kim</b> , <i>College of Law, Kangwon National University, Korea</i>
17–18 September	<b>Mr Kent Anderson</b> , <i>Senior Lecturer, Faculty of Law and Faculty of Asian Studies</i> , <i>The Australian National University</i>
15–16 October	<b>Dr Greg Fealy</b> , <i>Research Fellow and Lecturer in Indonesian Politics</i> , <i>Research School of Pacific and Asian Studies and Faculty of Asian Studies</i> , <i>The Australian National University</i>

## Visiting Scholars 2003

24 October	Delegation from the <i>China University of Politics and Law (CUPL)</i> , People's Republic of China <ul style="list-style-type: none"><li>■ <b>Professor Xu Xianming</b>, President, Professor of Law, CUPL</li><li>■ <b>Professor Gao Huanyue</b>, Professor of Law, CUPL</li><li>■ <b>Professor Zhao Xudong</b>, Professor of Law, CUPL</li><li>■ <b>Associate Professor Yang Yuguan</b>, Associate Professor, CUPL</li><li>■ <b>Associate Professor Yang Qinhuo (Victor)</b>, Associate Professor of Law and Director, International Exchange Center, CUPL</li></ul>
17–21 November	<b>Professor Mitsuo Nagafuchi</b> , <i>Department of Business Law, Konan University, Japan</i>
25–28 November	<b>Professor David Linnan</b> , <i>Associate Professor of Law, School of Law, University of South Carolina, U.S.A.</i>
28 November	<b>Dr Claudio De Jesus Ximenes</b> , <i>Chief Justice, Democratic Republic of Timor-Leste, East Timor</i>
5 December	<b>Delegation of Chinese police</b> , People's Republic of China



Dr Sarah Biddulph with the delegation of police from the People's Republic of China.



## Visiting Scholars 2003



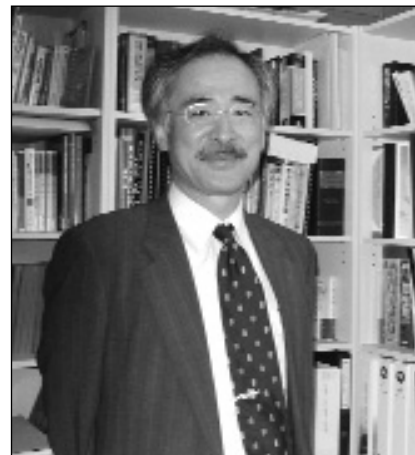
Associate Professor Michael Dutton, Mr Guan Yisheng and Dr Sarah Biddulph with members from the CUPL.



Professor Tim Lindsey with Chief Justice Dr Claudio De Jesus Ximenes.



Ms Kathryn Taylor, Professor Tim Lindsey and Dr Sarah Biddulph with members from the Procedural Law Research Center, CUPL.



Professor Koichi Nakatomi



Professor Mitsuo Nagafuchi

# Faculty Teaching & Education

**Members of the Centre again contributed a full programme of Asian Law related subjects at the undergraduate and graduate levels. The Law School continues to offer the best coverage of Asian Law in Australia. It is seen as a leader in this field and now offers the most extensive Asian law teaching program in the world.**

Offerings in the Law School's programme for 2003 included:

## **Undergraduate Programmes**

- Commercial Law in Asia – Semester 2
- Law and Society in China – Semester 2
- Law and Society in Japan – Summer Semester
- Law and Society in Southeast Asia – Semester 1

## **Not Offered in 2003 — Undergraduate**

- Issues in Chinese Law
- Land, Race and Law in Southeast Asia
- Law and Civil Society in Asia
- Law and Labour Relations in East Asia

## **Postgraduate Programmes**

- Commercial Dispute Resolution in Asia — Semester 1
- Commercial Law in Asia — Semester 1
- Law and Economic Reform in Asia — Semester 2

## **Not Offered in 2003 — Postgraduate**

- Comparative Companies Law in the Asia Pacific Region
- Debt Recovery in Asia
- Islamic Law and Politics in Asia
- Legal Aspects of Finance in Asia



# Major Institutional Contributions

## Chulalongkorn University, Bangkok

**Professor Malcolm Smith** participated for the fourth time in the teaching of a graduate course at Chulalongkorn University on Commercial Alternative Dispute Resolution. **Professor Richard Garnett** also taught the course, together with Judge Vichai Ariyanuntaka, Deputy President of the Central Intellectual Property and International Trade Court of Thailand. The subject was offered in the LL.M. Business Law program at Chulalongkorn University and was taught in English.

