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FOREWORD

2017 was another strong year for the Centre in terms of research, teaching, publication, and professional and community engagement.

PERSONNEL

The year saw a change in the Directorship of the Centre. In November 2017, John Howe accepted the position of Director of the Melbourne School of Government at the University. The objective of the Melbourne School of Government is to provide research and teaching that equips governments, businesses, social partners and individuals to meet the challenges of contemporary governance. As a consequence of taking up this position, John stood down as a Director of the Centre from the beginning of 2018. John continues as a member of the Centre, and the Centre looks forward to working closely with the Melbourne School of Government on joint research projects and engagement activities. Tess Hardy joined Anna Chapman as a Co-Director of the Centre from the commencement of 2018.

At the beginning of 2017, Sean Cooney returned from the International Labour Organisation in Geneva, where he served as a Legal Specialist in the Labour Law and Reform Unit from 2014 to 2016. During this time Sean provided advice to governments in countries such as China, India, Myanmar and Pakistan. Sean continues to consult for the ILO. In 2017, two colleagues in the Law School joined as Centre members: Sarah Biddulph whose research focuses on the Chinese legal system, including labour law, and Julian Sempill whose research traverses legal, constitutional and moral theory, as it relates to labour law.

In 2017, the Centre was again able to appoint a JD student as the CELRL Student Fellow. This Fellowship provides a law student with the opportunity to work as a research assistant with the Centre over the course of the academic year. Madeline Close was appointed to the position from a field of impressive applicants. Madeline worked on a number of projects over the course of the year, including assisting Anna Chapman and Beth Gaze in their project examining the interaction between the discrimination protections in the Fair Work Act and anti-discrimination law.

RESEARCH

Good progress was made on all funded Centre research projects over 2017, with numerous papers written and presentations delivered to a wide range of audiences. New funded projects commenced. Highlights include Tess Hardy’s success in receiving a highly competitive grant under the ARC Discovery Early Career Researcher Award, for her project entitled ‘Work in Franchises: Searching for Solutions on the Regulatory Frontier’. This grant means that Tess will be relieved of her teaching commitments over the next three years, as she focusses on this research project. In addition to this important grant, with a group of colleagues from several Universities, Anna Chapman was successful in gaining a grant from the ARC for a joint project with Austlii to develop a new digital Australian industrial and workplace relations library.

A further highlight of 2017 was the launching of two books: a monograph by Beth Gaze and Belinda Smith (University of Sydney) on Australian anti-discrimination law (Cambridge University Press) and the edited collection ‘The Evolving Project of Labour Law’ by John Howe, Anna Chapman and Ingrid Landau (Federation Press). This edited collection grew out of papers presented at the Centre workshop of the same title in 2016.

Two full-time PhD projects commenced in the Centre in 2017. Sayomi Ariyawansa commenced a project examining the exploitation of migrant workers in the Australian agriculture sector, looking at the question of who should bear responsibility for the protection of the rights of these workers. Caroline Kelly also commenced a PhD in the Centre. Caroline’s project looks at the influence of administrative law principles on the development of Australian labour law. Her thesis examines concepts such as unreasonableness, proportionality and procedural fairness, and how these may find expression in labour law in Australia.

TEACHING AND LEARNING

The Centre continued to coordinate a strong teaching program in both the Juris Doctor degree, and the Melbourne Law Masters program. In the Juris Doctor program, students have a choice of a number of subjects relevant to the field. In addition to ‘Employment Law’ (which provides a thematic overview of the field), students are able to study ‘Equality and Discrimination Law’ (which focuses on anti-discrimination law in Australia). JD students are also provided with the opportunity to undertake an internship with a range of organisations, such as the Fair Work Commission and JobWatch (as part of the subject ‘Legal Internship’). In addition, students are able to undertake a
supervised research paper in the field as part of their final year compulsory subject ‘Legal Research’.

The employment and labour relations law specialisation in the MLM program offers nine integrated subjects (as detailed in the pages of this annual report). These subjects can be taken by students towards the Graduate Diploma in Employment and Labour Relations Law or the Master of Employment and Labour Relations Law. Students come into the MLM program with a range of backgrounds, including in private legal practice, as well as human resource management and industrial associations.

Student feedback on our subjects remains very positive, and enrolment numbers are strong and growing, with two offerings in 2017 of the subject ‘Employment Law’ in the Juris Doctor degree, as well as two offerings of ‘Principles of Employment Law’ in the MLM program. In 2017, a new subject was added to the MLM program - ‘Conducting Workplace Investigations’. This subject was taught by Jane Seymour of the NSW Industrial Relations Commission in conjunction with Sarah Rey and Laura Douglas of Justitia.

PROFESSIONAL AND COMMUNITY ENGAGEMENT

Three sponsors’ seminars were held during 2017. In April, Deputy President Clancy provided insights into the workings of the Commission’s unfair dismissal jurisdiction. In August Desmond Ryan (Trinity College, Dublin) and Mark Irving QC (Victoria Bar) spoke of developments in implied terms in Ireland and Australia, and in October, Siobhan Kelly of the Victorian Bar and Carol Andrades of Ryan Carlisle Thomas Lawyers discussed the recent disability discrimination decision of Sklavos v Australasian College of Dermatologists [2017] FCAFC 128. As in previous years the sponsors’ seminars generated lively discussion amongst participants from the sponsoring firms.

In 2017, the Centre held five Labour Law Seminars, presented by Australian and overseas scholars, including Centre members. The Labour Law Seminar Series is open to members of the general public and is well attended by a diverse range of professionals in the field. The topics of the seminars held last year ranged from the role of deterrence in enforcement in Canada and Australia (Eric Tucker, University of Toronto; John Howe and Tess Hardy); labour hire licensing (Anthony Forsyth, RMIT University); company law’s role in labour law’s problems (Helen Anderson); and the role of competition law in regulating the gig economy (Victoria Daskalova, University of Twente, Netherlands).

In addition to the Sponsors’ Seminar Series and Labour Law Seminar Series a number of other events were held throughout the course of the year, including the annual co-hosted lecture with the Fair Work Commission. The 2017 lecture and panel discussion was entitled ‘New Approaches – Our Interest Based Bargaining Program’. In addition, the Centre hosted a Workshop on ‘Ensuring Effective Redress for Migrant Workers’ (organised by Tess Hardy and Joo-Cheong Tham), and co-hosted a Workshop examining new forms of enterprises that blend the technologies of the sharing economy with co-ownership and democratic governance. Each Workshop was attended by a range of interested participants, including academics, practitioners, and those from the community sector.

ACKNOWLEDGEMENTS

The publication of the annual report provides an opportunity to make special acknowledgement of the important contributions made to the Centre and its work by the legal practices and organisations that are Centre Sponsors. Thanks is also extended to the Centre academic associates, teaching associates, and members of the Advisory Board. We are pleased to note that the Centre Sponsors renewed their sponsorship of the Centre in 2017. In addition to the 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) the 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. We also wish to thank the JD students who are involved in the Centre as Student Editorial Assistants for the Australian Journal of Labour Law, or as research assistants for the various research projects in which Centre members are involved. Also important is the financial and administrative support provided by Melbourne 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.

