

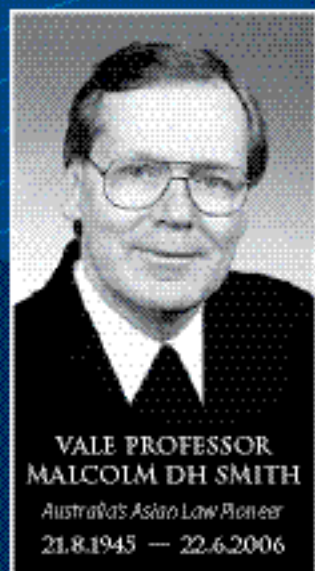
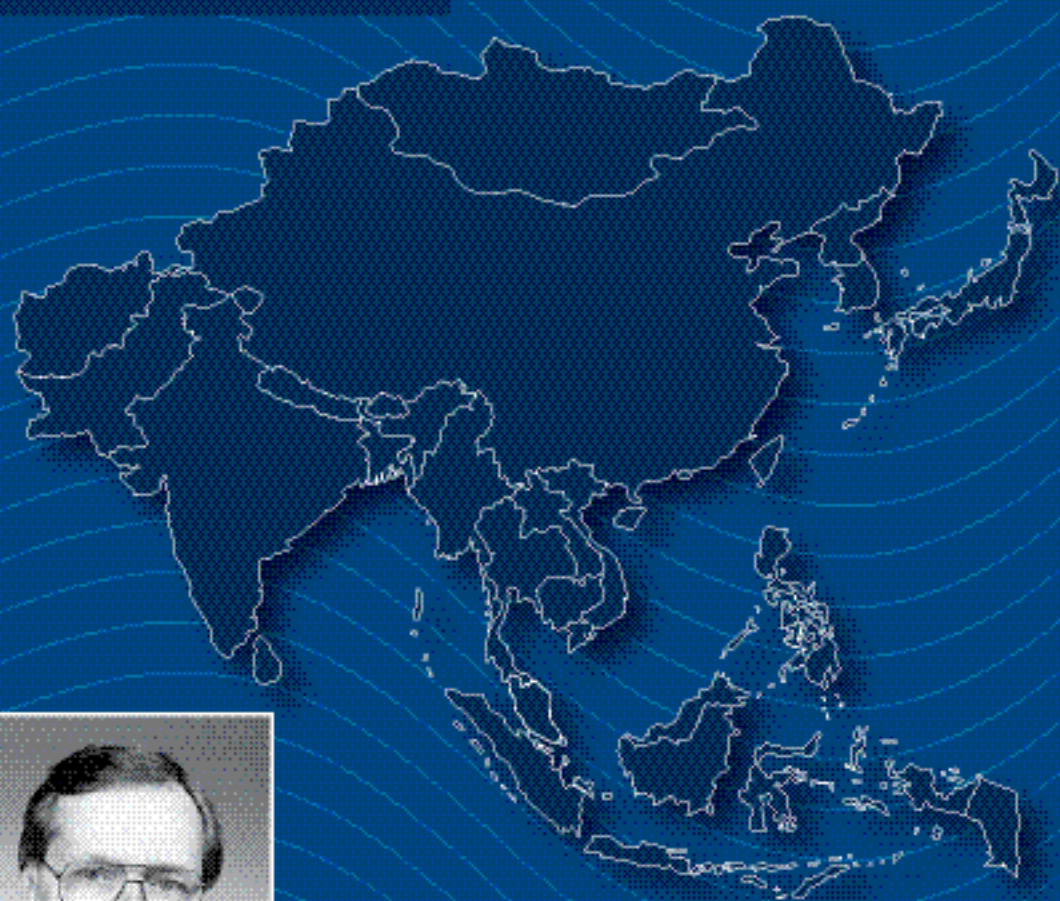


THE UNIVERSITY OF
MELBOURNE

LAW SCHOOL

ASIAN LAW
CENTRE

Asian Law



VALE PROFESSOR
MALCOLM DH SMITH
Australia's Asian Law Pioneer
21.8.1945 — 22.6.2006

Annual Report

January 04 – December 05

Annual Report January 2004 – December 2005

Asian Law Centre

Excellence in Comparative Law and the Study of Asian Legal Systems

Law School
The University
of Melbourne



Vale Professor Malcolm Smith

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Vale Professor Malcolm DH Smith

21 August 1945 – 22 June 2006

Professor Malcolm Smith pioneered the development of Asian legal studies in Australia and persistently championed its cause all his life. He was passionately dedicated to his vision of an Asia-literate Australia, comfortable with its own identity (especially when it involved football and his beloved Essendon) but an engaged and equal partner in its region.

Born in Melbourne in 1945, Mal stood out as a star student at Essendon Grammar, before graduating with a first in Law from the University of Melbourne. This was followed by a first-class Masters at Melbourne and then a Fulbright Fellowship and Frank Knox Fellowship to Harvard, where he completed another Masters and then his doctorate.

On the way, Mal found his mission in life in words of advice from Melbourne's Professor Harold Ford, who suggested that Japanese Law might help the young man stand out from his peers. It certainly did: Mal quickly established himself as one of the world's foremost authorities, ultimately winning respect and admiration from the most senior Japanese judges, lawyers and scholars.

After an appointment to the Monash Law School, Mal was already ensconced at the University of British Columbia, Canada, as Founding Director of its innovative Japanese Legal Studies Program, when he was lured back to Melbourne by the challenge of creating a world-class centre for the study of Asian legal systems in his hometown. In March 1987, he became Founding Director of the Asian Law Centre, a position he held until June 2000, and, at the same time, was appointed to the Foundation Chair in Asian Law, occupying that post until 2004. This was pioneering work of national and international importance. For the first time an Australian Law School looked beyond its roots in the Anglo-American tradition to engage with the legal systems of Asia.

Mal's achievements were, however, always more than institutional. He inspired a generation of Australian lawyers to look North. He was a mentor and model to so many who had contact with the Asian Law Centre. His influence was vast in Australia, East Asia and America, reaching far beyond the bounds of academia or even the legal world, to public servants, policymakers, think tanks, schools and a wide range of community groups (Rotary, most notably).

Many of today's experts in the legal systems of our neighbours first came into contact with them in classes taught by Mal and knew his inspirational, often ad hoc, teaching style first-hand. Others knew him in their roles as researchers, students or colleagues. Almost everyone he knew, however, benefited at some point from his real, personal interest in people he met. Time and again, Mal would do battle for people and causes others had abandoned but which he rightly saw as important. He had a knack for finding the lateral solution to the complex problems that baffled others, especially if it gave him the opportunity to indulge his instinctive dislike of bureaucracies and pompous authority and his mischievous sense of humour.



Australia's Asian Law Pioneer

It was this exceptional pastoral skill with people, born of the same deep compassion that made him so successful as a cross-cultural mediator, that led to his appointment as Dean of Studies (and then Acting Master) at Ormond College, building on previous work on the councils of Trinity College, International House and the Graduate Union. This was a demanding job — supervising more than 100 tutorials every week — but he carried it off with typical aplomb while maintaining his extensive duties in the Law School. It was a typical Mal arrangement. He would rush backwards and forwards across the campus, his famous smile and imperturbable cheerfulness welded in place, doing the work of two or three lesser beings and driving administrative staff at both institutions to the edge of madness.

In 2004, Mal capped a spectacular career with yet another first, accepting appointment as Professor of Law at Chuo University in Japan and becoming the first Australian to teach Japanese law in Japanese to Japanese students. As his friend, Justice Kenneth Hayne of the High Court, said at Mal's funeral, "Japan was undergoing a revolution in legal education. He would be a part of that revolution. He would take a new set of students in a different society and set them on the start of their journey in the law. And he would do that there, as he did it here — with that same smile, that same generosity, that same willingness to help others."

Mal's appointment was an extraordinary testimony to the depth of his knowledge and his genuine capacity to move with ease between cultures, but the movement was as much physical as intellectual. Remaining a Professorial Fellow in the Faculty of Law and a Senior Associate in his beloved Asian Law Centre, he regularly flitted backwards and forwards between his homes in Tokyo and Melbourne, just as he had between Ormond and the Law School. He soon developed the disconcerting habit of appearing without warning at his colleagues' office doors in Melbourne on a Friday, suggesting they join him for his favourite calamari lunch, as if he still worked down the corridor.

Young in his ideas and energy, Mal at 60 was still a blur of activity and a continuing inspiration to his friends when he died suddenly on 22 June, from a stroke.

Mal was a distinguished scholar, a leader and a mentor, who influenced the lives of thousands for the better. He will be sorely missed by his colleagues, especially in the Melbourne Law School and the Asian Law Centre. What he achieved will, however, long live on, not only in the hearts and minds of his family, especially his wife, Ros, and only child, Cara, and his thousands of friends, but also in the generations of students whom he taught, in the work that he pioneered, and in the institutions he established and nurtured during his life. Most of all, however, he leaves a vision to guide his country in its long, unfinished quest to find its place in Asia.



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Director's Report

2004 and 2005 were spectacular years for the Asian Law Centre. The range of programs and the level of activity continued to grow, as did public interest in our programs.

This is a great credit to all those involved in the Centre and, in particular, the Associate Directors (Dr Pip Nicholson (Vietnam and Director, Comparative Law), Dr Sarah Biddulph (China), Amanda Whiting (Malaysia and Singapore), Stacey Steele (Japan) and Dr Sean Cooney) and the Centre Manager, Kathryn Taylor. It also reflects the Centre's very productive partnerships with other research centres around the Faculty and the University, including its new sibling, the Centre for the Study of Contemporary Islam, which has a strong focus on *syariah* (Islamic law).

The Centre was thus able to use 2004 and 2005 to consolidate its place as a global leader in the study of Asian legal systems and an influential source of scholarship in other fields, including, for example, comparative law, Asian studies, development studies and labour law, to name a few. The members of the Centre can justly be proud of the very wide range of activities presented in this report, which include teaching, research and community engagement and cover an equally wide range of countries in Asia and the Pacific. We are very pleased also to welcome a new Associate Director for Asian Commercial Law in 2006, Andrew Goodwin, who joins us from Shanghai, where he worked for many years as a partner in Linklaters.

It is ironic indeed that this success, which reflects consistently increasing private and public sector interest in the Centre, has occurred at a time when private and public sector funding for the Asian Law Centre itself has almost dried up completely. Never before have we had such high demand for our expertise and such low financial support. This is a broader problem for Asian studies nationally but is particularly difficult for the Centre.

The Centre has had enviable success in attracting competitive research grants but a broad range of different strategies to attract new support (or even maintain existing levels) for our non-research activities have all failed. Declining sponsorship has severely constrained the Centre and will continue to do so in the future: the decision to produce these reports only every two years is an example of this.

It is hard to avoid the conclusion that this reflects increased hostility, or at least anxiety, towards Asia among Australians, attitudes that contrast starkly with the optimism and outward-looking focus that seemed to prevail when Professor Malcolm Smith founded the Centre 21 years ago. His death in 2006 was a great loss to the Centre and its members, just as it was for so many of his friends and colleagues around the world. He leaves a broad legacy but one part that was always close to his heart was supporting the building of an Australia that better understood Asia and was at ease in its dealings with 'our region'; as he always referred to it. It is clear that there is still much to be done and the Centre remains committed to this, as to so much else in Mal's original vision.

Professor Tim Lindsey
ARC Federation Fellow
Director,
Asian Law Centre



The Asian Law Centre

Goals of the Asian Law Centre

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

Asian Law Centre Advisory Board

The Advisory Board of the Centre in 2004 and 2005 included:

Professor Ben Boer

Director, Australian Centre for Environmental Law, University of Sydney

Mr Rowan Callick

Asia-Pacific Editor, Australian Financial Review

Professor M.B. Hooker

Faculty of Law, Australian National University

Mr Bruce Johnston

Partner, Allens Arthur Robinson

Mr David Laidlaw

Chief Executive and Partner, Maddocks

Professor Abdullah Saeed

Sultan of Oman Professor of Arab and Islamic Studies

Head of Arabic Studies and Islamic Studies, Asia Institute, The University of Melbourne

Professor Malcolm Smith

Professor of Law, Law School, Chuo University, Japan

Mr Stephen Spargo

Partner, Allens Arthur Robinson



The Asian Law Centre

Asian Law Centre Consultative Group

The Consultative Group of the Centre in 2004 and 2005 included:

Professor William Alford

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

Mr David Bailey

Owen Dixon Chambers

Dr Stephanie Balme

*Honorary Research Associate, Department of Government and Public Administration,
Chinese University of Hong Kong*

Professor Gary Bell

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

Dr Per Bergling

Department of Law, Umea University, Sweden

Mr Greg Churchill

Partner, Ali Budiardjo Reksodiputro, Indonesia

Professor Andrew Harding

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

Professor Carol Jones

Law School, University of Glamorgan, United Kingdom

Mr Martin Kudnig

Partner, Blake Dawson Waldron

Professor Richard Mitchell

Professorial Fellow, Faculty of Law, The University of Melbourne

Professor William Neilson

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

Professor Raul Pangalangan

Dean, College of Law, University of the Philippines

Professor Pitman Potter

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

Professor Ian Ramsay

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

Professor Mark Sidel

*Professor of Law and International Affairs, College of Law, University of Iowa; Research Scholar,
Obermann Center for Advanced Studies*

The Asian Law Centre

Graduate Diploma in Asian Law Advisory Board

The Graduate Diploma in Asian Law programme continued to benefit from the professional input of its Advisory Board, comprising, in 2004 and 2005:

Mr Hop Dang

DPhil Candidate, University of Oxford

Ms Gitte Heij

Legal Consultant

Director (International Projects), Deacons

Mr David Laidlaw

Executive Chairman and Partner, Maddocks

Professor Abdullah Saeed

Sultan of Oman Professor of Arab and Islamic Studies

Head of Arabic Studies and Islamic Studies, Asia Institute, The University of Melbourne

Mr Stephen Spargo

Partner, Allens Arthur Robinson



Asian Law Centre Members

Director
ARC Federation Fellow

Professor Tim Lindsey



Professor Tim Lindsey joined the Centre in 1990 and was appointed to the Law School in 1994. He is Professor of Asian Law (until July 2006), an ARC Federation Fellow (from August 2006), Director of the Asian Law Centre (since 2000) and Associate Dean (International) in the Faculty of Law (until July 2006). He is also Deputy Director of the Centre for the Study of Contemporary Islam. He holds the degrees of BA (Hons), LLB, BLitt (Hons) and PhD from the University of Melbourne.

A graduate of the University of Melbourne Law School, Tim completed his doctoral thesis in Indonesian studies. He teaches Indonesian Law, Islamic Law, law reform and economic development theory and traditional customary law. His research interests are in the areas of Islamic law, commercial law, constitutional law, comparative law, law reform in developing countries and 'rule of law'. His Federation Fellowship will investigate 'Islam and Modernity: Syari'ah, Terrorism and Governance in South-East Asia'. He researches and teaches in Indonesian and is a long-serving member of the Board of the Australia-Indonesia Institute and a member of the Foreign Affairs Council in the Department of Foreign Affairs and Trade. He worked previously at Mallesons Stephen Jaques and has been a practising member of the Victorian Bar since 1990, now specialising in Indonesian and East Timorese law. He has near-native fluency in *bahasa Indonesia*.

His publications include *Indonesia: Law & Society*; *Indonesia: Bankruptcy, Law Reform and the Commercial Court*; *Corruption in Asia: Rethinking the Governance Paradigm* (with Howard Dick); *Indonesia After Soeharto: Prospects for Reform*; *Law and Labour Market Regulation in East Asia* (with Sean Cooney, Richard Mitchell and Ying Zhu); *Chinese Indonesians: Remembering, Distorting, Forgetting* (with Helen Pausacker); and *Law Reform in Developing and Transitional States*. Tim is a Founder and co-Editor of the *Australian Journal of Asian Law* and is currently writing a monograph on Islamic laws in Indonesia.

Asian Law Centre Members

Director, Comparative Legal Studies Program
Associate Director (Vietnam)

Dr Pip Nicholson



Dr Pip Nicholson joined the Centre in 1997 as Associate Director (Vietnam) and was a Senior Fellow of the Faculty from 1998. She joined the Faculty permanently as a lecturer in 2002, becoming a senior lecturer in 2004. She was appointed Director of the Comparative Legal Studies Program of the Asian Law Centre in 2006. A graduate in Law and Arts from the University of Melbourne with a Masters in Public Policy from the Australian National University, Pip teaches the Vietnamese legal system in both the undergraduate and graduate programs of the Melbourne Law School and to a consortium of American law schools. Pip also teaches Comparative Law, Law and Economic Reform in Asia, Fundamentals of the Common Law and Principles of Public Law. She speaks Vietnamese.

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

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

Pip has worked as a consultant to the Faculty's international programs, assisting to develop and run programs for overseas visiting groups. She currently consults on changes in transitional legal systems.



Asian Law Centre Members

Associate Director (China)

Dr Sarah Biddulph



Dr Sarah Biddulph joined the Centre in 1989 on secondment from the firm Blake Dawson Waldron and was appointed to a lectureship in the Law School in 1991. She is a graduate of Sydney University in Law and Chinese Studies and studied in Shanghai as one of the Attorney-General's representatives under an exchange agreement with the PRC Ministry of Justice. Sarah lived in Shanghai for a number of years, has near-native fluency in Mandarin and was fundamental in the establishment of the Shanghai office of Blake Dawson Waldron.

Sarah's research and teaching interests are Chinese law and society and economic law. She researches and teaches in Chinese and is currently part of a research team coordinated by the University of British Columbia, researching Cross Cultural Dispute Resolution.

Associate Director

Dr Sean Cooney



Dr Sean Cooney joined the Centre in 1992 after four years in legal practice and completed his LLM in Asian law in that year. He completed his doctoral studies at Columbia University in 2005 and has been a visitor at the Australian National University, National Taiwan University and National Chengchi University, Taiwan.

Sean's research interests include East Asian employment and labour law, democratic transitions and sovereignty issues (with a particular emphasis on Taiwan), comparative law, and contract and regulatory theory. He researches and teaches in Chinese and is fluent in French and German. His publications include *Law and Labour Market Regulation in East Asia* (with Tim Lindsey, Richard Mitchell and Ying Zhu), as well as articles in a range of international journals in English and Chinese.

Associate Director

Mr Andrew Godwin



Mr Andrew Godwin joined the Centre as an Associate Director in late 2006, after being appointed as an Associate of the Centre in early 2006. He has 15 years of experience in private practice, 10 of which were spent in Shanghai where he was a partner at Linklaters and Chief Representative of their Shanghai office. Since returning to Melbourne in 2006, Andrew's focus has shifted to legal education and professional training and development for lawyers.

Andrew's expertise spans a broad range of transactions and products in both the finance and corporate areas. A former research assistant at the Asian Law Centre, Andrew has a BA(Hons), LLB(Hons) and LLM from the University of Melbourne.

Asian Law Centre Members

Associate Director (Japan)

Ms Stacey Steele



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

Stacey teaches Insolvency Law, Issues in Japanese Law, Corporate Banking and Finance Law and in graduate subjects offered by the Centre. She recently published a translation of the Law Relating to Recognition and Assistance for Foreign Insolvency Proceedings for the Ministry of Justice, Japan. Her research interests are in the areas of Japanese insolvency law, law reform and the Japanese legal system. Stacey practices Chanoyu (The Way of Tea) and is a member of the Urasenke Melbourne Chapter. She has near-native fluency in Japanese.

Associate Director (Malaysia)

Ms Amanda Whiting



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

She is currently involved in teaching in the undergraduate LLB program, teaching in Land, Race and Law in Southeast Asia; Law and Society in Southeast Asia; Property Law; Law and Civil Society in Asia; and Law and Society in Malaysia. She also teaches in the Graduate Program in the subject Islamic Law and Politics in Asia.

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

Her research interests include women, religion and law in Southeast Asia, and human rights institutions and practices in the Asia-Pacific region. With Dr Carolyn Evans, Amanda is the editor of *Mixed Blessings: Laws, Religions and Women's Rights in the Asia Pacific Region* (Martinus Nijhoff, 2006), a book about women's experiences of the dual regimes of law and religion in the Asia-Pacific region.



Asian Law Centre Members

Manager

Ms Kathryn Taylor



Kathryn Taylor joined the Centre in 1998 as the Administrator. She was appointed Manager of the Asian Law Centre and Manager of the Centre for the Study of Contemporary Islam in 2005. She has been an editorial assistant to the *Australian Journal of Asian Law* since 2000. Kathryn is also the Project Manager of *Asian Law Online*, the largest bibliographic database of English-language materials on Asian legal systems in the world.

Kathryn completed her Arts degree with Honours in Chinese from the University of Melbourne in 1999, after spending 16 months studying Mandarin at National Cheng Kung University, Taiwan R.O.C. She completed a Master of Management (International Business) at Monash University in 2001. As part of this degree, Kathryn also completed a Winter Semester in Chinese Law at the East China University of Politics and Law.

