Centre for Employment & Labour Relations Law

Melbourne Law School

Annual Report 2011
Melbourne Law School
The University of Melbourne
Annual Report January – December 2011

Enquiries concerning the Centre’s activities and publications may be directed to:
Ms Tessa Dermody, Centre Coordinator
Centre for Employment and Labour Relations Law
Melbourne Law School
The University of Melbourne Victoria 3010
(Ph) 8344 8924
e-mail: law-celrl@unimelb.edu.au
http://www.celrl.law.unimelb.edu.au/

Report prepared and edited by Tessa Dermody, John Howe and Helen Anderson of the Centre for Employment and Labour Relations Law, and Judy Bennett of Judy Bennett Design.

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Foreword

The Centre for Employment and Labour Relations Law delivered another strong and busy program of research, teaching, publication and professional and community engagement in 2011.

Personnel

The Centre welcomed a new Research Fellow, PhD Candidate Andrew Newman. Andrew’s PhD project is entitled ‘Protection, Precarity and Temporary Migrant Work: An Examination of the Canadian Seasonal Agricultural Worker Program and the Australian Seasonal Worker Program’, and his research is being supervised by Centre members John Howe and Joo-Cheong Tham.

Thanks to the generous assistance of our sponsors, the Centre offered a CELRL Student Research Fellowship for the third year running. Any LLB or JD student with an interest in conducting labour and employment law research is eligible to apply for the Fellowship, and the successful applicant spends one day per week conducting paid research for Centre members over the course of the academic year. In 2011, JD student Lyndal Ablett was chosen for the Fellowship from a very strong field of applicants.

Visitors

The Centre’s standing in both the Australian and international employment and labour law communities is evidenced by the willingness of leading colleagues from other Australian Law Schools and from overseas to visit the Centre and contribute to our activities. In 2011, our visitors included Professor Adelle Blackett of McGill University, Canada, Professor Cynthia Estlund, NYU School of Law, USA, Professor Judy Fudge of the University of Victoria Law School, Canada, Associate Professor Jill Murray, La Trobe University, and Professor Sara Slinn, Osgoode Hall Law School, Canada. A particular highlight was the visit by Professor Mark Freedland FBA of the Faculty of Law, Oxford University, one of the world’s most eminent labour law scholars. In addition to co-teaching our Melbourne Law Masters subject Employment Contract Law, Professor Freedland delivered a very well attended Employment Law Lecture on the topic ‘The Legal Construction of Personal Work Relations: A New Model for the Foundation of Employment Relationships’.

Research

In 2011 Centre members, associates and research staff continued work on many individual research projects in the field of employment and labour relations law. The Centre’s leadership in research into employment and labour relations law is in part demonstrated by Centre members’ success in the attraction of competitive research funding. In 2011, Centre members were engaged in research on no less than five Australian Research Council (ARC)-funded projects with labour and employment law related topics. An update on progress of these existing ARC-funded projects is detailed in the Research section of the Annual Report. In 2011, Centre members also published widely on a range of interesting topics, and spoke at numerous conferences and seminars.
Teaching and Learning
The Centre and its members have primary responsibility for developing and delivering the teaching programs in employment and labour relations law at Melbourne Law School. In 2011, Centre members taught employment law subjects in the LLB and the JD degree. Centre members also worked on the development of a labour and employment course structure for the JD so that the JD curriculum offers a range of elective subjects in our field.

Student numbers in the Graduate Program in Employment and Labour Relations Law have continued to increase when compared to previous years, indicating that our postgraduate program is in a healthy state. In 2011, our Masters program was enhanced by the visits of Professor Freedland, who co-taught the subject Employment Contract Law, and by Professor Estlund of NYU Law School, who taught a new subject, Corporate Governance and Employee Relations: International Perspectives.

Professional and Community Engagement
In addition to the Employment Law Lecture mentioned already, the Centre maintained a busy program of events and seminars in 2011. Another major event I would like to highlight is the symposium on ‘20 Years of Enterprise Bargaining in Australia’ that was co-hosted with the Department of Management and Marketing at the University of Melbourne, the Workplace and Corporate Law Research Group at Monash University, and the Australian Centre for Research in Employment & Work at Monash University. The Centre also hosted four Sponsors Seminars and eleven Labour Law Seminars over the course of the year on topics ranging from international labour standard-setting, forced labour and slavery, protection of employee entitlements in corporate insolvency, and workers’ compensation and occupational health and safety regulatory reform. In particular, I would like to highlight the labour law seminar delivered by two former Melbourne Law School students, Caroline Kelly and Trina Malone. Caroline and Trina gave presentations based on papers they had written for the Employment Law subject, and which were later published as CELRL Student Working Papers. This seminar was extremely successful, and as a result we plan to make the seminars a regular feature of our seminar program.

In addition to these seminars, in 2011 the Centre hosted a number of other workshops linked to the various research projects being conducted at the Centre, such as the Forum on ‘The Role of Community Organisations in Enforcing Labour Law’ held in June.

Conclusion
The publication of the Annual Report also provides an opportunity each year to make special acknowledgement of the important contributions made to the Centre and its work by the legal practices that are Centre sponsors, as well as by its academic associates, teaching associates, and members of the Advisory Board. We are pleased to report that 17 firms and one government organisation renewed their sponsorship of the Centre in 2011. The firm of Trindade, Farr and Pill was not able to continue its sponsorship due to its merger with Clayton Utz. I would like to thank Dan Trindade and Stuart Pill for their support over the last few years. In addition to sponsors’ financial contributions, members of these practices frequently participate in the Centre’s research and teaching programs, as well as attending (and in some cases presenting at) our Sponsors’ Seminar series. The many aspects of our relationships with our Sponsors are, we believe, mutually enriching.
The ongoing support and contributions of our sponsors, as well as our academic, teaching and research associates, and the members of the Advisory Board, are all essential to the Centre’s continuing success and vitality. I also want to thank the LLB and JD students who are involved in the Centre as Student Editorial Assistants for the Australian Journal of Labour Law (AJLL), or as research assistants for the various research projects in which Centre members are involved. Also important is the financial and administrative support provided by the Law School. Once again, we thank all those who continue to offer their support: without it the Centre could not do much of the work that it does.

Finally, on behalf of all Centre members, I would like to thank Tessa Dermody, the Centre’s Coordinator. Without Tessa’s friendly demeanour and excellent organisational skills, I doubt that the Centre would have achieved as much as it did in 2011.

