MESSAGE FROM THE ASSOCIATE DEAN (RESEARCH)

It is a great pleasure to present this report on the research activities in the Faculty of Law during 2006.

The Faculty was delighted to have three Australian Research Council (ARC) Fellowships commence in 2006. Professor Tim Lindsey began his Federation Fellowship on Islam and Modernity: Syari’ah, Terrorism and Governance in South East Asia, Associate Professor Christine Parker began her ARC Research Fellowship on The Impact of ACCC Enforcement Action: Evaluating the explanatory and normative power of responsive regulation and responsive law and Dr Ann Genovese began her ARC Postdoctoral Fellowship on Has Feminism Failed the Family? A History of Equality, Law and Reform. In 2006 Faculty members also began work on two other ARC Discovery Projects and two ARC Linkage Projects. Details of those projects are provided in this report, along with an update on some of the funded projects in progress and the outcomes of projects completed in 2006. The University’s Melbourne Early Career Researcher Grant Scheme and the Faculty Small Grants Scheme provided valuable support for a number of smaller projects undertaken in the Faculty, which are also listed. Thanks are due once again to the Faculty’s grant mentors, Associate Professor Andrew Kenyon and Ms Helen Rhoades, for the outstanding guidance and assistance provided to grant applicants in 2006.

The activities of the Faculty’s research centres and institutes are described in the second section of the report. The centres and institutes play a crucial role in supporting research activities within the Faculty as well as facilitating discussion and debate. The substantial contribution to the Faculty’s research effort made by centre and institute directors, administrators and members is gratefully acknowledged.

This report provides profiles of four of the Faculty’s academic staff and their work: Dr Simon Evans, Professor Belinda Fehlberg, Dr Michelle Foster and Dr Andrew Mitchell. The report also sets out the papers presented and topics discussed at the Faculty Research Workshop convened by Ms Helen Rhoades during 2006.

The Faculty’s Research Higher Degree (RHD) candidates had a successful year in 2006, with twelve successful completions. Both the candidates and their supervisors are to be congratulated on their success. Dr Carolyn Evans once again deserves particular thanks for the advice and guidance she provided to the Faculty’s RHD students through the Research Support Program.

The Faculty of Law is very grateful to the Research Manager, Ms Margherita Matera, and the staff in the Office for Research, Ms Lucy O’Brien, Ms Angela Hendley-Boys, Ms Lupe Trigo-Rossier and Ms Suzie Trajcevska for the tremendous support they provided to the Faculty’s research activities during 2006.

Andrew Robertson
Professor of Law
Associate Dean (Research)
AUSTRALIAN RESEARCH COUNCIL (ARC) FELLOWSHIPS
The Australian Research Council’s (ARC) Federation Fellowships are innovative and highly prestigious awards designed to develop and retain Australian skills. Professor Tim Lindsey has been awarded an ARC Federation Fellowship to research *Islam and Modernity: Syari’ah, Terrorism and Governance in South-East Asia*. The Fellowship runs for a period of five years (from 1 August 2006 to 1 August 2011).

**Objectives**

The Fellowship aims to achieve a better understanding of Islam and terrorism in Southeast Asia and to strengthen Australian capacity to navigate our regional relationships by (i) supporting themed research and community engagement programs; (ii) building the capacity of the Centre for the Study of Contemporary Islam; and (iii) mentoring young scholars in the field of Islam in Indonesia. The project addresses an area of critical national significance at a time when Islam in our region is of immediate strategic importance.

The main themes to be researched under the Fellowship include:

- Islam and the Challenge of Modernity in Southeast Asia
- Mapping New Approaches to ‘Islamic’ Governance in Southeast Asia
- Militancy and Syari’ah in Southeast Asia

During the life of the Fellowship, three Doctoral Scholarships will be awarded and at least three Research Fellows appointed, in addition to a part-time Research Assistant and around 10 casual Research Assistants.

**Progress to Date**

**Doctoral Scholarships**

Following a national application process, the first doctoral scholarship was awarded to Mr Jeremy Kingsley, for a period of three years (2007–2009). Mr Kingsley is currently conducting fieldwork in Lombok on his thesis topic, ‘Religious Law and Violent Conflict in Lombok’

**Employment**

A number of people have been employed to work on the ARC Federation Fellowship, including:

- Ms Kathryn Taylor (Project Manager)
- Ms Kelly McDermott (Administrative Assistant)
- Ms Helen Pausacker (Research Assistant, 2.5 days per week)
• Ms Jemma Parsons (casual)
• Ms Melissa Crouch (casual)
• Ms Faye Chan (casual – translation)
• Ms Jessica Rae (casual)
• Ms Vanessa Hearman (casual – translation)
• Ms Amber Earles (casual – translation)
• Ms Marcia Wibisono (casual translation)

**Work in Progress**

**Tim Lindsey**

**Current Research**
- Islam in Indonesia
- Islam in Brunei, Malaysia and Singapore

**Future Research**
- History of Darul Islam and Jemaah Islamiyah
- Islam in Thailand and Philippines

**Melissa Crouch**

**Current Research**
- Places of worship legislation
- Regional Islamic legislation

**Future Research**
- Religious courts

**Jeremy Kingsley**

**Current Research**
- Inter-religious communal violence in Lombok

**Future Research**
- Caliphate in Southeast Asia
- Religious Education in Southeast Asia

**Jemma Parson**

**Current Research**
- Indonesia Ulama Council (MUI)

**Future Research**
- Anti-Pornography and Pornographic Actions Bill

**Helen Pausacker**

**Current Research**
- Pornography cases being pursued under criminal code by Islamic Defenders’ Front
- Polygamy

**Future Research**
- Anti-Pornography and Pornographic Actions Bill

**Kathryn Taylor**

**Current Research**
- Comparison of role of women as preachers in Islam in China and Southeast Asia

**Future Research**
- Chinese conversion to Islam in Indonesia and Malaysia

**Funding Granted**

Funding was granted in 2006 to the following people:


**Visitors**

Mr Noor Huda Ismail visited Melbourne as part of the ARC Federation Fellowship from 6–15 November and 20–23 November, 2006. During his stay, he presented a seminar on ‘Jemaah Islamiyah, Al Qaeda and Regional Terrorism: Kinship and Family Links’.

**Publications**

**Books**

**Book Chapters**

**Conference Presentations**
- Lindsey, T., ‘Death and Drugs, Bali and Bombs: Indonesia’s Death Penalty, Judicial Reform and Bilateral Relations with Australia’, Australian Institute of International Affairs, Melbourne, 2006
The Impact of ACCC Enforcement Action: Evaluating the Explanatory and Normative Power of Responsive Regulation and Responsive Law

Under its first Chair (1991–2003), Professor Allan Fels, the Australian Competition and Consumer Commission (ACCC) garnered a reputation as an unusually tough and effective regulatory enforcement agency. ACCC enforcement transformed business attitudes towards competition law, including prohibitions on bid-rigging and price-fixing, and consumer protection law. Yet at the same time the Chief Executive Officers of a number of Australia’s biggest companies regularly and publicly criticised the ACCC and its former Chairman, Fels for using its position of strength to bully business into complying with its directives. Business sometimes even settled matters and then denied their legal liability and moral responsibility for the conduct they had previously admitted to, as well as criticising the ACCC for taking enforcement action in the first place.

This project builds on and extends Christine Parker’s previous study that used exploratory qualitative interviews with 60 ACCC enforcement staff and trade practices lawyers and consultants. (This earlier research was funded by the Regulatory Institutions Network at the Australian National University under a partnership arrangement with the Australian Competition and Consumer Commission.) Dr Parker’s ARC funded project will now allow her to analyse the results of a survey of 999 of Australia’s largest businesses about their perceptions and experiences of ACCC enforcement and their compliance with the Trade Practices Act together with collaborator, Dr Vibeke Nielsen, Associate Professor of Political Science at the University of Aarhus in Denmark.

In the first part of the project Parker and Nielsen are using their survey and qualitative interview data about the ACCC’s enforcement interactions with business and business compliance with the Trade Practices Act to evaluate and test the most influential theories about why businesses comply, or do not comply with the law, and what impact regulatory enforcement action has on their compliance. These include deterrence, procedural justice, legitimacy, defiance, motivational postures and reintegrative shaming theories.

Different theories are likely to explain compliance of different firms and individuals in different circumstances. Ayres and Braithwaite’s responsive regulation theory is the leading attempt to explain and prescribe the way in which regulators should flexibly utilise a range of enforcement strategies to build compliance and respond to non-compliance. It states that compliance
and enforcement strategies tend to be, and should be, arranged in a regulatory pyramid with more cooperative strategies deployed at the base of the pyramid and progressively more punitive approaches utilised if and when more cooperative strategies fail. Responsive regulation proposes that enforcement action is most successful at achieving compliance when regulators act on the basis of a presumption in favour of starting at the base of the pyramid, only escalating up the pyramid if the regulated firm refuses to respond in a spirit of cooperative compliance, and reverting to cooperative strategies when compliance is achieved. But many other researchers of enforcement and compliance have doubted whether such a presumption is always, or indeed ever, likely to result in compliance success, or whether it is even possible for regulators to promote truly ‘cooperative’ compliance at the base of the pyramid when both regulator and regulatee know that they can always escalate to punitive sanctions at the tip of the pyramid. Parker and Nielsen’s work will test responsive regulation to develop a plural explanatory theory for compliance.

In the second part of the project Parker hypothesises that as a normative policy idea, responsive regulation is an example of the impulse towards developing more democratically ‘responsive law’ – an attempt by law to connect with people’s values, meanings, consciences and moralities by turning itself ‘inside out’. Rather than imposing rules and judgments on people through hierarchical law-making and an adversarial court system, responsive law seeks to work proactively into a world which is rich with indigenous regulatory possibilities even without law (including people’s morality or conscience, institutions of ‘civil society’ such as community organisations and NGOs, and business and professional self-regulation) and tries to instigate/catalyse deliberative processes to solve problems rather than simply imposing a solution. In doing so responsive regulation will have to resolve fundamental dilemmas about the relationship between coercion and persuasion, law and democracy. How much discretionary power should regulators have to punish or persuade? How and to whom can they be held accountable? Is there any way in which law can promote ethics and democratic accountability in business?

Although ARC funding for this project only began in 2006, there have already been a number of publications from Parker’s earlier qualitative study of the ACCC and Parker and Nielsons’ analysis of their survey data. Parker has presented her work at the annual US Law and Society Association meetings and at a number of seminars and conferences for both academics and regulators in the UK and Australia. Parker and Nielsen are now working on a book on explaining compliance. Publications from this project to date include:

• Parker, C and Stepanenko, N, Compliance and Enforcement Project: Preliminary Research Report, Centre for Competition and Consumer Policy, Australian National University, Canberra (2003)
• Parker, C, Ainsworth, P and Stepanenko, N, ACCC Enforcement and Compliance Project: The Impact of ACCC Enforcement Activity in Cartel Cases, Centre for Competition and Consumer Policy, Australian National University, Canberra (2004)
• Parker, C and Nielsen, V, ‘What do Australian Businesses Think of the ACC and does it Matter?’ 2007, Draft paper available from the authors.
Has Feminism Failed the Family? A History of Equality, Law and Reform

The Australian idea, and ideal, of public law reform based on social equality appears to be a remnant of the past. The public profile of Australian feminism as a philosophy and movement based on an idea of sexual equality appears also to have lost gravitas and collective support. My ARC post-doctoral research seeks to ask why these ideas no longer have currency, and how they are connected.

Since the 1970s, there has been an identifiable movement from social liberalism’s focus on equality to neo-liberalism’s focus on the individual. This has irrevocably changed how the law and the state approach reform, and how they accommodate the arguments for reform based on specific grounds, such as feminism’s claims for sexual equality.

Our political, legal and social present is shaped by this shift, but has not yet been thought about in terms of its historical dimensions, as histories which examine the 1970s and 1980s are underrepresented in Australian scholarship. My project argues that this key shift demands scholarly attention, and will use the Commonwealth Family Law Act (1975) and its thirty year history of reform as a framing case study.

By investigating the project of equality based law reform and the central problem that reform ideas which worked in the past are based on an outmoded notion of the liberal state, the research specifically aims to give historical reference to the current public perception that 1970s feminism somehow failed, especially as regards the family, by promoting ideas of liberal equality that it could not deliver. This is exacerbated by a dominant discourse in family law today, that despite the fact the Family Law Act sought to legislate an equal playing field on the breakdown of marriage, the law in its operation is gender biased against men. My research examines how both of these ideas have developed and gained social traction, in other words, will investigate their genealogy. This does not mean that the project eschews traditional historical sources, in fact, the nine months of research to date has been focussed on intensive archival examination of literature, commentary, case law and cabinet documents relating to the Family Law Act’s legislative precursor, the 1959 Matrimonial Causes Act, and how it encapsulated not only a desire for uniform divorce law, but the slow movement toward procedural fairness and maturity that the Family Law Act sought to entrench.
Rather, my approach to understanding the questions posed is interdisciplinary, and sits squarely outside of the traditional common law approach to legal history writing, which is intent on deriving the core meaning of rules from a large range of cases, or judicial biographical material. This kind of legal history perceives the development of law over time as an autonomous branch of historical analysis and reads legal texts as statements of law, with an assumption that progressivism in both social and jurisprudential terms occurs in tandem with legislative and curial developments. This is a form of history writing that positions itself within a traditional legal paradigm, as opposed to an historiographical one. Legal histories which discuss family law predominantly follow this approach.

My approach of both reading historical texts and sources for their legal meaning, (and traditional legal material as a cultural text) also sits this project outside of most traditional history writing, which is not directly invested in, or is wary of, the implications of law’s rules and practices. The proposed conceptual and methodological approach for this project therefore reflects upon and contributes to innovations in legal history writing as informed by feminism but also by critical race and post-colonial theories that understand that challenges to law’s meaning emerge from both inside and outside of a tight cultural world inhabited only by practitioners and interpreters of law.

The research is directed to publication in book form, and will hopefully be of significance to policy makers, as well as to the divergent groups which currently research legal and government regulation of families and family breakdown. Further, the project will contribute to the understanding of Australia’s immediate, and often historically neglected, past.
Australian Research Council (ARC) Discovery Project Grants

‘... and by opposing, end them: A Comparative Examination of Opposition Processes in Patent Law’
Funding $289,967
Patent law is central to the key Australian economic aim of encouraging an innovative culture. One aspect of patent law, the opposition process, is directly linked to two important issues currently facing our patent system: improving patent quality, and minimising predatory behaviour by powerful firms. This project will assess the operation of the opposition process here, and the practice of equivalent international procedures for other jurisdictions, in order to inform Australian policy in current and ongoing negotiations towards a global harmonisation. Material from this project will lead directly to proposals for improving the Australian patent system, and ensuring that it promotes and does not retard innovation.

‘Has Feminism Failed the Family? A History of Equality, Law and Reform’
Funding $238,680
The research will examine the history of legal reform since the introduction of the Family Law Act. It will provide a broader perspective to feminist and conservative criticisms of gender bias and legal unfairness in the operation of a family law system understood to be based on equality principles. The project’s outcomes will be of immediate significance to policy makers, as well as the divergent groups which currently research legal and government regulation of families and family breakdown. Further, the project will enhance national knowledge by contributing to the historical understanding of Australia’s immediate past.

Andrew Kenyon, Tim Lindsey, Tim Marjoribanks and Amanda Whiting (2006–2008)
‘The Media and ASEAN Transitions: Defamation Law, Journalism and Public Debate in Indonesia, Malaysia and Singapore’
Funding $335,000
This project will examine defamation law, journalism and public debate in three core members of the Association of Southeast Asian nations: Indonesia, Malaysia and Singapore. It will focus on a legal issue, defamation, which is central to the Australian and regional media’s potential for improving public and private sector governance, and promoting domestic and regional understanding, at a time when independent media speech has great value in relation to trade, security and development. When risks of transnational defamation liability are increasing, it will assist the Australian media’s coverage of three pivotal countries in the region and substantially develop the academic understanding of defamation law’s effects on media content.

Christine Parker and Vibeke Nielsen (2006–2010)
‘The Impact of ACCC Enforcement Action: Evaluating the explanatory and normative power of responsive regulation and responsive law’
Funding $350,000
The project will enhance the capacity of the ACCC and other business regulators to ethically and effectively regulate to achieve the goals of regulatory policy such as a fair, competitive economy, occupational health and safety, and environmental integrity. Australia is already well recognised as a leader in ambitious empirical and policy oriented social science research on regulatory compliance (through the ARC funded Governance Network including RegNet at ANU). This project will enhance that reputation with the most comprehensive data set on the corporate compliance impact of enforcement action and fundamental re-thinking of foundational theoretical questions about the nature and capacities of regulation.
‘Employee Share Ownership Plans: Current Practice and Regulatory Reform’
Funding $323,000
National Priority Research Goals: Fostering and Innovative Culture and Economy. Employee Share Ownership Plans (ESOPs) are important to the development of an economic culture of enterprise and innovation and the building of national wealth and savings in response to long term demands of intergenerational equity. ESOPs require development through appropriate regulatory frameworks. This project will subject the existing regime of tax, corporate and labour law to technical and empirical scrutiny. This will enhance the capacity of policy makers to evaluate and identify appropriate regulatory techniques to ensure the growth of efficiency of ESOPs at the national and enterprise level.