Kathryn's research interests include the Chinese language and culture, Asian legal systems (particularly the legal systems of China and Taiwan), international business and the current state of China-Taiwan relations. She has near-native fluency in Mandarin.

Asian Law Centre Associates

(in alphabetical order)



Professor Kent Anderson

Professor Kent Anderson was appointed as an Associate of the Centre in 2004. Kent is a Professor in the Faculty of Law and Faculty of Asian Studies at the Australian National University (ANU) and co-director of the Australian Network for Japanese Law (ANJeL). He convenes Bankruptcy & Insolvency and Japanese Law & Society at ANU. Kent's research has largely focused on comparative commercial law, particularly with regards to Japan; conflict of laws; insolvency; and law and film studies. His articles have been published in English and Japanese and in Australia, Japan, North America and Europe. Most recently Kent was Associate Professor and the only foreign faculty member at Hokkaido University School of Law.



Mr Neri Colmenares

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

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



Mr Hop Dang

Mr Hop Dang was appointed as an Associate of the Centre in 2004. He is a graduate of the Hanoi National University in languages and was the first Vietnamese national to graduate with an undergraduate law degree from an Australian university. Hop completed articles in Australia and was also Associate to Justice Chernov of the Court of Appeal, Supreme Court of Victoria.

Hop worked with the Australian law firm Phillips Fox in their Melbourne and Hanoi offices, initially as a law clerk and later as one of their key legal advisors operating out of Hanoi. He was a visiting lecturer of the Faculty of Law at the National University of Singapore between 2004-2005 and is currently reading for a DPhil at the University of Oxford with a thesis on enforceability of state contracts.



Asian Law Centre Associates

(in alphabetical order)



Professor Michael Dutton

Professor Michael Dutton was appointed as an Associate of the Centre in 1996. He has studied in both Australia and China and was awarded his PhD from Griffith University in 1991. Michael is currently a Professor of Politics in the Department of Politics at Goldsmiths College, the University of London. He has previously taught at the University of Melbourne (Political Science), the University of Adelaide (Asian Studies) and at Griffith University (School of Humanities).

Michael's research interests generally revolve around China. He has a long standing interest in the political history of socialist policing and control in China. His current interests include an investigation of the politics of the gift and a study of the friend/enemy distinction.



Ms Gitte Heij

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

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



Professor MB Hooker

Professor MB Hooker was appointed as an Associate of the Centre in 1997. He is Adjunct Professor of the Faculty of Law at the Australian National University and was previously Professor of Comparative Law at the University of Kent at Canterbury.

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

Asian Law Centre Associates

(in alphabetical order)



Professor Richard Mitchell

Professor Richard Mitchell was appointed as an Associate of the Centre in 1999. He was the Director of the Centre for Employment and Labour Relations Law (CELRL) from 1994 until July 2004. He is now Professorial Fellow in the Faculty of Law at the University of Melbourne and remains a member of the CELRL. He is also a staff member of the Department of Business Law and Taxation at Monash University and Vice President of the Australian Labour Law Association. He has studied labour law and industrial relations at the University of Melbourne and the London School of Economics and Political Science. He was joint editor of the *Australian Journal of Labour Law*, with Breen Creighton, until 2002 and remains joint editor of the *Monographs on Australian Labour Law*.

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



Professor Ian Ramsay

Professor Ian Ramsay was appointed as an Associate of the Centre in 1999. He is the Harold Ford Professor of Commercial Law in the Law School at the University of Melbourne, where he is Director of the Centre for Corporate Law and Securities Regulation. He has practised law with the firms Sullivan & Cromwell in New York and Mallesons Stephen Jaques in Sydney. From 2002 to 2003, Professor Ramsay was Dean of the Law School.

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



Associate Professor Benny Tabalujan

Associate Professor Benny Tabalujan was appointed as an Associate of the Centre in 2003. He has a Bachelor of Economics and Bachelor of Laws from Monash University and a Master of Laws and PhD (Law) from the University of Melbourne. He was admitted as a barrister and solicitor of the Supreme Court of Victoria and the High Court of Australia in 1985. He was previously a corporate and commercial lawyer with Minter Ellison and worked in Melbourne and Hong Kong before becoming an award-winning academic at the Nanyang Business School in Singapore.

Associate Professor Tabalujan is now director of a private consulting firm and a Principal Fellow at the Melbourne Business School where he teaches in the MBA program. He is regarded as a leading authority on corporate governance, ethics and regulation in the Southeast Asian region.



Australian Journal of Asian Law

Editors

Ms Amanda Whiting (see *Associate Director (Malaysia)*, page 12)

Professor Tim Lindsey (see *Asian Law Centre Members*, page 10)



Professor Veronica Taylor

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

Professor MB Hooker (see *Asian Law Centre Associates*, page 16)



Professor Richard Cullen

Richard Cullen is a Visiting Professor in the Faculty of Law at the University of Hong Kong. He was previously a Professor in the Department of Business Law and Taxation at Monash University. He completed his LLB at Melbourne University Law School in 1982 and his doctorate at Osgoode Hall Law School in Canada in 1986. Since 1991 he has spent over a decade teaching and conducting research in Hong Kong. He has written or co-written several books and more than 100 articles, notes and commentaries. Richard's books include *Federalism in Action* (1990) and *Media Law in the PRC* (1996) (with HL Fu). His recent work includes *Accountability without Democracy* (with Christine Loh) and *Political Party Development in the HKSAR*.

Richard has made presentations at seminars and conferences in recent years in Australia, Canada, China, England, Hong Kong, India, Japan, Macau, Malaysia, The Netherlands, Singapore and Sri Lanka. He has been a Visiting Scholar at universities in Austria, Belgium, Canada, England, Japan and Switzerland. He is a member of the Hong Kong think tank, Civic Exchange.

Research Assistants

Editorial Assistants

Ms Kathryn Taylor (see *Asian Law Centre Manager*, page 14)



Ms Fiona Adams

Fiona Adams joined the Centre in 2002 as a research assistant to Professor Tim Lindsey and from 2003 to 2004 served as an editorial assistant of the *Australian Journal of Asian Law*. Fiona is a graduate of the University of Melbourne, having completed a Bachelor of Planning and Design (Planning) [Honours] in 1995 and a Bachelor of Laws (Honours) in 2004. Fiona has completed a Graduate Diploma of Legal Practice at the College of Law and is now working at the Australian Customs Service.



Ms Kathleen Kelly

Kathleen Kelly joined the Centre in 2004 as an editorial assistant to the *Australian Journal of Asian Law*. Kathleen is a graduate of the University of Melbourne, having completed Bachelor of Laws and Bachelor of Science degrees in 2005. She has previously worked as a research assistant in the Centre for Employment and Labour Relations Law. While a student, Kathleen was a member of the *Melbourne University Law Review*. She is currently an Articled Clerk at Mallesons Stephen Jaques.

Principal Research Assistants



Mr Jeremy Kingsley

Jeremy Kingsley joined the Centre in 2003 as a research assistant to Professor Tim Lindsey and editorial assistant to the *Australian Journal of Asian Law*. Jeremy is a graduate of Deakin University, having completed a Bachelor of Arts and Bachelor of Laws in 2001. Jeremy was appointed Principal Research Assistant in 2005. He has completed the Master of Laws at the University of Melbourne and commenced a PhD in 2006.

Prior to this Jeremy practiced as a lawyer with a major city law firm. His research interests include critical comparative law, legal theory, Islamic law (particularly in Indonesia and the Philippines) and the application of interdisciplinary research into legal studies. Jeremy has recently published an article in the *Arizona Journal of International and Comparative Law*.



Research Assistants



Ms Helen Pausacker

Helen Pausacker joined the Centre in 1999. She is an Arts graduate of the University of Melbourne (BA (Hons.), BLitt and Graduate Certificate in Gender and Development) and Monash University (MA). Helen works as a Principal Research Assistant for Professor Tim Lindsey and is involved in editing articles and translating Indonesian legal texts. Her research interests include Indonesian culture and, in particular, Javanese tradition. She is an experienced *dalang* (shadow puppeteer).



Ms Kerstin Steiner

Kerstin Steiner joined the Centre in 2001 as a research assistant and was appointed Principal Research Assistant in 2005. She has been Research Manager of *Asian Law Online* since 2004. She also guest lectures in some of the Centre's subjects.

Kerstin holds a Bachelor of Laws from the University of Bielefeld in Germany. In 2002, she completed a Master of Laws at the University of Melbourne, focusing on Asian and comparative law.

Her current doctoral studies, titled *"Western Human Rights and 'Asian Values' – Are the Differences Real?"*, compares the different notions of international human rights with an emphasis on 'Asian Values' and the extent to which this concept challenges various legal paradigms in international human rights law and comparative law. She has presented her research at various conferences in Australia and overseas. The study is supervised by Professor Tim Lindsey and was submitted in 2006.

Kerstin's research interests include the study of law reform in Asia; Islamic law in Asia; comparative law and the studies of Asian legal systems; and international law, particularly international human rights.

Research Assistants

Research Assistants

Ms Fiona Adams (see *Australian Journal of Asian Law* Editorial Assistant, page 19)



Mr Luke Arnold

Luke Arnold joined the Centre in 2001 as a research assistant. He recently completed degrees in Arts (Indonesian Studies) and Law (with First Class Honours) at the University of Melbourne. His research interests have revolved mainly around Indonesia and China, and are currently focused on the impact of transnational legal standards on economic and social development, and the regulation — by law, policy and institutional (in)capacity — of labour; the environment; citizenship; and migration. His latest position was as Consultant to the Jakarta Office of the International Labour Organization. He is currently undertaking Articles with Minter Ellison Lawyers in Melbourne.



Ms Emily Chew

Emily Chew joined the Centre in 2004 as a research assistant to Dr Sarah Biddulph. Emily completed her Honours year in Arts in 2004 at the University of Melbourne and completed her Bachelor of Laws in mid-2005. Her Honours thesis looked at modes of self-representation by the Melbourne East Timorese community through performance art during and after the struggle for independence. Her interests include comparative and international law, legal development in the Asian region and in post-conflict societies, and corporate social responsibility and human rights. Emily works as the Administrative Assistant for Melbourne's Homeless Persons' Legal Clinic, and has previously been Case Note Editor with the *Melbourne Journal of International Law*.



Mr Ross Clarke

Ross Clarke joined the Centre in 2003 as a research assistant to Professor Tim Lindsey. He completed his Arts/Law (with Honours) degree, majoring in Indonesian, with a minor in Politics at the University of Melbourne. From mid-2003 he worked in East Timor for the Judicial System Monitoring Program (JSMP), the Commission on Reception, Truth and Reconciliation (CAVR), the UN-sponsored Serious Crimes Unit and Avocats Sans Frontières. In mid-2006 he joined the International Development Law Organization (IDLO) as a Legal Officer for their project to provide legal assistance to tsunami victims in Aceh.

Ross is the author of an influential paper on prominent human rights trials in Indonesia, "Retrospectivity and the Constitutional Validity of the Bali Bombing and East Timor Trials", *Australian Journal of Asian Law*. His research interests include judicial sector reform, grassroots access to justice, transitional justice and human rights protection in East Timor, Indonesia and Southeast Asia more generally.



Research Assistants



Mr Eli Court

Eli Court joined the Centre in 2005 as a research assistant. He has spent a considerable amount of time travelling through Asia, particularly Indonesia and East Timor. His research interests include international law, international dispute resolution and regional cooperation in the Asia-Pacific region. He is currently completing an Arts/Law degree at the University of Melbourne.



Ms Felicity Hammond

Felicity Hammond joined the Centre in 2004 as a research assistant. She has recently completed an Arts/Law degree, majoring in Indonesian Studies, accompanied by Political Science subjects. Felicity has travelled in Southeast Asia and completed a clerkship in Hanoi. Her research interests include gender studies and legal development and reform in Southeast Asia and, in particular, Indonesia.



Mr Piers Gillespie

Piers Gillespie joined the Centre in 2005 as a research assistant. He is completing a PhD at the University of Melbourne. He has recently returned from Indonesia where he was working in the field of crisis management and strategy, having been involved in most of the country's largest political, business and social crises. Piers was involved with the most senior levels of the Indonesian government in the aftermath of both the Bali and Marriott bombings, and has worked with the Swiss, US and Australian Governments on matters of national concern. He has twice been recognised internationally for corporate crisis management and has a Masters degree in International Politics and Philosophy.

Piers is currently lecturing on Politics and Economy in South East Asia at the Faculty of Economics and has previously studied Javanese dance as a recipient of an Indonesian government scholarship.



Mr Rowan Gould

Rowan Gould joined the Centre in 2002 as a research assistant to Professor Tim Lindsey. He completed a double degree in Law and Commerce at the University of Melbourne in 2004. Before coming to Australia, Rowan lived in Jakarta, Indonesia for 18 years and is fluent in Bahasa Indonesia. He has worked as a legal interpreter and facilitator in Indonesian and also speaks a little Arabic, having studied at the University of Jordan. He has travelled in Southeast Asia and the Middle East and visited Europe and the United States.

Rowan is currently Chief Executive Officer of the Islamic Council of Victoria. He also plays kendang in a Sundanese gamelan ensemble. His interests include non-Western understandings of law, Islamic law, Sufism and Asian culture and art (especially music, dance and martial arts).

Research Assistants



Mr Mohamad Hafiz Hassan

Hafiz Hassan joined the Centre in 2002 as a research assistant. An Advocate and Solicitor of the High Court of Malaya in Malaysia and a Syariah Counsel in the Syariah Courts, Hafiz completed his law degree at the International Islamic University, Malaysia (IIUM) in 1992 and subsequently graduated with a Master of Comparative Law (MCL) from the same university. Hafiz also holds a Diploma in Syariah & Legal Practice (DSLPP) and practises as a Syariah Counsel in the Syariah Courts in Malaysia. He is currently undertaking a PhD at the Faculty of Law at the University of Melbourne. Hafiz has lectured at the Faculty of Law, IIUM and writes weekly for a Malay language daily in Singapore on the *Syariah*. His interests are in the *syariah*, comparative law, conflict of law and legal pluralism.

Mr Charlie Huang

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



Ms Diana Muljanto

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



Dr Nguyen Hien Quan

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

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



Research Assistants



Ms Maki Nakajima

Maki Nakajima joined the Centre as a research assistant to the Japan Program in 2004. Maki is a graduate in law from Seikei Law Faculty in Tokyo, Japan, and worked in the corporate sector in Japan before coming to Melbourne, where she completed her LLM at the Melbourne Law School in 2003. She is now a resident in Tokyo, where she has assisted Stacey Steele and the late Professor Malcolm Smith on special projects. Her main research interests are in commercial law, comparative law and, of course, Japanese law.



Ms Kimi Nishimura

Kimi Nishimura joined the Centre in 2004 as a research assistant to Ms Stacey Steele and is currently living in Japan. She has recently completed an Arts/Law degree at the University of Melbourne. Her research interests include international law, human rights, international development and gender studies. Since 2004, Kimi has been involved in many of the ALC's Japan Program activities, including the Supreme Court of Japan Overseas Training and Research Program and the Chuo University Summer School held at the Melbourne Law School. Kimi has also worked as a volunteer with DEAC legal advisory service, assisting disabled people who have been discriminated against in the areas of work, education or training.



Ms Anna Olsen

Anna Olsen joined the Centre in 2005 as a research assistant to Dr Sarah Biddulph. Anna has recently completed an Arts/Law degree and accepted a position with the Department of the Chief Minister in the Northern Territory at the start of 2006. She is currently working in the Office of Multicultural Affairs on Islamic Relations.

In 2005, Anna presented a conference paper in Japan on issues concerning the transplantation of international legal norms to domestic contexts. Anna spent a year living in Cambodia teaching English, law and business and working as a volunteer with various legal organisations. Her research interests include Cambodian law and society.



Mr Simon Pitt

Simon Pitt joined the Centre in 2005 as a research assistant to Dr Pip Nicholson. Simon is currently in his third year of a Commerce/Law degree at the University of Melbourne, and is fluent in French. Simon is also undertaking a Diploma of Modern Languages in Chinese (Mandarin), works as a volunteer at the Disability Discrimination Legal Service and is an Assistant Editor of the *Melbourne University Law Review*.

Research Assistants

Mr Audrius Skeivys

Audrius Skeivys joined the Centre in 2004 as a research assistant to Ms Stacey Steele. He has recently completed the final year of his Commerce/Law degree at the University of Melbourne, having previously completed a Diploma in Modern Languages (Japanese). Audrius is an Associate of the Australian Network for Japanese Law (ANJeL), and since 2003 has regularly participated in language exchanges with Japanese judges under the Supreme Court of Japan Overseas Training and Research Program. He is also on the editorial board of the *Melbourne Journal of International Law*. His research interests include banking and finance law and corporate governance. Audrius is currently an articulated clerk with Blake Dawson Waldron.



Mr Philip Tang

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

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



Ms Fan Yin

Fan Yin joined the Asian Law Centre in 2004 as a research assistant to Dr Sarah Biddulph and Ms Kathryn Taylor. Prior to her study in the University of Melbourne in 2003, she completed a Bachelor of Laws at Wuhan University, China (PRC) in 2001 and completed her Master of Laws at the University of Melbourne at the end of 2004. Her research interests include corporate law and international law.



Asian Law Centre Finances & Sponsors

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

The Asian Law Centre's research activities in 2004-2005, including salaries of research assistants, were therefore funded largely from research grants and donations by our sponsors. We thank the following sponsors for their donations in 2004 and/or 2005, which were essential to our research program and our public seminar activities (see Asian Law Centre Activities, Brown Bag Seminar Series and Occasional Seminar Series, below). The Centre could not function without the support of these sponsors.

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The following donors also supported the activities of the Centre in 2004 and/or 2005:

- Professor Malcolm Smith, Chuo Law School, Japan
- Mr Young Ha Kim, Young Kim Lawyers, Sydney

Asian Law Centre Finances & Sponsors

Academic Research Grants 2004–5 *(alphabetical order)*

| ALC Member | Years | Type of Grant | Title | Collaborator | Amount |
|-------------------------------|------------------------------|---|--|---|---|
| Sarah Biddulph | 2003–2007 | Large collaborative grant from Social Sciences and Humanities Research Council Canada | Cross Cultural Dispute Resolution | University of British Columbia, Canada | CAD \$2.2 million overall project total |
| Tim Lindsey | 2002–2004 | ARC Discovery Grant | Islamic Law in Contemporary Indonesia | Professor MB Hooker (Australian National University) | A\$139,270 |
| Tim Lindsey | 2005–2007 | ARC Discovery Grant | Islamic Law in Malaysia, Brunei and Singapore | | A\$204,526 |
| Tim Lindsey, Amanda Whiting | 2006–2009 (received in 2005) | ARC Discovery Grant | The Media and ASEAN Transitions: Defamation Law, Journalism and Public Debate in Indonesia, Malaysia and Singapore | Andrew Kenyon (Centre for Media and Communications Law), Tim Marjoribanks (Sociology Program) | A\$335,000 |
| Pip Nicholson, Sarah Biddulph | 2005 | Faculty of Law Small Grants Scheme | Transplanting Paradigms: Comparative Legal Studies in Asia | | A\$4,347.50 |
| Stacey Steele | 2004 | Japan Foundation Grant | 'Build It and They Will Come: The First Anniversary of Law Schools in Japan' Symposium | | A\$13,500 |
| Stacey Steele | 2004 | Faculty of Law Small Grants Scheme | Corporate Reorganisation Law In Japan | | A\$4,988.40 |
| Stacey Steele | 2004 | Supreme Court of Japan Grant | Supreme Court of Japan 'Overseas Training and Research Program' | Supreme Court of Japan | A\$3,000 |



Asian Law Centre Finances & Sponsors

Academic Research Grants 2004–5 (*alphabetical order*)

| ALC Member | Years | Type of Grant | Title | Collaborator | Amount |
|----------------|-------|------------------------------------|--|------------------------|----------------------------|
| Stacey Steele | 2005 | Ministry of Education Japan Grant | Chuo Law School Melbourne Summer School | Chuo Law School | Management fee of A\$5,000 |
| Stacey Steele | 2005 | Supreme Court of Japan Grant | Supreme Court of Japan 'Overseas Training and Research Program' | Supreme Court of Japan | A\$6,000 |
| Amanda Whiting | 2005 | Faculty of Law Small Grants Scheme | The Role of the National Human Rights Commission (Suhakam) in the Promotion and the Protection of Human Rights in Malaysia | | A\$2,934.75 |



Ms Stacey Steele, the late Professor Malcolm Smith and Professor Veronica Taylor.

Conferences / Symposia

Asian Law Centre Symposium **Build It And They Will Come: The First Anniversary of Law Schools in Japan**

Monday 21 February, 2005
Melbourne Law School

The Asian Law Centre hosted a one-day Symposium on legal education reforms in Japan. Blake Dawson Waldron Lawyers kindly sponsored the Symposium Dinner at their city office.