Anna Chapman and Tess Hardy
Centre Directors
May 2018
The Centre was established at Melbourne Law School in 1994. It is Australia’s first research centre devoted exclusively to developing an understanding of the role and function of labour law. Its objectives are:

- to undertake and encourage independent research on all aspects of 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 graduate 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.
Professor John Howe

BA, LLB (Monash), LLM (Temple) (Summa Cum Laude), PhD (Melb)
Level 2, Walter Boas Building ph: (03) 8344 1094
j.howe@unimelb.edu.au

Professor John Howe is Director of the University of Melbourne School of Government and was previously Co-Director of the Centre for Employment and Labour Relations Law until January 2018. John’s research interests include labour market policy and regulation, regulatory theory, and corporate accountability. He has written extensively on the role of the state in regulating employment and labour markets, and on the intersection between state-based regulation and corporate governance. John is presently engaged in research concerning regulatory enforcement of minimum employment standards in Australia and the Asia-Pacific region. He is also researching how large business organisations engage in self-regulation of labour practices through internal policy and rule-making processes, and the interaction between these policies and employment laws.

John is Chair of the Steering Committee of the Labour Law Research Network, and is a member of the Organising Committee of the Regulating for Decent Work Network. He is an Editor of the Australian Journal of Labour Law.

Prior to commencing an academic career, John worked in private legal practice, and also as a researcher for public policy and advocacy organisations in Washington DC. John was Secretary of the Australian Labour Law Association between 2005 and 2009. He was Deputy Dean of the Law School from 2013-2016.

Associate Professor Anna Chapman

BCom, LLB (Hons), LLM (Melb), PhD (Adelaide)
Room 0702 ph: (03) 8344 5625
a.chapman@unimelb.edu.au

Associate Professor Anna Chapman is a Co-Director of the Centre for Employment and Labour Relations Law. She is also the Associate Dean of the Juris Doctor program.

Anna was an editor of the Australian Journal of Labour Law from 2009 to January 2015. Anna holds Bachelor degrees in both Commerce and Law (with Hons) from the University of Melbourne, an LLM from the University of Melbourne and a PhD from the University of Adelaide (with a Dean’s Commendation for Doctoral Thesis Excellence). Her research focuses on employment law and gender, sexuality, and race. This work has engaged particularly with minimum standards, including leave entitlements and working hours, in addition to general protections (adverse action), unfair dismissal and anti-discrimination law.

Anna’s recent work includes an ARC funded project (with Beth Gaze) examining the intersections between the General Protections in the Fair Work Act 2009 (Cth) and anti-discrimination law, a project that came to a completion in 2017.
MEMBERS

Professor Helen Anderson
LLB (Hons) (Melb), Grad Dip Bus (Acc), LLM, PhD (Monash)
Room 0753 ph: (03) 9035 5467
h.anderson@unimelb.edu.au

Professor Helen Anderson joined the Centre for Employment and Labour Relations Law and Melbourne Law School in January 2010 after working for 21 years at Monash University. She practised 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 work on improving the recovery rights of employees in corporate insolvency. Since 2014, she has led a team of other academics on a project examining ways to regulate fraudulent phoenix activity. This project, which concluded at the end of 2017, has been funded by an ARC Discovery Grant.

Her most recent book is The Protection of Employee Entitlements in Insolvency: An Australian Perspective. The phoenix activity project has also produced three major reports: Defining and Profiling Phoenix Activity; Quantifying Phoenix Activity: Incidence, Cost, Enforcement and Phoenix Activity: Recommendations on Detection, Disruption and Enforcement. One of the report’s recommendations — the Director Identification Number — has been adopted as both Coalition and Opposition policy and is expected to implemented in the near future.

Professor Sarah Biddulph
BA, LLB (Syd), PhD (Melb)
Room 0756 ph: (03) 8344 1015
s.biddulph@unimelb.edu.au

Sarah Biddulph is Professor of Law at the Melbourne Law School and Director of its Asian law Centre.

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

BA, LLB (Hons), LLM (Melb), LLM, JSD (Columbia)
s.cooney@unimelb.edu.au

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

Sean’s books include Law and Fair Work in China, (2013, Routledge) together with Sarah Biddulph and Zhu Ying and Resolving Individual Labour Disputes: A Comparative Overview (2016, International Labour Organisation), which is co-edited with Minawa Ebisui and Colin Fenwick.
Professor Beth Gaze

BSc, LLB (Hons) (Monash), LLM (Cal) (Berkeley), PhD (Monash), Grad. Dip Psych Studies (Deakin)
Room 0830 ph: (03) 8344 6173
egaze@unimelb.edu.au

Professor Beth Gaze’s research interests lie in anti-discrimination and equality law, feminist legal thought, administrative law including tribunals, and she has a particular interest in socio-legal research including empirical research. She has published extensively in these areas, and has been the recipient of several ARC Grants. She has previously been a member of commonwealth and state tribunals including the Social Security Appeals Tribunal and the Mental Health Review Board.

Beth has acted as an expert adviser to parliament and to the International Labour Organisation, and is a member of the Editorial Board of the International Journal of Discrimination and the Law. She has published many articles and book chapters on Australian anti-discrimination law. Her most recent book is Equality and Discrimination Law in Australia: An Introduction with Associate Professor Belinda Smith of the University of Sydney (2017, Cambridge University Press). With Anna Chapman, in 2017 she finalised a major research project investigating whether the adverse action provisions of the Fair Work Act 2009 (Cth) have improved protection against employment discrimination in Australia. Beth is also a member of the Centre for Comparative Constitutional Studies.

Dr Tess Hardy

BA, LLB (Hons), LLM (Melb), PhD (Melb)
Room 0703, ph: (03) 8344 2590
tess.hardy@unimelb.edu.au

Dr Tess Hardy’s research spans the fields of regulatory theory, contract, labour law and competition and consumer law. In November 2017, Tess was awarded an ARC Discovery Early Career Researcher Grant to further her research into franchise regulation, particularly the way in which regulatory mechanisms influence the behavior of franchise stakeholders.

Tess has previously held an appointment at RMIT University and has worked as a consultant for the International Labour Organisation. From 2010 to 2013, Tess was engaged as a Research Fellow on an ARC Linkage Project (with partner organisation, the Fair Work Ombudsman). Tess has previously worked as a lawyer and senior associate at a number of national law firms, and large companies, practicing principally in workplace relations law.

Tess holds a Doctorate of Philosophy in Law from Melbourne Law School. Tess also holds a Masters of Law, a Bachelor of Law (Hons) and a Bachelor of Arts from the University of Melbourne. She was previously the Associate Editor of the Australian Journal of Labour Law and currently sits on the national committee of the Australian Labour Law Association.
Dr Julian Sempill

LLB (Hons), BA (Melb), DPhil (Oxon)
Room 0757; (03) 9035 5368
jsempill@unimelb.edu.au

Dr Julian Sempill is a Senior Lecturer at Melbourne Law School, where he has taught since 2009. He holds a DPhil in Law from the University of Oxford and BA/LLB (Hons) degrees from the University of Melbourne. He is completing a book for Cambridge University Press (UK) entitled *Power & the Law*.