John Howe
Objectives of the Centre for Employment and Labour Relations Law

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

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

Centre Faculty Members

**Associate Professor John Howe**
BA, LLB (Monash), LLM (Temple) (Summa Cum Laude), PhD (Melb)
Director
Room 0756, ph: (03) 8344 1094, j.howe@unimelb.edu.au
John has been Director of the Centre since November 2008. His research interests include regulatory theory, labour law and corporate accountability, and he teaches labour law, corporations law and corporate social responsibility in both the undergraduate and postgraduate teaching programs offered by the Melbourne Law School. John is also a member of the Centre for Corporate Law and Securities Regulation in the Law School. Before starting his academic career, John worked in private legal practice in Australia and as a researcher for public policy and advocacy organisations in Washington DC. He was Secretary of the Australian Labour Law Association between 2005 and 2009, and is currently a member of ALLA’s National Committee. He is a member of the editorial committee of the *Australian Journal of Labour Law*.

**Associate Professor Helen Anderson**
LLB (Hons) (Melb), Grad Dip Bus (Acc), LLM, PhD (Monash)
Room 0753, ph: (03) 9035 5467, h.anderson@unimelb.edu.au
Helen joined the Centre in January 2010 from Monash University. She practiced briefly and worked for the Legal Aid Commission before becoming an academic in 1989. The fair treatment of vulnerable corporate stakeholders has been her abiding research interest: her masters major thesis dealt with shareholders who rely on published audit opinions and her doctoral thesis was concerned with creditors in corporate insolvency. She continues this interest with her present work on improving the recovery rights of employees in corporate insolvency (an ARC-funded project).

**Ms Anna Chapman**
BCom, LLB (Hons), LLM (Melb)
Room 0702, ph: (03) 8344 5625, a.chapman@unimelb.edu.au
Anna has been a faculty member at Melbourne Law School for more than ten years, having come to the University after legal practice with Mallesons Stephen Jaques. Anna’s research focuses on law, gender, sexuality and race in the paid labour market. Her current projects include examinations of work and care in Australian labour law, and the General Protections in the Fair Work Act. Anna has published in a range of Australian and international law journals and edited collections, and from 2008 has been one of the editors of the *Australian Journal of Labour Law*. In 2011 Anna was awarded an ARC Discovery grant with Centre member Beth Gaze on Reshaping Employment Discrimination Law: Towards Substantive Equality at Work.

**Associate Professor Sean Cooney**
BA, LLB (Hons), LLM (Melb), JSD (Columbia)
Room 0703, ph: (03) 8344 8109, s.cooney@unimelb.edu.au
Sean’s research interests are in international and comparative labour law, with a particular focus on East Asia. Sean is a graduate of the University of Melbourne and, after several years in legal practice, obtained his doctoral degree at Columbia University. He has published in a range of international journals in English and in Chinese, and is at present examining issues of comparative labour law, and labour law enforcement, with a particular emphasis on East Asia. He is also undertaking an ARC-funded study of the Fair Work Ombudsman, together with John Howe and Tess Hardy and a second ARC-funded study on the development of labour and corporate law in the Asia Pacific (with Richard Mitchell, Peter Gahan and Ian Ramsay). Sean is currently the Associate Dean (Research) of the Melbourne Law School.
Associate Professor Colin Fenwick  
BA, LLB, LLM (Melb), LLM (Virginia)  
(CURRENTLY ON LEAVE OF ABSENCE AT THE ILO, GENEVA)  
c.fenwick@unimelb.edu.au  
Colin has over fifteen years’ experience in the field of labour relations law. He was the Director of the Centre from August 2004 until October 2008. Colin has worked in both legal practice and in the academy; in Australia, the United States and Switzerland. Colin’s research interests are predominantly in comparative and international labour law, with a particular focus on Southern Africa. Between 2006 and 2008 he was one of the editors of the Australian Journal of Labour Law.

Associate Professor Beth Gaze  
BSc, LLB (Hons) (Monash), LLM (Cal) (Berkeley)  
Room 0830, ph: (03) 8344 6173, egaze@unimelb.edu.au  
Beth’s major interests are in anti-discrimination and equality law, feminist legal thought and administrative law including tribunals. She has undertaken research into Australian anti-discrimination law including currently-funded research projects on the enforcement process under Australian federal anti-discrimination law and the need for substantive updating of Australian anti-discrimination laws. Her particular area of interest in discrimination law is equality for women at work, with a focus on work/family conflict. Beth joined the Melbourne Law School from Monash University in 2006. In 2011 Beth was awarded an ARC Discovery grant with Centre member Anna Chapman on Reshaping Employment Discrimination Law: Towards Substantive Equality at Work.

Mr Glenn Patmore  
BA, LLB (Hons) (Monash), LLM (Queens)  
Room 0709, ph: (03) 8344 6191, g.patmore@unimelb.edu.au  
Glenn has taught law at Monash University and currently is a Senior Lecturer at the Melbourne Law School. He is presently researching in the fields of democratic theory and practice, constitutional law, employment law, human rights and republicanism. His employment law research has focused on disability discrimination, joint consultative committees as well as employee happiness and labour law. His book, Choosing the Republic (UNSW Press), was published in 2009 and he continues to write on the topic of Australian republicanism and constitutional change. He is an editor of four books of collected essays, has written two books and published in a range of Australian and international journals.

Associate Professor Joo-Cheong Tham  
LLB (Hons) (Melb), LLM (Melb), PhD (Melb)  
Room 0710, ph: (03) 8344 7030, j.tham@unimelb.edu.au  
Joo-Cheong is an Associate Professor at the Law Faculty and has taught at the law schools of Victoria University and La Trobe University. His key research areas are the regulation of non-standard work and political finance law. He has published over 25 book chapters and refereed articles. His research has also been published in print and online media with Joo-Cheong having written more than 30 opinion pieces. In the area of political finance, Joo-Cheong’s book, Money and Politics: The Democracy We Can’t Afford was published by UNSW Press in 2010.
Principal Research Staff

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

Mr Andrew Newman LLB, BCL (McGill), BA (British Columbia)
Andrew joined the Centre in January 2011 when he commenced his PhD. Andrew’s research interests include comparative labour law, labour migration and collective bargaining, with a particular focus on temporary migrant worker programmes in Australia and Canada. Prior to commencing his PhD, Andrew practiced law at a Victorian government agency and at a national law firm in Canada. He has also worked in legal policy roles for various organisations, including a northern Canadian First Nation and the UNDP in Yemen.