## Universities in Japan

Marking the leadership of the Asian Law Centre in academic relations with Japan, **Professor Malcolm Smith** was invited to represent the University and deliver papers at two Symposiums.

In July 2003, a Symposium was held to mark the 50th anniversary of the establishment of the Faculty of Law at Osaka City University, Japan. At this event, Professor Smith spoke on legal education and the debate in Australia on Judicial Activism.

In July 2003, Professor Smith was also invited to a Symposium to mark the 10th Anniversary of the establishment of the International Centre for Comparative Law and Politics at the Faculty of Law, the University of Tokyo and the reconstitution of a new Centre with the same name. He spoke on recent developments in Corporate Governance in Australia.

## AusAID Training Program

**Professor Tim Lindsey** and **Dr Sarah Biddulph** taught "Law, Justice and Governance" as part of a training program to members of AusAID on 4 April and 19 September, 2003. Professor Tim Lindsey covered issues relevant to Indonesia and Dr Sarah Biddulph covered issues in China.

## International Meetings on Vietnamese Legal Change

In 2003, **Dr Pip Nicholson** was invited to the University of Victoria, Canada and the Institut d'Etudes Politiques de Paris (CERI), France to contribute to international meetings on Vietnamese legal change. She also convened, together with Associate Professor John Gillespie, an international conference at the Melbourne Law School on the dynamism of Asian socialism (*see, page 20*).

# Research Students

## Research Students Under Supervision of Centre Members

Members of the Centre continued to offer supervision to a large group of Australian students interested in Asian law and international students studying at the Law School, most of whom are Ph.D. candidates. This is the largest Doctoral group working on Asian legal systems in a single institution in the world. In addition, Centre members are involved on a daily basis with assistance for LL.M. and Graduate Diploma by coursework students.

*Higher degree research candidates who submitted or successfully completed in 2003 were:*

### Mr Ryad Chairil (Ph.D.)

- Supervisors: Michael Crommelin, Tim Lindsey  
*"The Indonesian Mineral Regime: A Model for the Future — Learning From Other Countries in Implementing Changes"*

### Mr Yeow Choy Choong (Ph.D.)

- Supervisors: Michael Tilbury, Tim Lindsey  
*"Summary Disposition in the New Procedural Landscape: Proposals for Reform in Malaysia"*

*Research students under the supervision of Centre members included:*

### Ms Sarah Biddulph (Ph.D.)

- Supervisors: Cheryl Saunders, Michael Dutton, Pip Nicholson
- Completed: 2004  
*"Controlling Detention for Investigation: Legal Accountability of the Chinese Public Security Organs"*

### Mr Simon Butt (Ph.D.)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2006  
*"The Indonesian District Courts: Incompetence and Corruption"*

### Mr John Chelley (Ph.D.)

- Supervisor: Malcolm Smith
- Expected Year of Completion: 2005  
*"Derivatives Law: Refining the Financial Services Reform Act's Derivative Definition"*

### Mr Neri Colmenares (Ph.D.)

- Supervisors: Tim Lindsey, Tim McCormack
- Expected Year of Completion: 2005  
*"Curbing Impunity Through the International Criminal Court: The Case of the Philippines"*

### Mr Budi Darmono (Ph.D.)

- Supervisor: Tim Lindsey
- Completed: 2004  
*"Adat and Forestry Laws in a Plural System: A Study of Indonesian 'Legal Development'"*

### Ms Alice de Jonge (SJD)

- Supervisor: Malcolm Smith
- Expected Year of Completion: 2004  
*"Media and Markets in Hong Kong and the People's Republic of China: Maintaining Corporate Standards in China's H-Share Market"*





## Research Students

### Ms Susi Dwi Harijanti (Ph.D.)

- Supervisors: Cheryl Saunders, Tim Lindsey
- Expected Year of Completion: 2006
- "The Indonesian Ombudsman System and Good Governance: Proposals for Reform"*