In addition to being a member of the Centre for Employment and Labour Relations Law, Julian is a member of the University of Melbourne Centre for Comparative Constitutional Studies and the Centre for Corporate Law and Securities Regulation.

Professor Joo-Cheong Tham

LLB (Hons) (Melb), LLM (Melb), PhD (Melb)
Room 0710 ph: (03) 8344 7030
j.tham@unimelb.edu.au

Associate Professor Joo-Cheong Tham as previously taught at Victoria University and La Trobe University law schools. His research spans the fields of labour law and public law with a focus on law and democracy, and the regulation of precarious work. He has published more than 40 refereed articles and book chapters, edited two collections and produced three monographs including *Money and Politics: The Democracy We Can't Afford* (2010, UNSW Press). His research on the regulation of precarious work is currently focussed on the challenges posed by temporary migrant work in Australia. Joo-Cheong is also currently researching labour protection under trade agreements and how the work of Robert Dahl can extend the law of democracy into the economic sphere.

Joo-Cheong has presented lectures at the Commonwealth, South Australian and Victorian Parliaments. He has also given evidence to parliamentary inquiries into labour migration, terrorism laws and political finance laws; and has written key reports for the New South Wales Electoral Commission on the regulation of political finance and lobbying.

Joo-Cheong has held a number of visiting fellowships internationally including a fellowship under the Genest Global Faculty, Osgoode Hall Law School; a British Academy Visiting Fellowship at the Law School, King’s College, University of London; the Rydon Fellowship for Australian Politics and History at the Menzies Centre for Australian Studies, King’s College, University of London; and an Australian Bicentennial Fellowship.
Ms Ingrid Landau
B Asian Studies (Hons), LLB (Hons)(ANU)

Ingrid Landau is a doctoral student within the Centre for Employment and Labour Relations Law and the Centre for International Law and the Humanities. She graduated with honours in Asian Studies and Law from the Australian National University in 2006. Since then, she has worked at Melbourne Law School, the Faculty of Business Law and Taxation at Monash University and at the Australian Council of Trade Unions. At the ACTU, she was responsible for researching and providing advice on a range of areas of Australian employment and labour law, as well as international labour standards, human rights and corporate accountability.

From 2010-2014, she also acted as an Australian Worker Delegate to the International Labour Organisation’s International Labour Conference in Geneva. Ingrid has published in Australian and international journals, and has worked as principal researcher on major research projects commissioned by the Fair Work Commission and the International Labour Organisation. Her research interests include Australian employment and labour law, international and comparative labour law (with a focus on the Asia-Pacific) and corporate accountability and labour rights.

In June 2017, Ingrid took up a Lectureship at the Department of Business Law and Taxation, Monash Business School, Monash University.

Ms Adriana Orifici
BA, LLB (Hons), LLM (Melb)

Adriana graduated with Arts (Hons) and Law (Hons) from the University of Melbourne. In 2013, she completed a Master of Laws at the University of Melbourne. Currently she is a PhD Candidate and Research Fellow at the Centre of Employment and Labour Relations Law. She is also the Associate Editor of the Australian Journal of Labour Law. Adriana researches in employment law, with a particular focus on workplace investigations, the general protections provisions of the Fair Work Act 2009 (Cth) and anti-discrimination law. Her PhD examines the interface between workplace investigations and public regulation. Between November 2013 and July 2016 Adriana worked on the ARC Discovery Project, ‘Reshaping Employment Discrimination Law: Towards Substantive Equality at Work?’ with Beth Gaze and Anna Chapman.

Adriana completed articles in 2006 at Maddocks and has practiced in employment and labour relations law since that time. She has extensive experience in acting for public and private sector organisations in employment-related matters including strategic workplace relations and human resource management issues, anti-discrimination claims, occupational health and safety matters and industrial disputes.

In 2012, Adriana held the position of Intern-Collaborator with the International Training College of the International Labour Organisation in Turin, Italy under the auspices of a scholarship from the Italian Government.

Adriana was on parental leave from March – December 2017.
Ms Maria Azzurra Tranfaglia

LLB, LLM (magna cum laude) (LUISS University, Rome), Grad Cert Commerce - HR Mgt (Swinburne).

m.azzurra.tranfaglia@unimelb.edu.au

Azzurra is a labour lawyer with extensive work experience both in academia and in private practice in Italy and in Australia. She is currently undertaking a PhD in Comparative Labour Law at Melbourne Law School, focusing on the protection of workers involved in triangular work arrangements such as agency work and labour hire.

Azzurra is a Teaching Fellow at Melbourne Law School and in 2017 taught in the breadth subject Employment Law. As a Research Fellow at the Centre for Employment and Labour Relations Law she has been involved on several different research projects, through which she has developed a particular expertise in relation to the vulnerabilities of temporary migrant workers in Australia and the legal avenues to tackle non-compliance with their workplace rights.

The Hon Professor Geoffrey Giudice AO

BA, LLB (Melb)

Geoffrey.giudice@unimelb.edu.au

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

Alongside his appointment with the Centre for Employment and Labour Relations law Geoff has a number of other roles including consultant to Ashurst Australia, Chair of the Independent Review Panel under the Gambling Regulation Act (Vic), Chair of Catholic Professional Standards Ltd. and is a member of the AFL Tribunal panel. He has a special interest in workplace relations legislative policy-making. In 2015 he assisted in the presentation of a workshop on independent dispute resolution institutions at the ITC-ILO in Turin, Italy. In the same year he delivered a paper on aspects of the right to strike in Australia at the ILERA Conference in Cape Town, South Africa.
Dr Iain Campbell

BA (Hons), MA, PhD

campbell.i@unimelb.edu.au

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

In 2016-17 Iain was commissioned to write a report on ‘On-call and related forms of casual work in New Zealand and Australia’ for the INWORK Branch of the ILO. He currently works as a Research Fellow at the Centre for Employment and Labour Relations Law, collaborating with colleagues, including Joo-Cheong Tham, on research publications and projects concerning temporary migrant workers and precarious work in Australia.
STUDENT FELLOWS

In 2017 the CELRL Student fellows were Adrian Faelli and Madeline Close.
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 2017 were:

- The Honourable Anthony North (Chair), Federal Court of Australia
- Senior Deputy President Jennifer Acton, Fair Work Commission
- Mr Steven Amendola, Ashurst
- Ms Carol Andrades, Ryan Carlisle Thomas
- Mr Glen Bartlett, Bartlett Workplace
- Mr Josh Bornstein, Maurice Blackburn
- The Honourable Alan Boulton AO, formerly of the Fair Work Commission
- Mr Trevor Clarke, Australian Council of Trade Unions
- Mr Mark Diserio, Lander & Rogers
- The Honourable Peter Gray AM, formerly of the Federal Court of Australia
- The Honourable Associate Justice Mary-Jane Ierodiaconou, Supreme Court of Victoria
- Mr Ross Jackson, Maddocks
- Ms Natalie James, Fair Work Ombudsman
- Mr Murray Kellock, King Wood & Mallesons
- Mr Leon Levine, Minter Ellison
- Mr Peter Lupson, K&L Gates
- Ms Frances O’Brien QC, Victorian Bar
- Mr Charles Power, Holding Redlich
- Ms Sarah Rey, Justitia
- Ms Penny Savidis, Ryan Carlisle Thomas
- Mr Michael Tamvakologos, Seyfarth Shaw
- Mr John Tuck, Corrs Chambers Westgarth
- Mr Tony Wood, Herbert Smith Freehills
The support of sponsors is essential to the continued operation of the Centre, both in terms of the financial contributions that sponsors make to the resources of the Centre, and in terms of the involvement of sponsoring firms in providing advice and counsel for the Centre. One representative from each of the Centre’s sponsors sits on the Centre’s Advisory Board. The Centre’s sponsors in 2017 were:
VISITORS