Australian Research Council (ARC) Linkage Project Grants
Camille Cameron and Jonathan Liberman (2006–2008)
‘Litigation and Liability as Regulation to Reduce Tobacco Related Harm’
Funding $73,950
Partner Organisation: The Cancer Council of Victoria
The new National Tobacco Strategy (NTS), signed in November 2004 by all Australian Governments, explains that successful tobacco control interventions bring major social and economic returns, including healthy and independent ageing, sustainable health care systems, a stronger economy, stronger communities, stronger families, improved indigenous health, and less harm from illicit drugs. The NTS acknowledges that regulation is a key tobacco control intervention. The research will explore and make recommendations about new regulatory approaches that have the capacity to substantially reduce the harm caused by tobacco, and to maximise the social and economic returns of tobacco control to the community.

Andrew Kenyon and Andrew Christie (2006–2008)
‘Cultural Collections, Creators and Copyright: Museums, Galleries, Libraries and Archives and Australia’s Digital Heritage’
Funding $290,000 plus an additional $126,000 will be contributed by the ten partner organisations.
Partner Organisations: Arts Law Centre of Australia, Australian Centre for the Moving Image, Australian Film Commission, Museum Victoria, Museums Australia, National Gallery of Victoria, National Gallery of Australia, National Museum of Australia, Powerhouse Museum and State Library of Victoria
This project investigates current and emerging ways of using digital collections in museums, galleries, libraries and archives, in light of copyright law and the interest of creators. It serves the strong public interest in facilitating digital access to collections while efficiently managing copyright. Exploiting the potential of digital media and maximising Australia’s creative capability both depend on providing adequate incentives for content production. The project will assist Australia better manage its digital cultural collections and balance the interest of creators, institutions and public accessibility.
Faculty Small Grants Scheme

Jennifer Beard
‘Should the Cab Rank Rule Benefit All Parties to Litigation or only the Vulnerable?’

Colin Fenwick
‘Law and Labour Market Regulation in Southern Africa’

Linda Haller
‘Lawyer Discipline in Victoria: A Statistical Analysis’

Tim Lindsey
‘Government of the Shadows: Law, Global Governance, Para-Politics and Organised Crime’

Andrew Mitchell
‘Legal Principles in WTO Dispute Settlement’

Jacqueline Peel and Lee Godden
‘Re-conceiving Australian Environmental Law: A Framework for Interdisciplinary Integration and Regulatory Evolution’

Helen Rhoades
‘The ‘Helping Court’: An Examination of the Early Years of the Faculty Court of Australia’

Melbourne Early Career Researcher Grant Scheme

John Howe
‘Labour Law in an Era of ‘Self Regulation’

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

The project will examine in detail, the corporate governance aspects of complex transactions in Australian financial markets, including the legal design of complex financial products, the duties of directors of Australian companies that use such products, the duties of institutional investors that have invested in those companies, and the efficacy of the regulation of complex financial products in Australia.

Progress and Future Work
In accordance with the stated objectives of the project, Paul Ali and Geof Stapledon have undertaken a substantial review and analysis of complex financial products and financial dealings in the Australian financial markets, together with the related corporate governance practices of Australian institutional investors. Empirical work on certain products (including hedge funds) and dealings (including private placements) is ongoing and is scheduled to be concluded during 2007. Substantial progress has been made in relation to both the research and the publication of research outcomes concerning the first two years of the project.

Project Outcomes
Publications


• Ali, P, ‘Corporate Governance Aspects of Special Purpose Vehicles’, Beijing International Conference on Applied Business Research, University of International Business and Economics, Beijing, 2005

• Ali, P, ‘Cyberderivatives: Online Markets in Equity Betting’, The Tenth Anniversary of Cybersecurities Law, University of Toledo College of Law, Ohio, 2005


• Ali, P, ‘Non-Performing Loans and Securitisation’, Transition, Growth and Globalisation, University of Western Australia Business School, Perth, 2005


• Stapledon, G, ‘Australian Developments.’ Round Table on Corporate Governance, United Nations, Geneva, 2005
The television broadcasting industry is undergoing fundamental changes associated with the transition from analogue to digital transmission. This has serious implications for the Australian public interest in a diverse broadcast environment that is accessible to all citizens, and one which supports viable creative industries. Free-to-air broadcasting is Australia’s most widely used mass media form and performs central economic, democratic and cultural functions. However technological changes pose unprecedented challenges to broadcasters.

Unlike analogue material, digital material can be copied and re-transmitted with no noticeable degradation in quality. The emergence of broadband internet and associated customer equipment, including digital video recorders, creates the possibility of material broadcast ‘in the clear’ (without any form of technological protection) being copied and freely distributed. If digital broadcast content is not protected, high value content may no longer be available to free-to-air broadcasters. The changes to broadcasters’ businesses may also threaten local content production. However protection of broadcast content must take into account the interests of content producers and broadcasters in preventing unrestricted copying and redistribution as well as the interests of users in exercising freedom to copy and communicate digital content in innovative ways.

This project aims to provide in-depth, independent analysis of Australian regulatory options for protecting digital broadcast content, including technological and legal forms of protection, in a rapidly changing communications and policy environment. It encompasses research in copyright law, media regulation and media studies.

Progress

During 2006 the research team conducted interviews with key industry informants, conducted and organised events and completed and prepared articles and book chapters for publication.

Thirty-five one hour interviews were conducted with members of the broadcasting industry between March and September 2006 in Sydney, Melbourne and Canberra by Robin Wright and Andrew Kenyon. Interviewees sought the personal views and experiences of the industry experts. Interview transcripts were analysed and coded across four key areas:

- content protection for digital television broadcasts in Australia;
- consumer re-use of broadcast content;
- the interaction of technical and regulatory controls; and
- the future of television broadcasting in Australia.

Project Outcomes

Publications and Conference Papers

Funded Research
Selected Grants in Progress


Hosted Conferences
- MediaCommLaw Conference 2006, Melbourne, 17 November 2006: a by-invitation event for Australian academics from the areas of media law, copyright law and media studies to workshop chapters for a forthcoming edited book about digital television
- ‘Broadcast and Beyond: An Industry Snapshot of Content Control Technologies and Digital Television in Australia’, Sydney and Melbourne, 4 April 2007
Project Description and Objective
The research project aims to offer a more complete understanding of the interaction between Islam and law, focusing on positive law, in the archipelago to Australia’s North. Through a detailed examination of legal theory, current intellectual debates, legal institutions and substantive law in Malaysia, Singapore and Brunei it will update current knowledge but will also build bridges with Muslim scholars and lawyers in the region.

This project examines in detail the tension between the formal legal systems in Anglo-SEAsia and their informal challenges. The project analyses the sources of Islamic regulation; judicial and non-judicial institutions involved in Islamic matters; and some selected judicial case studies on Islamic law.

Current Findings
This project focuses on Islamic law (shari’ah) and its role in the modern Malay states of Southeast Asia. Islam accepts no authority higher than that of God. It proclaims itself to be a complete and authoritative revelation for all time. It is thus for Muslims the source of absolute spiritual and temporal power. This is the reason for the theoretical incompatibility of Islam with the basic unit of government throughout the world, the nation state. All states with Muslim populations therefore face the challenge of negotiating a relationship between the state and Islam as the alternative source of authority. This negotiation is also politically ‘loaded’ in modern nation states because ‘Islam’ is frequently wielded by opposition groups to challenge the legitimacy of the government of the day.

This has major implications for law. Unlike many other religions, law is at the heart of Islam – Islam, in fact, has been described as a religion expressed in legal terms. This convergence of ‘religion’ and ‘law’ creates tensions for the operation of Islamic law in modern nation states. In simple terms, the significant question is how to reconcile modern ‘secular’ law and thus, the legal system and government, drawn from the mystical revelations of Muhammad, the prophet of Islam in 7th century Arabia.

In the last two centuries, this has been done throughout Asia either by the colonial powers or by voluntary adoption of Western systems (codes, statutes, judicial decisions and judicial institutions) without any convincing resolution of the problems of state or legal legitimacy for Muslims.

In Malaysia, Singapore and Brunei shari’ah has therefore been filtered through Anglo-common law state institutions. Islamic law is now largely understood in Western-derived forms, at least as far as the interventionist state is concerned. In Malaysia, Singapore and Brunei this is referred to as the ‘Anglo-Muslim madhhab’, a sophisticated jurisprudence for Muslims which makes only very limited reference to the classical shari’ah but draws heavily on the secular Anglo common law and its legal traditions, procedures and principles. The classical shari’ah definitions of ‘obligation’, ‘duty’, ‘validity’, ‘rule’, and ‘law’ are therefore no longer allowed primacy, nor are the traditional Islamic judicial institutions or the classical fiqh (jurisprudence) itself, which has been largely marginalised.
Progress
A substantial amount of research for this project has been completed, including data collection on the relevant judicial and bureaucratic institutions, their origins and development and, in particular, their current practical operation.
A detailed examination of recent substantive laws has commenced and further material will be collected during fieldwork in 2007.
Work on a major monograph has begun and the findings will be published once the project is completed.

Project Outcomes
The findings of the research project will be published in a major scholarly monograph aimed at academic audiences.

Conference Presentations
Family Lawyers and Child-Focused Dispute Resolution: Managing Inter-Professional Relationships in the Law System

ARC Linkage Project (2005–2007)

Collaborating Organisation: Attorney-General’s Department

Project Description and Objectives

Australia’s family law system is undergoing a rapid transformation. At the centre of this is a policy shift away from litigation-based solutions towards a greater use of non-adversarial and interdisciplinary approaches to resolving parental conflict, and particularly the promotion of child-focused dispute resolution processes. This multi-disciplinary project aims to investigate the ways in which family lawyers and family dispute resolution practitioners professionals (such as mediators) manage their working relationships, with a view to understanding the facilitators and inhibitors of successful inter-professional practices in the family law system. The study involves an in-depth qualitative examination of professional practices where an effective working relationship between the two professional groups has been identified, and a comparative analysis of attitudes and approaches across these groups more generally. The research will explore the norms and beliefs that underpin professional practices, including how lawyers and family dispute resolution practitioners currently accommodate their multiple responsibilities to clients, the court, and to promote the best interests of children, as well as the role of lawyers in third party dispute resolution processes. The key objective of the project is to produce information that will assist the design of better integrated dispute management services for separated families, including the creation of appropriate professional development programs.

Progress and Current Findings

During 2006, 30 family law solicitors and 29 dispute resolution practitioners associated with four well-known family dispute resolution programs were recruited and interviewed for the project, using a 37 question interview guide that canvassed seven thematic domains. The interview transcripts were analysed using the NVivo7 data management software program and sorted into 41 thematic nodes for each professional grouping. Commonalities and disparities among the responses of participants, including service-specific trends, were identified through the formulation of sub-nodes, and a second holistic narrative analysis of each interview was also conducted. A report on these findings – ‘Working on their Relationships: Inter-Professional Practices in a Changing Family Law System’ – was delivered to the Attorney General’s Department in late 2006, with preliminary recommendations for reform.

On completion of the report, the interview data themes were used to design an online questionnaire which was forwarded to approximately 2300 family lawyers (via the Family Law Section of the Law Council of Australia and the various state Legal Aid Commissions) and 600 family dispute resolution practitioners (via the peak bodies for community-based agencies, the National Legal Aid Commission secretariat, and the 15 currently operating Family Relationship Centres) throughout Australia in February 2007. The online survey was kept open for the month of February, and 456 practitioners completed the questionnaire: 134 dispute resolution practitioners and 322 family lawyers. The project team commenced conducting a statistical analysis of these data using SPSS in March 2007 and the team members are currently in the process of writing a report on these findings.
Project Outputs

To date the project has resulted in a major report on the Stage one findings and several conference presentations. Additional conference presentations will take place later in 2007, along with two subsequent reports, including a final report in December 2007, and an article based on a selection of the stage one data analysis has been submitted for publication. A copy of the Stage one report was provided on request to Justice Canada, which is currently in the process of implementing the Canadian federal government’s Child Centred Family Law Strategy. The publications for 2007 include:

- Rhoades, H and Astor, H, ‘Equal Time, Family Dispute Resolution, and Child-Focused Practice: A System in Tension’ (forthcoming publication)

Remaining Aspects of the Project to be Completed

The Attorney General’s Department has agreed to provide additional funding to the research team to conduct follow-up telephone interviews with the 63 practitioners who left contact details on the questionnaire and indicated their willingness to be contacted about the project. A research assistant will be engaged for this purpose and the interviews will be recorded and transcribed. During the second half of the year, the three researchers will conduct a comparative analysis of the three data sets and write a Final Report on the project to be delivered to the Attorney General’s Department by 30th December 2007.
Genetic information by its nature has significant implications not only for the person being tested but also for the person’s blood relatives. If family members know that they are at risk of having a familial genetic condition, they can have themselves tested for the family mutation and, if they are affected, they may be able to prevent suffering a chronic or debilitating condition, or even dying prematurely.

For this reason, people who are being tested for genetic conditions are commonly advised that they should tell their close blood relatives about the test result and should encourage the relatives to have their own test, especially where there is an effective intervention. For example, the medical condition of Familial Adenomatous Polyposis (FAP) causes polyps, which may be cancerous, to form in the bowel. These polyps may lead to an early death if they are not discovered and removed. A family member who knows of the family risk may be tested to see if he or she carries the mutation and, if so, can have regular bowel examinations to see if polyps are developing. If ignorant of the risk it may be too late to have the surgery and the person may die.

Despite the need for relatives to be informed of their risk, genetic counsellors sometimes suspect that people seeking genetic tests do not in fact tell their relatives, even when they are advised to do so. There may be many reasons for this. The people tested may not be in touch with their relatives, or they may not be on such close terms with them that they feel able to discuss very personal medical details. They may be reluctant to be the bearer of bad news, or feel that they may be blamed or resented for bringing ‘bad genes’ into the family. They may find the genetic information complex and difficult to explain. Whatever the reasons, reluctance to inform relatives has obvious health implications for the relatives.

There are also legal implications for testing agencies which may assume that warnings about genetic risks have been passed on to the relatives. If relatives have not been warned and therefore miss the opportunity to be tested and to avoid a serious risk to their life or health, could they sue the testing agency for not informing them? Genetic counsellors and other health professionals could, of course, themselves inform relatives about the family risk but they have been constrained by privacy legislation and the common law principles of confidentiality of medical communications. There are always been limited exceptions to the privacy and confidentiality requirements. In particular, they could be overridden when there is a ‘serious and imminent risk’ to another person if information is not divulged. Recently, the federal Privacy Act was amended so that health professionals are now permitted to disclose genetic information to genetic relatives so they might avoid a serious risk, even if the risk is not imminent (Privacy Act 1988 (Cth) Sched 3, National Privacy Principle 2.1 (ea)). This amendment was recommended by the Australian Law Reform Commission and the Australian Health Ethics Committee to enable disclosure of serious genetic risks to relatives (ALRC 96 Essentially Yours: The Protection of Human Genetic Information in Australia, 1993, Rec 21.1), However, in practice, health professionals may be reluctant to approach relatives directly, even if they can find them; and it is naturally difficult to contact people out of the blue with news that they may not want to hear. Also, the fact that the law has been changed to enable serious risks to be disclosed to relatives, even without the consent of the person who was first tested, may increase the legal risk of genetic testing agencies. If it is alleged that they or their employees were negligent in failing to disclose a serious risk to relatives, they no longer have the legal defence that disclosure of the risk would have contravened the privacy legislation.
The circumstances in which genetic information is actually given to relatives is therefore increasingly important, especially given the burgeoning number of genetic tests that are becoming available. From a health perspective, it is generally thought best that people who have been found to have a genetic condition should tell their relatives themselves, assisted by health professionals as necessary, with the offer of formal follow-up advice if needed. But how often do people in fact tell their relatives and how accurate is the information that they provide? What role do genetic counsellors and other health professionals play in delivering genetic information to family members, and could that be improved? How effective are genetic registers in providing information about familial risks?

The study that we are undertaking is designed to explore these questions and ultimately to promote best practice in Australia for accurate and efficient communication of genetic information in families for the promotion of their health and well being.