Student Fellow

Ms Lyndal Ablett
Lyndal was the Centre’s Student Fellow for 2011. She is a JD student at Melbourne Law School. In 2009 she completed her Bachelor of Business (Management) degree at RMIT University with a major in Employee Relations. Lyndal has spent time working as a Casual Organiser at ACTU Member Connect and recently completed an Internship at Legal Aid of Cambodia working on their Labour Trafficking Project. Lyndal’s interest in Employment and Labour Law was what inspired her to study law. She assisted Centre members Helen Anderson, Anna Chapman and Beth Gaze with their respective ARC projects.

Lyndal writes about her experience as the Student Fellow in 2011:

During my time as the Student Fellow at the Centre for Employment and Labour Relations Law I was able to not only expand my knowledge in the area of employment law, but I was able to develop and improve my skills in legal research and learn about how labour and employment law impacts upon other areas of the law.

In this role, I was able to meet and work with leading academics in the labour and employment law field which as a student interested in this area was a fantastic opportunity. I also had the privilege of attending many of the labour law seminar series presentations. These seminars addressed current issues in employment and labour law and I found them extremely valuable in expanding my knowledge and exposing me to new ideas and issues in various areas related to labour and employment law.

Being the Student Fellow at CELRL was a fantastic experience that has not only improved my knowledge in the field but, I believe, has made me a far better law student.
Research Assistants

Members of the Centre were assisted by the following research staff: Claire Bongiorno, Catherine Dow, Colette Downie, Clara Jordan-Baird, Amy Lim, Michael Keks, Ingrid Landau, Jack Lang, Maria Azzurra Tranfaglia, Jennifer Winckworth, Jesse Winton and Nicole Yazbek.

Coordinator

Ms Tessa Dermody  BEd (Otago), Dip Tching (Dunedin)

Tessa joined the Centre as the Coordinator in January 2009. She comes from an Education background and has several years experience working in various administration roles in New Zealand, United Kingdom and Australia. Tessa is also the Coordinator for the Tax Group.

Centre Associates

Academic Associates

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

Teaching Associates

Ms Carol Andrades
Professor Cindy Estlund
Mr Paul O’Grady
Mr Peter Rozen
Professor Andrew Stewart

Current affiliation

Monash University
University of Melbourne
Independent consultant in workplace regulation
University of Melbourne
New York University
Kings College, University of London
University of Western Australia
Monash University
University of Wollongong
University of Oxford
University of Victoria, Canada
University of Melbourne
Griffith University
University of Melbourne
University of Sydney
Monash University
University of Sydney
Monash University
LaTrobe University
Monash University
University of Queensland
University of Adelaide
LaTrobe University
Monash University
University of Melbourne
University of Sydney
University of Adelaide
UCLA School of Law
York University, Canada

Current affiliation

Ryan Carlisle Thomas
New York University
Victorian Bar
Victorian Bar
University of Adelaide
### The Advisory Board

The Centre’s work takes place under the guidance and assistance of an Advisory Board. Members of the Board are distinguished representatives of major institutions, bodies and law firms with an involvement in the labour law field. The members in 2011 were:

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<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
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<tr>
<td>Justice Anthony North (Chair)</td>
<td>Federal Court of Australia</td>
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<td>Senior Deputy President Jennifer Acton</td>
<td>Fair Work Australia</td>
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<td>Mr Steven Amendola</td>
<td>Blake Dawson</td>
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<td>Ms Carol Andrades</td>
<td>Ryan Carlisle Thomas</td>
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<td>Mr Josh Bornstein</td>
<td>Maurice Blackburn</td>
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<td>Justice Alan Boulton</td>
<td>Fair Work Australia</td>
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<td>Mr Ben Burke</td>
<td>Baker &amp; McKenzie</td>
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<td>Mr Simon Dewberry</td>
<td>Allens Arthur Robinson</td>
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<td>Mr Mark Diserio</td>
<td>Lander &amp; Rogers</td>
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<td>Ms Rachel Doyle SC</td>
<td>Victorian Bar</td>
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<tr>
<td>Professor Carolyn Evans</td>
<td>University of Melbourne</td>
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<td>Mr Philip Gardner</td>
<td>Ryan Carlisle Thomas</td>
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<td>Justice Peter Gray</td>
<td>Federal Court of Australia</td>
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<td>Mr Val Gostencnik</td>
<td>Corrs Chambers Westgarth</td>
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<td>Mr Joel Fetter</td>
<td>Australian Council of Trade Unions</td>
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<td>Mr Ross Jackson</td>
<td>Maddocks</td>
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<td>Mr Murray Kellock</td>
<td>Mallesons Stephen Jaques</td>
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<td>Mr Ross Levin</td>
<td>Rigby Cooke Lawyers</td>
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<td>Mr Peter Lupson</td>
<td>Middletons</td>
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<td>Professor Richard Mitchell</td>
<td>Monash University</td>
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<td>Mr Charles Power</td>
<td>Holding Redlich</td>
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<td>Ms Sarah Rey</td>
<td>Justitia</td>
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<td>Mr Julian Riekert</td>
<td>Lander &amp; Rogers</td>
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<td>Mr Nick Ruskin</td>
<td>DLA Piper</td>
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<td>Mr Henry Skene</td>
<td>Arnold Bloch Leibler</td>
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<td>Mr Michael Tehan</td>
<td>Minter Ellison</td>
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<tr>
<td>Mr Nicholas Wilson</td>
<td>Fair Work Ombudsman</td>
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<td>Mr Anthony Wood</td>
<td>Freehills</td>
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Centre Sponsors

The support of sponsors is essential to the continued operation of the Centre, both in terms of the financial contributions that sponsors make to the resources of the Centre, and in terms of the involvement of sponsoring firms in providing advice and counsel for the Centre. One representative from each of the Centre’s sponsors sits on the Centre’s Advisory Board. The Centre’s sponsors in 2011 were:

- Allens Arthur Robinson
- Arnold Bloch Leibler
- ABL
- Baker & McKenzie
- Blake Dawson
- Corrs Chambers Westgarth
- DLA Piper
- Fair Work Ombudsman
- Freehills
- Holding Redlich
- JUSTITIA
- Lander & Rogers
- Maddocks
- Mallesons Stephen Jaques
- Maurice Blackburn
- middletons
- Minter Ellison
- Ryan Carlisle Thomas
- Rigby Cooke
Visitors

The Centre regularly welcomes academic colleagues from interstate and overseas. In 2011 we hosted eight visitors.