The Centre regularly welcomes academic colleagues from interstate and overseas. In 2017 we hosted 7 visitors:

- Professor Eric Tucker, University of Toronto (March)
- Professor Paul M Secunda, Marquette University (March)
- Professor Andrew Stewart, University of Adelaide (April)
- Professor Anthony Forsyth, RMIT University (June)
- Dr Desmond Ryan, Trinity College Dublin (June - August)
- Dr Stephen Clibborn, University of Sydney (September)
- Dr Izabela Florczak, University of Twente, Netherlands (November)
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 corporate governance and labour law, the enforcement of minimum employment standards, international labour rights and standards, temporary migrant worker rights, illegal phoenix activity, and discrimination and inequality in employment and the labour market.

During 2017, 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 at: law.unimelb.edu.au/centres/celrl/research/current-research-projects

**AUSTRALIAN RESEARCH COUNCIL (ARC) FUNDED RESEARCH PROJECTS**

**RESHAPING EMPLOYMENT DISCRIMINATION LAW: TOWARDS SUBSTANTIVE EQUALITY AT WORK?**

Centre Members: Anna Chapman and Beth Gaze
Research Staff: Adriana Orifici

The 2009 reshaping of Australian industrial law through the Fair Work Act unexpectedly introduced a comprehensive prohibition on discrimination in employment. This novel prohibition operates alongside existing anti-discrimination laws. These have quite separate conceptual foundations, and their effectiveness in promoting equality at work has been limited. This project examined the effect of the 2009 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.

In July 2016 a Workshop was held to present the findings of the research project, and to engage with critique and commentary by Australian as well as international anti-discrimination and labour law academics and practitioners in the field. A number of presentations at the Workshop were developed into papers for a Special Issue of the Australian Journal of Labour Law, edited by Anna Chapman and Beth Gaze. The Special Issue was published in December 2017. In addition a paper was prepared for the workshop, and then a chapter was contributed to John Howe, Anna Chapman and Ingrid Landau (eds), *The Evolving Project of Labour Law: Foundations, Development and Future Research Directions* (2017).

**PHOENIX ACTIVITY: REGULATING FRAUDULENT USE OF THE CORPORATE FORM**

Centre Member: Helen Anderson

Associates: Ann O’Connell, Ian Ramsay and Michelle Welsh

Research Staff: Jasper Hedges

This ARC funded project on finding ways to deter and disrupt fraudulent phoenix activity reached its final stages in 2017. In its early years, work concentrated on defining and profiling phoenix activity, and attempting to quantify its incidence, cost and enforcement. This work was conducted with the assistance of government agencies, members of the legal and
insolvency professions, and organisations such as the Australian Restructuring Insolvency and Turnaround Association and the Australian Institute of Credit Management. In early 2017, the team released its final report making recommendations to government. Some of these have found their way, either as recommended or modified in some way, into both ALP and Coalition policy. The government has committed to implement one recommendation — the director identification number. Some other recommendations are subject to ongoing consultation in late 2017 as part of the Government’s Combatting Illegal Phoenixing package.

NEW INITIATIVES IN ENFORCEMENT OF EMPLOYMENT STANDARDS: ASSESSING THE EFFECTIVENESS OF FEDERAL GOVERNMENT COMPLIANCE STRATEGIES

Centre Members: Sean Cooney, Tess Hardy and John Howe

As part of this long-term project, we have been undertaking a comprehensive examination of the operation and impact of the Fair Work Ombudsman, the federal agency responsible for promoting compliance and enforcing minimum employment standards. 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. In 2017, John Howe and Tess Hardy published a public report on business awareness of, and responses to, the FWO’s enforcement activity. This was followed by a Centre Labour Law seminar on the same topic.

ADDRESSING AGE DISCRIMINATION IN EMPLOYMENT

Centre Member: Alysia Blackham

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

RESEARCH GRANTS RECEIVED

- **Alysia Blackham** and **Beth Gaze**, $6,600: International Collaboration Fund Grant, Melbourne Law School, University of Melbourne, to hold the Berkeley Comparative Equality and Anti-Discrimination Law workshop at Melbourne Law School in 2018
- **Alysia Blackham** and **Beth Gaze**, $2,500: Office of Research Discretionary Research Funding, Melbourne Law School, University of Melbourne, to invite keynote speakers to the Berkeley Comparative Equality and Anti-Discrimination Law workshop at Melbourne Law School in 2018
- **Anna Chapman**, $450,000: Australian Research Council (ARC) Linkage, Equipment, Infrastructure and Facilities Grant (LE170100099), for project entitled ‘Comprehensive Free Access to Australian Industrial and Workplace Law’; Administering Organisation: University of Technology Sydney
- **Tess Hardy**, $345,205: ARC Discovery Early Career Researcher Award, for project entitled ‘Work in Franchises: Searching for Solutions on the Regulatory Frontier’; Administering Organisation: University of Melbourne
- **Tess Hardy**, $21,482: University of Melbourne Early Career Researcher Grant Scheme, for project entitled ‘Regulating Work in Franchises: A Cross-Jurisdictional Review’; Administering Organisation: University of Melbourne

OTHER EMPLOYMENT AND LABOUR LAW RESEARCH PROJECTS

- **Alysia Blackham** and Professor Mia Rönnmar, Lund University, ‘Workability and the Ageing Population’ (funded by a Dyason Fellowship)
- **Iain Campbell**, ‘On-call and related forms of casual work in Australia and New Zealand’ (funded by the ILO)
- **Anna Chapman** and Associate Professor Nana Oishi, Asia Institute, University of Melbourne, ‘Migrant women in domestic work’ (funded under the Interdisciplinary Seed Funding Scheme, Melbourne Social Equity Institute, University of Melbourne)
- **Joo-Cheong Tham**, Australian Bicentennial Fellowship (funded by the Australian Bicentennial Trust)
RESEARCH STUDENTS UNDER THE SUPERVISION OF CENTRE MEMBERS

The Centre and its members are active in encouraging and supervising the work of students working towards a research higher degree in employment and labour relations law. Candidates are supervised by a Centre member and have the opportunity to participate in Centre projects and activities while completing their research.