An early part of the research was an examination of the professional guidelines on genetic counselling in Australia and other countries, especially concerning the provision of information to relatives. The findings of this part of the project were presented in posters at the European Society of Human Genetics conference held in Amsterdam in May, 2006, and again at the International Congress of Human Genetics in Brisbane in August, 2006. The results of this research were also published in an international journal: Forrest, LE, Delatycki, MB, Skene, L, Aitken MA, ‘Communicating Genetic Information in Families – A Review of Guidelines and Position Papers’, (2007) European Journal of Human Genetics 1–7.

The current research involves a much wider online survey, involving genetic health professionals in many different countries, to investigate their current practice when working with patients diagnosed with a genetic condition with familial implications. It is hoped that understanding more about whether or not relatives are being informed and how they are being informed will enable health professionals to work more effectively to improve the health of relatives at risk and also to avoid potential liability exposure for themselves and their employers.
**Project Description and Objectives**
This project aims to provide a conceptual legal analysis of the effectiveness of property law as a means of resolving and managing competing claims to land and resources in the context of sustainability. A key factor in promoting sustainability is the management of the many competing claims and overlapping interests within Australian society for access to, and use of, land and natural resources. Historically, property law has provided the main legal regime for regulation of land and resources. Yet the extent to which property law is the most viable legal model for ensuring sustainability is widely debated. Alternative legal regimes are emerging, but there is little effective integration across various areas of land and resource management. To this end the project aims to provide:

- an integrated conceptual analysis of property law and the institutional structures that are used to regulate access to land and resources in Australia;
- an exploration of the changing conceptions of property law, including a comparative review of South Africa and New Zealand land management and resource reforms;
- an examination of recent trends in Australian land and resource management, such as the rise of agreement and community based regulatory regimes, and contrasts these with regimes relying more directly on property-based models;
- an assessment of alternative legal models for regulating land and resources via case studies in indigenous land-use agreements, water trading and community conservation initiatives;
- an analysis of the effectiveness of the various legal models in resolving and managing competing claims and in promoting sustainability;
- an examination of the manner in which these primary access models need to be situated in integrated, flexible institutional structures that take into account social, cultural and technological changes; and
- to incorporate new ways of thinking about property law and property rights, and the viability of alternative legal models.

**Progress**
Significant research on conceptual analyses of property law, land reform and resource management has been completed; including extensive literature reviews and the development of a bibliographic/reference collection. The literature formed the background for a major peer reviewed chapter on theoretical analyses of property law and indigenous communal land title. Further conceptual analyses of the role of property, privatisation and globalisation were conducted at several levels with a major theoretical piece on globalisation and its association with the controls exercised over space and property being completed by Lee Godden.

A chapter on institutional changes in the governance of water rights/property within Australia by Lee Godden was completed and appeared in an OUP publication by the Academic Advisory Group on Energy and Natural Resources to the International Bar Association in March 2006. Analyses related to theoretical developments in property rights/natural resource governance and sustainability are ongoing; with this work informing Lee Godden’s research for an interdisciplinary environmental law monograph (2008). The work examines the changing orientation of environmental regulation and the moves towards market-based mechanisms/contractual regimes as a means to promote sustainability.

Primary legal and social research has continued on a number of research fields relating to the trends in managing competing claims to land and resources. Developments in law reform related to communal land title were prominent within Australia during 2006. Accordingly, the research plan took into account these developments and a workshop was held in July 2006 at the University of Melbourne which examined law reform and world wide trends in communal land holding. Participants at the conference were drawn from Australia, South Africa and New Zealand. The workshop programme featured a series of papers related to managing claims to communally held land and resources. The papers were arranged thematically with an initial introduction to the ARC project and workshop aims, followed by an overview of International
land tenure developments. Overseas case studies drawn from South Africa, New Zealand and North America provided an historical and contemporary context to current Australian moves to individualise land title over indigenous people’s land. The final sessions focussed upon Australian developments and the implications for law reform in relation to the Northern Territory land rights legislation which was progressing through federal parliament as the workshop was being held.

The papers presented at the workshop are in the process of being developed into an edited collection entitled, ‘Sustainable Futures: Comparative Perspectives on Communal Lands and Individual Ownership’ to be published by Glasshouse Press in late 2007.

The research has informed policy debate in Australia about access and control over indigenous lands. Maureen Tehan took the lead in formulating a submission to the Commonwealth Parliament, Senate Community Affairs Committee on the proposed amendments to the Land Rights (Northern Territory) Act, while Lee Godden was asked to make a presentation arising from this work to a Native Title and Cultural Heritage conference in Brisbane in November 2006.

Lee Godden conducted fieldwork in South Africa related to the Discovery project in November 2006. Research was conducted on law reform and land title in South Africa in November 2006. Extensive research was conducted on emerging forms of environmental governance and social responsibility in respect of competing claims to national parks and the development of world heritage protected areas management during this period.

Maureen Tehan conducted preliminary research in the UK in the second part of 2006 for the articles/monograph on reconceptualising property law which will be finalised towards the end of the project. She examined emerging trends in cultural heritage management as an alternative regime for managing competing claims to land and resources.

Future work

Field work case studies, principally in the areas of water rights/water trading and native vegetation offsets trading and their contribution to sustainable land management. The results from these case studies will inform analyses on property rights and sustainability and the developments in institutional and governance forms for resolving competing claims to these resources. Research related to environmental governance, natural resource management and sustainability, largely focused upon water law, will be completed as part of the work on the publication: Godden, L and Peel, J, ‘Environmental Law: Scientific, Policy and Regulatory Dimensions’, Oxford University Press (forthcoming 2008).

Completion of research commenced on the resurgence – resolving claims about access to sensitive land and resource areas.

The research on property law and communal land holding reforms will be consolidated with the edited collection on communal title (see above).

The final stage of the project is designed to:

- Incorporate new ways of thinking about property law and property rights;
- Examine the viability of alternative legal models and
- Address proposals for social, cultural and institutional changes that bridge the gap between an abstract (and new) understanding of property and competing imperatives in land natural resource management.

These analyses will incorporate key insights from the earlier literature and scoping articles, together with the fieldwork and case studies. The projected outcomes include a conceptual analysis of legal frameworks and institutional governance structures which seeks to expand and reform “traditional property” ideas to incorporate cultural diversity and to resolve competing claims in a more negotiated and collaborative manner. The proposed models and frameworks can serve as a reference point to inform policy development and law reform. The two major outcomes of the project from this perspective will be either a series of peer reviewed articles in prominent international legal journals or a monograph. The form will depend upon the rapidity with which developments in these fields of policy and law reform emerge.
Selected Project Outcomes and Publications


- Godden, L, ‘Amendments to the Northern Territory Land Rights Act (C’th)’, 13th Cultural Heritage and Native Title Conference, Brisbane, 2006


- Godden, L, ‘Sustainability of Access to Land and Adequate Housing in the Context of the New ‘Contractualisation’ Paradigms: Deregulation, Marketisation and Privatisation’, Towards Realising the Right to Adequate Housing A Roundtable Discussion with Miloon Kothari UN Special Rapporteur on the Right to Adequate Housing, University of Melbourne, Melbourne, 2006

- Godden, L, ‘The Invention of Tradition: Property Law and its Role in the Appropriation of the South’, Of the South Symposium, Griffith University, Brisbane, 2006

The Asia Pacific Centre for Military Law (APCML) was established in 2001 as a collaborative initiative of Defence Legal in the Australian Department of Defence and the Melbourne University Law School, to facilitate cooperation amongst military forces of the Asia Pacific Region in the research, training and implementation of the laws governing military operations.

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

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

The Director of the Centre is Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law. In 2006 the Deputy Director was LTCOL Geoff Cameron CSC (to June), and Commander Dale Stephens CSM RAN (from July). Bruce Oswald CSC and LTCOL Paul Muggleton both serve as Associate Directors of the Centre. Other Melbourne Law School staff associated with the Centre are Dr David Blumenthal, Dr Helen Durham, Ms Alison Duxbury, Ms Jessica Howard, Dr Andrew Mitchell, Mr John Tobin and Dr Tania Voon. Dr Bob Mathews is a Research Fellow in the Centre.

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

Major Events in 2006

Public Lecture ‘International Humanitarian Law and Contemporary Armed Conflict: Can the Law Survive?’
13 September 2006

APCML 2006 Sir Ninian Stephen Visiting Scholar, Professor Michael Schmitt, Director of the Program in Advanced Security Studies at the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany, presented this lecture on how the changing nature of warfare is affecting the content, application and interpretation of the Law of Armed Conflict and International Humanitarian Law, with particular reference to the use of technology in armed conflict. The text of the lecture will be published in 2007 in the Melbourne Journal of International Law.

Major Research Projects in the APCML

The Challenges of Peace Operations Project

The APCML is the designated Australian partner organisation to this major international collaborative project, established in 1997 by the Swedish National Defence College with the primary objectives of fostering and encouraging a culture of cross-professional cooperation and partnership with the aim of exploring and conveying more effective and legitimate ways of dealing with multi-national and multi-disciplinary peace operations. Some 230 organisations and 50 countries are now participating in the project. Australia’s participation in the project is a key International Engagement Policy objective of the Department of Defence. The ‘challenges’ project has had a strong influence on UN reform and peace operations practice, as well as being an excellent vehicle for the interchange of information amongst subject matter experts and policy makers.

Associate Director Bruce Oswald represented the APCML at the presentation of the multi-national report ‘Meeting the Challenges of Peace Operations: Cooperation and Coordination’ to United Nations Secretary-General Kofi Annan at UN HQ New York on 19th January 2006 and at the combined UN Department of Peace Keeping Operations Workshop on doctrinal development/Challenges Projects Partners Meeting held in Sweden 26–30 September 2006.
National Security Project
The APCML, jointly with the Australian Department of Defence and the Government of Indonesia, organised a second regional workshop for South East Asian government officials on more effective national implementation of the 1972 Biological Weapons Convention (BWC), in March 2006 in Bali Indonesia. (The first workshop was held at the University of Melbourne in February 2005.)

The proceedings from both Workshops have been published and are available on the interactive website at: http://www.law.unimelb.edu.au/events/bwc

International Humanitarian Law and Explosive Remnants of War — Reports to the United Nations
APCML was asked by the Coordinator of the UN’s Working Group on Explosive Remnants of War (ERW) to prepare a Report to be presented to the UN, analysing the responses to a questionnaire and recommending future action. The questionnaire, distributed to all 90 States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW), aimed to identify the relevant International Humanitarian Law principles applicable to ERW and to establish the status of implementation of the relevant principles by the various States Parties. The Report was written by Professor Tim McCormack, with APCML research students Sarah Finnin and Paramdeep Mtharu, and presented to the Group of Governmental Experts of the States Parties on 9 March 2006 at the United Nations in Geneva.

Following this presentation, Professor McCormack was asked to prepare a second report on expected civilian damage from ERW and the proportionality equation. This Report, written with APCML research student Paramdeep Mtharu, was presented to the Review Conference on the CCW by Ambassador Edvardus Borisovas, the Coordinator of the Group of Governmental Experts, on 9 November 2006.

Civilian Bombing Project
Professor Tim McCormack and Dr Helen Durham are participating in a research project entitled ‘Bombing and the Civilian: A Twentieth Century History’ organised by Professor Toshiyuki Tanaka of the Hiroshima Peace Institute (HPI). The HPI is an international peace research institute committed to help resolve all problems facing the international community by peaceful means. The project is a multi-disciplinary one involving historians, moral philosophers, ethicists, military strategists, sociologists and political scientists.

Dr Durham delivered a paper on the international law relating to the bombing of civilians and civilian property at the HPI Workshop held in San Francisco 8–9 December 2006. Professor McCormack and Dr Durham will also provide a joint chapter to an edited volume of essays to be published in 2007.

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

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

Objectives
The Centre’s objectives are:

• To improve understanding of the laws and legal systems of Asia;
• To support the rule of law in Asia;
• To promote the teaching of Asian law at both graduate and undergraduate levels, and the teaching of Australian law in Asia;
• To promote the development of Asian studies and Asian languages in other disciplines and to encourage linkages with law studies;
• To research the legal framework for trade and investment in Asia; and
• To promote exchanges of scholars and students between Australian and Asian universities and institutions.

Research Projects
The ALC is associated with four major research projects:

• Large Collaborative Grant: ‘Asia Pacific Dispute Resolution Project’

2006 Selected Publications
Selected publications by Centre members in 2006 include:

• Lindsey, T, ‘Culture, Insolvency and Legal Orientalism in Asia: Reaching for Goering’s Revolver’ in R Tomasic (ed), Insolvency Law in East Asia, Ashgate, Aldershot (2006), 509–534
• Steele, S, ‘Insolvency Law in Japan’ in R Tomasic (ed), Insolvency Law in East Asia, Ashgate, Aldershot (2006), 13–62
The Australian Journal of Asian Law (AJAL) is a peer-refereed scholarly journal published jointly by the Asian Law Centre, the University of Washington at Seattle and the Australian National University. AJAL is edited from Melbourne and is now a leading forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia.

Asian Law Online
http://www.law.unimelb.edu.au/alc/bibliograph

Asian Law Online, launched in 2002, is the first online bibliographic database of Asian law materials in the world. Offered to the public as a free service to assist students and scholars of Asian legal systems, it is a collection of English language materials on Asian laws available throughout the world and includes books, chapters in books, journal articles and theses. The database is organised according to countries in East Asia and a selection of basic legal areas. The database can be searched for any word or a more specific advanced search can be conducted. The database is also linked to a list of useful websites for each country and legal area.

Seminars
The Centre hosted the following seminar series:

Occasional Seminar Series
In this series, distinguished scholars and leading practitioners present on current Asia legal issues.

- ‘The East Timor Legal System and Current Developments’, Mr Tiago Amaral Sarmento (19 June, 2006)
- ‘Jemaah Islamiyah, Al Qaeda and Regional Terrorism: Kinship and Family Links’ (with the Centre for the Study of Contemporary Islam), Mr Noor Huda Ismail (8 November, 2006)

Brown Bag Seminar Series
In this series, postgraduates, academics or visitors who are researching and writing on Asian legal topics present papers on work in progress or rehearse a conference or article submission. The forum provides a collegial atmosphere for peer feedback.

- ‘Regulatory Responses to the Arrival of Hostile Takeovers in Japan and Germany: Rummaging Through the International Regulatory Toolbox’, Dr Harald Baum (13 March, 2006)
- ‘Islam in Southern Thailand: The Role of Islamic Education’ (with the Centre for the Study of Contemporary Islam), Mr Phaisan Toryib, Dr Niloh Wae-u-Seng and Mrs Lamasmart Prachwuttikul (15 May, 2006)
- ‘Can Mining Regulation Work in Indonesia? Balancing Environmental Protection and Resources Development in the Newmont Case’, Mr Windu Kisworo (23 August, 2006)
- ‘Are ‘Asian Values’ Universal? International Discourse on Human Rights Policies’ (PhD Completion Seminar with the Office for Research), Ms Kerstin Steiner (25 September, 2006)
- ‘Judicial Review in Indonesia: Between Civil Law and Accountability?’ (PhD Completion Seminar with the Office for Research), Mr Simon Butt (9 November, 2006)

Asian Legal Dialogues
These seminars on Asian issues are conducted in Asian languages.

- ‘Being a Judge in Japan’ (Japanese), Judge Takaaki Miura (7 February, 2006)
- ‘Studying Law in Australia’ (Japanese), Mr Ryokichi Asaka and Mr Kenji Inoue (9 February, 2006)
- ‘Reform of Japan’s Civil Code’ (Japanese), Gakushuin University Law School Professors (16 March, 2006)
CENTRES AND INSTITUTES
Asian Law Centre

- ‘Hukum Islam dalam Konfigurasi Politik: Studi terhadap Syariat Islam dalam Bidang Hukum Keluarga di Indonesia pada Masa Orde Baru’ (‘Islamic Law in Political Configuration: A Study of Islamic Syari’at in the Field of Family Law in New Order Indonesia’) (Bahasa Indonesia), Mr Bani Syarif Maula (6 June, 2006)

Major Events
In 2006, the ALC hosted the following major events:

- Roundtable Seminar: ‘Health, Housing and Labour: Issues of Construction and Protection’, Professor Pitman Potter, Professor Lesley Jacobs, Dr Kathy Morton, Professor He Weidong and Professor Yang Pengfei (24 April, 2006)
- ALC/CSCI Panel: ‘Islamic Syari’ah Codes in Indonesia’, Professor Tim Lindsey, Mr Andi Amiruddin and Mr Jeremy Kingsley (14 August, 2006)

Melbourne Asia Policy Papers
The Melbourne Asia Policy Papers are an initiative of the Asian Law Centre, the Asia Institute, the Asialink Centre, the Asian Economics Centre and the Australian Centre for International Business at the University of Melbourne. The Melbourne Asia Policy Papers aim to strengthen Australia’s engagement in Asia through the publication and dissemination of a series of non-partisan policy option papers, which are distributed among leading government, media, academic, and business officials in Australia.