### Mr Mohamad Hafiz Hassan (Ph.D.)

- Supervisors: M.B. Hooker, Tim Lindsey
- Submitted: 2005
- "The Syariah Court of Singapore — A Study of a Court of Law From the Civil and Islamic Perspectives"*

### Ms Paloma Hatami (Ph.D.)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2006
- "Are Islamic Principles Sufficient for a Stable Economy? Implications for Trade, Investment and Banking in Islamic Countries: Case Study of Iran and UAE"*

### Mr Denny Indrayana (Ph.D.)

- Supervisors: Cheryl Saunders, Tim Lindsey
- Submitted: 2005
- "Indonesian Constitutional Reform 1999–2002: An Evaluation"*

### Mr Jeremy Mulholland (Ph.D. [Management])

- Supervisors: Howard Dick, Tim Lindsey
- Expected Year of Completion: 2005
- "Elites, State and Big Business in Indonesia from a New Institutional Economics Perspective: Indonesian Thinking on Political Economy"*

### Mr Nguyen Hien Quan (Ph.D.)

- Supervisors: Tim Lindsey, Pip Nicholson
- Expected Year of Completion: 2005
- "Institutional Efficiency and Commercial Dispute Resolution in Southeast Asia — A Game Theory Analysis"*

### Mr Arskal Salim (Ph.D. [Arts])

- Supervisors: Tim Lindsey, Merle Ricklefs
- Expected Year of Completion: 2006
- "Islamisation of Laws in a Modernising State: Sharia in Indonesia 1945–2005"*

### Adv. Andy Schmulow (Ph.D. [Arts])

- Supervisor: Tim Lindsey, Charles Coppel
- Expected Year of Completion: 2005
- "Problems Associated with Prudential Regulatory Enforcement in the Indonesian Banking Sector"*

### Ms Chenxia Shi (Ph.D.)

- Supervisors: Tim Lindsey, Sean Cooney
- Expected Year of Completion: 2005
- "Can Corporate Governance and Directors' Duties Converge? — From a Chinese Perspective"*

### Ms Kerstin Steiner (Ph.D.)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2005
- "Western Human Rights and Asian Values: Are the Differences Real?"*

### Ms Ann Wardrop (Ph.D.)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2006
- "Regulation of Insolvent Investor-Owned Essential Service Corporations"*

### Dr Eric Wilson (SJD)

- Supervisors: Gillian Triggs, Tim Lindsey
- Submitted: 2005
- "Savage Republic: De Indis, the Grotian Heritage, and Dutch Hegemony within the Capitalist World-Economy"*

### Ms Phoebe Wynn-Pope (Ph.D.)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2009
- "What are the Criteria for Determining When a Threat to or Violation of Human Security Should Justify an External Intervention?"*

### Ms Julia Se Se Zhang (Ph.D.)

- Supervisors: Tim Lindsey, Andrew Kenyon, Sarah Biddulph
- Expected Year of Completion: 2005
- "Contractual Arrangement for Technology Transfer to China: A Relational Perspective"*

### Mr Ming Zhou (Ph.D.)

- Supervisors: Malcolm Smith, Gillian Triggs
- Expected Year of Completion: 2006
- "Antidumping Law and Practices in China and the WTO"*

# Publications

## Publications of Members, Associates & Researchers

### Books

- Hooker, M.B. (2003), *Indonesian Islam: Social Change Through Contemporary Fatawa*, Allen & Unwin, Sydney.
- Hooker, M.B. (2003), *Islam Mazhab Indonesia*, Penerbit Teraju, Jakarta.
- Ramsay, I., Hanrahan, P. and Stapledon, G. (2003), *Commercial Applications of Company Law*, 4th edition, CCH Australia, North Ryde, N.S.W.
- Ramsay, I., Ford, H.A. and Austin, R.P. (2003), *Ford's Principles of Corporations Law*, 11th edition, Butterworths, Sydney.
- Ramsay, I., McDonald, L., Moodie, G. and Webster, J. (2003), *Experts' Reports in Corporate Transactions*, Federation Press, Sydney.
- Tabalujan, B.S. (2003), *Singapore Business Law*, 3rd edition, BusinessLaw Asia/CommAsia, Singapore.