SAYOMI ARIYAWANSA (PHD CANDIDATE)

Title: Tackling the Exploitation of Migrant Workers in the Australian Agriculture Sector

Supervisors: Susan Kneebone and Joo-Cheong Tham

Description: Recent investigations into the Australian agriculture sector have revealed persistent and endemic exploitation of migrant workers in the labour supply chain. This thesis argues it is necessary to reconsider who should bear responsibility for the protection of the rights of these workers. It analyses and evaluates the development and efficacy of key policy, legal and regulatory approaches, and reveals the legal paradigms and assumptions that underpin these approaches. It is suggested that these key approaches often assume that persistent exploitation primarily results from ‘rogue’ employers taking advantage of the ‘precarious’ position of migrant workers. The corollary is that the direct employer of these workers is the primary bearer of responsibility with respect to these workers. This thesis argues there are two ways policy, legal and regulatory approaches may be reframed. First, by introducing a ‘duty-based’ conception of responsibility; and, secondly, by reflecting on state responsibility — both legal and moral — for the protection of the rights of migrant workers.

BERNICE CARRICK (PHD CANDIDATE)

Title: Migration Status Equality in the Midst of the Border

Supervisors: Beth Gaze and Jenny Beard

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

CAROLINE KELLY (PHD CANDIDATE)

Title: The Influence of Administrative Law Principles in Australian Labour Law

Supervisors: Joo-Cheong Tham and Jason Varuhas

Description: The extent to, and manner in which, doctrines of administrative law find expression in, and have impacted upon, Australian labour law has been the subject of little scholarly interrogation. This thesis examines the influence of concepts such as unreasonableness, proportionality and procedural fairness both under the Fair Work Act 2009 (Cth) and in the common law of employment. It considers the implications that flow from the transfer of such concepts from one field to the other in light of the basic normative concerns of each, and whether doctrines that were developed for the primary purpose of controlling state power remain coherent when applied to the ostensibly private relationship of employment.

INGRID LANDAU (PHD CANDIDATE)

Title: From Rights to Risks: Transnational Labour Regulation and the Emerging Business of Human Rights Due Diligence

Supervisors: John Howe and John Tobin

Description: Human rights due diligence is an increasingly ubiquitous concept in transnational labour regulation. Yet there is little scholarship evaluating human rights due diligence as a form of labour regulation or considering how it fits within an already crowded, complex and highly contested regulatory landscape. Located at the interstices of three broad but overlapping fields of scholarship – transnational labour regulation, business and human rights, and regulation and governance – this project engages in a conceptual and empirical socio-legal analysis of the implications of human rights due diligence for the promotion and protection of labour standards in the global economy.
ANDREW NEWMAN (PHD CANDIDATE)
Title: The Legal Precariousness of Temporary Migrant Agricultural Work: Case Studies from Canada and Australia
Supervisors: John Howe and Anna Chapman
Description: The thesis examines the legal precariousness of temporary migrant agricultural work in Canada and Australia through a consideration of two case studies: the Canadian Seasonal Agricultural Worker Program and the Australian Seasonal Worker Program. The thesis considers the relationship between migration and employment law in regulating two key aspects of legal precariousness, the level of wages and security of employment.

ADRIANA ORIFICI (PHD CANDIDATE)
Title: Workplace Investigations: Interactions with Regulation and Pathways for Reform
Supervisors: Beth Gaze and Anna Chapman
Description: Workplace investigations are commonly conducted by organisations, into a range of matters such as harassment and bullying, as well as work health and safety incidents. Although an increasing phenomenon in workplaces, little is known about the actual practices of workplace investigations and how they are regulated by law. This thesis will undertake the first comprehensive analysis of the empirical and legal dimensions of workplace investigations in Australia.

MARIA AZZURRA TRANFAGLIA (PHD CANDIDATE)
Title: The protection of workers involved in triangular working arrangements through employment agencies - a comparative study of the Australian and the Italian approaches
Supervisors: John Howe and Anthony Forsyth
Description: The thesis draws on the international debate around the role of labour law in protecting workers involved in triangular work arrangements through employment agencies. It acknowledges the similar challenges posed in many jurisdictions by this non-standard form of work. At the same time, it looks at the divergent regulatory patterns in Australia and in Italy. While in the former country there is a current call for regulation to provide a stronger protection for labour-hire workers, the latter has recently started relaxing a series of strict provisions to ensure a higher level of flexibility for businesses that resort to agency work. With the aim of allowing cross-national legal learning, it takes a functionalist comparative approach to identify and make sense of the differences and similarities of the solutions proposed to protect the workers.
TEACHING AND LEARNING

Members of the Centre teach a number of programs in labour and employment law in the Law School. In addition, the Centre has a sizeable cohort of 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 Students under the Supervision of Centre Members’). All labour and employment law students are encouraged to take part in various activities within the Centre, including the Labour Law Seminar Series.

SUBJECTS IN THE JD PROGRAM

The employment and labour relations law subjects offered in 2017 were:

- Employment Law (John Howe and Joo-Cheong Tham)
- Legal Internship (several teachers)

THE MELBOURNE LAW MASTERS PROGRAM

Melbourne Law School offers a range of different teaching programs as part of the Melbourne Law Masters Program. Anna Chapman and Beth Gaze were the Co-Directors of Studies for the Employment and Labour Relations Law Graduate Program in 2017.

Coursework Programs:

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

Research Programs:

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

The coursework subjects offered in 2017 were:

- Bargaining at Work (Professor Andrew Stewart)
- Conducting Workplace Investigations (Ms Jane Seymour, Ms Sarah Rey, Ms Laura Douglas)
- Employment Contract Law (Tess Hardy and Mr Paul O’Grady QC)
- Equality and Discrimination Law (Anna Chapman and Ms Carol Andrades)
• International Employment Law (Professor Paul M Secunda)
• Labour Standards and their Enforcement (John Howe and Mr Craig Dowling SC)
• Principles of Employment Law (Anna Chapman and Tess Hardy)
• Workplace Health and Safety (Mr Peter Rozen)

Further information regarding the program can be obtained from the Melbourne Law Masters website at: law.unimelb.edu.au/study/masters/courses
KNOWLEDGE TRANSFER AND COMMUNITY ENGAGEMENT

During 2017 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 the Centre’s two Seminar Series, and the involvement of Centre members in editorial roles with the Australian Journal of Labour Law. In addition, in 2017 the Centre continued to co-host the Melbourne lecture held as part of the Fair Work Commission’s Workplace Relations Education Series.

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. In 2017 the Labour Law Seminar series was coordinated by Anna Chapman and John Howe.

