1999 was a year of highlights and consolidation. Chief among the highlights were:

- the publication of the *Australian Journal of Asian Law* in December;
- the celebration of 30 years of teaching on Japanese law in August;
- the World Bank / IMF conference on Bankruptcy in Indonesia; and
- two ARC Large Grants secured by members of the Centre.

**New Journal**

The publication of the *Australian Journal of Asian Law* is the culmination of three years of planning and hard work by the Associate Directors of the Centre. It also marks a significant collaboration with the Law Faculties at the Australian National University, as well as with a range of Asian and North American universities, where Veronica Taylor and Tim Lindsey have played key roles in establishing Asian law programmes. Initially the journal will be published twice each year. I congratulate the team on an important addition to international literature on Asia.

**30th Anniversary Symposium**

1999 marked the 30th anniversary of the first significant activity in Asian law in the Law School. In 1969 the Faculty received a visit from then Associate Professor Koya Matsuo of the Faculty of Law, the University of Tokyo. Professor Matsuo was a Leverhume fellow. He spent eight months with the Faculty working on criminal law and criminal procedure issues. Apart from establishing contacts among our criminal law teachers of the day, he also played an instrumental role in developing interest in the Japanese legal system among junior members of the Faculty, including myself.

In a parallel development, Mary Hiscock, who was responsible for the teaching of comparative law in the Faculty, was negotiating with Professor David Allan of Monash Law School and Professor Tony Angelo of Victoria University, Wellington, New Zealand, for Professor Angelo to visit Australia in 1970 and participate in Civil Law classes. Professor Angelo had just translated a landmark work in French by a leading Japanese scholar.

The 30th anniversary was celebrated by a symposium and a major dinner held at the Victoria Club in August. Although Professor Matsuo was invited, he unfortunately had to withdraw when the dates of the seminar were changed. However, Professors Hiscock, Allan, and Angelo all attended and spoke at the symposium dinner. The symposium, “Legal Crisis? Japan and Asia”, highlighted the role the Australian and Japanese legal systems have played in the region in the three decades since 1969. Over one hundred scholars from Australia, Germany, Indonesia, Japan, Malaysia, New Zealand, North America and Singapore participated in what was a major celebration of the Law School’s links to the region.

**World Bank / IMF Conference**

The April 1999 Bankruptcy Conference convened by Tim Lindsey confirmed the Centre’s national leadership in the Indonesian law area. As noted in more detail in this report, the conference drew together funding from major international and national funding bodies and attracted experts from both Indonesia and around the world. The book based on the conference proceedings will be a major contribution to an understanding of Indonesia’s new Bankruptcy
system as well as an important statement on the difficulties involved in transplanting legal systems.

**Teaching**

The Centre continued its major contribution to the teaching programme at both the graduate and undergraduate levels. A highly successful overview course “Commercial Law in Asia” was introduced into the undergraduate programme to 65 students. The course was a cooperative effort involving four members of the Centre, showcasing major common themes in the region in the context of developments in China, Indonesia, Japan, Korea, and Vietnam.

**ARC Grants**

The consolidation of the group’s major research interests continued with the commencement of an ARC Large Grant under the directorship of Tim Lindsey and Veronica Taylor. The grant is worth A$180,000 over three years, and will trace the transformation of laws in Asian countries in the Post-War period. Sean Cooney combined with Richard Mitchell and his team in the Centre for Employment and Labour Relations Law, to win a second ARC Large Grant for a project to rethink international labour standards in the Asia-Pacific context.

**Specialist Training**

The Centre’s staff participated in the Law School’s major training programme for Mongolian lawyers with four members of the Centre presenting lectures to the twelve lawyers from government departments in Mongolia. The Centre’s staff also developed and presented a specialist training programme for the Director of the Lao Economic Arbitration Centre and two of his colleagues on recent Australian and international developments in international commercial arbitration. This project was funded by the World Bank at the request of the Lao Justice Ministry.

**Staff Development**

The year was also notable for consolidation of staff development among the group.

Sean Cooney completed a year in residence at Columbia Law School and returned to us in second semester. Sean is completing the JSD programme at Columbia.