### Chapters in Books and Monographs

- Hooker, M.B. (2003), "The State and Syariah in Indonesia", in Salim, A. and Azra, A. (eds), *Shari'a and Politics in Modern Indonesia*, ISEAS, Singapore: 33–47.
- Hooker, M.B. (2003), "Submission to Allah? The Kelantan Syariah Criminal Code 1993", in Hooker, V. & Othman, N. (eds), *Malaysia: Islam, Society and Politics*, ISEAS, Singapore: 80–100.
- Lindsey, T. (2003), "Indonesia: Devaluing Asian Values, Rewriting Rule of Law", in Peerenboom, R. (ed), *Asian Discourses of Rule of Law*, Routledge, London and New York: 286–323.
- Smith, M. (2003), "Comparative Law and Legal Culture", in Ago, Shin-ichi (ed), *Law and the Open Society in Asia*, Report of Proceedings of a Seminar held at Kyushu University, 25 November–4 December, 2002.
- Smith, M. (2003), "Legal Education in Australia", in *The Social Responsibility of the Legal Profession in the Age of Globalization*, Proceedings of the International Symposium Commemorating the 50th Anniversary of the Faculty of Law, Osaka City University: 163–186.
- Tabalujan, B.S. (2003), "Reforming Indonesian Corporate Governance — A Legal-Sociological Perspective", in Batten, J. & Fetherston, T. (eds), *Social Responsibility: Corporate Governance Perspectives*, Research in International Business and Finance, Volume 17, Elsevier, The Netherlands: 397–423.

### Refereed Journal Articles

- Biddulph, S. (2003), "The Production of Legal Norms: A Case Study of Administrative Detention in China", *UCLA Pacific Basin Law Journal*, 20: 217.
- Clarke, R. (2003), "Retrospectivity and the Constitutional Validity of the Bali Bombing and East Timor Trials", *Australian Journal of Asian Law*, 5(2): 128–159.
- Hooker, M.B. (2003), "Islamic Law in South East Asia", *Studia Islamika*, 10(1): 1–22.
- Lindsey, T. (2003), "Islamic Law in Contemporary Indonesia", *Review of Indonesian and Malaysian Affairs*, 37(2): 121–127.
- Lindsey, T. & Hooker, M.B. (2003), "Towards a New Mazhab? The Public Faces of Syariah in Indonesia", *Studia Islamika*, 10(1): 23–64.
- Lindsey, T., Jamhari & Hooker, M.B. (eds), Islamic Law in Indonesia and Malaysia (special issue), *Studia Islamika*, 10(1).
- Mitchell, R. (2003), "Union Security and the 'Hiring Hall': A Note on the Sanctioning of Union Labour Supply Arrangements in Australian Labour Law", *Australian Journal of Labour Law*, 16: 343–358.
- Mitchell, R. & Fetter, J. (2003), "Human Resource Management and Individualisation in Australian Labour Law", *Journal of Industrial Relations*, 45: 292–325.
- Nicholson, P. (2003), "Bibliography of Vietnamese Law Related Materials", *Legal Reference Services Quarterly*, 22(2/3): 139–200.
- Pausacker, H. (2003), "Jon Koplo: Tragi-Comedy during the Demonstrations and Riots in Solo, Central Java, March–June 1998", *International Journal of Cultural Studies*, 6(2): 155–179.



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Smith, M. (2003), "Corporate Governance in Australia: Some Recent Developments," *Forum of International Development Studies*, 24: 75–93.

Smith, M. (2003), "Legal Education and Judicial Activism in Australia," *Sociology of Law in the World*: 227–241.

Steele, S. & Anderson, K. (2003), "Insolvency Law," *Japanese Business Law Guide*, CCH Loose-leaf.

Whiting, A. (2003), "Situating Suhakam: Human Rights Debates and Malaysia's National Human Rights Commission," *Stanford Journal of International Law*, 39(1): 59.

## Other Journal Articles

Clarke, R. (2003), "Analysis — Human Rights on Trial in Indonesia," *The Human Rights Defender*, Amnesty International, 22(5).

Lindsey, T. (2003), "What Bali means to Indonesia," *The Diplomat*, 1(5), December 2002-January: 14–15.

Mitchell, R. & Fetter, J. (2003), "Australian Workplace Agreements and High Performance Workplaces: A Reply," *Journal of Industrial Relations*, 45: 528.