- **Professor Sara Slinn**, Osgoode Hall Law School, York University, Canada (January–May)
- **Professor Adelle Blackett**, McGill University, Montreal, Canada (February–March)
- **Professor Jean Allain**, Queen’s University of Belfast, Northern Ireland (March–April)
- **Professor Mark Freedland**, Oxford University, United Kingdom (April)
- **Professor Cindy Estlund**, New York University School of Law, USA (May)
- **Professor Jun Nakagawa**, Hokusei Gakuen University, Japan (27 June–2 July)
- **Associate Professor Jill Murray**, School of Law, La Trobe University, Melbourne (July–September)
- **Professor Judy Fudge**, Lansdowne Professor of Law, Victoria University Law School, Canada (August)
Research

The Centre is Australia’s first research centre devoted exclusively to developing an understanding of the role and function of legal regulation of the labour market. Centre Members are engaged in research in diverse aspects of the broad field of employment and labour law and labour market regulation. Areas of particular interest and expertise include the regulation of individual work relationships, discrimination and inequality in employment and the labour market, the regulation of occupational health and safety, collective labour relations and bargaining, the functions of trade unions and alternative forms of worker representation, corporate governance and labour, enforcement of minimum employment standards, international labour rights and standards, temporary migrant worker rights and unemployment law and labour market policy. Centre members also have a strong interest in comparative labour and employment law and labour market regulation, including research into labour and employment regulation in the Asia-Pacific region, Southern Africa, North America and Europe.

During 2011 Centre members pursued a number of specific research projects. Short descriptions of the Australian Research Council (ARC) funded projects follow. Further information on all of the research projects can be found on our website www.celrl.law.unimelb.edu.au/go/research/.

Australian Research Council (ARC) Funded Research Projects

Labour Regulation in East Asia: China
Centre Member: S. Cooney
Associates: Y. Zhu, S. Biddulph

Many developing countries have labour laws that, on paper, are comprehensive and reflect international standards (with exceptions in the area of freedom of association). However, it is notorious that these laws are widely ignored. This project investigates systematically the reasons for implementation failures. It examines the scope for greater coordination and systematisation of domestic enforcement measures. In 2006 Sean Cooney was awarded a Discovery Grant from the ARC for further work in this area, together with Associate Professor and Reader Sarah Biddulph of the Asian Law Centre (Melbourne Law School) and Dr Ying Zhu. Field work on the project was carried out between 2007 and 2010 with visits to officials, firms and academics in Beijing, Hefei, Nanjing, Shenzhen and Shantou. A major international workshop was held on the issue in Melbourne in February 2009 with a follow up in Beijing in August 2010. The project has been completed, with the final publication, Law and Fair Work in China, appearing in late 2012 (published by Routledge).

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

The legal origin hypothesis proposes that common law institutions deliver superior economic outcomes to other legal systems. International agencies have acted on this view in advocating legal reforms in a number of countries. This ignores alternative arguments/evidence that emphasise that legal systems can be responsive to local histories and conditions without adverse economic consequences. This project is funded by an ARC Discovery Grant. We aim to assess whether the legal origins hypothesis is (1) an accurate description and (2) an apt guide for legal analysis and reform in Australia and the region. The project is bringing Australia and Asia to the forefront of research on legal origins through a systematic analysis of our region comparable to those produced in other parts of the world. Publications from the project will appear in 2012 in the prestigious international journals, International and Comparative Law Quarterly and American Journal of Comparative Law.
New Initiatives in Enforcing Employment Standards: Assessing the Effectiveness of Federal Government Compliance Strategies
Centre Members: S. Cooney and J. Howe
Research Staff: C. Bongiorno, C. Downie, T. Hardy and J. Lang
This project is assessing the operation and impact of the new federal agency enforcing working conditions relating to pay, reasonable working hours and leave. Since 2006, the resources available to, and the jurisdiction and the legal status of, that agency – now called the Fair Work Ombudsman (FWO) – have been dramatically enhanced. The research is grounded in the literature on regulatory effectiveness and includes comparison with comparable agencies domestically and internationally, as well as empirical studies of the actions of the FWO’s staff and of the response of the target employers. The project is supported by a three year ARC Linkage Grant, awarded in 2009. In 2011, the project team conducted interviews with Fair Work Inspectors and senior management staff responsible for the inspectorate at the Fair Work Ombudsman. A paper outlining preliminary findings from this research concerning the balance between complaints-oriented and targeted strategies for the detection of non-compliance by the FWO was presented at the Regulating for Decent Work Network Conference at the International Labour Organisation in Geneva. John Howe and Tess Hardy also contributed an article concerning accountability at the Fair Work Ombudsman which was published in (2011) 18 Australian Journal of Administrative Law 127.

‘Nothing Can Be Created Out of Nothing’: Workers, Their Know-How and the Employment Relationships that Support Them
Centre Members: C. Fenwick, J. Howe
Research Staff: B. Strong, M.A. Tranfaglia, A. Newman
Associates: C. Arup, C. Dent, W. van Caenegem
Innovation is central to the Australian and global economy. Innovation policy to date has focused on high-technology industries and the commercialisation of new products – areas encouraged by current intellectual property laws. This neglects the key contribution of ‘know-how’ to innovation, leaving it to regulation by contractual clauses and industry practice, which may not set appropriate incentives. This empirical project, through the collection of qualitative data, is seeking to establish how Australian employers and workers bargain over the fruits of know-how and whether this promotes innovation. It will suggest, if necessary, reforms to the intellectual property and labour law systems to enhance legal incentives for this form of innovation. The project commenced in 2009 and is supported by an ARC Discovery Grant. In 2011, the project team interviewed legal practitioners and in-house legal counsel about their experience with the use and enforcement of restraint of trade and confidential information clauses in employment contracts. These interviews have both provided nuanced insights into these practices that were not available before and provided the basis for a second round of interviews with judges and human resources personnel which will continue in 2012. The project team were also involved in organising and co-hosting of a workshop in Munich in September 2011. This workshop (co-badged with Ludwig Maximilians-Universitat and Max Planck) brought together people from the US and Europe who had expertise in the area of restraint of trade clauses. Attendees included lawyers from both the civil law and common law traditions and academics from the disciplines of law, economics and management studies. The success of the workshop is illustrated by the commitment of EPIP (a leading European organisation focused on intellectual property policy) to support a follow-up workshop in 2012.
Reform of the Personal Liability of Directors for Unpaid Employee Entitlements
Centre Member: H. Anderson
Research Staff: C. Dow and L. Ablett

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

Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?
Centre Members: B. Gaze and A. Chapman
Research Staff: L. Ablett and A. Lim

The 2009 reshaping of Australian industrial law through the Fair Work Act unexpectedly introduced a comprehensive prohibition on discrimination in employment. This novel prohibition will operate alongside existing anti-discrimination laws. These have quite separate conceptual foundations, and their effectiveness in promoting equality at work has been limited. This project examines the effect of the new provisions, and the interaction of the overall system of employment discrimination laws in both providing legal redress for discriminatory harms at work in Australia, and in contributing to systemic change towards equality in relations at work.