Visitor Programs
The ALC regularly hosts visits by renowned international scholars. It also participates in the following programs:

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

Supreme Court of Korea
The ALC has hosted judges from Korea since 2006 as part of the Supreme Court of Korea Overseas Research and Study Program. The Program enables Judges from Korea to experience life in a jurisdiction outside Korea for up to one year.

Chuo Law School Melbourne Summer School
Each year since 2005, the ALC has hosted the Chuo Law School Melbourne Summer School. The Summer School was initially arranged in conjunction with the late Professor Malcolm Smith, who was then Professor of Law at Chuo University. While in Melbourne, the Chuo Law School students study subjects for credit and enjoy interacting with Melbourne Law School students participating in the Summer subject ‘Issues in Japanese Law’.

Staff
The Centre was founded by the late Professor Malcolm Smith. The current Director is Professor Tim Lindsey, ARC Federation Fellow. The Centre’s Associate Directors are Dr Sarah Biddulph (China), Dr Sean Cooney, Mr Andrew Godwin (Asian Commercial Law), Dr Pip Nicholson (Vietnam), Ms Stacey Steele (Japan) and Ms Amanda Whiting (Malaysia). Ms Kathryn Taylor is the Manager of the Centre and Ms Kelly McDermott is the Administrative Assistant. Mr Jeremy Kingsley, Ms Helen Pausacker and Ms Kerstin Steiner are the Centre’s principal Research Assistants.

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

The Centre can be contacted by email at: law-alc@unimelb.edu.au
The Centre for Employment and Labour Relations Law (CELRL) was established in the Faculty of Law in 1994. Its broad aims are to consolidate the teaching of, and research into labour law at the University of Melbourne, to contribute to the development of labour law teaching and research throughout Australia, and to engage with labour law scholars throughout the world. Centre members are responsible for teaching labour law subjects in the undergraduate and graduate programmes in the Faculty of Law, with the graduate programme leading to both a Masters Degree and/or a Graduate Diploma specialising in labour law.

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

The Centre is fortunate to receive financial support from a number of law firms in Melbourne that act as its sponsors. The Centre publishes working papers and monographs.

Current Members

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

Labour Law Seminar Series

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


- **Professor J.H. (Rip) Verkerke**, Professor of Law, Director of the Program for Employment and Labor Law Studies, University of Virginia, on ‘Legal Ignorance and Information-Forcing Rules’ (24 March, 2006)

- **Associate Professor Beth Gaze**, and Anna Chapman, Senior Lecturer, both members of the Centre for Employment and Labour Relations Law, Melbourne Law School, on ‘Work Choices or No Choices’ (19 April, 2006)

- **Dr Joo-Cheong Tham**, Lecturer, Law Faculty, University of Melbourne, member of the Centre for Employment and Labour Relations Law, on ‘Are casual employees legally precarious? An analysis’ (26 May, 2006)

- **Associate Professor Maria Lorena Cook**, Department of International and Comparative Labor, School of Industrial and Labor Relations, Cornell University, in Ithaca, New York, on ‘Between Flexibility and Rights: Trends in Labour Law Reform in Latin America’ (8 June, 2006)


- **Associate Professor Rochelle Le Roux**, Faculty of Law, University of Cape Town, South Africa. She is also Deputy Director of the Faculty’s Institute of Development and Labour Law on ‘Race, Discrimination and Employment in South Africa: What are the Limits of an Employer’s Legal Obligations?’ (19 July, 2006)

- **Dr John Howe**, Senior Lecturer, Law School, University of Melbourne, member of both the Centre for Employment and Labour Relations Law, and the Centre for Corporate Law and Securities Regulation at Melbourne Law School, on ‘Light-touch’ Labour Regulation as a State Government Response to Work Choices’ (24 August, 2006)

- **Gaby Ramia**, Senior Lecturer, Director of the Graduate Program in Public Policy and Management, Department of Management, Monash University, on ‘Rivals, Acquaintances, Friends or Bedfellows? The Changing Interplay Between Labour Law and Social Security Law’ (6 October, 2006)

- **Anthony Forsyth**, Senior Lecturer and Director, Corporate Law & Accountability Research Group, Department of Business Law & Taxation, Monash University, on ‘The Future of Employee Representation: Policy Options for Australia’ (27 October, 2006)

- **Dr Phil Syrpis**, Senior Lecturer in Law, University of Bristol, UK, on ‘The Methods and Rationales of EU Intervention in Labour Law’ (12 December, 2006)
Sponsors’ Seminar Series

The Centre for Employment and Labour Relations Law also coordinates a series of seminars exclusively for the members of the firms that are its Sponsors.

- **Mr Stan Krpan**, Worksafe Victoria, on ‘Occupational Health and Safety Law: An Enforcer’s Perspective’ (27 April, 2006)
- **Commissioner Greg Smith**, Australian Industrial Relations Commission, on ‘The Industrial Relations Commission after Work Choices’ (5 October, 2006)
- **Professor Judith Sloan**, Australian Fair Pay Commission, on ‘A Commissioner’s View on the Australian Fair Pay Commission’s First Determination’ (8 December, 2006)

Centre Research

Centre members are engaged in research in diverse aspects of the broad field of labour law and labour market regulation. Areas of particular interest and expertise include the regulation of individual work relationships, discrimination in the labour market, the operation of courts and other dispute resolution institutions, the regulation of occupational health and safety, collective labour relations, comparative labour law, international labour standards, and unemployment law and policy. The Centre is engaged in ongoing research on the constitution and regulation of labour markets, both in Australia and abroad, with work being done on labour law in the Asia-Pacific region, Southern Africa, and Europe. The Centre also has a number of academic associates and research and teaching associates, both from within the Faculty of Melbourne Law School and from around Australia and the world.

Key Centre research projects include:

- Law and Labour Market Regulation
- Regulating Work and Workplaces: Contracting and Bargaining in Enterprises
- Labour Regulation in East Asia
- Legal Protection of Workers’ Human Rights: Regulatory Changes and Challenges
- Private Profits from Prison Labour
- Law and Labour Market Regulation in Southern Africa
- Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure
- Employee Happiness and Labour Law
- Revisiting the Republic
- Work/Family Conflict and Australian Labour Law
- Combating the Financing of Terrorism: Enhancing Security or Compromising Civil Rights and Democracy?
- Political Finance in Australia: A Secret and Cartelised System?
- Labour Law in an Era of ‘Self-Regulation’
- Improving the Effectiveness of Australia’s Anti-Discrimination Laws

Submissions

**January**

**J.C. Tham**

Submission to the Parliamentary Joint Committee on Intelligence and Security’s Inquiry into to the listing of the Kurdish Workers Party as a ‘terrorist organisation’ under the Criminal Code, 23 January 2006, seven pp (together with Brian Walters SC for Liberty Victoria)
February
J.C. Tham
Submission to the Australian Law Reform Commission’s Review of Sedition Laws, 10 April 2006, 13 pp (with members of the Centre for Media and Communications Law, Faculty of Law, University of Melbourne)

J. Howe
Submission to Corporations and Markets Advisory Committee inquiry into Corporate Social Responsibility

March
J.C. Tham

April
J.C. Tham
Submission to the Senate Finance and Public Administration’s inquiry into the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 (Cth), 23 February 2006, 20 pp

June
A. Chapman

August
J.C. Tham
Submission to the Attorney-General’s Department in relation to the 2nd Exposure Draft of the Anti-Money Laundering and Counter-Terrorist Financing Bill 2006 (Cth), 4 August 2006, 10 pp (for Liberty Victoria)

November
J.C. Tham
Submission to the Senate Legal and Constitutional Affairs Committee’s inquiry into the Anti-Money Laundering and Counter-terrorism Financing Bill 2006 (Cth), 10 November 2006, 16 pp (for Liberty Victoria)

Commissioned Reports
C. Fenwick, J. Howe, S. Marshall and I. Landau, ‘Labour and Labour Related Laws in Micro and Small Enterprises: Innovative Regulatory Approaches’. This Report was commissioned by the International Labour Organisation’s InFocus Program on Boosting Employment through Small Enterprise Development.

The Director of the Centre is Mr Colin Fenwick.

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

The Centre can be contacted by email at: law-celrl@unimelb.edu.au.
The Centre for Corporate Law and Securities Regulation (CCLSR) commenced in January 1996 in recognition of the growing importance of corporate law and securities regulation nationally and internationally, and in recognition of the University of Melbourne’s strength in these areas.

The objectives of the Centre and its members are:

- To undertake and promote research on corporate law and securities regulation;
- To undertake the teaching of corporate law and securities regulation subjects within the Faculty of Law and the Faculty of Economics and Commerce at the University of Melbourne and to develop and promote innovative teaching methods and teaching materials;
- To host conferences to disseminate the results of research undertaken under the auspices of the Centre or in other programs associated with the Centre;
- To develop and promote links with academics in other Australian universities and in other countries who specialise in corporate law and securities regulation;
- To establish and promote links with similar bodies, internationally and nationally, and provide a focal point in Australia for scholars in corporate law and securities regulation;
- To promote close links with peak organisations involved in corporate law and securities regulation;
- To promote close links with those members of the legal profession who work in corporate law and securities regulation; and
- To attract students of the highest calibre to the graduate program and provide opportunities for their involvement in corporate law research projects.

The activities of the Centre include teaching (members of the Centre teach or coordinate the teaching of 35 specialist subjects), maintaining a strong research program, conducting conferences and seminars and publishing a monograph series.

The Director of the Centre is Professor Ian Ramsay.

Publications

In 2006, the following books and research reports were published by Centre members:

- Ramsay, I and Lew, N, Corporate Law Reform and Delisting in Australia, Centre for Corporate Law and Securities Regulation, University of Melbourne, Melbourne (2006)

Members of the Centre for Corporate Law also published a significant number of journal articles in 2006.

Seminars and Conferences

A significant part of the Centre’s activities is the holding of seminars and conferences on important issues. In 2006 the Centre held the following seminars and conferences:

- Corporate Governance and the Management of Labour: Australian Perspectives (7 and 8 December 2006)

This conference was co-hosted with the Centre for Employment and Labour Relations Law, The University of Melbourne and the Corporate Law and Accountability Research Group, Department of Business Law and Taxation, Monash University
• **Guest at the Table? Independent Directors in Family Controlled Public Companies**  
  (6 December 2006)  
  Speaker: Professor Deborah Demott, David F Cavers, Professor of Law, Duke University  

• **The Impact of Stock-Market Listing on Employment Practices? A Comparison of Listed and Privately-Owned Workplaces in the UK**  
  (29 September 2006)  
  Speaker: Andrew Pendleton, Professor of Human Resource Management, Department of Management Studies at the University of York, United Kingdom  

• **Legal Professional Privilege**  
  (24 August 2006 Sydney and 30 August 2006 Melbourne)  
  Speakers: Kirsten Grey, Legal Manager, BHP Billiton (Sydney and Melbourne); Emilios Kyrou, Senior Partner, Mallesons Stephen Jaques (Sydney and Melbourne); Stephanie Martin, Deputy Commissioner, Australian Taxation Office (Sydney and Melbourne)  

• **Shareholder Litigation**  
  (13 June 2006 Sydney, 14 June 2006 Melbourne)  
  Speakers: Ashley Black, Partner, Mallesons Stephen Jaques (Sydney and Melbourne); Kathleen Harris, Special Counsel, Mallesons Stephen Jaques (Sydney and Melbourne); Professor Ian Ramsay, Director, Centre for Corporate Law and Securities Regulation, the University of Melbourne (Sydney and Melbourne); John Walker, Managing Director, IMF (Australia) Ltd (Sydney and Melbourne)  

• **Australian Auditing Standards – Imminent Changes**  
  (6 June 2006 Sydney, 7 June 2006 Melbourne)  
  Speakers: Richard Mifsud, Principal Executive, Auditing and Assurance Standards Board; Lee White, Chief Accountant, Australian Securities and Investments Commission; Professor Ian Ramsay, Director, Centre for Corporate Law and Securities Regulation, the University of Melbourne. This seminar was co-hosted with the Auditing and Assurance Standards Board and Blake Davson Waldron  

• **2006 Corporate Governance Conference**  
  (24 February 2006)  
  Speakers: Professor Ronald J Gilson, Professor of Law and Business, Stanford Law School and Professor of Law and Business, Columbia Law School; Peter Doherty, Principal, Capital Partners; Nicholas Moore, Executive Director, Macquarie Bank; Anton Tagliaferro, Investment Director, Investors Mutual Limited; Stephen Mayne, Founder of crickey.com.au; Professor Kevin Keasey, Halifax Bank Professor of Financial Services, Leeds University Business School; Professor Geof Stapleton, Managing Director, ISS Australia and Professor of Law, University of Melbourne; Mike Hogan, Partner, Human Capital, Ernst & Young; Pat Handley, Chairman, Pacific Brands Limited; Mark Jankelson, Head of Leadership, Capability & Performance, ANZ; Robert Fowler, Investments and Governance Manager, HESTA Super Fund. This conference was co-hosted with Institutional Shareholder Services  

**Corporate Law Judgments website**  
The Centre also hosts the Corporate Law Judgments website, which contains corporate law judgments of the Australian State and Federal courts. As of December 2006, there were 4551 judgments on the website.  

**Further information**  
The Centre’s website can be accessed at:  
The Centre can be contacted by email at:  
cclsr@law.unimelb.edu.au.
Research in the Centre for Media and Communications Law (CMCL) focuses on three activities – research projects, research visitors, and research higher degree students.

In 2006 the Centre had five active research projects which are detailed below. The Research Visitor program brings leading academics and practitioners to the Law School to pursue their research and facilitates collegiality between media and communications academics internationally. Research students are working across the full range of topics in media and communications law, many including an empirical element within their projects.

**Research Projects**

**The Future of Television: Australian Legal Protection of Digital Broadcast Content**

ARC Discovery Project (2005–2008)

The television broadcasting industry is undergoing fundamental changes associated with the transition from analogue to digital transmission. This has serious implications for the Australian public interest in a diverse broadcast environment that is accessible to all citizens, and one which supports viable creative industries. Free-to-air broadcasting is Australia’s most widely used mass media form and performs central economic, democratic and cultural functions. However technological changes now pose unprecedented challenges to broadcasters. Unlike analogue material, digital material can be copied and re-transmitted with no noticeable degradation in quality. The emergence of broadband internet and associated customer equipment, including personal video recorders, creates the possibility of material broadcast ‘in the clear’ (meaning without any form of technological protection) being copied and freely distributed. If digital broadcast content is not protected, high value content may no longer be available to free-to-air broadcasters. The changes to broadcasters’ businesses may also threaten local content production. However protection of broadcast content must take into account the interests of content producers and broadcasters in preventing unrestricted copying and redistribution as well as the interests of users in exercising freedom to copy and communicate digital content in innovative ways.

This project aims to provide in-depth, independent analysis of Australian regulatory options for protecting digital broadcast content, including technological and legal forms of protection, in a rapidly changing communications and policy environment. The objectives of the project include:

- To comprehensively analyse the legal and regulatory issues involved in protecting digital content transmitted by free-to-air broadcasters;
- To conduct empirical research, through the use of interviews of broadcast industry representatives, into these issues; and
- To make detailed recommendations regarding the development of laws, regulations, technical standards and technologies to benefit Australian citizens, broadcasters and associated creative industries.

**The Media and ASEAN Transitions: Defamation Law, Journalism and Public Debate in Indonesia, Malaysia and Singapore**

ARC Discovery Project (2006–2009)

This project examines defamation law, journalism and public debate in three core ASEAN member countries: Indonesia, Malaysia and Singapore. It focuses on a legal issue, defamation, which is central to the Australian and regional media’s potential for improving public and private sector governance, and promoting domestic and regional understanding. In the context of political, economic, and social transitions, media content is diversifying in ASEAN countries and journalists and civil society groups appear to be challenging defamation law’s limits on speech. The project combines legal research, media content analysis, and qualitative interviews to analyse how defamation risks are negotiated in print, broadcast and internet journalism in each of the three countries, and how local, Australian and international journalists and civil society organisations are mobilising a range of strategies to broaden media content and promote public debate.
Cultural Collections, Creators and Copyright: Museums, Galleries, Libraries and Archives and Australia’s Digital Heritage

ARC Linkage Project (2006–2009)
This project investigates current and emerging ways of publicly using digital collections in museums, galleries, libraries and archives, in light of copyright law and the interests of creators. The project will assist Australia better manage its digital cultural collections in light of the interests of creators, institutions and public accessibility. Ten organisations are partners in the research: Arts Law Centre of Australia, Australian Centre for the Moving Image, Australian Film Commission, Museum Victoria, Museums Australia, National Gallery of Victoria, National Library of Australia, National Museum of Australia, Powerhouse Museum and the State Library of Victoria.