Nguyen, Q.H. (2003), "Cross-border Transactions in Vietnam and the Vietnam-US Bilateral Trade Agreement," *International Trade and Business Law Annual*, 8: 159–184.

## Book Reviews

Steele, S. (2003), Review of Eleanor M Hadley with Patricia Hagan Kuwayama, "Memoir of a Trustbuster: A Lifelong Adventure with Japan," *Australian Journal of Asian Law*, 5(2): 206–211.

## Working Papers

Arnold, L. and International Labour Organization Jakarta Office (2003), *Discrimination in the World of Work: A Brief Look at the Situation in Indonesia*, International Labour Organization, Jakarta.

Ramsay, I. (2003), *Use of Prospectuses by Investors and Professional Advisers*, Centre for Corporate Law and Securities Regulation, The University of Melbourne.

Ramsay, I., Bird, H., Chow, D. and Lenne, J. (2003), *ASIC Enforcement Patterns*, Centre for Corporate Law and Securities Regulation, The University of Melbourne.

Ramsay, I. and Moodie, G. (2003), *Managed Investment Schemes: An Industry Report*, Centre for Corporate Law and Securities Regulation, The University of Melbourne.

## Commissioned Reports

Mitchell, R. & Fetter, J. (2003), *The Individualisation of Employment Relationships and Adoption of High Performance Work Practices: Final Report* (Commissioned Final Report for the Workplace Innovation Unit, Industrial Relations Victoria).

Ramsay, I. (2003), *Rebuilding Public Confidence in Financial Reporting: An International Perspective*, Report to the International Federation of Accountants Prepared as a Member of the International Task Force on Rebuilding Public Confidence in Financial Reporting.

## Reports to Governments

Lindsey, T. (2003), Report to AusAID: *Australia Indonesia Legal Development Program — Project Design Document*, July.

## Newspaper Articles

Clarke, R. (2003), "How Amrozi May Cheat Death Sentence," *The Australian Financial Review*, 21 August.

Lindsey, T. (2003), "United We Fight: The Most Powerful Weapon Against Terrorism in our Region is a Strong Bond with Indonesia," *Herald Sun*, 19 August.

Lindsey, T. (2003), "The View from Mecca's Veranda: Tim Lindsey on the Implementation of Islamic Law Close to Australia's North," *The Australian Financial Review*, 14 March.

Lindsey, T. & Clarke, R. (2003), "American Secrecy Lets Bashir Off Lightly," *The Australian*, 5 September.

Tabalujan, B.S. (2003), "Research Money-spinners Send Varsities into a Whirl," *The Straits Times*, 28 November.