Other Employment and Labour Law Research Projects
- Employment Rights of International Students: Enhancing Protection Through a Community-University Collaboration
- Employee Happiness and Labour Law
- Fair Work Australia’s Influence in the Enterprise Bargaining Process
- Law and Labour Market Regulation
- Reform of Australian Employment and Labour Law
- Security of Employment and Unfair Dismissal Law
- Sham Contracting in the Building and Construction Industry
- Temporary migrant work and contested notions of social justice
- Work, Care and Family: Revealing and Reconstituting Legal Norms

In addition, during 2011 a number of research projects were pursued in areas beyond labour and employment law. These were:
- Dollars and Democracy: The Dynamics of Australian Political Finance and its Regulation
- Electoral Regulation and its Prospects for Australian Democracy
- International Perspectives on the Regulation of Party Funding
- Non-discrimination and Freedom of Religion
- Political Finance in Australia
Research Students under the Supervision of Centre Members

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

Current Projects

Do Hai Ha (PhD Candidate)

The Right to Strike in Vietnam: Toward a Better Regime

Co-Supervisors: Associate Professor Sean Cooney and Professor Pip Nicholson

The Vietnamese economic reforms (Doi Moi) launched in late 1980s led to substantial changes in the Vietnamese labour regime, including the introduction of a new framework for industrial conflict resolution. Preliminary research shows that this legal framework was by and large developed through legal transplantation.

Though the new legal framework for industrial conflict resolution appears comprehensive, it seems to have had little real impact. Until recently, all strikes that have taken place were wildcat and technically unlawful. In most if not all cases, strikes occurred without prior resort to legal institutions for dispute resolution. Instead, local administrative agencies have gradually developed an *ad hoc* mechanism to deal with wildcat strikes.

This thesis seeks to evaluate the effect of Vietnam’s legal borrowings in the area of industrial conflicts. In particular, it aims to address the following questions:

- To what extent was the law on industrial conflict resolution transplanted?
- How have legal drafters and other actors involved in lawmaking activities discussed, interpreted, communicated and debated foreign legal concepts, and what factors have affected these processes?
- How, if at all, were foreign legal concepts adapted to local circumstances?
- How have the regulators, the regulatees and other actors responded to transplanted laws, what factors have influenced their responses, and how have these responses shaped the implementation of the imported laws and institutions?

Legal transplants in Asia and especially in Vietnam are an under-researched area of study. This research will be one of the first studies that explores the absorption of transplanted legal processes and institutions in Vietnam. The thesis will assess the transplant’s impact and whether the transplant could have been better designed and enabled. As such, it aspires to provide new findings in this area and contribute to the ongoing reform of industrial conflict resolution.
Tess Hardy (PhD Candidate)
Friend or Foe? Regulatory Enrolment of Non-state Actors in the Enforcement of Minimum Employment Standards in Australia
Co-Supervisors: Associate Professor Sean Cooney and Associate Professor John Howe

In Australia, employer non-compliance with minimum employment standards has been found to be systemic and sustained. More recently, a host of factors, including greater exposure to global markets and rapid and extensive changes to the workplace relations system, have intensified the various drivers of non-compliance and revealed the limitations of traditional compliance and enforcement strategies. Drawing on the burgeoning literature concerned with the fragmentation and hybridization of regulation, and focusing on recent policy innovations of the federal labour inspectorate in Australia, this thesis will critically examine the initiation and implementation of two recent collaborative compliance and enforcement campaigns in the horticulture and cleaning industries respectively. In doing so, this thesis seeks to illuminate the variations, possibilities and potential limitations of a more decentered and collaborative approach in relation to the enforcement of minimum employment standards in Australia. Further, it is expected that findings in this thesis will inform the wider debate about the ways in which enrolment of non-state actors may enhance regulatory governance more generally.

Andrew Newman (PhD Candidate)
Protection, Precarity and Temporary Migrant Work: An Examination of the Canadian Seasonal Agricultural Worker Program and the Australian Seasonal Worker Program
Co-Supervisors: Associate Professor John Howe and Associate Professor Joo-Cheong Tham

Both Australia and Canada have in recent years experienced a growth in legally precarious non-standard forms of work, which are frequently characterized by low wages, lack of employment security and a low incidence of collective bargaining. The increased prevalence of precarious work is frequently attributed in the academic literature to gaps in the network of employment law protections and benefits, which continues to focus primarily upon the protection of the ‘standard’ full-time, ongoing, resident worker.

Accompanying the growth of precarious employment in both countries has been the proliferation of temporary migrant worker programs. In response to a perceived shortage of local workers willing to undertake seasonal harvesting work, both the Canadian and Australian governments have created temporary migrant worker schemes in the agricultural sector. In both countries, a key stated government policy objective of such schemes is to protect temporary migrant workers from exploitation through the application of migration and employment law tools. However, to what extent are such measures effective in protecting temporary migrant workers from precarious employment?

This thesis will critically examine the tension between protection and precarity with respect to temporary migrant workers admitted under the Canadian Seasonal Agricultural Worker Program and the Australian Seasonal Worker Program. It will expressly consider the ways in which migration laws constitute the labour market and impact upon the operation of employment law in both countries. In so doing, it will expand the traditional scope of employment law analysis and examine how the differing regulatory regimes of Canada and Australia achieve protection or entrench precarity among temporary migrant agricultural workers.
Other Student Research Projects

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


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

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

Andrew Godwin – ‘The relevance of traditional proprietary rights to the reform of rural land rights in China’ (PhD). Co-Supervisors: Associate Professor Sean Cooney, Associate Professor Sarah Biddulph, Professor Michael Bryan.