The Justice System Reform Council (JSRC) was established to consider the role of the administration of justice in Japan in the 21st century and the judicial reforms and infrastructure needed to realise that role, once defined (art 2). The JSRC stated that one of its key objectives was to examine the "human basis" of the Japanese legal system. This involved a re-examination of the number of lawyers in Japan, the regime for training judges and lawyers, (including the National Bar Examination), and the role of tertiary institutions in legal education.

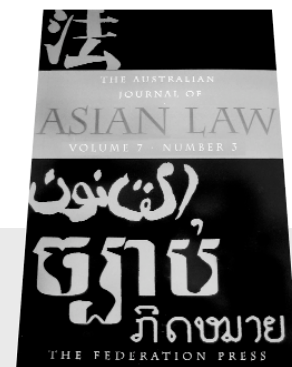
One of the most controversial outcomes of the JSRC's review was the concept of graduate Law Schools, which commenced operation on 1 April 2004, creating an exciting, if sometimes confusing, time for legal education in Japan. Will the new Law Schools improve the quality of lawyers and increase access to justice in Japan? What impact will they have on the most important (but least consulted) stakeholders, the students? How will legal scholars cope with the changes? What if nothing changes at all?

This Symposium provided an opportunity for scholars and lawyers involved in the design, construction and operation of Japan's new Law Schools to reflect on the challenges and successes of the first 12 months. It also provided a chance for observers from outside the reform process to provide their perceptions of legal education in Japan. Scholars from regional universities, Tokyo-oriented law schools and public and private institutions were invited to ensure a lively and balanced debate.

The Asian Law Centre secured the participation of a number of high-profile academics involved in the development and implementation of the new Law Schools in Japan. A selection of papers from the Symposium have been published in the *Australian Journal of Asian Law*, Volume 7, Number 3 and in *Zeitschrift für Japanisches Recht [Journal of Japanese Law]* (ZJapanR).



Associate Professor Kazuhiso Nishida, Mr Tatsuo Kiroyonagi, Professor Daniel Foote, Professor Takashi Uchida and the late Professor Malcolm Smith.



Major Activities & Events

Celebration Dinner to Farewell Professor Malcolm Smith

Thursday 11 March 2004, 6:30pm

Woodward Conference Centre, Level 10, Melbourne Law School

A Celebration Dinner was hosted by the Law School to celebrate the career of the late Professor Malcolm Smith, who was then leaving the University of Melbourne Law School after almost two decades. Professor Malcolm Smith pioneered the discipline of Asian law in Australia. He became foundation Director of the Asian Law Centre at the University of Melbourne in March 1987 and in 1991 was appointed foundation Professor of Asian Law. Professor Smith left this position to take up an historic appointment as Professor of Law at Chuo University in a new graduate Law School, part of sweeping reforms to legal education in Japan. He was the first Australian appointed to a tenured Professorial position in a Japanese law school, teaching Japanese law in the Japanese language to Japanese and international students.

Appointed Professorial Fellow in the Faculty of Law and a Senior Associate of the Asian Law Centre, Professor Smith continued to play an important role within the University of Melbourne, until his sudden death in June 2006.

The Honourable Justice Kenneth Hayne AC spoke at the dinner to present a toast to Professor Smith.



Professor Malcolm Smith, Justice Kenneth Hayne AC,
Professor Michael Crommelin and Professor Tim Lindsey



Professor Tim Lindsey and Professor Michael Crommelin



Major Activities & Events



Professor Malcolm Smith, Mrs Gwenda Ford & Professor Harold Ford AM



Lady Woodward AM and Sir Edward Woodward AC OBE QC



Professor Malcolm Smith



Judge Takaashi Nakajima, Professor Malcolm Smith,
Judge Atsushi Tanaka, Justice Kenneth Hayne AC, Miss Ikuko Ikeda,
Ms Stacey Steele and Mr Jinya Yashige



Justice Kenneth Hayne AC, Professor Malcolm Smith, Dr Ros Smith,
Ms Cara Smith, Professor Michael Crommelin and Professor Tim Lindsey



Dr Ros Smith, Ms Cara Smith, Mrs Judy Smith
and Professor Malcolm Smith

Major Activities & Events

Roundtable Workshop — Asian Legal Exchange in Australia and Japan: Challenges for Development in the Region

(visit by the Center for Asian Legal Exchange, Nagoya University, Japan)

Monday 15 November 2004, 12:00 – 5.30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre (ALC), together with delegates from the Center for Asian Legal Exchange (CALE), Nagoya University, Japan convened a roundtable workshop on challenges for legal developments in the Asian region. Members of both Centres presented papers.

The workshop aimed to exchange ideas about the development of teaching and research programs about Asian legal systems in Australia and Japan; to promote understanding of the research programs of each of the ALC and CALE; and to deepen the relationship between our two institutions by introducing faculty members in academic and social settings.



Dr Sarah Biddulph, Judge Daijiro Yasuda, Associate Professor Teilee Kyong, Dr Pip Nicholson, Stacey Steele, Professor Kazutaka Sugiura, Kathryn Taylor, Kerstin Steiner and Associate Professor Yukinori Udagawa.

Major Activities & Events

Chuo Law School Melbourne Summer School

7–18 February, 2005

The Asian Law Centre hosted the inaugural Chuo Law School Melbourne Summer School from 7-18 February, 2005. The Summer School was arranged in conjunction with the late **Professor Malcolm Smith**. Professor Smith joined Chuo Law School as Professor of Law at the Law School at Chuo University, Japan in April 2004 but his links with Melbourne remained strong.

As part of the cooperation between the Melbourne and Chuo Law Schools, a number of law students from Chuo University studied at a Summer School at the Melbourne Law School. A total of 16 students visited Melbourne, participating in either a 1 or 2 week program. Students were able to take classes towards the following Chuo Law School subjects during the Summer School:

- Corporate Governance in Australia
- Dispute Resolution in Asia
- Asian Law from a Comparative Perspective

The classes were presented in English by members of the Centre, with the assistance of Professor Smith and student facilitators.



Major Activities & Events

Workshop — Transpacific Discourse on Law and Bioethics: Technology, Information and Law

Tuesday 22 February, 2005
Melbourne Law School

The Asian Law Centre (ALC), together with the University of Tokyo, Japan convened a workshop on law and bioethics. A workshop dinner was hosted by the Centre for Law and Genetics, School of Law, University of Tasmania. **Associate Professor Futoshi Iwata**, of the University of Tokyo, a visiting scholar of the Asian Law Centre, coordinated the Workshop.

The workshop aimed to exchange information and views on issues regarding law and bioethics, including ethical issues that have arisen from new and rapid technological development. Privacy and confidentiality issues in medicine, as well as public interest exceptions, were also discussed.



Major Activities & Events

Miegunyah Public Lecture 2005 Islam in Southeast Asia: Tolerance and Radicalism

Wednesday 6 April 2005, 6:00pm

Lecture Theatre GM15, Level 1, Melbourne Law School

Professor Azyumardi presented a Miegunyah Lecture on Wednesday 6 April, 2005 on the topic "Islam in Southeast Asia: Tolerance and Radicalism". The Lecture was preceded by light refreshments. More than 260 people attended, including VIPs, academic and professional staff from the University of Melbourne and other universities, as well as members of the local community.

Audio and video recordings of the Lecture can be found at <http://www.law.unimelb.edu.au/alc/events/miegunyah.html>

Transition to democracy in East Asia has been accompanied in countries with an Islamic population by *tajdid* or Islamic resurgence. This has led to an Islamisation of the public sphere, especially through attempts to implement forms of *syariah* or Islamic law, most particularly as part of the decentralisation process in Indonesia. Among radical or hard-line (*garis keras*) groups, it has led to a revival of a long-standing Islamic militancy, linked to terrorist organisations focussing on Wahhabi ideas of *jihad*. This lecture considered the implications of the revival of Islamic legal traditions in Southeast Asia for Australian policy. Is Islamic law a threat to the West or is it only militant Islamic groups that require a security response? How are these to be distinguished from moderate Islamic groups? Has the secular West failed in dealing with Islamic law and politics in East Asia? How can *syariah* be accommodated in modern secular states? The paper drew on both Islamic and Western legal traditions to answer these questions. It also considered these problems in the context of the historical experience of Islam in Southeast Asia.

Professor Azyumardi Azra is one of Southeast Asia's most prominent liberal Muslim intellectuals. He was then Rector and Professor of History at the Universitas Islam Negeri (UIN), Jakarta Indonesia.

Professor Azra graduated from the Faculty of Tarbiyah (Islamic Education) at the Jakarta IAIN (now UIN) in 1982. He was appointed Lecturer there in 1985 and in the following year was selected for a Fulbright Scholarship to pursue advanced studies at Columbia University, New York City. He graduated with an MA from the Department of Middle Eastern Languages and Cultures in 1988. Winning a Columbia President Fellowship, he moved to the Department of History, Columbia University, where he undertook further studies including MA (1989), MPhil (1990) and PhD (1992).

He was Vice Director of the Centre for the Study of Islam and Society (Censis) of the IAIN/UIN Jakarta before his appointment as Vice Rector for Academic Affairs. Professor Azra has been a visiting fellow of Southeast Asian Studies at the Oxford Centre for Islamic Studies, Oxford University; a Visiting Professor at the University of the Philippines, Diliman and the Universiti Malaya; a Distinguished International Visiting Professor at the Department



Major Activities & Events

Miegunyah Public Lecture 2005

Islam in Southeast Asia: Tolerance and Radicalism (Continued)

of Middle Eastern Studies, New York University; member of Board of Trustees, International Islamic University Islamabad (2004-9); editor-in-chief, *Studia Islamika*, Indonesian Journal for Islamic Studies (1993-); and member of the editorial board of the journals *Ushuluddin* (University Malaya) and *Quranic Studies* (University of London). He has presented numerous papers at international conferences and has lectured at many universities, including Harvard, Columbia, the Australian National University, Kyoto, Leiden and others.

Professor Azra has published 18 books on the subject of Islam and is a regular contributor to Indonesian newspapers and journals. He is also a noted commentator on Indonesian Islam and politics for the Indonesian and international media. His latest book is entitled *The Origins of Islamic Reformism in Southeast Asia* (University of Hawaii Press, 2004; KITLV Press, 2004; Allen & Unwin, 2004).

In 2004, Professor Azra was made an Honorary Professor at the University of Melbourne.



Professor Howard Dick and Professor Abdullah Saeed



Professor Azyumardi Azra and Mr Philip Knight



Professor Tim Lindsey, Sir Andrew Grimwade CBE, Professor Azyumardi Azra, Professor Abdullah Saeed, Lady Grimwade and Professor Michael Crommelin



Professor Azyumardi Azra

Major Activities & Events

Inaugural Professorial Lecture Fear, Loathing and Judgment: Australia, Indonesia and Islam

Wednesday 26 October 2005, 6:00pm

Lecture Theatre GM15, Level 1, Melbourne Law School

Australians, according to **Professor Tim Lindsey**, are deeply ambivalent about Indonesia. Popular discourse on Indonesia — scarred by drugs trials and terrorism — is often marked by contempt, disgust and even downright racism, but government-to-government relations have never been stronger and post-tsunami contributions have made Australia a key donor in Indonesia.

These contradictions have distorted understandings of a strategically critical nation for Australia — particularly as regards Indonesia's legal and political system. Australians have seen more of Indonesia's courts in the last four years than in the last forty, but by focusing narrowly on cases involving Australian interests (such as the Jemaah Islamiyah bomber trials or Schapelle Corby's travails), they have largely missed the extraordinary process of radical legal, political and constitutional change taking place across the archipelago, as Indonesia moves from centralised authoritarianism to devolved democracy.

Aceh is a case in point. For most Australians it is simply a tragic disaster zone. It is also, however, the site of a remarkable attempt to create a functioning *Syari'ah* system of a breadth and complexity unprecedented in modern Southeast Asian history. This has gone largely unremarked in Australia, despite Indonesia having the world's largest Muslim population — mainly because the Aceh reforms do not fit stereotypes: too often Islam is noticed only when it is linked to violence that threatens the West. The same is true for a host of other developments in Indonesia, from decentralisation to the rise of civil society to the slow but real reform of the judiciary.



Professor Tim Lindsey



Mike Tanner, Dr Pip Nicholson, Stacey Steele,
Judge Takaaki Miura and Kimi Nishimura



Major Activities & Events

Inaugural Professorial Lecture

Fear, Loathing and Judgment: Australia, Indonesia and Islam (Continued)

In this inaugural Professorial Lecture, Professor Tim Lindsey argued that popular Australian perceptions of Indonesia rely on simplistic, distorted and highly pejorative themes of 'violence', 'victimhood', 'leisure', 'lust' and, now, 'militant Islam'. These are linked by an often-unconscious sense of superiority and reflect long-standing prejudices about Asia. He also argued, however, that at the root of ambivalence and confusion about Indonesia and Islam are deeper problems with both popular and scholarly ideas of 'culture'. He suggested 'decultured' approaches to a comparative analysis that could avoid the reductionism and alterity inherent in 'culture' and which might offer better insights into Islam, democracy, reform and terrorism in Indonesia.

Professor Tim Lindsey is the Director of the Asian Law Centre and Deputy Director of the Centre for the Study of Contemporary Islam at the University of Melbourne (see Asian Law Centre Director, page 6).



Julia Suryakusuma



Justice Murray Kellam AO and Mr Bill Martin QC



Jothie Rajah, Dr Nguyen Hien Quan, Jeremy Mulholland, Arskal Salim and Jeremy Kingsley



Janet Bachsinar, Syasusti Abdurrahman and Justice Peter Gray

Comparative Law Seminar Series

In 2004, the Centre launched its Comparative Law Seminar Series. This is a major series that brings specialists in comparative law to Melbourne to speak on current issues in comparative law and socio-legal theory, focusing on its application to Asia. This reflects the importance of these methodologies for the work of the Asian Law Centre, where all members and research assistants deal with comparative law on a daily basis and are deeply engaged with the theoretical implications this presents for their work.

Comparative Law Public Seminar Transplanting Laws and Legal Theory: Comparative Legal Studies and the Matter of Authenticity

Wednesday 20 October 2004, 6:30-8:00pm
Lecture Theatre G08, Ground Level, Melbourne Law School

Mainstream comparative law requires fundamental rethinking, argued **Professor Pierre Legrand of the Sorbonne**. The orthodox approach engages in the juxtaposition of substantive and adjectival posited law. It adopts a certain idea of what it should mean for a comparatist to provide a truthful exposition of foreign laws. This conception of truth is, however, impoverished. It fails to bear adequate witness to foreign laws. Comparative legal studies must, instead, favour an alternative conception of truth that will enhance the authenticity of comparative accounts. This claim was tested with reference to the US Supreme Court decision in *Lawrence v. Texas* (26 June 2003).

This was an exciting event for staff members and has led, at the urging of Professor Legrand, to a book project producing an edited volume dealing with comparative law issues in Asia, to which Professor Legrand will contribute.

Pierre Legrand is a graduate of McGill University, the University of Oxford (where he studied on a Rhodes Scholarship) and the Sorbonne. He now teaches law at the Sorbonne, where he acts as director of the postgraduate program in comparative legal studies. He is regarded as one of the world's leading theoreticians of comparative law and legal transplantation.

Prior to settling in France, Professor Legrand, a Canadian, taught for 12 years in Canada, England and the Netherlands. In the course of his academic career, Professor Legrand has lectured in more than 15 countries and held visiting professorships at various universities including Toronto, Uppsala and Cambridge. He has also been a visiting fellow at the Max-Planck Institute in Hamburg. He currently holds a visiting appointment at the University of San Diego.

Professor Legrand publishes in English and French. His work has also appeared in other languages. Recent publications include a co-edited collection, *Comparative Legal Studies: Traditions and Transitions* (Cambridge University Press) and chapters in *Themes in Comparative Law in Honour of Bernard Rudden* (Oxford University Press) and *Nation, Language, and the Ethics of Translation* (Princeton University Press). Professor Legrand has also been prominently involved in ongoing exchanges surrounding the Europeanisation of law.



Comparative Law Seminar Series

Comparative Law Roundtable Seminar The Other Lived Experience of Comparative Law: Asian Comparisons

Thursday 21 October 2004, 12:00-5:00pm
Room 0920, Level 9, Melbourne Law School

The inaugural Roundtable Seminar in the Comparative Law Seminar Series was held on Thursday 21 October, 2004 with **Professor Pierre Legrand, Pantheon Sorbonne Université Paris 1**.

The aim of this event was to discuss the theoretical and practical elements of the work of Faculty members working on comparative law, with a specific focus on the Asian region. The roundtable included short presentations by Dr Pip Nicholson, Professor Tim Lindsey, Dr Sean Cooney, Dr Sarah Biddulph, Jeremy Kingsley and Dr Nguyen Hien Quan. Professor Legrand provided feedback on each of the presentations.



Dr Sarah Biddulph and Dr Pip Nicholson



Professor Pierre Legrand

Comparative Law Seminar Series

Comparative Law Public Seminar The Way We Live Now: Law and Authority in the Global Village

Monday 21 March 2005, 6:30–8:00pm

Lecture Theatre G08, Ground Level, Melbourne Law School

Globalisation, according to **Lawrence Friedman of Stanford University**, is not merely a matter of international trade; it is a cultural phenomenon. The heart of it is a diffusion of habits, behaviour patterns and forms of consumption. In the global world, all developed countries (and many developing countries) have demands for the same products. The instruments responsible for spreading this culture are the mass media and mass transportation. These spread a culture of individualism – a culture of consumption, the pursuit of happiness and self-realisation. The global culture begins, or seems to begin, in the West; but it is not in essence “Western”. Rather, it is *modern* – a cluster of ideas, which flow from the conditions of life in modern society and from modern technology.

One special item of cultural export is the ideology of human rights. This too is not “Western”, but rather modern. Ideas of human rights are byproducts of the ideology and culture of individualism. These rights are profoundly individual, even when they speak the language of group rights, or indigenous rights, or the like. This ideology also increases the demand for the “rule of law”. This phrase has essentially two meanings – one refers to a kind of stability and predictability, legal regularity, and the like; the other, the more popular meaning, is equality before the law.

The global culture breaks down cultural barriers, and flattens out national and local differences. It leads to legal and cultural convergence. There is, quite obviously, a serious backlash against the global culture and against modernity in general. The global culture also creates situations that the developed countries see as problems — immigration, for example. Globalisation removes a kind of invisible tariff wall, which monitored and controlled immigration in the 19th and early 20th centuries. The global world is also a world of great risks – risks (everything from avian flu to holes in the ozone) that are exacerbated by the conditions of modern life.

Lawrence M. Friedman is Marion Rice Kirkwood Professor of Law at Stanford University Law School, Stanford, California. He graduated from the University of Chicago Law School, where he also earned a Masters degree in law. He practiced law in Chicago, and then taught law at St. Louis University and the University of Wisconsin before moving to Stanford. He was appointed to the Kirkwood chair, at Stanford, in 1976.

Professor Friedman has written on American legal history, the relationship of law and society, age discrimination, family law and succession law, and criminal justice, among other topics. He is the author or editor of more than twenty books including, most recently, *Legal Culture and the Legal Profession* (edited with Harry N. Scheiber, 1996); and *Legal Culture in the Age of Globalization: Latin America and Latin Europe* (edited with Rogelio Perez-Perdomo, 2003). He has also published almost 200 articles in scholarly journals and lectured at many universities around the world.

Professor Friedman has been a fellow at the Center for Advanced Study in the Behavioral Sciences (Stanford), the Van Leer Institute (Jerusalem) and the Institute for Advanced Study (Berlin). He has received many awards, including the triennial award of the Order of the Coif, for distinction in legal scholarship, of the Association of American Law Schools. He has been named an Honorary Professor in the law faculty of University College, University of London (2001) and holds five honorary degrees.



Comparative Law Seminar Series

Comparative Law Roundtable Seminar Legal Culture and Globalisation in Asia

Tuesday 22 March 2005, 12:30–5:00pm
Room 0920, Level 9, Melbourne Law School

The second Roundtable Seminar in the Comparative Law Seminar Series was held on Tuesday 22 March, 2005 with **Professor Lawrence Friedman of Stanford University Law School**.

The aim of this event was to discuss the theoretical and practical elements of the work of Faculty members working on comparative law, with a specific focus on the Asian region. The roundtable include short presentations by Dr Pip Nicholson, Professor Tim Lindsey, Dr Sean Cooney, Dr Sarah Biddulph, Jeremy Kingsley, Kerstin Steiner and Dr Nguyen Hien Quan. Professor Friedman provided detailed feedback on each of the presentations.



Occasional Seminar Series

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

Current Constitutional Issues in the Philippines

Wednesday 7 April 2004, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Professor Raul Pangalangan, Dean of the University of the Philippines Law School**, on constitutional issues in the Philippines.

What is the place of law in democratic governance, in a nation where institutions are weak, elites are strong and the Church even stronger? The rhetoric of rights assumes new meanings in a culture where the rights-bearing self is so wholly encumbered by allegiances to family and a web of kin-like bonds. The public sphere is seen at best as an arena for pursuing private gain, and at worst, as easy prey for private spoliation.