Options for controlling cross-border tobacco advertising, promotion and sponsorship in light of the WHO Framework Convention on Tobacco Control (FCTC)

Funded by VicHealth Centre for Tobacco Control (Cancer Council Victoria) and Cancer Research UK (2005–2006)
This project combined comparative legislative and case-study analysis across the fields of communications and content regulation to assess legal, regulatory and technological options for controlling cross-border tobacco advertising, promotion and sponsorship in a rapidly changing communications and marketing environment. A final report including recommendations was produced by the CMCL. Jonathan Liberman, Director of Law and Regulation, VicHealth Centre for Tobacco Control presented this report to a meeting of the relevant expert committee of the FCTC during 2006. The research informing the ongoing development of guidelines under the FCTC about cross-border advertising.

Research Visitors’ Program
Each year the CMCL hosts a number of visitors who come to Melbourne to work with the CMCL, either as teachers in the specialist postgraduate program, or as participants in the research visitors’ program. The Research Visitors’ program encourages research collaboration with leading Australian and international scholars. In many cases research visitors are participants in the CMCL’s public seminars, providing a further opportunity for interaction with Faculty staff and the broader community.

In 2006 the CMCL was pleased to host fifteen research visitors:

- Maria Aristodemou, Birkbeck School of Law, University of London
- Professor Graham Austin, J Byron McCormick Professor of Law, University of Arizona, James E Rogers College of Law
- Professor Georgina Born, Faculty of Social and Political Sciences, University of Cambridge
- Stuart Brotman, Berkman Center, Harvard Law School
- Dermot Feenan, University of Ulster
- Jonathan Griffiths, Queen Mary, University of London
- Dr Venkat Iyer, University of Ulster
- Professor Matt Jackson, Penn State University
- Professor Campbell McLachlan, Victoria University of Wellington, New Zealand
- Gavin Phillipson, King’s College London
- Professor Richard Sherwin, New York Law School
- Professor Rod Smolla, Richmond School of Law
- Tony Stern, Fremantle Media, UK
- Professor Jane Winn, Charles I Stone Professor of Law, University of Washington School of Law
- Dr Karen Yeung, St Anne’s College, Oxford University

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

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

The Centre can be contacted by email at: law-cmcl@unimelb.edu.au
The Centre for Resources, Energy and Environmental Law (CREEL) was established in 1986. Until 1996 it was known as the Centre for Natural Resources Law, and the research and teaching program was focused upon laws relating to mining, petroleum and water resources and the legal structure and financing of major resources projects. More recently, there has been a greater focus on environmental law and policy, indigenous rights issues and dispute resolution in the energy and resources area.

Purposes and Objectives
The purposes and objectives of CREEL are:
• To promote graduate teaching, research, publications and discussion about legal, regulatory and policy frameworks for –
  • the production and distribution of energy
  • the provision of infrastructure
  • the development of natural resources
  • protection of the environment
  • recognition of indigenous rights and interests in land and waters
  • dispute resolution in these areas;
• To engage in these activities with respect to contemporary developments and issues in Australia, Asia/Pacific, and other selected regions;
• To extend the Law School’s specialised collection of research and teaching materials relating to energy, natural resources, environmental law and native title;
• To strengthen existing links and establish new links with other centres in Australia and overseas engaged in equivalent activities (eg the Water Research Centre at the University of Melbourne); and
• To encourage persons from industry, professions, investment institutions, government and universities in Australia and overseas to participate in the Centre’s activities.

Members
Professor Richard Garnett, Associate Professor
Lee Godden, Associate Professor Maureen Tehan,
Dr Jackie Peel.

Conferences/Seminars
On 4–5 July 2006 the Centre hosted a conference titled ‘Trends toward individual title over communal lands: Implications for resource management and sustainability’. The conference was organized as part of the Discovery Project ‘Managing Competing Claims to Land and Resources – Is Property Law the Answer?’ currently conducted by Lee Godden and Maureen Tehan. The following papers were presented at the conference:
• Wallace, J, ‘Overview of International Land Tenure Developments’.
• Pienaar, J, (University of Stellenbosch, South Africa), ‘Communal or individual approach to land holding? The Northern Cape Experience In South Africa resulting from the Transformation of Certain Rural Areas Act 94 of 1998’.
• Boast, R, (University of Victoria at Wellington NZ) ‘Individualisation: An idea whose time came and went: lessons from New Zealand’.
• Stephenson, M, (University of Queensland) ‘Reforms to Indigenous Land Title in Australia: Lessons from other Jurisdictions’.
• Beard, J and Takagaki, T, (University of Melbourne/ Productivity Commission), ‘The Costs and Benefits of Individual Title over Native Title – A Preliminary Study’.
• Bowen, P, ‘Spatial Representations and the National Native Title Tribunal’.
• Kelly, C, ‘Considerations on the Impact of Individual Title on Communal Lands as a Social Health Determinant’.
• Tehan, M, ‘Amendments to the Aboriginal Land Rights (Northern Territory) Act 1976 (C’th)’.
• Godden, L, ‘Property, Privatisation and Sustainability?’
A book proposal for an edited collection based around the workshop was prepared and submitted to several publishers. The proposal has been provisionally accepted and is in final stages of review.

On 13 July 2006 the Centre hosted a seminar titled ‘Development and agricultural revitalisation: the South African land reform perspective’ presented by Professor Juanita Pienaar, University of Stellenbosch, South Africa.

On 18 October 2006 the Centre hosted a workshop on nuclear law at the offices of BHP Billiton, immediately prior to the 30th Annual Conference of AMPLA (the Australian Resources and Energy Law Association). The workshop was presented by Professor Carlton Stoiber, a former Counsellor for Nuclear Policy at the US Embassy in Vienna with responsibility for relations with the International Atomic Energy Agency. A commentary from an Australian perspective was provided by Mr Steven McIntosh, Senior Adviser at the Australian Nuclear Science and Technology Organisation.

Research Activities

Two centre members, Lee Godden and Maureen Tehan, continue to carry out research under their Discovery Project in the fields of communal resources, water resources, property theory, resource management and indigenous heritage protection schemes. This research led to a number of publications in 2006 and will build toward further publications in 2007. Lee Godden and Jackie Peel are currently writing a major monograph to be published by Oxford University Press entitled Environmental Law: Scientific, Policy and Regulatory Dimensions. Jackie Peel also completed her doctoral thesis in the area of environmental law in 2006. Richard Garnett is presently undertaking research in the area of arbitration of energy and resources disputes, in particular under bilateral investment treaties, with a view to hosting a conference or seminars on the topic in 2007.

The Centre’s website can be accessed at: http://creel.law.unimelb.edu.au/
The Centre can be contacted by email at: law-creel@unimelb.edu.au
The Centre for Comparative Constitutional Studies (CCCS), is a focal point for research, scholarship, teaching and information about Australian constitutional law and the constitutional law of other countries whose systems are most relevant to Australia. The objectives of the CCCS are:

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

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

Research and Knowledge Transfer

Many Centre members were also heavily engaged in the implementation of the Victorian Charter of Human Rights, presenting lectures, conducting training sessions and advising government. Centre members continued their work on other key topics in Australian and comparative public law. Carolyn Evans wrote and lectured internationally about freedom of religion. Simon Evans published an analysis of the political theories underlying the protection of property rights under the Australian constitution. Pip Nicholson wrote about developments in the institutions of the modern Vietnamese state. Glenn Patmore wrote about constitutional change, particularly republican change, in Australia and Canada. Founding Director Cheryl Saunders returned to Melbourne in late 2006 after visits to Université Pantheon Assas Paris II, France and University of Copenhagen and after spending the 2005–2006 academic year as Arthur Goodhart Visiting Professor of Legal Science, University of Cambridge.

She lectured extensively on constitutional change, federalism and comparative constitutional law, among other topics. She has also been involved in assisting the Iraqi constitution-making process. Joo-Cheong Tham’s research focused on two key issues in contemporary Australian constitutionalism; ensuring that the response to terrorism accords with constitutional values and evaluating the funding of Australian political parties against democratic principles. Kristen Walker was active as counsel in three major constitutional cases, the acting judges case (Forge) and the terrorism control orders case (Thomas) in the High Court, and the Catch the Fire Ministries case in the Victorian Court of Appeal. She also wrote a major work on same-sex marriage in Australia which is due for publication in 2007. John Waugh’s work in state constitutional law and history, particularly Victorian constitutional law and history, continues.
Parliaments and the Protection of Human Rights

A major research focus of some Centre members continued to be the ARC funded project on Australian Parliaments and Human Rights (Chief Investigators in 2005 were Dr Simon Evans and Dr Carolyn Evans). This project investigated all the existing parliamentary and pre-parliamentary mechanisms for ensuring that proposed legislation is compliant with rights. In most jurisdictions these mechanisms include a parliamentary scrutiny committee with primary responsibility for checking legislation against (often vague) rights criteria. The project combines a review of the parliamentary records of selected Australian parliaments with interviews of key parliamentary stakeholders. It aims to identify the capacity and effectiveness of Australian parliaments and, through a comparative study, to compare their performance with the world’s best practice.

As part of the project, the Centre hosted a major international conference in July 2006. The conference was designed to encourage exploration of the role and effectiveness of legislatures in protecting human rights. Until recently, academic and public attention had focussed mainly on the contribution of courts to the protection of human rights through the enforcement of bills of rights. This conference built on the growing awareness of the significant role of legislatures in protecting human rights. Papers presented at the conference discussed the impact of Bills of Rights on parliamentary procedures, the contribution of legislative actors and processes (for example: the executive, political parties, parliamentary committees, debate in the chamber) to effective scrutiny of legislation, the conditions in which effective legislative scrutiny can take place, pre-legislative mechanisms for rights-scrutiny, and developing a human rights culture in the public service. More than 200 people attended the conference and the Miegunyah Lecture presented by Professor David Feldman (University of Cambridge, and former legal adviser to the UK Parliament’s Joint Committee on Human Rights). Other featured speakers included Professor Janet Hiebert (Queen’s University, Kingston Ontario), Professor George Williams (Director, Gilbert+Tobin Centre of Public Law, UNSW), Hafid Abbas (Director General of Human Rights Protection, Department of Justice and Human Rights, Indonesia), Professor Jeremy Gunn (Director, Program on Freedom of Religion and Belief, American Civil Liberties Union, Washington DC and Senior Fellow, Emory University, Georgia) and Professor Paul Rishworth (Faculty of Law, University of Auckland).

Public Lectures

- 20 July 2006 – Miegunyah Public Lecture: ‘The Roles of Parliaments in Protecting Human Rights: A View from the UK’, Professor David Feldman, University of Cambridge, United Kingdom

Seminars and Roundtables

- 29 May 2006 – ‘Equality and the Shape of Constitutions: Perspectives on Legislative Rights from Canada and the US’, Professor Benjamin Berger, University of Victoria, Canada
- 8 August 2006 – ‘A Sceptical Canadian Perspective on Charters of Rights’, Professor Grant Huscroft, University of Western Ontario
- 16 August 2006 – ‘Constitutions and Nation-rebuilding’, Professor David Feldman, University of Cambridge and Miegunyah Distinguished Visiting Fellow
- 22 August 2006 – ‘Anti-Terrorism and Migration Detention in Canada: The Supreme Court Charter of Rights Challenge’, Mr Rayner Thwaites, University of Toronto
- 30 August 2006 – ‘The Failure of Criminal Racial Vilification Laws in Australia’, Mr Dan Meagher, Deakin University
- 14 September 2006 – ‘The Coalition Invasion of Iraq: The Recognition and Enforcement of International Law and the Courts of the UK and Ireland- Significance for Australia’, Professor Geoffrey Lindell, Professorial Fellow, Melbourne Law School
- 14 September 2006 – ‘Education, the Australian Constitution and the Commonwealth–He Who Pays the Piper, Calls the Tune’, Professor Geoffrey Lindell, Professorial Fellow, Melbourne Law School
- 8 November 2006 – ‘Transnationalism and Common Law Constitutionalism’, Professor Vicki Jackson, Georgetown University Centre of Law, Washington DC
CENTRES AND INSTITUTES
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- 28 November 2006 – ‘Hong Kong’s Political Autonomy and its Continuing Struggle with Universal Suffrage’, Mr Phil CW Chan, Visiting Fellow, Asia-Pacific College of Diplomacy, ANU
- 5 December 2006 – ‘The High Court’s Work Choices Decision: Analysis and Implications for Employment Law and Constitutional Law’ (organised with the Centre for Employment and Labour Relations Law), Justin Bourke (Barrister), Rosemary Owens (Adelaide University) and Professor Cheryl Saunders AO (Founding Director of the Centre for Comparative Constitutional Studies)

Visitors to the Centre
Dr Gregory Carne, University of Tasmania, 2 January–10 February 2006
Professor David Feldman, University of Cambridge and Distinguished Miegunyah Visiting Fellow, 20 July–28 August 2006
Professor Grant Huscroft, University of Western Ontario, 6 August–9 August 2006
Dr Amos Jones, Fulbright Postgraduate Award holder, Harvard Law School, 1 September 2006–31 May 2007
Professor Geoffrey Lindell, 12–15 September 2006
Mr Dan Meagher, Deakin University, 17 July–31 December 2006
Mr Charles Parkinson, 23 January–1 September 2006
Dr Gregory Taylor, Monash University, 1 January–30 June 2006
Mr Rayner Thwaites, University of Toronto, 23 January–1 September 2006

Management
Director: Dr Simon Evans
Deputy Directors: Associate Professor Kristen Walker and Dr Carolyn Evans
Founding Director: Professor Cheryl Saunders AO
Administrator: Ms Emma Brimfield

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

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

### Aims

The specific aims of the CSCI include:

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

### Research Projects

The CSCI is associated with three major research projects:


### 2006 Publications

Selected publications by Centre members in 2006 include:

Briefing Paper Series
The CSCI publishes the CSCI Islamic Issues Briefing Paper series, which is available in hard copy and on the CSCI website.
Recent and forthcoming papers include:
- ‘Iran, Islam and Democracy’, by Professor Haleh Afshar (2006)
- ‘Listening to the Qur’an: A Search for Understanding’, by Professor Anthony Johns (forthcoming)

Seminars
The Melbourne Public Dialogues on Islam
The Melbourne Public Dialogues on Islam cover issues relating to Islam and are relevant to academics, governmental and business organisations, as well as the community.
- ‘Iran, Islam and Democracy’ (with the Department of History), Professor Haleh Afshar (22 March, 2006)
- ‘Listening to the Qur’an: A Search for Understanding’, Professor Anthony Johns (24 May, 2006)
- ‘Islam and the Transformation of Science’ (with the Department of History and Philosophy of Science), Professor George Saliba (16 August, 2006)

Islam Research Seminar Series
The CSCI Islam Research Seminar Series are lunchtime seminars that are more informal and are often presented by postgraduate students.
- ‘Banking on Identity: Muslims in the West and Bank Selection Criteria’, Mr Imran Lum (11 May, 2006)
- ‘Islam in Southern Thailand: The Role of Islamic Education’, Mr Phaisan Toryib, Dr Niloh Wae-u-Seng and Mrs Lamaismart Prachwuttikul (15 May, 2006)
- ALC/CSCI Seminar: ‘Hukum Islam dalam Konfigurasi Politik: Studi terhadap Syariat Islam dalam Bidang Hukum Keluarga di Indonesia pada Masa Orde Baru’ [Islamic Law in Political Configuration: A Study of Islamic Syariat in the Field of Family Law in New Order Indonesia] (Bahasa Indonesia), Mr Bani Syarif Maula (6 June, 2006)
- ‘Judaism, Christianity and Islam: Confrontation or Cooperation?’, Imam Yahya Hendi (2 August, 2006)
- ALC/CSCI Panel: ‘Islamic Syari’ah Codes in Indonesia’, Professor Tim Lindsey, Mr Andi Amiruddin and Mr Jeremy Kingsley (14 August, 2006)
- ALC/CSCI Seminar: ‘Jemaah Islamiyah, Al Qaeda and Regional Terrorism: Kinship and Family Links’, Mr Noor Huda Ismail (8 November, 2006)

Conferences
The CSCI hosts an annual conference on current issues relating to Islam, with the objective of producing edited books and other publications. It also hosts an annual national postgraduate conference on Islamic Studies, which is open to students from throughout Australia. The 2006 Colloquium, held on 22–23 November, 2006, was titled ‘Muslims in the West: Integration or Exclusion’. The Islamic Studies Postgraduate Conference was held on 20–22 November, 2006.
Visitor Programs

Thailand Leadership Program
This program is funded by the Australia-Thailand Institute (of the Department of Foreign Affairs and Trade) and is managed by the Centre for the Study of Contemporary Islam. The project aims to recruit three young Muslim leaders from southern Thailand, who are involved in the administration of Muslim educational institutions (one of whom will be from the Ministry of Education in Bangkok) and to bring them to Australia for a period of two weeks in order to familiarise them with the Australian administration of educational institutions and curricula (with particular focus on high schools). The program contributes towards improving the quality of Islamic education institutions in southern Thailand.