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


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

Tony Mihalopoulos – ‘Recognition Space for indigenous and ethno-cultural groups in Australia’ (PhD). Co-Supervisors: Associate Professor Beth Gaze and Dr Lisa Sarmas.

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

Bruce Taylor – ‘Insolvency Laws for US Financial Institutions’ (PhD). Co-Supervisors: Associate Professor Paul Ali and Associate Professor Helen Anderson.

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

Members of the Centre teach a number of undergraduate subjects and postgraduate programs in labour and employment law in the Law School. In addition, the Centre has a sizeable cohort of research students under the supervision of Centre members. Information regarding the projects of these research students is contained in the earlier part of this annual report (under the heading ‘Research’). All labour law students are encouraged to take part in various activities within the Centre, including the Labour Law Seminar Series.

Subjects in the LLB Program

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

During 2011 Centre members also taught in a number of other subjects in the LLB degree, including Administrative Law; Advance Legal Research; Constitutional Law; Contracts; Corporations Law; Discrimination, Law and Equality; Legal Ethics; Obligations; Principles of Public Law, Rethinking Democracy, and the Law and Torts.

Subjects in the JD Program

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

During 2011 Centre members also taught in several other subjects in the JD degree, including Constitutional Law, Corporations Law and Obligations.

The Melbourne Law Masters Program

The Melbourne Law School offers a range of different teaching programs as part of the Melbourne Law Masters Program. Ms Anna Chapman and Associate Professor John Howe were the Directors of Studies for the Employment and Labour Relations Law Graduate Program in 2011.

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

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

The subjects offered in 2011 were:
- Bargaining at Work and Industrial Action (A. Stewart)
- Corporate Governance and Employee Relations: Comparative Perspectives (C. Estlund)
- Employment Contract Law (S. Cooney and M. Freedland)
- Equality and Discrimination at Work (A. Chapman, B. Gaze and C. Andrades)
- Labour Standards under the Fair Work Act (J. Howe and P. O’Grady)
- Principles of Employment Law (J. Tham)
- Workplace Health and Safety (P. Rozen)

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

During 2011 the Centre was engaged in a range of knowledge transfer activities, between the University and other higher education institutions, legal practitioners, industry groups, trade unions, community groups, international institutions such as the International Labour Organisation, Australian government bodies and parliament, and the public. These exchanges took place through a variety of mechanisms including its two Seminar Series, its Working Paper Series and the involvement of Centre members in editorial roles with the *Australian Journal of Labour Law*, to name a few. Centre members also played active roles in various associations, were regular contributors to print and electronic media and made submissions and gave evidence to parliamentary inquiries in 2011.

**Sponsors’ Seminar Series**

The Centre conducts a series of seminars for members of the Centre’s sponsoring firms and organisations. Four seminars were held in 2011:

- **Ms Janine Webster**, Chief Counsel, Fair Work Ombudsman on ‘How the Fair Work Ombudsman achieves compliance under the Fair Work Act’ (29 March).
- **Ms Jan Maclean**, Victorian Bar on ‘Adverse action – ‘Rights and Responsibilities for Employers and Employees’ (10 May).
- **Mr Matthew Moir**, New South Wales Bar on ‘Discretion, Good Faith and Employer Control over Executive Remuneration’ (19 October).

**Labour Law Seminar Series**

These free public seminars are intended to be of interest to a wide audience including academics, members of the legal profession, and those engaged in the day to day business of industrial relations and/or human resource management. Among other things, the Labour Law Seminar Series provides an opportunity for Centre members, visitors and associates, together with invited speakers, to present preliminary results of their research into the operations of labour and employment law. Associate Professor John Howe, Associate Professor Joo-Cheong Tham and Mr Glenn Patmore co-ordinated the Labour Law Seminar Series during 2011.
Eleven seminars were held during the course of the year:

- **Professor Adelle Blackett**, McGill University, Canada on ‘Regulating Decent Work for Domestic Workers? Promise and Perils of International Standard Setting’ (3 March).
- **Dr Jean Allain**, Queen’s University of Belfast, Northern Ireland on ‘Forced Labour or Slavery: Probing their Legal Parameters’ (31 March).
- **Professor Sara Slinn**, Osgoode Hall School of Law, Canada, on ‘Remedial Pleas and Awards: Investigating Collective Protection of Individual Employee Rights in Unfair Labour Practice Cases’ (5 May).
- **Associate Professor Helen Anderson**, Centre for Employment and Labour Relations Law, Melbourne Law School, on ‘Pressing the Right Buttons: Case Studies in the Protection of Employee Entitlements’ (16 June).
- **Associate Professor Christopher Bruner**, Washington and Lee University School of Law on ‘Corporate Governance in the Common-Law World: The Political Foundations of Shareholder Power’—co-hosted with the Centre for Corporate Law and Securities Regulation, Melbourne Law School (30 June).
- **Professor Judy Fudge**, University of Victoria, Canada on ‘Labour as a ‘Fictive Commodity’: Radically Reconceptualising Labour Law’ (8 August).
- **Ms Caroline Kelly**, MolinoCahill Lawyers (former Melbourne Law School LLB student) on ‘Workplace Bullying and the Difficulties of Legal Redress in Australia’ and **Ms Trina Malone**, Maurice Blackburn Lawyers (former Melbourne Law School LLB student) on ‘Vulnerability in the Fair Work-Place: Why Unfair Dismissal Laws Fail to Adequately Protect Labour Hire Employees’ (1 September).
- **Mr Alan Clayton**, Independent research consultant on ‘Workers Compensation – The Need for a New Paradigm’ (11 October).
- **Associate Professor Michelle Brown**, University of Melbourne on ‘Performance Appraisal Cynicism: Subordinate and Manager Perspectives’ (10 November).
- **Mr Robin Stewart-Crompton**, Director of RSC Advising Pty Ltd and **Mr Peter Rozen**, Victorian Bar on ‘Harmonised Work Health and Safety Laws – A New Province for Occupational Health and Safety’ (1 December).
Major Events

In addition to the Sponsors’ Seminar Series and the Labour Law Seminar Series, from time to time the Centre for Employment and Labour Relations Law hosts conferences, roundtables and other events for members of the Australian and international labour law community. These events bring together scholars, practitioners of labour law, industrial relations and human resource management, and members of the public to focus on current issues in Australian, international and comparative labour law. Here is a snapshot of the major events from 2011.