The current Philippine Constitution was the fruit of the first "People Power" revolution led by Cory Aquino that ousted the Marcos regime in 1986 through a peaceful uprising that relied upon the moral indignation of a concerned citizenry. The Constitution thus embodied a long list of "directive principles" and welfare state aims, counterbalanced by a strong Bill of Rights and elaborate devices for the separation of powers, including an independent Human Rights Commission and devices for the direct exercise of "peoples' initiatives" to recall officials, propose laws and amend the Constitution itself.

That framework has been sorely tested. Filipinos have now embraced "constitutionalism" as the modern, meritocratic answer to feudal, personalistic rule. But that solution, in codifying a social reform agenda, has de-politicised the peoples' causes, and has largely channeled the raw power of the masses and bureaucratised the task of social change.

Raul C. Pangalangan is a Professor of Law at the University of the Philippines and is currently Law Dean. He received his S.J.D. from the Harvard Law School, where he has served as Visiting Professor of Law. He holds the Diploma of The Hague Academy of International Law, where he has served as Director of Studies. He was a Philippine Delegate to the Rome Conference that established the International Criminal Court, and was a member of the Drafting Committee. He most recently served as court-appointed *amicus curiae* before the Philippine Supreme Court, in the case *Francisco v. House of Representatives* (unconstitutionality of impeachment complaint against the Chief Justice). He was earlier nominated as Supreme Court Justice by the Judicial and Bar Council, the constitutional body authorised to submit such nominations to the President of the Philippines.



Occasional Seminar Series

Legal Reform: Indonesia and Elsewhere

Tuesday 6 July 2004, 6:30–8:00pm

Lecture Theatre G08, Ground Floor, Melbourne Law School



The Asian Law Centre hosted a seminar by the late **Professor Daniel Lev of the University of Washington** on the comparative study of legal reforms in Indonesia and other Southeast Asian countries.

Daniel S. Lev is emeritus professor of political science at the University of Washington in Seattle. Professor Lev was also a leading specialist in the comparative politics, legal systems and human rights of Southeast Asia, particularly Indonesia and Malaysia. Much of his research has dealt with political change and legal evolution.

His book *Islamic Courts in Indonesia* (University of California Press, 1972) is published in English and Indonesian. Among his other publications are *The Transition to Guided Democracy* (1966); *Hukum dan Politik di Indonesia [Law and Politics in Indonesia]* (1990), a collection of his essays in Indonesian translation; *Legal Evolution and Political Authority in Indonesia* (2000); and articles and essays on Indonesian and Malaysian politics, legal institutions and human rights.

Government Guarantees in Vietnam: Lessons From Recent Infrastructure Projects

Wednesday 14 July 2004, 6:15–7:30pm

Room 0223, Level 2, Melbourne Law School



Hop Dang of the National University of Singapore shared his experience in negotiating guarantees with the Vietnamese Government.

The bankability of any major infrastructure investment project in Vietnam is underpinned by strong contractual guarantees from the Government. Guarantees sought often include guarantees for performance by government entities, guarantees of tax and law stability, guarantees of foreign currency conversion and guarantees of necessary action from government to implement projects. However, to obtain these guarantees in an internationally enforceable form has proved a challenge in Vietnam's developing legal system.

Hop Dang was appointed as an Associate of the Asian Law Centre in 2004. He is a graduate of the Hanoi National University in languages and was the first Vietnamese national to graduate with an undergraduate law degree from an Australian university. Hop Dang completed articles in Australia and was subsequently Associate to Justice Chernov of the Court of Appeal, Supreme Court of Victoria. Hop Dang worked with the Australian law firm Phillips Fox in their Melbourne and Hanoi Offices, initially as a law clerk and then as one of their key legal advisors operating out of Hanoi. He was a visiting lecturer of the Faculty of Law at the National University of Singapore from 2004–5.

Occasional Seminar Series

The Rule of Law and Bangladesh

Wednesday 17 November 2004, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by the **Honourable Justice Murray Kellam of the Supreme Court of Victoria** on the Australian Bar Association's pro-bono training of Bangladeshi judges and lawyers in professional conduct, ethics and advocacy.

Bangladesh is one of Asia's poorest countries and has experienced warfare and natural disaster since it separated from Pakistan in 1971. Bangladesh has a common law tradition, which has much in common with Australia's legal system. Current challenges include developing an independent Bar and a judiciary that can act as a check on government as it emerges from authoritarianism, as well as the reassertion of Islamic law. For several years, Australian judges and lawyers have voluntarily – and at their own cost – trained Bangladeshi judges and lawyers in professional conduct and ethics and advocacy, on an annual basis. Justice Kellam has played a key part in this pro bono program.

Justice Kellam described the program, considered the process of legal reform in Bangladesh and offered observations on the rule of law and law reform in developing countries generally.

The Honourable Justice Murray Kellam was appointed Justice of the Supreme Court of Victoria in 1998. From 1993 to 1998, he was a Judge of the County Court of Victoria.

Justice Kellam graduated with a Bachelor of Jurisprudence and Bachelor of Law from Monash University in 1972. In 1976, he completed a Master of Laws from the University of Melbourne. He has been appointed Queens Counsel in Victoria, New South Wales, Tasmania, Western Australia and Queensland. Admitted to practice in all states and territories of Australia, Justice Kellam specialised in common law, medical negligence and medical product liability in Courts, Medical Boards and Coronial proceedings.

Justice Kellam has been a member of a number of judicial institutions, including as President and Deputy President of the Australian Institute of Judicial Administration, Inaugural President of the Victorian Civil and Administrative Tribunal, and as Inaugural Chairperson of the Australasian Council of Tribunals. In 2002 and 2003, Justice Kellam led the ABA Advocacy Training Team to the Bangladesh Bar.



Justice Kellam with members of the Melbourne, Bangladeshi community.

Occasional Seminar Series

The Relationship Between Human Rights and the Rule of Law: Examples from China

Thursday 10 March 2005, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Professor Randall Peerenboom of the UCLA School of Law** on the relationship between the rule of law and human rights, using examples from China to illustrate the issues involved.

Until recently the human rights movement paid relatively little attention to the relationship between rule of law and human rights. The Universal Declaration of Human Rights mentions rule of law only in passing in the preamble, suggesting in typically cryptic fashion that “human rights should be protected by the rule of law.”

In contrast, references to rule of law now regularly appear in general assembly resolutions, committee reports, regional rights workshops and other human rights instruments. For example, rule of law is central to the European Convention on Human Rights and is one of the requirements to join the European Union.

This seminar considered several explanations for the international rights movement’s sudden heightened attention to rule of law. We still live in a world where widespread human rights violations are the norm rather than the exception. Rule of law is seen as directly integral to the implementation of rights. Without rule of law, rights remain lifeless paper promises rather than the reality for many throughout the world.

Professor Randall Peerenboom obtained a BA in Philosophy, MA in Chinese Religion and PhD in Philosophy before obtaining a JD from Columbia Law School. A member of the UCLA faculty since 1998, he teaches courses on Chinese law, international human rights and legal theory.

Before joining the faculty, he spent one year litigating in Hawaii and then four years negotiating international transactions in Beijing with a major international law firm. He continues to be Of Counsel at Yiwen Law Firm, where he advises on various aspects of foreign investment in China. In addition, he often serves as an expert witness on PRC legal issues, and has been a consultant to the Ford Foundation and the Asian Development Bank on legal reforms and rule of law in China.

Professor Peerenboom has written more than sixty articles and several books on Chinese law and philosophy. Current research interests include human rights and legal reforms in China and Asia; administrative detention and criminal law issues; a study of the relationship between rule of law and human rights; critique of the human rights movement; and a philosophical exploration of a form of Confucian communitarianism as an alternative to Western liberal democracy.



Professor Randall Peerenboom
with Dr Sarah Biddulph

Occasional Seminar Series

Combating Judicial and Prosecutorial Corruption in Indonesia: New Developments

Tuesday 3 May 2005, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Mas Achmad Santosa of Indonesia's Partnership for Governance Reform** on Indonesia's recent developments in combating corruption, and the prospects for success of these new initiatives.

Corruption has long been a major problem in Indonesia's legal system. Since the fall of Soeharto in 1998, public attention has focused on reforming the courts and the prosecution service to create a more transparent, accountable and fair justice system. President Susilo Bambang Yudhoyono has said this is a major priority for his government.

The courts, the Attorney-General and the new Anti-Corruption Commission have all identified important new initiatives directed at combating institutionalised corruption among law enforcers. Much of this program has been driven by pressure from civil society, especially NGOs, and by donors, including the Partnership for Governance Reform. This seminar discussed recent developments and assessed their prospects for success, given the long history of past failures in this field.

Mas Achmad Santosa is currently an Advisor for Legal and Judicial Reform in the Partnership for Governance Reform in Indonesia, a non-governmental institution set up by the government of Indonesia and the United Nations Development Program (UNDP), which is mandated to promote governance reform in Indonesia. Mas Achmad Santosa is involved as an advisor in various efforts to reform the Supreme Court (*Mahkamah Agung*) and the Attorney-General's Office (AGO).

Besides his teaching activities in the Law School at the University of Indonesia, he is also involved in various NGOs, working for legal and judicial reform as founder and senior researcher in the Indonesian Centre for Environmental Law (ICEL), as well as the Indonesian Institute for Independence of Judiciary (LeIP), the National Consortium on Legal Reform (KRHN) and the Indonesian Institute for Conflict Transformation (IICT). He is also currently a member of the Governing Board of the Indonesia-Australia Legal Development Facility (IALDF).



Occasional Seminar Series

Consular Assistance: In Trouble with the Law in Asia

Wednesday 11 May 2005, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Mr Paul Norris of Baker & McKenzie** on the issues faced by Australians detained overseas.

Southeast Asia is a popular destination for Australian tourists and is the cultural homeland of a large number of Australian citizens. Many first and second generation Australians return to the place of their birth, or that of their parents, with entrepreneurial ambitions — and some stay for a lot longer than planned, courtesy of the local prison authorities.

Australians involved in overseas criminal proceedings, and their families, often have expectations of being “saved” by the Australian government. The actual Consular assistance provided to Australians detained overseas is the source of disappointment and frustration for families back in Australia, who are unable to understand the foreign legal proceedings and the constraints on Australian government involvement. At times, it seems that the level of Australian government assistance is dependent on the level of Australian media interest.

Mr Paul Norris is a Senior Associate with Baker & McKenzie and leads the recently established IP group in the Melbourne office. Paul returned from the Viet Nam offices of Baker & McKenzie in December 2004, having spent almost 4 years in Ho Chi Minh City leading the IP group in Viet Nam. As Viet Nam is an emerging economy, a significant proportion of Paul’s time involved liaison and negotiation with the government of Viet Nam with respect to legal reform and enforcement of existing provisions of the Intellectual Property laws. Paul also worked with the government of Viet Nam in reviewing and drafting the Arbitration Ordinance, Civil Procedure Code and Criminal Procedure Code.

During Paul’s time in Viet Nam he was twice engaged by the families of Australian citizens who had been detained by the authorities in Viet Nam on drug trafficking charges. Paul and Vietnamese lawyers in his office represented these Australians in negotiations with the authorities in both Viet Nam and Australia and liaised with the Consulate officials in Ho Chi Minh City and Ha Noi in an attempt to provide some independent overview of the legal process. During his representation of one such client, Paul achieved a first for a foreign lawyer, obtaining approval to visit his client in the maximum-security prison of Hoi Chi Minh City.



Occasional Seminar Series

Integrating Alternative Dispute Resolution into Japanese Legal Education

Monday 23 May 2005, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Assistant Professor Julian Dierkes of the University of British Columbia** on the integration of alternative dispute resolution mechanisms in Japanese legal education before and after the creation of law schools.

The establishment of Japanese law schools reflects a shift in Japanese legal education from undergraduate law faculties following a continental European model of legal education since the Meiji Restoration, to graduate law schools that are modelled on North American legal education.

This shift represents a massive exogenous institutional shock to legal education in Japan. Based on the neo-institutional perspective in organisational sociology we can expect massive structural as well as substantive isomorphism to emerge from the highly uncertain institutional environment that is the result of such a shock. In order to test this prediction of isomorphism in the context of the adoption of a foreign/international model (North American graduate professional law schools) in a substantially different local institutional environment, the inclusion of the teaching of alternative dispute resolution (ADR) mechanisms in Japanese legal education before and after the creation of law schools was examined.

Assistant Professor Julian Dierkes is an assistant professor and the Keidanren Chair in Japanese Research at the Institute of Asian Research of the University of British Columbia (UBC). He currently serves as the Acting Director of the Centre for Japanese Research at UBC. Julian's current research focuses on Japanese education, specifically on educational reform. In this context he is investigating the impact of the for-profit nature of Japanese "shadow education" (that is, juku or "cram schools" that students attend after hours) on the diversity of teaching and learning cultures within Japanese education. In a number of collaborations with colleagues, Julian is also examining curricular change and job mobility in connection with the establishment of graduate law schools in Japan in 2004.

Julian received his PhD in sociology from Princeton University after previously studying at the University of California at Berkeley, Sophia University (Tokyo) and the Free University of Berlin. He came to UBC in 2002 after a fellowship at the University of Cambridge. His past and on-going work has examined portrayals of the nation in history education in post-war Japan and the Germanys, as well as the organisational structure of large US corporations.



Occasional Seminar Series

Syari'ah and Islamic Governance: Unexploited Resources

Monday 1 August 2005, 6:00–7:30pm

Lecture Theatre G08, Ground Level, Melbourne Law School

The Asian Law Centre, together with the Centre for the Study of Contemporary Islam, hosted a seminar by **Professor Frank Vogel of the Harvard Law School** on governance according to Islamic traditions.

What is the relevance to Muslims today of Sunni doctrines and practices as to state, constitution and legal system, gathered here under the label "*siyasa shar'iyya*", or "governance according to Shari'a"? Why have Muslims not mined doctrines and practices of medieval and late medieval times more effectively for normative lessons about controversial issues in law, legal application, legal institutions, constitutional structure, and even politics? To do this would require thorough legal-historical and legal-sociological inquiries into these writings and practices, while tentatively lending them credit as religiously significant efforts to uphold God's law.

This presentation reviewed some of these potential lessons, noting how they point in a direction different from the calls for Islamic state stemming from the teachings of Mawdudi or Sayyid Qutb. Finally, the presentation showed how outcomes of contemporary experiments to reintroduce Islamic law or establish Islamic states, such as in Egypt, Afghanistan, and Iran, confirm the continued relevance of *siyasa shar'iyya* doctrines.

Professor Frank Vogel is the Custodian of the Two Holy Mosques Adjunct Professor of Islamic Legal Studies and Director of the Islamic Legal Studies Program at the Harvard Law School. He is regarded as one of the leading scholars in the field of Islamic Law.

Professor Vogel has published a significant number of scholarly articles and books, including *Islamic Law and Legal System: Studies of Saudi Arabia* (Brill, 2000) and *Islamic Law and Finance: Religion, Risk and Return*, with S. Hayes (Kluwer Law International, 1998). His research interests include Islamic law, comparative law, and law and religion.



Occasional Seminar Series

Madrasah in Indonesia: Education and Radicalism

Monday 8 August 2005, 6:00–7:45pm

Lecture Theatre G08, Ground Level, Melbourne Law School

The Asian Law Centre, together with the Centre for the Study of Contemporary Islam, hosted a seminar by **Professor Azyumardi Azra, Rector of Universitas Islam Negeri in Jakarta** on Islamic education in Indonesia.

Since the tragic events of September 11, the Bali bombings and the subsequent US military operations in Afghanistan, *madrasahs* (Islamic schools) have been perceived by Westerners as the breeding ground of radicalism, even terrorism.

This paper seeks to answer the now burning question of whether the Islamic education system is an incubator for religious radicalism by discussing the features and development of the hundreds of thousands of *madrasahs* and *pesantrens* in Indonesia. Contrary to expectations, the Indonesian experience shows that, in fact, these schools have continually undergone modernisation and are already moving into the mainstream of national education.

Professor Azyumardi Azra is Rector and Professor of History at the Universitas Islam Negeri (UIN), Jakarta, Indonesia (see Miegunyah Public Lecture 2005, page 36).



Occasional Seminar Series

Australia/US/China Preferential Trade Negotiations: Business Perspectives and Labour's Rights to a 'Place at the Table'

Tuesday 13 October 2005, 6:00–7:30pm
Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a seminar by **Professor Chris Nyland of Monash University** on the implications of the recent expansion of bilateral trade agreements, focussed on the recent Australia-US Free Trade Agreement and the current debates over a China-Australia Free Trade Agreement.

The seminar gave particular emphasis to the case of China. After several years of pursuing multilateral initiatives, culminating in its accession to the World Trade Organisation, China is now embarking on trade negotiations with individual states, including Australia.

Among the perspectives frequently excluded are social organisations representing labour. Professor Nyland's discussion drew attention to the perspectives that are included and excluded when such agreements are negotiated.

Professor Chris Nyland is Professor of International Business in the Department of Management at Monash University. He has written extensively about the social and economic consequences of trade liberalisation in East Asia, and China in particular. He has also published widely on the issues of forms of work organisation and social protection.



Occasional Seminar Series

Taiwan and China: Some New Perspectives

Tuesday 18 October 2005, 6:00–7:30pm

Room GM19, Mezzanine Level, Melbourne Law School

The Asian Law Centre hosted a seminar by **Professor Bruce Jacobs of Monash University** on changes in Taiwanese identity and their implications for the future.

Forty or fifty years ago, Australians used to talk about “going home” to Britain, even if they had never been there. No one talks like that now. Australia is now a separate country.

In the past twenty years, Taiwan’s culture has undergone a similar transformation. Very few people in Taiwan now identify themselves as solely “Chinese”. This cultural change, together with Taiwan’s democratisation, has created a new sense of a sovereign, separate nation of Taiwan. This change has created problems and challenges for China as well as for other countries like Australia, the United States, Japan and the European powers.

The seminar outlined the background to these significant changes in Taiwan and their implications for the future.

Professor Bruce Jacobs is Professor of Asian Languages and Studies in the School of Languages, Cultures and Linguistics at Monash University.

Professor Jacobs first went to Taiwan in 1965, where he studied at the Graduate History Institute of National Taiwan University. He then conducted his doctoral field research in rural Taiwan from 1971-1973 and obtained his PhD from Columbia in 1975. When he came to Australia in 1976, he taught at La Trobe University until 1990 and moved to Monash at the beginning of 1991.

He first visited China in 1977 and visited at least once a year in the 1980s and 1990s. He was blacklisted from Taiwan in 1980 until 1992 but has visited Taiwan regularly in recent years. Professor Jacobs has published widely.



'Brown Bag' Seminar Series

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

Ali G, Borat and the Mythology of a Converging 'Asian' Law

Wednesday 17 March 2004, 1:00–2:15pm

Room GM19, Mezzanine Level, Melbourne Law School

How and why can one multilateral institution determine the content and procedure of the laws within an independent nation state? Through a critique of comparative law, **Jeremy Kingsley of the Asian Law Centre** contended that Asian harmonisation projects can be absurd both in their conception and implementation. The comic works of Ali G and Borat and the cultural imagery that they display inspired this critique. Jeremy contended that there needs to be careful consideration given to how this global interconnectedness translates into international/regional law reform and policy debates, to avoid a representation by the global village of a village without much community.

Jeremy Kingsley is a Principal Research Assistant at the Asian Law Centre (see Asian Law Centre Principal Research Assistants, page 19).



'Brown Bag' Seminar Series

Successfully Adopting a Competition Law in Developing Countries: China and Thailand Compared

Thursday 6 May 2004, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

The adoption of a competition law by developing countries as part of wider market-based economic reform is a contentious issue. Some considered that without a clear and enforceable set of rules for the market, state monopolies will simply fall into the hands of private, business elites. In East Asia that means family conglomerates will simply replace government economic power. Domestic concentrations and cartels will intensify and the more liberal foreign trade and investment regime that follows from WTO accession will not achieve greater domestic economic efficiency due to private restrictions that replaced government barriers to entry to the market. **Mark Williams of Hong Kong Polytechnic University** argued that adopting and effectively operating a competition law system is problematic, given the complexity of subject and often weak capacity in developing nations to fairly and effectively administer a pro-competition regime. He considered the pre-conditions for successfully adopting pro-market regulation and the record of implementation in the context of Thailand and China.

Mark Williams is an Assistant Professor of Law at the School of Accounting and Finance at Hong Kong Polytechnic University. Prior to this he was a Principal Lecturer at the University of Glamorgan Law School in the UK. He completed his PhD at the University of London in 2003, titled "Nascent Competition Law in China and Hong Kong". His research interests include competition and trade law, company/commercial law, primarily in relation to Hong Kong, and Chinese/East Asian commercial trade law. He has published articles in a range of journals and has also published a number of books including, most recently, *Competition Policy and Law in China, Hong Kong and Taiwan* (Cambridge University Press, 2004).