Sarah Biddulph completed her second year on secondment to the Blake Dawson Waldron office in Shanghai, China. Sarah returned in February to present the first Asian law subject during the undergraduate Summer semester programme. She returned again in January 2000 and taught a second Chinese law subject with Sean Cooney.

Tim Lindsey was a Visiting Professor at the Centre for Asia-Pacific Initiatives at the University of Victoria, British Columbia.

Pip Nicholson took leave during 1999 to complete her Ph.D. project and to give birth to Oliver. Sean and Emma also welcomed Eleanor.

It is interesting to note that the workload of the Asian Law Centre has been achieved over the last five years with at least one, if not two members on leave pursuing staff development projects. Indeed, since I returned from sabbatical leave in mid-1996 there has only been one
semester during which the whole group has been together. In the circumstances, the contribution and output of the group is outstanding.

Appointments

In February 1999, I accepted a half-time appointment at Ormond College as its Dean of Studies, in charge of its extensive academic programme. I continue in a half-time position in the Law School, with my main activities now centred on the Asian Law Centre and the Asian programme in the Law School.

The position at Ormond creates new opportunities for accommodating overseas visitors in a unique environment, while refocusing my activities on Asia. For most of my 15 years with the Asian Law Centre, up to half my time has been spent on secondments freeing up scarce resources for others to pursue their interests in Asian law.

In September 1999, Tim Lindsey was appointed to an Associate Professorship.

In 2000, the Asian Law Centre enters its 15th year. It remains a very significant contributor to the Law School and to the wider legal community, at a very small cost to the Law School.

The announcement early in 2000 that Veronica Taylor, the first young law graduate selected to work at the Centre in 1987, has been offered a Chair and the Directorship of the Asian law programme at the University of Washington, Seattle, confirms the international standing that members of the Centre have achieved. I have every confidence that the standards will be maintained into the future.

GOALS OF THE ASIAN LAW CENTRE

- To promote the teaching of Asian law in Australia at both graduate and undergraduate levels, and the teaching of Australian law in Asia.
- To improve Australia’s knowledge of the commercial laws of our trading partners in the region and to research the legal framework for trade and investment.
- To develop specialised legal training programmes for Australians and Asians.
- To promote the development of Asian studies and Asian languages in other disciplines and to encourage a linkage with law studies.
- To promote exchanges of staff and students between the Law School and Asian universities and institutions.

ASIAN LAW CENTRE ADVISORY BOARD

The current Advisory Board of the Centre reflects the range of government, private and academic interest and involvement in the activities of the Centre.

- **Professor Michael Crommelin**  
  *Dean, Law School, The University of Melbourne*
• Mr Peter Kelly  
  *Partner, Mallesons Stephen Jaques*

• Mr David Laidlaw  
  *Chairman of Partners, Maddock Lonie & Chisholm*

• Mr Stephen Spargo  
  *Partner, Arthur Robinson & Hedderwicks*

• Professor Alice Tay  
  *Director, Centre for Asia-Pacific Legal Studies, The University of Sydney*

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**ASIAN LAW CENTRE MEMBERS**

Members of the Law School associated with the Centre:

• **Professor Malcolm Smith** - Director

• **Ms Sarah Biddulph** - Associate Director, China  
  
  On leave at Blake Dawson Waldron, Shanghai

• **Mr Sean Cooney** - Taiwan and Labour Relations Law  
  
  During the latter half of 1998 and the first half of 1999, Sean Cooney was on leave at Columbia University, New York, where he undertook his year of residence for JSD studies. Sean participated in seminars associated with Columbia Law School ‘Centre for Chinese Studies’, and provided translations of drafts of the new *Marriage Law* and *Administrative Licensing Law* for the Centre. He also attended a conference on recent Chinese legal developments at Harvard University.