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

Staff
The Co-Directors of the Centre are Professor Abdullah Saeed, the Sultan of Oman Professor of Arab and Islamic Studies and Director of the Asia Institute, and Professor Tim Lindsey, ARC Federation Fellow and Director of the Asian Law Centre in the Faculty of Law.

Ms Kathryn Taylor is the Manager of the Centre and Ms Kelly McDermott is the Administrative Assistant.

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

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

- Support and generate development of high-level public policy in relation to intellectual property issues;
- Improve the protection, management and exploitation of intellectual property by all Australian stakeholders, including research institutions, public and private sector interests; and
- Help create an informed environment for, and contribute to, ongoing public debate in Australia about intellectual property issues and related matters, including innovation policy and economic growth.

Research Projects undertaken by IPRIA Staff

- The Role of IP Protection and its Use in Encouraging Innovation, Competition and Commercialisation
- Quality of Patent Examination
- Comparison of Quality of International Patent Examinations Using Matched Applications
- National Innovative Capacity
- Research & Development Property Scoreboard
- Level of Disharmony between Quad-Lateral Offices
- Outcomes of IP Enforcement Actions in Australia
- IP Policies and the FTA with China
- Patent Litigation and the Settlement of Patent
- Patent System Balance
- History of Australian Patent Policy
- Knowledge Bridging by Biotechnology Start-Ups
- Employees’ Rights to IP
- The Impact of Product Modularity on Intellectual Property Creation
- Uncertain Intellectual Property Rights and Start-Up Commercialisation Strategy
- The Effect of Interorganizational Personnel Flow on Firm Performance: An Examination of IP Lawyer Movement
- Patent Attorney Professional Privilege
- Australian Developments in IP
- International Developments in IP
- Law Reform
- Copyright and Cultural Institutions: Digitising Collections in Public Museums, Galleries and Libraries
- The Evolution of Australian Enterprises: 1990 to 2007
- Ownership of, Access to and Control of Cultural Property held in Cultural Institutions

Seminars

- 31 October 2006, Can Australia’s Biotechnology Industry Survive? Professor Ian Cockburn, Professor of Finance and Economics & Everett W Lord Distinguished Faculty Scholar, Boston University School of Management
- 27 October 2006, The Copyright Amendment Bill 2006: The Scope and Likely Impact of New Library Exceptions, Emily Hudson, Research Fellow, IPRIA
- 11 August 2006, Intellectual Property and Innovation: A Different Perspective, Professor David Levine, Professor of Economics, Washington University in St Louis and Professor Eric von Hippel, Professor and Head of Innovation and Entrepreneurship Group, MIT Sloan School of Management
- 18 July 2006, IP Commercialisation Ventures: One-day Taxation Course in association with the School of Enterprise, Professor Cameron Rider, Professor of Taxation Law, University of Melbourne
- 12 July 2006, (Melbourne), 13 July (Sydney), Centenary of Trademarking, Dr Paul Jensen, Research Fellow, IPRIA
- 28 June 2006, Intellectual Property in Global Perspective, Professor Suzanne Scotchmer, University of California, Berkeley
• 19 June 2006, *Law, Ethics and Indigenous Collections: A Workshop for Cultural Institutions*, Nerissa Broben, Koorie Heritage Trust; Caroline Carmody, AIATSIS; Professor Andrew Christie, IPRIA; Jason Eades, Koorie Heritage Trust; Di Hosking, AIATSIS; Emily Hudson, IPRIA; Elizabeth McNiven, National Film and Sound Archive; Mary Miliano, National Film and Sound Archive; Moira Paterson, Monash University; Dianne Reilly, State Library of Victoria; Kimberlee Weatherall, IPRIA

• 26 April 2006, *Turning Intellectual Property into Commercial Reality: University Showcase Innovation*, David Bradley, Victorian AgriBioscience Centre; Duncan Bucknell, Research Associate, IPRIA; Julian Curwen, Davies Collison Cave; Professor Barrie Finnin, Monash University; Igor Gonda, Akrux Pty Ltd; Dr Benjamin Palmer, Genos Pty Ltd; Peter Willimot, IP Australia

• 7 February 2006 (Brisbane), 8 February 2006 (Sydney), 9 February, (Canberra), 16 February (Melbourne), *Taxing the Mind*, Professor Cameron Rider, Professor of Taxation Law, University of Melbourne

• 2 February 2006, *Venture Capital Symposium: Tax and Expenditure Subsidies for Commercialisation Innovation*, Stephen Barkoczy, Monash University; Ben Davey, Freehills; Craig Moore, Starfish Ventures Pty Ltd; Professor Daniel Sandler, University of Western Ontario; Miranda Stewart, University of Melbourne

Significant Publications

Books


Reports


The Centre’s website can be accessed at: http://www.ipria.org.
The Institute for International Law and the Humanities (IILAH) is dedicated to integrating the study of international law with contemporary approaches to the humanities. It facilitates and promotes innovative scholarship and critical thinking on emerging questions of international law, governance and justice, and strengthens the role of Melbourne Law School as a leading centre of research in this area. The Director of IILAH is Professor Anne Orford.

Aims and Objectives

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

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

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

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

Research Activities

IILAH hosted a wide range of events in 2006.

Public Lectures

In April, Professor Costas Douzinas (Birkbeck College, London) presented a public lecture entitled The Normative Foundations of Empire. By examining recent developments in international law, war, human rights, humanitarianism, political justice, and the spatial, temporal and linguistic understandings of our world, Professor Douzinas began addressing the questions; What are the common normative characteristics of the new world order? Can we define it as a new empire?

In November, the 2006 Sir Kenneth Bailey Memorial Lecture was delivered by Professor Martti Koskenniemi (Academy Professor of International Law at the University of Helsinki, Global Professor of Law at New York University). Miserable Comforters? International Law as a New Natural Law compared two moments of international transformation in which legal vocabularies clashed. Professor Koskenniemi argued that the situation facing international lawyers today resembles an earlier moment of transformation – the end of the Thirty Years’ War and the emergence of a secular natural law to govern thinking about international reform towards the end of the 17th and early 18th, century. Then, as now, lawyers were urged to abandon anachronistic scholasticism, and legal renewal was proposed as a project for grasping the inherent laws of human nature and society. It was this proposal that Immanuel Kant rejected in his attack on the natural lawyers as ‘miserable comforters’. In his lecture, Professor Koskenniemi turned this Kantian indictment against the novel legal vocabularies of international power expressed in the suave idioms of globalization and military necessity.
Public Seminars
In February, IILAH, together with Melbourne University’s Melbourne School of Continental Philosophy, Ashworth Centre for Social Theory and Institute for Postcolonial Studies and Deakin University’s Psychoanalytic Studies program, ran the second of the Terror Seminar Series, *The Enemy Within*. The forum discussed aspects of the sedition provisions contained in anti-terrorism legislation. The discussion was facilitated by Peter Rush and Juliet Rogers. IILAH also co-hosted a workshop on *Responding to the Anti-Terrorism Legislation*, organised in conjunction with the Victorian Equal Opportunity Commission and the Federation of Community Legal Centres. Presentations by John Von Doussa, President of the Human Rights and Equal Opportunity Commission, and Marika Dias, Federation of Community Legal Centres were followed by group discussion facilitated by Joo-Cheong Tham.

In March IILAH hosted a public seminar (also supported by the University of Melbourne School of Population Health and the Victoria Health Promotion Foundation) on the *Right to Health of Indigenous Australians*. The seminar brought together experts in health and human rights to examine pressing health issues facing Indigenous Australians. Speakers included Mr Tom Calma (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission); Professor Ian Anderson (Director, Onemda VicHealth Koori Health Unit, University of Melbourne), and Dr Papaarangi Reid (Director, Maori Health Centre, Wellington School of Medicine).

Workshops and Symposia
In April, IILAH hosted a two-day symposium, *Declarations of Law*, convened by Peter Rush and Juliet Rogers. The symposium considered aspects of counter-terrorism, the condition of the exception and sovereign jurisdiction. Speakers were Dr Catherine Mills (Philosophy, University of NSW); Mr Shaun McVeigh (Law, Griffith University), and Associate Professor Joseph Pugliese (Critical and Cultural Studies, Macquarie University).

The 3rd Melbourne Legal Theory Workshop was held from 22–24 November. The workshop on the theme of *Limit, Exception, Emergency, Miracle*, was convened by IILAH’s director Professor Anne Orford. It explored the ways in which a range of disciplines (including law, philosophy, political theory, international relations and anthropology) have understood the possibility, necessity or dangers of the moment at which authority produces itself through the suspension of law or tradition. The workshop brought together scholars from law and the humanities to attempt to generate a better understanding of the stakes of this pervasive contemporary anxiety about law at the limit. Speakers included: Professor Hilary Charlesworth (Law, ANU); Professor Costas Douzinas (Arts, Birkbeck); Professor Hassan El Menyawi (Law, UN University for Peace, Costa Rica); Professor Martti Koskenniemi (Law, Helsinki and NYU); Mr Shaun McVeigh (Law, Griffith); Dr Naz Modirzadeh (Humanitarian Policy and Conflict Research, Harvard); Professor Gregor Noll (Law, Lund University, Sweden); Professor Anne Orford (Law, University of Melbourne); Dr Sanjay Seth (Politics, La Trobe); Professor RBJ Walker (International Relations, Keele), and Professor Kath Weston (Visiting Scholar, Anthropology, MIT).

In December IILAH hosted a British Academy Collaborative Workshop, *Popular Sovereignty and the Rule of Law in Divided Societies*, convened by Dr. Andrew Schaap (Politics, Melbourne). The workshop examined critically the ways in which the principles of popular sovereignty and rule of law articulate in the context of divided societies to variably facilitate, underwrite and frustrate political processes. Speakers included: Dr Emilios Christodoulidis (Law, Glasgow); Assistant Professor Jason Frank (Politics, Cornell); Professor Bonnie Honig (Politics, Northwestern); Dr Fiona Jenkins (Philosophy, ANU); Dr Paul Muldoon (Politics, Monash); Professor Paul Patton (Philosophy, UNSW), and Dr Scott Veitch (Law, Glasgow).

Research Seminars
In March, Ms Tracey Epps (University of Toronto) presented aspects of her doctoral research on *The Role of Science and Public Sentiment in Regulatory Decisions regarding Health under WTO Law*.

In April, Melbourne barrister Ms Georgina Costello presented a seminar on *Human Trafficking: Approaches to Justice for Human Trafficking Victims in Australia*. The seminar, co-hosted with the Asia-Pacific Centre for Military Law, considered Australia’s approach to issues surrounding trafficking such as: human rights abuses, organised crime, labour exploitation, gender harm, poverty and development issues, and border control.

In May, Professor Campbell McLachlan (Victoria University of Wellington Law School), presented a seminar on *Fragmentation and the Sleeping Beauty of Systemic Integration*. Professor McLachlan presented aspects of his work on the recently released report of the International Law Commission’s Study Group on Fragmentation of International Law.
In August, Justice Kenneth Keith QC KBE presented a seminar on *The International Court of Justice: A View from the Inside*. Sir Kenneth discussed aspects of his work as a Judge of the International Court of Justice.

In September, IILAH hosted a seminar, *Trends and Challenges in Accountability Mechanisms of Multilateral Development Banks* with Mr. Suresh Nanwani, Associate Secretary of the Compliance Review Panel at the Asian Development Bank. Mr. Nanwani explored the use by multilateral development banks of accountability mechanisms allowing NGOs and community groups affected by particular projects to seek review of the bank’s compliance with its own internal policies and procedures.

In early November, IILAH hosted a seminar, *Competitive Adjudication? Dispute Settlement in FTAs and the WTO*. Mr. Joshua Meltzer (negotiator for the Australia-Malaysia FTA and ASEAN-Australia-New Zealand FTA) examined issues associated with the various dispute settlement mechanisms available under World Trade Organization agreements and bilateral free trade agreements (FTAs).

**Roundtables**

In May, IILAH hosted a *roundtable discussion with Professor Paul Hunt* (UN Special Rapporteur on the Right to Health). The Roundtable focussed on how international human rights work and avenues for petition and complaint might be utilised towards improving the health of Aborigines and Torres Strait Islanders.

In August, IILAH hosted a *roundtable discussion with Miloon Kothari* (UN Special Rapporteur on the Right to Adequate Housing). The discussion drew on Mr. Kothari’s expertise in order to focus on contributing to the housing and land crisis globally, as well as on housing policy and problems in the Australian context.

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

The Institute can be contacted by email at: law-iilah@unimelb.edu.au.
About the Tax Group
The Tax Group at Melbourne Law School aims for excellence in tax education and research. It offers a comprehensive postgraduate program and teaches a range of subjects in the LLB and JD degrees. The tax program is designed and taught by, and in conjunction with, experienced taxation practitioners including members of leading law and accounting firms and leading members of the Tax Bar. The program provides detailed taxation knowledge and skills for tax professionals and policy-makers and seeks to develop the foundations of tax policy and law for research students.

In 2006, Professor Cameron Rider returned to practice at leading law firm Allens Arthur Robinson, although he continues his involvement in teaching and research with the Tax Group as a Professorial Fellow. Associate Professors Ann O’Connell and Miranda Stewart have taken over as co-directors of the Tax Group.

Research in the Tax Group
The Tax Group undertakes research with a technical, public policy and reform focus and contributes at various levels to public debate on tax reform. The tax faculty has a diverse range of tax research interests, including Australian individual and corporate income tax, tax policy and reform, with a strong emphasis on comparative and international taxation.

In 2006, Professor Cameron Rider and Associate Professor Ann O’Connell continued work with Professor Richard Mitchell of the Centre for Employment and Labour Relations Law and Professor Ian Ramsay of the Centre for Corporate Law and Securities Regulation on a three year ARC-funded research project, ‘Employee Share Ownership: Current Practice and Regulatory Reform’.

The Tax Group also continued their research into tax and intellectual property funded by the Intellectual Property Research Institute of Australia (IPRIA). In 2006, Professor Cameron Rider, Associate Professor Ann O’Connell, Associate Professor Miranda Stewart, Lillian Hong and Michelle Herring produced a substantial report titled ‘Taxation Problems in the Commercialisation of Intellectual Property’. Professor Cameron Rider presented this research in a series of lectures hosted by IPRIA throughout Australia, titled ‘Taxing the Mind’. This has now been developed into a postgraduate tax subject.

In addition, the Tax Group continued to conduct research on tax reform processes. Lecturer Sunita Jogarajan commenced a research project into the influence of the IMF on tax reform in developed countries which is funded by a Melbourne University Early Career Researcher Grant.

Significant publications and presentations by Tax Group faculty

Associate Professor Miranda Stewart edited a book *Tax Law and Political Institutions*, featuring contributions from members of law, politics and commerce faculties in Australia, New Zealand, Canada and Hong Kong. She also presented papers on aspects of Australian business tax reform at two conferences organised by the Australian Tax Research Foundation and on tax reform and governance at the first OECD International Network for Tax Research conference, at the University of Michigan Law School in the United States.

Lecturer Sunita Jogarajan presented a paper on ‘Tax Concessions for Returning Australians’ at the ATTA conference which was later published as a refereed article in the *Revenue Law Journal*. Lecturer Sunita Jogarajan also co-wrote a paper on ‘The Australian Investor in India – Business Structures, Tax and Investment Scenarios’ for the inaugural CPA Australia India Conference and published an article on the Indian tax system and foreign direct investment in the *Asia-Pacific Journal of Taxation*. Lecturer Sunita Jogarajan also co-authored a report on ‘ASEAN Tax Regimes and the Integration of Priority Sectors’ which was funded by the ASEAN Australia Development Cooperation Program.