'Brown Bag' Seminar Series

Indonesia's First Direct Elections: Administering the Democratic Experiment

Thursday 22 July 2004, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

After May 1998, Indonesia embarked on a difficult and still incomplete democratic transition. The key to this was amendment of the previously 'sacred' 1945 Constitution to rein in the powers of the President and create a more democratic legislature. On the way, restrictions on political parties were liberalised and decentralisation created regional legislatures. The task of implementing this new, democratic system, with all its new electoral processes, had fallen to Indonesia's General Electoral Commission. In 2004, it had to handle three major elections: the legislative election, which includes the DPR/MPR (the national legislature); the new regional 'Senate', the DPD; the provincial legislatures and local councils (DPRD). This may have been the largest electoral process in world history. The Commission also administered Indonesia's Presidential elections. The consensus was that these elections have been free, fair and efficient. **Nazaruddin Sjamsuddin**, then **General Election Head**, discussed the ways in which the Commission managed the elections and the problems encountered in the electoral system. The seminar was enjoyed by a large audience including academics, students and law firm representatives.

Nazaruddin Sjamsuddin was appointed chair of the General Election Commission in 2004, resigning in 2005 for legal reasons. He was a member of Indonesia's Supreme Assembly, the MPR, from 1997 to 1999. He has Masters and PhD degrees from Monash University and in 1993 was appointed Professor of Political Science at the University of Indonesia.



'Brown Bag' Seminar Series

Merchants, Guilds and Early Business Enterprises in China

Wednesday 11 August 2004, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

Chenxia Shi of Monash University, reviewed the dynastic commercial developments and the status of merchants in traditional Chinese society. Factors contributing to commercial culture – such as the government's role in commercial regulation, the influence of agrarian society on commercial development and the impact of orthodox ideology on business practices — were examined. The existing rules of the merchant guilds that constituted a self-regulatory regime in an environment in which commercial law was virtually non-existent were analysed. The presenter also identified the development of commercial and business enterprises in the late Qing dynasty and analysed the first Chinese company law and the historical implications of the commercial and legal developments in dynastic China.

Chenxia Shi is a PhD student at the Melbourne Law School and an Assistant Lecturer at the Department of Business Law and Taxation, Monash University. Prior to her PhD study, she was a visiting scholar from China at the Law School, University of Sydney. Chenxia was an assistant prosecutor in the People's Procuratorate before coming to Australia. Her research interests include corporations law, commercial law, comparative law and Chinese law.



'Brown Bag' Seminar Series

Indonesian Constitutional Reform 1999-2002: Nationalism v. Islamic State

Wednesday 9 February 2005, 1:00–2:15pm
Seminar Room 0224, Level 2, Melbourne Law School

The 1999–2002 constitutional amendments lacked what have widely been accepted as key features of a democratic constitution-making process. Many of these problems, however, related to fundamental aspects of the Constitution itself: it contained two aspects seen as critical to the identity and survival of the country by most nationalists, including the military, namely the rejection of an Islamic State and the imposition in its place of a nationalist state ideology, the Pancasila, both contained in the Preamble of the Constitution. Many nationalists feared that opening the Constitution to real change would jeopardise these provisions, which they saw – and still see – as non-negotiable. The result was a slow, patchy and tentative process marked by constant negotiation and deal-making as most stake holders sought to dismantle Soeharto's dictatorship without disturbing these twin nationalist principles.

Despite these problems, at the end of the process, the Constitution was more democratic in form. The amended Constitution remains, however, far from perfect. **Denny Indrayana of the University of Gadjah Mada** discussed suggestions for amendments to further strengthen the system of checks and balances and guarantee the Preamble and the relationship between Islam and state as they currently stand.

Mr Denny Indrayana completed a PhD at the Faculty of Law at the University of Melbourne in 2005. In 1995, he finished his Bachelor degree in Law at the University of Gadjah Mada, Yogyakarta, Indonesia. He obtained his LLM degree from the University of Minnesota in 1997.

Denny is a constitutional law lecturer in the Faculty of Law, Gadjah Mada University, where he has worked since 2001. His current research interests include Indonesian constitutional law, the debate over an Islamic state, judicial corruption and human rights. Denny has regularly published articles in Indonesian national newspapers and magazines.



'Brown Bag' Seminar Series

The Syariah Court of Singapore: A Study of a Court of Law

Monday 7 March 2005, 1:00–2:15pm

Seminar Room 0222, Level 2, Melbourne Law School

The Syariah Court of Singapore was first constituted in 1958. Remarkably, however, both the Court and the law it administers have attracted very little attention in the literature. The earliest literature claims that the Court is a properly organised court of law that follows the rules of procedure and practice of a court of law. In later years, the Court has been described as a domestic court of competent jurisdiction. This seminar reviewed this history and argued that the Court is an impoverished institution that lacks the essentials necessary to administer the law. The seminar also reviewed the constitution and organisation of the Court, and recent developments in both the Court and the law administered, sharing the speaker's observations on the complex amalgam of disparate elements that is the law applied in the Syariah Court in Singapore (and Malaysia).

Mohamad Hafiz Hassan is a PhD student at the Melbourne Law School. He is also an Asian Law Centre research assistant (see Asian Law Centre Research Assistants, page 23) and a practitioner active in both the Singapore and Malaysian Syariah Courts.



'Brown Bag' Seminar Series

Hong Kong Changes Leaders Mid-Term: Why, How and What Next?

Wednesday 23 March 2005, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

Mr CH Tung was first elected (chosen as) leader of the new Hong Kong Special Administrative Region (HKSAR) in 1997. He was selected for a second 5 year term in July 2002. Just over two and a half years into his second term, he suddenly resigned as Chief Executive of the HKSAR. It was widely expected that the HKSAR Chief Secretary, Donald Tsang, would take over as Chief Executive on an ongoing (rather than just interim) basis. But for how long – for 2 years (until the end of Mr Tung's planned second term) or for a normal 5 year term? And what were the reasons that prompted Mr Tung to resign so unexpectedly? Other questions being raised included: did he jump or was he pushed? What may change in the HKSAR under a Donald Tsang administration? And what do these events tell us about the prospects for greater democratisation in Hong Kong? In the seminar, Richard Cullen explained the background to these events and commented on the above questions.

Professor Richard Cullen is a Visiting Professor in the Faculty of Law at the University of Hong Kong. He was previously a Professor at, and Director of, the Department of Business Law and Taxation at Monash University (see *Australian Journal of Asian Law* Editors, page 18).



'Brown Bag' Seminar Series

Corruption, Human Rights and Development: Governance Perspectives

Thursday 7 April 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

This seminar focused on the impact of corruption on human rights and development with a view to improving the governance system that is presently prevailing in nations. The relationship between corruption, human rights and development is worth noting, as corruption violates human rights and impedes development, thereby threatening the rule of law, which is the fabric of any society. A corrupt government that is not transparent and accountable is not likely to fully respect human rights nor is it likely to make progress in development. The concept of identifying corruption as a cause and effect of poor governance and its resultant violations of human rights is a recent phenomenon and its massive impact on testing the legitimacy and functions of all public institutions is profound. While the impact of corruption on human rights and development is significant in developing countries (like India) and societies in transition, their impact should not be under-estimated in developed societies (like Japan and Hong Kong). The seminar intended to provide a framework for the integration of human rights discourse and development discourse to resist corruption and to empower the citizenry to initiate public policy reform by formulating good governance policies.

Mr C. Raj Kumar teaches at the School of Law, City University of Hong Kong. He was a Rhodes Scholar, University College, Oxford; Gammon Fellow, Harvard Law School; and James Souverine Gallo Memorial Scholar, Harvard University. He holds Masters Degrees in law from Oxford and Harvard Universities, as well as a LLB degree from the University of Delhi and a BCom degree from the University of Madras.

His areas of specialisation include international human rights law, law and development, and law and governance. He has published widely in law journals in Australia, Hong Kong, Japan and the USA. He was awarded a grant from the Sumitomo Foundation in Japan to pursue research on Corruption and Human Rights, which he completed last year. He is now working on a project relating to terrorism and its implications for human rights.



'Brown Bag' Seminar Series

Shari'a in a Modern Nation State: The Ulama Council and the Shari'a Court in Aceh

Wednesday 11 May 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

This seminar focused on the role of the MPU and the new Shari'a Court in Aceh and speculated on future directions for revived Islamic law in Indonesia.

For *shari'a* in a modern nation-state, there is an unavoidable conflict between different sources of legal sovereignty. This has much to do with the nature of *shari'a* and the nation-state. On the one hand, it is generally accepted that the nation-state has an absolute right to claim a monopoly over law making. On the other hand, many Muslims believe that *shari'a* must be the foundation of all laws applied to them.

The prerogatives of the Acehnese religious scholars (represented by the MPU or the Ulama Consultative Council) in the formation of Islamic regulations for Aceh are significant. Indeed, the Islamisation process has almost created an Islamic territory within the secular state of Indonesia. Legal-political dissonance in the implementation of *shari'a* has already begun to restrict individual rights, not only by ruling out ideological freedoms but also by defining rights according to the ulama's understanding of conduct and their view of Acehnese communal identity. As a result, Islamic *shari'a* in Aceh has already become rigid and authoritarian. In this light, the recent formal implementation of *shari'a* in the province of Aceh has therefore raised serious questions as to what extent Islamic law can legitimately be accommodated in Indonesia's secular system.

Mr Arskal Salim is a Lecturer at the Faculty of Syariah and Law, State Islamic University (UIN) Syarif Hidayatullah Jakarta, Indonesia. He recently completed his PhD at the Law School, the University of Melbourne.



'Brown Bag' Seminar Series

The Organisation and Operation of Vietnam's Administrative Courts

Wednesday 18 May 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

Since 1 July 1996, the People's Courts in Vietnam have had jurisdiction to hear administrative cases. By comparison with developed countries or with China, administrative adjudication is new to Vietnam's courts. Currently, Vietnam pursues the goals of judicial reform and building a rule of law state. In this context, reforming the court system and the administrative courts (with respect to organisational model, operation and reallocation of jurisdiction) is one of the principal tasks within Vietnam. In addition, as a result of Vietnam's forthcoming accession to the WTO, major efforts are being made to reform its legal system, including its courts.

In this context, many problems in relation to administrative adjudication have been raised, not only by legal scholars and officials, but also by citizens who have monitored the organisation and operation of the court system since it was granted the new administrative jurisdiction. This seminar described the organisation and operation of Vietnam's administrative courts, followed by a discussion of the issues debated within Vietnam at this time. It concluded with a discussion on suggestions for solving the challenges faced by Vietnam's administrative courts.

Mr Nguyen Van Quang is a lecturer in administrative law from the Hanoi Law University. He is currently undertaking doctoral studies at Latrobe University. Quang has presented at numerous conferences and published within Vietnam and internationally on Vietnamese administrative law.



'Brown Bag' Seminar Series

Panel Discussion: Islamic Law in the Modern World

Thursday 19 May 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

This panel discussion focused on Islamic law in the modern world, including some of the issues facing Muslims given recent global events.

Professor Wael B. Hallaq is the James McGill Professor of Islamic Law at the Institute of Islamic Studies (IIS) at McGill University, Canada. Professor Hallaq is one of the leading scholars in the field of Islamic Law and has been engaged as an expert witness in major court cases. Professor Hallaq was a Distinguished Visiting Professor at the Law Faculty of the National University of Singapore in 2004. He has also been a Visiting Professor at the State Institute of Islamic Studies (IAIN), Jakarta and at the Department of Religion/Department of Near and Middle East Studies at the University of Toronto and a Senior Fellow in the Law School's Graduate Program. Professor Hallaq has published broadly, his most recent publications including *The Origins and Evolution of Islamic Law* (2004) and *The Formation of Islamic Law* (2004).

Professor Abdullah Saeed was born in the Maldives and holds degrees from Australia and overseas. He has a BA in Arab/Islamic Studies from Saudi Arabia, MA in Applied Linguistics and PhD in Islamic Studies from the University of Melbourne, Australia. In 1993, he joined the then Department of Asian Languages and Anthropology at the University of Melbourne as a Lecturer, rising to Senior Lecturer in 1996 and Associate Professor in 2000. He was appointed Sultan of Oman Professor of Arab and Islamic Studies in 2003. Professor Saeed is also the Director of the Centre for the Study of Contemporary Islam. Professor Saeed's research focus is one of the most important issues in Islamic thought: the negotiation of text and context, ijtihad and interpretation. He is a strong advocate of reform of Islamic thought. His publications cover Islamic finance, Muslim communities in Australia, Islamic law and freedom of religion, Christian–Muslim relations, Islamic thought in Indonesia, Qur'anic hermeneutics, Islam and human rights, and Islamic law reform. He writes for both scholarly and general audiences.



Professor Wael Hallaq



Professor Abdullah Saeed

'Brown Bag' Seminar Series

Culture Concealed: The Cross-Cultural Ramifications of Trafficking within an Australian Court Room

Wednesday 31 August 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

In April 2005 in the Melbourne County Court, five Thai women alleged that they had been possessed and used as slaves. The case was among the first to be heard under the new slavery legislation introduced in Australia in 2003.

This seminar discussed the ways in which the Australian legal system dealt with the cross-cultural aspects of trafficking, based upon observations made during the trial. It was argued that there was a distinct lack of cultural sensitivity displayed towards the women. Furthermore, the speakers contended that this insensitivity was due, in part, to the marginalised role the women were forced to take during the trial.

Ms Kyoko Metz gained a BA in Social Sciences with Honours at Curtin University in Perth, Western Australia in 2003. Her Honours thesis was based on the trafficking of both Thai and Albanian women into the London sex industry. She has since carried out extensive research into trafficking and prostitution both in Europe and Australasia. She is also a member of a research team currently concerned with the trafficking issue in Australia. In addition, Kyoko Metz has worked as a Native Title anthropologist, investigating both gender and cultural issues faced by indigenous Australians.

Ms Maria Platt completed a Bachelor of Applied Science (Health Promotion) with Honours in 2002. Her Honours thesis explored issues of stigma and discrimination in the workplace faced by women living with hepatitis C. She has an ongoing interest in women who are marginalised and the subsequent responses, whether this be within the provision of health care, the workplace or a legal (courtroom) setting. In addition to teaching at Deakin University, Maria is also involved in a research team that is exploring the issues of trafficking of women into Australia. She hopes to extend this research to an in-country study in Southeast Asia.



Ms Kyoko Metz and Ms Maria Platt

'Brown Bag' Seminar Series

Constitutional Renewal in the Solomon Islands: Public Participation in Theory and Practice

Wednesday 14 September 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

This seminar examined the gap between theory and practice in constitution-making, with particular reference to the current constitution-making process in the Solomon Islands. Beginning by looking at why democratic participation in constitution-making is important from a theoretical perspective, it then considered the actual effect on the ground of these theoretical ideals. Are there major obstacles to effective democratic participation? What has been the extent of public involvement in the constitution-making process in the Solomons thus far? How big is the gap between theory and practice in this case and how much does it matter?

The discussion suggested that there may be ways to ensure that constitution-making theory can inform and improve the manner in which constitution-making processes are carried out in practice, whilst also acknowledging that there will usually be valid reasons for some gap between theory and reality. Real world contingencies that affect how things actually get done and that cannot be reconciled with pure theory will be unavoidable.

Ms Katy Le Roy is a PhD candidate at the Centre for Comparative Constitutional Studies (CCCS) in the Law School. She has also worked for the CCCS in various capacities since 1996. Katy was previously a **Senior Fellow in the Law School**, teaching Fundamentals of the Common Law in the LLM degree, and was Assistant Director of the Institute for Comparative and International Law in 2002–3. Her PhD research is on democratic participation in constitution-making, and her focus is on Fiji and the Solomon Islands.



'Brown Bag' Seminar Series

Combating Corruption: The Experience of Southeast Asian Ombudsmen

Thursday 15 December 2005, 1:00–2:15pm
Room 0920, Level 9, Melbourne Law School

This presentation discussed the experience of the Indonesian and Philippines Ombudsmen when dealing with corruption. It is widely known that corruption has been a serious problem in both jurisdictions. To combat it, a number of initiatives have been tried in both jurisdictions, including developing Ombudsman mechanisms.

The Indonesian Ombudsman's experience of combating corruption has been difficult. Its establishing legislation failed to grant adequate powers to enter premises; to investigate on its own motion; or to call on persons to provide evidence or produce documents. Likewise a refusal to supply evidence to the Ombudsman is not an offence. The most significant cause of its ineffectiveness is, however, a lack of political will at the highest levels of government and a lack of attention by state institutions.

By contrast, the Philippines Ombudsman enjoys both constitutional status and enormous powers to combat corruption, making it one of the most powerful Ombudsman in the world. It applies a confrontational approach in combating corruption, conducting administrative and criminal investigations and prosecuting its recommendations. It has even established an Office of Special Prosecutions. Yet, despite these powers, the Philippines Ombudsman still faces significant internal and external challenges, including lack of budget and lack of qualified investigators and prosecutors.

Ms Susi Dwi Harijanti is a PhD candidate in law at the University of Melbourne and a law lecturer at Universitas Padjadjaran of Bandung, Indonesia. She is writing about the Indonesian Ombudsman system and how it deals with modern governance issues, comparing it with the Australian and Philippines models. Susi's undergraduate law degree is from Universitas Padjadjaran and in 1998 she completed her LLM at the University of Melbourne. She is currently Indonesian correspondent for the *International Journal of Constitutional Law* (I-CON). Her major interests are constitutional and administrative law, comparative constitutional law, human rights law, immigration law, citizenship law and local government regulation.



'Asian Dialogues' Seminar Series

In 2004 the Centre launched its new initiative, 'Asian Dialogues', whereby seminars on Asian issues are conducted in Asian languages.

Pembangunan Hukum Indonesia: Tinjauan atas Paradigma dalam Proses Pembuatan Hukum [Legal Development in Indonesia: Paradigms in the Law-Making Process]

IN BAHASA INDONESIA

Wednesday 3 March 2004, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

Indonesia embarked on a process to build a new national legal system as it was increasingly felt that its Dutch inherited laws and customary laws were unsuitable for its modern needs. The process involved the implementation of two strategies: the unification of law and the formation of new legal principles. After five decades in operation, however, the national legal system was still unsatisfactory, in that many laws were ineffective and many conflicts of laws arose. The main factor contributing to this situation was the significant gap between the new principles of law and the community's sense of justice and awareness of the law. This, in turn, was due to the clash of paradigms involved in the law-making process: the community being used to customary law (that is, the law follows the customs of the people) and the formal law imposed by the government (the people follow the law).

Budi Darmono is a lecturer at the Law Faculty of Universitas Indonesia recently completed his PhD at the Melbourne Law School. The topic of his dissertation is "Adat and Forestry Laws in a Plural System: A Failure of Indonesian Legal Development?" He obtained his Bachelor degree in Law from Universitas Indonesia, his Master of Science in Administration from Central Michigan University and Master of Comparative Law from George Washington University.



'Asian Dialogues' Seminar Series

Yasukuni Shrine Judgment

IN JAPANESE

Monday 31 May 2004, 1:00–2:15pm

Room 0731, Level 7, Melbourne Law School

In April 2004, the Fukuoka District Court found that the visit to the Yasukuni Shrine by Japanese Prime Minister, Mr Junichiro Koizumi, was unconstitutional because it violated the fundamental principle of separation of state and religion. The presenter considered the constitutional and procedural issues leading to the Court's judgment.

Judge Takashi Nakajima is the inaugural Visiting Research Scholar at the Melbourne Law School on the Supreme Court of Japan's Overseas Training Program (June 2003-June 2004). Judge Nakajima is a graduate of the prestigious Faculty of Law at Kyoto University. In Japan, he most recently worked at the Osaka District Court where he dealt with administrative cases and caseloads.



'Asian Dialogues' Seminar Series

New Lay Jury System in Japan

IN JAPANESE

Tuesday 18 January 2005, 5:00–6:00pm

Room 0920, Level 9, Melbourne Law School

Japan has been reforming its justice system since 1999 in order to make it more accessible and efficient. One of the important points is the establishment of a popular basis for the Justice System. With reference to the Jury system established in common law countries and the mixed judge system found in continental countries, Japan has established a totally new system, which is called the "Saiban-in System". In this seminar, Judge Amano talked about the reasons for this reform, the content of the system and its impact from the perspective of a Japanese judge.

Judge Tokiharu Amano is a judge on the Supreme Court of Japan's Overseas Training and Research Program (17 January to 11 February 2005). He is a graduate of the Faculty of Law at Nihon University, was appointed judge in 1980 and is a presiding judge dealing with criminal cases.

Australian Law through Japanese Eyes

IN JAPANESE

Wednesday 9 February 2005, 5:30–7:30pm

Room 0920, Level 9, Melbourne Law School

At this Asian Dialogue, the three guest speakers spoke about their experiences studying and researching Australian law.

Judge Daijiro Yasuda is the second Visiting Research Scholar at the Melbourne Law School on the Supreme Court of Japan's Overseas Training and Research Program (June 2004-June 2005). Judge Yasuda is a graduate of the Faculty of Law at Waseda University. He has seven years experience as a judge in Japan and has mainly dealt with criminal cases.