# Conference Papers

## Conference Papers and Seminars Delivered by Members

- Biddulph, S. (2003), "Judicial Reform in China", presented at *Law and Society Conference*, Pittsburgh, June.
- Biddulph, S. (2003), "Mapping Legal Change in the Context of the Social Order Powers of the Chinese Police", presented at Asian Law Centre and Deakin Law School *Law and Governance: Socialist Transforming Vietnam* conference, Asian Law Centre and Deakin Law School, The University of Melbourne, 12–13 June.
- Biddulph, S. (2003), "Regulating Internal Migration in the PRC", presented at *The Rights of Migrant Workers* International Workshop, RegNet, The Australian National University, 6–7 August.
- Cooney, S. (2003), "Problems with Labour Law: Theoretical Implications", presented at *Problems with Comparative Labour Law: Labour Regulation in Asia Workshop*, Asian Law Centre & Centre for Employment and Labour Relations Law, The University of Melbourne, 2 October.
- Lindsey, T. (2003), "Islam and Family Law in Indonesia", presented at Islamic Studies Workshop, *Constitutional Change in Indonesia*, Centre for Indonesian Reform, Universitas Paramadina, Jakarta, 10 May.
- Lindsey, T. (2003), "The Indonesian Legal System and Islam", presented at *Judges Annual Workshop*, Federal Court of Australia, 28 August.
- Lindsey, T. (2003), "Country Study: Indonesia", presented at *Problems with Comparative Labour Law: Labour Regulation in Asia Workshop*, Asian Law Centre & Centre for Employment and Labour Relations Law, The University of Melbourne, 2 October.
- Lindsey, T. (2003), "The Jemaah Islamiyah Trials: Defending the Bali Bombers", presented at *Islam and Terrorism in Indonesia*, MIALS & Asian Law Centre joint Seminar/Public Event, 10 October.
- Lindsey, T. (2003), "Understanding Syariah Law", presented at *ComView* conference, Victorian Commercial Teachers Association, La Trobe University, 24–26 November.
- Mitchell, R. (2003), "Australian Workplace Agreements and High Performance Workplace Systems", presented at Australian Labour Law Association, South Australian Chapter.
- Mitchell, R. (2003), "AWAs and High Performance Workplace Systems", presented at Centre for Employment and Labour Relations Law, The University of Melbourne.
- Mitchell, R. (2003), "Human Resource Management and Individualisation in Australian Labour Law", presented at *Rethinking the Law of Work* Conference, Australian Centre for Industrial Relations, Research and Training, Sydney.
- Mitchell, R. (2003), "Individual Agreements and Flexibility in University Employment", presented at Law School, University of Adelaide.
- Mitchell, R. & Johnstone, R. (2003), "Regulating Work", presented at *Regulating Law Workshop*, Regulatory Institutions Network, The Australian National University.
- Nicholson, P. (2003), "Vietnamese Court Reform: Constancy and Change in the Contemporary Period", at *Mapping Vietnam's Legal Culture: Whither Vietnam?* Conference, Victoria, B.C., Canada, 27–29 March.
- Nicholson, P. (2003), "Vietnamese Courts: The Changing Shape of Party Instrumentalism", Staff and Graduate Student Seminar, University of Washington, Seattle, USA, 1 April.
- Nicholson, P. (2003), "Vietnamese Jurisprudence: A Trajectory for Court Reform?", presented at *Law and Governance: Socialist Transforming Vietnam* conference, Asian Law Centre and Deakin Law School, The University of Melbourne, 12–13 June.
- Nicholson, P. (2003), "Vietnam's Labour Market: Transition and the Role of Law", presented at *Problems with Comparative Labour Law: Labour Regulation in Asia Workshop*, Asian Law Centre & Centre for Employment and Labour Relations Law, The University of Melbourne, 2 October.
- Nicholson, P. (2003), "Vietnamese Courts: Party State and Law", presented at *The State of Law and the Rule of Law in post doi moi Vietnam* conference, CERI, Paris, 6–7 October.
- Smith, M. (2003), "Recent Developments in the Laws on Share Capital in Australia", presented at "Diversification of the Laws on Shares" session at the *18th LawAsia* Conference, Tokyo, 1–5 September.
- Steele, S. (2003), "Too Hot to Handle: Extinguishing Secured Creditor's Interests in Japanese Insolvency Law", at Japan Studies Association of Australia Conference, Brisbane, 4 July.
- Steiner, K. (2003), "How Asian are Asian Values? A Case Study of South Africa's Apartheid Regime and Asian Values — Too Close for Comfort?", Asian Law Centre Brown Bag Seminar, The University of Melbourne, 17 September.



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## Journal Articles

- Choy, D.W. (2003), "China and the Internet: Recent Developments", *Australian Journal of Asian Law*, 5(1): 77–89.
- Clarke, R. (2003), "Retrospectivity and the Constitutional Validity of the Bali Bombing and East Timor Trials", *Australian Journal of Asian Law*, 5(2): 128–159.
- Fu, H.L. (2003), "The Politics of Mediation in a Chinese County: The Case of Luo Lianxi", *Australian Journal of Asian Law*, 5(2): 107–127.
- Hawes, C. (2003), "Seeds of Dissent: The Evolution of Published Commercial Law Court Judgments in Contemporary China", *Australian Journal of Asian Law*, 5(1): 1–41.
- R. Kumar, C. (2003), "State Torture in India: Strategies for Resistance and Reparation", *Australian Journal of Asian Law*, 5(2): 160–183.
- Puchniak, D.W. (2003), "The 2002 Reform of the Management of Large Corporations in Japan: A Race to Somewhere?", *Australian Journal of Asian Law*, 5(1): 42–76.
- Roberts, A. (2003), "The Two-Track Model of Transitional Justice in Timor-Leste: Is it Working?", *Australian Journal of Asian Law*, 5(3): 260–287.
- Stephens, M. (2003), "Local-level Dispute Resolution in Post-reformasi Indonesia: Lessons from the Philippines", *Australian Journal of Asian Law*, 5(3): 213–259.