• **Associate Professor Tim Lindsey** - Associate Director, South East Asia  
  
  Associate Professor from September 1999  
  Visiting Professor at the University of Victoria, British Columbia, Canada Jan-March 1999

• **Ms Pip Nicholson** – Associate Director, Vietnam  
  
  On leave 1999

• **Ms Veronica Taylor** - Associate Director, Japan  
  
  On Research leave in Semester 2 in Tokyo, where she was Visiting Professor in the International Centre for Law and Politics at the University of Tokyo. In August, Veronica was elected President of the Japan Studies Association of Australia.
Associates:

- Professor M.B. Hooker, Faculty of Law, Australian National University

Administrative Assistant:

- Ms Kathryn Taylor

Research Assistants/associates:

- Ms Ruth Goonan
- Ms Kerry Liu
- Ms Helen Pausacker
- Adv. Andrew Schmulow
- Ms Stacey Steele
- Ms Amanda Whiting

CONTRIBUTIONS TO THE UNIVERSITY OF MELBOURNE AND THE COMMUNITY

Ms Sarah Biddulph

- Law Society of NSW
- China-Australia Chamber of Commerce (Shanghai, China)

Mr Sean Cooney

- Editorial Committee, Australian Journal of Asian Law
- Member of Japan/U.S./E.U. Joint Research on Labour Law

Associate Professor Tim Lindsey

- Convenor, Indonesia Forum
- Member, Country Convenor’s Forum
- Australia-Indonesia Institute (DFAT)
- Editorial Committee, Australian Journal of Asian Law
- Liaison Officer, International & Non-English Speaking Background Students
ASIAN LAW CENTRE FINANCES

The Asian Law Centre’s research activities in 1999 were funded largely from grants and the proceeds from training programmes. The Centre continues to receive administrative support from the Faculty totalling some $22,500, made up of a part-time administrative assistant and a small sum for office expenses. The Centre did not request any contributions from sponsors in 1999, pending formulation of plans for its 15th anniversary in the year 2000.

As in most years since its establishment, the main income-generating activities of the Centre have been channelled into general Faculty income streams, through degree programmes, research funding, and income from training programmes in which members of the Centre participate.

MAJOR ACTIVITIES AND EVENTS

Bankruptcy Conference: “Current Issues and Future Directions for Bankruptcy Reform in Indonesia”

In April 1999, Associate Professor Tim Lindsey convened a major international conference in Jakarta on behalf of the IMF, the World Bank, the Commercial Court of Indonesia and AusAID, dealing with comparative perspectives on insolvency law reform: “Current Issues and Future Directions for Bankruptcy Reform in Indonesia”. More than 300 delegates attended the two day event, which included a round-table workshop for donor agencies including ADB, UNDP, USAID, JICA, etc. Delegates came from Europe, Australia, North America, Australia and Asian countries including Indonesia and Japan, and included academics, practicing lawyers, government policy advisers and multi- and bi-lateral aid and lender organisations.
Training Programme for Laotian Delegation - 2-27 August, 1999

A Laotian delegation visited Melbourne for a training programme in Commercial Alternative Dispute Resolution from 2 August to 27 August, 1999. The delegation consisted of:

- Mr Vongthong So-Inxay, Director of the Lao PDR Economic and Arbitration Office
- Mr Khene Lovanxay from the Economic and Arbitration Office, and
- Mr Sivath Sengdouangchanh from the Ministry of Justice (Translator).

The Asian Law Centre arranged accommodation for the delegation at Ormond College, and provided thirty hours of lectures over a two week period. A one week internship at the Institute of Arbitrators and Mediators Australia was organised, followed by study visits and interviews with arbitrators, conciliators, and related institutions in the city of Melbourne in the fourth week, including the Australian Centre for International Commercial Arbitration.

Colloquium: “Legal Crisis? Japan and Asia”

A Colloquium was held at the University of Melbourne from 12-14 August, 1999, on the theme “Legal Crisis? Japan and Asia”. The symposium celebrated thirty years of teaching Japanese Law at the Law School, and featured invited experts from Japan, U.S.A., Canada and Australia. The colloquium presented a series of themed sessions with short presentations by the speakers, followed by round-table discussion and debate.

A feature of the colloquium was a dinner to celebrate two important milestones, the 30th year of the teaching of Japanese Law and the first visiting scholar from Japan to the Law School. In 1969 Professor Koya Matsuo of the Faculty of Law, the University of Tokyo, spent eight months with the Faculty as a Leverhume Fellow visiting scholar. He subsequently became Dean of the Faculty of Law at the University of Tokyo in 1984-85. The dinner celebrated the first teaching about Japanese law in the Faculty in 1970.