Associate Professor Futoshi Iwata is from Sophia University. He is a Visiting Research Scholar (Aug 2004-Sept 2005) at the Melbourne Law School. His main area of research regarding Australian law is law and bioethics.

Mr Ryokichi Asaka is a student in the Melbourne JD program at the University of Melbourne Law School. Before commencing his studies, Mr Asaka worked at the Japan Bank for International Cooperation as a loan officer, from 1991 to 2003.



Associate Professor
Futoshi Iwata



Judge Daijiro Yasuda



Mr Ryokichi Asaka

'Asian Dialogues' Seminar Series

New Legal Education in Japan

IN JAPANESE

Wednesday 16 February 2005, 12:30–2:00pm

Room 0920, Level 9, Melbourne Law School

Japan has been reforming its justice system since 1999, in order to make it more accessible and efficient. The population of Japanese legal practitioners was perceived to be too small, so it was seen as an urgent and essential task to increase the number of legal practitioners dramatically. Japan therefore decided to build new Graduate Law Schools similar to those in the United States.

At this Asian Dialogue, Judge Daijiro Yasuda spoke about the history of legal education in Japan, the birth of the new Graduate Law Schools in 2004 and some other reforms that accompanied this reform, including the National Bar Exams and the Legal Training and Research Institute of Japan.

Judge Daijiro Yasuda is the second Visiting Research Scholar on the Supreme Court of Japan's Overseas Training and Research Program (June 2004–June 2005). (See previous 'Asian Dialogue' on page 70 for details).

Islam, Politics and Secularism: Political Struggle in Post-Soeharto Indonesia

IN BAHASA INDONESIA

Monday 11 April 2005, 1:00–2:00pm

Room G029, Ground Level, Melbourne Law School

This seminar examined Islam, politics and secularism in Indonesia, particularly the challenges facing government since the end of the Soeharto era.

Professor Azyumardi Azra is Rector and Professor of History at the Universitas Islam Negeri (UIN), Jakarta, Indonesia (see Miegunyah Public Lecture 2005, page 36).



'Asian Dialogues' Seminar Series

The Constitutionalism of Shari'a in Indonesia: Constitutional Dissonance in Amendment to Article 29 on Religion

IN BAHASA INDONESIA

Monday 7 September 2005, 1:00–2:15pm

Room 0920, Level 9, Melbourne Law School

In this presentation, Arskal Salim argued that there is a dissonance in efforts to amend Article 29 (on Religion) of the 1945 Constitution of Indonesia. This is caused by the fact that the religious rights sought by the Islamic parties are, in fact, religious obligations. The efforts of Islamic parties to insert the 'seven words' obliging Muslims to follow *syariah*, into Article 29 of the Constitution during the Annual Session of the MPR in 2002, threatened a range of rights and freedoms, including the freedom of religion provision inserted into Article 29 when it was amended two years earlier. It is clear that if the proposed new amendments were, in fact, made to Article 29, the dissonance will become even more obvious, as, ironically, individual religious rights will be submerged by collective religious rights.

Arskal Salim is a PhD Candidate at the Law School, the University of Melbourne, Australia, and he submitted his thesis on 'Islamisation of Laws in Indonesia (1945–2005)' in early 2006. He has been a Lecturer at the Faculty of Syariah and Law at the State Islamic University (UIN) Syarif Hidayatullah Jakarta, Indonesia. His research interests include: Islamic legal theory, religion and constitution, political Islam and Indonesian Islam. Among his publications are: "The Shift in the Zakat Practice in Indonesia", *Monograph Series* (The Asian Muslim Action Network, 2005); "Shari'a From Below in Aceh 1930s-1960s", *Indonesia and Malay World* 32 (March 2004); *Shari'a and Politics in Modern Indonesia* (ISEAS, 2003); and *Hukum Pidana Islam di Indonesia* [Islamic Penal Law in Indonesia], (Pustaka Firdaus, 2001).



Other Events

Beyond the Headlines: Muslim-Christian Relations in the New Global Environment

Wednesday 11 February 2004, 6:00–7:30pm
Main Basement Theatre, Sydney Myer Asia Centre

To mark the opening of the University of Melbourne's International Colloquium on "Managing Muslim-Christian Relations: Educational Policy Options," Archbishop Peter Carnley AO and Professor Abdullah Saeed explored some of the key challenges and opportunities facing Muslim-Christian relations in the current global environment.

There is a generally held view among many that Muslims and Christians have been in continual conflict with each other since the beginning of Islam in the early seventh century, and they are distinguished by their differences rather than by what they have in common. While not discounting the fact that major theological differences exist between Islam and Christianity, it is important to emphasize the common ground they share – belief in one God, God's revelation in Scripture and a strong link to Greek thought and science. With so much in common, Muslims and Christians can talk to each other, and work together on issues such as social justice and human rights, both here in Australia and elsewhere.

The event was jointly presented by The Asialink Centre and the Melbourne Institute of Asian Languages and Societies with the support of the Australian Agency for International Development, the Commonwealth Foundation, the Myer Foundation, the Altajir World of Islam Trust and the Asian Law Centre.



The Most Reverend Dr Peter Carnley AO has been the Anglican Archbishop of Perth since 1981 and Primate of the Anglican Church of Australia since 2000. Prior to this appointment, he was the Warden of St John's College at the University of Queensland (1973–1978) and Lecturer in Systematic Theology (1977–1981). He also served as Canon of St John's Cathedral, Brisbane (1973–1981).



Professor Abdullah Saeed is the Sultan of Oman Chair of Arab and Islamic Studies at the University of Melbourne and the Director of the Centre for the Study of Contemporary Islam. He is the author of several books including *Islam in Australia* (Allen & Unwin, 2003).



Other Events

Peace and Security after September 11: Australia, Japan and the Asia-Pacific Region

Thursday 26 February 2004, 6:30–7:30pm
Basement Theatre, Sydney Myer Asia Centre

Not since the end of the Vietnam War has the Asia-Pacific region faced this level of instability. The resumption of North Korea's nuclear weapons program has set its neighbours and much of the rest of the world on edge. Islamic extremism is on the rise throughout Southeast Asia, placing new pressures on that region's governments.



Set against this level of uncertainty, cooperation in the security area has become crucially important. **Mr Yasushi Akashi, one of Japan's most senior and well-respected diplomats**, discussed the prospects for peace and security in the post-9-11 environment. Many Australians would remember the period when Australian and Japanese defence personnel cooperated as peacekeepers in Cambodia, where Mr Akashi made a significant contribution towards achieving peace and stability.



Introductory remarks were made by **Sir Ninian Stephen KG AK GCMG GCVO KBE, former Governor-General of the Commonwealth of Australia**. The event was jointly presented by the Asialink Centre, the Melbourne Institute of Asian Languages and Societies, the Consulate-General of Japan in Melbourne and the Asian Law Centre.

After graduating from the University of Tokyo in 1954, Mr Yasushi Akashi studied as a Fulbright Scholar at the University of Virginia, and later at the Fletcher School of Law and Diplomacy. He became the first Japanese citizen to join the United Nations Secretariat in 1957. He served as Ambassador at the Permanent Mission of Japan to the United Nations, Under-Secretary-General for Public Information, Under-Secretary-General for Disarmament Affairs, Special Representative of the Secretary-General for Cambodia and later for the Former Yugoslavia. He was Under-Secretary-General for Humanitarian Affairs until the end of 1997. He served as President of the Hiroshima Peace Institute from 1998 to 1999. Since 1999 he has served as Chairman of the Japan Center for Conflict Prevention. He is President of the Council on Population and the Japan Association for the Study of the United Nations. In addition, he is Visiting Professor at Ritsumeikan University and other universities.

Other Events

Local Government and Environmental Conservation in West Java

Monday 27 September 2004, 6:00pm

Basement Theatre, Sidney Myer Asia Centre

This seminar was organised by the University of Melbourne's Indonesia Forum, together with the Asian Law Centre and Asialink.

The basic environmental concern in Java today is how to manage land and water resources in a way that will ensure a sustainable human habitat for some 130 million people. The rate of deterioration in the natural environment has accelerated in the last 25 years with the ever-growing demand in both urban and rural areas for housing, sources of livelihood, expansion in infrastructure and recreational facilities and with ever-greater efforts on the part of local governments to derive more revenue from local sources (PAD). This paper looked at some current environmental issues in the Province of West Java in the context of decentralisation, with special focus on Bandung City and District and adjacent districts. Three aspects were considered: (1) province versus district: development policies in environmentally sensitive uplands; (2) city versus community: the use of land on the urban periphery; and (3) district versus national level: PAD or plantations?



Dr Joan Hardjono is a human geographer who has written extensively on environmental issues as well as on transmigration, poverty and rural conditions in Indonesia. She works as a social assessment consultant and has undertaken studies for various international institutions that include the World Bank, ADB, UNDP, AusAID and ILO. She edited *Indonesia: Resources, Ecology, and Environment* (1991) and co-edited *Labour: Sharing in the Benefits of Growth?* (1993) and *Development in Eastern Indonesia* (1996). More recently she co-authored *People, Poverty and Livelihoods: Links for Sustainable Poverty Reduction in Indonesia* (2002). She is currently a member of the Board of Governors of the Social Monitoring and Early Response Unit research institute, Jakarta, and a member of the International Advisory Board of the *Bulletin of Indonesian Economic Studies*.



Other Events

Labour Rights in Asia: The ILO's Work Agenda

Thursday 7 April 2005, 6:00–7:45pm

Lecture Theatre 0102, Level 1, Melbourne Law School

This panel was jointly organised by the Centre for Employment and Labour Relations Law, Asialink, the Asian Economics Centre, the Asian Law Centre and the Australian Centre for International Business.

Panel participants included: **Kari Tapiola, Executive Director, Standards and Fundamental Principles and Rights at Work Sector, ILO Geneva; Alan Boulton, Country Director, ILO Indonesia and Timor Leste; Myra Hanartani, Head of the Legal Bureau, Department of Manpower and Transmigration, Republic of Indonesia; and Manuel G Imson, Under Secretary for Labor Relations, Department of Labor and Employment, The Philippines. Sharon Burrow, President, Australian Council of Trade Unions and Professor Breen Creighton, Corrs Chambers Westgarth Solicitors, acted as commentators.**



Other Events

Chinese Indonesians: Remembering, Distorting, Forgetting A Festschrift for Charles A Coppel

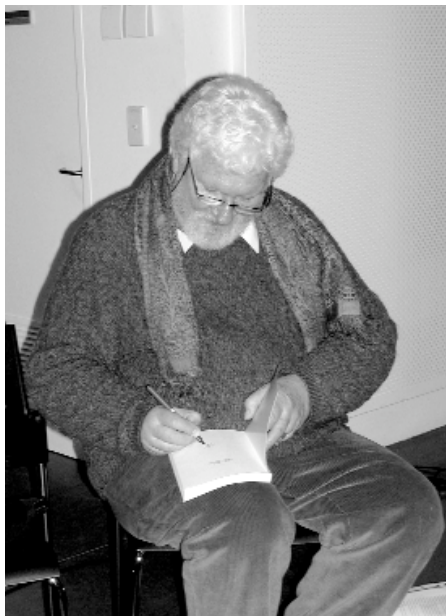
Tuesday 2 June 2005, 5:30pm

Yasuko Hiraoka Myer Room, Sidney Myer Asian Centre

The Asian Law Centre, together with the University of Melbourne's Indonesia Forum, Asialink and the Monash Asia Institute, launched *Chinese Indonesians: Remembering, Distorting, Forgetting* on Tuesday 2 June, 2005. *Chinese Indonesians* was launched with a speech by **Professor Michael Leigh, Director of the Melbourne Institute of Asian Languages and Societies**.

Edited by **Tim Lindsey** and **Helen Pausacker**, the book honours the work of **Australian Indonesianist, Associate Professor Charles A Coppel**. His interests, as reflected in this volume, are broad, ranging from history, politics, legal issues and violence against the Chinese, through to culture and religion. The contributions in the volume are inspired by Charles' expression 'remembering, distorting, forgetting', by which he drew attention to misrepresentations of the Chinese, seeking to locate the realities behind the myths that form the basis for the racism and xenophobia, which the Chinese have often experienced in Indonesia.

Contributors to the volume include: Arief Budiman, Tim Lindsey, Helen Pausacker, Christine Pitt, Jemma Purdey, Claudine Salmon, Mary Somers Heidhues, Leo Suryadinata and Jean Gelman Taylor.



Associate Professor Charles Coppel



Professor Michael Leigh, Professor Tim Lindsey, Helen Pausacker and
Associate Professor Charles Coppel



Helen Pausacker

Other Events

Farewell for Judge Daijiro Yasuda

Monday 20 June 2005, 6:00pm

Room 0920, Level 9, Melbourne Law School

The Asian Law Centre hosted a farewell gathering for **Judge Daijiro Yasuda** on Monday 20 June, 2005. His Honour **Judge Wood of the County Court of Victoria** introduced and bid farewell to Judge Yasuda, who then gave a short presentation reflecting on his experiences in Australia.

Human Rights in Burma: What More Can the International Community Do?

Thursday 23 June 2005, 6:00–7:30pm

Basement Theatre, Sidney Myer Asia Centre

Daw Aung San Suu Kyi, a Nobel Peace Prize winner, is seen internationally as a symbol of heroic and peaceful resistance in the face of oppression. Yet she and many of her supporters in Burma's lawfully-elected governing party, the National League for Democracy, remain in long-term detention.

A panel of key advocates from legal, humanitarian and labor rights discussed recent developments, and explored what more needs to be done to achieve real change in Burma.

The panel included **Mr Clyde Roxon, Karen Human Rights Advocate; Justice Robyn Layton, Supreme Court of South Australia; and Professor Sarah Joseph, Director, Castan Centre for Human Rights, Monash University.**

This event was held in conjunction with Asialink, the Asian Law Centre, the Centre for Employment and Labour Relations Law, the Institute for the Study of Global Movement, Monash University and the Australian Council of Trade Unions.

Melbourne Asia Policy Papers

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

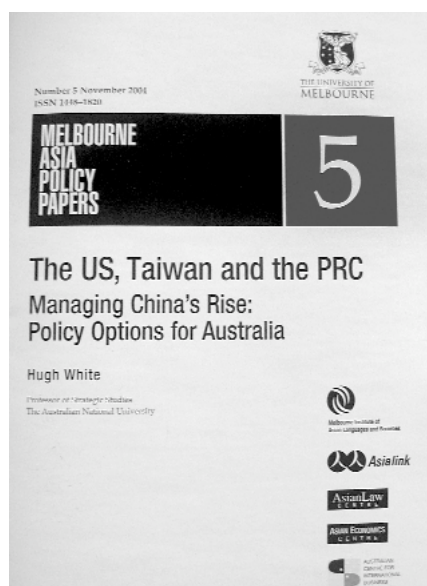
The Melbourne Asia Policy Papers were launched in 2003 and aim to strengthen Australia's engagement in Asia through the publication and dissemination of a series of non-partisan policy option papers.

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

The topics covered in 2004 and 2005 include:

- **The US, Taiwan and the PRC: Managing China's Rise – Policy Options for Australia:** Professor Hugh White, Professor of Strategic Studies, The Australian National University (November 2004).
- **Trade in Services: Policy Options and Implications for Australia-Asia Relations:** Professor Christopher Findlay, Asia Pacific School of Economics and Governance, The Australian National University (March 2005)
- **Asian Languages in Australian Schools: Policy Options:** Professor Joseph Lo Bianco, Chair of Language and Literacy Education, The University of Melbourne (April 2005)

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



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

Asian Law Online was developed by the Asian Law Centre and was the result of five years of research. It was originally supported by grants from the Australian Research Council, a Special Initiatives Grant in 1998 and the Asian Laws in Transition ARC Large Grant in 1999. It is now largely funded by donations from the national law firm, Maddocks.

The Asian Law Centre is grateful to Maddocks for their generous support of *Asian Law Online*.



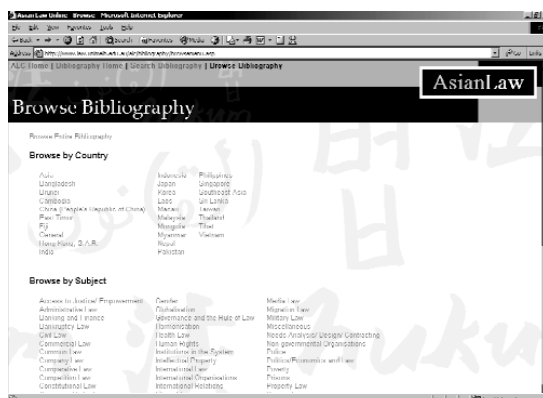
Maddocks

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

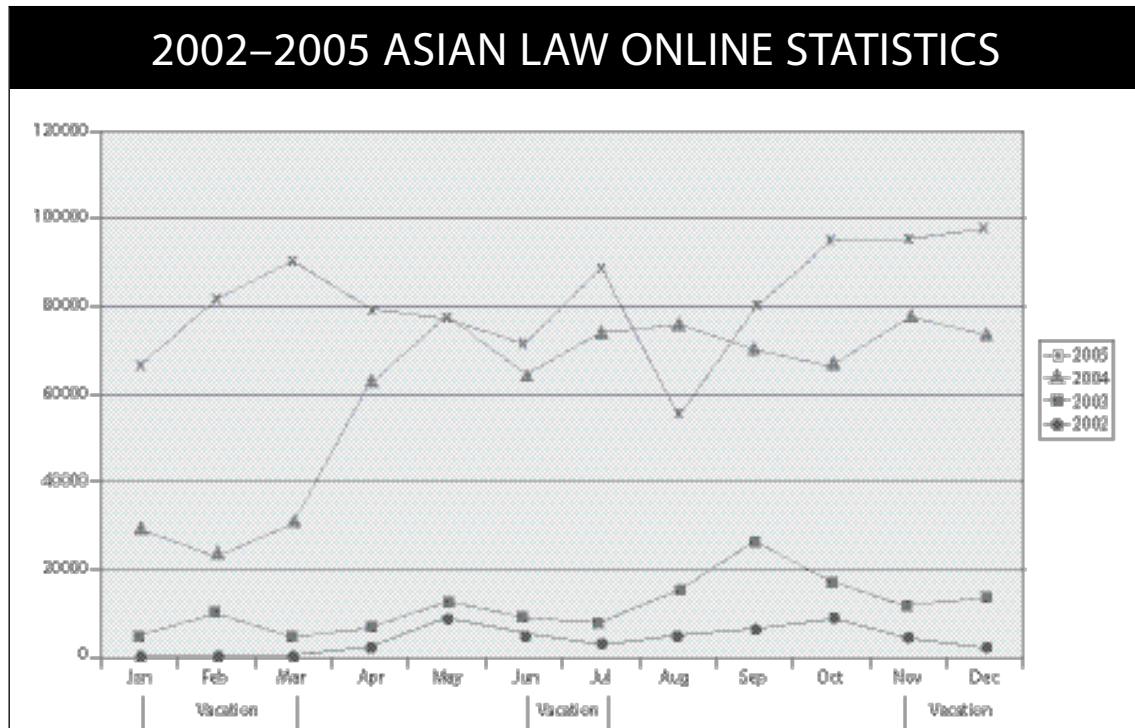
The database is organised according to countries in East Asia and a selection of basic subject areas, not only confined to law. The database can be searched for any word or a more specific advanced search can be conducted. Locations of sources are also provided. Links to hundreds of useful websites are also provided, which are classified by countries and legal topics.

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

The Asian Law Centre has received extremely positive feedback about *Asian Law Online* from students, staff and practitioners working in and researching the Asian region, both in Australia and internationally. *Asian Law Online* is in ever-increasing demand, which is reflected by the high number of 'hits' that the website obtains. It received 725,995 page views in 2004, increasing to 997,039 page views in 2005. It achieved an average of 60,500 page views per month in 2004 and an average of 81,420 page views in 2005 – these are extremely high figures for any Faculty website.



Multimedia IT



Useful Research Links

Linked to *Asian Law Online*, the **Useful Research Links** website is a very large, searchable database of useful websites classified by country of interest.

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

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

The Centre has also **translated the 'Welcome to the ALC' section of the website into Bahasa Indonesia, Chinese (simplified and traditional), Japanese, Korean and Vietnamese**. This provides international visitors to the website with a broad overview of the Centre's research and activities.

Articles in Asian languages are also posted on the relevant website. The site will also be translated into **Arabic** in the near future.



Multimedia IT

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

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

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

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

Vietnam Laws Online

Phillips Fox has been providing the Asian Law Centre and the Legal Resource Centre at the Melbourne Law School with a free subscription to the Vietnam Laws Online Database since August, 2004. This database can be accessed at <http://www.vietnamlaws.com>.