**Constructing Corporate Responsibility Workshop** *(16 February)*
This workshop, for researchers who examine corporate social and legal responsibility at the global or domestic levels, was co-hosted by the CELRL with the Centre for Corporations Law and Securities Regulation. Invited speakers included Professor Ronan Shamir (Tel Aviv University), Dr Andrew Johnston (University of Queensland) and Professor Fiona Haines and Dr Kate Macdonald (University of Melbourne).

**The Legal Construction of Personal Work Relations: A New Model for the Foundation of Employment Relationships** *(12 April)*
The Centre was pleased to host an Employment Law Lecture on Tuesday 12 April. Professor Mark Freedland FBA of Oxford University, one of the world’s leading scholars in the law of employment contracts, spoke on the topic ‘The Legal Construction of Personal Work Relations: A New Model for the Foundation of Employment Relationships’. Professor Joellen Riley of the Sydney Law School responded to Professor Freedland’s comments from an Australian perspective.

**Role of Community Organisations in Enforcing Labour Law** *(9 June)*
On Thursday 9 June the Centre hosted a forum on ‘The Role of Community Organisations in Enforcing Labour Law’. Effective enforcement is vital to Australian labour law: gaps in enforcement seriously undermine the integrity of the system. This forum considered this important issue – in particular, the role of community organisations – by bringing together different perspectives from the academic, government and community legal sectors.

Speakers at the forum included:
- **Associate Professor John Howe** – Director, Centre for Employment and Labour Relations Law
- **Gabrielle Marchetti** – Solicitor at JobWatch Inc
- **The Hon Tim Pallas** MP – Shadow Minister for Industrial Relations

![ENFORCING LABOUR LAW SEMINAR FROM LEFT: ASSOCIATE PROFESSOR JOO-CHEONG, ASSOCIATE PROFESSOR JOHN HOWE, MS GABRIELLE MARCHETTI, MR TIM PALLAS]

![ASSOCIATE PROFESSOR JOHN HOWE AND PROFESSOR MARK FREEDLAND]
Conference on Regulating for a Fair Recovery Network (6–8 July)
The Regulating for Decent Work Network’s Second Conference on ‘Regulating for a Fair Recovery’ was held at the International Labour Office, Geneva, Switzerland on 6–8 July 2011. The Conference was organised by the International Labour Office in collaboration with the CELRL and the University of Manchester’s Fairness at Work (FaW) Research Group. The CELRL was pleased to sponsor a prize for the best paper delivered by a delegate from an emerging economy.

Workers and Tax Reform (16 August)
On Tuesday 16 August the Centre co-hosted a symposium with the Tax Group from Melbourne Law School on ‘Workers and Tax Reform’. This symposium, held at Melbourne Law School, brought together celebrated US academic, Professor Jonathan Forman, author of Making America Work (2006) with an expert Australian panel to discuss options for reform of income tax rates, credits and transfers that will achieve sustainable fairness and increase productivity for Australia’s workers.

Twenty Years of Enterprise Bargaining in Australia, 1991–2011 (4 – 5 November)
The Centre co-hosted a Symposium on ‘20 Years of Enterprise Bargaining in Australia’, on Friday 4 and Saturday 5 November at the Melbourne Law School. This event, marked the 20th anniversary of the AIRC’s October 1991 National Wage Case Decision, was organised jointly with the Department of Management & Marketing at the University of Melbourne, along with the Workplace and Corporate Law Research Group and the Australian Centre for Research in Employment & Work (ACREW) at Monash University.

Business and Human Rights Framework: The Australian Response (28 November)
The CELRL co-hosted this workshop to discuss the domestic implications of the Ruggie Framework on Business and Human Rights with the School of Social and Political Sciences at the University of Melbourne, and the Australian Institute of Employment Rights Inc. The keynote speaker at the workshop was Vanessa Zimmerman, former advisor to the UN Special Representative for Business and Human Rights, Professor John Ruggie. The workshop was attended by academics, representatives of NGOs and government officials.
Editorial Roles

Australian Journal of Labour Law

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

During 2011 members and associates of the Centre continued to fill many of the roles in the editorial group. Ms Anna Chapman continued as a Co-Editor of the Journal, and Ms Tess Hardy as the Associate Editor of the Journal. Associate Professor Joo-Cheong Tham is the Reports Co-Editor, along with Ms Emily Long. The work of the editorial team was ably supported in 2011 by a team of Student Editorial Assistants.

Centre associates who worked on the journal during 2011 include: Professor Joellen Riley and Associate Professor Anthony Forsyth (Co-Editors) and Mr Anthony O’Donnell (Book Review Editor).

Other Academic Journals

Centre members hold positions on the editorial and advisory boards and committees of several other academic and professional journals, including the Australian Journal of Administrative Law, Australian Journal of Asian Law, Melbourne Journal of International Law, International Union Rights and the International Journal of Comparative Labour Law and Industrial Relations.
Centre Working Paper Series

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

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

Ms Anna Chapman edited the Centre Working Paper Series during 2011, overseeing the publication of five issues. Further details about these can be found on page 31.

Associations

The Australian Labour Law Association

The Centre is the administrative home of the Australian Labour Law Association (ALLA). At ALLA’s AGM held in November 2011, the national committee said farewell to five members who did not stand for re-election: Pat Leary, Ingmar Taylor, Paul Harpur, Peter Punch and David Johns. The national committee also welcomed new members Janine Smith (NSW), Richard Johnstone (QLD), Mark Rinaldi (TAS), Graham Smith (VIC) and Erin McCarthy (SA). Nicholas Ellery replaced Michael Tamvakologos as Treasurer of ALLA, with Michael remaining on the committee as an ordinary member.

ALLA puts on a diverse and vibrant array of state seminars, generally free to ALLA members. Topics addressed at the Victorian Chapter forums in 2011 included: ‘Implications of the Barclay v Bendigo Regional TAFE decision’ presented by Mark Irving, AIIR Executive member and Counsel for Mr Barclay, in March; ‘Issues in the new proposed Model Workplace Health and Safety legislation’ presented by Professor Richard Johnstone of Griffith University Law School and accompanied by a panel including Dr Felicity Lamm from AUT, New Zealand in June; and ‘Workplace Litigation in the Federal Magistrates’ Court’ presented by Federal Magistrate Dominica Whelan in November.

ALLA’s sixth biennial National Conference will be held in Canberra on Friday 16 and Saturday 17 November 2012, offering members a great opportunity to discuss new research and developments in labour law. A pre-conference teaching workshop has also been confirmed, to be coordinated by Anna Chapman and Joo-Cheong Tham of the Centre for Employment and Labour Relations Law. Appropriately given its location in the national capital, the theme for the conference is ‘working in the public interest’.