Five seminars were held during the course of the year:

- 22 March: The Role of Deterrence in Enforcing Employment Standards: Recent Research from Canada and Australia. Presented by Professor Eric Tucker, Osgoode Hall Law School, Professor John Howe and Dr Tess Hardy, University of Melbourne
- 6 June: Tackling Australia’s “Gangmasters”: The Case for Labour Hire Licensing. Presented by Professor Anthony Forsyth, RMIT University
- 22 August: Company Law’s Role in Labour Law’s Problems. Presented by Professor Helen Anderson, University of Melbourne
- 26 September: It takes a village: Community Regulation of Employment Standards for Temporary Migrant Workers in Australian Horticulture. Presented by Dr Stephen Clibborn, University of Sydney
- 17 October: Regulating the New Self-Employed in the Uber Economy: What Role for Competition Law? Presented by Assistant Professor Victoria Daskalova, University of Twente

SPONSORS’ SEMINAR SERIES

The Centre conducts a series of seminars for members of the Centre’s sponsoring firms and organisations. The seminar series is co-ordinated by Geoff Giudice. Three seminars were held in 2017:

- 27 April: Workings of the Unfair Dismissal Jurisdiction. Presented by Deputy President Clancy, Fair Work Commission
- 10 August: UK and Irish Developments on Implied terms. Presented by Associate Professor Desmond Ryan, Trinity College Dublin with expert commentary by Mr Mark Irving QC
FAIR WORK COMMISSION’S WORKPLACE RELATIONS EDUCATION SERIES (CO-HOSTED LECTURE)

In 2017 the Centre was pleased to co-host the Melbourne lecture in the Commission’s Workplace Relations Education Series. The Series is comprised of a number of free public lectures, presented by leading researchers in the field of workplace relations in both Australia and other countries.

- 22 May: The Fair Work Commission and the New Approaches Jurisdiction. Presented by Deputy President Anna Booth, with panel discussion chaired by Anna Chapman and featuring Ms Kim Parish, Executive General Manager at House with No Steps and Mr Angus McFarland, Assistant Secretary at the ASU NSW and ACT (Services) Branch.

OTHER EVENTS

In addition to the regular seminar series, from time to time the Centre hosts conferences, roundtables and other events for members for 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.

WORKSHOP - THE AGEING WORKFORCE IN AUSTRALIA: TRENDS AND CHALLENGES

15 February

The workshop was attended by around 20 invited Australian academics, government agency staff and practitioners. The workshop considered the preliminary results of the ARC grant of the same title. It was co-hosted with the Centre for Workplace Leadership and the Hallmark Ageing Research Initiative.
BOOK LAUNCH - EQUALITY AND DISCRIMINATION LAW IN AUSTRALIA: AN INTRODUCTION

28 February

Equality and Discrimination Law in Australia: An Introduction explores four decades of anti-discrimination laws in Australia. Beth Gaze and Belinda Smith argue that effective laws protecting against and deterring discrimination are vital for a fair future, and emphasise the theoretical and social contexts that underpin this area of the law. The book was launched by Justice Debra Mortimer of the Federal Court of Australia.

WORKSHOP - TAKE BACK THE SHARING ECONOMY WITH PLATFORM COOPERATIVES

26 May

The workshop was co-hosted with the Commons Transition Coalition and considered the new breed of platform cooperative enterprises, blending the technologies of the sharing economy with worker ownership and democratic governance. The workshop featured a keynote address by Associate Professor Trebor Scholz, The New School, New York.

BOOK LAUNCH - THE EVOLVING PROJECT OF LABOUR LAW: FOUNDATIONS, DEVELOPMENT AND FUTURE RESEARCH DIRECTIONS

13 June

The Evolving Project of Labour Law: Foundations, Development and Future Research Directions edited by John Howe, Anna Chapman and Ingrid Landau draws together contributions from leading Australian and international labour scholars based on papers delivered at the 2016 Centre conference of the same name. The book was launched by the Hon Professor Peter R A Gray AM.

REPORT LAUNCH - THE PLURAL REGULATION OF WORK: A PILOT STUDY OF RESTAURANT WORKERS IN YOGYAKARTA, INDONESIA

12 October

This report presents the findings of research into the formal laws and informal (non-state) norms and institutions regulating work in the restaurant industry in Yogyakarta, Indonesia. The report was authored by Petra Mahy, Richard Mitchell, Sean Cooney and John Howe. The launch was hosted with the Centre for Indonesian Law, Islam and Society.
WORKSHOP - EFFECTIVE REDRESS FOR MIGRANT WORKERS

7 December

This workshop brought together approximately 20 academics, government agency staff and practitioners to consider how best to ensure that effective redress is available for underpaid migrant workers. The workshop was hosted by Tess Hardy and Joo-Cheong Tham.

EDITORIAL ROLES

CENTRE WORKING PAPER SERIES

The Centre publishes two Working Paper Series: a General Series, and a Student Working Paper series for excellent papers written by students at Melbourne Law School. The General Series provides an opportunity for the publication of suitable work of Centre members, associates and others in the field of employment and labour relations law. Typically, these manuscripts are not suitable for submission to a peer reviewed journal, as they may contain preliminary analysis or findings, or be relatively short in length.

In 2017, Tess Hardy edited the general series and Alysia Blackham edited the student series. All papers are available through the Centre’s website: law.unimelb.edu.au/centres/celrl/research/publications.

Three Student Working Papers were published during the year:

- **Collective Bargaining and Protected Industrial Action under the Fair Work Act: Is There Tension?** Hugh Boulton (July)
- **The Dismissal of the Implied Term of Mutual Trust and Confidence in Employment Contracts: Filling the Gap Left Behind**, Oliver Wahlstrom-Schatt (July)
- **How Effective is Litigation as a Mechanism to Respond to, and Remedy, Pay Inequity? A Comparative Analysis of Experiences in Australia, Canada and Britain**, Joanna Fitch (July)

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. It is a peer reviewed journal, and was ranked ‘A’ in the 2010 ERA journal ranking process. The Centre is the Journal’s administrative home.

The work of the editorial team was ably supported in 2017 by a team of student editorial assistants drawn from the student body of Melbourne Law School. The journal was co-edited by John Howe, Professor Andrew Stewart (University of Adelaide) and Professor Richard Johnstone (Queensland University of Technology). Centre Members and Associates who worked on the Journal during 2017 included Adriana Orifici as Associate Editor, Associate Professor Andrew Frazer (Reports and Legislative Developments) and Associate Professor & Reader Jill Murray (Book Reviews). Centre members involved in the Journal’s editorial committee are Anna Chapman, Sean Cooney and Joo-Cheong Tham.

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

- **Iain Campbell**, Member, Editorial Board, British Journal of Industrial Relations, Labour and Industry and the Australian Bulletin of Labour
- **Beth Gaze**, Member, Editorial Committee, International Journal of Discrimination and Law

ASSOCIATIONS

THE AUSTRALIAN LABOUR LAW ASSOCIATION

The Centre is the administrative home of the Australian Labour Law Association (ALLA).

ALLA’s 17th AGM was held on 16 November 2017 at which time Professor Andrew Stewart stepped down as ALLA President.
The ALLA Executive Committee was confirmed as Professor Marilyn Pittard, President; Dr Dominique Allen, Secretary; Professor Anthony Forsyth, Vice-President and Ms Emma Goodwin, Treasurer. Tess Hardy continues as a member of the National Committee.

ALLA puts on a diverse and vibrant array of state seminars, generally free to ALLA members. Topics addressed at Victorian Chapter forums in 2017 included: “Fashioning the Fashionable: Adverse action protections under the Fair Work Act” and “Brexit and Beyond: Developments in the UK affecting human rights in the field of labour and employment”.


For further information about ALLA, please visit: law.unimelb.edu.au/alla.