Launched by Phillips Fox on 1 July 2004, the Vietnam Laws Online Database is an online searchable database of **English translations of close to 3,000 Vietnamese laws**, covering a wide range of subject areas relevant to foreign investment and beyond. Subscribers to the Vietnam Laws Online Database can search for law translations by subject category, keyword, issuing-body, date, legislation type, official number or a combination. Law translations can be viewed online, printed and downloaded.

Teaching

Faculty Teaching & Education

Members of the Centre again contributed a full programme of Asian Law- related subjects at the undergraduate and graduate levels. The Law School continues to offer the best coverage of Asian Law in the world. It is seen as a leader in this field

Offerings in the Law School's programme for 2004 and 2005 included:

Undergraduate Programmes

- Law and Society in China (2004)
- Issues in Chinese Law (2004)
- Issues in Japanese Law (2005)
- Land, Race and Law in South East Asia (2004)
- Law and Civil Society in Asia (2005)
- Law and Society in China (2004)
- Law and Society in Japan (2004)
- Law and Society in Malaysia (2005)
- Law and Society in Southeast Asia (2004, 2005)

Postgraduate Programmes

- Asian Comparative Tax Law Systems (2004, 2005)
- Banking and Debt Recovery in Asia (2004)
- Civil Society and the Law in Asia (2005)
- Commercial Dispute Resolution in Asia (2004)
- Commercial Law in Asia (2004)
- Comparative Companies Law in the Asia Pacific Region (2004)
- Constitutionalism in Asian Societies (2005)
- Current Issues in Islamic Law (2005)
- Fundamentals of Islamic Law (2005)
- Islamic Law and Politics in Asia (2004)
- Land Reform Law and Development (2005)
- Law and Development (2004, 2005)
- Law and Economic Reform in Asia (2005)



Visiting Scholars 2004

Date of Visit

Visiting Scholar

18 April 2003
– 16 April 2004

Mr Guan Yisheng, *Central University of Finance and Economics*,
People's Republic of China (below)



1 July 2003
– 30 June 2004

Judge Takashi Nakajima, *Osaka District Court, Japan*
(as part of the Supreme Court of Japan's "Overseas Training and Research Program")

4 September 2003
– 31 August 2004

Professor Jeong-hu Kim, *Kangwon National University, South Korea*
(pictured with Professor Malcolm Smith, below)



Visiting Scholars 2004

| Date of Visit | Visiting Scholar |
|-------------------|---|
| 1–25 January 2004 | Mr Kazuhisa Shibayama , <i>LLM Candidate, Harvard University, USA</i> |
| 11–19 March 2004 | Professor Minako Homma , <i>Kurume University, Japan</i> |
| 1–2 April 2004 | Professor M B Hooker , <i>Faculty of Law, Australian National University</i> |
| 5–16 April 2004 | Professor Raul C Pangalangan , <i>Dean, Faculty of Law, University of the Philippines, Philippines</i> |
| 19 April 2004 | ASEAN journalists (below, with Asian Law Centre research assistants): Mr Paul Gabriel , <i>Assistant Editor, The Star, Malaysia</i> Mr James Luhulima , <i>Senior Editor International Affairs, Kompas Daily, Indonesia</i> Mr Suresh Menon , <i>Deputy Foreign Editor, The Business Times, Singapore</i> Mr Nguyen Dai Phuong , <i>International Affairs Editor, The Tien Phuong, Vietnam</i> Mr Kiatchai Pongpanich , <i>Executive Editor, Khao Sod Daily, Thailand</i> Ms Marites Vitug , <i>Editor-in-Chief, Newsbreak Magazine, Philippines</i> |



Visiting Scholars 2004

| Date of Visit | Visiting Scholar |
|-------------------------------------|--|
| 6 May 2004 | Dr Mark Williams , Assistant Professor of Law, <i>School of Accounting and Finance, Hong Kong Polytechnic University, Hong Kong</i> |
| 24 June 2004 – 30 June 2005 | Judge Daijro Yasuda , <i>Ashikaga Branch of the Utsunomiya District Court, Japan</i> (as part of the Supreme Court of Japan's "Overseas Training and Research Program") |
| 6–8 July 2004 | Professor Daniel Lev , Emeritus Professor of Political Science, <i>Department of Political Science, University of Washington</i> |
| 14 July 2004 | Mr Hop Dang , <i>Faculty of Law, National University of Singapore, Singapore</i> |
| 21–23 July 2004 | Professor Dr Nazaruddin Sjamsuddin , Chairman, <i>Indonesian Electoral Commission, Indonesia</i> |
| 1 August 2004 –30 September 2005 | Associate Professor Futoshi Iwata <i>Faculty of Law, Sophia University, Japan.</i> |
| 6 August 2004 | Mrs Kirsty Sword Gusmao , First Lady, East Timor |
| 26–27 September 2004 | Dr Joan Hardjono , <i>The SMERU Research Institute;</i> <i>International Advisory Board, Bulletin of Indonesian Economic Studies, Indonesia</i> |
| 18–2 October 2004 | Professor Pierre Legrand , Director, Postgraduate Studies Program in Comparative Legal Studies, <i>Pantheon Sorbonne Université Paris 1, France</i> |
| 13–16 November 2004 | Delegation from the <i>Center for Asian Legal Exchange, Nagoya University, Japan</i> Professor Kazutaka Sugiura , <i>Center for Asian Legal Exchange, Nagoya University</i> Associate Professor Yukinori Udagawa , <i>Center for Asian Legal Exchange, Nagoya University</i> Associate Professor Teilee Kuong , <i>Center for Asian Legal Exchange, Nagoya University</i> |
| 7–15 December 2004 | Judge Hideo Kishi , Presiding Judge, <i>Asahikawa District Court, Japan</i> |

Visiting Scholars 2005

Date of Visit

Visiting Scholar

17–28 January 2005

Judge Tokiharu Amano, *Supreme Court of Japan, Japan*

7–18 February 2005

Professor Satoru Osanai, *Chuo Law School, Japan (below)*



16–22 February 2005

Associate Professor Kazuhiro Nishida, *Okayama University, Japan*


28 February

–2 March 2005

Associate Professor Koichi Nakatomi, *Okayama University, Japan*
(below, with Judge Daijiro Yasuda (left), Stacey Steele and Kaori Kano
outside University House)



Visiting Scholars 2005

| Date of Visit | Visiting Scholar |
|---|--|
| 10 March 2005 | Professor Randall Peerenboom , <i>UCLA School of Law, USA</i> |
| 11 March 2005 | <p>Delegation from the <i>Ministry of Internal Affairs and Communications, Japan</i> (below, with Ms Stacey Steele, Professor Michael Bryan, Associate Professor Ann O'Connell and Ms Sue Woodward)</p> <p>Mr Ken'ichi Komagata, Director of Management Office, <i>Minister's Secretariat, Ministry of Internal Affairs and Communications</i></p> <p>Mr Koichi Katagiri, Deputy Director of Management Office, <i>Minister's Secretariat, Ministry of Internal Affairs and Communications</i></p> <p>Mr Tsutomu Kita, <i>Trustee, Chief Researcher, The Japan Association of Charitable Organisations</i></p> |
|  | |
| 17–26 March 2005 | Professor Lawrence Friedman , <i>Stanford University Law School, USA</i> |
| 1–30 April 2005 | Dr Kyriaki Noussia , <i>City Solicitors Educational Trust Lecturer in Common Law, School of Law, University of Birmingham, UK</i> |
| 4–14 April 2005 | Professor Azyumardi Azra , Rector and Professor of History, <i>Universitas Islam Negeri (UIN; State Islamic University), Syarif Hidayatullah, Jakarta, Indonesia</i> |
| 7 April 2005 | Mr Raj Kumar , <i>School of Law, City University of Hong Kong, Hong Kong</i> |
| 8–21 April 2005 | Professor Mark Sidel , <i>College of Law, University of Iowa, USA</i> |
| 10 April–10 May 2005 | Mr Mas Achmad Santosa , <i>Indonesian Center for Environmental Law, Indonesia</i> |
| 2 May 2005 | Delegation from the <i>Ho Chi Minh Political Academy, Vietnam</i> |
| 18–20 May 2005 | Professor Wael Hallaq , James McGill Professor of Islamic Law, <i>McGill University, Montreal, Canada</i> |

Visiting Scholars 2005

| Date of Visit | Visiting Scholar |
|---------------------------------|---|
| 23–24 May 2005 | Dr Julian Dierkes , Assistant Professor and Keidanren Chair in Japanese Research, <i>Institute of Asian Research</i> ; Associate Director, <i>Centre for Japanese Research</i> , <i>University of British Columbia</i> , Canada |
| 1 June 2005 – 16 June 2006 | Judge Takaaki Miura , <i>Yamagata District/Family Court</i> , Japan (as part of the Supreme Court of Japan's "Overseas Training and Research Program") |
| 25 July – 1 August 2005 | Professor Frank Vogel , Director, <i>Islamic Legal Studies Program</i> , <i>Harvard Law School</i> , USA |
| 3–9 August 2005 | Professor Azyumardi Azra , Rector and Professor of History, <i>Universitas Islam Negeri (UIN; State Islamic University)</i> , <i>Syarif Hidayatullah, Jakarta</i> , Indonesia |
| 28 August – 3 September 2005 | Delegation from Japan researching Guardianship and Administration Law (below, with Mike Tanner and Stacey Steele) Associate Professor Kota Fukui , <i>Osaka University</i> , Japan Associate Professor Tadaaki Nakagawa , <i>Okayama University</i> , Japan Ms Fumie Suga , <i>Musashino University</i> , Japan |



Visiting Scholars 2005

Date of Visit

Visiting Scholar

30 August 2005

Professor Tan Cheng Han, Dean, *National University of Singapore*, Singapore
(below, with Professor Michael Crommelin and Professor Tim Lindsey)



30 August 2005

Associate Professor Gary Bell, *National University of Singapore*, Singapore
(below, with Susi Harijanti, Luke Arnold and Dr Nguyen Hien Quan)



Visiting Scholars 2005

| Date of Visit | Visiting Scholar |
|-----------------|--|
| 12 October 2005 | <p>Delegation from the <i>Law Society of Beijing City</i>, People's Republic of China</p> <p>Mr Wang Tong, President, <i>Law Society of Beijing City</i></p> <p>Mr Li Gongtian, Vice President & Secretary General, <i>Law Society of Beijing City</i></p> <p>Mr Zhang Xinwei, Vice President, <i>Material Evidence Technology Research Institute, Law Society of Beijing City</i></p> <p>Mr Song Jun, Secretary General, <i>Procedural Law Research Institute of Law Society of Beijing City</i></p> <p>Mr Wang Zhongshan, Director, <i>Real Estate Branch of Law Society of Beijing City</i></p> <p>Mr Chen Jianhua, Secretary General, <i>Material Evidence Technology Research Institute, Law Society of Beijing City</i></p> |



Ms Kathryn Taylor, Mr Wang Tong, Dr Sarah Biddulph and Mr Li Gongtian



Visiting Scholars 2005

Date of Visit

Visiting Scholar

22–27 October, 2005

Delegation from the *Hanoi Law University*, Vietnam

Dr Le Thi Son, Vice Rector, *Hanoi Law University*

Dr Hoang Ngoc Thinh, Deputy Director, *In-Service Training Department*, *Hanoi Law University*

Dr Nguyen Thi Anh Van, Pro-Director, *Comparative Law Centre*, *Hanoi Law University*

Mr Nguyen Minh Tuan, Vice Dean, *Civil Law Department*, *Hanoi Law University*

Mrs Duong Thi Hien (Interpreter), *International Relations Department*, *Hanoi Law University*



Professor
Michael Crommelin,
Dr Le Thi Son,
Dr Hoang Ngoc Thinh
and
Mr Nguyen Minh Tuan

14 November 2005

Delegation of *Religious Court Judges*, Indonesia (below, with Cate Sumner (IDLO) Justice Nahum Mushin and Professor Tim Lindsey).

Included talks by **Justice Nahum Mushin (Family Court of Australia)** and Professor Tim Lindsey on Australian society, Australia's legal system, Australia's family law jurisdiction, and a comparison of the Indonesian and Australian legal systems. Some of these were conducted in Bahasa Indonesia.



18–30 November 2005

Associate Professor David Linnan, *University of South Carolina*, USA

Major Institutional Contributions

Project with the University of British Columbia

The Asia Pacific Dispute Resolution Project is based in the Institute of Asian Research at the University of British Columbia (UBC). The Project involves a network of colleagues from UBC and from partner institutions in North America and Asia and has received a total of CAD2.2 million in funding. This Project supports research, analysis and policy proposals on cross-cultural dispute resolution in the areas of trade and human rights, with particular attention to Canada, China and Japan. The human rights team, headed by **Dr Sarah Biddulph**, has a focus on health, housing and labour.

Chulalongkorn University, Bangkok

The late **Professor Malcolm Smith** participated for the fourth and fifth times (2004 and 2005) in the teaching of a graduate course at Chulalongkorn University on Commercial Alternative Dispute Resolution. **Associate Professor Richard Garnett** of the Law School, also taught the course, together with **Judge Vichai Ariyanuntaka, Deputy President of the Central Intellectual Property and International Trade Court of Thailand**. The subject was offered in the LLM Business Law at Chulalongkorn University and was taught in English.

Institutions in Japan

From 5 to 17 June 2004, **Ms Stacey Steele** visited Japan. During this trip, Stacey (re)introduced herself to her contacts as the new Associate Director (Japan) of the Asian Law Centre. She also took the opportunity to discuss the new graduate Law School system in Japan with Japanese academics. While in Japan, Stacey also presented lectures at Kyoto University, the Osaka District Court and Chuo Law School.

Stacey Steele and **Kathryn Taylor** visited Japan from 10-20 September, 2005 to discuss continued and further collaboration with various institutions and universities. During the visit, they met with the General Secretariat of the Supreme Court of Japan; **Professor Malcolm Smith** and his colleagues at the Chuo Law School; members of the Center for Asian Legal Exchange (CALE) at Nagoya University; members of the International Centre for Comparative Law and Politics (ICCLP) at the University of Tokyo; and numerous lawyers and other academics who assist Melbourne Law School graduates in Japan.



Major Institutional Contributions



Stacey Steele in the Supreme Court of Japan



Kathryn Taylor with members of the Research Institute for Oriental Cultures (RIOC) at Gakushuin University



Stacey Steele and Kathryn Taylor with members of the International Centre for Comparative Law and Politics (ICCLP) at the University of Tokyo



Chuo Law School - Professor Malcolm Smith, Professor Dan Rosen, Dr Ros Smith, Kathryn Taylor and Professor Satoru Osanai

Major Institutional Contributions

Supreme Court of Japan Overseas Training and Research Program

Each year since 2003, the Asian Law Centre has hosted a judge from Japan as part of the Supreme Court of Japan's Overseas Training and Research Program. This Program enables the 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 and access University resources.

In 2004-2005, **Judge Daijiro Yasuda** visited the Asian Law Centre from **Utsunomiya District Court**. During his time in Australia, the Asian Law Centre and Judge Yasuda also facilitated visits from many judges from the District Courts of Japan. Judge Yasuda's network within the Australian legal system enabled him to accompany these visiting judges to meetings with Australian judges and lawyers.



Judge Daijiro Yasuda

In 2005-2006, **Judge Takaaki Miura** visited the Asian Law Centre from the **Yamagata District/Family Court**, where he was involved in juvenile justice cases. His research interests include children and the law and evidence. While in Australia, Judge Miura researched the selection of juries and strategies for conducting jury trials in ways that are understandable to lay jurors.

Hanoi Law University

A **delegation from Hanoi Law University, Vietnam**, recently signed a Memorandum of Understanding with the Faculty of Law during a visit on 22 – 27 October 2005. The visit was hosted by the Asian Law Centre with the support of the University's International Office. During their stay, members of the delegation also met with members of the Law School to learn more about accountability and review mechanisms within the Faculty.

The University of Melbourne's Faculty of Law has enjoyed a long relationship with Hanoi Law University, having collaborated on a number of international projects. Over the period 1997–1998 the Law School, together with Melbourne Enterprises International, collaborated on the delivery of the ADB-funded project, Retraining Government Legal Officers. A key component of that initiative had 20 academics and bureaucrats from Hanoi based in Melbourne with much time spent at the Law School. In 1997, the Law School provided a 12-week train-the-trainer program in international law to Hanoi Law University and Ministry of Justice officials under the AusAID-funded Australian Legal Assistance Project.



Signing the Memorandum of Understanding



Research Students

Research Students Under Supervision of Centre Members

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

Higher degree research candidates who submitted or successfully completed in 2004-2005 were:

Ms Sarah Biddulph (PhD) – 2004

- Supervisors: Michael Dutton, Pip Nicholson
- "The Legal Field of Policing in China: Administrative Detention and Legal Reform"*

Mr Budi Darmono (PhD) – 2004

- Supervisor: Tim Lindsey
- "Adat and Land Law in a Plural System: A Study of Forestry Regulations and Indonesian 'Legal Development'"*

Mr Denny Indrayana (PhD) – 2005

- Supervisors: Tim Lindsey, Cheryl Saunders
- "Indonesian Constitutional Reform 1999-2002: An Evaluation of Constitution-Making in Transition"*

Mr Nandang Sutrisno (PhD) – 2005

- Supervisors: Tim Lindsey, Abdullah Saeed
- "Dispute Settlement in the WTO and Developing Countries"*

Dr Eric Wilson (SJD) – 2005

- Supervisors: Tim Lindsey, Gillian Triggs
- "The Savage Republic: De Indis of Hugo Grotius, Primitive Legal Scholarship and Dutch Hegemony in the Early Capitalist World-Economy (1603–1608)"*

Research students under the supervision of Centre members included:

Mr Khalid M Abou-Elyousr (PhD)

- Supervisors: Tim Lindsey, Carolyn Evans
- Expected Year of Completion: 2008
- "The Palestinian-Israeli Conflict in International Law: The Role of the UN Security Council"*

Mr Khalid Al-Azri (PhD)

- Supervisors: Tim Lindsey, Abdullah Saeed
- Expected Year of Completion: 2006
- "The Interaction of Gender, Law and Culture within Omani Society"*

Ms Eloisa Alcordo (SJD)

- Supervisors: Pip Nicholson, Michael Tilbury
- Expected Year of Completion: 2007
- "Corruption in the Philippines: A Failure in Law Reform"*

Ms Mouza Alneyadi (PhD)

- Supervisors: Tim Lindsey, Michael Bryan
- Expected Year of Completion: 2007
- "A Look at the Law of Construction Contracts in the United Arab Emirates"*

Research Students

Mr Andi Muhammad Ali Amiruddin (PhD)

- Supervisors: Abdullah Saeed, Tim Lindsey
 - Expected Year of Completion: 2009
- "Islamic Syaria in South-Sulawesi in Indonesia"*

Ms Sarah Biddulph (PhD) (submitted)

- Supervisors: Michael Dutton, Pip Nicholson
 - Year of Completion: 2004
- "The Legal Field of Policing in China: Administrative Detention and Legal Reform"*

Ms Anisa Buckley (PhD)

- Supervisors: Abdullah Saeed, Tim Lindsey
 - Expected Year of Completion: 2008
- "Islamic Family Law & Muslim Minorities in the West"*

Mr Simon Butt (PhD) (submitted)

- Supervisor: Tim Lindsey
 - Expected Year of Completion: 2006
- "Indonesia's District Courts: Incompetence and Corruption"*

Mr John Chellew (PhD)

- Supervisor: Malcolm Smith
 - Expected Year of Completion: 2007
- "Derivatives Law: Fine-Tuning the Corporations Act's Derivative Definition"*

Mr Neri Colmenares (PhD)

- Supervisors: Tim Lindsey, Tim McCormack
 - Expected Year of Completion: 2007
- "International Jurisdiction and Amnesty"*

Mr Budi Darmono (PhD) (submitted)

- Supervisor: Tim Lindsey
 - Year of Completion: 2004
- "Adat and Land Law in a Plural System: A Study of Forestry Regulations and Indonesian 'Legal Development'"*

Ms Carolyn Graydon (PhD)

- Supervisor: Tim Lindsey, Dianne Otto
 - Expected Year of Completion: 2007
- "Domestic Violence in Timor-Leste: Is there a Place for Indigenous Justice Systems Mechanisms?"*

Ms Susi Dwi Harijanti (PhD)

- Supervisors: Cheryl Saunders, Tim Lindsey
 - Expected Year of Completion: 2007
- "The Indonesian Ombudsman System and Good Governance: Proposals for Reform"*

Mr Mohamad Hafiz Hassan (PhD)

- Supervisors: M.B. Hooker, Tim Lindsey
 - Expected Year of Completion: 2007
- "The Syariah Court of Singapore – A Study of a Court of Law"*

Ms Nur Hidayah (PhD)

- Supervisors: Tim Lindsey, Abdullah Saeed
 - Expected Year of Completion: 2007
- "Sharia Contestation in Indonesia"*



Research Students

Mr Denny Indrayana (PhD) (submitted)

- Supervisors: Cheryl Saunders, Tim Lindsey
- Year of Completion: 2005
- "Indonesian Constitutional Reform 1999–2002: An Evaluation of Constitution-Making in Transition"*