Dr Michael Kobetsky gave a number of presentations in mainland China, including seminars for the Chinese central revenue authority on international tax anti-avoidance measures. In Taiwan, Dr Michael Kobetsky gave a keynote address on transfer pricing to Chinese Taipei tax officials and tax advisers and presented an international tax seminar to the Study Group of Asian Tax Administrations and Research hosted by Chinese Taipei. In addition, Dr Michael Kobetsky presented a paper at the Taxpayers Australia National Conference on the tax consequences of investing overseas.
Contributions to public policy and dissemination of research

Members of the Tax Group participate in peak professional and policy bodies in which they play a key role in development of tax law and policy. In 2006, several members of the Tax Group were fellows of the Taxation Institute of Australia and active members of the International Fiscal Association. Professor Cameron Rider was a member of the Taxation Committee of the Law Council of Australia. Associate Professor Ann O'Connell was a member of the Advisory Panel to the Board of Taxation, the peak federal government body concerned with taxation reform, and sat on the Education, Examinations and Quality Assurance Board of the Taxation Institute of Australia. In relation to broader policy issues, Associate Professor Miranda Stewart made written and invited oral submissions to the HREOC inquiry into discrimination against same-sex couples in federal law.

Tax group events and visitors

The Tax Group hosted the 18th Annual Australasian Tax Teachers Association Conference in 2006. On the theme ‘Old Taxes in a New World’, the conference featured, as keynote speakers, Justice Richard Edmonds of the Federal Court, Professor Neil Brooks of Osgoode Hall Law School, Toronto, Professor Malcolm Gammie QC of London School of Economics, Mr Michael D’Ascenzo, incoming Commissioner of Taxation, Professor Judith Freedman of Oxford University, and Professor Claire Young of UBC, Vancouver. This conference was attended by more than 100 tax faculty from around Australia and New Zealand.

In October 2006, the second Annual Tax Lecture took place at the Melbourne Law School, continuing a series which aims to place the tax law in its historical context, and to inform public debate on current tax issues. Justice Neil Young of the Federal Court, gave a lecture titled ‘The Historical Significance of the High Court’s Decision in Federal Commissioner of Taxation v Myer Emporium’, which is to be published in the Melbourne University Law Review.

The Tax Group also hosted with IPRIA a Venture Capital Symposium in February 2006 attended by members of the profession, venture capital business and federal government bodies. Associate Professor Miranda Stewart spoke at the symposium, together with Professor Daniel Sandler, of the University of Western Ontario, Canada; Associate Professor Stephen Barkoczy from Monash University; Ben Davey, Partner at Freehills Lawyers and Craig Moore of the Australian Venture Capital Association Ltd.

The Tax Group also hosted two branch meetings of the International Fiscal Association (IFA) in 2006. In September 2006, a presentation was given at the IFA branch meeting by Graham Whyte, Assistant Commissioner (International Relations) at the ATO, addressing Australia’s new international tax treaties on exchange of information with tax havens. In November 2006, Professor Tim Edgar from the University of Western Ontario, spoke about the Canadian general tax anti-avoidance rule.

The Tax Group’s website can be accessed at:
http://www.tax.law.unimelb.edu.au/
Simon Evans came to Melbourne Law School in 1999 from private practice in Sydney. He had previously completed a PhD at the University of Cambridge as a W M Tapp Student and holder of the Ivan Roberts Scholarship and had been associate to Chief Justice Sir Anthony Mason in 1992–1993. He completed his undergraduate degrees in Science (honours in Pure Mathematics) and Law at the University of Sydney and was awarded University Medal for both degrees. He served as the Faculty’s Director of Teaching from 2003 to 2005 and is currently Director of the Faculty’s Centre for Comparative Constitutional Studies.

Simon’s research focuses mostly on public law – constitutional law, administrative law and human rights – but he also occasionally publishes in private law, most recently an essay on the High Court’s equity jurisprudence in the 2003 book celebrating the High Court’s centenary. Within the field of public law, Simon has written extensively about constitutional property rights and the relationship between social justice and individual entitlements; accountability and the rule of law; constitutional theory; and human rights. Most recently, he published an article in the University of New South Wales Law Journal that drew on interdisciplinary research in cognitive science and the theory of language to argue for a new approach to constitutional interpretation and a detailed study of Australia’s executive government for an international collection published by Oxford University Press.

As Australasian recent developments correspondent for the journal I.CON (International Journal of Constitutional Law) published by Oxford University Press and New York University, he has written about the Tampa case, the Plaintiff S157 privative clause case and (with Adrienne Stone) the High Court’s most recent foray into the implied freedom of political communication Coleman v Power.

Human rights has been his principal focus since 2004, when Simon and colleagues Carolyn Evans and Kristen Walker were awarded a three-year grant by Australia’s peak research funding body, the Australian Research Council, to study how effectively Australian Parliaments protect human rights. Since 2005, the project has been carried on by Simon and Carolyn. As some Australian jurisdictions move towards adopting bills of rights, identifying which institutions best protect rights has become ever more controversial and important. Defenders of the traditional Australian system say that democratically elected parliaments are the best protection for rights.
Others argue that politicians need judicial oversight if rights are to be protected. This project has explored the strengths and weaknesses of the traditional system. The first stage investigated all the existing mechanisms for ensuring that Bills comply with human rights. The second stage was a comprehensive survey of the legislation produced by the Commonwealth parliament and two state parliaments over a three year period tested whether parliamentary process do in fact identify and deal competently with human rights issues. The third stage involved interviews with more than 50 parliamentarians about their understanding of human rights and their assessment of the current system for rights protection.

The research has produced several major articles and has influenced the development of human rights policy in Victoria. Here there is room to highlight just two examples.

In an article published in 2005 in the Melbourne University Law Review, Simon argued that Australian governments and parliaments should adopt two mechanisms designed to improve the protection of human rights in Australia: first, a requirement that executive agencies prepare human rights impact statements in relation to all significant policy proposals, and second, that an independent executive agency review the quality of these statements. These mechanisms aim to formalise and integrate human rights analysis with the process of developing policy options and to provide independent scrutiny of that analysis. They are designed to promote a culture of human rights in the executive branch of government, and they have the potential to further the fundamental democratic objective of assisting Australian legislatures to make their own assessment of the human rights impact of legislative proposals. The first of these recommendations was adopted by the Victorian government and parliament when enacting Australia’s first state-based human rights act, the Victorian Charter of Human Rights.

In an article published in 2006 in the leading UK journal Public Law, Carolyn and Simon examined the leading Australian and UK parliamentary committees that consider the human rights implications of proposed legislation. They argued that the history of the Australian committees tended to make them focus on protecting a relatively narrow set of civil liberties rather than a broader set of human rights. They considered whether Australian committees should move towards the broader conception of human rights used by the UK committee and how that might be achieved, with or without a Bill of Rights.

The expertise in human rights protection developed through this project had led to Simon and Carolyn acting as consultants to the Victorian government during the design and implementation of the Victorian Charter of Human Rights. Some of their ongoing analysis of how the Victorian Charter will operate was published in the Public Law Review in late 2006. They are currently writing two books presenting the results of their research into parliaments and the Victorian Charter.
Belinda Fehlberg’s particular expertise is socio-legal (and more specifically, empirical) research in family law. Belinda is a graduate of the University of Melbourne (LLB (Hons), BA), holds a DPhil (Law) from the University of Oxford, and is admitted to practise as a barrister and solicitor in the Supreme Court of Victoria and the High Court of Australia. While undertaking her doctoral studies in the UK, Belinda worked part-time as a lecturer in the School of Law at the University of Warwick. She was appointed as a lecturer in the Melbourne Law School in 1994 and to a chair of law in 2004.

Belinda’s research falls into two main areas: research on money and marriage, and research related to post-separation parenting. Her doctoral research on spousal guarantees, undertaken at the Centre for Socio-Legal Studies in Oxford from 1992–95, fell into the first of these categories. It involved testing the legal grounds for avoiding contracts and sociological literature on how couples make major financial decisions against empirical research involving interviews with couples and their lawyers about the circumstances in which spouses and de facto partners provide third party loan security for their spouse or partner’s business debts. Her thesis was published as a book by Clarendon Press, the academic imprint of Oxford University Press, and was awarded the OUP/Socio-Legal Studies Association book prize in 1998. Her research in this area has informed the judgments of the High Court of Australia and the New South Wales Court of Appeal, and the work of the Australian Law Reform Commission and the New South Wales Law Reform Commission. More recently, Belinda’s research on money and marriage has extended to pre-nuptial agreements, spousal maintenance, child support and matrimonial property division. Viewed as a whole, her research in this field has contributed to our understanding of the gap between the dynamics of intact intimate relationships and the legal rules applicable when relationships break down.

Belinda’s research related to post-separation parenting arrangements has included responsibility for, and substantial contribution to, the research and writing of the Family Law Pathways: Case Studies (2000) report commissioned by the Family Law Pathways Advisory Group and drawn upon frequently throughout its 2001 report, which comprised the first step in the development of significant changes in 2006 to Australian law and
process regarding post-separation parenting. The Case Studies project was important in conveying the ad hoc way in which people accessed and encountered the Australian family law system. Also evident was a complex interaction between parenting and financial arrangements, providing the impetus for Belinda’s current research interest in the relationship between new shared parenting laws and financial settlements of separating parents.

Belinda’s work in the area of post-separation parenting arrangements has included, with others, the first major research to be undertaken in Australia on stakeholder (including parent, child, contact service, referral agent) expectations and experiences of children’s contact services, which are designed to provide a safe environment for children to maintain contact with a parent in circumstances where this poses a risk to the child (eg due to child abuse). The findings influenced the Federal Government’s decision in the 2005–06 Budget to grant significant additional funding to contact services. Belinda also conducted the first research on jurisdictional overlap between the state children’s courts and the Family Court of Australia in the area of child protection, providing significant assistance to the Attorney-General’s Family Law Council on this issue in 2000. These projects, both funded by ARC grants, have increased our knowledge in areas of ongoing practical significance for many vulnerable families where little was previously known beyond the anecdotal.

Belinda has published articles in a number of highly regarded refereed international and Australian law journals, including the Modern Law Review and the International Journal of Law, Policy and the Family. The innovative and interdisciplinary nature of her research has also allowed her to have input at a law reform and policy level. This was a central aspect of her role during 2000 as a Principal Research Fellow at the Australian Institute of Family Studies.

Belinda’s most recent project, with Associate Professor Juliet Behrens of ANU, has been the completion of the manuscript for a family law textbook, Australian Family Law: The Contemporary Context, to be published by Oxford University Press in 2007. The book’s particular contribution lies in its thematic analysis and integration of relevant social sciences research into the discussion and analysis.
Michelle Foster joined the University of Melbourne Law School as a senior lecturer in 2005. Her teaching and research interests are in the areas of public law, international refugee law, and international human rights law. Michelle is the Director of the International Refugee Law Research Programme in the Institute for International Law and the Humanities at Melbourne Law School.

Michelle graduated with a BComm (Hons) in Industrial Relations and an LLB from the University of New South Wales in 1996. Following graduation, Michelle worked as Research Director to the Hon AM Gleeson AC (then Chief Justice of NSW), and then for three years as Legal Research Officer for the Solicitor-General and Crown Advocate of NSW. From 2000–2004 Michelle completed a Masters of Law (LLM) and doctorate (SJD) at the University of Michigan, Ann Arbor, where she was a Michigan Grotius Fellow. While completing her graduate studies at Michigan she undertook an internship at the Advice for Individual Rights Centre in London, taught summer courses at the University of Michigan and University of Zagreb, and participated in three multi-disciplinary graduate student workshops in the US.

Michelle’s main research interests are in international refugee law, and she has published widely in this field. Some of Michelle’s publications have been cited by domestic courts, such as the House of Lords and Court of Appeal (UK) and the Refugee Status Appeals Authority (NZ). Michelle was commissioned (with James Hathaway) by the UNHCR to contribute a paper to the Global Consultations process – a commemoration of the 50th anniversary of the Refugee Convention, in 2001.

Since joining the University of Melbourne, Michelle has concentrated on two major research projects. The first has been the publication of a book based on her SJD dissertation, entitled, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*, to be published by Cambridge University Press in 2007. This book represents the first scholarly work to consider the question of whether the 1951 Refugee Convention is capable of accommodating claims based on the deprivation of socio-economic rights – an issue that is considered at the ‘cutting edge’ of international refugee law. Traditionally, the dichotomy between ‘economic migrants’ and ‘political refugees’ has led scholars and decision-makers alike to assume that claims based on socio-economic deprivation are outside the parameters.
of the Refugee Convention regime. However, a range of emerging refugee claims is beginning to challenge the boundaries of the Refugee Convention regime and question these traditional distinctions. For example, is a child born outside the parameters of China’s one-child policy, and thus subject to deprivations of economic and social rights, such as education and health care, an ‘economic migrant’ or a refugee? Is a Roma man from the Czech Republic, who suffers extensive discrimination in education and employment, an ‘economic migrant’ or a refugee? What about a street child in the Democratic Republic of Congo whose government fails to provide him or her with the basic tools of survival, such as food and shelter? Michelle’s book challenges the distinctions that have traditionally been relied upon to reject claims based on socio-economic deprivation. Her analysis of hundreds of refugee decisions across five common law jurisdictions reveals that in many respects international refugee law has failed to take account of theoretical developments in international law more generally, particularly concerning the equal importance of socio-economic rights. Recent developments have highlighted the fundamental importance and binding content of socio-economic rights obligations as a matter of international law, and these developments have been increasingly supported in important ways by civil society, as some of the major human rights organisations have recently expanded their respective terms of reference into the field of economic and social rights. The book argues that by interpreting the Refugee Convention by reference to such developments in international law, the Convention regime will be responsive to contemporary refugee flows, thus ensuring its contemporary significance.

The other major project on which Michelle has concentrated since beginning at Melbourne is establishing a collaboration with the University of Michigan’s Program in Refugee and Asylum Law. In 2005 Michelle obtained a University of Melbourne Collaborative Grant to enable the University of Melbourne’s Research Programme in International Refugee Law to become a research partner in the University of Michigan’s Guidelines in International Refugee Law project. The background to this project is that there is no international court or tribunal responsible for providing uniform guidance on the correct interpretation of the 1951 Refugee Convention. Thus, domestic courts and tribunals turn to comparative jurisprudence and to scholars to ensure uniform and consistent application of the refugee definition to those seeking protection. In this light, an important initiative of the University of Michigan, the Michigan Guidelines on International Refugee Law, focuses on the most difficult issues in international refugee law today and formulates guidelines to be adopted by decision-makers throughout the world. The culmination of each project is a biennial colloquium held in Ann Arbor, during which a set of Guidelines is formulated by a group of international experts. The topic chosen for the 4th Colloquium on International Refugee Law in 2006 was one of enormous contemporary significance, namely, whether a state may decline to provide refugee protection on its own territory and instead transfer refugees to a third state (for example, whether Australia may decline to grant protection to refugees arriving in Australia but rather transfer them to Nauru). The new Guidelines on Protection Elsewhere, to be published in the Spring 2007 edition of the Michigan Journal of International Law, conclude that such practices can be undertaken in very limited and closely circumscribed circumstances. The analysis outlined in the accompanying paper by Michelle (‘Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State’, (2007) 28(1) Michigan Journal of International Law, 223–286) concludes that most of the ‘protection elsewhere’ practices adopted to date are in violation of the Refugee Convention and other international human rights instruments. Michelle is currently working on establishing a long-term collaboration with the University of Michigan, in which LLB students at the University of Melbourne will have the opportunity to participate in the Colloquium/Guidelines process in 2007–8.
Andrew Mitchell joined the Faculty as a Senior Lecturer in 2006, having been a Senior Fellow since 2004. His major area of interest is international economic law and, in particular, the law of the World Trade Organization (WTO).

Andrew graduated with first class honours in Law and Commerce from the University of Melbourne in 1998. He worked for a number of years with Allens Arthur Robinson (previously Arthur Robinson & Hedderwicks) in the litigation and general corporate sections before completing his Master of Laws at Harvard Law School. Then in 2001 he went to the University of Cambridge, where he undertook his PhD as a WM Tapp Scholar of Gonville & Caius College and a Cambridge Commonwealth Trust Scholar. In 2002, Andrew worked as a Consultant to the Organisation for Economic Co-operation and Development (OECD), on trade and competition issues.

From 2003–2005, Andrew was a Consultant to the International Monetary Fund, focusing on WTO issues. During this time, he compiled, edited and contributed to *Challenges and Prospects for the WTO*, a book published by Cameron May in 2005. Andrew graduated with his PhD in mid 2006. In addition to his Melbourne teaching, he has taught WTO law to undergraduate and postgraduate students at Bond University, Monash University, and the University of Western Ontario, and to Australian and overseas government officials at the Department of Foreign Affairs and Trade (DFAT) and the International Development Law Organization.

One of Andrew’s major areas of research concerns the intersection between the law of the WTO and international law more broadly. Andrew has focussed on the role that general principles of law and principles of customary international law could play in WTO dispute settlement. Part of this research is being published by Cambridge University Press as *Legal Principles in WTO Disputes*.