REGULATING FOR DECENT WORK NETWORK

The Centre continued its involvement in the RDW Network in 2016. The Network is a collaboration between the International Labour Organisation, the CELRL, the Durham Law School, the Fairness at Work Research Group at the University of Manchester, the University of Amsterdam Institute for Advanced Labour Studies (AIAS) and the University of Duisburg-Essen Institut Arbeit Qualifikation (IAQ). 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. John Howe is a member of the Organising Committee of the Network.

For further information about RDW, please visit: ilo.org/travail/whatwedo/projects/WCMS_122341.

LABOUR LAW RESEARCH NETWORK

The Centre is a founding member of the LLRN, which was formed in 2011.

The Network is based on cooperation between over 66 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 is chair of the Steering Committee of the Network, which consists of six labour law scholars, each from a different region of the world, Maria Azzurra Tranfaglia is the Network’s Administrator.

For further information about the LLRN, please visit: labourlawresearch.net/.

MEDIA ENGAGEMENT

HELEN ANDERSON

- Interview with Raf Epstein, ABC Radio Melbourne ‘Drive’, 27 February
- Interview with Hamish McDonald, Radio National Breakfast, 25 May
- Interview with Tracey Holmes, ABC NewsRadio, 12 September

MARIA AZZURRA TRANFAGLIA

- ‘Italy back to the future? A look at the ballot questions aimed at repealing the latest labour market reforms’, community contribution, Il Globo (online edition in English), 30 January
- ‘La responsabilitá di denunciare non puó essere lasciata solo ai singoli’, comments on the Wage Theft Report released by Laurie Berg and Bassina Farbenblum, Il Globo (print edition in Italian), 23 November

JOO-CHEONG THAM

- ‘Tighter Clamp on Foreign Workers No Quick Fix’, Herald Sun, 21 April
- ‘Exclusive: exploitation of Vietnamese students rampant among Melbourne businesses’, SBS World News, 20 April
• ‘The Labor Party, the Chinese property developer, and the seat in NSW Parliament’, ABC 7.30 Report, 6 June
• ‘Victorian Anti-Corruption watchdog won’t investigate opposition leader over lobster lunch’, ABC World Today, 31 August
• Interview with Jon Faine, ABC Mornings, 30 November
• Big Idea on Politics HQ, Pitch: Political parties should be banned from receiving donations from overseas and foreign governments, Sky News, 8 December

OTHER ENGAGEMENT

HELEN ANDERSON
• Member, Australian Labour Law Association
• Academic member, Australian Restructuring Insolvency and Turnaround Association
• Executive Committee Member, Corporate Law Teachers Association
• Honorary General Treasurer and Executive member, Australasian Law Teachers Association
• Member, Insolvency and Reconstruction Committee, Business Law Section, Law Council of Australia
• Fellow, Australian Academy of Law
• with Jasper Hedges, Ian Ramsay and Michelle Welsh, Submission to Treasury, ‘ASIC/ATO information sharing’, January
• Submission to Senate Economic References Committee, ‘Inquiry into the Impact Of The Non-Payment Of The Superannuation Guarantee’, January
• Senate Economic References Committee, requested appearance, ‘Inquiry into the Impact of Non-payment of the Superannuation Guarantee’, March
• with Jasper Hedges, Ian Ramsay and Michelle Welsh, Submission to Treasury: ‘Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Bill 2017’, April
• with Jasper Hedges, Ian Ramsay and Michelle Welsh, Submission to Treasury, ‘Black Economy Taskforce Interim Report’, May
• with Jasper Hedges and Ian Ramsay, Submission to Treasury and Department of Employment, ‘Consultation Paper on Reforms to Address Corporate Misuse of the FEG Scheme’, June
• with Jasper Hedges, Ian Ramsay and Michelle Welsh, Submission to the Inspector General of Taxation, ‘Review into the ATO’s Fraud Control Management’, July
• House Standing Committee On Tax And Revenue, requested appearance, ‘Inquiry Into Taxpayer Engagement With The Tax System’, State Parliament, July
• with Ian Ramsay, Jasper Hedges and Michelle Welsh, Submission to Treasury, ‘Black Economy Taskforce Consultation Paper’, August
• with Ian Ramsay, Jasper Hedges and Michelle Welsh, Submission to Treasury, ‘Modernising Business Registers’, August
• with Ian Ramsay, Jasper Hedges and Michelle Welsh, Submission to Treasury, ‘Combatting Illegal Phoenixing’, October
• Submission to ASIC, ‘Cost Recovery Implementation Statement’, October
• with Jasper Hedges and Michelle Welsh, Submission to Treasury, ‘ASIC Enforcement Review’, November

ALYSIA BLACKHAM
• Member, Hallmark Ageing Research Initiative (HARI) Steering Committee, University of Melbourne
• Member, International Advisory Board of the Berkeley Comparative Equality & Anti-Discrimination Law Study Group
• Member, Discrimination Law Experts Group
• Member, Discrimination Law Service Providers Group (Victoria)
• Member, Socio-Legal Studies Association (UK)
• Member, Society of Legal Scholars (UK)
• Member, Association of Law Teachers (UK)
• Member, Australian Labour Law Association

IAIN CAMPBELL
• Member, International Working Party on Labour Market Segmentation, Member of RC 44 (Labour Movements) and RC 30 (Sociology of Work), International Sociological Association

ANNA CHAPMAN
• Member, Australian Labour Law Association
• Member, Association of Industrial Relations Academics of Australia and NZ (AIRAANZ)
• Member, Discrimination Law Experts Group
• with the Discrimination Law Experts Group, Submission to the Parliamentary Joint Committee on Human Rights, ‘Inquiry: Freedom of Speech in Australia’, February

BETH GAZE
• Member, Australian Labour Law Association
• Member, Socio-Legal Studies Association (UK)
• Member, Discrimination Law Association (UK)
• with the Discrimination Law Experts Group, Submission to the Parliamentary Joint Committee on Human Rights, ‘Inquiry: Freedom of Speech in Australia’, February

TESS HARDY
• National Committee member of the Australian Labour Law Association
• Submission to the Senate Inquiry into the Impact of the Non-Payment of the Superannuation Guarantee, February
• Senate Economic References Committee, requested appearance, ‘Inquiry into the Impact of Non-payment of the Superannuation Guarantee’, March
• with Joo-Cheong Tham, Submission to the Senate Education and Employment Legislation Committee, ‘Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017’, April

ADRIANA ORIFICI
• Member, Australian Labour Law Association
• Member, Australasian Association of Workplace Investigators

JOO-CHEONG THAM
• Member, Australian Labour Law Association
• Advisory Board member, Global Labor Migration Network, Global Migration Studies Centre, the University of Maryland
• Board Member, Migrant Workers Centre Incorporated
• Convenor, Steering Group, Migrant Workers Campaign
• Member, Ethnic Communities’ Council of Victoria’s Employment Education and Training Policy Subcommittee
• Member, Electoral Tribunal, Graduate Student Association

MARIA AZZURRA TRANFAGLIA

• Member, Australian Labour Law Association
• Member, Association of Industrial Relations Academics of Australian and New Zealand
• Member, Steering Group, Migrant Workers Campaign
• Moderator, Work in Progress – Yearly Work Forum organised by NOMIT (the Italian Network of Melbourne) for newly arrived migrants
CONFERENCE AND SEMINAR PAPERS

During 2017, 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.