The coordinator of that course, now Professor Mary Hiscock of Bond University, and Professor Tony Angelo, who taught the segment on Japanese law, were both present and addressed the dinner. Professor Angelo subsequently became Dean of the Faculty of Law at the University of Victoria, Wellington, New Zealand. His lectures were based on his translation of one of the first major texts on Japanese law to appear in a foreign language, translating Professor Noda’s work from French to English! A third major guest at the dinner was Professor David Allan, who in 1970 co-sponsored Professor Angelo to Melbourne and pioneered the teaching of Japanese law at Monash University. All three speakers gave a vivid picture of the pioneering days of both comparative law and work on Asian legal systems in Australia to an audience of more than 120 people. The dinner was held at the Victoria Club.
VISITORS TO THE CENTRE

Delegation of *Arbitration and Legal Administration* from Shandong Province, People’s Republic of China

Delegation of Mongolian lawyers engaged in a training programme at the Law School

Delegation from the *Shanghai Municipal Bureau of Justice*, People’s Republic of China, arranged by Arthur Robinson and Hedderwicks

Education and Cultural Exchange Delegation from City of Wuhan, Hubei Province, People’s Republic of China

Mr Neri Colmenares, *Executive Director, National Amnesty Commission, Government of The Philippines* - 20 October - 30 October (22 October - combined lecture with Asialink)

Professor Shinichiro Hayakawa, *Faculty of Law, Tohoku University*, Japan

Mr Sebastian Heine, Germany

Professor Norio Higuchi, *Faculty of Law, University of Tokyo*, Japan

Mr Khene Lovanxay, *Lao PDR Economic and Arbitration Office*, Lao PDR

Mr Okino, *Corporate Lawyer*, Japan

Associate Professor Masami Okino, *Faculty of Law, Gakushuin University*, Japan

Mr Sivath Sengdouangchanh, *Lao PDR Ministry of Justice*, Lao PDR

Mr Rachmat Soemadipradja, *Soemadipradja & Taher, Jakarta Commercial Lawyers*, Indonesia

Mr Vongthong So-Inxay, *Director, Lao PDR Economic and Arbitration Office*, Lao PDR

Mr Inda Surya, *Head of Legal Affairs, Jakarta Stock Exchange*, Indonesia

His Excellency Mr Masaji Takahashi, *Ambassador of Japan* and Mrs. Yuri Takahashi

Ms Tian Dongwen, *Beijing University of Aeronautics and Astronautics*, People’s Republic of China
1. Training programmes in the Law School

Members of the Asian Law Centre were actively engaged in training programmes organised by the Associate Dean (Undergraduate Studies), Professor Gillian Triggs. In particular, members of the Centre provided segments on “Regulation of Financial and Capital Markets in Asia”, “Bankruptcy Law in Asia”, and “Contract Law” to the seven month long training programme provided for a delegation of eight lawyers from Mongolia under a programme funded by ADB.

Associate Professor Tim Lindsey and Ms Veronica Taylor also participated in the Law School’s training programmes in Vietnam, sponsored by AusAID.

2. The University of Tokyo

Staff from the Centre continued the close, unofficial collaboration with the Law Faculty at the University of Tokyo and its International Centre for Comparative Law and Politics. Ms Veronica Taylor again taught courses on Australian law in the Graduate programme at the Law Faculty and Ms Stacey Steele was a full-time research associate with the International Centre, working on cross-border insolvency.

3. Chulalongkorn University, Bangkok

Professor Malcolm Smith participated in the teaching of a graduate course on Commercial Alternative Dispute Resolution with Judge Vichai of the Board of International Trade of Thailand. The subject was offered in the new LL.M. Business Law, taught in English, at Chulalongkorn University.

4. ANU MBA

Tim Lindsey and Veronica Taylor taught “Legal Frameworks of Business in Asia” to a group of international young business leaders as part of the MBA at Australian National University for the fourth time.
Members of the Centre again contributed a full programme of Asian Law related subjects at the undergraduate and graduate levels. The Law School continues to offer the best coverage of Asian Law in Australia, and arguably in the region. For the first time we offered a Summer subject in the undergraduate programme.