## Case Notes

- Holland, B. (2003), "Suyanto Gondokusumo v PT Asuransi Jiwa Manulife Indonesia: Harvesting an Anti-Hero in Indonesian Insolvency Law", *Australian Journal of Asian Law*, 5(2): 184–195.
- Juwana, H. (2003), "The Indomobil Case", *Australian Journal of Asian Law*, 5(3): 301–305.

## Commentary

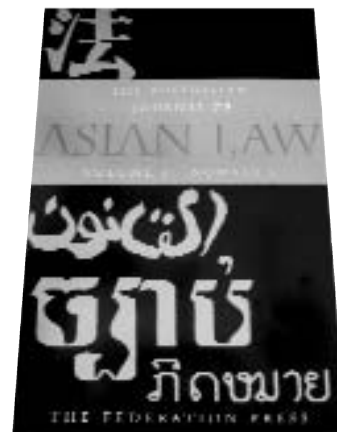
- Fenwick, S. (2003), "Administrative Review in Transition: The Law of Mongolia on Administrative Procedure, 26 December 2002", *Australian Journal of Asian Law*, 5(3): 289–300.

## Book Reviews

- Anderson, K. (2003), Review of Carl F Goodman, "The Rule of Law in Japan: A Comparative Analysis", *Australian Journal of Asian Law*, 5(3): 312–315.
- Chui, W.H. (2003), Review of Bee Chen Goh, "Law Without Lawyers, Justice Without Courts", *Australian Journal of Asian Law*, 5(2): 202–205.
- Goodpaster, G. (2003), "Review: Administrative Courts in Indonesia", *Australian Journal of Asian Law*, 5(1): 103–105.
- Grewal, B.S. (2003), Review of Mamiko Yokoi-Arai, "Financial Stability Issues: The Case of East Asia", *Australian Journal of Asian Law*, 5(2): 196–198.
- Hirtz, F. (2003), Review of Soliman M Santos Jr, "The Moro Islamic Challenge: Constitutional Rethinking for the Mindanao Peace Process", *Australian Journal of Asian Law*, 5(3): 316–318.
- Mendelsohn, O. (2003), Review of Venkat Iyer (ed), "Democracy, Human Rights and the Rule of Law — Essays in Honour of Nani Palkhivala", *Australian Journal of Asian Law*, 5(2): 199–201.
- Steele, S. (2003), Review of Eleanor M Hadley with Patricia Hagan Kuwayama, "Memoir of a Trustbuster: A Lifelong Adventure with Japan", *Australian Journal of Asian Law*, 5(2): 206–211.
- Wallace, J. (2003), Review of Daniel Fitzpatrick, "Land Claims in East Timor", *Australian Journal of Asian Law*, 5(3): 306–311.

## Review Essay

- Anderson, K. (2003), "Review Essay: Crime, Prosecution and Punishment in Japan: What Johnson and Schmidt Can Teach About the Japanese Curry Killer Case", *Australian Journal of Asian Law*, 5(1): 90–102.



# Contributions

## Contributions to the University of Melbourne and the Community

### Dr Sarah Biddulph

- Chair, Human Rights Research Group, Cross Cultural Dispute Resolution Grant
- Member, Law and Society Association
- Member, Advisory Committee, *Australian Journal of Asian Law*
- Member, Equal Opportunity Committee, Faculty of Law, The University of Melbourne
- Liaison Officer, International and Non-English Speaking Background Students (July-December)

### Mr Sean Cooney

- Member, Centre for Employment and Labour Relations Law, The University of Melbourne
- President, University of Melbourne Branch, National Tertiary Education Union (NTEU)
- National Councillor, National Tertiary Education Union (NTEU)
- Member, Advisory Committee, *Australian Journal of Asian Law*
- Member, Ethical Advisory Committee, Brotherhood of St. Laurence
- Member, Executive and Budgets Committee, Faculty of Law
- Liaison Officer, International and Non-English Speaking Background Students (January-June)
- Member, Australian Labour Law Association
- Member, Consultation Group, National Contact Point, OECD Guidelines for Multinational Enterprises, Department of Treasury
- Member, Centre for Employment and Labour Relations Law, The University of Melbourne
- Advisory Committee, *Australian Journal of Asian Law*
- Ethical Advisory Committee, Brotherhood of St. Laurence
- Liaison Officer, International and Non-English Speaking Background Students