JANUARY


FEBRUARY

- Helen Anderson, Ian Ramsay and Michelle Welsh, ‘Illegal Phoenix Activity: Is A “Phoenix Prohibition” The Solution?’ Corporate Law Teachers Association Conference, Griffith University, Gold Coast
- Iain Campbell, Martina Boese and Joo-Cheong Tham, ‘Landscapes of Precariousness: Working Holiday Makers in Australia’, Association of Industrial Relations Academics of Australia and New Zealand Conference, Canberra
- Iain Campbell, Martina Boese and Joo-Cheong Tham, ‘Guestworkers in Australian Horticulture: A Tale of Two Visa Programs’, Skills Symposium, Miri, Sarawak
- Anna Chapman, ‘The Continuing Resonance of Breadwinner Norms in Australian Labour Law’, Feminist Legal Studies Group, Faculty of Law, Queen’s University, Canada
- Anna Chapman, ‘Work and Care Initiatives: An Exploration of Flaws in the Australian Regulatory Framework’, Law, Work and Family Care: A Symposium, Osgoode Hall Law School, Canada

MARCH


APRIL

- Helen Anderson, ‘What do Liquidators at the Coalface Need?’, Melbourne Central Insolvency Discussion Group, Melbourne
- Helen Anderson, ‘What do Liquidators at the Coalface Need?’, Victorian Insolvency and Reconstruction CPA Discussion Group, Melbourne

• **Alysia Blackham**, ‘Combatting Age Discrimination in Employment: A Comparison of Australian and UK Legal Limitations’, *Socio-Legal Studies Association Conference*, Newcastle upon Tyne

• **Joo-Cheong Tham**, ‘Why is Labour Protection for Temporary Migrant Workers so Fraught? A Perspective from Australia’, *Global Labor Migration Workshop*, University of Maryland, College Park

**MAY**

• **Helen Anderson**, ‘Out of the Shadows: the Risks of Phoenix Activity for Advisors’, *CPA Australia Victorian Public Practice Conference*, Lorne


**JUNE**

• **Sarah Biddulph**, ‘Has There Been a Retreat from Rule of Law in Resolving Labour Disputes in China?’ *Law and Society Conference*, Mexico


• **Iain Campbell**, ‘The Challenge of Casual Work: Two Arguments’ *Herrenhauser Symposium, ‘Workers of the World’*, Hannover


**JULY**

• **Helen Anderson**, ‘Corporate Law: A Row not a Column’, *Australasian Law Teachers Association*, University of South Australia, Adelaide

• **Helen Anderson**, ‘What do Liquidators at the Coalface Need?’, *CPA Geelong Discussion Group*, Geelong

• **Helen Anderson**, ‘Directors’ Safe Harbour for Restructuring in Insolvency Context’, *Law Council of Australia Corporations Committee Annual Conference*, Byron Bay


• **Iain Campbell**, ‘On-Call and Related Forms of Casual Work in Australia and New Zealand,’ *Regulating for Decent Work Conference*, Geneva

• **Susan Ainsworth, Anna Chapman** and **John Howe**, ‘Employee Codes of Conduct: Effective or Disruptive Self-Regulation?’, *Labour Law Research Network Conference*, Toronto


**AUGUST**


• **Alysia Blackham**, ‘Individual Enforcement of Age Discrimination Claims in Australia and the UK’, *Faculty Research*
Seminar Series, Melbourne Law School, Melbourne

- Beth Gaze, ‘Seminar Panel: University College’ Academic Forum for the 80th Anniversary of University College, University of Melbourne, Melbourne

- Joo-Cheong Tham, ‘Of Aliens, Money and Politics: Should Foreign Political Donations be Banned?’, Electoral Regulation Research Network ACT event, Australian National University, Canberra

SEPTEMBER

- Helen Anderson, Rob Hinton and Carl Sigalia, ‘Pre-insolvency Advisors’, Law Council of Australia, Insolvency and Reconstruction Committee Annual Conference, Sydney


OCTOBER

- Beth Gaze, ‘The Future of Remedies for Sexual Harassment’, Victorian Supreme Court Employment & Industrial List seminar, Melbourne

- Maria Azzurra Tranfaglia, ‘Changing the Workforce Dynamics: Employing Hipsters and Elder Employees’, International Barrister Association Conference, Sydney

NOVEMBER

- Alysia Blackham, ‘Recent Developments in Australian and New Zealand Age Discrimination Law’, New Zealand Labour Law Society Conference, Christchurch

- Joo-Cheong Tham, ‘Of Aliens, Money and Politics: Should Foreign Political Donations be Banned?’, Electoral Regulation Research Network 2017 Biennial Workshop, University of Western Australia, Perth

DECEMBER

- Sarah Biddulph, ‘Accessing Justice: Dispute Resolution in the Case of Precarious Workers in China’, Asian Law and Society Association Conference, Bond University, Gold Coast
PUBLICATIONS

During 2017, Centre members’ research appeared in a wide range of books, book chapters, journals and working papers, both Australian and international.

BOOKS


EDITED BOOKS


BOOK CHAPTERS

- Alysia Blackham, ‘Judicial Diversity and Mandatory Retirement in the UK: Obstacle or Route to Progress?’ in Graham Gee and Erika Rackley (eds), *Debating Judicial Appointments in an Age of Diversity*, Routledge, United Kingdom, 183 - 197
- Catherine Barnard and Alysia Blackham, ‘EU Equality Law, the Self-Employed and Fundamental Rights’ in Hugh Collins (ed), *European Contract Law and the Charter of Fundamental Rights*, Intersentia, United Kingdom, 197 - 218


**JOURNAL ARTICLES - REFEREED**


• Joo-Cheong Tham, ‘Aliens, Money and Politics: Should foreign political donations be banned?’ (2017) 28(2) King’s Law Journal 262 - 278

• Judy Fudge and Joo-Cheong Tham, ‘Dishing up Migrant Workers for the Canadian Food Services Sector: Labor Law and the Demand for Migrant Workers’ (2017) 39 Comparative Labour Law & Policy Journal 1

JOURNAL ARTICLES - UNREFEREED


• Keith Ewing, Timothy Kuhner and Joo-Cheong Tham, ‘Editors’ Preface’ (2017) 28(2) King’s Law Journal 161 – 162

OTHER OUTPUTS

• John Howe and Tess Hardy, Business Responses to Fair Work Ombudsman Compliance Activities, Centre for Employment and Labour Relations Law Research Report, January, 30 pages

• Helen Anderson, Ian Ramsay, Michelle Welsh and Jasper Hedges, Phoenix Activity: Recommendations on Detection, Disruption and Enforcement, Major Report, February, 138 pages
SUMMARY OF CENTRE GENERAL ACCOUNT 2017

Income 2017

Brought Forward from 2016 $74,492
2017 Sponsorship $45,482
Donation $2,500
Faculty Allocation $5,000.00
Total Income $127,474

Expenditure 2017

Salary expenditure $37,446
Consumable goods and services $11,793
Infrastructure related expenses $486
Travel, conferences and entertainment $19,376
Total Expenditure $69,101

BALANCE $58,373