Sarah Biddulph returned from her leave of absence with Blake Dawson Waldron in Shanghai to deliver her undergraduate course “Law and Society in China” to an enthusiastic group of 30+ students.

Another major innovation was the introduction of a new core subject “Commercial Law in Asia” which was selected by 65 students in the undergraduate programme in first semester. The success of the undergraduate course has lead to the inclusion of an advanced course in the same area in the graduate programme for 2000.

Offerings in the Law School’s programme included:

Undergraduate Programmes

- Commercial Law in Asia
- Law and Society in China
- Law and Society in Japan
- Law and Society in South East Asia

Postgraduate Programmes

- Alternative Commercial Dispute Resolution in Asia
- Commercial Law in South East Asia
- Harmonisation of Commercial Laws in the APEC Region
- International Marketing: Franchising, Distribution and Licensing
- Legal Aspects of Finance in Asia

In the LL.B. Honours class list for 1998, announced in March 1999, the Centre was delighted to see two of its research assistant / administrative assistants achieve First Class Honours degrees.

- Stacey Steele (Japan) (ranked 4th) spent 1999 at the International Centre for Comparative Law and Policy at the University of Tokyo pursuing an LL.M.
- Susan McKeag (China) (ranked 12th) spent 1999 at the Australian Embassy in Beijing, China.
- Our current administrative assistant, Kathryn Taylor, received a First Class Honours degree in Arts, specialising in Chinese, in the November 1999 results.

Our congratulations to these outstanding students, who contribute so much to the administration of the Asian law programme.
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. There is now a significant trend towards supervision of Ph.D. candidates.

Research students under the supervision of Centre members included:

- **Ms Sarah Biddulph**  
  **Ph.D.**  
  Supervisor: Malcolm Smith  
  "Controlling Detention for Investigation: Legal Accountability of the Chinese Public Security Organs"

- **Mr Ryad Chairil**  
  **Ph.D.**  
  Supervisor: Tim Lindsey  
  "The Indonesian Contract of Work: A Comparative Study of Indonesian Contracts and Overseas Contracts and Equivalent Regimes and Recommendations for Reform"

- **Mr John Chellew**  
  **Ph.D.**  
  Supervisor: Malcolm Smith  
  "Derivatives Law: Should Securities and Derivatives Regulation Merge?"

- **Mr Budi Dharmono**  
  **Ph.D.**  
  Supervisor: Tim Lindsey  

- **Ms Alice De Jonge**  
  **SJD**  
  Supervisor: Malcolm Smith  
  "Media and Markets in China and Hong Kong"

- **Mr Joseph Eng**  
  **Ph.D.**  
  Supervisor: Tim Lindsey  
  "Critical Review of the Customary Land Rights of the Natives of Sarawak"

- **Mr Andrew Godwin**  
  **LL.M.**  
  Supervisor: Sarah Biddulph  
  "The Development of Mortgage Law in China"

- **Mr Sunseop Jung**  
  **LL.M.**  
  Supervisor: Malcolm Smith  
  "Comparative Study on the Legal Aspects of Financial Derivatives"

- **Ms Lam Kwong Kwok**  
  **Ph.D.**  
  Supervisor: Malcolm Smith  
  "Restructuring of State-Owned Enterprises in China"

- **Ms Kate McGregor**  
  **Ph.D. (Arts)**  
  Supervisor: Tim Lindsey  
  "The Military and History in Indonesia"

- **Ms Pip Nicholson**  
  **Ph.D.**  
  Supervisor: Tim Lindsey  
  "Vietnamese Court Development Since 1945"
• Mr Terry Reid  
  LL.M.  
  Supervisor: Malcolm Smith

• Adv. Andy Schmulow  
  Ph.D. (Arts)  
  Supervisor: Tim Lindsey  
  “Banking Law in Indonesia”

• Ms Stacey Steele  
  LL.M.  
  Supervisor: Veronica Taylor  
  “Litigation and Bankruptcy Law in Japan: Towards Modernity, Social Change and Reform?”