Mr Quoqing Liu (PhD)

- Supervisors: Michael Bryan, Sarah Biddulph
- Expected Year of Completion: 2007
- "The Role of Equity in Trusts Law: The Legislation and Application of the Chinese Trust Code Trust Law in China"*

Mr Anthony Mihalopoulos (PhD)

- Supervisors: Malcolm Smith, Lisa Sarmas, Victor New
- Expected Year of Completion: 2006
- "A Comparative Study of the Legal Institutions and Systems within which the Jewish and Greek Christian Communities Functioned in Salonica and Istanbul under Ottoman Rule"*

Mr Minh Nut Duong (LLM by Thesis)

- Supervisor: Pip Nicholson
- Expected Year of Completion: 2009
- "Commercial Dispute Resolution in the Vietnamese Economic Court"*

Mr Jeremy Mulholland (PhD) (International Management)

- Supervisors: Howard Dick, Tim Lindsey
- Expected Year of Completion: 2006
- "Elites, State and Big Business in Indonesia from a New Institutional Economics Perspective: Indonesian Thinking on Political Economy Since 1945"*

Mr Nguyen Hien Quan (PhD) (submitted)

- Supervisors: Tim Lindsey, Pip Nicholson, Peter Bardsley
- Year of Completion: 2006
- "The Social Structures of Contracts: – A Case Study of the Vietnamese Market"*

Mr Arskal Salim (PhD) (submitted)

- Supervisor: Tim Lindsey
- Year of Completion: 2006
- "Islamising Indonesian Laws? Legal and Political Dissonances in Indonesian Shari'a, 1945–2005"*

Ms Jothie Sauntharajah (PhD)

- Supervisors: Pip Nicholson, Abdullah Saeed
- Expected Year of Completion: 2008
- "Negotiating Legal Identities: Hindu Law in Singapore and Malaysia"*

Ms Chenxia Shi (PhD)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2007
- "Corporate Governance, its Theoretical Development and Issues of Chinese Corporate Governance"*

Ms Kerstin Steiner (PhD) (submitted)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2006
- "Western Human Rights and 'Asian Values' – Are the Differences Real?"*

Mr Nandang Sutrisno (PhD) (submitted)

- Supervisor: Tim Lindsey, Abdullah Saeed
- Year of Completion: 2005
- "Dispute Settlement in the WTO and Developing Countries"*

Ms Elizabeth Wardrop (PhD)

- Supervisor: Tim Lindsey
- Expected Year of Completion: 2007
- "Representation of the Public Interest in the Insolvency of Privatised Essential Services"*

Research Students

Dr Eric Wilson (SJD) (submitted)

- Supervisors: Tim Lindsey, Gillian Triggs
- Year of Completion: 2005
- "The Savage Republic: De Indis of Hugo Grotius, Primitive Legal Scholarship and Dutch Hegemony in the Early Capitalist World-Economy (1603–1608)"*

Mr Ming Zhou (PhD)

- Supervisors: Malcolm Smith, Gillian Triggs
- Expected Year of Completion: 2007
- "Anti-Dumping in China, the West and the WTO"*

Ms Phoebe Wynn-Pope (PhD)

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



Ming Zhou with Professor Malcolm Smith



Chenxia Shi



Kerstin Steiner

Publications

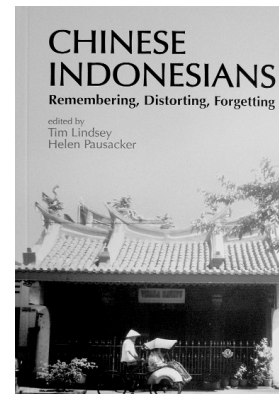
Publications of Centre Members

Books

Tim Lindsey and Helen Pausacker (eds) (2005), *Chinese Indonesians: Remembering, Distorting, Forgetting – A Festschrift for Charles A Coppel*, Institute of Southeast Asian Studies, Singapore; Monash Asia Institute, Clayton.

Tim Lindsey, Erman Rajagukguk and Hikmahanto Juwana (eds) (2004), *Perubahan Hukum di Indonesia [Legal Change in Indonesia] (1998–2004)*, Harapan Universitas Indonesia Fakultas Hukum, Jakarta.

Tim Lindsey, Erman Rajagukguk and Hikmahanto Juwana (eds) (2005), *Perubahan Hukum di Indonesia [Legal Change in Indonesia] (1998–2004)*, Harapan Universitas Indonesia Fakultas Hukum, Jakarta (2nd edition).



Pip Nicholson and John Gillespie (eds) (2005), *Asian Socialism & Legal Change: The Dynamics of Vietnamese and Chinese Reform*, Asia-Pacific Press, Canberra.

Chapters in Books and Monographs

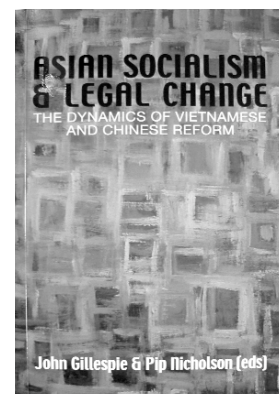
Sarah Biddulph, 'Mapping Legal Change in the Context of Reforms to Chinese Police Powers' in John Gillespie and Pip Nicholson (eds) (2005), *Asian Socialism & Legal Change: The Dynamics of Vietnamese and Chinese Reform*, Asia-Pacific Press, Canberra, 212–238.

Sarah Biddulph, 'The Role of Lawyers in Criminal Trials in Victoria' in C Fan (ed) (2005), *Reform and Prospect of the Criminal Pretrial Procedure*, University of the Chinese People's Public Security Press, Beijing, 665–679.

Sean Cooney, 'The Effects of Rule of Law Principles in Taiwan' in Randall Peerenboom (ed) (2004), *Asian Discourses of Rule of Law*, Routledge, London, 417–445.

Tim Lindsey, 'Charles Coppel: A Brief Biography', in Tim Lindsey and Helen Pausacker (eds) (2005), *Chinese Indonesians: Remembering, Distorting, Forgetting – A Festschrift for Charles A Coppel*, Institute of Southeast Asian Studies, Singapore; Monash Asia Institute, Clayton, x–xii.

Tim Lindsey, 'Law Reform in Indonesia: The Necessity of Patience' in Tim Lindsey, Erman Rajagukguk and Hikmahanto Juwana (eds) (2005), *Perubahan Hukum di Indonesia [Legal Change in Indonesia] (1998–2004)*, Harapan Universitas Indonesia Fakultas Hukum, Jakarta, 72–87.



Publications

Tim Lindsey, 'Reconstituting the Ethnic Chinese in Post-Suharto Indonesia: Law, Racial Discrimination and Reform' in Tim Lindsey and Helen Pausacker (eds) (2005), *Chinese Indonesians: Remembering, Distorting, Forgetting – A Festschrift for Charles A Coppel*, Institute of Southeast Asian Studies, Singapore; Monash Asia Institute, Clayton, 41–76.

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Sarah Biddulph (2004), 'Legal Reform in China: Modelling Transition in Socialist States' (presented at *Roundtable Workshop, Asian Law Centre and Centre for Asian Legal Exchange Roundtable Workshop*, The University of Melbourne, 21–23 June 2004).

Sarah Biddulph (2004), 'The Other Lived Experience of Comparative Law: Asian Comparisons. Modelling Transition in Socialist States' (presented at *'The Other Lived Experience of Comparative Law: Asian Comparisons' Comparative Law Seminar Series*, Asian Law Centre, University of Melbourne, 21 October 2004).

Sarah Biddulph (2004), 'Norms, Law and Social Order in China' (presented at *Exploring New Ideas in Dispute Resolution: International Trade, Human Rights and Selective Adaptation*, Institute of Asian Research, The University of British Columbia, Canada, 5–6 November 2004).

Sarah Biddulph (2005), 'Mapping Change: Understanding Processes of Legal Reform' (presented at *Faculty Research Workshop*, Faculty of Law, The University of Melbourne, April 2005).

Sarah Biddulph (2005), 'Legal Reform of China's Administrative Coercive Powers; Comparative Notes with Victoria (in Chinese)' (Paper presented at the Southern Agricultural University Guangdong, China, November 2005).

Sarah Biddulph (2005), 'Social Order, Prostitution and Legal Protections of Individual Liberty in China' (Paper presented at the *International Seminar on Protection of Personal Liberty and Legal Reform*, Institute of Law, Chinese Academy of Social Sciences, Beijing, China, 5–6 November 2005).

Sean Cooney (2004), 'Australian Labour Law: New Developments for Regular and Marginalised Workers' (English and Chinese) (presented at *International Labour Law Forum*, Peking University Law School, 26–28 February 2004).

Sean Cooney (2004), 'Transnational Regulatory Strategies for Decent Work: Legal Strategies for Addressing Supply Chain Sweatshops' (presented at *International Industrial Relations Association 2004 5th Asian Regional Congress*, Seoul, Korea, 23–26 June 2004).

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Sean Cooney (2004), 'Labour Dispute Resolution in Australia' (English and Chinese) (presented at *International Forum on Labour Dispute Resolution*, Peking University Law School, 19–20 November 2004).

Seminars/Papers Delivered by Members

Sean Cooney (2005), 'A Study of Exclusory Self-regulation: The Mining Industry' (presented at *Labour Law, Equity and Efficiency: Structuring and Regulating the Labour Market for the 21st Century*, Law School, University of Melbourne, June 2005).

Sean Cooney (2005), 'Economic Restructuring and Employee Rights' (General Rapporteur) (presented at *International Society for Labour and Social Security Law 8th Regional Congress, Taipei*, November 2005).

Tim Lindsey (2004), 'Promoting Interfaith Dialogue in Southeast Asia' (Chair at *Managing Muslim-Christian Relations Colloquium*, University of Melbourne, 11–13 February 2004).

Tim Lindsey (2004), 'Religious Education Policy in Indonesia' (Chair at *Managing Muslim-Christian Relations Colloquium*, University of Melbourne, 11–13 February 2004).

Tim Lindsey, MB Hooker, Jeremy Kingsley and Ross Clarke (2004), 'Syari'ah Reform in Aceh: New Born or Stillborn?' (presented at *Islamic Law in Modern Indonesia conference*, Harvard Law School, 17–18 April 2004).

Tim Lindsey (2004), 'Enforcement of Intellectual Property Law in Indonesia' (presented at *Law Reform in Indonesia*, USIndo Society Public Event, Cosmos Club, Washington DC, 19 April 2004).

Tim Lindsey (2004), 'Syariah Law and Islamic Codes in Indonesia' (presented at *Indonesian Legal Institutions*, University of Washington Asian Law Center/South Western Law School Conference, Seattle, 21–22 April 2004).

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Tim Lindsey (2004), 'Balancing China and the US: Policy Options for Australia' by Mr Hugh White, Director, Strategic and Defence Studies Centre; Professor Bruce Jacobs, Monash University; Rowan Callick, Asia Pacific Editor, Australian Financial Review (Chair at *Melbourne Asia Policy Papers Panel Discussion*, University of Melbourne, 8 June 2004).

Tim Lindsey (2004), 'Teaching International Students: Cultural Diversity Workshop' (presented at *Faculty of Law Teaching Workshop*, University of Melbourne, 27 July 2004).



Seminars/Papers Delivered by Members

Tim Lindsey (2004), 'Indonesia's Constitutional Crisis: Will the Bali Bombers Go Free?' (presented at *Asia Pacific Economic Literature AusAID Asia Seminar Series*, AusAID, Canberra, 30 July 2004).

Tim Lindsey (2004), 'Indonesia's Constitutional Crisis: Will the Bali Bombers Go Free?' (presented at *Public Lecture, Asia Pacific School of Economics and Government*, Australian National University, Canberra, 30 July 2004).

Tim Lindsey (2004), 'Indonesia's Constitutional Crisis: Will the Bali Bombers Go Free?' (presented at *Postgraduate Law Students' Society 'Food for Thought' Seminar Series*, Faculty of Law, The University of Melbourne, 5 August 2004).

Tim Lindsey (2004), 'Indonesia's Constitutional Crisis: Will the Bali Bombers Go Free?' (presented at *Australian Defence Force School of Languages*, Melbourne, 6 August 2004).

Tim Lindsey (2004), 'Towards a Fundamentalist State? Syariah Implementation in Aceh' (presented at *Centre for Southeast Asian Studies Seminar Series*, Monash University, 13 August 2004).

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Tim Lindsey (2004), 'Islamic Law: Syariah Revival in Indonesia' (presented at *Judicial Conference of Australia Colloquium*, Adelaide, October 2004).

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Pip Nicholson (2004), 'Exchange: Vietnamese Legal Cultures and Comparative Legal Studies' (presented at *'The Other Lived Experience of Comparative Law: Asian Comparisons' Comparative Law Seminar Series*, Asian Law Centre, University of Melbourne, 21 October 2004).

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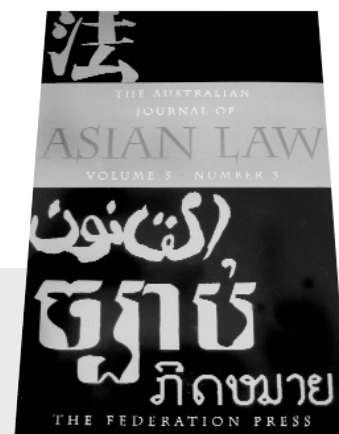
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Contributions

Contributions to the University of Melbourne and the Community

Dr Sarah Biddulph

- Chair, Human Rights Research Group, Cross Cultural Dispute Resolution Grant (2004)
- Member, Law and Society Association (2004)
- Member, Advisory Committee, *Australian Journal of Asian Law* (2004)
- Member, Equal Opportunity Committee, Faculty of Law, The University of Melbourne (2004)
- Liaison Officer, International and Non-English Speaking Background Students (July-December) (2004)
- Duke University Summer School program in Chinese law, Fukuoka (4-17 July) (2004)
- China-Australia Chamber of Commerce, Shanghai, China (2005)
- Law Society of NSW (2005)
- Willamette University Summer School in Chinese law, Shanghai (June-July) (2005)

Dr Sean Cooney

- Member, Centre for Employment and Labour Relations Law, The University of Melbourne (2004, 2005)
- President, University of Melbourne Branch, National Tertiary Education Union (NTEU) (2004)
- Member, National Executive, National Tertiary Education Union (NTEU) (2004)
- Member, Advisory Committee, *Australian Journal of Asian Law* (2004, 2005)
- Member, Ethical Advisory Committee, Brotherhood of St. Laurence (2004, 2005)
- Member, Executive and Budgets Committee, Faculty of Law (2004, 2005)
- Liaison Officer, International and Non-English Speaking Background Students (January-June) (2004)
- Member, Australian Labour Law Association (2004)
- Member, Consultation Group, National Contact Point, OECD Guidelines for Multinational Enterprises, Department of Treasury (2004)
- Member, Editorial Board, National Taiwan University Law Journal (2004)

Professor Tim Lindsey

- Professor of Asian Law, Faculty of Law, The University of Melbourne (2005)
- Associate Dean (International), Faculty of Law, The University of Melbourne (2004, 2005)
- Associate Professor, Faculty of Law, The University of Melbourne (2004, 2005)
- Fellow, School of International Development, Melbourne University Private (2004, 2005)
- Director, Asian Law Centre, Faculty of Law, The University of Melbourne (2004, 2005)
- Foundation Deputy Director, Centre for the Study of Contemporary Islam, The University of Melbourne (2005)
- Director of Studies, Graduate Program in Asian Law, Faculty of Law, The University of Melbourne (2004, 2005)
- Director of Studies, Graduate Diploma in Islamic Legal Studies, Faculty of Law, The University of Melbourne (2005)
- Member, Centre for Corporate Law and Securities Regulation, Faculty of Law, The University of Melbourne (2004, 2005)

Contributions

- Member, Centre for Energy and Resources Law, Faculty of Law, The University of Melbourne (2004, 2005)
- Associate, Centre for Employment and Labour Relations Law, Faculty of Law, The University of Melbourne (2004, 2005)
- Member, Executive and Budgets Committee, Faculty of Law, The University of Melbourne (2004, 2005)
- Chair, International Committee, Faculty of Law (2004, 2005)
- Nominee of the Deputy Vice-Chancellor (Academic), International Students' Consultative Committee, The University of Melbourne (2004)
- Distinguished Visitor, Faculty of Law, National University of Singapore (2004)
- Member of Advisory Board, Centre for Asia Pacific Initiatives, University of Victoria, British Columbia (2004, 2005)
- Member of Board, Australia Indonesia Institute, Department of Foreign Affairs and Trade, Australia (2004, 2005)
- Member of Board, Asia Institute (formerly Melbourne Institute of Asian Languages and Societies) (2004, 2005)
- Member, International Council of the Asia Society (2004, 2005)
- Member, Melbourne Asia Advisory Board (2004)
- Member, Asian Studies Association of Australia (2004, 2005)
- Member, Advisory Board, Liberty and Rule of Law Association, Mongolia (2004, 2005)
- Co-editor, *Australian Journal of Asian Law* (2004, 2005)
- Member, Editorial Advisory Board, *Employment Law Asia*, CCH (2004, 2005)
- Member of the Editorial Advisory Board, *Doing Business in Asia*, CCH (2004, 2005)
- Member, Forum of Associate Deans International (2004)
- Member, Editorial Board, Southeast Asia Publications Series, Asian Studies Association of Australia (2004, 2005)
- Member, Editorial Advisory Board, Asian Law Abstracts, Legal Scholarship Network (2004, 2005)
- Member, Advisory Board, Centre for Asia Pacific Initiatives, University of Victoria, British Columbia (2004)
- Contributing Editor, 'Report from Asia', *Trade Practices Law Journal* (2004)
- Co-founder, *Melbourne Asia Policy Papers Series* with Asia Institute (formerly Melbourne Institute of Asian Languages & Societies, Australian Centre for International Business, Asialink (2004, 2005)
- Member, Small Grants Committee, Faculty of Law, The University of Melbourne (2005)
- Member, Foreign Affairs Advisory Council, Department of Foreign Affairs and Trade, Australia (2005)
- Member, Melbourne Asia Coordinating Committee (2005)
- Delegate, Australia-Indonesia Young Leaders Dialogue (Bandung, Indonesia) (2005)



Contributions

Dr Pip Nicholson

- Member, Advisory Committee, *Australian Journal of Asian Law* (2004, 2005)
- Member, International Committee, Faculty of Law, The University of Melbourne (2004)
- Member, Asian Studies Association of Australia (2004, 2005)
- Executive Member, Vietnam Studies Association of Australia (2004, 2005)
- Responsible for outgoing international exchange students, Faculty of Law, The University of Melbourne (2004)
- Equal Opportunity Committee, Faculty of Law, The University of Melbourne (2005)
- Unsatisfactory Progress Committee, Faculty of Law, The University of Melbourne (2005)

Professor Malcolm Smith

- Dean of Studies, Ormond College (until February 2004)
- Member, Advisory Committee, *Australian Journal of Asian Law* (2004, 2005)
- Associate, Asia Institute (formerly Melbourne Institute of Asian Languages and Societies) (2004, 2005)
- Associate, Centre for Corporate Law and Securities Regulation, The University of Melbourne (2004, 2005)
- Member of Board, Institute for Comparative and International Law, The University of Melbourne (until March 2004)
- Member of Board, Asia Institute (formerly Melbourne Institute of Asian Languages and Societies) (until March 2004)
- Member of Board, Australian Centre for International Commercial Arbitration (2004, until November 2005)
- Member of Board, Penleigh and Essendon Grammar School (until June 2004)
- Member of Board, Penleigh and Essendon Grammar School Development Foundation (until June 2004)
- Member, International Trade Law and Business Committee, Law Council of Australia
- Advisory Board, *Journal of Korean Law* (2004, 2005)
- Honorary Professorial Fellow, University of Melbourne (from April 2004, 2005)
- Senior Associate, Asian Law Centre (from April 2004, 2005)
- Member, Asian Law Centre Advisory Board (2004)
- Chair, Asian Law Centre Advisory Board (2005)
- Chuo Program Co-ordinator and lecturer, Chuo Law School Program, held at the Asian Law Centre (2005)

Ms Stacey Steele

- Senior Associate, Financial Services Group, Blake Dawson Waldron (2004, 2005)
- Solicitor, Blake Dawson Waldron (2005)
- Member, Japanese Studies Association of Australia (2004, 2005)
- Member, Urasenke Melbourne Chapter (2004, 2005)
- Referee, *Australian Journal of Asian Law* (2004)
- Referee, *Corporate Governance Law Review* (2004)
- Volunteer, Homeless Persons' Legal Clinic (joint initiative by the PILCH and the Council for Homelessness) (2004, 2005)

Contributions

Ms Amanda Whiting

- Co-Editor, *Australian Journal of Asian Law* (2004, 2005)
- Member, American Historical Association (2004, 2005)
- Member, Asian Studies Association (United States) (2004, 2005)
- Member, Asian Studies Association of Australia (2004, 2005)

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