### Professor Tim Lindsey

- Associate Dean (International)
- Member of Board, Australia-Indonesia Institute, Department of Foreign Affairs and Trade
- Member, International Council of the Asia Society
- Director of Studies, Graduate Diploma in Asian Law
- Member, Executive and Budgets Committee, Faculty of Law
- Editor, *Australian Journal of Asian Law*
- Associate, Melbourne Institute of Asian Languages and Societies
- Member of Board, Melbourne Institute of Asian Languages and Societies
- Member of Board, Institute for Comparative and International Law, The University of Melbourne
- Associate, Centre for Employment and Labour Relations Law, The University of Melbourne
- Associate, Centre for Corporate Law and Securities Regulation, The University of Melbourne
- Member, Forum of Associate Deans International
- Nominee of the Deputy Vice-Chancellor (Academic), International Students' Consultative Committee, The University of Melbourne
- Member, Program Committee, Graduate Studies, Faculty of Law, The University of Melbourne
- Member, Editorial Board, *Southeast Asia Publications Series*, Asian Studies Association of Australia
- Member, Asian Studies Association of Australia
- Member, Editorial Advisory Board, *Employment Law Asia*, CCH
- Member, Editorial Advisory Board, *Asian Law Abstracts*, Legal Scholarship Network



# Contributions

- Member, Advisory Board, Centre for Asia Pacific Initiatives, University of Victoria, British Columbia
- Member, Editorial Advisory Board, *Doing Business in Asia*, CCH
- Associate, The Pacific Institute
- Contributing Editor, 'Report from Asia', *Trade Practices Law Journal*
- Editor, 'Indonesia' (tab), *Doing Business in Asia*, CCH
- Member, Advisory Board, Liberty and Rule of Law Association, Mongolia

## Dr Pip Nicholson

- Member, Advisory Committee, *Australian Journal of Asian Law*
- Member, Equal Opportunity Committee, Faculty of Law, The University of Melbourne
- Member, International Committee, Faculty of Law, The University of Melbourne
- Member, Unsatisfactory Progress Committee, Faculty of Law, The University of Melbourne
- Member, Asian Studies Association of Australia
- Member, Vietnam Studies Association of Australia
- Responsible for outgoing international exchange students, Faculty of Law, The University of Melbourne

## Professor Malcolm Smith

- Dean of Studies, Ormond College
- Member, Advisory Committee, *Australian Journal of Asian Law*
- Associate, Melbourne Institute of Asian Languages and Societies
- Associate, Centre for Corporate Law and Securities Regulation, The University of Melbourne
- Member of Board, Institute for Comparative and International Law, The University of Melbourne
- Member of Board, Melbourne Institute of Asian Languages and Societies
- Member of Board, Australian Centre for International Commercial Arbitration
- Member of Board, Leo Cussen Institute
- Member of Board, Penleigh and Essendon Grammar School
- Member of Board, International Trade Law and Business Committee, Law Council of Australia
- Advisory Board, *Journal of Korean Law*

## Ms Stacey Steele

- Senior Associate, Financial Services Group, Blake Dawson Waldron
- Member, Japanese Studies Association of Australia
- Member, Urasenke Melbourne Chapter
- Referee, *Australian Journal of Asian Law*
- Volunteer, Homeless Persons' Legal Clinic (joint initiative by the PILCH and the Council for Homelessness)

## Ms Amanda Whiting

- Editor, *Australian Journal of Asian Law*
- Member of Board, *Australian Journal of Asian Law*
- School Council, Carlton Gardens Primary School
- Member, American Historical Association
- Member, Asian Studies Association (United States)
- Member, Asian Studies Association of Australia

## Asian Law Centre Mailing List

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lawyers

BLAKE DAWSON WALDRON  
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Freehills



Maddocks

MALLESONS STEPHEN JAUQUES

Asian Law Centre  
Faculty of Law  
THE UNIVERSITY OF MELBOURNE  
Victoria 3010 Australia

Telephone: +61 3 8344 6847  
Facsimile: +61 3 8344 4546  
Email: law-alc@unimelb.edu.au

Please visit our web site  
<http://www.law.unimelb.edu.au/alc/>