Some of his other research in this area has been published in journals, including the *European Journal of International Law* (on proportionality and dispute settlement) and the *World Trade Review* (on special and differential treatment), and in invited chapters in books published by the WTO, Cambridge University Press, and DFAT.
Andrew also has an interest in military law, which he has pursued practically as an Army Reserve Captain in the Legal Corps, as well as academically, writing a number of articles on military justice (which have been cited by the High Court of Australia) and the entry on military justice in The Oxford Companion to the High Court of Australia. He is particularly interested in questions concerning the constitutional validity of the separate system of military justice in Australia, which has been the subject of numerous High Court challenges, as military tribunals are not constituted as Chapter III courts. He has also written a number of articles on the issue of former-client conflicts of interest and international humanitarian law, where he has separately examined the law of belligerent reprisals and genocide.

Andrew is supervising three PhD students, who are writing on the ‘Development of the Standard of Review in WTO Dispute Settlement’, ‘Targeting During Armed Conflict’, and ‘The Extension of the Continental Shelf’.

Andrew’s research in 2007 will focus on issues relating to preferential trade agreements (PTAs) including the Australia-US Free Trade Agreement, the relationship between public international law and PTAs, and the legal requirements for PTAs in the WTO. He will also write short commentaries on particular WTO provisions (Max Planck Commentaries on World Trade Law) and electronic commerce (Princeton Encyclopaedia of the World Economy). Finally, Andrew has been engaged by Telstra for a research project on trade and telecommunications issues.
Books Authored


Books Edited


Book Chapters


Dabscheck, B, ‘“At the Top Table”: Player Unions in Soccer’ in W Andreff and S Szymanski (eds), *Handbook on the Economics of Sport*, Edward Elgar Publishing, Cheltenham (2006), 661–667


Steele, S, ‘Insolvency Law in Japan’ in R Tomasic (ed), Insolvency Law in East Asia, Ashgate, Aldershot (2006), 13–62


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Evans, C, ‘Strengthening the Role of the Special Rapporteur on Freedom of Religion or Belief’ (2006) 1 Religion and Human Rights 75–96


Peel, J, ‘A GMO by Any Other Name… Might Be an SPS Risk!: Implications of Expanding the Scope of the WTO Sanitary and Phytosanitary Measures Agreement’ (2006) 17 European Journal of International Law 1109–1113


Other Journal Contributions


Conference Papers


Reports / Working Papers


Kenyon, A and Liberman, J, Controlling Cross-Border Tobacco Advertising, Promotion and Sponsorship – Implementing the FCTC, Centre for Media and Communications Law, University of Melbourne, Melbourne (2006)

Ramsay, I and Lew, N, Corporate Law Reform and Delisting in Australia, Centre for Corporate Law and Securities Regulation, University of Melbourne, Melbourne (2006)


Reference Works


Computer Software Products

FACULTY EDITED JOURNALS AND NEWSLETTERS
Refereed Journals

The Australian Journal of Asian Law

The Australian Journal of Asian Law (Asian Law) is a forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia. It aims for recognition as a leading medium for legal ideas in a region characterised by rapid growth and social change.

Asian Law publishes multi-disciplinary, historical and contemporary research and fieldwork in English, in the original language or in translation. In the Law School, it is edited by Professor Tim Lindsey, Director of the Asian Law Centre and Ms Amanda Whiting, Associate Director (Malaysia).

All contributions are peer-reviewed by two referees. The journal’s advisory board includes leading Asian law scholars in a range of disciplines from Asia, Australia, Europe and America. Asian Law publishes one special thematic edition every year, the most recent being devoted to Islamic law (syari’ah).

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Company and Securities Law Journal

Company and Securities Law Journal, whose editor is Professor Geof Stapledon and general editor is Professor Robert Baxt (Professorial Associate of the University of Melbourne and a Partner at Freehills), commenced publication by the Law Book Company in 1983. Published eight times a year, it is the leading company law journal in Australasia. Professor Ian Ramsay is a member of the Editorial Board of the Journal.

Each issue of the Journal typically contains two or three articles, together with several casenotes and short ‘comments’ in specialist sections (including company law, directors’ duties and corporate governance, takeovers and public securities, corporate insolvency, corporate finance, securities industry and managed investments, accounting, current developments—legal and administrative, and overseas notes for six jurisdictions). Students are encouraged to submit casenotes and comments for the specialist sections. Article-length pieces from students will also be published if they are of particularly high quality.

Media & Arts Law Review

The Media & Arts Law Review (MALR) is the only Australian-based refereed journal in the fields of media and arts law. The Review is published quarterly and examines areas of media and arts law, including: Communications, Contempt, Copyright, Cultural Heritage, Defamation, Digitisation, Entertainment, Free Speech, Intellectual Property, Journalism, Privacy and the Public Interest.

The Review has a distinguished Editorial Board and publishes independently refereed articles, from Australian and international authors, as well as conference reports and book reviews. It also includes regular update reports about media and arts law developments from a team of international Contributing Editors. The updates offer a snapshot of matters such as case law, legislation, law reform, international conventions, and changes in industry self-regulation. Reports include the US, Canada, the UK, South Africa, Korea, Singapore, the European Union, New Zealand and Australia. Associate Professor Andrew Kenyon edits the Review, and its publisher is LexisNexis.

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

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

Melbourne Journal of International Law

*Melbourne Journal of International Law (MJIL)* covers issues of public and private international law. It is a biannual publication that seeks to address issues of academic and commercial interest to Australia and the Asia-Pacific area. MJIL is a fully peer-reviewed/refereed, student-edited international law journal.

Throughout 2004, there has been an increased awareness of, and interest in, international law across the wider community. This climate has enhanced the opportunity for MJIL to contribute to debate and discussion on a wide range of legal issues. MJIL publishes articles on a broad range of international law topics. The most recent edition includes articles and commentaries on issues of the privatisation of human rights in international law, international labour law, international criminal law, international intellectual property law, and the interaction between trade and competition before the World Trade Organization.

Editions are distributed to a wide range of readers and organisations, including commercial enterprises, international organisations, law libraries and law students. MJIL is distributed both online and in hardcopy, with a readership spanning locations as diverse as Hong Kong, the United States, Sri Lanka, Brazil and South Africa.

Articles, case notes, commentaries, practice notes, book reviews and summaries of recent legal developments are all encouraged by the Editors.

MJIL can be contacted via telephone on +61 3 8344 7913 or email law-mjil@unimelb.edu.au.

You are invited to peruse their website at: http://mjil.law.unimelb.edu.au.

Melbourne Legal Studies

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

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


Melbourne University Law Review

The *Melbourne University Law Review (MULR)* is one of Australia’s premier generalist law journals. Submissions to the Review are subject to independent, anonymous peer reviews prior to acceptance for publication. The Review is published three times a year (in April, August and December) and is managed by an Editorial Board comprising students of the Law School at the University of Melbourne.

The Review publishes articles on all areas of law, with an emphasis on Australian domestic law, international law and comparative law. It also publishes case notes, book reviews, review essays and research notes. The Review’s Critique and Comment section features shorter comment-style pieces, along with full-length articles that employ explicitly theoretical approaches to the law.

The Review also publishes the *Australian Guide to Legal Citation (AGLC)*, which seeks to provide Australia with a uniform system of legal citation. The AGLC outlines established citation practices and indicates preferred approaches where no particular approach has been widely accepted. The AGLC has been adopted by a number of Australia’s leading law journals and is prescribed in some Australian law schools as the house style guide. The first edition of the AGLC was published in 1998, a second edition was published in early 2002 and, due to popular demand, the AGLC was reprinted in 2003 and 2004.

Any enquiries regarding the Review or the AGLC should be directed to:

Veggie Cari, Stephane Chu and Benjamin Kiely (Editors) Melbourne University Law Review Melbourne Law School The University of Melbourne Carlton Victoria 3010 Australia Telephone: + 61 3 8344 6593 Facsimile: + 61 3 9347 8087 Email: law-mulr@unimelb.edu.au Website: http://mulr.law.unimelb.edu.au
Public Law Review
The quarterly journal Public Law Review is edited by Professor Cheryl Saunders of the University of Melbourne and Professor Michael Taggart of the University of Auckland New Zealand. Associate editors are Fiona Wheeler from the Australian National University and Janet Maclean from the University of Auckland. The Review is a refereed journal, with an international advisory board. It is produced under the auspices of the Centre for Comparative Constitutional Studies (CCCS), and published by Thompson, Australia. A unique feature of the Review is its comprehensive coverage of public law developments in all Australian and New Zealand jurisdictions. An undergraduate law student is employed each year at CCCS to assist with the Review, including the compilation of recent developments.

Correspondence should be forwarded to:
Professor Cheryl Saunders
Public Law Review
C/- The Centre for Comparative Constitutional Studies
Melbourne Law School
The University of Melbourne
Victoria 3010 Australia
Telephone: + 613 8344 4101
Fax: + 613 8344 1013
Email: cccs@law.unimelb.edu.au

Newsletters
Corporate Law Bulletin
The Centre for Corporate Law and Securities Regulation (CCLSR) publishes, in association with the publisher LAWLEX, the monthly Corporate Law Bulletin. The editor is Professor Ian Ramsay. The Bulletin is distributed by email, and outlines recent Australian and international corporate law and corporate governance developments, including statutory amendments, court judgements, and new Policy Statements made by the Australian Securities and Investments Commission. Some previous issues are published on the website of the Centre for Corporate Law and Securities Regulation:
Website: http://cclsr.law.unimelb.edu.au.

Torts Law Journal
Professor Harold Luntz is the General Editor of the Torts Law Journal, which is published by LexisNexis Butterworths. The Journal commenced publication in 1993, and three issues are published each year. The Journal includes casenotes, articles, comments on legislation and law reform proposals, and book reviews on topics related to torts and alternative compensation schemes. The Journal aims to be of interest to both academics and practitioners; students may also find it useful. Contributions of sufficient scholarly quality from students are welcomed and have been published in the past.
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<td>Sarah Biddulph, Sean Cooney, Cheryl Saunders</td>
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<td>Canadian Journal of Women and the Law</td>
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<td><strong>International Journal of Information Policy and Law</strong></td>
<td>Andrew Christie</td>
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<td>Michael Crommelin, Ian Ramsay</td>
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27 February 2006  **Professor Abbe Smith** (Georgetown University Law Center)  ‘Defending the Unpopular Down Under, an exploration of the ethics and culture of Australian criminal defence, prisoners’ rights, and human rights lawyers’

6 March 2006  **Professor Susan Boyd** and **Professor Claire Young** (University of British Columbia)  ‘Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada’

13 March 2006  **John Tobin**  ‘Research, Writing and Teaching in Rights: A Kid’s Perspective’

20 March 2006  **John Waugh**  ‘The Troubles: The Law School in the 1980s’

27 March 2006  **Professor Jonathan Griffiths** (Queen Mary – University of London)  ‘Comparative Advertising and Copyright Law in Europe’

3 April 2006  **Dr Vanessa May** (University of Manchester)  ‘Residence and Contact Disputes in Court: Parental Contest vs Children’s Best Interests?’

5 April 2006  **Professor Desmond Manderson** (McGill University – Montreal)  ‘Café La[wl]tte: Habit and Performance in the Study of Law’

10 April 2006  **Associate Professor Kristen Walker**  ‘The Constitutional Validity of Acting Judges at State Level’

24 April 2006  **Associate Professor Beth Gaze**  ‘The Racial Discrimination Act and the Elimination of Racial Discrimination’

1 May 2006  **Professor Hilary Charlesworth**  ‘Legal Research and the ARC’

8 May 2006  **Professor Camille Cameron** and **Jonathan Liberman** (Cancer Council)  ‘Litigation and Liability as Regulation to Reduce Tobacco Related Harm’

15 May 2006  **Joo-Cheong Tham**  ‘Political Finance in Australia: A Skewed and Secret System?’

25 May 2006  **Dr Philip Powell** (University of Indiana)  ‘The Optimal Geography of Property Rights in a Developing Country of Tribal Communities’

24 July 2006  **Associate Professor Di Otto**  ‘Making Sense of the UN’s Zero Tolerance of Sex in Peacekeeping Economies’

31 July 2006  **Associate Professor Andrew Kenyon**  ‘Legal Doctrine and Empirical Research: An Example from Defamation Law and Practice’
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<th>Date</th>
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| 8 August 2006 | **Professor David Feldman** | ‘The Drafting of Constitutions as a means of Nation (re-building):
The Influence of Elsewhere’ |
| 14 August 2006 | **Colin Fenwick**        | ‘Towards a Theory of Labour Regulation for Developing Economies’                           |
| 21 August 2006 | **Amanda Whiting**       | ‘Deference and Dissent: Women and Petitioning in the English Revolution, 1640–1660’      |
| 28 August 2006 | **Linda Haller**         | ‘Finding a Place for Professional Discipline’                                             |
| 11 September 2006 | **Miranda Stewart**      | ‘Political Legitimacy and the Globalization of Tax Policy’                                |
| 2 October 2006 | **Dr Simon Evans**       | ‘The Victorian Charter of Human Rights and Responsibilities: Meaningless Rhetoric or Effective Protection of Human Rights?’ |
| 9 October 2006 | **Dr Sarah Biddulph**    | ‘The Rule of Law and Social Order in China: ‘Mass Incidents’ and the Failure of Justice’  |
| 16 October 2006 | **Professor Andrew Robertson** | ‘The Basis of the Remoteness Rule in Contract’                                           |
| 23 October 2006 | **Dr Katja Ziegler** (Oxford University) | ‘The Creeping Constitutionalisation of the European Union?’
‘Market Freedoms and Social Dimensions of the Common Market:
Evolution and Impulses from Union Citizenship and Human Rights’ |
The International Research Visitors Scheme (IRVS) is designed to enhance collaborative work between international researchers and members of the Law School.

IRVS: Jonathan Griffiths
Recipient: Senior Lecturer, Department of Law, Queen Mary, University of London
Period of Visit: 27 March 2006 – 24 April 2006
Project: Digital Communications, Copyright and Free Speech

This visit enabled Jonathan Griffiths to work with Associate Professor Andrew Kenyon.

IRVS: Dr Chen Duanhong
Recipient: Associate Professor, Peking University, China
Project: Evaluating the Practice of Administrative Review by the Guangdong Municipal Government

This visit enabled Dr Chen Duanhong to work with Dr Sarah Biddulph.

IRVS: Dr Gregor Noll
Recipient: Associate Professor of International Law, Faculty of Law, University of Lund, Sweden
Period of Visit: 19 – 27 November 2006
Project: Concerning True or False Penance: UNHCR Refugee Status Determinations and the Path to Reform

This visit enabled Dr Gregor Noll to work with Dr Jenny Beard.
2006 Winners
The Student Published Research Prize is awarded annually for outstanding pieces of writing by students of the University of Melbourne’s Law School.
Two prizes are awarded, one to an undergraduate law student and the other to a postgraduate law student.

Undergraduate
Chian Kee

Postgraduate
Amir Kordvani
‘Hospitality, Politics of Mobility and the Movement of Natural Persons under the GATS’ (2006) 7 (1) Melbourne Journal of International Law 74–103
Head of Department, Dean and Zelman Cowen Professor of Law
Brian Michael Lake Crommelin
Barrister-at-Law Queensland and the High Court of Australia, Barrister and Solicitor Victoria and Papua New Guinea, Legal Practitioner Northern Territory

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Solicitor New South Wales, Barrister and Solicitor Victoria, Solicitor of the Supreme Court of England and Wales
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Doctor of Philosophy

Baird, R
Pursing Cooperative Regionalism for the Effective Management of Straddling Fish Stocks
Supervisor: Gillian Triggs

Carrel, M
Australia’s Prosecution of Japanese War Criminals: Stimuli and Constraints
Supervisors: Tim McCormack and Peter Londey

Chadie, F
Corporate Criminal Accountability
Supervisor: David Wood

Douglas, H
Legal Narratives of Indigenous Existence: Crime, Law, and History
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Nguyen, Q
The Social Structures of Contracts: A Case Study of the Vietnamese Market
Supervisors: Tim Lindsey and Pip Nicholson

Peel, J
International Law and the Determination of Risk: Science, Uncertainty and the Role of Values
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Salim, A
Islamising Indonesia Laws? Legal and Political Dissonance in Indonesian Shari’a, 1945–2005
Supervisor: Tim Lindsey

Sutrisno, N
The Effectiveness of Special and Differential Treatment Provisions for Developing Countries in the World Trade Organisation: Implementation in Practice, and Enforcement in the Dispute Settlement
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Ethnic Federalism in Ethiopia: A Case Study
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Tham, J
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