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

For further information about ALLA please visit http://alla.law.unimelb.edu.au.
Regulating for Decent Work Network

The Centre continued its involvement in the RDW Network in 2011. The Network is a collaboration between the International Labour Organisation, the CELRL, and the Fairness at Work Research Group at the University of Manchester. The objective of the RDW Network is to foster research and exchange of ideas concerning the role of labour and employment law protections in fostering economic development. The Network also aims to advance research and policy directions tailored towards making labour market regulation more effective. Centre Director John Howe was a member of the Organising Committee for the second conference of the Network, held at the International Labour Organisation in Geneva in July 2011. The theme of the conference was *Regulating for a Fair Recovery*. The conference has an interdisciplinary focus, and was attended by academics and labour administrators from around the world, including many officials from the ILO with policymaking responsibilities.


Labour Law Research Network

In 2011, the Centre assisted in the formation of a new international association of labour law scholars, the Labour Law Research Network.

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

John Howe was chosen by representatives of the 30 Centres to be a member of the inaugural Steering Committee of the Network, which consists of six labour law scholars, each from a different region of the world.

The LLRN’s web address is: [http://www.labourlawresearch.net/](http://www.labourlawresearch.net/).
Membership of Other Associations

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

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

A. Chapman
- Member, Discrimination Law Experts Group. This Group prepared two submissions to the Consolidation of Commonwealth Anti-Discrimination Laws Project, in November 2010 and then in December 2011.

B. Gaze
- Discrimination Law Experts Group, Submission in Response to the Discussion Paper on the Consolidation of Federal Anti-Discrimination Law (Dec 2011). (Beth organised the group meeting of eight academics from around Australia, and contributed to and coordinated the submission).

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

Media Engagement
During 2011 Centre members and associates contributed widely as commentators on labour and employment law issues, in the print and electronic media. Contributions included radio and television interviews, and publications in both print and online media.

Outputs included:

J. Howe
- ‘Job Watch Service Vital’, Letter to Editor of the Age (sent on behalf of seven labour law academics), published 27 April 2011.
- Quoted in an article on Reuters.com on ‘Australian business groups warn strike plans threaten investment’, 31 May 2011.
- Interviewed on Channel Ten’s evening news bulletin in relation to the Victorian Nurses Industrial action dispute, 18 November 2011.
- Interviewed by Kathy Bedford, ABC Radio Statewide Drive, 21 November 2011.

J. Tham
Conference and Seminar Papers

In 2011 members of the Centre delivered papers to a range of Australian and international conferences and workshops, and delivered seminars to industry, government bodies and community groups.

February

T. Hardy


H. Anderson

‘The Evolution Of Shareholder And Creditor Protection In Australia: An International Comparison’ co-presented at the Corporate Law Teachers Association Conference, Queensland University of Technology, Brisbane with Michelle Welsh, Ian Ramsay and Peter Gahan, 7 February 2011.

H. Anderson


J. Howe

Presentation of work in progress to Constructing Corporate Responsibility Workshop, Melbourne Law School, (with Professor Christine Parker), 16 February 2011.

May

A. Chapman


July

S. Cooney


S. Cooney, T. Hardy & J. Howe


T. Hardy


T. Hardy

August
S. Cooney

September
S. Cooney
‘The Industrial Relations System in Australia’ presentation for a visiting delegation from the PRC Ministry of Human Resources and Social Security, the All China Federation of Trade Unions and the Chinese Employers Federation, organised by the Beijing Office of the International Labour Organisation, Melbourne Law School, 19 September 2011.

T. Hardy

October
J. Howe

November
A. Chapman

B. Gaze

December
S. Cooney, T. Hardy & J. Howe
Presentation of work in progress to Rethinking Regulatory Paradigms Workshop – Regulation, Justice, Inequality and Capitalism, Monash Centre for Regulatory Studies, 8–9 December 2011.
Publications

Chapters in Edited Collections


Journal Articles – Refereed


Journal Articles – Unrefereed

Major Reports and Working Papers

Centre Working Papers Series


Summary of Centre Accounts

General Account

Income 2011

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<th>Description</th>
<th>Amount</th>
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<tr>
<td>Brought forward from 2010</td>
<td>$47,169</td>
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<tr>
<td>Sponsorship</td>
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<td>Sale of publications, royalties, donations</td>
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<tr>
<td>Faculty allocation</td>
<td>$5,000</td>
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Expenditure 2011

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<tr>
<td>Salaries (student fellow, research fellow, research assistants)</td>
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<td>Domestic &amp; international travel</td>
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<tr>
<td>Printing and design services</td>
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<td>Conferences, workshops and CELRL Seminar Series</td>
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<td>Books, event registrations &amp; subscriptions</td>
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<td>General expenses</td>
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<td>Centre visitors</td>
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<td>Centre meetings &amp; Advisory Board meeting</td>
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<td><strong>TOTAL</strong></td>
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UNCOMMITTED BALANCE $49,679

Grants and Commissions Received

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<th>Title</th>
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<tr>
<td>Beth Gaze and Anna Chapman</td>
<td>3 years</td>
<td>ARC Discovery Grant</td>
<td>Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?</td>
<td>$217,000</td>
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<td>John Howe (with Centre Associates, Associate Professor Anthony Forsyth, Monash University and Professor Peter Gahan, University of Melbourne)</td>
<td>15 months</td>
<td>Fair Work Australia Research Partnership</td>
<td>Fair Work Australia’s Influence in the Bargaining Process</td>
<td>$75,000</td>
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<td>John Howe (with Centre Associates, Associate Professor Anthony Forsyth, Monash University and Professor Peter Gahan, University of Melbourne)</td>
<td>3 months</td>
<td>Australian Building and Construction Commission Grant</td>
<td>Sham Contracting in the Building and Construction Industry</td>
<td>$16,500</td>
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<td>Sean Cooney, Tess Hardy, John Howe</td>
<td>12 months</td>
<td>University of Melbourne Social Justice Initiative</td>
<td>Unions and Compliance with Minimum Standards: a Diminishing Role in Enforcement</td>
<td>$36,845</td>
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<td>Joo-Cheong Tham</td>
<td>2 years</td>
<td>University of Melbourne Interdisciplinary Seed Funding Grant</td>
<td>Temporary Migrant Work and Contested Notions of Social Justice</td>
<td>$38,000</td>
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