• Mr Benny Tabalujan  
  Ph.D.  
  Supervisors: Malcolm Smith, Tim Lindsey  
  “Corporate Governance in Indonesia”

• Prof. Xu Zhangrun  
  Ph.D.  
  Supervisor: Malcolm Smith  
  “The Confucian Misgivings: Liang Shuming’s Narrative About Law”

• Ms Se Se Zhang  
  Ph.D.  
  Supervisor: Malcolm Smith, Sarah Biddulph  
  “Tensions and Implications: Contractual Aspects of Technology Transfer to China”

**GRADUATE DIPLOMA IN ASIAN LAW ADVISORY BOARD**

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

• Mr Jim Armstrong  
  *Mallesons Stephen Jaques*

• Mr David Laidlaw  
  *Chairman of Partners, Maddock Lonie & Chisholm*

• Mr Stephen Spargo  
  *Partner, Arthur Robinson & Hedderwicks*

**RESEARCH SCHOLAR**

**Mr Sebastian Heine**

The Asian Law Centre welcomed back Mr Sebastian Heine, from Germany. Mr Heine assisted Professor Malcolm Smith in the development of graduate materials on dispute resolution for use in our LLM and Doctoral subjects. He carried out research generally on dispute resolution in the Asian region, and more particularly on recent developments in dispute resolution in Australia. This work covered Civil Procedure in the courts, arbitration, and mediation. He also assisted with general research tasks.
Asialink and the Asian Law Centre at the University of Melbourne presented a seminar by Mr Neri Colmenares, Executive Director, National Amnesty Commission, Government of the Philippines, on Friday 22 October. The title of the seminar was “SUITING FALLEN DICTATORS: Chasing Marcos, Soeharto and Pinochet”. Neri Colmenares is a well-known Filipino lawyer who was a political prisoner for 4 years under President Marcos, jailed without charge for speaking in favour of human rights.

After Marcos fled Mr Colemanares was freed and became Executive Director of the National Amnesty Commission, a body similar to South Africa's Truth and Reconciliation Commission. He has attended cabinet meetings to advise the President on National security and peace and has negotiated with Islamic rebel separatists and leaders of the anti-Aquino coup attempts.

Mr Colmenares is also a plaintiff in the class action in Hawaii which resulted in an order against Marcos for US$2.1 Billion. A few months ago the Philippines's Supreme Court voided a settlement agreement for US$590 so the Philippines tax office could seize Marcos funds transferred to the Philippine National Bank from Switzerland.

A lunch was served at University House following the seminar.

**BOOKS**


**CHAPTERS IN BOOKS AND MONOGRAPHS**


JOURNAL ARTICLES


Taylor, V., “Judges and Sex” (1999), Toki no Horei [Law Times], 1595, 4-5.


Taylor, V. (1999), “[‘The Small Island Causing a Diplomatic Rift’] “Gaiko ga hikakaru chisana shima”, Toki no Horei [Law Times], 1603, 4-5.

NEWSPAPER ARTICLES


WORK IN PROGRESS

• Cooney, S. & Mitchell, R., Comparative Labour Law Theory
• Cooney, S., Mitchell, R. & Zhu, Y., Law and Labour Market Regulations in Asia, [accepted for publication by Routledge in 2000 (forthcoming)]
• Cooney, S. & Mitchell, R., Labour Relations and The Law In Three East Asian NICS: Some Problems and Issues for Comparative Labour Law Inquiry (To be submitted for publication in June 2000)
• Lindsey, T., The Commercial Court and Law Reform in Indonesia [accepted by Federation Press for publication in 2000 (in press)]
• Taylor, V., Mackie, V., & Morris-Suzuki, T., Cultural Diversity and Citizenship in Japan [accepted for publication by Cambridge University Press (forthcoming)]
• Taylor, V., Citizenship in Japan
• Taylor, V., Rethinking Asian Laws
CONFERENCE PAPERS AND SEMINARS DELIVERED BY MEMBERS OF THE CENTRE


GRANTS RECEIVED

- University of Melbourne Collaborative Research Program – Joint Research Awards – “Law and Labour Market Regulation in East Asia” – Sean Cooney, Richard Mitchell, Zhu Ying (Victoria University) & Hue Ling Wang (Taipei University)